FIFTH + BROADWAY SUBLEASE

by and between

OLIVERMCMILLAN SPECTRUM EMERY, LLC,
a Delaware limited liability company

"Sublandlord"

and

THE METROPOLITAN GOVERNMENT OF NASHVILLE
AND DAVIDSON COUNTY, TENNESSEE,
a public corporation

"Subtenant"

Dated: _____ ___, 2019

SUBLEASE

THIS SUBLEASE is made as of the ____ day of _____, 2019 (the "**Effective Date**"), by and between OLIVERMCMILLAN SPECTRUM EMERY, LLC, a Delaware limited liability company ("**Sublandlord**") and THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE, a public corporation ("**Subtenant**").

RECITALS

WHEREAS, Sublandlord is the developer of the project known as Fifth + Broadway located at the intersection of Fifth Street and Broadway, Nashville, Tennessee (the "**Project**");

WHEREAS, the Project is subject to the terms and provisions of that certain Declaration Establishing Convention Center Redevelopment Master Condominium (the "**Master Declaration**") and that certain Declaration Establishing Retail Condominium (the "**Retail Declaration**");

WHEREAS, a portion of the Project is subject to a payment of in lieu of taxes program (the "**PILOT**") whereby Sublandlord has transferred fee simple ownership in the Premises (as defined herein) located within the Project to The Industrial Development Board of The Metropolitan Government of Nashville and Davidson County, Tennessee, a Tennessee public nonprofit corporation and instrumentality of the Metropolitan Government of Nashville and Davidson County, Tennessee (the "**IDB**");

WHEREAS, the IDB and The African American History Foundation of Nashville, Inc., a Tennessee nonprofit corporation, predecessor to The National Museum of African American Music (the "**Museum**") are parties to that certain Agreement with Respect to the Development and Operation of The Museum of African American Music, Art and Culture dated December 1, 2008, as amended by that certain Amendment to Agreement with Respect to the Development and Operation of the Museum of African American Music, Art and Culture (collectively, the "**Development Agreement**");

WHEREAS, pursuant to that certain lease between the IDB and Sublandlord dated on or about the Effective Date (the "**PILOT Lease**"), the IDB has leased the Premises back to the Sublandlord in a manner that results in the Premises being exempt from real estate and other ad valorem taxes;

WHEREAS, Sublandlord desires to sublet the Premises to Subtenant pursuant to the provisions of this Sublease.

For the mutual considerations, on the terms and subject to the conditions set forth herein, Sublandlord and Subtenant hereby agree as follows:

1. SUMMARY OF BASIC TERMS. The following provisions shall be interpreted and applied in accordance with and shall be subject and subordinate to the other terms and provisions of this Sublease:

1.1 The Premises. That portion of the Project outlined in **Exhibit A** and shaded on **Exhibit B** hereto shown as Space No. A-110 in Block A (the "**Building**") of the Project and containing approximately 56,421 square feet of Floor Area (the "**Premises**"). The term "**Floor Area**" as used throughout this Sublease shall mean all areas in the Project (including but not limited to the Premises) available or held for the exclusive use and occupancy of occupants or future occupants of the Project. Floor Area shall be measured from the outside of exterior walls, shaft walls or corridors or the center line of any common walls, without deduction for columns, stairs, corridors, restrooms, mechanical rooms, electrical rooms, telephone closets, vertical penetrations of the floors, projections, or other interior construction or equipment, and shall include any basements and mezzanines in the Premises. Floor Area shall not include kiosks, storage spaces located outside of individual tenants' premises, and Common Areas. Sublandlord and Subtenant reserve the right to remeasure Premises at any time within ninety (90) days following the Commencement Date. If any remeasurement determines that the Premises contain a different number of square feet than set forth in this Section 1.1, all charges under this Sublease, Exhibits and Design Criteria based upon the Floor Area of the Premises shall be adjusted retroactively and prospectively on a pro rata basis to reflect the number of square feet determined by such remeasurement. Upon either party's request, the revised square footage shall be confirmed in an amendment to this Sublease signed by both parties. Sublandlord shall give Subtenant a minimum of forty-eight (48) hours prior notice before such remeasurement and Subtenant may elect to have a representative of Subtenant present during such remeasurement.

1.2 The Project. The mixed-use project (which may include retail, commercial, restaurant, office and residential components) commonly known as Fifth + Broadway. The Project is generally depicted on the site plan attached hereto as **Exhibit B** (the "**Project**"). The Project will be completed in one or more phases. The description of the Project shown on the Site Plan is for informational purposes only and is not a warranty, representation or agreement on the part of Sublandlord that the Project, the buildings, the parking areas, drives, curb cuts or other improvements will be exactly as indicated on such Site Plan or that the other actual or proposed tenants or occupants of the Project shown on the Site Plan will become or remain occupants of the Project. With exception to the Premises, and to the extent Subtenant's access to or use of the Premises is not materially or adversely impacted, Sublandlord has the right at any time to expand, reduce, remodel or renovate any portion of the Project, including without limitation, the right to change the shape, size, location, number and extent of the improvements to any portion of the Project.

1.3 Name of Guarantor. Not applicable.

1.4 Security Deposit. $33,641.67.

1.5 Term. Twenty (20) Sublease Years. "**Sublease Year**" shall include twelve (12) full calendar months of Term; except that the first Sublease Year will include such twelve (12) full calendar months plus the period from the Commencement Date to and including the first day

of the first full calendar month after the Commencement Date. Each subsequent Sublease Year is the twelve (12) full calendar months immediately following the preceding Sublease Year.

1.6 Commencement Date of Term. The "**Commencement Date**" shall be the earlier to occur (a) the later of (i) two hundred forty (240) days after the date on which Sublandlord tenders possession of the Premises to Subtenant, or (ii) the Retail Grand Opening Date (as defined herein) or (b) the date on which the Premises opens for business.

1.7 Expiration Date. The "**Expiration Date**" shall be the last day of the twentieth (20th) Sublease Year.

1.8 Renewal Rights. Five (5) Renewal Term(s) of ten (10) Sublease Years each, subject to the provisions of Section 2.6 of this Sublease.

1.9 Base Rent. $0.00 per square foot.

1.10 Percentage Rental Rate. Not applicable.

1.11 Subtenant's Proportionate Share. "**Subtenant's Proportionate Share**" shall be a fraction (expressed as a percentage), the numerator of which shall equal the Floor Area of the Premises, and the denominator of which shall equal the greater of (i) the number of square feet of Floor Area leased and occupied in the Project during the applicable year (the number of square feet of Floor Area leased and occupied in the Project during the applicable year shall be defined as the average of the total square feet of Floor Area leased and occupied on the first day of each month of each calendar year), excluding the portions of the Project occupied by the Major Tenants (who are designated as Major Tenants by Sublandlord as of the date such calculation of Subtenant's Proportionate Share is being made), or (ii) eighty five percent (85%) of the occupiable Floor Area of the Project, excluding the portions of the Project occupied by the Major Tenants (who are designated as Major Tenants by Sublandlord as of the date such calculation of Subtenant's Proportionate Share is being made).

1.12 Intentionally deleted.

1.13 Subtenant's Fixed Common Area Operating Costs. Initially $3.67 per square foot of the Premises, subject to adjustment as set forth in Section 6.1.

1.14 Intentionally deleted.

1.15 Estimated Insurance Costs. Included in Subtenant's Fixed Common Area Operating Costs.

1.16 Estimated Taxes Cost. Initially $7.00 per square foot of Floor Area of the Premises per annum for calendar year 2020, subject to exemption as set forth in Section 7.2.

1.17 Subtenant's Trade Name. National Museum of African American Music.

1.18 Permitted Use. Subject to the terms and provisions of Section 3.1, Subtenant's "Permitted Use" shall consist of (a) the operation of a museum chronicling the history of African

American music in the United States and the individuals and artists who have made contributions thereto, which may also include a research facility, classrooms, auditorium, performance/music venue (subject to the terms and provisions of Section 3.6(b)) and retail museum souvenir shop (the "**Museum Shop**"); (b) the operation of a café (the "**Café**") (not to exceed 3,000 square feet) with off-Premises catering support and non-alcoholic and alcoholic beverage service; provided, however Subtenant shall only be permitted to offer or sell wine and non-draft beer from the Café except during a Private Event; and (c), subject to the provisions of Section 3.1, a Private Events (as defined herein) venue with food (prepared and provided by off-Premises catering support) and beverage service and for no other purpose without Sublandlord's prior consent. As part of Subtenant's Permitted Use and subject to the terms and provisions of Section 1.18(b) and Section 3.1(f), Subtenant may sell or permit the sale of alcoholic beverages from the Premises during the Extended Hours (as defined herein) and Private Events occurring during the Minimum Hours of Operation (as defined herein) or Standard Hours of Operation, provided that it does so in compliance with all applicable laws, ordinances, rules and orders and provided that Subtenant ensures, at its cost and expense, that any permits, Alcohol Licenses (as defined herein) have been obtained and maintained. For purposes of this Sublease, the term "**Private Event(s)**" shall mean events occurring at the Premises that are ticketed or otherwise closed to the general public and require a separate fee for general admission or charge for use of the Premises, including, weddings, concerts, corporate events, educational or community events and other private events. Private Events shall not last beyond 12:00 a.m. without Sublandlord's prior consent and in no event shall any Private Event extend beyond 2:00 a.m. For any Private Event extending beyond 12:00 a.m., but ending at or prior to 2:00 a.m., Sublandlord acknowledges and agrees that if such Private Event is noted on the Private Events Calendar (as defined herein) submitted to Sublandlord in accordance with Section 3.8(a) and Sublandlord does not object to such Private Event within five (5) business days of receipt of the Private Events Calendar, then such Private Event shall be deemed approved.

1.19 Minimum Hours of Operation; Standard Hours of Operation; Extended Hours.

(a) The "**Minimum Hours of Operation**" shall be 9:00 a.m. to 5:00 p.m., Sunday through Saturday or such different hours as established by Sublandlord for the Project. All such hours of operation shall comply with all applicable laws. Notwithstanding the foregoing, following the expiration of the sixth (6th) full calendar month after the Retail Grand Opening Date (as defined herein), Sublandlord will consider a reasonable adjustment of the Minimum Hours of Operation in the event Subtenant is able to demonstrate that operating for the Minimum Hours of Operation set forth herein has caused Subtenant to incur a material economic detriment. Notwithstanding anything to the contrary contained herein, Subtenant shall be permitted to operate (i) the Museum Shop during the Minimum Hours of Operation and the Extended Hours and (ii) the Café during the Standard Hours of Operation and Private Events.

(b) The "**Standard Hours of Operation**" shall be 9:00 a.m. to 9:00 p.m., Sunday through Saturday.

(c) The Minimum Hours of Operation set forth in this Section 1.19 reflect the minimum hours during which the Premises are required to remain open, and as long as Subtenant remains in compliance with governmental regulations and the terms and provisions of this Sublease, Subtenant may exceed the Standard Hours of Operation and remain open for such

extended hours (the "**Extended Hours**") as reasonably determined by Subtenant and with at least seventy-two (72) hours prior written notice to Sublandlord; provided, however, except as set forth in Section 1.18, Subtenant shall not be permitted to remain open after 12:00 a.m. without Sublandlord's consent and in no event shall Subtenant be permitted to remain open beyond 2:00 a.m.

1.20 Subtenant's Notice Address. The Industrial Development Board of The Metropolitan Government of Nashville and Davidson County c/o Director, Mayor's Office of Economic and Community Development Metropolitan Courthouse, Suite 105, One Public Square, Nashville, Tennessee 37201, with a copy to: National Museum of African American Music, 618 Church Street, Suite 110, Nashville, Tennessee 37219, Attn: Henry Beecher Hicks, III, with a copy to Bone McAllester Norton, PLLC, 511 Union Street, Suite 1600, Nashville, Tennessee 37219, Attn: Andrea P. Perry, subject to modification as provided in Section 27.5.

1.21 Sublandlord's Notice and Payment Address. OliverMcMillan Spectrum Emery, LLC, 733 8th Avenue, San Diego, California 92101, Attn: Legal Department, with a copy to Arnall Golden Gregory LLP, 171 17th Street, NW, Suite 2100, Atlanta, Georgia 30363; Attn: Jonathon L. Neville, Esq., subject to modification as provided in Section 27.5.

1.22 Brokers. Not applicable.

1.23 Radius Restriction. Not applicable.

1.24 Promotional Charge. Not applicable.

1.25 Opening Events Contribution. Not applicable.

1.26 Subtenant Allowance. Not applicable.

1.27 Retail Grand Opening Date. Sublandlord anticipates that the Project will sponsor and market one or more opening event(s) in connection with the opening of the Retail Space (as defined herein) of the Project, in which Subtenant will use good faith efforts, at no cost to Subtenant, to participate. Subject to Section 27.4, the anticipated opening date of the Retail Space is May 15, 2020 (the "**Retail Grand Opening Date**") and date of the opening event(s) will be communicated to Subtenant with at least sixty (60) days prior written notice.

1.28 Building. The building in which the Premises are located.

1.29 Retail Space. The premises within the Project used primarily for the retail sale of merchandise or other services to customers within its premises, including retail stores, department stores, restaurants, food and beverage establishments and banks. Notwithstanding the foregoing, "**Retail Space**" shall not include any area devoted to office use (other than (a) office uses in connection with the provision of financial services (e.g., banks, brokers, etc.), or (b) professional services that are incidental to retail sales (e.g., optometry and similar uses)), residential use, and hotel or other hospitality use located within the Project.

1.30 Estimated Utilities Passthroughs. Estimated utilities costs for the Premises are set forth below and are provided as an accommodation to Subtenant and shall not limit the actual passthroughs due from Subtenant. The following estimates are also subject to adjustment as provided in Article 12:

Chilled Water Passthrough – Initially $1.22 per square foot of the Premises for the first full calendar year of the Term.

Chilled Water Usage – Based on actual usage, determined by a chilled water flow sub-meter installed by Subtenant, and paid in accordance with Article 12.

Total Chilled Water Costs (i.e. Chilled Water Passthrough plus Chilled Water Usage) – Initially estimated to be $1.84 per square foot of the Premises for the Sublease Year 1, subject to adjustment in accordance with Article 12.

Domestic Water Passthrough – Based on actual usage, determined by a domestic water sub-meter installed by Subtenant, and paid in accordance with Section 12.6.

1.31 Major Tenants. (i) those certain buildings or premises (or the occupants thereof) indicated on **Exhibit A** as "MAJOR", which may be subsequently added, substituted or removed at Sublandlord's sole and absolute discretion without notice to Subtenant or amendment to **Exhibit A**, and (ii) any premises (or the occupants thereof) that contain at least twenty thousand (20,000) square feet of GLA.

1.32 Additional Advertising Charge. Not applicable.

2. TERM AND SUBLANDLORD'S CONSTRUCTION OBLIGATIONS.

2.1 General. Contingent upon (i) the transfer of the Premises to the IDB; and (ii) the lease of the Premises to the Sublandlord pursuant to the PILOT lease, Sublandlord hereby subleases to Subtenant, and Subtenant hereby takes and subleases from Sublandlord, the Premises for a period starting on the Commencement Date and continuing for the Term. If the Commencement Date is delayed for any reason, which is not the fault of Subtenant, Rent and other obligations of Subtenant, and commencement of the Term, shall all be delayed until the period of delay has ceased. Sublandlord shall not be subject to any liability for the failure to deliver possession of the Premises and the validity of this Sublease shall not be impaired under such circumstances. Deferral of rent commencement shall be Subtenant's sole and exclusive remedy for any such delay. Sublandlord and Subtenant shall confirm in writing any adjustment to the Commencement Date and Expiration Date hereunder upon written request by either party. If possession of the Premises is not delivered to Subtenant within nine (9) months after the anticipated delivery date of August 1, 2019 (the "**Anticipated Delivery Date**"), then at either Subtenant's or Sublandlord's option, upon notice to the other party, either Subtenant or Sublandlord shall have the right to terminate this Sublease by notice to the other party and, upon such termination, neither party shall have any liability or obligation to the other hereunder. Pursuant to Section II.2. of **Exhibit C**, at least ninety (90) days prior to the Anticipated Delivery Date, Sublandlord and Subtenant shall schedule and attend a walkthrough of the Premises to document Sublandlord's progress toward completion of Sublandlord's work in accordance with

this exhibit and the plans, and the identification of any items of non-conformance for resolution prior to delivery.

2.2 Memorandum. At the request of Sublandlord at any time following initial occupancy of the Premises by Subtenant, Subtenant shall promptly execute and deliver to Sublandlord a written memorandum in recordable form reflecting the date of initial occupancy and confirming the Commencement and Expiration Dates and such other information as Sublandlord may reasonably request. Subtenant shall not record or cause or suffer to be recorded any memorandum, lien or claim or notice of any kind pertaining to this Sublease; provided, however, Sublandlord acknowledges and agrees that this Sublease may be filed with the Metropolitan Clerk as a public record consistent with the laws of the State of Tennessee.

2.3 Condition. Except as set forth in Part One of Section II of **Exhibit C** or otherwise in this Sublease, Sublandlord shall have no obligation to make any improvements or alterations to the Premises or the Project, and Subtenant hereby accepts the Premises, the Common Areas, and all other portions of the Project in an AS IS condition. Subtenant agrees that by taking possession of the Premises, Subtenant formally accepts the same and acknowledges that the Premises are in the condition called for hereunder. Subtenant hereby acknowledges that it has relied on its own inspections and due diligence in entering this Sublease and not on any representations or warranties of Sublandlord or any broker or other representative of Sublandlord concerning the condition or suitability of the Premises or the Project for any particular purpose or any other matter except as otherwise set forth herein.

2.4 Subtenant's Construction Timing; Opening for Business.

(a) Subtenant's Construction Timing. Subtenant shall apply for or ensure that the building permits for Subtenant's Work are applied for within the later to occur of (i) thirty (30) days after execution of this Sublease, or (ii) seven (7) days following Sublandlord's approval of the plans and specifications for Subtenant's Work according to the procedure set forth in Section III of **Exhibit C**. Not later than seven (7) business days after issuance of the building permits for Subtenant's Work, Subtenant shall commence or cause the commencement of construction of Subtenant's improvements in the Premises required by Part Two of Section III of **Exhibit C** and other applicable provisions of this Sublease ("**Subtenant's Improvements**") in accordance with Section 15.

(b) Opening and Continuously Operating for Business. The parties covenant and agree that because of the difficulty or impossibility of determining Sublandlord's damages by way of loss of the anticipated Rent and rent from other tenants or occupants in the Project, or by way of loss of value in the Project because of adverse publicity or appearances by Subtenant's action, should Subtenant (i) fail to furnish to Sublandlord a certificate of occupancy and cause the entirety of the Premises to be open on or before the later to occur of (a) two hundred forty (240) days after Sublandlord delivers possession of the Premises to Subtenant or (b) the Retail Grand Opening Date, or (ii) at any time during the Term, cease operating its business therein for the Minimum Hours of Operation set forth in Section 1.19, then, Subtenant shall pay to Sublandlord, in addition to Rent, liquidated damages of 1/30th of a monthly installment of Rent, for each and every day the Premises are not fully, continuously and uninterruptedly operated and open for business. Sublandlord and Subtenant agree that the damages provided for in this Section

2.4(b) are reasonable and are the parties' best, good faith estimate of the damages which may be suffered by Sublandlord upon such default by Subtenant. Receipt by Sublandlord of the sum described in this Section 2.4(b) shall not be Sublandlord's exclusive remedy in the event of Subtenant's failure to cause the Premises to open and shall not preclude Sublandlord from exercising any other rights which it may have at law, in equity or under the terms of this Sublease as a result of such a breach by Subtenant. During any period that Subtenant or its agents are permitted or required to enter the Premises prior to the Commencement Date, Subtenant and its agents shall comply with all terms and provisions of this Sublease except payment of Rent hereunder. For purposes of this Sublease, the term "**business day(s)**" shall mean all days, excluding Sundays and all legal holidays observed by (a) the state government of the State of Tennessee, or (b) the federal government of the United States of America.

(c) Pre-Retail Grand Opening Date Premises Opening. Notwithstanding anything to the contrary contained in this Sublease, if (i) Subtenant has fully completed Subtenant's Work and received all required permits and a certificate of occupancy; and (ii) the public right-of-ways located at the north side of Broadway from the southwest corner of the Project (access to residential parking garage entrance) to the corner of Fifth Avenue and Broadway and/or the west side of Fifth Avenue from the corner of Fifth Avenue and Commerce Street to the corner of Fifth Avenue and Broadway, are complete and open, then Subtenant may (but shall not be obligated to) open the Premises to the public prior to the Retail Grand Opening Date; provided, however, in no event shall Subtenant be permitted to open earlier than sixty (60) prior to the Retail Grand Opening Date. Subtenant acknowledges and agrees that Sublandlord makes no representation or warranty regarding the Common Areas, parking, access or the availability of services for the period commencing on Subtenant's opening and continuing through the Retail Grand Opening Date (the "**Early Opening Period**") and any such representations and warranties contained herein shall be of no force or effect until the Retail Grand Opening Date.

Subtenant further acknowledges and agrees that during the Early Opening Period, the Project will be an active construction site with ongoing noise, access and safety issues and that noise, dust and other activities associated with the construction activities by Sublandlord and other occupants at the Project may be disruptive to the operations of Subtenant in the Premises, or portions thereof. Nevertheless, Subtenant hereby waives and releases any and all claims, causes of action and actions against other occupants, Sublandlord, Sublandlord's contactor, subcontractors and/or the Sublandlord Related Parties (as defined herein) related to access, noise, dust and the performance of construction activities at the Project during the Early Opening Period, except for any claim against Sublandlord for damage to Subtenant's personal property or injury to persons caused solely by the negligence, intentional misconduct or willful misconduct of Sublandlord, Sublandlord's contactor, subcontractors or the Sublandlord Related Parties. During the Early Opening Period, no rental shall abate as a result of, or arising from, limited access, noise, dust or the performance of construction activities by Sublandlord or other occupants at the Project. Subtenant shall, upon notice from Sublandlord or Sublandlord's contractor, permit Sublandlord or Sublandlord's contractor to have access to the Premises as required to effect the performance of the of Sublandlord's construction activities at the Project.

During the Early Opening Period, Subtenant shall be responsible for Additional Rent and any other charges due and payable hereunder for such period. Subtenant shall, at

Subtenant's sole cost and expense, be further responsible for all services, including, but not limited to trash removal, janitorial services, and security, required by Subtenant to operate from the Premises. Additionally, during the Early Opening Period, Subtenant agrees to operate the Premises in a manner that will minimize interference with Sublandlord's construction activities at the Project or Sublandlord's access to the Project. If Subtenant elects to open during the Early Opening Period, Subtenant shall indemnify and hold harmless Sublandlord and the Sublandlord Related Parties (as defined herein) from and for any loss or damage to Subtenant's property, fixtures, equipment and merchandise and for injury to any persons or other liability arising from Subtenant's election to open prior to the Retail Grand Opening Date, including, but not limited to, Subtenant's interference with Sublandlord's access to the Project, Sublandlord's construction activities, limited access at the Project or related to the active construction at the Project, except to the extent such damage, loss or liability was due to the negligence, intentional acts or willful misconduct of Sublandlord or the Sublandlord Related Parties.

(d) Subtenant acknowledges and agrees that Sublandlord has no obligation to contribute any additional funds for Subtenant's Work for any currently contemplated or unknown shortfalls. Further, upon demand, Subtenant shall provide Sublandlord with evidence in form satisfactory to Sublandlord of the Museum's financial ability to cause the Subtenant's Work to be completed and fully paid in accordance with the Subtenant Work Budget pursuant to Section V.5 of **Exhibit C**. If Subtenant is unable to provide such evidence within sixty (60) days of Sublandlord's request for the same, such failure shall be deemed an Event of Default hereunder subject to the notice and cure rights contained herein.

2.5 Commencement Date Certificate. Subtenant agrees that on or before the Commencement Date, Subtenant will furnish Sublandlord with a written statement that Subtenant has accepted the Premises and that Sublandlord has fully complied with Sublandlord's covenants and obligations hereunder, in the form attached hereto as **Exhibit G**, subject to any changes proposed by Subtenant and a reservation of rights. Subtenant's failure to execute such document within ten (10) days of receipt thereof from Sublandlord shall be an Event of Default (as defined in Section 21.1) under this Sublease and shall be deemed to constitute Subtenant's agreement to the contents of such document.

2.6 Option to Extend Term. Pursuant to Section 1.8, Subtenant has the right to extend the Term by one or more Renewal Periods on the same terms and conditions set forth herein. Subtenant shall exercise its right to so extend the Term by written notice delivered to Sublandlord no later than one hundred eighty (180) days prior to the expiration of the current Term as the same may have previously been extended; provided, however that Subtenant shall not have the right to extend the Term by any Renewal Period if (i) the PILOT Lease has (a) been terminated or (b) has expired; or (ii) an Event of Default, or any event that would constitute an Event of Default with the giving of notice or the passage of time, has occurred under this Sublease and which is not cured within any applicable cure period and is continuing at the time of exercise of the extension. If Subtenant timely and properly exercises the option to extend the Term by a Renewal Period, the Term shall be extended by the Renewal Period without requirement for the execution of any instrument to effect the same. Subtenant's rights under this Section 2.6 shall terminate if: (1) this Sublease or Subtenant's right to possession of the Premises is terminated; (2) Subtenant assigns any of its interest in this Sublease or sublets any portion of the Premises other than in connection with an assignment or sublease approved by Sublandlord;

(3) Subtenant fails to timely exercise its option under this Section 2.6, time being of the essence with respect to Subtenant's exercise thereof; or (4) Subtenant commits an Event of Default under this Sublease which is not cured within any applicable cure period and is continuing.

2.7 PILOT Lease; Compliance with the Master Declaration and Retail Declaration.

(a) The parties acknowledge and agree that this Sublease is subject and subordinate to the PILOT Lease. In the event that the PILOT Lease expires or is otherwise terminated, it is anticipated that the Premises shall be conveyed to Sublandlord and upon such conveyance and conditioned upon Sublandlord's approval of the Museum's financials and rental payment history, which approval shall not be unreasonably withheld, conditioned or delayed, this Sublease shall become the direct and primary lease between Sublandlord and the Museum. If this Sublease does not become a direct and primary lease between Sublandlord and the Museum, the Subtenant shall cause the Museum to promptly surrender possession of the Premises to Sublandlord, in accordance with the provisions of this Sublease.

(b) Sublandlord and Subtenant agree to cooperate in a commercially reasonable manner with each other in order to continue the PILOT arrangement with respect to the Premises, including Sublandlord's and Subtenant's execution of any and all documentation required by any governmental authority. Subtenant shall cause any licensee or occupant under or by their watch to comply with the terms and provisions of this Section 2.7(b).

(c) During the Term of this Sublease and subject to the terms of the Pilot Lease, Subtenant shall comply with and be subject to the terms and provisions of the Master Declaration and Retail Declaration.

3. USE OF PREMISES.

3.1 Use and Operation. Following the Commencement Date, Subtenant shall continuously use and occupy one hundred percent (100%) of the Premises (other than such portions required for storage or office purposes) for the purposes set forth in Section 1.18 and for no other purpose whatsoever without Sublandlord's prior written consent and shall be open for business during the Minimum Hours of Operation and other standards as set forth in Section 1.19 (excluding, at Subtenant's option, Thanksgiving Day, Christmas Day, Easter Sunday and any other federal recognized holidays). Notwithstanding anything to the contrary contained herein, Subtenant and its agents shall comply with all Rules (as defined in Section 3.6) and all applicable present or future federal, state and local laws, ordinances, orders, rules and regulations and interpretations of the foregoing (collectively, "**Laws**") relating to the Premises and Subtenant's or its agents' use thereof, including without limitation, laws regulating hours of operation, health, safety, signage, zoning and building codes, accessibility laws and regulations (including, without limitation, the Americans with Disabilities Act of 1990, as amended), laws regulating the use, handling, release or storage of hazardous substances or waste, and any permit or license requirements, and, to the extent permitted by applicable law, shall indemnify Sublandlord and its officers, directors, members, shareholders, partners, employees, agents, contractors from and for any liability arising from Subtenant's failure to comply with such Rules and Laws except to the extent such failure to comply was due to the negligence, intentional acts or willful misconduct of Sublandlord or the Sublandlord Related Parties. Subtenant agrees to cause the Premises to open

for business to the general public fully-staffed on the Commencement Date, and to business conducted from the Premises shall be conducted at all times in a dignified manner and in conformity with the highest standards of practice among museums, stores, or shops dealing in the same or similar merchandise, consistent with a first-class shopping center, and in such a manner as to establish and maintain a high reputation for the Project. Subtenant shall keep the Premises or cause the Premises to be kept adequately staffed with well-trained personnel. Storage and office space in the Premises shall be limited to that necessary for the business purpose set forth in Section 1.18 to be conducted in the Premises. Subtenant agrees that commercially reasonable care and caution shall be used in the hiring of employees at the Premises. All employees must be either citizens of the United States or possess valid and appropriate work permits from the U.S. Immigration and Naturalization Service and other applicable governmental agencies. Sales and services shall be provided only on a retail basis to the general public. The business conducted in or from the Premises shall only be under the trade name set forth in Section 1.17.

(a) Subtenant shall not use or permit any portion of the Premises to be used for any Prohibited Uses, as listed on **Exhibit F** attached hereto and made a part hereof, or in violation of any of the exclusive rights listed on **Exhibit F-1** granted to other tenants or occupants in the Project as of the Effective Date.

(b) Subtenant shall not operate or permit any portion of the Premises to operate as a "Discount House" or "Outlet Store". The term "**Discount House**" shall mean a sales operation regularly devoted to the sale of merchandise or services below the prices charged for the same or similar merchandise or services in other locations operated under the same trade name or, if there are no other locations operated under the same trade name, by other retailers selling the same or similar merchandise or services. The term "**Outlet Store**" shall mean a sales operation regularly devoted to the sale of merchandise originally purchased by Subtenant or its agent for sale at other retail stores operated by Subtenant or its agent and thereafter transferred to the Premises for close-out or other similar discount sales purposes.

(c) Subtenant shall provide Sublandlord with at least seventy-two (72) hours prior written notice of any event at the Premises, of which Subtenant has advance knowledge requiring, bus pickup and/or drop off at the Project so that Sublandlord can properly coordinate bus placement with property management and valet. Subtenant's failure to provide Sublandlord with the notice required pursuant to this Section more than twice in any Lease Year shall constitute an Event of Default hereunder. Subtenant acknowledges and agrees that Sublandlord shall have the option, at Sublandlord's sole discretion, to direct unannounced buses to an alternate or off-site location.

(d) Intentionally deleted.

(e) With the exception of the Permitted Use, the Premises shall not be used in such manner which results in Sublandlord's obligation because of the purpose or manner of said use, to make any addition or alteration to or in the Building in order to maintain compliance with any requirement of law or of any public authority; provided, however, if the Permitted Use results in Sublandlord's obligation to make any addition or alteration to or in the Building in order to maintain such compliance, such alterations shall be made at Subtenant's cost and

expense. No auction, fire, bankruptcy or closing out sales shall be conducted in the Premises without the advance written consent of Sublandlord.

(f) Subtenant, its agents and their respective employees shall not, in or upon the Premises, manufacture, store or sell or conduct any activity involving illegal drugs or controlled substances. Subtenant may serve, sell or permit (i) the sale or service of alcoholic beverages from the Premises for on-Premises consumption during Extended Hours or Private Events occurring during Minimum Hours of Operation or Standard Hours of Operation; (ii) the sale of non-draft beer or wine from the Café for on-Premises consumption during the Standard Hours of Operation, and (iii) the sale of alcoholic beverages from the Café for on-Premises consumption during Private Events, provided that it does so in compliance with all Laws and provided that Subtenant obtains, at its sole cost and expenses, any required beer/wine/liquor licenses, including, without limitation, any special use permit required in connection with the sale of such alcoholic beverages (collectively, the "**Alcohol Licenses**").

(g) Subject to all requirements and limitations of all permitting requirements and the requirements of applicable law, governmental, quasi-governmental and Project-jurisdictional organizations, and all terms and conditions of this Sublease, Sublandlord acknowledges and agrees that Subtenant's intended operations involve licensing the Café and Museum Shop portions of the Premises to third parties for purposes of allowing such third parties to operate the Museum Shop and Cafe. Subtenant expressly acknowledges and agrees that for all purposes of this Sublease, all obligations of Subtenant and rights in favor of Sublandlord (including, without limitation, any indemnities or waivers in favor of Sublandlord and/or Sublandlord Related Parties) shall expressly extend to all such licensees (including, without limitation the prohibited uses set forth on **Exhibit F**).

3.2 Insurance Restrictions. Subtenant shall not permit any stock of goods to be carried in the Premises or allow the performance of any act in or about the Premises which will in any way tend to increase the insurance rates on the Premises or the Building or would cause the cancellation of any insurance policies related to the Project. Subtenant shall reimburse Sublandlord for any increases in insurance premiums, payable by Sublandlord as a result of Subtenant's use of the Premises or the nature of the business carried out in the Premises, whether or not Sublandlord has consented to same.

3.3 Improvements. If, due to the use of the Premises by Subtenant, improvements or alterations to any portion of the Project are necessary to comply with any requirements of law or Sublandlord's insurance carriers, Subtenant shall pay the entire cost of such improvements or alterations.

3.4 Prohibitions. Subtenant shall not cause or maintain the Premises or permit the Premises to be used or maintained for any nuisance and shall keep the Premises free of debris, rodents, vermin and anything of a dangerous, noxious or offensive nature or that would create a fire hazard (through undue load on electrical circuits or otherwise) or undue vibration, noise or heat. Subtenant shall not cause or permit the safe floor loading capacity of the Premises to be exceeded. Subject to Section 3.6(b), Subtenant shall use its commercially reasonable efforts to not disturb or interfere and to not permit the disturbance or interference with the quiet enjoyment

of the Premises of or use of the Common Area by any other tenant or occupant of any portion of the Project.

3.5 Common Areas.

(a) The Project contains certain common areas (the "**Common Areas**") consisting of, without limitation, those portions of the Project now or hereafter made available for the common use and benefit of all tenants of the Retail Space, their employees, agents, customers and invitees, including, as designated by Sublandlord from time to time, any parking areas and structures, enclosures and building roofs, exterior walls, foundations, retaining walls, sidewalks, pedestrian walks, streets or roadways, access roads, driveways, truck serviceways or tunnels, curb cuts, outside courts, areas between the underside of the roof deck and hung ceiling, passageways, service corridors, loading platforms, pickup stations, first aid stations, truck docks, delivery areas, ramps, stairs, landscaped areas, center and directory signs and equipment, common lighting facilities, drainage facilities and areas, bus stops, taxi stands, restrooms, drinking fountains and all other decorations, fixtures, improvements and other facilities located in or serving any of the foregoing. Although the roof(s) of the building(s) in the Project are not literally part of the Common Areas, they will be deemed to be so included for purposes of: (i) Sublandlord's ability to prescribe rules and regulations regarding the same; and (ii) their inclusion for purposes of Subtenant's Fixed Common Area Operating Costs. Use of the roof(s) are reserved to Sublandlord unless otherwise agreed in writing. Subtenant acknowledges and agrees that at any time during the Term, Sublandlord shall have the right to sublease or otherwise permit the use of the roof of the Building in which the Premises are located by other tenants and third parties for private and special events, including, but not limited to entertainment events; provided, however, such use shall not materially and adversely interfere with or inhibit Subtenant's use of the Premises. The Common Areas shall be made available by Sublandlord for use in common by such tenants and their employees and invitees and others from time to time; however, the Common Areas shall remain subject to Sublandlord's exclusive control at all times. Subtenant shall not directly or indirectly conduct business or permit the conduct of business in the Common Areas or make any use of the Common Areas that interferes in any way with the use of the Common Areas by other parties. Subtenant's use of the Common Areas shall be subject to the other provisions of this Sublease, including, without limitation, the Rules. Subtenant's right to use the Common Areas shall terminate upon the expiration or earlier termination of this Sublease or Subtenant's right to possession of the Premises. Provided Subtenant's use of or access to the Premises is not hindered, Sublandlord shall be entitled to make such changes in the Common Areas as it deems appropriate and to determine the nature and extent of all Common Areas. Provided Subtenant's use of or access to the Premises is not materially and adversely effected, Sublandlord shall have the right to close all or any portion of the Common Areas to discourage non-customer parking or prevent a dedication thereof to public use or prevent the acquisition of any public or private rights in such areas. Sublandlord reserves the right to use or permit or deny the use of the Common Areas for any purpose that in Sublandlord's reasonable opinion may be in the best interest of the Project, including without limitation promotions, events, exhibits, displays, shows, food facilities, landscaping and other activities. The Common Areas may, at Sublandlord's election, include areas in adjoining properties that are or become available to tenants of the Project.

