

Limited Review Application

State of New York Department of Health
Office of Primary Care and Health Systems Management

LRA Cover Sheet

Project to be Proposed/Applicant Information

This application is for those projects subject to a limited review pursuant to 10 NYCRR 710.1(c)(5)-(7). Please check the appropriate box(es) reflective of the project being proposed by your facility (**NOTE** – Some projects may involve requisite “Construction”. If so, and **total** project costs are below designated thresholds, then **both boxes** must be checked and necessary LRA Schedules submitted). **Please read the LRA Instructions to ensure submission of an appropriate and complete application:**

- ☐ **Minor Construction** – Minor construction project with total project costs of up to \$15,000,000 for general hospitals and up to \$6,000,000 for all other facilities, if not relating to clinical space – check “Non-Clinical” box below).

Necessary LRA Schedules: Cover Sheet, 2, 3, 4, 5, and 6.

- ☐ **Equipment** – Project related to the acquisition, relocation, installation or modification of certain medical equipment, with total project costs of up to \$15,000,000 for general hospitals and up to \$6,000,000 for all other facilities. (**NOT** necessary for “1-for-1” replacement of existing equipment without construction, pursuant to Chapter 174 of the Laws of 2011 amending Article 28 of the Public Health law to eliminate limited review and CON review for one for one equipment replacement)

Necessary LRA Schedules: Cover Sheet, 2, 3, 4, and 5.

- ☐ **Service Delivery** – Project to decertify a facility's beds/services; add services which involve a total project cost up to \$15,000,000 for general hospitals and up to \$6,000,000 for all other facilities; or convert beds within approved categories. (If construction associated, also check “Construction” above.)

Necessary LRA Schedules: Cover Sheet, 2, 6, 7, 8, 10, and 12. *If proposing to decertify beds within a nursing home, provide a description of the proposed alternative use of the space including a detailed sketch (unless the decertification is being accomplished by eliminating beds in multiple-bedded rooms). If proposing to convert beds within approved categories, an LRA Schedule 6 and all supporting documentation are required to confirm appropriate space for the new use.

- ☐ **Cardiac Services** – Project by an appropriately certified facility to add electrophysiology (EP) services; or add, upgrade or replace a cardiac catheterization laboratory or equipment. (If construction associated, also check “Construction” above.)

Necessary LRA Schedules: Cover Sheet, 2, 7, 8, 10, and 12.

- ☒ **Relocation of Extension Clinic** – Project to relocate an extension clinic within the same service area which involve a total project cost up to \$15,000,000 for general hospitals and up to \$6,000,000 for all other facilities. (If construction associated, also check “Construction” above.)

Necessary LRA Schedules: Cover Sheet, 2, 3, 4, 5, 6 and 7. Also include a Closure Plan for vacating extension clinic.

- ☐ **Part-Time Clinic** – Project to operate, change services offered, change hours of operation or relocate a part-time clinic site – for applicants already certified for “part-time clinic”. (If construction associated, also check “Construction” above.)

Necessary LRA Schedules: Cover Sheet, 2, 8, 10, 11, and 12.

OPERATING CERTIFICATE NO. 7002032H	CERTIFIED OPERATOR Mount Sinai West	TYPE OF FACILITY Hospital

OPERATOR ADDRESS – STREET & NUMBER 1000 10 th Avenue		PFI 1466	NAME AND TITLE OF CONTACT PERSON Mr. Frank Cicero, Cicero Consulting Associates		
CITY New York	COUNTY New York	ZIP 10019	STREET AND NUMBER 925 Westchester Avenue, Suite 201		
PROJECT SITE ADDRESS – STREET & NUMBER 307 West 38 th Street		PFI 1180	CITY White Plains	STATE New York	ZIP 10604
CITY New York	COUNTY New York	ZIP 10018	TELEPHONE NUMBER (914) 682-8657	FAX NUMBER (914) 682-8895	
TOTAL PROJECT COST: \$ 1,000			CONTACT E-MAIL: conadmin@ciceroassociates.com		

(Rev 09/2019)

COVER SHEET ATTACHMENT

1. September 24, 2025 Emergency Approval Letter
2. Draft Relocation Form



Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, MD, MPH
Commissioner

JOHANNE E. MORNE, MS
Executive Deputy Commissioner

September 24, 2025

Tracy Breen, M.D.
President
Mount Sinai West
1000 Tenth Avenue
New York, NY 10019

Dear Dr. Breen:

The New York State Department of Health received your request for an emergency approval to relocate the Ambulatory Psychiatric Center from 411 West 114th Street in New York City to 307 West 38th Street in New York City. While this change in operating site requires a certificate of need application, the specific circumstances presented here indicate that limited, temporary, emergency approval is necessary. Mount Sinai has indicated that they are being required to leave their current space and have experienced difficulty finding a new location that would be suitable to serve the highly vulnerable adolescent and young adult population due to community opposition at other proposed sites. The unique and limited availability of these specialized and integrated adolescent services and the difficulty in transitioning care to other providers would result in a disruption and destabilization to these patients that would negatively affect their treatment. It is essential that these services continue to be provided nearby in the community for these patients.

Pursuant to 10 NYCRR § 401.2(b), the Department provides a time-limited approval for the Ambulatory Psychiatric Center to use the space located at 307 West 38th Street, New York, New York, for comprehensive adolescent rehabilitation and education services (CARES) to continue to be provided in a therapeutic school environment to patients who have needs that interfere with optimal functioning and learning in the school environment.

This approval is effective today, September 24, 2025, and will expire on March 24, 2025. It is incumbent upon Mount Sinai to complete work to gain a permanent approval before that date.

If you have questions, please contact the Department at hospinfo@health.ny.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "James McDonald", followed by the letters "MD MPH" in a stylized font.

James McDonald, MD, MPH
Commissioner of Health

Division of Hospitals and Diagnostic & Treatment Centers

New York State Department of Health

Telephone: (518) 402-1004

E-mail: hospinfo@health.ny.govWebsite: www.health.ny.gov/facilities/hospital

**Notification of Change in
Facility Location (must be
5 miles or less away from
current location to use this
form)**

FACILITY INFORMATION:

Facility PFI Number: 1180

Effective Date of Change in Facility Location: 9/29/25

Facility Name: Ambulatory Psychiatric Center (extension clinic)

Certificate of Need (CON) Number: 252XXX-L

CURRENT FACILITY ADDRESS (Street/City/State/Zip Code):

Street Address:

411 West 114th Street

City
New YorkState
New YorkZIP Code
10025

Number of Miles from Current Location: 4.1 miles

NEW FACILITY ADDRESS (Street/City/State/Zip Code):

Street Address:

307 West 38th Street, 7th floor

City
New YorkState
New YorkZIP Code
10018Telephone Number:
212-523-7233Email Address:
CARESFrontDesk@mountsinai.org**CERTIFICATION:** By signing this form, I hereby certify that the information given is true and correct.****NOTE: All signatures must be original. SIGNATURE STAMPS WILL NOT BE ACCEPTED.****

11/24/25
Date Tracy Breen, M.D., President, MSW and MSM
Name, Chief Executive Officer/Administrator (Print)


Chief Executive Officer/Administrator (Signature)

11/24/25
Date Shilpa R. Taufique, Ph.D., Director, CARES
Name, Contact Person (Print)

shilpa.taufique@mountsinai.org; 646-369-2022
Contact Person's Email Address and Telephone Number

Limited Review Application

Schedule LRA 2

State of New York Department of Health/Office of Health Systems Management

Total Project Cost

ITEM	ESTIMATED PROJECT COST	
1.1 Land Acquisition (<i>attach documentation</i>)	\$	
1.2 Building Acquisition	\$	
1.1-1.2 Subtotal:		
2.1 New Construction		
2.2 Renovation and Demolition		
2.3 Site Development		
2.4 Temporary Power		
2.1-2.4 Subtotal:		
3.1 Design Contingency		
3.2 Construction Contingency		
3.1-3.2 Subtotal:		
4.1 Fixed Equipment (NIC)		
4.2 Planning Consultant Fees		
4.3 Architect/Engineering Fees (incl. computer installation, design, etc.)		
4.4 Construction Manager Fees		
4.5 Capitalized Licensing Fees		
4.6 Health Information Technology Costs		
4.6.1 Computer Installation, Design, etc.		
4.6.2 Consultant, Construction Manager Fees, etc.		
4.6.3 Software Licensing, Support Fees		
4.6.4 Computer Hardware/Software Fees		
4.7 Other Project Fees (Consultant, etc.)		
4.1-4.7 Subtotal:		
5.1 Movable Equipment		
6.1 Total Basic Cost of Construction		
7.1 Financing Cost (points, fees, etc.)		
7.2 Interim Interest Expense - Total Interest on Construction Loan: Amount \$ @ % for months		
7.3 Application Fee		1,000
8.1 Estimated Total Project Cost (Total 6.1 – 7.3)	\$	1,000

If this project involves construction enter the following anticipated construction dates on which your cost estimates are based.

Construction Start Date N/A - No Construction

Construction Completion Date N/A - No Construction

Limited Review Application

State of New York Department of Health/Office of Health Systems Management

Schedule LRA 3

Proposed Plan for Project Financing

A. LEASE ☐

If any portion of the cost for land, building or Equipment is to be financed through a lease, rental agreement or lease/purchase agreement, complete the chart at the right.

A complete copy of each proposed lease must be submitted.

Attachment # _____

ITEM	COST AS IF PURCHASED	
	\$	
	\$	
	\$	
	\$	
	\$	

B. CASH ☒

If cash is to be used, complete the chart at the right.

Attach a copy of the latest certified financial Statement and interim monthly or quarterly financial reports to cover the balance of time to date.

Attachment # Schedule LRA 3 Attachment

Accumulated Funds	\$	\$1,000
Sale of Existing Assets*	\$	
Other – (i.e. gifts, grants,	\$	
TOTAL CASH	\$	\$1,000

*Attach a full and complete description of the assets to be sold.

Attachment # _____

** If grants, attach a description of the source of financial support

Attachment # _____

C. DEBT FINANCING ☐

If the project is to be financed by debt of any type, complete the chart at the right.

Attach a copy of the proposed letter of interest From the intended source of permanent financing.

This letter must include an estimate of the Principal, term, interest rate and pay-out period presently being considered.

Attachment # _____

Principal	\$	
Interest Rate		
Term		
Pay-out Period		
Type *		

* Commercial, Dormitory Authority Bonds, Dormitory Authority, TELP Lease, Industrial Development Agency Bonds, Other (identify).

SCHEDULE LRA 3 ATTACHMENT

SITE CONTROL AND FINANCIAL INFORMATION

1. 2024 Audited Financial Statement
2. Proposed Lease
3. Lease Affidavit
4. Rent Reasonableness Letters

MOUNT SINAI HEALTH SYSTEM, INC.

Consolidated Financial Statements and Supplementary Information

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One Manhattan West
New York, NY 10001-8604

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Report of Independent Auditors

The Board of Trustees
Mount Sinai Health System, Inc.

Opinion

We have audited the consolidated financial statements of the Mount Sinai Health System, Inc. (the System), which comprise the consolidated statement of financial position as of December 31, 2024 and the related consolidated statements of operations, changes in net assets and cash flows for the year then ended, and the related notes (collectively referred to as the “financial statements”).

In our opinion, the accompanying financial statements present fairly, in all material respects, the consolidated financial position of the System at December 31, 2024, and the consolidated results of its operations, changes in its net assets and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor’s Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the System and to meet our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free of material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the System’s ability to continue as a going concern for one year after the date that the financial statements are issued.



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Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free of material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the System's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the System's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.



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Supplementary Information

Our audit was conducted for the purpose of forming an opinion on the financial statements as a whole. The accompanying consolidating statement of financial position as of December 31, 2024, and the consolidating statements of operations and cash flows for the year then ended are presented for purposes of additional analysis and are not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with GAAS. In our opinion, the information is fairly stated, in all material respects, in relation to the financial statements as a whole.

Ernst & Young LLP

May 30, 2025

MOUNT SINAI HEALTH SYSTEM, INC.

Consolidated Statement of Operations

(In thousands)

Year Ended December 31, 2024

Operating revenue:

Patient service revenue

\$

Other revenue

Total operating revenue

Operating expenses:

Salaries and wages

Employee benefits

Supplies and other

Interest

Depreciation and amortization

Total operating expenses

Loss from operations

Other items:

Net change in unrealized gains and losses on investments

Other, net

Excess of revenue over expenses

Other changes:

Pension and postretirement changes other than net periodic benefit cost

Net assets released from restrictions for capital

Other, net

Increase in net assets without donor restrictions

\$

See accompanying notes to consolidated financial statements.

MOUNT SINAI HEALTH SYSTEM, INC.

Consolidated Statement of Changes in Net Assets

(In thousands)

Year Ended December 31, 2024

	<u>Without donor restrictions</u>	<u>With donor restrictions</u>	<u>Total net assets</u>
Net assets at January 1, 2024	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Changes in net assets:			
Excess of revenue over expenses	[REDACTED]	[REDACTED]	[REDACTED]
Pension and postretirement changes other than net periodic benefit cost	[REDACTED]	[REDACTED]	[REDACTED]
Donor restricted contributions	[REDACTED]	[REDACTED]	[REDACTED]
Donor restricted realized and unrealized investment returns	[REDACTED]	[REDACTED]	[REDACTED]
Net assets released from restrictions for operations	[REDACTED]	[REDACTED]	[REDACTED]
Net assets released from restrictions for capital	[REDACTED]	[REDACTED]	[REDACTED]
Other, net	[REDACTED]	[REDACTED]	[REDACTED]
Change in net assets	[REDACTED]	[REDACTED]	[REDACTED]
Net assets at December 31, 2024	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

See accompanying notes to consolidated financial statements.

MOUNT SINAI HEALTH SYSTEM, INC.

Consolidated Statement of Cash Flows

(In thousands)

Year Ended December 31, 2024

Cash flows from operating activities:

Change in net assets	\$	██████████
Adjustments to reconcile change in net assets to net cash used in operating activities:		
Pension and postretirement changes other than net periodic benefit cost		██████████
Depreciation and amortization expense		██████████
Amortization of bond financing costs, premiums, and discounts		██████████
Net change in unrealized gains and losses on investments		██████████
Net realized gains and losses on sales of securities		██████████
Gain on sale of assets		██████████
Donor-restricted contributions and realized and unrealized investment returns		██████████
Changes in operating assets and liabilities:		
Patient accounts receivable, net		██████████
Accounts payable, accrued expenses, accrued salaries and related liabilities		██████████
Other assets and liabilities, net		██████████
Accrued pension and post-retirement liability		██████████
Net cash used in operating activities		██████████

Cash flows from investing activities:

Acquisition of property, plant, and equipment		██████████
Decrease in investments and assets limited or restricted as to use, net		██████████
Funding of self-insurance trust		██████████)
Proceeds from sale of assets		██████████
Net cash provided by investing activities		██████████

Cash flows from financing activities:

Repayments of long-term debt		██████████
Donor-restricted contributions and restricted realized and unrealized investment returns		██████████
Net cash provided by financing activities		██████████

Net increase in cash and cash equivalents		██████████
Cash, cash equivalents, and restricted cash at beginning of year		██████████
Cash, cash equivalents, and restricted cash at end of year	\$	██████████

Cash and cash equivalents	\$	██████████
Restricted cash included in assets limited or restricted as to use and investments		██████████
Total cash, cash equivalents, and restricted cash	\$	██████████

See accompanying notes to consolidated financial statements.

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements Year Ended December 31, 2024

(1) Organization and Summary of Significant Accounting Policies

(a) Organization

Mount Sinai Health System, Inc. (MSHS) and its controlled subsidiaries and other affiliated entities (collectively, the System) is an integrated health care delivery system in the New York metropolitan area, with facilities located in New York City and Nassau County, New York. MSHS is incorporated under New York State Not-for-Profit Corporation law and is a tax-exempt entity under the provisions of Section 501(a) of the Internal Revenue Code (the Code). The System provides patient care, teaching, research, and other health care related services.

MSHS is the sole member of Mount Sinai Hospitals Group, Inc. (MSHG). MSHG is a 501(c)(3) tax exempt entity incorporated under New York State Not-for-Profit Corporation law and was formed to be the sole member of the System's hospitals. The member hospitals of MSHG, all of which are 501(c)(3) tax exempt entities incorporated under New York State Not-for-Profit Corporation law, include:

- The Mount Sinai Hospital (MSH), including Mount Sinai Hospital of Queens
- Beth Israel Medical Center and Affiliates (BIMC), including Mount Sinai Phillips School of Nursing and locations at Mount Sinai Brooklyn, Mount Sinai Union Square and Mount Sinai Behavioral Health Center
- The New York Eye and Ear Infirmary and Affiliates (NYEEI)
- South Nassau Communities Hospital and Subsidiaries (SNCH)
- The St. Luke's-Roosevelt Hospital Center and Affiliates (SLR), comprised of Mount Sinai West and Mount Sinai Morningside

The principal subsidiaries and other affiliated entities of the System also include:

- The Mount Sinai Medical Center, Inc. (MSMC), a 501(c)(3) not-for-profit corporation, – maintains a pooled investment portfolio for the benefit of other System entities
- Icahn School of Medicine at Mount Sinai (ISMMS), a 501(c)(3) education corporation – teaching and research institution with faculty and community physician practice plans
- 8 East 102nd Street Manager, LLC (the Manager) – real estate holdings and related services
- MSMC Residential Realty LLC (MSMCRRCL) – real estate holdings and related services
- MSMC Realty Corporation (MSMCRCL) – real estate holdings and related services

In October 2023, BIMC submitted a closure plan to the New York State Department of Health (NYSDOH) for its 16th Street campus, a component of its downtown Manhattan, New York campus. The closure plan was submitted due to a decreasing census, outdated infrastructure, the shift in patient care to outpatient, significant increases in labor and supply costs, and significant financial losses at the 16th Street campus. In November 2023, an amended closure plan was submitted to the NYSDOH. On April 2, 2024, the NYSDOH requested additional information, which MSHS provided in a revised closure plan submitted in May 2024, and the revised plan was approved by the NYSDOH in July 2024. On February 7, 2024, community groups commenced an action seeking to stop BIMC from closing the 16th Street campus and NYEEI from closing its facility. On February 24, 2025, the action brought by the community groups was dismissed by the New York State Supreme Court. In the days following the dismissal, the inpatient service of the 16th Street campus was closed. On February 28, 2025, the plaintiffs appealed and the appellate court agreed to hear an appeal of the community groups' action and

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements Year Ended December 31, 2024

imposed a stay on closing further services. On April 8, 2025 the appeal was dismissed and on April 9, 2025 the 16th Street campus was closed. BIMC intends to continue operating Mount Sinai Brooklyn, its ambulatory care locations, the Mount Sinai Phillips School of Nursing and the Mount Sinai Behavioral Health Center.

Change in Reporting Entity

During the year ended December 31, 2024, the System transitioned from reporting standalone financial statements for MSH, BIMC, NYEEI, SNCH, SLR, ISMMS, MSMC, MSMCRR, MSMCRC, and the Manager to consolidated financial statements of MSHS and its controlled subsidiaries and affiliates. Other controlled entities included in the accompanying consolidated financial statements did not previously issue standalone financial statements; however, those entities are not significant to the System's consolidated financial position or its operating results. The change in reporting entity was made to provide more relevant and comprehensive financial information to stakeholders, including a more complete representation of the consolidated financial position and performance of the System and its subsidiaries. The accompanying consolidated financial statements of the System reflect the accounting for prior acquisitions of BIMC, NYEEI, and SLR (each in 2013) and SNCH (in 2018) in accordance with Accounting Standards Codification 805, *Business Combinations*.

Although the System and the other entities described above have been consolidated for financial statement reporting purposes under applicable accounting requirements, there may be limitations on the use of one entity's funds by another member of the consolidated group resulting from the charitable nature of some of the entities or other factors.

(b) Principles of Consolidation

The accompanying consolidated financial statements have been prepared on the accrual basis of accounting and include all subsidiaries and other affiliated entities for which operating control is exercised by the System. Intercompany balances and transactions are eliminated in consolidation.

(c) Use of Estimates

The preparation of financial statements in accordance with accounting principles generally accepted in the United States of America (GAAP) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements. Estimates also affect the reported amounts of revenue and expenses during the reporting period. In the accompanying consolidated financial statements, estimates principally relate to the valuation of patient accounts receivable, net, amounts due from and to third-party payors, estimated professional and self-insurance liabilities and related insurance recoveries receivable, benefit plan assumptions, and the carrying value of alternative investments. Actual results could differ from those estimates.

(d) Cash and Cash Equivalents

The System considers highly liquid financial instruments purchased with a maturity of three months or less to be cash equivalents. The System has balances in financial institutions that exceed Federal depository insurance limits. It is the System's policy to monitor the financial strength of these institutions. Management does not believe the credit risk related to these deposits to be significant. The System does

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements Year Ended December 31, 2024

not hold any money market funds with significant liquidity restrictions that would require the funds to be excluded from cash equivalents.

Amounts within restricted cash include cash held within investments and assets limited or restricted as to use and represent funds set aside within investments based on management's policy or contractual arrangements.

(e) Patient Accounts Receivable, Net and Patient Service Revenue

Patient accounts receivable, net and patient service revenue result from the health care services provided by the System and are reported at the amount that reflects the consideration to which the System expects to be entitled in exchange for providing patient care. These amounts are due from patients, third-party payors (including health insurers and government programs), and others and include variable consideration in determination of the transaction price.

(f) Investments and Investment Return

Investments consist of cash and cash equivalents, U.S. government obligations, mutual funds, equity securities, and interests in alternative investments. All investments are classified as trading investments and, excluding interests in alternative investments, are carried at fair value as described in Note 4.

Alternative investments (nontraditional, not readily marketable securities) are measured based upon net asset values (NAV) derived from the application of the equity method of accounting. Financial information used to evaluate alternative investments is provided by the respective investment manager or general partner and includes fair value valuations (quoted market prices and values determined through other means) of underlying securities and other financial instruments held by the investee and estimates that require varying degrees of judgment. The financial statements of the investee companies are audited annually by independent auditors, although the timing for reporting the results of such audits for certain investees does not coincide with the System's annual financial statement reporting. There is uncertainty in determining values of alternative investments arising from factors such as lack of active markets (primary and secondary), lack of transparency into underlying holdings, time lags associated with reporting by the investee companies and the subjective evaluation of liquidity restrictions. As a result, the estimated values might differ from the values that would have been used had a ready market for the alternative investment interests existed and there is at least a reasonable possibility that estimates will change.

Alternative investments may consist of equity, debt, and derivatives both within and outside the U.S. in multi-strategy hedge funds, event-driven strategies, global investment mandates, distressed securities, and private funds. Alternative investment interests generally are structured such that the System holds a limited partnership interest or an interest in an investment management company. Alternative investments often have liquidity restrictions under which the pooled investment capital may be divested only at specified times. Liquidity restrictions may apply to all or portions of a particular invested amount.

A substantial portion of the System's investments are pooled for management purposes amongst the System entities (pool participants). MSMC has custody of the pooled investments. For purposes of the consolidating financial statements, interests in pooled investments are reported by pool participants using unitized net asset value based on their respective share of the investment pool and are reported as investments in the statement of financial position. Investment income from the investment pool is

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements Year Ended December 31, 2024

allocated to investment pool participants based on their pro rata share and is calculated using the market value unit method. An annual spending rate for donor related pooled funds is approved by the Board of Trustees annually (see Note 12). Realized gains and losses from the sale of securities are computed using the average cost method.

The investment pool's financial risk is limited to the carrying amount reported for each investee, in addition to any unfunded capital commitment.

In the absence of donor restrictions, investment income, including realized gains and losses, is reflected in the accompanying consolidated statement of operations within other revenue. The net change in unrealized gains and losses on investments and the change in value of alternative investments, arising from pooled investments, are reported as other items.

(g) Inventories

Inventories (included in other current assets) are stated at the lower of cost or net realizable value.

(h) Assets Limited or Restricted as to Use

Assets so classified represent assets whose use is restricted by donors, bond indenture agreements, internally designated for specific purposes, or under terms of other agreements. These assets consist primarily of U.S. Treasury obligations held in the bond trustees' accounts and money market funds.

(i) Property, Plant, and Equipment, Net

Property, plant, and equipment are stated at cost. Those acquired through acquisition of businesses, gifts and bequests are stated at appraised or fair value established at the date of the transaction. The carrying amounts of assets and the related accumulated depreciation and amortization are removed from the accounts when such assets are disposed of and any resulting gain or loss is included in operating results.

Annual provisions for depreciation are made based upon the straight-line method using a half-year convention over the estimated useful lives of the assets, ranging from 3 to 40 years.

(j) Impairment of Long-Lived Assets

Long-lived assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of assets, or a related group of assets, may not be recoverable. Long-lived assets are grouped with other assets and liabilities at the lowest level for which identifiable cash flows are largely independent of the cash flows of other assets and liabilities. The recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to the estimated undiscounted future cash flows expected to be generated by the underlying tangible assets. When the carrying value of an asset exceeds its estimated recoverability, an asset impairment charge is recognized for the difference between the fair value and carrying value of the asset.

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements Year Ended December 31, 2024

(k) Leases

The System determines if an arrangement is a lease at inception. Operating leases are included in right-of-use (ROU) assets and operating lease liabilities in the accompanying consolidated statement of financial position. ROU assets and liabilities are recognized based on the present value of the future minimum lease payments over the lease term using a risk-free discount rate determined using a period comparable with that of the lease term. The ROU asset also includes any prepaid rent while excluding lease incentives and initial direct costs incurred. Lease expense for operating minimum lease payments is recognized on a straight-line basis over the full lease term.

Finance leases are included in property, plant, and equipment, net and long-term debt in the accompanying consolidated statement of financial position. Finance lease assets and liabilities are recognized based on the present value of the future minimum lease payments over the lease term using the explicit interest rate, when available. If an explicit interest rate is not available, the System applies a risk-free discount rate determined using a period comparable with that of the lease term. Finance lease assets are amortized on a straight-line basis over the lease term with such amortization presented in depreciation and amortization in the accompanying consolidated statement of operations. Interest on finance leases is calculated using the effective interest method and presented in interest expense in the accompanying consolidated statement of operations.

(l) Benefits and Insurance

The System is self-insured for medical, dental, hospitalization, workers' compensation and prescription drug benefits provided to employees and has a stop-loss arrangement to limit exposure for these self-insured benefits. These costs are included in employee benefits expense in the accompanying statement of operations.

(m) Net Assets Without Donor Restrictions

Net assets that are not subject to donor-imposed restrictions may be expended for any purpose in performing the primary objectives of the System. These net assets may be used at the discretion of the System's management and the Board of Trustees.

(n) Net Assets With Donor Restrictions

Net assets with donor restrictions are those whose use by the System has been limited by donors to a specific time period or purpose. Some donor restrictions are temporary in nature; those restrictions will be met by actions of the System or by the passage of time. Other donor restrictions are perpetual in nature, whereby the donor has stipulated the funds be maintained in perpetuity.

Donor restricted contributions are reported as increases in net assets with donor restrictions. When a restriction expires, net assets are reclassified as net assets released from restrictions for operations or as net assets released from restrictions for capital purposes in the accompanying consolidated statements of operations and changes in net assets.

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements Year Ended December 31, 2024

(o) Other Revenue

Other revenue includes income from federal and non-federal grants and contracts, pharmacy sales, royalty revenue, investment income, affiliation revenue from New York City Health and Hospitals Corporation, tuition and fee revenue, contribution revenue, net assets released from restrictions for operations, and other miscellaneous revenue items.

(p) Grants and Contracts Revenue

Grants and contracts revenue represents reimbursement of costs incurred in direct support of federally and non-federally funded sponsored research and clinical trials and other sponsored activities of the System. The System does not record conditional grants or contracts revenue until performance of the conditions or when the barriers on which they depend, as stated in the contracts, have been substantially met. Exchange transactions are recognized as revenue at the amount that reflects the consideration to which the System expects to be entitled in exchange for performance under the contract.

(q) Contributions and Unconditional Promises to Give

Contributions, including unconditional promises to give cash and other assets (pledges), are reported at fair value on the date received. The gifts are reported as net assets with donor restrictions if they are received with donor-imposed stipulations that limit the use of the donated assets. Donor restricted contributions, whose restrictions and conditions are met within the same year as the contributions are received, are recorded as other revenue.

Conditional contributions are recognized as revenue when the conditions or barriers on which they depend have been substantially met. Pledges are recorded net of estimated uncollectible amounts and promises to give that are due in future years are discounted to present value.

(r) Performance Indicator

The consolidated statement of operations includes the excess of revenue over expenses as the performance indicator. Changes in net assets without donor restrictions which are excluded from the excess of revenue over expenses include changes in pension and postretirement obligations other than net periodic benefit cost, net assets released from restrictions for capital, and other items.

The System differentiates its operating activities through the use of the loss from operations as an intermediate measure of operations. For the purposes of display, items which management does not consider components of the System's operating activities are excluded from this measure and reported as other items in the consolidated statement of operations.

(s) Tax Status

Most entities within the System are not-for-profit corporations as described in Section 501(c)(3) of the Code and are generally exempt from federal income taxes pursuant to Section 501(a) of the Code.

Certain entities of the System are for-profit entities. Provisions for income taxes and deferred taxes, where applicable, have been made for the taxable entities of the System. Taxable operations and the potential for income taxes from these entities and unrelated business income activities of the tax-exempt entities are not significant to the accompanying consolidated financial statements.

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements Year Ended December 31, 2024

The System evaluates tax positions taken or expected to be taken in the course of preparing the System's tax returns to determine whether the tax positions are "more likely than not" of being sustained by the applicable tax authority based upon the technical merits of the position. The System recognizes the effect of tax positions only if they are more likely than not of being sustained. This evaluation had no impact on the operations of the System as of and for the year ended December 31, 2024.

(t) Related Organizations

Transactions among MSHS and its related organizations relate principally to the sharing of certain services, facilities, equipment, personnel and other shared services. Such transactions are allocated among the entities based on the approximate cost to provide the services and an agreed upon method which reflects the approximate level of usage by each entity. In addition, the MSHG hospitals purchase professional services from ISMMS for the clinical care of its patients, teaching and supervision of its residents, the performance of certain administrative functions, and various strategic initiatives (CARTS). As noted above, intercompany balances and transactions are eliminated in consolidation.

For the year ended December 31, 2024, MSH wrote-off [REDACTED] for amounts considered uncollectable from SLR, which is included as a transfer to SLR in MSH's consolidated statement of operations.

Also, MSH transfers to affiliates of [REDACTED] for the year ended December 31, 2024 consisted of [REDACTED] for MSH's funding of ISMMS' community practice plan deficits and [REDACTED] in transfers to MSMCRRC.

MSH guarantees several leases entered into by BIMC and ISMMS with total rent payments remaining at December 31, 2024 of approximately [REDACTED] and [REDACTED], respectively, and remaining lease terms varying from 18-30 years. MSH guarantees payment if BIMC were unable to make payments under an event of default. MSH guarantees payment up to a maximum of [REDACTED] if ISMMS were unable to make payments under an event of default.

(u) COVID-19 Update

The System applied for reimbursement for qualifying expenses under the Federal Emergency Management Agency (FEMA) Disaster Relief Fund. During 2024, the System recognized approximately [REDACTED] of obligated reimbursement grants from FEMA. The FEMA grants are reported within other revenue as they are for reimbursement of operating costs. The receivable related to FEMA obligated reimbursement payments was approximately [REDACTED] at December 31, 2024 and is recorded within other current assets in the accompanying consolidated statement of financial position.

(2) Patient Accounts Receivable, Net and Patient Service Revenue

Patient service revenue is reported at the amount that reflects the consideration for which the System expects to be entitled in exchange for providing patient care. The System uses a portfolio approach to account for categories of patient contracts as collective groups rather than recognizing revenue on an individual contract basis. The portfolio consists of major payor classes for inpatient revenue and outpatient revenue. Based on historical collection trends and other analyses, the System believes that revenue recognized by utilizing the portfolio approach approximates the revenue that would have been recognized if an individual contract approach were used.

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements Year Ended December 31, 2024

Full-time faculty members and non-faculty physicians of MSH, BIMC, SLR, SNCH, and NYEEI may participate in ISMMS's faculty practice plan or community practice plan. All of these activities are included within patient service revenue within the accompanying consolidated statement of operations. Plan participants are authorized to conduct a private practice and engage in professional consultation in accordance with established institutional guidelines. Professional service fee receipts are recorded and deposited in private practice funds established by ISMMS for each individual participant or group practice when received by ISMMS. Portions of these receipts are used to support ISMMS activities and to reimburse ISMMS for indirect costs incurred in supporting plan activities. The remaining amounts, after direct plan expenses, provide participant salary supplements and support ISMMS departmental activities.

The System's initial estimate of the transaction price for services provided to patients is determined by reducing the total standard charges related to the patient services provided by various elements of variable consideration, including contractual adjustments, discounts, implicit price concessions, and other reductions to the System's standard charges and include provisions for variable consideration for retroactive revenue adjustments, including adjustments due to the settlement of ongoing and future audits, reviews, and investigations. The System determines the transaction price associated with services provided to patients who have third-party payor coverage on the basis of contractual or formula-driven rates for the services rendered (see description of third-party payor payment programs below). The estimates for contractual allowances and discounts are based on contractual agreements, the System's discount policies and historical experience. For uninsured and under-insured patients who do not qualify for charity care, the System determines the transaction price associated with services rendered on the basis of charges reduced by implicit price concessions. Implicit price concessions included in the estimate of the transaction price are based on the System's historical collection experience for applicable patient portfolios.

Generally, the System bills patients and third-party payors after the services are performed and the patient is discharged. Patient service revenue is recognized as performance obligations are satisfied. Performance obligations are determined based on the nature of the services provided by the System. Patient service revenue for performance obligations satisfied over time is recognized based on actual charges incurred in relation to total charges. The System believes that this method provides a reasonable depiction of the transfer of services over the term of the performance obligation based on the services needed to satisfy the obligation. Generally, performance obligations satisfied over time relate to patients receiving inpatient acute care services or patients receiving services in the System's outpatient settings. The System measures the performance obligation from admission into the System or the commencement of an outpatient service to the point when it is no longer required to provide services to that patient, which is generally at the time of discharge or the completion of the outpatient visit.

Substantially all of the System's performance obligations relate to contracts with a duration of less than one year. Unsatisfied or partially unsatisfied performance obligations primarily relate to inpatient acute care services at the end of the reporting period for patients who remain admitted at that time (in-house patients). The performance obligations for in-house patients are generally completed when the patients are discharged, which for the majority of the System's in-house patients occurs within days or weeks after the end of the reporting period.

Subsequent changes to the estimate of the transaction price (determined on a portfolio basis when applicable) are generally recorded as adjustments to patient service revenue in the period of the change. For the year ended December 31, 2024, changes in the System's estimates of implicit price concessions, discounts, contractual adjustments or other reductions to expected payments for performance obligations

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements

Year Ended December 31, 2024

satisfied in prior years were not significant. Portfolio collection estimates are updated based on collection trends. Subsequent changes that are determined to be the result of an adverse change in the patient's ability to pay based on current or future estimated credit losses (determined on a portfolio basis when applicable) are recorded as bad debt expense. Bad debt expense for the year ended December 31, 2024 was not significant.

The System has determined that the nature, amount, timing and uncertainty of revenue and cash flows are affected by the following factors: payors, lines of business and timing of when revenue is recognized. Tables providing details of these factors are presented below.

Patient service revenue disaggregated by payor comprises the following for the year ended December 31, 2024 (in thousands):

Medicare & Medicare managed care	\$	
Medicaid & Medicaid managed care		
Blue Cross		
Managed care		
Commercial and other		
Self-pay		
Total	\$	

Deductibles, copayments and coinsurance under third-party payment programs which are the patient's responsibility are included within the respective primary payor category above.

Patient service revenue disaggregated by lines of service comprises the following for the year ended December 31, 2024 (in thousands):

Inpatient services	\$	
Outpatient services		
Total	\$	

Patient accounts receivable, net is comprised of the following components at December 31, 2024 (in thousands):

Patient receivables	\$	
Contract assets		
Total	\$	

Contract assets are related to in-house patients who were provided services during the reporting period but were not discharged as of the reporting date and for which the System may not have the right to bill.

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements Year Ended December 31, 2024

(a) Third-Party Payment Programs

The System has agreements with third-party payors that provide for payment for services rendered at amounts different from its established rates. A summary of the payment arrangements with major third-party payors follows:

Medicare: Hospitals are paid for most Medicare patient services under national prospective payment systems and other methodologies of the Medicare program for certain other services. Federal regulations provide for adjustments to current and prior years' payment rates, based on industry-wide and Hospital-specific data.

Non-Medicare: In New York State, hospitals and all non-Medicare payors (including Medicare and Medicaid managed care plans), except Medicaid, workers' compensation and no-fault insurance programs, negotiate hospitals' payment rates. Payments to hospitals for Medicaid, workers' compensation and no-fault inpatient services are based on a statewide prospective payment system, with retroactive and/or prospective adjustments. Outpatient services also are paid based on a statewide prospective system. Medicaid rate methodologies are subject to approval at the Federal level by the Centers for Medicare and Medicaid Services (CMS), which may routinely request information about such methodologies prior to approval. Revenue related to specific rate components that have not been approved by CMS is not recognized until the System is reasonably assured that such amounts are realizable. Adjustments to the current and prior years' payment rates for those payors will continue to be made in future years.

Other Third-Party Payors: The System also has entered into payment agreements with certain commercial insurance carriers and health maintenance organizations. The basis for payment to the System under these agreements includes prospectively determined rates per discharge or days of hospitalization and discounts from established charges.

Medicare cost reports, which serve as the basis for final settlement with the Medicare program, have been audited by the Medicare fiscal intermediary and settled through 2018 for MSH and through 2018 for the other System hospitals, although revisions to final settlements or other retroactive changes could be made in subsequent years. Certain cost report years and various issues remain open for audit and settlement, as are numerous issues related to the New York State Medicaid program for prior years. As a result, there is at least a reasonable possibility that recorded estimates will change by a material amount when open years are settled, audits are completed and additional information is obtained.

Settlements with third-party payors (see description of third-party payor payment programs above) for cost report filings and retroactive adjustments due to ongoing and future audits, reviews or investigations are considered variable consideration and are included in the determination of the estimated transaction price for providing patient care. These settlements are estimated based on the terms of the payment agreement with the payor, correspondence from the payor and the System's historical settlement activity (for example, cost report final settlements or repayments related to recovery audits), including an assessment to ensure that it is probable that a significant reversal in the amount of cumulative revenue recognized will not occur when the uncertainty associated with the retroactive adjustment is subsequently resolved. Such estimates are determined through either a probability-weighted estimate or an estimate of the most likely amount, depending on the circumstances related to a given estimated settlement item. Estimated settlements are adjusted in future periods as adjustments become known (that is, new

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements

Year Ended December 31, 2024

information becomes available), or as years are settled or are no longer subject to such audits, reviews, and investigations. For the year ended December 31, 2024, the net effect of the System's revisions to prior year estimates was an increase to patient service revenue of approximately [REDACTED].

Laws and regulations concerning government programs, including Medicare and Medicaid, are complex and subject to varying interpretation. As a result of investigations by governmental agencies, various health care organizations have received requests for information and notices regarding alleged noncompliance with those laws and regulations, which, in some instances, have resulted in organizations entering into significant settlement agreements. Compliance with such laws and regulations may also be subject to future government review and interpretation as well as significant regulatory action, including fines, penalties, and potential exclusion from the related programs. There can be no assurance that regulatory authorities will not challenge the System's compliance with these laws and regulations, and it is not possible to determine the impact (if any) such claims or penalties would have upon the System. The System is not aware of any allegations of non-compliance that could have a material adverse effect on the accompanying consolidated financial statements and believes that it is in compliance in all material respects with all applicable laws and regulations. In addition, certain contracts the System has with commercial payors also provide for retroactive audit and review of claims.

There are various proposals at the federal and state levels that could, among other things, significantly change payment rates or modify payment methods. The ultimate outcome of these proposals and other market changes, including the potential effects of or revisions to health care reform that has been or will be enacted by the federal and state governments, cannot be determined presently. Future changes in the Medicare and Medicaid programs and any reduction of funding could have an adverse impact on the System. Additionally, certain payors' payment rates for various years have been appealed by the System. If the appeals are successful, additional income applicable to those years could be realized.

The System grants credit without collateral to its patients, most of whom are insured under third-party payor agreements. Significant concentrations of patient accounts receivable, net at December 31, 2024, are as follows:

Medicare & Medicare managed care	[REDACTED]
Medicaid & Medicaid managed care	[REDACTED]
Blue Cross	[REDACTED]
Managed care and other	[REDACTED]
Self-pay	[REDACTED]
Total	100%

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements
Year Ended December 31, 2024

(b) Uncompensated Care

For patients who are deemed eligible for charity care and patients who apply and qualify for financial aid under the System's financial aid policies, care given but not paid for is classified as charity care. For the year ended December 31, 2024, the estimated cost of charity care was approximately [REDACTED]. The estimated cost of charity care includes the direct and indirect cost of providing charity care services and is estimated by utilizing a ratio of cost to standard charges applied to the uncompensated charges associated with providing charity care.

(c) Vital Access Provider Safety Net Program and Medicaid Enhanced Rates

In September 2015, MSHG entered into a Vital Access Provider/Safety Net Program Temporary Medicaid Rate Adjustment Agreement (the TRA Agreement) with the NYSDOH to participate in the Vital Access Provider/Safety Net Program (VAP). MSHG was awarded [REDACTED] in VAP funding over three years. The NYSDOH had also agreed to provide MSH, BIMC, and NYEEI with a temporary Medicaid rate enhancement for three years. The enhanced Medicaid rates were paid to MSH, BIMC, and NYEEI directly by the Medicaid program or Medicaid managed care payors as patient services were rendered. As an express condition of receipt of the Medicaid rate enhancement, MSHG committed to complete a full asset merger (FAM) of MSH, BIMC, SLR and NYEEI.

On February 1, 2022, MSHG entered into a Medicaid Liability Repayment Agreement (the MLRA Agreement) with the NYSDOH, whereby MSH, BIMC, and NYEEI collectively agreed to implement a schedule for phased recoupment of the Medicaid temporary rate adjustment provided to MSHG pursuant to the TRA Agreement as MSHG did not consummate the FAM. MSHG and the NYSDOH have agreed to the repayment of [REDACTED] (the TRA Amount) to be paid in ten equal annual installments that commenced on March 15, 2022. At December 31, 2024, [REDACTED] is included in other current liabilities with the remaining obligation of [REDACTED] included within other liabilities at the present value. The allocation of the total recoupment amount to MSHG member hospitals was based on revenue recognized as a result of the Medicaid rate enhancement for each member hospital, respectively.

Upon repayment of the TRA Amount, MSHG will have satisfied all obligations under the MLRA Agreement and shall have no obligation to undertake the FAM. In the event that MSHG effectuates the FAM prior to January 1, 2031, there will be no further obligated recoupment payments. The likelihood that a FAM will be completed prior to January 1, 2031 is considered to be remote and, as such, MSH, BIMC, and NYEEI have recognized liabilities for the present value of the estimated recoupment payments. No repayment amounts have been allocated to SLR and SNCH as they were not a party to the original TRA Agreement.

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements

Year Ended December 31, 2024

(3) Investments and Assets Limited or Restricted as to Use

Investments, as well as cash and cash equivalents, are maintained at December 31, 2024 as follows (in thousands):

Cash and cash equivalents	\$	[REDACTED]
Pooled investments		[REDACTED]
Non-pooled investments		[REDACTED]
Assets limited or restricted as to use		[REDACTED]
Total	\$	[REDACTED]

The following table summarizes the composition of investments at December 31, 2024 (in thousands):

	<u>Pooled investments</u>		<u>Non-pooled investments</u>	
Cash and cash equivalents	\$	[REDACTED]	[REDACTED]	[REDACTED]
Mutual funds		[REDACTED]		[REDACTED]
U.S. equities		[REDACTED]		[REDACTED]
Other investments		[REDACTED]		[REDACTED]
Alternative investments:				
Hedge funds:				
Long-only equity ^(a)		[REDACTED]		[REDACTED]
Long/short equity ^(b)		[REDACTED]		[REDACTED]
Long/short credit ^(c)		[REDACTED]		[REDACTED]
Hedged/market neutral ^(d)		[REDACTED]		[REDACTED]
Private investments:				
Equity ^(e)		[REDACTED]		[REDACTED]
Credit/distressed ^(f)		[REDACTED]		[REDACTED]
Real assets ^(g)		[REDACTED]		[REDACTED]
Total	\$	[REDACTED]	[REDACTED]	[REDACTED]

(a) Investments, consisting of publicly traded equity holdings with long positions.

(b) Investments, consisting primarily of publicly traded equity holdings with both long and short positions.

(c) Investments, consisting primarily of publicly traded credit holdings with both long and short positions.

(d) Investments with a balanced mix of asset exposures and strategies. Underlying exposures primarily include publicly traded equity and credit positions in relative value and various arbitrage strategies. Investments may reflect a tilt towards equity or credit with hedging.

(e) Investments targeting buyout, growth equity, and venture opportunities that require time to reach realization.

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(f) Investments in structured credit, claims, distressed positions of either a minority or controlling interest that require time to reach realization.

(g) Real estate, natural resources, and asset backed royalty investments that require time to reach realization.

The total return on investments recorded in the accompanying consolidated statement of operations comprises the following for the year ended December 31, 2024 (in thousands):

Interest and dividend and other income	\$	
Net realized gains and losses on sales of securities		
Fees and other expenses		
Subtotal (included in other revenue in the consolidated statement of operations)		
Net change in unrealized gains and losses on investments		
Total	\$	

Assets limited or restricted as to use, consist mainly of cash and cash equivalents and fixed income securities consist of the following at December 31, 2024 (in thousands):

Donor-restricted funds, net	\$	
Funds held by bond trustees under bond indenture agreements		
Internally designated funds for specific use		
Other limited use funds		
	\$	

Assets held under bond indenture agreements are maintained for the following purposes at December 31, 2024 (in thousands):

Capital project funds	\$	
Debt service fund		
	\$	

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements

Year Ended December 31, 2024

(4) Fair Values of Financial Instruments

For assets and liabilities requiring fair value measurement, the System measures fair value based on the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The System follows a fair value hierarchy based upon the transparency of inputs to the valuation of an asset or liability as of the measurement date. The three levels are defined as follows:

Level 1 – Quoted prices (unadjusted) in active markets that are accessible at the measurement date for identical assets or liabilities. The fair value hierarchy gives the highest priority to Level 1 inputs.

Level 2 – Observable inputs that are based on inputs not quoted in active markets but corroborated by market data.

Level 3 – Unobservable inputs are used when little or no market data is available. The fair value hierarchy gives the lowest priority to Level 3 inputs.

A financial instrument's categorization within the valuation hierarchy is based upon the lowest level of input that is significant to the fair value measurement.

In determining fair value, the System uses valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible, as well as considers nonperformance risk in its assessment of fair value. Investments valued based upon NAV are not subject to the valuation hierarchy.

Financial assets carried at fair value by the System as of December 31, 2024 are classified in the table below in one of the three categories described above (in thousands):

	Level 1	Level 2	Level 3	Total
Cash and cash equivalents and money market funds	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Equity securities	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Mutual funds	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Other investments	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Total	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

The table does not include investments measured at NAV as a practical expedient of [REDACTED] and other investments that are not carried at fair value of approximately [REDACTED] at December 31, 2024.

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements Year Ended December 31, 2024

The following is a summary of investments (by major category) with restrictions to redeem the investments at the measurement date, any unfunded capital commitments, and investment strategies of the investees as of December 31, 2024:

Description of investment	Carrying value	Unfunded commitments	Redemption frequency	Redemption notice period	Funds availability
Hedge funds:					
Long-only equity	\$ [REDACTED]	\$ —	Quarterly/annual	45-90 days	14-30 days
Long-only equity	[REDACTED]	—	Rolling 3 years	90 days	14 days
Long/short equity	[REDACTED]	—	Quarterly	60 to 90 days	30 days
Long/short credit	[REDACTED]	—	Quarterly	90 days	120 days
Hedged/market neutral	[REDACTED]	—	Quarterly	60 to 65 days	30 days
Hedged/market neutral	[REDACTED]	—	Rolling 2 years	90 days	90 days
Private investments:					
Equity	[REDACTED]	[REDACTED] 3	*	*	*
Credit/distressed	[REDACTED]	[REDACTED]	*	*	*
Real assets	[REDACTED]	[REDACTED]	*	*	*
Total	\$ [REDACTED]	[REDACTED]			

* MSMC liquidity restrictions range from [REDACTED] for certain private investments. Liquidity restrictions may apply to all or a portion of a particular invested amount.

(5) Liquidity and Available Resources

Financial assets available for general expenditure within one year of the consolidated statement of financial position date consist of the following at December 31, 2024 (in thousands):

Financial assets:

Cash and cash equivalents	\$ [REDACTED]
Short-term investments	[REDACTED]
Patient accounts receivables, net	[REDACTED]
Rent receivables	[REDACTED]
Assets limited or restricted as to use - internally designated	[REDACTED]
Investments	[REDACTED]
Total financial assets available to meet cash needs for general expenditures within one year	\$ [REDACTED]

The System has certain internally designated assets limited or restricted as to use which are available for general expenditure within one year in the normal course of operations. Accordingly, these assets have been included in the information above. The System has other assets limited or restricted to use for donor-restricted purposes and debt service. These assets limited or restricted as to use, which are more fully described in Note 3, are not available for general expenditure within the next year and are not reflected in the amounts above. Certain entities maintain lines of credit which are disclosed in Note 7, which provide an additional source of liquidity and are not reflected in the amounts above.

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements
Year Ended December 31, 2024

(6) Property, Plant, and Equipment

A summary of property, plant, and equipment, net is as follows at December 31, 2024 (in thousands):

Land and improvements	\$	
Leasehold		
Buildings and improvements		
Fixed equipment		
Movable equipment		
Less: accumulated depreciation and amortization		
Add: construction in progress		
Total	\$	

Assets under finance leases approximate [REDACTED] at December 31, 2024, and are included in buildings and improvements and movable equipment [REDACTED] at December 31, 2024, net of accumulated amortization).

The System capitalizes costs incurred in connection with the development of internal use software or purchased software modified for internal use. In 2024, approximately [REDACTED] was capitalized.

In 2024, the System wrote off approximately [REDACTED] of fully depreciated assets that were no longer in use.

Substantially all property, plant, and equipment have been pledged as collateral under various debt agreements (see Note 7).

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements Year Ended December 31, 2024

(7) Long-Term Debt

Each entity as noted below is the primary obligor for its long-term debt, although certain debt instruments have been guaranteed by other System entities. A summary of long-term debt is as follows at December 31, 2024 (in thousands):

MSH Series 2013 bonds ^(a)	\$	██████████
MSH Series 2017 bonds ^(b)		██████████
MSH Series 2019 bonds ^(c)		██████████
MSH Series 2020 bonds ^(d)		██████████
ISMMS Series 2015A bonds ^(e)		██████████
SNCH Series 2018 bonds ^(f)		██████████
SNCH Series 2022 bonds ^(g)		██████████
102nd Street Series 2010A bonds ^(h)		██████████
102nd Street Series 2010B bonds ^(h)		██████████
MSH note payable ⁽ⁱ⁾		██████████
MSH loan ^(j)		██████████
59 th Street mortgage loan ^(k)		██████████
A&J and MSMCRRC mortgage loan ^(l)		██████████
SLR mortgage loan ^(m)		██████████
SNCH mortgage loan ⁽ⁿ⁾		██████████
Finance leases with various interest rates (Note 8)		██████████
Total long-term debt	\$	██████████
Add: unamortized bond premium		██████████
Less: unamortized bond discount		██████████
Less: deferred financing costs, net		██████████
Less: current portion		██████████
Long-term portion	\$	██████████

(a) In December 2013, Build NYC Resource Corporation issued ██████████ of tax-exempt bonds (MSH Series 2013 bonds) on behalf of MSH. In June 2020, MSH refinanced the bonds and the term was extended by twelve years to 2032 at an interest rate of ██████████. The bonds were privately placed with TD Bank.

(b) In December 2017, MSH issued ██████████ of taxable bonds (MSH Series 2017 bonds) with interest rates ranging from ██████████. The bonds are structured with interest only payments until 2031 and two bullet maturities: one in 2035 and the second in 2048. There are mandatory annual sinking payments beginning in 2031.

(c) In November 2019, MSH issued ██████████ of taxable bonds (MSH Series 2019 bonds) with an interest rate of ██████████. The bonds are structured with interest only payments through 2044 and one bullet maturity in 2049. Annual sinking fund payments begin in 2045.

MOUNT SINAI HEALTH SYSTEM, INC.

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- (d) In September 2020, MSH issued [REDACTED] of taxable bonds (MSH Series 2020 bonds) with an interest rate of [REDACTED]. The MSH Series 2020 bonds are structured with interest only payments through 2049 and one bullet maturity in 2050.
- (e) In August 2015, the Dormitory Authority of the State of New York issued on behalf of ISMMS [REDACTED] of tax-exempt bonds (ISMMS Series 2015A bonds) with interest rates ranging from [REDACTED] to [REDACTED]. The principal on the bonds is payable on July 1 of every year through July 1, 2045. Interest payments are due on January 1 and July 1 of each year.
- (f) In February 2018, SNCH issued [REDACTED] of Series 2018 taxable bonds (SNCH Series 2018 bonds). The principal of [REDACTED] is due on the maturity date of August 1, 2048. Interest payments are due on February 1 and August 1 of each year, at a fixed rate of [REDACTED].
- (g) In October 2022, SNCH issued [REDACTED] of Series 2022 tax-exempt bonds (SNCH Series 2022 bonds). The principal on the bonds is payable on July 1 of every year through July 1, 2047. Interest payments are due on January 1 and July 1 of each year, at a fixed rate of [REDACTED].
- (h) In September 2010 and October 2011, the New York Housing Finance Agency, issued [REDACTED] of variable rate 2010 Series A tax-exempt bonds (102nd Street Series 2010A bonds) and [REDACTED] of variable rate 2010 Series B taxable bonds (102nd Street Series 2010B bonds) on behalf of the Manager. Principal and interest for the Series 2010A and Series 2010B bonds are due monthly through May 1, 2044 and the interest rates at December 31, 2024 were [REDACTED] respectively. The Manager maintains an irrevocable direct pay letter of credit for [REDACTED] to support the 102nd Street Series 2010A and 2010B bonds. The letter of credit expires on September 27, 2027. MSH is the guarantor of the letter of credit.
- (i) In August 2014, MSH purchased a leasehold condominium interest financed through the issuance of a promissory note payable (MSH note payable) with a principal amount of [REDACTED], with interest at a rate of [REDACTED], and payments beginning in June 2015 and ending in March 2046.
- (j) In January 2022, MSH entered into a fifty month loan (MSH loan) with GE Healthcare Financial Services with installment payments for the acquisition of certain equipment and related costs.
- (k) In April 2008, 425 West 59th Street Condominium, LLC, an affiliate of SLR, entered into a [REDACTED] mortgage (59th Street mortgage) for commercial condominiums with a twenty-year term and an interest rate of [REDACTED] per annum. Payment of principal and interest are due monthly and the mortgage is collateralized by the condominiums.
- (l) In November 2018, Augustus & James Corporation (A&J), an affiliate of SLR, and MSMCRRC refinanced their then outstanding mortgage loans with a ten-year mortgage loan (A&J and MSMCRRC mortgage loan). The A&J and MSMCRRC mortgage loan has an interest rate of [REDACTED] and payments of principal and interest are due quarterly with a final principal payment of approximately [REDACTED] due in November 2028.
- (m) In November 2005, SLR refinanced an existing Federal Housing Administration (FHA) Section 241 Loan with an FHA Section 223 Loan (SLR mortgage loan), which now bears interest at a fixed rate of [REDACTED]%. Payments of principal and interest are due monthly through May 2030.

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(n) In December 2016, SNCH entered into a mortgage loan note with TD Bank (SNCH mortgage loan) for [REDACTED] with an interest rate of [REDACTED] and is payable in monthly installments through December 2026, with a final payment of [REDACTED] in January 2027.

The terms of the various financing arrangements between the System's subsidiaries and their respective lenders require the System's subsidiaries to maintain certain financial and non-financial covenants. The System and its subsidiaries were in compliance with all financial ratio covenants as of December 31, 2024. As security for its various obligations under the debt agreements, the System has pledged as collateral certain property, plant, and equipment, certain gross receipts and revenues, and limitations on use of certain assets.

SNCH maintains two revolving lines of credit totaling [REDACTED]. The lines are set to expire on June 30, 2025 and July 1, 2025, respectively. The lines of credit allow repayment at any time during the term and require that any remaining unpaid balance be repaid at the expiration date. Outstanding loans bear interest at the Bloomberg Short-Term Bank Yield Index rate [REDACTED] or Prime Floating rate with a floor of [REDACTED] or Term AMERIBOR with a floor of [REDACTED]. SNCH had no outstanding balance on the lines of credit at December 31, 2024.

MSH maintains a revolving line of credit with a bank totaling [REDACTED]. The line is set to expire on March 19, 2027. The line of credit allows repayment at any time during the term and requires any remaining unpaid balance be repaid at the expiration date. Outstanding loans bear interest at the Secured Overnight Financing Rate (SOFR) [REDACTED]. MSH had no outstanding balance on the line of credit at December 31, 2024.

Principal payments on long-term debt, excluding finance leases (see Note 8), subsequent to December 31, 2024 are as follows (in thousands):

2025	\$	[REDACTED]
2026		[REDACTED]
2027		[REDACTED]
2028		[REDACTED]
2029		[REDACTED]
Thereafter		[REDACTED]
Total	\$	[REDACTED]

In 2024, the System capitalized net interest of approximately \$ [REDACTED] relating to construction activity in progress.

(8) Leases

The System leases certain property and equipment under finance and operating leases, the classification of which is based on the underlying terms of the agreement and certain criteria, such as lease term relative to useful life and total lease payments compared to fair value, among others. Finance leases result in an accounting treatment similar to an acquisition of the asset.

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For operating leases, the System has made an accounting policy election not to separate lease components and non-lease components in contracts when determining ROU assets and operating lease liabilities for real estate leases and to separate lease components and non-lease components for equipment leases. The System has also made an election not to record leases with an initial term of less than one year as ROU assets and operating lease liabilities.

For leases with initial terms greater than one year, the System records the related ROU assets and liabilities at the present value of the lease payments to be paid over the life of the related lease. The System's leases may include variable lease payments and renewal options. Variable lease payments are excluded from the amounts used to determine the ROU assets and liabilities unless the variable lease payments depend on an index or rate or are in substance fixed payments. Lease payments related to periods subject to renewal options are also excluded from the amounts used to determine the ROU assets and liabilities unless the System is reasonably certain to exercise the option to extend the lease.

The System's operating leases are primarily for real estate, including office space and parking, typically with initial terms between 5 and 15 years. The System's finance leases are primarily for real estate, typically with initial terms between 25 and 40 years.

The following schedule summarizes information related to the lease assets and liabilities as of and for the year ended December 31, 2024 (in thousands):

Components of lease balances	Classification in consolidated balance sheets	
Assets:		
Operating lease assets	Right-of-use assets	\$ [REDACTED]
Finance lease assets	Property, plant, and equipment, net	[REDACTED]
Total leased assets		\$ [REDACTED]
Liabilities:		
Operating lease liabilities:		
Current	Current portion of operating lease liabilities	\$ [REDACTED]
Long-term	Operating lease liabilities, net of current portion	[REDACTED]
Total operating lease liabilities		\$ [REDACTED]
Finance lease liabilities:		
Current	Current portion of long-term debt	\$ [REDACTED]
Long-term	Long-term debt, net of current portion	[REDACTED]
Total finance lease liabilities		[REDACTED]
Total lease liabilities		\$ [REDACTED]

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<u>Components of lease expense</u>	<u>Classification in consolidated statements of operations</u>	
Operating lease expense	Supplies and other	\$ [REDACTED]
Finance lease expense:		
Amortization of leased assets	Depreciation and amortization	[REDACTED]
Interest on lease liabilities	Interest	[REDACTED]
Total finance lease expense		\$ [REDACTED]

Lease activity such as variable lease cost and short-term lease cost and sublease income is not considered to be significant.

The following table summarizes the operating cash flows from leases as well as the weighted average remaining lease terms and weighted average discount rates used to determine the lease obligations as of December 31, 2024 (amounts in thousands):

Financing cash flows from finance leases	\$ [REDACTED]
Operating cash flows from finance leases	[REDACTED]
Operating cash flows from operating leases	[REDACTED]
Weighted average remaining lease term – finance leases	[REDACTED] years
Weighted average remaining lease term – operating leases	[REDACTED] years
Weighted average discount rate – finance leases	[REDACTED]%
Weighted average discount rate – operating leases	[REDACTED]%

Future maturities of lease liabilities at December 31, 2024 are presented in the following table (in thousands):

	<u>Finance leases</u>	<u>Operating leases</u>
2025	\$ [REDACTED]	[REDACTED]
2026	[REDACTED]	[REDACTED]
2027	[REDACTED]	[REDACTED]
2028	[REDACTED]	[REDACTED]
2029	[REDACTED]	[REDACTED]
Thereafter	[REDACTED]	[REDACTED]
Total lease payments	[REDACTED]	[REDACTED]
Less: imputed interest	[REDACTED]	[REDACTED]
Less: lease incentives	[REDACTED]	[REDACTED]
Total lease obligation	[REDACTED]	[REDACTED]
Less: current portion	[REDACTED]	[REDACTED]
Long-term lease obligation	\$ [REDACTED]	[REDACTED]

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As of December 31, 2024, the System has entered into lease agreements with undiscounted lease payments totaling approximately [REDACTED] which will commence when the premises are ready for intended use with terms ranging from 20 to 36 years.

(9) Professional Liabilities Insurance Program

The System's estimates of professional liabilities are based upon complex actuarial calculations, which utilize factors such as historical claims experience for the System and related industry factors, trending models, estimates for the payment patterns of future claims, and present value discount factors. As a result, there is at least a reasonable possibility that recorded estimates will change by a material amount in the near term. Revisions to estimated amounts resulting from actual experience differing from projected expectations are recorded in the period the information becomes known or when changes are anticipated.

Professional Insurance Liabilities

The System's subsidiaries maintain coverage through various captive and commercial insurance companies. Professional liabilities representing the amount of the System's medical malpractice liabilities that are reinsured from commercial and captive insurance companies are included in professional insurance liabilities in the accompanying consolidated statement of financial position at the actuarially determined present value of approximately [REDACTED], based on discount rates ranging from [REDACTED]%, at December 31, 2024. The System has recorded related insurance recoveries receivable of approximately [REDACTED] at December 31, 2024, in consideration of the expected insurance recoveries. The current portion of professional insurance liabilities and the related insurance recoveries receivable represent an estimate of expected settlements and insurance recoveries over the next twelve months.

(a) MSH, BMC and ISMMS Professional Liability

Primary coverage of professional and general liability incidents was provided through participation in a pooled program with certain other health care facilities affiliated with Healthcare Risk Advisors (previously affiliated with the Federation of Jewish Philanthropies of New York). This occurrence-basis insurance coverage participation was with captive insurance companies and commercial insurance companies.

As of December 31, 2024, the System retains ownership interest of [REDACTED] in [REDACTED] captive insurance companies. The System follows the equity method of accounting for its investment in the captive insurance companies and has recognized its allocated share of a portion of the program's accumulated surplus. This investment is recorded in investments and is approximately [REDACTED] at December 31, 2024.

(b) SLR Professional Liability

Effective July 1, 2004, SLR joined with other unrelated not-for-profit institutions to form a segregated cell captive structure through CCC Insurance Company (CCCI). CCCI formed CCC Insurance Company SCC and implemented a "cell captive" structure which replaced the previous coverage structure. Under the cell captive program, primary coverage for individual claims for each participating hospital is provided through a commercial insurance carrier on an occurrence basis. The first layer of excess coverage under the program utilizes individual cells for each participating hospital, under which invested assets and insurance related liabilities are segregated for each participant and there is no shared risk among the entities. Effective January 1, 2015, the SLR segregated cell went into run off and no longer writes premiums. Subsequent to that date, SLR purchases commercial insurance.

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(c) NYEEI Professional Liability

Since June 2003, NYEEI has purchased professional liability insurance on an occurrence-basis from a commercial carrier, with current policy limits of [REDACTED] as of December 31, 2024.

(d) SNCH Professional Liability

Since August 1, 2013, SNCH has purchased claims-made excess professional liability insurance from a commercial carrier. Under the current policy, the retention limit is approximately [REDACTED]. As of December 31, 2024, the self-insured retentions maintained by SNCH were approximately [REDACTED] and [REDACTED] included in other current liabilities and other liabilities, respectively.

Self-Insurance Trust

Effective January 1, 2018, the Mount Sinai Health System Self-Insurance Trust (the Self-Insurance Trust) was established to provide coverage in excess of existing insurance program limits. Currently, MSH, BIMC, SLR, and NYEEI participate in the Self-Insurance Trust, which is irrevocable. Amounts funded into the Self-Insurance Trust are based upon actuarially determined liabilities. These participating members record beneficial interest assets and liabilities relating to the Self-Insurance Trust, which are reflected in the accompanying consolidated financial statements. Excess coverage of the Self-Insurance Trust is extended to ISMMS by the aforementioned members.

As of December 31, 2024, the Self-Insurance Trust held investments of [REDACTED] on behalf of the System, net of a receivable [REDACTED], which is included as beneficial interest in self-insurance trust in the accompanying consolidated statement of financial position.

As of December 31, 2024, the System had actuarially determined liabilities for the Self-Insurance Trust of approximately [REDACTED], discounted at [REDACTED] which is included as self-insurance liabilities in the accompanying consolidated statement of financial position.

(10) Pensions and Similar Plans

The System's subsidiaries sponsor various qualified defined benefit pension plans and defined contribution plans covering certain groups of employees. The benefits provided are based on age, years of service, and compensation as stipulated by the respective plan documents. The System's policy is to fund the pension benefits with at least the minimum amounts required by the Employee Retirement Income Security Act of 1974. The System's defined benefit pension plans, which are sponsored by SLR, NYEEI, and SNCH, were each previously frozen to new participants and benefit accruals.

Certain subsidiaries of the System maintain Section 457(b) plans. Contributions are made solely by the employees through payroll deductions. The contributions are maintained in individual participant accounts held by a custodian and remain an asset of the employer until the participant retires. A corresponding liability is also recorded for these amounts, which is reduced upon the participant's retirement. The balances recorded at December 31, 2024 in other assets and other long-term liabilities in the accompanying statement of financial position were approximately [REDACTED].

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Certain System subsidiaries sponsor postretirement plans which provided medical and life insurance benefits to eligible employees; most of the benefit provisions under such plans have been curtailed.

The System recognizes the funded status (i.e., the difference between the fair value of plan assets and the projected benefit obligations) of its defined-benefit pension and postretirement benefits plans, with a corresponding adjustment to net assets without donor restrictions for the portion of the unfunded obligations that have not been recognized as pension and postretirement cost. The adjustment to net assets without donor restrictions represents the net unrecognized actuarial losses and unrecognized prior service cost, which will be subsequently recognized as a component of net periodic pension and postretirement cost through amortization.

The following table provides a reconciliation of the changes in the pension obligation and a statement of the funded status of the plans as of December 31, 2024 (in thousands):

	Defined-benefit pension plans
Change in benefit obligation:	
Benefit obligation at beginning of year	\$ [REDACTED]
Service cost	[REDACTED]
Interest cost	[REDACTED]
Actuarial gain	[REDACTED]
Benefits paid	[REDACTED]
Benefit obligation at end of year	[REDACTED]
Change in plans' assets:	
Fair value of assets at beginning of year	[REDACTED]
Actual return on plans' assets	[REDACTED]
Employer contributions	[REDACTED]
Benefits paid	[REDACTED]
Fair value of plans' assets at end of year	[REDACTED]
Funded status	\$ [REDACTED]

Pension plan liabilities and pension plan assets are recorded in accrued pension and postretirement liability and other assets in the accompanying consolidated statement of financial position, respectively.

Included in net assets without donor restrictions at December 31, 2024 are the following amounts that have not yet been recognized in net periodic pension cost: unrecognized actuarial losses of approximately [REDACTED]. Unrecognized actuarial losses represent unexpected changes in the projected benefit obligation and plan assets over time, primarily due to changes in assumed discount rates and investment experience

The actuarial gain in 2024 resulted in an overall decrease in projected benefit obligation at December 31, 2024 of [REDACTED] which was primarily attributable to changes in the discount rate assumptions.

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The projected pension benefit obligations, accumulated benefit obligations and fair value of the plans' assets were as follows at December 31, 2024 (in thousands):

Projected benefit obligation	\$	██████████
Accumulated benefit obligation		██████████
Fair value of plan assets		██████████

The net periodic benefit cost for the year ended December 31, 2024 is as follows (in thousands):

		<u>Defined-benefit pension plans</u>
Service cost	\$	██████████
Interest cost		██████████
Expected return on plan assets		██████████
Amortization of prior service credit		██████████
Recognized net actuarial gain (loss)		██████████
Total net periodic benefit cost	\$	██████████

Weighted-average assumptions used in determining the benefit obligation and net periodic benefit cost as of December 31, 2024 were as follows:

	<u>Defined-benefit pension plans</u>
Weighted average assumptions used to determine benefit obligation:	
Discount rate	██████████%
Rate of compensation increase	██████████
Weighted average assumptions used to determine net benefit cost:	
Discount rate	██████████%
Expected long-term rate of return on plan assets	██████████%
Rate of compensation increase	██████████

The expected long-term rate of return on plan assets for each plan is based on the portfolio as a whole and not the sum of the returns on the individual asset categories. The return is based exclusively on historical returns, without adjustments.

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The future cash flows of the System relative to retirement benefits are expected to be as follows (in thousands):

December 31:

2025	\$	██████████
2026		██████████
2027		██████████6
2028		██████████
2029		██████████
2030 to 2034		██████████

The following table presents the System's fair value hierarchy for those pension plan assets measured at fair value as of December 31, 2024 (in thousands):

	Level 1	Level 2	Level 3	Total
Cash and cash equivalents and money market funds	\$ ██████████	██████████	██████████	██████████
Equity securities	██████████	██████████	██████████	██████████
Mutual funds	██████████	██████████	██████████	██████████
Fixed income	██████████	██████████	██████████	██████████
Total	\$ ██████████	██████████	██████████	██████████
Investments measured at NAV as a practical expedient				██████████
				\$ ██████████

Investments measured at NAV as a practical expedient mainly consist of alternative investments related to hedge funds and private investments.

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The weighted-average allocation of the System's pension plan assets at December 31, 2024 was as follows:

Asset category	Target allocation 2025 (varies by Plan)	Percentage of assets (Aggregate all plans)
Cash and cash equivalents	■	■
Equity securities	■	■
Mutual funds	■	■
Fixed income	■	■
Alternative investments	■	■
	■	■

(11) Multi-Employer Defined Benefit Plans

The System contributes to various multiemployer defined-benefit pension plans under the terms of collective bargaining agreements that cover its union-represented employees. The risks of participating in these multiemployer plans are different from single employer plans in the following aspects:

- (a) Assets contributed to the multiemployer plan by one employer may be used to provide benefits to employees of other participating employers.
- (b) If a participating employer stops contributing to the plan, the unfunded obligations of the plan may be borne by the remaining participating employers.
- (c) If an employer chooses to stop participating in some of its multiemployer plans, the employer may be required to pay those plans an amount based on the underfunded status of the plan, referred to as a withdrawal liability.

The System's participation in these plans for the year ended December 31, 2024 is outlined in the table below. The "EIN Number" column provides the Employer Identification Number (EIN). Unless otherwise noted, the most recent Pension Protection Act (PPA) zone status available in 2024 is for a plan's year-end at December 31, 2023. The zone status is based on information that the System received from the plans and is certified by the plans' actuaries. Among other factors, plans in the red zone are generally less than 65% funded, plans in the yellow zone are less than 80% funded, and plans in the green zone are at least 80% funded. The "FIP/RP Status Pending/Implemented" column indicates plans for which a financial improvement plan (FIP) or a rehabilitation plan (RP) is pending or has been implemented. The last column lists the expiration dates of the collective bargaining agreements to which the plans are subject. The System's contributions to the multiemployer plans during the year ended December 31, 2024 are included in the following table (in thousands):

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Pension fund	EIN number	Plan number	Pension Protection Act	FIP/RP	Contributions by MSHS 2024	Surcharge imposed	Expiration date of collective-bargaining agreement
			Zone status 2024	Status pending implemented			
New York State Nurses Association Pension Plan	1-██████	1	Green	No	\$ ██████	No	██████
1199 SEIU Health Care Employees Pension Fund	██████	1	Green	No	██████	No	██████

The System was listed in the New York State Nurses Association Pension Plan and 1199 SEIU Health Care Employees Pension Fund Forms 5500 as providing more than ██████ of the total contributions during each of the plan's 2023 plan years. At the date the System's consolidated financial statements were issued, Forms 5500 were not yet available for any of the multiemployer plans for the plan year ended in 2024.

(12) Net Assets With Donor Restrictions

Net assets with donor restrictions include endowments that have been restricted by donors to be maintained in perpetuity and invested by the System, with the income expendable to support program activities as stipulated by donors.

The System follows the requirements of the New York Prudent Management of Institutional Funds Act (NYPMIFA) as it relates to its permanently restricted contributions and net assets.

The System has interpreted NYPMIFA as requiring the preservation of the fair value of the original gift as of the gift date of the donor-restricted endowment fund absent explicit donor stipulations to the contrary. As a result of this interpretation, the System classifies within net assets with donor restrictions the original value of the gifts donated to the permanent endowment and the original value of subsequent gifts to the permanent endowment. Accumulations to the permanent endowment are used in accordance with the direction of the applicable donor gift. The remaining portion of the donor-restricted endowment fund is also classified in net assets with donor restrictions until the amounts are appropriated for expenditure in accordance with a manner consistent with the standard of prudence prescribed by NYPMIFA. In accordance with NYPMIFA, the System considers the following factors in making a determination to appropriate or accumulate donor-restricted endowment funds:

(1) The duration and preservation of the fund; (2) the purposes of the System and the donor-restricted endowment fund; (3) general economic conditions; (4) the possible effect of inflation and deflation; (5) where appropriate and circumstances would otherwise warrant, alternatives to expenditure of the endowment fund, giving due consideration to the effect that such alternatives may have on the institution; (6) the expected total return from income and the appreciation of investments; (7) other resources of the System; and (8) the investment and spending policies of the System. The System's policies provide the guidelines for setting the annual spending rate of 4% and the treatment of any investment returns in excess of the annual spending rate. The endowment spend rate is calculated on the average three-year rolling market value of each endowed fund. Any excess investment returns beyond the spending rate, to the extent available, are added to the endowed fund and classified as net assets with donor restrictions, unless also appropriated for expenditure. The System expends the income distributed from certain restricted assets on an annual basis in support of health care services.

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The System has adopted investment and spending policies for endowment assets that attempt to provide a predictable stream of funding to programs supported by its endowment. Endowment assets are invested in a manner to provide that sufficient assets are available as a source of liquidity for the intended use of the funds, achieve the optimal return possible within the specified risk parameters, prudently invest assets in a high-quality diversified manner, and adhere to the established guidelines.

To satisfy its long-term rate of return objectives, the System relies on a total return strategy in which investment returns are achieved through both capital appreciation (realized and unrealized) and current yield (interest and dividends). The System targets a diversified asset allocation that places a greater emphasis on equity-based investments to achieve its long-term return objectives within prudent risk constraints.

From time to time, the fair value of assets associated with individual donor-restricted endowment funds may fall below the level of the original principal donation. These deficiencies could result from unfavorable market fluctuations that occur shortly after the investment of new donor restricted contributions and continued appropriation for certain programs deemed prudent by the Board of Trustees. There were no deficiencies of this nature that are reported in net assets without donor restrictions as of December 31, 2024.