(b) Without limiting the foregoing, Sublandlord may designate, from time to time, separate or combined parking areas for visitors, tenants and employees, and Subtenant shall comply with all such parking arrangements. Subtenant hereby acknowledges that the elimination, relocation or reconfiguration of parking facilities is likely to occur during the Term and that, provided Sublandlord complies with its obligations set forth in this Section 3.5(b), Subtenant shall have no claim for damage, inconvenience or loss of business as a result thereof. The parking areas are subject to the Rules (including, without limitation, the rights to impose parking charges or fees, and to allocate parking areas, as Sublandlord determines in its sole discretion). Notwithstanding anything contained herein to the contrary, Sublandlord shall reasonably reserve and provide no less than twenty (20) parking spaces in the area designated by Sublandlord for employee parking for exclusive use by the Subtenant's employees during the Minimum Hours of Operation.

(c) Intentionally deleted.

(d) Subtenant shall not display or sell or permit the display or sale of merchandise or allow carts, portable signs, devices or any other objects to be stored or to remain outside the defined exterior walls or roof and permanent doorways of the Premises or in hallways. Subtenant shall not install or permit the placement of any satellite dish, aerial, or antenna ("**Antenna**") on the roof or exterior walls of the Premises without first obtaining, in each instance, the written consent of Sublandlord, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, Sublandlord shall have the right to reasonably designate the size, location and method of installation of any such Antenna and Subtenant shall remove the Antenna at the expiration or earlier termination of this Sublease and repair any damage and restore the area of such installation to the condition that existed prior to any such installation. If Subtenant fails to remove the Antenna at the expiration or earlier termination of this Sublease, Sublandlord shall do so at Subtenant's sole cost and expense. Sublandlord may require Subtenant to utilize Sublandlord's contractor to install the Antenna, at Subtenant's sole cost and expense provided such contractor is available for service without unreasonable delay. Any Antenna installed without Sublandlord's prior written consent shall be subject to removal by Sublandlord without notice, at Subtenant's sole cost, at any time. If Sublandlord provides a central Antenna(e) for the tenants of the Project, then Subtenant shall be required to contract for such services with one of the service providers available at the Project, at Subtenant's expense.

(e) Subtenant acknowledges that Sublandlord has informed Subtenant that certain telecommunications antennae and related facilities (collectively, the "**Telecommunications Facilities**") may be installed by Sublandlord or other persons on or about the Building or the Project. Subtenant covenants and agrees that it shall not conduct any activities or use any equipment in, on or about the Premises or the Project (or permit any other person or persons to do so) that would cause any interference with the use and/or operation of any of the Telecommunications Facilities. In addition, Subtenant shall not solicit or distribute or allow the solicitation or distribution of any material in any manner in any of the automobile parking areas or other Common Areas.

(f) Sublandlord agrees to make commercially reasonable efforts to ensure that the Common Areas are in compliance with the applicable disability access laws as of the date hereof. If a complaint is received by Sublandlord from either a private or government

complainant regarding disability access to the Common Areas, Sublandlord reserves the right to mediate, contest, comply with or otherwise respond to such complaint as Sublandlord deems to be reasonably prudent under the circumstances. If Sublandlord decides to make alterations to the Common Areas in response to any such complaints or in response to legal requirements Sublandlord considers to be applicable to the Common Areas, the cost of such alterations shall be included in Fixed Common Area Operating Costs. Sublandlord and Subtenant agree that so long as the governmental entity or entities charged with enforcing any such Laws have not expressly required Sublandlord to take specific action to effectuate compliance with any such Laws, Sublandlord shall be conclusively deemed to be in compliance with such Laws. Subtenant agrees to provide Sublandlord with written notice should Subtenant become aware of a violation of such Laws with respect to the Common Areas. In the event Sublandlord is required to take action to effectuate compliance with such Laws, Sublandlord shall have a reasonable period of time to make the improvements and alterations necessary to effectuate such compliance, which period of time shall be extended by any time necessary to cause any necessary improvements and alterations to be made; provided, however, Sublandlord agrees that any such improvements and/or alterations shall not materially and adversely interfere with the use or access to the Premises.

3.6 Rules; Covenants.

(a) Subtenant shall comply, and shall use its commercially reasonable efforts to cause its agents, employees and contractors to comply, with any (i) recorded restrictive covenants, (ii) unrecorded restrictive covenants disclosed to Subtenant, (iii) non-discriminatory and reasonable rules and regulations for the Project promulgated by Sublandlord from time to time, and (iv) interpretations of (i) through (iii) above (the "**Rules**"). Sublandlord's current Rules are attached as **Exhibit D**. Sublandlord from time to time by notice to Subtenant may amend such Rules in any manner not inconsistent with the express provisions of this Sublease.

(b) Subject to the terms and conditions of this Section 3.6(b), Subtenant covenants and agrees that at all times during the Term it will conduct its business in the Premises in accordance with the terms of this Sublease, with due and reasonable care and observance of the rights and interests of the residential, office and retail tenants of the Building, and particularly, except as otherwise provided herein, Subtenant shall prevent or promptly abate any and all odors, noise and nuisances caused by or resulting from the conduct of the business operated from the Premises which will interfere with or impair the rights and interests of any of such residential, office or retail tenants. Subtenant shall be solely responsible for ensuring that no odors or noise shall emanate from the Premises into any residential, office or retail portions of the Building, and Subtenant shall use commercially reasonable efforts to prevent such odors or noise, including without limitation installing necessary soundproofing or odor-sealing equipment or installations. Sublandlord acknowledges that Subtenant intends to: play recorded music and live music within the inside portions of the Premises at a decibel level not to exceed levels customary for similarly situated museum and educational venues (i.e. the Country Music Hall of Fame and Museum and Rock and Roll Hall of Fame) within mixed use projects in major metropolitan areas (the "**Onsite Music Activities**"). The Onsite Music Activities shall at all times be permissible so long as the requirements of applicable Laws are satisfied at all times and Subtenant complies with the following procedures and criteria:

(i) In designing, constructing and installing the interior of the Premises, Subtenant shall work in cooperation with Sublandlord and any consultants designated by Sublandlord so as to direct music, performances and other noise away from (to the extent reasonably possible) the proposed residential or office facilities of the Project, which are intended as of the Effective Date to be materially located as set forth in **Exhibit B** attached hereto. Subtenant agrees to comply with any reasonable recommendations of Sublandlord and Sublandlord's consultants in such regard so long as Subtenant is not required to incur any extraordinary additional expenses in complying with Sublandlord's recommended design/construction/installation methods.

(ii) In the event that the Onsite Music Activities or Subtenant's proposed use within the Premises should cause excessive sound and/or vibration beyond the sound levels set forth in Section 3.6(b)(iii), then Sublandlord, at its sole discretion may require, Subtenant to provide an acoustic study for Sublandlord's review and approval, and may require Subtenant to install sound and vibration attenuation measures as part of Subtenant's Work in a manner consistent with the acoustic study to mitigate sound and/or vibration transmission to other premises or the Common Area. In the event Subtenant's Permitted Use or Onsite Music Activities requires a reduced noise level beyond normal uses identified within the Project, Subtenant shall provide additional sound insulation, at Subtenant's expense, to obtain the level of soundproofing desired by the Subtenant.

(iii) Sound from Premises shall not exceed a rating of 50 dBC or the single octave band ratings outlined in the table below:

Octave Band Frequency (Hz)	Maximum Sound Pressure Levels (dB) as measured within an adjacent commercial property.
31.5	71
63	60
125	52
250	45
500	40
1000	36
2000	34
4000	33
8000	32

(iv) Sublandlord shall have the right to enforce Subtenant's compliance with the specific requirements of this Section 3.6(b), including the right, at Sublandlord's sole cost and expense, to install decibel monitoring stations throughout the Project. Subtenant acknowledges and agrees that Subtenant will be in violation of the requirements of this Section 3.6(b) if any music/noise produced at or from the Premises exceed the permissible requirements of Laws, even if the applicable governing authority elects not to investigate or enforce such Laws. In any event, Sublandlord and Subtenant agree to work cooperatively and in good faith to timely address any bona fide concerns or complaints raised by residents or other occupants/tenants of the Project as relates to noise, odors or lighting.

(c) Subtenant shall not use or permit the use of the sidewalks adjacent to the Premises for the display of merchandise or for any other purpose whatsoever without Sublandlord's consent. Subtenant further agrees that Subtenant will immediately cure any condition caused by or permitted by Subtenant in or about the Premises which is the subject of a reasonable complaint or claim by a residential, office or retail tenant of the Building against Sublandlord. **TO THE EXTENT PERMITTED BY APPLICABLE LAW, SUBTENANT SHALL INDEMNIFY SUBLANDLORD AND HOLD SUBLANDLORD HARMLESS FROM ALL CLAIMS, EXPENSES, DAMAGES AND LIABILITIES INCURRED BY SUBLANDLORD WITH RESPECT TO THE RESIDENTIAL, OFFICE AND/OR RETAIL TENANTS, OF THE BUILDING AS A RESULT OF A BREACH BY SUBTENANT OF ANY PROVISION OF THIS SECTION 3.6.**

3.7 Sublandlord's Recapture Right. During the Term, Subtenant shall cause the Premises to be continuously used and occupied in accordance with the terms and provisions of Section 3.1. If, at any time during the Term, seventy-five percent (75%) or less of the Floor Area of the Premises is not used for the operation of a museum (the "**Operating Threshold**") for more than one hundred eighty (180) consecutive days without the written consent of Sublandlord, then Sublandlord shall have the right, but not the obligation, to terminate this Sublease upon not less than thirty (30) days prior written notice (the "**Recapture Notice**"); provided, however, Subtenant shall have the right to nullify the Recapture Notice by delivering notice to Sublandlord of Subtenant's intent satisfy the Operating Threshold within thirty (30) days after receipt of the Recapture Notice, and by actually meeting the Operating Threshold within sixty (60) days of receipt of the Recapture Notice. Notwithstanding the foregoing, if Subtenant fails to meet the Operating Threshold more than twice during the Term, then Sublandlord shall have the right to recapture set forth in this Section 3.7, but Subtenant shall have no "savings rights" following Subtenant's second failure to meet the Operating Threshold.

In the event that Sublandlord elects, in Sublandlord's sole and absolute discretion, to deliver the Recapture Notice to Subtenant, and Subtenant does not nullify the Recapture Notice as set forth in the preceding sentence, the Expiration Date shall be automatically accelerated to the date set forth in the Recapture Notice, and Subtenant shall surrender possession of the Premises to Sublandlord, in accordance with the provisions of this Sublease, on or before the accelerated Expiration Date.

3.8 Private Events.

(a) Consistent with the Permitted Use and subject to all requirements and limitations of all permitting requirements and the requirements of applicable law, governmental, quasi-governmental and Project-jurisdictional organizations, and all terms and conditions of this Sublease, Sublandlord acknowledges that the Premises may be used for Private Events pursuant to the terms and conditions of this Sublease. When the Premises are used for Private Events, the Premises shall be operated at all times in a manner consistent with this Sublease (including, without limitation, Section 3.6 and any rules imposed consistent therewith) and all matters of record encumbering the Premises. Subtenant acknowledges and agrees that Subtenant shall use commercially reasonable efforts to ensure that any caterer or other third party vendor engaged in connection with such Private Events will comply with the Rules. To the extent Subtenant violates the foregoing, Sublandlord shall provide Subtenant written demand to remedy such violation(s), and if Subtenant fails to remedy such violation to Sublandlord's reasonable satisfaction within ten (10) days following such notice, then such violation shall constitute an Event of Default and Sublandlord shall be entitled to the remedies set forth in Section 21.2 of this Sublease. Notwithstanding the foregoing, if Subtenant's failure is of such a nature that it cannot be cured within ten (10) days, no Event of Default shall be deemed to have occurred by reason of the breach if cure is commenced promptly and diligently pursued to completion within a period not longer than twenty (20) days; and provided further that, in the event of a breach involving an imminent threat to health or safety, Sublandlord may by notice reduce the period for cure to such shorter period as may be reasonable under the circumstances.

Along with Subtenant's monthly payment of Fixed Common Area Operating Costs, Subtenant shall provide Sublandlord with a schedule of Private Events planned for such month (the "**Private Events Calendar**"). Sublandlord agrees to accommodate Private Events not set forth on the Private Events Calendar if the cumulative attendance of such Private Event(s) on any given calendar day at any given calendar hour is less than fifty (50) attendees (the "**Attendee Threshold**") provided, however, Subtenant must provide Sublandlord with at least seventy-two (72) hours prior written notice of any Private Event requiring bus pickup and drop off at the Project in accordance with Section 3.1(c). Subtenant's failure to provide Sublandlord with the notice required pursuant to this Section more than twice in any Sublease Year shall constitute an Event of Default hereunder. Notwithstanding the foregoing, if the total anticipated attendance does not exceed the Attendee Threshold and such Private Events does not require bus pickup and drop-off at the Project, then Subtenant shall not be required to provide Sublandlord with advance written notice. Nonetheless, Subtenant will endeavor to provide at least seventy-two (72) hours prior notice of such Private Event(s) to Sublandlord.

(b) In addition to Fixed Common Area Operating Costs, Subtenant acknowledges and agrees that Subtenant's use and operation of the Premises for Private Events occurring during the Minimum Hours of Operation or Standard Hours of Operation may require, as determined by Sublandlord in Sublandlord's commercially reasonable discretion, the following (i) additional security outside the Premises but within the Project, (ii) additional valet service and/or (iii) additional trash/rubbish removal service (collectively, "**Private Event Associated Extra Services**"). At least seventy-two (72) hours prior to a Private Event, Subtenant shall provide, to the extent not previously provided to Sublandlord pursuant to Section 3.6(a), Sublandlord with details regarding the Private Event which shall include, but not be limited to, the anticipated number of attendees, event hours and type of event) in order for Sublandlord to determine if Private Event Associated Extra Services shall be required. Unless Subtenant

specifically requests Private Event Associated Extra Services, Sublandlord acknowledges and agrees that Private Event Associated Extra Services shall not be required for Private Events during the Minimum Hours of Operation or Standard Hours of Operation that do not exceed the Attendee Threshold. Subtenant shall be exclusively responsible for providing the Private Event Associated Extra Services at Subtenant's sole cost and expense. The Private Event Associated Extra Services shall be provided by Subtenant using the same security and cleaning vendors used by Sublandlord within the Premises (provided such companies charge commercially reasonable rates), and shall be provided in a time, quality and manner not less than that which is consistent with services provided by Sublandlord for the Common Areas. Should Subtenant fail to provide the Private Event Associated Extra Services as required by this Section 3.8(b), or should Sublandlord determine, in Sublandlord's reasonable discretion, that the Private Event Associated Extra Services are inconsistent with the foregoing standard, then Sublandlord shall have the right to perform such services on Subtenant's behalf at Subtenant's sole commercially reasonable cost and expense, with any amounts paid by Sublandlord being due as Additional Rent within ten (10) days following receipt of invoice from Sublandlord. Although Sublandlord shall endeavor to provide Subtenant written notice before undertaking such services on Subtenant's behalf, Subtenant acknowledges and agrees that, due to the time sensitive nature of the need for the Private Event Associated Extra Services, written notice may not be practical on certain occasions, and in such circumstances, Sublandlord may perform the Private Event Associated Extra Services following verbal notice provided to Subtenant's representative at the Premises (if any representative is present, and if no representative is present, then no notice shall be required).

(c) Throughout the Term and in connection with Private Events occurring during Extended Hours (an "**Extended Hours Private Event**"), Subtenant shall enter into a contractual agreement with the then-current janitorial service company engaged by Sublandlord for the Project (provided such company charges commercially reasonable rates) so that such janitorial service company may maintain the Premises in accordance with the standards of operation and maintenance of the Project as required by this Sublease (at Subtenant's sole cost and expense), but only provided that the such janitorial service company charges commercially reasonable rates. Any janitorial contract shall be subject to Sublandlord's prior approval (not to be unreasonably withheld, conditioned or delayed), and must include, at a minimum, the requirement to fully clean the Premises following any Extended Hours Private Event, including, but not limited to, removing any trash and debris therefrom each evening following Subtenant's closure for business after an Extended Hours Private Event. On or before the Commencement Date, Subtenant shall provide a copy of Subtenant's contract with such janitorial service company, and Subtenant shall further provide copies of any extensions/renewals of such contract from time to time prior to expiration of the same. Should Subtenant fail to provide its janitorial service contract (or any extensions/renewals) to Sublandlord, or should Subtenant otherwise fail to maintain the Premises consistent with the standards of operation and maintenance of the Project as required by this Sublease, then Sublandlord shall have the right, after providing Subtenant with written notice and a thirty (30) day cure period (except in the event of a bona fide emergency, when no such cure period shall be required), but not the obligation, in addition to any other rights and remedies under this Sublease, at law or in equity, to contract for the maintenance of the Premises as required pursuant to this Section 3.8(c) and the reasonable cost of such contract (in addition to a five percent (5%) administrative fee) shall constitute Additional Rent.

(d) Throughout the Term, Subtenant shall enter into a contractual agreement with the then-current security company engaged by Sublandlord (provided such company charges commercially reasonable rates) and/or the Nashville Metropolitan Police Department so as to provide security for the Premises and areas immediately adjoining the Premises (at Subtenant's sole cost and expense) during the Minimum Hours of Operation, Standard Hours of Operation and in connection with any Extended Hours Private Event. If the Subtenant elects to use the Nashville Metropolitan Police Department, along with Subtenant's monthly payment of Fixed Common Area Operating Costs, Subtenant shall provide Sublandlord with a schedule of contracted security for such month (the "**Security Calendar**"). Any security services contract shall be subject to Sublandlord's prior approval (not to be unreasonably withheld, conditioned or delayed), and must include, at a minimum, the requirement to provide security services for the Premises and areas immediately adjoining the Premises at all times during Minimum Hours of Operation, Standard Hours of Operation and any Extended Hours Private Event. On or before the Commencement Date, Subtenant shall provide a copy of Subtenant's contract with such security company, and Subtenant shall further provide copies of any extensions/renewals of such contract from time to time prior to expiration of the same. Should Subtenant fail to provide its security service contract (or any extensions/renewals) to Sublandlord, or should Subtenant otherwise fail to maintain security within the Premises consistent with the standards of operation and maintenance of the Project as required by this Sublease, then Sublandlord shall have the right, but not the obligation, after providing Subtenant with written notice and a thirty (30) day cure period (except in the event of a bona fide emergency, when no such cure period shall be required), in addition to any other rights and remedies under this Sublease, at law or in equity, to contract for providing security as required pursuant to this Section 3.8(d) and the reasonable cost of such contract (in addition to a five percent (5%) administrative fee) shall be Additional Rent. In no event, however, shall Sublandlord or any Sublandlord Related Parties have any obligation to provide security for the Premises and/or any of its components (including, without limitation, the Subtenant Related Amenities), such responsibility being Subtenant's sole and exclusive responsibility. Sublandlord shall in no event be liable for any failure to provide security within the Premises nor shall Sublandlord be liable for any deficiency in security provided within the Premises (even if Subtenant engages Sublandlord's then-current security company to provide security services pursuant to this Section 3.8(d)).

4. SECURITY DEPOSIT. Within two (2) business days of Sublandlord's delivery of the Premises to Subtenant, Subtenant shall deposit with Sublandlord in the amount set forth in Section 1.4 to secure Subtenant's performance of this Sublease. The Security Deposit shall not bear interest, and shall not be required to be maintained in a separate account. If Subtenant fails to perform with respect to any provision of this Sublease, Sublandlord may apply the Security Deposit for the payment of any sum in default, or for the payment of any other amount that Sublandlord may spend or become obligated to spend by reason of Subtenant's default, or to compensate Sublandlord for any loss or damage that Sublandlord suffers from Subtenant's default. Application of the Security Deposit is not a cure of the default by Subtenant to which the application relates. If any portion of the Security Deposit is applied, Subtenant shall, within five (5) days after written demand therefor, deposit cash with Sublandlord in an amount sufficient to restore the Security Deposit to its original amount. Sublandlord's obligations under this Sublease are conditioned upon the receipt of guarantees in the form required by Sublandlord from all persons or entities named in Section 1.3, if any. Provided that Subtenant has performed all of its obligations hereunder, Sublandlord shall return any unapplied portion of the Security

Deposit to Subtenant (or the last assignee of Subtenant's interest), less any unpaid claims against Subtenant, within thirty (30) days of the earlier to occur of: (A) the date Subtenant surrenders possession of the Premises to Sublandlord in accordance with this Sublease; or (B) the Expiration Date. Sublandlord may withhold from the Security Deposit all amounts allowed by Law and the amount reasonably anticipated by Sublandlord to be owed by Subtenant as a result of an underpayment of Subtenant's Proportionate Share of any Fixed Common Area Operating Costs for the final year of the Term. Following the close of the final year of the Term, the actual amount of Subtenant's Proportionate Share of any Fixed Common Area Operating Costs due or payable shall be computed by Sublandlord and any excess paid by Subtenant and withheld from the Security Deposit shall be reimbursed by Sublandlord within thirty (30) days of such reconciliation or within thirty (30) days after written notice from Sublandlord any deficiency owed shall be paid in full by Subtenant. To the fullest extent permitted by applicable Law, Subtenant agrees that the provisions of this Article 4 shall supersede and replace all statutory rights of Subtenant under applicable Law regarding the retention, application or return of security deposits. If Sublandlord transfers its interest in the Premises, Sublandlord shall assign the Security Deposit to the transferee and, following the assignment and the delivery to Subtenant of an acknowledgement of the transferee's responsibility for the Security Deposit, Sublandlord shall have no further liability for the return of the Security Deposit.

5. RENT.

5.1 Base Rent. Subtenant shall pay to Sublandlord, in advance, on the first day of each calendar month, beginning on the Commencement Date, Base Rent in the applicable amounts set forth in Section 1.9.

5.2 Intentionally deleted.

5.3 Late Charges, Interest and Returned Checks. Subtenant shall pay to Sublandlord a late charge equal to the greater of (i) One Hundred Dollars ($100.00) or (ii) five percent (5%) of the amount due on any amount payable under this Sublease that is not paid within ten (10) days after the date due as liquidated damages to compensate Sublandlord for costs and inconveniences of special handling and disruption of cash flow. Subtenant hereby expressly acknowledges that such late charge is a reasonable estimation of Sublandlord's actual damages and does not constitute a penalty. The assessment or collection of a late charge shall not constitute the waiver of any breach or default and shall not bar the exercise of other remedies for nonpayment. In addition to the late charge, all amounts not paid within ten (10) days of the date due shall bear interest from the date due at the rate of ten percent (10%); provided, however, that such interest shall never exceed the maximum legal rate from time to time permitted by applicable law (the "**Default Rate**"). Additionally, if Subtenant pays any installment of Rent or other sum by check and such check is returned for insufficient funds or other reason not the fault of Sublandlord, then Subtenant shall pay to Sublandlord on demand a processing fee of Fifty Dollars ($50.00) per returned check.

5.4 Additional Rent. Except as otherwise provided herein, Subtenant shall pay to Sublandlord, in advance, on the first day of each calendar month, beginning on the Commencement Date, the monthly amount of (a) Subtenant's Fixed Common Areas Operating Costs (as provided in Section 6.1), (b) Subtenant's Proportionate Share of Taxes (as provided in

Section 7.3), (c) Subtenant's utility costs (including but not limited to Chilled Water Costs and Domestic Water Passthrough) (as provided in Section 12), (d) charges for Private Event Associated Extra Services or charges incurred in connection with Section 3.8(c) and Section 3.8(d), and (f) all other amounts required to be paid to Sublandlord in monthly installments by Subtenant pursuant to this Sublease (collectively, "**Additional Rent**").

5.5 Excise Taxes. Subtenant shall pay to Sublandlord all sales, use, transaction privilege, or other tax levied or imposed upon, or measured by, any amount payable by Subtenant under this Sublease. Sublandlord shall pay such taxes when due to the appropriate taxing authorities.

5.6 Obligations Are Rent. All amounts payable to Sublandlord under this Sublease constitute rent ("**Rent**") and shall be payable without notice, demand, deduction or offset to Sublandlord, except as otherwise set forth herein, at the address set forth in Section 1.21 or to such person and at such place as Sublandlord may from time to time designate by written notice to Subtenant.

6. OPERATING COSTS.

6.1 Subtenant's Fixed Common Area Operating Costs. Subtenant's Fixed Common Area Operating Costs shall be in the initial amount set forth in Section 1.13 above, subject to adjustment as set forth herein. On the first day of each and every calendar year following the first full calendar year following the later of (i) the Commencement Date or (ii) the Retail Grand Opening Date, Subtenant's Fixed Common Area Operating Costs shall be increased by an annual amount no greater than three percent (3%) (computed on an cumulative basis), subject to adjustment by Sublandlord upon commencement of any Renewal Term, such adjustment to be consistent with the then-current Fixed Common Area Operating Costs rates being charged similarly situated tenants. Subtenant shall pay to Sublandlord, in advance, on the first day of each calendar month, beginning on the Commencement Date, a monthly amount equal to one-twelfth (1/12) of Subtenant's Fixed Common Area Operating Costs. Sublandlord and Subtenant are knowledgeable and experienced in commercial transactions and agree that the provisions of this Sublease for determining charges, amounts and Additional Rent payable by Subtenant are commercially reasonable and valid even though such methods may not state a precise mathematical formula for determining such charges.

6.2 Partial Year Proration. During the first and last years of the Term, Subtenant's responsibility for Subtenant's Fixed Common Area Operating Costs shall be adjusted in proportion that the number of days of that year during which this Sublease is in effect bears to three hundred sixty five (365).

6.3 Fixed Common Area Operating Costs. Fixed Common Area Operating Costs are all costs of operating, maintaining, managing and repairing the Project that are, in the reasonable determination of Sublandlord, attributable to the Retail Space.

7. TAXES.

7.1 Definition. Taxes shall include without limitation all federal, state, county or local governmental, special district, improvement district, municipal or other political

subdivision taxes, fees, levies, assessments, charges or other impositions of every kind and nature, whether foreseen or unforeseen, general, special, ordinary or extraordinary, upon or respecting the Project, including without limitation, real estate and other ad valorem taxes, general and special assessments, interest on any special assessments paid in installments, transit taxes, water and sewer rents, taxes based upon the receipt of rent including, without limitation, gross receipts taxes applicable to rent, personal property taxes imposed upon fixtures, machinery, equipment, apparatus, appurtenances, furniture, and other personal property used in connection with the Project, and any payments in lieu of any of the foregoing items. Notwithstanding the foregoing, Taxes shall not include excess profits taxes, gross receipts, excise taxes, franchise taxes, sales taxes, gift taxes, capital stock taxes, inheritance and succession taxes, estate taxes, federal and state income taxes income or similar taxes that may be imposed upon or assessed against Sublandlord, or any successor of Sublandlord, with respect to the Premises or the rents and income derived from this Sublease, under any law now of force or hereafter enacted. Subtenant shall pay Subtenant's Proportionate Share of any increased taxes, whether as a result of increases in the assessment or valuation of the Project and whether based on a sale, change in ownership or refinancing or otherwise, increases in tax rates, reduction or elimination of any credits, rollbacks or other deductions available under current law, scheduled reductions, elimination, invalidity or withdrawal of any tax abatement, or for any other cause whatsoever. Tax refunds shall be deducted from such taxes in the year they are received by Sublandlord. If taxes for any period shall be increased after payment thereof by Sublandlord for any reason, including without limitation error, reassessment or supplemental billing by applicable governmental or municipal authorities, Subtenant shall pay Sublandlord within ten (10) days after notice Subtenant's Proportionate Share of Taxes of such increased taxes.

Sublandlord shall have the right to employ a tax consulting firm to attempt to assure a fair tax burden on the Project. Subtenant shall pay to Sublandlord upon demand from time to time, as part of Taxes, the amount of Subtenant's pro rata share as aforesaid of the cost of such service. To the extent allowed by law, Subtenant waives all rights to protest or appeal the appraised value of the Premises or Project, and all rights to receive notices of re-appraisement. In addition, as part of Taxes, Subtenant shall pay upon demand Subtenant's pro rata share as aforesaid of any fees, expenses and costs incurred by Sublandlord in contesting any assessments, levies or tax rate applicable to the Project or portions thereof.

Taxes shall not include interest and penalties due on delinquent Taxes, but shall include interest on Taxes withheld by virtue of Sublandlord making partial payment under protest in the event such partial payment is permitted in connection with a tax appeal proceeding.

7.2 Subtenant's Share. Except as otherwise provided herein, Subtenant shall pay to Sublandlord, as Rent, Subtenant's Proportionate Share of all Taxes that are, in the reasonable determination of Sublandlord, attributable to the non-office Project space, and which become due or payable during the Term, such Proportionate Share of Taxes to be prorated for periods at the beginning and end of the Term which do not constitute full tax months or years. Notwithstanding anything to the contrary contained herein, Subtenant represents that the Premises shall be exempt from Taxes. Accordingly, provided Subtenant, at Subtenant's sole cost and expense, obtains and maintains such exemption and provides documentation to Sublandlord evidencing the same, Subtenant shall not be responsible for Subtenant's Proportionate Share of Taxes, but Subtenant shall remain responsible for any amounts due pursuant to Section 7.4.

7.3 Payment by Subtenant. Except as otherwise provided herein, Subtenant's Proportionate Share of Taxes shall be paid in monthly installments commencing with the Commencement Date, in amounts estimated by Sublandlord, one (1) such installment being due on the first day of each full or partial month of each full or partial calendar year during the Term. Such monthly installments shall increase or decrease upon notice from Sublandlord given after the actual or anticipated amounts of Taxes due or payable in a particular calendar year are determined. Following the close of each full or partial calendar year during the Term, the actual amount of Taxes due or payable shall be computed by Sublandlord and any excess paid by Subtenant during such calendar year over the actual amount Subtenant is obligated to pay hereunder shall be credited against the next installment of Subtenant's Proportionate Share of Taxes due from Subtenant, and within thirty (30) days after written notice from Sublandlord any deficiency owed shall be paid in full by Subtenant. Except as set forth in Section 1.16 which estimate is given solely as an accommodation to Subtenant, Subtenant acknowledges and agrees that Sublandlord has made no representation or agreement of any kind as to the total dollar amount of such Taxes, actual or estimated, or Subtenant's dollar share thereof. In no event shall Sublandlord be bound by any such estimated amount, which estimated amount is subject to change based upon Sublandlord's sole determination.

7.4 Other Taxes. In addition to any other amounts for which Subtenant is responsible, Subtenant shall be liable for and shall pay to the applicable taxing authority before delinquency all taxes levied or assessed upon, measured by or arising from: (a) the conduct of Subtenant's business or the business conducted from the Premises; (b) Subtenant's interest under this Sublease; (c) Subtenant's property or the property Subtenant permits to be installed in the Premises; or (d) payments in lieu of any of the foregoing taxes. If any such taxes are levied against Sublandlord or Sublandlord's property and if Sublandlord elects to pay the same or if the assessed value of Sublandlord's property is increased by inclusion of personal property and trade fixtures placed by Subtenant in the Premises and Sublandlord elects to pay the taxes based on such increase, Subtenant shall pay to Sublandlord upon demand that part of such taxes for which Subtenant is primarily liable under this Sublease upon the submittal by Sublandlord of documentation substantiating such costs.

8. INSURANCE AND INDEMNITY.

8.1 Indemnification; Assumption of Risk. TO THE EXTENT PERMITTED BY APPLICABLE LAW, SUBTENANT SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS SUBLANDLORD AND ITS AFFILIATES AND SUBLANDLORD'S AND ITS AFFILIATES' DESIGNEES, AGENTS, EMPLOYEES, REPRESENTATIVES AND LENDERS (HEREINAFTER REFERRED TO AS "**SUBLANDLORD RELATED PARTIES**"), FOR, FROM, AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, SUITS, LOSSES, DAMAGES, COSTS AND EXPENSES, WHICH MAY ARISE FROM SUBTENANT'S USE OF THE PREMISES OR THE CONDUCT OF SUBTENANT'S BUSINESS IN OR ABOUT THE PROJECT, OR FROM ANY ACTIVITY, WORK OR THING DONE BY SUBTENANT OR SUBTENANT'S AGENTS, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS OR INVITEES IN, UPON OR ABOUT THE PREMISES, OR FROM ANY INCIDENT CONDUCTED OR OCCURRING WITHIN THE PREMISES OR FROM ANY BREACH OR DEFAULT UNDER THE TERMS OF THIS SUBLEASE BY SUBTENANT (COLLECTIVELY, "**CLAIMS AGAINST SUBLANDLORD**"), EXCEPT TO

THE EXTENT THAT SUCH CLAIMS AGAINST SUBLANDLORD ARISE OUT OF A DEFAULT BY SUBLANDLORD UNDER THIS SUBLEASE, THE ACTS OF OTHER TENANTS IN THE PROJECT, OR THE NEGLIGENCE, WILLFUL MISCONDUCT OR INTENTIONAL ACTS OF SUBLANDLORD AND/OR THE SUBLANDLORD RELATED PARTIES. IF ANY ACTION OR PROCEEDING IS BROUGHT AGAINST SUBLANDLORD OR ANY OTHER SUBLANDLORD RELATED PARTIES, AND SUCH CLAIM IS A CLAIM FOR, FROM OR AGAINST WHICH SUBTENANT IS OBLIGATED TO INDEMNIFY SUBLANDLORD OR ANY OTHER SUBLANDLORD RELATED PARTY PURSUANT TO THIS SECTION 8.1, SUBTENANT, UPON NOTICE FROM SUBLANDLORD, SHALL RESIST AND DEFEND SUCH ACTION OR PROCEEDING (BY LEGAL COUNSEL REASONABLY SATISFACTORY TO SUBLANDLORD). SUBTENANT'S OBLIGATIONS UNDER THIS SECTION SHALL BE REDUCED TO THE EXTENT THAT SUBTENANT IS NOT PROMPTLY NOTIFIED AS AFORESAID AND SUCH FAILURE PREJUDICES SUBTENANT. SUBTENANT, AS A MATERIAL PART OF THE CONSIDERATION TO SUBLANDLORD, HEREBY ASSUMES ALL RISK OF DAMAGE TO PROPERTY OR INJURY TO OR DEATH OF PERSONS, IN, UPON OR ABOUT THE PREMISES FROM ANY CAUSE DIRECTLY RELATED TO THE PERMITTED USE, AND SUBTENANT HEREBY WAIVES ALL CLAIMS AGAINST SUBLANDLORD RESPECTING ANY SUCH DAMAGE, INJURY OR DEATH, EXCEPT TO THE EXTENT CAUSED FROM A DEFAULT BY SUBLANDLORD UNDER THIS SUBLEASE, OTHER TENANTS IN THE PROJECT, OR THE NEGLIGENCE, WILLFUL MISCONDUCT OR INTENTIONAL ACTS OF SUBLANDLORD AND/OR THE SUBLANDLORD RELATED PARTIES. SUBLANDLORD SHALL NOT BE LIABLE FOR LOSS OF OR DAMAGE TO ANY PROPERTY ARISING FROM ANY ACT, ERROR OR OMISSION OF ANY OTHER TENANT IN THE PROJECT. THE OBLIGATIONS AND AGREEMENTS OF SUBTENANT UNDER THIS SECTION 8.1 SHALL SURVIVE TERMINATION OF THIS SUBLEASE.

TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE INDEMNITY PROVISIONS OF SUBTENANT UNDER THIS SUBLEASE SHALL APPLY TO ANY LOSSES, INCLUDING, WITHOUT LIMITATION, THOSE LOSSES THAT ARISE IN STRICT LIABILITY OR ARE INCURRED AS A RESULT, DIRECTLY OR INDIRECTLY, OF THE NEGLIGENCE OR OTHER ACT OR OMISSION OF SUBLANDLORD OR ANY OTHER INDEMNIFIED PARTY; PROVIDED THAT SUBTENANT SHALL NOT BE LIABLE TO SUBLANDLORD OR ANY OTHER INDEMNIFIED PARTY FOR ANY LOSSES TO THE EXTENT SOLELY CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF SUBLANDLORD OR ANY INDEMNIFIED PARTY.

8.2 Subtenant's Insurance. Effective as of the earlier of (i) the date Subtenant enters or occupies the Premises, or (ii) the Commencement Date, and continuing throughout the Term, Subtenant, at Subtenant's sole cost and expense, shall maintain throughout the Term the insurance coverage set forth in **Exhibit E**, which represents minimum requirements and does not in any way limit Subtenant's liability. Subtenant shall be required to deliver evidence of such insurance to Sublandlord as set forth in **Exhibit E** of this Sublease.

8.3 Sublandlord's Insurance. Throughout the Term, Sublandlord shall maintain, as a minimum, the following insurance policies: (1) property insurance for the Building's full replacement value (excluding property required to be insured by Subtenant, it being agreed that

Sublandlord shall have no obligation to provide insurance for such property), less a commercially-reasonable deductible similar to owners of similar Buildings in the downtown Nashville area if Sublandlord so chooses; and (2) commercial general liability insurance in an amount of not less than $3,000,000 per occurrence for bodily injury and property damage, $3,000,000 each person or organization for personal and advertising injury, $3,000,000 general aggregate, and $3,000,000 products and completed operations aggregate. Limits can be satisfied through the maintenance of a combination of primary and umbrella policies. Sublandlord may, but is not obligated to, maintain such other insurance and additional coverages as it may deem necessary. Subtenant shall pay Subtenant's Proportionate Share of the cost of all insurance carried by Sublandlord with respect to the Project. Subtenant's Proportionate Share of insurance for the Project shall be computed by multiplying the costs of such insurance by a fraction, the numerator of which shall be the number of leasable square feet in the Premises and the denominator of which shall be the annual average number of leasable square feet of all stores in the Project (excluding any stores in which the tenant therein is responsible for such insurance on its space). The foregoing insurance policies and any other insurance carried by Sublandlord shall be for the sole benefit of Sublandlord and under Sublandlord's sole control, and Subtenant shall have no right or claim to any proceeds thereof or any other rights thereunder.

8.4 Subtenant's Proportionate Share of Sublandlord's Insurance Costs. Notwithstanding Sublandlord's actual costs, Subtenant's Proportionate Share of Sublandlord's Insurance Costs shall be included in Subtenant's Fixed Common Area Operating Costs.

8.5 Waiver of Subrogation. Sublandlord and Subtenant each hereby waive any rights one may have against the other on account of any loss or damage occasioned to Sublandlord or Subtenant, as the case may be, or their respective property, the Premises, its contents or to other portions of the Project, arising from any risk which is insured against by either party or is required under this Sublease to be insured against by the injured party under a standard policy of full replacement cost insurance for fire, extended coverage and all risk coverage, or losses under workers' compensation laws and benefits, even though such loss or damage might have been occasioned by the negligence of the uninjured party (this waiver shall not apply, however, to any damage caused by intentionally wrongful actions or omissions). Sublandlord and Subtenant shall each look to their respective insurance coverage for recovery of any insured property damage. Sublandlord and Subtenant shall each cause any all-risk or other property insurance policies which it maintains to contain a provision whereby the insurer waives any (i) rights of subrogation and (ii) rights of recovery against the other party. Both Sublandlord and Subtenant agree to immediately give each insurance company which has issued to it policies of all-risk or other property insurance written notice of the terms of said mutual waivers and to cause said insurance policies to be properly endorsed, if necessary, to prevent the invalidation thereof by reason of said waivers and shall furnish to the other party a certificate of insurance or other written evidence of such endorsement or that such endorsement is not required.

8.6 Waiver. Subtenant expressly waives any right to claim constructive eviction or to otherwise terminate this Sublease as a result of any actual or claimed Sublandlord default hereunder. Additionally, Subtenant and Sublandlord expressly further waives any and all claims for consequential, indirect and punitive damages which Subtenant or Sublandlord may have against the other party. Without limiting the foregoing, Sublandlord, its agents and employees, shall not be liable for, and Subtenant waives all claims for damages, including, but not limited to

consequential damages, to person, property or otherwise, sustained by Subtenant or any person claiming through Subtenant resulting from any accident or occurrence in or upon any part of the Project including, but not limited to, claims for damage resulting from: (a) any equipment or appurtenances becoming out of repair, (b) Sublandlord's failure to keep any part of the Project in repair; (c) injury done or caused by wind, water, or other natural element; (d) any defect in or failure of plumbing, heating or air conditioning equipment, electric wiring or installation thereof, gas, water, and steam pipes, stairs, porches, railings or walks; (3) broken glass; (f) the backing up of any sewer pipe or downspout; (g) the bursting, leaking or running of any tank, tub, washstand, water closet, waste pipe, drain or any other pipe or tank in, upon or about the Premises; (h) the escape of steam or hot water; (i) water upon the Premises; (j) the falling of any fixture, plaster or stucco; (k) damage to or loss by theft or otherwise of property of Subtenant or others; (l) acts or omissions of persons in the Premises, other tenants in the Project, occupants of nearby properties, or any other persons; and (m) any act or omission of owners or occupants of adjacent or contiguous property; provided, however, this indemnity shall not be applicable to the extent such claims or damages were the result of a default by Sublandlord under this Sublease or the negligence, intentional acts or willful misconduct of Sublandlord or the Sublandlord Related Parties. All personal property belonging to Subtenant kept in the Premises or permitted to be kept in the Premises by Subtenant is kept at Subtenant's risk only and, only to the extent permitted by applicable law, Subtenant shall save Sublandlord harmless from claims arising out of damage to the same, including subrogation claims by Subtenant's insurance carrier except to the extent such claims or damages were caused due to a default by Sublandlord under this Sublease or the negligence, willful misconduct or intentional acts of Sublandlord and/or the Sublandlord Related Parties. SUBTENANT HEREBY WAIVES THE BENEFIT OF ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PREMISES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY THAT THE PREMISES ARE SUITABLE FOR ANY PARTICULAR PURPOSE. SUBLANDLORD HAS MADE NO REPRESENTATIONS, COVENANTS OR WARRANTIES WITH RESPECT TO THE PREMISES EXCEPT AS EXPRESSLY SET FORTH IN THIS SUBLEASE.

8.7 Sublandlord's Indemnification. Sublandlord covenants to defend and hold Subtenant harmless from any and all claims, losses, expenses, costs and damages which may occur with respect to any person or persons, property or chattels on or within the Premises resulting from a default by Sublandlord under this Sublease or the negligence, willful misconduct or intentional acts of Sublandlord or the Sublandlord Related Parties except to the extent such claims result from a default by Subtenant under this Sublease or the negligence, willful misconduct or intentional acts of Subtenant or its employees, agents, contractors or representatives.

9. FIRE AND CASUALTY.

9.1 Termination Rights. Subject to the rights of Sublandlord under Section 9.4, if all or part of the Premises is rendered untenantable by damage from fire or other casualty that in Sublandlord's opinion cannot be substantially repaired (employing normal construction methods without overtime or other premium) under applicable laws and governmental regulations within two hundred forty (240) days from the date of the fire or other casualty, then either Sublandlord or Subtenant may elect to terminate this Sublease as of the date of such casualty by written notice delivered to the other not later than thirty (30) days after notice of such determination is

given by Sublandlord. Notwithstanding anything herein to the contrary, in the event the holder of any indebtedness secured by a mortgage or deed of trust covering the Premises requires that the insurance proceeds be applied to such indebtedness, then Sublandlord shall have the right to terminate this Sublease by delivering written notice of termination to Subtenant within fifteen (15) days after such requirement is made by any such holder, whereupon all rights and obligations hereunder shall cease and terminate.

9.2 Restoration. If in Sublandlord's reasonable opinion the damage caused by the fire or casualty can be substantially repaired (employing normal construction methods without overtime or other premium) under applicable laws and governmental regulations within two hundred forty (240) days from the date of the fire or other casualty, or if neither party exercises its right to terminate under Section 9.1, Sublandlord shall, but only to the extent that insurance proceeds are available for such purpose and to the extent of Sublandlord's Work as set forth in **Exhibit C**, repair such damage, other than damage to Subtenant's leasehold improvements and furniture, furnishings, equipment, trade fixtures or other personal property that does not belong to Sublandlord, all of which shall be repaired or replaced forthwith by Subtenant at its own expense. In the event of any restorative actions by Sublandlord pursuant to this Section 9.2, Subtenant shall pay Subtenant's Proportionate Share of any deductible under Sublandlord's insurance with respect to any casualty occurring in the Project unless Subtenant or another tenant (or the employees, agents, contractors, concessionaires, licensees or subtenant of Subtenant or any other tenant) is responsible for such casualty by way of negligence or willful misconduct, in which event the responsible tenant shall pay the entire amount of the deductible upon demand.

9.3 Abatement. During any period of restoration, charges payable by Subtenant based upon the square footage of the Premises shall be proportionately reduced to the extent that the Premises are thereby rendered untenantable from the date of casualty until substantial completion by Sublandlord of the repairs to the Premises (or the part thereof rendered untenantable) or until Subtenant again uses the Premises (or the part thereof rendered untenantable) in its business, whichever first occurs.

9.4 Partial or Total Destruction of Project. Notwithstanding Section 9.1 to the contrary, if (a) more fifty percent (50%) of the Floor Area on the ground floor of the Building is destroyed by fire, or other casualty, or (b) the damage/destruction is not covered by Sublandlord's insurance (provided such coverage was not required under this Sublease), then, in any such event, Sublandlord may, if it so elects, rebuild or put the Building in good condition and fit for occupancy within a reasonable time after such destruction or damage, or may give notice in writing terminating this Sublease. If Sublandlord elects to repair or rebuild the Building, it shall within sixty (60) days after the occurrence of such damage or destruction give Subtenant notice of its intention to repair, as herein provided, then proceed with reasonable speed to repair. Sublandlord shall not be required to commence reconstruction until Sublandlord has concluded a settlement of its insurance claim relating to the subject casualty. If, however, Sublandlord has not commenced construction within one-hundred and eighty (180) days after the occurrence of such damage or destruction, either Sublandlord or Subtenant may terminate this Sublease by giving the other party written notice thereof; provided that no termination by Sublandlord shall be effective unless Sublandlord has previously or simultaneously terminated the leases and operating agreements of all other tenants and occupants of the Project located in the "**Casualty Zone**", which shall mean "Block A" as identified on **Exhibit B**. In case

Sublandlord elects to rebuild or repair as herein provided, then the obligation of Sublandlord hereunder shall be limited to the basic building as originally installed by Sublandlord pursuant to its obligations set forth in Part One of Section II of **Exhibit C** as Sublandlord's Work.

9.5 Notwithstanding the foregoing, if less than fifty percent (50%) but more than thirty percent (30%) of the Floor Area of the Building is damaged or destroyed by fire or other casualty during the last year of the Term, then Sublandlord, at its option, shall have the right to terminate this Sublease by giving written notice to Subtenant of its election to so terminate, such notice to be given within sixty (60) days after the occurrence of such damage or destruction.

9.6 Removal of Subtenant Property. In the event of any damage or destruction to the Premises, Subtenant shall, upon notice from Sublandlord, forthwith remove, at Subtenant's sole cost and expense, such portion or all of Subtenant's shelves, bins, machinery and other trade fixtures and other property belonging to Subtenant or Subtenant's licensees from such portion or all of the Premises as Sublandlord shall reasonably request.

9.7 Agreed Remedies. Except as specifically set forth in Section 9.3 above, there shall be no reduction or abatement of Rent and Sublandlord shall have no liability to Subtenant by reason of any injury to or interference with the business operated from the Premises or property arising from fire or other casualty, however caused, or from the making of any repairs resulting therefrom in or to any portion of the Project or the Premises by Subtenant or Sublandlord. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 9.1, SUBTENANT WAIVES ANY STATUTORY OR OTHER RIGHTS OF TERMINATION BY REASON OF FIRE OR OTHER CASUALTY, IT BEING THE INTENTION OF THE PARTIES TO PROVIDE SPECIFICALLY AND EXCLUSIVELY IN THIS SECTION 9 FOR THE RIGHTS OF THE PARTIES WITH RESPECT TO TERMINATION OF THIS SUBLEASE AS A RESULT OF A CASUALTY.

10. CONDEMNATION.

10.1 Automatic Termination. If during the Term all or any material part of the Premises is permanently taken for any public or quasi-public use under any statute or by right of eminent domain, or purchased under threat of such taking, this Sublease shall automatically terminate on the date on which the condemning authority takes possession of the Premises and the Rent shall be paid up to that day with a proportionate refund by Sublandlord of any Rent paid in advance for a period subsequent to the day possession is taken.

10.2 Optional Termination.

(a) If more than twenty-five percent (25%) of the Floor Area of the Premises or more than twenty-five percent (25%) of the Common Area is taken under eminent domain, or regardless of the amount taken, if as a result the remainder of the Premises or the Project cannot practicably be operated as a retail business or Project, then either Sublandlord or Subtenant shall have the right to terminate this Sublease effective as of the day possession shall be taken upon giving written notice to the other party of such election within twenty (20) days after notification that the Premises or Common Area have been condemned or appropriated. In case of such termination, both parties shall be released from liability accruing after the date of possession by

the condemning public authority and Rents shall be paid up or refunded in the manner set forth in Section 10.1.

(b) If both Sublandlord and Subtenant elect not to terminate as provided in Section 10.2(a) or if twenty-five percent (25%) or less of the Floor Area of the Premises is taken, the Term shall cease only on the part taken as of the day possession is taken by such public authority, and Subtenant shall pay Rent up to that day with appropriate refund by Sublandlord of such Rents as may have been paid in advance for a period subsequent to the date of the taking, and thereafter Rent shall be equitably adjusted taking into account the relative values of the portion taken as compared to the portion remaining. In such case Sublandlord shall, at its expense, make all necessary repairs or alterations to the basic building exterior and interior work, as originally installed by Sublandlord, so as to constitute the remaining Premises a complete architectural unit, but in no event shall Sublandlord be obligated to expend more than the amount of the award received by Sublandlord (after deducting the reasonable costs of obtaining such award) on such repairs and alterations.

10.3 Award. Except as otherwise provided herein, Sublandlord shall be entitled to receive and retain the entire award or consideration for the affected lands and improvements and Subtenant shall not have or advance any claims against Sublandlord for the value of its property or its interest under this Sublease or the unexpired Term or for costs of removal or relocation or business interruption expense or any other damages arising out of the taking or purchase. Nothing herein shall give Sublandlord any interest in or preclude Subtenant from seeking and recovering on its own account from the condemning authority any separate award of compensation attributable to the taking or purchase of Subtenant's chattels or trade fixtures or attributable to the cost of the improvements constructed by Subtenant or permitted to be constructed by Subtenant in the Premises from time to time (including any additions, replacements or renovations thereto) and Subtenant's relocation expenses provided that any such separate claim by Subtenant shall not reduce or adversely affect the amount of Sublandlord's award. If any such separate award made or compensation paid to Subtenant specifically includes an award or amount for Sublandlord, Subtenant shall promptly account therefor and pay the amount thereof to Sublandlord. Likewise, if any such separate award or compensation paid to Sublandlord includes an award or amount for Subtenant, Sublandlord shall promptly account therefor and pay the amount thereof to Subtenant.

11. MAINTENANCE.

11.1 By Subtenant.

(a) Subtenant shall maintain the Premises (including the sidewalks, service-ways and loading areas adjacent to the Premises) and the improvements thereon, including all doors, plate glass, and heating, air conditioning, ventilation, electrical and plumbing systems exclusively serving the Premises, in good, clean and safe condition and repair, ordinary wear and tear excepted, consistent with the standards for the Project determined by Sublandlord pursuant to Section 11.2, and in accordance with all Laws and Rules. Subtenant's obligations hereunder shall include the obligation to keep all plumbing units, pipes and connections free from obstruction and protected against ice and freezing. Subtenant shall obtain and keep in effect a regularly scheduled preventative maintenance service contract for all heating, air conditioning,

ventilation and water heating equipment exclusively serving the Premises with a qualified contractor approved by Sublandlord and shall provide copies of such contract to Sublandlord when entered into and thereafter whenever renewed or replaced or as requested by Sublandlord from time to time. If Subtenant does not comply with its obligations under this Section 11.1 within ten (10) days following written notice to Subtenant (or such earlier time window if Sublandlord reasonably deems that the conditions merit more prompt action), Sublandlord may, but need not, make such repairs and replacements or obtain such service contracts, and Subtenant shall pay Sublandlord the cost thereof upon demand in addition to an administrative fee of five percent (5%). Subtenant also shall make such repairs and alterations necessary to comply with the requirements of any governmental or quasi-governmental authority having jurisdiction and all Laws.

(b) Intentionally deleted.

(c) It is generally understood that mold spores are present essentially everywhere and that mold can grow in most any moist location. Emphasis is properly placed on prevention of moisture and on good housekeeping and ventilation practices. Subtenant acknowledges the necessity of housekeeping, ventilation, and moisture control (especially in kitchens, janitor's closets, bathrooms, break rooms and around outside walls) for mold prevention. In signing this Sublease, Subtenant has first inspected the Premises and certifies, to the best of its knowledge, that it has not observed mold, mildew or moisture within the Premises. Subtenant agrees to immediately notify Sublandlord if it observes mold/mildew and/or moisture conditions (from any source, including leaks), and allow Sublandlord to evaluate and make recommendations and/or take appropriate corrective action. Subtenant relieves Sublandlord from any liability for any bodily injury or damages to property caused by or associated with moisture or the growth of or occurrence of mold or mildew on the Premises occurring by or through Subtenant. In addition, execution of this Sublease constitutes acknowledgement by Subtenant that control of moisture and mold prevention are integral to its Sublease obligations. Subtenant shall adopt and implement the moisture and mold control guidelines set forth on **Exhibit H** attached hereto.

11.2 By Sublandlord. Sublandlord shall maintain and keep the Common Areas and the roof and structural elements of the Premises and the Building in good condition and repair in accordance with standards then prevailing for comparable shopping centers of like age and character or such higher standard as Sublandlord may determine. Sublandlord shall repair any common utility facilities in the Common Areas, exclusive of storefront, doors, door checks and windows and any repairs occasioned by the act or negligence of Subtenant, its agents, employees, invitees, licensees or contractors, except to the extent that Sublandlord is reimbursed therefore under any policy of insurance permitting waiver of subrogation in advance of loss. Sublandlord shall not be called upon to make any other improvements or repairs until at least five (5) business days after Subtenant, in writing, has notified Sublandlord of the condition requiring repair (or if the nature of the repair constitutes an emergency or requires a more immediate response, Sublandlord shall use commercially reasonably efforts to promptly address the repair). Sublandlord shall have no liability for damages resulting from roof leakage unless, after written notice from Subtenant, Sublandlord fails to use reasonable diligence in attempting to identify sources of such leakage and to implement repairs within the time required herein. Repairs to building exterior walls and roof, shall be charged to Subtenant and paid in accordance

with the provisions of this Sublease. Sublandlord shall not be liable or responsible for breakdowns or temporary interruptions to utilities nor for interference with the business operated from the Premises during the course of repairs or remedial work.

12. UTILITIES.

12.1 Access to Utilities. Sublandlord will provide Subtenant with convenient access to water, sewer, electrical, and gas service (collectively, the "**Utilities**"), at locations reasonably close to the Premises, with any necessary submeters installed as set forth in **Exhibit C**. Subtenant, at its own cost and expense, shall connect to the Utilities and shall be solely responsible for payment of all costs of the Utilities. Subtenant shall supply, at its own cost and expense, all outlets, risers, wiring, piping, duct work or other means of distribution of the Utilities within the Premises, if not currently within the Premises or to be performed as part of Sublandlord's Work. Subtenant covenants and agrees that at all times its use of any of the Utilities shall not exceed the capacity of the mains, feeders, ducts and conduits bringing the same to the Premises or of the outlets, risers, wiring, piping duct work or other means of distribution of the Utilities to or within the Premises. Subtenant shall arrange for the furnishing, at Subtenant's expense, of all services required by Subtenant in the Premises, to the extent the same are not furnished by the Sublandlord pursuant to this Sublease. Subtenant shall pay for all Utilities used in the Premises beginning upon delivery of possession of the Premises to Subtenant, including, but not limited to, all heating, ventilating, air conditioning, water, gas, and electricity. Any payment for Utilities to Sublandlord shall be paid monthly as Rent.

12.2 Furnishing of Chilled Water. Sublandlord will (subject to Section 12.6 hereof) furnish HVAC Chilled Water ("**Chilled Water**") for air conditioning purposes to the Premises, subject to the restrictions and limitations on Subtenant set forth in this Sublease. Subtenant shall accept and use such Chilled Water in such manner as shall not waste cooling effect. Subtenant, at its own expense, shall furnish, operate and maintain all HVAC units, regulators, equipment and apparatus necessary for the manufacture, regulation and distribution of cooled air within the Premises ("**Subtenant's HVAC Equipment**"). Subtenant shall submit to Sublandlord the plans and specifications for the design and installation of Subtenant's HVAC Equipment for Sublandlord's prior review and approval. Subtenant shall pay, as Rent, the Chilled Water Passthrough as provided in Section 12.4 below. Additionally, Subtenant shall be responsible for paying, as a Utility, the cost of Chilled Water Usage pursuant to a chilled water flow sub-meter, provided by Sublandlord, but to be installed by Subtenant consistent with Sublandlord's specifications. Unless otherwise directed by Sublandlord, Subtenant shall pay Sublandlord for Subtenant's usage of Chilled Water.

12.3 Limitations on Sublandlord Obligations. Sublandlord's obligation to furnish Chilled Water and Subtenant's use thereof shall be subject to the following:

(a) Sublandlord's provision of Chilled Water Passthrough is predicated upon normal consumption and use of Chilled Water for air conditioning purposes on the days and during the hours when the Premises are required to be open pursuant to this Sublease.

(b) Chilled Water shall be made available to Subtenant by Sublandlord when necessary in Sublandlord's reasonable judgment on the days and during the hours when the Premises are required to be open pursuant to this Sublease.

(c) Subtenant shall not draw Chilled Water to maintain an effective temperature condition inside the Premises in excess of reasonable criteria established from time to time by Sublandlord.

(d) Subtenant shall not increase its cooling load or usage beyond that installed in the Premises at the Commencement Date or as shown on the plans and specifications thereof approved by Sublandlord.

(e) Subtenant shall not use the Chilled Water for any purpose other than for the HVAC unit and air conditioning in the Premises.

(f) Subject to the provisions of Article 13, Sublandlord shall have the right to inspect the Premises in order to ascertain Subtenant's use of Subtenant's HVAC Equipment and in order to install and operate suitable devices for the purpose of determining Subtenant's use of Chilled Water. Subject to the provisions of Article 13, the time and frequency of such inspections shall be at Sublandlord's sole option, but said inspections shall be conducted in a manner so as to minimize interference with or disturbance of Subtenant's operations at the Premises. If the inspection indicates that Subtenant's use of Chilled Water deviates from or exceeds the conditions set forth in this Sublease, Subtenant shall promptly take all remedial action or equipment required to conform Subtenant's use of Chilled Water to the conditions set forth in this Sublease.

12.4 Chilled Water Costs.

(a) To reimburse Sublandlord for the cost of providing Chilled Water, Subtenant shall pay the Chilled Water Passthrough, which is composed of the cost of providing Chilled Water to the Common Areas, maintenance and repair of on-site equipment required in connection with the Chilled Water and administrative costs associated with Chilled Water metering and all other expenses incurred by Sublandlord in providing such Chilled Water. The Chilled Water Passthrough shown in Article 1 above is Sublandlord's initial estimate of the foregoing costs. In addition to the Chilled Water Passthrough, Subtenant shall also be responsible for Chilled Water Usage which shall be based on actual usage, determined by the chilled water flow sub-meter installed by Subtenant, and paid directly to District Energy System by Sublandlord. Chilled Water Usage and Chilled Water Passthrough shall be collectively referred to herein as "**Chilled Water Costs**."

(b) The Chilled Water Costs shall be paid in the following manner:

(i) The Chilled Water Costs shall be paid in monthly installments in amounts estimated by Sublandlord, one (1) such installment being due on the first day of each full or partial month of each full or partial calendar year during the Term. Such monthly installments shall increase or decrease upon notice from Sublandlord given after the actual or anticipated amount of the Chilled Water Costs incurred in a particular calendar year is determined. Subtenant shall have no right to audit the Chilled Water Costs.

(ii) Provided, Subtenant has installed the Sublandlord provided chilled water flow sub-meter in accordance with Section 12.2 prior to the Commencement Date, within one hundred twenty (120) days following the close of each full or partial calendar year during the Term, the actual amount of Chilled Water Costs due or payable shall be computed by Sublandlord and any excess paid by Subtenant during such calendar year over the actual amount Subtenant is obligated to pay hereunder (as determined by Sublandlord) shall be credited against the next Chilled Water Costs installment due from Subtenant (or refunded to Subtenant in the event the reconciliation occurs during the final Sublease Year), and within thirty (30) days after written notice from Sublandlord, any deficiency owed shall be paid to Sublandlord in full by Subtenant. If Subtenant fails to install the chilled water flow sub-meter prior to the Commencement Date, the foregoing reconciliation process will not begin until Subtenant notifies Sublandlord and Sublandlord confirms that such required chilled water flow sub-meter is installed and functioning properly. Except as set forth in Section 1.30 which estimate is given solely as an accommodation to Subtenant, Subtenant acknowledges and agrees that Sublandlord has made no representation or agreement of any kind as to the total dollar amount of the Chilled Water Costs, actual or estimated. In no event shall Sublandlord be bound by any such estimated amount, which estimated amount is subject to change based upon Sublandlord's sole determination. Notwithstanding anything to the contrary contained herein, Subtenant acknowledges and agrees that the foregoing reconciliation process shall not apply to the Supply Cost (as defined herein) until Sublandlord prepares the reconciliation for the fourth (4th) full calendar year of the Term in accordance with the provisions of Section 12.4(b)(iii).

(iii) Sublandlord and Subtenant acknowledge and agree that Sublandlord calculated the estimated Chilled Water Cost set forth in Section 1.30, using a reduced Chilled Water supply cost of $0.62 per square foot (the "**Supply Cost**"). Accordingly, the overall estimated Chilled Water Cost was reduced from $2.15 per square foot to $1.84 per square foot. Therefore, upon the first (1st) day of the fourth (4th) full calendar year of the Term, the Supply Cost shall increase to the greater of (a) $0.94 per square foot or (b) the market rate reasonably determined by Sublandlord. Following the expiration of the fourth (4th) full calendar year of the Term, the Supply Cost shall be subject to reconciliation by Sublandlord in accordance with the provisions of Section 12.4(b)(ii).

(c) The Chilled Water Passthrough shall periodically be adjusted to reflect any increase in costs.

(d) If Subtenant shall, without Sublandlord's written approval, make any alterations or additions to Subtenant's HVAC Equipment or change its manner of use, or if the Premises are kept open for business for a number of days or hours per week other than those which the Premises are required to stay open, then, in any of the foregoing events, Chilled Water Costs shall be increased appropriately.

(e) No representation is made by Sublandlord with respect to the adequacy or fitness of the Project's heating, ventilating and air conditioning or other systems to maintain temperatures as may be required for the operation of any computer, film processing, printing or other special trade fixtures or equipment of Subtenant.

12.5 Commencement of Chilled Water Service and Chilled Water Passthrough. Sublandlord shall cause Chilled Water Service to be supplied to the Premises and Subtenant shall pay the Chilled Water Costs commencing on the later to occur of: (i) the date of Subtenant's installation of the Sublandlord provided chilled water flow sub-meter or (ii) the date of Sublandlord's confirmation that the Sublandlord provided chilled water flow sub-meter was properly installed by Subtenant.

12.6 Domestic Water and Sanitary Sewer. Sublandlord shall provide domestic water and sanitary sewer service to the Premises. To reimburse Sublandlord for the cost of providing domestic water and sanitary sewer service to the Premises, Subtenant shall pay a "**Domestic Water Passthrough**" charge, which will be based on an actual usage, determined by a Sublandlord determined domestic water sub-meter installed by Subtenant, using the applicable utility rates for domestic water and sewer from the utility provider for the period in question all other expenses incurred by Sublandlord in providing such domestic water and sanitary sewer service.

(a) The Domestic Water Passthrough shall be paid in the following manner:

(i) The Domestic Water Passthrough shall be paid in monthly installments in amounts estimated by Sublandlord, one (1) such installment being due on the first day of each full or partial month of each full or partial calendar year during the Term. Such monthly installments shall increase or decrease upon notice from Sublandlord given after the actual or anticipated amount of the Domestic Water Passthrough incurred in a particular calendar year is determined. Subtenant shall have no right to audit the Domestic Water Passthrough.

(ii) Provided, Subtenant has installed the Sublandlord provided domestic water sub-meter in accordance with this Section prior to the Commencement Date, within one hundred twenty (120) days following the close of each full or partial calendar year during the Term, the actual amount of Domestic Water Passthrough due or payable shall be computed by Sublandlord and any excess paid by Subtenant during such calendar year over the actual amount Subtenant is obligated to pay hereunder (as determined by Sublandlord) shall be credited against the next Domestic Water Passthrough installment due from Subtenant (or refunded to Subtenant in the event the reconciliation occurs during the final Sublease Year), and within thirty (30) days after written notice from Sublandlord, any deficiency owed shall be paid to Sublandlord in full by Subtenant. If Subtenant fails to install the domestic water sub-meter prior to the Commencement Date, the foregoing reconciliation process will not begin until Subtenant notifies Sublandlord and Sublandlord confirms that such required domestic water sub-meter is installed and functioning properly. Subtenant acknowledges and agrees that Sublandlord has made no representation or agreement of any kind as to the total dollar amount of the Domestic Water Passthrough, actual or estimated. In no event shall Sublandlord be bound by any such estimated amount, which estimated amount is subject to change based upon Sublandlord's sole determination.

(b) The Domestic Water Passthrough shall periodically be adjusted to reflect any increase in costs.

(c) *Commencement of Domestic Water Service and Domestic Water Passthrough.* Sublandlord shall cause Domestic Water Service to be supplied to the Premises and Subtenant shall pay the Domestic Water Passthrough commencing on the later to occur of: (i) the date of Subtenant's installation of the Sublandlord provided domestic water sub-meter or (ii) the date of Sublandlord's confirmation that the Sublandlord provided domestic water sub-meter was properly installed by Subtenant.

12.7 Payment of Utilities. Notwithstanding anything to the contrary in this Sublease, all Utilities for the Premises shall be arranged directly by Subtenant with the utility or third party supplier, including the posting of any required deposits, and paid directly to the utility or third party supplier when due. Sublandlord may supply water or other Utilities to the Premises, and so long as Sublandlord continues to provide water or such other Utilities Subtenant shall pay Sublandlord for same at the same cost as would be charged to Subtenant by the utility or third party supplier which otherwise would furnish such service to the Premises if such utility or third party supplier provided such service directly to the Premises.

12.8 Interruption in Utility Services. Sublandlord is not responsible for any interruptions or curtailment in Utility services due to safety or Sublandlord's alteration, or repair of the Premises or the Project, or for any other interruptions or curtailment in Utility services unless caused by the negligence, willful misconduct or intentional act of Sublandlord or the Sublandlord Related Parties and if so caused, Sublandlord's sole liability shall be to use prompt and reasonable efforts to restore said Utility; provided, however, in the event the utilities are interrupted for three (3) days or more, any Rent paid by Subtenant hereunder shall be abated. Sublandlord shall not be liable in damages or otherwise for any failure, variation, shortage or interruption of any utilities or services and Subtenant shall not be entitled to terminate this Sublease. In performing any restoration of Utility services, Sublandlord shall use good faith efforts to avoid any material interference with Subtenant's operations and to the extent practicable, Sublandlord will conduct any necessary restoration work within the Premises outside Subtenant's normal business hours.

13. SUBLANDLORD RIGHT OF ENTRY. Subtenant shall permit Sublandlord to enter upon the Premises at all reasonable times during Subtenant's customary business hours upon reasonable written notice given no less than twenty-four (24) hours in advance for the following purposes: (a) to make any necessary inspections of or repairs, replacements and restorations to the Premises as permitted or required to be made by Sublandlord pursuant to this Sublease; (b) to exhibit the Premises to prospective purchasers and Mortgagees of the Project (or any portion thereof); and (c) during the one hundred eighty (180) day period preceding the then applicable date of expiration of the Term, to exhibit the Premises to prospective tenants. During the period which is six (6) months prior to the end of the Term and at any time that an Event of Default exists hereunder, Sublandlord shall have the right to erect on the Premises signs indicating that the Premises is available for lease. Sublandlord may, without prior notice in case of an emergency, enter the Premises to remedy such emergency, in which event Sublandlord shall give Subtenant written notice within twenty four (24) hours thereafter of the reason for and time of entry and of all actions taken by Sublandlord and the cost thereof. In the event of any entry pursuant to this Article, Sublandlord shall not interfere with the conduct of Subtenant's business or access to the Premises. Sublandlord shall coordinate with Subtenant regarding both the scope and timing of any repair work in the Premises prior to the performance of any such repair work.

In the event such repair work would interfere with the conduct of Subtenant's business (as reasonably determined by Subtenant) or access to the Premises, then Sublandlord shall take such precautions as reasonably requested by Subtenant to minimize any interference with Subtenant's business, including, without limitation, performing all or a portion of such repair work after Subtenant's customary business hours.

14. SIGNS. Subtenant shall not place or permit to be placed any temporary or permanent sign, picture, advertisement, notice, window or door lettering, placards, window displays, banners, decals, or decoration (collectively, "**Signs**") on any part of the outside of the Premises or anywhere in the interior of the Premises that is visible from the outside of the Premises without Sublandlord's prior written approval as to construction, method of attachment, size, shape, height, lighting, color and general appearance. All of the Signs in connection with the Premises shall comply with applicable law and conform to the sign criteria adopted or amended by Sublandlord from time to time. Subject to Sublandlord's approval, compliance with applicable law and sign criteria, Subtenant shall be permitted to install a Sign on the Premises on Broadway and an additional Sign on the proposed tower above the entrance on Fifth Avenue. Sublandlord's sign criteria when adopted will be provided to Subtenant. Subtenant shall maintain all display windows in a neat, attractive condition, and shall light its display windows and Signs during those hours and on those days when the Sublandlord illuminates the signs of the Project, at a minimum from dusk until 12:00 midnight every day, including Sundays and Holidays. Subtenant shall, at Subtenant's sole cost, maintain all Signs in first-class condition and repair. If adjoining Common Areas are improved or remodeled, Sublandlord may require Subtenant to temporarily remove its Signs, at Sublandlord's costs and expense. Subtenant shall, at Subtenant's expense, remove all Signs at the expiration or earlier termination of this Sublease and shall be responsible for the repair, painting, restoration and/or replacement of the building facia on and around the previous point(s) of attachment of any removed Sign.