Net assets with donor restrictions that are temporary in nature are available to support program activities as stipulated by donors. Net assets with donor restrictions that are temporary in nature are restricted as follows at December 31, 2024:

Category:

Research	\$	
Education		
Capital projects		
Other specific-purpose funds		
Total	\$	

Net assets with donor restrictions that are perpetual in nature are restricted as follows at December 31, 2024 (in thousands):

Investments to be held in perpetuity, the income from which is restricted for research and other purposes	\$	
Investments to be held in perpetuity, the income from which is unrestricted as to use		
Total	\$	

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Changes in restricted endowment assets for the year ended December 31, 2024 were as follows (in thousands):

	Return on endowment assets with restrictions	Endowment assets
Restricted endowment assets at January 1, 2024	\$ [REDACTED]	[REDACTED]
Total investment return	[REDACTED]	[REDACTED]
Contributions	[REDACTED]	[REDACTED]
Appropriation of assets for expenditure	[REDACTED]	[REDACTED]
Restricted endowment assets at December 31, 2024	\$ [REDACTED]	[REDACTED]

Donor restricted endowment assets with permanent restrictions presented in the table above exclude ISMMS's pledges receivable with permanent donor restrictions of [REDACTED] as of December 31, 2024, which is included within other assets in the accompanying consolidated statement of financial position. Approximately [REDACTED] of ISMMS's donor restricted earnings were appropriated for spending from endowment assets but not released from restrictions in 2024.

Investments to be held in perpetuity are included in pooled investments in the accompanying consolidated statement of financial position.

Net assets were released from restrictions in satisfaction of the following restrictions for the year ended December 31, 2024 (in thousands):

Instruction	\$ [REDACTED]
Capital projects	[REDACTED]
Hospital operations	[REDACTED]
Research	[REDACTED]
Total	\$ [REDACTED]

MOUNT SINAI HEALTH SYSTEM, INC.

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(13) Functional Expenses

The System provides inpatient and outpatient health care and related services, including graduate medical education, to patients from throughout the world. Expenses related to its services for the year ended December 31, 2024 were as follows:

		Healthcare services	Sponsored research	Basic and clinical science	General and administrative	Total
For the year ended December 31, 2024:						
Salaries and wages	\$	██████████	██████████	██████████	██████████	██████████
Employee benefits		██████████	██████████	██████████	██████████	██████████
Supplies and other		██████████	██████████	██████████	██████████	██████████
Interest		██████████	██████████	██████████	██████████	██████████
Depreciation and amortization		██████████	██████████	██████████	██████████	██████████
Total	\$	██████████	██████████	██████████	██████████	██████████

The financial statements report certain expense categories that are attributable to more than one healthcare service or support function. Therefore, these expenses require an allocation on a reasonable basis that is consistently applied. Costs not directly attributable to a function are allocated on a units of service basis or are otherwise allocated based on revenue.

(14) Commitments and Contingencies

(a) Litigation

The System is a defendant in various legal actions arising out of the normal course of its operations, the final outcome of which cannot presently be determined. Management is of the opinion that the ultimate liability, if any, with respect to all of these matters will not have a material adverse effect on the System's consolidated financial position.

(b) Collective Bargaining Agreements

Approximately █% of the System's employees are members of various unions who are covered under the terms of various collective bargaining agreements, of which approximately █% of the covered employees are under a contract that expires on December 31, 2025.

(c) Other

The System is self-insured, based on individual employees' elections, for medical, dental, and pharmaceutical benefits. The System also is self-insured for unemployment benefits and worker's compensation. Liabilities have been accrued at December 31, 2024 based on expected future payments (included in accrued salaries and related liabilities).

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements

Year Ended December 31, 2024

(15) Other Revenue

Other revenue includes operating revenues that are not directly related to the System's patient services. Other revenue consisted of the following (in thousands):

Federal grants and contracts	\$	██████████
Other grants and contracts		██████████
FEMA revenue (see Note 1)		██████████
Pharmacy sales		██████████
Tuition and fee revenue		██████████
Distributions from Healthfirst		██████████
Rental income		██████████
Contribution revenue		██████████
Affiliation revenue from New York City Health and Hospitals Corporation		██████████
Royalty revenue		██████████
Investment income		██████████
Net assets released from restrictions for operations		██████████
Other		██████████
	\$	<u>██████████</u>

(16) Pledges Receivable

Pledges receivable, representing unconditional promises to give to the System, recorded net of a present value discount (based on a range of interest rates of █████% to █████) and valuation allowance, are reported within other assets and consist of the following at December 31, 2024 (in thousands):

Unconditional promises to give before discount to present value and valuation allowance	\$	██████████
Less: present value discount and valuation allowance		<u>██████████</u>
Net pledges receivable	\$	<u>██████████</u>

Pledges receivable are due to be collected over the following periods at December 31, 2024 (in thousands):

Within one year	\$	██████████
One to five years		██████████
More than five years		██████████
Total pledges receivable	\$	<u>██████████</u>

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements Year Ended December 31, 2024

ISMMS is party to a pledge agreement among ISMMS, MSH, Carl C. Icahn (the Donor) and The Icahn Medical Research Foundation (the Icahn Foundation). The pledge will be paid by the Donor to the Icahn Foundation solely for use by the Icahn Institute of Medical Research at Mount Sinai LLC (the MRO), a single member limited liability company of which the Icahn Foundation is the sole member, to conduct research in conjunction with ISMMS and MSH pursuant to terms of a collaboration agreement. The purpose of the collaboration agreement and the establishment of the MRO is to enable ISMMS, MSH, the Icahn Foundation and the MRO to closely cooperate in a joint effort to conduct research in the fields of genomics, multi-scale biology and related matters.

(17) Agreements With the New York City Health and Hospitals Corporation

Pursuant to various agreements with New York City Health and Hospitals Corporation (HHC), ISMMS provides professional, medical and other services for the operations of Elmhurst Hospital Center (Elmhurst) and Queens Hospital Center (Queens). For services provided under the agreements, ISMMS is reimbursed for costs incurred, plus overhead, but not in excess of amounts specified in the agreements. Certain costs are funded by the operations of faculty practice group arrangements at Elmhurst and Queens, which are independent of other School programs, under a letter of understanding with HHC. The agreement expired on June 30, 2020, and was extended an additional six months. Since the expiration of the six-month extension, the contract continues to be extended on a month-to-month basis. HHC and ISMMS are negotiating a new five-year contract. A fiscal year budget is proposed and agreed upon before the start of each fiscal year during this period of negotiation.

The agreements with HHC do not permit the accrual of vacation and retirement benefits. ISMMS would be liable for such benefits only upon termination of the agreements; however, ISMMS's liability would be limited to amounts due based on benefits policies in effect at that time upon termination of the agreements.

ISMMS's arrangements with HHC are subject to final settlements based on future audits; however, ISMMS anticipates that the effects of future final settlements will not be material.

(18) Employee Relocation Loan Program

The System maintains an employee relocation loan program whereby ISMMS participates in a portion of the financing of the primary residence mortgage of eligible faculty members. All taxes, insurance and repair and maintenance costs of the residence are the responsibility of the faculty members. If the faculty member's employment is terminated before the mortgage is repaid, the faculty member may purchase ISMMS's share of the equity and assume the remainder of ISMMS's mortgage obligation on the property, or the residence will be sold in accordance with the employee relocation loan program agreement and ISMMS will be entitled to a portion of the proceeds. ISMMS's participation in this program aggregated approximately [REDACTED] at December 31, 2024.

(19) Sponsored Research

Research grants and contracts generally provide for the recovery of direct and indirect costs. The System recognizes revenue associated with direct costs as conditional barriers are met and the related costs are incurred. Recovery of related indirect costs is recorded using facilities and administrative rates negotiated with the federal government and other sponsors. Direct expenditures under federal research projects totaled approximately [REDACTED] and is recorded as a component of federal grants and contracts within other revenue in the accompanying consolidated statement of operations for the year ended December 31, 2024.

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements

Year Ended December 31, 2024

The System's principal source of federal research funds is the U.S. Department of Health and Human Services. Federal and other research grants and contracts awarded but for which expenditures have not yet been incurred or cash has not been received approximated [REDACTED] as of December 31, 2024.

(20) BIMC Phillips School of Nursing

Summary of financial information for the Mount Sinai Phillips School of Nursing for the year ended December 31, 2024 is included in the table below (in thousands):

Total revenue	\$ [REDACTED]
Salaries and wages	[REDACTED]
Employee benefits	[REDACTED]
Supplies and other	[REDACTED]
Depreciation and amortization	[REDACTED]
Total expenses	\$ [REDACTED]

(21) Department of Education Title IV

U.S. Department of Education regulations require additional disclosures deemed necessary to calculate certain ratios for determining sufficient financial responsibility under Title IV regulations. The information through the year ended December 31, 2024 is as follows:

	BIMC	ISMMS
Assets		
Property, plant and equipment, net at January 1, 2024	\$ [REDACTED]	[REDACTED]
Debt-financed property, plant and equipment, net acquired during 2024	[REDACTED]	[REDACTED]
Property, plant and equipment, net acquired without debt during 2024	[REDACTED]	[REDACTED]
Net change in construction in progress	[REDACTED]	[REDACTED]
Property, plant and equipment, net at December 31, 2024	[REDACTED]	[REDACTED]
Secured and unsecured related party receivable	[REDACTED]	[REDACTED]
Unsecured related party receivable	[REDACTED]	[REDACTED]
Right-of-use assets at January 1, 2024	[REDACTED]	[REDACTED]
Right-of-use assets at December 31, 2024	[REDACTED]	[REDACTED]

MOUNT SINAI HEALTH SYSTEM, INC.

Notes to the Consolidated Financial Statements

Year Ended December 31, 2024

	BIMC	ISMMS
Liabilities		
Long-term debt, pre-implementation	\$	
Long-term debt, post-implementation		
Lease liabilities at January 1, 2024		
Lease liabilities at December 31, 2024		
Net Assets		
Net assets with donor restrictions: purpose and time restrictions		
Net assets with donor restrictions: restricted in perpetuity		
Revenues without donor restrictions		
Total operating revenue		
Net change in net unrealized gains and losses on investments		
Net assets released from restriction for capital		
Transfer from affiliate		
Other items		

(22) Subsequent Events

For purposes of the accompanying consolidated financial statements, the System has considered for accounting and disclosure events that occurred through May 30, 2025, the date the consolidated financial statements were issued.

There were no subsequent events or transactions that either resulted in recognition in the accompanying consolidated financial statements or required additional disclosure except for the closure of the 16th Street campus disclosed in Note 1.

Supplementary Information

MOUNT SINAI HEALTH SYSTEM, INC.

Consolidating Statement of Financial Position

(In thousands)

December 31, 2024

	The Mount Sinai Hospital	Beth Israel Medical Center and Affiliates	The New York Eye and Ear Infirmary and Affiliates	South Nassau Communities Hospital and Subsidiaries	The St. Luke's- Roosevelt Hospital Center and Affiliates	Icahn School of Medicine at Mount Sinai	The Mount Sinai Medical Center, Inc.	MSMC Residential Realty LLC	MSMC Realty Corporation	8 East 102nd Street Manager LLC	Other entities	Elimination & consolidating entries	Consolidated balance
Assets													
Current assets:													
Cash and cash equivalents	\$												
Short-term investments													
Current portion of assets limited or restricted as to use													
Patient accounts receivable, net													
Current portion of professional liabilities insurance recoveries receivable													
Current portion of due from affiliates													
Other current assets													
Total current assets													
Assets limited or restricted as to use, net of current portion													
Investments													
Property, plant, and equipment, net	1												
Right-of-use assets													
Professional liabilities insurance recoveries receivable, net of current portion	5												
Due from affiliates, net of current portion													
Other assets													
Total assets	\$	\$		\$			\$	\$		\$	\$	\$	
Liabilities and Net Assets													
Current liabilities:													
Accounts payable and accrued expenses	\$	6	\$				\$	\$	\$		\$	\$	\$
Accrued salaries and related liabilities													
Current portion of long-term debt													
Current portion of operating lease liabilities													
Current portion of professional insurance liabilities													
Current portion of due to affiliates													
Other current liabilities													
Total current liabilities													
Long-term debt, net of current portion										1			
Operating lease liabilities, net of current portion													
Professional insurance liabilities, net of current portion													
Accrued pension and postretirement liabilities													
Due to affiliates, net of current portion													
Pooled Investments held for affiliates													
Other liabilities													
Total liabilities													
Net assets:													
Without donor restrictions													
With donor restrictions													
Total net assets													
Total liabilities and net assets	\$	\$		\$			\$			\$			1

Year Ended December 31, 2024

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MOUNT SINAI HEALTH SYSTEM, INC.

Consolidating Statement of Financial Position – South Nassau Communities Hospital and Subsidiaries (In thousands)

Year Ended December 31, 2024

	South Nassau Communities Hospital				Other entities	Eliminations	Total
Assets							
Current assets:							
Cash and cash equivalents	\$				\$		
Current portion of assets limited or restricted as to use							
Patient accounts receivable, net							
Current portion of due from affiliates							
Other current assets							
Total current assets							
Investments							
Property, plant, and equipment, net							
Right-of-use assets							
Professional liabilities insurance recoveries receivable, net of current portion							
Due from affiliates, net of current portion							
Other assets							
Total assets	\$		\$		\$		\$
Liabilities and Net Assets							
Current liabilities:							
Accounts payable and accrued expenses	\$						
Accrued salaries and related liabilities							
Current portion of long-term debt							
Current portion of operating lease liabilities							
Current portion of due to affiliates							
Other current liabilities							
Total current liabilities							
Long-term debt, net of current portion							
Operating lease liabilities, net of current portion							
Professional insurance liabilities, net of current portion							
Accrued pension and postretirement liabilities							
Due to affiliates, net of current portion							
Other liabilities							
Total liabilities							
Net assets:							
Without donor restrictions							
With donor restrictions							
Total net assets							
Total liabilities and net assets	\$		\$		\$		\$

MOUNT SINAI HEALTH SYSTEM, INC.

Consolidating Statement of Operations – South Nassau Communities Hospital and Subsidiaries

(In thousands)

Year Ended December 31, 2024

	South Nassau Communities Hospital	Other entities	Eliminations	Total
Operating revenue:				
Patient service revenue	\$ █	█	█	█
Other revenue	█	█	█	█
Total operating revenue	█	█	█	█
Operating expenses:				
Salaries and wages	█	█	█	█
Employee benefits	█	█	█	█
Supplies and other	█	█	█	█
Interest	█	█	█	█
Depreciation and amortization	█	█	█	█
Total operating expenses	█	█	█	█
Income from operations	█	█	█	█
Other items:				
Net change in unrealized gains and losses on investments	█	█	█	█
Other, net	█	█	█	█
Excess of revenue over expenses	█	█	█	█
Other changes:				
Pension and postretirement changes other than net periodic benefit cost	█	█	█	█
Net assets released from restrictions for capital	█	█	█	█
Net assets transfer to affiliates	█	█	█	█
Other, net	█	█	█	█
Increase (decrease) in net assets without donor restrictions	\$ █	\$ █	\$ █	\$ █

MOUNT SINAI HEALTH SYSTEM, INC.

Consolidating Statement of Financial Position – The St. Luke's-Roosevelt Hospital Center and Affiliates (In thousands)

Year Ended December 31, 2024

	The St. Luke's- Roosevelt Hospital Center	425 West 59th Street Condominium LLC	Augustus & James Corporation	Eliminations	Total
Assets					
Current assets:					
Cash and cash equivalents	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ 4,000
Short-term investments	1,000	1,000	1,000	1,000	4,000
Current portion of assets limited or restricted as to use	1,000	1,000	1,000	1,000	4,000
Patient accounts receivable, net	1,000	1,000	1,000	1,000	4,000
Current portion of professional liabilities insurance recoveries receivable	1,000	1,000	1,000	1,000	4,000
Current portion of due from affiliates	1,000	1,000	1,000	1,000	4,000
Other current assets	1,000	1,000	1,000	1,000	4,000
Total current assets	6,000	6,000	6,000	6,000	24,000
Assets limited or restricted as to use, net of current portion	1,000	1,000	1,000	1,000	4,000
Investments	1,000	1,000	1,000	1,000	4,000
Beneficial interest in self-insurance trust	1,000	1,000	1,000	1,000	4,000
Property, plant, and equipment, net	1,000	1,000	1,000	1,000	4,000
Right-of-use assets	1,000	1,000	1,000	1,000	4,000
Professional liabilities insurance recoveries receivable, net of current portion	1,000	1,000	1,000	1,000	4,000
Due from affiliates, net of current portion	1,000	1,000	1,000	1,000	4,000
Other assets	1,000	1,000	1,000	1,000	4,000
Total assets	\$ 14,000	\$ 14,000	\$ 14,000	\$ 14,000	\$ 56,000
Liabilities and Net Assets					
Current liabilities:					
Accounts payable and accrued expenses	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ 4,000
Accrued salaries and related liabilities	1,000	1,000	1,000	1,000	4,000
Current portion of long-term debt	1,000	1,000	1,000	1,000	4,000
Current portion of operating lease liabilities	1,000	1,000	1,000	1,000	4,000
Current portion of professional insurance liabilities	1,000	1,000	1,000	1,000	4,000
Current portion of due to affiliates	1,000	1,000	1,000	1,000	4,000
Other current liabilities	1,000	1,000	1,000	1,000	4,000
Total current liabilities	6,000	6,000	6,000	6,000	24,000
Long-term debt, net of current portion	1,000	1,000	1,000	1,000	4,000
Operating lease liabilities, net of current portion	1,000	1,000	1,000	1,000	4,000
Professional insurance liabilities, net of current portion	1,000	1,000	1,000	1,000	4,000
Self-insurance liabilities, net of current portion	1,000	1,000	1,000	1,000	4,000
Accrued pension and postretirement liabilities	1,000	1,000	1,000	1,000	4,000
Due to affiliates, net of current portion	1,000	1,000	1,000	1,000	4,000
Other liabilities	1,000	1,000	1,000	1,000	4,000
Total liabilities	14,000	14,000	14,000	14,000	56,000
Net assets:					
Without donor restrictions	1,000	1,000	1,000	1,000	4,000
With donor restrictions	1,000	1,000	1,000	1,000	4,000
Total net assets	2,000	2,000	2,000	2,000	8,000
Total liabilities and net assets	\$ 16,000	\$ 16,000	\$ 16,000	\$ 16,000	\$ 64,000

MOUNT SINAI HEALTH SYSTEM, INC.

Consolidating Statement of Operations – The St. Luke's-Roosevelt Hospital Center and Affiliates (In thousands)

Year Ended December 31, 2024

	The St. Luke's- Roosevelt Hospital Center	425 West 59th Street Condominium LLC	Augustus & James Corporation	Eliminations	Total
Operating revenue:					
Patient service revenue	\$ ██████████	\$ ██████████	\$ ██████████	\$ ██████████	\$ ██████████
Other revenue	██████████	██████████	██████████	██████████	██████████
Total operating revenue	██████████	██████████	██████████	██████████	██████████
Operating expenses:					
Salaries and wages	██████████	██████████	██████████	██████████	██████████
Employee benefits	██████████	██████████	██████████	██████████	██████████
Supplies and other	██████████	██████████	██████████	██████████	██████████
Interest	██████████	██████████	██████████	██████████	██████████
Depreciation and amortization	██████████	██████████	██████████	██████████	██████████
Total operating expenses	██████████	██████████	██████████	██████████	██████████
(Loss) income from operations	██████████	██████████	██████████	██████████	██████████
Other items:					
Net change in unrealized gains and losses on investments	██████████	██████████	██████████	██████████	██████████
Other, net	██████████	██████████	██████████	██████████	██████████
(Deficiency) excess of revenue over expenses	██████████	██████████	██████████	██████████	██████████
Other changes:					
Pension and postretirement changes other than net periodic benefit cost	██████████	██████████	██████████	██████████	██████████
Net assets released from restrictions for capital	██████████	██████████	██████████	██████████	██████████
Net assets transfer from affiliates	██████████	██████████	██████████	██████████	██████████
(Decrease) increase in net assets without donor restrictions	\$ ██████████	\$ ██████████	\$ ██████████	\$ ██████████	\$ ██████████

MOUNT SINAI HEALTH SYSTEM, INC.

Consolidating Statement of Cash Flows – The St. Luke's-Roosevelt Hospital Center and Affiliates

(In thousands)

Year Ended December 31, 2024

	The St. Luke's- Roosevelt Hospital Center	425 West 59th Street Condominium LLC	Augustus & James Corporation	Total
Cash flows from operating activities:				
Change in net assets	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Adjustments to reconcile change in net assets to net cash provided by operating activities:				
Pension and postretirement changes other than net periodic benefit cost	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Depreciation and amortization expense	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Amortization of deferred financing costs	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Net change in unrealized gains and losses on investments	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Net realized gains and losses on sales of securities	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Transfers from affiliates	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Donor-restricted contributions	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Changes in operating assets and liabilities:				
Patient accounts receivable, net	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Accounts payable, accrued expenses, accrued salaries and related liabilities	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Other assets and liabilities, net	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Accrued pension and post-retirement liability	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Net cash (used in) provided by operating activities	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Cash flows from investing activities:				
Acquisition of property, plant, and equipment	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Decrease in investments and assets limited or restricted as to use, net	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Funding of self-insurance trust	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Net cash used in investing activities	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Cash flows from financing activities:				
Repayments of long-term debt	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Change in due to (from) affiliates, net	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Transfers from affiliates	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Donor-restricted contributions and restricted realized and unrealized investment returns	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Net cash provided by (used in) financing activities	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Net increase (decrease) in cash and cash equivalents	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Cash, cash equivalents, and restricted cash at beginning of year	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Cash, cash equivalents, and restricted cash at end of year	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED] 4
Cash and cash equivalents	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Restricted cash included in assets limited or restricted as to use	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Total cash, cash equivalents, and restricted cash	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

LEASE

dated as of

between

GAY MEN'S HEALTH CRISIS, INC., Landlord

and

THE ST. LUKE'S ROOSEVELT HOSPITAL CENTER, Tenant,

for the premises located on the entire

7th Floor, at 307 West 38th Street,

New York, New York

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- C. EXHIBIT “C” Wired Score Fact Sheet_307 West 38th Street
- D. EXHIBIT “D” Building Approved Contractors
- E. EXHIBIT “E” Ground Floor Lobby Entrance
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- I. EXHIBIT “I” Intentionally omitted
- J. EXHIBIT “J1” By Laws Leasehold Condo Declaration 307 West 38th Street
- J. EXHIBIT “J2” Fully Executed PSA- November 6, 2020- redacted
- J. EXHIBIT “J3” Fully Executed AR Ground Lease - November 6, 2020- redacted
- J. EXHIBIT “J4” Fully Executed Omnibus Agreement- November 6, 2020
- K. EXIBIT “K” Tenant’s Concept Plan

LEASE

This LEASE (“**Lease**”), is made as of the ____ day of April, 2025 (the “**Effective Date**”), by and between GAY MEN’S HEALTH CRISIS, INC., a New York not-for-profit corporation (hereinafter referred to herein as either the “**Landlord**”), and THE ST. LUKES-ROOSEVELT HOSPITAL CENTER, a New York not-for-profit corporation (hereinafter referred to herein as either the “**Tenant**”; all parties hereto are collectively referred to herein as the “**Parties**”).

WITNESSETH:

WHEREAS, Glenhill Associates, LLC (together with its successors and assigns, “**Fee Owner**” or “**Ground Landlord**”) is the owner in fee simple of the land (the “**Land**”) and building located at 307 West 38th Street, New York, New York (the “**Building**”);

WHEREAS, Fee Owner and Glenhill Associates Leasehold, LLC (the “**Declarant**” or “**Ground Tenant**”) entered into that certain Amended and Restated Agreement of Lease dated as of November 6, 2020 (the “**Ground Lease**”), pursuant to which the Land and the Building is leased to Ground Tenant (Ground Tenant’s leasehold interest in the Land and the Building, collectively the “**Leasehold Interest**”) for a term defined therein;

WHEREAS, Declarant submitted the Leasehold Interest in the Building and the Land to Article 9B of the Real Property Law of the State of New York (the “**Condominium Act**”), and pursuant thereto and to that certain Declaration, dated as of November 6, 2020, recorded in the office of the Office of the Register of the City of New York, New York County on May 13, 2021, at CRFN 2021000177016 (the “**Declaration**”), established a condominium known as “307 West 38th Condominium” (the “**Condominium**”), which resulted in the creation of a condominium board (the “**Condominium Board**”) to oversee the leasehold condominium units in the Building;

WHEREAS, Landlord acquired from Declarant, and is now the owner of, leasehold condominium units (collectively, the “**Unit**”) comprising portions of the ground floor and 2nd floor and all of the 3rd, 4th, 5th, 7th and 8th floors of the Building, pursuant to the GMHC Transaction Documents (as hereinafter defined).

WHEREAS, the Landlord desires to lease to the Tenant, and the Tenant desires to lease from Landlord, the 7th floor of the Unit (defined as Unit 23 in the Declaration), as shown on the floor plan attached hereto as Exhibit “**B**”, and having an area of approximately 16,727 rentable square feet (collectively referred to herein as the “**Premises**”, subject to the terms and conditions contained herein;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, Landlord and Tenant agree as follows:

1. Definitions and Basic Terms.

Set forth below are certain definitions and basic terms of this Lease. Each capitalized term used but not defined herein shall have the meaning ascribed to such term in the Declaration.

Term Commencement Date The later to occur of (i) the execution and delivery of this Lease by Landlord and Tenant, (ii) receipt of the Condominium Board Consent (as defined herein), (iii) intentionally omitted, (iv) delivery of the Premises to Tenant in the Delivery Condition, and (v) delivery of a Recognition Agreement (as hereinafter defined) to Tenant from the Condominium Board and the Fee Owner (such later date, the "Term Commencement Date"). "Delivery Condition" shall mean that the Premises have been delivered to Tenant (i) in a vacant, broom free condition, and free of all tenancies and occupancies with Landlord's Work substantially completed, (ii) with all Building systems serving the Premises in good working order and condition up and to the point of connection to the Premises, and (iii) with the Building systems serving the Premises in compliance with all applicable Laws which affect the Premises or Tenant's use and occupancy thereof.

**Rent Abatement
Period**

For a period of six (6) months commencing on the date upon which Tenant shall obtain the Required Approvals (as hereinafter defined), Tenant shall pay one-half (1/2) of the monthly Base Rent, and the Tenant shall thereafter pay full monthly Base Rent for the balance of the Lease Term (as is defined herein). However, the Tenant will nevertheless be obligated to pay as required by the Lease, any and all other Additional Rent without any abatement (except as otherwise expressly set forth herein), throughout the entirety of the Lease Term and any Extension Lease Term (as defined herein). For the avoidance of doubt, Tenant shall be required to pay monthly Base Rent for the prior from the Term Commencement Date through the day immediately preceding the date upon which Tenant shall obtain the Required Approvals.

Lease Term/Extension
Lease Term

The Tenant shall take occupancy and possession of the Premises, and the Lease Term shall commence, on the Term Commencement Date, which shall continue monthly through and until its expiration on the last day of the month in which occurs the fifteenth (15th) anniversary of the Term Commencement Date (the "Lease Term"). Subject to the Tenant not being in default of any provision of this Lease beyond the expiration of any applicable notice and cure period, including the payment of Base Rent and any Additional Rent (as defined herein), upon 12 month's prior written notice to the Landlord, the Tenant shall have the option to extend this Lease, and the terms thereof, for an additional five (5) years (the "Extension Lease Term").

Base Rent

Base Rent to be paid by Tenant to Landlord during the Lease Term is set forth in the schedule annexed hereto as Exhibit "H"–

Permitted Use

Medical office, executive, administrative, general office, mental health care services, classrooms and educational use and additional activity space or other uses offered by Tenant and its affiliates, and uses as may be reasonably ancillary to any or all of the foregoing. Landlord represents, warrants and covenants to its knowledge, that there are no restrictions, which would prohibit Tenant's use of the Premises for the Permitted Use. In no event may the Unit be used by Tenant for any purpose not permitted under the Declaration or by applicable law.

Tenant's Security
Deposit

None

Tenant's Real Estate Tax Payment	\$00.00, subject to Tenant providing the Landlord with all required tax documentation, including an IRS Code 501(c) certificate, which Landlord represents has been delivered by Tenant.
Tenant's Work	The work described in Exhibit 'K'
Electricity	Tenant to pay Electricity to the Landlord within 30 days of being invoiced, pursuant to a submeter for the Premises to be installed by and/or on behalf of the Ground Landlord at no cost to Tenant.
HVAC	Ground Landlord to maintain the heating, ventilation and air conditioning ("HVAC") services for the Premises, pursuant to the Ground Lease.
Common Area Maintenance	Tenant shall solely be responsible for the care, associated cost, maintenance and repairs of the entire space rented, subject to the terms of this Lease.
Condominium Board's Consent	This Lease is subject to the consent and authorization of from, and/or on behalf of, the Condominium Board. Landlord shall, at its sole costs and expense, pay for any and all charges, costs and fees incurred from/on behalf of the Fee Owner and/or Condominium Board, to obtain the Condominium Board's Consent for this Lease.
Additional Rent	Electricity and any amounts due to Landlord under this Lease other than Base Rent.
Escalations of Base Rent:	The Tenant shall pay to the Landlord, any escalations of Base Rent ("Escalations"), as is set forth in the schedule annexed hereto as Exhibit "H". For the avoidance of doubt, the parties acknowledge and that (i) the Base Rent schedule include a 3% per annum escalation which is in lieu of Tenant paying any Additional Rent on account of operating expenses, and (ii) Tenant shall have no obligation to pay any Additional Rent with respect to

operating expenses and/or real estate taxes. For the avoidance of doubt, in no event shall Tenant be responsible for the payment of Landlord's Recurring Monetary Obligations (as defined in the Declaration).

ACH Payments

All payments due and owing by Tenant to the Landlord pursuant to this Lease, including but not limited to, for payments of Base Rent and Additional Rent, shall be made via automatic direct electronic wire transfer payments, from the bank account(s) of the Tenant, to the bank account(s) of the Landlord designated in writing by Landlord. Tenant to provide the Landlord with, and to execute, any and all records, forms, documentation, authorizations and information reasonably required, and to otherwise reasonably cooperate with the Landlord, to coordinate and effectuate all such ACH Payments.

Broker

Noah & Co. ("Landlord's Broker"); Platinum Properties ("Tenant's Broker")

GMHC Transaction

Documents

Inclusive of the Declaration and Condominium Documents, the Purchase and Sale Agreement dated as of November 6, 2020, and the Omnibus Agreement dated as of November 6, 2020, which are annexed hereto as Exhibit "J1-J4" (as the same may be further amended from time to time, subject to the terms of this Lease).

Landlord's Work

Landlord shall, at its sole cost and expense, prior to and as a condition to the Term Commencement Date, (i) remove all furniture, fixtures and equipment currently located in the Premises), other than any furniture, fixtures and equipment which Tenant elects to retain, and (ii) relocate any existing IT equipment that is specific to Landlord's information and technology (but shall otherwise leave in place all wiring which may be used by Tenant for its use).

Tenant Termination Option

Subject to the Tenant not being in default of any provision of this Lease beyond the expiration of any applicable notice and cure period, including the payment of all owed Base Rent and any Additional Rent, and subject to the payment by the Tenant to the Landlord of the following penalties, upon providing advance written notice to the Landlord, at its sole option the Tenant shall have the right to terminate this Lease

(the “Tenant Termination Option”) by delivery of notice to Landlord during the following periods during the Lease Term: (1) between the period of 540 days and 270 days prior to the 60th month of the Lease Term (“Window Period #1”), with the Lease terminating upon the expiration of the 60th month of the Lease Term, subject to the Tenant during the balance of Window Period #1 not being in default under this Lease beyond the expiration of any applicable notice and cure period, including the payment of Base Rent and any Additional Rent owed, but the Tenant making payment to the Landlord of an additional sum equivalent to six (6) months of the annual Base Rent owed by the Tenant for the 5th year of the Lease Term which payment shall be made to Landlord on or prior to the early termination date (i.e., the last day of the 60th month of the Lease Term); and (2) between the period of 540 days and 270 days prior to the 120th month of the Lease Term (“Window Period #2”), with the Lease terminating upon the expiration of the 120th month of the Lease Term, subject to the Tenant during the balance of Window Period #2 not being in default under this Lease beyond the expiration of any applicable notice and cure period, including the payment of Base Rent and any Additional Rent owed, but the Tenant making payment to the Landlord of an additional sum equivalent to three (3) months of the annual Base Rent owed by the Tenant for the 10th year of the Lease Term which payment shall be made to Landlord on or prior to the early termination date (i.e., the last day of the 120th month of the Lease Term. If Tenant properly exercises Tenant's Termination Option, then as of the applicable early termination date this Lease shall terminate and end as fully and completely as if such early termination date were the Expiration Date. Within five (5) business days of request by Tenant, Landlord shall confirm, in writing, the specific dates of Window Period #1 and Window Period #2.

Demise; Lease Term; Extension Lease Term; Tenant Termination Option;
2. Permitted Use; Amended CO.

2.1 Landlord hereby leases to Tenant, and the Tenant hereby leases from Landlord, the Premises, upon and subject to the terms and conditions hereinafter set forth.

2.2 The Lease Term shall commence on the Term Commencement Date, and on the Term Commencement Date, Landlord shall deliver to Tenant vacant possession of the Premises in the Delivery Condition. This Lease shall expire on the last day of the Lease Term, or if exercised by the Tenant, on the last day of the either Extension Lease Term or the applicable early termination date pursuant to the Tenant Termination Option, in accordance with section #1 of the Lease, or on such earlier date upon which this Lease shall expire or be terminated pursuant to any of the provisions of this Lease or pursuant to law. If the Term Commencement Date has not occurred by the date which is one hundred eighty (180) days following the Effective Date (such one hundred eightieth (180th) day, as the same may be extended due to any delay caused by Tenant or events of force majeure, the "Outside Date"), then Tenant shall have the right, as its sole and exclusive remedy, to terminate this Lease upon notice delivered to Landlord at any time after the Outside Date and prior to the occurrence of the Term Commencement Date (which notice shall set forth the specific requirements to the occurrence of the Commencement Date which Tenant alleges have not yet occurred); provided, however, if the Term Commencement Date occurs within ten (10) Business Days following Landlord's receipt of such notice of termination, then this Lease shall continue in full force and effect as if such notice of termination had not been given. In addition, in the event that Tenant shall not obtain approval from (1) the New York State Department of Health (the "DOH") under Article 28, 31 and 32 of the Public Health Law of the State of New York in connection with the Permitted Use at the Premises (the "DOH Approval"), (2) the New York State Office of Alcoholism and Substance Abuse Services ("OASAS") to operate a program serving clients in accordance with the Mental Hygiene Law (the "OASAS Approval"), and (3) the Office of Mental Health ("OMH") to operate a program providing mental health services authorized by OMH to Tenant's clients (the "OMH Approval"), together with budget and funding approvals from OASAS (collectively, the "Required Approvals") by the date which is one hundred eighty (180) days following the Term Commencement Date (the "Outside Required Approvals Date"), then Tenant shall have the right, as its sole and exclusive remedy, to terminate this Lease upon notice delivered to Landlord at any time after the Outside Required Approvals Date.

2.3 If Landlord or Tenant so requests in its reasonable discretion following the delivery of possession of the Premises, the Parties hereto shall promptly execute and deliver an instrument confirming the Term Commencement Date and such other matters as reasonably requested by Landlord, but the failure of either party to execute and deliver such instrument shall not affect the occurrence of the Term Commencement Date or such other matters.

2.4 The Premises may be used by Tenant solely for the Permitted Use. In no event shall the Premises be used for the provision of residential purposes, lodging or for overnight sleeping, or any other use that is not the Permitted Use.

2.5 From and after the Effective Date and prior to the Term Commencement Date, Landlord has afforded, and shall continue to afford, Tenant and its architects, contractors and other consultants' access, upon reasonable prior notice and during business hours, to the Premises for the purpose of taking measurements, inspecting the Premises and the equipment therein and other similar activities.

2.6

A. Provided that on the date Tenant provides Landlord with at least twelve (12) months prior notice of its election to renew the term of this Lease for the Extension Lease Term, the Extension Lease Term shall commence on the date next following the initial Expiration Date (the “**Renewal Commencement Date**”) and end, unless sooner terminated pursuant to the terms, covenants and conditions of this Lease or pursuant to law, on the last day of the calendar month in which the fifth (5th) anniversary of the Renewal Commencement Date occurs (referred to as the “**Extended Expiration Date**”). If Tenant exercises such option in accordance with the provisions and limitations of this Lease, this Lease shall be renewed for the Extension Lease Term upon all the same terms and conditions set forth in this Lease except that the annual Base Rent equal to ninety-five percent (95%) of the fair market annual rental value of the Premises as of the Renewal Commencement Date, as agreed by the parties or determined in accordance with the provisions of Section 2.6(B) herein, but otherwise upon the same then executory terms, covenants and conditions as the original Term.

B. If Tenant exercise its right to renew this Lease for the Extension Lease Term, then Landlord shall give Tenant notice of Landlord’s determination (“**Landlord’s Determination Notice**”) of the fair market annual rental value of the Premises (“**Landlord’s Determination**”) no later than ninety (90) days after the giving of the renewal notice by Tenant. Within thirty (30) days after receipt of Landlord’s Determination Notice, Tenant shall provide notice to Landlord whether Tenant accepts or disputes Landlord’s Determination, and if Tenant disputes Landlord’s Determination, Tenant’s notice shall set forth Tenant’s determination (“**Tenant’s Determination**”) of the fair market rental value for the renewal term. If Tenant fails to give such notice within such thirty (30) day period, then Tenant shall be deemed to have accepted Landlord’s Determination. In the event Landlord and Tenant are unable to agree as to the fair market annual rental value of the Premises for the Extension Lease Term within twenty (20) days (the “**Negotiation Period**”) after Tenant’s notice, then, such fair market annual rental value shall be determined by arbitration as follows:

i. Landlord and Tenant shall each appoint an arbitrator within thirty (30) days after the Negotiation Period. If either Landlord or Tenant shall have failed to appoint an arbitrator within such period of time, then such arbitrator shall be appointed by the American Arbitration Association, or its successor pursuant to its rules for commercial matters, or if at such time such association is not in existence and has no successor, then by the presiding Justice of the Appellate Division, First Department, of the Supreme Court of the State of New York, or any successor court, upon request of either Landlord or Tenant, as the case may be.

ii. If the two arbitrators appointed cannot agree on whether the fair market rental value will be Landlord’s Determination or Tenant’s Determination within ten (10) days thereafter, they shall select a third arbitrator and if they fail to do so within ten (10) days thereafter, such third arbitrator shall be appointed as above provided for the appointment of an arbitrator in the event either party fails to do so. Such third arbitrator shall, within thirty (30) days after its appointment, select either the Landlord’s Determination or the Tenant’s Determination as the fair market rental value.

iii. All of such arbitrators shall be independent licensed real estate appraisers or brokers having at least fifteen (15) years of experience in such field in the Borough of Manhattan, City of New York.

iv. Such arbitration decision shall be binding upon Landlord and Tenant whether or not a judgment shall be entered in any court. Duplicate original counterparts of such decision shall be sent by the arbitrators to both Landlord and Tenant.

v. The cost and expense of such arbitration shall be borne equally by Landlord and Tenant, except that each party shall pay its own counsel fees and expenses.

C. If the determination of the Base Rent for the Extension Lease Term has not been made by the commencement of the Extension Lease Term, Tenant, until such determination, shall continue to pay the minimum Base Rent required and after such determination Tenant shall pay to Landlord, upon demand, any additional sums due to Landlord as a result of such determination.

2.7 Amended CO. Landlord and Tenant acknowledge that, as of the date of this Lease, the certificate of occupancy for the Building does not include office use in the description of the use of the Premises. The Condominium Board Consent shall provide that (i) Ground Landlord shall, at its sole cost and expense, obtain from the New York City Department of Buildings (the "Building Department") an amended certificate of occupancy or temporary certificate of occupancy for the Building (as applicable) to reflect that the Premises may be used for office use (such temporary or permanent certificate of occupancy is referred to herein as the "**Amended CO**"), (ii) Ground Landlord shall, at its sole costs and expense, perform any work to the Premises required in order to obtain the Amended CO, (iii) Ground Landlord's expeditor shall make all filings for same in collaboration with Tenant's expeditor, Outsource Consultants, (iv) Ground Landlord agrees that: (a) if the Amended CO is a temporary certificate of occupancy, Ground Landlord shall continue to renew (or cause to be renewed) the temporary certificate of occupancy every ninety (90) days during the Term until a final certificate of occupancy is obtained (unless Ground Landlord is prevented from doing so as a result of the acts or omissions of Tenant), at Ground Landlord's sole cost and expense; and (b) Ground Landlord not amend the certificate of occupancy for the Building at any time during the Term in a manner that would result in Tenant not being able to use the Premises for the office purposes. Tenant shall cooperate with Ground Landlord in Ground Landlord's efforts to obtain the Amended CO, including, without limitation, by timely providing any required documentation, attending and participating in any committee meetings or hearings, and cooperating with and allowing access to the Premises for any special inspections and final inspections required by the Building Department.

3. Rents.

3.1 From and after the Term Commencement Date, Tenant shall pay via ACH Payments to Landlord, rent ("**Base Rent**", per the schedule set forth in Exhibit "**H**") at the lesser of (a) the rate set forth in Section 1 hereinabove, and (b) the maximum rental per annum which Landlord may be permitted by law (such as Section 420A of the Real Property Tax Law) to

charge without jeopardizing Landlord's real property tax exemption, causing the imposition of any tax or penalty or otherwise resulting in a reduction in the net benefit to Landlord from entering into this Lease, in each case, payable in equal monthly installments in advance on the first day of each month during the term of this Lease, pro-rated for any partial month. Notwithstanding the foregoing, Tenant shall be entitled to a Rent Abatement in accordance with Section 1 of the Lease, under the caption "Rent Abatement". If the Term Commencement Date is the first day of a calendar month, then Lease Month 1 will be the calendar month in which the Term Commencement Date begins, and each other Lease Month will begin on the first day of a calendar month. If the Term Commencement Date is not the first day of a calendar month, a Lease Month shall be determined as follows: A "**Monthly Anniversary**" of the Term Commencement Date is a day in a succeeding calendar month having the same numeral as the Term Commencement Date (for example, if the Term Commencement Date is March 15, 2025, then the first Monthly Anniversary of the Term Commencement Date is April 15, 2025). Lease Month 1 begins on the Term Commencement Date and ends on the day preceding the first Monthly Anniversary (April 14, 2025, in the above example). Lease Month 2 begins on the first Monthly Anniversary of the Term Commencement Date and ends on the day preceding the second Monthly Anniversary of the Term Commencement Date (May 14, 2025, in the above example). Each Lease Month thereafter shall begin on a Monthly Anniversary of the Term Commencement Date and shall end on the day preceding the next Monthly Anniversary of the Term Commencement Date. If at any time it shall be finally determined that the annual Base Rent collected by Landlord has exceeded the maximum annual rental permitted by law, such annual Base Rent shall be deemed to be reduced to such maximum and Landlord shall promptly refund to Tenant any rent collected in excess thereof.

3.2 Tenant shall pay Landlord, or as may otherwise be directed by the Lease and/or by directed in writing by the Landlord to the Tenant, Additional Rent via ACH Payments, wire transfer or check (subject to collection), equal to all sums of money which shall become due and payable by Tenant to Landlord hereunder, within thirty (30) days of Landlord's demand therefor unless another due date is expressly specified herein (collectively, the "**Additional Rent**").

3.3 As used herein the term "rent" or "rents" shall refer to Base Rent and Additional Rent. All rents shall be payable in via ACH Payments, wire transfer or check (subject to collection), unless otherwise approved in writing by the Landlord.

3.4 Tenant shall pay all Base Rent and Additional Rent, along with all Escalations thereto, as and when the same shall become due and payable hereunder, without notice, demand, setoff, offset or deduction of any kind whatsoever, except as expressly otherwise provided in this Lease. If Tenant fails to pay Base Rent, any Additional Rent and Escalations when first due hereunder (which failure continues beyond any grace period as may be applicable thereto) and, with respect to Additional Rent only, if such failure to pay shall continue for more than five (5) days after notice from Landlord to Tenant that such payment was first due, then, the Tenant shall be required to pay Landlord, upon demand, a late charge of \$.04 for each \$1.00 of the amount of Base Rent, Additional Rent and Escalations which remains unpaid during each month (or portion thereof) that such rent remains unpaid, except Landlord may not charge Tenant such late charge the first two times Base Rent, Additional Rent and/or Escalations, as applicable, is late

by five (5) days in any calendar year. Landlord's failure to deliver any statements or bills required to be delivered to Tenant hereunder, or Landlord's failure to make a demand under this Lease, shall not be a waiver of, or cause Landlord to forfeit or surrender, any rights to collect any rents or other payments which may have become due pursuant to this Lease in any such case, except as otherwise set forth herein. Tenant's liability arising hereunder for rents accruing during the term of this Lease shall survive the expiration or sooner termination of this Lease for a period of two (2) years.

4. Condition of the Premises; Performance Landlord's and Tenant's Work.

4.1 Tenant represents that it has examined the Premises. Except as expressly set forth herein, Landlord has not made, and does not make, any representations or warranties as to the physical condition of the Premises, the uses to which the Premises may be put, or any other matter or thing affecting or relating to the Premises. Except as otherwise specifically set forth herein, Tenant agrees to accept the Premises "as is", "where is", "with all faults", as of the Term Commencement Date. Landlord has no obligation whatsoever to alter, improve, decorate or otherwise prepare the Premises, or any portion thereof, for Tenant's occupancy other than Landlord's Work.

4.2 Except with respect to Landlord's Work, the Parties agree that any work to the Premises is to be performed at the sole cost and expense of the Tenant (except any work to be performed by the Landlord, which is set forth in Exhibit "A"), subject to obtaining in advance, the written approval and consent from the Fee Owner and/or Condominium Board, and the Landlord, which shall not be unreasonably withheld, conditioned or delayed. Any Tenant's Work shall be performed by one of the approved contractors set forth in Exhibit "D". Notwithstanding the foregoing, Landlord hereby approves of Tenant's use of the following contractors: (i) Unity Construction, (ii) MedTek, and (iii) PM Construction.

4.3 The Tenant agrees to reimburse as Additional Rent, any reasonable out-of-pocket costs, charges or fees incurred by the Landlord, as a result of any work performed to the Premises by and/or on behalf of the Tenant.

4.4 The Tenant agrees to thereafter reasonably cooperate with the Fee Owner, Condominium Board and/or Landlord with regards to conducting of any work to the Premises, and expressly assumes any and all risks associated with the conducting and performance of said work.

4.5 Unless otherwise agreed to between the Parties in writing or as otherwise expressly set forth herein, there shall be no additional Rent Abatement Period provided to the Tenant.

4.6 Any property, including furniture, furnished by the Landlord to the Tenant, to be used by the Tenant during the Lease Term at no additional cost to Tenant, is set forth in Exhibit "F".

4.7 Tenant is solely responsible to keep and maintain said property in good working order, and to return at the conclusion of either its tenancy, or the Lease Term, said property in the same condition in which it was provided, less ordinary wear and tear and damage caused by casualty. Tenant is responsible to the Landlord for the actual cost of any damage to said property.

5. Maintenance and Repairs. Tenant shall, throughout the term of this Lease, take good care of the Premises and the fixtures and appurtenances therein, and keep the same in good repair. Tenant shall be responsible for all damage or injury to the Premises, or any other part of the building and the systems and equipment thereof, including latent or patent defects, whether requiring structural or nonstructural repairs, caused by or resulting from carelessness, omission, neglect or improper conduct of Tenant, its sub-tenants, agents, employees, invitees or licensees, or which arise out of any work, labor, service or equipment done for or supplied to Tenant or any subtenant or arising out of the installation, use or operation of the property or equipment of Tenant or any of its sub-tenants. Tenant shall also repair all damage to the building, and to the Premises, caused by the moving of Tenant's fixtures, furniture and equipment. Tenant shall promptly make, at Tenant's expense, all repairs in and to the Premises for which Tenant is responsible, using a duly licensed contractor approved by/on behalf of the Fee Owner and/or Condominium Board, in accordance with the Condominium Documents and Landlord (Landlord's approval shall not be unreasonably withheld, delayed or conditioned) and subject to the Condominium Board's rules and regulations and applicable labor laws and rules. Any other repairs in or to the building, or the facilities and systems thereof, for which Tenant is responsible, shall be performed by/on behalf of the Fee Owner at Tenant's expense. Landlord shall (or shall cause the Condominium Board to) maintain in a first-class manner, and make all necessary repairs and replacements to the Premises in accordance with the Underlying Documents.

6. Window Cleaning. Tenant will not clean nor require, permit, suffer or allow any window in the Premises to be cleaned from the outside in violation of Section 202 of the Labor Law or any other applicable Law or of the Rules of the Board of Standards and Appeals or of any other Board or body having or asserting jurisdiction. Tenant shall not be responsible for any violation of the preceding sentence arising from Landlord, Fee Owner and/or Condominium Board performing any window cleaning from the outside. At Tenant's request, Landlord shall request the Fee Owner and/or Condominium Board to clean the exterior of the windows in the Premises at the Tenant's sole cost and expense (at the then-applicable building standard rate pursuant to Article 13 of the Omnibus Agreement), and Tenant shall pay as Additional Rent, any charges therefrom.

7. Requirements of Law, Fire Insurance, Floor Loads.

7.1 Tenant shall not use (or suffer or permit any person claiming by, through or under Tenant to use) the Premises for any unlawful purpose, and Tenant shall obtain and maintain at Tenant's sole cost and expense all licenses and permits from any and all governmental or quasigovernmental agencies, authorities, departments, bureaus, bodies or officials having

jurisdiction of the Premises, which may be necessary for the conduct of Tenant's business therein. Subject to Landlord's obligation to deliver the Premises to Tenant in compliance with all Laws in effect on the Term Commencement Date, Tenant further covenants to comply with applicable Laws now or hereinafter in effect with respect to the operation, occupancy, maintenance, alteration and use of the Premises for the purposes set forth herein. Nothing in this Section 7 shall require Tenant to make structural repairs or Structural Alterations or Alterations to any base building system unless Tenant has, by its particular manner of use of the Premises or method of operation, therein violated any such Laws. In addition, Notwithstanding anything to the contrary contained herein, Tenant shall not be responsible for the performance of structural work, alterations, repairs, or capital expenditures in the Premises or in the Building necessary for compliance with Law (collectively, the "Structural Work"), all of which required Structural Work shall be the obligation of Landlord, except to the extent any Structural Work is necessitated by (i) the particular manner of use by Tenant of the Premises or (ii) the particular configuration of Tenant's alterations.

7.2 Tenant may contest and appeal any Laws, provided any such contest is done with all reasonable promptness and provided such appeal shall not subject Landlord, the Condominium Board, Ground Tenant, or Ground Landlord to prosecution for a criminal offense or constitute a default under any lease or mortgage under which Landlord, the Condominium Board, Ground Tenant or Ground Landlord may be obligated, or cause the Premises, the Building or any part thereof to be forfeited, condemned or vacated.

7.3 Tenant shall not do or permit any act or thing to be done in or to the Premises which will invalidate or be in conflict with public liability, fire or other policies of insurance at any time carried by or for the benefit of Landlord or the Condominium Board with respect to the Premises or the Building or which subjects Landlord, Fee Owner or the Condominium Board to any liability or responsibility to any person or for property damage. Tenant shall not keep anything in the Premises except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization or other authority having jurisdiction, and then only in such manner and such quantity so as not to increase the rate for fire insurance applicable to the Building, nor use the Premises in a manner which will increase the insurance rate for the Building or any property located therein over that in effect prior to the Term Commencement Date. Landlord hereby represents that, to the best of its knowledge as of the date hereof, Tenant's use of the Premises for the Permitted Use does not violate any conditions of Landlord's insurance policies, and shall not cause an increase in the rate of fire insurance applicable to the Building to an amount higher than it otherwise would be. Tenant shall pay all reasonable out-of-pocket costs, expenses, fines, penalties or damages applicable to the Premises which may be imposed upon the Condominium Board by reason of such failure to comply with the provisions of this paragraph and if by reason of such failure the fire insurance rate shall, at the beginning of this Lease or at any time thereafter, be higher than it otherwise would be, then Tenant shall reimburse the Condominium Board for that portion of all fire insurance premiums thereafter paid by the Condominium Board which shall have been charged because of such failure by Tenant. In any action or proceeding wherein Landlord and Tenant are parties, a schedule or "make-up" of rates for the Building or Premises issued by the New York Fire

Insurance Exchange, or other body making fire insurance rates applicable to said premises shall be conclusive evidence of the facts therein stated and of the several items and charges in the fire insurance rates the applicable to said premises, provided that the Condominium Board also accepts such evidence. Notwithstanding the foregoing, Tenant need not comply with any requirement of this Section 7 so long as (i) Tenant shall be in good faith diligently contesting the validity thereof, or the applicability thereof to the Premises, (ii) to the extent required under the Condominium Documents, the Condominium Board permits Tenant to maintain such contest and Tenant complies with any conditions thereof required by the Condominium Documents, (iii) Tenant is in compliance with Section 7.2, (iv) none of Landlord, Tenant, the Condominium Board, Ground Tenant or Ground Landlord is subject to civil or criminal liability as a result of such non-compliance, (v) such non-compliance does not impact the ability of Landlord, the Condominium Board, Ground Tenant or Ground Landlord, or any other tenant of the Unit or the Building to conduct their normal business activities in the Building, (vi) such non-compliance does not constitute a default under any mortgage or ground lease to which the Unit or Building is subject, and (vii) Tenant has fully reimbursed Landlord, the Condominium Board, Ground Tenant and Ground Landlord for any reasonable out-of-pocket costs, damages, fines, fees, or expenses incurred thereby as a result of such non-compliance.

7.4 Tenant shall not place a load upon any floor of the Premises exceeding 120 pounds per square foot area. The Condominium Board reserves the right reasonably to prescribe the weight and position of all safes, business machines and mechanical equipment. Such installations shall be placed and maintained by Tenant at Tenant's expense in settings sufficient in the Condominium Board's reasonable judgment to absorb and prevent vibration noise and annoyance.

7.5 Landlord is delivering Premises with a code compliant fire safety system. The GMHC Transaction Documents provide that the Condominium Board is responsible for the maintenance and repair of all portions of the fire safety system, except that Tenant shall be responsible for such maintenance or repairs to the extent required as a result of Alterations performed by or for Tenant after the Term Commencement Date, or as a result of the willful misconduct, negligence or improper act or omission of Tenant or any subtenant or any of their respective contractors, officers, agents, employees, licensees and invitees (collectively, the "**Tenant Indemnified Parties**"); provided, that Landlord shall be solely responsible to install and maintain, at Landlord's sole cost and expense, "deluge" sprinklers in the event the Condominium Board or Declarant installs new windows in walls of the Unit that are "lot line" windows. All work performed or installations made by Tenant (or by Landlord at Tenant's request) in and to the Premises shall conform to the requirements of the fire safety system serving the Building and all applicable Laws. Any proposed Alterations to such system shall be subject to the prior written approval by the Fee Owner and/or Condominium Board, and the Landlord, which consent by Landlord shall not be unreasonably withheld, conditioned or delayed. Tenant acknowledges that the Condominium Board's approval shall not be deemed a representation by the Fee Owner and/or Condominium Board that Tenant's proposed Alterations comply with applicable legal requirements, and Tenant shall be solely responsible for ensuring such compliance at Tenant's sole cost and expense. All work affecting the fire safety system serving the Premises shall be performed by the Fee Owners' and/or Condominium

Board's contractor, at Tenant's sole cost and expense. The amounts charged by said contractor for such work shall be governed by the Condominium Documents. In accordance with Section [46][?] hereof, Landlord shall reasonably cooperate with Tenant, including, without limitation, by making such demand or correspondence directly to and with the Condominium Board on Tenant's behalf, to the extent requested by Tenant in connection with this Section 7.5.

7.6 If any violation, stop work order(s), or open permit application(s) heretofore or hereafter issued by the City of New York (or a division, department or agency thereof) on the Building, the Unit or the Premises delay(s) or prevent(s) any of the following: (i) Tenant's procurement of Tenant's permits and approvals for the Initial Work, or completion of, the Initial Work or Ground Landlord's ability to obtain the Amended CO; (ii) Tenant's receipt of governmental approvals or sign-offs (including, but not limited to, a certificate of occupancy or completion, as applicable) for the Initial Work and/or the Premises; and/or (iii) Tenant's ability to open for business in the Premises (collectively, a "**Violation Delay**"), then Tenant shall be entitled to a day for day credit against the Base Rent for each day of delay, such credit to be applied immediately following the expiration of the Rent Abatement Period, unless such Violation Delay arises from an act in violation of this Lease or omission (where Tenant has a duty to act hereunder) of Tenant (a "**Tenant Violation**"). Landlord represents and warrants to Tenant that Violation (34482234Z) issued by the DOB has been removed of record. If a Violation Delay (other than a Tenant Violation) is ninety (90) days or longer, then Tenant shall have the right to terminate this Lease by written notice to Landlord, given from and after such ninetieth (90th) day, which notice shall set forth the effective date of such termination, provided that if the Violation Delay is cured prior to Tenant giving such notice or prior to the effective date of such termination, then Tenant's right to terminate under this Section 7.6 and any such termination shall be null and void. Landlord shall promptly, continuously and diligently seek to cure, correct and/or remove any Violation Delay of which Landlord receives notice.

7.7 If the City of New York (or a division, department or agency thereof), pursuant to any violation, requires Tenant to vacate the Premises, then Tenant shall not defy such vacate order. Tenant shall be entitled to a full day for day credit against the Base Rent for each day during which Tenant is not occupying the Premises at Landlord's request, or while such vacate order is in effect, unless if the violation was a result of the actions, conduct and/or behavior of the Tenant, its agents, servants, employees, invitees or guests. Landlord, either acting alone or, if Tenant elects, with Tenant, may contest such violations and vacate order, at Landlord's cost, to the extent permitted under the Condominium Documents, or otherwise permitted by the Condominium Board. Landlord shall not assert any default under this Lease by reason of the issuance of any such violation, except if Tenant fails to vacate the Premises within a reasonable period of time after a written request from Landlord to vacate the Premises in accordance with this Section 7.7, if Tenant defies a vacate order and the Condominium Board issues a default (or threatens in writing to issue a default) against Landlord relating thereto, or if the violation was a result of the actions, conduct and/or behavior of the Tenant, its agents, servants, employees, invitees or guests.

8. **Subordination**. Subject to the terms of the Recognition Agreement, this Lease is subject and subordinate to the Condominium Documents and to the GMHC Transaction Documents

and to all renewals, modifications, consolidations, replacements and extensions thereof. This provision shall be self-operative, but Tenant shall within five (5) business days of Landlord's request execute any instrument reasonably requested by the Condominium Board or Landlord to evidence or confirm the same. Tenant acknowledges receipt of a copy of the Condominium Documents and the other GMHC Transaction Documents. Landlord shall not voluntarily terminate, cancel, or surrender, or vote to approve any action or grant any consent pursuant to, the Condominium Documents and/or other GMHC Transaction Documents, and Landlord shall not amend, modify or supplement (or, as applicable, grant its consent to the amendment, modification or supplement of) the Condominium Documents and/or other GMHC Transaction Documents without Tenant's prior written consent in its sole discretion, unless such amendment, modification, supplement, vote or consent does not increase Tenant's obligations under this Lease, adversely affect Tenant's rights under this Lease, reduce the term of this Lease and/or the Condominium Documents or the other GMHC Transaction Documents or otherwise affect Tenant's use of or access to the Premises for the uses permitted under the Lease. In addition, Landlord shall neither consent to the termination of the Condominium nor elect, vote in favor of, or otherwise cause the Condominium Board to purchase or repurchase the Unit, without the prior written consent of Tenant in its sole discretion. If the Condominium terminates for any reason, then the term of this Lease shall thereupon concurrently terminate. Landlord shall not be liable for any such termination unless such termination (a) arises from a GMHC Termination Default by Landlord not arising out of a default hereunder by Tenant, or (b) shall have been effected by Landlord in violation of this Section 8. Notwithstanding anything to the contrary contained in this paragraph, the limitations contained in this paragraph shall not apply to Landlord's right to terminate the Condominium pursuant to express rights contained in Section 4.B of Exhibit C to the Omnibus Agreement in the event of a condemnation and Section 5.3.9 of the By-Laws of the Condominium Declaration in the event of a Significant Casualty (as defined in the By-Laws) (which express rights Landlord has agreed to limit in accordance with the provisions herein).

Landlord represents and warrants to, and covenants with, Tenant that (i) nothing in the Condominium Documents and/or the GMHC Transaction Documents adversely affect Tenant's rights under this Lease, prohibit Tenant's ability to conduct business in the Premises as contemplated by this Lease or will increase Tenant's obligations under this Lease, (ii) Landlord shall not consent to any modification to the Condominium Documents and/or the GMHC Transaction Documents that would adversely affect Tenant's rights under the Lease, prohibit Tenant's ability to conduct business in the Premises or increase Tenant's obligations under the Lease, (iii) the copies of the Condominium Documents and the GMHC Transaction Documents delivered to Tenant are true, complete and correct and are in full force and effect and, to Landlord's knowledge, there exists no default under the Condominium Documents and/or the GMHC Transaction Documents, (iv) no consent is required under the Condominium Documents and/or the GMHC Transaction Documents for Landlord to enter into this Lease, and (v) notwithstanding anything to the contrary in this Lease, Tenant shall not be required to obtain any consents or approvals from the Condominium Board, but rather, if and when Tenant requests any consent or approval from Landlord, then Landlord shall obtain any required consents or approvals from the Condominium Board prior to Landlord giving its consent or

approval to Tenant. Landlord represents and warrants that Landlord has not received any written notice that it is in default under any of the Condominium Documents and/or the GMHC Transaction Documents and issued any notice to the Condominium that it is in default under any Condominium Documents and/or the GMHC Transaction Documents. Landlord covenants and agrees that it will not do, permit, or suffer any act, condition or thing to occur or exist, or fail to pay or perform any of the terms of the Condominium Documents and/or the GMHC Transaction Documents as they relate to the Premises on its part to be paid and performed which would violate or constitute a breach of, or default under the Condominium Documents and/or the GMHC Transaction Documents.

If the Condominium Board shall fail or refuse to grant its consent or approval to any request of Tenant (a) which requires the Condominium Board's consent or approval under the terms of this Lease and/or the GMHC Transaction Documents, (b) which was properly submitted for approval in the manner required under the terms of this Lease and the GMHC Transaction Documents, and (c) in the manner required of the Condominium Board under the GMHC Transaction Documents, then Tenant shall be entitled to participate with Landlord in the enforcement of Landlord's rights against the Condominium Board. Promptly upon receipt of a written request from Tenant, Landlord shall use reasonable efforts to obtain the Condominium Board's consent to the applicable request of Tenant, in the manner required of the Condominium Board under the GMHC Transaction Documents, for Tenant's benefit. If Landlord shall fail or refuse to take the action required to obtain the Condominium Board's consent within ten (10) business days after the Condominium Board has wrongfully failed or refused to grant such consent, Tenant shall have the right to take such action in its own name. If any such action against the Condominium Board in Tenant's name shall be barred by reason of lack of privity or otherwise, Tenant may take such action in Landlord's name provided Tenant has given Landlord five (5) business days' prior written notice (a "Consent Action Notice") of taking such action, which Consent Action Notice shall be accompanied by copies of the papers that Tenant intends to file with the appropriate court to institute such action or proceeding (any such action whether undertaken in Landlord's name or Tenant's name shall be referred to herein as a "Consent Action"). Tenant hereby agrees that Tenant shall indemnify, defend and hold Landlord harmless from and against all liability, loss, damage or expense, including, without limitation, reasonable attorney's fees, which Landlord shall suffer or incur by reason of such Consent Action (whether instituted by Tenant or by Landlord on Tenant's behalf as set forth in the following sentence). Notwithstanding the foregoing, Landlord shall have the right upon receipt of a Consent Action Notice to institute (at Tenant's sole cost and expense) a Consent Action on behalf of Tenant and at the direction of Tenant (including direction as to the prosecution and/or settlement of such Consent Action), using counsel reasonably satisfactory to Tenant.

9. Services Provided by the Condominium Board.

9.1 Pursuant to the Condominium Documents, the Condominium Board has the following responsibilities (collectively, "**Building Services**"):

9.1.1 Maintaining in good working order the General Common Elements of the Building, including, without limitation, the Structure Components of the Building and the Base Building Services in accordance with Section 5.12.2.1 of the By-Laws (copies of the By-Laws are annexed hereto as Exhibit J);

9.1.2 Supplying electric service to the Unit (and other units of the Condominium) at a level of not less than six (6) watts (demand load) per useable square foot of each unit (excluding base building HVAC) in accordance with Section 5.11.1 of the By-Laws;

9.1.3 Providing passenger and freight elevator service in accordance with Section 5.11.2 of the By-Laws;

9.1.4 Providing heat in accordance with Section 5.11.3 of the By-Laws;

9.1.5 Providing cold water for ordinary drinking, cleaning, and lavatory purposes in accordance with Section 5.11.4 of the By-Laws;

9.1.6 Providing condenser water from the Building condenser water system as and when reasonably required for air conditioning in accordance with Section 5.11.5 of the By-Laws;

9.1.7 Keeping the sidewalk and curb in front of the Building clean and free from ice, snow, debris and rubbish in accordance with Section 5.11.8 of the By-Laws;

9.1.8 Operating the Common Elements at a standard not lower than that applicable to Comparable Buildings in accordance with Section 5.11.9 of the By-Laws;

9.1.9 Maintaining, repairing or replacing the HVAC system serving the Unit in accordance with Section 17 of Exhibit C of the Omnibus Agreement (a copy of which is annexed hereto as Exhibit J) at the sole cost and expense of the Condominium Board;

9.1.10 Maintaining the Building tenant directory in the assigned lobby of the Building in accordance with Section 18 of Exhibit C of the Omnibus Agreement and Tenant shall be entitled to its proportion share of listings on such directory;

9.1.11 Maintaining the elevators serving the Unit, provided that Landlord is required to notify the Condominium Board of any service failure Landlord becomes aware of involving such elevators; and

9.1.12 Such other services or responsibilities as are provided in the Condominium Documents or the other GMHC Transaction Documents.

9.2 Except as expressly provided otherwise in the GMHC Transaction Documents, Landlord has no responsibility for providing any of the Building Services, and Landlord shall have no liability to if the violation was a result of the actions, conduct and/or behavior of the

Tenant, its agents, servants, employees, invitees or guests of Tenant, and Tenant shall not be entitled to any abatement or reduction of rent or any credit against rent, on account of any failure, delay or interruption by the Condominium Board in providing any Building Service, except to the extent Landlord obtains from the Condominium Board an abatement of Common Charges and Special Assessments under the Condominium Documents or the other GMHC Transaction Documents on account of any failure, delay or interruption by the Condominium Board in providing any Building Service in whole or in part to the Premises. If in accordance with the Condominium Documents and/or the other GMHC Transaction Documents Landlord is entitled to an abatement of Common Charges and Special Assessments on account of any such failure, delay or interruption applicable to the Premises, Landlord shall use commercially reasonable efforts to obtain such abatement from the Condominium Board. Any abatement or reduction of rent paid by Tenant to Landlord shall be the same amount, on a per rentable square foot basis, as the abatement or reduction of Common Charges and Special Assessments under the Condominium Documents or the other GMHC Transaction Documents that Landlord obtains from the Condominium Board.

9.3 Landlord shall reasonably cooperate with Tenant, including, without limitation, by making such demand or correspondence directly to and with the Condominium Board on Tenant's behalf, to the extent requested by Tenant in connection with Building Services and this Article 9.

10. Insurance.

10.1 Tenant covenants and agrees, at its sole cost and expense, to obtain as of the earlier of either the date upon which the Tenant assumes occupancy and possession of the Premises, or the Term Commencement Date, and, at all times during the term of this Lease, keep in force in responsible insurance companies which (i) are licensed to do business in the State of New York; (ii) have a policyholders' rating of not less than "A" in the most current edition of Best's Insurance Reports; and (iii) shall be in form and substance as may be reasonably required by Landlord, and, to the extent required under the Condominium Documents, as the Condominium Board shall approve, the following insurance policies with respect to the Premises: (i) comprehensive general liability insurance, including a cross liability endorsement, with a minimum limit in an amount not less than Three Million Dollars (\$3,000,000.00) combined single limit for bodily injury and property damage liability in any one occurrence (which may be a combination of direct and umbrella coverage), and which names the Landlord, Fee Owner and Condominium Board as additional named-insureds therein; (ii) fire and extended coverage insurance on an "all-risk" basis (or, if the insurer uses proprietary forms and uses different policy names, then on a basis substantially similar to "all-risk"), on the contents of the Premises, including, but not limited to, all personal property, inventory, equipment, furnishings, furniture and the trade fixtures installed therein by Tenant, with a limit in an amount not less than the full "replacement cost" thereof; (iii) "betterments and improvements" insurance on any and all changes, improvements, alterations, betterments and installations made or paid for by Tenant in or to the Premises, with a limit in an amount not less than the full "replacement cost" thereof; (iv) Workers' Compensation and Employer's Liability insurance in accordance with all applicable laws; and (v) such other insurance and in such amounts as may from time to time be

reasonably required by the Condominium Board pursuant to the Condominium Documents (which requires not less than ninety (90) days' prior written notice to Landlord, which Landlord shall promptly transmit to Tenant) in conformity with the requirements of other landlords of comparable buildings in the immediate vicinity of the Building or the holder or holders of any mortgages to which this Lease is or shall be subordinate (but no such insurance shall be required under this clause (v) unless the Condominium Board imposes a corresponding requirement on Landlord pursuant to the Condominium Documents). Such insurance shall cover all risk of direct physical loss or damage, including but not limited to, water leakage, overflow and sewer and drain build- up and shall contain a provision that no act or omission of Tenant shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained.

10.2 The insurance policies: (i) shall name in the liability policy provided in Section 10.1 Landlord and the Condominium Indemnified Parties and such others as Landlord shall designate from time to time (of which Tenant shall receive written notice), as additional insureds; (ii) shall expressly provide that the insurance provided by Tenant to Landlord thereunder shall be primary and non-contributing with any other insurance available to Landlord or the Condominium Board, and (iii) will include a contractual indemnity endorsement as a part of the liability policy hereinabove provided to cover Tenant's liability under Section 11. A list of current of requirements for said insurance coverage is set forth in Exhibit "G". Tenant will be entitled to maintain the insurance required hereunder (except worker's compensation) through a blanket insurance policy, provided that Landlord and the Condominium Board and such others as Landlord and/or the Condominium Board may reasonably designate are all named additional insureds on such liability policies.

10.3 Tenant will furnish Landlord with certificates of insurance so carried by Tenant. Subject to applicable policy provisions, such policies of insurance shall not be cancelable or terminable, nor may the insurer change the limits hereinabove provided or otherwise affect the coverages hereinabove provided, without thirty (30) days' prior written notice to Landlord. Said policies shall be for periods of not less than one (1) year, and Tenant shall deliver to Landlord such certificates and shall endeavor to procure renewals thereof from time to time at least thirty (30) days before the expiration thereof.

10.4 Tenant shall not violate or permit to be violated any of the conditions or provisions of any such policies, and Tenant shall so perform and satisfy the requirements of the companies writing such policies so that, at all times, companies of good standing, satisfactory to Landlord and the Condominium Board or any mortgagees designated by the Condominium Board, shall be willing to write and/or continue such insurance.

10.5 The Parties shall reasonably cooperate in connection with the collection of any insurance monies that may be due in the event of loss, and Tenant shall execute and deliver to Landlord such proofs of loss and other instruments which may be required for the purpose of obtaining the recovery of any such insurance monies.

10.6 In the event of Tenant's failure to comply with the provisions of this Section 10, Landlord may (upon not less than five (5) business days' prior written notice to Tenant) cause

the same to be done for Tenant's account and the cost thereof shall be deemed payable to Landlord by Tenant upon the rendering of bills (with reasonable back-up documentation) for the same, as Additional Rent. Supplementing the foregoing, but not in limitation thereof, Landlord may recover from Tenant, and Tenant agrees to pay, any and all actual damages which Landlord shall have reasonably sustained by reason of Tenant's failure to obtain and keep in force any insurance which Tenant is required to obtain and keep in force under this Lease, and the damages of Landlord shall not be limited to the amount of the premiums thereon.

10.7 Tenant understands and agrees that neither Landlord, the Fee Owner, nor the Condominium Board, will be obligated to carry insurance of any kind on any personal property in the Premises (regardless as to whether such property shall be owned by Tenant, and including, but not limited to, Tenant's goods, supplies, furnishings, furniture, fixtures, equipment, improvements, betterments, installations or appurtenances). Tenant hereby waives any and all right of recovery which it might otherwise have against Landlord, the Condominium Board or any other Condominium Indemnified Party for loss or damage to such property or any part thereof, to the same extent that Tenant's insurers' right of subrogation would be waived if insurance coverage with waiver of subrogation provisions were being maintained by Tenant upon all of such property. The provisions of this paragraph shall also apply to each permitted assignee, if any, and each permitted subtenant, if any, at any time occupying the Premises or any part thereof.

10.8 During the term of the Lease, Landlord agrees to maintain general liability, casualty, and fire insurance with extended coverage covering the Unit in such form and in such amounts as Landlord in its sole judgment shall deem reasonably acceptable and sufficient, or as otherwise required under the Condominium Documents.

10.9 The Parties shall each procure an appropriate clause in or endorsement to any property insurance covering the Premises and personal property, fixtures and equipment located therein, wherein the insurer waives subrogation or consents to a waiver of right of recovery, and the Parties agree not to make any claim against, or seek to recover from, the other for any loss or damage to its property or the property of others resulting from fire or other hazards. The Parties will seek to incorporate in the Condominium Board Consent a mutual waiver of subrogation between the Parties, which is mutually and reasonably acceptable to the Parties, the Fee Owner and/or the Condominium Board.

11. Indemnity. Tenant shall indemnify, defend and hold harmless (a) Landlord, its agents, officers, directors and employees ("**Landlord Parties**") from and against any loss, cost, damage or expense (including reasonable attorneys' fees), or any claim therefor, arising out of actions taken by Landlord at Tenant's request, including, without limitation, any requests, claim or demands made to the Fee Owner and/or Condominium Board by Landlord on Tenant's behalf or any request, claim or demand made to the Fee Owner and/or Condominium Board by Tenant, whether in Tenant's name or Landlord's name, including pursuant to Section 46, or (b) Landlord Parties and the Condominium Indemnified Parties from and against any claims, judgments, damages, penalties, fines, liabilities, losses, costs and expenses (including without limitation

reasonable attorneys' fees and disbursements), whether actual, threatened, contingent or otherwise (collectively, "**Liabilities**"), to which Landlord Parties or the Condominium Indemnified Parties may be subject or which any of them may suffer by reason of or which result from (i) any default under the Condominium Documents or termination of the Condominium arising by reason of any failure by Tenant to observe or perform any of the terms, covenants or conditions of this Lease required to be observed or performed by Tenant, or (ii) any injury to, or death of, any person or persons (including, without limitation, Landlord Parties or any of the Condominium Indemnified Parties) or damage to property (including any loss of use thereof), (A) arising from or in connection with the occupancy or use of or from any work, installation or thing whatsoever done in, at or about the Premises during the term of this Lease caused by Tenant or a Tenant Indemnified Party, (B) arising from any condition of the Premises caused in whole or in part by Tenant or a Tenant Indemnified Party, (C) resulting from any default by Tenant in the performance of Tenant's obligations under this Lease, or (D) resulting from any negligent acts or omissions of Tenant or any Tenant Indemnified Party; provided that Tenant shall not be responsible for Liabilities to the extent resulting from the acts or omissions (where there is a duty to act) of Landlord Parties or the Condominium Indemnified Parties. In case any action or proceeding be brought against Landlord or Landlord's Parties by reason of any of the foregoing, Tenant, upon notice from Landlord, shall defend such action or proceeding by counsel chosen by Tenant, who shall be reasonably satisfactory to Landlord (it being acknowledged that counsel chosen by Tenant's insurer shall be deemed satisfactory). Tenant or its counsel shall keep Landlord reasonably apprised at all times of the status of such defense and shall not settle same without the written consent, not to be unreasonably withheld, conditioned, or delayed, of Landlord; (ii) Landlord shall indemnify and hold harmless Tenant, its agents, officers, directors and employees (collectively, "**Tenant's Parties**") from and against any Liabilities arising from (i) any Violation issued on account of the use or occupancy of the Premises prior to the Term Commencement Date; (ii) any injury to, or death of, any person or persons or damage to property (including any loss of use thereof) occurring prior to the Term Commencement Date; (iii) any injury to, or death of, any person or persons or damage to property (including any loss of use thereof) arising from any negligent or otherwise wrongful act or omission of any Landlord Party; (iv) any failure of Landlord to perform or comply with any of the provisions of this Lease that are applicable to Landlord; and (v) any termination of the Condominium resulting from a default under the Condominium Documents and/or the other GMHC Transaction Documents if such default arises from the actions or omissions (where there is a duty to act) of Landlord or any Landlord's Parties thereunder and not otherwise resulting from the actions or omissions (where there is a duty to act) of Tenant hereunder. In case any action or proceeding be brought against Tenant or Tenant's Parties by reason of any of the foregoing, Landlord, upon notice from Tenant, shall defend such action or proceeding by counsel chosen by Landlord, who shall be reasonably satisfactory to Tenant (it being acknowledged that counsel chosen by Landlord's insurer shall be deemed satisfactory). Landlord or its counsel shall keep Tenant reasonably apprised at all times of the status of such defense and shall not settle same without the written consent, not to be unreasonably withheld, conditioned, or delayed, of Tenant.

11.1 It shall be a condition of any indemnification under this Lease that (a) the indemnitee promptly notify the indemnitor of any claim giving rise to a right to indemnification

(except to the extent that the failure so to notify shall not prejudice the indemnitor), (b) that the indemnitor shall have no liability for settlement of any claim by indemnitee without the consent of the indemnitor, such consent not to be unreasonably withheld or delayed and (c) any separate counsel retained by indemnitee will be at the sole expense of indemnitee (unless there shall be a conflict between indemnitor and indemnitee).

11.2 Neither party shall be liable to the other pursuant to the foregoing indemnities, or pursuant to any other provisions of this Lease, to the extent arising from the gross negligence or willful misconduct of the indemnitee or the agents, officers, directors or employees of such indemnitee or, in the case of Tenant, to the extent arising from the gross negligence or willful misconduct of the Fee Owner and/or Condominium Board's or any of the Condominium Board's agents, officers, directors or employees or other party hereto, as applicable.

12. Access to the Premises.

- a. Subject to the further provisions of this Section 12, Landlord, the Fee Owner and/or Condominium Board and their respective agents shall have the right to enter the Premises in any emergency at any time, and, at other reasonable times (but only upon reasonable prior written notice), to examine the same and to make such repairs, replacements and improvements as Landlord, Fee Owner and/or the Condominium Board may reasonably deem reasonably necessary to the Premises or to any other portion of the Building. Tenant shall permit Landlord, the Fee Owner and/or the Condominium Board to use and maintain and replace pipes and conduits in and through the Premises and to erect new pipes and conduits therein provided they are (i) concealed within the walls, floor or ceiling and (ii) shall not reduce the usable area of the Premises, except by a de minimis amount. To the extent there are alternative locations which provide substantially the same service, do not cost materially more and do not inconvenience other tenants of the Building (except in a de minimis way) for the pipes and conduits outside of the Premises, Tenant shall have the right to require Landlord to use such alternative locations. Landlord shall, and the Condominium Documents require that the Condominium Board shall, to the extent practicable, and subject to the immediately preceding sentence, install such pipes and conduits by such methods and at such locations as will not materially interfere with or impair Tenant's layout or use of the Premises. Landlord, the Fee Owner and/or the Condominium Board may during the progress of any work in the Premises take all necessary materials and equipment into the Premises without the same constituting an eviction nor shall the Tenant be entitled to any abatement of rent while such work is in progress nor to any damages by reason of loss or interruption of business or otherwise, except as otherwise expressly set forth herein. In connection with any work by Landlord in the Premises pursuant to the terms of this Article 12, Landlord shall not, pursuant to the terms of the preceding sentence, store materials in the Premises in connection therewith that shall not be used by Landlord in Landlord's good faith judgement by the end of the following business day. Landlord shall, and the Condominium Documents require that the Condominium Board and/or Fee Owner shall, exercise reasonable diligence so as to minimize the disturbance of Tenant's use of the Premises, but nothing contained herein shall be deemed to require Landlord, the Fee Owner and/or the Condominium Board to perform the same on an overtime or premium pay basis.

Throughout the term of this Lease, the Condominium Board and Fee Owner, to the extent necessary, shall have the right to enter the Premises at reasonable hours for the purpose of showing the same to prospective purchasers or mortgagees of the Building and during the last nine (9) months of the term hereof, Landlord shall have the right to enter for the purpose of showing the Premises to prospective tenants. If Tenant is not present to open and permit an entry into the Premises, the Fee Owner and/or Condominium Board and its agents may enter the same whenever such entry may be necessary or permissible by master key or forcibly and provided reasonable care is exercised to safeguard Tenant's property, such entry shall not render the Landlord, Fee Owner, Condominium Board or their respective agents liable therefor, nor in any event shall the obligations of Tenant hereunder be affected. Notwithstanding anything to the contrary contained in this Article, Landlord agrees not to enter the Premises in Tenant's absence, unless reasonable advance written notice is given, except in the case of any emergency. With respect to any access by Landlord or any repairs or restoration which are required or permitted to be made by Landlord and/or the failure by Landlord to provide any service required under the terms of this Lease, Landlord shall (a) use commercially reasonable efforts not to materially interfere with Tenant's use of or access to the Premises during the performance of any work performed by Landlord to access the Premises or perform work, (b) promptly repair any damage caused by such entry, (c) be accompanied by a designated representative of Tenant, and (d) cause any person accessing the Premises to carry and exhibit to Tenant proper identification upon request.

13. 24/7 Access to the Premises; Lobby Staffing

a. Tenant shall have access to and use of the Premises seven (7) days per week, twenty-four (24) hours per day, all of the days of each year, through Landlord's dedicated ground floor entrance (the "**Entrance**"), lobby (the "**Lobby**") and elevators (the "**Elevators**"), as is set forth in Exhibit "**E**" including access in and through such other portions of the Unit as are necessary or desirable in order for Tenant to have unobstructed access to and use of elevators located in the Unit, subject to interruptions on account of force majeure (i.e., events beyond the reasonable control of Landlord), accidents, or maintenance or repair which the Condominium Board performs in accordance with the terms of the Condominium Documents; provided that Landlord will use commercially reasonable efforts to minimize any resulting interference. Tenant shall gain access to the Entrance using key cards for the magnetic lock, and then by using such dedicated elevators, which are the responsibility of the Condominium Board to maintain under the Condominium Documents. On the Term Commencement Date, Landlord shall give Tenant 40 "activated" key cards, 40 "non-activated" key cards (which shall be "activated" by Landlord upon request from Tenant from time to time) for Tenant's use. Landlord shall provide Tenant with additional key cards, at Tenant's sole cost and expense, as Tenant may reasonably request from time to time. Landlord, in consultation with Tenant, shall establish reasonable rules so that such front door is physically locked each day outside of regular business hours and on weekends and legal holidays, to ensure unauthorized entry.

b. Landlord currently has a receptionist or other person (which may include a third-party contractor) (“Landlord’s Receptionist”) stationed in the Lobby 24/7 and Landlord has advised Tenant that intends to install a “virtual doorman” to provide access to the Building and the Premises. So long as the virtual doorman is installed and is operating, Landlord shall not be obligated to maintain Landlord’s Receptionist in the Lobby. Landlord has the right, but not the obligation, to maintain Landlord’s Receptionist in the Lobby, as–the “virtual doorman” will suffice for 24/7 access.

c. The Parties acknowledge that the Lobby is not a waiting area for guests of either party to wait until a scheduled program or appointment begins or to gather after a scheduled program or appointment ends. Each party shall require their respective guests to promptly take the Elevator to the Premises (in the case of Tenant’s guests) or elsewhere in the Building (in the case of Landlord’s guests) and to require their respective guests to promptly exit the Lobby after they exit the Elevators after their scheduled program or appointment ends. For the avoidance of doubt, Tenant shall not be responsible for any persons other than Tenant’s guests.

d. Personnel from each party shall apply affirmative acts to admit each of its guest into the Lobby, via virtual door man or otherwise as follows: an individual, acting on behalf of the host of each guest, shall remotely verify the identification of such guest and remotely press a button to release the door, and observe on the camera that only such guest is entering the Lobby. For the avoidance of doubt, each party shall be responsible only for its own guests and not the guests of the other party, and Tenant shall not be responsible for the guests of any other Landlord user.

e. If a large group of guests are expected to arrive at the same time for a program or event, then the host of such program event shall have staff in the Lobby immediately before and immediately after the program to check in and check out the large group of attending guests.

f. If there are security lapses from use of the “virtual doorman”, the Parties shall cooperate in good faith to revisit the procedures for the entry of guests to reduce the risk of further security lapses, but such cooperation (and any resolution) may not expand Tenant’s obligations or reduce Tenant’s rights with respect to access in any unreasonable respect.

g. The Parties acknowledge that in granting its consent to the installation and use of the “virtual doorman”, the Condominium Board reserved the right to require that the Lobby be staffed if circumstances warrant. If the Condominium Board requires that the Lobby be staffed, the Parties shall cooperate in good faith in deciding how to implement such staffing requirement to their mutual benefit, but such cooperation (and any resolution) shall not expand Tenant’s obligations or reduce Tenant’s rights with respect to access in any unreasonable respect. If the Condominium Board provides staffing, then such staffing shall satisfy the staffing requirement set forth in Section 13.4.

h. Tenant shall have the right, but not obligation, to staff a full and/or part time lobby person in the Lobby (so long as it is controlled by Tenant) at Tenant’s own expense, at any time during the Lease.

i. In accordance with the Condominium Documents, as between Landlord and the Condominium Board, the Entrance and Lobby are dedicated solely to Landlord's use, and Landlord controls the Entrance and the Lobby. Nothing in this Lease shall prohibit Landlord from relinquishing control of the Entrance and Lobby to the Condominium Board or Declarant if such relinquishment is required as a condition to an agreement pursuant to which Landlord conveys to the Condominium Board or Declarant one or more floors of the Unit (a "**Required Relinquishment**") or if Landlord otherwise offers to relinquish control of the Entrance and Lobby and the Condominium Board or Declarant accepts such offer (a "**Voluntary Relinquishment**"). Landlord shall not relinquish control of the Entrance and Lobby to the Condominium Board or Declarant unless the Condominium Board or Declarant agrees to the following: (i) Tenant shall have access to the Premises seven (7) days per week, twenty-four (24) hours per day, all of the days of each year, through the Entrance, Lobby and Elevators; (ii) (A) for a Required Relinquishment, Tenant shall have the right to maintain a sign on the exterior of the Entrance door and in the Lobby comparable in size and location to any sign that the Condominium Board or Declarant allows Landlord to maintain on the exterior of the Entrance door and in the Lobby, and for a Voluntary Relinquishment, Tenant shall have the right to maintain the same signs on the exterior of the Entrance door to the Building and in the Lobby that Tenant maintains prior to such Voluntary Relinquishment; and (iii) Tenant shall have the right to have staffing in the Lobby to check-in Tenant's visitors for Tenant's programs and events.

14. Covenant of Quiet Enjoyment. Landlord covenants that provided this Lease is in full force and effect, Tenant may peaceably and quietly enjoy the Premises without disturbance by Landlord or any person claiming by, through or under Landlord, subject nevertheless to the terms and conditions of this Lease.

15. Assignment and Subletting.

a. Tenant shall not assign, sublease or otherwise transfer any interest in this Lease, or grant any right of use or occupancy of the Premises, or any portion thereof to, without the prior written consent in each instance of (i) the Condominium Board to the extent required under, and subject to the provisions of the Condominium Documents, and (ii) Landlord, which consent shall not be unreasonably withheld, conditioned, or delayed. Any change in control of Tenant effected by a transfer of the membership interest in Tenant or a merger or consolidation of Tenant with another person in which such other person is the surviving entity shall be deemed to be an assignment of this Lease. Nothing in the preceding sentence shall relieve Tenant of obtaining the Condominium Board's consent to any such merger, consolidation or transfer of membership interest to the extent such consent is required under the Condominium Documents. Notwithstanding the foregoing, Tenant shall have the right, subject to the terms and conditions hereinafter set forth but without being subject to Landlord's consent or to any recapture or profit sharing rights of Landlord to assign its interest in this Lease or to sublease the Premises to (a) any entity resulting from a merger, consolidation or reorganization with the entity that constitutes Tenant or any entity succeeding to the business and assets of Tenant (a "**Third Party Successor Entity**"), or (b) any Related Entity or Mount Sinai Successor Entity (as such terms are hereinafter

defined); provided that such surviving entity is exempt from federal income taxes. For the purposes of this Lease, a **“Related Entity”** means a Mount Sinai Entity or an Affiliate of Tenant or a Mount Sinai Entity and a **“Mount Sinai Successor Entity”** means a corporation or other legal entity into which or with which some or all of the Mount Sinai Entities or their Affiliates but no other parties is merged, reorganized or consolidated, in accordance with applicable statutory provisions for the merger, reorganization or consolidation. Any such assignment described above may only be made upon the further conditions that (A) any such assignee shall continue to use the Premises for the Permitted Use and in accordance with the terms and provisions of this Lease, (B) the transferees or its parent entity are reputable and experienced operators of substantially the same caliber as the transferor, (C) the principal purpose of such assignment is not the acquisition of Tenant's interest in this Lease or to circumvent the provisions of this Article 15, and (D) any Third Party Successor Entity shall have a tangible net worth and annual income and cash flow, determined in accordance with GAAP, after giving effect to such assignment, equal to or greater than Tenant's tangible net worth and annual income and cash flow, as so determined, on the date immediately preceding the date of such assignment. Tenant shall, within twenty (20) days after execution thereof, deliver to Landlord a duplicate original instrument of assignment in form and substance reasonably satisfactory to Landlord, duly executed by Tenant, together with an instrument in form and substance reasonably satisfactory to Landlord, duly executed by the assignee, in which such assignee shall assume observance and performance of, and agree to be bound by, all of the terms, covenants and conditions of this Lease on Tenant's part to be observed and performed. Any party to whom this Lease may be sublet, assigned or transferred without the consent of Landlord under this Section shall be referred to as a **“Permitted Transferee”**, and any such sublease, assignment or transfer shall be referred to as a **“Permitted Transfer”**. For purposes of this Lease, "Affiliate" shall mean a Person which directly or indirectly controls, is controlled by or is under common control with the party in question. In the event that Tenant is any legal entity other than a not-for-profit entity or an educational institution chartered by the New York State Board of Regents to which the not-for-profit corporation law applies pursuant to Section 216-a of the Education Law (an **“Educational Institution”**), for the purposes hereof “control” shall be deemed to mean (i) with respect to (x) a corporation, ownership of not less than fifty percent (50%) of all of the voting stock or capital stock of such corporation, (y) a limited partnership, ownership of more than fifty percent (50%) of the general partnership interests of such limited partnership, or (z) any other legal entity, ownership of not less than fifty percent (50%) of all of the legal and equitable interests in such legal entity, and (ii) the possession of the power, directly or indirectly, to direct or cause the direction of management and policy of a corporation or other legal entity or the distribution of its profits, whether through (1) the ownership of voting securities, partnership shares, or otherwise, (2) common directors or officers, (3) the contractual right to manage the business affairs of such legal entity, or otherwise, or (4) the right to appoint directors or trustees. In the event that Tenant is a not-for-profit entity (whether formed under the not-for-profit law or otherwise) or an Educational Institution, for the purposes hereof “control” shall mean the power to direct the management and policies of such entity, directly or indirectly, whether through the ownership of stock or partnership interests, through membership interests or otherwise, through the election or appointment of the members or directors of the governing body of such entity, by contract or otherwise, and the terms “controlling” and “controlled” shall have meanings correlative to the

foregoing. Notwithstanding the foregoing or anything to the contrary contained herein, with respect to the Tenant initially named herein (i.e., The St. Luke's-Roosevelt Hospital Center) and any Permitted Transferee (as hereinafter defined), an Affiliate shall also be deemed to mean a Mount Sinai Entity (as hereinafter defined) and/or any person, corporation, partnership, limited liability company or other entity which directly or indirectly controls, is controlled by or is under common control with a Mount Sinai Entity. "Mount Sinai Entity" shall be deemed to mean (1) Mount Sinai Health System, Inc., (2) Mount Sinai Hospitals Group, Inc., (3) The Mount Sinai Hospital, (4) Beth Israel Medical Center, (5) Icahn School of Medicine at Mount Sinai, and (6) The St. Luke's-Roosevelt Hospital Center.

- b. Each sublease shall be subject and subordinate to this Lease. No assignment of this Lease shall be valid or effective unless and until the assignee shall have delivered to Sub-Landlord an instrument, in form reasonably satisfactory to Landlord, pursuant to which the assignee assumes the due observance and performance of all of the obligations of Tenant hereunder arising from and after the effective date of such assignment. In no event shall this Lease be assigned to, nor shall any portion of the Premises by sublet or used by, any person that is not exempt from federal income taxes.
- c. No assignment or sublease shall release the Tenant named herein or any of its successors from any liability hereunder. If this Lease is assigned or the Premises or any part thereof are sublet in violation of this Lease, then Landlord may collect rents from or accept performance from the assignee or subtenant and no such collection or acceptance shall effect any such release or be deemed to constitute Landlord's consent to any assignment or subleasing.
- d. If Tenant desires Landlord and the Condominium Board's consent to an assignment of this Lease or to the subletting of all or any part of the Premises for any part of the term of this Lease with respect thereto, Tenant shall notify Landlord and the Condominium Board of the name of the proposed assignee/sublessee, such information as to the proposed assignee/sublessee's financial condition as Landlord or the Condominium Board may reasonably require, and of the material terms and conditions of the proposed assignment/subletting. To the extent Landlord's consent is required under this Section 15, Landlord will not unreasonably withhold, condition or delay its consent to the proposed assignment or subletting referred to in said notice on the terms and conditions set forth in the notice; provided, however, that Landlord shall not in any event be obligated to consent to any such proposed assignment or subletting unless:

15.4.1 There shall be not more than one subtenant of the Premises (if Sub-Tenant continues to occupy any portion of the Premises) or two subtenants of the Premises (if Tenant will no longer occupy any portion of the Premises) at any one time during the term hereof;

15.4.2 The financial condition of the proposed assignee or subtenant, in light of the ability of such proposed assignee or subtenant to fulfill its obligations under this Lease or the sublease (as the case maybe) and the fact that Tenant will not be released from its obligations under this Lease, must be satisfactory to Landlord in Landlord's reasonable discretion;

15.4.3 Any proposed instrument of assignment or sublease must be submitted to Landlord at least five (5) business days before the commencement date thereof, accompanied by financial information relating to the proposed assignee or subtenant and any other information reasonably required by Landlord;

15.4.4 The sublease must provide that the same is subject to all of the terms and conditions of this Lease and shall be for a term ending no later than one (1) day prior to the expiration date hereof and the sublease must provide that in the event of cancellation or termination of this Lease for any reason whatsoever or of the surrender of this Lease whether voluntary, involuntary or by operation of law, prior to the expiration date of such sublease, including extensions and renewals granted thereunder, the proposed subtenant agrees to make full and complete attornment to Landlord for the balance of the term of the sublease, at the option of Landlord at any time during the proposed subtenant's occupancy of a portion of the Premises, which attornment shall be evidenced by an agreement in form and substance reasonably satisfactory to Landlord, which the proposed subtenant agrees to execute and deliver at any time within five (5) business days after request of Landlord, its successors and assigns, and the proposed subtenant waives the provisions of any law now or hereafter in effect which may give the proposed subtenant any right of election to terminate the sublease or to surrender possession of the Premises in the event any proceeding is brought by Landlord under this Lease to terminate this Lease;

15.4.5 The assignee or subtenant must be subject to service of process in New York State;

15.4.6 No assignment or subletting shall be deemed a consent to a further assignment or subletting, which consent to any further subletting or assignment as to any direct assignee or subtenant of Tenant, shall be granted or denied utilizing the same criteria as are applicable to a similar request by Tenant;

15.4.7 Tenant shall not be in monetary or material non-monetary default under any of the terms and conditions of this Lease which continues after the giving of any applicable notice and expiration of the applicable cure period at the time of any notice or request for consent under the terms of this Section 15;

15.4.8 Tenant shall pay as additional rent Landlord's and, if applicable, the Condominium Board's, reasonable out-of-pocket attorneys' fees in connection with such assignment or subletting;

15.4.9 Landlord's consent, if any, shall be evidenced by the delivery of, and shall be subject to the terms and conditions of, a consent to assignment or sublease duly executed by Landlord, Tenant and the assignee or subtenant on Landlord's commercially reasonable customary form, as prepared by Landlord.

- e. To the extent any such assignment or subletting is subject to the Condominium Board's consent under the Condominium Documents, Tenant shall be required to satisfy the conditions set forth in the Condominium Documents for an assignment of this Lease or a subletting of the Premises or portion thereof, including, without limitation, the following: (i) the assignee or subtenant shall not be a then existing tenant or occupant of the Building, if comparable space is then available in the Building for a comparable term; (ii) any subletting shall not be advertised at a rental rate less than the rental rate (if any) then being charged by the Condominium Board for any comparable space in the Building and for a comparable term, at the time of such subletting; and (iii) the space proposed to be sublet shall be required to be regular in shape and configuration with appropriate means of ingress and egress suitable for normal renting purposes.
- f. With respect to any future sublease or assignment that requires Landlord's consent hereunder, if Landlord (and the Condominium Board to the extent required under the Condominium Documents) consents to Tenant's assignment of this Lease or sublease of the Premises, at a rental or for other consideration in excess of the rent due and payable by Tenant under this Lease, then Tenant shall pay to Landlord, as Additional Rent: (a) on the first day of each month during the term of any such sublease, fifty percent (50%) of the excess of all rent and other consideration actually received from the subtenant for such month over the rent then payable to Landlord pursuant to the provisions of this Lease for said month, following the deduction of any direct, reasonable and out-of-pocket expenses incurred by Tenant in connection therewith, including, without limitation, reasonable attorney's fees and brokerage fees (or if only a portion of the Premises is being sublet, the excess of all rent and other consideration due from the subtenant for such month over the portion of the rent then payable to Landlord pursuant to the provisions of this Lease for said month which is allocable on a rentable square footage basis to the space sublet) and any amounts due to the Condominium Board pursuant to the Condominium Documents; and (b) with respect to any assignment, immediately upon receipt thereof, fifty percent (50%) of the entirety of any other profit or gain realized by Tenant from such assignment following the deduction of any direct, reasonable and out-of-pocket expenses incurred by Tenant in connection therewith, including, without limitation, reasonable attorney's fees and brokerage fees; it being agreed, however, that Tenant shall be responsible to Landlord for any deficiency hereunder if Tenant shall assign this Lease or further sublet the Premises or any part thereof at a rental less than that provided for herein.

15.7 No assignment of this Lease or sublease shall release Tenant from its liability hereunder.

15.8 In accordance with Section 46 hereof, Landlord shall reasonably cooperate with Tenant, including, without limitation, by making such demand or correspondence directly to and with the Condominium Board on Tenant's behalf, to the extent requested by Tenant in connection with this Article 15.

15.9 Notwithstanding anything to the contrary set forth in this Article 15, Tenant shall have the right from time to time, without Landlord's consent and without being subject to Landlord's recapture or profit sharing rights, to permit the use of space within the Premises by

independent practitioners affiliated with a Mount Sinai Entity and licensed for business in the State of New York (each a “Permitted Practitioner”), provided that (i) each such Permitted Practitioner shall be of good reputation, and engaged in a business or activity which is in keeping with the standards of the Building and which is a Permitted Use; (ii) upon Landlord’s request, Tenant shall provide Landlord with a written list of each Permitted Practitioner then occupying the Premises; and (iii) the portion of the Premises occupied by any Permitted Practitioner shall not have a separate entrance from outside the Premises. Each such occupancy under this Section shall be subject and subordinate to this Lease and to the matters to which this Lease is or shall be subject and/or subordinate, and in the event of the expiration or earlier termination of this Lease, such occupancy shall immediately terminate. Occupancy by any Permitted Practitioner under this Section shall not be deemed to vest in any such person or entity any right or interest in this Lease (other than through a sublease or a license to occupy the relevant space) nor shall it relieve, release, impair or discharge any of Tenant's obligations hereunder. For purposes of clarity, the following shall apply to each Permitted Practitioner: (A) each Permitted Practitioner shall have no privity of contract with Landlord and therefore shall have no rights under this Lease, and Landlord shall have no liability or obligation to the Permitted Practitioner under this Lease for any reason whatsoever in connection with such use or occupancy, (B) each Permitted Practitioner shall use the Premises in conformity with all applicable provisions of this Lease, (C) Tenant shall be liable for the acts of such Permitted Practitioner in or about the Building and (D) the Permitted Practitioner shall not be entitled, directly or indirectly, to diplomatic or sovereign immunity and shall be subject to service of process in, and the jurisdiction of the court of, the State of New York.

15.10 Except as otherwise expressly set forth in the Condominium Board Consent, this Lease may not be assigned or modified or the Premises hereunder further sublet, in whole or in part, without the prior written consent of the Condominium Board in accordance with the terms of the GMHC Transaction Documents.

16. Alterations.

- a. Tenant shall make no Alterations in or to the Premises of any nature without Landlord’s prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed for any Non-Structural Alteration and without the prior written consent of the Condominium Board to the extent required, and in accordance with the standards set forth, in the Condominium Documents; provided, however, that Tenant shall have the right to make Alterations which are purely decorative in nature without Landlord’s consent. Landlord has no objection to Tenant’s Work comprising the removal of non-structural walls currently separating multiple offices to create a single larger room and to installation of a moveable wall to divide such larger room, but Landlord’s approval of Tenant’s Work is conditioned on receipt of fully developed plans therefor and signoff from a reputable MEP engineer and structural engineer retained by Tenant (or, at Tenant’s election, TPG Architecture on behalf of Tenant). If there is any Alteration performed by Tenant or Tenant’s contractor without written consent from Landlord (or, to the extent required, the Condominium Board and/or Fee

Owner), Tenant shall restore the Premises to its condition prior to such Alteration. Prior to the commencement of any Alteration, Tenant shall submit to Landlord, for Landlord's (and, to the extent required by the Condominium Documents, the Condominium Board's) approval, plans and specifications (to be prepared by and at the expense of Tenant) for such proposed Alteration, in detail reasonably satisfactory to Landlord (and, if applicable, the Condominium Board). Landlord agrees to review Tenant's plans and specifications and approve the same or make written exceptions thereto within five (5) business days after receipt of a response from the Condominium Board to such plans and specifications. Any disapproval given by Landlord shall be accompanied by a statement in reasonable detail of the reasons for such disapproval, itemizing those portions of the plans so disapproved. Landlord's or the Condominium Board's approval of any plans and specifications shall not indicate that such plans and specifications comply with applicable Laws. Tenant shall have sole responsibility for ensuring such compliance. If Landlord (and, if applicable, the Condominium Board) gives its approval to any such Alteration, the same shall be performed by Tenant, at Tenant's sole cost and expense, in accordance (in all material respects) with the approved plans and in a good and workmanlike manner. Before commencing any Alteration, Tenant shall, at its expense, obtain all permits, approvals and certificates required by any governmental or quasi-governmental bodies and (upon completion) certificates of final approval thereof and shall deliver promptly duplicates of all such permits, approvals and certificates to Landlord (and, if applicable, the Condominium Board). Tenant agrees to carry and will cause Tenant's contractors and subcontractors to carry (x) worker's compensation in statutory amounts and (y) general liability, personal and property damage insurance with coverage of at least \$3,000,000 combined single limit. No amendments or additions to the approved plans and specifications shall be made without the prior written consent of Landlord (and, if applicable, the Condominium Board), which consent shall not be unreasonably withheld, conditioned or delayed as to such Non-Structural Alterations. Notwithstanding the foregoing, if a proposed Alteration is solely cosmetic in nature, costs less than One Hundred Thousand Dollars (\$100,000.00) (as Adjusted-by- CPI) in the aggregate (as determined on a per-project basis), is Non-Structural, and does not require a building permit, then such Alteration does not require Landlord's consent but does require reasonable prior notice to Landlord (and under the Condominium Documents, such Alteration does not require the consent of the Condominium Board but does require reasonable prior notice to the Condominium Board). Tenant shall have the right to perform core-drilling in the floor slab of the Premises, subject to Landlord's prior approval (not to be unreasonably withheld, conditioned or delayed). Tenant shall have no obligation to remove any Alterations (including the Initial Work) at the expiration or sooner termination of this Lease.

- b. All work in the Premises shall be performed by contractors, subcontractors, general contractor, construction manager and engineers that are on the list of

approved contractors supplied by the Condominium Board (which list may be revised or updated by the Condominium Board from time to time) or approved in advance, in writing, by the Condominium Board as required in the Condominium Documents. The current list of the Condominium Board's approved contractors is attached as Exhibit E. Landlord shall promptly notify Tenant of any changes to this list if requested by Tenant. Landlord hereby agrees not to impose any fee in connection with Tenant's construction other than the Landlord's actual reasonable out-of-pocket costs and expenses incurred by the Landlord in connection with work to be performed by the Tenant in the Premises; provided that no fee or reimbursement shall be owed in connection with any Landlord's Work performed by Tenant. Tenant shall be responsible for any fee charged by the Condominium Board and any out of pocket costs incurred by the Condominium Board and owed in accordance with the Condominium Documents; provided that Landlord shall be responsible for any such fee owed in connection with any Landlord's Work performed by Tenant.

- c. Tenant covenants and agrees to use commercially reasonable efforts to avoid disturbance to the occupants of other parts of the Building in connection with any Alterations. Tenant, in making such Alterations, shall and will, at Tenant's own cost and expense, promptly comply with all Laws, whether now or hereafter enacted (including, without limitation, Local Law 58/1987 of the City of New York, as amended, and Title III of The Americans with Disabilities Act of 1990, all regulations issued thereunder and the Accessibility Guidelines for Buildings and Facilities issued pursuant thereto, as all of the foregoing may be amended from time, to time), of all public authorities having jurisdiction in the Building and/or the Premises with reference to such Alterations (including, without limitation, the Landmarks Preservation Commission of the City of New York), whether ordinary or extraordinary, structural or otherwise, foreseen or unforeseen, and will not call upon Landlord for any expenses connected therewith, and will reimburse Landlord and the Condominium Board for any expenses incurred on account of failure by Tenant to comply with any Law, and of any public authority, whether involving structural changes or not.
- d. Tenant shall promptly pay and discharge all costs and expenses of such Alterations, and shall not do or fail to do any act which shall or may render the Building liable to any mechanic's lien or other lien or charge or chattel mortgage or security interest or conditional bill of sale or title retention agreement. If any such lien or liens or other charge or chattel mortgage or security interest or conditional bill of sale or title retention agreement is filed against the Building or against such Alterations, or any part thereof, Tenant will, at Tenant's sole cost and expense, promptly remove the same of record within thirty (30) days after the filing of any such lien, or liens or other charge or chattel mortgage or security interest or conditional bill of sale or title retention agreement and notice of such filing to Tenant by Landlord, the Condominium Board or otherwise. If Tenant is in default of its foregoing obligations under this paragraph, Landlord or the

Condominium Board may cause such lien or liens or other charge or chattel mortgage or security interest or conditional bill of sale or title retention agreement to be removed of record by payment or bond or otherwise, as Landlord or the Condominium Board may elect, and promptly after written notice to Tenant (with reasonable backup documentation), Tenant will reimburse Landlord or the Condominium Board (without duplication), as the case may be, for all actual out-of-pocket costs and expenses incidental to the removal of any such lien or liens or other charge or chattel mortgage or security interest or conditional bill of sale or title retention agreement incurred by Landlord or the Condominium Board. Tenant covenants and agrees to indemnify and save harmless Landlord, the Condominium Board, Declarant and Fee Owner of and from all claims, counsel fees, loss, damage and expenses whatsoever by reason of any liens, charges, chattel mortgages, security interests, conditional bills of sale, title retention agreements or payments of any kind whatsoever that may be incurred or become chargeable against Landlord, the Condominium Board, Declarant, Fee Owner or the Building, or said Alterations, or any part thereof, by reason of any work done or to be done or materials furnished or to be furnished to or upon the Premises in connection with such Alteration

- e. Tenant hereby covenants and agrees to indemnify, in accordance with the terms of this Lease, and save harmless Landlord and the Condominium Indemnified Parties of and from all claims, reasonable counsel fees, loss, damage and expenses whatsoever by reason of any injury or damage, howsoever caused, to any person or property occurring prior to the completion of such Alterations or occurring after such completion, as a result of anything done or omitted in connection therewith or arising out of any fine, penalty or imposition or out of any other matter or thing connected with any work done or to be done or materials furnished or to be furnished in connection with such Alterations performed by Tenant or at the request of Tenant. At any and all times during the period of such Alterations, Landlord and the Condominium Board shall be entitled to have a representative or representatives on the site to inspect such Alterations and the parties shall reasonably coordinate with each other to arrange the timing of any such access.
- f. Tenant agrees that it will not, either directly or indirectly, use any contractors, labor and/or materials if the use of such contractors, labor and/or materials would or will create any labor disharmony with other contractors, subcontractors and/or labor then engaged by Tenant, Landlord, the Condominium Board, Fee Owner or others in the construction, maintenance and operation of the Building or any part thereof, to the extent Tenant could reasonably foresee such difficulty.
- g. Except to the extent paid for by Tenant, all fixtures and all paneling, partitions, railings and like installations, installed in the Premises at any time, either by Tenant or by Landlord on Tenant's behalf, shall, upon installation, become the property of Landlord and all fixtures and all paneling, partitions, railings and like

installations shall remain upon and be surrendered with the Premises. Nothing in this Section 16.7 shall be construed to give Landlord title to or to prevent Tenant's removal of trade fixtures, moveable office furniture and equipment, but upon removal of any such items from the premises or upon removal of other installations as may be required by Landlord or the Condominium Board in accordance with the terms of this Lease or the Condominium Documents, Tenant shall promptly and at its expense, repair any damage to the Premises or the Building due to such removal. All property required to be removed by Tenant at the end of the term remaining in the Premises after the end of the term of this Lease shall be deemed abandoned and may, at the election of Landlord, either be retained as Landlord's property or may be removed from the Premises by Landlord, at Tenant's expense.

- h. In accordance with Section 46, at Tenant's sole cost and expense, Landlord shall cooperate (including requesting the reasonable cooperation of the Condominium Board and the Condominium Board's consent to any matter requiring such consent under the GMHC Transaction Documents, and otherwise directly corresponding with the Condominium Board on Tenant's behalf regarding the same) in connection with any application for permits, approvals or certificates that Tenant is required or desires to obtain in connection with any Alterations.
- i. Upon Tenant's request, Landlord shall execute any such permits, approvals or certificates prior to Landlord's review of Tenant's plans and specifications so that Tenant can expedite the process of gaining the approval of the New York City Department of Buildings; it being understood and agreed that in such event, Tenant's plans and specifications remain subject to the review and approval of Landlord if otherwise set forth in this Article 15.
- j. The parties hereby agree to work together and cooperate in a good faith manner to agree on a final set of Tenant's plans and specifications for the Initial Work. Notwithstanding anything to the contrary contained in this Lease, Landlord hereby approves Tenant's interior basic architectural plan attached as Exhibit "K" hereto ("Tenant's Approved Concept Plan") for the Initial Work, and in reviewing the Tenant's plans and specifications for the Initial Work, to the extent Tenant has not made any material deviation from Tenant's Approved Concept Plan, Landlord shall not make any comments, requested revisions, or conditions for approval that are inconsistent with Tenant's Approved Concept Plan, including, without limitation, the design and layout contained therein. Notwithstanding the foregoing, Landlord shall be permitted to make comments, requested revisions and/or conditions for approval to Tenant's plans and specifications that are inconsistent with Tenant's Approved Concept Plan if the plans and specifications

would require any structural changes or changes to the Building systems or the structural components of the Building.

- k. Notwithstanding anything to the contrary contained in the Lease (i) in no event shall Tenant ever be required to utilize union labor unless required by applicable laws, (ii) Landlord hereby consents to Tenant obtaining, at Tenant's sole cost and expense, any required permits and approvals for any Alterations (including the Initial Work) based upon Tenant's architect's and engineer's self-certification of the Tenant's approved plans, (iii) in no event shall Tenant or any of Tenant's contractors or subcontractors be required to post a bond or other security in connection with the performance of any repair or Alterations (including the Initial Work) or to pay any construction coordination similar charge with respect to repairs or Alterations (including the Initial Work), and (iv) Tenant shall have no obligation to or accountability to Landlord for failing to restore or remove, at or prior to the expiration of the Term of this Lease, any Alterations or permanent improvements made to the Premises by Tenant.
- 17. Signs.** Tenant shall not place, erect or maintain any sign, sticker, poster, notice, advertising material, display, or any item of any kind or nature on the inside or outside of the windows or exterior of the Premises without the prior written approval of Landlord (not to be unreasonably withheld, delayed or conditioned) with respect to number, type, size, shape, materials, color and design of such signs and subject, also to compliance with all applicable legal requirements and regulations and without the prior written approval of the Condominium Board in accordance with the Condominium Documents with respect to a sign on the exterior of the Entrance door. Landlord hereby approves signage for Tenant consistent with the plans referenced in Exhibit "I" hereto in the following locations: (i) inside the Lobby, (ii) on the 7th floor of the Unit near the elevator and on the entrance door to the Premises, and (iii) on the exterior of the Entrance door to the Building. Upon the expiration or sooner termination of this Lease, Tenant at its own expense shall remove such sign or signs and repair any damage caused by the installation of such signs or such removal. Tenant's right to maintain signs on the Entrance door and in the Lobby is further subject to Section 13.6.

18. Tenant's Consumption of Electricity; Overtime HVAC Services.

- a. Unless otherwise expressly noted in this Lease, during the term of this Lease commencing on the Term Commencement Date, Tenant shall reimburse Landlord for Tenant's use of Electricity, at the rate set forth in Section #1 herein. Tenant's reimbursement to Landlord shall be made within thirty (30) days following Landlord's submission to Tenant of the electric bill from Landlord.
- b. Tenant's reimbursement to Landlord shall be made within thirty (30) days following Landlord's submission to Tenant of the bills therefrom. Tenant's use of electric energy in the Premises shall not at any time, in the reasonable judgment

of the Condominium Board, (1) exceed the capacity of any of the electrical conductors and equipment in or otherwise serving the Premises or (2) cause or result in any impairment or interference with the Base Building Systems, annoyance or inconvenience to other tenants or the overloading of the risers or feeders serving the Building. In order to prevent the occurrence of any of the events described in the preceding sentence and to avert any possible adverse effect upon the Building's electric service, Tenant shall not, without the Condominium Board's prior consent in each instance in accordance with the Condominium Documents, connect any fixtures, appliances or equipment (other than commercially reasonable and customary items for the Permitted Uses) to the Building's electric distribution system or make any Alteration to the electric system of the Premises existing on the Term Commencement Date. Tenant agrees to purchase all lighting tubes, lamps, bulbs and ballasts used in the Premises and to pay the cost of installation thereof.

- c. Landlord represents and warrants to Tenant that the HVAC units serving the Premises shall be in good working order on the Commencement Date. HVAC services shall be provided to Tenant on a 24/7 basis. To the extent Tenant uses HVAC and condenser water for the HVAC unit in excess of either the reasonable usage, and/or hours beyond regular business hours for the Permitted Use of the Premises, Landlord reserves the right to be reimbursed for the cost charged by the Condominium Board to Landlord for the additional condenser water during such hours, and for the additional electrical costs of operating the 8th floor HVAC unit during such hours. **[Not withstanding anything the contrary contained herein, Landlord shall, at its sole cost and expense, be responsible for the cost of any majors repairs to the HVAC units during term of this Lease, except to the extent that the need for any such repair is caused by the negligence or willful misconduct of Tenant.]**
- d. Notwithstanding anything to the contrary contained herein, at any time during the Term of this Lease, Landlord has the right to install, at Landlord's sole expense, a submeter to measure Tenant's consumption of electricity within the Premises, including, without limitation, from use of the HVAC unit for the Premises, provided that such submeter exclusively measures consumption of electricity within the Premises and does not include any electricity consumed outside the Premises, including, without limitation, HVAC service to the Remainder (as defined in Section 36). Upon installation of such a submeter, Tenant's consumption of electricity shall be measured by such submeter and shall no longer be determined by calculation of Tenant's Pro-Rata Share of electricity consumed within the Unit.

19. Telephone and Other Data and Telecommunications Connections. All telephone and other data and telecommunications connections which Tenant may desire (including the location thereof) are subject to the approval of the Condominium Board in accordance

with Exhibit “C” and the Condominium Documents before the same are installed, and the performance of the work in connection therewith shall be performed by contractors approved by the Condominium Board in accordance with the Condominium Documents. Tenant shall have the right to designate the entity or entities providing telephone or other data and communication cable installation, repair and maintenance for the Premises subject to obtaining the Condominium Board Consent in accordance with the Condominium Documents. The Condominium Board shall have the right to impose reasonable controls and to reasonably restrict and control access to telephone and other data and telecommunications cabinets and risers at the Building. Tenant has notified Landlord that Tenant requires (and Landlord has notified the Condominium Board that Tenant requires), at no charge, the non-exclusive right to access telecommunications closets and risers serving the 7th floor in common with other occupants of the Building (and in each case in accordance with terms and conditions of the Condominium Documents with respect thereto) to connect its internet and telephone lines, provided that any such access by Tenant or its representatives to any of the telecommunications closets or risers shall be coordinated with the Condominium Board and shall be subject to the Condominium Board’s reasonable regulations relating thereto.

- 20. Notices.** Any notice or other communication under this Lease shall be in writing and shall be sent by nationally recognized overnight delivery service or personal delivery addressed to the party for whom intended at its address set forth below, or to such other address as such party shall have designated by notice to the other in the manner herein prescribed. The addresses for such notices shall be as follows:

If to Landlord:

Gay Men’s Health Crisis, Inc.
307 West 38th Street
New York, New York 10018
Attention: Kishani Moreno, MA, Chief Operating Officer

If to Tenant:

The St. Luke’s-Roosevelt Hospital Center
Real Estate Division
150 East 42nd Street
New York, New York 10017
Attention: Mr. Thomas C. Ahn

With copies to:

The Mount Sinai Medical Center
Office of the General Counsel
150 East 42nd Street

New York, New York 10017
Attention: Christopher A. Considine, Esq.

and

Blank Rome LLP
1271 Avenue of the Americas
New York, New York 10020
Attention: Kerri L. Alessi, Esq.

Any such notice or demand sent next business day delivery via nationally recognized delivery service shall be deemed given or received on the date of receipt or refusal of receipt thereof. Any such notice or demand sent via personal delivery shall be deemed given or received upon receipt or refusal thereof. Counsel for either party may give notices on behalf of its client.

20. Broker. The parties represent and warrant that parties have used the following brokers in connection with this Lease: Landlord's Broker- Noah & Co.; Tenant's Broker- Platinum Properties, and Tenant agrees to indemnify Landlord against any claim for commission or other compensation in connection with this Lease made against Landlord by any broker, agent or finder other than Tenant's Broker with whom Tenant has dealt, or is claimed to have dealt, in connection with this Lease, and all costs, expenses and liabilities in connection therewith, including reasonable attorneys' fees and disbursements incurred by Landlord in the defense of any such claim. Landlord represents and warrants to Tenant that Landlord has dealt with no broker, agent or finder in connection with this Lease other than Landlord's Broker, and Landlord agrees to indemnify Tenant against any claim for commission or other compensation in connection with this Lease made against Tenant by any broker, agent or finder with whom Landlord has dealt, or is claimed to have dealt, in connection with this Lease, and all costs, expenses and liabilities in connection therewith, including reasonable attorneys' fees and disbursements incurred by Tenant in the defense of any such claim. Any and all commissions, compensation and fees payable to Landlord's Broker and Tenant's Broker shall be paid by Landlord pursuant to separate agreements. The provisions of this Article 20 shall survive the expiration or sooner termination of this Lease.

21. Condominium Board Consent and Recognition Agreements. This Lease is conditioned on (1) the Condominium Board granting written consent to (i) this Lease, (ii) Tenant's Concept Plan (iii) Tenant's exterior Entrance door signage plans set forth in Exhibit "I" (which consent has been obtained), (iv) Tenant receiving the rights under Section 18 of this Lease, including Tenant's rights for access to such closets and other areas of the Building referred to in Section 18, (v) Tenant's assignment and subletting rights, including its right to Permitted Transfer as set forth herein, Tenant's signage rights as set forth herein, Tenant's right to perform alterations, Tenant's right to use condenser water in accordance with the Condominium Documents and the Condominium Board's approval of Tenant's proposed contractors as set forth herein and (vi) Tenant occupying the Premises from and after the Term Commencement Date (collectively, the "**Condominium Board Consent**"), (2) the Ground Landlord agreeing to its obligations with respect to the Amended CO as set forth in this Lease, and (3) the Condominium

Board and the Fee Owner delivering to Tenant a recognition agreement for the benefit of Tenant with respect to the Premises on the form customarily used by the Condominium Board and the Fee Owner and otherwise reasonably acceptable to Tenant (the “**Recognition Agreement**”). If, in response to Landlord’s request for Landlord to consent to this Lease, the Condominium Board recaptures the Premises or rejects this Lease in accordance with the terms of the GMHC Transaction Documents, then this Lease shall thereupon automatically terminate. Landlord shall keep Tenant reasonably apprised of the status of its efforts to obtain the Condominium Board Consent. If the Condominium Board Consent in form reasonably acceptable to Landlord and Tenant is not obtained on or before sixty (60) days after the Effective Date, then Tenant shall have the unilateral right, at its election, to extend such time period for an additional thirty (30) days, and at any time following the 60th day (if Tenant does not elect to extend) or the 90th day (if Tenant elects to extend), as applicable, so long as the Condominium Board Consent has not been obtained, Landlord and Tenant each shall have the right to give the other notice terminating this Lease effective ten (10) days after such notice is given and, if such notice is given and if the Condominium Board Consent is not obtained on or before the last day of such ten (10) day period, then this Lease shall terminate on such day. Upon any such termination of this Lease, neither party hereto shall have any further obligation to the other, except for any obligations that, pursuant to the express terms hereof, survive termination hereof. Landlord shall promptly request and diligently pursue obtaining the Condominium Board’s consent to this Lease pursuant to the Condominium Board Consent in accordance with this Lease, but shall have no obligation to commence any litigation or arbitration in connection therewith or to pay any sums in connection therewith other than as required under the Condominium Documents. Tenant, at no cost or liability to Tenant, shall reasonably cooperate with Landlord’s efforts to obtain the Condominium Board Consent including, without limitation, providing any information reasonably requested by the Condominium Board and executing any documentation reasonably requested by the Condominium Board which does not increase Tenant’s obligations or decrease its rights hereunder. Landlord shall promptly advise Tenant if and when the Condominium Board Consent has been obtained or denied or the Condominium Board recaptures the Premises. Tenant and Landlord each waive any claim against the other arising from or relating to the Condominium Board’s failure or refusal to grant the Condominium Board Consent (except to the extent resulting from such party’s obligation to perform its obligations under this Section 21).

22. Personal Property. Landlord and Tenant acknowledge that Tenant is permitted to use, at no additional charge, the personal property located in the Premises as set forth on Exhibit “**F**” hereto (the “**Landlord Personal Property**”) throughout the term and Landlord shall not sell, or otherwise dispose of, or encumber the Landlord Personal Property. Tenant may, but shall not be required to, remove the Landlord Personal Property during, or at the expiration of, the Term. Tenant shall remove Tenant’s own personal property at the expiration of the Term in accordance with the requirements of this Lease. Landlord represents and warrants to Tenant that Landlord owns the Landlord Personal Property free and clear of any liens, claims or security interests in favor of any other person. Tenant shall accept the Landlord Personal Property in its “as is”, “where is” condition without representation or warranty made by Landlord of any kind or nature, except as set forth in the preceding sentence. Landlord and Tenant each acknowledge that no portion of the rent reserved hereunder, and no other consideration, has been paid or will be paid to or for the benefit of Landlord on account of the Landlord Personal Property. At the end of the

term of this Lease, Tenant shall have the option to purchase, on an “as is, where is” basis, any or all of the Landlord Personal Property from Landlord for a purchase price of \$1.00. Any items of Landlord’s Personal Property that Tenant elects not to purchase may be left at the Premises at the end of the term.

23. Default. Upon the occurrence of any one or more of the following events (each referred to as an “Event of Default”), Tenant shall be deemed in default:

23.1 If Tenant shall fail to make the full payment of any installment of Base Rent, Additional Rent, Building Operating Costs, Escalations, or any other amounts when due under this Lease and such amounts remain unpaid for more than five (5) business days after delivery of notice from Landlord of such failure;

23.2 If Tenant shall default in the observance or performance of any term, covenant, or condition of this Lease on Tenant’s part to be observed or performed (other than the covenants for the payment of rent or any other amounts due under this Lease), and Tenant shall fail to remedy such default within thirty (30) days after notice by Landlord to Tenant of such default, or if such default is of such a nature that it cannot be completely remedied within said period of thirty (30) days and Tenant does not commence within said period of thirty (30) days such remedying, or shall not thereafter diligently prosecute to completion all steps necessary to remedy such default; or

23.3 If Tenant: (a) becomes, or is declared, insolvent according to any law; (b) makes a transfer in fraud of creditors according to any applicable law; (c) assigns all or a substantial portion of its property for the benefit of creditors; (d) files a petition for relief under the Federal Bankruptcy Code or any other present or future federal or state insolvency, bankruptcy, or similar law (collectively, “**Applicable Bankruptcy Law**”); (e) a receiver or trustee is appointed for Tenant or its property, the interest of Tenant under this Lease is levied on under execution or under other legal process; or (f) any involuntary petition is filed against Tenant under Applicable Bankruptcy Law (provided that no such levy, execution, legal process, or petition filed against Tenant shall constitute a breach of this Lease or a default hereunder if Tenant shall contest the same by appropriate proceedings and shall remove or vacate the same within ninety (90) days from the date of its creation, service, or filing).

23.4 If Tenant makes an unpermitted assignment of the Lease or subleases the Premises or any portion thereof in violation of the terms of Section 15 of this Lease and Tenant does not rescind, cancel or otherwise terminate any such unpermitted assignment or sublease within five (5) business days of notice from Landlord.

24 Remedies.

24.1 Upon the occurrence and during the continuance of an Event of Default, Landlord may, at any time thereafter, give to Tenant five (5) business days’ notice of termination of this Lease or of Tenant’s possession of the Premises. The term of this Lease and Tenant’s possession of the Premises, as the case may be, shall terminate upon the expiration of said five (5) business

days with the same effect as if the date of expiration of said five (5) business day period was the termination date of this Lease, but Tenant shall remain liable for damages as provided in this Section 24.

24.2 In addition, after the occurrence of an Event of Default, Landlord shall have the following rights and remedies and otherwise available to Landlord at law or in equity.

24.3 Landlord or Landlord's agents or servants may, immediately, or at any time after such Event of Default or the termination of this Lease or Tenant's possession of the Premises, as the case may be, re-enter the Premises or any part thereof, without notice, either by summary proceedings or by any other applicable legal action or proceeding (without being liable to indictment, prosecution, or damages therefor), and may repossess the Premises and dispossess Tenant and any persons from the Premises, and remove any and all of their property and effects therefrom without incurring any liability to Tenant or any other person for such repossession or removal; and

24.4 Landlord, at Landlord's sole option, may relet the whole, or any part or parts of the Premises, from time to time, in the name of Landlord, to such tenant or tenants, for such term or terms ending before, on, or after the scheduled expiration date, at such rental or rentals and upon such other conditions, which may include concessions and free rent periods, as Landlord, in Landlord's sole discretion, may determine. In no event shall Landlord be liable for refusal or failure to relet the Premises or any part thereof, or, in the event of any such reletting, for refusal or failure to collect any rent due upon any such reletting, or for the Condominium Board's refusal to accept any proposed tenant, and no such refusal or failure shall operate to relieve Tenant of any liability under this Lease or otherwise affect any such liability. Landlord, at Landlord's option, may make such repairs, replacements, alterations, additions, improvements, decorations, and other physical changes in and to the Premises as Landlord, in Landlord's sole discretion, considers advisable or necessary in connection with any such reletting or proposed reletting, without relieving Tenant of any liability under this Lease or otherwise affecting any such liability. If the Premises or any part thereof should be relet in combination with other space, then proper apportionment on a square foot basis shall be made of the rent received from such reletting and of the expenses of reletting. Landlord shall be under no obligation in reletting the Premises to give priority to the leasing thereof over other vacant space in the Unit of which the Premises are a part.

24.5 Acceptance of rent by Landlord with knowledge of any default, or the failure of Landlord to seek redress for any default, or to insist upon the strict performance of any term, covenant, condition, or obligation of this Lease shall not constitute a waiver thereof, and Landlord shall have all remedies provided herein and by applicable law with respect to any subsequent act or omission which would have originally constituted a default.

24.6 If this Lease and the term of this Lease shall terminate, or if Tenant's possession of the Premises is terminated, as the case may be, expire, or come to an end as provided in this Section 26, or by or under any summary proceeding, or any other action or proceeding, or if Landlord shall re-enter the Premises as provided in this Section 24, then, in any of these events

Tenant shall be liable to Landlord for damages as set forth in Section 25. Notwithstanding the foregoing or anything to the contrary contained herein, Landlord acknowledges and agrees that its rights of re-entry into the Premises set forth in this Lease do not confer on Landlord the authority to operate a hospital as defined in Article 28 of the Public Health Law of the State of New York on the Premises and agrees that it will give the New York State Department of Health, Tower Building, Empire State Plaza, Albany, N.Y. 12237, notification by certified mail of Landlord's intent to re-enter the Premises or to initiate dispossession proceedings or that this Lease is due to expire, at least thirty (30) days prior to the date on which Landlord intends to exercise a right of re-entry or to initiate such proceedings or at least sixty (60) days before the expiration of this Lease. Upon receipt of notice from Landlord of its intent to exercise its right of re-entry or upon the service of process in dispossession proceedings and sixty (60) days prior to the expiration of this Lease, Tenant shall immediately notify by certified mail the New York State Department of Health, Tower Building, Empire State Plaza, Albany, NY 12237, of the receipt of such notice or service of such process or that this Lease is about to expire. For the avoidance of doubt, the foregoing is not intended to restrict or otherwise inhibit Landlord's ability to relet the Premises to another tenant for the operation of a hospital following the expiration or sooner termination of this Lease.

25. Remedies of Landlord and Waiver of Redemption. In case of any Event of Default by Tenant that, pursuant to the terms of Section 24, results in the termination of this Lease or the termination of Tenant's right to possession of the Premises, re-entry, cancellation, expiration and/or dispossession by summary proceedings or otherwise, then:

25.1 Base Rent, Additional Rent, Building Operating Costs and Escalations shall become due thereupon and be paid up to the time of such re-entry, dispossession, termination and/or expiration;

25.2 Tenant or the legal representatives of Tenant shall also pay to Landlord, as liquidated damages for the failure of Tenant to observe and perform said Tenant's covenants herein contained, unless Landlord elects to accelerate the rents under Section 25.3, any deficiency between the rent hereby reserved and/or covenanted to be paid and the net amount, if any, of the rents collected on account of the lease or leases of the Premises for each month of the period which would otherwise have constituted the balance of the term of this Lease. Any such liquidated damages shall be paid in monthly installments by Tenant on the rent day specified in this Lease and any suit brought to collect the amount of the deficiency for any month shall not prejudice in any way the rights of Landlord to collect the deficiency for any subsequent month by a similar proceeding. In no event shall Tenant be entitled to receive any excess, if any, of such net rents collected over the sums payable by Tenant to Landlord hereunder. Suit or suits for the recovery of any damages payable by Tenant, or any installments thereof, may be brought by Landlord from time to time at its election, and nothing in this Lease shall be deemed to require Landlord to postpone suit until the date when the term of this Lease would have expired but for such Default Termination (as defined below).

25.3 Landlord, in its sole discretion, in lieu of the damages described in Section 25.2 may elect to require Tenant to pay to Landlord as liquidated damages, and Tenant hereby covenants to pay to Landlord, a sum which represents the then present value (such computation to be made by using the then prime rate (i.e., the base lending rate) of Citibank N.A.) of the excess, if any, of (1) the Base Rent reserved herein had this Lease not so terminated for the period from the date of such termination, expiration, re-entry and/or dispossession by summary proceedings or otherwise (any such event a “**Default Termination**”) to the date originally specified as the expiration date of this Lease (as the same may have been extended by the exercise by Tenant of any renewal or extension right contained in this Lease or by agreement with Landlord), over (2) the aggregate fair rental value of the Premises for the same period. If the Premises or any part thereof be relet by Landlord before presentation of proof of such damages to any court, commission or tribunal, the amount of rent reserved upon such reletting shall, prima facie, be the fair rental value for the Premises, or part thereof, so relet during the term of the reletting.

25.4 Upon a Default Termination, Landlord shall be entitled to retain all monies, if any, paid by Tenant to Landlord whether as advance rent, security deposit (and interest thereon, if any) or otherwise, but such monies shall be credited by Landlord against any rent or additional rent due from Tenant, subject to Tenant’s right to an accounting as to all such monies, at the time of such termination or re-entry, or at Landlord’s option, against any damages payable by Tenant under this article or pursuant to law. In addition to any other remedies Landlord may have under this Lease, and without reducing or adversely affecting any of Landlord’s rights and remedies under this Section 27.4, if any rent, additional rent or damages payable hereunder by Tenant to Landlord are not paid within five (5) days after notice, the same shall be subject to a late payment charge in accordance with Section 3.4 from the due date thereof until paid, and the amount of such late payment charge shall be additional rent hereunder.

25.5 Subject to the provisions of Section 25.3, nothing in this Lease shall be construed as limiting or precluding the recovery by Landlord against Tenant of any sums or damages to which, in addition to the damages specified above, Landlord may lawfully be entitled by reason of any default under this Lease on the part of Tenant.

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

25.7 Subject to the provisions of Section 25.3, mention in this Lease of any particular remedy shall not preclude Landlord from any other remedy in law or in equity.

25.8 Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Tenant being evicted or dispossessed for any cause, or in the event of Landlord obtaining possession of the Premises, by reason of the violation by Tenant of any of the covenants and conditions of this Lease or otherwise.

26. Default, Fees and Expenses. If Tenant defaults in the observance or performance of any term or covenant on Tenant's part to be observed or performed under or by virtue of any of the terms or provisions of this Lease beyond the expiration of any applicable cure, grace and notice periods (which periods shall not apply in the event of any emergency and may, at Landlord's election, be substantially reduced in the case of a default by Tenant that triggers a default under the Condominium Documents), then, unless otherwise provided elsewhere in this Lease, Landlord may after reasonable prior written notice (except that no notice shall be required in event of an emergency or in the case of a default that triggers a default under the Condominium Documents) perform the obligation of Tenant thereunder. If Landlord, in connection with the foregoing or in connection with any default by Tenant in the covenant to pay rent hereunder after all applicable notices and cure periods hereunder, reasonably makes any expenditures or reasonably incurs any obligations for the payment of money, including but not limited to reasonable attorney's fees, in instituting, prosecuting or defending any action or proceeding, then Tenant will reimburse Landlord for such sums so paid or obligations incurred with interest from the date of demand until paid at the prime rate of Citibank, N.A. (or any successor thereto) plus three percent (3%) per annum. The foregoing expenses incurred by reason of Tenant's default shall be deemed to be additional rent hereunder and shall be paid by Tenant to Landlord within ten (10) business days of rendition of any bill or statement to Tenant therefor. If the Lease term has expired at the time of making of such expenditures or incurring of such obligations, such sums shall be recoverable by Landlord as damages.

If Landlord shall default in Landlord's obligation to make any repairs required by this Lease to be made by Landlord, and such default (a) materially interferes with or otherwise materially adversely affects Tenant's use of the Premises and (b) is capable of being cured by Tenant taking action solely within the Premises and without adversely affecting any of the Building's systems or any area outside of the Premises or the structural elements of the Building (any such default satisfying the criteria described in clauses (a) and (b) is called a "Landlord Obligation"), then in any such case Tenant may give Landlord notice (a "Cure Notice") setting forth in reasonable detail the nature of the Landlord default comprising the Landlord Obligation and Tenant's intention to exercise its rights under this Section with respect to such Landlord Obligation. If such default by Landlord shall continue for thirty (30) days after the giving of the Cure Notice or, if such default is not reasonably susceptible of cure within such period, such longer period as may be reasonably necessary to complete the same with due diligence provided that Landlord commences the cure within said thirty (30) day period and prosecutes such cure to completion, and if such default thereafter continues beyond the expiration of a further five (5) Business Day reminder notice given by Tenant to Landlord, which notice shall state in bold upper case letters at the top of the first page as follows: "THIS IS A TIME SENSITIVE NOTICE AND IF LANDLORD SHALL FAIL TO CURE SUCH ITEM SPECIFIED IN THIS CURE NOTICE WITHIN 5 BUSINESS DAYS FOLLOWING LANDLORD'S RECEIPT OF THIS NOTICE THEN TENANT SHALL HAVE THE RIGHT TO PERFORM SAME PURSUANT TO Article 26 OF THE LEASE", then Tenant, without thereby waiving such default, shall have the right (but shall not be obligated), upon notice to Landlord, to perform the Landlord Obligation for the account of Landlord. If Tenant performs a Landlord Obligation in accordance with the provisions of this Article 26, Landlord shall pay the actual reasonable out-of-pocket costs of performing such Landlord Obligation, within thirty (30) days following Landlord's receipt of reasonable

evidence of such out-of-pocket costs. If Landlord fails to pay such amount within such thirty (30) day period Tenant may offset or recoup such amount against the next subsequent installments of Base Rent coming due under this Lease.

27. End of Term; Holdover.

27.1 Upon the expiration or other termination of the term of this Lease, either of the Lease Term, the Extension Lease Term, or pursuant to the exercise by the Tenant of the Tenant Termination Option, in accordance with section #1 of the Lease, Tenant shall quit and surrender to Landlord the Premises, broom clean, in good order and condition, ordinary wear and damages which Tenant is not required to repair as provided elsewhere in this Lease excepted, and Tenant shall remove all its property (for the avoidance of doubt, excluding the Landlord Personal Property if Tenant elects to return the Landlord Personal Property to Landlord in accordance with Section 23). Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of this Lease. If the last day of the term of this Lease or any renewal thereof, falls on a Saturday or a Sunday or any legal or other Building holiday, this Lease shall expire at 11:59 p.m. on the succeeding business day, provided Tenant shall pay rent through such succeeding business day.

27.2 In the event of holding over by Tenant or any person or entity claiming under Tenant after expiration or other termination of this Lease, or in the event Tenant continues to occupy the Premises after the termination of Tenant's right of possession due to an Event of Default by Tenant, such holding over or possession shall constitute a tenancy at sufferance, subject to all of the terms and provisions of this Lease. In the event of any such holding over, in addition to any other remedies available to Landlord under this Lease, at law or in equity, Landlord shall have the right, provided Landlord does so in accordance with applicable law, to enter upon and take possession of the Premises. Tenant shall, throughout the entire holdover period, pay rent (the "**Holdover Rent**") at one hundred fifty percent (150%) of the Base Rent in effect immediately prior to such expiration or termination. Tenant shall also continue to pay all Additional Rent during any such holdover period. No holding over by Tenant after the expiration or termination of the term of this Lease and no acceptance of rent by Landlord during a holdover period, whether with or without the consent of Landlord, shall be construed to extend the term of this Lease or prevent Landlord from recovering immediate possession of the Premises by summary proceedings or otherwise. In the event of any unauthorized holding over by Tenant which continues for more than thirty (30) days after the expiration of this Lease, and in addition to the Holdover Rent, Tenant will protect, defend, indemnify and hold Landlord harmless from and against any actual claims, demands, liability, costs, expenses or damages (including reasonable attorneys' fees and consequential damages), (i) if and the extent the same are claimed by and actually awarded and payable by, incurred or suffered by Landlord by reason of the claims of a succeeding tenant or by the termination of a lease by a succeeding tenant solely on account of Tenant holding over in the Premises beyond the term of this Lease or (ii) if the Condominium has been terminated without attornment by Tenant to Fee Owner and Landlord has surrendered the balance of the Unit, asserted by Fee Owner against Landlord under the Condominium Documents due to such holding over.

28. Damage by Fire or Other Casualty.

28.1 If the Premises or any part thereof shall be damaged by fire or other casualty, Tenant shall give prompt notice thereof to Landlord and this Lease shall continue in full force and effect except as hereinafter set forth.

28.2 If the Premises are partially damaged or rendered partially unusable as a result of fire or other casualty, the Condominium Board is required under the terms of the Condominium Documents to repair such damage at the expense of the Condominium Board and subject to the terms of the Condominium Documents, and the rent, until such repair shall be substantially completed, shall be apportioned from the day following the casualty to the part of the Premises that is usable

28.3 If the Premises are totally damaged or rendered wholly unusable as a result of fire or other casualty, then the rent shall be proportionately paid up to the time of the casualty and thenceforth shall cease and be abated until the date when the Premises shall have been repaired and restored by the Condominium Board, subject to the Condominium Board's right to terminate the Condominium pursuant to the Condominium Documents. If the Condominium Board does elect to terminate the Condominium, then this Lease shall also terminate by written notice from Landlord to Tenant, given promptly after receipt by Landlord of the Condominium Board's notice to Landlord terminating the Condominium. Such notice shall specify a date for the expiration of the Lease, which date shall be the same date the Condominium is terminated, and upon the date specified in such notice the term of this Lease shall expire as fully and completely as if such date were the date set forth in this Lease for the termination of this Lease and Tenant shall forthwith quit, surrender and vacate the Premises without prejudice however, to each party's rights and remedies against the other party hereto under the Lease provisions in effect prior to such termination, and any rent owing shall be paid up to such date and any payments of rent made by Tenant which were on account of any period subsequent to such date shall be promptly returned to Tenant. Unless the Condominium Board terminates the Condominium, the Condominium Documents provide that the Condominium Board is required to repair and restore the Premises and the Building, with all reasonable expedition, subject to delays due to adjustment of insurance claims, labor troubles and causes beyond the Condominium Board's control. After any such casualty, Tenant shall reasonably cooperate with such repair and restoration by removing from the Premises as promptly as reasonably possible, all of Tenant's salvageable inventory and movable equipment, furniture and other property. Tenant's liability for full rent shall resume five (5) days after written notice from the Condominium Board or Landlord that the Premises are substantially ready for Tenant's occupancy (assuming that the Premises are actually substantially ready for Tenant's occupancy), excluding the repair or restoration of any property or improvements that Tenant is required to insure, which shall be the responsibility of Tenant to repair or restore. Notwithstanding the foregoing, (x) if pursuant to Section 5.3.9 of the By-Laws of the Condominium Documents Landlord has the right to terminate the Condominium by reason of a fire or other casualty and Landlord does elect to terminate the Condominium, then Landlord shall notify Tenant of such election at the same time Landlord notifies the Condominium Board of such election, and this Lease shall terminate concurrently with the termination of the

Condominium. Notwithstanding anything to the contrary contained herein, although Section 5.3.9 of the By-Laws of the Condominium Documents permits Landlord to require the Unit to be repurchased by the Condominium Board if the restoration of the Unit is estimated to exceed twelve (12) months (or in fact exceeds twelve (12) months) from the date of the casualty, Landlord agrees that without Tenant's written consent Landlord shall not elect to have the Condominium Board repurchase the Unit unless the restoration of the Unit is estimated to exceed twenty-four (24) months (or in fact exceeds twenty-four (24) months) from the date of the casualty *and* not less than thirty percent (30%) of the Unit has been damaged by such casualty or unless Tenant exercises its right to terminate this Lease pursuant to the following sentence. In addition, if a written report by a reputable consultant reasonably selected by the Condominium Board determines that the repair or restoration of the Premises will take more than twenty-four (24) months after the date of the casualty to complete then Tenant shall have the right to terminate this Lease by written notice to Landlord within thirty (30) days after receipt of such report and (y) if for any reason such repair and restoration is not substantially completed within twenty-four (24) months after the date of the casualty, then Tenant shall have the right to terminate this Lease on sixty (60) days' notice to Landlord and the Condominium Board's failure to deliver the Premises in substantially complete condition within said sixty (60) day period, provided however, the Condominium Board's time to substantially complete the repair and restoration work may be extended due to delays primarily or proximately caused by Tenant.

28.4 Nothing contained hereinabove shall relieve Tenant or Landlord from liability that may exist as a result of damage from fire or other casualty. Notwithstanding the foregoing, each party shall look first to any insurance in its favor before making any claim against the other party for recovery for loss or damage resulting from fire or other casualty, and to the extent that such insurance is in force and collectible and to the extent permitted by law, Landlord and Tenant each hereby releases and waives all right of recovery against the other or any one claiming through or under each of them by way of subrogation or otherwise. The foregoing release and waiver shall be in force only if both releasers' insurance policies contain a clause providing that such a release or waiver shall not invalidate the insurance policy in question. If, and to the extent, that such waiver can be obtained only by the payment of additional premiums, then the party benefiting from the waiver shall pay such premium within thirty (30) days after written demand or shall be deemed to have agreed that the party obtaining insurance coverage shall be free of any further obligation under the provisions hereof with respect to waiver of subrogation.

28.5 Notwithstanding anything to the contrary contained in this Lease, but subject to Section 28.3 above, if Landlord has the right to terminate the Condominium (or cause the Condominium Board to purchase the Unit) pursuant to the GMHC Transaction Documents on account of damage to the Premises and/or access thereto, then Tenant shall have the right to terminate this Lease even if Landlord elects not to terminate the Condominium (or cause the Condominium Board to purchase the Unit or any interest therein).

28.6 Tenant acknowledges that neither Landlord nor the Condominium Board will carry insurance on Tenant's furniture and/or furnishings or any fixtures or equipment,

improvements, or appurtenances removable by Tenant and agrees that neither Landlord nor the Condominium Board will be obligated to repair any damage thereto or replace the same.

28.7 If there shall be a casualty which shall render the Premises substantially unusable for the Permitted Use and the estimated time for Landlord to complete the restoration of the Premises exceeds one (1) year, then Tenant may terminate this Lease upon thirty (30) days written notice to Landlord, given at any time within thirty (30) days after the date Tenant is advised by Landlord of the time to complete the restoration. Furthermore, if Tenant shall have the right to terminate this Lease but shall not do so and if the Condominium Board or Landlord, as applicable, has not substantially completed the restoration of the Premises within one (1) year from the commencement of such restoration, then Tenant may, at any time after the date when the Premises should have been substantially completed but were not, send to Landlord a notice terminating this Lease, and if Tenant sends such termination notice to Landlord and the repair or restoration of the Premises has not been substantially completed within thirty (30) days following Landlord's receipt of such termination notice from Tenant, then on the thirtieth (30th) day following Landlord's receipt of the termination notice, this Lease shall terminate. If either Landlord or Tenant shall terminate this Lease in accordance with this Article 28, then this Lease shall terminate as of the date of such notice and all rent shall be prorated and paid as of such termination date.

29. Eminent Domain.

29.1 If pursuant to the GMHC Transaction Documents either the Condominium Board or Landlord elects to terminate the Condominium by reason of a taking by eminent domain for any public or quasi-public use or purpose affecting either the Building or the Unit, this Lease and the term and estate hereby granted shall terminate as of the date of such termination, and the Base Rent and additional rent shall be prorated and adjusted as of such date and no further rent shall accrue after such termination date. Notwithstanding anything to the contrary contained herein, although Section 8.3 of the By-Laws of the Condominium Documents permits Landlord to require the Condominium Board to repurchase the Unit if more than twenty-five percent (25%) of the aggregate area of the Unit is subject to a condemnation, Landlord agrees that without the consent of Tenant Landlord shall not exercise such right unless more than twenty-five percent (25%) of the aggregate area of the Unit then occupied by Landlord is subject to a condemnation or unless Tenant elects to terminate this Lease pursuant to Section 31.2 below. Landlord shall promptly provide Tenant with a copy of any notice of termination given to it by the Condominium Board or any notice of termination given by Landlord to the Condominium Board.

29.2 If twenty (20%) percent or more of the Premises shall be so taken and the remaining area of the Premises shall not be sufficient, in Tenant's reasonable judgment, for Tenant to continue the operation of its business, or if either access to the Premises or the standard or class of the Unit or the Building is materially adversely affected, then Tenant may (at its option) terminate this Lease by giving Landlord notice to that effect within ninety (90) days after the date of vesting of title on such taking.

29.3 This Lease shall terminate on the date that such notice from Landlord or Tenant to the other shall be given, and the Base Rent and additional rent shall be prorated and adjusted as of such termination date and no further rent shall accrue after such termination date. Upon any such partial taking and this Lease continuing in force as to any part of the Premises, the Base Rent and additional rent shall be equitably adjusted, taking into account the rentable area remaining.

29.4 The Condominium Board shall be entitled to receive the entire award or payment in connection with any taking without deduction therefrom for any estate vested in Tenant by this Lease and Tenant shall receive no part of such award except as hereinafter expressly provided below. Tenant hereby expressly assigns to the Condominium Board all of its right, title and interest in and to every such award or payment; provided, however, that Tenant shall have the right to make a separate claim for its moving expenses and, to the extent the award otherwise payable to the Condominium Board shall not be diminished thereby, for any of Tenant's personal property taken.

29.5 If the temporary use or occupancy of all or any part of the Premises shall be taken by condemnation or in any other manner for any public or quasi-public use or purpose during the term of this Lease Tenant shall be entitled, except as hereinafter set forth, to receive that portion of the award or payment for such taking which represents compensation for the use and occupancy of the Premises, for the taking of Tenant's personal property and for moving expenses, and the Condominium Board shall be entitled to receive that portion which represents reimbursement for the cost of restoration of the Premises. This Lease shall be and remain unaffected by such taking and Tenant shall continue to be responsible for all of its obligations hereunder insofar as such obligations are not affected by such taking and shall continue to pay in full the Base Rent and additional rent when due. If the period of temporary use or occupancy shall extend beyond the expiration date of this Lease, that part of the award which represents compensation for the use and occupancy of the Premises (or a part thereof) shall be divided between Landlord and Tenant so that Tenant shall receive so much thereof as represents the period up to and including such expiration date and Landlord shall receive so much thereof as represents the period after such expiration date. All monies paid as, or as part of, an award for temporary use and occupancy for a period beyond the date to which the Base Rent and additional rent have been paid shall be received, held and applied by Landlord as a trust fund for payment of the Base Rent and additional rent becoming due hereunder.

29.6 In the event of a taking of less than the whole of the Building which does not result in termination of this Lease, or in the event of a taking for a temporary use or occupancy of all or any part of the Premises which does not result in a termination of this Lease, the Condominium Documents provide that the Condominium Board, at its expense, and whether or not any award or awards shall be sufficient for the purpose, shall proceed with reasonable diligence to repair the remaining parts of the Building and the Premises to a condition not less than substantially their former condition to the extent that the same may be feasible (subject to reasonable changes which the Condominium Board shall deem desirable) and so as to constitute a complete and rentable Building and Premises.

30. **Operating Covenants.** Intentionally omitted.

31. **Hazardous Materials, Odors, Noise.** Landlord represents and warrants to Tenant as of the date hereof and as of the Commencement Date that, to the best of Landlord's knowledge, the Premises are and will be free of hazardous materials. Landlord shall defend, indemnify, and hold Tenant harmless from and against any and all loss, cost, damage, liability and expense, including reasonable attorneys' fees, that Tenant may sustain arising out of or in connection with any hazardous materials that have existed on the Premises prior to the Term Commencement Date and which were not introduced by Tenant or Tenant's contractors, subtenants, agents, employees, invitees or licensees). During the term of this Lease, Tenant shall keep the Premises free of contamination from any toxic or hazardous materials, substances and waste used or stored by Tenant and shall not permit any toxic or hazardous materials or substances to be present in the Premises except for those contained in cleaning supplies and office supplies commonly used in office buildings in the New York area in amounts reasonably necessary in connection with cleaning of the Premises and the conduct of Tenant's business therein. No odors, fumes, or noise shall emanate from the Premises, which can be smelled or heard outside the Premises, in any public hallway or in any other leased area in the Building. Notwithstanding the foregoing, Tenant shall not be responsible for any toxic or hazardous materials which were not introduced to the Premises by Tenant or Tenant's contractors, subtenants, agents, employees, invitees or licensees. All Base Rent and Additional Rent shall abate for any period that Tenant is delayed from commencing, performing, or completing the Initial Work (or obtaining permits or sign-offs in connection therewith) or operating for business (whether initially or thereafter) due to the presence or remediation of hazardous materials not introduced by Tenant.