15. SUBTENANT ALTERATIONS.

15.1 General Requirements. Subtenant shall not make or construct any changes, additions and improvements in the Premises, including, without limitation, the construction of Subtenant's Improvements pursuant to Section 2.4 ("**Subtenant's Work**") unless all of the following conditions have been satisfied. All Subtenant's Work shall:

(a) comply with the requirements of the Tenant Design Criteria Manual, any covenant, condition or restriction of record regarding the Project and any governmental or quasi-governmental authority having jurisdiction (including, without limitation, the Americans with Disabilities Act), with the requirements of Sublandlord's insurance carriers, and with Sublandlord's rules and regulations for Alterations, including safety and access requirements, restrictions on flammable materials and elevator usage;

(b) not be commenced until Sublandlord has received satisfactory evidence that all required permits have been obtained;

(c) be performed only with the prior written consent of Sublandlord (which may be withheld in Sublandlord's sole discretion, to the extent it relates to or affects in Sublandlord's opinion the structure or electrical, HVAC and/or chilled water systems, plumbing

or sprinkler systems or roof of the Building but that otherwise shall not be unreasonably withheld); provided, that Sublandlord's consent shall not be required with respect to Subtenant's Work that complies with Section 15.1(a), does not affect the electrical, HVAC and/or chilled water systems within the Building, is non-structural and interior, and costs in the aggregate with any related Subtenant Work less than Fifty-Thousand and No/100 Dollars ($50,000.00);

(d) be constructed in good and workmanlike manner using only materials that are of new or like new condition (except for vintage materials which may, with Sublandlord's prior written consent, be used as part the improvements to the Premises), high quality, and free from defects and conform strictly to complete working drawings and specifications prepared by a licensed architect and submitted to and approved by Sublandlord as set forth in **Exhibit C**;

(e) be of a quality that equals or exceeds the then current standard for the Project and comply with all building, fire and safety codes;

(f) be carried out only during hours approved by Sublandlord by licensed contractors selected by Subtenant and approved in writing by Sublandlord which approval shall not be unreasonably withheld, conditioned or delayed, and who shall deliver to Sublandlord before commencement of the work proof of workers' compensation and general liability insurance coverage, including coverage for completed operations and contractual liability, with Sublandlord and its agents and designees named as additional insureds, in amounts, with companies, and in form reasonably satisfactory to Sublandlord, which shall remain in effect during the entire period in which the work shall be carried out. Notwithstanding the foregoing, only subcontractors selected or designated by Sublandlord may be used to make connection with the Project's main electrical, plumbing or HVAC and/or chilled water systems, except connections to circuit panels, pipes or ducts within the Premises;

(g) be prosecuted diligently and continuously from commencement to completion;

(h) upon completion, be shown on accurate "as built" reproducible drawings in the form of reverse sepia transparencies or mylars, or "as built" drawings marked to show field conditions, delivered to Sublandlord; and

(i) be performed in accordance with all Rules and Laws, with Subtenant expressly acknowledging that if any component of Subtenant's Work or Subtenant's Improvements result in Sublandlord being required to make any alterations or improvements to other portions of the Project, in order to comply with any applicable Rules or Laws, then Subtenant shall reimburse Sublandlord upon demand for all costs and expenses incurred by Sublandlord in making such alterations and/or improvements.

If Sublandlord selects, consents to or supervises, or recommends any suppliers, contractors, architects or engineers, the same shall not be deemed a warranty as to the adequacy of the design, workmanship or quality of materials or compliance of Subtenant's Work with the requirements of this Sublease, and Subtenant shall remain solely responsible therefor. Upon twenty-four (24) hours prior notice, Sublandlord shall have the right to inspect Subtenant's Work at any reasonable time during the course of construction or thereafter. If Subtenant fails to

perform Subtenant's Work as required herein or the materials supplied fail to comply herewith or with the specifications approved by Sublandlord, and Subtenant does not commence and cure such failure promptly and diligently, and in any event within thirty (30) days after written notice by Sublandlord (except that notice shall not be required in emergencies), Sublandlord shall have the right to stop Subtenant's Work until such failure is cured (which shall not be in limitation of Sublandlord's other remedies and shall not serve to abate the Rent or Subtenant's other obligations under this Sublease) and to require the removal of any non-conforming portions of Subtenant's Work.

15.2 Subtenant Installations. Subtenant may install in the Premises its trade fixtures and personal property in accordance with its approved plans, provided that no installation shall interfere with or damage the mechanical, chilled water or electrical systems or the roof or structure of the Premises or other portion of the Project. Sublandlord may require any work that may affect roofs, structural elements or mechanical, electrical, heating, chilled water, air conditioning, plumbing or other systems to be performed by a contractor designated or approved by Sublandlord which approval shall not be unreasonably withheld, conditioned or delayed. Any component of Subtenant's Work involving venting, opening, sealing, waterproofing or any altering of the roof shall be performed by Sublandlord's roofing contractor at Subtenant's expense. Subtenant shall provide Sublandlord with a certificate from Sublandlord's roofing contractor that all of Subtenant's Work involving venting, opening, sealing, waterproofing or in any way altering the roof has been performed in compliance with **Exhibit C**. Subtenant hereby holds Sublandlord harmless from any damage to the Premises resulting directly or indirectly from Subtenant's venting, opening, sealing, waterproofing or other altering of the roof. Subtenant shall not install any exterior satellite dish or antenna on or around the Premises without Sublandlord's prior written consent, which consent may be conditioned upon compliance with measures required by Sublandlord to protect the roof, screen the installation and ensure the removal of all such installations at the conclusion of the Term.

15.3 Mechanics Liens. Subtenant shall have no authority, express or implied, to create or place any lien or encumbrance of any kind or nature whatsoever upon, or in any manner to bind, the interest of Sublandlord or Subtenant in the Premises or to charge the rentals payable hereunder for any claim in favor of any person dealing with Subtenant, including those who may furnish materials or perform labor for any construction or repairs. Subtenant shall pay before delinquency all costs for alterations, maintenance, repair, replacement or other work done or caused to be done by Subtenant in the Premises, shall keep the title to the Project and every part thereof free and clear of any lien or encumbrance in respect of such work and, to the extent permitted by applicable law, shall indemnify and hold harmless Sublandlord and Sublandlord's agents and employees against any claim, loss, cost, demand or legal or other expense, whether in respect of any lien or otherwise, arising out of the supply of material, services or labor for such work. Subtenant shall immediately notify Sublandlord of any such lien, claim of lien or other action of which it has or reasonably should have knowledge and that affects the title to the Project or any part thereof, and shall cause the same to be removed by bonding or otherwise within ten (10) days after notice of such filing, failing which Sublandlord may take such action as Sublandlord deems necessary to remove same and the entire cost thereof shall be immediately due and payable by Subtenant to Sublandlord. If provided by applicable law, Subtenant shall cause such postings to be made and notices given as shall prevent any mechanics' lien for work done for Subtenant from attaching to the Project.

15.4 Other Construction Requirements. Sublandlord reserves the right to impose additional reasonable and customary requirements as a condition of Subtenant's Work, including without limitation, requirements that Subtenant: (i) submit for Sublandlord's prior written approval detailed plans and specifications prepared and stamped by licensed and reputable architects and engineers, which approval shall not be unreasonably withheld or delayed; (ii) submit for Sublandlord's prior written approval the names, addresses and background information concerning all contractors, subcontractors and suppliers which shall not be unreasonably withheld or delayed; (iii) obtain and post permits; (iv) submit contractor, subcontractor and supplier lien waivers; and (v) comply with such other customary requirements as Sublandlord may reasonably impose concerning the manner and times in which Subtenant's Work shall be done. If the performance of Subtenant's Work shall interfere with the comfort and/or convenience of other tenants or occupants of the Project or shall cause damage to or otherwise interfere with the occupancy of adjacent buildings, Subtenant shall, upon Sublandlord's demand, promptly remedy or remove the condition or conditions complained of. Subtenant further, only to the extent permitted by applicable law, covenants and agrees to indemnify, defend and save Sublandlord harmless from and against any and all claims, losses, damages, costs, expenses, suits and demands whatsoever made or asserted against Sublandlord by reason of the foregoing except to the extent such claim, loss, damage, cost or expenses is due to a default by Sublandlord under this Sublease or the negligence, willful misconduct or intentional acts of Sublandlord or the Sublandlord Related Parties.

16. ASSIGNMENT AND SUBLETTING.

16.1 Consent Required. Subtenant acknowledges that Sublandlord has entered into this Sublease in order to obtain the unique attraction of the trade name specified in Section 1.17, the unique services associated with the Permitted Use and the unique combination of Subtenant's operating expertise and financial integrity. Accordingly, Subtenant shall not assign its interest under this Sublease or sublet all or any part of the Premises or operate under an affiliated brand name or trade name without Sublandlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Subtenant shall not at any time pledge, hypothecate, mortgage or otherwise encumber its interest under this Sublease as security for the payment of a debt or the performance of a contract. Subtenant shall not permit its interest under this Sublease to be transferred by operation of law. Any such purported assignment, sublease, or other transfer made without Sublandlord's consent shall be void. The term "**assignment**" includes the following, whether accomplished directly or indirectly: (a) if Subtenant is a partnership or limited liability company, the withdrawal or change, voluntarily, involuntarily or by operation of law, of a majority of the partners or members, or a transfer of a majority of ownership interests, in the aggregate on a cumulative basis, or the dissolution of the partnership or limited liability company; and (b) if Subtenant is a private corporation (i.e., whose stock is not publicly held and traded through an exchange or over the counter), the: (i) dissolution, merger, consolidation or other reorganization of Subtenant; (ii) sale or other transfer of more than a cumulative aggregate of fifty percent (50%) of the voting shares of Subtenant (other than to immediate family members by reason of gift or death); or (iii) sale, mortgage, hypothecation or pledge of more than a cumulative aggregate of fifty percent (50%) of Subtenant's net assets and (c) if Subtenant is a publicly traded corporation, dissolution, merger or consolidation or other reorganization of Subtenant if the shareholders of Subtenant, as existing immediately prior to

such event, cease to control the policies and operations of Subtenant or its successor created by such dissolution, merger, consolidation or reorganization.

16.2 Requests for Approval. Sublandlord shall be under no obligation to decide whether consent will be given or withheld unless Subtenant has first provided to Sublandlord, at least sixty (60) days in advance of any proposed transaction requiring approval pursuant to this Article 16: (a) the name and legal composition of the proposed assignee or subtenant and the nature of its business; (b) the use to which the proposed assignee or subtenant intends to put the Premises; (c) the terms and conditions of the proposed assignment or sublease and of any related transaction between Subtenant and the proposed assignee or subtenant; (d) information related to the experience, integrity and financial resources of the proposed assignee or subtenant; and (e) such additional information as Sublandlord may reasonably request to supplement, explain or provide details of the matters submitted by Subtenant pursuant to subparagraphs (a) through (e). Subtenant shall reimburse Sublandlord a fee of One Thousand Dollars ($1,000.00) to defray Sublandlord's expenses in reviewing such request. Except as set forth in Section 21.2(i), in no event shall Subtenant have any right to conduct a transfer of its interest pursuant to this Article 16 if Subtenant is in default under this Sublease.

16.3 Continued Responsibility. Except as set forth in Section 2.7, Subtenant shall remain fully liable for performance of this Sublease, notwithstanding any assignment or sublease, for the entire Term, including any Renewal Term(s) as to which the transferee exercises its option. Notwithstanding the foregoing, if an Event of Default occurs while the Premises or any part thereof are subject to a transfer for which Subtenant secures approval pursuant to this Section 16, then Sublandlord, in addition to its other remedies, may collect directly from such transferee all rents becoming due to Subtenant and apply such rents against Rent. Subtenant authorizes its transferees to make payments of rent directly to Sublandlord upon receipt of notice from Sublandlord to do so following the occurrence of an Event of Default hereunder. All rents paid to Subtenant by an assignee or subtenant shall be received by Subtenant in trust for Sublandlord and shall be forwarded to Sublandlord without offset or reduction of any kind except as otherwise provided in this Sublease. Subtenant and/or the assignee or sublessee shall pay for the cost of any demising walls or other improvements necessitated by a proposed subletting or assignment (provided that the foregoing shall not waive any approval right that Sublandlord may have with respect to such improvements pursuant to another provision of this Sublease). Upon any subletting, assignment or transfer by Subtenant in accordance with the terms hereof, unless agreed otherwise in writing, any renewal options, expansion options, monument or pylon sign rights, rights of first refusal and/or exclusive use provisions shall become null and void.

16.4 Excess Proceeds. If consent to an assignment or sublease is given, Subtenant shall pay to Sublandlord, as Rent, fifty percent (50%) of all amounts received from the assignee or subtenant in excess of the amounts otherwise payable by Subtenant to Sublandlord with respect to the space involved, measured on a per square foot basis; provided, however, in no event shall Sublandlord be entitled to any proceeds in connection with the license of the Museum Shop or Café to a third-party operator. Without limiting Sublandlord's right to withhold its consent to any transfer by Subtenant, and regardless of whether Sublandlord shall have consented to any such transfer, neither Subtenant nor any other person having an interest in the possession, use or occupancy of the Premises or any part thereof shall enter into any lease,

sublease, license, concession, assignment or other transfer or agreement for possession, use or occupancy of all or any portion of the Premises which provides for rent or other payment for such use, occupancy or utilization based, in whole or in part, on the net income or profits derived by any person or entity from the space so Subleased, used or occupied, and any such purported lease, sublease, license, concession, assignment or other transfer or agreement shall be absolutely void and ineffective as a conveyance of any right or interest in the possession, use or occupancy of all or any part of the Premises. There shall be no deduction from the rent payable under any sublease or other transfer nor from the amount thereof passed on to any person or entity, for any expenses or costs related in any way to the subleasing or transfer of such space.

16.5 Limitations. Without limiting appropriate grounds for withholding consent, it shall be reasonable for Sublandlord to withhold consent if the proposed assignee or subtenant is an actual or prospective tenant in another building owned by Sublandlord or by an affiliate of Sublandlord or of any of Sublandlord's constituent partners or principals, if the use by the proposed assignee or subtenant would contravene this Sublease or any restrictive use covenant or exclusive rights granted by Sublandlord, if the proposed assignee or subtenant does not intend to occupy the Premises for its own use or if the nature of the proposed assignee or subtenant is not compatible with the Project as determined by Sublandlord in its sole discretion.

16.6 Recapture In Connection with Request for Approval. Sublandlord shall have the following right, (the "**Recapture Option**"), to be exercised by notice ("**Exercise Notice**") from Sublandlord given to Subtenant within thirty (30) days after receipt of Subtenant's request for consent and all additional information required to be provided to or requested by Sublandlord pursuant to Section 16.2 hereof: Sublandlord may require Subtenant to surrender the Premises to Sublandlord and to accept a termination of this Sublease as of a date (the "**Termination Date**") to be reasonably designated by Sublandlord in the Exercise Notice, which date shall not be less than thirty (30) days nor more than one hundred twenty (120) days following the date of Sublandlord's Exercise Notice. If Sublandlord shall elect to require Subtenant to surrender the Premises and accept a termination of this Sublease, then this Sublease shall expire on the Termination Date as if that date had been originally fixed as the expiration date. Sublandlord shall be free to, and shall have no liability to Subtenant if Sublandlord subleases the Premises to Subtenant's prospective assignee or subtenant.

16.7 Attornment by Subtenants. Each sublease by Subtenant hereunder shall be subject and subordinate to this Sublease and to the matters to which this Sublease is or shall be subordinate, and each subtenant by entering into a sublease is deemed to have agreed that in the event of termination, re-entry or dispossession by Sublandlord under this Sublease, Sublandlord may, at its option, either terminate the sublease or take over all of the right, title and interest of Subtenant, as sublandlord, under such sublease, and such subtenant shall, at Sublandlord's option, attorn to Sublandlord pursuant to the then executory provisions of such sublease, except that Sublandlord shall not be: (1) liable for any previous act or omission of Subtenant under such sublease; (2) subject to any counterclaim, offset or defense that such subtenant might have against Subtenant; (3) bound by any previous modification of such sublease or by any rent or Additional Rent or advance rent which such subtenant might have paid for more than the current month to Subtenant, and all such rent shall remain due and owing, notwithstanding such advance payment; (4) bound by any security or advance rental deposit made by such subtenant which is not delivered or paid over to Sublandlord and with respect to which such subtenant shall look

solely to Subtenant for refund or reimbursement; or (5) obligated to perform any work in the subleased space or to prepare it for occupancy, and in connection with such attornment, the subtenant shall execute and deliver to Sublandlord any instruments Sublandlord may reasonably request to evidence and confirm such attornment. Each subtenant or licensee of Subtenant shall be deemed, automatically upon and as a condition of its occupying or using the Premises or any part thereof, to have agreed to be bound by the terms and conditions set forth in this Section 16.7. The provisions of this Section 16.7 shall be self-operative, and no further instrument shall be required to give effect to this provision.

16.8 No Waiver. No consent shall constitute consent to any further assignment or subletting.

16.9 Transfer by Sublandlord. Upon a sale or other transfer of the Project (or a portion thereof containing the Premises) by Sublandlord, Sublandlord's interest in this Sublease shall automatically be transferred to the transferee, and upon the transferee assuming all of Sublandlord's obligations under this Sublease accruing from and after the date of transfer, the transferor shall be released of all obligations under this Sublease arising after the transfer. In addition to Subtenant's obligations under Section 17.2, Subtenant shall attorn to the transferee of Sublandlord's interest without requirement for further action or documentation; provided, however that Subtenant shall execute a written attornment agreement upon the request of Sublandlord or the transferee.

16.10 Subtenant's Ownership Information. From time to time, upon request by Sublandlord, Subtenant shall promptly provide Sublandlord with a statement certified by Subtenant's chief operating officer that provides the following information: (i) so long as Subtenant is not a publicly traded corporation, the names of Subtenant's shareholders, directors, partners, limited partners, or members, and their ownership interests at the time of the statement; (ii) the state in which Subtenant is incorporated or organized; (iii) the location of Subtenant's principal place of business; (iv) any information regarding a material change in Subtenant's structure, including, without limitation, a merger or consolidation; and (v) any other information regarding Subtenant's ownership interest that Sublandlord reasonably requests.

16.11 Subtenant and Assignees Subject to Sublease and the PILOT Lease. If consent to an assignment or sublease is given, any such transfer shall (i) be subject to the terms hereof and be restricted to the rights of Subtenant hereunder; (ii) shall not be for a period extending beyond the Term of this Sublease; and (iii) shall include specific language that requires the assignee/sublessee to comply with the applicable terms of the PILOT Lease. Notwithstanding the foregoing, nothing in this Section 16.11 is intended to create an implied right of sublet or assignment.

17. SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE.

17.1 Subordination. This Sublease is and shall be subject and subordinate in all respects to all existing and future mortgages or deeds to secure debt now or hereafter encumbering the Project or any part thereof. The holder of any mortgage or deed to secure debt may elect in writing at any time to be subordinate to this Sublease.

17.2 Lender Protection. Upon a transfer in connection with a foreclosure proceeding or in connection with a default under an encumbrance, whether by deed to the holder of the encumbrance in lieu of foreclosure or otherwise, provided Sublandlord is not in default under the terms of this Sublease, Subtenant, if requested, shall in writing attorn to the transferee provided, but the transferee shall not be:

(a) subject to any offsets or defenses that Subtenant might have against Sublandlord;

(b) bound by any prepayment by Subtenant of more than one (1) month's installment of Rent; or

(c) subject to any liability or obligation of Sublandlord except those arising after the date of the transfer.

17.3 Documentation. The subordination provisions of this Article shall be self-operating and no further instrument shall be necessary. Nevertheless provided Sublandlord is not in default under the terms of this Sublease, Subtenant, on request, shall execute and deliver any and all instruments requested by Sublandlord or Sublandlord's lender further evidencing such subordination.

17.4 Other Transactions. Sublandlord may at any time and from time to time grant, receive, dedicate, relocate, modify, surrender or otherwise deal with easements, rights of way, restrictions, covenants, equitable servitudes or other matters affecting the Project without notice to or consent by Subtenant, so long as such matters do not materially increase Subtenant's obligations or materially decrease Subtenant's rights hereunder.

17.5 Non-Disturbance Agreement. Sublandlord represents and warrants that the land upon which the Premises is located is not subject to any mortgage, deed of trust, ground or master lease, sale leaseback transaction or other security instrument encumbering the Premises (an "**Encumbrance**"). At Sublandlord's option, this Sublease shall become subordinate to the lien of any Encumbrance placed on the Premises after the date of this Sublease, provided that Sublandlord has delivered to Subtenant a recordable subordination, non-disturbance and attornment agreement on a commercially reasonable form reasonably acceptable to both Subtenant and the holder of such Encumbrance (such agreement constituting the "**Non-Disturbance Agreement**") and such future holder of the Encumbrance, duly executed by Sublandlord and the future holder of the Encumbrance. Prior to the Delivery Date, Sublandlord shall deliver to Subtenant such a Non Disturbance Agreement for any Encumbrance placed on the Premises between the date of this Sublease and the date physical possession of the Premises is delivered to Subtenant.

18. ESTOPPEL CERTIFICATES AND REQUIREMENT FOR FINANCIAL STATEMENTS.

18.1 Subtenant Estoppel. Subtenant shall at any time within ten (10) days after written request from Sublandlord execute, acknowledge and deliver to Sublandlord a statement in writing: (a) certifying that this Sublease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Sublease, as so

modified, is in full force and effect) and the date to which the Rent and other charges are paid in advance, if any; (b) confirming the commencement and expiration dates of the term; (c) confirming the amount of any security deposit held by Sublandlord; (d) acknowledging that there are not, to Subtenant's knowledge, any uncured defaults on the part of Sublandlord hereunder, or specifying such defaults if any are claimed; and (e) confirming such other matters as Sublandlord may reasonably request. A prospective purchaser or encumbrancer of the Premises or the Project may conclusively rely upon any such statement. If Subtenant fails to respond within the required period, Subtenant shall conclusively be deemed to have certified, confirmed and acknowledged all matters requested by Sublandlord.

18.2 Intentionally deleted.

19. QUIET ENJOYMENT. If Subtenant pays the Rent and observes and performs the terms, covenants and conditions contained in this Sublease, Subtenant shall peaceably and quietly hold and enjoy the Premises for the Term without hindrance or interruption by Sublandlord, or any other person lawfully claiming by, through or under Sublandlord unless otherwise permitted by the terms of this Sublease, subject at all times, however, to all Laws and Rules. Subtenant acknowledges that the exercise by Sublandlord of any of the rights conferred on Sublandlord under this Sublease and the entry upon the Premises for or in connection with such purposes shall not be deemed to be a constructive or actual eviction of Subtenant and shall not be considered to be a breach of Sublandlord's covenant of quiet enjoyment.

20. SURRENDER AND HOLDOVER.

20.1 Surrender. Upon the expiration or termination of this Sublease or of Subtenant's right to possession, Subtenant shall surrender the Premises in good condition and repair, ordinary wear and tear and damage by casualty and/or condemnation excepted. Subtenant shall not remove permanent improvements that were provided by Sublandlord at the commencement of this Sublease and shall not remove permanent improvements later installed by Subtenant unless directed to do so by Sublandlord (with Sublandlord expressly reserving the right, as it relates to installations/improvements requested by Subtenant following the Commencement Date, to condition Sublandlord's approval of such Subtenant installations/improvements upon Subtenant's agreement to remove the same upon the expiration or earlier termination of the Term). All improvements constructed or installed by Subtenant at the Premises except Subtenant's Fixtures and Equipment and any other items mutually agreed upon between Subtenant and Sublandlord shall be the property of Sublandlord. All light fixtures and HVAC and/or chilled water equipment, plumbing fixtures, hot water heaters, fire suppression and sprinkler systems, wall coverings, carpeting and drapes and other fixtures located in or serving the Premises, except Subtenant's Fixtures and Equipment whether installed by Subtenant or Sublandlord, shall remain at the Premises at the expiration or termination of this Sublease without compensation, allowance or credit to Subtenant. Subtenant shall promptly remove Subtenant's Fixtures and Equipment and repair any damage to the Premises caused by such removal. If Subtenant fails to perform any repairs or restoration or fails to remove any items from the Premises as required hereunder, Sublandlord may do so, and Subtenant shall pay Sublandlord the cost thereof upon demand. All property removed from the Premises by Sublandlord hereunder may be handled, discarded or stored by Sublandlord at Subtenant's expense, and Sublandlord shall in no event be responsible for the value, preservation or

safekeeping thereof. All such property shall at Sublandlord's option be conclusively deemed to have been conveyed by Subtenant to Sublandlord as if by bill of sale without payment by Sublandlord. If Sublandlord arranges for storage of any such property, Sublandlord shall have a lien against such property for costs incurred in removing and storing the same. The term, "**Subtenant's Fixtures and Equipment**" shall mean any and all movable or removable fixtures, equipment, personalty, and exhibits purchased by, belonging to or Subleased from third parties by Subtenant and installed and/or placed within the Premises (whether or not affixed). Subtenant shall own all Subtenant's Fixtures and Equipment to the exclusion of Sublandlord.

20.2 Holdover. If Subtenant holds over or occupies the Premises beyond the Term (it being agreed that there shall be no such holding over or occupancy without Sublandlord's written consent, which consent may be withheld in Sublandlord's reasonable discretion), Subtenant shall be in an Event of Default hereunder without notice or opportunity to cure, and, in addition to any other right or remedy of Sublandlord, Subtenant shall, at Sublandlord's election, be a tenant at sufferance and not a tenant at will. In either case, all terms and provisions of this Sublease shall remain in effect at Sublandlord's option, except that Rent shall be payable monthly in advance at a rate equal to 200% of the rate in effect immediately before the holdover began. A holdover tenancy at sufferance is terminable at any time by Sublandlord without notice.

21. BREACH, DEFAULT AND REMEDIES.

21.1 Default. The following are "**Event(s) of Default**":

(a) Subtenant's failure to pay Rent or any other amount due under this Sublease within ten (10) days after notice to Subtenant of such failure, except that Subtenant shall be in default without notice on the third and any subsequent time that any payment of Rent and all other charges due under this Sublease are not timely received by Sublandlord during any period of twelve (12) consecutive months;

(b) Subtenant's failure to execute, acknowledge and return a subordination agreement under Section 17.3 or an estoppel certificate under Article 18 within twenty (20) days after request;

(c) Subtenant's failure to perform any other obligation under this Sublease within thirty (30) days after Subtenant receives notice of nonperformance. Notwithstanding the foregoing; so long as (i) the breach is not a failure to perform under Section 2.4 and/or 3.1 above and (ii) is of such a nature that it cannot be cured within thirty (30) days, no Event of Default shall be deemed to have occurred by reason of the breach if cure is commenced promptly and diligently pursued to completion within a period not longer than seventy-five (75) days; and provided further that, in the event of a breach involving an imminent threat to health or safety, Sublandlord may by notice reduce the period for cure to such shorter period as may be reasonable under the circumstances;

(d) Subtenant vacates, abandons, or otherwise ceases to operate its business at the Premises on a substantial continuing basis, except temporary absence due to remodeling, fire, casualty, failure of services, a temporary closure approved by Sublandlord or other cause wholly beyond Subtenant's control. Subtenant's failure to operate normally at the Premises for five (5)

consecutive business days or eight (8) out of any nine (9) consecutive business days shall constitute an abandonment;

(e) A receiver is appointed for the business, property, affairs or revenues of Subtenant or any guarantor of Subtenant's obligations under this Sublease (provided, however, that in the case of involuntary proceedings, Subtenant shall have sixty (60) days to cause such receiver to be dismissed), or Subtenant makes a bulk sale of its goods or threatens to move its goods, chattels, exhibits and equipment out of the Premises other than in the normal course of its business;

(f) Subtenant or any Guarantor shall file a voluntary petition seeking an order for relief under Title 11 of the United States Code, or Subtenant shall be adjudicated a debtor, bankrupt or insolvent, or shall file any petition or answer seeking, consenting to or acquiescing in any order for relief, reorganization, arrangement, composition, adjustment, winding-up, liquidation, dissolution or similar relief with respect to Subtenant or any Guarantor or its respective debts under the present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute or law (foreign or domestic), or shall file an answer admitting or failing to deny the material allegations of a petition against it for any such relief or shall generally not, or shall be unable to, pay its debts as they become due or shall admit its insolvency or its inability to pay its debts as they become due, or shall make a general assignment for the benefit of creditors or shall seek or consent or acquiesce in the appointment of any trustee, receiver, examiner, assignee, sequestrator, custodian or liquidator or similar official of Subtenant or of all or any part of Subtenant's personal property or if Subtenant shall take any action in furtherance of or authorizing any of the foregoing; or if Subtenant shall call a meeting of, or propose any form of arrangement, composition, extension or adjustment with, its creditors holding a majority in amount of Subtenant's outstanding indebtedness; or

(g) Subtenant shall fail to comply with any terms or conditions of any other contract or agreement by and between Sublandlord and Subtenant which relate to the Premises.

21.2 Remedies. Upon the occurrence of an Event of Default, Sublandlord, at any time thereafter without further notice or demand, and in addition to any rights available Sublandlord at law and in equity, may exercise any one (1) or more of the following remedies concurrently or in succession, all of which Subtenant stipulates and agrees are commercially reasonable remedies:

(a) Without terminating this Sublease, at the Sublandlord's sole discretion, Sublandlord may, utilize self-help processes or any and all legal processes, including but not limited to dispossessory proceedings obtaining a writ of possession, and/or executing a writ of possession, and all financial obligations of Subtenant under this Sublease and the exhibits shall continue throughout the Term. The exercise of legal process including but not limited to dispossessory proceedings, gaining a writ of possession, and/or executing a writ of possession against the Subtenant shall NOT constitute a termination of this Sublease and shall NOT constitute a termination of financial obligations of the Subtenant under this Sublease unless the Sublandlord expressly requests a termination of this Sublease or termination of financial obligations of the Subtenant from the Court in its express pleadings to the Court and no imputed or effectuated termination of this Sublease or termination of the financial obligations of the

Subtenant under this Sublease shall occur without the express written request of the Sublandlord for termination of the aforesaid in the pleadings to the Court;

(b) Without terminating this Sublease, commence proceedings against Subtenant for all amounts owed by Subtenant to Sublandlord, whether as Rent, damages or otherwise;

(c) Subject to subsection (i), terminate this Sublease, in which event Subtenant shall immediately surrender the Premises to Sublandlord. Subtenant agrees to pay all damages Sublandlord may incur by reason of such Event of Default and the difference between the total of all Rent and other charges provided in this Sublease for the remainder of the Term and the reasonable rental value of the Premises for such period. The payment of the amount calculated in this Section 21.2 shall not be deemed a penalty but shall merely constitute payment of liquidated damages, it being understood and acknowledged by Sublandlord and Subtenant that actual damages to Sublandlord are extremely difficult, if not impossible, to ascertain. Sublandlord may, in its sole discretion, make demand on Subtenant as aforesaid on any one or more occasions, and any suit brought by Sublandlord to enforce collection of such difference for any one month shall not prejudice Sublandlord's right to enforce the collection of any difference for any subsequent month or months. For such purpose, Subtenant's obligations for, Taxes, Insurance and Subtenant's Fixed Common Area Operating Costs shall be projected, based upon the average rate of increase, if any, in such items from the Commencement Date through the termination date;

(d) With or without terminating this Sublease, but subject to subsection (i), terminate Subtenant's right of possession of the Premises and relet all or a portion of the Premises (either alone or together with additional space) on behalf of Subtenant and receive directly the rent by reason of the reletting. Subtenant agrees to pay Sublandlord on demand any deficiency that may arise by reason of any reletting of the Premises and Subtenant agrees to reimburse Sublandlord upon demand for any expenditures made by it for remodeling or repairing in order to relet the Premises and for all other expenses incurred in connection with such reletting, including brokerage commissions;

(e) Enter upon and take possession of the Premises, without being liable for prosecution of any claim for damages or for trespass or other tort. In the event that Sublandlord shall have taken possession of the Premises pursuant to the authority herein granted, then Sublandlord shall have the right to keep in place and use any additions, alterations and improvements thereto. Sublandlord shall also have the right to remove from the Premises (pursuant to legal process) all or any portion of such furniture, trade fixtures, equipment, and other personal property located thereon and place same in storage at any premises within the county in which the Premises is located. In such event, Subtenant shall be liable to Sublandlord for the reasonable costs incurred by Sublandlord in connection with such removal and storage and shall, to the extent permitted by applicable law, indemnify and hold Sublandlord harmless from all loss, damage, cost, reasonable expense, and liability in connection with such removal and storage;

(f) Do or cause to be done whatever Subtenant is obligated to do under the terms of this Sublease, in which case Subtenant agrees to reimburse Sublandlord on demand for

any and all costs or expenses, which Sublandlord may thereby incur, plus ten percent (10%) for special handling, supervision and overhead, which Subtenant hereby acknowledges constitutes reasonable liquidated damages and not a penalty. Subtenant agrees that Sublandlord shall not be liable for any damages resulting to Subtenant from Sublandlord's effecting compliance with Subtenant's obligations under this Article 21, whether caused by negligence of Sublandlord or otherwise; or

(g) Enforce the performance of Subtenant's obligations hereunder by injunction or other equitable relief (which remedy may be exercised upon any breach or default or any threatened breach or default of Subtenant's obligations hereunder).

(h) If Sublandlord terminates this Sublease or attempts to relet as set forth in subsection (d) of this Section, Sublandlord shall use reasonable efforts to mitigate Sublandlord's damages, provided that: (i) Sublandlord shall be required only to use reasonable efforts to relet the Premises, which shall not exceed those that Sublandlord generally uses to lease other space at the Project; (ii) Sublandlord will not be deemed to have failed to mitigate if Sublandlord leases any other portions of the Project before reletting all or any portion of the Premises; and (iii) in recognition of the fact that the value of the Project depends on the rental rates and terms of leases therein and the tenant mix, Sublandlord's rejection of a prospective replacement tenant based on an offer of rentals below Sublandlord's then standard rates for new leases of comparable space at the Project shall not constitute a failure to mitigate. Sublandlord shall not be required to observe any instruction given by Subtenant about such reletting or accept any tenant offered by Subtenant unless such offered tenant has a business reputation, managerial and operational skills, and credit worthiness acceptable to Sublandlord in its sole discretion, leases the entire Premises, agrees to use the Premises in a manner consistent with this Sublease and leases the Premises at the same Rent, for no more than the current Term and on the same terms and conditions as in this Sublease without any expenditure by Sublandlord for tenant improvements or broker's commissions. In any such case, Sublandlord may, but shall not be required to, make repairs, alterations and additions in or to the Premises and redecorate the same to the extent Sublandlord deems necessary or desirable.

(i) Except as otherwise provided herein, Sublandlord shall not exercise its right to terminate this Sublease pursuant to subsection (c), subsection (d) and subsection (e) of this Section until three hundred sixty-five (365) calendar days after the occurrence of the Event of Default by Subtenant (the "**Permitted Cure Period**"). During the Permitted Cure Period, Subtenant shall have the right, to be exercised by written notice from Subtenant to Sublandlord (the "**Proposed Transfer Notice**"), to propose a replacement tenant (a "**Transferee**") for Sublandlord's approval. The Proposed Transfer Notice shall include all additional information required to be provided to Sublandlord pursuant to Section 16.2 hereof. Sublandlord shall have thirty (30) days after Sublandlord's receipt of the Proposed Transfer notice, to consent to such proposed Transferee. Subtenant acknowledges and agrees that (i) Sublandlord's consent to any proposed Transferee may be withheld in Sublandlord's sole discretion; and (ii) the proposed Transferee's use of the Premises shall be the same or substantially similar to the Permitted Use. Further, the transfer to any such Transferee shall be subject to the terms and provisions of Article 16.

Notwithstanding the foregoing, Sublandlord shall have the option to identify a Transferee during the Permitted Cure Period and recapture the Premises (the "**Default Recapture Option**"). The Default Recapture Option shall be exercised by notice ("**Default Recapture Notice**") from Sublandlord given to Subtenant during the Permitted Cure Period. Sublandlord may require Subtenant to surrender the Premises to Sublandlord and to accept a termination of this Sublease as of a date (the "**Default Termination Date**") to be reasonably designated by Sublandlord in the Default Recapture Notice, which date shall not be less than thirty (30) days following the date of Sublandlord's Default Recapture Notice. If Sublandlord shall elect to require Subtenant to surrender the Premises and accept a termination of this Sublease, then this Sublease shall expire on the Default Termination Date as if that date had been originally fixed as the expiration date.

Subtenant acknowledges and agrees that in the event a Transferee is not approved by Sublandlord during the Permitted Cure Period, Sublandlord shall have the right to exercise any rights and remedies permitted by this Sublease including, but not limited to, the right to terminate this Sublease pursuant to subsection (c) and subsection (d) of this Section.

21.3 Limitation of Sublandlord's Remedies. Sublandlord's exercise of its rights and remedies at law or in equity upon the occurrence of an Event of Default shall be subject to the following limitations:

(a) Redecorating Costs. Subtenant shall have no liability to Sublandlord for any costs or expenses incurred by Sublandlord in connection with the redecorating or remodeling the Premises in connection with a reletting thereof.

(b) No Consequential Damages. Except as set forth in Article 23, in no event shall Subtenant be liable to Sublandlord for any indirect, special or consequential damages, including, but not limited to, loss in value of the Premises.

21.4 Intentionally deleted.

21.5 Subtenancies. Upon termination of Subtenant's right to possession, whether or not this Sublease is terminated, at Sublandlord's election, (a) subtenancies and other rights of persons claiming under or through Subtenant shall be terminated or (b) Subtenant's interest in such subleases or other arrangements shall be assigned to Sublandlord, in either case upon delivery of notice of its election by Sublandlord. Sublandlord may separately elect termination or assignment with respect to each such subtenancy or other matter.

21.6 Default by Sublandlord. If (a) Sublandlord fails or neglects to perform any of its obligations, repair or maintenance obligation with respect to the Premises required to be performed by Sublandlord under this Sublease or fails to pay Subtenant any amounts owed by Sublandlord to Subtenant, (b) such failure continues for a period of ten (10) days in the event of a monetary default days (or such greater period as otherwise expressly provided in this Sublease), and thirty (30) days for any other defaults after Sublandlord's receipt of written notice from Subtenant specifying in detail such failure (or if such failure cannot reasonably be cured within such thirty (30) day cure period and is curable by Sublandlord, then such cure period shall be reasonably extended so long as Sublandlord uses Sublandlord's good faith, commercially

reasonable efforts to diligently attempt to cure such failure within a period not longer than seventy-five (75) days), then Subtenant shall have its rights and remedies at law or in equity and Subtenant may, upon ten (10) days prior written notice to Sublandlord, (i) elect to cure such failure, and Sublandlord shall reimburse Subtenant for the actual, reasonable, out-of-pocket costs incurred by Subtenant in curing such failure within thirty (30) days of Sublandlord's receipt of a written, itemized and paid invoice of such costs, or (ii) subject to the Offset Limit, deduct any amounts due by Sublandlord to Subtenant from any amounts owed by Subtenant to Sublandlord. In no event shall Sublandlord be liable to Subtenant for any indirect, special or consequential damages.

The "**Offset Limit**" shall mean that during any period that Subtenant is deducting sums from Rent pursuant to an express provision of this Sublease, Subtenant's offset right shall be limited such that Subtenant pays each month, at least twenty-five percent (25%) of each successive installment of Rent. Notwithstanding the foregoing, if the Offset Limit is insufficient to reimburse Subtenant in full during the remainder of the Term, such Offset Limit will be ratably adjusted, taking into account the then remaining number of installments of Rent due and payable by Subtenant hereunder during the remainder of the Term. In addition, the Offset Limit shall not apply and Subtenant shall have the unrestricted right to deduct from all Rent next coming due if Subtenant obtains a judgment or arbitration award in any legal or arbitration proceeding which is not paid when due. The foregoing exceptions with respect to the Offset Limit shall apply with respect to each provision of this Sublease which expressly states that Subtenant's right to deduct or offset sums from Rent is subject to the Offset Limit.

22. SUBLANDLORD LIABILITY. Notwithstanding anything to the contrary in this Sublease, neither Sublandlord nor Sublandlord's general or limited partners, members, directors, officers, shareholders, employees, agents, beneficiaries, trustees, representatives, successors or assigns (collectively, "**Sublandlord's Affiliates**") shall be personally responsible or liable for any representation, warranty, covenant, undertaking or agreement contained in this Sublease, and the sole right and remedy of Subtenant or any subsequent sublessee or assignee shall be against Sublandlord's interest in the building in which the Premises is located, including the rents, profits, income or proceeds therefrom. Neither Subtenant nor any subsequent sublessee or assignee shall seek to obtain any judgment imposing personal liability against Sublandlord, Sublandlord's Affiliates, or their successors or assigns nor execute upon any judgment or place any lien against any property other than Sublandlord's interest the building in which the Premises is located as the same may be encumbered.

IF SUBLANDLORD SHALL BE IN DEFAULT UNDER THIS SUBLEASE, AND AS A CONSEQUENCE OF SUCH DEFAULT, SUBTENANT SHALL RECOVER A JUDGMENT AGAINST SUBLANDLORD, SUCH JUDGMENT SHALL BE SATISFIED ONLY OUT OF THE RIGHT, TITLE AND INTEREST OF SUBLANDLORD IN THE BUILDING IN WHICH THE PREMISES IS LOCATED, AND THE RENTS, PROFITS, INCOME OR PROCEEDS THEREFROM AS THE SAME MAY BE ENCUMBERED, AND NEITHER SUBLANDLORD NOR ANY PERSON OR ENTITY COMPRISING SUBLANDLORD SHALL BE LIABLE FOR ANY DEFICIENCY. IN NO EVENT SHALL SUBTENANT HAVE THE RIGHT TO LEVY EXECUTION AGAINST ANY PROPERTY OF SUBLANDLORD, NOR ANY PERSON OR ENTITY COMPRISING SUBLANDLORD OR SUBLANDLORD'S AFFILIATES, OTHER THAN ITS INTEREST IN THE BUILDING IN WHICH THE

PREMISES IS LOCATED AND THE RENTS, PROFITS, INCOME OR PROCEEDS THEREFROM AS HEREIN EXPRESSLY PROVIDED. THIS PROVISION IS NOT INTENDED TO BE A MEASURE OR AGREED AMOUNT OF SUBLANDLORD'S LIABILITY WITH RESPECT TO ANY PARTICULAR BREACH, AND SHALL NOT BE UTILIZED BY ANY COURT OR OTHERWISE FOR THE PURPOSE OF DETERMINING ANY LIABILITY OF SUBLANDLORD HEREUNDER, EXCEPT ONLY AS A MAXIMUM AMOUNT NOT TO BE EXCEEDED IN ANY EVENT. SUBTENANT HEREBY WAIVES ANY STATUTORY LIEN IT MAY HAVE AGAINST SUBLANDLORD OR ITS ASSETS, INCLUDING, WITHOUT LIMITATION, THE PROJECT.

23. HAZARDOUS MATERIALS.

23.1 Compliance. During the Term, Subtenant shall comply with all Environmental Laws and Environmental Permits (each as defined in Section 23.9 below) applicable to the operation or use of the Premises, will use its commercially reasonable efforts to cause all other persons occupying or using the Premises to comply with all such Environmental Laws and Environmental Permits, will immediately pay or cause to be paid all costs and expenses incurred by reason of such compliance, and will obtain and renew all Environmental Permits required for operation or use of the Premises.

23.2 Prohibition of Hazardous Materials. Subtenant shall not generate, use, treat, store, handle, release or dispose of, or permit the generation, use, treatment, storage, handling, release or disposal of Hazardous Materials (as defined in Section 23.9 hereof) on the Premises, or the Project, or transport or permit the transportation of Hazardous Materials to or from the Premises or the Project except for limited quantities used or stored at the Premises and required in connection with the routine operation and maintenance of the Premises, and then only upon the written consent of Sublandlord and in compliance with all applicable Environmental Laws and Environmental Permits.

23.3 Environmental Audit. Sublandlord may retain an environmental consultant or engineer to conduct an environmental audit or environmental assessment of the Premises and Subtenant's compliance with applicable Environmental Laws (collectively, "**Environmental Audit**"). Any Environmental Audit may only occur once during any consecutive twelve (12) month period and upon prior forty-eight (48) hour written notice to Subtenant. Subtenant shall extend its full cooperation with such audit or investigation. If Subtenant is found not to be substantially in compliance with applicable Environmental Laws, all reasonable costs associated with such audit or assessment shall be due and payable by Subtenant within thirty (30) days of receipt of an invoice therefor; otherwise all costs shall be borne by Sublandlord. In addition, Subtenant, at Sublandlord's request, which request shall not occur more than once during any consecutive twelve (12) month period, shall complete such questionnaires and provide such information with respect to Subtenant's activities and operations on the Premises as Sublandlord shall reasonably require.

23.4 Notice of Environmental Matters. Subtenant will immediately advise Sublandlord in writing of any of the following: (1) any pending or threatened Environmental Claim (as defined in Section 23.9 below) against Subtenant relating to the Premises or the Project; (2) any condition or occurrence on the Premises or the Project that (a) results in noncompliance by

Subtenant with any applicable Environmental Law, or (b) could reasonably be anticipated to form the basis of an Environmental Claim against Subtenant or Sublandlord or the Premises; (3) any condition or occurrence on the Premises or any property adjoining the Premises that could reasonably be anticipated to cause the Premises to be subject to any restrictions on the ownership, occupancy, use or transferability of the Premises under any Environmental Law; and (4) the actual or anticipated taking of any removal or remedial action by Subtenant in response to the actual or alleged presence of any Hazardous Material on the Premises or the Project. All such notices shall describe in reasonable detail the nature of the claim, investigation, condition, occurrence or removal or remedial action and Subtenant's response thereto. In addition, Subtenant will provide Sublandlord with copies of all communications regarding the Premises with any governmental agency relating to Environmental Laws, all such communications with any person relating to Environmental Claims, and such detailed reports of any such Environmental Claim as may reasonably be requested by Sublandlord.

23.5 Limitations on Subtenant Use. Subtenant will not change or permit to be changed the present use of the Premises unless Subtenant shall have notified Sublandlord thereof in writing and in addition to other considerations, Sublandlord shall have determined, in its sole and absolute discretion, that such change will not result in the presence of Hazardous Materials on the Premises except for those described in Section 23.2 above.

23.6 Subtenant's Environmental Indemnity. To the extent permitted by applicable law, Subtenant agrees to indemnify, defend and hold harmless Sublandlord and the Sublandlord Related Parties from and against all obligations (including without limitation removal and remedial actions), losses, claims, suits, judgments, liabilities, penalties, damages (including without limitation consequential (or other speculative) and punitive damages), costs and expenses of any kind or nature whatsoever that may at any time be incurred by, imposed on or asserted against Sublandlord or Sublandlord's Indemnitees directly or indirectly based on, or arising or resulting from: (a) the actual or alleged presence of Hazardous Materials on the Project which is caused or permitted by Subtenant; and (b) any Environmental Claim relating in any way to Subtenant's operation or use of the Premises (the "**Hazardous Materials Indemnified Matters**"); provided, however, this indemnity shall not be applicable to (i) any losses and/or claims caused by third parties (other than Subtenant's employees, agents, contractors, subcontractor, licensees or invitees) or other tenants on the Property; or (iii) which existed prior to Subtenant taking possession of the Premises. The provisions of this Article 23 shall survive the expiration or sooner termination of this Sublease.

23.7 Adjustment for Unenforceability. To the extent that the undertaking in the preceding Section 23.6 may be unenforceable because it is violative of any law or public policy, Subtenant will contribute the maximum portion that it is permitted to pay and satisfy under applicable Law to the payment and satisfaction of all Hazardous Materials Indemnified Matters incurred by Sublandlord and the Sublandlord Related Parties.

23.8 Payment of Indemnified Claims. All sums paid and costs incurred by Sublandlord or Sublandlord's Indemnitees with respect to any Hazardous Materials Indemnified Matter shall bear interest at the Default Rate from the date so paid or incurred until reimbursed by Subtenant, and all such sums and costs shall be immediately due and payable on demand.

23.9 Definitions. "**Hazardous Materials**" means: (i) petroleum or petroleum products, natural or synthetic gas, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, and radon gas; (ii) any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "contaminants" or "pollutants," or words of similar import, under any applicable Environmental Law; and (iii) any other substance exposure which is regulated by any governmental authority; (b) "**Environmental Law**" means any federal, state or local statute, law, rule, regulation, ordinance, code, policy or rule of common law now or hereafter in effect and in each case as amended, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, relating to the environment, health, safety or Hazardous Materials, including without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801 et seq.; the Clean Water Act, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq.; the Clean Air Act, 42 U.S.C. §§ 7401 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq.; the Atomic Energy Act, 42 U.S.C. §§ 2011 et seq.; the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 et seq.; the Occupational Safety and Health Act, 29 U.S.C. §§ 651 et seq.; (c) "**Environmental Claims**" means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of non-compliance or violation, investigations, proceedings, consent orders or consent agreements relating in any way to any Environmental Law or any Environmental Permit, including without limitation (i) any and all Environmental Claims by governmental or regulatory authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any applicable Environmental Law and (ii) any and all Environmental Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from Hazardous Materials or arising from alleged injury or threat of injury to health, safety or the environment; (d) "**Environmental Permits**" means all permits, approvals, identification numbers, licenses and other authorizations required under any applicable Environmental Law.

24. BROKERAGE. Each party warrants and represents that no broker or other person is entitled to claim a commission, broker's fee or other compensation in connection with this Sublease except brokers that Sublandlord may have retained or employed directly and any other brokers listed in Section 1.22 (the "**Broker**").

25. Intentionally deleted.

26. RIGHTS RESERVED BY SUBLANDLORD. Except as expressly provided in this Sublease, Sublandlord reserves all rights of ownership and control over all portions of the Project, including without limitation the following:

26.1 Use. Sublandlord reserves the right to use (or grant others the right to use) any portion of the Project other than the Premises, including without limitation the Common Area, the exterior of all buildings and improvements and air rights, surface rights and subsurface rights and water rights appurtenant to the Project.

26.2 Restriction of Access. To the extent such actions do not materially and adversely interfere with Subtenant's access or use of the Premises, Sublandlord reserves the rights to: (i) prevent or restrict access to any portion of the Project by such security procedures or devices as Sublandlord may consider necessary or appropriate; (ii) control or prevent access by and remove, any person who is loitering or whose presence in the judgment of Sublandlord's security or management personnel is prejudicial to the safety, character, reputation and interests of the Project or who in the judgment of such personnel is intoxicated or under the influence of liquor or drugs; and (iii) limit or prevent access to all or any portion of the Project, activate emergency controls or procedures or otherwise take such action or preventive measures deemed necessary by Sublandlord for the safety of tenants or other occupants of the Project or the protection of the Project or other property located thereon or therein, in case of fire or other casualty, riot or other civil disorder, strike or labor unrest, public excitement or other dangerous condition or threat thereof.

26.3 Other Tenants. Except as may otherwise be expressly provided in this Sublease, Sublandlord reserves the right to sublease or sell any portion of the Project to such other tenants, occupants or other parties and for such uses as Sublandlord, in Sublandlord's sole discretion, deems appropriate. Subtenant acknowledges that Sublandlord has made no representations as to Sublandlord's continued ownership of all or any portion of the Project or the presence of any specific tenant or number or types of tenants at the Project as of or after the Commencement Date, hours or days that such other tenants shall or may be open for business or gross sales that may be achieved by Subtenant or any other tenants at the Project. Without limiting the foregoing, Subtenant acknowledges that portions of the Project will not be used for retail purposes and that Sublandlord may in the future enlarge or diminish such non-retail areas.

26.4 Changes. To the extent such actions do not materially and adversely interfere with Subtenant's use of or access to the Premises, Sublandlord reserves the right to: (i) change the name of the Project and the address or designation of the Premises; (ii) install, maintain, alter and remove signs on or about the Project; (iii) add land or other real property interests to or eliminate the same from the Project and grant interests and rights in the Project to other parties; (iv) add, alter, expand, reduce, eliminate, relocate or change the shape, size, location, character, design, appearance, use, number or height of any permanent or temporary buildings, structures, improvements, parking areas and structures, kiosks, planters, driveways, landscaped areas and other Common Areas, change the striping of parking areas and direction and flow of traffic and convert Common Areas to leasable areas and leasable areas to Common Areas; (v) enclose any area, remove any such enclosure or add one (1) or more additional levels or stories to the Project or any portion thereof other than the Premises and add structural supports that may be required within the Premises or Common Areas; and (vi) in connection with the foregoing matters or with any other inspections, repairs, maintenance, improvements or alterations in or about the Project or as a result of any casualty, incident, strike, condemnation, act of God, law or governmental requirement or request or other cause, erect scaffolding, barricades and other structures.

26.5 Limitations. In connection with exercising any rights reserved under this Article 26, Sublandlord shall: (a) take reasonable steps to minimize interference with access to the Premises except when necessary on a temporary basis; (b) take reasonable steps to avoid materially changing the configuration or reducing the square footage of the Premises unless required by law or other causes beyond Sublandlord's reasonable control (and in the event of any

permanent material reduction in the area of the Premises any amounts calculated or derived from the square footage of the Premises Floor Area shall be proportionately reduced); and (c) if Sublandlord enters the Premises in connection with any of the foregoing matters, take reasonable steps to minimize any interference with Subtenant's business, and following completion of the work, return Subtenant's leasehold improvements, fixtures, property and equipment to the original locations and conditions to the fullest extent reasonably possible.

26.6 Excavations. If an excavation shall be made upon the land adjacent to the Project and/or the Premises, or shall be authorized to be made, Subtenant shall afford the person causing (or authorized to cause) such excavation access to the Premises for the purpose of doing such work as said person shall deem necessary to preserve or protect the Project or any portion thereof from injury or damage and to support the same by proper foundation, in all events without any claim for damages or indemnity against Sublandlord or any abatement of Rent.

27. GENERAL.

27.1 Severability. If any term, covenant or condition of this Sublease, or the application thereof, is to any extent held or rendered invalid, it shall be and is hereby deemed to be independent of the remainder of this Sublease and to be severable and divisible therefrom, and its invalidity, unenforceability or illegality shall not affect, impair or invalidate the remainder of this Sublease or any part thereof.

27.2 No Waiver or Amendment. The waiver by Sublandlord of any breach of any term, covenant or condition contained in this Sublease shall not be deemed to be a waiver thereof on any subsequent occasion. The subsequent acceptance of Rent by Sublandlord shall not be deemed to be a waiver of any preceding breach by Subtenant, regardless of Sublandlord's knowledge of such preceding breach at the time of such acceptance. Sublandlord shall not be deemed to have waived any term, covenant, or condition of this Sublease unless Sublandlord has signed a written waiver waiving the term, covenant, or condition. No alteration, amendment or termination of this Sublease shall be binding upon Sublandlord or Subtenant unless in writing and signed by Subtenant and Sublandlord.

27.3 Effect of Payment. No payment by Subtenant or receipt by Sublandlord of a lesser amount than the monthly payment of Rent herein stipulated is deemed to be other than on account of the earliest stipulated Rent, nor is any endorsement or statement on any check or any letter accompanying any check or payment of Rent deemed an acknowledgment of full payment or accord and satisfaction, and Sublandlord may accept and cash any check or payment without prejudice to Sublandlord's right to recover the balance of the Rent due and pursue any other remedy provided in this Sublease, regardless of any attempt to impose binding conditions on such payment by restrictive endorsement on Subtenant's check or otherwise.

27.4 Delay. If either party is delayed or hindered in or prevented from performing any term, covenant or act required hereunder by reasons of strikes, labor troubles, inability to procure materials or services, power failure, restrictive governmental laws or regulations, riots, insurrection, sabotage, terrorism, act of the public enemy, rebellion, war, act of God, or other reason whether of a like nature or not that is beyond the control of the party affected, financial inability excepted, then the performance of that term, covenant or act is excused for the period of

the delay and the party delayed shall be entitled to perform such term, covenant or act within the appropriate time period after the expiration of the period of such delay. Nothing in this Section, however, shall excuse Subtenant from the prompt payment of any Rent or the obligation to open for business on the Commencement Date.

27.5 Notices. Any notice from one party to the other party must be in writing and shall be given by registered or certified mail or reputable overnight courier. If to Subtenant, addressed to Subtenant at the address set forth in Section 1.20 or such other address as Subtenant may designate in writing to Sublandlord. If to Sublandlord, addressed to Sublandlord at the address set forth in Section 1.21 or such other address as Sublandlord may designate in writing to Subtenant. Notice shall be deemed given upon receipt or refusal of any such notice, except that for notices deposited via U.S. Mail, notices shall be deemed received within three (3) days following deposit with the same.

27.6 Lender Notice. In the event of a material default by Sublandlord of a sufficiently serious nature that Subtenant considers the utility of the Premises to Subtenant to be significantly impaired, Subtenant shall forthwith give written notice of the default to Sublandlord and shall simultaneously send a copy of such notice to the holder of any Encumbrance, the name and address of which has previously been furnished in writing to Subtenant. If Sublandlord fails to cure the default within the applicable cure period set forth herein, Subtenant shall send a second notice to that effect to the holder of the Encumbrance, with a copy to Sublandlord, and the holder of the Encumbrance then shall have ten (10) days to contact Subtenant to commit to cause the default to be remedied.

27.7 No Option. The submission of this Sublease for examination or acceptance does not constitute a grant of an option to sublease the Premises, and any offer by Sublandlord to sublease the Premises may be revoked at any time prior to the unconditional execution and delivery of this Sublease by both Sublandlord and Subtenant.

27.8 Successors. All rights and liabilities under this Sublease extend to and bind the successors and assigns of Sublandlord and permitted successors and assigns of Subtenant. No rights, however, shall inure to the benefit of any transferee of Subtenant unless the transfer has been consented to by Sublandlord in writing. If there is more than one (1) Subtenant, all are bound jointly and severally by the terms, covenants and conditions of this Sublease.

27.9 Integration. THIS SUBLEASE AND THE EXHIBITS HERETO SET FORTH ALL THE COVENANTS, PROMISES, AGREEMENTS, CONDITIONS AND UNDERSTANDINGS BETWEEN SUBLANDLORD AND SUBTENANT CONCERNING THE SUBJECT HEREOF, AND THERE ARE NO OTHER COVENANTS, PROMISES, AGREEMENTS, CONDITIONS OR UNDERSTANDINGS, EITHER ORAL OR WRITTEN, BETWEEN THE PARTIES.

27.10 Waiver of Jury Trial. TO THE FULLEST EXTENT ALLOWED BY LAW, IN ANY LITIGATION BETWEEN SUBLANDLORD AND SUBTENANT, THE MATTER SHALL BE DECIDED BY A JUDGE SITTING WITHOUT A JURY, AND ACCORDINGLY EACH PARTY HEREBY WAIVES ITS RIGHT TO A JURY TRIAL.

27.11 Governing Law. This Sublease shall be construed in accordance with and governed by the laws of the State of Tennessee.

27.12 Time of Essence. Time is of the essence of this Sublease and of every part and provision hereof.

27.13 Counterparts. This Sublease may be executed in counterparts, which together shall constitute a single instrument. Any PDF or facsimile transmittal of original signature versions of this Sublease shall be considered to have the same legal effect as execution and delivery of the original documents and shall be treated in all manner and respects as the original document.

27.14 Captions. All captions of Articles and Sections in this Sublease are solely for convenience of reference and shall not be considered or referred to in resolving questions of interpretation.

27.15 Beneficiaries. There are no third party beneficiaries to this Sublease or any term or provision hereof.

27.16 Standard of Discretion. Any consent, approval or similar action provided for in this Sublease must be in writing and may be granted or withheld under a standard of arbitrary discretion, unless otherwise expressly provided.

27.17 Partial Invalidity. If any provision of this Sublease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Sublease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each provision of this Sublease shall be valid and enforceable to the fullest extent permitted by law.

27.18 Lender's Approval. If any lender of the Project requires any modification of any non-material terms and provisions of this Sublease as a condition to such financing as Sublandlord may desire, then Sublandlord shall have the right to cancel this Sublease if Subtenant fails or refuses to approve and execute such modification(s) within thirty (30) days after Sublandlord's request therefor, provided said request is made at least thirty (30) days prior to delivery of possession. Upon such cancellation by Sublandlord, this Sublease shall be null and void and neither party shall have any liability either for damages or otherwise to the other by reason of such cancellation. In no event, however, shall Subtenant be required to agree, and Sublandlord shall not have any right of cancellation for Subtenant's refusal to agree, to any modification of the provisions of this Sublease relating to: the amount of Rent or other charges reserved herein; the size and/or location of the Premises; the duration and/or Commencement Date of the Term; reducing the improvements to be made by Sublandlord to the Premises prior to delivery of possession; or which place a materially adverse burden on Subtenant hereunder as reasonably determined by Subtenant.

27.19 Objection to Statements. Subtenant's failure to object to any statement, invoice or billing rendered by Sublandlord within a period of one (1) year after receipt thereof shall constitute Subtenant's acquiescence with respect thereto and shall render such statement, invoice or billing an account stated between Sublandlord and Subtenant.

27.20 Rents from Real Property / Tax Treatment to Sublandlord. Subtenant and Sublandlord intend that all amounts payable by Subtenant to Sublandlord shall qualify as "rents from real property," and will otherwise not constitute "unrelated business taxable income" or "impermissible tenant services income," all within the meaning of both Sections 512(b)(3) and 856(d) of the Internal Revenue Code of 1986, as amended (the "**Code**") and the U.S. Department of Treasury Regulations promulgated thereunder (the "**Regulations**"). In the event that Sublandlord determines that there is any risk that any amount payable under this Sublease shall not qualify as "rents from real property" or will otherwise constitute unrelated business taxable income or impermissible tenant services income within the meaning of Sections 512(b)(3) or 856(d) of the Code and the Regulations promulgated thereunder, Subtenant agrees (a) to cooperate with Sublandlord by entering into such amendment or amendments as Sublandlord deems reasonably necessary to qualify all amounts payable under this Sublease as "rents from real property" provided such amendment does not place an added material burden, monetary or otherwise on Subtenant, and (b) to permit (and, upon request, to acknowledge in writing) an assignment of certain services under this Sublease, and, upon request, to enter into direct agreements with the parties furnishing such services. Notwithstanding the foregoing, Subtenant shall not be required to take any action pursuant to the preceding sentence (including acknowledging in writing an assignment of services pursuant thereto) if such action would result in (A) Subtenant's incurring more than de minimis additional liability under this Sublease or (B) more than a de minimis negative change in the quality or level of Building operations or services rendered to Subtenant under this Sublease. For the avoidance of doubt, (i) if Subtenant does not acknowledge in writing an assignment as described in clause (b) above (it being agreed that Subtenant shall not unreasonably withhold, condition or delay such acknowledgment so long as the criteria in clauses (A) and (B) are satisfied), then Sublandlord shall not be released from liability under this Sublease with respect to the services so assigned; and (ii) nothing in this Section shall limit or otherwise affect Sublandlord's ability to assign its entire interest in this Sublease to any party as part of a conveyance of Sublandlord's ownership interest in the Premises.

27.21 Survival. All unperformed obligations of Subtenant hereunder not fully performed at the end of the Term shall survive the end of the Term, including payment obligations with respect to Rent and all obligations concerning the condition and repair of the Premises.

27.22 No Merger. There shall be no merger of the leasehold estate hereby created with the fee state in the Premises or any part thereof if the same person acquires or holds, directly or indirectly, this Sublease or any interest in this Sublease and the fee state in the leasehold Premises or any interest in such fee estate.

27.23 Authority.

(a) Subtenant Authority. The person(s) executing this Sublease on behalf of Subtenant hereby represents and warrants to Sublandlord that such execution has been duly authorized by all requisite action of Subtenant so that upon such execution this Sublease will be binding upon and enforceable against Subtenant in accordance with its terms. Subtenant agrees to furnish to Sublandlord from time to time upon request such written proof of such authorization as Sublandlord may reasonably request.

(b) Sublandlord Authority. The person(s) executing this Sublease on behalf of Sublandlord hereby represents and warrants to Subtenant that such execution has been duly authorized by all requisite action of Sublandlord so that upon such execution this Sublease will be binding upon and enforceable against Sublandlord in accordance with its terms. Sublandlord agrees to furnish to Subtenant from time to time upon request such written proof of such authorization as Subtenant may reasonably request.

27.24 Substitute Provision. It is the intention of the parties to this Sublease that in lieu of any/each clause or provision of this Sublease that is illegal, invalid or unenforceable, there will be added as a part of this Sublease a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

27.25 Sublandlord/Subtenant Relationship. IT IS THE EXPRESS INTENT OF THE PARTIES THAT A SUBLANDLORD/SUBTENANT RELATIONSHIP IS ESTABLISHED BY THIS SUBLEASE, AND THAT NO ESTATE FOR YEARS OR OTHER ESTATE SHALL PASS OUT OF SUBLANDLORD AS A RESULT OF THIS SUBLEASE. NOTHING CONTAINED HEREIN SHALL BE DEEMED OR CONSTRUED BY THE PARTIES HERETO, NOR BY ANY THIRD PARTY, AS CREATING THE RELATIONSHIP OF PRINCIPAL AND AGENT, PARTNERSHIP OR JOINT VENTURE BETWEEN THE PARTIES.

28. PROMOTIONAL CHARGE AND ADVERTISING REQUIREMENTS.

28.1 Promotional Charge. Not applicable.

28.2 Percentage of Advertising. Not applicable.

28.3 Magazine/Catalog Advertising. Not applicable.

28.4 Opening Events Contribution. Not applicable.

28.5 Sublandlord Advertising. Sublandlord is entitled to advertise the Project and/or Subtenant (including the use of Subtenant's logo) in the Nashville newspapers and/or in other appropriate media, as it deems appropriate and may list Subtenant as a tenant of the Project.

28.6 Intentionally deleted.

28.7 Internet and Toll-Free Listings. If Subtenant or an Affiliate of Subtenant using Subtenant's trade or business name has a website, the website shall have a location directory and "Fifth + Broadway" shall be listed in all location directories. If Subtenant or an Affiliate of Subtenant using Subtenant's trade or business name or Affiliate of Subtenant has a toll free number, the toll free number shall have a location directory and "Fifth + Broadway" shall be listed in all location directories. Subtenant, subject to its reasonable approval and to the extent possible, will provide Sublandlord with and permit Sublandlord to display material (i.e., graphics, photos) on Sublandlord's website or in other media or communications describing or advertising the Project. Sublandlord may list Subtenant on its website as a tenant without prior approval.

28.8 Store Location Listing. Subtenant will list "Fifth + Broadway" as store location in any national or regional advertising where store locations are listed.

28.9 Sublandlord authorized Gift Cards and Certificates. Subtenant agrees to accept Sublandlord authorized gift cards and/or gift certificates ("**Project Gift Cards**") sold by Sublandlord, or an agent for Sublandlord, as a form of payment at the Premises. Project Gift Cards shall not be redeemable by customers for cash, either in-store or at the originating point of sale. The customer must present the actual Project Gift Card at the time of payment, and Project Gift Cards shall not be replaceable if lost or stolen. Sublandlord shall provide Subtenant with complete acceptance information and procedural instructions regarding the Project Gift Cards prior to Subtenant's store opening.

28.10 Intentionally deleted.

28.11 Advance Notice of Promotional Activities. Subtenant shall use its commercially reasonable efforts to give Sublandlord ninety (90) days advance notice of any promotional activities to be conducted, in or whole or in part, within the Premises so that Sublandlord may work with Subtenant with respect to promotion and security and related issues.

28.12 Intentionally deleted.

29. PATRIOT ACT. Subtenant represents and warrants to, and covenants with, Sublandlord that neither Subtenant nor any of its respective constituent owners or affiliates currently are, or shall be at any time during the Term hereof, in violation of any laws relating to terrorism or money laundering (collectively, the "**Anti-Terrorism Laws**"), including without limitation Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (the "**Executive Order**") and/or the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 10756) (the "**USA Patriot Act**"). Subtenant covenants with Sublandlord that neither Subtenant nor any of its respective constituent owners or affiliates is or shall be during the Term hereof a "**Prohibited Person**," which is defined as follows: (i) a person or entity that is listed in the Annex to, or is otherwise subject to, the provisions of the Executive Order; (ii) a person or entity owned or controlled by, or acting for or on behalf of, any person or entity that is listed in the Annex to, or is otherwise subject to the provisions of, the Executive Order; (iii) a person or entity with whom Sublandlord is prohibited from dealing with or otherwise engaging in any transaction by any Anti-Terrorism Law, including without limitation the Executive Order and the USA Patriot Act; (iv) a person or entity who commits, threatens or conspires to commit or support "terrorism" as defined in Section 3(d) of the Executive Order; (v) a person or entity that is named as a "specially designated national and blocked person" on the then-most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, http://www.treas.gov/offices/eotffc/ofac/sdn/t11sdn.pdf, or at any replacement website or other replacement official publication of such list; and (vi) a person or entity who is affiliated with a person or entity listed in items (i) through (v), above. At any time and from time-to-time during the Term, Subtenant shall deliver to Sublandlord, within ten (10) days after receipt of a written request therefor, a written certification or such other evidence reasonably acceptable to Sublandlord evidencing and confirming Subtenant's compliance with this Article 29.

30. SUBLANDLORD SHALL HAVE AND SUBTENANT HEREBY GRANTS TO SUBLANDLORD A CONTINUING SECURITY INTEREST FOR ALL RENT AND OTHER SUMS OF MONEY BECOMING DUE HEREUNDER FROM SUBTENANT, UPON ALL GOODS, WARES, EQUIPMENT, FIXTURES, FURNITURE, INVENTORY, ACCOUNTS, CONTRACT RIGHTS, CHATTEL PAPER AND OTHER PERSONAL PROPERTY OF SUBTENANT SITUATED ON THE PREMISES (COLLECTIVELY, THE "**COLLATERAL**"), AND SUCH COLLATERAL SHALL NOT BE REMOVED THEREFROM WITHOUT THE CONSENT OF SUBLANDLORD UNTIL ALL ARREARAGES IN RENT AS WELL AS ANY AND ALL OTHER SUMS OF MONEY THEN DUE TO SUBLANDLORD HEREUNDER SHALL FIRST HAVE BEEN PAID AND DISCHARGED. PRODUCTS OF COLLATERAL ARE ALSO COVERED. FOLLOWING AN EVENT OF A DEFAULT UNDER THIS SUBLEASE, SUBLANDLORD SHALL HAVE, IN ADDITION TO ANY OTHER REMEDIES PROVIDED HEREIN OR BY LAW, ALL RIGHTS AND REMEDIES UNDER THE UNIFORM COMMERCIAL CODE, INCLUDING WITHOUT LIMITATION THE RIGHT TO SELL THE COLLATERAL AT PUBLIC OR PRIVATE SALE UPON FIVE (5) DAYS NOTICE TO SUBTENANT. ANY STATUTORY LIEN FOR RENT IS NOT HEREBY WAIVED, THE EXPRESS CONTRACTUAL LIEN HEREIN GRANTED BEING IN ADDITION AND SUPPLEMENTARY THERETO. SUBLANDLORD AND SUBTENANT AGREE THAT A COPY OR OTHER REPRODUCTION OF THIS SUBLEASE SHALL BE SUFFICIENT TO SERVE AS A FINANCING STATEMENT AND THAT A COPY OR PHOTOGRAPHIC OR OTHER REPRODUCTION OF THIS PORTION OF THIS SUBLEASE MAY BE FILED OF RECORD BY SUBLANDLORD AND HAVE THE SAME FORCE AND EFFECT AS THE ORIGINAL. THIS SECURITY AGREEMENT AND FINANCING STATEMENT ALSO COVERS FIXTURES LOCATED AT THE PREMISES, WHICH IS DESCRIBED IN EXHIBIT A ATTACHED HERETO AND LOCATED ON THE REAL PROPERTY DESCRIBED IN EXHIBIT B ATTACHED HERETO, AND MAY BE FILED FOR RECORD IN THE REAL ESTATE RECORDS. SUBTENANT WARRANTS THAT THE COLLATERAL SUBJECT TO THE SECURITY INTEREST GRANTED HEREIN IS NOT PURCHASED OR USED BY SUBTENANT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES. WITHIN TEN (10) DAYS FOLLOWING WRITTEN REQUEST THEREFOR, SUBTENANT SHALL EXECUTE FINANCING STATEMENTS TO BE FILED OF RECORD TO PERFECT SUBLANDLORD'S SECURITY INTEREST IN THE COLLATERAL. THE SUBLANDLORD'S LIEN SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS SUBLEASE, UNTIL ALL OBLIGATIONS OF SUBTENANT HAVE BEEN FULLY PERFORMED.