32. **Not Binding.** The submission of this Lease to Tenant or Landlord shall not be construed as an offer or a binding agreement, nor shall the Tenant or Landlord have any rights with respect thereto, unless and until each of Landlord and Tenant shall execute a copy of this Lease and unconditionally deliver same to the other.

33. **Rules and Regulations.** Tenant and Tenant's servants, employees, agents, visitors and licensees shall observe faithfully and comply strictly with the Rules and Regulations annexed as Schedule A to the Declaration and such other Rules and Regulations as the Condominium Board may from time to time adopt. Reasonable notice of any additional rules or regulations shall be given to Tenant. Nothing in this Lease contained shall be construed to impose upon Landlord or the Condominium Board any duty or obligation to enforce the Rules and Regulation or terms, covenants or conditions in any other lease, as against any other tenant, and Landlord shall not be liable to Tenant for violation of the same by any other tenant, its servants, employees, agents, visitors or licensees.

34. **Cleaning, Rubbish Removal and Exterminating Service.**

34.1 Tenant shall be solely responsible to clean the Premises. Tenant shall have the right to use for such work either the contractor then providing cleaning services on behalf of the Condominium Board in the Building (provided that the prices charged by the Condominium

Board's contractor(s) are comparable to the prices charged by other reputable contractors performing similar services for other Manhattan office buildings for the same work), the contractor then providing cleaning services on behalf of the Landlord in the Unit, or a cleaning contractor selected by Tenant and approved by the Condominium Board.

34.2 Tenant acknowledges that the Condominium Board selects the designated carting company for rubbish removal service for the entire Building. Tenant shall pay all charges for Tenant's rubbish removal service directly to the designated carting company (to the extent that such charges are commercially reasonable and relate only to the Premises). Neither Landlord nor the Condominium Board shall be liable to pay the carting company for Tenant's rubbish removal services.

34.3 Tenant shall not place, deposit and/or store any refuse and rubbish in any portion of the Building other than the Premises; except such locations in the Building and at such times as shall be specified by the Condominium Board.

34.4 Tenant agrees that the contract between carting company and Tenant shall be a month-to-month contract only and the Condominium Board has the right to immediately terminate the carting company and designate a new carting company at any time, without prior notice to Tenant and Tenant's contract shall be deemed automatically terminated if, as and when the contract between the Condominium Board and the Building designated carting company shall terminate.

34.5 Tenant shall always procure during the term of this lease, a reputable licensed exterminating company to instituting a comprehensive pest control management program, containment, installing physical barriers such as door sweeps, plugging holes between walls, piping, raceways where necessary as per exterminator recommendations, at tenant's cost.

34.6 Landlord (i) cleans and maintains the Lobby and the elevator lobbies on each floor of the Unit, (ii) cleans the interior of the elevator cars, and (iii) exterminates in the ground floor Lobby.

35. No Waiver. The failure of Landlord to seek redress for violation of, or to insist upon the strict performance of any covenant or condition of this Lease shall not prevent a subsequent act which would have originally constituted a violation from having all the force and effect of an original violation. The receipt by Landlord of rent with knowledge of the breach of any covenant of this Lease shall not be deemed a waiver of such breach and no provision of this Lease shall be deemed to have been waived by Landlord unless such waiver is in writing signed by Landlord. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly rent herein stipulated shall be deemed to be other than on account of the earliest stipulated rent, nor shall any endorsement or statement of any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy set forth in this Lease. No act or thing done by Landlord or Landlord's agents during the term hereby demised shall be deemed an acceptance of a surrender of the Premises,

and no agreement to accept such surrender shall be valid unless in writing signed by Landlord. No employee of Landlord or Landlord's agent shall have any power to accept the keys of the Premises prior to the termination of the Lease and the delivery of keys to any such agent or employee shall not operate as a termination of the Lease or a surrender of the Premises.

36. Inability to Perform. Except as otherwise provided in this Lease, this Lease and the obligation of Tenant to pay rent hereunder and the obligation of Landlord and Tenant to perform all of the other covenants and agreements hereunder on part of Landlord and Tenant to be performed shall in no way be affected, impaired or excused because Landlord or Tenant, as the case may be, is unable to fulfill any of its obligations under this Lease or to supply or is delayed in supplying any service expressly or impliedly to be supplied or is unable to make, or is delayed in making any repair, additions, alterations or decorations or is unable to supply or is delayed in supplying any equipment or fixtures if Landlord or Tenant, as the case may be, is prevented or delayed from so doing by reason of strike or labor troubles or any cause whatsoever beyond such party's reasonable control including, but not limited to, government preemption in connection with a national emergency or by reason of any rule, order or regulation of any department or subdivision thereof of any government agency or by reason of the conditions of supply and demand which have been or are affected by war or other emergency, a mandated shutdown of work by applicable governmental authorities due to a public health emergency (including epidemics, pandemic (including, without limitation, the COVID-19 pandemic), famine, disease, plague, quarantine, and other health risk such as those declared or recognized by the Centers for Disease Control, the World Health Organization, national governments or other similar bodies.

37. Estoppel Certificate.

37.1 Tenant, at any time, and from time to time (but not more than two (2) times during any twelve (12) month period), within ten (10) business days' of written request by Landlord, shall execute, acknowledge and deliver to Landlord, and/or to any other person specified by Landlord, a statement certifying that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified and stating the modifications), stating the dates to which the rent and additional rent have been paid, stating whether or not there exists any default by Landlord under this Lease, and, if so, specifying each such default, and certifying as to such other matters as Landlord may reasonably request.

37.2 Landlord, at any time, and from time to time (but not more than two (2) times during any twelve (12) month period), within ten (10) business days' of written request by Tenant, shall execute, acknowledge and deliver to Tenant, or to any other person specified by Tenant, a statement certifying that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified and stating the modifications), stating the dates to which the rent and additional rent have been received by Landlord, and stating whether or not there exists any default by Tenant under this Lease, and if so, specifying each such default, and certifying as to such other matters as Tenant may reasonably request.

37.3 Landlord, at any time, and from time to time (but not more than two (2) times during any twelve (12) month period), within ten (10) days' of written request by Tenant, shall cooperate with Tenant, and if so requested by Tenant, make such request and necessary correspondence directly to the Condominium Board on behalf of the Tenant, to execute, acknowledge and deliver to Tenant, or to any other person specified by Tenant, an estoppel certificate in the form attached as an exhibit to the Declaration.

38. Representations, Warranties and Covenants.

38.1 Landlord represents and warrants to Tenant that (i) a true, correct and complete copy of the Ground Lease and the GMHC Transaction Documents (collectively, the **"Underlying Documents"**- See Exhibit **"J"** [**"J1"**-**"J4"**]) have been delivered to Tenant; (ii) the Underlying Documents are in full force and effect and have not been amended or modified in any respect, and no written waivers have been given by Landlord, Declarant, Fee Owner or the Condominium Board; (iii) Landlord has title to the Unit, which is a leasehold condominium unit; (iv) Landlord has not assigned, mortgaged, pledged, encumbered or otherwise transferred the Unit or any interest in the Unit or leased the Premises; (v) to Landlord's actual knowledge, no event has occurred which with the passage of time or giving of notice, or both, could ripen into a default under the Underlying Documents; (vi) Landlord is not in, and has not received any notice of, default under the Underlying Documents and, to the best of Landlord's knowledge, there is no default by Landlord under the Underlying Documents; (vii) Landlord has not received any notice of any violation of applicable governmental requirements or insurance requirements; (viii) there are presently no offsets or defenses existing against the enforcement of the Underlying Documents; and (ix) Landlord owns (and, as of the Term Commencement Date, shall own) good title to the Personal Property free and clear of any liens, claims or security interests whatsoever. Because Landlord is not a party to the Ground Lease, Landlord's representations and warranties set forth above with respect to the Ground Lease are qualified to the actual knowledge of Landlord.

38.2 Landlord shall deliver to Tenant, within two (2) business days following receipt thereof or sending thereof, as applicable, a true, correct and complete copy of any proposed amendment or modification to any of the GMHC Transaction Documents. Landlord shall deliver to Tenant, within two (2) business days following receipt thereof or sending thereof, as applicable, a true, correct and complete copy of any notice of default or event of default pursuant to any of the Underlying Documents. Landlord shall pay all sums due under the Underlying Documents as and when due, and shall not do, fail to do or suffer or permit anything to be done which would result in a default under the Underlying Documents or cause the Condominium to be terminated on account of a default by Landlord.

38.3 Landlord has delivered to Tenant a copy of the Subordination, Non-Disturbance and Attornment Agreement dated as of May 20, 2021 among Landlord, Declarant, Fee Owner and JPMorgan Chase Bank, N.A. (the **"Existing SNDA"**).

38.4 Landlord represents and warrants to Tenant that the Existing SNDA is the only SNDA covering the Premises currently in effect, except the SNDA dated October 31, 2017, the

status of which is unclear to Landlord; the Existing SNDA is in full force and effect; to the Landlord's knowledge, the only mortgage encumbering the Premises is the mortgage which is referred to in the Existing SNDA, and there are no ground leases or underlying leases at the property, other than Ground Lease.

39. Payment on Account. No payment by Tenant or receipt by Landlord of a lesser amount than any amount of rent or additional rent due under this Lease shall be deemed to be other than on account of the amount due and no endorsement or statement on any check or payment shall be deemed an accord and satisfaction. Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such amount due or pursue any other remedies available to Landlord hereunder.

40. Survival. Any obligation of Landlord or Tenant which by its nature or under the circumstances can only be, or by the provisions of this Lease maybe, performed after the expiration or earlier termination of this Lease, and any liability for a payment which shall have accrued to or with respect to any period ending at the time of such expiration or termination, unless expressly otherwise provided in this Lease, shall survive the expiration or earlier termination of this Lease.

41. Consents.

41.1 If in this Lease it is provided that Landlord's consent or approval as to any matter will not be unreasonably withheld, and it is established by a court or body having final jurisdiction thereover that Landlord has been unreasonable, the only effect of such finding shall be that Landlord shall be deemed to have given its consent or approval; but Landlord shall not be liable to Tenant in any respect for money damages by reason of withholding its consent or approval or under any other circumstances whatsoever.

41.2 Whenever Tenant desires to do any act or thing which requires the consent or approval of the Condominium Board under the Lease:

41.2.1 Tenant shall not do such act or thing without first having obtained the consent or approval (or deemed consent or approval) of the Condominium Board;

41.2.2 Except as otherwise expressly provided herein, Tenant shall not, without Landlord's prior written consent, request the Condominium Board's consent or approval directly. Any efforts by Landlord to obtain the Condominium Board's consent or approval shall not constitute Landlord's consent or approval or prejudice Landlord's right to withhold consent or approval (to the extent Landlord has that right hereunder);

41.2.3 Notwithstanding anything to the contrary contained herein, where both Landlord and the Condominium Board have a consent or approval right with respect to a particular matter, if the Condominium Board shall give its consent or approval to such matter, Landlord shall not unreasonably withhold, condition or delay its approval of the same matter;

41.3 Upon Tenant's request and at Tenant's expense, Landlord shall promptly request and shall use reasonable efforts, on Tenant's behalf, to cause the Condominium Board to provide any Building Service in respect of the Premises or grant Condominium Board's consent or approval in respect of any matter that requires the Condominium Board's consent or approval under the GMHC Transaction Documents; provided, however, that in no event shall Landlord be obligated to incur any cost or expense in connection with such request, unless Tenant agrees to reimburse Landlord or prosecute any legal action in connection therewith. If, after written request from Landlord on Tenant's behalf, the Condominium Board shall fail or refuse to take Tenant's requested action for the providing of any Building Service, or granting consent or approval, or the Condominium Board shall otherwise default under the GMHC Transaction Documents and such default shall have the potential to cause an adverse impact on Tenant's use of or access to the Premises, within ten (10) days of Landlord's receipt of Tenant's written request for same, Tenant shall have the right to take such action in its own name (or in the name of Landlord) as Tenant shall reasonably determine, at Tenant's sole expense, and for such purpose only, all of the rights of Landlord under the GMHC Transaction Documents with regards to such Building Service, the matter requiring Landlord's consent or approval, or the Condominium Board default, as applicable, shall be conferred and assigned to Tenant and Tenant hereby is subrogated to such rights to the extent that the same shall apply to the Premises. Copies of all such requests to the Condominium Board shall simultaneously be delivered to Landlord together with the responses thereto of the Condominium Board (or if submitted and corresponded by Landlord on Tenant's behalf, simultaneously be delivered to Tenant). Landlord agrees to reasonably cooperate with Tenant in connection with Tenant's exercise of its rights under this Section 46 and elsewhere in this Lease, at no unreimbursed additional cost or expense to Landlord, including, without limitation, by corresponding directly with the Condominium Board, the Declarant and/or Fee Owner in order to facilitate Tenant's rights hereunder or under the GMHC Transaction Documents. If under the GMHC Transaction Documents any right or remedy of Landlord or any duty or obligation of the Condominium Board is subject to or conditioned upon Landlord's making any demand upon the Condominium Board or giving any notice, correspondence, or request to the Condominium Board, Declarant, and/or Fee Owner, then, if Tenant shall so request, Landlord, at Tenant's expense, shall, promptly after such request by Tenant, (i) make such demand, correspondence, or give such notice or request as Tenant may request, at Tenant's cost or expense, or (ii) if Tenant so requests, authorize Tenant to make such demand, correspondence or give such notice or request on behalf of Landlord (or in Landlord's name), at Tenant's cost and expense.

41.4 In no event shall Landlord have any liability for the failure of the Condominium Board to grant any approval or consent that Tenant seeks hereunder, unless such failure results from a default by Landlord under this Lease.

42. GMHC Standards.

42.1 Section 9 of the GMHC Standards (as defined in the Omnibus Agreement) gives Landlord the right to dispute the reasonableness of any additional Rules and Regulations made by the Condominium Board. If Tenant objects to the reasonableness of any additional Rules and Regulations made by the Condominium Board after the Term Commencement Date, requests in

writing that Landlord challenge the reasonableness of such additional Rules and Regulations pursuant to the procedure set forth and hires counsel reasonably acceptable to Landlord (at Tenant's cost) to represent Landlord in connection with such challenge (it being agreed that the respective law firms representing Tenant and Landlord in connection with the negotiation of this Agreement are reasonably acceptable to Landlord), all within seven (7) days following Tenant's receipt of a copy of such additional Rules and Regulations, then Landlord shall dispute the reasonableness of such additional Rules and Regulations on behalf of Tenant using the counsel hired by Tenant. In addition to Tenant paying the legal fees of such counsel in connection with such challenge, Tenant shall pay all other reasonable out of pocket costs incurred by Landlord in connection therewith.

42.2 Section 10 of the GMHC Standards gives Landlord the right to use the Building freight elevators on the terms set forth in such Section 10. Tenant has requested the right to use the Building freight elevators on the same terms as Landlord pursuant to such Section 10. Landlord does not object to such request and has obtained the consent of the Condominium Board to permit such use and for Tenant to make arrangements directly with the Condominium Board for such use.

43. WAIVER OF JURY TRIAL.

THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY, UNCONDITIONALLY AND IRREVOCABLY WAIVE ANY RIGHT EACH MAY HAVE TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER ARISING IN TORT OR CONTRACT) BROUGHT BY EITHER AGAINST THE OTHER ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE OR ANY OTHER DOCUMENT EXECUTED AND DELIVERED BY EITHER PARTY IN CONNECTION HERewith OR ANY COURSE OF DEALING OR CONDUCT OF THE PARTIES, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PERSON. THIS WAIVER IS A MATERIAL INDUCEMENT TO LANDLORD AND TENANT TO ENTER INTO THIS LEASE.

44. Not-for-Profit. Tenant represents and warrants to Landlord that it is a not-for-profit corporation organized under the not-for-profit corporation laws of the State of New York and it is exempt from the payment of U.S. federal income taxes under Section 5.01(c)(3) of the Internal Revenue Code of 1986, as amended. Tenant has given to Landlord a copy of the letter from the U.S. Internal Revenue Service in which Tenant's tax-exempt status is confirmed.

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

46. Attorneys' Fees. If Tenant shall at any time default in the performance of any monetary or non-monetary obligation under this Lease beyond the expiration of any applicable cure, grace and notice periods and Landlord shall institute any action or proceeding against Tenant based upon any such default, then Tenant shall reimburse Landlord for the legal fees and expenses thereby incurred by Landlord; provided, however, that in the case of any action or proceeding between Landlord and Tenant, the substantially prevailing party shall be entitled to reimbursement of its actual, reasonable out-of-pocket legal fees and disbursements by the other party.

47. Required Provisions. In the event of a default under the Ground Lease that results in the termination of this Lease, Tenant shall, at the option of the Condominium Board, attorn to and recognize the Condominium Board as landlord hereunder and shall, promptly upon the Condominium Board's request, execute and deliver all instruments reasonably necessary or appropriate to confirm such attornment and recognition. Notwithstanding such attornment and recognition, the Condominium Board shall not (A) be liable for any previous act or omission of Landlord; provided, however, the Condominium Board shall be liable for the performance of the obligations of Landlord first arising from and after the date that the Condominium Board succeeds to the interest of Landlord under this Lease, (B) be subject to any offset that shall have accrued to the Tenant hereunder against Landlord, in its capacity as landlord; provided, however, that Tenant shall have any defenses or offsets provided under this Lease against the Condominium Board which relate to events occurring from and after the date that the Condominium Board succeeds to the interest of Landlord under this Lease or (C) be bound by any modification of this Lease or by any prepayment of more than one month's rent, unless such modification or prepayment shall have been previously approved in writing by the Condominium Board. Tenant hereby waives all rights under any present or future law to elect, by reason of the foreclosure of any lien on the Premises or other termination of any possessory rights with respect to the Premises, to terminate this Lease or surrender possession of the Premises. This Lease may not be assigned or modified or the premises demised hereunder further sublet, in whole or in part, without the prior written consent of the Condominium Board in accordance with the By-Laws of the Condominium Documents.

47. Certain Limitations.

47.1 Except as expressly provided in this Lease, neither Landlord, on the one hand, nor Tenant, on the other hand, shall be entitled or subjected to punitive, indirect, exemplary, special, consequential or compensatory, treble damages or similar damages of any kind or nature, or otherwise, even if advised of the possibility of such damages and, except as expressly provided in this Lease, each of Landlord on the one hand, and Tenant, on the other hand, hereby waive any claims each may have against the other for such damages arising out of or relating to this Lease.

47.2 The terms "Landlord" and "Sub-Landlord" mean the owner for the time being of the Unit of which the Premises form a part, so that in the event of any sale or sales of the Unit, the said Landlord shall be and hereby is entirely freed and relieved of all covenants and

obligations of Landlord hereunder arising from and after any such sale, and it shall be deemed and construed without further agreement between the parties or their successors in interest, that the purchaser of the Unit has assumed and agreed to carry out any and all covenants and obligations of Landlord whether arising before, at the time of, or from and after any such sale.

47.3 This Section 52 shall survive the expiration or earlier termination of this Lease.

48. Entire Agreement. This Lease embodies the entire understanding of the parties and there are no further agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof. This Lease shall not become effective, and shall have no force or effect, unless and until: (a) it shall be executed and delivered by both parties; and (b) the Condominium Board Consent is obtained pursuant to the terms of this Lease.

49. Interpretation. Notwithstanding anything to the contrary contained in this Lease:

49.1 In each instance in this Lease in which Tenant is obligated to pay or reimburse Landlord for attorneys' fees, costs, disbursements or expenses, it shall be deemed that Tenant shall only be obligated to pay or reimburse Landlord for Landlord's reasonable counsel or attorneys' fees, costs, disbursements or expenses.

49.2 New York State law governs the validity, performance and enforcement of this Lease, without giving effect to principles of conflicts of laws. The invalidity or unenforceability of any provisions of this Lease is not to affect or impair any other provision.

49.3 The words "include" or "including" shall be construed as incorporating "BUT NOT LIMITED TO" or "WITHOUT LIMITATION."

49.4 The phrase "at Tenant's expense" means at the sole and exclusive expense of Tenant, who shall be responsible for all costs involved in, or associated with, the applicable matter.

50. Miscellaneous.

50.1 This Lease, and the rights and obligations of the parties hereunder, shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and permitted assigns.

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

50.3 The laws of the State of New York shall govern the validity, performance and enforcement of this Lease.

50.4 Landlord and Tenant each warrant that their respective undersigned signatories have full power and authority to execute this Lease on behalf of the respective parties hereto.

50.5 The headings of sections are for convenience only, and do not limit or construe the contents of the sections.

50.6 This Lease may be executed in any number of counterparts, including electronic or PDF, each of which shall be an original, but all of which shall be taken to together to constitute one and the same agreement.

51. Directory—Tenant shall be entitled to listing on the directory in the lobby serving the GMHC floors. The initial listing and any subsequent changes shall be made by the Landlord at Tenant's expense. In requesting its listings, Tenant shall complete and submit to Landlord standard listing that can be accommodated by the directory and in common form similar to other listing for uniformity.

52. HIPAA. Landlord acknowledges that Tenant and its affiliates are subject to the provisions of the Health Insurance Portability and Accountability Act of 1996 and related regulations ("**HIPAA**"), and that HIPAA requires Tenant and its affiliates to ensure the safety and confidentiality of patient medical records. Landlord further acknowledges that, in order for Tenant to comply with HIPAA, Tenant must restrict access to the portions of the Premises where patient medical records are kept or stored; provided such areas are clearly marked and identified. Landlord hereby agrees that, notwithstanding the rights granted to Landlord pursuant to this Lease, except for an emergency entry into the Premises taken pursuant to this Lease or when accompanied by an authorized representative of Tenant, neither Landlord nor its employees, agents, representatives or contractors shall be permitted to enter those areas of the Premises clearly designated by Tenant as locations where patient medical records are kept and/or stored. Tenant agrees to promptly make a representative available in the event that Landlord requires access to such areas.

[continued on next page]

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

LANDLORD:

GAY MEN'S HEALTH CRISIS, INC.

Kishani C. Moreno for GMHC

BY: **Kishani C. Moreno, MA**

Chief Operating Officer

TENANT:

The ST. LUKES-ROOSEVELT HOSPITAL CENTER

BY: *Vincent Tammaro*

Name: **Vincent Tammaro**
Title: **Executive Vice President**

EXHIBIT “A” Landlord’s Work

Landlord shall, at its sole cost and expense:

- Remove any Furniture, Fixtures, & Equipment not needed by the Tenant.
- Relocate any IT equipment that is specific to the sub information and technology but leave all wiring in place for current furniture, desks, etc.
- Deliver the Premises in broom clean condition

EXHIBIT “B” 7TH FLOOR PLAN

EXHIBIT “C” Wired Score Fact Sheet_307 West 38th Street



307 West 38th Street

307 West 38th Street
New York, New York



Available ISPs

Carrier	Cable Type	Network Type	Cable Distribution
RCN	Fiber	Type 1	Full Coverage
RCN	Coaxial	Phone or Cable	Full Coverage
Rainbow Broadband	Fixed Wireless	Rooftop Wireless	Direct to Tenant
Spectrum	Fiber	Type 1	Partial Coverage
Spectrum	Coaxial	Phone or Cable	Full Coverage
Stealth Communications	Fiber	Type 1	Direct to Tenant
Towerstream	Fixed Wireless	Rooftop Wireless	Direct to Tenant
Verizon	Fiber	Type 1	Partial Coverage
Verizon	Copper	Phone or Cable	Full Coverage
Verizon FiOS	Fiber	Type 1	Full Coverage

Key Features of Connectivity

- 5 fiber providers can provide dedicated, business grade internet access with guaranteed upload and download speeds.
- Fixed wireless connectivity from the rooftop provides an independent internet option from the wire-line networks entering from the street.
- Multiple Points of Entry into the building provide tenants the ability to purchase physically diverse primary and back-up internet connections from the street.
- Additional riser capacity is available to support future needs of tenants and ISP's throughout the entire building.
- Coaxial cabling can provide bundled phone, cable TV, and basic internet.
- Fiber from Verizon FiOS can provide shared high speed internet access for small businesses.
- Dedicated risers are present to contain and protect telecom cables from risk of damage.

Wired Certification Fact Sheet Explainer

Cabling Type	Use	Maximum Speed (Bandwidth rates)
Copper	Used in older Digital Subscriber Line (DSL) networks, these networks use copper telephone lines to provide Internet access to customers.	40 Mbps Down 5 Mbps Up
Coaxial	Used in most Cable provider networks. Typically used for Television sets or Modems.	300 Mbps Down 30 Mbps Up
Fixed Wireless	Rooftop based antenna networks are used for both primary and secondary forms of connectivity. Top choice for redundant connection because it doesn't rely on existing wireline cabling into a building. Fixed Wireless should not be confused with Satellite Dishes which provide Television service and minimal Internet capabilities.	1000 Mbps (1 Gig) Up and Down
Fiber	Most technologically advanced form of cabling used in buildings. Signals can travel for greater distances at faster speeds.	10,000 Mbps (10 Gig) Up and Down

Distribution Type	Definition
Direct to Tenant Space Only	Carrier runs a single cable from where their equipment is located to the tenant they are servicing. This is not ideal for a tenant ordering new service as it could require extensive construction which will delay the tenant getting timely service.
Partial Distribution	Partial Distribution is defined as a distribution point every 6-10 floors. Carrier places several distribution points within the building where they can connect additional cables for tenants. A distribution point can either be a termination box or a coil of spare cabling. For new service requests, partial distribution is less time intensive than direct to tenant space cables.
Full Distribution	Carrier places distribution points (a termination box or a coil of spare cabling) every 5 floors or less and can easily serve any tenant in the building. This setup drastically reduces the time it takes for tenants to receive new service.

Network Type	Definition
Type 1	Carrier owns the fiber entering the building.
Type 2	Carrier is using someone else's fiber, copper or coax to reach a tenant.
Phone Company or Cable Network	Carrier is entering the building with Copper Phone Cables or Coaxial Cables. These usually only offer slower Internet speeds.
Rooftop Connection	Rooftop connections are designated for Fixed Wireless providers. See definition above.

EXHIBIT “D” Building Approved Contractors

All hired contractor/s will be licensed and insured as per building requirement.

Architect:

Alan Berman Architect PLLC/Archetype
aberman@archetype-ny.com
212 5080-6087 x101

MKDA

Mario Quagliani
mario@mkda.com
Office: 203 487-3400 x8469
Mobile: 203 675-0341

SDudio, Inc.

Susan Dougherty
sdougherty@sdudionyc.com
917 881-4966

TPG Architecture, LLP

Michael A Hayes, AIA / Managing Executive
212.536.5012 T / 646.529.5631 M

Engineer:

Robert Derector Associates
Kevin Mali, PE, Partner
Direct: 212.536.3857
New York . New Jersey . South Florida
mali@derector.com / www.derector.com

Expeditor:

Outsource
Miguel Lizard
o
Vice President
P. 212.710.628 D. 212.201.741
6 6
M. 917.605.1790
miguel@osinyc.com

General Contractor:

Folor Construction

John Dowling
John@folorinc.com>
Office 646-422-7536
Cell 646-422-7536

King Rose Construction
Yoel Borgenicht
yoel@kingrose.com
212 239-8525

Core Four Construction
Danny Sullivan
dsullivan@core4inc.com
212 779-3900

Plumbing:

Access Plumbing
Dmitry Gorenitsyn
dgorenitsyn@accesspl.com
646-235-8593 Cell
718-369-7575 Office
<https://www.accesspl.com/>

Anesis Mechanical Corp.

Jimmy Stathakis
jimmy@anesismechanical.com_
718 207-8494

Fire Alarm

Arlington, LLC
Evan
212-947-1010 office
646-996-3970 Cell

Electrician

Riverdale Electric
Afrim-Al Gashi
mail@riverdaleelectric.com
917 640-9508

Allcom Electric Inc
Tony Nolan
tnolan@allcomelectriccorp.com

Absolute Electrical Contracting of NY, Inc.
Gerardo Patron

gpatron@absoluteelectric.com
212 776-4049

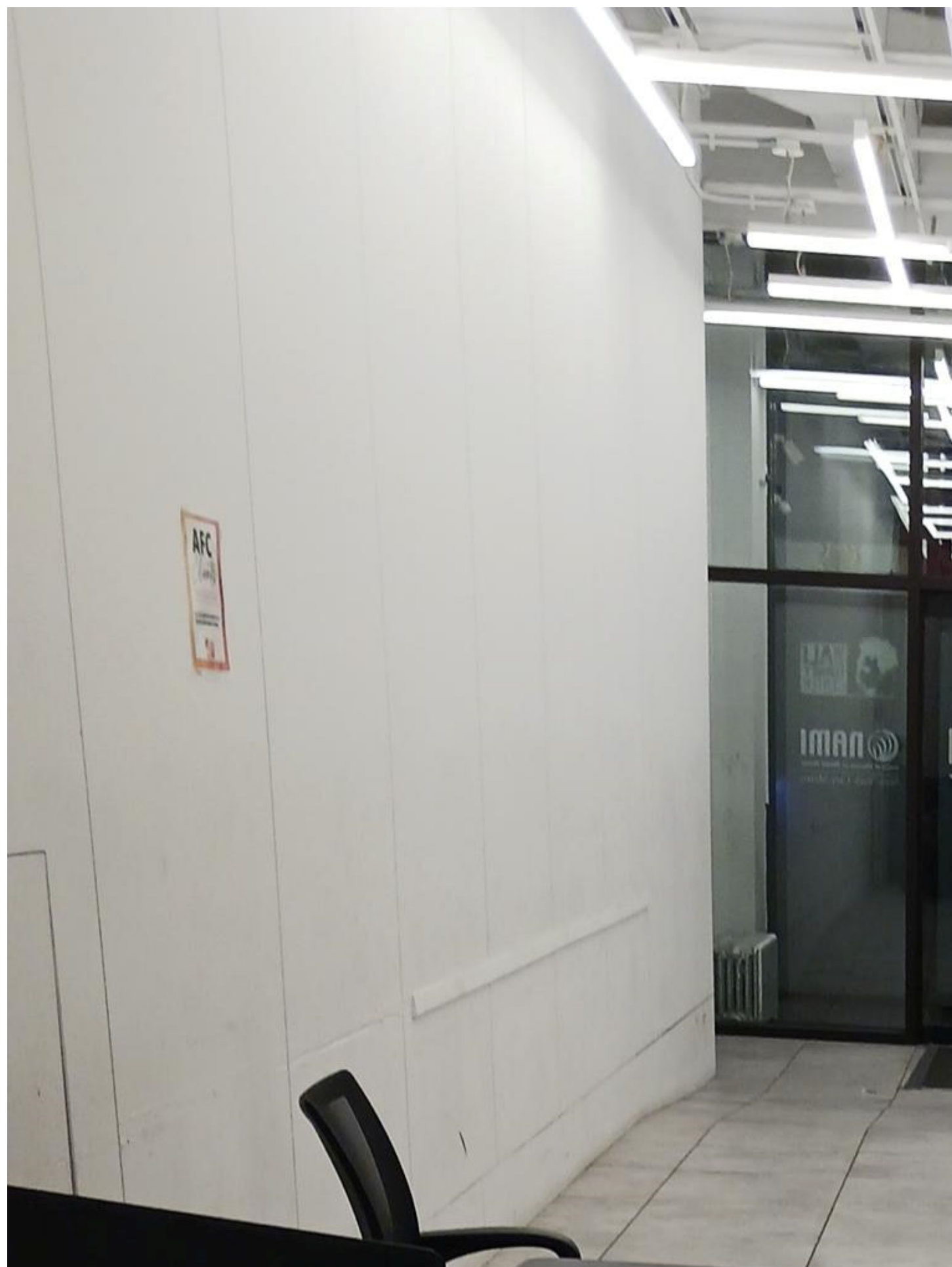
Carting Company

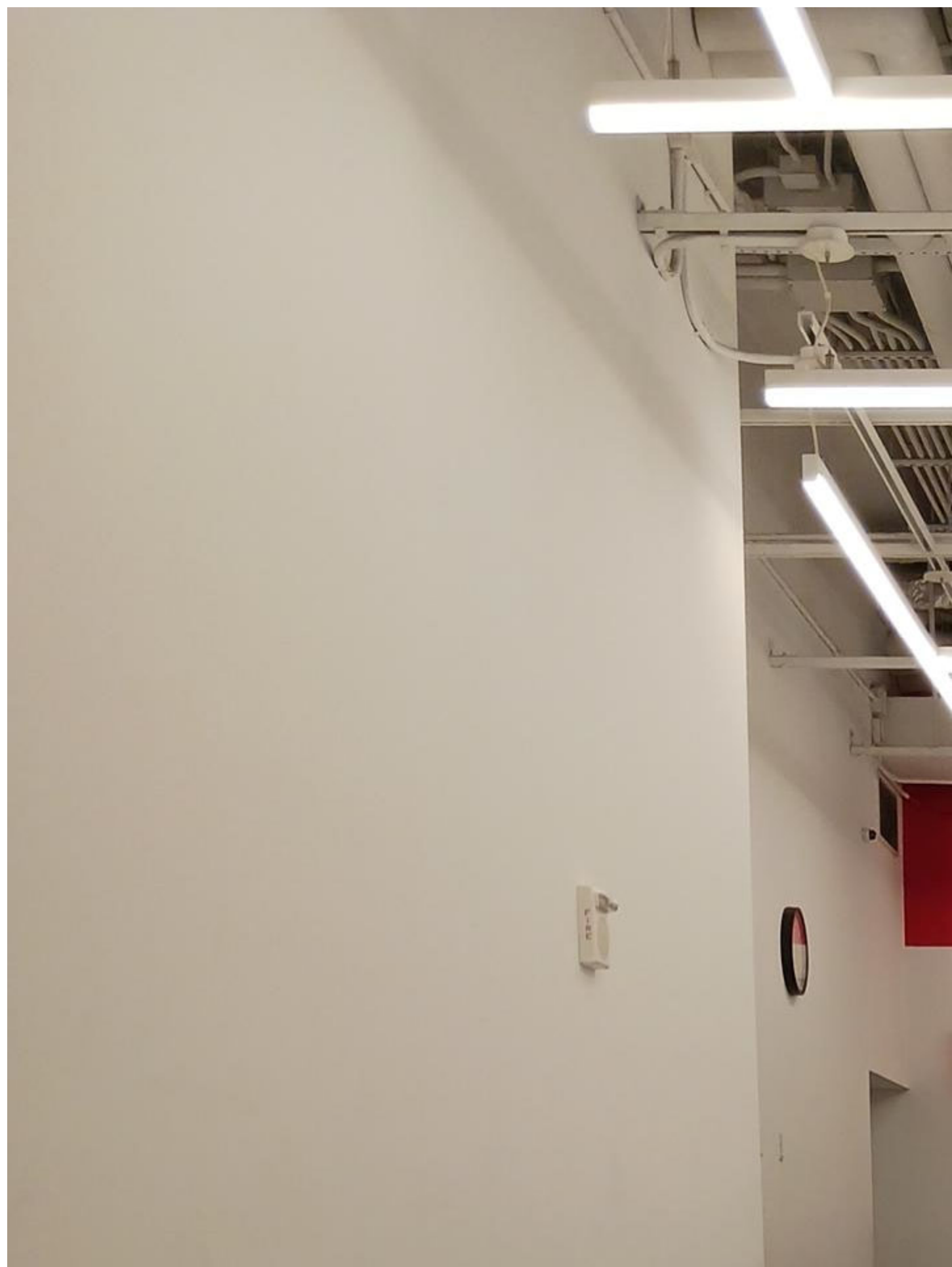
Cogent Waste
Juan Gutierrez
juan@cogentwaste.com
dispatch@cogentwaste.com
347-539-1675 Cell
718-349-7555 Office
Anthony Valenti
anthonyv@cogentwaste.com

Exterminating Services

Positive Pest Control
Nathaniel 'Nat' Gonzalez
positivepest@yahoo.com
516-790-0009

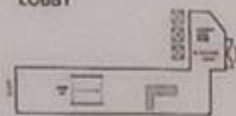
EXHIBIT “E” Ground Floor Lobby Entrance





IN CASE OF FIRE
USE STAIRS UNLESS
OTHERWISE INSTRUCTED

LOBBY



No Smoking in Elevators
Under Penalty of Law

EXHIBIT “F” Landlord List of Furniture 7th Fl

EXHIBIT 'F' SUBLANDLORD LIST OF FURNITURE

LOCATION / DESCRIPTION	QUANTITY	SUMMARY / NOTES
Reception Area Lobby 07-019	1	
Round glass table 48" diameter	1	Keep
Wooden Bookcase 72"HX36"WX23"D	4	Keep
Oblong wooden table on wheels	1	Keep
Black fabric non swivel guest chair	2	Keep
Conference RM 07-024	1	Key available
Wooden table 60"X48"	1	Keep
Blk SM Swivel fabric desk chair with arm	6	Keep
Wooden table 42"X96"	1	Keep
Black fabric non swivel guest chair	7	Keep
Conference RM 07-025	1	Key available
Wooden credenza 72"LX24"W	1	Keep
Wooden Bookcase 72"HX36"WX14"D	1	Keep
Black fabric non swivel guest chair	0	Keep
SM black 3 drawer metal cabinet 28"HX15"WX19"D	1	Remove
AC Mechanical Room - 07-027	1	
Office 07-028	1	Key available
SM 'L' Glass Desk 52"X54"X30"H	1	Keep
Wooden table 30"WX60"LX28"H	1	Keep
Graduated Book Shelf with 4 shelves	1	Keep
4 Drawer Blk Metal File Cabinet 26"DX15"WX52H	1	Remove
Blk SM Swivel fabric desk chair with arm	1	Keep
Black fabric non swivel guest chair	1	Keep
Office 07-029	1	Key available
SM 'L' Glass Desk 52"X54"X30"H	1	Keep
Blk SM Swivel fabric desk chair with arm	1	Keep
SM black 3 drawer metal cabinet 28"HX15"WX19"D	1	Remove

Wooden table 30"WX60"LX28"H	1	Keep
Graduated Book Shelf with 4 shelves	1	Keep
Office 07-030	1	Key available
SM 'L' Glass Desk 52"X54"X30"H	1	Keep
Blk SM Swivel fabric desk chair with arm	1	Keep
Black fabric non swivel guest chair	1	Keep
Square glass desk 36"LX19"WX30"H	1	Keep
Graduated Book Shelf with 4 shelves	1	Keep
Office 07-031	1	Key available
Lg Executive 'L' Glass Desk 62"LX62"WX24"W & 24" H & 29"H	1	Keep
Blk SM Swivel fabric desk chair with arm	1	Keep
Black fabric non swivel guest chair	4	Keep
4 Drawer Blk Metal File Cabinet 26"DX15"WX52H	1	Keep
Graduated Book Shelf with 4 shelves	1	Keep
SM black 3 drawer metal cabinet 28"HX15"WX19"D	1	Keep
Round glass table 48" diameter	1	Keep
Work Stations / Cubicles 07-032	8	Herman Miller Ethos Refurbished - Remove
Overhead bins	8	Remove
Under Work Surface Small 2 drawer or 3 drawer	16	Remove
Blk SM Swivel fabric desk chair with arm	8	Keep
Black fabric non swivel guest chair	6	Keep
Work Stations / Cubicles 07-033	8	Herman Miller Ethos Refurbished - Remove
Overhead bins	8	Remove
Under Work Surface Small 2 drawer or 3 drawer	16	Remove
Blk SM Swivel fabric desk chair with arm	8	Keep
Black fabric non swivel guest chair	6	Keep
Work Stations / Cubicles 07-037	8	Herman Miller Ethos Refurbished - Remove
Overhead bins	8	Remove

Under Work Surface Small 2 drawer or 3 drawer	16	Remove
Blk SM Swivel fabric desk chair with arm	8	Keep
Black fabric non swivel guest chair	7	Keep
Office 07-035	1	Key available
SM 'L' Glass Desk 52"X54"X30"H	1	Keep
Blk SM Swivel fabric desk chair with arm	1	Keep
Black fabric non swivel guest chair with arm	1	Keep
Graduated Book Shelf with 4 shelves	2	Keep
Office 07-036	1	Key available
SM 'L' Glass Desk 52"X54"X30"H	1	Keep
Blk SM Swivel fabric desk chair with arm	2	Keep
Black fabric non swivel guest chair with arm	2	Keep
Graduated Book Shelf with 4 shelves	2	Keep
Square glass desk 36"LX19"WX30"H	2	Keep
Office 07-038	1	Key available
SM 'L' Glass Desk 52"X54"X30"H	1	Keep
Blk SM Swivel fabric desk chair with arm	1	Keep
Black fabric non swivel guest chair with arm	1	Keep
SM black 3 drawer metal cabinet 28"HX15"WX19"D	1	Keep
Graduated Book Shelf with 4 shelves	1	Keep
Square glass desk 36"LX19"WX30"H	1	Keep
Office 07-039	1	
White laminate desk 60"x30" with two fixed under cabinets	1	Key available
Black fabric non swivel guest chair with arm	1	Keep
4 Drawer Blk Metal File Cabinet 26"DX15"WX52H	1	Keep (Key is in Director's office W645)
Graduated Book Shelf with 4 shelves	1	Keep
Square glass desk 36"LX19"WX30"H	1	Keep
Office 07-040	1	Key available
SM 'L' Glass Desk 52"X54"X30"H	1	Keep
Blk SM Swivel fabric desk chair with arm	1	Keep

SM black 3 drawer metal cabinet 28"HX15"WX19"D	2	Keep W617 w/key, Remove W644 w/o key
Graduated Book Shelf with 4 shelves	1	Keep
Work Stations / Cubicles 07-044	8	Herman Miller Ethos Refurbishedf - Keep
Overhead bins	8	Keep
Under Work Surface Small 2 drawer or 3 drawer	16	Keep
Blk SM Swivel fabric desk chair with arm	8	Keep
Black fabric non swivel guest chair	8	Keep
Graduated Book Shelf with 4 shelves / along wall	8	Keep
Office 07-041	1	Key available
Round glass table 48" diameter	1	Keep
Blk SM Swivel fabric desk chair with arm	4	Keep
SM black 3 drawer metal cabinet 28"HX15"WX19"D	1	Remove
Graduated Book Shelf with 4 shelves	1	Keep
Office 07-042	1	Key available
Black fabric non swivel guest chair with arm	2	Keep
Blk SM Swivel fabric desk chair with arm	1	Keep
4 Drawer Blk Metal File Cabinet 26"DX15"WX52H	1	Keep
SM black 3 drawer metal cabinet 28"HX15"WX19"D	1	Keep
Graduated Book Shelf with 4 shelves	1	Keep
Office 07-043	1	Key available
SM 'L' Glass Desk 52"X54"X30"H	1	Keep
Blk SM Swivel fabric desk chair with arm	1	Keep
Black fabric non swivel guest chair with arm	2	Keep
4 Drawer Blk Metal File Cabinet 26"DX15"WX52H	2	Remove
Graduated Book Shelf with 4 shelves	1	Keep
SM black 3 drawer metal cabinet 28"HX15"WX19"D	1	Remove
Kitchen / Pantry 07-009		
White laminate table	1	Keep
Office 07-001	1	Key available
Round glass table 48" diameter	1	Keep
Lg Executive 'L' Glass Desk 62"LX62"WX24"W & 24" H & 29"H	1	Keep

Blk SM Swivel fabric desk chair with arm	4	Keep
Graduated Book Shelf with 4 shelves	1	Keep
White laminate desk with two fixed under cabinets	1	Keep
SM black 3 drawer metal cabinet 28"HX15"WX19"D	1	Remove
Office 07-002	1	Key available
SM 'L' Glass Desk 52"X54"X30"H	2	Keep
Blk SM Swivel fabric desk chair with arm	2	Keep
Black fabric non swivel guest chair with arm	1	Keep
4 Drawer Blk Metal File Cabinet 26"DX15"WX52H	2	Keep W605 w/key, Remove W602 w/o key
Graduated Book Shelf with 4 shelves	1	Keep
AC Mechanical Room -07-003	1	
Office 07-004	1	Key available
SM 'L' Glass Desk 52"X54"X30"H	1	Keep
Round glass table 48" diameter	1	Keep
Black fabric non swivel guest chair with arm	4	Keep
4 Drawer Blk Metal File Cabinet 26"DX15"WX52H	1	Keep
Graduated Book Shelf with 4 shelves	1	Keep
Office 07-005	1	Key available
SM 'L' Glass Desk 52"X54"X30"H	1	Keep
Black fabric non swivel guest chair with arm	2	Keep
4 Drawer Blk Metal File Cabinet 26"DX15"WX52H	1	Remove
Graduated Book Shelf with 4 shelves	1	Keep
Executive Office 07-006	1	Key available
Round glass table 48" diameter	1	Keep
Black fabric non swivel guest chair with arm	8	Keep
4 Drawer Blk Metal File Cabinet 26"DX15"WX52H	1	Keep
Graduated Book Shelf with 4 shelves	1	Keep
White laminate desk 60"x30" with two fixed under cabinets	2	Keep

Blk SM Swivel fabric desk chair with arm	3	Keep
Wooden Bookcase 72"HX36"WX14"D	1	Keep
Wooden Bookcase 72"HX36"WX24"D	1	Keep
Conference RM 07-013	1	Key available
SM White Table 27"HX47"LX30"H	1	Keep
Graduated Book Shelf with 4 shelves	1	Keep
Black fabric non swivel guest chair with arm	3	Keep
Blk SM Swivel fabric desk chair with arm	9	Keep
Interior Reception Desk 07-012A	1	Key available
Reception desk 9'x9'	1	Keep
Round glass table 48" diameter	1	Keep
Black fabric non swivel guest chair with arm	4	Keep
Graduated Book Shelf with 4 shelves	2	Keep
Beige filing Cabinet with 3drawer 19"Dx36"Wx40"H	2	Remove
Work Stations / Cubicles 07-015	4	Remove
Overhead bins	4	Remove
Under Work Surface Small 2 drawer or 3 drawer	4	Remove
Blk SM Swivel fabric desk chair with arm	2	Keep
Black fabric non swivel guest chair	2	Keep
Office 07-014	1	Key available
SM 'L' Glass Desk 52"HX54"WX30"H	2	Keep
Black fabric non swivel guest chair with arm	2	Keep
Blk SM Swivel fabric desk chair with arm	2	Keep
4 Drawer Blk Metal File Cabinet 26"DX15"WX52H	1	Remove
Conference RM 07-016	1	Key available
SM Laminate white table 32"Wx63"L	1	Keep
Graduated Book Shelf with 4 shelves	1	Keep
Black fabric non swivel guest chair with arm	3	Keep

Blk SM Swivel fabric desk chair with arm	6	Keep
Wooden Bookcase 72"HX36"WX14"D	1	Keep; Outside of RM 07-016
SM black 3 drawer metal cabinet 28"HX15"WX19"D	1	Remove
Boardroom 07-017	1	Key available
Big Table (in 4 sections, each 72"WX56"L)) 72"WX19'L	1	Keep
Blk SM Swivel fabric desk chair with arm	4	Keep
Black fabric non swivel guest chair with arm	1	Keep
Credenza under TV 30"WX69"LX32"H	1	Remove
Square glass desk 36"LX19"WX30"H	1	Keep
TV 82" on wall	1	Keep
SM under desk cabinet	1	Remove
Chairs, plastic non swivel	60	Keep (Entrance)
Description of cubicle:		Some keys available, but not for all
➤ Remanufactured Herman Miller Ethos 6X6 workstation.		
➤ 70"H panel along center spine, 54"H perpendicular panel		
➤ Power in the base of panel, along center spine with (2) duplexes per station		
(1) 24"X72" Main Surface		
(1) 24"X48" Return Surface		
(1) Box/Box File Pedestal		
(1) File/File Pedestal		
(1) Overhead Bin		

EXHIBIT “G” Tenant’s Insurance Requirements

Sub-Landlord - Gay Men’s Health Crisis Inc. Certificate of Liability Insurance Requirement:
307W38TH NY NY 10018 - 9205

Certificate Holder:

Gay Men’s Health Crisis, Inc.,

Additional Insured/Waiver of Subrogation and Primary Non-Contributory in favor of:

Gay Men’s Health Crisis, Inc., / GMHC., and their employees, Agents, Officers, Board of Directors & Assignees

General Liability: \$1M Per Occurrence/\$3M General Aggregate

Umbrella/Excess Liability: \$5M Per Occurrence/\$5M General Aggregate

Workers’ Compensation/Employers Liability: Statutory/\$1M Employers Liability

Overlord Requirements - Certificate of liability insurance for 307W38ST NY NY 10018

Certificate Holder

Glenhill Associates LLC ATIMA

c/o George Comfort & Sons, Inc.

200 Madison Avenue
New York, New York 10016

Additional Insureds

307 West 38th Condominium

Board of Managers of 307 West 38th Condominium

Glenhill Leasehold LLC

Glenhill Associates LLC

George Comfort & Sons, Inc.

Comfort Maintenance Corp., and their Employees, Agents, Directors, Officers and Assignees

JPMorgan Chase Bank, N.A., and its successors and/or assigns

Occurrence \$1M & aggregate \$2M (minimum)

Umbrella Excess Liability \$10M (occurrence & aggregate)

EXHIBIT “H” Base Rent and Additional Rent with Escalations

EXHIBIT 'H'

Escalation of Base Rent and Additional Rent

Calculating Base Rent Escalations

To calculate an escalated base rent, input the escalation percentage and the base rent for each year of the lease

Escalation % 3.00%

SF 16,727

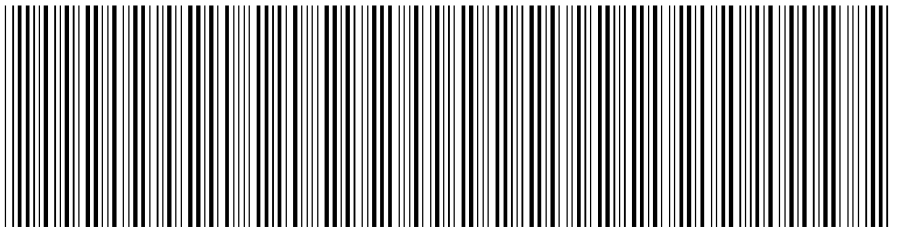
Year	Base Rent	Cumulative Escalations	Escalated Base Rent	Escalated Rent / Month	Escalated Rent / Year
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					

EXHIBIT “I” Signage
Intentionally omitted

EXHIBIT “J1” By Laws Leasehold Condo Declaration 307 West 38th Street

**NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER**

This page is part of the instrument. The City Register will rely on the information provided by you on this page for purposes of indexing this instrument. The information on this page will control for indexing purposes in the event of any conflict with the rest of the document.



2021050501380001001E3EEC

RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 138

Document ID: 2021050501380001

Document Date: 11-06-2020

Preparation Date: 05-05-2021

Document Type: CONDO DECLARATION

Document Page Count: 134

PRESENTER:

STEWART TITLE INSURANCE COMPANY (PICK-UP)
140 EAST 45TH STREET - 33RD FLOOR
210980244
NEW YORK, NY 10017
646-559-7039
MARGUERITE.FRANCIS@STEWART.COM

RETURN TO:

STROOCK & STROOCK & LAVAN LLP
ATTN: TREVOR T. ADLER, ESQ.
180 MAIDEN LANE
NEW YORK, NY 10038

PROPERTY DATA

Borough	Block	Lot	Unit	Address
MANHATTAN	762	1201	Entire Lot 1	307 WEST 38TH STREET

Property Type: COMMERCIAL CONDO UNIT(S)

Borough	Block	Lot	Unit	Address
MANHATTAN	762	1202	Entire Lot 2	307 WEST 38TH STREET

Property Type: COMMERCIAL CONDO UNIT(S)

☒ Additional Properties on Continuation Page

CROSS REFERENCE DATA

CRFN _____ or DocumentID _____ or _____ Year _____ Reel _____ Page _____ or File Number _____

PARTIES

PARTY 1:

GLENHILL ASSOCIATES LEASEHOLD, LLC
C/O GEORGE COMFORT & SONS, INC., 200 MADISON
AVENUE
NEW YORK, NY 10016

FEES AND TAXES

Mortgage :

Mortgage Amount: \$ 0.00

Taxable Mortgage Amount: \$ 0.00

Exemption:

TAXES: County (Basic): \$ 0.00

City (Additional): \$ 0.00

Spec (Additional): \$ 0.00

TASF: \$ 0.00

MTA: \$ 0.00

NYCTA: \$ 0.00

Additional MRT: \$ 0.00

TOTAL: \$ 0.00

Recording Fee: \$ 818.00

Affidavit Fee: \$ 0.00

Filing Fee:

\$ 0.00

NYC Real Property Transfer Tax:

\$ 0.00

NYS Real Estate Transfer Tax:

\$ 0.00

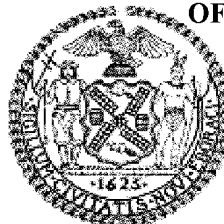
**RECORDED OR FILED IN THE OFFICE
OF THE CITY REGISTER OF THE**

CITY OF NEW YORK

Recorded/Filed 05-13-2021 12:45

City Register File No.(CRFN):

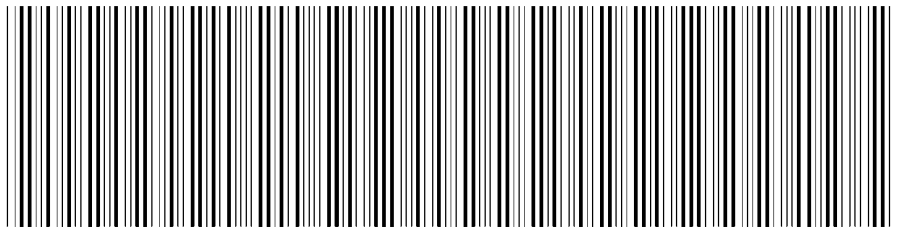
2021000177016



Annette McHill

City Register Official Signature

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OFFICE OF THE CITY REGISTER**



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RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION)

PAGE 2 OF 138

Document ID: 2021050501380001

Document Date: 11-06-2020

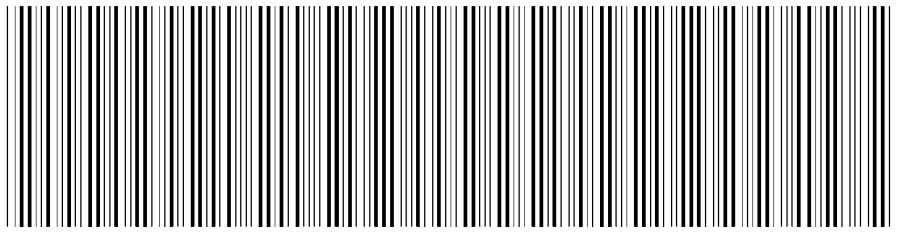
Preparation Date: 05-05-2021

Document Type: CONDO DECLARATION

PROPERTY DATA

Borough	Block	Lot	Unit	Address
MANHATTAN	762	1203 Entire Lot	3	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1204 Entire Lot	4	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1205 Entire Lot	5	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1206 Entire Lot	6	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1207 Entire Lot	7	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1208 Entire Lot	8	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1209 Entire Lot	9	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1210 Entire Lot	10	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1211 Entire Lot	11	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1212 Entire Lot	12	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1213 Entire Lot	13	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1214 Entire Lot	14	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1215 Entire Lot	15	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1216 Entire Lot	16	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				

**NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER**



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RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION)

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Document ID: 2021050501380001

Document Date: 11-06-2020

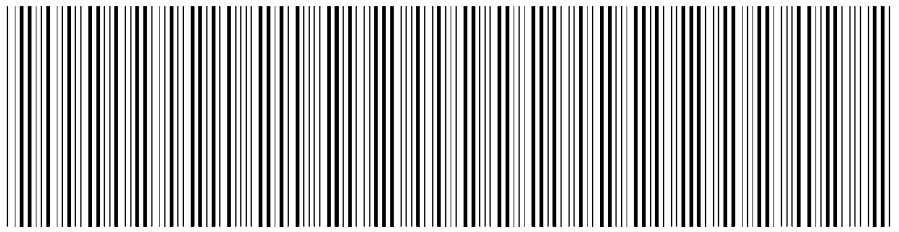
Preparation Date: 05-05-2021

Document Type: CONDO DECLARATION

PROPERTY DATA

Borough	Block	Lot	Unit	Address
MANHATTAN	762	1217 Entire Lot	17	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1218 Entire Lot	18	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1219 Entire Lot	19	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1220 Entire Lot	20	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1221 Entire Lot	21	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1222 Entire Lot	22	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1223 Entire Lot	23	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1224 Entire Lot	24	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1225 Entire Lot	25	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1226 Entire Lot	26	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1227 Entire Lot	27	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1228 Entire Lot	28	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1229 Entire Lot	29	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				
Borough	Block	Lot	Unit	Address
MANHATTAN	762	1230 Entire Lot	30	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)				

**NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER**



2021050501380001001C3C6C

RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION)

PAGE 4 OF 138

Document ID: 2021050501380001

Document Date: 11-06-2020

Preparation Date: 05-05-2021

Document Type: CONDO DECLARATION

PROPERTY DATA

Borough	Block Lot	Unit	Address
MANHATTAN	762 1231 Entire Lot	31	307 WEST 38TH STREET
Property Type: COMMERCIAL REAL ESTATE			
Borough	Block Lot	Unit	Address
MANHATTAN	762 1232 Entire Lot	32	307 WEST 38TH STREET
Property Type: COMMERCIAL REAL ESTATE			
Borough	Block Lot	Unit	Address
MANHATTAN	762 1233 Entire Lot	33	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)			
Borough	Block Lot	Unit	Address
MANHATTAN	762 1234 Entire Lot	34	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)			
Borough	Block Lot	Unit	Address
MANHATTAN	762 1235 Entire Lot	35	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)			
Borough	Block Lot	Unit	Address
MANHATTAN	762 1236 Entire Lot	36	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)			
Borough	Block Lot	Unit	Address
MANHATTAN	762 1237 Entire Lot	37	307 WEST 38TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)			
Borough	Block Lot	Unit	Address
MANHATTAN	762 25 Entire Lot		307 WEST 38TH STREET
Property Type: OFFICE BUILDING			



210980244

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STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF ECONOMIC JUSTICE
REAL ESTATE FINANCE BUREAU

Writer's Direct Info:
(212) 416-8772
Jamie.Pierre-Louis@ag.ny.gov

May 01, 2018

Trevor Adler, Esq.
Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, NY 10038-4982

Re: 307 WEST 38TH CONDOMINIUM
File No.: NA18-0049
Acceptance Date: 4/30/2018
Filing Fee: \$225.00 Receipt Number: 145583

Dear Trevor Adler:

The Department of Law has reviewed your application for a no-action letter concerning a transaction involving the above premises, submitted on 3/15/2018.

On the basis of the facts and circumstances stated in your letter and supporting documentation, the Department has determined that it will not take any enforcement action because the described transaction occurs without filing or registration pursuant to Section 352-e and Section 359-e of the General Business Law. We understand that it is your opinion as counsel that the transaction is not subject to those registration and filing requirements.

This position is based solely upon the limited information supplied and representations made in your letter and supporting documentation. Any different set of facts or circumstances might result in the Department taking a different position. In addition, this letter expresses the Department's position on enforcement action which could arise from this transaction only, occurring without filing or registration, and does not purport to express any legal conclusion on any subsequent transaction or offering.

The issuance of this letter shall not be construed to be a waiver of or limitation on the Attorney General's authority to take enforcement action for violations of Article 23-A of the General Business Law and other applicable provisions of law.

Very truly yours,

Jamie Pierre-Louis

Jamie Pierre-Louis
Assistant Attorney General

EXECUTION VERSION

Condominium No. 2885

**DECLARATION
Establishing a Plan for Condominium Ownership
of the Premises known as
307 West 38th Street, New York, New York**

**Pursuant to Article 9-B of the Real Property Law of the State of New York
Name:**

307 WEST 38TH CONDOMINIUM

**GLENHILL ASSOCIATES LEASEHOLD, LLC
c/o George Comfort & Sons, Inc.
200 Madison Avenue
New York, New York 10016**

Date of Declaration:

As of November 6, 2020

**The land affected by the within instrument lies in
Block 762 formerly known as Lot 25
now known as Lots 1201-1237
on the Tax Map of the Borough of Manhattan, City of New York**

**Attorneys for Declarant
Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, New York 10038
(212) 806-5400
Attn: Trevor T. Adler, Esq.**

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- A. Rules and Regulations**

Exhibits

- A. Description of the Land**
B. Description of the Units
C. Definitions
D. By-Laws
E. Power of Attorney
F. [Intentionally Omitted]
G. [Intentionally Omitted]
H. [Intentionally Omitted]
I. [Intentionally Omitted]
J-1. Condominium Board Estoppel Certificate Forms
J-2. Unit Owner Estoppel Certificate Forms
K. [Intentionally Omitted]
L. GMHC Easement Area

**DECLARATION OF
307 WEST 38TH CONDOMINIUM**

(Pursuant to Article 9-B of the Real Property Law of the State of New York)

Glenhill Associates Leasehold, LLC, a New York limited liability company, having an address c/o George Comfort & Sons, Inc., 200 Madison Avenue, New York, New York 10016 ("Ground Lessee", which, together with its successors and assigns, is referred to herein as "Declarant"), does hereby declare as follows:

WHEREAS, Glenhill Associates, LLC ("Fee Owner"), a New York limited liability company, with offices c/o George Comfort & Sons, Inc., 200 Madison Avenue, New York, New York 10016, is the owner in fee simple of the following (collectively, the "Fee Estate"): (x) the Land (as defined in Section 3.1 below), (y) the building (including all below grade segments) and all other structures and improvements, including above and below grade segments situated on the Land now and hereafter, known as 307 West 38th Street, New York, New York (with such structures and improvements being hereunder referred to as the "Building"), and (z) all easements, rights and appurtenances belonging to the Building or the Land, including the Development Rights (which Development Rights are reserved pursuant to the provisions of the Ground Lease (as hereinafter defined) for the exclusive use of (or transfer by) Fee Owner), and all other property, real, personal or mixed, intended for use in connection therewith described in Exhibit A annexed hereto;

WHEREAS, Fee Owner and Declarant entered into that certain Amended and Restated Agreement of Lease dated as of the date hereof (as such Agreement of Lease may be hereafter further amended in accordance with the provisions thereof, the "Ground Lease"), ground leasing the Fee Estate exclusive of the Development Rights (the "Leasehold Interest") for a term that expires on the last day of the calendar month in which occurs the thirty (30) year and one (1) month anniversary of the date that this Declaration is recorded (with the last day of the term of the Ground Lease being hereafter referred to as the "Ground Lease Expiration Date"), and Declarant, as ground lessee, shall be deemed to be the owner of the Building for the duration of the term of the Ground Lease;

WHEREAS, Declarant intends to submit its Leasehold Interest in the Property (as such term is defined in Section 3.1 below) under the Ground Lease to a leasehold condominium regime pursuant to the provisions of the Condominium Act (as such term is defined in Section 2.1 below); and

NOW THEREFORE, pursuant to the Condominium Act, Declarant hereby declares and states on behalf of itself, its successors and assigns, and on behalf of all Persons having or seeking to acquire any interest of any nature whatsoever in the Property as follows:

ARTICLE 1

DEFINITIONS

1.1 All capitalized terms used in this Declaration (hereinafter referred to as the "Declaration") that are not otherwise defined in the Articles hereof will have the meanings set

forth in Exhibit C annexed hereto or the By-Laws (as such term is defined in Section 2.4 below), unless the context in which they are used will otherwise require.

ARTICLE 2

SUBMISSION OF THE PROPERTY

2.1 Declarant hereby submits its Leasehold Interest in the Property pursuant to (i) a “no-action” letter issued by the Attorney General of the State of New York on May 1, 2018, under File Number NA18-0049, and (ii) the provisions of Article 9 B of the Real Property Law of the State of New York, as amended from time to time (the “Condominium Act”), and pursuant thereto does hereby establish a condominium to be known as “307 West 38th Condominium” (the “Condominium”).

2.2 Throughout the provisions of this Declaration (and the exhibits attached hereto), certain terms are used to describe ownership of the leasehold condominium units and the rights of the owners in and to such leasehold condominium units. While the use of terms such as “owner” and “ownership” may suggest otherwise, the condominium units created pursuant to this Declaration are leasehold units. This Declaration does not impose the condominium form of ownership on the Fee Estate underlying the Leasehold Property, and, no reference herein to “ownership,” “conveyance,” “sale,” “purchase” or like terms shall refer to such Fee Estate.

2.3 As of the Filing Date, title to all leasehold Units, individually and collectively shall automatically vest in Declarant, without the need to execute specific and particular deeds or indentures in each Unit. Any purchaser of a Unit, upon acceptance of a deed, shall take title subject to the terms of the Ground Lease and the terms of this Declaration (and the exhibits annexed hereto).

2.4 Attached to this Declaration and made a part hereof are the by-laws of the Condominium, which set forth detailed provisions governing the operation, use and occupancy of the Condominium (with said by-laws, as they may be amended from time to time, in accordance with the relevant provisions of Articles 17 of this Declaration, being hereinafter referred to as the “By-Laws”).

ARTICLE 3

DESCRIPTION OF THE PROPERTY

3.1 The property hereby submitted to a leasehold condominium regime is comprised of (a) Declarant’s Leasehold Interest, as tenant under the Ground Lease, in and to (i) the land more particularly described on Exhibit A attached hereto (the “Land”), and (ii) the Building in which the Units and General Common Elements of the Condominium are located and to be known as “307 West 38th Condominium”, and (b) all easements, rights and appurtenances belonging to the Building or the Land, and all other property, real, personal or mixed, intended for use in connection therewith described in Exhibit A annexed hereto (with the Land, the Building and all easements, rights and appurtenances belonging thereto, and all other property,

real and personal or mixed, intended for use in connection therewith being hereinafter collectively referred to as the "Property").

3.2 As more particularly described in Exhibit B of this Declaration and shown on the Floor Plans recorded on even date herewith, the Condominium shall initially contain the following: (a) thirty-seven (37) Units, consisting of: (i) four (4) commercial condominium units located on portions of the Cellar Floor, as more particularly shown on the Floor Plans ("Unit 1", "Unit 2", "Unit 3", and "Unit 4", respectively), (ii) seven (7) commercial condominium units located on portions of the First (1st) Floor, as more particularly shown on the Floor Plans ("Unit 5", "Unit 6", "Unit 7", "Unit 8", "Unit 9", "Unit 10" and "Unit 11", respectively), (iii) five (5) commercial condominium units located on portions of the Mezzanine, as more particularly shown on the Floor Plans ("Unit 12", "Unit 13", "Unit 14", "Unit 15" and "Unit 16", respectively), (iv) two (2) commercial condominium units located on portions of the Second (2nd) Floor, as more particularly shown on the Floor Plans ("Unit 17", and "Unit 18", respectively), (v) a commercial condominium unit located on portions of the Third (3rd) Floor, as more particularly shown on the Floor Plans ("Unit 19"), (vi) a commercial condominium unit located on portions of the Fourth (4th) Floor, as more particularly shown on the Floor Plans ("Unit 20"), (vii) a commercial condominium unit located on portions of the Fifth (5th) Floor, as more particularly shown on the Floor Plans ("Unit 21"), (viii) a commercial condominium unit located on portions of the Sixth (6th) Floor, as more particularly shown on the Floor Plans ("Unit 22"), (ix) a commercial condominium unit located on portions of the Seventh (7th) Floor, as more particularly shown on the Floor Plans ("Unit 23"), (x) a commercial condominium unit located on portions of the Eighth (8th) Floor, as more particularly shown on the Floor Plans ("Unit 24"), (xi) a commercial condominium unit located on portions of the Ninth (9th) Floor, as more particularly shown on the Floor Plans ("Unit 25"), (xii) a commercial condominium unit located on portions of the Tenth (10th) Floor, as more particularly shown on the Floor Plans ("Unit 26"), (xiii) a commercial condominium unit located on portions of the Eleventh (11th) Floor, as more particularly shown on the Floor Plans ("Unit 27"), (xiv) a commercial condominium unit located on portions of the Twelfth (12th) Floor, as more particularly shown on the Floor Plans ("Unit 28"), (xv) a commercial condominium unit located on portions of the Thirteenth (13th) Floor, as more particularly shown on the Floor Plans ("Unit 29"), (xvi) a commercial condominium unit located on portions of the Fourteenth (14th) Floor, as more particularly shown on the Floor Plans ("Unit 30"), (xvii) a commercial condominium unit located on portions of the Fifteenth (15th) Floor, as more particularly shown on the Floor Plans ("Unit 31"), (xviii) a commercial condominium unit located on portions of the Sixteenth (16th) Floor, as more particularly shown on the Floor Plans ("Unit 32"), (xix) a commercial condominium unit located on portions of the Seventeenth (17th) Floor, as more particularly shown on the Floor Plans ("Unit 33"), (xx) a commercial condominium unit located on portions of the Eighteenth (18th) Floor, as more particularly shown on the Floor Plans ("Unit 34"), (xxi) a commercial condominium unit located on portions of the Nineteenth (19th) Floor, as more particularly shown on the Floor Plans ("Unit 35"), (xxii) a commercial condominium unit located on portions of the Twentieth (20th) Floor, as more particularly shown on the Floor Plans ("Unit 36"), (xxiii) a commercial condominium unit located on portions of the 21st Floor Penthouse, as more particularly shown on the Floor Plans ("Unit 37"); and (b) the General Common Elements. For purposes hereof, (x) Units 1 through 37 may individually be referred to as a "Unit", and may collectively be referred to herein as the "Units"; (y) Units 6 (located on a portion of the First (1st) Floor), 17 (located on a portion of the Second (2nd) Floor), 19 (located on a portion of the Third (3rd) Floor), 20 (located on a portion of

the Fourth (4th) Floor), 21 (located on a portion of the Fifth (5th) Floor), 23 (located on a portion of the Seventh (7th) Floor) and 24 (located on a portion of the Eighth (8th) Floor), together with any Unit hereinafter purchased by the Gay Men's Health Crisis, Inc., may individually be referred to herein as a "GMHC Unit", and may collectively be referred to herein as the "GMHC Units"; and (z) all Units other than the GMHC Units may initially be referred to herein individually as a "Declarant Unit", and may collectively be referred to herein as the "Declarant Units", provided however, that once Declarant conveys a Declarant Unit to a Person other than Declarant or any of Declarant's successors or affiliates, such Unit shall not be deemed to be a Declarant Unit for so long as it remains owned by a Person other than Declarant or any of Declarant's successors or affiliates. For the avoidance of doubt, any Unit owned by Declarant or any of Declarant's successors or affiliates at any time, including a Unit that has been conveyed and then re-purchased by Declarant or any of Declarant's successors or affiliates at any time in the future, shall also be considered a Declarant Unit for purposes of the Condominium Documents.

ARTICLE 4

DESCRIPTION OF THE BUILDING

4.1 The Building consists of one Class IA (fireproof) building, having twenty (20) stories above grade, a Mezzanine above grade, a Penthouse above grade, and one (1) story below grade level. The Building is constructed of a steel frame with concrete slab floor systems, including steel columns and concrete foundation walls and footing. The floors in the Building are named respectively (from bottom to top): Cellar level, First (1st) Floor, above-grade Mezzanine, Second (2nd) Floor, Third (3rd) Floor, Fourth (4th) Floor, Fifth (5th) Floor, Sixth (6th) Floor, Seventh (7th) Floor, Eighth (8th) Floor, Ninth (9th) Floor, Tenth (10th) Floor, Eleventh (11th) Floor, Twelfth (12th) Floor, Thirteenth (13th) Floor, Fourteenth (14th) Floor, Fifteenth (15th) Floor, Sixteenth (16th) Floor, Seventeenth (17th) Floor, Eighteenth (18th) Floor, Nineteenth (19th) Floor, Twentieth (20th) Floor and 21st Floor Penthouse and Upper Roof.

ARTICLE 5

THE UNITS

5.1 Exhibit B annexed hereto and made a part hereof sets forth the following data with respect to each Unit necessary for the proper identification thereof: (i) its Unit designation; (ii) tax lot number; (iii) location in the Building; (iv) square foot area; (v) the General Common Elements to which the Unit has immediate access and (vi) the Common Interest appurtenant to such Unit. The location of each Unit is shown on the floor plans of the Building (the "Floor Plans"), certified by Peter F. Farinella Architect, P.C., and approved by and filed with the Tax Map Unit of the Department of Finance of the City of New York and filed in the New York County Office of the Register of the City of New York (the "City Register's Office") approximately simultaneously with the recording of this Declaration.

5.2 The location and dimensions of each Unit is shown on the Floor Plans.

5.3 Subject to the provisions of this Declaration and the By-Laws that are to the contrary, each Unit includes, and each Unit Owner shall be responsible for, the following:

5.3.1 entranceways, doors, plate glass installed within, or any other portion of, the storefront appurtenant to any Unit; the window cases, window frames, doors or door frames of any Unit; flooring, wallcoverings, exposed or unexposed plumbing, gas and heating fixtures, appliances and equipment from the branch or fixture shut-off valves to which they are attached, and any special pipes or equipment which a Unit Owner may install within a wall or ceiling, or under the floor, but shall not include gas, water or other pipes, conduits, wiring or ductwork within the walls, ceilings or floors that service more than one Unit or that constitutes part of any Base Building Systems, if any;

5.3.2 lighting and electrical fixtures, cabinets, including cabinetry, countertops and appliances within the Unit;

5.3.3 betterments and improvements including any special equipment, Fixtures (subject to Section 5.14 of the By-Laws) or Facilities affixed, attached or exclusively serving the Unit;

5.3.4 all movable partitions, business and trade fixtures, machinery and equipment, and all furniture, furnishings and other articles of moveable personal property owned by a Unit Owner and located in its respective Unit ("Unit Owner's Property"), subject to Section 5.14 of the By-Laws; and

5.3.5 Facilities for services such as heating, cooling, venting, air conditioning, communications, security, lighting, plumbing, electrical work, fire and life safety exclusively servicing such Unit whether in such Unit or located outside of the Unit elsewhere in the Building or on the Property.

5.4 Units 5, 6, 7, 8, 9, 10 and 11, each located on the First (1st) Floor, shall include the windows and storefronts located within or appurtenant to such Units (each such windows and storefronts being hereinafter collectively referred to as the "First (1st) Floor Windows").

5.5 Each Unit shall include the floor areas (including all installations currently existing therein), outlined on the Floor Plans and made a part hereof, as the same may be revised and/or amended in accordance with the provisions of this Declaration.

5.6 The Units shall not include any of the General Common Elements located therein, including, without limitation, any Base Building Systems and/or Facilities or other materials and equipment used by and for any other Unit or the Building.

ARTICLE 6

DIMENSIONS OF UNITS

6.1 Each Unit will be measured horizontally from the exterior side of the exterior walls (columns, mechanical pipes, shafts, shaftways, chases, chaseways and conduits are not deducted) to (i) the centerline of the partitions separating one Unit from another Unit or

separating one Unit from corridors, stairs, elevators and other mechanical equipment spaces or any General Common Elements not within a Unit, or (ii) to the exterior side of the opposite exterior walls. Each Unit will be measured vertically from the top of the concrete floor to the underside of the concrete ceiling; provided, however that where a Unit consists of two or more contiguous floors, the Unit shall be measured from top of the concrete floor of the lowest floor to the underside of the concrete ceiling of the highest floor; however, the portions of such a Unit consisting of two or more contiguous floors that relate to the structural integrity thereof (including, without limitation, the floor slabs between two floors located in the same Unit and any other Structural Components of such Unit) shall be deemed to be General Common Elements pursuant to Article 7 below.

ARTICLE 7

GENERAL COMMON ELEMENTS

7.1 The general common areas (the "General Common Elements") consist, in general, of those Base Building Systems, Facilities and areas for the common use of the Units and the Unit Owners or which are necessary or convenient for the existence, Maintenance or safety of the Property, including the Core and Shell and the areas identified in Section 7.3 hereof. Except to the extent expressly provided otherwise in this Declaration or the By-Laws, the General Common Elements are appurtenant to, serve and benefit each Unit. The General Common Elements are for the common use of all Unit Owners, subject to and in accordance with the provisions of this Declaration and the By-Laws annexed hereto as Exhibit D.

7.2 The General Common Elements will remain undivided and no Unit Owner or other person will bring or will have the right to bring any action for partition or division thereof except as may be specifically provided for herein and in the By-Laws.