31. PROJECT NAME AND LOGO. All signage and literature of or on behalf of Subtenant using the trademarks, servicemarks, name, copyright and/or logo of the Project, shall be submitted to Sublandlord for its prior written approval as to form and content in each and every instance, such approval not to be unreasonably withheld, conditioned or delayed. Sublandlord shall either approve such usage or provide the reasons for disapproval within twenty (20) days of such submission. If Sublandlord fails to respond within such twenty (20) day period, Subtenant shall provide Sublandlord with a second written request for approval. If Sublandlord fails to respond within such subsequent twenty (20) day period, Subtenant's usage shall be deemed approved.

32. LIQUOR LICENSE. Sublandlord, at no cost to Sublandlord, agrees to cooperate with Subtenant in obtaining its liquor license if it so elects.

33. PROPRIETARY INFORMATION. Sublandlord acknowledges that any proprietary material provided by Subtenant and Subtenant's trademarks and service marks are the sole property of Subtenant and Sublandlord shall have no rights thereto.

34. ATTORNEY'S FEES. In the event legal action is instituted by either of the parties to enforce the terms of this Sublease or arising out of the execution of this Sublease, each party will be responsible for its own attorney's fees.

35. CONSENT. Except as otherwise expressly provided to the contrary elsewhere in this Sublease, whenever it is necessary under the terms of this Sublease for either party to obtain the consent or approval of the other party, such consent or approval shall not be unreasonably withheld, conditioned or delayed, and all such determinations shall be made on a reasonable basis and in a reasonable manner.

36. EXCLUSIVE. So long as (i) this Sublease is in full force and effect, (ii) Subtenant is not in an Event of Default under this Sublease, and (iii) Subtenant is open for business to the public in the entire Premises fully staffed for the Permitted Use and under the Trade Name set forth in Section 1.17, Sublandlord agrees that, during the initial Term, Sublandlord shall not lease any premises in the Project to any museum tenant whose tradename includes a music genre, music label or music artist (i.e., Stax Museum, the Rock and Roll Hall of Fame and Museum, the Johnny Cash museum, and the Patsy Cline museum) provided however, that the foregoing restrictions shall not apply to any tenant leasing space in the Project whose lease was executed prior to the date of this Sublease and such tenants' subtenants, successors and assigns and any renewal, assignment or replacement of said lease or the premises occupied by such parties, provided that Sublandlord shall not give its consent (where such consent is required) for any such tenant or successor tenant to change the use of its premises in the Project to a use which would violate Subtenant's exclusive use. If any third party or a federal, state or local governmental body or agency threatens or commences an investigation, inquiry, proceeding or action against Sublandlord and/or Subtenant arising out of, directly or indirectly, the limitation granted hereunder, then Subtenant at its own cost and expense, shall defend and save Sublandlord harmless from and against all loss, claims or damages (including reasonable attorneys' fees) resulting therefrom.

[Signature page of Sublease]

IN WITNESS WHEREOF, the parties have executed this Sublease effective as of the day and year first written above.

SUBTENANT:

THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE, a public corporation

By: _____
Name: _____
Title: Metropolitan Mayor

SUBLANDLORD:

OLIVERMCMILLAN SPECTRUM EMERY, LLC,
a Delaware limited liability company

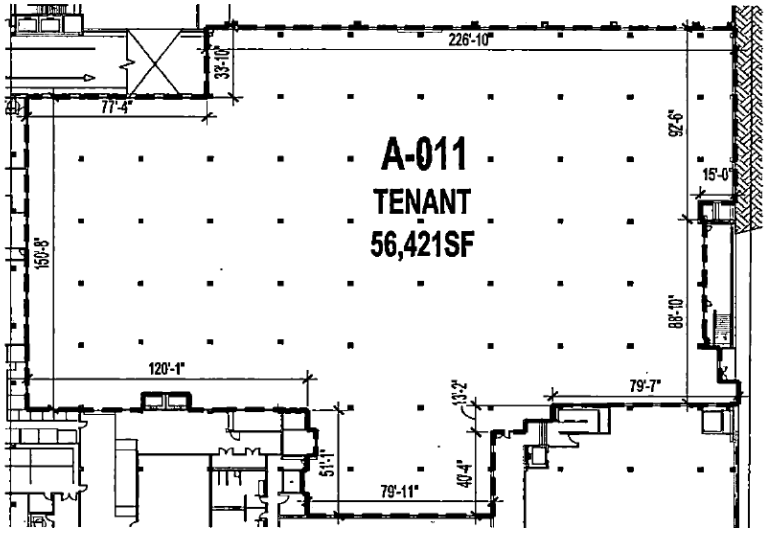
By: OliverMcMillan/Brookfield Residential Nashville, LLC
a Delaware limited liability company
Its: Manager

By: Brookfield Residential OM Holdings, LLC
a Delaware limited liability company
Its: Manager

By:_____
Eric Buchanan, Senior Vice President

EXHIBIT A

THE PREMISES



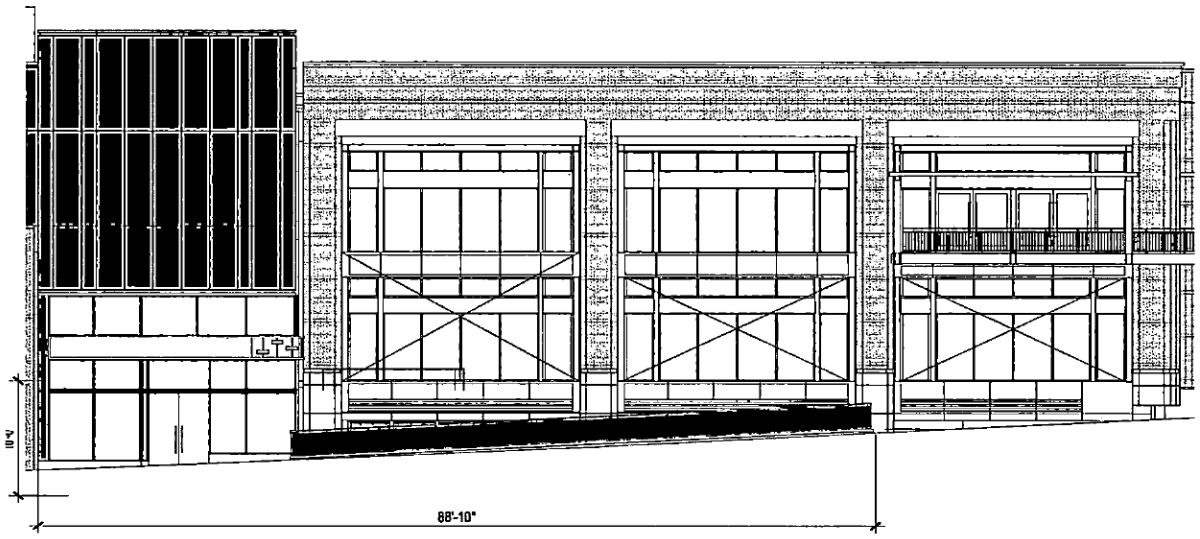
LEVEL 00 - A-011 FLOOR PLAN
13 June 2018 Page 2 of 3

NORTH

NOTES: 1. Plans are preliminary and subject to change. 2. Column locations are preliminary and subject to change. 3. Floor areas are preliminary and subject to change. 4. Storefront opening for illustrative purposes only. 5. Internal vertical circulation by Tenant. All dimensions and site conditions must be field verified by Tenant for accuracy of information. Landlord reserves the right to modify or slightly alter the site or configuration without written notice.	SPACE #: A-011 TENANT: LEASE AREA = 56,421 SF TOTAL FIFTH + BROADWAY NASHVILLE	OM OliverMcMillan

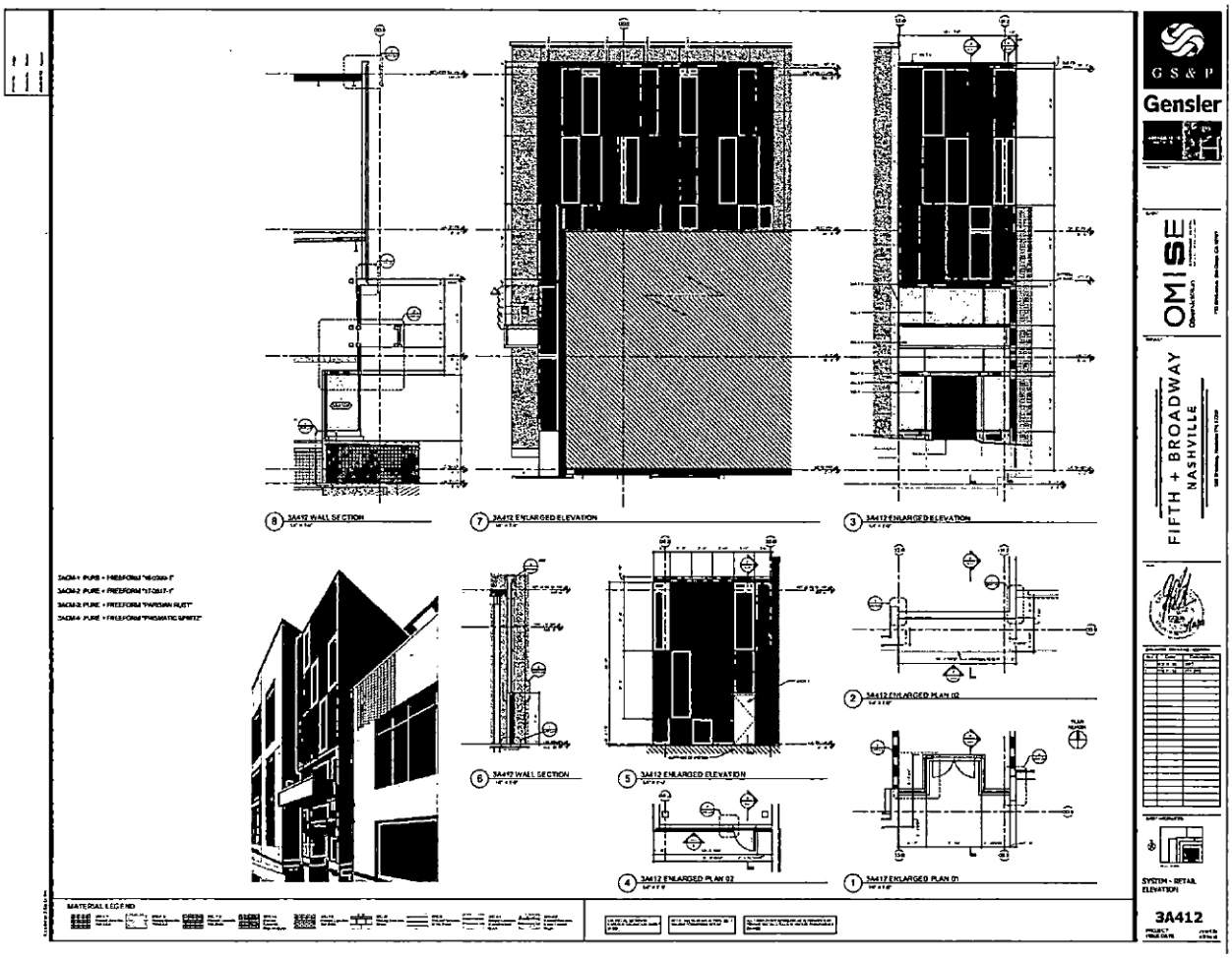
ELEVATIONS

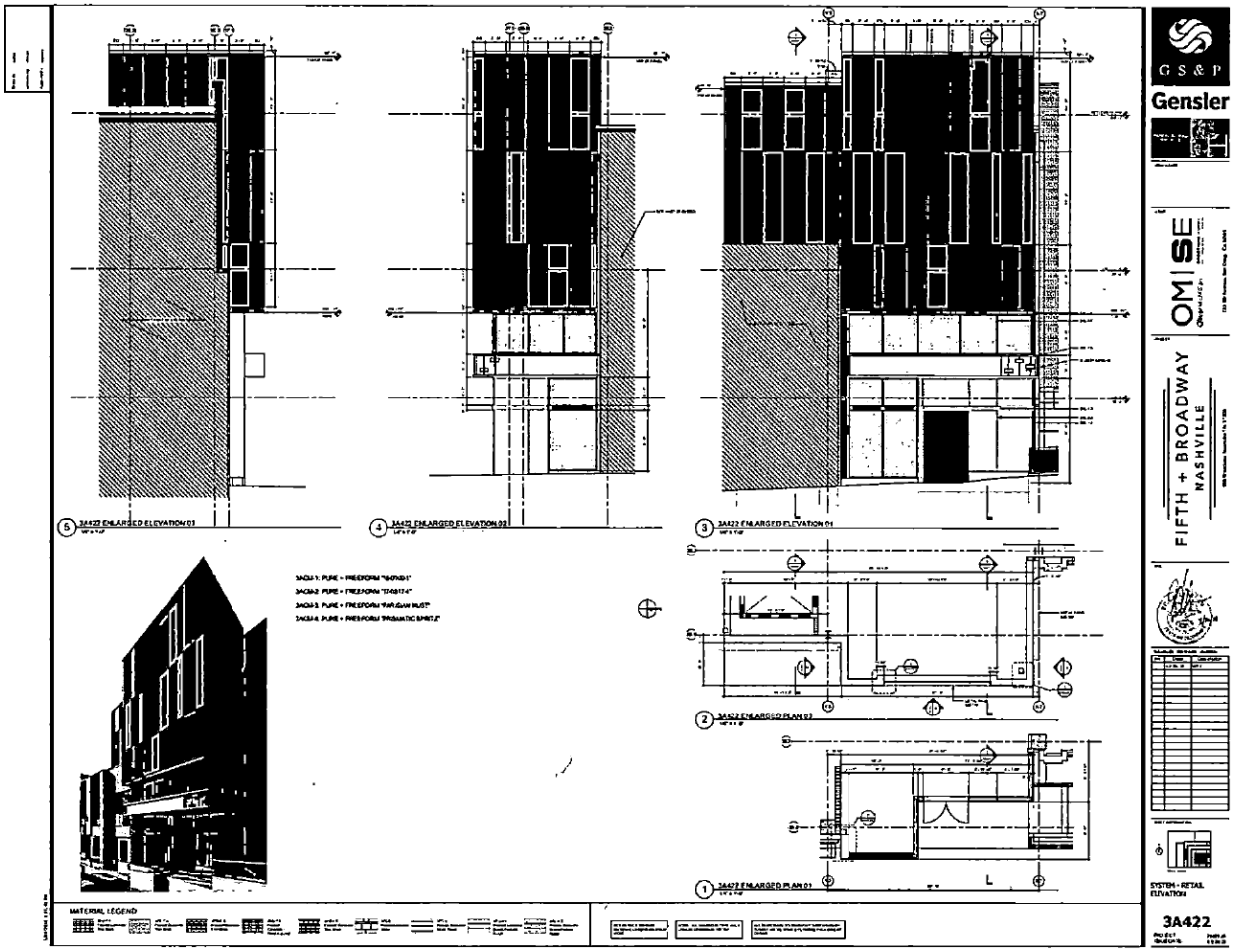
Please note that metal panel system for exterior building cladding is illustrative and subject to change in size and pattern



LEVEL 00 - A-011 EAST ELEVATION
13 June 2018 Page 3 of 3

NOTES: 1. Plans are preliminary and subject to change. 2. Column locations are preliminary and subject to change. 3. Floor areas are preliminary and subject to change. 4. Storefront opening for illustrative purposes only. 5. Internal vertical circulation by Tenant. All dimensions and site conditions must be field verified by Tenant for accuracy of information. Landlord reserves the right to modify or slightly alter the site or configuration without written notice.	SPACE #: A-011 TENANT: LEASE AREA = 56,421 SF TOTAL FIFTH + BROADWAY NASHVILLE	OM OliverMcMillan


GS&P
Gensler
OMISE
FIFTH + BROADWAY
NASHVILLE
8 3A412 WALL SECTION
7 3A412 ENLARGED ELEVATION
3 3A412 ENLARGED ELEVATION
6 3A412 WALL SECTION
5 3A412 ENLARGED ELEVATION
2 3A412 ENLARGED PLAN 02
4 3A412 ENLARGED PLAN 02
1 3A412 ENLARGED PLAN 01
MATERIAL LEGEND
SYSTEM - RETAIL ELEVATION
3A412


GS&P
Gensler
OMI SE
FIFTH + BROADWAY
NASHVILLE
5 3A422 ENLARGED ELEVATION 03
4 3A422 ENLARGED ELEVATION 02
3 3A422 ENLARGED ELEVATION 01
2 3A422 ENLARGED PLAN 02
1 3A422 ENLARGED PLAN 01
MATERIAL LEGEND
SYSTEM - RETAIL ELEVATION
3A422

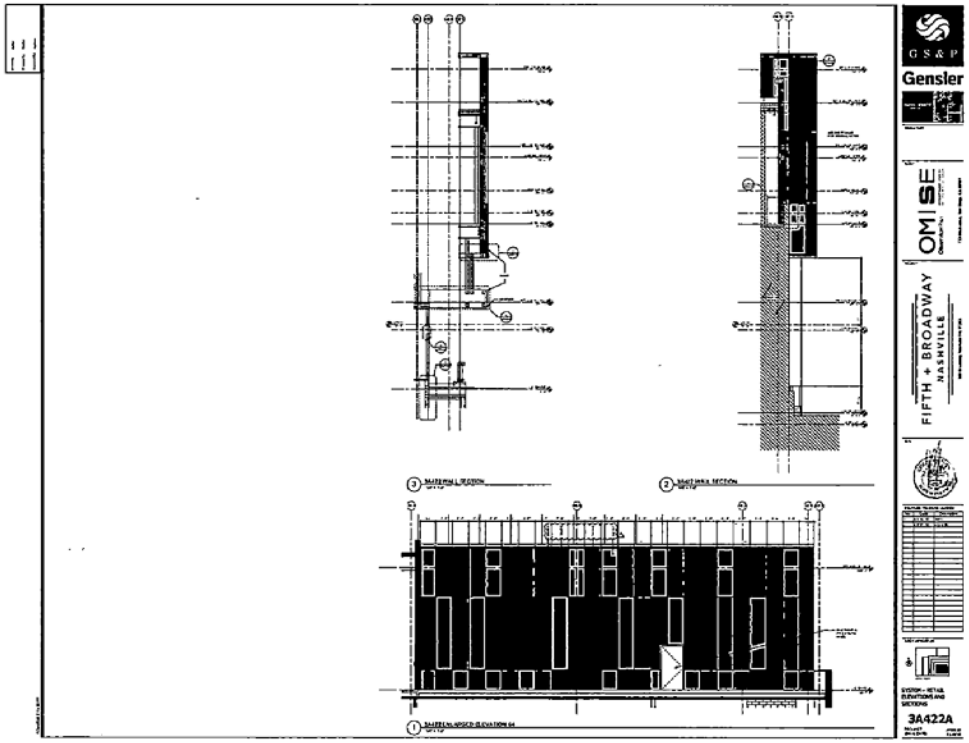
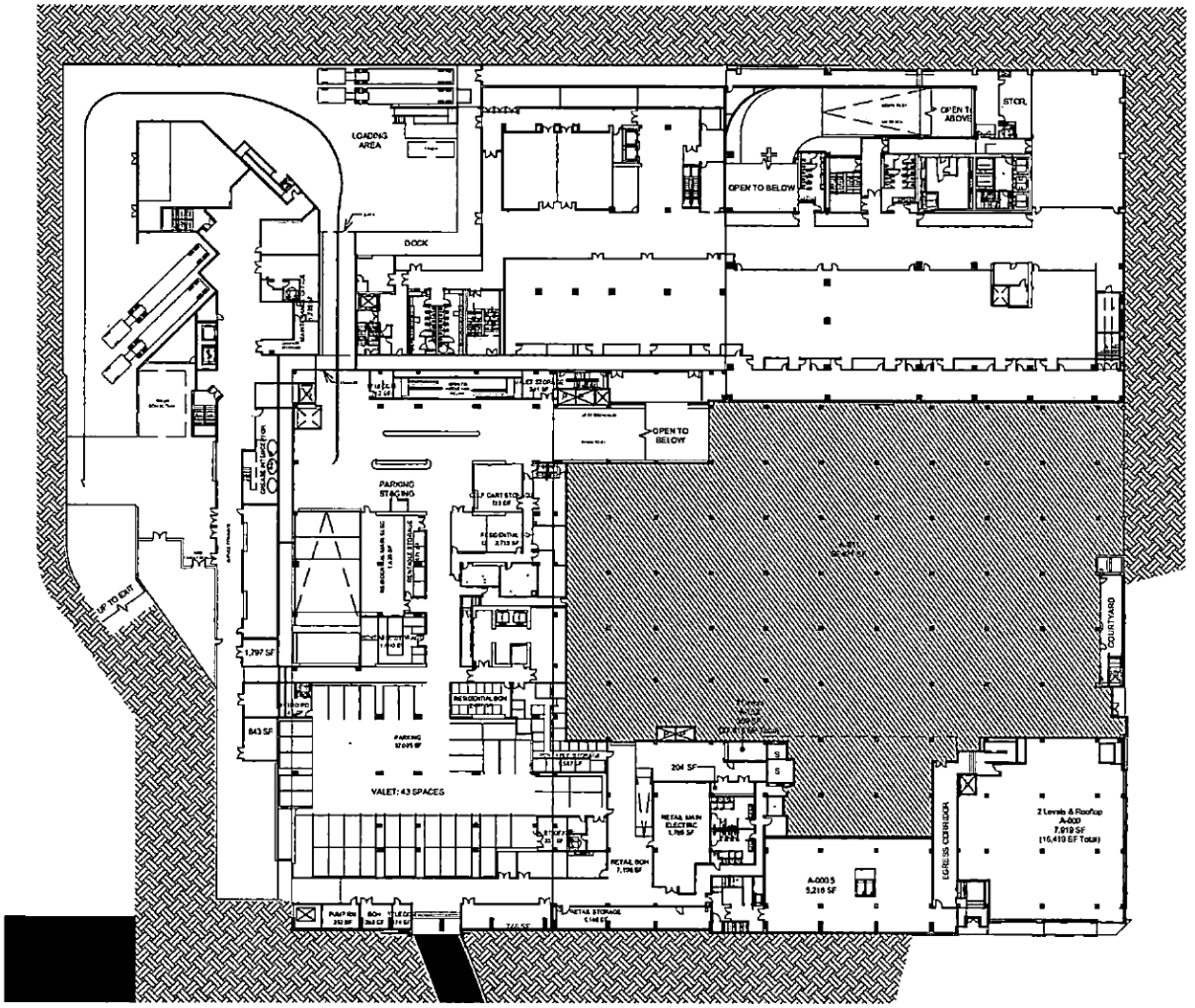

GS&P
Gensler
OMI SE
FIFTH + BROADWAY
NASHVILLE
3A422A

EXHIBIT B

THE PROJECT



Level 00 Site Plan

13 June 2018

Page 1 of 3

NOTES:	SPACE #: A-011	
1. Plans are preliminary and subject to change. 2. Column locations are preliminary and subject to change. 3. Floor areas are preliminary and subject to change. 4. Storefront opening for illustrative purposes only. 5. Internal vertical circulation by Tenant. All dimensions and site conditions must be field verified by Tenant for accuracy of information. Landlord reserves the right to modify or slightly alter the site or configuration without written notice.	TENANT: LEASE AREA = 56,421 SF FIFTH + BROADWAY NASHVILLE	OliverMcMillan

EXHIBIT C

CONSTRUCTION EXHIBIT

This **Exhibit C** is subject to and shall be supplemented by the Design Criteria Manual (defined below) for the Project. All terms herein that are defined in the body of the Sublease to which this Exhibit is attached shall have the meanings provided for them in the body of the Sublease. The term "Subtenant's Work" shall mean any work performed by or through Subtenant, whether Subtenant's initial work or work subsequent thereto.

SECTION I. DELIVERY OF PREMISES BY SUBLANDLORD

1. **AS-IS Condition**. Except as may be otherwise specifically set forth in this Sublease, Subtenant shall take the Premises in an "as is" condition and all work to be performed at the Premises shall be performed by Subtenant at Subtenant's expense.

2. **No Sublandlord Warranty**. Sublandlord does not warrant any information Sublandlord may have furnished or will furnish Subtenant regarding the Premises. It shall be Subtenant's responsibility to verify existing field conditions of the Premises and notify Sublandlord of any discrepancies beyond industry standard construction tolerances. Subtenant's failure to verify the existing conditions of the Premises shall not relieve Subtenant of any expenses or responsibilities resulting from such failure, nor shall Sublandlord have any liability or obligations to Subtenant arising from such failure. Following Subtenant's inspection of the Premises pursuant to Section II.2. of this **Exhibit C**, provided that Subtenant provides Sublandlord with written notice of the need for any corrections within ten (10) business days of such inspection by Subtenant, Sublandlord will make the required corrections to the Premises core/shell if alignment exceeds industry tolerance.

3. **Sublandlord's Construction of the Building**. As soon as practicable after the final drawings and specifications have been approved by Sublandlord and by all applicable governmental agencies, Sublandlord will, at its own cost and expense, commence the erection of the Building of which the Premises are a part, unless prevented or delayed by conditions over which Sublandlord has no control. It is expressly understood and agreed that the Premises are located within a larger building containing other units. In the event that prior to commencement of construction of the Building of which the Premises are a part, Sublandlord elects not to proceed with such construction, Sublandlord may terminate this Sublease upon notice to Subtenant, and both parties shall be forthwith released.

4. **Floor Plan**. When Sublandlord's architect (hereinafter "**Project Architect**") has completed drawings of the basic shell of the Building (or if such drawings have already been completed, then concurrently with the execution of this Sublease), Sublandlord shall deliver a floor plan of the Premises ("**Floor Plan**") to Subtenant showing thereon the columns, ceiling heights and other structural work in the Premises and other Sublandlord drawings pertaining to the design and construction of the Premises. The Floor Plan shall not be modified beyond the Sublease allowable area which precludes installation of exterior vestibules, interior mezzanines or any other added sales, storage or staging areas.

SECTION II. DESCRIPTION OF SUBLANDLORD'S & SUBTENANT'S WORK-COLD DARK SHELL

1. This Exhibit describes Sublandlord's Work and Subtenant's Work. The Sublandlord's Work is a description of the improvements to the Premises to be performed by Sublandlord at Sublandlord's sole cost and expense unless otherwise described. Subtenant's Work as described below shall be completed by Subtenant at Subtenant's sole cost and expense unless otherwise described. Changes to the conditions and requirements set forth in this Exhibit must have prior written approval by the Sublandlord and Subtenant. Subtenant is aware that Subtenant requested changes to Sublandlord's Work may constitute a change order at Subtenant's sole cost and expense and may delay delivery of the Premises.

This Section describes the condition in which Sublandlord shall deliver the Premises to Subtenant upon delivery of possession. While it is the Sublandlord's intention to accurately describe the conditions of Sublandlord's Work below, it is the Subtenant's express responsibility to field-verify all dimensions and conditions stated below and as provided in the Lease Outline Drawings prior to construction. Subtenant must notify Sublandlord within ten (10) days after the Delivery of Premises of any such item that is in discrepancy with Sublandlord's Construction Documents.

Sublandlord's Work shall mean the work specified in subsections (a) through (l) below:

a. **Floor**

Sublandlord shall provide a concrete slab as shown on Sublandlord's plans and specifications which shall be one elevation and level to within one-quarter inch (1/4") over ten (10) feet. Sublandlord may, at Subtenant's request, install sleeving in the structural slab, and/or ramping and stairs within the Premises in accordance with Subtenant's plans and at Subtenant's cost, in conjunction with Sublandlord's construction of the shell building and Premises, if such information is provided to Sublandlord in sufficient time prior to Sublandlord's Work commencing. Any required structural and/or technical provisions for external signage is to be installed by Subtenant. All external signage is to be provided and installed by Subtenant. Notwithstanding the foregoing, Subtenant shall coordinate structural supports and requirements for Subtenant's exterior storefront signage with Sublandlord. Any engineering, materials and installation costs required for such exterior storefront signage shall be provided by Subtenant at Subtenant's sole cost and expense.

b. **Storefront**

Sublandlord shall provide the storefront and exterior façade as depicted on Sublandlord's plans for the Premises, ready for Subtenant's interior finishes.

c. **Walls**

Sublandlord shall provide for the Premises demising and perimeter partitions constructed of metal studs only from the floor slab surface to the second floor

deck or roof structure above. Sublandlord may provide unfinished masonry wall in lieu of metal studs.

d. **Egress Door**

Sublandlord will provide code required two separate (2) 3'-0" x 7'-0" egress doors at the rear of the Premises per building code with butt hinge and exit hardware set only, to the service corridor or exterior walkway, at a location designated by Subtenant and as shown on Sublandlord's plans. Subject to applicable code, Subtenant may install an 8 foot high overhead door at the service/receiving area of the service corridor. Subtenant shall provide Sublandlord with details regarding the exact location and dimensions of such overhead door for Sublandlord's review and approval simultaneously with Subtenant's submission of Subtenant's Preliminary Drawings.

e. **Electrical**

Sublandlord will provide for a two thousand (2000) amp 277/480 volt, 3-phase electrical service from a central distribution point. Any step down transformers to 120/208V required by Subtenant shall be provided and installed by Subtenant within the Premises and at Subtenant's sole cost. Sublandlord shall provide an empty meter base, fusible service disconnect switch and empty feeder conduits (sized to meet Subtenant service requirements) with pull string to the Premises. Sublandlord may provide access to temporary power for Subtenant's construction, in a location determined by Sublandlord. The costs for origination and usage of temporary power services are the responsibility of the Subtenant.

Emergency Power. Subtenant shall provide backup power source for all code required life safety egress lighting, exit signage, etc.

f. **HVAC**

Sublandlord will provide valved and capped chilled water pipes extended to within the footprint of the Premises with capacity of two hundred twenty (220) tons of cooling capacity with six inch (6") supply and return lines. System to be for Subtenant's use in connecting to the Subtenant-supplied chilled water air handling units ("**AHU's**"). Sublandlord shall not be responsible for distribution throughout the Premises. Sublandlord will provide at Subtenant's expense a BTU meter on chilled water supply/return connected to the Sublandlord BMCS to measure usage for billing purposes. If Subtenant desires the use of the city utility provider steam system, then Subtenant shall coordinate directly with the city utility provider and provide all connection piping to said city system. Routing of piping outside of the Premises shall be reviewed and approved by Sublandlord.

g. **Plumbing**

Sublandlord shall provide up to three (3) four inch (4") capped sanitary stub (waste pipe) and a four inch (4") capped grease waste pipe for Food & Beverage

spaces within the Premises in coordination with Subtenant's plans. Sublandlord shall provide a two and one-half inch (2-1/2") valved and capped domestic water supply with a flow meter provided by Sublandlord and connected to the Sublandlord BMCS system to measure water usage for billing purposes. For ground floor Premises on grade, the sewer stub shall be located underground within the block-out area and the water line shall be located overhead in the ceiling space. Sublandlord shall provide a four inch (4") capped common plumbing vent line to which Subtenant may connect waste vents. Sublandlord will provide common area grease interceptors for which Subtenant shall pay its proportionate share of installation and maintenance costs. For any tenant plumbing installation that penetrates the Subtenant's Premises, Sublandlord shall cause such tenant to provide either a secondary containment conduit system or suitable pan system below pipe. Sublandlord will coordinate the installation and clearances of all piping associated with such secondary containment conduit system or suitable pan system within the Premises.

Food & Beverage Freezer/Cooler Condensers. Where a tenant requires freezers and coolers, the condensers shall be water cooled and connected to the chilled water supply/return system.

h. **Telephone/CATV**

For Tele/CATV systems, Sublandlord shall supply two (2) empty two inch (2") conduit with pull string from the Sublandlord's telecommunication central command room to the Premises.

i. **Gas**

Sublandlord shall provide gas service stubbed to the Premises from the central distribution point, sized to provide twenty five hundred (2,500) MBH at mediums pressure, as shown in Sublandlord's Plans. Setting of the meter, service and all additional pipe distribution/connections/valves shall be provided by the Subtenant in coordination directly with the utility provider.

j. **Automatic Fire Sprinklers**

Sublandlord shall design and engineer the fire sprinkler main for the building and provide code-required upright exposed heads on a standard grid throughout the Premises as part of core and shell system. Sublandlord shall also provide code-required hose connections within the Premises for Subtenant's modification and integration into its design. Standard grid piping within gallery or other public space within the Premises shall be above the bottom of the structural beams. The standard grid piping at the back of house, support or office areas of the Premises shall be flush to the bottom of the structural beams.

k. **Fire Alarm Systems**

Sublandlord to provide conduit and pull string stubbed to the Premises from the main fire alarm panel. Subtenant shall tie in to Sublandlord main fire alarm system as required by code. Separate fire alarm system to be standalone to be provided by Subtenant as requested by code for Premises.

l. **Construction Barricade**

Sublandlord (at Sublandlord's option) may construct and maintain a "Construction Barricade" of the Premises to control access of occupants and users of the Project during the construction period, prior to Subtenant's opening for business. Subtenant agrees to reimburse Sublandlord for the cost of the barricade.

2. **Substantial Completion of Sublandlord's Work**. Sublandlord agrees to deliver to Subtenant, and Subtenant agrees to accept from Sublandlord, possession of the Premises forthwith upon substantial completion of the Premises. At least ninety (90) days prior to the anticipated date of substantial completion and delivery, Sublandlord and Subtenant shall schedule and attend a walkthrough of the Premises to document Sublandlord's progress toward completion of Sublandlord's work in accordance with this exhibit and the plans, and the identification of any items of non-conformance for resolution prior to delivery. At least fifteen (15) days prior to delivery, the parties shall schedule and attend a follow up walkthrough to document Sublandlord's progress and document any remaining punch list items that may materially interfere with Subtenant's ability to take possession and perform Subtenant's work within the Premises. Substantial completion of the Premises may exclude completion of Premises storefront construction by Sublandlord and full dry in of the Premises. The term "substantial completion of the Premises" is defined as the date Sublandlord delivers notice to Subtenant ("**Notice of Substantial Completion**") that the Premises are substantially complete, (exclusive of "punch list" work) to the extent of Sublandlord's Work as specified in **Exhibit C**, and all attachments thereto, to the point wherein Subtenant's contractor may commence the construction of Subtenant's Work as specified herein, it being understood and agreed that Sublandlord may be unable to install or complete all items of Sublandlord's Work in advance of Subtenant's Work and further, that other tenants in the Project may have utilities running in the ceiling of Subtenant's Premises. In such instance each party shall cause its contractor to cooperate with the other's contractor to complete Sublandlord's Work and Subtenant's Work, and reasonably permit additional tenant work within the Premises in a timely and efficient manner. Certification by Project Architect of the substantial completion of the Premises in accordance with **Exhibit C**, and all attachments thereto, shall be conclusive and binding upon the parties hereto. Subtenant shall commence the construction of Subtenant's Work as described in this **Exhibit C**, and all attachments thereto, promptly upon receipt of the Notice of Substantial Completion of the Premises and shall diligently prosecute such construction to completion. Subtenant agrees that upon receipt of Sublandlord's Notice of Substantial Completion, Subtenant will accept the Premises in the condition which it may then be and waives any right or claim against Sublandlord for any cause, directly or indirectly, arising out of the condition of the Premises, appurtenances thereto, the improvements thereon and the equipment thereof and Subtenant shall thereafter save and hold harmless Sublandlord from liability as provided for in

this Sublease. Sublandlord shall not be liable for any latent or patent defects in the Sublandlord's Work.