7.3 The General Common Elements include the following:

7.3.1 The Leasehold Interest in the Property (as more particularly described in Exhibit A attached to this Declaration).

7.3.2 All foundations, footings, columns, girders, floor slabs, framing, and decking and rough ceilings (each of which is, for the avoidance of doubt, the underside of the floor slab immediately above any particular space in the Building), structural steel, beams, bracings and supports for exterior walls and interior load bearing walls, the Roof and Roof Setbacks (provided that the Condominium Board may dedicate one or more Roof and Roof Setbacks for the exclusive use of any Unit Owner), and Exterior Facade and all other structural members of the Building or that otherwise affect the structural integrity of the Building (collectively, the "Structural Components").

7.3.3 The sidewalks and sidewalk areas, paved areas, ramps, street-level setbacks and driveways surrounding the Building at street level, and all street trees, shrubbery, plantings and other landscaping located thereon including planters, if any; it being agreed, however, that the Condominium Board may delegate the maintenance or

repair thereof to individual Unit Owners pursuant to one or more separate agreements entered into by any such Unit Owners.

7.3.4 The public portions of the Building interior and the Base Building Systems wherever located.

7.3.5 All passages, hallways, corridors, stairs, stairways and their landings and all mechanical space and all other rooms, areas, spaces and other parts of the Building, except those portions which are located within and are part of a Unit, as more particularly set forth on the Floor Plans, as the same may be revised and/or amended in accordance with the provisions of this Declaration.

7.3.6 The windows located throughout the Building (other than the First (1st) Floor Windows).

7.3.7 The service corridor areas (including all installations currently existing therein), located on the Cellar, First (1st) Floor, and Mezzanine, as more particularly shown on the Floor Plans, as the same may be revised and/or amended in accordance with the provisions of this Declaration.

7.3.8 The Building elevators, provided that the Condominium Board may dedicate one or more Building elevators for the exclusive use of any Unit Owner.

7.3.9 The Building mechanical rooms and other utility rooms, as more particularly shown on the Floor Plans, as the same may be revised and/or amended in accordance with the provisions of this Declaration.

7.3.10 All easements, rights of way, privileges, appurtenances and other rights appurtenant to or pertaining to the Property, except those, which by their terms or by the terms of this Declaration, are appurtenant or pertain only to only one Unit.

7.3.11 Any other Facilities in the Building that serve or benefit or are necessary or convenient for the existence, Maintenance, operation or safety of more than one Unit, and are not exclusively serving any Unit.

7.3.12 Notwithstanding anything to the contrary set forth in this Article 7, if a General Common Element benefits one or more, but not all of the Unit Owners, then such General Common Element may be re-designated and/or treated as a "Limited Common Element" appurtenant to the applicable Unit(s), or alternatively, the Condominium Board shall have the right to grant an easement for the exclusive use of such General Common Element. As of the date hereof, there are no designated Limited Common Elements. Any disputes under this Section 7.3.12 will be resolved in accordance with Arbitration in accordance with the provisions of Article 10 of the By-Laws.

ARTICLE 8

USE OF UNITS

8.1 Subject to the provisions of this Declaration and the By-Laws, the Declarant Units shall be used and occupied for any lawful purpose that is permitted under the certificate of occupancy then in effect for the Building.

8.2 The GMHC Units shall be used and occupied only as follows: for general administrative offices and for the provision of social services, health services and medical services, including, without limitation, the preparation and serving of meals, medical testing, job training, a pharmacy and uses reasonably ancillary to any of the foregoing, and for no other purpose whatsoever. In no event shall any person sleep overnight in the GMHC Units. In no event whatsoever shall the GMHC Units be used for residential purposes or for lodging.

8.3 Unit Owners shall Maintain their respective Units and perform such necessary Maintenance and Alterations in accordance with Sections 5.12 and 5.13 of the By-Laws (but, with respect to the GMHC Units, subject to the GMHC Standards).

ARTICLE 9

CONDOMINIUM GOVERNANCE

9.1 Subject to Section 9.2 below, the affairs of the Condominium shall be governed and controlled by the Condominium Board as described in this Declaration and the By-Laws. When in this Declaration or in the By-Laws an action is to be undertaken or is authorized to be done by the Condominium, it shall mean the Condominium acting through the Condominium Board, unless the text clearly requires another interpretation (e.g., through a vote of the Unit Owners).

9.2 Notwithstanding anything to the contrary contained in this Declaration or in the By-Laws, during the term of the Ground Lease, it is the intention of Declarant that the Condominium Board shall be comprised of three (3) members, each of whom shall be designated by Declarant. Any one of said members of the Condominium Board designated by Declarant shall be authorized to act on behalf of the Condominium Board to perform all duties and to have all obligations that would otherwise be the responsibility of the Condominium Board. Notwithstanding anything to the contrary contained in this Section 9.2 or elsewhere in this Declaration or the By-Laws, (i) no Unit Owner, other than Declarant, will have the right to designate a member of the Condominium Board, and (ii) Declarant shall have no right to designate a Unit Owner, a representative of a Unit Owner or any party affiliated with any Unit Owner (except, in each instance, if and for so long as any such Unit Owners, representatives or affiliated parties are Declarant Entities) to be a member of the Condominium Board.

9.3 As more particularly set forth in Article 19 of this Declaration, any act requiring a meeting or vote of Unit Owners under this Declaration or the By-Laws shall be taken by Declarant, pursuant to an irrevocable proxy and power of attorney (collectively, the "Power of Attorney"), in the same form as annexed hereto as Exhibit E, coupled with an interest, granted by

(or deemed to be granted by) each Unit Owner to Declarant upon such Unit Owner's acceptance of a deed to a Unit, pursuant to which Declarant shall take certain acts that may be taken by Unit Owners, without the necessity of a Unit Owner meeting or vote. Such actions shall include, without limitation, amending this Declaration and/or the By-Laws, and electing whether or not to restore the Property in the event of a substantial Casualty or Condemnation or termination of the Condominium; provided, however, that nothing contained herein shall be deemed to diminish the rights of Fee Owner or any Permitted Mortgagees, and effectuating the rights granted to Declarant under this Declaration and the By-Laws. Any action taken by Declarant pursuant to the Power of Attorney must be in accordance with the provisions of this Declaration and the By-Laws, and any action not in such accordance shall be null and void *ab initio*. Furthermore, neither Declarant nor the Condominium Board shall (whether through the Power of Attorney or otherwise) amend this Declaration or the By-Laws (or any exhibit thereto) (X) unless GMHC Unit Owner is given not less than thirty (30) days' prior written notice thereof (which notice shall contain a true, correct and complete copy of the proposed amendment), and (Y) if and to the extent that the same shall materially and adversely impact the GMHC Unit Owner (or shall have a reasonable likelihood of materially and adversely impacting the GMHC Unit Owner), without the prior written consent of the GMHC Unit Owner in the GMHC Unit Owner's sole discretion. Any disputes over whether the same shall materially and adversely impact the GMHC Unit Owner (or shall have a reasonable likelihood of materially and adversely impacting the GMHC Unit Owner) shall be resolved reasonably and in good faith, as promptly as reasonably practicable. If Declarant and the GMHC Unit Owner shall be unable to resolve such dispute, either Declarant or the GMHC Unit Owner may submit such dispute to expedited arbitration in accordance with the provisions of Article 10 of the By-Laws. The grant of such Power of Attorney will run with the Land and any subsequent conveyance of any Unit will not be deemed to terminate such Power of Attorney.

ARTICLE 10

ALTERATIONS, ADDITIONS, IMPROVEMENTS AND CHANGES TO THE UNITS

10.1 Declarant will have the right, at its own cost and expense (except in situations where the same shall be performed for the benefit of the Building generally, in which case, if the costs of the same are permitted to be included as Common Expenses pursuant to the provisions of the By-Laws, then such costs may be included in Common Charges), subject to the requirements set forth in Subsections 5.13 and 5.2 of the By-Laws, but without the need for a vote or consent of the Condominium Board or any Unit Owner to: (i) decorate or make any Alterations, whether Structural Alterations or Non-Structural Alterations, interior or exterior, ordinary or extraordinary, in, to and upon any Unit owned by Declarant, or to a General Common Element, (ii) change the layout or number of rooms in its Unit(s) from time to time; (iii) change its Unit(s), by subdividing the same, into any desired number of condominium units, combining its Unit(s) or combining any units resulting from a subdivision, altering the boundary walls between its Unit(s), or otherwise; (iv) designate its Unit(s) as part of a newly created or expanded condominium unit or designate all or part of its Unit(s) as a newly created or expanded Unit or General Common Element; (v) change, alter or modify the Exterior Facade or portion of the exterior wall appurtenant to its Unit(s), including, without limitation, storefronts and entranceways; (vi) create or eliminate floor area; (vii) install, modify, Maintain, replace and/or remove all Signage on the exterior of the Building; and (viii) reapportion among the newly

created or expanded Units resulting from any subdivision, combination or otherwise their Common Interest, which shall be apportioned in accordance with the provisions of Article 12 of this Declaration, and provided that in no case may such reapportionment result in a greater percentage of Common Interest for the total of the new Declarant owned Units than existed for the original Declarant owned Units; provided, however, that the Common Interest appurtenant to any Unit owned by another Unit Owner will not be changed by reason thereof unless the owner of such Unit will consent thereto, and Declarant will comply with all Applicable Laws and the other legal requirements set forth in Article 27 hereof. Declarant will have the right, without the consent of any other Unit Owner or the Condominium Board, to amend this Declaration and By-Laws (and the Floor Plans, if applicable) to reflect the foregoing changes, in accordance with Article 17 of this Declaration. Notwithstanding anything to the contrary contained in this Section 10.1, Declarant shall not have the right to perform Alterations to the public entrances, passageways, doors, doorways, corridors, elevators, stairs, toilets or other public parts of the Building if such Alterations materially adversely affect access to any Unit or the use and occupancy thereof. No Maintenance in the Building or any such Alterations or reduction in the area of any Unit shall result in access to the Building being cut off or any unreasonable obstruction of access to such Unit (or any portion thereof) or unreasonable interference with the use or enjoyment thereof.

10.2 For so long as Declarant shall own the Declarant Units, Declarant shall have the right to perform the Alterations and changes to the Declarant Units in accordance with and subject to the restrictions set forth in Section 10.1 above and in compliance with the terms of this Declaration and the By-Laws.

10.3 The Condominium Board (or its designee) shall perform Alterations to, operate, Maintain and replace the General Common Elements (as necessary) in accordance with the terms of Subsections 5.12 and 5.13.1 of the By-Laws.

10.4 All Unit Owners performing Alterations to their respective Units shall do so in compliance with the terms of Article 27 of this Declaration and Section 5.13 of the By-Laws.

ARTICLE 11

PERSON TO RECEIVE SERVICE

11.1 The Secretary of State of the State of New York is hereby designated to receive service of process in any action which may be brought against the Condominium. In the event that the Condominium receives service of process, the Condominium Board shall promptly notify each of the Unit Owners.

ARTICLE 12

DETERMINATION OF PERCENTAGE INTERESTS IN COMMON ELEMENTS

12.1 The Common Interest of each Unit in the General Common Elements has been based upon floor space, subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of General

Common Elements for exclusive or shared use and the overall dimensions of the particular Unit, pursuant to Section 339-i.1(iv) of the Condominium Act.

ARTICLE 13

ENCROACHMENTS

13.1 If (a) any portion of the General Common Elements encroaches upon any Unit or upon any other General Common Element, (b) any Unit encroaches upon any other Unit or upon any portion of the General Common Elements or (c) any such encroachments shall hereafter occur as a result of (i) settling or shifting of the Building, (ii) any Alteration, Maintenance or repair of the General Common Elements or Units made in accordance with the terms of this Declaration or the By-Laws, or (iii) any Alteration, Maintenance of the Building (or any portion thereof) or of any Unit or General Common Element after damage by Casualty or any taking by Condemnation of all or any portion of any Unit or the General Common Elements; then, in any such event, a valid easement shall exist for such encroachment and for the Maintenance of the same as long as the Building shall stand. In connection with the encroachments referred to in clause (c) above, the Condominium Board and/or Declarant shall take commercially reasonable precautions to prevent such encroachments from occurring. Notwithstanding the foregoing, except as may be required in connection with a repair of any portion of the Building or the Base Building Systems, neither Declarant nor the Condominium Board shall take any action to create an encroachment upon the GMHC Units if and to the extent that such encroachment would result in access to the Building being cut off or any unreasonable obstruction of access to the GMHC Units (or any portion thereof) or unreasonable interference with the use or enjoyment thereof.

ARTICLE 14

ACCESS TO AND EASEMENTS RELATING TO COMMON ELEMENTS AND UNITS

14.1 Subject to the terms of this Declaration and the By-Laws, Declarant, the Unit Owners, the Condominium Board, any managing agent employed by the Condominium Board, and the Permitted Users of the foregoing shall have in common with the others, an easement for ingress and egress through, as well as for the use and enjoyment of, all of the General Common Elements, and the General Common Elements shall be subject to such easement. Notwithstanding the foregoing, however, no Person shall use the General Common Elements, except as expressly permitted herein and in the By-Laws, or as expressly authorized by the Condominium Board. Subject to the terms of this Declaration and the By-Laws (including, without limitation, the Rules and Regulations annexed hereto, as the same may be hereafter amended in accordance with the provisions of the Condominium Documents) and force majeure, each Unit Owner shall have such easements of egress and ingress to the entrances and exits of the Building as are reasonably necessary or appropriate for such Unit Owner and its Permitted Users to obtain access to its Unit(s) at any time.

14.2 Subject to the terms of this Declaration and the By-Laws, each Unit Owner shall have an easement in common with all other Unit Owners to use, Maintain and perform Alterations and replace all General Common Elements located in any of the other Units or elsewhere in the Property that exclusively serve such Unit Owner's Unit(s) (and each Unit and

the General Common Elements shall be subject to such easement and right of access), including an easement to connect to existing utilities, including, without limitation, utilities for steam, gas (but only if and to the extent the same currently services a Unit, or if and to the extent that the Condominium Board elects, in its sole discretion, to permit gas service for one or more Units), electricity, water (including condenser water), telecommunication, ventilation, other utilities and similar services. All easements and rights of access described in this Section 14.2 shall be exercised only by the Condominium Board and/or Declarant on behalf of the Unit Owners, it being the intent of this provision that no Unit Owner other than Declarant shall have any right to do so, and that Declarant may not delegate its rights under this Section 14.2 to Declarant's Permitted Users. The Condominium Board and/or Declarant and their agents, contractors, and employees shall have an easement and a right of access to each Unit and to the General Common Elements contained therein (and each Unit and the General Common Elements shall be subject to such easement and right of access) to (i) inspect the same, to remove violations therefrom and to install, operate, maintain, repair, alter, rebuild, restore and replace any of the General Common Elements located in, over, under, through, adjacent to, or upon the same, (ii) perform any obligation of, or to exercise any right or remedy reserved to, the Condominium Board and/or Declarant under this Declaration and/or the By-Laws, (iii) to Maintain and perform Alterations in the Units, in the Building or on the Property as the Condominium Board or Declarant may deem necessary or desirable; and (iv) to take all materials into and upon the Units that may be required in connection with such Maintenance and Alterations. Declarant and/or the Condominium Board, as the case may be, shall exercise reasonable diligence so as to minimize the disturbance of any Unit Owner's use of its Unit, but nothing contained herein shall be deemed to require Declarant and/or the Condominium Board to perform any such work on an overtime or premium pay basis. Notwithstanding anything to the contrary contained in this Article, Declarant and the Condominium Board agree not to enter the GMHC Units in the absence of the GMHC Unit Owner, unless reasonable advance written notice is given, except: (i) in the case of any Emergency, (ii) in order to comply with any federal, state or local rule, regulation, decision, code, requirement, order, direction, law, statute or ordinance, of any governmental or quasi-governmental agency, authority, body, board, commission, department, bureau or official; or (iii) in order for the Condominium Board to perform cleaning service to the GMHC Units in accordance with the provisions hereof. Plans and specifications with respect to any such proposed work shall be submitted by the Unit Owner who has requested that the Condominium Board exercise any such easement or right of access to the Unit Owner whose Unit is to be accessed, and all work is to be prosecuted diligently to completion. If and to the extent that the Condominium Board and/or Declarant take any action pursuant to the provisions of this Section 14.2 at the request of any particular Unit Owner or to the extent otherwise permitted pursuant to the Condominium Documents, then such Unit Owner shall reimburse the Condominium Board and/or Declarant and/or the Unit Owner burdened by the exercise of such easement, as the case may be, for all reasonable costs expended by the Condominium Board and/or Declarant, as the case may be, in connection therewith within thirty (30) days after submission of an invoice therefor to such Unit Owner (and the Unit Owner's obligation to do so shall be in addition to such Unit Owner's obligation to pay Common Charges).

14.3 Declarant shall have an easement for the use of any vaults, vault space or area located on the side of the Building if and to the extent such vaults are deemed the equivalent of General Common Elements hereunder.

14.4 Declarant and its Permitted Users shall have an easement in, over, under, through and upon the General Common Elements, to use the same, without being subject to any fee or charge, for all purposes and activities, including, without limitation, activities in connection with the sale or renting of any Units owned by Declarant including, without limitation, the right to place "for sale," "for rent" and other signs and promotional materials, of such size and content as Declarant shall determine (provided that the same shall be reasonably consistent with the practice of owners in Comparable Buildings).

14.5 Declarant and the Condominium Board with respect to the General Common Elements and the Building each shall have the right to grant such additional electric, steam, gas, water, ventilation, telecommunications or other easements for utilities or otherwise or relocate such easements, as each of them shall deem necessary or desirable for the proper operation and Maintenance of the Building, the General Common Elements or the respective Units, as the case may be, or any portion thereof, or for the general health, safety or welfare of Permitted Users; provided that such additional utilities or the relocation of existing utilities or the addition to existing utilities or the use thereof will not prevent or materially interfere with or materially adversely affect (except temporarily) the use of the other existing utilities for the normal conduct of business of tenants and occupants of the Units or with the use of the Units for their permitted purposes or diminish the square footage of the Units, and provided further that any work shall comply with all of the requirements of Article 27 of this Declaration and the By-Laws. Any utility company and its employees and agents shall have the right of access, upon reasonable notice (of at least two (2) Business Days for any scheduled entry) to all affected parties (which need not be given in writing), except in an Emergency (in which case no prior notice shall be required), to any Unit or the General Common Elements in furtherance of such easements, provided that, except in an Emergency, such right of access shall be exercised in such manner as shall not materially interfere or materially adversely affect (except temporarily) the normal conduct of business of the tenants and occupants of the Units or with the use of the Units for their permitted purposes. To the extent practicable, such Unit Owner shall be afforded the opportunity to have a representative present when the utility company and its employees and agents shall enter upon the Unit of such Unit Owner. Any fees, compensation or other profits received by Declarant or the Condominium Board in furtherance of the aforesaid easements shall be the property of Declarant or the Condominium Board granting such easements, as applicable. The Condominium Board or Declarant shall reasonably designate which risers (if any) are to be used by each Unit Owner, and no Unit Owner may use any riser not designated for such Unit Owner's use by the Condominium Board or Declarant. In no event shall a Unit Owner be permitted to utilize the risers in such amounts that would leave the other Unit Owners with insufficient riser capacity for the normal operations of such Unit (as being conducted prior to change in the utilization of such risers).

14.6 Declarant and the Condominium Board have the right of access and an easement (a) to install, utilize, operate, Maintain, perform Alterations, rebuild, restore and replace the General Common Elements located in, over, under, through or upon any Unit, or any other General Common Elements or elsewhere on the Property; and (b) to Maintain any encroachment on any Unit or General Common Elements resulting from the Maintenance, performance of Alterations, rebuilding, restoration or replacement of the General Common Elements; and (c) subject to Section 14.14 of this Declaration, to each Unit to inspect same and/or to remove violations therefrom. The provisions set forth in Section 14.2 above as to restrictions upon

Declarant and the Condominium Board (and such other protections granted to the Unit Owners) in connection with the access and easement rights thereunder shall also apply to the access and easement rights set forth in this Section 14.6.

14.7 Each Unit shall have an easement of physical support and of necessity from the other Units and the General Common Elements, and shall be subject to an easement of physical support and necessity in favor of the other Units and the General Common Elements. All such easements shall be exercised only by Declarant and/or the Condominium Board on behalf of, and with respect to, each Unit.

14.8 All Persons shall have a right of emergency egress through passageways, emergency stairways and exits contained within any Unit or General Common Element, and each Unit shall be subject to the rights of all individuals to use such passageways, stairways and exits for emergency egress.

14.9 Subject to and in accordance with the provisions of Sections 14.10, 14.11, 14.14 and Article 15 of this Declaration, Declarant and Declarant's Permitted Users shall have an exclusive right and easement to utilize the General Common Elements, including without limitation, the Roof and Roof Setbacks and Exterior Facade for any lawful purposes, including, without limitation, for purposes of erecting, using, leasing, Maintaining, replacing and operating antennae, satellite dishes and other telecommunications equipment ("Telecommunications Equipment") and Signage on any part of the Roof and Roof Setbacks, Exterior Facade of the Building and elsewhere on the General Common Elements, and to utilize any risers, conduits, piping, cables, ducts and electrical panels and rooms, telephone/cable panels and rooms in connection therewith. The exercise of the easement and these rights do not require the consent of the Condominium Board or the Unit Owners, and shall be without charge to Declarant. Declarant shall have the absolute right to lease, license or otherwise grant rights to other Unit Owners in connection with Declarant's exclusive easements and rights; provided that Declarant shall (or Declarant shall cause the Condominium Board to), upon request of other Unit Owners, make available to such Unit Owners pathways through the General Common Elements for risers, conduits, piping, cables and ducts. Such pathways shall be made available to such other Unit Owners without charge, but such Unit Owners will be solely responsible for all costs of utilizing such pathways for any purpose (including, without limitation, the costs of surveys, core drilling and installation of risers, conduits, piping, cables and ducts), and all work to be performed by such Unit Owners in connection therewith shall be performed in compliance with the applicable provisions of this Declaration and the By-Laws. Any obligations of Declarant under any lease, license or other right of use granted by Declarant with respect to the General Common Elements shall be the obligation of Declarant and not of the Condominium, and any rights of Declarant, including, without limitation, the right to receive rent or other consideration for such lease, license or other right of use, shall be the right of Declarant, and not of the Condominium or any other Unit Owner. In connection with such easement and related rights, Declarant and its Permitted Users shall each have, to the extent necessary or advisable for such erection, use, lease, Maintenance and operation, an easement in common with all Unit Owners for ingress, egress and the use of any General Common Elements. Declarant reserves the exclusive right to decide the location of all Signage and Telecommunications Equipment owned or operated by others in order to prevent interference with the functionality of its own (or its tenants') Signage or Telecommunications Equipment.

14.10 The GMHC Unit Owner shall have the right and an easement to install and Maintain identifying lettering, Sign(s) on the outside of the door of its designated ground level entrance to the GMHC Units, but only within such area as the Condominium Board shall reasonably designate, and subject to the prior written approval of the Condominium Board, which shall not be unreasonably withheld or delayed, with respect to number, type, size, shape, materials, color and design of such Signs and subject, also to compliance with all Applicable Laws and the Rules and Regulations. Notwithstanding the foregoing, the GMHC Unit Owner's Signage as is in existence on the date hereof, is permitted without the GMHC Unit Owner being required to obtain any Condominium Board approval. Except as otherwise provided herein, no Unit Owner shall place, erect or Maintain any Sign, sticker, poster, notice, advertising material, display, or any item of any kind or nature on the inside or outside of the windows (including without limitation, the First (1st) Floor Windows) or exterior of its Unit without the prior written approval of the Condominium Board (in the case of the GMHC Unit Owner, such approval not to be unreasonably withheld, delayed or conditioned).

14.11 Subject to Article 15 of this Declaration, Declarant shall have the right and an easement to operate and Maintain from time to time, one or more Signs on the Property, including without limitation, Signs installed for purposes of advertising (i) the sale or lease of any Declarant Units, (ii) the operation of any business in a Declarant Unit, and (iii) a tenant, occupant, managing agent or operator of all or any portion of the Declarant Units. Except if and to the extent that the same are included as Common Expenses pursuant to the provisions of Section 5.1 of the By-Laws, the GMHC Unit Owner shall have no liability for any costs or expenses incurred by Declarant in connection with any Signs (including, without limitation, any Maintenance and/or Alterations performed on the Roof and Roof Setbacks or the Exterior Facade of the Building in connection with the installation or Maintenance of any Signage), in each case to the extent that the same is owned, operated or installed by any party other than the GMHC Unit Owner (or any Permitted User of the GMHC Units).

14.12 The Declarant Unit Owner shall have an easement to use the sidewalks in front of Declarant Units for purposes permitted by Applicable Laws.

14.13 Declarant and the Condominium Board shall have the right, at reasonable times, at reasonable intervals and upon reasonable advance notice (subject to the provisions of the immediately following sentence) to the affected Unit Owner, except that no prior notice will be necessary in the case of an Emergency, to enter into the Property and all General Common Elements and Units therein to inspect the General Common Elements that the inspecting party is permitted or required to Maintain in order to inspect or correct conditions dangerous to persons or property. The provisions set forth in Section 14.2 above as to restrictions upon Declarant and the Condominium Board (and such other protections granted to the Unit Owners) in connection with the access and easement rights thereunder shall also apply to the access and easement rights set forth in this Section 14.13.

14.14 Subject to the rights granted to Declarant and the Condominium Board set forth in Sections 14.6, 14.13 and 14.17 of this Declaration, the GMHC Unit Owner shall have (and the General Common Elements shall be subject to) an easement: (i) for access to and through the stairways of the Building for passage among the floors constituting GMHC Units, (ii) for the exclusive use of the Roof and Roof Setbacks located above the Fourth (4th) Floor of the Building,

as more particularly identified on Exhibit L as the "GMHC Easement Area" (the "GMHC Terrace"), which shall be subject in all events to the Condominium Board's right of access through and across the GMHC Terrace in order to access the portion of the Roof and Roof Setbacks that is located immediately adjacent to the GMHC Roof where the emergency generator (and such other equipment as may be installed from time to time) is located, and (iii) subject to and in accordance the GMHC Omnibus Agreement, for the exclusive use of elevator numbers 7 and 8, subject to the provisions of Section 5.11.2 of the By-Laws (the "GMHC Elevators"); provided however, that (i) GMHC shall be responsible for Maintenance and operation of such GMHC Terrace and GMHC Elevators as if such GMHC Terrace and GMHC Elevators were a part of a GMHC Unit, (ii) GMHC shall be required to obtain such additional insurance for the GMHC Terrace and GMHC Elevators, as reasonably determined by the Condominium Board from time to time (upon not less than thirty (30) days' prior written notice to GMHC), including without limitation, commercial general liability insurance.

14.15 Each Unit Owner shall have a right and easement to use the sidewalks and the ramps, stairways, entrances and exits constituting General Common Elements and any replacements thereof for the sole purpose of providing a means of ingress and egress to and from the Property and the respective Units and an approach to and from the public street. Notwithstanding the foregoing, the Condominium Board shall have the right at any time and without thereby being deemed to infringe upon such right and easement, and without incurring any liability to any Unit Owner therefor, to change the arrangement and/or location of public entrances, passageways, doors, doorways, corridors, elevators, stairs, toilets or other public parts of the Building (provided that such changes do not materially adversely affect access to the GMHC Unit or the use and occupancy thereof) and to change the name, number or designation by which the Building may be known.

14.16 Declarant shall have the right, exercisable in its sole discretion, to make (or to allow its Permitted Users to make) reasonable quantities of penetrations in floor slabs that constitute a General Common Element, as part of an Alteration or Maintenance and repair and which separates two floors both of which are wholly owned by Declarant, provided that such proposed penetration will not materially adversely affect the structural integrity of the Building.

14.17 Declarant and the Condominium Board, as the case may be, may, from time to time, install and maintain or permit the installation and Maintenance of scaffolding and/or a sidewalk bridge ("Scaffolding") outside of the Property if required by Applicable Law or in connection with any Maintenance and repair obligations and/or Alterations being performed at the Building. The Scaffolding shall be erected (i) in a way so as not to impair or restrict reasonable access to any Unit Owner's entrance to its respective Unit; (ii) in a way so as to reasonably minimize blockage and concealment of any Unit Owner's windows or its Signage (to the extent that the same shall be reasonably practicable under the circumstances); (iii) in a way so as to be consistent with the general manner in which scaffolding is installed in similar buildings in Manhattan, and (iv) and thereafter be maintained in a commercially reasonable manner. No Unit Owner shall have any liability for any costs or expenses incurred by Declarant and/or the Condominium Board in connection with any Scaffolding (or any Signage hanging from such Scaffolding) that is installed for the specific benefit of any other Unit Owner, except in situations where the underlying Maintenance, repair and/or Alterations and/or compliance with Applicable Law, is being performed for the benefit of the Building generally, in which case,

if the costs of the same are permitted to be included as Common Expenses pursuant to the provisions of the By-Laws, then the costs of the Scaffolding, any Signage required to be hung from such Scaffolding, and any other costs incurred in connection therewith may be included in Common Charges. Notwithstanding anything to the contrary set forth in this Section 14.17, the Declarant's and the Condominium Board's rights under this Section 14.17 cannot be exercised in a manner that would result in a GMHC Adverse Impact.

14.18 All Unit Owners, other than the GMHC Unit Owner, shall have, and the General Common Element located on the First (1st) Floor and identified on the Floor Plans as the "BLDG Lobby" shall be subject to, an easement for access to and through the "BLDG Lobby" for ingress and egress to the elevator lobby and to their respective Units.

14.19 The Unit Owner of Unit 17 shall have, and the portion of Unit 18 comprised of corridor and service lobby space (as identified on the Floor Plans) shall be subject to, an easement for ingress and egress by the Unit Owner of Unit 17 to and from Unit 17; provided, however, that, in the event that GMHC purchases Unit 18, such easement shall terminate automatically upon GMHC's purchase thereof.

14.20 The Unit Owner of Unit 14 and the Unit Owner of Unit 15 shall each have a non-exclusive easement for ingress and egress through the corridor located immediately appurtenant to each of their Units, which is identified on the Floor Plans as a General Common Element.

14.21 Any easements granted to Declarant, the Condominium Board, any Unit or any Unit Owner under this Declaration and the By-Laws may be exercised by such party's employees, agents, contractors, suppliers, customers, guests, invitees, licensees, servants, tenants, subtenants, members, and visitors, as the case may be, to the extent necessary to effectuate the purpose for the easement or as otherwise authorized by Declarant, the Condominium Board or Unit Owner, but, in all cases, subject to the provisions of this Declaration and the By-Laws.

ARTICLE 15

NAME OF CONDOMINIUM AND BUILDING

15.1 The Condominium shall be designated and known as "307 West 38th Condominium." The Building does not currently have a name, but Declarant reserves the right to name the Building in the future. Declarant shall own and control all rights and interests, including the right to apply for any state trademark and prosecute to registration any federal trademark applications, to litigate against those whom Declarant believes may be infringing Declarant's rights in and to the name of the Condominium and Building. Only Declarant shall have the right to change or assign the name of the Condominium and/or the Building. The Building may be named after any person, firm, or otherwise, whether or not such name is, or resembles the name of any Unit Owner, so long as the same is not derogatory to the GMHC Unit Owner (as reasonably determined). As more particularly set forth in Section 14.11 of the Declaration, the Declarant reserves the right, to be exercised in its sole discretion, to install and maintain Signage on the exterior or interior of the Building, provided however that such Signage shall not be derogatory to the GMHC Unit Owner (as reasonably determined).

15.2 In addition, Declarant shall have the right to maintain one or more plaques or other Signs identifying Declarant (and/or the managing agent of the Property, Permitted Users and Unit Owners) with such other information as Declarant determines in its sole discretion (but subject to the rights of GMHC under the Ground Lease and/or the Condominium Documents).

ARTICLE 16

COVENANTS RUNNING WITH THE LAND

16.1 Subject to the priority of the Ground Lease, all provisions of this Declaration, and the By-Laws and the Rules and Regulations that are annexed hereto and made a part hereof, including, without limitation, the provisions of this Article 16, shall to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the owner of all or any part thereof, or interest therein, and such Unit Owner's heirs, executors, administrators, legal representatives, successors and assigns, but the same are not intended to create, nor shall they be construed as creating, any rights in or for the benefit of the general public or any other third party. All present and future Unit Owners, tenants, subtenants, licensees, and other Permitted Users of the Units shall be subject to the Ground Lease, this Declaration, the By-Laws and the Rules and Regulations and shall comply with the provisions of this Declaration, the By-Laws and the Rules and Regulations, as each may be amended from time to time (in accordance with the relevant provisions of the Condominium Documents), and to any restrictions and limitations with respect to the Property and the Units set forth in this Declaration and the By-Laws that apply to all such future Unit Owners, tenants (including any existing tenants), subtenants, licensees, and other Permitted Users of the Units. The acceptance of a deed of conveyance, or the succeeding of title to, or the entering into of a Unit Lease or the entering into occupancy, of, any Unit shall constitute an agreement that the provisions of the Ground Lease, this Declaration, the By-Laws, and the Rules and Regulations, as each may be amended from time to time, are accepted and ratified by such Unit Owner, tenant, subtenant, licensee or Permitted User, and all of such provisions shall be deemed and taken to be covenants running with the Land and shall bind any Person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed or conveyance or Unit Lease or use and occupancy agreement thereof.

16.2 If any provision of this Declaration or the By-Laws is invalid under, or would cause this Declaration and the By-Laws to be insufficient to submit the Property to the provisions of, the Condominium Act, such provision shall be deemed deleted from this Declaration or the By-Laws, as the case may be, for the purpose of submitting the Property to the provisions of the Condominium Act but shall nevertheless be valid and binding upon and inure to the benefit of the owners of the Property and their heirs, executors, administrators, legal representatives, successors and assigns, as covenants running with the Land and with every part thereof and interest therein under other Applicable Law to the extent permitted under such Applicable Law with the same force and effect as if, immediately after the recording of this Declaration and the By-Laws, all Unit Owners had signed and recorded an instrument agreeing to each such provision as a covenant running with the Land. If any provision that is necessary to cause this Declaration and the By-Laws to be sufficient to submit the Property to the provisions

of the Condominium Act is missing from this Declaration or the By-Laws, then such provision shall be deemed included as part of this Declaration or the By-Laws, as the case may be, for the purposes of submitting the Property to the provisions of the Condominium Act.

ARTICLE 17

AMENDMENTS OF DECLARATION

17.1 Declarant shall have the right to amend, add to, modify or delete any provision of this Declaration (or By-Laws), without the consent of the Condominium Board, or any Unit Owner (i) to reflect any changes in any Units owned by Declarant and/or the reapportionment of the Common Interest of the affected units owned by Declarant resulting therefrom made by Declarant in accordance with the terms of Section 10.1 of this Declaration, or (ii) to the extent (if any) required by a Permitted Mortgagee or any governmental agency having regulatory jurisdiction over the Condominium or any title insurance company selected by Declarant to insure title to any Unit owned by Declarant; provided, however, that (a) no such amendment (x) materially limits any rights or increases any obligations of any party under the terms of the Ground Lease or this Declaration and By-Laws, or (y) changes the Common Interest of any Unit other than a Unit owned by Declarant; and (b) Declarant provides prior written notice of its proposed amendment (along with a copy of such proposed amendment) to Fee Owner, a Permitted Mortgagee, Condominium Board and all Unit Owners. Declarant shall be deemed to have and is granted an irrevocable power of attorney coupled with an interest from all Unit Owners to execute and file or record all documents necessary to accomplish such amendment, modification or deletion of this Declaration. Notwithstanding anything to the contrary contained hereinabove, neither the Condominium Board nor Declarant shall have any right to enter into any amendment or modification to this Declaration or the By-Laws resulting in a GMHC Adverse Impact, unless GMHC shall give its prior written consent thereto. Any modification of this Declaration (or By-Laws) under the provisions of this Section 17.1 shall not be effective against the GMHC Unit Owner until the date that is ten (10) Business Days after a copy of such proposed amendment has been delivered to the GMHC Unit Owner, but Declarant may proceed with such amendment following such 10-Business Day period if Declarant in good faith believes that the same will not create (or be deemed to have created) a GMHC Adverse Impact. If, during such 10-Business Day period, the GMHC Unit Owner shall deliver a written notice to Declarant claiming that the proposed amendment will in fact create a GMHC Adverse Impact (which notice shall describe in reasonable detail the basis for such claim), then Declarant and the GMHC Unit Owner shall consult promptly, reasonably and in good faith as to how to address such GMHC Adverse Impact (if any shall in fact exist). If (I) no agreement with respect thereto shall be reached by Declarant and the GMHC Unit Owner, (II) Declarant proceeds with such amendment, and (III) such amendment does in fact create a GMHC Adverse Impact without the GMHC Unit Owner having been offered a reasonably equivalent right or benefit or reasonably equivalent compensation (to become effective immediately once such amendment becomes effective), then the GMHC Unit Owner shall be entitled to require Declarant to rescind such amendment. Any dispute with respect thereto may be submitted by either Declarant or the GMHC Unit Owner to expedited arbitration in accordance with Article 10 of the By-Laws. In no event whatsoever shall the provisions of this Section 17.1 be amended, modified or waived (in whole or in part) without the prior written approval of the GMHC Unit Owner.

17.2 Subject to the restrictions set forth in Section 17.1 above, the Condominium Board shall have the right to amend this Declaration and By-Laws, as permitted by its Power of Attorney.

17.3 Subject to the restrictions set forth in, and supplementing the rights of Declarant set forth in, Section 17.1 above (including, without limitation, that the same shall not result in a GMHC Adverse Impact), the Declarant Unit Owner shall have the right to amend the Declaration and By-Laws in order to effectuate a subdivision of any of Declarant Units.

17.4 No such amendment, modification, addition or deletion shall be effective until recorded in the City Register's Office.

ARTICLE 18

TERMINATION OF CONDOMINIUM

18.1 Subject to the priority of the Ground Lease, the Condominium will continue and the Property will not be subject to an action for partition until such time as withdrawal of the Property from the provisions of the Condominium Act is authorized: (i) in accordance with the terms and provisions of Section 5.3 and Article 8 of the By-Laws; and (ii) as a result of the vote to do so of at least eighty (80%) percent in number and in Common Interest of all Unit Owners, which shall be voted in accordance with the terms of Section 9.3 of this Declaration; provided, however, that the Condominium may not be terminated, unless (a) (i) all of the Unit Owners (other than Declarant and GMHC) shall then be in a Termination Default, and (ii) the GMHC Unit Owner shall then be in a GMHC Termination Default, in each case, of any of their respective obligations under the Declaration or the By-Laws (subject, however, to the last sentence of this Section 18.1), and the GMHC Termination Requirements have been satisfied, or (b) the Condominium shall be terminated in accordance with the provisions of Section 5.3 of the By-Laws following the occurrence of a Casualty or a Condemnation. Notwithstanding any allegation by Declarant or the Condominium Board of the existence of a Termination Default on the part of a Unit Owner, Declarant and the Condominium Board shall have no right to terminate or to initiate or acquiesce in the termination of the Ground Lease and/or the Condominium Documents unless and until the GMHC Termination Requirements have been satisfied. Notwithstanding anything to the contrary contained in this Section 18.1, if, at the relevant point in time, there shall be no Unit Owners other than the GMHC Unit Owner and Declarant, clause (a) of this Section 18.1 shall be deemed deleted and replaced with: "The GMHC Unit Owner shall then be in a GMHC Termination Default of any obligation under the GMHC Transaction Documents, and the GMHC Termination Requirements have been satisfied."

18.2 In the event said withdrawal is authorized as aforesaid, the Property will be subject to an action for partition by Declarant as if owned in common, in which event the net proceeds of sale, together with the net proceeds of any applicable insurance policies, will be deposited into a separate trust fund for the benefit of Fee Owner and shall be deemed apportioned amongst the Unit Owners in proportion to their respective Common Interest, which fund shall thereafter be distributed to Fee Owner.

18.3 The Condominium shall terminate (i) as a matter of law if the Ground Lease expires by its terms or is terminated in accordance with the Ground Lease termination provisions set forth in this Article 18 (and Declarant shall ensure that the Ground Lease shall not terminate earlier than the Ground Lease Expiration Date other than in accordance with the Ground Lease termination provisions set forth in this Article 18), or (ii) upon voluntary termination of the Condominium, in accordance with this Article 18, and the Unit Owners in their respective interests prior to or after such termination shall cooperate in such acts as are necessary or reasonably requested by any person in order to confirm or effectuate such termination. Notwithstanding the foregoing, even if the Ground Lease is terminated, the Condominium shall not be terminated in the event a new Ground Lease is entered into in accordance with the terms and conditions of the Ground Lease. In the event the Condominium is terminated and any Existing Lease and/or Unit Lease has not also terminated in accordance with its terms, then (a) such termination of the Condominium will not impair the effectiveness of such Existing Lease and/or Unit Lease, (b) each owner of the portions of the Property that are subject to the Existing Lease and/or Unit Lease shall recognize all of the rights of the tenant under such Existing Lease and/or Unit Lease, and (c) the interests of such successors will be subject to such Existing Lease and/or Unit Lease.

ARTICLE 19

POWER OF ATTORNEY

19.1 Each Unit Owner, upon acceptance of a deed for a Unit, will execute (or, upon failing to execute, will be deemed to have executed) the Power of Attorney in the same form as annexed hereto as Exhibit E, coupled with an interest in favor of the Declarant to: (1) perform any act that would otherwise be required by a meeting or vote of the Unit Owners under this Declaration and the By-Laws (including, without limitation, to vote whether to restore or not in the event of a substantial Casualty or Condemnation, and to vote whether to terminate the Condominium, and to vote to elect members and officers of Condominium Board and to vote whether to amend this Declaration, the By-Laws and the Rules and Regulations of the Condominium); (2) execute documents in connection with any permits and/or applications required to undertake, perform or complete work to the Units or General Common Elements by Declarant or obtain an amended certificate of occupancy therefor, or any of said documents, when such amendment or other document: (i) shall be required to reflect any changes in Units and/or the reapportionment of the Common Interests of the Units resulting therefrom made by Declarant in accordance with the Declaration, or (ii) shall be required by (a) a lender designated by Declarant to make a mortgage loan secured by a mortgage on any Unit, referred to as a "Permitted Mortgagee" in the Declaration, (b) any governmental agency having or asserting regulatory jurisdiction over the Condominium, (c) any title insurance company selected by Declarant to insure title to any Unit, or (d) to effectuate the provisions of the Ground Lease, this Declaration and/or the By-Laws, including, without limitation, Fee Owner's utilization of Development Rights by entering into a zoning lot merger, or any declaration or other instruments, if same shall be required to enable Fee Owner to utilize, acquire, purchase, allocate, sell or dispose of any Development Rights now or in the future appurtenant to the Property or other zoning lot pursuant to a zoning lot development agreement or to merge or subdivide a zoning lot; and (3) to effectuate any of the rights granted to Declarant in this Declaration or the By-Laws.

19.2 Each Unit Owner, upon acceptance of a deed for a Unit, will execute (or, upon failing to execute, will be deemed to have executed) the Power of Attorney in the same form as annexed hereto as Exhibit E, coupled with an interest in favor of the Condominium Board: (1)(a) to acquire or lease any Unit, together with its appurtenant interests, from any Unit Owner desiring to sell, convey, transfer, assign, surrender or lease the same, (b) to acquire any Unit, together with its appurtenant interests, from any Unit Owner who elects to surrender the same pursuant to the By-Laws, (c) to acquire any Unit, together with its appurtenant interests, which becomes the subject of a foreclosure or other similar sale, all on such terms and at such price or rental, as the case may be, as said attorneys-in-fact shall deem proper, in the name of the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, and, after any such acquisition or leasing, to convey, sell, lease, sublease, mortgage or otherwise deal with (but not vote the interest appurtenant thereto) any such Unit so acquired by them, or to sublease any Unit so leased by them without the necessity of further authorization by the Unit Owners, on such terms as said attorneys-in-fact may determine, granting to said attorneys-in-fact the power to do all things in the said Property which the undersigned could do if the undersigned were personally present, and (d) to enforce the Condominium Board's lien for unpaid Common Charges; (2) upon determination by the Condominium Board, to commence, pursue, appeal, settle and/or terminate administrative and certiorari proceedings to obtain reduced real estate tax assessments with respect to the Units, including retaining counsel and taking any other actions that the Condominium Board deems necessary or appropriate; (3) to execute, acknowledge and deliver (a) any declaration or other instrument affecting the General Common Elements that the Condominium Board, with respect to the General Common Elements, deems necessary or appropriate to comply with any ordinance, regulation, zoning resolution or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or any other public authority, applicable to the Maintenance, demolition, construction, Alteration, repair or restoration of the General Common Elements, (b) any consent, covenant, restriction, easement or declaration, or any amendment thereto, affecting the General Common Elements that the Condominium Board deems necessary or appropriate, or (c) a zoning lot merger, or any declaration or other instruments, if same shall be required to enable Fee Owner to utilize, acquire, purchase, allocate, sell or dispose of any Development Rights now or in the future appurtenant to the Property or other zoning lot pursuant to a zoning lot development agreement or to merge or subdivide a zoning lot; (4) to effectuate the rights granted to the Condominium Board under this Declaration or the By-Laws, and (5) to execute such documentation on behalf of the Unit Owners as might be deemed necessary or desirable by the attorney-in-fact to implement or confirm termination of the Condominium occurring upon the expiration or termination of the Ground Lease or otherwise in accordance with the terms of the Condominium Documents.

19.3 Any use of a power of attorney pursuant to this Article 19 shall be solely in compliance with the terms of the Condominium Documents, and any other use shall be null and void ab initio (with the attorney-in-fact being liable to any Unit Owner materially adversely affected by such non-compliant use).

ARTICLE 20

NO WAIVER

No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches that may occur.

ARTICLE 21

CAPTIONS

The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration or the intent of any provision hereof.

ARTICLE 22

CERTAIN REFERENCES

22.1 A reference in this Declaration to any one gender, masculine, feminine or neuter, includes the other two, and the singular includes the plural and vice versa, unless the context otherwise requires.

22.2 The terms "herein," "hereof" or "hereunder" or similar terms used in this Declaration refer to this entire Declaration and not to the particular provision in which the terms are used, unless the context otherwise requires.

22.3 Unless otherwise stated, all references herein to Articles, Sections or other provisions are references to Articles, Sections or other provisions of this Declaration.

ARTICLE 23

SEVERABILITY

If any provision of this Declaration is invalid or unenforceable as against any person or under certain circumstances, the remainder of this Declaration and the applicability of such provision to other persons or circumstances shall not be affected thereby. Each provision of this Declaration shall, except as otherwise herein provided, be valid and enforceable to the fullest extent permitted by law.

ARTICLE 24

COVENANT OF FURTHER ASSURANCES

24.1 Any party that is subject to the terms of this Declaration and the By-Laws, whether such party is a Unit Owner, Permitted User, a member of the Condominium Board or an officer of the Condominium Board or otherwise, shall, upon prior reasonable written request, at the expense of any such other party requesting the same (including, without limitation, reasonable attorney, architectural and engineering fees), execute, acknowledge and deliver to such other party such instruments, in addition to those specifically provided for herein, and take such other action as such other party may reasonably request to effectuate the provisions of this

Declaration and the By-Laws or of any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction.

24.2 Each Unit Owner covenants and agrees to indemnify and save harmless Fee Owner, Declarant, the Condominium Board (including its members and officers), the managing agent of the Condominium, and the holder of any fee mortgage, and their respective contractors, officers, agents, employees, licensees and invitees (collectively, the "Condominium Indemnified Parties"), from and against any and all liability (statutory or otherwise), claims, suits, demands, damages, judgments, costs, interest and expenses, including, but not limited to, counsel fees and disbursements incurred in the defense of any action or proceeding whether incurred in a third party action or in an action brought by the indemnifying party (collectively, "Liabilities"), to which the Condominium Indemnified Parties may be subject or which they may suffer by reason of, or by reason of any claim for, any injury to, or death of, any person or persons (including, without limitation, any of the Condominium Indemnified Parties) or damage to property (including any loss of use thereof) (i) arising from or in connection with the occupancy or use of or from any work, installation or thing whatsoever done in, at or about such Unit Owner's Unit during the term of the Ground Lease caused by such Unit Owner, (ii) arising from any condition of such Unit Owner's Unit caused in whole or in part by such Unit Owner, or any of its officers, directors, agents, contractors, employees, tenants, subtenants, licensees or invitees, (iii) resulting from any default by such Unit Owner in the performance of such Unit Owner's obligations under the Condominium Documents, or (iv) resulting from any negligent acts or omissions of such Unit Owner or any of its officers, directors, agents, contractors, employees, tenant subtenants, licensees or invitees; provided that such Unit Owner shall not be responsible for Liabilities resulting directly, primarily or proximately from the negligence or willful misconduct of the Condominium Indemnified Parties.

24.3 Each Unit Owner shall give the Condominium Board prompt notice of any defective condition within its Unit for which the Condominium Board might be liable. To the extent any Unit Owner or its agents or employees discover any water leakage, water damage or mold in or about its Unit or the Building, such Unit Owner shall promptly notify the Condominium Board thereof in writing.

ARTICLE 25

SUCCESSORS AND ASSIGNS

Except as set forth herein or in the By-Laws to the contrary, and subject to the priority of the Ground Lease, the rights and/or obligations of the Condominium Board and the Unit Owners shall inure to the benefit of and be binding upon any successor or assign, respectively, of the Condominium Board and the Unit Owners, and shall constitute and be enforceable with respect to the Property as a covenant running with the Land.

ARTICLE 26

INCORPORATION BY REFERENCE

The terms, covenants, conditions, descriptions and other information contained in the Exhibits and Schedules annexed hereto, are each incorporated herein by this reference and made a part of this Declaration as if set forth at length in the text hereof. If and to the extent that any of the provisions of this Declaration or the By-Laws (or any Differentiated Standards) conflict, or are otherwise inconsistent, with the Rules and Regulations set forth in Schedule A attached hereto (or any amendments and/or additions thereto), then, whether or not such inconsistency is expressly noted in this Declaration or the By-Laws, the provision of this Declaration or the By-Laws (or such Differentiated Standards) shall prevail, and any inconsistency with such Schedule A shall be deemed to be a waiver of such Rules and Regulations with respect to the applicable Unit Owner to the extent of the inconsistency; provided, however, that the provisions of Section 29.6 of this Declaration shall apply in any event.

ARTICLE 27

LEGAL REQUIREMENTS

27.1 Each Unit Owner, upon acceptance of a deed, covenants and agrees that it will not use (or suffer or permit any person claiming by, through or under such Unit Owner to use) its Unit for any unlawful purpose and that such Unit Owner will obtain and maintain at such Unit Owner's sole cost and expense all licenses and permits from any and all governmental or quasi-governmental agencies, authorities, departments, bureaus, bodies or officials having jurisdiction of such Unit Owner's Unit which may be necessary for the conduct of such Unit Owner's business therein. Each Unit Owner further covenants to comply with applicable laws, resolutions, codes, requirements, decisions, statutes, ordinances, rules and regulations of any governmental or quasi-governmental authority, department, bureau, agency, body or official having jurisdiction over the operation, occupancy, Maintenance, Alterations and use of its Unit for the purposes set forth herein (herein, "Applicable Law" or "Applicable Laws"). A Unit Owner shall not be permitted to make Alterations or perform Maintenance to any Base Building System, and, to the extent that such Maintenance and Alterations are necessitated to a Base Building System because of the action of a Unit Owner (or its Permitted User), such Maintenance and Alterations shall be performed by the Condominium Board at the sole cost and expense of the responsible Unit Owner.

27.2 No Unit Owner shall do or permit any act or thing to be done in or to its Unit which will invalidate or be in conflict with public liability, fire or other policies of insurance at any time carried by or for the benefit of Fee Owner, Declarant or the Condominium Board with respect to the Units or the Building or which shall or might subject Fee Owner, Declarant or the Condominium Board to any liability or responsibility to any person or for property damage. No Unit Owner shall keep anything in its Unit except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization or other authority having jurisdiction, and then only in such manner and such quantity so as not to increase the rate for fire insurance applicable to the Building, nor use its Unit in a manner which will increase the insurance rate for the Building or any property located therein over that in effect prior to the

commencement of such Unit Owner's occupancy. Each Unit Owner shall pay all costs, expenses, fines, penalties or damages which may be imposed upon Fee Owner, Declarant or the Condominium Board by reason of such failure to comply with the provisions of this Article and if by reason of such failure the fire insurance rate shall be higher than it otherwise would be, then such Unit Owner shall reimburse the Condominium Board, as a Special Assessment, for that portion of all fire insurance premiums thereafter paid by Fee Owner, Declarant or the Condominium Board which shall have been charged because of such failure by such Unit Owner. In any action or proceeding wherein Fee Owner, Declarant or the Condominium Board and any Unit Owner are parties, a schedule or "make-up" of rates for the Building or any Unit issued by the New York Fire Insurance Exchange, or other body making fire insurance rates applicable to said premises shall be conclusive evidence of the facts therein stated and of the several items and charges in the fire insurance rates then applicable to said premises. Notwithstanding the foregoing, the GMHC Unit Owner need not comply with any requirement of this Article 6 so long as (i) the GMHC Unit Owner shall be in good faith diligently contesting the validity thereof, or the applicability thereof to the GMHC Units, (ii) the GMHC Unit Owner is in compliance (in all material respects) with the applicable provisions of the GMHC Standards regarding contesting legal requirements, (iii) none of Declarant, the Condominium Board or any other Unit Owner in the Building (including GMHC) is subject to civil or criminal liability as a result of such non-compliance, (iv) such non-compliance does not impact the ability of Declarant, the Condominium Board or any other Unit Owner in the Building to conduct their normal business activities in the Building, (v) such non-compliance does not constitute a default under any mortgage or ground lease to which the Building is subject, and (vi) GMHC has fully reimbursed Declarant, the Condominium Board and/or any other Unit Owner in the Building for any costs, damages, fines, fees, or expenses incurred by Declarant, the Condominium Board or any other Unit Owner in the Building as a result of such non-compliance.

27.3 The Condominium Board shall comply with all Applicable Laws to the Building requiring Maintenance that is structural in nature or Structural Alterations in or to a Unit or Alterations or changes to any Base Building System, other than to the extent a Unit Owner is required to comply therewith pursuant to the last sentence of Section 27.1 hereof, subject, however, to the Condominium Board's right to contest in good faith the applicability or legality thereof (provided that Condominium Board's contesting such Applicable Laws does not interfere in any material respect with a Unit Owner's use and occupancy of and/or access to it Unit or the Building or the performance and completion of Alterations that such Unit desires to have performed in accordance with the Condominium Documents).

ARTICLE 28

EXISTING LEASES

28.1 Prior to the date of this Declaration, Fee Owner (or predecessors in interest to Fee Owner) entered into certain leases for portions of the Building that comprise the Declarant Units or portions thereof, which are more particularly described in the Ground Lease (with such leases, including any past or future amendments, modifications, replacements and/or renewals to such leases, but excluding any new lease, being referred to herein as the "Existing Leases"). Upon execution of the Ground Lease, Fee Owner assigned its interest in the Existing Leases to Declarant. The Condominium Board will not have the right to take, permit or suffer any actions

with respect to any portion of the Property that the landlord under any Existing Lease is prohibited from taking, permitting or suffering with respect to any portion of the Property under the terms of any Existing Lease (the "Existing Lease Rights"). All rights that may be exercised by the Condominium Board and Declarant under this Declaration and the By-Laws are subject to the Existing Lease Rights, but only to the extent that such Existing Lease Rights are set forth in an Existing Lease and only for so long as such Existing Lease is in full force and effect. If applicable, Declarant shall send any and all notices from such tenants that are required in connection with the exercise of any Existing Lease Rights to the Condominium Board. Declarant may exercise the Existing Lease Rights on behalf of the tenants under such Existing Leases.

28.2 Notwithstanding anything to the contrary contained in this Declaration or the By-Laws, easements through and access to any Unit granted under this Declaration and By-Laws will be restricted to the extent that such access is restricted by Existing Lease Rights.

28.3 No tenant of any Unit or portion thereof will have the right to directly arbitrate or bring any action against the Unit Owners or the Condominium Board. In the event that a tenant has any injunctive or arbitration rights under an Existing Lease, only the Unit Owner that is the landlord under such existing lease shall have the right to bring an action against another Unit Owner or the Condominium Board to the extent such parties are the cause giving rise to such action or arbitration.

28.4 All leases executed by a Unit Owner and a tenant after the date of this Declaration (to the extent permitted pursuant to Article 7 of the By-Laws) are referred to herein as "Unit Leases", shall be subject and subordinate in all respects to this Declaration and the By-Laws, shall expressly state so therein.

ARTICLE 29

GMHC STANDARDS; DIFFERENTIATED STANDARDS

29.1 Notwithstanding anything to the contrary contained in this Declaration and the By-Laws, the terms hereof and thereof shall be interpreted in all instances to give effect to the overriding principle that the provisions of this Declaration shall be applied to the GMHC Units only to the extent that the benefits and the limitations set forth herein are set forth in (and do not conflict with, and are not inconsistent with) the GMHC Standards, and any conflict or inconsistency between the provisions of this Declaration and the GMHC Standards shall be resolved in favor of the GMHC Standards (it being understood that the GMHC Standards may in different instances be more extensive or more restrictive than the rights or obligations of Unit Owners other than the GMHC Unit Owner).

29.2 In no event shall the GMHC Standards be deemed to apply to any Unit Owner (other than the GMHC Unit Owner), tenant and/or other third-party, and there shall be no third-party beneficiary of the GMHC Standards. For the avoidance of doubt, the principles in this Section 29.1 shall mean that no other Unit Owner can require, or shall have a right to require, that the GMHC Standards must be applied to another Unit Owner, tenant and/or other third-party, and no Unit Owner (other than the owner of the GMHC Units), tenant and/or other third-

party may assert any claim or cause of action arising out of or resulting from the GMHC Standards not having been met.

29.3 Notwithstanding anything to the contrary set forth herein and in the By-Laws, in the case of the GMHC Unit Owner the rights and powers of Declarant and the Condominium Board shall be subject to the GMHC Standards, and neither Declarant nor the Condominium Board may take any action that would diminish the rights of the GMHC Unit Owner set forth in the GMHC Standards (except to a de minimis extent). Except as set forth in the immediately preceding sentence or as otherwise expressly set forth in this Declaration or the By-Laws, the Declarant Unit Owner shall not be subject to any restriction, prohibition or obligation with respect to any of the Declarant Units that are imposed against Units or Unit Owners.

29.4 Notwithstanding anything to the contrary set forth herein, but subject to the rights granted to GMHC in Section 14.14 of this Declaration, the Declarant Unit Owner may operate the Declarant Units and perform work in the Declarant Units and in the General Common Elements and may use for its purposes and incorporate General Common Elements into the Declarant Units (including, without limitation, the placement of equipment on Roof and Roof Setbacks, and the establishment and use of Signage on the Building), provided that any of the foregoing are in accordance with Applicable Laws and, except if and to the extent reserved pursuant to the provisions of the GMHC Standards, do not result in a GMHC Adverse Impact.

29.5 Notwithstanding anything to the contrary set forth herein, a default by the GMHC Unit Owner under this Declaration or the By-Laws shall also be deemed to be a default under each of the GMHC Transaction Documents.

29.6 Notwithstanding anything to the contrary set forth herein, the Condominium Board shall have the right to make (in writing) alternate arrangements or enter into agreements with one or more Unit Owners (with any such Unit Owner being referred to herein as a "Differentiated Unit Owner") that modify or contradict the provisions of this Declaration and By-Laws as they apply to all Unit Owners. If and to the extent that such alternate arrangements or agreements with any Differentiated Unit Owners (the "Differentiated Standards") would adversely impact any of the other Unit Owners as to their rights under this Declaration and By-Laws, the Condominium Board shall ensure (at the Declarant's and/or such Differentiated Unit Owner's expense) that such other affected Unit Owners are ultimately put in the same position as they would have been pursuant to the provisions of this Declaration and By-Laws (without regard to such Differentiated Standards).

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IN WITNESS WHEREOF, this Declaration has been executed as of the 6th day of
November, 2020.

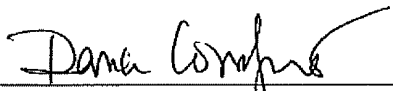
GLENHILL ASSOCIATES LEASEHOLD, LLC,
a New York limited liability company

By: GLENHILL ASSOCIATES, LLC, a New York
limited liability company, its sole member

By: Glenhill Manager LLC, a Delaware limited
liability company, its managing member

By: Glenhill Holdings LLC, a Delaware
limited liability company, its sole
member

By:



Name: Dana Comfort

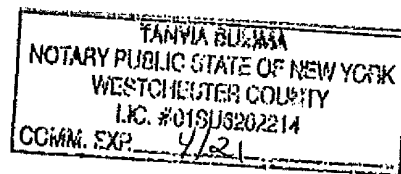
Title: Managing Member

ACKNOWLEDGMENT

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

On the 13th day of October in the year 2020, before me, the undersigned, personally appeared Jana Conforti, personally known to me or proved to me on the basis of satisfactory evidence to the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and by his/her signature on the instrument, the individuals, or the person on behalf of which the individual acted, executed the foregoing instrument.

Tanyia Buzza
Notary Public



SCHEDULE A

RULES AND REGULATIONS

Where there is a conflict between the terms of these Rules and Regulations and the terms of the Condominium Documents (including (a) with respect to any particular Unit Owner, the provisions of such Unit Owner's Differentiated Standards, and (b) with respect to Declarant, the rights granted to Declarant in the Declaration and/or By-Laws) to which this Schedule A is attached, the terms of the Condominium Documents (including (x) with respect to any particular Unit Owner, the provisions of such Unit Owner's Differentiated Standards, and (y) with respect to Declarant, the rights granted to Declarant in the Declaration and/or By-Laws) shall control.

1. Each Unit shall be maintained and occupied in a clean, safe and proper manner and not to permit waste therein. The sidewalks, entrances, driveways, passages, courts, elevators, vestibules, stairways, corridors or halls shall not be obstructed or encumbered by any Unit Owner or used by Unit Owner for any purpose other than for ingress or egress from such Unit Owner's Unit and for delivery of merchandise and equipment in a prompt and efficient manner using elevators and passageways designated for such delivery by the Condominium Board. No Unit Owner shall display merchandise outside its Unit. If a Unit is situated on the ground floor of the Building, the Condominium Board shall, at the Condominium Board's expense (subject to reimbursement as Common Charges), keep the sidewalk and curb in front of such Unit clean and free from ice, snow, debris and rubbish.

2. Each Unit Owner shall be liable for any cost for waste, such as waste for leaving a water faucet running, committed by such Unit Owner or parties claiming by, through or under Unit Owner. The water and wash closets and plumbing fixtures shall not be used for any purposes other than those for which they were designed or constructed and no sweepings, rubbish, rags, acids or other substances shall be deposited therein, and the expense of any breakage, stoppage, or damage resulting from the violation of this rule shall be borne by such Unit Owner who, or whose clerks, agents, employees or visitors, shall have caused it.

3. No carpet, rug or other article shall be hung or shaken out of any window of the Building; and no Unit Owner shall sweep or throw or permit to be swept or thrown from the Property any dirt or other substances into any of the corridors or halls, elevators, or out of the doors or windows or stairways of the Building and no Unit Owner shall use, keep or permit to be used or kept any foul or noxious gas or substance in its Unit (other than cleaning, office and medical supplies, in reasonable amounts and in a reasonable manner), or permit or suffer the Property to be occupied or used in a manner reasonably deemed offensive or objectionable to the Condominium Board or other occupants of the Building by reason of noise, odors, and/or vibrations, or interfere in any way with other Unit Owners or those having businesses therein. Smoking or carrying lighted cigars or cigarettes in the Building is prohibited.

4. Except as may be in existence as of the date of the Declaration, or as otherwise provided in the Declaration or By-Laws, no Signage, Telecommunications Equipment, awnings or other projections shall be attached to the outside walls or windows of any Unit or to the Roof and Roof Setbacks, or of the Building without the prior written consent of the Condominium Board, which may be withheld by the Condominium Board in its sole and absolute discretion.

Schedule A-1

5. Except (with respect to the GMHC Unit Owner only) in and about the GMHC Unit Owner's dedicated entrance and on the Roof Setback over the Fourth (4th) Floor of the Building, no sign, advertisement, notice or other lettering shall be exhibited, inscribed, painted or affixed by any Unit Owner on any part of the outside of its Unit or the Building or on the inside of its Unit if the same is visible from the outside of its Unit without the prior written consent of the Condominium Board, except that the name of a Unit Owner may appear on the entrance door of its Unit. In the event of the violation of the foregoing by any Unit Owner, the Condominium Board may remove same without any liability, and may charge the expense incurred by such removal to the Unit Owner or Unit Owners violating this rule. Interior signs on doors and directory tablet shall be inscribed, painted or affixed for each Unit Owner by the Condominium Board at the expense of such Unit Owner, and shall be of a size, color and style reasonably acceptable to the Condominium Board.

6. Except as set forth in Article 27 of this Declaration and Section 5.14 of the By-Laws, no Unit Owner shall mark, paint, drill into, or in any way deface any part of its Unit or the Building. No boring, cutting or stringing of wires shall be permitted, except with the prior written consent of the Condominium Board and as the Condominium Board may direct. No Unit Owner shall lay linoleum, or other similar floor covering, so that the same shall come in direct contact with the floor of its Unit, and, if linoleum or other similar floor covering is desired to be used an interlining of builder's deadening felt shall be first affixed to the floor, by a paste or other material, soluble in water, the use of cement or other similar adhesive material being expressly prohibited.

7. No additional locks or bolts of any kind shall be placed upon any of the doors or windows by any Unit Owner, nor shall any changes be made in existing locks or mechanism thereof. Each Unit Owner must, upon the termination of its tenancy, restore to the Condominium Board all keys of stores, offices and toilet rooms, either furnished to, or otherwise procured by, such Unit Owner, and in the event of the loss of any keys, so furnished, such Unit Owner shall pay to the Condominium Board the cost thereof.

8. Freight, furniture, business equipment, merchandise and bulky matter of any description shall be delivered to and removed from a Unit only on the freight elevators and through the service entrances and corridors, and only during hours and in a manner approved by the Condominium Board. The Condominium Board reserves the right to inspect all freight to be brought into the Building and to exclude from the Building all freight which violates any of these Rules and Regulations or the Condominium Documents.

9. Canvassing, soliciting and peddling in the Building is prohibited and each Unit Owner shall cooperate to prevent the same.

10. The Condominium Board reserves the right to exclude from the Building between the hours of 6 P.M. and 8 A.M. and at all hours on Sundays, and legal holidays all persons who do not present a pass to the Building signed by the Condominium Board. The Condominium Board will furnish passes to persons for whom, any Unit Owner requests same in writing. Each Unit Owner shall be responsible for all persons for whom it requests such pass and shall be liable to the Condominium Board for all acts of such persons. This Section 10 shall not apply to GMHC Unit Owner's dedicated entrance.

Schedule A-2

11. No Unit Owner shall place a load upon any floor of its Unit exceeding the load for which such Unit was designed (in the case of the GMHC Units, 120 pounds per square foot area). The Condominium Board reserves the right reasonably to prescribe the weight and position of all safes, business machines and mechanical equipment. Such installations shall be placed and maintained by each Unit Owner at such Unit Owner's expense in settings sufficient in the Condominium Board's reasonable judgment to absorb and prevent vibration noise and annoyance.

12. Except for cleaning, office and medical supplies in reasonable amounts, no Unit Owner shall bring or permit to be brought or kept in or on its Unit, any inflammable combustible or explosive fluid, material, chemical or substance, or cause or permit any odors of cooking or other processes, or any unusual or other objectionable odors to permeate in or emanate from its Unit.

13. If the Building contains central air conditioning and ventilation, Unit Owner agrees to keep all windows closed at all times and to abide by all rules and regulations issued by the Condominium Board with respect to such services. If a Unit Owner requires air conditioning or ventilation after the usual hours, such Unit Owner shall give notice in writing to the Building superintendent prior to 3:00 P.M. in the case of services required on week days, and, prior to 3:00 P.M. on the day prior in the case of after-hours service required on weekends or on holidays.

14. No Unit Owner shall move any safe, heavy machinery, heavy equipment, bulky matter, or fixtures into or out of the Building without the Condominium Board's prior written consent. If such safe, machinery, equipment, bulky matter or fixtures requires special handling, all work in connection therewith shall comply with the Administrative Code of the City of New York and all other laws and regulations applicable thereto and shall be done during such hours as the Condominium Board may designate.

15. The rights of Unit Owners in the entrances, corridors, elevators and escalators of the Building are limited to ingress and egress for Unit Owners and their employees, licensees and invitees, and no Unit Owner shall use, or permit the use of, the entrances, corridors, escalators or elevators for any other purpose. No Unit Owner shall invite to its Unit, or permit the visit of, persons in such numbers or under such conditions as to interfere with the use and enjoyment of any of the plazas, entrances, corridors, escalators, elevators, and other facilities of the Building by other Unit Owners. Fire exits and stairways are for Emergency use only, and they shall not be used for any other purposes by any Unit Owners, their employees, licensees or invitees. No Unit Owner shall encumber or obstruct or permit the encumbrance or obstruction of any of the sidewalks, plazas, entrances, corridors, escalators, elevators, fire exits or stairways of the Building. The Condominium Board reserves the right to control and operate the public portions of the Building and the public facilities, as well as facilities furnished for the common use of Unit Owners, in such manner as it deems best for the benefit of Unit Owners generally. No Unit Owner's employees shall loiter around the hallways, stairways, elevators, front, Roof and Roof Setbacks or any other part of the Building used in common by the occupants thereof.

16. There shall not be used in any space, or in the public halls of the Building either by any Unit Owner or by jobbers or others in the delivery or receipt of merchandise or mail any

hand trucks except those equipped with rubber tires and side guards. Except through a Unit Owner's dedicated lobby (if any), all deliveries to Unit Owners except mail (and like items) shall be distributed to Unit Owners only during the hours from 8:00 a.m. to 12:00 noon and 2:00 p.m. to 4:00 p.m. on Business Days, excluding labor strikes.

17. All entrance doors in each Unit shall be left locked when such Unit is not in use. Entrance doors shall not be left open at any time. All windows in each Unit shall be kept closed at all times and all blinds or drapes therein above the ground floor shall be lowered or closed when and as reasonably required because of the position of the sun during the operation of the Building air conditioning system.

18. No noise including the playing of any musical instruments radio or television which in the reasonable judgment of the Condominium Board might disturb other Unit Owners in the Building shall be made or permitted by any Unit Owner and no cooking (other than in pantries) shall be done in any Unit except as expressly approved by the Condominium Board. Nothing shall be done or permitted in any Unit and nothing shall be brought into or kept in any Unit which would unreasonably impair or interfere with any of the Building services or the proper and economic heating, cleaning or other servicing of the Building or such Unit, or the use or enjoyment by any other Unit Owner of any other premises, nor shall there be installed by any Unit Owner any ventilating air conditioning, electrical or other equipment of any kind, which in the reasonable judgment of the Condominium Board, might cause any such impairment or interference.

19. No Unit Owner shall manufacture any commodity in its Unit. No Unit Owner shall permit any cooking or food odors emanating its Unit to seep into other portions of the Building.

20. No acids vapors or other materials shall be discharged or permitted to be discharged into the waste lines vents or flues of the Building which may damage them.

21. No Unit Owner shall engage or pay any employees in the Building except those actually working for such Unit Owner in the Building, or advertise for laborers giving an address at the Building.

22. The requirements of Unit Owners will be attended to only upon application at the office of the Building. Employees of the Condominium Board shall not perform any work or do anything outside of the regular duties unless under special written instructions from the Condominium Board.

23. Each Unit Owner shall, at its expense, provide artificial light in its Unit for the Condominium Board's agents, contractors and employees while performing janitorial or other cleaning services and performing Maintenance or Alterations in such Unit.

24. Each Unit Owner, at its sole expense, shall cause its Unit to be exterminated from time to time to the reasonable satisfaction of the Condominium Board and shall employ such exterminators therefor as shall be reasonably approved by the Condominium Board.

25. No Unit Owner shall have right of access to the Roof and Roof Setbacks (except as expressly provided otherwise herein), and no Unit Owner shall install, repair or replace any aerial, fan, air conditioner or other device on the Roof Setback appurtenant to its Unit or the Building without the prior written consent of the Condominium Board. Any such aerial, fan, air conditioner or other device or device installed without such written consent shall be subject to removal at the applicable Unit Owner's expense without notice at any time.

26. No Unit Owner shall leave water running in any bathroom kitchen or elsewhere in the Building or its Unit and each Unit Owner shall be responsible for any damage caused by the failure to shut off any water faucet, tap, etc., whether to the Building or to other occupants of the Building, and their furniture and fixtures.

27. In the event a Unit Owner must dispose of crates, boxes, etc., which will not fit into office wastepaper baskets, it will be the responsibility of such Unit Owner to dispose of same or at the Condominium Board's option, the Condominium Board may dispose of said waste and charge such Unit Owner for such services. In no event shall any Unit Owner leave any refuse in the public hallways, stairways or other areas of the Building for disposal unless the Condominium Board has designated certain areas of the Building for the short-term collections of refuse prior to its prompt disposal.

28. Bicycles and other vehicles shall not be permitted in the offices, halls, corridors, lobbies and elevators of the Building, nor shall any obstruction of sidewalks or entrances of the Building by such be permitted.

29. No animals, birds or pets of any kind (with the exception of seeing eye dogs and other service animals) shall be allowed in any Unit or the Building.

30. If any Unit Owner desires radio signal, communication, alarm or other utility or service connection installed or changed, such work shall be done at the expense of such Unit Owner, with the prior written approval and under the direction of the Condominium Board. No wiring shall be installed in any part of the Building without the Condominium Board's approval and direction. The Condominium Board reserves the right to disconnect any radio, signal or alarm system when, in the Condominium Board's opinion, such installation or apparatus interferes with the proper operation of the Building or systems within the Building.

31. Each Unit Owner shall cooperate fully with the life safety plans of the Building as reasonably established and administered by the Condominium Board. This includes participation by such Unit Owner and employees of such Unit Owner in exit drills, fire inspections, life safety orientations and other programs relating to safety that may be promulgated by or on behalf of the Condominium Board.

EXHIBIT A

DESCRIPTION OF THE LAND

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of 38th Street, distant 100 feet 5 inches westerly from the corner formed by the intersection of the said northerly side of 38th Street and the westerly side of Eighth Avenue;

RUNNING THENCE northerly to a point distant 100 feet westerly from the westerly side of Eighth Avenue, 44 feet 9 inches;

THENCE still northerly and parallel with the westerly side of Eighth Avenue, 54 feet to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 25 feet;

THENCE northerly parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 98 feet 9 inches to the southerly side of 39th Street;

THENCE westerly along said southerly side of 39th Street, 25 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, 98 feet 9 inches to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 100 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, and part of the distance through a party wall, 49 feet 9 inches;

THENCE easterly and parallel with the northerly side of 38th Street, 3-1/4 inches;

THENCE again southerly and parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 49 feet to the northerly side of 38th Street; and

THENCE easterly along said northerly side of 38th Street, 149 feet 3-3/4 inches to the point or place of BEGINNING.