3. **Subtenant's Early Possession of the Premises**. In the event Subtenant enters into possession of the Premises for the purpose of performing any portion of Subtenant's Work prior to receipt of the Notice of Substantial Completion, with Sublandlord's written permission, such entry shall be documented via written instrument outlining the agreed upon Delivery Date, and does not relieve Sublandlord of the obligation to complete Sublandlord's work. In such event Subtenant shall hold Sublandlord harmless and indemnify Sublandlord for any loss or damage to Subtenant's property, fixtures, equipment and merchandise and for injury to any persons, unless same be caused by the negligence, intentional acts or willful misconduct of Sublandlord or its agents, contractors, subcontractors, employees, vendors or representatives, and Subtenant shall repair any damage done by Subtenant or Subtenant's agents, contractors, subcontractors, employees, vendors, or representatives to Sublandlord's Work.

SECTION III. SUBTENANT'S WORK

PART ONE. General Criteria for Subtenant's Work

1. **Subtenant's Work, In General**. As a material consideration for the execution by Sublandlord of the Sublease, Subtenant agrees to perform the Subtenant's Work in the Premises with quality work using only first-class materials and workmanship. Notwithstanding the foregoing or anything to the contrary in this Sublease, any deficiency in design and/or construction shall be solely the responsibility of Subtenant. Subtenant shall be responsible, at its own cost and expense, to complete Subtenant's Work; all Subtenant's Work shall be completed to a good and workmanlike condition. Subtenant shall be solely responsible for obtaining all building construction permits for the Premises, business licenses to operate Subtenant's business or a certificate or evidence of permission of occupancy for the Premises.

2. **Specifics of Subtenant's Work**. Subject to the provisions hereof, Subtenant at its sole cost and expense, shall perform all work required to complete the Premises to a finished condition ready to be opened for business in accordance with the provisions hereof and of the Sublease. Subtenant's Work shall conform to the criteria, procedures and schedules set forth herein and in the Sublease.

3. **Construction of Subtenant's Work**. Subject to the provisions of this Sublease, including this Exhibit, Subtenant shall construct the Premises as provided in Article 15 of the Sublease. Subtenant shall perform Subtenant's Work in accordance with all laws including, without limitation, the building code of the jurisdiction in which the Project is located and all requirements of the Americans with Disabilities Act.

4. **Preparation of Plans and Specifications**. Subtenant shall prepare its plans and specifications for its Work in accordance with this Exhibit, Sublandlord's plans for the Project and the Premises, the Project city-approved signage criteria, and Design Criteria Manual (as defined hereinbelow) for the Project, as the same may be revised or supplemented from time to time, and such other criteria as Sublandlord may furnish Subtenant (such criteria herein collectively referred to as the "**Design Criteria Manual**"). Notwithstanding the foregoing,

Sublandlord and Subtenant agree that the Sublandlord shall be designing the exterior façade and storefront for the Premises and Subtenant shall be obligated to comply only with any future modifications to the exterior storefront. The Design Criteria Manual contains specific criteria for the design and performance of the Work, including the mechanical and electrical work. The Design Criteria Manual may contain "**Standard Project Details**" as issued from time to time with which Subtenant shall comply.

5. **Approval by Sublandlord**. Subtenant's initial work and, except to the extent as may be specifically otherwise provided in the Sublease, all subsequent Subtenant's Work in the Premises which Subtenant may wish to perform, shall be subject to the advance written approval by Sublandlord.

6. **Permits**. Subtenant shall, prior to commencement of Subtenant's Work, obtain all required building and other permits at Subtenant's expense and post said permits at the Premises as required.

7. **Preconstruction Meeting**. Subtenant shall, prior to commencement of Subtenant's Work, attend a preconstruction meeting with the Sublandlord's on-site representative and shall post Sublandlord's construction rules and regulations in the Premises for the duration of the Work.

8. **Load Capacity**. The loads imposed by Subtenant's Work at the Premises (including dead and live loads) shall not exceed the allowable load capacity of the existing structural systems and components thereof.

9. **New Materials Only**. Subtenant shall use only new materials for Subtenant's Work, including all improvements, equipment, trade fixtures and all mechanical, plumbing and electrical systems and components. Notwithstanding the foregoing, Sublandlord agrees and acknowledges that Subtenant's work may include vintage or repurposed materials or items installed in conjunction with its improvements that enhance and complement the design.

10. **No Penetrations**. Subtenant shall make no marks or penetrations into the roof, upper floor decks, exterior walls, or floors, unless approved by Sublandlord in advance.

11. **Utilities Access through other Premises**. If any Subtenant's Work being performed by Subtenant to connect to Sublandlord's utilities requires access through the premises of any other tenant or otherwise will affect any other tenant and Sublandlord has approved such Subtenant's Work, Subtenant shall be responsible for coordinating such Subtenant's Work with such other tenant, restoring said tenant's premises to its original condition following the Subtenant's Work, and compensating said other tenant for any costs incurred by it on account of such Subtenant's Work.

12. **Special Work Outside of Premises or Subtenant Requested Work by Sublandlord**. If any of Subtenant's Work necessitates any special work outside the Premises or Subtenant requests Sublandlord perform any work within the Premises, either prior to delivery or after delivery, such as, but not limited to, increasing the size of electric conduit or adding or relocating water service or sanitary service, Sublandlord, at Sublandlord's election, may perform such work and Subtenant shall reimburse Sublandlord the cost thereof plus five percent (5%) thereof for

administration, or in the case of work outside of the Premises, require Subtenant perform the Subtenant's Work at Subtenant's cost.

13. **Sublandlord's Signs**. Subtenant shall retain Sublandlord's identification signs or, at Subtenant's cost, provide new signs for Sublandlord's utilities, valves, and other such devices in the Premises.

14. **Testing of Subtenant's Work**. Sublandlord may at its election require any aspect of Subtenant's Work to be tested, and Subtenant shall cooperate with any such testing procedure, which shall be at Sublandlord's cost.

15. **Written Approval Only**. No approval from Sublandlord with respect to any aspect of Subtenant's Work shall be valid unless in writing.

PART TWO. Certain Specific Criteria for Subtenant's Work

Subtenant's Work shall include, but shall not be limited to, the purchase and/or installation and/or performance of the following items listed below (including any and all applicable architectural, engineering and other design services and permits as may be required to complete Subtenant's Work). The procedures for production and approval of Subtenant's plans and specifications as well as guidelines for tenant design are further described in Sublandlord's Design Criteria Manual ("**Design Criteria Manual**"). Lease Outline Drawings ("**LOD**"s) shall be provided when they are available for distribution. Subtenant shall comply with all design criteria, procedures for drawings, specifications, rules, regulations and provisions of the Tenant Design Criteria. To the extent, if at all, that the Tenant Design Criteria conflicts with any provisions herein, the Sublease and this Exhibit shall govern.

a. **Storefront**

Any proposed modification to the exterior façade and storefront provided by Sublandlord requires Sublandlord's prior written approval and must be in strict conformance code and the Design Criteria Manual.

b. **Floors**

Subtenant shall install all floor coverings within the Premises, including preparation of slab to accept Subtenant's finishes. Subtenant must provide and install Nobel Seal TS waterproof membrane (or similar product with Sublandlord's approval) in all wet areas (kitchen/kitchenettes, restrooms, etc.). A 4-hour flood test must be performed by the Subtenant and witnessed by the Sublandlord's Field Subtenant Coordinator. Subtenant shall provide and construct transitions within the Premises to meet exterior sidewalk elevations at Subtenant's sole cost and expense and provide for positive drainage away from their premises.

c. **Walls**

Subtenant shall provide fire rated 5/8" Type "X" drywall on all perimeters demising walls from the finish floor slab and sealed tight to the underside of the

roof structure or underside of floor above. Subtenant shall provide R-19 batt insulation full height in at least one side interior demising wall as shown on the Lease Outline Drawing and as required by code. Exterior walls may require additional insulation. Subtenant is to provide all other interior partitions and wall coverings in the Premises, including any required furring and insulation for exterior walls, pursuant to the Tenant Design Criteria. In some circumstances Subtenant may be required to meet certain fire rating requirements; this work is the sole responsibility of the Subtenant. Should any existing Fireproofing material be disturbed by Subtenant during Subtenant's construction, then Subtenant shall return the material back to code compliance at Subtenant's expense.

d. **Ceiling**

Subtenant shall provide ceilings as required by code and by the Tenant Design Criteria. Premises which require fire rated ceilings must provide, install and maintain ceilings per code and as stated on the Lease Outline Drawings. Should any existing Fireproofing material be disturbed by Subtenant during Subtenant's construction, then Subtenant shall return the material back to code compliance at Subtenant's expense.

Subtenant may be required to install access panels to access utility connections of upper level tenants as part of Subtenant's Work. Locations and sizes shall be determined by the Sublandlord.

e. **Rear Door**

Subtenant may alter or replace the hardware on the rear doors provided by the Sublandlord, subject to Sublandlord's prior approval. Subtenant shall place suite identification and store name on rear door in accordance with the Sign Criteria or as otherwise directed by the Sublandlord.

f. **Electrical**

1. Subtenant is responsible for wire and breaker from Sublandord's central distribution room to the Premises. All electrical work, other than as provided by the Sublandlord, is the sole responsibility of the Subtenant, which includes but is not limited to wire, meters, panel boards, disconnect switches, conduit, lighting, emergency lighting, Fire Alarm devices, wiring, transformers and conduit, connection and time clock for signage. Sublandlord will provide conduit from Sublandlord's central distribution room to the Premises. Subtenant is responsible for contracting with the electrical utility company to purchase and install the electrical utility meter per Sublandlord's specifications. If any Subtenant demand exceeds what is provided by Sublandlord, then additional costs to service are Subtenant's cost. Any additional electrical service and/or conduit required by Subtenant shall be at Subtenant's sole cost and expense.

2. Telephone / Cable / Cat V: Telephone lines, connections, equipment and phone board are to be provided and installed by Subtenant. Subtenant shall make

all necessary arrangements with available vendor(s) for communication services to the Premises. Special applications will require Sublandlord's written approval prior to proceeding with the work.

g. **HVAC**

Subtenant shall connect to Sublandlord's chilled water system. Subtenant shall connect at the valve connections and install the flow control valve and 2-way valve/control package, using the Sublandlord-approved contractors. Subtenant must make connection at appointed date and time, which shall be coordinated by the Sublandlord's designated Field Tenant Coordinator with no less than 24 hours' prior notice.

Subtenant shall provide and install a full air distribution system within the Premises including air handling units, supply ductwork, air distribution devices, return air ductwork (return air plenum possible), fire dampers, insulation, any additional control devices or sensors, and final air balance and water testing and reports. Subtenant shall provide and install air handling units with electric heat, condensate drain routed to Subtenant provided floor drain, and thermostat. Condensate lines shall be connected to Subtenant's sanitary sewer within Premises. Reports shall be provided to Sublandlord upon completion of improvements. Subtenant shall connect to Sublandlord's fresh air and exhaust systems for distribution within the Premises.

Restaurant tenants shall be required to provide full cooking exhaust ductwork and systems along with scrubbers for treatment of all exhaust. Subtenant to submit detail plan for Sublandlord review and approval of exhaust duct size, routing, required structural supports and sound attenuation.

Locations for intake/exhaust louvers for Subtenant outside air, relief air, exhaust air and scrubbed air will be provided by the Sublandlord. For retail locations where ductwork for connection to louvers will pass through Sublandlord or other another tenant's space, the Sublandlord will provide a coordinated pathway. Subtenant is responsible for all ductwork.

Scrubbers shall be located within the Premises and to be connected to exterior louvers. Any additional structural support required to install the scrubbers shall be provided by Subtenant at Subtenant's cost. Structural plans shall be reviewed by Sublandlord's engineer for Sublandlord's approval at Subtenant's cost. All other exhaust (restroom) may be vented to general exhaust connection point shown on Sublandlord's Plan.

h. **Plumbing**

Subtenant must provide and install Nobel Seal TS waterproof membrane (or similar product approved by Sublandlord) in all wet areas (kitchen/kitchenettes, restrooms, etc.). A 4-hour flood test must be performed by Subtenant and witnessed by the Sublandlord's Field Tenant Coordinator.

1. Subtenant shall connect to the Sublandlord provided sewer lateral(s) and perform the slab penetration for connection. Subtenant shall provide distribution and connection to fixtures, floor drains and cleanouts within the Premises. Subtenant shall provide dimensioned locations of core drills, sewer connections, and clean outs to Sublandlord for approval prior to finalizing Subtenant's Drawings. Subtenant shall inspect and locate actual connection points within the suite prior to commencing any slab penetrations.

2. Subtenant shall perform and provide all water distribution within the Premises. Subtenant shall provide and install domestic water sub-meter with remote readout at Subtenant's cost per Sublandlord's specifications. All water distribution for Subtenant's use, including hose bibs for outdoor seating area cleaning shall be connected after the sub-meter and shall be billed to the Subtenant.

3. Vents: Subtenant shall connect to plumbing vents as required.

4. Grease Waste: Subtenant shall connect to the Sublandlord provided grease waste piping and perform the slab penetration for connection. Subtenant shall provide distribution and connection to fixtures, floor drains and cleanouts within the Premises. Subtenant shall provide dimensioned locations of core drills, grease waste connection and clean outs to Sublandlord for approval prior to finalizing Subtenant's Drawings. Subtenant shall inspect and locate actual connection points within the suite prior to commencing any slab penetrations. Sublandlord will provide common area grease interceptors for which Subtenant shall pay its proportionate share on installation and maintenance.

i. **Gas**

Subtenant shall connect to and provide distribution of gas services from the connection point provided by the Sublandlord. Subtenant is responsible for ordering the meter set, establishing an account and remitting any applicable fees for gas service.

Subtenant shall perform and provide all gas distribution within the Premises. Subtenant shall coordinate gas system requirements with local Utility Company and have Utility Company furnish and install required gas meter at location provided by Sublandlord.

j. **Automatic Fire Sprinklers**

Subtenant shall be responsible for preparing shop drawings for Sublandlord's approval and for modifying the Sublandlord-provided grid in accordance with Subtenant's plans, including, but not limited to, additional branch piping, additional heads, and the down-turning of existing upright heads to meet code for its improvements. Any Subtenant's use or occupancy causing higher hazard occupancy or additional fire safety requirements would be Subtenant's cost and must be approved by the Sublandlord. Subtenant shall use Sublandlord's sprinkler contractor for all changes and modifications at Subtenant's expense. Subtenant

shall enclose and/or aesthetically integrate the code-required Sublandlord-provided hose connections within the Premises.

k. **Fire Alarm System**

Fire alarm system devices, including flow and tamper switches for sprinkler monitoring, within the Premises shall be provided and installed by Subtenant and connected to Sublandlord's SLC, NAC, and audio looped circuits from the Sublandlord's fire alarm system. Final connections to the base building system shall be performed by the Sublandlord's approved fire alarm contractor at Subtenant's expense. Subtenant shall provide and install any additional power boosters and amplifiers as necessary for all notification devices in the Premises. Sublandlord shall monitor the main sprinkler riser for all buildings however it will be the Subtenant's responsibility to install life safety systems per local jurisdiction requirements within the Premises.

l. **Signage**

Subtenant shall provide signage in conformance with the Sign Criteria section of the Tenant Design Criteria and City/County requirements. Subtenant shall provide any blocking for signage not provided by Sublandlord. Subtenant shall provide the service from Subtenant's electrical panel to Subtenant's signs or sign area for illumination and timer for any exterior signage lighting. No temporary or promotional signs shall be placed outside, on the exterior face or storefront of the Premises, or within five (5) feet of the interior face of the outermost position of the storefront without Sublandlord's prior written approval. Full fabrication and installation of signage is by Subtenant.

m. **Canopies**

Intentionally deleted.

n. **Sound and Vibration Mitigation**

In the event that Subtenant's proposed use within the Premises should cause excessive sound and/or vibration beyond that which is typical for normal retail occupancies, then Sublandlord at its sole discretion may require Subtenant to provide an acoustic study for Sublandlord's review and approval, and may require Subtenant to install sound and vibration attenuation measures as part of Subtenant's Work in a manner consistent with the acoustic study to mitigate sound and/or vibration transmission to other Premises or the Common Area. In the event Subtenant's use requires a reduced noise level beyond normal uses identified within the center, Subtenant shall provide additional sound insulation, at Subtenant's expense, to obtain the level of soundproofing desired by the Subtenant.

o. **Roof and Building Penetrations**

No penetrations of the shell building, roof, walls, floor, structural beams, other tenant areas above, or other area shall be made without Sublandlord's prior approval. Any such penetrations shall be designed, permitted and constructed by Subtenant at Subtenant's sole cost. Any penetrations to the exterior skin or roof of the Building must be performed by the Sublandlord-approved Contractor(s), with plan review and approval performed by Sublandlord's Waterproofing Consultant prior to construction.

p. **Code Related Items**

Subtenant shall be responsible for complying with any code requirements applicable to its type of business operation in the Premises including code requirements and/or changes or additions to Sublandlord's Work as a result of Subtenant's use or Subtenant's Drawings.

q. **Field Verification of Conditions**

The Subtenant is obligated to verify conditions pertaining to the Premises prior to and after commencement of construction of its Premises and improvements therein. Subtenant shall coordinate its work with the work of Sublandlord, other tenants, and with existing conditions above, below, and adjacent to the Premises. Subtenant shall make reasonable changes as required to accommodate such work or conditions. Subtenant must notify Sublandlord within ten (10) days of the Delivery of Premises of any conditions in conflict with Sublandlord's Work described herein or any conditions preventing Subtenant from commencing Subtenant's Work.

r. **Subtenant Plan Review**

Subtenant's Drawings shall be reviewed by the Sublandlord or Sublandlord's designated representative for compliance to Sublandlord's Design Criteria Manual. Unless otherwise noted above, Subtenant shall submit plans for review to Sublandlord's architect, engineers, and consultants at Subtenant's cost for any changes to the Sublandlord's shell structure, the engineering or structural openings and review of structural support for Subtenant constructed and supplied items, waterproofing review, mechanical, electrical and plumbing demands, STC rating requirements or review of other items specifically required by Sublandlord.

SECTION IV. PROCEDURES AND SCHEDULES FOR THE COMPLETION OF PLANS AND SPECIFICATIONS

1. All prints, drawing information, and other materials to be furnished by Subtenant as required hereinafter, shall be delivered to Sublandlord, Attention Nashville Fifth & Broadway Tenant Coordination Department, 733 8th Avenue, San Diego, California 92101, or such different address as Sublandlord may designate to Subtenant from time to time. Subtenant's preliminary drawings and specifications are herein referred to as the "**Preliminary Drawings**" and Subtenant's final drawings and specifications are herein referred to as the "**Working**

Drawings". The Preliminary Drawings and Working Drawings are sometimes referred to herein as the "**Drawings**".

2. Subtenant shall, at its sole expense, utilize the services of an architect and engineer to prepare all Drawings. Said architect and engineer shall be registered in the state in which the Project is located. All Drawings shall be submitted to Sublandlord for approval in ACAD format and in strict compliance with the Design Criteria, with two (2) sets of full size prints and one (1) full size electronic (PDF) submittal. Subtenant shall, with the Drawings, furnish sample boards indicating materials, color selections and finishes to be used within the Premises. Subtenant shall also submit to Sublandlord such further information on Subtenant's planned electrical and mechanical usage at the Premises as requested by Sublandlord.

3. Sublandlord will furnish Subtenant a drawing that shows the dimensions and square footage of the Premises and the other information specified in this Exhibit C (the "**Lease Outline Drawing**"). The Lease Outline Drawing may also show the location of certain existing base building improvements, such as utility lines and other information required by this Exhibit C. Sublandlord shall furnish Subtenant the Design Criteria Manual for the Project. If, pursuant to the foregoing, Subtenant is supposed to receive the Lease Outline Drawing and/or the Design Criteria Manual, and has not received the same by the date this Sublease is fully executed, Subtenant shall promptly notify Sublandlord and Sublandlord shall furnish said item(s) to Subtenant as soon as reasonably possible. Sublandlord does not warrant the information shown on the Lease Outline Drawing, or on any other drawings it furnishes to Subtenant with respect to the Premises.

4. Sublandlord shall furnish Sublandlord's shell plans for the storefront, exterior façade and egress doors for the Premises (hereinafter "**Exterior Façade Design**") upon completion of such and Subtenant shall promptly review and approve such plans within fifteen (15) days of receipt. If Subtenant fails to respond within such fifteen-day period; Sublandlord shall give Subtenant written notice of its failure to respond and an additional ten-day period to approve such plans. If Subtenant fails to respond within such ten-day period, Subtenant shall be deemed to have accepted Sublandlord's Exterior Façade Design.

5. Subtenant shall submit the Preliminary Drawings promptly, and in no event later than two hundred seventy (270) days prior to the anticipated delivery date of the Premises. The Preliminary Drawings shall show interior layout, signage, and any other work Subtenant intends to perform. With the Preliminary Drawings Subtenant shall submit a color rendering of Subtenant's proposed storefront and signage, and a sample board of the materials to be used in the storefront and interior of the Premises. Sublandlord shall use reasonable efforts to send notification to Subtenant that it approves or disapproves the Preliminary Drawings within thirty (30) days after receipt thereof. If Sublandlord disapproves, Sublandlord shall specify the reasons for the disapproval. If Sublandlord disapproves, Subtenant shall within ten (10) days after receipt of Sublandlord's disapproval, send Sublandlord revised Preliminary Drawings addressing Sublandlord's comments. This procedure shall be repeated until Sublandlord has approved the Preliminary Drawings. Sublandlord may give approval "as noted" in which event the changes noted by Sublandlord shall be deemed incorporated into the Preliminary Drawings; provided, if Subtenant notifies Sublandlord within five (5) days thereafter that it does not accept said

changes, then the Preliminary Drawings shall be deemed disapproved on account of the changes Sublandlord had requested.

Within seventy-five (75) days after Sublandlord approves the Preliminary Drawings, Subtenant shall submit the Working Drawings. The Working Drawings shall include detailed final drawings for architectural, electrical, mechanical, sprinkler and plumbing and all other work to be performed by Subtenant and shall be prepared consistent with the approved Preliminary Drawings. Sublandlord shall use reasonable efforts to send notification to Subtenant that it approves or disapproves of the Working Drawings within thirty (30) days after receipt thereof. If Sublandlord disapproves, Sublandlord shall specify the reasons for the disapproval. If Sublandlord disapproves, Subtenant shall within twenty-one (21) days after receipt of Sublandlord's disapproval, send Sublandlord revised Working Drawings addressing Sublandlord's comments. This procedure shall be repeated until Sublandlord has approved the Working Drawings. Sublandlord may give approval "as noted" in which event the changes noted by Sublandlord shall be deemed incorporated into the Working Drawings; provided, if Subtenant notifies Sublandlord within five (5) days thereafter that it does not accept said changes, the Working Drawings shall be deemed disapproved on account of the absence of the changes Sublandlord had requested.

In the event Subtenant wishes to have Sublandlord provide sleeving through the structural floor slab and/or provide openings in structural components, or any ramping and stairs prior to delivery of the Premises to facilitate Subtenant's work after delivery of the Premises, Subtenant shall provide such information no later than March 1, 2018. Any such work will be performed at Subtenant's cost, including design, engineering and contractor costs, plus a five percent (5%) administrative markup.

6. Working Drawings shall include, but not be limited to, the following:

   a. Key plan showing location of Premises

   b. Floor and fixture layout plans

   c. Overall sections

   d. Reflected ceiling plans

   e. Plan, elevations & section of storefront for reference on interior finish tie-ins

   f. Details of special conditions encountered

   g. Interior elevations

   h. Full sections of types of partitions

   i. Door schedule with jamb details, including list of hardware

   j. Interior finish color sample board (maximum size 11" x 17")

k. Sprinkler, plumbing riser diagram, heating, ventilating, and cooling plans

l. Mechanical details (includes plumbing & full details of cooking exhaust system, ducting/routing and proposed scrubber system

m. Electrical plans (circuited lighting plan and circuited power plan)

n. Electrical details, fixture schedules, diagram, and phase balanced panelboard schedules, riser

7. The approval by Sublandlord or Sublandlord's agent of any Drawings or of Subtenant's Work shall not constitute an implication, representation or certification by Sublandlord or Sublandlord's agent that either said Drawings or Subtenant's Work is accurate, sufficient, efficient or in compliance with insurance and indemnity requirements, or any Laws, including but not limited to code and the Americans with Disabilities Act, the responsibility for which belongs solely to Subtenant.

8. In those instances where multiple standards and requirements apply with respect to Subtenant's Work, the strictest of such standards and/or requirements shall control unless prohibited by applicable Law.

9. Upon completion of Subtenant's Work and before Subtenant opens for business at the Premises, and if requested by Sublandlord, Subtenant shall submit to Sublandlord written proof from Sublandlord's insurance underwriter that the fully installed sprinkler system was approved by such underwriter, and Subtenant shall submit to Sublandlord and Sublandlord's insurance underwriter copies of all material and test certificates.

SECTION V. CONSTRUCTION

1. Subtenant may not commence any Work until this Sublease has been fully executed, Sublandlord has approved Subtenant's Working Drawings, all required insurance certificates have been furnished to Sublandlord, all building permits have been obtained, and Subtenant has complied with all other requirements herein and elsewhere in this Sublease.

2. A representative of Subtenant shall meet with Sublandlord at the Sublandlord's office prior to start of construction to discuss construction-related items and review the project's Standard Rules and Regulations for Construction. Subtenant's representative shall contact the Sublandlord in advance to schedule said meeting at a mutually satisfactory time.

3. Without limitation to any provision of this Sublease, prior to commencement of any Work at the Premises Subtenant or Subtenant's general contractor shall furnish Sublandlord the following:

a. The names, addresses, representatives and telephone numbers of the general contractor. Additionally, Subtenant shall use reasonable efforts to furnish Sublandlord such information for all subcontractors ("**Subtenant's Contractors**").

b. Amounts of the general contract and each subcontract.

c. Certificates of Insurance evidencing the insurance required of Subtenant and Subtenant's general contractors as provided in this Sublease, including this Exhibit C.

d. A copy of the building permit(s).

e. A detailed construction schedule.

f. A security deposit in the amount of $50,000.00 (the "**Construction Deposit**") to cover damage to Sublandlord's property during Subtenant's construction and payment of any charges due from Subtenant. The Construction Deposit shall be returned to Subtenant or Subtenant's general contractor upon completion of all Subtenants' Work in accordance with the approved Working Drawings, provided Subtenant owes no amounts to Sublandlord in connection with the construction.

4. All Subtenant's Contractors shall be bondable, licensed contractors, having good labor relations, capable of working in harmony with Sublandlord's general contractor and other contractors in the Project. Subtenant shall coordinate Subtenant's Work with other construction work at the Project, if any. Sublandlord specifically reserves the right to approve Subtenant's Contractors. If Sublandlord does not give Subtenant such approval with respect to any contractor(s) Subtenant shall contract with another general contractor and/or subcontractors(s), as the case may be, for the completion of Subtenant's Work. All Subtenant Contractors must meet with and agree to abide by the Sublandlord Standard Rules and Regulations for Construction in writing prior to beginning any work on the Premises.

5. In addition to the items in paragraph 3 of this Section V above, Sublandlord may require the Subtenant to cause the Museum to provide the following:

a. No later than thirty (30) days prior to the commencement of any Subtenant's Work in the Premises, a budget from the Museum detailing the total anticipated costs of Subtenant's Work (the "**Subtenant Work Budget**").

b. Evidence in form satisfactory to Sublandlord of the Museum's financial ability to cause Subtenant's Work to be completed and fully paid in accordance with the Subtenant Work Budget prior to the Retail Grand Opening Date. Such evidence may include, but shall not be limited to, the Museum's financial statements and bank statements showing funds sufficient to cover the costs set forth in the Subtenant Work Budget. Subtenant covenants and agrees that Subtenant shall cause the Museum to maintain sufficient funds to cover the cost of Subtenant's Work during the course of completion of Subtenant's Work.

c. Sublandlord shall have the right to require the Subtenant to cause the Museum to hold funds sufficient funds to cover the costs set forth in the Subtenant Work Budget in a segregated bank account dedicated for use by the Museum in the completion of Subtenant's Work (the "**Segregated Bank Account**"). In such event, on or before the date which is thirty (30) days prior to the date of

commencement of Subtenant's Work, Subtenant shall provide Landlord with evidence that Subtenant has infused (or caused the infusion of) the Segregated Bank Account with sufficient funds to cover the costs set forth in the Subtenant Work Budget. Upon any Event of Default, Sublandlord shall have the right to access funds in the Segregated Bank Account to remedy such Event of Default. Sublandlord shall have a first priority security interest in the Segregated Bank Account, with no other party to be permitted to have a security interest of any nature in the Segregated Bank Account. Sublandlord shall have the right to evidence Sublandlord's security interest in the Segregated Bank Account via filing of one or more UCC financing statements with the applicable governmental authorities and/or via any other reasonable means, and Subtenant shall cause the Museum to reasonably cooperate with Sublandlord in perfecting such security interest. The Segregated Bank Account and Sublandlord security interest provisions shall terminate and be of no further force or effect upon that date which is the earlier to occur of (i) the date Subtenant has opened for business in the Premises or (ii) Subtenant has expended on Subtenant's Work (inclusive of typical soft costs) the entire amounts of the funds required to be maintained in the Segregated Bank Account.

d. In lieu of the Segregated Bank, Sublandlord shall have the right to require a completion bond or an irrevocable letter of credit in Sublandlord's favor in the amount of the cost of Subtenant's Work which Sublandlord may draw upon in order to pay the Subtenant's Contractors if Subtenant fails to pay for any of its Work.

6. Subtenant's Work shall be subject to the inspection of Sublandlord's representative from time to time during the period in which the Subtenant's Work is being performed.

7. Subtenant's general contractor shall maintain at the Premises during construction a complete set of approved Working Drawings bearing Sublandlord's approval stamp.

8. Temporary Facilities.

a. If not already available in the Premises, Subtenant shall provide temporary heat, air-conditioning and ventilation for the Premises during construction if Subtenant desires the same.

b. Sublandlord shall furnish temporary electrical service of electrical capacity determined by Sublandlord to a location at or near the Premises for Subtenant's use during Subtenant's construction period until such time as Subtenant's permanent electrical service has been connected. Subtenant shall use reasonable efforts to complete the connection to the permanent electrical service and discontinue use of the temporary electrical service as soon as practical after Subtenant commences construction within the space. Such temporary electrical service shall be discontinued by the Sublandlord approximately thirty (30) days prior to the Retail Grand Opening Date. Subtenant shall reimburse Sublandlord

for such electrical service as Sublandlord reasonably determines, or as otherwise provided for in this Sublease.

c. If Subtenant requires water service during construction and Sublandlord is able to provide it, Sublandlord shall do so and bill Subtenant as Sublandlord reasonably determines, or as otherwise provided for in this Sublease.

d. Subtenant shall place all trash in trash containers at a pick-up area or areas designated by Sublandlord. Subtenant shall be responsible for breaking down boxes. Prior to the Retail Grand Opening Date, Sublandlord shall furnish the trash containers and shall cause the trash to be removed therefrom, and Subtenant shall reimburse Sublandlord for such trash removal expenses as Sublandlord reasonably determines, or as otherwise provided for in this Sublease. After the Retail Grand Opening Date, Subtenant shall provide trash removal service from the pick-up areas at Subtenant's own cost, unless Sublandlord elects to continue to provide the trash removal service.

e. Subtenant shall not permit trash to accumulate within the Premises or in any common area space such as corridors, service courts or the mall concourse, and Subtenant shall deposit its trash in designated trash containers at least once a day during Subtenant's construction period. If Subtenant fails to dispose of trash as required above, and Sublandlord elects to pick up or otherwise remove Subtenant's trash, the charge to Subtenant shall be equal to Sublandlord's actual costs for such removal (as Sublandlord reasonably determines), plus five percent (5%) thereof for administrative costs.

f. Prior to the Retail Grand Opening Date, Sublandlord shall furnish temporary toilet facilities and shall cause the temporary toilet facilities to be serviced, and Subtenant shall reimburse Sublandlord for such expenses as Sublandlord reasonably determines, or as otherwise provided for in this Sublease. After the Retail Grand Opening Date, Subtenant shall provide temporary toilet facilities, as necessary, at Subtenant's own cost, unless Sublandlord elects to continue to provide the temporary toilet facilities.

9. Construction Barricade:

a. Prior to the Retail Grand Opening Date, the Sublandlord may, at Sublandlord's election, require that the Subtenant install a rough finished temporary construction barricade of minimum six foot (6'-0") height across the front of the Premises.

b. If the Subtenant has not completed Subtenant's Work by the Retail Grand Opening Date, or Sublandlord, as Sublandlord may reasonably determine, anticipates the work will not be completed by the Retail Grand Opening Date, a finished barricade with gypsum board on metal stud framing and a finished painted or vinyl surface with graphics shall be required in front of the entire Premises. At Sublandlord's election either (i) Sublandlord shall provide and install (or Sublandlord has provided and installed) the barricade, and Subtenant

shall pay Sublandlord the amount of $25.00 per linear foot as reimbursement therefor, or (ii) Subtenant shall at Subtenant's cost install its own barricade in accordance with Sublandlord's requirements and standards for such barricade construction. Sublandlord may at its election require that the barricade include a graphic design and Sublandlord shall affix the design at Subtenant's expense. No other signs shall be allowed on any barricade except those, if any, provided by Sublandlord. Sublandlord shall have the right to remove any non-permitted signs without liability or prior notice.

10. The cost of any work permitted or required to be performed by Sublandlord on behalf of Subtenant under this Exhibit shall become due and payable in full within thirty (30) days after Subtenant has been invoiced for same by Sublandlord and said charges shall be deemed Rent under the Sublease.

11. Upon completion of Subtenant's initial Subtenant's Work, Subtenant shall notify the management office of the Project. Upon said notification, Sublandlord's designated representative shall inspect the Premises and, if the Premises are constructed in accordance with the approved Drawings, said representative shall issue a Letter of Acceptance for the Premises. If Sublandlord believes the Premises have not been constructed in accordance with the approved Working Drawings, Sublandlord shall so notify Subtenant or Subtenant's Contractor. Subtenant shall not open prior to Sublandlord's issuance of a Letter of Acceptance. Subtenant shall furnish Sublandlord a copy of a certificate of occupancy for the Premises before Subtenant opens for business.

12. All work performed by Subtenant during its construction period, or otherwise during the Term, shall be performed so as to cause the least possible interference with other tenants, and the Sublandlord's construction activities or operation of the Project, and Sublandlord shall have the right to impose reasonable requirements with respect to timing and performance of the Work in order to minimize such interference. Work causing noise, odor or vibration outside the Premises shall be performed only during hours the stores at the Project are not open. Subtenant shall take all precautionary steps to protect its facilities and the facilities of others affected by the Work and shall police same properly. Construction equipment and materials are to be located in confined areas and truck traffic is to be routed to and from the site as directed by Sublandlord so as not to burden the construction or operation of the Project. All Work shall be confined to the Premises. Subtenant's Contractor shall coordinate with Sublandlord's on-site representative for the delivery and removal of its equipment and materials. Sublandlord shall have the right to order Subtenant or any Subtenant's contractor or subcontractor who willfully violates the above requirements to cease work and to remove its equipment and employees from the Building. Subtenant's Work shall be properly supervised by a qualified construction superintendent at all times when work is being performed at the Premises.

13. Contractor Insurance. Subtenant shall cause its general contractor and all subcontractors to maintain during the construction period the following insurance: (i) commercial general liability insurance, with limits of not less than $4 million per occurrence (the portion of such coverage over $1 million may be provided under an umbrella or excess liability policy), for personal injury, bodily injury or death, or property damage or destruction, arising out of or relating to the contractor's work at or in connection with the Premises, (ii) workers'

compensation insurance with respect to each contractor's workers at the site or involved in the Work, in the amount required by statute, (iii) employer's liability insurance in the amount of at least $500,000 per accident and at least $500,000 for disease, each employee, (iv) comprehensive automobile liability insurance covering all owned, hired or non-owned vehicles, including the loading and unloading thereof, with limits of not less than $2 million per occurrence (the portion of such coverage over $1 million may be provided under an umbrella or excess liability policy), and (v) builder's risk property insurance upon the entire Work to the full replacement cost value thereof. Sublandlord, Sublandlord's managing agent, and such other parties as are designated by Sublandlord, shall be additional insureds under (i), (iv) and (v) above. All insurance required hereunder shall be provided by responsible insurers rated at least A and X in the then current edition of Best's Key Rating Insurance Guide and shall be licensed in the State in which the Project is located. Subtenant shall provide, or cause its contractors to provide, such certificates prior to any Work being performed at the Premises. Such certificates shall state that the coverage may not be changed or cancelled without at least thirty (30) days' prior written notice to Sublandlord. All such insurance shall provide for a waiver of subrogation by the insurance carriers.