LOT 25, BLOCK 762
(formerly known as Lot 25 now known as Lots 1201-1237)

BOROUGH OF MANHATTAN
CITY, COUNTY AND STATE OF NEW YORK

Exhibit A

EXHIBIT B TO THE CONDOMINIUM DECLARATION
307 WEST 38TH CONDOMINIUM
307 WEST 38TH STREET, NEW YORK, NEW YORK 10018
Block 762, formerly known as Lot 25
Now known as Lots 1201-1237

DESCRIPTION OF THE UNITS

UNIT	TAX LOT	UNIT TOTAL SQUARE FEET	% OF COMMON INTEREST	USE TYPE	LOCATION OF UNIT	GENERAL COMMON ELEMENTS TO WHICH UNIT HAS IMMEDIATE ACCESS
1	1201	3,581	1.0907%	Commercial	Cellar	Corridor
2	1202	1,505	0.5003%	Commercial	Cellar	Corridor, Courtyard
3	1203	2,272	0.6544%	Commercial	Cellar	Corridor
4	1204	872	0.2512%	Commercial	Cellar	Corridor
5	1205	388	0.1528%	Commercial	1st Floor	Lobby
6	1206	913	0.4225%	Commercial	1st Floor	Service Lobby/Corridor,
7	1207	6,914	2.6551%	Commercial	1st Floor	Lobby
8	1208	79	0.0303%	Commercial	1st Floor	Service Lobby
9	1209	169	0.0649%	Commercial	1st Floor	Service Corridor
10	1210	843	0.3237%	Commercial	1st Floor	Service Corridor
11	1211	3,434	1.2987%	Commercial	1st Floor	Service Corridor
12	1212	3,329	1.3325%	Commercial	Mezzanine Level	Mezzanine
13	1213	2,701	0.3943%	Commercial	Mezzanine Level	Mezzanine
14	1214	565	0.1627%	Commercial	Mezzanine Level	Mezzanine, Corridor
15	1215	371	0.1069%	Commercial	Mezzanine Level	Mezzanine
16	1216	171	0.0493%	Commercial	Mezzanine Level	Stairway
17	1217	11,625	5.6267%	Commercial	2nd Floor	Corridor, Stairway
18	1218	3,261	1.2900%	Commercial	2nd Floor	Corridor, Service Lobby, Stairway
19	1219	14,885	7.1701%	Commercial	3rd Floor	Elevator/Service Lobby. Stairway
20	1220	14,885	7.1701%	Commercial	4th floor	Elevator/Service Lobby. Stairway
21	1221	12,311	5.9302%	Commercial	5th Floor	Elevator/Service Lobby. Stairway
22	1222	12,311	5.4357%	Commercial	6th Floor	Elevator/Service Lobby.

Exhibit B-1

UNIT	TAX LOT	UNIT TOTAL SQUARE FEET	% OF COMMON INTEREST	USE TYPE	LOCATION OF UNIT	GENERAL COMMON ELEMENTS TO WHICH UNIT HAS IMMEDIATE ACCESS
						Stairway
23	1223	12,228	5.8902%	Commercial	7th Floor	Elevator/Service Lobby. Stairway
24	1224	12,228	5.8902%	Commercial	8th Floor	Elevator/Service Lobby. Stairway
25	1225	11,504	5.0694%	Commercial	9th Floor	Elevator/Service Lobby. Stairway
26	1226	11,504	5.0694%	Commercial	10th Floor	Elevator/Service Lobby. Stairway
27	1227	10,518	4.6340%	Commercial	11th Floor	Elevator/Service Lobby. Stairway
28	1228	10,518	4.6340%	Commercial	12th Floor	Elevator/Service Lobby. Stairway
29	1229	9,186	4.0559%	Commercial	13th Floor	Elevator/Service Lobby. Stairway
30	1230	9,176	4.0515%	Commercial	14th Floor	Elevator/Service Lobby. Stairway
31	1231	8,233	3.6435%	Commercial	15th Floor	Elevator/Service Lobby. Stairway
32	1232	8,295	3.6325%	Commercial	16th Floor	Elevator/Service Lobby. Stairway
33	1233	6,931	3.0588%	Commercial	17th Floor	Elevator/Service Lobby. Stairway
34	1234	6,931	3.0588%	Commercial	18th Floor	Elevator/Service Lobby. Stairway
35	1235	5,452	2.4071%	Commercial	19th Floor	Elevator/Service Lobby. Stairway
36	1236	5,452	2.4071%	Commercial	20th Floor	Elevator/Service Lobby. Stairway
37	1237	909	0.3845%	Commercial	21st Floor	Roof, Stairway
TOTAL		226,450	100.0000%	Commercial		

Exhibit B-2

EXHIBIT C

DEFINITIONS

For convenience of presentation, definitions of certain of the terms used in the Declaration and/or By-Laws are set forth below:

“Adjusted-By-CPI”, when expressly made applicable to any particular dollar sum set forth in the Declaration or By-laws, means that such dollar sum shall be revised on each CPI Adjustment Date to be equal to an amount equal to the product of (i) such dollar sum (as set forth in the Declaration or By-laws, as the case may be, as of the date hereof) multiplied by (ii) a fraction, (1) the numerator of which is the CPI (as finalized) for the date that is two months before the month in which the CPI Adjustment Date occurs, and (2) the denominator of which is the CPI (as finalized) for January 2018.

“Affiliate” refers to (i) a Controlling Person or a Controlled Person, or (ii) in the case of a not-for-profit or statutorily-created entity, an entity that has identical or substantially overlapping boards of directors or trustees with another entity.

“Alteration” or “Alterations” refers collectively to Non-Structural Alterations and Structural Alterations.

“Annual Budget” shall have the meaning ascribed thereto in Section 5.1.1 of the By-Laws.

“Applicable Laws” or “Applicable Law” shall have the meaning ascribed to the term “Applicable Laws” in Section 27.1 of the Declaration.

“Arbitration” shall mean an arbitration conducted in accordance with the provisions of Article 10 of the By-Laws.

“Base Building Systems” shall mean the electrical, mechanical/HVAC, plumbing, sprinkler and other utility systems of the Building, heating, ventilating, air conditioning and fire and life safety systems, cooling towers servicing the Building and related Facilities as follows: (a) the low pressure boiler of the Building (b) the electrical system of the Building (including any and all switchboards, feeders, panels, transformers and meters), up to the main disconnect switch at the switchboard serving the elements of any Unit; (c) the plumbing and sanitary systems of the Building, but excluding any branch systems and pipes from and after the point of entry to or exit from any Unit; (d) the main telephone switching equipment and closet for the Building; (e) two-way voice communications fire alarm (excluding Unit devices), and life safety systems (including, without limitation, panel and distribution systems for the Building), (f) all information technology closets and distribution systems for the Building, up to the distribution switch for any Unit; (g) the sprinkler system for the Building, including fire pump, up to the point of entry to any Unit (excluding any dedicated sub-systems); (h) cooling towers located on the Upper Roof and base building air handler units, (i) the domestic water tank and risers and condenser water systems; (j) generator and associated emergency power back up; (k) smoke purge; and (l) to the extent not specifically identified as part of or servicing only a particular Unit, all other risers, shafts, equipment, apparatus, and installations the common use of which is

necessary or convenient for the existence, Maintenance or safe operation of more than one (1) Unit.

“Building” shall have the meaning ascribed thereto in the preamble.

“Business Day(s)” refers to any day other than Saturdays (except such portion thereof as is covered by specific hours in Section 5.12 of the By-laws), Sundays and all days observed by the State or Federal Government as legal holidays and, with respect to heating, ventilating and air-conditioning services, those designated as holidays by the applicable Building service union employees service contract or by the applicable operating engineers contract.

“By-Laws” refers to the By-Laws governing the operations of the Condominium referenced in Section 2.4 of the Declaration, which are set forth as Exhibit D of the Declaration.

“Casualty” shall have the meaning ascribed thereto in Section 5.3.1 of the By-Laws.

“City Register’s Office” shall have the meaning ascribed thereto in Section 5.1 of the Declaration.

“Common Charges” refers to the assessments and other amounts payable to the Condominium Board by the Unit Owners for the purpose of enabling the Condominium Board to pay the Common Expenses.

“Common Elements” shall refer to the General Common Elements and, if designated in accordance with the provisions of Section 7.3.12 of the Declaration, Limited Common Elements.

“Common Expense(s)” shall have the meaning ascribed thereto in Section 5.1.2 of the By-Laws.

“Common Expense Allocation” shall have the meaning ascribed thereto in Section 5.1.7 of the By-Laws.

“Common Interest” is the undivided percentage interest of each Unit in the General Common Elements as determined in accordance with Article 12 of the Declaration and as set forth in Exhibit B of the Declaration.

“Comparable Building” refers to a comparable mid-block building of 200,000 square feet or larger (having tenants comparable to those then occupying the Building) located on or between West 30th Street and West 39th Street (west of Fifth Avenue) in Manhattan.

“Condemnation” shall have the meaning ascribed thereto in Section 8.1 of the By-Laws.

“Condominium” shall have the meaning ascribed thereto in Section 2.1 of the Declaration.

“Condominium Act” shall have the meaning ascribed thereto in Section 2.1 of the Declaration.

"Condominium Board" or "Board" refers to the governing body of the Condominium, whose members shall be selected pursuant to the terms of Article 2 of the By-Laws.

"Condominium Board Estoppel Certificate" shall have the meaning ascribed thereto in Section 5.8.1 of the By-Laws.

"Condominium Documents" shall mean the Declaration, together with all exhibits annexed thereto (including, without limitation, the By-Laws and (with respect to a particular Unit Owner) such particular Unit Owner's Differentiated Standards), the No-Action Letter and the Floor Plans.

"Condominium Indemnified Parties" shall have the meaning set forth in Section 24.2 of the Declaration.

"Controlled Person" shall mean a Person (1) fifty percent (50%) or more of the beneficial interest in which is owned, directly or indirectly, by any one or more Persons who, acting singly or together, are Controlling Persons, or (2) material decisions concerning the management of which can be unilaterally made or vetoed by any one or more Persons who, acting singly or together, are Controlling Persons acting in its or their capacity as trustee(s), general partner(s), managing member(s) or controlling shareholder(s), or the equivalent, of such Person.

"Controlling Person" shall mean a Person that (i) owns, directly or indirectly, fifty percent (50%) or more of the beneficial interest in a Person or (ii) as a trustee, general partner, managing member or controlling shareholder (or the equivalent) of a Person has the power unilaterally to make or veto material decisions concerning the management of such Person.

"CPI" means the Consumer Price Index for all Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, All Items, New York, New York-Northeastern New Jersey Area, all urban consumers (presently denominated as "CPI-U"), or a successor index, appropriately adjusted; provided, however, that (i) if there shall be no successor index, the Condominium Board and the GMHC Unit Owner shall agree on a mutually acceptable alternative, or (ii) if the Consumer Price Index ceases to use 1982-84=100 as the basis of calculation, or if a substantial change is made in the terms or the number of items contained in the Consumer Price Index, then, in either case, the Consumer Price Index will be reasonably adjusted by the Condominium Board and the GMHC Unit Owner to the figure that would have been arrived at had the manner of computing the Consumer Price Index as of the date of this Declaration not been altered.

"CPI Adjustment Date" shall mean January 1, 2022 and each successive five (5) year anniversary of such date.

"Declarant" shall have the meaning ascribed thereto in Paragraph 1 of the recitals of the Declaration, as well as any Affiliate, successor and/or assign thereof; and for the avoidance of doubt, any successor in title to all Declarant Units shall be deemed Declarant and the Declarant Unit Owner for purposes of the Condominium Documents.

"Declarant Entity" or "Declarant Entities" shall mean any direct or indirect parent, affiliate or subsidiary of Declarant, and/or any employee, director, partner, officer, member,

Exhibit C-3

beneficiary or trustee of Declarant or any direct or indirect parent, affiliate or subsidiary of Declarant.

"Declarant Unit" or "Declarant Units" shall have the meaning ascribed thereto in Section 3.2 of the Declaration.

"Declarant Unit Owner" shall mean the owner of a Declarant Unit.

"Declaration" refers to the instrument creating the Condominium, as the same may be amended from time to time as referenced in Article 1 of the Declaration.

"Default Rate" shall mean the lower of (i) four (4) percentage points per annum in excess of the Prime Rate and (ii) the maximum legal rate of interest.

"Development Rights" refers to all unused floor area development rights with respect to the Property that are now owned, subsequently acquired or that may become available under the Zoning Resolution, including, without limitation, any so called "air rights", "air space", "zoning rights" or "development rights" above or appurtenant to the Land or the Building.

"Differentiated Standards" shall have the meaning ascribed thereto in Section 29.6 of the Declaration.

"Differentiated Unit Owner" shall have the meaning ascribed thereto in Section 29.6 of the Declaration.

"Emergency" refers to a situation (a) impairing or imminently likely to impair structural support of any portion of the Building or causing or imminently likely to cause bodily injury to persons or physical damage to the Building or any property in, on, under, within, upon or about the Building, (b) causing or imminently likely to cause economic loss to a Unit Owner, any Permitted User or the Condominium, (c) causing or imminently likely to cause loss of any utility or other essential services to the Building, (d) causing or imminently likely to cause interference (other than de minimis interference) with ingress to and egress from the Building, or (e) ordered by a governmental agency, the New York City Fire Department or Applicable Law.

"Existing Lease Rights" shall have the meaning ascribed in Section 28.1 of the Declaration.

"Existing Leases" shall have the meaning ascribed in Section 28.1 of the Declaration.

"Exterior Facade" refers to the structural and outer portion of the Building above grade, including, but not limited to, the outer portion of all exterior windows on the Facade of the Building, the exterior of all doors, masonry, aluminum or other skin materials, walls or parapets, whether or not visible from the street level.

"Facilities" means all equipment and facilities necessary for the operation of the Building or its systems and includes, but is not limited to, the following items (grouped more or less functionally) which are set forth only for purposes of illustrating the broad scope of that term: system, equipment, apparatus, convertor, radiator, heater, heat exchanger, mechanism, device,

machinery, motor, pump, control, tank or tank assembly, insulation, induction unit, condenser, compressor, fan, damper, blower, thermostat, thermometer, coil, vent, sensor, shut-off valve or other valve, gong, panel, receptacle, outlet, relay, alarm, sprinkler head, electric distribution facility, wiring, wireway, switch, switchboard, circuit breaker, transformer, fitting, siamese connection, hose, plumbing fixture, lighting fixture, other fixture, bulb, telephone, meter, meter assembly, piping, line, duct, conduit, cable, riser, main shaft, pit, flue, lock or other hardware, rack, screen, strainer, trap, drain, catch basin, leader, filter, canopy, incinerator, closet, door, railing, coping, step, appurtenance, urn, basket, mail box, carpeting, tile or other floor covering, wallpaper or other wall covering, tree, shrubbery, flower or other planting and horticulture tub or box.

"Fee Estate" shall have the meaning ascribed thereto in the preamble.

"Fee Owner" shall have the meaning ascribed thereto in the preamble, as well as any Affiliate, successor and/or assign thereof.

"Fee Mortgage" shall have the meaning ascribed thereto in the Ground Lease.

"Filing Date" refers to the date of the filing of the Declaration with the City Register's Office.

"Fixtures" shall mean, collectively, all fixtures, equipment, improvements and appurtenances attached to or built into a Unit, whether or not at the expense of the Unit Owner.

"Floor Plans" refers to the floor plans of the Building, certified by Peter F. Farinella, Architect, P.C., as the same may be amended from time to time, which are approved by the Tax Map Unit of the Department of Finance of the City of New York and filed with the City Register's Office.

"General Common Elements" shall have the meaning ascribed thereto in Section 7.1 of the Declaration.

"GMHC" refers to the initial named owner of the GMHC Units (i.e., Gay Men's Health Crisis, Inc., a New York not-for-profit corporation).

"GMHC Adverse Impact" shall mean (i) an increase of any of GMHC's monetary obligations under the GMHC Transaction Documents, (ii) an adverse effect on, or diminishment of, any of GMHC's rights or any of the Condominium Board's obligations under the GMHC Transaction Documents (except, in either case, to a de minimis extent), including, without limitation, any suspension, limitation, diminution or elimination of the GMHC Unit Owner's ability to exercise any right, power, easement, privilege or benefit expressly granted or reserved for the GMHC Unit Owner in the Initial Condominium Documents, (iii) any increase of any of GMHC's other obligations under the GMHC Transaction Documents (except to a de minimis extent), or (iv) any interference with GMHC's business operations (except to a de minimis extent).

"GMHC Closing Date" means the Closing Date (as defined in the GMHC Sale Agreement).

Exhibit C-5

"GMHC Sale Agreement" refers to that certain purchase and sale agreement pursuant to which Declarant shall sell Declarant's rights and title to the GMHC Units to GMHC, as more particularly set forth therein.

"GMHC Standards" shall refer to the Differentiated Standards applicable to GMHC.

"GMHC Termination Default" shall mean the occurrence of any one or more of the following events: (1) there shall be a breach or default by the GMHC Unit Owner in the payment of any (x) fixed monthly installment of Common Charges, (y) fixed monthly installment of Special Assessments (if any) to the Condominium Board, or (z) Installment Purchase Payments to Declarant under the GMHC Sale Agreement (with (x), (y) and (z) being collectively referred to herein as the "GMHC Recurring Monetary Obligations"), and such breach or default shall continue for five (5) Business Days after such payment shall have become due, provided, no such grace period shall apply to the third and subsequent late payments (as to which notice of late payment was given) during any twelve (12) month period (in each case, a "GMHC Recurring Payment Monetary Default"), (2) there shall be a breach or default by the GMHC Unit Owner in the payment of any monetary obligations other than the payment of the GMHC Recurring Monetary Obligations, and such breach or default remains uncured for a period of ten (10) Business Days after written notice is given to GMHC Unit Owner that such payment shall have become due, provided, no such grace period shall apply to the third and subsequent late payments in excess of \$10,000.00 as Adjusted-By-CPI (as to which notice of late payment was given to GMHC Unit Owner) during any twelve (12) month period (in each case, a "GMHC Non-Recurring Payment Monetary Default") or (3) there shall be a breach or default by the GMHC Unit Owner in the performance of any of the GMHC Unit Owner's non-monetary obligations under any of the GMHC Transaction Documents, and such breach or default shall continue for at least thirty (30) days after the GMHC Unit Owner shall have been given a notice specifying the same, or, in the case of a happening or default which cannot with due diligence be cured within a period of thirty (30) days and the continuation of which for the period required for cure will not subject Fee Owner, Declarant or the Condominium Board to the reasonable likelihood of criminal or civil liability or termination of any superior lease or foreclosure of any superior mortgage, if the GMHC Unit Owner shall not, (i) within said thirty (30) day period advise the Condominium Board of the GMHC Unit Owner's intention to duly institute all steps necessary to remedy such situation, (ii) duly institute within said thirty (30) day period, and thereafter diligently and continuously prosecute to completion all steps necessary to remedy the same and (iii) complete such remedy within such time after the date of the giving of said notice as shall reasonably be necessary (each, a "GMHC Nonmonetary Default").

"GMHC Termination Requirements" shall mean the Termination Requirements, as applied to the GMHC Units following a GMHC Termination Default.

"GMHC Transaction Documents" shall mean the Condominium Documents, GMHC Unit Mortgage (as defined in the GMHC Sale Agreement), GMHC Omnibus Agreement (as defined in the GMHC Sale Agreement), and the GMHC Sale Agreement, together with all other written agreements between GMHC and Declarant and/or Fee Owner relating to the GMHC Unit or GMHC's rights or obligations with respect to the GMHC Unit.

"GMHC Unit" and "GMHC Units" shall each have the meaning ascribed thereto in Section 3.2 of the Declaration.

"GMHC Unit Owner" refers to (i) the initial owner of the GMHC Units (i.e., Gay Men's Health Crisis, Inc., a New York not-for-profit corporation), (ii) intentionally omitted, and/or (iii) any other permitted successor, transferee or assignee owner of the GMHC Units, unless the provisions of the GMHC Standards expressly limit the applicable right or option to said initial owner of the GMHC Units and any such initial owner's Successor (in which case the provisions of this clause (iii) shall not apply with respect to such right or option).

"Ground Lease" shall have the meaning ascribed thereto in the preamble.

"Ground Lease Expiration Date" shall have the meaning ascribed thereto in the preamble.

"Ground Rent" shall have the same meaning as the term "Rent" used in the Ground Lease.

"Hearing Officer" shall have the meaning ascribed thereto in Section 5.1.13.1 of the By-Laws.

"Initial Condominium Documents" shall mean the Condominium Documents as they exist on the date of the formation of the Condominium, without amendment.

"Land" shall have the meaning ascribed thereto in Section 3.1 of the Declaration.

"Leasehold Interest" shall have the meaning ascribed thereto in the preamble.

"Maintenance" or "Maintain" refers to the maintenance, repair, reconditioning, replacement, refurbishing, reconfiguration, inspection, testing, cleaning, painting, installation, as and when necessary or desirable of any portion of the Building (including the Units), Structural Components, the Base Building Systems, or Facilities and to an Alteration in accordance with the terms of the Declaration and the By-Laws.

"No-Action Letter" refers to a "no-action" letter issued by the New York State Department of Law in order to convey title to the Units without the protections or necessity of an offering plan.

"Non-Structural Alterations" refers to any alteration, addition or improvement that is not a Structural Alteration, including without limitation: the installation of decorations, fixtures and coverings, wallpaper, wall to wall carpeting, pictures, mirrors shelving and lighting fixtures on the surfaces of the walls, ceilings and floors.

"Notices" shall have the meaning ascribed thereto in Section 4.1 of the By-Laws.

"Operating Year" shall mean each calendar year of the Condominium's operation.

"Permitted Mortgage" refers to one or more Unit mortgages as to which the Condominium Board has received notice in accordance with the provisions of the By-Laws, and

which is otherwise permitted to be placed against a Unit by Declarant in accordance with the provisions of the Declaration and By-Laws.

"Permitted Mortgagee" refers to the holder of a Permitted Mortgage or any holder of a mortgage on one or more of Declarant Units.

"Permitted User(s)" refers to any Unit Owner, Declarant, the Condominium Board, and all employees, agents, contractors, suppliers, customers, guests, invitees, licensees, servants, tenants, subtenants, and visitors of a Unit Owner or a tenant or subtenant of a Unit Owner and/or the Condominium Board, and all tenants or subtenants, if any (and to the extent permitted by the Declaration or the By-Laws), as the case may be, and occupants of a Unit and all officers, directors, members, partners and shareholders of a Unit Owner and/or the Condominium Board.

"Person(s)" refers to an individual, corporation, partnership, limited liability company, joint venture, estate, trust, unincorporated association, or any other legal entity, any Federal, State, County or municipal government, or any bureau, department, agency, authority or subdivision thereof and any beneficiaries, officers, directors, employees, agents, partners, shareholders, or fiduciaries thereof acting in such capacity on behalf of any of the foregoing.

"Power of Attorney" shall have the meaning ascribed thereto in Section 9.3 and referenced in Article 19 of the Declaration and annexed hereto as Exhibit E.

"Prime Rate" shall mean the rate announced (whether or not actually charged) from time to time by Citibank, N.A., or any successor of such bank, as its base/reference rate (or the equivalent) in effect in New York City, or, if no such bank shall exist, the rate published by The Wall Street Journal (or, if The Wall Street Journal shall not be published, a domestic financial newspaper of comparable status) from time to time as the generally prevailing rate of interest charged by commercial banks on ninety (90) day unsecured loans to their most preferred corporate customers in New York City.

"Prohibited Person" shall mean (i) any entity on, or, under the relevant statute and/or regulations governing any such list, deemed to be on, the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or on any comparable list hereafter maintained by said Office or successor thereto, or by any other office or agency of the government of the United States or any similarly designated persons under any federal statute that is a successor to or similar to or of similar import as the statutes currently providing for such designations or maintenance of lists of such designated persons, or (ii) if such entity shall be the "Unit Owner" under the Declaration, an entity entitled, directly or indirectly, to diplomatic or sovereign immunity that has not been effectively waived.

"Property" shall have the meaning ascribed thereto in Section 3.1 of the Declaration.

"Purchase Notice" shall have the meaning ascribed thereto in Section 5.3.9 of the By-Laws.

"Real Estate Taxes" refers to the real estate taxes assessed against a Unit by any governmental or quasi-governmental taxing authority, and shall include, without limitation and if

applicable, all business improvement district taxes or payment obligations with respect to the Property.

“Required Documentation” refers to such applications, permits, certifications, affidavits, forms, agreements, acknowledgments or other documents as may be required to enable the Unit Owners to exercise their rights or obligations under the Declaration and the By-Laws, including, without limitation, the rights to Maintain the Units and the General Common Elements.

“Roof and Roof Setbacks” refers to the roofs and roof setbacks and terraces identified on the Floor Plans, which shall include, without limitation, the roof located on the Penthouse Floor (identified on the Floor plans as 21st Floor Penthouse) and the Upper Roof (as identified on the Floor Plans), together with the underlayment, membranes, flashings, gutters, fasteners, pipes, vents, skylights and coatings and other roofing material necessary to construct the roof setbacks, but shall not include any Roof Setback Installations.

“Roof Setback Installations” refers to any decking material or other surface coverings, structures, water features, fencing, lighting, landscaping, trees, shrubbery, planters and other plantings, furniture, equipment and installations on a Roof Setback, any and all installations which are consistent with the outdoor spaces in other first-class office buildings in New York City.

“Rules and Regulations” refers to the rules and regulations promulgated by the Condominium Board, from time to time, in accordance with the By-Laws and annexed hereto as Schedule A.

“Signage” or “Signs” refers to any and all signs, notice, advertisement or illumination, illustration, art work, poster, logo, canopy, banner or similar sign (including, without limitation, logos or other identification of Persons) located in any Unit or upon any General Common Elements or scaffolding that is visible outside of the Unit.

“Significant Casualty” shall have the meaning ascribed thereto in Section 5.3.7 of the By-Laws.

“Special Assessments” shall have the meaning ascribed thereto in Subsection 5.1.14 of the By-Laws.

“Structural Alterations” shall refer to alterations, additions or improvements to the Structural Components, Base Building Systems, Roofs and Roof Setbacks, and all other structural members of the Building or which otherwise affect the structural integrity of the Building.

“Structural Components” shall have the meaning ascribed thereto in Section 7.3.2 of the Declaration.

“Successor Owner” shall have the meaning ascribed thereto in Section 7.6 of the By-Laws.

"Telecommunications Equipment" shall have the meaning ascribed thereto in Section 14.9 of the Declaration.

"Termination Default" shall mean the occurrence of any one or more of the following events: (1) there shall be a breach or default by a Unit Owner in the payment of any (x) fixed monthly installment of Common Charges, (y) fixed monthly installment of Special Assessments to the Condominium Board under the Condominium Documents, or (z) installment purchase payments to Declarant under any Unit Purchase Agreement ((x), (y) and (z) being, collectively, the "Recurring Monetary Obligations"), and such breach or default shall continue for at least ten (10) days after notice shall have been given to such Unit Owner of such breach or default (in each case, a "Recurring Payment Monetary Default"), (2) there shall be a breach or default by a Unit Owner in the payment of any monetary obligations other than the payment of Recurring Monetary Obligations under the Condominium Documents or any of the applicable Unit Transaction Documents, and such breach or default shall continue for at least thirty (30) days after the Unit Owner has been given notice of such breach or default (in each case, a "Non-Recurring Payment Monetary Default"; Non-Recurring Payment Monetary Defaults and Recurring Payment Monetary Defaults are collectively referred to as "Monetary Defaults") or (3) there shall be a breach or default by a Unit Owner in the performance of any of such Unit Owner's non-monetary obligations under the Condominium Documents or any of the applicable Unit Transaction Documents, and such breach or default shall continue for at least thirty (30) days after such Unit Owner has been given written notice of such breach or default, or beyond the expiration of the cure period for the relevant obligation set forth in the applicable document (or if no cure period is specified or if such cure period is less than thirty (30) days, thirty (30) days after the Unit Owner has been given notice, which 30-day period shall be extended as necessary so long as the Unit Owner has commenced the cure of such default within such 30-day period and thereafter continues diligently to cure) (each, a "Nonmonetary Default").

"Termination Requirements" shall mean that the following requirements, with respect to any Unit (other than a Declarant Unit) have been satisfied:

(i) Declarant or the Condominium Board, as applicable, shall have delivered to the Unit Owner a written notice stating that a default by the Unit Owner has occurred under the Condominium Documents or any of the applicable Unit Transaction Documents and specifying the nature of such default, and stating that a Termination Default will occur if such default is not cured within the time period specified in the notice (which shall be not less than the time period specified for a Termination Default under the Condominium Documents);

(ii) the Unit Owner shall have the right, in the case of a Nonmonetary Default, prior to the expiration date of the cure period set forth in the notice described in clause (i) above, to petition a court of competent jurisdiction in the State of New York for a temporary restraining order or preliminary injunction preventing Fee Owner, Declarant and/or the Condominium Board, as applicable, from terminating the Ground Lease, the Condominium Documents and/or the Unit Owner's rights thereunder pending the adjudication of such Nonmonetary Default (with such temporary restraining order or preliminary injunction being referred to herein as "Injunctive Relief"); and if the Unit Owner's petition for Injunctive Relief shall have been timely filed, then, from and after the date on which such Unit Owner's petition for Injunctive Relief is filed, Fee Owner, Declarant or the Condominium Board, as applicable, shall take no further action to

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terminate the Ground Lease, the Condominium Documents and/or such Unit Owner's rights thereunder or to initiate or acquiesce in the termination of the Condominium Documents or the Ground Lease and/or such Unit Owner's rights thereunder pending a decision by the court on whether to grant such Injunctive Relief; and if such temporary restraining order or preliminary injunction is granted, then pending the adjudication of the underlying Nonmonetary Default as provided below, Fee Owner, Declarant or the Condominium Board, as applicable, shall take no further action to terminate the Ground Lease, the Condominium Documents and/or such Unit Owner's rights thereunder or to initiate or acquiesce in the termination of the Condominium Documents or the Ground Lease and/or such Unit Owner's rights thereunder; and

(iii) If (a) a court of competent jurisdiction shall have issued a determination ordering or permitting the termination of the Ground Lease or the Condominium and/or the Unit Owner's rights hereunder (or thereunder) on the basis that a Nonmonetary Default has occurred, and such determination has not been stayed pending appeal, or (b) a Monetary Default shall have occurred and not have been cured within the respective time periods therefor set forth in the definition of a "Termination Default", then, in either such case, the Termination Requirements shall be deemed to have been satisfied with respect to the defaulting Unit Owner.

"Unit" or "Units" shall have the meaning ascribed thereto in Section 3.2 of the Declaration

"Unit Lease" refers to any lease or sublease of a Unit entered into on or after the date of the Declaration.

"Unit Owner" refers to the owner of a Unit, and all such Unit Owners are collectively referred to as the "Unit Owners."

"Unit Owner Estoppel Certificate" shall have the meaning ascribed thereto in Section 5.8.2 of the By-Laws.

"Unit Owner's Property" shall have the meaning ascribed thereto in Section 5.3.4 of the Declaration

"Unit Purchase Agreement" shall mean the applicable unit purchase and sale agreement pursuant to which such Unit has been conveyed to a Unit Owner. The GMHC Sale Agreement is the Unit Purchase Agreement applicable to the conveyance to GMHC of the GMHC Units.

"Unit Transaction Documents" shall mean the applicable Unit Purchase Agreement together with all other written agreements (including, if applicable, an omnibus agreement) between the applicable Unit Owner and Declarant and/or Fee Owner relating to such Unit Owner's Unit or such Unit Owner's rights or obligations with respect to such Unit pursuant to which the same has been conveyed to such Unit Owner.

"Unusable" shall mean cannot be occupied for the Unit Owner's (or its Permitted Users') operation of business.

"Zoning Resolution" shall have the meaning ascribed thereto in Section 5.15.1 of the By-Laws.

Exhibit C-11

EXHIBIT D
BY-LAWS
OF
307 WEST 38TH CONDOMINIUM
307 West 38th Street, New York, New York

Exhibit D

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BY-LAWS

ARTICLE 1

GENERAL

1.1 **Purpose.** The purpose of these By-Laws is to set forth the rules and procedures concerning the conduct of the affairs of the Condominium. The Condominium forms a part of Block 762 of the Tax Map of the Borough of Manhattan, City, County and State of New York, the Building, including, without limitation, the Units and the General Common Elements, all easements, rights and appurtenances belonging thereto, and all other property, real, personal or mixed, intended for use in connection therewith, all of which have been submitted to the provisions of Article 9-B of the Real Property Law of the State of New York by the recording of the Declaration in the City Register's Office, together with these By-Laws. All terms used herein which are not separately defined herein, shall have the meanings ascribed to those terms in the Declaration.

1.2 **Applicability of By-Laws.** These By-Laws are applicable to the Property and to the use and occupancy thereof. All present and future Unit Owners and their respective Permitted Users, as well as, all other persons who may use the Facilities of the Property, are and shall be subject to the Ground Lease, the Declaration and these By-Laws. The acceptance of a deed of conveyance to, or the succeeding of title to, or the entering into of a Unit Lease for, or the entering into occupancy of, any Unit shall constitute an agreement that the provisions of the Ground Lease, the Declaration, these By-Laws, and the Rules and Regulations, as each may be amended from time to time, are accepted and ratified by such Unit Owner, tenant, subtenant, licensee or Permitted User, and all of such provisions shall be deemed and taken to be covenants running with the Land and shall bind any Person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed or conveyance or Unit Lease or use and occupancy agreement thereof.

1.3 **Principal Office of Condominium.** The principal office of the Condominium shall be located within the City of New York at such place as may be designated from time to time by the Condominium Board (as defined in Section 2.1 below).

ARTICLE 2

BOARD OF MANAGERS

2.1 **Number, Term and Qualification.** Except as otherwise provided in Section 9.2 of the Declaration and as more particularly set forth in Section 2.2 herein, the affairs of the Condominium shall be governed by the Condominium Board.

2.2 **Members.** As more particularly set forth in Section 9.2 of the Declaration, the Condominium Board shall consist of three (3) members each of whom shall be designated and appointed by Declarant; and any one of the members of the Condominium Board, as designated by Declarant, shall be authorized to act on behalf of the Condominium Board to perform all

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duties and to have all obligations, that would otherwise be the responsibility of the Condominium Board.

2.3 Powers and Duties.

2.3.1 The Condominium Board shall have the powers and duties necessary for, or incidental to, the administration of the affairs of the Condominium as well as the performance of all covenants and agreements to which the Condominium is subject (except such powers and duties which by Applicable Law, the Declaration, or these By-Laws may not be delegated to the Condominium Board by the Unit Owners). All determinations with respect to the administration of the affairs of the Condominium shall be made by the Condominium Board.

2.3.2 Subject to the provisions of Section 2.2 above and the GMHC Standards, and without limiting the generality thereof the Condominium Board shall have all powers and duties expressly set forth elsewhere in the Declaration and these By-Laws and shall be entitled to make such determinations and take such actions and incur such liabilities as may be required to effectuate the Condominium Board's obligations under the Declaration and these By-Laws, including without limitation, the following matters:

2.3.2.1 Operating, caring for and Maintaining and performing Alterations to the General Common Elements in accordance with the provisions of the Declaration and these By-Laws including making contracts and incurring liabilities for utilities, services and supplies (except to the extent such obligations and rights have been specifically allocated to one or more Unit Owners under the terms of the Declaration or these By-Laws).

2.3.2.2 Performing the obligations and enforcing the rights of the Condominium and except to the extent such obligations and rights have been specifically allocated to one or more Unit Owners under the terms of the Declaration or these By-Laws.

2.3.2.3 Adopting a budget, determining the amount of Common Charges and Special Assessments (as hereinafter defined) subject to the provisions of Section 5.1 of these By-Laws.

2.3.2.4 Providing estoppel certificates, non-disturbance agreements and/or other documents as may be required by a Permitted Mortgagee in connection with any Permitted Mortgage or requested by a Unit Owner or its tenant relating to such Unit Owner's payment of Common Charges.

2.3.2.5 Employing and dismissing personnel necessary for the Maintenance and operation of the General Common Elements.

2.3.2.6 Making contracts and incurring liabilities in connection with the exercise of any of the powers and duties of the Condominium Board.

2.3.2.7 Bringing actions on behalf of the Condominium, with respect to any cause of action relating to the General Common Elements or the rights of the Condominium, as the Condominium Board deems advisable.

2.3.2.8 Causing Maintenance to be performed in a Unit in the event of an Emergency situation.

2.3.2.9 Procuring such fidelity bonds as the Condominium Board deems advisable covering officers and employees of the Condominium Board handling and responsible for the Condominium Board's funds and personal property and to procure managers' and officers' liability insurance if the Condominium Board deems it advisable. The premiums of such bonds and insurance shall be at market rates and be paid, as a Special Assessment, by all Unit Owners other than the Declarant Unit Owner.

2.3.2.10 Determining policies, adopting and amending the Rules and Regulations governing the details of operation of the Property and its use, including the General Common Elements, and amending such Rules and Regulations from time to time in a commercially reasonable manner as the Condominium Board deems advisable, provided that such Rules and Regulations are enforced on a uniform basis and in a non-discriminatory manner.

2.3.2.11 Making repairs and restorations of the General Common Elements or parts thereof damaged or destroyed by Casualty or necessitated as a result of Condemnation, which repairs and restorations shall be performed after a Casualty or Condemnation to the General Common Elements in accordance with the terms of these By-Laws.

2.3.2.12 Control power shutoffs and other interruptions of the normal functioning of the Condominium, to facilitate the performance of Alterations and/or Maintenance in or to particular Units and/or the General Common Elements, which is permitted or required under the Declaration and these By-Laws. In making determinations under the preceding sentence, the Condominium Board will comply with all relevant provisions of the Declaration and make all commercially reasonable efforts to disrupt the business operation of the Unit Owners and their Permitted Users as little as reasonably possible under the circumstances then prevailing;

2.3.2.13 Enforcing rights and obligations of Unit Owners under the Declaration and these By-Laws.

2.3.2.14 Opening and maintaining bank accounts on behalf of the Condominium (with respect to matters within its jurisdiction as provided in these By-Laws) and designating signatories therefor.

2.3.2.15 Adjusting and settling insurance claims (and executing and delivering releases in connection therewith) in accordance with the provisions of Section 5.2 of these By-Laws.

2.3.2.16 Borrowing money on behalf of the Condominium (including, without limitation, from Declarant Entities, but with no right to pay any interest thereon to such Declarant Entities), when required in connection with the operation, care, upkeep and Maintenance of, or Alterations of, the General Common Elements, provided, however, that no lien to secure repayment of any sum borrowed may be created on any Unit or its appurtenant interest in the General Common Elements without the consent of the owner of such Unit.

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2.3.2.17 Organizing corporations to act as designees of the Condominium Board with respect to such matters as the Condominium Board may determine.

2.3.2.18 Executing, acknowledging and delivering (i) any declaration or other instrument affecting the Property that the Condominium Board deems necessary or appropriate to comply with any Applicable Law, ordinance, regulation, zoning resolution or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or any other public authority, applicable to the Maintenance, demolition, construction, and Alteration of the Building, (ii) any consent, covenant, restriction, easement or declaration affecting the Property that the Condominium Board deems necessary or appropriate, or (iii) any consent or other document requested by a Unit Owner, which is delivered pursuant to the terms of the Declaration or these By-Laws.

2.3.2.19 Preparing, executing and recording on behalf of all Unit Owners, as their attorney-in-fact, coupled with an interest, a restatement of the Declaration and/or these By-Laws (without modification) whenever, in the Condominium Board's estimation, it is advisable to consolidate and restate all amendments, modifications, additions and deletions theretofore made to the Declaration and/or these By-Laws.

2.3.2.20 Obtaining, reviewing and renewing insurance for the Property pursuant to the provisions of Section 5.2 of these By-Laws.

2.3.2.21 Entering into a zoning lot merger or any declaration or other instruments if same shall be required to enable Fee Owner to acquire, purchase, allocate, sell or dispose of any Development Rights now or in the future appurtenant to the Property or other zoning lot pursuant to a zoning lot and development agreement or to merge or subdivide a zoning lot.

2.3.2.22 Performing any and all duties imposed on the Condominium Board by Applicable Law or insurance requirements applicable to the Property.

2.3.2.23 Enforcing rights and obligations of the Condominium and the Unit Owners.

2.3.2.24 Subject to Section 14.14 of the Declaration, licensing or leasing the General Common Elements and dedicating General Common Elements for the exclusive use of one or more Unit Owners (provided that the Condominium Board may not do so if and to the extent that the same would unreasonably interfere with the use and enjoyment of a Unit by the respective Unit Owner).

2.3.3 Except as otherwise provided under Sections 9.2 and 9.3 of the Declaration, any act with respect to a matter determined to be necessary or desirable by the Condominium Board shall be done or performed by the Condominium Board or shall be done on its behalf and at its direction by the agents, employees or designees of the Condominium Board.

2.4 Managing Agents and Managers. With respect to matters concerning the determinations which the Condominium Board is entitled to make, the Condominium Board may

employ a managing agent and/or a manager at a compensation established by the Condominium Board to perform such duties and services as the Condominium Board shall authorize and such cost shall be a Common Expense in accordance with Section 5.1 of these By-Laws.

2.5 Resignation and Removal. A Condominium Board member may resign at any time by written notice delivered personally or sent by certified mail or by a reputable overnight courier, return receipt requested, to the Condominium Board. Such resignation shall take effect at the time specified therein and, unless specifically requested, acceptance of such resignation shall not be necessary to make it effective.

2.6 Designations; Vacancies. Subject to the terms of Section 9.2 of the Declaration, the Condominium Board shall be filled by designation, in writing, in accordance with the provisions of Section 2.2 hereof. In the event of any vacancy on the Condominium Board for whatever reason, such vacancy shall be filled by Declarant as more particularly set forth in Section 9.2 of the Declaration. A member of the Board will serve until such member is removed by Declarant.

2.7 Regular Meetings of Board. Subject to Section 2.2 hereof, regular meetings of the Condominium Board may be held at such time and place in the City of New York as shall be determined from time to time by the Condominium Board. Notice of regular meetings shall be given to each member thereof, by personal delivery, mail, or facsimile (or such other method as all members of the Condominium Board shall have agreed upon), at least five (5) Business Days prior to the day named for such meeting. Notwithstanding anything to the contrary set forth herein, for such time as Declarant (or a Declarant Entity) designates all persons to the Condominium Board, there shall be no requirement for the Board to hold regular meetings.

2.8 Special Meetings of Board. Subject to Section 2.2 hereof, special meetings of the Condominium Board may be called by any member of the Condominium Board by giving five (5) Business Days' prior notice to each member of the Condominium Board, which notice shall state the time, place (in the City of New York) and purpose of the meeting.

2.9 Waiver of Notice. Any Board member may at any time waive notice of a Board meeting in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Condominium Board at any meeting thereof shall constitute a waiver of notice by him of the time and place thereof. If all the members are present at any meeting of a Board, no notice shall be required and any business may be transacted at such meeting.

2.10 Determinations by Board; Quorum.

2.10.1 Except as otherwise provided under Sections 9.2 and 9.3 of the Declaration and Sections 2.2 and 2.10.4 hereof, all determinations by the Condominium Board shall be made at a meeting of the Condominium Board at which a quorum thereof is present. At any Condominium Board meeting, at least two (2) of the members thereof shall constitute a quorum, and the votes of a majority of such members present shall constitute the decision of the Condominium Board. Any determination or action taken by the Condominium Board that does not require the unanimous consent of all three

(3) Board members (other than any determination or action required by Applicable Law or the requirements under any public liability, property or other insurance carried by the Condominium Board) shall be made in a commercially reasonable manner.

2.10.2 If at any Condominium Board duly called meeting there is less than a quorum present, a majority of those members present may adjourn the meeting from time to time provided that all members of the Condominium Board are notified of the new date, time and place of the adjourned meeting. At any such adjourned meeting at which a quorum is present, any business that might have been transacted at the meeting originally called may be transacted without further notice.

2.10.3 Members of the Condominium Board may participate in a meeting thereof by means of a conference telephone or similar communications equipment by means of which all persons participating in such meeting can hear each other and such participation shall constitute presence at such meeting. Notwithstanding anything to the contrary contained herein, and subject to Section 2.2 hereof, any action permitted or required to be taken at a meeting of the Condominium Board may be taken without a meeting if all members of the Condominium Board consent in writing to the adoption of a resolution authorizing such action and the writing or writings are filed with the minutes of the Condominium Board.

2.10.4 Notwithstanding anything to the contrary set forth herein, for so long as all members of the Condominium Board are designated by Declarant: (i) any one of the members of the Condominium Board, as designated by Declarant, shall be authorized to act on behalf of the Condominium Board to perform all duties and to have all obligations that would otherwise be the responsibility of the Condominium Board; and (ii) a quorum shall not be required at any meeting of the Condominium Board.

2.11 **Compensation.** No member of the Condominium Board shall receive any compensation for acting as such.

2.12 **Liability of Condominium Board and Unit Owners.**

2.12.1 To the extent permitted by Applicable Law, no member of the Condominium Board shall have any personal liability with respect to any contract, act or omission of the Condominium Board or of any managing agent or manager in connection with the affairs or operation of the Condominium or the Units (except in their capacities as Unit Owners), and the liability of any Unit Owner with respect thereto shall be limited as hereinafter set forth. Every contract made by the Condominium Board or by any managing agent or manager thereof shall provide or be deemed to provide that it is made by the Condominium Board, managing agent or manager only as agent for all Unit Owners; that the Condominium Board members or managing agent or manager shall have no personal liability thereon (except in their capacities as Unit Owners); and shall also state (or be deemed to state) the applicable limitations of liability of Unit Owners provided for in the next sentence. The liability of any Unit Owner with respect to any contract, act or omission with respect to the Condominium shall be limited to such proportionate share of the total liability as is equal to the Common Interest of such Unit

Owner and, unless expressly stated to the contrary in the Condominium Documents or such Unit Owner's Unit Transaction Documents, to the extent permitted by Applicable Law, shall be limited to such Unit Owner's interest in such Unit Owner's Unit and such Unit Owner's appurtenant interest in the General Common Elements and any proceeds thereof (including, without limitation, any insurance proceeds in connection therewith and any proceeds from the sale or other disposition of such Unit Owner's interest in its Unit), so that such Unit Owner shall have no personal liability for such contract, act or omission. Nothing in the preceding sentence shall limit (i) a Unit Owner's liability for the payment of Common Charges, or (ii) such liability that Declarant might have pursuant to other provisions of the Condominium Documents. Any such contract or agreement may also provide that it covers the assets, if any, of the Condominium Board. Notwithstanding anything herein to the contrary, to the extent permitted by Applicable Law, Condominium Board members shall have no liability to Unit Owners. The negligence of any Condominium Board member shall be deemed to be the negligence of Declarant, and nothing contained herein shall be deemed to exculpate Declarant from any liability that Declarant might otherwise have resulting from such negligence. The Condominium Board may contract or effect any transaction with any Board member, any Unit Owner, or any Affiliate of any of them, without incurring any liability for self-dealing, provided such dealing (a) does not have a material adverse impact on any Unit Owner, or (b) if the Condominium Board enters into a contract or effects any transaction with Declarant or any Affiliate of Declarant, and if such contract or transaction results in any costs includable within Common Charges, then all payments required to be made by the Condominium Board under such contract or in connection with such transaction shall not exceed competitive market rates that would be charged by independent third parties therefor.

2.12.2 To the extent permitted by Applicable Law, neither the Condominium Board nor any member thereof shall be liable for either (i) any failure or interruption of any utility or other service to be obtained by, or on behalf of, the Condominium Board (as more particularly described in Section 5.11.6 of these By-Laws); or (ii) any injury, loss or damage to any individual or property, occurring in or about either a Unit or any General Common Element. Furthermore, the obligations of each of the parties hereunder shall not in any way be affected because the Condominium Board is unable to fulfill any of its obligations or to supply any service by reason of force majeure.

2.13 Fidelity Bonds.

2.13.1 The Condominium Board shall determine whether it desires to obtain and maintain fidelity bonds or similar fiduciary and crime insurance coverage, in amounts deemed reasonably appropriate by the Condominium Board, for the managing agent or manager, if any, employed by the Condominium Board, and, if obtained by the Condominium Board, the costs of acquiring and maintaining such bonds and/or insurance coverage (including, without limitation, the premiums thereof) shall be paid, as a Special Assessment, by all Unit Owners other than the Declarant Unit Owner.

2.13.2 The Condominium Board shall obtain and maintain, in such amounts as reasonably determined by the Condominium Board at the time in question, directors and

officers insurance (i) to indemnify the Condominium for any obligation which it incurs as a result of the indemnification of members and officers of the Condominium as required by Applicable Law or by a court order, (ii) to indemnify members and officers of the Condominium Board in instances in which they may be indemnified by the Condominium under the provisions of these By-Laws, and/or (iii) to indemnify members and officers of the Condominium in instances in which they may not otherwise be indemnified, to the extent provided by such insurance. The costs of acquiring and maintaining such insurance purchased pursuant to the terms of this Section 2.13.2 (including, without limitation, the premiums thereof), shall be paid, as a Special Assessment, by all Unit Owners other than the Declarant Unit Owner.

2.14 Intentionally Omitted.

2.15 Principal Office of Condominium Board. The principal offices of the Condominium Board shall be located within the Property or at such other place in the City of New York reasonably convenient thereto as may be designated from time to time by the Condominium Board.

2.16 Status of Condominium Board. In addition to the status conferred upon the Condominium Board under or pursuant to the provisions of the Condominium Act, the Condominium Board shall, to the extent permitted by Applicable Law, be deemed to constitute a separate unincorporated association for all purposes under and pursuant to the provisions of the General Associations Law of the State of New York. In the event of the incorporation of the Condominium Board pursuant to the provisions of Section 2.17 below, the provisions of this Section 2.16 shall no longer be applicable to the Condominium Board.

2.17 Incorporation of the Condominium Board. To the extent and in the manner provided in the Condominium Act, the Condominium Board may, as provided in this Article 2, be incorporated under the applicable statutes of the State of New York. In the event that the Condominium Board so incorporates, it shall have, to the extent permitted by Applicable Law, the status conferred upon it under such statutes in addition to the status conferred upon the Condominium Board under or pursuant to the provisions of the Condominium Act. The certificate of incorporation and by-laws of any such resulting corporation shall conform as closely as practicable to the provisions of the Declaration and these By-Laws and the provisions of the Declaration and these By-Laws shall control in the event of any inconsistency or conflict between the provisions hereof and the provisions of such certificate of incorporation and by-laws.

2.18 Board as Agents of Unit Owners. In exercising their respective powers and performing their respective duties under the Declaration and these By-Laws, the Condominium Board shall act in good faith as, and shall be, the agent of the Unit Owners, subject to and in accordance with the provisions of the Declaration and these By-Laws. Notwithstanding the foregoing, no Unit Owner shall have the right to challenge or object to an act of the Condominium Board taken in good faith, except to the extent (i) expressly provided otherwise in the Declaration or these By-Laws (or in a written agreement executed by the Condominium Board), or (ii) such act shall have a material adverse impact upon such Unit Owner and has been taken without reasonable justification.

ARTICLE 3

OFFICERS

3.1 **Designation.** The principal officers of the Condominium shall be a President, Vice President, Secretary and Treasurer thereof, all of whom shall be elected by the members of the Condominium Board. The Condominium Board members may appoint an Assistant Treasurer, Assistant Secretary and such other officers as in their judgment may be desirable. None of the officers of the Condominium Board need be Unit Owners or have any interest therein or be Board members.

3.2 **Election of Officers.** The officers of the Condominium Board shall be elected annually by the members of the Condominium Board and shall hold office until their successors are elected or until his or her death, resignation or removal.

3.3 **Resignation and Removal of Officers.** Any officer may resign at any time by written notice delivered or sent by certified mail, return receipt requested, to the Condominium Board. Such resignation shall take effect at the time specified therein and, unless specifically requested, acceptance of such resignation shall not be necessary to make it effective. A successor officer may be elected at any regular Board meeting or at any special Board meeting called for such purpose. Any officer may be removed at any time, either with or without cause, by the affirmative vote of at least two members of the Condominium Board.

3.4 **President.** The President of the Condominium shall be the chief executive officer of the Condominium and shall preside at all meetings of the Condominium Board. The President shall have all of the general powers and duties that are incident to the office of president of a stock corporation organized under the Business Corporation Law of the State of New York.

3.5 **Vice President.** The Vice President shall take the place of the President and perform the duties of the President whenever such President shall be absent or unable to act. If both the President and the Vice President of the Condominium Board are unable to act, the Condominium Board shall appoint some member of the Board to act in the place of such President and Vice President on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Condominium Board or by the President.

3.6 **Secretary.** The Secretary of the Condominium shall keep the minutes of all meetings of the Condominium Board. The Secretary shall have charge of such books and papers as the Condominium Board shall direct and shall in general perform all the duties incident to the office of secretary of a stock corporation organized under the Business Corporation Law of the State of New York. Any Assistant Secretary appointed by the Condominium Board pursuant to Section 3.1 of these By-Laws shall have all of the powers of the Secretary.

3.7 **Treasurer.** The Treasurer shall have the care and custody of the funds and securities of the Condominium and shall be responsible for keeping full and accurate financial records and books of account thereof showing all receipts and disbursements necessary for the preparation of all required financial data. The Treasurer shall be responsible for the deposit of

all funds and other securities in the name of the Condominium Board (or in the name of the managing agent appointed by the Condominium Board) in such depositories as may from time to time be designated by the Condominium Board and shall in general perform all of the duties incident to the office of treasurer of a stock corporation organized under the Business Corporation Law of the State of New York. Any Assistant Treasurer appointed by the Condominium Board pursuant to Section 3.1 of these By-Laws shall have all of the powers of the Treasurer.

3.8 Execution of Documents. The Condominium Board may proscribe rules governing the execution of documents, including without limitation, all agreements, contracts, deeds, leases, checks and other instruments of the Condominium, as it sees fit.

3.9 Dual Offices; Compensation of Officers. Any two or more offices may be held by the same person. No officer shall receive any compensation for acting on the Condominium Board.

3.10 Superseding Clause. Notwithstanding anything to the contrary contained hereinabove, the provisions of this Article 3 are subject to the provisions of Sections 9.2 and 9.3 of the Declaration.

ARTICLE 4

NOTICES; UNIT OWNER MEETINGS

4.1 Notices. All notices, demands, requests or other communications (collectively, "Notices") required or desired to be given hereunder to the Condominium Board or a Unit Owner (and except as otherwise expressly set forth in the Declaration or these By-Laws) shall be sent by registered or certified mail, return receipt requested, postage prepaid, or by nationally recognized overnight delivery service providing proof of delivery, and if there is a managing agent of the Condominium Board, a duplicate shall be sent in like manner to such managing agent. All Notices to the Condominium Board or any Unit Owner shall, except as otherwise provided herein, be sent to the address of such Unit Owner at the Property or to such other address(es) as may have been designated by such Unit Owner from time to time, in writing, to the Condominium Board. A copy of all Notices given to the Condominium Board by a Unit Owner shall be given in like manner by such Unit Owner to the attorneys for the Condominium Board, and all Notices given by the Condominium Board to a Unit Owner may be given on the Condominium Board's behalf by the attorneys for the Condominium Board, provided that the name and address of such attorneys shall have theretofore been furnished to the Unit Owners. An attorney for any Unit Owner or the Condominium Board, as the case may be, shall be authorized to give notices on behalf of such party.

4.2 Fee Owner Notice. All Notices required or desired to be given hereunder to Fee Owner and any Permitted Mortgagees shall be sent to their respective addresses, as designated by them from time to time, in writing to the Condominium Board.

4.3 Effective Date. All Notices shall be deemed given on the next Business Day when delivered by overnight delivery service or three (3) days after the notice by registered or certified mail is mailed.

4.4 Waiver of Service of Notice. Whenever notice is required to be given by Applicable Law, the Declaration or these By-Laws, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

4.5 Annual Meetings. The first annual meeting of Unit Owners may be called on or no more than one (1) year after the recording of the Declaration. Such meeting shall be held not less than 10 days nor more than 40 days after such date. Thereafter, annual meetings of Unit Owners may be held approximately thirty (30) days before or after each anniversary of the first annual meeting. Notwithstanding anything to the contrary set forth herein, for such time as Declarant (or a Declarant Entity) and GMHC are the only Unit Owners, there shall be no obligation to hold any meetings of Unit Owners.

4.6 Place of Meetings. Meetings of the Unit Owners shall be held at such place as may be designated by the Condominium Board.

4.7 Special Meetings. The President of the Condominium Board shall call a special meeting of Unit Owners, if so directed by resolution of the Condominium Board or upon a petition signed and presented to the Secretary of the Condominium Board by any Unit Owner.

4.8 Notice of Meetings and Actions Taken. Subject to Section 2.2 hereof, notice of each annual or special meeting shall be given by the Secretary to all Unit Owners of record entitled to vote thereat as of the date of said notice. Each such notice shall state the purposes of the meeting and the time and place where it is to be held and no business shall be transacted thereat except as stated in the notice. All notices hereunder shall be given in accordance with the provisions of Section 4.1 above, at least ten (10) but no more than thirty (30) Business Days prior to the day named for the meeting.

4.9 Adjournment of Meetings. If any meeting of Unit Owners(s) cannot be held because a quorum is not present, the Unit Owner present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than 48 hours from the time fixed for the original meeting.

4.10 Voting.

4.10.1 Each Unit Owner or a person designated by such Unit Owner to act as proxy on such Unit Owner's behalf and who need not be a Unit Owner, shall be entitled to cast the votes appurtenant to such Unit as set forth herein and in the Declaration at all meetings of Unit Owners. The designation of any such proxy shall be made in writing to the Secretary of the Condominium Board and shall be revocable at any time by written notice to such Secretary by the Unit Owner so designating; provided, however, that no designation to act as a proxy shall be effective for a period in excess of six months, except a designation of (i) a Permitted Mortgagee to act as the proxy of its mortgagor; and (ii) Declarant pursuant to Sections 9.2 and 9.3 of the Declaration.

4.10.2 Except as otherwise set forth herein or in the Declaration, at all meetings of Unit Owners, each Unit Owner (or such Unit Owner's proxy) entitled to vote thereat will be entitled to cast one vote for each .001% (rounded off to the nearest .001%) of Common Interest attributable to such Unit Owner's Unit.

4.11 **Quorum.** Except as otherwise provided in these By-Laws, the presence in person by a majority in number of all Unit Owners shall constitute a quorum at all meetings of Unit Owners.

4.12 **Waiver of Meeting.** Upon the unanimous determination of all Unit Owners or for such time as Declarant (or a Declarant Entity) and GMHC are the only Unit Owners, no annual meetings of the Unit Owners need take place.

4.13 **Superseding Clause.** Notwithstanding anything to the contrary contained hereinabove, the provisions of this Article 4 shall be subject to the provisions of Sections 9.2 and 9.3 of the Declaration.

ARTICLE 5

OPERATION OF THE PROPERTY

5.1 **Determination of Common Expenses and Fixing of Common Charges.**

5.1.1 The Condominium Board (or its managing agent) shall, prior to the commencement of each Operating Year, prepare a proposed annual budget setting forth its good faith estimate of the Common Expenses (as hereinafter defined) to operate and Maintain the entire Condominium (the "Annual Budget"), and provide a copy of the Annual Budget to each member of the Condominium Board.

5.1.2 For purposes of this Section 5.1 and unless otherwise indicated throughout the Declaration or these By-Laws, the term "Common Expenses" shall mean all costs and expenses incurred by the Condominium Board, on an accrual basis and in accordance with generally accepted accounting principles applicable to real estate, consistently applied, for the operation and Maintenance of the Building, its loading docks, receiving areas, General Common Elements, sidewalks and curbs, as applicable, (collectively, the "Condominium Property"), including all expenses incurred as a result of the Condominium Board's compliance with any of its obligations under the Declaration or these By-Laws, and shall include the following items (without limitation): (A) salaries, wages, medical, surgical and general welfare benefits (including group life and medical insurance) and pension payments, payroll taxes, worker's compensation, union benefits paid by employer, unemployment insurance, social security and other similar taxes of or with respect to employees of the Condominium Board engaged in the operation and Maintenance of the Building up to the level of building manager; (B) payments made to independent contractors performing work included within this definition of Common Expenses; (C) the cost of uniforms, including dry cleaning thereof, for employees; (D) the cost of all gas, steam, heat, ventilation, air conditioning and water (including sewer rental), together with any taxes thereon, to the extent not otherwise payable by a

particular tenant or occupant; (E) the cost of all rent, casualty, war risk (if obtainable), liability, excess liability, property damage, indemnification, plate glass, multi-risk and other insurance with respect to the Building, to the extent applicable to the then-current policy year; (F) the cost of all supplies (including cleaning supplies), tools, materials and equipment; (G) the cost of all charges to the Condominium Board for electricity, but only to the extent consumed for the General Common Elements of the Building and Base Building Systems and equipment, together with any taxes thereon; (H) non-capital repairs or replacements made by the Condominium Board, at its expense, to the General Common Elements in the Building; (I) straight line depreciation or amortization (including interest at the then prime rate (i.e., the base lending rate) of Citibank N.A. at the time such expenditure is made) over a ten (10) year period of any expenditure for a capital improvement which results in a reduction of Common Expenses, but only to the maximum amount in any calendar year of the amount of the savings from such improvement in such calendar year; (J) management fees not in excess of prevailing rates for Comparable Buildings; (K) vault, sales, use and frontage taxes, excluding those paid by any Unit Owner; (L) customary dues and fees for real estate associations, all relating to the Condominium Property; (M) administrative costs and expenses for bookkeeping and telephone to the extent allocable to the Condominium Property; (N) reasonable attorney's fees and fees paid to other professionals for services rendered in connection with the Maintenance and/or operation of the Condominium Property; (O) costs and expenses incurred by Owner in connection with compliance with Applicable Laws; provided, however, that to the extent that any such cost or expense is capital in nature, it shall be amortized as set forth in clause (I) above; and provided further that Common Expenses shall not include costs and expenses incurred in connection with compliance with any such Applicable Law (i) that was in effect on August 28, 2017, and (ii) with which it is the Condominium Board's obligation to comply (unless such non-compliance is because of then-present judicial or administrative interpretation); (P) all Ground Rent; and (Q) all other costs and expenses (not excluded by this Section 5.1.2 or Section 5.1.3) incurred by the Condominium Board for operation and Maintenance of the Condominium Property which are customary for Comparable Buildings.

5.1.3 Notwithstanding anything in the Declaration or these By-Laws to the contrary, the following items shall be excluded from Common Expenses:

5.1.3.1 interest on and amortization of debts;

5.1.3.2 the cost of Unit improvements made for new or existing Unit Owners, tenant(s) or occupants of the Building;

5.1.3.3 brokerage commissions;

5.1.3.4 the cost of any work or services performed for any Unit Owner, whether at the expense of the Condominium Board or such Unit Owner, to the extent that such work or services are in excess of the work or services which the Condominium Board is required to furnish or is furnishing to the GMHC Unit Owner under the Declaration or these By-Laws at the expense of the Condominium Board;

5.1.3.5 Real Estate Taxes;

5.1.3.6 the cost of any Maintenance made by the Condominium Board to remedy damage to the extent caused by or resulting from the negligence or willful misconduct of the Condominium Board, its agents, servants, contractors or employees;

5.1.3.7 legal or brokerage or finder's fees or other fees, sales or leasing commissions, advertising and promotional expenses and other costs incurred in selling, leasing or attempting to sell or lease any Units or any portion of the Building or in connection with defaults by present or prior Unit Owners or tenants or occupants or in connection with placing or refinancing any mortgages or underlying leases on any Unit, the Building or Land;

5.1.3.8 any funds or money given to any Unit Owners or tenants in cash, by offset or otherwise, or the cost of any work done for any Unit Owners or tenants in connection with the sale of leasing of Units or other space in the Building;

5.1.3.9 the cost of any items to the extent the Condominium Board is reimbursed by insurance, or otherwise compensated, including direct reimbursement by any Unit Owner for specific services performed for such Unit Owner (other than as Common Charges hereunder);

5.1.3.10 that portion of any cost which is in excess of the commercially reasonable amount which would be paid in an arm's-length transaction and is paid to a corporation or other entity affiliated with Fee Owner or Declarant, including (i) any corporation or entity controlling, controlled by or under common control with Fee Owner or Declarant, (ii) or in which Fee Owner or Declarant directly or indirectly owns not less than a 50% interest, or (iii) to any person who is a relative by blood or marriage of any shareholder, partner, officer or director of Fee Owner or Declarant or the managing agent of Fee Owner or Declarant or the Condominium Board, or of any other corporation or entity described in this subsection 5.1.3.10;

5.1.3.11 the costs of work performed or services provided for other Unit Owners to the extent the same exceed the level of work or services required to be performed or provided for the GMHC Unit Owner under the Declaration or these By-Laws;

5.1.3.12 financing and refinancing costs in respect of any indebtedness of the Condominium Board, Declarant or Fee Owner, whether secured or unsecured, including legal and accounting fees and expenses, prepayment penalties and interest and amortization payments in connection therewith;

5.1.3.13 such amounts of Ground Rent and any other payments under the Ground Lease that are expressly allocable to a specific Unit or are made payable by a specific Unit Owner (rather than the Unit Owners generally), or that are not expressly provided for in the Ground Lease. For the avoidance of doubt, and notwithstanding anything to the contrary set forth herein, with the exception of the Declarant, all other Unit Owners (including the owner of the GMHC Units) shall be required to pay, as part of its Common Charges, a portion of Ground Rent and any other payments under the Ground Lease in an amount equal to the Common Interest percentage allocated to its Unit. With respect to Units owned by Declarant, amounts due in payment of Ground Rent and any other payments under the Ground Lease shall be deemed to

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have been paid directly by Declarant in its capacity as lessee under the Ground Lease, and therefore will not be included in the Common Charges due from Units owned by the Declarant;

5.1.3.14 franchise, gross receipts, unincorporated business, estate, inheritance or income taxes imposed upon the Condominium Board, Fee Owner or Declarant, or any taxes similar to the foregoing excluded items (other than sales taxes on items or services otherwise includible in Common Expenses);

5.1.3.15 costs (including purchase prices, commissions, professional fees, deed stamps and realty transfer taxes) incurred in connection with the transfer or disposition of direct or indirect ownership interests in any Unit, or the Building, Land or Fee Owner or Declarant;

5.1.3.16 the costs of Maintenance or restoration necessitated by (or in connection with) Casualty or any Condemnation;

5.1.3.17 costs incurred in connection with the making or enforcement of leases or resolution of disputes with Unit Owners (other than such costs relating to the enforcement, for the benefit of other Unit Owners, of anti-nuisance or similar provisions in the Condominium Documents);

5.1.3.18 fines, judgments or settlement or arbitration awards against the Condominium Board (except to the extent all or any portion of such fines, judgments or awards represent the cost of Maintenance or other items otherwise includible in Common Expenses);

5.1.3.19 general overhead of the Condominium Board, Fee Owner or Declarant, or any affiliates of the foregoing, or the managing agent's office, except to the extent included in clause (M) of Section 5.1.2;

5.1.3.20 depreciation and amortization (except to the extent provided in clauses (I) and (O) of Section 5.1.2);

5.1.3.21 costs resulting from the Condominium Board's default under the Condominium Documents, except to the extent such costs represent the costs of Maintenance or other items otherwise includible in Common Expenses;

5.1.3.22 costs incurred in constructing, Maintaining insuring or operating an ancillary service on the Condominium Property (such as shoeshine, newsstand, stationary store, parking facility, etc.) in respect of which users pay a separate charge, including compensation of clerks, attendants or other persons in concessions serving the public and operated by the Condominium Board or the managing agent;

5.1.3.23 items to the extent actually reimbursed to the Condominium Board pursuant to any warranties or guarantees;

5.1.3.24 wages, salaries, reimbursable expenses, benefits, taxes, insurance and other amounts relating to the compensation of any employees of the Building above the grade of building manager;

5.1.3.25 the cost of Seller's Work (as defined in the GMHC Sale Agreement);

5.1.3.26 except to the extent expressly provided in clause (I) or (O) of Section 5.1.2 hereof, the cost of any Maintenance or Alterations or other items which under generally accepted accounting principles applicable to real estate, consistently applied, is properly classified as a capital expenditure, including, without limitation, rental payments for any equipment ordinarily considered to be of a capital nature if rented in lieu of a purchase;

5.1.3.27 lease takeover or take-back costs incurred in connection with the sale or leases of any Units or other space in the Building;

5.1.3.28 to the extent any costs includible in Common Expenses are incurred with respect to both the Building and other properties (including, without limitation, salaries, fringe benefits and other compensation of the Condominium Board's personnel who provide services to both the Building and other properties), there shall be excluded from Common Expense a fair and reasonable percentage thereof which is properly allocable to such other properties;

5.1.3.29 the cost of any judgment, settlement, or arbitration award resulting from any liability of the Condominium Board which is the result of negligence, willful misconduct or fraud and all expenses incurred in connection therewith;

5.1.3.30 the cost of providing any service provided by managing agents of comparable buildings in Midtown Manhattan (west of Eighth Avenue) which is customarily included in management fees;

5.1.3.31 the cost of acquiring, installing and/or Maintaining any separate electrical meter the Condominium Board may provide to any Unit Owner or tenants in the Building, or for use in measuring electricity in portions of the Building that Declarant is offering for sale or lease or that otherwise constitute saleable or leasable space;

5.1.3.32 costs relating to withdrawal liability or unfunded pension liability under the Multi-Employer Pension Plan Act or similar Applicable Laws;

5.1.3.33 any interest, fine, penalty or other late charges payable by the Condominium Board and incurred as a result of late payments, except to the extent the same was incurred with respect to a payment part or all of which was the responsibility of a Unit Owner hereunder and with respect to which such Unit Owner did not make a payment in a timely fashion or did not make same at all;

5.1.3.34 any compensation paid to clerks, attendants or other persons in commercial concessions operated by the Condominium Board;

5.1.3.35 costs incurred in connection with physically adding space to, or building additional stories on, the Building or its plazas, or adding buildings or other structures adjoining the Building, or connecting the Building to other structures adjoining the Building, or in connection with reducing the area of the Building or other such structures;

5.1.3.36 costs incurred in connection with the acquisition or sale of Development Rights, easements, or other real property interests;

5.1.3.37 costs incurred in acquiring, installing, operating and Maintaining (including, without limitation, any taxes or assessments) any Signs or other similar devices designed principally for advertising or promotion, or to identify the owner of any Unit or any occupant of the Building;

5.1.3.38 expenditures for Maintaining and/or replacing any defect in any work performed by the Condominium Board, Fee Owner or Declarant to the Building;

5.1.3.39 advertising, entertainment, travel and promotional expenditures related to the operation and management of the Building;

5.1.3.40 legal, accounting, and other professional fees and disbursements other than those incurred in connection with the operation and management of the Building;

5.1.3.41 costs or expenses associated or incurred with respect to the ownership of the Land and/or Building or the operation of the business of the ownership or entity which constitutes or, directly or indirectly, controls the Condominium Board, Fee Owner or Declarant (including, without limitation, costs incurred in organizing or maintaining in good standing the entity that constitutes Condominium Board, Fee Owner or Declarant, or in authorizing Condominium Board, Fee Owner or Declarant to do business in the State of New York or elsewhere), as distinguished from the operation, management and Maintenance of the Land or Building;

5.1.3.42 compensation and benefits paid to employees of the Condominium Board allocable to work performed with respect to other buildings or properties;

5.1.3.43 the cost of investigating, monitoring, testing, remediating, encapsulating, removing, or otherwise abating any asbestos or other hazardous materials from the Building or the Land;

5.1.3.44 costs that the Condominium Board incurs to correct a representation made by the Condominium Board, Fee Owner or Declarant in the Condominium Documents;

5.1.3.45 fees, dues, donations or contributions to charities, political parties or political action committees;

5.1.3.46 the cost of objects of fine art or the repair or insuring thereof;

5.1.3.47 costs associated with the construction, installation, Maintenance, or operation of any broadcasting facility, conference center, luncheon club, athletic facility, child care facility, auditorium, cafeteria, or any other similar specialty facility, except the extent that any such facility exists in the Building for the general benefit of Unit Owners and such Unit Owners do not pay a separate charge for the use of such facility (it being understood that the

inclusion of the cost of such facility in Common Expenses shall not constitute a separate charge for purposes of this subsection 5.1.3.47);

5.1.3.48 rent loss or reserves for bad debts or rent loss, and all other reserves;

5.1.3.49 costs of any disputes between the Condominium Board and any employee or agent of the Condominium Board or any mortgagee or lessor;

5.1.3.50 any expenses incurred (including, without limitation, cleaning costs) to accommodate events in any General Common Elements of the Building, including, but not limited to, shows, promotions, kiosks, displays, filming, photography, private events or parties, and ceremonies that are in excess of the customary expenses incurred by the Condominium Board to provide services (such as lighting and HVAC) to the General Common Elements of the Building;

5.1.3.51 any costs that the Condominium Board is required to pay to any Unit Owner, or to reimburse to any Unit Owner, in either case as expressly set forth in the Condominium Documents;

5.1.3.52 the cost of providing heat, ventilation and/or air conditioning to portions of the Building that have been sold or leased, that Declarant or the Condominium Board is offering for sale or lease, or that otherwise constitute saleable or leasable space that is not used for the general benefit of the Building; and

5.1.3.53 costs that are duplicative of any other cost that is included in Common Expenses.

5.1.4 Notwithstanding anything to the contrary contained herein, if there is a difference in the amount of total Common Expenses incurred (or to be incurred) in an Operating Year as described in 5.1.2 above, and the Common Charges to be collected after the excluded costs described in Section 5.1.3 above are deducted, the Declarant shall be responsible for payment the differential of such costs.

5.1.5 In determining the amount of the Common Expenses for any Operating Year, if less than ninety-five (95%) percent of the area of the Building shall have been occupied by office occupants at any time during any such year, the Common Expenses for any such Operating Year shall be adjusted to an amount equal to the like expenses which would normally be expected to have been incurred had the Building had an office occupancy of ninety-five (95%) percent throughout the applicable year.

5.1.6 If the Condominium Board is not furnishing any particular work or service (the cost of which if performed by the Condominium Board would constitute a Common Expense) to a Unit Owner who has undertaken to perform such work or service in lieu of the performance thereof by the Condominium Board, the Common Expenses for each Operating Year during which such situation exists shall be increased by an amount equal to the additional Operating Expense which reasonably would have been incurred during

such period by Owner if it had at its own expense furnished such service or services to such Unit Owner.

5.1.7 For each Operating Year, each Unit Owner shall pay its proportionate share of the Common Expenses in accordance with the Common Interest percentage allocated to its Unit (the "Common Expense Allocation").

5.1.8 Within one hundred eighty (180) days after the end of each Operating Year (and within one (1) year after the end of the last Operating Year), the Condominium Board shall forward to each Unit Owner an itemized statement organized into categories and prepared by the Condominium Board's accountants in accordance with generally accepted accounting principles applicable to real estate, consistently applied ("Operating Statement") of the Common Expenses for the prior Operating Year and a computation of the amount payable by such Unit Owner pursuant to this Section 5.1 for such Operating Year.

5.1.9 On the first day of each calendar month of every Operating Year, each Unit Owner shall pay to the Condominium Board on account of the amount payable pursuant to this Section 5.1 for the then Operating Year the following amounts:

5.1.9.1 until the Condominium Board forwards the applicable Operating Statement for the immediately preceding Operating Year, the amount of the monthly payment due during December of such preceding Operating Year; and

5.1.9.2 after the Condominium Board forwards the applicable Statement for the immediately preceding Operating Year, one-twelfth (1/12th) of 105% of the amount payable pursuant to this Section 5.1 for such preceding Operating Year.

5.1.10 Once the Condominium Board forwards the applicable Operating Statement for the immediately preceding Operating Year, the Condominium Board and/or each Unit Owner, as the case may be, promptly shall make appropriate payment to the other (without interest) of any amount overpaid by such Unit Owner or owing to the Condominium Board for such Operating Year based on the amount due pursuant to such Operating Statement and amounts theretofore paid by such Unit Owner for such immediately preceding Operating Year.

5.1.11 The obligation of each Unit Owner and the Condominium Board to make any payment pursuant to this Section 5.1 shall survive the Ground Lease Expiration Date or any sooner termination of the Condominium and shall be appropriately prorated for any Operating Year which is only partially within the term of the Ground Lease.

5.1.12 Each Operating Statement given by the Condominium Board pursuant to this Section 5.1 shall be binding upon each Unit Owner unless, within ninety (90) days after its receipt of such Operating Statement, such Unit Owner notifies the Condominium Board of its disagreement therewith, specifying the portion thereof with which such Unit Owner disagrees. Each Unit Owner and its accountants, lawyers and professional consultants shall have the right, upon reasonable notice, to audit the Condominium Board's records regarding Common Expenses, but not more frequently than once per

Operating Statement (and once per revised or corrected Operating Statement) and only within one hundred fifty (150) days after the receipt of the applicable Operating Statement (or revised or corrected Operating Statement). Each Unit Owner covenants that (i) it and its accountants, lawyers and professional consultants will hold the results of any investigation into the Condominium Board's records in the strictest confidence (provided, however, that a Unit Owner may discuss the results of the audit with its attorneys, accountants and other professional consultants and use the information obtained in the audit to the extent required in any legal or arbitration proceedings related thereto or as may be required by Applicable Law), (ii) it will cause any attorneys, accountants and other consultants retained by it to make a similar covenant for the benefit of the Condominium Board, and (iii) the compensation payable to any party retained by it in connection with such an audit shall depend or be contingent, in whole or in part, on the results of any such audit or the resolution of any dispute with the Condominium Board regarding Common Expenses. Any disputes regarding Common Expenses shall be resolved by arbitration in accordance with Section 5.1.12 below. Pending resolution of such dispute and as a condition to any Unit Owner commencing an arbitration, such Unit Owner shall, without prejudice to its rights, pay all amounts determined by the Condominium Board to be due, subject to prompt refund by the Condominium Board (without interest) upon any contrary determination. If any dispute is resolved in such Unit Owner's favor, such unit Owner shall be entitled to dispute the same specific item in prior years, provided the time to dispute such prior year's Operating Statement has not expired.

5.1.13 Whenever a Unit Owner disputes the Condominium Board's calculation of the Common Expense Allocation payable by such Unit Owner under this Section 5.1, such Unit Owner's sole remedy therefor shall be to send a notice to the Condominium Board ("Hearing Notice"), specifying the specific item or items of Common Expense that it disputes ("Dispute") and electing to have the Dispute resolved by an informal hearing ("Hearing") upon and subject to the terms and conditions hereinafter set forth:

5.1.13.1 The Hearing shall be held at the offices of the hearing officer, who shall be designated by the American Arbitration Association in accordance with the then existing procedure of its New York City office, who shall be a certified public accountant with at least five (5) years' experience in New York City real estate accounting and who shall have had no dealings with the Condominium Board (or Fee Owner or Declarant) or the disputing Unit Owner (or such party's Affiliates) during the prior three (3) year period (the "Hearing Officer").

5.1.13.2 The Hearing shall be held within ten (10) days after the date on which the Hearing Officer is designated pursuant to substantive and procedural rules to be established by the Hearing Officer;

5.1.13.3 The determination by the Hearing Officer shall be conclusive upon the parties and shall be made within seven (7) days after the Hearing is completed; and

5.1.13.4 If the Condominium Board is determined to have overcharged such Unit Owner by five percent (5%) or less, such unit Owner shall pay the fees of the Hearing Officer. If the Condominium Board is determined to have overcharged such Unit Owner by

more than five percent (5%), the Condominium Board shall pay such fees along with such Unit Owner's reasonable audit fees regarding the matter in dispute.

5.1.14 "Special Assessments" shall mean those assessments levied against Unit Owners for the purpose of paying non-recurring, extraordinary expenses affecting the General Common Elements, including without limitation, capital expenses relating to the General Common Elements, or as otherwise expressly provided in the Declaration or these By-Laws. All Special Assessments relative to the General Common Elements shall be levied by the Condominium Board against the Unit Owners based upon such Unit Owner's respective Common Expense Allocation (except as otherwise provided in the Declaration or these By-Laws). Such Special Assessments shall be payable by the Unit Owners in addition to their respective obligations to pay Common Charges as hereinabove provided by this Section 5.1. Special Assessments may be payable either in one lump sum or in installments, as the Condominium Board shall determine, provided, however, that the Condominium Board shall give each Unit Owner not less than thirty (30) days' written notice, except in the case of an Emergency situation, prior to the date upon which such Special Assessment, or the first installment thereof, shall be due and payable, which notice shall set forth, in reasonable detail, the nature and purpose thereof. The Condominium Board shall have all rights and remedies for the collection of Special Assessments as are provided herein for the collection of Common Charges (including, without limitation, the provisions of Section 5.6 hereof). Notwithstanding anything to the contrary contained in this Section 5.1.14, the Condominium Board shall be expressly prohibited from levying a Special Assessment for any cost or expense that is otherwise excluded from Common Expenses pursuant to Section 5.1.3 of these By-Laws, unless such Special Assessment (or the costs or expenses comprising such Special Assessment) is expressly permitted to be charged to a Unit Owner pursuant to another provision in the Condominium Documents. As set forth elsewhere in these By-Laws, the Condominium Board may provide or make available certain services to the Unit Owners, and any costs thereof shall constitute a Special Assessment.

5.2 Insurance.

5.2.1 **Fee Owner.** It is understood that Fee Owner is obligated to carry certain insurance pursuant to the terms of the Ground Lease with respect to the General Common Elements.

5.2.2 **Condominium Board.** To the extent not carried by Fee Owner, the Condominium Board shall maintain general liability, casualty and fire insurance with extended coverage covering the Building in such form and in such amounts as the Condominium Board in its sole judgment shall deem acceptable and sufficient.

5.2.3 Unit Owners.

5.2.3.1 Each Unit Owner covenants and agrees, at its sole cost and expense and, at all times, keep in force in responsible insurance companies which (i) are licensed to do business in the State of New York; (ii) have a policyholders' rating of not less than "A" in the most current edition of Best's Insurance Reports; and (iii) shall be in form and substance as

the Condominium Board shall reasonably approve, the following insurance policies with respect to its Unit: (i) comprehensive general liability insurance, including a cross liability endorsement, with a limit in an amount not less than FIVE MILLION DOLLARS (\$5,000,000.00) combined single limit for bodily injury and property damage liability in any one occurrence (which may be a combination of direct and umbrella coverage); (ii) fire and extended coverage insurance on an "all-risk" basis (or, if the insurer uses proprietary forms and uses different policy names, then on a basis substantially similar to "all-risk"), on the contents of the Unit, including, but not limited to, all personal property, inventory, equipment, furnishings, furniture and the trade fixtures installed therein by such Unit Owner, with a limit in an amount not less than the full "replacement cost" thereof; (iii) "betterments and improvements" insurance on any and all changes, Alterations and betterments made or paid for by such Unit Owner in or to its Unit, with a limit in an amount not less than the full "replacement cost" thereof; (iv) Workers' Compensation and Employer's Liability insurance in accordance with all Applicable Laws; and (v) such other insurance and in such amounts as may from time to time be reasonably required by the Condominium Board (upon not less than ninety (90) days' prior written notice to the Unit Owner) in conformity with the requirements of owners (or condominium boards) of Comparable Buildings or the holder or holders of any Fee Mortgages (but no insurance shall be required under this clause (v) as to any Unit Owner unless a corresponding level of insurance is being required from a majority of all other similarly situated Unit Owners in the Building). Such insurance shall cover all risk of direct physical loss or damage, including but not limited to, water leakage, overflow and sewer and drain build-up and shall contain a provision that no act or omission of the insured Unit Owner shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained.

5.2.3.2 The insurance policies: (i) shall name in the liability policy provided in subsection 5.2.3.1 above Fee Owner, Declarant, the Condominium Board, the Building's managing agent, and any mortgagees, or lessors under any ground or underlying leases (or which the Unit Owner has written notice), and such others as the Condominium Board shall designate from time to time, as additional insureds; (ii) shall expressly provide that the insurance provided by Unit Owner to the Condominium Board thereunder shall be primary and non-contributing with any other insurance available to the Condominium Board; and (iii) will include a contractual indemnity endorsement as a part of the liability policy hereinabove provided in accordance with the provisions of Section 24.2 of the Declaration.

5.2.3.3 Each Unit Owner will furnish the Condominium Board with certificates of insurance so carried by such Unit Owner. Subject to applicable policy provisions, such policies of insurance shall not be cancelable or terminable, nor may the insurer change the limits hereinabove provided or otherwise affect the coverages hereinabove provided, without thirty (30) days' prior written notice to the Condominium Board. Said policies shall be for periods of not less than one (1) year and each Unit Owner shall deliver to the Condominium Board such certificates with evidence of the payment of premiums thereon, and shall endeavor to procure renewals thereof from time to time at least thirty (30) days before the expiration thereof.

5.2.3.4 No Unit Owner shall violate or permit to be violated any of the conditions or provisions of any such policies carried by such Unit Owner, and such Unit Owner shall so perform and satisfy the requirements of the companies writing such policies so that, at

all times, companies of good standing, satisfactory to the Condominium Board or any Fee Mortgagees, shall be willing to write and/or continue such insurance.

5.2.3.5 Each Unit Owner and the Condominium Board shall cooperate in connection with the collection of any insurance monies that may be due in the event of loss, and each Unit Owner shall execute and deliver to the Condominium Board such proofs of loss and other instruments which may be required for the purpose of obtaining the recovery of any such insurance monies.

5.2.3.6 In the event of any Unit Owner's failure to comply with the provisions of this Section 5.2.3, the Condominium Board may (upon not less than five (5) Business Days prior written notice to such Unit Owner) cause the same to be done for such Unit Owner's account and the cost thereof shall be deemed payable to the Condominium Board by such Unit Owner upon the rendering of bills (with reasonable back-up documentation) for the same. Supplementing the foregoing, but not in limitation thereof, the Condominium Board, Fee Owner and Declarant may recover from such Unit Owner, and each Unit Owner agrees to pay, any and all actual damages which the Condominium Board, Fee Owner or Declarant shall have reasonably sustained by reason of such Unit Owner's failure to obtain and keep in force any insurance which such Unit Owner is required to obtain and keep in force under the Condominium Documents, and the damages of such parties shall not be limited to the amount of the premiums thereon.

5.2.3.7 Each Unit Owner understands and agrees that the Condominium Board will not be obligated to carry insurance of any kind on any personal property in any Unit (regardless as to whether such property shall be owned by such Unit Owner and including, but not limited to, such Unit Owner's goods, supplies, furnishings, furniture, fixtures, equipment, improvements, betterments, installations or appurtenances). Each Unit Owner hereby waives any and all right of recovery which it might otherwise have against the Condominium Board, Fee Owner, Declarant, or any Fee Mortgagee, and their respective officers, directors, agents, contractors, servants and employees, for loss or damage to such property or any part thereof, to the same extent that such Unit Owner's insurers' right of subrogation would be waived if insurance coverage with waiver of subrogation provisions were being maintained by such Unit Owner upon all of such property. The provisions of this Section 5.2.3 shall also apply to each successor owner of any Unit, if any, and each permitted tenant or subtenant, if any, at any time occupying such Unit or any part thereof.

5.2.3.8 The Condominium Board and each Unit Owner shall each procure an appropriate clause in or endorsement to any property insurance covering the Common Elements or Units, as the case may be, or personal property, fixtures and equipment located therein, wherein the insurer waives subrogation or consents to a waiver of right of recovery, and the Condominium Board and each Unit Owner shall not make any claim against, or seek to recover from, the other for any loss or damage to its property or the property of others resulting from fire or other hazards.

5.2.3.9 The Condominium Board or its agents shall not be liable for any damage to property of any Unit Owner or of others entrusted to employees of the Building, nor for loss of or damage to any property of any Unit Owner by theft or otherwise, nor for any injury

or damage to persons or property resulting from any cause of whatsoever nature, unless caused by or due to the gross negligence of the Condominium Board, its agents, servants or employees. The Condominium Board or its agents will not be liable for any such damage caused by other Unit Owners or persons in, upon or about the Building or caused by operations in construction of any private, public or quasi-public work.

5.3 Repair or Reconstruction after Fire or Other Casualty.

5.3.1 If any Unit or any part thereof shall be damaged by fire or other casualty (collectively, a "Casualty"), the Unit Owner thereof shall give immediate notice thereof to the Condominium Board and the Condominium shall continue in full force and effect except as hereinafter set forth.

5.3.2 If a Unit is partially damaged or rendered partially unusable as a result of a Casualty, the damages thereto shall be repaired by and at the expense of the Unit Owner thereof and the Common Charges allocable thereto, until such repair shall be substantially completed, shall be apportioned from the day following the Casualty according to the part of the Unit which is usable. Notwithstanding the foregoing, during such time that the Unit is rendered partially unusable and the Unit Owner is excused from paying a portion of the Common Charges allocated to the unusable portion of the Unit, Declarant shall be responsible for payment of the portion of the Common Charges allocated to the unusable portion of the Unit so that there is not a deficiency in the payment of Common Charges due and owing for the Unit.

5.3.3 If a Unit is totally damaged or rendered wholly unusable as a result of a Casualty, then the Common Charges allocated thereto shall be proportionately paid up to the time of the Casualty and thenceforth shall cease until the date when the Unit shall have been repaired and restored by the, subject to Owner's right to elect not to restore the same as hereinafter provided. Notwithstanding the foregoing, during such time that the Unit is rendered unusable and the Unit Owner is excused from paying Common Charges, Declarant shall be responsible for payment of the Common Charges allocated to the unusable Unit so that there is not a deficiency in the payment of Common Charges due and owing for the Unit.

5.3.4 Unless the Condominium shall have been terminated in accordance herewith, the Condominium Board shall make the repairs and restorations under the conditions of Sections 5.3.2 and 5.3.3 hereof (the "Condominium Casualty Restoration Work"), with all reasonable expedition, subject to delays due to adjustment of insurance claims, labor troubles and causes beyond the Condominium Board's control. After any such Casualty, each Unit Owner shall cooperate with the Condominium Casualty Restoration Work by removing from its Unit as promptly as reasonably possible, all of such Unit Owner's salvageable inventory and movable equipment, furniture and other property. Each Unit Owner's liability for Common Charges shall resume five (5) days after written notice from the Condominium Board that such Unit Owner's Unit is (or if such Unit Owner owns more than one Unit, all of such Unit Owner's Units are) substantially ready for such Unit Owner's occupancy and thereafter, Declarant shall no

longer be responsible for making payments to cover deficiencies in Common Charges that Declarant was responsible for pursuant to the Sections 5.3.2 and 5.3.3 above.

5.3.5 Nothing contained hereinabove shall relieve a Unit Owner from liability that may exist as a result of damage from a Casualty. Notwithstanding the foregoing, the Condominium Board and each Unit Owner shall look first to any insurance in its favor before making any claim against the other party for recovery for loss or damage resulting from a Casualty, and to the extent that such insurance is in force and collectible and to the extent permitted by Applicable Law, the Condominium Board and each Unit Owner hereby releases and waives all right of recovery against the other or any one claiming through or under each of them by way of subrogation or otherwise. The foregoing release and waiver shall be in force only if both releasers' insurance policies contain a clause providing that such a release or waiver shall not invalidate the insurance policy in question. If, and to the extent, that such waiver can be obtained only by the payment of additional premiums, then the party benefiting from the waiver shall pay such premium within ten (10) days after written demand or shall be deemed to have agreed that the party obtaining insurance coverage shall be free of any further obligation under the provisions hereof with respect to waiver of subrogation. Each Unit Owner acknowledges that the Condominium Board will not carry insurance on such Unit Owner's furniture and/or furnishings or any fixtures or equipment, improvements, or appurtenances removable by such Unit Owner and agrees that the Condominium Board will not be obligated to repair any damage thereto or replace the same.

5.3.6 If the Building and/or any Unit are reconstructed or repaired following a Casualty, in accordance with the terms of these By-Laws, the Condominium Board shall use commercially reasonable efforts to perform the Condominium Casualty Restoration Work in a manner that restores the respective portions of the Building to substantially what existed prior to the occurrence of the Casualty, using materials and equipment that are at least comparable to the materials and equipment that was damaged or destroyed. However, if the size or volume of the Building or of any Unit changes (in the course of such reconstruction or repair) from its existing size or volume, the Condominium Board (acting on behalf of the Unit Owners) shall (x) fairly and reasonably adjust the Unit Owner's Common Interest using the same measurement standard as was used initially, as described in Article 12 of the Declaration, (y) fairly and reasonably adjust the Unit Owner's Common Expense Allocation using the same measurement standard as was used initially to determine the Common Expense Allocations, and (z) prepare and record in the City Register's Office an amendment to the Declaration and Floor Plans, confirming such reallocation.

5.3.7 In the event that three-fourths or more of the Building is destroyed or substantially damaged (a "Significant Casualty") and if 75% or more of all Unit Owners do not "promptly resolve" to proceed with the repair or restoration thereof, the Condominium Board may elect to not repair the Building and the Property shall be subject to an action for partition instituted by any Unit Owner or lienor, as if owned in common, in which case the net proceeds of sale, together with the net proceeds of insurance policies, shall be distributed to (and become the exclusive property of) Fee Owner. Notwithstanding anything contained in this subsection to the contrary, to the

extent otherwise required under the Condominium Act, any vote for the purposes of resolving whether or not to proceed with the repair or restoration of the Building (or any portion thereof) after a Significant Casualty and the termination of the Condominium shall be made by Declarant as appointed through the Power of Attorney granted pursuant to Section 9.3 and Article 19 of the Declaration. As used in this Subsection, the words "promptly resolve" mean resolve as promptly as practical under the circumstances, but in any event, not more than ninety (90) days from the date of such damage or destruction. If, however, the Condominium Board elects to demolish and rebuild a portion of the Building following a Significant Casualty, then, from the date of such Casualty and continuing until the earlier of (a) date that the Condominium Casualty Restoration Work with respect to the Unit(s) rendered unusable thereby has been substantially completed, or (b) the date that such Unit so rebuilt has reopened for business, the Unit Owner whose Unit has been rendered unusable thereby shall be relieved from the obligation to pay Common Charges.

5.3.8 In the event of a termination of the Condominium, a written notice to the Unit Owners, given within ninety (90) days after such Significant Casualty, specifying a date for the expiration of the Condominium, which date shall not be more than sixty (60) days after the giving of such notice (or such later date as is consistent with the terms of the Outside Offer), and upon the date specified in such notice the Condominium shall terminate, without prejudice, however, to the Condominium Board's rights and remedies against the Unit Owners under these By-Laws or the Declaration in effect prior to such termination. After any such Casualty, the Unit Owners shall cooperate with the Condominium Board's restoration by removing from their respective Units, as promptly as reasonably possible, all of the Unit Owner's salvageable Unit Owner's Property. In the event of a termination of the Condominium by reason of a Casualty, each of the Unit Owners shall assign its insurance proceeds (or the right to collect same) to Fee Owner, except that a Unit Owner shall not be obligated to assign any insurance proceeds relating to personal property to Fee Owner.

5.3.9 Supplementing the foregoing provisions of this Section 5.3: (x) if a written report by a reputable consultant reasonably selected by the Condominium Board determines that the repair or restoration of a Unit will take more than twelve (12) months after the date of the Casualty to complete, then the Unit Owner of such Unit shall have the right to cause the Condominium Board to purchase such Unit for the payment of \$10, by such Unit Owner delivering a notice of such Unit Owner's election (a "Purchase Notice") to the Condominium Board within thirty (30) days after receipt of such report, and (y) if for any reason the Condominium Board fails to complete such repair and restoration within twelve (12) months after the date of the Casualty, then such unit Owner shall have the right to right to cause the Condominium Board to purchase such Unit for the payment of \$10, sixty (60) days following such Unit Owner delivering a Purchase Notice to the Condominium Board if the Condominium Board fails to deliver the Unit in substantially complete condition within said sixty (60) day period, provided however, the Condominium Board's time to substantially complete the repair and restoration work may be extended due to delays primarily or proximately caused by such Unit Owner. In any such event, the Unit Owner in question shall deliver an executed and acknowledged deed in recordable form (together with all other reasonably required instruments,

documentation and tax forms) to the Condominium Board within ten (10) days following the date on which such Purchase Notice is delivered to the Condominium Board. On or before the date that such deed is delivered to the Condominium Board, the Unit Owner shall vacate and surrender possession (and all rights of occupancy by any party claiming by, through or under such Unit Owner) of the affected Unit.

5.3.10 In the event that any Unit Owner elects to transfer its Unit to the Condominium Board, any casualty insurance proceeds payable to the Owner of such Unit shall be payable to the Condominium Board after such election.

5.4 Payment of Common Charges.

5.4.1 The Unit Owners shall be obligated to pay to the Condominium Board the Common Charges assessed to them by the Condominium Board in accordance with the provisions of Section 5.1 at such time or times as the Condominium Board determines. Common Charges shall initially be payable, in twelve (12) equal monthly installments, and shall be due on the first day of each month. Unless otherwise determined by the Condominium Board, in its sole discretion, payments of Common Charges shall be made by the Unit Owners to the Condominium Board by ordinary check or wire transfer or ACH electronic transfer of immediately available federal funds in accordance with instructions provided by the Condominium Board to the Unit Owners from time-to-time, or such other method approved in advance in writing by the Condominium Board, and shall not, regardless of any receipt or credit issued therefor, constitute payment until the required amount is actually received by the Condominium Board's bank. Notwithstanding the preceding sentence, the Condominium Board, in its sole discretion, may direct the Unit Owners from time-to-time to pay Common Charges to a "lockbox" or other depository by check whereby checks are to be issued by the Unit Owners in payment of Common Charges, which checks may initially be cashed or deposited by a person or entity other than the Condominium Board (albeit on the Condominium Board's authority), by the Condominium Board delivering not less than thirty (30) days' (or if the payee's taxpayer identification number changes, sixty (60) days') prior written notice of the same to the Unit Owners (which notice shall set forth where, to whom and by what means the Common Charges are to be remitted). No Unit Owner may exempt itself from liability to pay Common Charges or from any of its other obligations hereunder by waiver of the use or enjoyment of any of the General Common Elements or by abandonment of its Unit. Any sums assessed against a Unit Owner by the Condominium Board or expended by the Condominium Board on behalf of a Unit Owner, as provided in the Declaration or these By-Laws, or any direct payment obligations hereunder, shall be deemed Common Charges payable under this Section 5.4 for which the Condominium Board shall have a lien for nonpayment as provided in this Section 5.4 and Section 5.6 of these By-Laws.

5.4.2 Provided that the Condominium Board shall consent in writing at the time of such sale or other conveyance (which consent may be withheld or conditioned by the Condominium Board in its sole and absolute discretion (except, in the case the GMHC Unit Owner, as otherwise provided in the GMHC Standards), based on the Condominium Board's analysis of the creditworthiness of the purchaser in question), (i) a Unit Owner

shall not be liable for the payment of any part of the Common Charges assessed against such Unit Owner's Unit subsequent to a sale or other conveyance by such Unit Owner (made in accordance with these By-Laws) of such Unit together with its appurtenant Common Interests, and (ii) a purchaser of a Unit shall not be liable for the payment of Common Charges accrued and unpaid against such Unit prior to the acquisition by such purchaser of such Unit. In the event of a foreclosure sale of a Unit by a Permitted Mortgagee or such Permitted Mortgagee's nominee or designee or by any third party (including, without limitation, any third party transferee obtaining title from a Permitted Mortgagee or a Permitted Mortgagee's nominee or designee), (x) the owner of such Unit prior to the foreclosure sale shall remain liable for the payment of all unpaid Common Charges that accrued prior to such sale, and (y) such Permitted Mortgagee or such Permitted Mortgagee's nominee or designee or by any third party (including, without limitation, any third party transferee obtaining title from a Permitted Mortgagee or a Permitted Mortgagee's nominee or designee) shall not be liable for the payment of any unpaid Common Charges that accrued prior to such sale. Except to the extent prohibited by Applicable Laws, the Condominium Board, on behalf of all Unit Owners, shall have a lien on each Unit for unpaid Common Charges, together with interest thereon, assessed against such Unit.

5.4.3 All liens provided for in Subsection 5.4.2 hereof, to the extent permitted by Applicable Law, shall be subordinate to the lien of any first Permitted Mortgage of record and to liens for Real Estate Taxes on the Unit.

5.4.4 Notwithstanding the provisions of Subsection 5.4.2 hereof, neither the seller nor the purchaser of a Unit shall be liable for, nor shall the Unit be conveyed subject to a lien for, any unpaid Common Charges against such Unit accrued prior to such conveyance in excess of the amount set forth in a written statement from the Condominium Board.

5.5 **Collection of Common Charges.** The Condominium Board shall take prompt action to collect any Common Charges due to the Board that remain unpaid for more than thirty (30) days after the due date for payment thereof.

5.6 **Default in Payment of Common Charges and Special Assessments.** Subject (in the case of GMHC) to the GMHC Standards, in the event any Unit Owner fails to make payment of Common Charges or Special Assessments or any other amount required to be paid by such Unit Owner pursuant to the Declaration or these By-Laws within ten (10) days after the same shall first come due, such Unit Owner shall be obligated to pay (a) a "late charge" equal to one (1%) percent of such amounts that remain unpaid for more than ten (10) days from their respective due dates (although nothing herein shall be deemed to extend the period within which such amounts are to be paid), and (b) interest at the rate of 1.5% per month (but in no event in excess of the maximum rate permitted by Applicable Law) on such unpaid amounts computed from the due date thereof, together with all reasonable expenses, including, without limitation, reasonable attorneys' fees paid or incurred by the Condominium Board or by any managing agent in any proceeding brought to collect such unpaid Common Charges or Special Assessments or in any action to foreclose the lien on such Unit arising from said unpaid Common Charges or Special Assessments as provided in Section 339-z of the Condominium

Act, in the manner provided in Section 339-aa thereof or in any other manner permitted by Applicable Law. Declarant shall not be obligated to pay any "late charge" or interest for the late payment of Common Charges or Special Assessments; provided, that the foregoing shall not relieve Declarant of its obligation to make timely payments of Common Charges or Special Assessments in a timely manner so as to ensure that the Condominium Board has available funds to pay its obligations on a timely basis. All such "late charges," interest and expenses shall be added to and shall constitute Common Charges or Special Assessments payable by such Unit Owner. Notwithstanding the foregoing, the Condominium Board may establish its own reasonable alternate fees for late payments, whether such fees are more or less than the charges set forth herein. The Condominium Board shall diligently and in good faith enforce the obligations of each Unit Owner to pay such Common Charges and/or Special Assessments that are the obligation of the respective Unit Owner, provided that nothing contained in this Article 5 shall be construed to impose any obligation upon the Condominium Board to commence or prosecute an action to foreclose a lien on a Unit because of unpaid Common Charges or Special Assessments or to take any other legal action in connection therewith.

5.7 Foreclosure of Liens for Unpaid Common Charges. In any action brought by the Condominium Board to foreclose a lien on a Unit because of unpaid Common Charges (or Special Assessments or any other amount required to be paid by such Unit Owner pursuant to the Declaration or these By-Laws), the Unit Owner shall be required to pay a reasonable rental for the use and occupancy of such Unit Owner's Unit and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver, after delivering reasonable prior notice to such Unit Owner, to collect the same. A suit to recover a money judgment for unpaid Common Charges (or Special Assessments or any other amount required to be paid by such Unit Owner pursuant to the Declaration or these By-Laws) shall be maintainable without foreclosing or waiving the lien securing such charges. No action shall be brought to foreclose such lien unless at least thirty (30) days' notice of claim of lien is given to the defaulting Unit Owner and any Permitted Mortgagee thereof. The Condominium Board, acting on behalf of the Unit Owners, shall have the power to bid in the amount of the lien at the foreclosure sale and to acquire and hold, lease, mortgage and convey same. In the event the net proceeds received on such foreclosure sale (after deduction of all reasonable legal fees, advertising costs, brokerage commissions and other reasonable costs and expenses incurred in connection therewith) are insufficient to satisfy the defaulting Unit Owner's obligations, such Unit Owner shall remain liable for the deficit.

5.8 Estoppel Certificates.

5.8.1 Within ten (10) days following the written request of any Unit Owner (but not more than three (3) times during any twelve (12) month period), the Condominium Board will deliver to such requesting Unit Owner, or to a prospective tenant, purchaser or mortgagee of such Unit Owner, a statement ("Condominium Board Estoppel Certificate"), in the form annexed hereto as Exhibit J-1, reciting the amount of Common Charges and any Special Assessments then payable and indicating (to the extent accurate) that such requesting Unit Owner is current in its payment of all amounts due under the Declaration and these By-Laws, that no written notice of default has been sent to such requesting party and, to the knowledge of the Condominium Board (without the Condominium Board having made any investigation), no such default exists. Any such

Condominium Board Estoppel Certificate may be relied upon by any permitted tenant, purchaser or mortgagee of such Unit.

5.8.2 Within ten (10) days following the written request of the Condominium Board, each Unit Owner will deliver to the Condominium Board, or to any party designated by the Condominium Board, a statement ("Unit Owner Estoppel Certificate"), in the form annexed hereto as Exhibit J-2, reciting the amount of Common Charges and any Special Assessments then payable and indicating (to the extent accurate) that no written notice of default has been sent by such Unit Owner to the Condominium Board (or to Declarant or Fee Owner, to the extent that any agreements between Unit Owner and Declarant and/or Fee Owner shall then exist), and, to the knowledge of such Unit Owner, no such default exists. Such Unit Owner Estoppel Certificate shall also state whether there has been any modification of any agreements entered into between such Unit Owner and the Condominium Board, Declarant or Fee Owner (respectively), and, if so, such Unit Owner Estoppel Certificate shall identify such modifications. Furthermore, such Unit Owner Estoppel Certificate shall contain such other information relating to such Unit Owner's occupancy of its Unit as the Condominium Board shall reasonably request. Any such Unit Owner Estoppel Certificate may be relied upon by any party designated by the Condominium Board.

5.9 **Statement of Common Charges.** The Condominium Board shall promptly provide any Unit Owner who so requests with a written statement of all unpaid Common Charges, Special Assessments, late charges and interest due to it from such Unit Owner.

5.10 **Real Estate Taxes.** In the event that, prior to the Units being separately assessed for Real Estate Taxes, the Condominium Board pays Real Estate Taxes on behalf of a Unit Owner, the amount of such Real Estate Taxes shall be determined by multiplying the total Real Estate Taxes due on the entire Property by the percentage of Common Interest carried by that Unit and same shall be deemed to be Common Charges, and the Condominium Board shall have a lien (as provided in Subsection 5.4.2 hereof) for any such accrued and unpaid amounts. The immediately preceding sentence shall not be construed to impose any liability for Real Estate Taxes on any Unit Owner that is entitled to an exemption from the payment of Real Estate Taxes (as confirmed by the New York City Department of Finance) during the period that such exemption shall be applicable. Notwithstanding the preceding sentence, if Real Estate Taxes which are initially assessed against each of the Units by the taxing authorities of the City of New York are in a different proportion (based upon the total assessment for the Units) than the proportion that the Common Interest of each Unit bears to the Common Interests of all Units, the Unit Owners shall, within thirty (30) days after the finalization of the tax roll for the fiscal year in which the Units are separately assessed, adjust the payment of Real Estate Taxes to reflect the proportionate allocation by the taxing authorities of the City of New York. Once the Real Estate Taxes are separately assessed against each Unit, Real Estate Taxes shall be paid directly by the Unit Owner to the New York City Department of Finance (and the Unit Owner's obligation to do so shall be in addition to such Unit Owner's obligation to pay Common Charges). Nothing contained in this Section 5.10 shall be construed to impose any liability for Real Estate Taxes on any Unit Owner that is entitled to an exemption from the payment of Real Estate Taxes (as confirmed by the New York City Department of Finance) during the period that such exemption shall be applicable.

5.11 Utilities. Except as specifically provided for herein, the Condominium Board shall have no obligation to provide any utilities to a Unit, including without limitation, heating, ventilating, plumbing, electric or air-conditioning services or equipment.

5.11.1 Electric Current.

5.11.1.1 Rates and conditions in respect to sub metering or rent inclusion, as the case may be, are set forth in subsection 5.11.1.2 below. Each Unit Owner covenants and agrees that at all times its use of electric current shall not exceed the capacity of existing feeders to the Building or the risers or wiring installation and no Unit Owner may use any electrical equipment which, in the Condominium Board's opinion, reasonably exercised, will overload such installations or interfere with the use thereof by other Unit Owners and tenants of the Building. Electrical service to each Unit shall (upon completion of Seller's Work in the case of the GMHC Units), be at a level of not less than six (6) watts (demand load) per useable square foot of such Unit (excluding base building HVAC). The change at any time of the character of electric service shall in no ways make the Condominium Board liable or responsible to any Unit Owner, for any loss, damages or expenses which such Unit Owner may sustain.

5.11.1.2 (a) Electric current shall be supplied to each Unit in accordance with, and subject to, the provisions of this subsection 5.11.1.2.

(b) Except as otherwise provided in this subsection 5.11.1.2, electric current shall be supplied by the Condominium Board pursuant to the provisions of this paragraph (b). The Condominium Board shall install, at the Condominium Board's sole cost and expense, a submeter (each, a "Submeter") to measure each Unit Owner's consumption (including electrical consumption by HVAC equipment servicing such Unit Owner's Unit) and demand of electricity. Each Unit Owner shall pay for the cost and expense in connection with the Maintenance of its Submeter. The Submeter shall be capable of being read remotely, at the Unit Owner's sole cost and expense. The amounts on the Submeter, absent demonstrable error, shall be binding and conclusive on the Unit Owner. Each Unit Owner shall purchase electricity from the Condominium Board or the Condominium Board's designated agent, at the charges, taxes, terms and rates as set forth on the Condominium Board's rate schedule, from time to time, in connection with the supply of electric current to the Building, plus an amount equal to two percent (2%) of such charges. The amount payable by the Unit Owner shall increase in the same proportion as any increases after August 28, 2017, in the charges, taxes, terms or rates to the Condominium Board in connection with the supply of electric current to the Building. When more than one meter measures the electrical service to any Unit the service rendered through each meter shall be billed separately in accordance with the charges taxes terms and rates stated herein, bills shall be rendered at such times as the Condominium Board may elect (but not more frequently than monthly) and (in the case of the GMHC Units, commencing on the earlier of (i) the GMHC Unit Owner's occupancy of all or any portion of the GMHC Unit or (ii) the GMHC Closing Date), the amounts as computed from meter readings shall be deemed to be, and be paid as, Special Assessments to the applicable Unit Owner. Each Unit Owner

at the Unit Owner's cost and expense shall be responsible to connect to the electric riser located in the Building to such Unit Owner's Unit, installing a disconnect switch and installing its own distribution panel and distribution system within such Unit. All work to be performed pursuant to this subsection 5.11.1.2 shall be performed by licensed electrical contractors approved by the Condominium Board in its sole and absolute discretion.

(c) If any taxes or charges are or shall be imposed upon the Condominium Board or its agent in connection with the sale or resale of electrical energy, where permitted by Applicable Law, each Unit Owner's pro rata share of such taxes or charges shall be passed on to such Unit Owner and paid by such Unit Owner to the Condominium Board or its agent upon demand, as a Special Assessment to such Unit Owner. Each Unit Owner will comply with all present and future general rules, regulations, terms and conditions applicable to service equipment, wiring and requirements in accordance with the regulations of the public utility corporation supplying electric current to the Building. All sums due and payable to Owner or its contractor, consultant or designee under this subsection 5.11.1.2 shall be payable to the Condominium Board as Special Assessments by the applicable Unit Owner.

(d) Each Unit Owner agrees to purchase all lighting tubes, lamps, bulbs and ballasts used in its Unit and to pay the cost of installation thereof.

(e) Consolidated Edison (the "Electric Service Provider") is currently the utility company selected by the Condominium Board to provide electricity service for the Building. Notwithstanding the foregoing, if permitted by Applicable Law and provided that the same does not result in any unreasonable interruption or diminution of service to any Unit, the Condominium Board shall have the right at any time and from time to time during the term of the Ground Lease to either contract for service from a different company or companies providing electricity service (each such company shall hereinafter be referred to as an "Alternate Service Provider") or continue to contract for service from the Electric Service Provider. Each Unit Owner shall reasonably cooperate (at no material cost to such Unit Owner) with the Condominium Board, the Electric Service Provider, and any Alternate Service Provider at all times and, as reasonably necessary, shall allow the Condominium Board, Electric Service Provider, and any Alternate Service Provider reasonable access to the electric lines, feeders, risers, wiring, and any other machinery within such Unit Owner's Unit. Except in the case of willful misconduct on the part of the Condominium Board or its employees, agents or representatives, the Condominium Board shall in no way be liable or responsible for any loss, damage or expense that a Unit Owner may sustain or incur by reason of any change, failure, interference, disruption, or defect in the supply or character of the electric energy furnished to any Unit, or if the quantity or character of the electric energy supplied by the Electric Service Provider or any Alternate Service Provider is no longer available or suitable for such Unit Owner's requirements, and no such change, failure,

defect, unavailability, or unsuitability shall in whole or in part, or entitle any Unit Owner to any abatement or diminution of Common Charges, or relieve such Unit Owner from any of its obligations under the Condominium Documents.

(f) The Condominium Board shall not be liable to any Unit Owner for any reduction in service, failure, or defect in the supply or character of electric current furnished to any Unit where such reduction in service, failure, or defect is required by Applicable Laws or results from any requirement, act or omission of the public utility supplying electricity to the Building or for any other reason whatsoever (except in the case of willful misconduct on the part of the Condominium Board or its employees, agents or representatives).

(g) In the event that pursuant to any of the provisions of this subsection 5.11.1.2 any initial determinations, statements or estimates are made by or on behalf of the Condominium Board (whether such initial determinations, statements or estimates are subject to dispute or not pursuant to the provisions of this Article), each Unit Owner shall pay to the Condominium Board the amount(s) set forth on such initial determinations, statements or estimates, as the case may be, until subsequent determinations, statements or estimates are rendered, at which time the Condominium Board and such Unit Owner shall make adjustment for any deficiency owed by such Unit Owner, or any overage paid by such Unit Owner.

(h) No Unit Owner's use of electric energy in its Unit shall at any time, in the reasonable judgment of the Condominium Board, (1) exceed the capacity of any of the electrical conductors and equipment in or otherwise serving such Unit or (2) cause or result in any impairment or interference with Base Building Systems, annoyance or inconvenience to other Unit Owners or the overloading of the risers or feeders serving the Building. In order to prevent the occurrence of any of the events described in the preceding sentence and to avert possible adverse effect upon the Building's electric service, no Unit Owner shall, without the Condominium Board's prior consent in each instance (which shall not be unreasonably withheld, delayed or conditioned), connect any fixtures, appliances or equipment (other than commercially reasonable and customary items for the uses permitted for such Unit under Article 8 of the Declaration) to the Building's electric distribution system or make any Alteration to the electric system of such Unit. Should the Condominium Board grant such consent, all additional risers or other equipment required therefor shall be provided by Owner and the cost thereof shall be paid by the applicable Unit Owner to the Condominium Board within ten (10) days after reasonably detailed invoice (with reasonable back-up documentation).

5.11.2 Elevators. The Condominium Board shall provide necessary passenger elevator facilities on Business Days from 8:00 a.m. to 6:00 p.m. and on Saturdays from 8 a.m. to 1 p.m. and have one (1) elevator subject to call at all other times (it being understood and agreed that the GMHC Unit Owner shall have two (2) dedicated elevators, provided that Declarant and the Condominium Board shall have the right to use

(and to permit other Unit Owners to use) the GMHC Unit Owner's freight elevator (on a non-exclusive basis with the GMHC Unit Owner, each party acting reasonably as to their respective needs) during any period that the Building's other freight elevator is out of service, provided that the Condominium Board or Declarant gives the GMHC Unit Owner reasonable prior notice of such service outage and uses commercially reasonable efforts to minimize the duration thereof).

5.11.3 Heat. The Condominium Board shall provide heat to the Units when and as required by Applicable Law, on Business Days from 8 a.m. to 6 p.m.

5.11.4 Water Charges. The Condominium Board shall provide to each Unit cold water for ordinary drinking, cleaning, and lavatory purposes, but if any Unit Owner or its Permitted Users uses or consumes water for any other purposes or in unusual quantities (of which fact the Condominium Board shall determine in its reasonable discretion), the Condominium Board may install a water meter at such Unit Owner's expense which such Unit Owner shall thereafter Maintain at such Unit Owner's expense in good working order and repair to register such water consumption and such Unit Owner shall pay for water consumed as shown on said meter as Special Assessments as and when bills are rendered.

5.11.5 Condenser Water. The Condominium Board shall provide to each Unit condenser water from the Building condenser water system as and when reasonably required for air conditioning on Business Days from 8 a.m. to 6 p.m. In the event that a Unit Owner shall require condenser water for air-conditioning or steam for heating at such times as same are not required to be furnished by the Condominium Board, then such Unit Owner shall give the Condominium Board advance notice of such requirement prior to the required time as set forth in Item #13 on Schedule A to the Declaration, and such Unit Owner shall pay the Condominium Board's then-prevailing rate therefor as a Special Assessment to such Unit Owner.

5.11.6 Interruption of Services. Subject to 5.11 of these By-Laws, the Condominium Board reserves the right to stop, interrupt, curtail or suspend the services furnished by the Condominium Board to the Unit Owners under these By-Laws when necessary by reason of accident, Emergency, mechanical breakdown, or when required by any Applicable Law, order or regulation of any federal, state, county or municipal authority, or for any other cause beyond the reasonable control of the Condominium Board or for Maintenance, Alterations, decorations or other work that are desirable or necessary in the commercially reasonable judgment of the Condominium Board. The Condominium Board shall use due diligence to complete all required Maintenance, Alterations, decorations or other work as quickly as reasonably possible, and to perform such Maintenance, Alterations, decorations or other work in a manner, so that a Unit Owner's inconvenience resulting therefrom may be for as short a period of time (and as minimal an inconvenience) as circumstances will reasonably permit, except that nothing shall be construed so as to require the Condominium Board to employ overtime help. Except as otherwise provided in the Declaration or these By-Laws, neither the Declarant nor the Condominium Board shall have any liability to any Unit Owner (and no diminution or abatement of Common Charges or Special Assessments or other

compensation shall or will be claimed by any Unit Owner as a result thereof), nor shall the Declaration or these By-Laws or any of the obligations of any Unit Owner thereunder or hereunder be affected or reduced by reason of such stoppage, interruption, curtailment or suspension.

5.11.7 Telephone and Data Connections. All telephone and other data and telecommunications connections which any Unit Owner may desire (including the location thereof) shall be first approved by the Condominium Board (which approval shall not be unreasonably withheld, delayed or conditioned), before the same are installed, and the performance of the work in connection therewith shall be performed by contractors approved by the Condominium Board (which approval shall not be unreasonably withheld, conditioned or delayed). Each Unit Owner shall have the right to designate the entity or entities providing telephone or other data and communication cable installation and Maintenance for its Unit subject to obtaining the Condominium Board's prior consent thereto (which consent shall not be unreasonably withheld, delayed or conditioned so long as such Unit Owner's use of such service provider would not, in the Condominium Board's reasonable judgment, materially adversely affect operations at the Building or otherwise result in any unreimbursed increase in the Condominium Board's costs or expenses); provided that the Condominium Board shall have the right to impose reasonable controls and to reasonably restrict and control access to telephone and other data and telecommunications cabinets and risers at the Building. It is acknowledged and agreed that each Unit Owner shall be entitled to the use, for telephone and other data and telecommunications cabling and wiring, of a reasonable allocation of riser space available at the Building for telephone and other data and telecommunications usage (not exceeding in any event, such Unit Owner's Common Interest of such available riser space provided such riser space is reasonably adequate to service the other Unit Owners and tenants of the Building). Each Unit Owner shall have (at no charge) rights of access to the telephone and other data and telecommunications closets, risers and telephone and other data and telecommunications cables at the Building as reasonably necessary for necessary Maintenance, installation and operation of such Unit Owner's telephone and other data and telecommunications cables and other equipment, provided that any such access by any Unit Owner or its representatives to any of the telecommunications closets, risers or other telephone and other data and telecommunication cables at the Building, shall be coordinated with the Condominium Board and shall be subject to the Condominium Board's reasonable regulations relating thereto. All such riser space used by any Unit Owner shall be at no additional usage charge to such Unit Owner; provided that in no event shall any Unit Owner have the right to install or store or place any equipment or other items within said riser space areas, other than the aforescribed telephone and data cabling and wiring and in all events such installation shall be subject to the provisions of Section 14.5 of the Declaration.

5.11.8 Sidewalks and Curbs. The Condominium Board shall, at the Condominium Board's expense (subject to Common Charge reimbursement), keep the sidewalk and curb in front of the Building clean and free from ice, snow, debris and rubbish.

5.11.9 Building Operating Standard. The Condominium Board shall ensure that, at all times, the Common Elements will be operated at a standard not lower than that applicable to Comparable Buildings.

5.11.10 Utilities Serving the General Common Elements and the Units. The cost and expense of water, sewer facilities, steam, electricity and gas serving or benefiting any General Common Element shall be determined by the Condominium Board and constitute a Common Expense; provided that the same shall not be greater than the reasonable, out-pocket-costs incurred by the Condominium Board for such expenses, plus a commercially reasonable administrative fee.

5.12 Maintenance, Cleaning and Repair Obligations.

5.12.1 Unit Owners.

5.12.1.1 Each Unit owner shall take good care of its Unit and the fixtures and appurtenances therein and keep the same in good Maintenance and repair. Each Unit Owner shall be responsible for all damage or injury to its Unit or any other part of the Building and the systems and equipment thereof, whether requiring structural or nonstructural repairs caused by or resulting from carelessness, omission, neglect or improper conduct of such Unit Owner or its Permitted Users, or which arise out of any work, labor, service or equipment done for or supplied to such Unit Owner or any of its Permitted Users or arising out of the installation, use or operation of the property or equipment of such Unit Owner or any of its Permitted Users. Each Unit Owner shall also repair all damage to the Building and its Unit caused by the moving of such Unit Owner's fixtures, furniture and equipment. Each Unit Owner shall promptly make at such Unit Owner's expense all repairs in and to its Unit for which such Unit Owner is responsible using a duly licensed contractor approved by the Condominium Board (such approval not to be unreasonably withheld, delayed or conditioned) and subject to the Condominium Board's Rules and Regulations and applicable labor laws and rules. Notwithstanding the foregoing or anything to the contrary herein, any Maintenance or Alterations required to be made in or to the Building or the Base Building Systems thereof for which a Unit Owner is responsible (or necessitated by the carelessness, omission, neglect or improper conduct of such Unit Owner or its Permitted Users, or which arise out of any work, labor, service or equipment done for or supplied to such Unit Owner or any of its Permitted Users) shall be performed by the Condominium Board at such Unit Owner's sole cost and expense.

5.12.2 Condominium Board.

5.12.2.1 The Condominium Board shall Maintain in good working order the General Common Elements of the Building, including, without limitation, the Structural Components of the Building (including the Structural Components portions of the Units) and the Base Building Systems (to the extent such Base Building Systems presently exist) serving the Building. Each Unit Owner agrees to give prompt notice of any defective condition in its Unit for which the Condominium Board may be responsible hereunder.

5.12.2.2 There shall be no allowance to any Unit Owner for diminution of value and no liability on the part of the Condominium Board by reason of inconvenience annoyance or injury to business arising from the Condominium Board or others making Alterations or performing Maintenance in or to any portion of the Building or such Unit Owner's Unit or in and to the fixtures appurtenances or equipment thereof. It is specifically agreed that (except as otherwise provided in the Declaration or these By-Laws) no Unit Owner shall be entitled to any set off or reduction of Common Charges by reason of any failure of the Condominium Board to comply with the covenants of this or any other article of the Declaration or these By-laws, and each Unit Owner's sole remedy at law in such instance will be by way of an action for damages for breach of contract. The provisions of this Section 5.12 shall not apply in the case of Condemnation or Casualty, which are dealt with in Article 8 and Section 5.3 hereof.

5.12.3 Window Cleaning; Window Repair and Replacement. No Unit Owner will clean nor require, permit, suffer or allow any window in its Unit to be cleaned from the outside in violation of Section 202 of the Labor Law or any other Applicable Law or of the Rules of the Board of Standards and Appeals or of any other Board or body having or asserting jurisdiction. The immediately preceding sentence shall not apply to any window cleaning performed by or on behalf of Declarant or the Condominium Board.

5.12.4 First (1st) Floor Window Cleaning. The Unit Owners of Units 5, 6, 7, 8, 9, 10 and 11 located on the First (1st) Floor of the Building shall be responsible for cleaning the First (1st) Floor Windows appurtenant to their respective Units solely at their own cost and expense.

5.12.5 Upper Floor Window Cleaning. In the event that a Unit Owner of a Unit located on Floors Mezzanine - 21 desires for the exterior of the window(s) appurtenant to its Unit to be cleaned, such Unit Owner shall provide the Condominium Board with a written request for such cleaning to be performed. The Condominium Board shall cause the exterior window(s) appurtenant to such Unit to be cleaned, solely at the cost and expense of the requesting Unit Owner (at the then-applicable building standard rate), and charged to such requesting Unit Owner as a Special Assessment.

5.12.6 Window Repairs. No Unit Owner shall be permitted to repair or replace any window located within its Unit, and such repair or replacement shall be performed by the Condominium Board.

5.13 Performance of Alterations in Units and General Common Elements.

5.13.1 Except as otherwise provided in the Declaration or these By-Laws, all Alterations in or to any General Common Elements will be made by the Condominium Board, and the cost and expense thereof will be charged to the Unit Owners as a Common Expense. The Condominium Board shall use commercially reasonable efforts to ensure that all Alterations performed by the Condominium Board will be promptly commenced and completed, and will be performed in such manner so as not to interfere in more than a de minimis manner with the occupancy of any Unit Owner.

5.13.2 Notwithstanding anything to the contrary set forth in the Declaration or these By-Laws, Declarant may make any Alterations in or to any Unit owned by Declarant or to the General Common Elements, without the consent of any other Unit Owner or the Condominium Board and without having to enter into any alteration agreement with respect thereto (and without being subject to the provisions of sections 5.13.3 – 5.13.6), provided that such Alteration (except if and to the extent that any such Alteration is (x) required in connection with Maintenance of any portion of the Building or the Base Building Systems or (y) reserved (in the case of GMHC) pursuant to the GMHC Standards) does not (i) have a material adverse effect on any other Unit, (ii) reduce the value or structural integrity of the Building, and/or (iii) create a GMHC Adverse Impact. The Condominium Board shall be authorized to execute any Required Documentation in connection with the performance of such Alterations. Declarant shall use commercially reasonable efforts to minimize interference with other Unit Owners in connection with the performance of such Alterations (but shall not be obligated to use overtime or other premium pay labor in connection therewith).

5.13.3 (a) Subject to the GMHC Standards, but notwithstanding anything else to the contrary set forth in the Declaration or these By-Laws, no Unit Owner, other than Declarant, shall make any Alterations (other than Non-Structural Alterations) in or to its Unit or the General Common Elements that such Unit Owner may have exclusive use thereof, without the Condominium Board's prior written consent, which consent shall not be unreasonably withheld or delayed. If there is any change performed by a Unit Owner or a Unit Owner's contractor without written consent from the Condominium Board, such Unit Owner shall restore such change to its original condition. Prior to the commencement of any Alterations, the Unit Owner shall submit to the Condominium Board, for the Condominium Board's approval, plans and specifications (to be prepared by and at the expense of such Unit Owner) for any proposed Alterations, in detail reasonably satisfactory to the Condominium Board. The Condominium Board's approval of any plans and specifications shall not indicate that such plans and specifications comply with Applicable Laws, Rules and Regulations; the applicable Unit Owner shall have sole responsibility for ensuring such compliance. If the Condominium Board shall give its approval to any such Alterations as provided herein, the same shall be performed by such Unit Owner, at such Unit Owner's sole cost and expense, in accordance (in all material respects) with the approved plans and in a good and workmanlike manner. Each Unit Owner shall, before making any Alterations at its expense, obtain all permits, approvals and certificates required by any governmental or quasi-governmental bodies and (upon completion) certificates of final approval thereof and shall deliver promptly duplicates of all such permits, approvals and certificates to the Condominium Board. Each Unit Owner agrees to carry and will cause such Unit Owner's contractors and sub-contractors to carry (x) worker's compensation in statutory amounts and (y) general liability, personal and property damage insurance with coverage of at least \$3,000,000 combined single limit. No amendments or additions to the approved plans and specifications shall be made without the prior written consent of the Condominium Board, which consent shall not be unreasonably withheld or delayed as to such Non-Structural Alterations.

(b) All Alterations in any Unit shall be performed by contractors, subcontractors, general contractor, construction manager and engineers that are on the list of approved contractors supplied by the Condominium Board (which list may be revised or updated by the Condominium Board from time to time) or approved in advance, in writing, by the Condominium Board (such approval not to be unreasonably withheld, delayed or conditioned).

(c) Each Unit Owner shall use commercially reasonable efforts to avoid disturbance to the occupants of other parts of the Building in connection with any Alterations. Each Unit Owner, in making such Alterations, shall and will, at such Unit Owner's own cost and expense, promptly comply with all Applicable Law, Rules and Regulations, whether now or hereafter enacted (including, without limitation, Local Law 58/1987 of the City of New York, as amended, and Title III of The Americans with Disabilities Act of 1990, all regulations issued thereunder and the Accessibility Guidelines for Buildings and Facilities issued pursuant thereto, as all of the foregoing may be amended from time, to time), of all public authorities having jurisdiction in the Building and/or such Unit Owner's Unit with reference to such Alterations (including, without limitation, the Landmarks Preservation Commission of the City of New York), whether ordinary or extraordinary, structural or otherwise, foreseen or unforeseen, and will not call upon the Condominium Board for any expenses connected therewith, and will reimburse the Condominium Board for any expenses incurred on account of failure by such Unit Owner to comply with any requirement of Applicable Law, Rules and Regulations, and of any public authority, whether involving Structural Alterations or not.

(d) Each Unit Owner shall promptly pay and discharge all costs and expenses of such Alterations, and shall not do or fail to do any act which shall or may render the Building liable for any mechanic's lien or other lien or charge or chattel mortgage or security interest or conditional bill of sale or title retention agreement. If any such lien or liens or other charge or chattel mortgage or security interest or conditional bill of sale or title retention agreement is filed against the Building or the Property, or against such Alterations, or any part thereof, the Unit Owner performing same will, at such Unit Owner's sole cost and expense, promptly remove the same of record within thirty (30) days after the filing of any such lien, or liens or other charge or chattel mortgage or security interest or conditional bill of sale or title retention agreement and notice of such filing to the Unit Owner by the Condominium Board or otherwise. If such Unit Owner is in default of its foregoing obligations under this paragraph, the Condominium Board may cause such lien or liens or other charge or chattel mortgage or security interest or conditional bill of sale or title retention agreement to be removed of record by payment or bond or otherwise, as the Condominium Board may elect, and promptly after written notice to such Unit Owner (with reasonable backup documentation), such Unit Owner will reimburse the Condominium Board for all costs and expenses incidental to the removal of any such lien or liens or other charge or chattel mortgage or security interest or

conditional bill of sale or title retention agreement incurred by the Condominium Board. Each Unit Owner covenants and agrees to indemnify and save harmless Fee Owner, Declarant, the Condominium Board (its members and officers) and the managing agent of and from all claims, counsel fees, loss, damage and expenses whatsoever by reason of any liens, charges, chattel mortgages, security interests, conditional bills of sale, title retention agreements or payments of any kind whatsoever that may be incurred or become chargeable against Declarant or the Condominium Board, or the Building, or said Alterations, or any part thereof, by reason of any work done or to be done or materials furnished or to be furnished to or upon such Unit Owner's Unit in connection with such Alterations.

(e) Each Unit Owner hereby covenants and agrees to indemnify and save harmless Fee Owner, Declarant, the Condominium Board (its members and officers), the managing agent and all other Unit Owners of and from all claims, reasonable counsel fees, loss, damage and expenses whatsoever by reason of any injury or damage, howsoever caused, to any person or property occurring prior to the completion of such Alterations or occurring after such completion, as a result of anything done or omitted in connection therewith or arising out of any fine, penalty or imposition or out of any other matter or thing connected with any work done or to be done or materials furnished or to be furnished in connection with such Alterations performed by such Unit Owner or at the request of such Unit Owner. At any and all times during the period of such Alterations, the Condominium Board shall be entitled to have a representative or representatives on the site to inspect such Alterations, and such representative or representatives shall have free and unrestricted access to any and every part of such Unit.

5.13.4 Each Unit Owner agrees that it will not, either directly or indirectly, use any contractors, labor and/or materials if the use of such contractors, labor and/or materials would or will create any difficulty with other contractors, subcontractors and/or labor then engaged by such Unit Owner or Declarant or the Condominium Board or others in the construction, Maintenance and operation of the Building or any part thereof.

5.13.5 Any Alterations shall comply with all Applicable Law and ordinances, and all rules, orders and regulations of all governmental and quasi-governmental agencies, authorities, bureaus, departments and officials, and of all insurance bodies, at any time duly issued or in force, applicable to the Building, such Unit owner's Unit, or any part thereof. Each Unit Owner shall, at such Unit Owner's sole cost and expense, provide, maintain and keep in force for the benefit of the Condominium Board, the Condominium Board's managing agent and other Unit Owners, during any period in which such Unit Owner is making any Alterations in and to its Unit or any part thereof, such protective liability and property damage insurance as the Condominium Board shall deem reasonably appropriate.

5.13.6 All fixtures and all paneling, partitions, railings and like installations, installed in any Unit at any time, either by such Unit Owner or by Declarant or the Condominium Board on such Unit Owner's behalf, shall remain upon and be surrendered

with the Unit at the end of the Ground Lease term. Nothing in this Section shall be construed to prevent a Unit Owner's removal of trade fixtures, moveable office furniture and equipment, but upon removal of any such items from the Property or upon removal of other installations as may be required by the Condominium Board, such Unit Owner shall immediately and at its expense, repair and restore the Unit to the condition existing prior to installation, and shall repair any damage to the Unit or the Building due to such removal. All property permitted or required to be removed by a Unit Owner at the end of the term of the Ground Lease remaining in the Unit after such Unit Owner's removal shall be deemed abandoned and may, at the election of Fee Owner, either be retained as Fee Owner's property or may be removed from the Property by Fee Owner, at the Unit Owner's expense.

5.13.7 Notwithstanding anything to the contrary contained in this Article 5, on or before the expiration of the Ground Lease, any Unit Owner other than the GMHC Unit Owner (it being agreed that the restoration obligations of the GMHC Unit Owner are as set forth in the GMHC Standards), at such Unit Owner's own cost and expense (and such Unit Owner's obligation to pay such costs and expenses shall be in addition to such Unit Owner's obligation to pay Common Charges), shall remove all telephone, data and communications equipment, wiring and components thereof installed by or on behalf of such Unit Owner, which are located inside and/or outside of such Unit Owner's Unit.

5.13.8 Notwithstanding anything to the contrary contained in this Article 5, if a Unit Owner seeks to undertake the performance of an Alteration that requires both the consent of the Condominium Board pursuant to these By-Laws and the consent of Fee Owner pursuant to the Ground Lease, such Unit Owner shall simultaneously deliver the appropriate documentation (as more particularly set forth in this Article 5 and in the Ground Lease) to both the Condominium Board and Fee Owner. If Fee Owner has approval rights under the Ground Lease with respect to the proposed Alteration, Declarant shall ensure that (i) Fee Owner's review of the proposed Alteration shall be coordinated with the review being conducted by the Condominium Board (so that the fees and expenses for such review shall not be duplicated) and (ii) Fee Owner will be bound by the same response requirements set forth in the Ground Lease (and deemed approvals, if and to the extent that the same shall be applicable).

5.14 Rules and Regulations.

5.14.1 Each Unit Owner, its servants, employees, contractors, agents, visitors, invitees and licensees shall observe faithfully and comply strictly with the Rules and Regulations attached hereto and incorporated herein as Schedule A to the Declaration. The Condominium Board shall have the right from time to time to make reasonable changes in and additions to the said Rules and Regulations with the same force and effect as if they were originally attached hereto and incorporated herein, provided the Unit Owner receives written notice of such changes at least thirty (30) days prior to the effectiveness thereof (with a right to object in writing within such thirty (30) days, which writing shall include a reasonably detailed explanation of such objection(s)) and such changes do not conflict with the terms of the Declaration and these By-Laws and are applicable to all Unit Owners in a non-discriminatory manner. In the event of a conflict

between the Rules and Regulations and the terms of the Declaration and these By-Laws, the terms of the Declaration and these By-Laws shall govern and control. Notwithstanding the foregoing, neither the Condominium Board nor Declarant shall have the right to make any modification to the Rules and Regulations unless the same (i) are reasonable, and (ii) are not adopted or applied by the Condominium Board in a discriminatory manner so as to materially adversely (and without justification) affect one Unit Owner and not the other(s).

5.14.2 Any failure by the Condominium Board to enforce any Rules and Regulations, now or hereafter in effect, against a Unit Owner shall not constitute a waiver of the enforceability of any such Rules and Regulations. Notwithstanding the foregoing, the Condominium Board shall use commercially reasonable efforts to apply and enforce such Rules and Regulations in a non-discriminatory manner.

5.14.3 No employee of the Condominium Board or of the Condominium Board's managing agent shall have any authority to accept the keys to a Unit. The delivery of keys to a Unit by a Unit Owner to any employee of the Condominium Board or of the Condominium Board's managing agent shall not operate to discharge any of such Unit Owner's obligations with respect to such Unit.

5.15 Zoning Rights.

5.15.1 Pursuant to the provisions of the Ground Lease, all Development Rights are reserved for the exclusive use of (or transfer by) Fee Owner. In furtherance of the foregoing, only Fee Owner shall have the right, (i) to cause all or any part of the Property and/or the zoning lot upon which the Building is located in whole or in part and/or the Building, to be combined with any other land or premises so as to constitute the combined premises into a single zoning "lot" or "development" or "enlargement" as those terms are now, or may hereafter be, defined in the Zoning Resolution of The City of New York (the "Zoning Resolution"), (ii) to cause any lot, development or enlargement at any time constituting or including all or any part of the Property, the Land or the Building to be subdivided into two or more lots, developments or enlargements, (iii) to cause Development Rights (whether from the Land or other premises) to be transferred to any such lot, development or enlargement, (iv) to cause other combinations, subdivisions and transfers to be effected, whether similar or dissimilar to those now permitted by Applicable Law or (v) to exploit, sell, convey, lease or otherwise transfer (and receive all proceeds therefrom) any so called "air rights", "air space", "zoning rights" or "development rights" above or appurtenant to the Land or the Building. Each Unit Owner and the Condominium Board (if necessary), will, at the request of Fee Owner, acknowledge that such Unit Owner and/or the Condominium Board (if necessary), is not a "party in interest" as defined in the Zoning Resolution, and shall not and cannot become a "party in interest" under any circumstances by virtue of its leasehold interest in its Unit or the Common Elements. Each Unit Owner and the Condominium Board (if necessary), will, at the request of Fee Owner, further acknowledge that neither the Unit Owner nor the estate or interest of the Unit Owner nor the Condominium Board hereunder would be "adversely affected" (within the meaning of the Zoning Resolution) by any development of the Land or the Building or any such combined premises nor by the filing of any

declaration combining all or a part of the Land or the Building with any other premises, and that the Unit Owner's estate and interest hereunder or the Condominium Board's interest hereunder, is not and would not be superior to any such declaration.

5.15.2 Notwithstanding the provisions of Section 5.15.1, above, in the event that a Unit Owner or the Condominium Board is deemed to have any of the rights disclaimed in Section 5.15.1 above, or is deemed to be a party in interest, such Unit Owner or the Condominium Board will, at the request of Fee Owner, transfer such rights and any rights as a party in interest to Fee Owner. In furtherance thereof, each Unit Owner and the Condominium Board will, within three (3) days after written request by Fee Owner, execute and deliver to Fee Owner a waiver of its right to join in a Declaration of Restrictions pursuant to Section 12-10 of the Zoning Resolution (a "Zoning Waiver"). Upon each transfer of a Unit by a Unit Owner in accordance with Article 7 hereof (with no consent thereto being implied hereby), the proposed transferee shall execute, acknowledge and deliver to Fee Owner, and at any other time or times, within three (3) days after written request of Fee Owner, the Unit Owner and each proposed transferee shall execute, acknowledge and deliver to Fee Owner, (i) any further Zoning Waiver, (ii) if requested by Fee Owner, any Declaration of Restrictions pursuant to said Section 12-10 (or any successor provision thereto), and (iii) any other instrument in form and substance satisfactory to the parties intended to evidence the fact that such Unit Owner (or such assignee) or the Condominium Board has no right and asserts no claim, and/or has transferred to Fee Owner any such right or claim, to participate in any way in the matters reserved to Fee Owner pursuant to the provisions of the Ground Lease. If a Unit Owner (or such assignee) or the Condominium Board fails to so execute any such instrument within ten (10) days after Fee Owner's written request therefor, such Unit Owner (or such assignee) or the Condominium Board hereby irrevocably appoints Fee Owner as its agent and attorney-in-fact, coupled with an interest, to execute and deliver the same in such Unit Owner's or the Condominium Board's name.

5.16 Hazardous Materials. Each Unit Owner shall keep its Unit free of contamination from any toxic or hazardous materials, substances and waste used or stored by such Unit owner and shall not permit any toxic or hazardous materials or substances to be present in its Unit except for those contained in cleaning supplies and office supplies commonly used in office buildings in the New York area in amounts reasonably necessary in connection with cleaning of such Unit Owner and the conduct of such Unit Owner's business therein. No odors, fumes, or noise shall emanate from any Unit, which can be smelled or heard outside such Unit, in any public hallway or in any other occupied area in the Building.

5.17 Unit Owner Operating Covenants. Each Unit Owner, recognizing that the Building has been developed and is being maintained as a location for a reputable type of business occupancy at a standard commensurate with the then-applicable class and standard of the Building, covenants that at all times (i) such Unit Owner's use of the Property will be consistent with the then-applicable character and dignity of the Building, (ii) the business to be conducted at, through and from such Unit Owner's Unit will be of a quality and standard so commensurate, (iii) if any Unit Owner is permitted by the terms of the Condominium Documents to conduct any sales activity, the sales methods employed in said business, as well as all other elements of merchandising, display and advertising, if any, will be dignified and in conformity

with high standards of practice in such Unit Owner's industry, and (iv) the appearance of the Unit and the appearance, number, location, nature and subject matter of all displays and exhibits placed or installed in or about the Unit visible to the exterior of the Unit, will be only such as meet with the Condominium Board's reasonable approval; and if at any time reasonably disapproved by the Condominium Board, such Unit Owner shall remove the basis of such disapproval in such manner and within such reasonable time as may be specified by the Condominium Board in written notice given by it to such Unit Owner for such purpose.

5.18 Adjacent Excavation - Shoring. If an excavation shall be made upon land adjacent to the Building or Land, or shall be authorized to be made, each Unit Owner shall afford to the person causing or authorized to cause such excavation license to enter upon such Unit Owner's Unit for the purpose of doing such work as said person shall deem necessary to preserve the wall or the Building from injury or damage and to support the same by proper foundations without any claim for damages or indemnity against Declarant, Fee Owner or the Condominium Board, or diminution or abatement of Common Charges or Special Assessments.

5.19 Miscellaneous (GMHC Standards). Notwithstanding anything to the contrary contained in the Declaration and these By-Laws, the GMHC Standards shall be interpreted in all instances to give effect to the overriding principle that the provisions of the Declaration and these By-Laws shall be applied to the GMHC Units only to the extent that the benefits and the limitations and obligations set forth therein are not set forth in the GMHC Standards, and any provisions of the Declaration (including the provisions of these By-Laws) and the GMHC Standards that conflict or are inconsistent shall be resolved in favor of GMHC Standards (it being understood that the GMHC Standards may in different instances be more or less extensive or more or less restrictive than the rights or obligations of other Unit Owners other than GMHC and that the obligations of the Condominium Board to GMHC be increased or decreased in some cases to the GMHC Units as compared to such obligations to other Unit Owners).

ARTICLE 6

MORTGAGES

6.1 Notice to Condominium Board. No Unit Owner other than Declarant shall have the right to mortgage their respective Unit. Declarant, or the holder of such mortgage (with each such holder being deemed a "Permitted Mortgagee" under the terms of the Declaration and these By-Laws), shall supply the Condominium Board with the name and address of the mortgagee, and shall file a conformed copy of the note and mortgage with the Condominium Board and shall also file a conformed copy of any satisfaction of mortgage with the Condominium Board. The Secretary of the Condominium shall maintain such information in a book entitled "Mortgages of Units."

6.2 Notice of Default and Unpaid Common Charges. The Condominium Board shall notify each Permitted Mortgagee, Declarant and Fee Owner of (i) any default in the payment of Common Charges by Declarant, (ii) any other default beyond all cure periods by Declarant of such Declarant Unit under the provisions of the Declaration or these By-Laws that may to the Condominium Board's knowledge then exist, and (iii) the commencement by the Condominium Board of any action or proceeding pursuant to Article 5 of these By-Laws.

6.3 Performance by Permitted Mortgagees. The Condominium Board shall accept, from any Permitted Mortgagee, payment of any sum or performance of any act required to be paid or performed by Declarant pursuant to the provisions of the Declaration or these By-Laws, with the same force and effect as though paid or performed by Declarant, and in such event the Permitted Mortgagee shall be entitled to an additional thirty (30) day period after expiration of applicable notice and cure periods within which to cure any monetary default by Declarant hereunder and an additional thirty (30) days after expiration of applicable notice and cure periods to cure any non-monetary default; provided, however, that in the case of a non-monetary default that cannot, in the exercise of diligence, be cured within such the thirty (30) day period, the Permitted Mortgagee shall have such time as is reasonably necessary to cure such non-monetary default (including any time reasonably necessary to obtain possession of the Property covered by such Permitted Mortgage if possession is necessary to enable such Permitted Mortgagee to cure or remedy such default or event of default), provided that such Permitted Mortgagee proceeds with all due diligence to cure or remedy such breach or default and/or obtain possession. To facilitate the foregoing, for a period of thirty (30) days following the giving of notice to a Permitted Mortgagee of a default by Declarant in payment of Common Charges, the Condominium Board will not commence a proceeding to foreclose its lien for Declarant's nonpayment of Common Charges or any Special Assessments. If the Permitted Mortgagee fails to cure said default within the aforesaid periods, the Condominium Board shall be free to commence a proceeding to foreclose its lien at its discretion. In the event that more than one Permitted Mortgage is secured by a Declarant Unit, the senior Permitted Mortgagee shall be entitled to take all actions permitted under this Article 6, unless all the Permitted Mortgagees otherwise designate a different Permitted Mortgagee to so act, by notice to the Condominium Board. Subject to the terms and conditions set forth in any loan documents executed in connection with a Permitted Mortgage then encumbering Declarant Units (and except as otherwise provided in said loan documents), the Permitted Mortgagee shall have a blanket, perpetual and non-exclusive easement to (i) enter the Condominium or any part thereof (upon reasonable prior written notice to the Condominium Board and subject to the rights of Unit Owners and their Permitted Users) to inspect the condition and repair of the General Common Elements, and (ii) to inspect the books and records of the Condominium. The permission of the Unit Owners shall not be required to exercise the foregoing rights. Notwithstanding anything to the contrary contained herein, in no event shall any Permitted Mortgagee take any action that would result in a GMHC Adverse Impact.

6.4 Rights of Permitted Mortgagees.

6.4.1 Any insurance proceeds or awards otherwise payable, pursuant to the terms of the Declaration or these By-Laws, to Declarant (and not the Condominium Board) shall, upon notice from a Permitted Mortgagee, be delivered instead to Declarant's Permitted Mortgagee.

6.4.2 If Declarant shall fail to appoint an arbitrator or otherwise fail to take any action as may be required or permitted under the Declaration and these By-Laws with respect to Arbitration within the time periods applicable thereto, such appointment or action as otherwise would have been permitted by Declarant may be taken by its Permitted Mortgagee, and such appointment and action shall be permitted in all respects by the other Unit Owners and the Condominium Board.

6.4.3 Subject to the terms and conditions set forth in any loan documents executed in connection with a Permitted Mortgage then encumbering a Declarant Unit (and except as otherwise provided in said loan documents), the Condominium Board shall not exercise any material approval, consent or voting right to which it is entitled under the Condominium Documents without obtaining the Permitted Mortgagee's prior written consent and, accordingly, in such instances, the Condominium Board's approval, consent or vote under the Condominium Documents shall not be deemed effective or given unless the Permitted Mortgagee has so consented thereto.

6.4.4 During the continuance of an event of default under a Permitted Mortgage on a Declarant Unit, the applicable Permitted Mortgagee shall have the rights and privileges that Declarant has as though the Permitted Mortgagee were in fact the owner of Declarant Unit, which rights and privileges shall include, without limitation, all voting rights accruing to Declarant under the terms of the Condominium Documents. Upon the occurrence and continuance of an event of default under a Permitted Mortgage on Declarant Unit, and to the extent so provided in said loan documents, the applicable Permitted Mortgagee may vote in place of Declarant and may exercise any and all of Declarant's rights. To the extent required by said loan documents, the Condominium Board will accept the resignation of the members of the Condominium Board, which shall be tendered at the request of the Permitted Mortgagee upon the continuance of an event of default under a Permitted Mortgage on Declarant Unit, and the Condominium Board shall accept the appointees to the Condominium Board designated by the Permitted Mortgagee.

6.4.5 Subject to the terms and conditions set forth in any loan documents executed in connection with a Permitted Mortgage then encumbering Declarant Unit (and except as otherwise provided in said loan documents), the Condominium Board shall not amend, supplement, terminate or modify the Condominium Documents, including, but not limited to, changing the boundaries of any Unit, changing any ownership percentage interest or votes allocated to a Unit or changing the rights of Declarant to appoint members to the Condominium Board, or permit the Condominium to be terminated, withdrawn from a condominium regime, partitioned, subdivided, expanded or otherwise modified, in each case without the prior written consent of the applicable Permitted Mortgagee.

6.4.6 Declarant shall notify each Permitted Mortgagee and Fee Owner of any Condominium Board or Declarant default that continues beyond all cure periods under the provisions of the Declaration or these By-Laws that may to Declarant's knowledge then exist.

ARTICLE 7

SELLING AND LEASING OF UNITS

7.1 **Selling and Leasing.** No Unit Owner (including Declarant and its designees) may sell or lease his or her Unit to a Prohibited Person. Except (with respect to any particular Unit Owner) as otherwise set forth in such Unit Owner's Differentiated Standards, no Unit

Owner other than Declarant or its designees may sell or lease his or her Unit without complying with the following provisions.

7.1.1 Right of First Refusal. Any Unit Owner (but subject to the last sentence of this Section 7.1.1) who receives a bona fide offer to (a) purchase his Unit together with its appurtenant interests in the General Common Elements or (b) lease his Unit (such offer to purchase or lease a Unit, as the case may be, is called an "Outside Offer," the party making any such Outside Offer is called "Outside Offeror" and the Unit Owner to whom the Outside Offer is made is called an "Offeree Unit Owner"), which he intends to accept, shall give notice, together with a copy of a signed agreement between the Outside Offeror and the Offeree Unit Owner, by certified or registered mail to the Condominium Board or by personal delivery upon any person so designated by the Condominium Board, of the receipt of such Outside Offer. Said notice shall also state the name and address of the Outside Offeror, the terms of the proposed transaction and such other information as the Condominium Board may reasonably require. The giving of such notice to the Condominium Board shall constitute an offer by such Unit Owner to sell his Unit together with its appurtenant interest in the General Common Elements or to lease his Unit to the Condominium Board, or its designee, corporate or otherwise, on behalf of all other Unit Owners, upon the same terms and conditions as contained in such Outside Offer and shall also constitute a representation and warranty by the Unit Owner who has received such Outside Offer, to the Condominium Board on behalf of all Unit Owners, that such Unit Owner believes the Outside Offer to be bona fide in all respects. The Offeree Unit Owner shall submit in writing such further information with respect thereto as the Condominium Board may reasonably request. Not later than thirty (30) days after receipt of such notice together with such further information as may have been requested, the Condominium Board may elect, by sending written notice to such Offeree Unit Owner before the expiration of said thirty (30) day period, by certified or registered mail, to purchase such Unit together with its appurtenant interest in the General Common Elements or to lease such Unit, as the case may be (or to cause the same to be purchased or leased by its designee, corporate or otherwise), on behalf of all Unit Owners, upon the same terms and conditions as contained in the Outside Offer and as stated in the notice from the Offeree Unit Owner. Notwithstanding the foregoing, the provisions of this Section 7.1.1 shall not apply to the GMHC Unit Owner or the GMHC Unit.

7.1.2 Condominium Board Acceptance. If the Condominium Board shall timely elect to purchase or lease such Unit together with its appurtenant interests in the General Common Elements, or to cause the same to be purchased or leased by its designee, corporate or otherwise, title shall close or a lease shall be executed at the office of the attorneys for the Condominium Board, in accordance with the terms of the Outside Offer, within sixty (60) days after the giving of notice by the Condominium Board of its election to accept such offer. At the closing, the Offeree Unit Owner, if such Unit together with its appurtenant interests in the General Common Elements is to be sold, shall convey the same to the Condominium Board, or to its designee, on behalf of all other Unit Owners, by deed in the form required by Section 339-o of the Real Property Law of the State of New York, with all tax and/or documentary stamps affixed at the expense of such Unit Owner, who shall also pay all other taxes arising out of such sale. Real Estate Taxes and Common Charges shall be apportioned between the Offeree Unit

Owner and the Condominium Board, or its designee, corporate or otherwise, as of the closing date. If such Unit is to be leased, the Offeree Unit Owner, as landlord, and the Condominium Board, or its designee, corporate or otherwise, as tenant, shall execute a lease covering such Unit for the rental and term contained in such Outside Offer.