EXHIBIT D

FIFTH + BROADWAY RULES AND REGULATIONS

1. These Rules and Regulations are in addition to, and shall not be construed in any way to modify or amend, in whole or in part, the terms, covenants, agreements and conditions of the Sublease to which these Rules and Regulations are attached or any other Sublease of premises in the Project.

2. The sidewalks, passages, exits, entrances, and, except as otherwise approved by Sublandlord, the Common Areas, shall not be obstructed by tenants or used by them for any purpose other than for ingress and egress from their respective Premises.

3. Sublandlord will furnish each tenant with two (2) keys free of charge. Sublandlord may make a reasonable charge for any additional keys. Upon request of Sublandlord, tenants shall provide Sublandlord or Sublandlord's property manager with copies of keys for any locks or bolts on any doors or windows of the Premises. Each tenant shall see that the doors of its premises are closed and securely locked at such times as such tenant's employees leave their premises.

4. The toilet rooms, urinals, washbowls and other apparatus within the Premises shall not be used for any purpose other than that for which they were constructed and no foreign substance of any kind whatsoever shall be thrown therein. The expense of any breakage, stoppage, or damage to common utility facilities resulting from the violation of this rule shall be borne by the tenant who, or whose employees or invitees, caused it.

5. No animals or birds shall be brought in or kept in or about any premises, the Project, or the Building unless the animals or birds pertain to a tenant's business as described in the Sublease or are qualified handicap assistance animals.

6. Tenants shall not use or keep in their premises, the Project, or the Building any kerosene, gasoline, or flammable or combustible fluid or material or use any method of heating or cooling other than that supplied by Sublandlord unless, within reason, the product is available as part of the tenant's business.

7. In case of invasion, mob, riot, public excitement or other commotion, Sublandlord reserves the right to prevent access to the Project or any portion thereof during the continuance of the same by blocking of driveways or by any other reasonable means, for the safety of the tenants and protection of the property in the Project.

8. Sublandlord reserves the right to exclude or expel from the Project any person who, in the judgment of Sublandlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of the rules and regulations of the Project.

9. No vending machine, except those inside a tenant's premises for the exclusive use of that tenant's employees, shall be installed, maintained or operated in the Project without the written consent of Sublandlord, which consent shall not be unreasonably withheld, conditioned or delayed.

10. Tenants shall not disturb, solicit, or canvass any occupant of the Project and shall cooperate to prevent such solicitation or canvassing.

11. Subtenant shall take good care of the Premises and keep the same free from waste at all times. All garbage and refuse shall be placed in (not around or near) containers placed at the location designated for refuse collection, in the manner specified by Sublandlord. Refuse containers shall not be moved from the enclosure to any other area. Any additional pickups or relocation of containers must be coordinated through the on-site management office. All boxes must be broken down before being placed in the refuse containers. All packing material and food waste shall be placed in plastic bags and secured at the top before being placed in refuse containers, and the lids of the refuse containers shall be shut after placing any trash in the container. No trash, garbage, or construction debris or materials shall be brought into the Project from other locations or disposed of in refuse containers provided for the Project. Sublandlord may make trash removal services available to the Premises and, in such event, Subtenant shall be required to utilize such services, at Subtenant's expense. **Tenants not placing refuse in the proper container or breaking down boxes and placing into the appropriate cardboard baler will be fined $100.00 per occurrence.**

12. Subtenant shall require their employees to park in areas designated by Sublandlord in the Common Areas for employee parking. Subtenant employees, vendors, agents, and contractors are prohibited from parking on the streets within the Project. Retail tenants, their employees, vendors, agents, and contractors are also prohibited from parking in areas designated as reserved parking for office tenants and designated valet parking areas. **Violators of parking restrictions will be fined $50.00 for each violation. Subtenant will be billed for its employees' violations**

13. Once the Premises is open for business, no loading or deliveries are permitted from the front of the Premises after 10:00 am, and all loading and deliveries shall be made in areas designated for that purpose and so as to minimize interference with other tenants.

14. Tenants shall coordinate move-ins and move-outs through Sublandlord and shall be responsible for all damage caused by their moving activities. If necessary, tenants shall coordinate their use of freight elevators through Sublandlord so as to minimize disruption of other tenants' business and operations. Deliveries of large or heavy items (including furniture and computers) to non-ground floor tenants shall be made through freight elevators only.

15. Installation of burglar alarms and similar devices in a tenant's premises shall be coordinated through Sublandlord.

16. No tenant shall, without the prior written consent of Sublandlord, which consent shall not be unreasonably withheld, conditioned or delayed (i) paint, decorate or make any changes to the store front of the Premises; or (ii) install any exterior lighting, awning or protrusions, signs, advertising matter, decoration or painting visible from the exterior of the Premises or any coverings on exterior windows and doors. No signs, advertisements, notices, displays or placards shall be placed in, painted or affixed on or to any windows or doors of the Premises or Project without Sublandlord's prior written consent. Sublandlord shall have the right in its sole discretion to remove such signs, advertisements, notices, displays or placards without

notice to Subtenant at Subtenant's expense. Subtenant shall not distribute flyers or other printed material in or on any part of the Project or parking area without Sublandlord's prior written consent which consent shall not be unreasonably withheld, conditioned or delayed.

17. The sales methods employed in each tenant's business (including without limitation stock of merchandise and staffing of personnel and service personnel) and all elements of merchandising, display and advertising, will be dignified and in conformity with the highest standards of practice among similar shops, stores and concerns dealing in the same or similar merchandise or conducting a similar business in the community of the Project, and will otherwise be employed to maximize Net Sales at the Premises at all times. Tenants shall not (i) conduct or permit any fire, bankruptcy or auction sale (whether real or fictitious) unless directed by order of a court of competent jurisdiction, or conduct or permit any legitimate or fictitious "Going Out of Business" sale nor represent or advertise that it sells merchandise as a "manufacturer's outlet," "distributor," "wholesaler" or "warehouse"; (ii) use, or permit to be used, the malls or sidewalks adjacent to the Premises, or any other area outside the Premises for solicitation or for the sale or display of any merchandise or for any other business, occupation or undertaking, or for outdoor public meetings, circus or other entertainment (except for promotional activities in cooperation with the management of the Project); (iii) use or permit to be used any sound broadcasting or amplifying device which can be heard outside of the Premises or any flickering lights; or (iv) use or permit to be used any portion of the Premises for any unlawful purpose or otherwise contrary to Law, or use or permit the use of any portion of the Premises as regular living quarters, sleeping apartments or lodging rooms or for the conduct of any manufacturing business.

18. Subtenant shall not obstruct any sidewalks, passages, exits, entrances, truck ways, loading docks, package pick-up stations, pedestrian sidewalk and ramps, or stairways of the Project. No tenant and no employee or invitee of any tenant shall go upon the roof of the Building without obtaining the prior written consent of Sublandlord which consent shall not be unreasonably withheld, conditioned or delayed.

19. Except as otherwise set forth in the Sublease, Subtenant shall not install any radio or television antennae, satellite dish, infra-red transmission device or other device on the roof or exterior walls of the Premises. Subtenant shall not interfere with radio or television broadcasting or reception from or in the Project. Subtenant shall not sublet any portion of the premises to any data, telephone, communications, or related company.

20. Subtenant shall comply with all Laws relating to solid waste management including, but not limited to, recycling. Unless otherwise prohibited by applicable Law, Subtenant shall store all trash and garbage in containers within its Premises and/or in the portion of the Common Area designated for such use by Sublandlord. Subtenant shall not place in any trash box or receptacle any material that cannot be disposed of in the ordinary and customary manner of trash and garbage disposal. Subtenant shall not walk through the Common Area with its trash or garbage during standard business hours. Wherever and whenever possible, Subtenant shall use the trash box or receptacle closest to the Premises which trash box or receptacle is designated by the Sublandlord for trash and garbage disposal by Project tenants. All garbage and refuse disposal shall be made in accordance with the provisions hereof and with such other directions issued from time to time by Sublandlord. Subtenant shall not contract with any waste

management company, and Sublandlord has sole authority to contract for and arrange for waste management. In the event Subtenant's garbage is commingled with that of other tenants, the cost of garbage removal shall be part of Common Area Costs. In the event Subtenant's garbage container is used exclusively by Subtenant, Subtenant shall reimburse Sublandlord for the entire cost of such waste management. Sublandlord shall have sole authority to decide the waste management scheduling, as well as the replacement or cleaning of waste containers to alleviate to the greatest extent reasonably possible odor and pest problems related to organic wastes.

21. All loading and unloading of goods shall be done only at such times, in the areas, and through the entrances, that may be designated for such purposes by Sublandlord. The delivery or shipping of merchandise, supplies and fixtures to and from the Premises shall be subject to such rules and regulations as in the judgment of Sublandlord are necessary for the proper operation of the Premises and the Project. Subtenant, Subtenant's employees and Subtenant's delivery persons shall not use a passenger elevator (if any) for deliveries. The freight elevators, if any, shall be available for use by all tenants in the Project, subject to such reasonable scheduling, as Sublandlord in its discretion shall deem appropriate. The persons employed to move such equipment in or out of the Project must be acceptable to Sublandlord. Sublandlord shall have the right to prescribe the weight, size and position of all equipment, materials, furniture or other property brought into the buildings in the Project. Heavy objects shall if considered necessary to Sublandlord, stand on wood strips of such thickness as is necessary to properly distribute the weight. Sublandlord will not be responsible for loss or damage to any such property from any cause, and all damage done to the Project by moving or maintaining such property shall be repaired at the expense of the applicable tenant.

22. No person shall use the Common Area for:

(a) Soliciting;

(b) Picketing, demonstrating or engaging in conduct detrimental to the Project;

(c) Selling merchandise (with the exception of any restaurant seating areas allowed by Sublandlord in its sole discretion); or

(d) Parking a vehicle used as a "billboard".

23. Subtenant shall not use or permit the Premises to be used for any unlawful, disreputable, or immoral purpose or in any way that will injure the reputation of the Project. Subtenant shall not permit the Premises to be occupied in whole or in part by any other person or entity. Subtenant shall not cause or permit the use or occupancy of the Premises to be or remain a nuisance or disturbance, as determined by Sublandlord in its sole discretion, to neighboring residences, other tenants, occupants, or users of the Project. Subtenant agrees to comply with the regulations, requirements and recommendations of any insurance underwriter, inspection bureau or similar agency, pertaining to the portion of the Premises installed by Subtenant including without limitation those of the Pacific Fire Rating Bureau. Subtenant shall permit Sublandlord to comply with the regulations, requirements and recommendations pertaining to the portion of the Premises installed by Sublandlord.

24. Subtenant shall be responsible for the observance of all of the foregoing rules by Subtenant's employees, agents, by clients, customers, invitees and guests.

25. The directory of the Project, if any, will be provided for the display of the name and location of tenants and Sublandlord reserves the right to exclude any other names thereon.

26. Sublandlord shall not be responsible for lost or stolen personal property, money or jewelry from any premises or public areas or Common Areas regardless of whether such loss occurs when the area is locked against entry.

27. At no time shall any tenant permit or shall such tenant's agents, employees, contractors, guests or invitees smoke in any Common Areas, unless such portion of the Common Areas has been declared a dedicated smoking area by Sublandlord.

28. The Premises shall not be used for any use that is disreputable or may draw protests.

29. Buses shall not be permitted to idle in the valet parking area or other areas of the Project.

30. Sublandlord may amend or modify these rules and regulations at any time and from time to time. Subtenant agrees to comply with all additional and supplemental rules and regulations upon notice of same from Sublandlord.

31. Sublandlord may waive any one or more of these Rules and Regulations for the benefit of any particular tenant or tenants, but no such waiver by Sublandlord shall be construed as a waiver of such Rules and Regulations in favor or any other tenant or tenants, nor prevent Sublandlord from thereafter enforcing any such Rules and Regulations against any or all of the tenants of the Project.

EXHIBIT E

Subtenant Insurance Requirements

I. Subtenant's Insurance. Subtenant, at Subtenant's sole cost and expense, shall ensure that throughout the Term the following insurance coverage, which represents minimum requirements and does not in any way limit Subtenant's liability, is maintained:

(a) Commercial General Liability Insurance in amounts of no less than $5,000,000 per occurrence for bodily injury and property damage, $5,000,000 each person or organization for personal and advertising injury, $5,000,000 general aggregate, and $5,000,000 products and completed operations aggregate covering: (A) premises/operations liability, (B) products/completed operations liability, (C) personal and advertising injury liability, (D) independent contractors liability, and (E) broad form contractual liability. Such policy shall: (1) be primary and non-contributory to any insurance or self-insurance maintained or caused to be maintained by Subtenant, Sublandlord, Sublandlord's property management company and any-then current lender of Sublandlord ("**Sublandlord's Lender**") with respect to the use and occupancy of the Premises including all operations conducted thereon; (2) include severability of interests or cross liability provisions; (3) be endorsed to add Sublandlord, Sublandlord's property management company, and Sublandlord's Lender as additional insureds using Insurance Services Office ("**ISO**") form CG 20 26 07 04 or a substitute equivalent form approved in writing by Sublandlord; (4) include terrorism coverage up to the full per occurrence and aggregate limits available under the policy; (5) insure liquor liability; and (6) insure other activities that the Sublandlord deems necessary. Limits can be satisfied through the maintenance of a combination of primary and umbrella policies.

If Subtenant or Subtenant's Occupant (as defined herein) manufactures, distributes, sells or serves alcoholic beverages, **Liquor Liability Coverage Form CG 00 33 10 01** must be added to the Commercial General Liability policy with a coverage in an amount of no less than Five Million Dollars ($5,000,000).

(b) Automobile Liability Insurance covering the ownership, maintenance, and operations of any automobile or automotive equipment, whether such auto is owned, hired, and non-owned. Subtenant shall ensure that insurance with a combined single limit for bodily injury and property damage of not less than the equivalent of $1,000,000 per accident is maintained. Limits can be satisfied through the maintenance of a combination of primary and umbrella policies. Such insurance shall cover Subtenant and any occupant of Subtenant operating the Premises for the Permitted Use ("**Subtenant's Occupant**") against claims for bodily injury, including death resulting therefrom, and damage to the property of others caused by accident regardless of whether such operations are performed by Subtenant, Subtenant's Occupants or their agents, or by any one directly or indirectly employed by any of them. Such automobile liability insurance shall be endorsed to add Sublandlord, Sublandlord's property management company, and Sublandlord's Lender as additional insureds.

(c) Commercial Property Insurance covering at full replacement cost value the following property in the Premises: (A) inventory; (B) FF&E (unattached furniture, fixtures, and equipment); (C) alterations, improvements and betterments made by the to the Premises

including but not necessarily limited to all permanently attached fixtures and equipment; and (D) any other property in which the Subtenant or Subtenant's Occupant retains the risk of loss including electronic data processing equipment, employee personal property or other property owned or subleased by Subtenant or Subtenant's Occupant. Such property insurance shall include: (1) coverage against such perils as are commonly included in the special causes of loss form, with no exclusions for wind and hail, vandalism and malicious mischief, and endorsed to add the perils of earthquake, flood, and terrorism; (2) business income coverage providing for the full recovery of loss of rents and continuing expenses on an actual loss sustained basis for a period of not less than 12 months; (3) an "agreed amount" endorsement waiving any coinsurance requirements; and (4) a loss payable endorsement providing that Subtenant, Subtenant's Occupant, Sublandlord, and Sublandlord's lender shall be a loss payee on the policy with regard to the loss of rents coverage. "Full replacement value," as used herein, means the cost of repairing, replacing, or reinstating, including demolishing, any item of property, with materials of like kind and quality in compliance with, (and without, an exclusion pertaining to application of), any law or building ordinance regulating repair or construction at the time of loss and without deduction for physical, accounting, or any other depreciation, in an amount sufficient to meet the requirements of any applicable co-insurance clause and to prevent Subtenant or Subtenant's Occupant from being a co-insurer.

(d) Builders' Risk Insurance on an "all risk" form that does not exclude the perils of flood, earthquake, and terrorism covering on a completed value basis all work incorporated in the Building and all materials and equipment in or about the Premises in connection with construction activities where Subtenant notifies Sublandlord of its intent to undertake a substantial rebuild of the existing structure and Sublandlord determines that such coverage is necessary. Limits and terms to coverage are to be determined by Sublandlord upon notification by Subtenant or Subtenant's Occupant.

(e) Workers Compensation Insurance covering statutory benefits in the state where the Premises is located. This policy shall include "other states" insurance, so as to include all states not named on the declarations page of the insurance policy, except for the monopolistic states. Subtenant is required to ensure that this insurance is maintained regardless of eligibility for waiver or exemption of coverage under any applicable state statute. Such insurance shall include an employer's liability coverage part with limits that shall be not less than $1,000,000 each accident for bodily injury by accident and $1,000,000 each employee and policy limit for bodily injury by disease.

(f) Such other insurance or any changes or endorsements to the insurance required herein, including increased limits of coverage, as Sublandlord, or any mortgagee or lessor of Sublandlord, may reasonably require from time to time.

The following general requirements shall apply to all insurance policies described herein:

1. Each such liability policies shall be written on an occurrence basis.

2. All insurance policies required under this Sublease except workers compensation shall name Sublandlord, Sublandlord's Lender and their respective related or

affiliated entities, parents, subsidiaries, partnerships, joint ventures, limited liability companies, members, trust and assigns, of every tier, and their respective directors, officers, partners, agents, employees, volunteers, members, managers, trustees, and shareholders, and any successors or assigns of any of the foregoing, as "additional insured" in a form reasonably acceptable to Sublandlord.

3. The liability insurance policies shall provide that such insurance shall be primary on a non-contributory basis. This provision is not applicable to Professional Liability Policies.

4. All insurers issuing such policies must be licensed to do business in the State of Tennessee and listed in the most recent A.M. Best's rating guide with a rating of not less than A- X.

5. Subtenant shall ensure that Sublandlord receives not less than thirty (30) days prior written notice of any material change to any such policy. At least thirty (30) days prior to the expiration of any such policy, Subtenant shall ensure that Sublandlord is furnished with renewal certificates thereof. At least ten (10) days prior written notice to Sublandlord shall be required from the insurer before any cancellation for non-payment of premium.

6. The required coverages, in excess of a base coverage of not less than $3,000,000, may be provided by a blanket, multi-location policy, if such policy provides a separate aggregate limit per occurrence for the benefit of the Project.

7. Subtenant shall ensure that all third party contractors engaged by Subtenant or Subtenant's Occupant shall satisfy the insurance requirements set forth herein, provided that Subtenant shall remain primarily liable for the work performed by such third parties. Notwithstanding anything to the contrary contained in this Sublease, waiver of any insurance requirements specified in this Section, including the amount or extent of insurance coverage, may only be obtained upon written authorization of an authorized representative of Sublandlord.

8. On or before the date which is ten (10) days prior to the delivery of possession of the Premises to Subtenant by Sublandlord, Subtenant shall deliver or cause to be delivered to Sublandlord evidence of the foregoing insurance (using the additional insured endorsements in forms CG 20 26 07 04 and 20 37 07 04 (or other equivalent forms approved in writing by Sublandlord), and such other evidence satisfactory to Sublandlord of the maintenance of all insurance coverages required hereunder). If, at any time from and after the date of delivery of the Premises to Subtenant by Sublandlord, Subtenant fails to maintain or cause to be maintained any of the insurance required to be maintained in accordance with the foregoing, Sublandlord shall provide notice of such failure to Subtenant, and if Subtenant fails to cure such failure within five (5) business days following receipt of such notice, Sublandlord may, but shall not be obligated to, obtain, at Subtenant's expense, the required insurance coverage. Subtenant shall reimburse Sublandlord for all costs so incurred by Sublandlord within five (5) business days following

receipt of an invoice identifying all costs so incurred by Sublandlord. If such sums are not paid within such five (5) business day period, Subtenant shall pay interest on such sums which shall accrue at the Default Rate from the date of Subtenant's receipt of the invoice from Sublandlord until all such sums and all interest accrued thereon have been paid.

9. Subtenant shall include or cause to be included in each of its insurance policies covering general liability and loss, damage or destruction by fire or other casualty (insuring the Building and Sublandlord's property therein and the rental value thereof, in the case of Sublandlord, and insuring Subtenant's or Subtenant's Occupant's personal property and fixtures and business interruption and loss of profit insurance, in the case of Subtenant or Subtenant's Occupant) a waiver of the insurer's right of subrogation against the other party or, if such waiver should be unobtainable or unenforceable, (i) an express agreement that such policy shall not be invalidated if the insured waives before the loss or casualty the right of recovery against any party responsible for a loss or casualty covered by such policies, or (ii) any other form of permission for the release of the other party. Any failure by Subtenant or Subtenant's Occupant as an insured promptly to endorse to the order of Sublandlord any instrument for the payment of money under a policy of which Sublandlord is the owner or original or primary insured shall be a default under this Sublease. Subtenant and Sublandlord hereby waive all rights against each other in connection with any damage, injury or loss suffered by the other to the extent such damage, injury or loss is actually covered by any insurance described above. Subtenant's covenants and obligations contained in this Section shall survive the expiration or termination of this Sublease.

10. All third party contractors engaged by Subtenant or Subtenant's Occupant shall satisfy the insurance requirements set forth herein, provided that Subtenant shall remain primarily liable for the work performed by such third parties. Notwithstanding anything to the contrary contained in this Sublease, waiver of any insurance requirements specified in this **Exhibit E**, including the amount or extent of insurance coverage, may only be obtained upon written authorization of an authorized representative of Sublandlord.

EXHIBIT F

PROHIBITED USES

1. Amusement game arcade, shooting gallery, skating rink, race track or other commercial recreational activities;

2. Animal hospital or veterinary clinic;

3. Car wash;

4. Full Service Bar (except as may be part of a restaurant or cafe that has at least twenty (20) seats);

5. An establishment that stocks, displays, sells, rents or offers for sale, exhibition or rent any (i) nudity or "adult material", or pornographic material, as determined by community standards for the area in which the Project is located (but including stores in which at least 10% of the inventory is not available for sale or rental to children under seventeen (17) years old because such inventory explicitly deals with or depicts human sexuality) or (ii) any merchandise or material commonly used or intended for use with or in consumption of any narcotic, dangerous drug or other controlled substance, including without limitation, any hashish pipe, waterpipe, bong, cilium, pipe screens, rolling papers, rolling devices, coke spoons or roach clips;

6. Hospital, medical center, medical clinic or laboratory, or marijuana dispensary;

7. Medical office or public health clinic, except for professional, privately funded medical offices;

8. A gambling or gaming facility or operation, including but not limited to, off-track or sports betting parlor; operation offering table games such as blackjack or poker; slot machines, video poker/blackjack/keno machines or similar devices; bingo hall; or check-cashing facility.

9. Manufacturing or industrial uses;

10. Tattoo parlor or head shop;

11. Funeral home or mortuary or similar establishment;

12. A "second-hand" store whose principal business is selling used or defective merchandise, specifically including any thrift shops, "salvation army" type stores, "goodwill" type stores, and similar businesses, or any surplus store or facility selling new or used merchandise as a wholesale operation, a liquidation operation, odd lots, lot sales, factory close-outs or imperfect goods;

13. A mobile home park, trailer court, labor camp, junk yard, or stock yard;

14. An establishment engaged in the sale, Sublease or display of new or used automobiles, trucks, trailers, boats or recreational vehicles, any automotive maintenance, repair or service, body shop operation, tire store, or auto parts sale or installation;

15. A gas or service station;

16. Any use that is illegal or dangerous, constitutes a public or private nuisance or is inconsistent with an integrated, mixed-use development consisting of first-class (i) retail and commercial shopping centers, and (ii) multifamily housing;

17. A warehouse, storage or for any assembling, manufacturing, distilling, refining, smelting, rendering, agricultural or mining operation (including drilling for and/or removal of subsurface substances);

18. A church, temple, synagogue, mosque or other place of worship, library, reading room, school, day care center or religious or educational or training facility, religious reading room or employment agency, including but not limited to, beauty schools, barber colleges, places of instruction or other operations catering primarily to students or trainees rather than to customers; provided, however, that this prohibition shall not be applicable to on-site employee or customer training by an occupant incidental to the conduct of its business at the Project or the establishment of a library or reading room as an incidental amenity to any use not otherwise prohibited hereunder;

19. A landfill or garbage dump, or any dumping, disposing, incinerating, or reducing of garbage (exclusive of dumpsters for the temporary storage of garbage generated by the Project and any garbage compactors, in each case which are regularly emptied so as to minimize offensive odors);

20. A central laundry, dry cleaning plan or Laundromat; provided, however, that this prohibition shall not be applicable to any laundry facility that does not involve dry cleaning and is operated incidentally to any use not otherwise prohibited hereunder (such as laundry rooms within a residential or hotel facility);

21. Any use which emits an obnoxious odor, noise, sound or vibration which can be heard, smelled or felt outside of a Building;

22. Any use that results in dust, dirt or fly ash in excessive quantities;

23. The emission of microwave, radio wave, or other similar electronic, light or noise radiation at levels which are dangerous to health or which interfere with the proper operation of electronic, telephone, computer or other business equipment of the owners, tenants or other occupants of the Project;

24. Any use that results in unusual fire, explosion or other damaging or dangerous hazard, including the storage, display or sale of explosives or fireworks;

25. Any fire, going out of business, relocation, bankruptcy (unless pursuant to a court order) or similar sales or any auction house activities;

26. Any office for providing motor vehicle registrations or driver license tests or renewals;

27. Any purpose that is not permitted by applicable zoning regulations; or

28. Recycling center or collection facility unless collection bins are required by law, and then only to the extent required by law.

EXHIBIT F-1

EXCLUSIVE USES

[To be updated prior to execution]

NASHVILLE FOOD HALL (FRONT BURNER):

Throughout the Lease Term, so long as Tenant is open and operating for the Permitted Use as required by this Lease, Landlord shall not lease or otherwise permit the operation within the Project of any of the following uses by any party other than parties acting by or through Tenant: (a) a food hall offering multiple food concepts within separate "Food Stalls" (herein so called), with each such Food Stall specializing in different categories of food, all of the foregoing primarily for on-premises consumption, with a "common" seating area format for customers of the food hall; or (b) a brewery or micro-brewery featuring craft beer which derives fifteen percent (15%) or more of its annual gross revenue from the sale of craft beer brewed onsite.

SHAKE SHACK:

Landlord covenants and agrees that so long as (A) no Event of Default has occurred during the Term (including any extensions and renewals thereof) and (B) the Premises is being used for the Permitted Use, Landlord shall not lease, consent to (to the extent Landlord has consent rights over such use), approve (to the extent Landlord has approval rights over a particular use) or otherwise permit the occupancy within any portion of the Project other than any portion used as a food and/or market hall, which is located in the area labeled as "Food Hall" on the Site Plan of any restaurant tenant/occupant whose "primary use" is for the sale of hamburgers. For purposes of the preceding sentence, "primary use" shall mean that either more than ten percent (10%) of such restaurant tenant's/occupant's gross sales (excluding alcohol sales) are generated from the sale of hamburgers in any calendar year or (ii) more than ten percent (10%) of the menu items (other than ancillary menu items, such as drinks, desserts and breakfast items) for such restaurant tenant/occupant are dedicated to hamburgers.

HATTIE B'S:

Landlord covenants and agrees that so long as (A) no Event of Default has occurred during the Term (including any extensions and renewals thereof) and (B) Tenant is operating as a typical Hattie B's restaurant, Landlord shall not lease, consent to (to the extent Landlord has consent rights over such use), approve (to the extent Landlord has approval rights over a particular use) or otherwise permit the occupancy within any portion of the Project of any restaurant tenant/occupant whose "primary use" is for the sale of Nashville style fried chicken (as hereinafter defined). For purposes of the preceding sentence, "primary use" shall mean (A) more than thirty percent (30%) of such restaurant tenant's/occupant's gross sales (excluding alcohol sales) are generated from the sale of Nashville style fried chicken in any calendar year or (B) any of the following restaurants: Prince's Hot Chicken, Boltons Hot Chicken & Fish, Pepperfire, 400 Degrees, Slow Burn, Helen's Hot Chicken, Howlin Ray's, Joella's Hot Chicken, Hop's Chicken, Richard's Southern Fried, Super Chix, Party Fowl, Nando's Peri-Peri, The Budlong Hot Chicken, Fry the Coop, Gus's Fried Chicken, Parson's Chicken and Fish, The Hot Chicken Takeover, The Eagle, Royal's Hot Chicken, Dave's Hot Chicken, Mrs. Chicken, Tumble 22, Big

Shakes Hot Chicken & Fish, Eugene's Hot Chicken (a "Non-Compete Violation"). For purposes of this Section 2.7, "Nashville style fried chicken" shall mean a style of fried chicken that is created through a process of adding hot spices to fried chicken via a sauce, paste or rub.

CAVA:

Landlord shall not, at any time that Tenant is operating its business in the Premises for the Permitted Use and is not in default of any of the other terms, conditions and covenants of this Lease (beyond any applicable notice and cure periods), lease, consent to, approve, or permit any other space in the Project, excluding any food/market hall at the Project, to a user under 3,500 square feet whose primary business is the sale of Mediterranean food ("**Tenant's Exclusive Use**"). Notwithstanding anything to the contrary contained herein, Tenant's Exclusive Use shall in no way prohibit Landlord from leasing or otherwise permitting the operation of an Italian, French or Spanish style tapas restaurant.

For purposes of this Lease, "primary use" shall mean that more than twenty percent (20%) of such tenant's/occupant's Gross Sales (excluding alcohol sales) are derived from the sale of Mediterranean food, or (ii) more than twenty percent (20%) of the menu items for such tenant/occupant are dedicated to Mediterranean food

SLIM & HUSKYS

Provided that Tenant shall (a) continuously operate its business in the Premises for Tenant's Permitted Use and under the Trade Name set forth in Section 1.17 of this Lease, and (b) not be in an Event of Default under this Lease beyond any applicable cure period allowed herein, Landlord, and its successors, shall not lease any premises in the Project or expansion thereof which is owned or controlled by Landlord, to any restaurant whose primary business is the preparation and sale of pizza ("**Tenant's Exclusive Use**"). As used herein, "primary business" shall mean any restaurant in which more than fifty percent (50%) of its gross sales are derived from the sale of pizza.

EDDIE V's

Landlord shall not, at any time that Tenant is operating its business in the Premises for the Permitted Use, lease any other space in the Project, excluding any food/market hall at the Project (as identified on **Exhibit B** attached hereto), to a Primary Seafood Restaurant (as hereinafter defined) ("**Tenant's Exclusive Use**"). For purposes of this Lease, "**Primary Seafood Restaurant**" shall mean a full-service, fine dining, white tablecloth seafood restaurant in which more than forty percent (40%) of its dinner main course menu items are seafood dishes (such as, by way of example only, Oceanaire Seafood Room, Ocean Prime, Mastro's Ocean Club, and Truluck's). Notwithstanding anything to the contrary contained herein, Tenant's Exclusive Use shall in no way prohibit Landlord from leasing or otherwise permitting the operation of (i) an Italian, Mexican, Thai, Mediterranean, Chinese, French or Spanish style tapas restaurant or (ii) a sushi restaurant of less than 4,000 square feet of Floor Area with a per person food check average less than $35.00.

JENI'S

From and after the Effective Date, Landlord shall not, at any time that Tenant is operating its business in the Premises for the Permitted Use and is not in default of any of the other terms, conditions and covenants of this Lease (beyond any applicable notice and cure periods), lease any other space in the Project, excluding any food/market hall at the Project, to a user whose primary business (as hereinafter defined) is the sale of ice cream, gelato, sorbet, frozen yogurt or any product derivative of the foregoing or any other frozen dessert (collectively; "**Frozen Desserts**" with the restriction hereinafter referred to as "**Tenant's Exclusive Use**"). For purposes of this Lease, "**primary business**" shall mean more than thirty-five percent (35%) of such users gross sales are generated from the sale of Frozen Desserts. Notwithstanding anything to the contrary contained herein, Tenant's Exclusive Use shall in no way prohibit Landlord from leasing or otherwise permitting an operation whose primary business is not the sale of Frozen Desserts, such as, by way of example only, Shake Shack, Hopdoddy Burger Bar, and Starbucks.

EXHIBIT G

COMMENCEMENT DATE AGREEMENT

Agreement (the "**Sublease**") dated _____, 20__, between , a _____ ("**Sublandlord**"), and _____, a _____ ("**Subtenant**"). Capitalized terms used herein but not defined shall be given the meanings assigned to them in the Sublease.

Ladies and Gentlemen:

Sublandlord and Subtenant agree as follows:

1. **Condition of Premises**. Subtenant has accepted possession of the Premises pursuant to the Sublease. Any improvements required by the terms of the Sublease to be made by Sublandlord have been completed to the full and complete satisfaction of Subtenant in all respects except for the punchlist items described on Exhibit A hereto (the "**Punchlist Items**"), and except for such Punchlist Items, Sublandlord has fulfilled all of its duties under the Sublease with respect to such initial tenant improvements. Furthermore, Subtenant acknowledges that the Premises are suitable for the Permitted Use.

2. **Commencement Date**. The Commencement Date of the Sublease is _____.

3. **Expiration Date**. The Term is scheduled to expire on the last day of the ___ full calendar month of the Term, which date is _____ , 20__.

4. **Contact Person**. Subtenant's contact person in the Premises is:

Attention:
Telephone:
Telecopy:

5. **Ratification**. Subtenant hereby ratifies and confirms its obligations under the Sublease, and represents and warrants to Sublandlord that it has no defenses thereto. Additionally, Subtenant further confirms and ratifies that, as of the date hereof, (a) the Sublease is and remains in good standing and in full force and effect, and (b) Subtenant has no claims, counterclaims, set-offs or defenses against Sublandlord arising out of the Sublease or in any way relating thereto or arising out of any other transaction between Sublandlord and Subtenant.

6. **Binding Effect; Governing Law**. Except as modified hereby, the Sublease shall remain in full effect and this letter shall be binding upon Sublandlord and Subtenant and their respective successors and assigns. If any inconsistency exists or arises between the terms of this letter and the terms of the Sublease, the terms of this letter shall prevail. This letter shall be governed by the laws of the state in which the Premises are located.

Please indicate your agreement to the above matters by signing this letter in the space indicated below and returning an executed original to us.

Sincerely,

, a

By:
Name:
Title:

Agreed and accepted:
[SUBTENANT'S SIGNATURE BLOCK],
a _____
By: _____
Name: _____
Title:

EXHIBIT A

TO COMMENCEMENT DATE AGREEMENT

PUNCHLIST ITEMS

Subtenant to insert any Punchlist Items that remain to be performed by Sublandlord. If no items are listed below by Subtenant, Subtenant shall be deemed to have agreed that none exist.

EXHIBIT H

MOISTURE AND MOLD CONTROL INSTRUCTIONS

Because exercising proper ventilation and moisture control precautions will help maintain Subtenant's comfort and prevent mold growth in the Premises, Subtenant agrees to adopt and implement the following guidelines, to avoid enveloping excessive moisture or mold growth:

1. Report any maintenance problems involving water, moist conditions, or mold to the property manager for the Project promptly and conduct its required activities in a manner that prevents unusual moisture conditions or mold growth.

2. Do not block or inhibit the flow of return or make up air into the HVAC system. Maintain the Premises at a consistent temperature and humidity level in accordance with the property manager's instructions.

3. Regularly conduct janitorial activities, especially in bathrooms, kitchens, and janitorial spaces, to remove mildew and prevent or correct moist conditions.

4. Maintain water in all drain taps at all times.

Dated: _____, 20_____

SUBTENANT:

THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE,
a public corporation

By: _____
Name: _____
Title: _____