7.1.3 Condominium Board's Waiver. If the Condominium Board or its designee shall fail to accept such offer within thirty (30) days after receipt of notice, as aforesaid, the Condominium Board shall be deemed to have waived its right of first refusal, but such waiver shall only be effective if Common Charges through and including the date of closing of title to such Unit have been paid, and such Offeree Unit Owner may consummate the sale or lease to the Outside Offeror. In the event that the Offeree Unit Owner does not, within ninety (90) days following the expiration of said thirty (30) day period consummate the sale or lease of such Unit to the Outside Offeror, then, should such Offeree Unit Owner thereafter elect to sell such Unit together with its appurtenant interest in the General Common Elements or to lease such Unit, as the case may be, the Offeree Unit Owner shall be required to again comply with all the terms and provisions of this Section 7.1.

7.1.4 Acceptance of Declaration and By-Laws. Any deed to an Outside Offeror shall be deemed to provide that the acceptance thereof by the grantee shall constitute an affirmative acceptance and assumption of the provisions of the Declaration, these By-Laws and the Rules and Regulations, as the same may be amended from time to time.

7.1.5 Default. Any purported sale or lease of a Unit in violation of this Section 7.1 shall be voidable at the election of the Condominium Board, and if the Condominium Board shall so elect, the Unit Owner shall be deemed to have authorized and empowered the Condominium Board to institute legal proceedings to evict the purported tenant (in case of an unauthorized leasing), in the name of the said Unit Owner as the purported landlord. Such Unit Owner shall reimburse the Condominium Board for all expenses (including attorneys' fees and disbursements) incurred in connection with such proceedings.

7.2 No Severance of Ownership. No Unit Owner shall execute any deed, mortgage or other instrument conveying or mortgaging title to his Unit without including therein its appurtenant interests in the General Common Elements, it being the intention to prevent any severance of such combined ownership. Any such deed, mortgage or other instrument purporting to affect one or more of such interests without including all such interests shall be deemed and taken to include the interest or interests so omitted even though the latter shall not be expressly mentioned or described therein. No part of the appurtenant interests in the General Common Elements of any Unit may be sold, conveyed or otherwise disposed of, except as part of a sale, conveyance or other disposition of the Unit to which such interests are appurtenant or as part of a sale, conveyance or other disposition of such part of the appurtenant interests in the General Common Elements of all Units.

7.3 Release by Condominium Board of Right of First Refusal. The right of first refusal contained in Section 7.1 may be released or waived by the Condominium Board only in

the manner provided herein. In the event the Condominium Board shall release or waive its right of first refusal as to any Unit, such Unit together with its appurtenant interests in the General Common Elements may be sold, conveyed or leased, free and clear of the provisions of Section 7.1, except that such release or waiver shall only be effective if Common Charges through and including the date of closing of title to such Unit have been paid.

7.4 Certificate of Termination of Right of First Refusal. A certificate executed and acknowledged by the Secretary or Assistant Secretary of the Condominium stating either that the provisions of Section 7.1 have been met by a Unit Owner or that the right of first refusal contained therein has been duly released or waived by the Condominium Board subject to the provisions of Section 7.3, and that as a result thereof the rights of the Condominium Board thereunder have terminated, shall be conclusive upon the Condominium Board and the Unit Owners in favor of all persons who rely on such certificate in good faith. The Condominium Board shall furnish such certificate upon request to any Unit Owner in respect to whom the provisions of Section 7.1 have, in fact, terminated. The Condominium Board may establish a reasonable fee for such certificate from time to time.

7.5 Unauthorized Sales or Leases of Units. Any purported sale, transfer, lease or occupancy of a Unit consummated in violation of this Article 7 shall be voidable at the election of the Condominium Board, and if the Condominium Board shall so elect, the Unit Owner shall be deemed to have authorized and empowered the Condominium Board to institute legal proceedings to eject the purported purchaser or transferee (in case of an unauthorized sale or transfer) or to evict the purported tenant or occupant (in case of an unauthorized leasing or occupancy agreement), in the name of the said Unit Owner as the owner or landlord, as the case may be and have record title restored, as required. Said Unit Owner shall reimburse the Condominium Board for all expenses (including reasonable attorneys' fees and disbursements) incurred in connection with such proceedings, and such expenses shall be a lien on such Unit until said expenses are paid and/or satisfied.

7.6 Exceptions. The provisions of this Article 7 shall not apply with respect to any sale, transfer, lease or occupancy of any Unit together with its appurtenant Common Interest by (a) Declarant or any Affiliate of Declarant, (b) the Condominium Board, (c) any proper officer conducting the sale of a Unit in connection with the foreclosure of a mortgage or other lien covering such Unit or delivering a deed in lieu of such foreclosure, (d) a Permitted Mortgagee or such Unit Owner's nominee, who has acquired title to any Unit at any foreclosure sale of such Unit Owner's Permitted Mortgage or by deed in lieu thereof delivered in a bona fide transaction, (e) a Permitted Mortgagee who acquires title to a Unit pursuant to the remedies contained in its Permitted Mortgage, (f) any Unit Owner to Declarant or any Affiliate of Declarant, or (g) in the case of the any particular Unit Owner, any transfer or lease permitted under the terms of such Unit Owner's Differentiated Standards. Further to the foregoing, upon the acquisition of any Unit together with its appurtenant Common Interest (through foreclosure, power of sale, deed in lieu of foreclosure or otherwise) by a Permitted Mortgagee or such Permitted Mortgagee's nominee or designee or by any third party (including, without limitation, any third party transferee obtaining title from a Permitted Mortgagee or Permitted Mortgagee's nominee or designee) (with each of the foregoing being referred to herein as a "Successor Owner"), such Successor Owner shall be deemed to be a successor in interest to all of Declarant's rights and interests under the Condominium Documents.

7.7 Conditions Precedent.

7.7.1 No sale or transfer of a Unit shall be effective or valid unless and until the Unit Owner delivers to the Condominium Board duplicate originals of the instrument of sale or transfer duly executed and acknowledged (wherein the purchaser or transferee assumes the performance of the Unit Owner's obligations under these By-Laws and the Declaration) and all related and accompanying documents; provided, however, that if the transferor is then current in all of its monetary obligations under these By-Laws and the Declaration, the aforesaid assumption by the purchaser or transferee shall be applicable only to obligations arising following such sale or transfer.

7.7.2 No lease or other occupancy agreement of all or any part of a Unit or modification of a lease or other occupancy agreement shall be effective or valid unless and until the Unit Owner delivers to the Condominium Board (x) duplicate originals of the instrument of the lease or other occupancy agreement (containing the provisions required by this Article 7) and all related and accompanying documents and (y) a certificate of insurance evidencing that (a) the Condominium Board is an additional insured under the insurance policies required to be maintained by Unit Owners of the Building pursuant to Section 5.2 of these By-Laws, and (b) there is in full force and effect, the insurance otherwise required by such Section 5.2. No leasing or other occupancy shall be for a term (including any renewal or extension options contained in the lease or other occupancy agreement) ending later than one day prior to the expiration date of the Ground Lease. Any lease shall be subject and subordinate to these By-Laws, the Declaration and the Ground Lease, and shall contain substantially the following provisions (modified as appropriate to be applicable to subleases or other occupancy agreements):

"In the event of a default under any underlying lease of all or any portion of the premises demised hereby that results in the termination of such lease, the tenant hereunder shall, at the option of the Condominium Board, attorn to and recognize the Condominium Board as landlord hereunder and shall, promptly upon the Condominium Board's request, execute and deliver all instruments necessary or appropriate to confirm such attornment and recognition. Notwithstanding such attornment and recognition, the Condominium Board shall not (A) be liable for any previous act or omission of the landlord under this lease, (B) be subject to any offset that shall have accrued to the tenant hereunder against said landlord, or (C) be bound by any modification of this lease or by any prepayment of more than one month's rent, unless such modification or prepayment shall have been previously approved in writing by the Condominium Board. The tenant hereunder hereby waives all rights under any present or future law to elect, by reason of the foreclosure of any lien on the applicable Unit or other termination of any possessory rights with respect to the applicable Unit, to terminate this lease or surrender possession of the premises demised hereby; and

"This lease may not be assigned or modified or the premises demised hereunder further sublet, in whole or in part, without the prior written consent of the Condominium Board in accordance with the terms of these By-Laws."

7.8 Subsequent Transactions. The Condominium Board's waiver of its right of first refusal in connection with any sale, transfer, lease or other occupancy agreement shall neither release the Unit Owner from its liability for the performance of such Unit Owner's obligations under these By-Laws or the Declaration nor constitute the Condominium Board's waiver of its right of first refusal in connection with any further sale, transfer, lease or other occupancy of the Unit. If a lease or other occupancy agreement to which the Condominium Board has issued a waiver of its right of first refusal is assigned or is modified in any material manner, then all of the procedures and requirements set forth in this Article 7 shall be deemed to apply to such assignment or modification as if the same were the initial lease or other occupancy transaction. If all or any portion of the Unit that has been leased is sublet without the waiver of the Condominium Board's right of first refusal in each instance obtained (in such case where the waiver of the Condominium Board would have been required had such sublease been a lease), then the Unit Owner shall immediately terminate such sublease, or arrange for the termination thereof, and proceed expeditiously to have the occupant thereunder dispossessed. Without limiting the generality of the foregoing, any subleasing of any Unit (or portion thereof) of any tier shall be subject to the same procedures and requirements set forth in this Article 7 that would have applied had such sublease transaction been a direct lease transaction.

7.9 Costs. The Unit Owner shall pay to the Condominium Board, promptly upon demand therefor, all reasonable out-of-pocket costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by the Condominium Board in connection with any sale or transfer of its Unit or the lease or other occupancy agreement, modification of such lease or other occupancy agreement, or any assignment, subletting or further occupancy of all or any part of its Unit, whether proposed or consummated.

7.10 Exculpation and Indemnity. The Condominium Board shall have no liability to a Unit Owner (or to any broker engaged by such Unit Owner), or to the proposed transferee of a Unit by a Unit Owner in accordance with Article 7 hereof (with no consent thereto being implied hereby), if the Condominium Board shall not provide a waiver of its right of first refusal to any such proposed transfer, and such Unit Owner shall indemnify, defend and hold the Condominium Board and all Indemnified Parties harmless from and against any and all loss, liability, damages, cost and expense (including, without limitation, reasonable attorneys' fees and disbursements), resulting from any claims that may be made against the Condominium Board by the proposed transferee or by any brokers or other persons claiming a commission or similar compensation in connection with such proposed transfer.

7.11 Transfer of Declarant Rights. Notwithstanding anything to the contrary set forth herein, Declarant may transfer any rights held by Declarant under the Condominium Documents and any special rights held as Declarant Unit Owner to any person that purchases all (but not less than all) of Declarant Units.

ARTICLE 8

CONDEMNATION

8.1 Repair and Restoration. Subject (in the case of any particular Unit Owner) to such Unit Owner's Differentiated Standards, if the whole or any substantial part (i.e., twenty five

(25%) percent or more of the aggregate rentable area of the Building) of the Building shall be condemned by eminent domain or acquired by private purchase in lieu thereof, for any public or quasi-public purpose (collectively, a "Condemnation"), or if twenty five (25%) percent or more of the Units in the Condominium shall become subject to a Condemnation, the Condominium Board shall have the right to terminate the Condominium on the date of the vesting of title through such proceeding or purchase, in which case the proceeds of any award shall be distributed to Fee Owner. The Unit Owners shall have no claim against the Condominium, the Condominium Board, Declarant or Fee Owner for the value of their respective Units, nor shall the Unit Owners be entitled to any part of the condemnation award or private purchase price.

8.2 Damages. Damages awarded to any Unit Owner for any Condemnation shall be promptly paid over and shall belong to Fee Owner, whether or not the damages are awarded as compensation for loss or reduction in value of the Building; however, nothing shall restrict or limit a Unit Owner from asserting a claim for any additional damages resulting from the Condemnation for any unamortized Unit Owner improvements paid for by the Unit Owner, the interruption of the Unit Owner's business, the Unit Owner's moving expenses, or the Unit Owner's Fixtures and Unit Owner's Property, provided that such claim does not reduce Fee Owner's award.

8.3 Unit Re-Purchase. Notwithstanding anything to the contrary contained in this Article 8, each Unit Owner shall have the right (i) to require Declarant to repurchase the relevant Unit for a purchase price of \$10 in the event that (x) either (a) the Condominium Board shall not exercise the Condominium termination right set forth in Section 8.1 above, if applicable, or (b) the conditions set forth in Section 8.1 above that would allow the Condominium Board to terminate the Condominium shall not have occurred, and (y) a portion of such Unit Owner's Unit in excess of twenty five (25%) percent of the aggregate area thereof shall become subject to a Condemnation, but only if the Unit Owner shall reasonably determine that it is not in the Unit Owner's economic interest to continue the Unit Owner's occupancy of its Unit as a result of such Condemnation, and (ii) to seek an award (and retain any award that the Unit Owner is successful in obtaining) from the condemning authority for any damages suffered by the Unit Owner in connection with such Condemnation, provided that such claim does not reduce Fee Owner's award.

8.4 Adjustment of Common Interest. If all or a portion of any Unit shall be taken by Condemnation, and the Condominium is not terminated as set forth above in this Article 8, the Common Interest appurtenant to each Unit remaining after such taking shall be adjusted as follows: (a) if one Unit is taken in its entirety, the Common Interest appurtenant to the remaining Units shall be increased in proportion to the existing Common Interests of such Units to 100% in the aggregate; and (b) if a portion of any Unit (a "Partially Taken Unit") is so taken and any other Units (a "Retained Unit") are not taken, then each Partially Taken Unit shall, for the purpose of calculation only, be treated as if it had been divided prior to such taking into two (2) Units, one of which (the "Non-Taken Unit") having appurtenant thereto a Common Interest equal to the product of the Common Interest of the Partially Taken Unit and a fraction, the numerator of which is the floor area in square feet of the Non-Taken Unit and the denominator of which is the floor area in square feet of the Partially Taken Unit, and the other of which (the "Taken Unit") having appurtenant thereto a Common Interest equal to the product of the Common Interest of the Partially Taken Unit and a fraction, the numerator of which is the floor

area in square feet of the Taken Unit and the denominator of which is the area in square feet of the Partially Taken Unit (the "Taken Common Interest"). The Taken Common Interest shall be allocated among the Retained Units and the Non-Taken Units in proportion to their respective Common Interests prior to such reallocation.

8.5 Self-Contained Unit. If all or a portion of any Unit shall be taken by Condemnation, and the Condominium is not terminated as set forth above in this Article 8, the Condominium Board shall (or shall cause Fee Owner to) restore such Unit to a self-contained unit (with the cost thereof not to be included in Common Charges), and, with respect to that portion of the Unit so taken, such Unit Owner's ownership shall cease and terminate from the date of title vesting in such proceeding (and such Unit Owner's obligation to pay Common Charges and Special Assessments shall be equitably apportioned from and after such date).

8.6 Condominium Repairs. If all or a portion of the Property shall be taken by Condemnation, and the Condominium is not terminated as set forth above in this Article 8, the Condominium Board shall (or shall cause Fee Owner to) make such repairs as the Condominium Board (or Fee Owner) shall reasonably deem necessary in connection therewith (with the cost thereof not to be included in Common Charges).

8.7 Temporary Taking. Subject (in the case of any particular Unit Owner) to such particular Unit Owner's Differentiated Standards, in the event of a temporary taking (i.e., less than one (1) year) of the use of a Unit (or a portion thereof), the affected Unit Owner shall not be released from or with respect to any of such Unit Owner's obligations under the Declaration or these By-Laws (including, without limitation, the obligation to pay Common Charges and Special Assessments), but the Condominium Board shall assign to such Unit Owner any award made for such temporary taking of the use of such Unit (or portion thereof).

8.8 GMHC Units. Notwithstanding anything to the contrary set forth in this Article 8, with respect to the GMHC Units only, the GMHC Unit Owner's rights and obligations under this Article 8 shall be subject in all respects to the applicable provisions of the GMHC Standards.

ARTICLE 9

RECORDS

9.1 Records. The Condominium Board or the managing agent for the Condominium Board, if any, shall keep detailed records of the actions of the Condominium Board, minutes of the meetings of the Condominium Board, and financial records and books of account with respect to the activities of the Condominium Board, including a listing of all receipts and expenditures. Unit Owners shall not have any right to challenge or audit such financial records or books of account except as expressly set forth in Section 5.1.8 of these By-Laws, and, by acceptance of a deed to their respective Units, all Unit Owners are deemed to waive any other rights to challenge or audit such financial records or books of account, to the extent such waiver is permitted by Applicable Law.

9.2 Availability of Documents. Copies of the Declaration, these By-Laws, the Rules and Regulations and the Floor Plans, as the same may be amended from time to time, shall be maintained at the office of the Condominium Board and shall be available for inspection by Unit Owners and their authorized agents during reasonable business hours.

ARTICLE 10

ARBITRATION

10.1 General Procedure. Any arbitration provided for in the Declaration or these By-Laws shall be conducted in accordance with the provisions of this Article 10. Arbitration will be conducted before one impartial arbitrator in New York City by the American Arbitration Association or any successor organization thereof, in accordance with its rules then in effect, and the decision rendered in such arbitration will be binding upon the parties and may be entered in any court having jurisdiction. In the event that the American Arbitration Association is not then in existence and has no successor, any arbitration hereunder will be conducted in New York City before one impartial arbitrator appointed, on application of any party, by any justice of the highest court of appellate jurisdiction located in the County of New York having jurisdiction over the matter. The decision of the arbitrator so chosen will be given within ten (10) days after such arbitrator's appointment. Any arbitrator appointed or selected in connection with any arbitration under this Article 10 will be a lawyer or real estate owner, developer, or manager familiar with office condominium properties and having general legal or real estate experience, as the case may be, of not less than fifteen years.

10.2 Agreement by Parties. The parties to any dispute under the Declaration and these By-Laws (including disputes between a Unit Owner and the Condominium Board, and disputes between Unit Owners involving the Declaration and these By-Laws) agree that such dispute shall be submitted to Arbitration as set forth in Section 10.3 below, whether or not the provisions specifically calls for Arbitration of disputes. However, by mutual agreement between them, parties may vary any of the provisions of Section 10.1 with respect to the Arbitration of such dispute, or may agree to resolve their dispute in any other manner, including, without limitation, the manner set forth in Section 3031 of the New York Civil Practice Law and Rules and known as the "New York Simplified Procedure for Court Determination of Disputes." Notwithstanding anything to the contrary contained in this Article 10, the Condominium Board reserves the right to elect whether any dispute relating to (i) the payment of any monies from a Unit Owner to the Condominium Board or any of the Indemnified Parties, (ii) the termination of the Condominium, or (iii) the termination of any right of a Unit Owner (or any Person claiming by, through or under such Unit Owner) to occupy a Unit or any portion thereof shall be resolved by Arbitration or through any courts located in the City of New York that may have jurisdiction over such dispute.

10.3 Expedited Arbitration Proceeding. Any dispute subject to Arbitration shall be submitted to an "Expedited Arbitration Proceeding," which shall be a binding arbitration proceeding conducted in The City of New York under the Commercial Arbitration Rules of the AAA and administered pursuant to the Expedited Procedures provisions thereof; provided, however, that with respect to any such arbitration, (a) the list of arbitrators referred to in Section E-5(b) thereof will be returned within five (5) days from the date of mailing; (b) the

parties will notify the AAA by telephone, within four (4) days, of any objections to the arbitrator appointed and will have no right to object if the arbitrator so appointed was on the list submitted by the AAA and was not objected to in accordance with Section E-5(b) as modified by clause (a) above; (c) the notification of the hearing referred to in Section E-8 will be four (4) days in advance of the hearing; (d) the hearing will be held within seven (7) days after the appointment of the arbitrator; (e) the decision of the arbitrator will be final and binding on the parties; and (f) the arbitrator will not have been employed by either party (or their respective affiliates) during the period of three (3) years prior to the date of the Expedited Arbitration Proceeding.

10.4 Costs and Expenses. The arbitrator will determine the extent to which each party is successful in any arbitration proceeding conducted pursuant to this Article in addition to rendering a decision on the dispute submitted. If the arbitrator determines that one party is entirely unsuccessful, such party will pay all of the fees of such arbitrator. If the arbitrator determines that both parties are partially successful, each party will be responsible for such arbitrator's fees only to the extent such party is unsuccessful (e.g., if a party is eighty percent (80%) successful and the other party is twenty percent (20%) successful, then the party that is eighty percent (80%) successful will be responsible for twenty percent (20%) of such arbitrator's fees, and the party that is twenty percent (20%) successful will be responsible for eighty percent (80%) of such arbitrator's fees). Each disputant will bear the fees and expenses of its own counsel and expert witnesses, except that the other party shall be responsible therefor to the extent that such other party shall be deemed unsuccessful in accordance with the preceding provisions. All costs and expenses paid or incurred by the Condominium Board in connection with any arbitration held hereunder, including, without limitation, the fees and expenses of counsel and expert witnesses, shall not be included in Common Expenses.

10.5 Ground Lease Exceptions. Notwithstanding any other provision contained herein to the contrary, this Article 10 shall not require or permit the use of Arbitration for a dispute between certain parties where arbitration is not available under the Ground Lease with respect to either such parties or such dispute. A determination that is made with respect to the rights and obligations of a party pursuant to the Ground Lease (whether by Arbitration under the Ground Lease or otherwise) shall be deemed binding as a determination of such obligation under the Declaration (and these By-Laws) and shall not create the availability of separate Arbitration of such disputes under the Declaration (and these By-Laws).

ARTICLE 11

CERTAIN REMEDIES AND CURE RIGHTS

11.1 Self Help. Subject (in the case of any particular Unit Owner) to such particular Unit Owner's Differentiated Standards, if any Unit Owner shall violate or breach any of the provisions of the Declaration and these By-Laws on such Unit Owner's part to be observed or performed, including, without limitation, any breach of Unit Owner's obligation to Maintain its Unit pursuant to the terms of the Declaration and these By-Laws, and shall fail to cure such violation or breach within fifteen (15) days after receipt of written notice of the same from the Condominium Board, the Condominium's managing agent, or Declarant or Fee Owner (or, with respect to any violation or breach of the same not reasonably susceptible to cure within such period, to commence such cure within such 15-day period and, thereafter, to prosecute such cure

with due diligence to completion), the Condominium Board shall have the right, on five (5) days' notice (except in the case of an Emergency, in which case prior notice shall be required only if and to the extent that such prior notice is reasonable under the circumstances), to enter such Unit Owner's Unit, and summarily to abate, remove, or cure such violation or breach without thereby being deemed guilty or liable in any manner of trespass. In addition, in the event that the Condominium Board shall determine that the abatement, removal, or cure of any such violation or breach is immediately necessary for the preservation or safety of the Building or for the safety of the occupants of the Building or other individuals or is required to avoid the suspension of any necessary service in the Building, the Condominium Board may take such action immediately, without allowing said Unit Owner any period of time within which to cure or to commence to cure such violation or breach, and with only such prior notice as shall be reasonable under the then prevailing circumstances. Each Unit Owner shall be entitled to have a representative present at all times when the Condominium Board accesses such Unit Owner's Unit, but may waive such right in writing at any time. In the event that the Condominium Board requires access to such Unit Owner's Unit in an Emergency situation, then such Unit Owner shall be entitled to have its representative present during such access (provided that such Unit Owner makes such representative available), but such entitlement shall not be construed to change the Condominium Board's notice obligation applicable to its access to the Unit in the case of an Emergency.

11.2 Right of Injunction.

11.2.1 In addition to the remedies set forth in Section 11.1 above, if any Unit Owner shall violate or breach any of the provisions of the Declaration and these By-Laws on such Unit Owner's part to be observed or performed, the Condominium Board shall have the right to enjoin, abate, or remedy the continuance or repetition of any such violation or breach by appropriate proceedings brought either at law or in equity, provided that the Condominium Board gives the Unit Owner written notice that such violation exists, that repairs or replacements are necessary and that the Condominium Board will complete such repairs or replacements in the event the Unit Owner does not promptly act or complete the repairs or replacements.

11.2.2 Furthermore, the violation or breach of any of the terms of the Declaration and these By-Laws with respect to any rights, easements, privileges, or licenses granted to Declarant or a Unit Owner shall give to Declarant or the Condominium Board the right to enjoin, abate, or remedy the continuation or repetition of any such violation or breach by appropriate proceedings brought either at law or in equity in accordance with the terms of the Declaration and these By-Laws.

11.3 Remedies Cumulative. With the exception of those instances where the Condominium Documents state that the remedies available to the Condominium Board or Declarant are "exclusive" (or "sole" or words of the same effect), the remedies specifically granted to the Condominium Board or to Declarant in this Article 11 or elsewhere in the Declaration and these By-Laws shall be cumulative, shall be in addition to all other remedies obtainable at law or in equity and may be exercised at one time or at different times, concurrently or in any order, in the sole discretion of the Condominium Board or Declarant, as the case may

be. Further, the exercise of any remedy shall not operate as a waiver, or preclude the exercise, of any other remedy.

11.4 Costs and Expenses. All sums of money expended, and all costs and expenses incurred, pursuant to the terms of Article 11 hereof by the Condominium Board or Declarant in connection with the abatement, enjoinder, removal, or cure of any violation, breach, or default committed by a Unit Owner, shall be immediately payable by such Unit Owner to the Condominium Board or Declarant, as the case may be, which amount shall, in either event, bear interest (to be computed from the date expended) at the Default Rate (but in no event in excess of the maximum rate chargeable to such Unit Owner pursuant to Applicable Law). All sums payable by a Unit Owner to the Condominium Board pursuant to the terms of this Section shall, for all purposes hereunder, constitute Common Charges payable by such Unit Owner.

11.5 Consequential Damages. Notwithstanding anything in this Article 11 to the contrary, in no event shall any party be liable for special, punitive or consequential damages.

ARTICLE 12

MISCELLANEOUS

12.1 Waiver. No provision contained in these By-Laws or the Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches that may occur.

12.2 Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws nor the intent of any provision hereof.

12.3 Certain References.

12.3.1 A reference in these By-Laws to any one gender, masculine, feminine or neuter, includes the other two, and the singular includes the plural, and vice versa, unless the context otherwise requires.

12.3.2 The terms "herein," "hereof" or "hereunder" or similar terms used in these By-Laws refer to these entire By-Laws and not to the particular provision in which the terms are used, unless the context otherwise requires.

12.3.3 Unless otherwise stated, all references herein to Articles, Sections or other provisions are references to Articles, Sections or other provisions of these By-Laws.

12.3.4 Unless otherwise stated, all references herein to the Declaration or the By-Laws shall be deemed to be references to such documents as same may be amended from time to time.

12.4 Severability. Subject to the provisions of the Declaration, if any provision of these By-Laws is invalid or unenforceable as against any person, party or under certain circumstances, the remainder of these By-Laws and the applicability of such provision to other

persons, parties or circumstances shall not be affected thereby. Each provision of these By-Laws shall, except as otherwise herein provided, be valid and enforced to the fullest extent permitted by law. If any term, covenant, condition or provision of these By-Laws is found invalid or unenforceable to any extent, by a final judgment or award that shall not be subject to change by any appeal, then any Unit Owner or the Condominium Board may initiate an arbitration in accordance with the provisions of Article 10 for the purpose of requesting the arbitrators to devise a valid and enforceable substitute term, covenant, condition or provision for these By-Laws which shall as nearly as possible carry out the intention of the parties with respect to the terms, covenant, condition or provisions theretofore found invalid or unenforceable.

12.5 Successors and Assigns. Except as set forth herein or in the Declaration to the contrary, the rights and/or obligations of any Unit Owner or its designee as set forth herein shall inure to the benefit of and be binding upon any successor or assign of said Unit Owner or its designee.

12.6 Submission to Jurisdiction. Each Unit Owner is hereby deemed to (a) irrevocably consent and submit to the jurisdiction of any Federal, state, county or municipal court sitting in the State of New York in respect to any action or proceeding brought therein by the Condominium Board against a Unit Owner concerning any matters arising out of or in any way relating to these By-Laws or the Declaration; (b) irrevocably waive personal service of any summons and complaint and consents to the service upon it of process in any such action or proceeding by mailing of such process to the Unit Owner at the address set forth on Schedule B attached hereto, and hereby irrevocably designate that Person set forth on Schedule B attached hereto to accept service of any process on the Unit Owner's behalf and hereby agrees that such service shall be deemed sufficient; (c) irrevocably waive all objections as to venue and any and all rights it may have to seek a change of venue with respect to any such action or proceedings; (d) agree that the laws of the State of New York shall govern in any such action or proceeding, and waive any defense to any action or proceeding granted by the laws of any other country or jurisdiction unless such defense is also allowed by the laws of the State of New York; and (e) agree that any final judgment rendered against it in any such action or proceeding shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by law. Each Unit Owner shall be deemed to further agree that any action or proceeding by the Unit Owner against the Condominium Board in respect to any matters arising out of or in any way relating to these By-Laws or the Declaration shall be brought only in the State of New York, county of New York. In furtherance of the foregoing, each Unit Owner is hereby deemed to agree that its address for notices by the Condominium Board and service of process under these By-Laws and the Declaration shall be the Property. Notwithstanding the foregoing provisions of this Section 12.6, each Unit Owner may, by written notice to the Condominium Board, change the designated agent for acceptance of service of process to any other Person located in the City, County and State of New York. EACH UNIT OWNER SHALL BE DEEMED TO WAIVE THE RIGHT TO TRIAL BY JURY IN ANY SUMMARY PROCEEDING THAT MAY HEREAFTER BE INSTITUTED AGAINST IT OR IN ANY ACTION THAT MAY BE BROUGHT HEREUNDER, PROVIDED SUCH WAIVER IS NOT PROHIBITED BY APPLICABLE LAW. No Unit Owner shall be allowed to interpose any counterclaim in any summary proceeding, unless by not imposing such counterclaim a Unit Owner would be barred from asserting such counterclaim in a separate action or proceeding.

12.7 Consents. Each Unit Owner shall be deemed to waive any claim against the Condominium Board that such Unit Owner may have based upon any assertion that the Condominium Board has unreasonably withheld or unreasonably delayed any consent or approval, and each Unit Owner agrees that its sole remedy shall be an action or proceeding to enforce any such provision or for specific performance, injunction or declaratory judgment. In the event of a determination favorable to a Unit Owner, the requested consent or approval shall be deemed to have been granted; however, the Condominium Board shall have no personal or other liability to the Unit Owner for the Condominium Board's refusal to give such consent or approval. The sole remedy for the Condominium Board's unreasonably withholding or delaying of consent or approval shall be as set forth in this Section 12.7.

12.8 Eligible Account. The Condominium Board shall hold any funds of the Condominium in an eligible account as specified in the loan documents for a Permitted Mortgage on a Declarant Unit.

12.9 No Waiver. The failure of the Condominium Board to seek redress for violation of, or to insist upon the strict performance of any covenant or condition of the Condominium Documents, shall not prevent a subsequent act which would have originally constituted a violation from having all the force and effect of an original violation. The receipt by the Condominium Board of any payment with knowledge of the breach of any covenant of the Condominium Documents shall not be deemed a waiver of such breach and no provision of the Condominium Documents shall be deemed to have been waived by the Condominium Board unless such waiver is in writing signed by the Condominium Board. No payment by any Unit Owner or receipt by the Condominium Board of a lesser amount than the payments herein stipulated shall be deemed to be other than on account of the earliest payments due, nor shall any endorsement or statement of any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and the Condominium Board may accept such check or payment without prejudice to its right to recover the balance of such payment or pursue any other remedy set forth herein.

ARTICLE 13

AMENDMENT TO BY-LAWS

13.1 Amendment. These By-Laws may only be amended by and simultaneously with and in the same manner as an amendment to the Declaration as set forth in Article 17 of the Declaration.

SCHEDULE B TO BY-LAWS

NAME AND ADDRESS FOR SERVICE OF PROCESS TO UNIT OWNERS

To Declarant Unit Owner:

Glenhill Associates Leasehold, LLC
c/o George Comfort & Sons, Inc.
200 Madison Avenue
New York, New York 10016
Attention: Peter S. Duncan

With a copy to:

Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, New York 10038
(212) 806-5400
Attn: Trevor T. Adler, Esq.

EXHIBIT E

POWER OF ATTORNEY

Terms used in this Unit Owner's Power of Attorney which are used (a) in the declaration (the "Declaration") establishing a plan for condominium ownership of the premises known as "307 West 38th Condominium" (the "Condominium") and by the street number 307 West 38th Street, New York, New York under Article 9-B of the Real Property Law of the State of New York, dated as of _____, 2020 and recorded in the Office of the Register of the City of New York New York, County of New York on _____, under CRFN # _____, as the same is amended, restated or supplemented at any time, or (b) in the By-Laws of the Condominium ("By-Laws") attached to, and recorded together with, the Declaration, as the same is amended, restated or supplemented at any time, shall have the same meanings in this Power of Attorney as in the Declaration or the By-Laws.

The undersigned, Gay Men's Health Crisis, Inc., a New York, not-for-profit corporation, duly organized under the Laws of the State of New York, as the owner of the Condominium Unit[s] (collectively, the "Unit") in the 307 West 38th Condominium, which are designated and described in the Declaration as the "GMHC Unit" in the Building known as 307 West 38th Street, Borough of Manhattan New York, New York, hereby nominates, constitutes and appoints the persons who may from time to time constitute the Condominium Board true and lawful attorneys-in-fact for the undersigned, coupled with an interest, with power of substitution, in their own names, as members of the Condominium Board or in the name of their designee (corporate or otherwise), on behalf of all Unit Owners, in accordance with such Unit Owners' respective interests in the General Common Elements, subject to the provisions of the Ground Lease and the By-Laws then in effect: (1)(a) to acquire or lease any Unit, together with its appurtenant interests, from any Unit Owner desiring to sell, convey, transfer, assign, surrender or lease the same, (b) to acquire any Unit, together with its appurtenant interests, from any Unit Owner who elects to surrender the same pursuant to the By-Laws, (c) to acquire any Unit, together with its appurtenant interests, which becomes the subject of a foreclosure or other similar sale, all on such terms and at such price or rental, as the case may be, as said attorneys-in-fact shall deem proper, in the name of the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, and, after any such acquisition or leasing, to convey, sell, lease, sublease, mortgage or otherwise deal with (but not vote the interest appurtenant thereto) any such Unit so acquired by them, or to sublease any Unit so leased by them without the necessity of further authorization by the Unit Owners, on such terms as said attorneys-in-fact may determine, granting to said attorneys-in fact the power to do all things in the said premises which the undersigned could do if the undersigned were personally present, and (d) to enforce of Condominium Board's lien for unpaid Common Charges; (2) upon determination by the Condominium Board, to commence, pursue, appeal, settle and/or terminate administrative and certiorari proceedings to obtain reduced real estate tax assessments with respect to the Units, including retaining counsel and taking any other actions that the Condominium Board deems necessary or appropriate; (3) to execute, acknowledge and deliver (a) any declaration or other instrument affecting the General Common Elements that the Condominium Board, with respect to the General Common Elements deem necessary or appropriate to comply with any ordinance, regulation, zoning resolution or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or any other public authority, applicable to

Exhibit E

the Maintenance, demolition, construction, Alteration, repair or restoration of the General Common Elements, (b) any consent, covenant, restriction, easement or declaration, or any amendment thereto, affecting the General Common Elements that the Condominium Board deems necessary or appropriate, or (c) a zoning lot merger, or any declaration or other instruments, if same shall be required to enable Fee Owner to utilize, acquire, purchase, allocate, sell or dispose of any Development Rights now or in the future appurtenant to the Property or other zoning lot pursuant to a zoning lot development agreement or to merge or subdivide a zoning lot; (4) to effectuate the rights granted to the Condominium Board under the Declaration and By-Laws; and (5) to execute such documentation on behalf of the Unit Owners as might be deemed necessary or desirable by the attorney-in-fact to implement or confirm termination of the Condominium occurring upon the expiration or termination of the Ground Lease or otherwise in accordance with the terms of the Condominium Documents.

The acts of a majority of such persons constituting the Condominium Board, as applicable, shall constitute the acts of said attorneys-in-fact.

I hereby nominate, constitute and appoint Declarant, true and lawful attorney-in-fact for the undersigned, coupled with an interest, with power of substitution, on behalf of all Unit Owners, in accordance with such Unit Owners' respective interests in the General Common Elements, subject to the provisions of the Ground Lease, Declaration and By-Laws then in effect, to do the following: (1) perform any act that would otherwise be required by a meeting or vote of the Unit Owners under the Declaration and By-Laws (including, without limitation, to vote whether to restore or not in the event of a substantial Casualty or Condemnation, and to vote whether to terminate the Condominium, and to vote to elect members and officers of Condominium Board and to vote whether to amend the Declaration, By-Laws and the Rules and Regulations of the Condominium); (2) execute documents in connection with any permits and/or applications required to undertake, perform or complete work to the Units or General Common Elements by Declarant or obtain an amended certificate of occupancy therefor, or any of said documents when such amendment or document: (i) shall be required to reflect any changes in Units and/or the reapportionment of the Common Interests of the Units resulting therefrom made by Declarant in accordance with the Declaration, or (ii) shall be required by (a) a lender designated by Declarant to make a mortgage loan secured by a mortgage on any Unit, referred to as a "Permitted Mortgagee" in the Declaration, (b) any governmental agency having or asserting regulatory jurisdiction over the Condominium, (c) any title insurance company selected by Declarant to insure title to any Unit, or (d) to effectuate the provisions of the Ground Lease, Declaration and/or By-Laws, including, without limitation, Fee Owner's utilization of Development Rights by entering into a zoning lot merger, or any declaration or other instruments, if same shall be required to enable Fee Owner to utilize, acquire, purchase, allocate, sell or dispose of any Development Rights now or in the future appurtenant to the Property or other zoning lot pursuant to a zoning lot development agreement or to merge or subdivide a zoning lot; and (3) to effectuate any of the rights granted to Declarant in the Declaration and By-Laws.

This Power of Attorney shall be irrevocable.

[In the case of GMHC only] Notwithstanding any of the foregoing provisions of this power of attorney to the contrary, the power of attorney described above may only be

exercised on behalf of the undersigned if (a) (i) the undersigned has failed to perform as required under the GMHC Transaction Documents, after written notice requesting such performance and the expiration of any applicable cure period(s) afforded to the undersigned (or Declarant, as the ground lessee under the Ground Lease) under the relevant GMHC Transaction Documents, and (ii) such failure entitles Fee Owner to terminate the Ground Lease (and therefore the Condominium) pursuant to the express provisions of the GMHC Transaction Documents, or (b) the undersigned has failed, upon the termination of the Condominium in accordance with the express provisions of this Declaration, after (1) written notice requesting that the undersigned execute such documentation as is then deemed necessary or desirable by the attorney-in-fact to implement or confirm termination of the Condominium occurring upon the expiration or termination of the Ground Lease or otherwise in accordance with the terms of the Condominium Documents, and (2) the expiration of a reasonable period of time to cure such failure set forth in such notice; provided, however, that in no event shall such power of attorney be exercised on behalf of the undersigned if the undersigned has a defense to the (x) exercise of such power of attorney, or (y) underlying demand by Fee Owner, Declarant or the Condominium Board (as the case may be) that undersigned comply with the alleged requirement(s) at issue under the GMHC Transaction Documents, in each case, which defense has been asserted in writing prior to the expiration of said cure period(s).

(SIGNATURES FOLLOW ON NEXT PAGE)

Name: _____
Title: _____

On the _____ day of _____ in the year _____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NY 77529622

UNIT: _____
TITLE COMPANY: _____
TITLE NUMBER: _____

**POWER OF ATTORNEY
FOR UNIT _____
FOR
307 WEST 38TH CONDOMINIUM**

After recording, please return by mail to:

**Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, New York 10038
(212) 806-5400
Attn: Trevor T. Adler, Esq.**

EXHIBIT F
INTENTIONALLY OMITTED

Exhibit F-1

EXHIBIT G
INTENTIONALLY OMITTED

Exhibit G

EXHIBIT H
INTENTIONALLY OMITTED

Exhibit H

EXHIBIT I
[INTENTIONALLY OMITTED]

Exhibit I

EXHIBIT J-1

Form of Condominium Board Estoppel Certificate

[UNIT OWNER]

Re: 307 West 38th Condominium
307 West 38th Street
New York, New York (the "Condominium")

Ladies and Gentlemen:

Reference is hereby made to that certain Declaration of 307 West 38th Condominium (the "Declaration") dated as of _____, and recorded on of _____, 202__, in the New York County Register's Office in Reel ____ Page _____. The undersigned Board of Managers of the Condominium (the "Condominium Board") hereby certifies to _____, the owner of the _____ Unit of the Condominium (the "Unit Owner"), that:

1. Amount of Common Charges \$_____ paid monthly.
2. Amount of Special Assessments, if any \$_____ paid [☐] Monthly [☐] Quarterly [☐] Annually. Reason for Special Assessments:
_____.
3. Unit Owner is current in its payment of all amounts due under the Declaration and By-Laws of the Condominium.
4. No written notice of default has been sent by the undersigned to the Unit Owner.
5. To the actual knowledge of the Condominium Board, no default exists on the part of the Unit Owner.

The term "actual knowledge of the Condominium Board" as used herein means the actual knowledge (and not the implied or constructive knowledge) without any duty of investigation or inquiry by the undersigned.

This estoppel certificate may be relied upon by any permitted tenant, purchaser or mortgagee of Unit Owner. Any capitalized terms used herein and not defined herein shall have the meanings ascribed to them in the Declaration.

Very Truly Yours,

307 West 38th Condominium

By: _____

Name:

Title:

Exhibit I-2

EXHIBIT J-2

FORM OF UNIT OWNER ESTOPPEL CERTIFICATE

The Board of Managers of
307 West 38th Condominium
c/o George Comfort & Sons
200 Madison Avenue
New York, New York 10016

Re: 307 West 38th Condominium
307 West 38th Street
New York, New York (the "Condominium")

Ladies and Gentlemen:

Reference is hereby made to that certain Declaration of the 307 West 38th Condominium (the "Declaration") dated as of _____, 20____, and recorded on _____, 20____, in the New York County Register's Office in CRFN _____. The undersigned, the owner of the _____ Unit of the Condominium, hereby certifies to the Board of Managers of the Condominium (the "Condominium Board") that:

1. No written notice of default has been sent by the undersigned to the Condominium Board (or to Declarant or Fee Owner (as such terms are defined in the Declaration), to the extent that any agreements between Unit Owner and Declarant and/or Fee Owner shall exist).
2. To the actual knowledge of the undersigned, no default on the part of the Condominium Board exists.
3. [There has been no modification of any agreements entered into between the undersigned and the Condominium Board, Declarant or Fee Owner (respectively)] [The agreements entered into between the undersigned and the Condominium Board, Declarant or Fee Owner (respectively), have been modified as follows: _____].
4. Amount of Common Charges \$_____ paid monthly.
5. Amount of Special Assessments, if any \$_____ paid [☐] Monthly [☐] Quarterly [☐] Annually. Reason for Special Assessments: _____.
6. [Such other information as the Condominium Board shall reasonably request.]

The term "actual knowledge of the undersigned" as used herein means the actual knowledge (and not the implied or constructive knowledge) without any duty of investigation or inquiry by the undersigned.

This estoppel certificate may be relied upon by any party designated by the Condominium Board. Any capitalized terms used herein and not defined herein shall have the meanings ascribed to them in the Declaration.

Sincerely,

Very Truly Yours,

By: _____
Name:

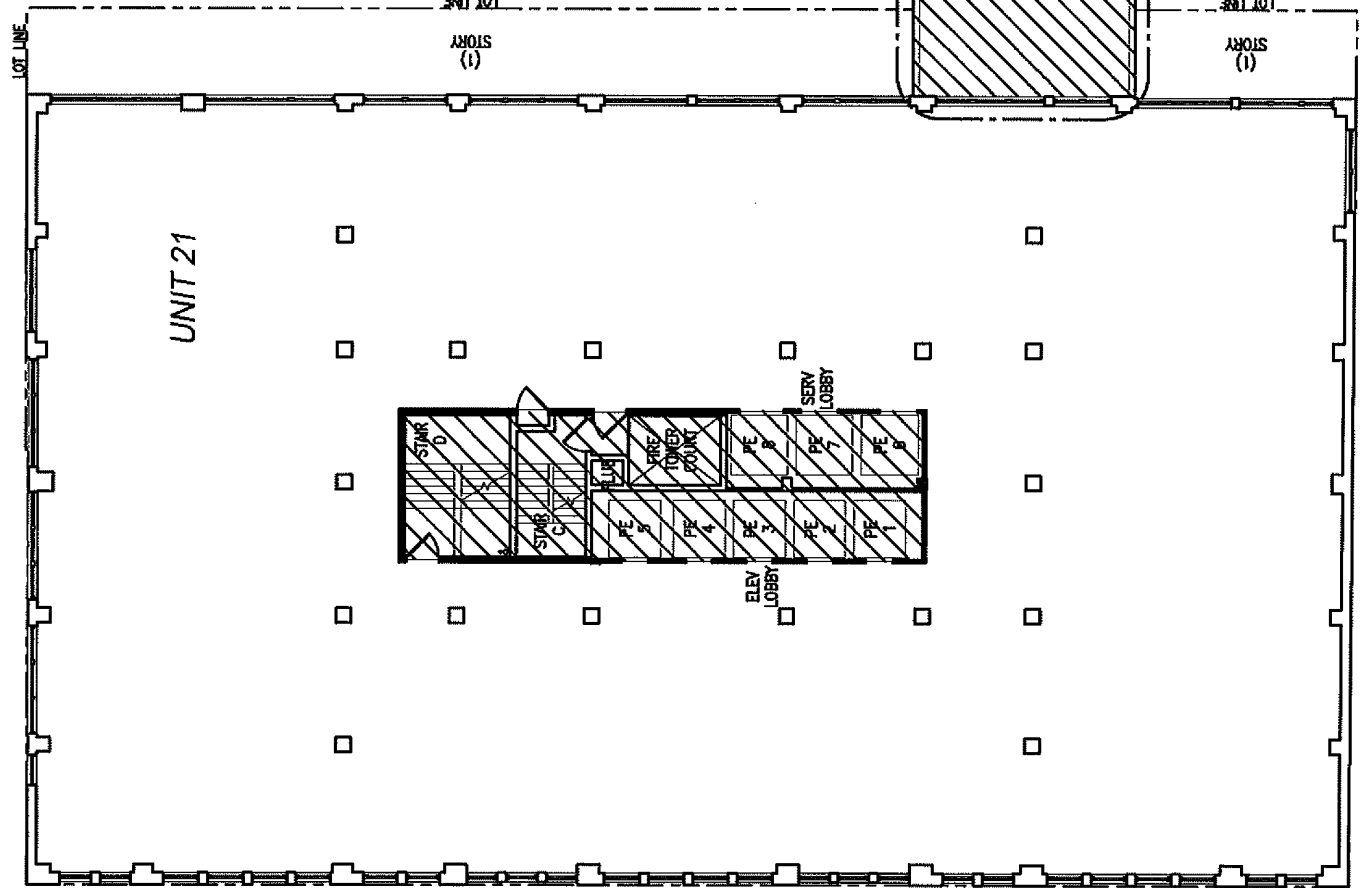
EXHIBIT K
[INTENTIONALLY OMITTED]

Exhibit K

EXHIBIT L

GMHC EASEMENT AREA

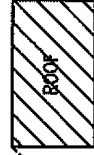
[See Attached]



W 38TH ST

W 39TH ST

24'-11 1/2"



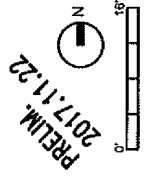
EMERGENCY
EVACUATION
AREA

ROOF AREA

ROOF AREA

PE PARKING

NOTE: GMHC EASEMENT AREA



5TH FL PLAN
(GRAPHIC SCALE)

EXHIBIT “J2” Fully Executed PSA- November 6, 2020- redacted

EXECUTION VERSION

PURCHASE AND SALE AGREEMENT

between

GLENHILL ASSOCIATES LEASEHOLD, LLC, Seller

and

GAY MEN'S HEALTH CRISIS, INC., Buyer

Dated as of November 6, 2020

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PURCHASE AND SALE AGREEMENT

PURCHASE AND SALE AGREEMENT (this “Agreement”), made as of the 6th day of November, 2020, between **GLENHILL ASSOCIATES LEASEHOLD, LLC**, a New York limited liability company, having an address c/o George Comfort & Sons, Inc., 200 Madison Avenue, New York, New York 10016 (“Seller”), and **GAY MEN’S HEALTH CRISIS, INC.**, a New York not-for-profit corporation with an address at 307 West 38th Street, New York, New York 10018 (“Buyer”).

Background

A. Seller is the original tenant under that certain Amended and Restated Agreement of Lease, dated as of the date hereof (as the same may be modified or amended from time to time in accordance with the terms thereof, the “Ground Lease”), between Glenhill Associates, LLC, a New York limited liability company, as ground lessor (the “Ground Landlord”), and Seller, as ground lessee, relating to the land (the “Land”) located at 307 West 38th Street in the Borough of Manhattan, City of New York, which Land is more particularly described on Exhibit A annexed hereto and made a part hereof, and Seller, as ground lessee, shall be deemed to be the owner of the building located thereon and any improvements to be erected thereon (collectively, the “Building”) for the duration of the term of the Ground Lease. A memorandum of the Ground Lease has been executed by Ground Landlord and Seller (a copy of which is attached hereto as Exhibit B), and will be recorded promptly following the execution of this Agreement.

B. Pursuant to the terms of the Ground Lease, and subject to Seller’s receipt of the Condominium Approvals (as hereinafter defined), Seller intends to submit (i) a declaration (together with all exhibits and/or rules or regulations issued pursuant thereto, including, without limitation, the Condominium By-Laws (as hereinafter defined), as the same may be modified or amended from time to time in accordance with the terms thereof, the “Condominium Declaration”) establishing a plan of condominium ownership to be known as “307 West 38th Condominium” (the “Condominium”) and (ii) condominium tax lot drawings (identifying the units and common elements of the Condominium) (the “Floor Plans”), subjecting the Building and the leasehold interest in the Land to the provisions of Article 9-B of the Real Property Law of the State of New York (and all amendments, modifications, replacements thereof, or regulations with respect thereto, now or hereinafter enacted from time to time, the “Condominium Act”), which Condominium shall initially contain thirty-seven (37) commercial condominium units (individually a “Unit” and collectively, the “Units”). The Units to be purchased by Buyer from Seller pursuant to this Agreement shall be described in the Declaration individually as a “GMHC Unit” and collectively, as the “GMHC Units”. All of the Units in the Building that are being retained by Seller are sometimes referred to herein, collectively, as the “Declarant Units”. The GMHC Units consist of:

- (i) the Unit located on the ground floor of the Building and designated as Unit 6 in the Declaration and on the Floor Plans (the “GMHC Ground Floor Unit”),

- (ii) the Unit located on the second (2nd) floor of the Building and designated as Unit 17 in the Declaration and on the Floor Plans (the “GMHC Second Floor Initial Unit”),
- (iii) the Unit located on the second (2nd) floor of the Building and designated as Unit 18 in the Declaration and on the Floor Plans (the “GMHC Second Floor Expansion Unit”),
- (iv) the Unit located on the third (3rd) floor of the Building and designated as Unit 19 in the Declaration and on the Floor Plans (the “GMHC Third Floor Unit”),
- (v) the Unit located on the fourth (4th) floor of the Building and designated as Unit 20 in the Declaration and on the Floor Plans (the “Fourth Floor Unit”),
- (vi) the Unit located on the fifth (5th) floor of the Building and designated as Unit 21 in the Declaration and on the Floor Plans (the “Fifth Floor Unit”),
- (vii) the Unit located on the seventh (7th) floor of the Building and designated as Unit 23 in the Declaration and on the Floor Plans (the “Seventh Floor Unit”), and
- (viii) the Unit located on the eighth (8th) floor of the Building and designated as Unit 24 in the Declaration and on the Floor Plans (the “Eighth Floor Unit”).

The GMHC Ground Floor Unit, GMHC Second Floor Initial Unit, GMHC Third Floor Unit, the Fourth Floor Unit, the Fifth Floor Unit, the Seventh Floor Unit and the Eighth Floor Unit are herein sometimes referred to collectively as the “Initial GMHC Unit”.

C. The GMHC Unit and the Declarant Units (collectively, the “Units”) are described and designated in the Condominium Declaration (inclusive of the by-laws of the Condominium annexed to the Condominium Declaration, as the same may be modified or amended from time to time in accordance with the terms thereof, the “Condominium By-Laws”). The owner of a Unit is referred to in this Agreement as a “Unit Owner”, and the owner of the GMHC Unit is sometimes referred to as the “GMHC Unit Owner”. In order to create the Condominium, the Condominium Declaration is intended to be recorded by Seller in the Office of the New York City Register (“City Register’s Office”), and the Floor Plans are intended to be filed by Seller in the City Register’s Office (with the Floor Plans, together with the Condominium Declaration and all other exhibits annexed thereto, being sometimes referred to herein collectively as the “Condominium Documents”).

D. Concurrently with the execution of this Agreement, Ground Landlord, Buyer and Seller are entering into an agreement, dated as of the date hereof, memorializing certain rights and obligations among such parties (as the same may be amended, modified or restated from time to time, the “Omnibus Agreement”).

E. Seller desires to sell, and Buyer desires to purchase, all of Seller's right, title and interest in and to the GMHC Unit, together with its appurtenant undivided interest in the Common Elements of the Condominium, and together with, and subject to, all of the rights, obligations, easements and restrictions and other provisions set forth in the Condominium Documents to the extent appurtenant to the GMHC Unit (collectively, the "Property") pursuant to the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and subject to the terms and conditions hereof, Seller and Buyer agree as follows:

ARTICLE I DEFINITIONS

SECTION 1.1 Defined Terms. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Condominium Declaration.

The capitalized terms used herein will have the following meanings.

"Adjusted by CPI" shall have the meaning set forth in the Condominium Declaration.

"Affiliate" refers to (i) a Controlling Person or a Controlled Person, or (ii) in the case of a not-for-profit or statutorily-created entity, an entity that has identical or substantially overlapping boards of directors or trustees with another entity.

"Agreement" shall have the meaning set forth in the preamble.

"Anti-Money Laundering and Anti-Terrorism Laws" shall have the meaning assigned thereto in Section 3.1(n).

"Applicable Laws" shall mean all applicable laws, resolutions, codes, requirements, decisions, statutes, ordinances, rules and regulations of any governmental or quasi-governmental authority, department, bureau, agency, body or official having jurisdiction over the operation, occupancy, maintenance, alteration and use of the GMHC Unit for the purposes set forth in the Transaction Documents.

"Approved SNDA" shall have the meaning set forth in the definition of the term "Permitted Exceptions".

"Authorized Use" shall mean, with respect to each of the GMHC Units, general administrative offices and for the provision of social services, health services and medical services, including, without limitation, the preparation and serving of meals, medical testing, job training, a pharmacy and uses reasonably ancillary to any of the foregoing, and for no other purpose whatsoever. "Authorized Use" shall in no event include sleeping overnight in a GMHC Unit, or use of a GMHC Unit for residential purposes or for lodging, and shall be further subject to the provisions of Section 19G of Exhibit C to the Omnibus Agreement.

“Broker” shall mean, collectively, George Comfort & Sons, Inc. and Savills Studley.

“Building” shall have the meaning assigned thereto in “Background” paragraph A.

“Business Day” shall mean all days other than (i) Saturdays, (ii) Sundays and (iii) all days observed by the State of New York government or the Federal government as legal holidays.

“Buyer” shall have the meaning assigned thereto in the preamble to this Agreement.

“Buyer Allowance” shall have the meaning assigned thereto in Section 10.2.

“Buyer’s Injunctive Relief” shall have the meaning assigned thereto in Section 13.1(b)(i).

“Buyer Monetary Default” shall have the meaning assigned thereto in Section 13.1(a).

“Buyer Nonmonetary Default” shall have the meaning assigned thereto in Section 13.1(a).

“Buyer Non-Recurring Payment Monetary Default” shall have the meaning assigned thereto in Section 13.1(a).

“Buyer Recurring Payment Monetary Default” shall have the meaning assigned thereto in Section 13.1(a).

“City Register’s Office” shall have the meaning assigned thereto in “Background” paragraph C.

“Closing” shall have the meaning assigned thereto in Section 2.4(a).

“Closing Date” shall have the meaning assigned thereto in Section 2.4(a).

“Common Charges” shall have the meaning assigned thereto in the Condominium Declaration.

“Common Elements” shall have the meaning assigned thereto in the Condominium Declaration.

“Condominium” shall have the meaning assigned thereto in “Background” paragraph B.

“Condominium Act” shall have the meaning assigned thereto in “Background” paragraph B.

“Condominium Approvals” shall have the meaning assigned thereto in Section 2.6(a).

“

Condominium Board” shall have the meaning assigned thereto in the Condominium Declaration.

Condominium By-Laws” shall have the meaning assigned thereto in “Background” paragraph C.

Condominium Declaration” shall have the meaning assigned thereto in “Background” paragraph B.

Condominium Documents” shall have the meaning assigned thereto in “Background” paragraph C.

Controlled Person” shall mean a Person (1) fifty percent (50%) or more of the beneficial interest in which is owned, directly or indirectly, by any one or more Persons who, acting singly or together, are Controlling Persons, or (2) material decisions concerning the management of which can be unilaterally made or vetoed by any one or more Persons who, acting singly or together, are Controlling Persons acting in its or their capacity as trustee(s), general partner(s), managing member(s) or controlling shareholder(s), or the equivalent, of such Person.

Controlling Person” shall mean a Person that (i) owns, directly or indirectly, fifty percent (50%) or more of the beneficial interest in a Person or (ii) as a trustee, general partner, managing member or controlling shareholder (or the equivalent) of a Person has the power unilaterally to make or veto material decisions concerning the management of such Person.

Declarant” shall have the meaning assigned thereto in the Condominium Declaration.

Declaration Recording Date” shall have the meaning assigned thereto in Section 2.4(a).

Deed” shall have the meaning assigned thereto in Section 6.2(a)(i).

Default Rate” shall have the meaning assigned thereto in the Ground Lease.

Delivery Date” (with respect to any GMHC Unit) shall mean (a) Seller’s Work with respect to such Unit shall have been substantially completed, (b) Declarant shall have given the GMHC Unit Owner not less than five (5) Business Days’ prior written notice of such substantial completion, and (c) the Possession Date with respect to such Unit shall have occurred.

Department of Buildings” means the New York City Department of Buildings.

Event of Default” shall have the meaning assigned thereto in Section 13.1(b)(i).

Expansion Notice” shall have the meaning assigned thereto in Section 16.1.

Expansion Option” shall have the meaning assigned thereto in Section 16.1.

Expansion Unit” shall have the meaning assigned thereto in Section 16.1.

“

“Floor Plans” shall have the meaning assigned thereto in “Background” paragraph B.

“GMHC Ground Floor Unit” shall have the meaning assigned thereto in “Background” paragraph B.

“GMHC Second Floor Initial Unit” shall have the meaning assigned thereto in “Background” paragraph B.

“GMHC Second Floor Expansion Unit” shall have the meaning assigned thereto in “Background” paragraph B.

“GMHC Unit” shall have the meaning assigned thereto in “Background” paragraph B.

“GMHC Unit Owner” shall have the meaning assigned thereto in “Background” paragraph C.

“Government List” shall have the meaning assigned thereto in Section 3.1(f).

“Governmental Authority” shall mean any federal, state or local government or other political subdivision thereof, including, without limitation, any agency or entity exercising executive, legislative, judicial, regulatory or administrative governmental powers or functions, in each case to the extent the same has jurisdiction over the Person or property in question.

“Ground Floor Unit” shall have the meaning assigned thereto in “Background” paragraph B.

“Ground Landlord” shall have the meaning assigned thereto in “Background” paragraph A.

“Ground Lease” shall have the meaning assigned thereto in “Background” paragraph A.

“Initial GMHC Unit” shall have the meaning assigned thereto in “Background” paragraph B.

“Initial Payment Date” shall mean the Closing Date.

“Initial Possession Date” shall mean the Possession Date with respect to the Initial GMHC Unit, which was June 1, 2018.

“Installment Payment Term” shall have the meaning assigned thereto in Section 2.3(a).

“Installment Payments Mortgage” shall have the meaning assigned thereto in Section 2.3(e).

“Installment Purchase Payment” shall have the meaning assigned thereto in Section 2.3.

“IRS” shall mean the Internal Revenue Service.

“

“IRS Reporting Requirements” shall have the meaning assigned thereto in Section 14.3.

“Land” shall have the meaning assigned thereto in “Background” paragraph A.

“Omnibus Agreement” shall have the meaning set forth in “Background” paragraph D.

“Permitted Exceptions” shall mean (i) the Condominium Declaration and the lien of the Condominium Board thereunder (other than any lien created thereunder or pursuant thereto that is caused by a default (either by an act or failure to act) by Declarant thereunder), (ii) any state of facts that an accurate survey may show, (iii) the Ground Lease, and the interests of Ground Landlord thereunder, (iv) those matters specifically set forth on Exhibit C attached hereto and made a part hereof, (v) all laws, ordinances, rules and regulations of any Governmental Authority, as the same may now exist or may be hereafter modified, supplemented or promulgated, (vi) all presently existing and future liens of real estate taxes or assessments and water rates, water meter charges, water frontage charges and sewer taxes, rents and charges, if any, provided that such items are not yet due and payable, (vii) all violations of laws, ordinances, orders, requirements or regulations of any Governmental Authority existing on the Closing Date, whether or not noted in the records of or issued by any Governmental Authority, that do not materially interfere with, or materially adversely affect, Buyer’s ability to use and occupy the Property for the intended use and do not cause Buyer to suffer any liability as a result thereof, (viii) all utility easements of record, (ix) the printed exceptions which appear in the standard of title insurance policies, (x) right, lack of right or restricted right of any owner of the Property to construct and/or maintain (and the right of any Governmental Authority to require the removal of) any vault or vaulted area, in or under the streets, sidewalks or other areas abutting the Property, and any applicable licensing statute, ordinance and regulation, the terms of any license pertaining thereto and the lien of street, sidewalk or other area vault taxes, provided any such vault taxes or charges that are then due and payable are paid by Seller at Closing, (xi) minor variations between the tax lot lines and the description of the Property set forth on Exhibit A attached hereto and made a part hereof, (xii) the lien of any fee mortgage; provided that the mortgagee under any such fee mortgage enters into a subordination, nondisturbance and attornment agreement with the Condominium in substantially the form of Exhibit G attached hereto, or in such other commercially reasonable form provided that any variations between the provisions of such other form and the provisions of Exhibit G do not adversely affect (other than to a de minimis extent) the rights of Buyer under the Transaction Documents or under such form (an “Approved SNDA”), (xiii) any mechanic’s lien that does not materially interfere with, or materially adversely affect, in either case beyond a de minimis extent, the use of the Property or any portion thereof for the conduct of Buyer’s business, from and after the Possession Date; and (xiv) other title and survey exceptions that do not materially interfere with, or materially adversely affect, the use of the Property or any portion thereof for its intended use, from and after the Possession Date. In addition, from and after the date that the same shall be recorded, the Installment Payments Mortgage shall be included within the definition of Permitted Exceptions.

“Person” shall mean a natural person, partnership, limited partnership, limited liability company, corporation, trust, estate, association, unincorporated association or other entity.

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“Possession” shall mean, with respect to each Unit comprising the GMHC Unit, delivery to Buyer of such Unit with Seller’s Work having been substantially completed.

“Possession Date” shall mean, with respect to each Unit comprising the GMHC Unit, the date that Possession of such Unit is delivered to Buyer by Seller. For the Initial GMHC Unit, the

Possession Date was June 1, 2018. Seller shall use commercially reasonable efforts to cause the Possession Date for the Second Floor Expansion Unit to occur on or before October 1, 2022.

“Prime Rate” shall have the meaning assigned thereto in the Ground Lease.

“Property” shall have the meaning assigned thereto in “Background” paragraph E.

“Punchlist Notice” shall have the meaning assigned thereto in Section 7.1.

“Punchlist Work” shall have the meaning assigned thereto in Section 7.1.

“Purchase Price” shall have the meaning assigned thereto in Section 2.2.

“Real Estate Tax Exemption” shall mean receipt of an exemption from the obligation to pay real estate taxes imposed or assessed with respect to the Property that is granted to Buyer by the New York City Department of Finance.

“Reporting Person” shall have the meaning assigned thereto in Section 14.3.

“Seller” shall have the meaning assigned thereto in the preamble to this Agreement.

“Seller-Related Entity” or “Seller-Related Entities” shall mean the Condominium Board, any agent, servant, employee, director, partner, officer, member, beneficiary or trustee of Seller, Ground Landlord, the holder of any fee mortgage, and their respective Affiliates, successors and assigns.

“Seller’s Work” shall have the meaning assigned thereto in Section 10.1.

“Special Assessments” shall have the meaning assigned thereto in the Condominium Documents.

“Substantially Complete” or “Substantial Completion” (whether or not capitalized) shall mean that the work in question is complete, except for (i) minor or insubstantial details of construction, decoration, or mechanical adjustment and/or (ii) portions of the work which cannot be completed until after completion of any work which is the responsibility of Buyer (it being understood and agreed, however, that promptly after Substantial Completion the party responsible for the work in question shall fully complete the work in question).

“Termination Notice” shall have the meaning assigned thereto in Section 13.1(a).

“Transfer Tax Instruments” shall mean all transfer tax returns, equalization forms and other forms and instruments that are required by Applicable Laws in connection with the recordation of the Deed, and/or the payment of all state or local real property transfer taxes, if any, that are required to be paid by a party pursuant to this Agreement in order to record the Deed.

“Transaction Documents” shall mean, collectively, (i) this Agreement, (ii) the Installment

Payments Mortgage, (iii) the Condominium Documents, (iv) the Ground Lease, (v) the Omnibus Agreement, and (vi) any other documents executed and/or delivered in connection with the closing under this Agreement.

“Units” shall have the meaning assigned thereto in “Background” paragraph C.

ARTICLE II

SALE, PURCHASE PRICE AND CLOSING

SECTION 2.1 Sale of Property. Upon and subject to the terms and conditions set forth herein, Seller agrees to sell and convey, and Buyer agrees to purchase, the Property subject to the Permitted Exceptions.

SECTION 2.2 Purchase Price. The consideration payable by Buyer to Seller for the purchase of the Property shall be (the “Purchase Price”).

SECTION 2.3 Payment of Purchase Price. Buyer shall pay the Purchase Price in accordance with the installment payment schedule (each, an “Installment Purchase Payment”) listed on Exhibit E, which is annexed hereto, in the following manner:

(a) The Purchase Price is deemed to be due in full upon the Closing, but, as a convenience to Buyer, shall be payable in monthly installments on the first day of each calendar month during the period that commences on the Initial Payment Date and continues through and including the date that is the day immediately preceding the thirty (30) year and one (1) month anniversary of the Initial Payment Date (with such period being referred to herein as the “Installment Payment Term”), except that the first Installment Purchase Payment is being paid on the date of this Agreement to be applied against the Installment Purchase Payment due on the Closing Date. Except to the extent expressly otherwise provided elsewhere in this Agreement, all of the Installment Purchase Payments, in an aggregate amount equal to the Purchase Price, shall be fully paid by Buyer to Seller no later than the first day of the last calendar month in the Installment Payment Term.

(b) Remittances of Installment Purchase Payments shall be made by Buyer to Seller in lawful money of the United States which shall be legal tender in payment of all debts and dues, public and private, at the time of payment, at the office of Seller as set forth above, or such other place as Seller may designate, without any set-off, counterclaim or deduction whatsoever.

(c) Time shall be deemed of the essence with respect to the payment of Installment Purchase Payments and all other amounts due under this Agreement. If Buyer shall fail to pay any Installment Purchase Payment or other amount due under this Agreement when first due hereunder (irrespective of any grace period as may be applicable thereto) and if such failure to pay shall continue for more than five (5) days after such payment was first due, then Buyer shall be required to pay Seller, upon demand, a late charge of \$.05 for each \$1.00 of Installment Purchase Payment or other amount due under this Agreement which remains unpaid during each month (or portion thereof), and Seller shall have the same rights and remedies for Buyer’s failure to pay such late charge as for Buyer’s failure to pay an Installment Purchase Payment. Nothing herein contained shall be intended to violate any applicable law, code or regulation, and in all instances all such

charges shall be automatically reduced to any maximum applicable legal rate or charge. The provisions of this paragraph are in addition to any claim for damages and all other remedies available to Seller for nonpayment of any Installment Purchase Payment or other amount due under this Agreement.

(d) In the event that Buyer shall pay any Installment Purchase Payment or other payment due under this Agreement by ordinary check, and that check shall be returned for insufficient or uncollected funds, or the account being closed, then for a period of twenty four (24) months thereafter Seller shall not be obligated to accept any payment of any Installment Purchase Payment or any other payment due under this Agreement from, or on behalf of, Buyer which is not made by certified check, official bank check or cash. In the event any payment made by Buyer to Seller shall be returned for any of the above reasons, there shall be an additional charge to Buyer of One Hundred Dollars (\$100.00) payable within ten (10) days after demand.

(e) At Closing, Buyer shall execute a written agreement confirming the Initial Payment Date and the expiration date of the Installment Payment Term.

(f) Buyer shall execute, acknowledge and deliver to Seller at the Closing a mortgage (the “Installment Payments Mortgage”) in the form attached hereto as Exhibit N and made a part hereof, setting forth Buyer’s obligations pursuant to such Installment Payments Mortgage. Buyer’s failure to deliver the Installment Payments Mortgage in accordance with this Section 2.3(f) and/or Buyer’s failure to timely deliver payment of the mortgage recording tax to Seller, in each case, shall be deemed an Event of Default under this Agreement and Seller shall thereupon be entitled to terminate this Agreement. Seller is hereby authorized to record the Installment Payments Mortgage in accordance with all Applicable Laws.

SECTION 2.4 The Closing and Transfer of Possession.

(a) The closing of the sale and purchase of the Initial GMHC Unit (the “Closing”) shall take place five (5) Business Days after notice from Seller to Buyer that the Condominium Documents have been recorded with the City Register’s Office (the “Closing Date”; with the date that the Condominium Documents shall have been recorded with the City Register’s Office being hereinafter referred to as the “Declaration Recording Date”). The Closing may only be adjourned pursuant to the express provisions of Article VIII and Section 9.2 below.

(b) Buyer acknowledges that the delivery of any keys, documents or other items required in connection with the delivery of Possession of the Initial GMHC Unit has already occurred.

(c) (i) Notwithstanding anything above to the contrary (but subject to the provisions of clause (ii) below), upon Closing, Seller shall remain liable for the payment of all real estate taxes with respect to the Property payable or accrued, but not yet due or payable, prior to the Closing Date, and Buyer shall be liable for the payment of any such real estate taxes payable or accrued on or after the Closing Date. All real estate taxes with respect to the Property, if any, shall be prorated between Seller and Buyer as of 11:59 PM of the day immediately preceding the Closing Date. If the current property tax assessments and tax rates are not available at Closing, then the proration shall be based on the amounts for the prior tax year, and shall be re-calculated and adjusted between

the parties within thirty (30) days after the actual amount of taxes and assessments payable in the year of Closing is known to Buyer and Seller.

- (ii) [Intentionally Omitted]
- (iii) If Seller is unable to give possession of the GMHC Second Floor Expansion Unit on the date of the anticipated Possession Date thereof because of the holding-over or retention of possession of any tenant, under tenant or occupants or for any other reason, Seller shall not be subject to any liability for failure to give possession on said date and the validity of this Agreement shall not be impaired under such circumstances, nor shall the same be construed in any wise to extend the Installment Payment Term, but the Possession Date for the GMHC Second Floor Expansion Unit shall be postponed (provided that, if Buyer and/or Buyer Delay is directly, primarily or proximately responsible for Seller's inability to obtain possession, then the Possession Date for the GMHC Second Floor Expansion Unit shall be the date same would have occurred but for such inability to obtain possession). If the tenant of the GMHC Second Floor Expansion Unit on the date hereof shall vacate and surrender possession of the GMHC Second Floor Expansion Unit prior to the scheduled expiration date of the existing lease pursuant to which such tenant is currently in possession of the GMHC Second Floor Expansion Unit, then Seller shall use commercially reasonable efforts to correspondingly accelerate delivery of possession of the GMHC Second Floor Expansion Unit to Buyer, and Buyer shall accept possession of the GMHC Second Floor Expansion Unit when Seller is ready to deliver such possession to Buyer, provided that Seller shall give Buyer at least thirty (30) days prior notice thereof.
- (iv) The provisions of this Section 2.4(c) shall survive the Closing and the delivery of Possession.

(d) From and after the Closing Date, and continuing through and including the day immediately preceding the Possession Date for the GMHC Second Floor Expansion Unit, Seller shall pay Common Charges and Special Assessments for the GMHC Second Floor Expansion Unit as and when required by the Condominium Documents, except for Special Assessments charged under the Condominium Documents for any Building services requested by Buyer with respect to the GMHC Second Floor Expansion Unit, including, without limitation, freight elevator service, loading dock access, security, cleaning and Building engineers. From and after the Initial Payment Date, and continuing throughout the Installment Payment Term, Buyer shall pay all Common Charges and Special Assessments for the Initial GMHC Unit as and when required by the Condominium Documents. From and after the Possession Date for the GMHC Second Floor Expansion Unit, and continuing throughout the Installment Payment Term, Buyer shall pay all Common Charges and Special Assessments for the GMHC Second Floor Expansion Unit as and when required by the Condominium Documents.

(e) The closing of the sale and purchase of the GMHC Second Floor Expansion Unit (the “Expansion Unit Closing”) shall take place thirty (30) days after notice from Seller to Buyer that Seller is ready to deliver possession of the GMHC Second Floor Expansion Unit to Buyer. The provisions of this Agreement relating to the Closing shall apply to the Expansion Unit Closing if and to the extent that the same shall be relevant, and the references in this Agreement to the Closing shall be deemed to refer to the Expansion Unit Closing if and to the extent applicable.

SECTION 2.5 Adjustment to Purchase Price.

SECTION 2.5.1 Intentionally Omitted.

SECTION 2.5.2 Purchase Price Adjustment for GMHC Second Floor Expansion Unit.

(a) Notwithstanding anything to the contrary contained herein, Seller and Buyer agree that the Purchase Price shall be subject to a one-time adjustment following the Closing, all as set forth in this Section 2.5.2.

(b) If the Delivery Date with respect to the GMHC Second Floor Expansion Unit (“Expansion Delivery Date”) shall occur on a day other than April 1, 2022 (the “Target Expansion Delivery Date”), then the following provisions shall be applicable thereto:

- (i) If the Expansion Delivery Date shall occur prior to the Target Expansion Delivery Date, then, for the period (the “Early Period”) that begins on the Expansion Delivery Date and continuing through the day immediately preceding the Target Expansion Delivery Date, Buyer shall pay to Seller an amount equal to the Daily Rate (as such term is defined below) multiplied by the number of days in the Early Period. Such payment shall be made within twenty (20) days following Seller's demand therefor. Any failure by Buyer to pay such amount to Seller when the same shall come due hereunder shall entitle Seller to exercise any and all of the remedies available to Seller in connection with a failure of Buyer to pay an Installment Purchase Payment to Seller. For the purposes hereof, the term “Daily Rate” shall mean \$429.22.
- (ii) If the Expansion Delivery Date shall occur after the Target Expansion Delivery Date, for any reason other than Buyer Delay, then, for the period (the “Late Period”) that begins on the day immediately following Target Expansion Delivery Date and continuing through the day immediately preceding the date on which the Expansion Delivery Date occurs, Buyer shall receive a credit against the Purchase Price (to be applied against the first Installment Purchase Payment(s) due hereunder after the Possession Date with respect to the GMHC Second Floor Expansion Unit until such credit has been applied in full) in an amount equal to the Daily Rate multiplied by the number of days in the Late Period.

(c) If the Expansion Delivery Date shall not occur by the respective time periods set forth below, the following provisions shall be applicable thereto (and the credits provided below shall be in addition to the credit provided under Section 2.5.2(b)(ii) above):

- (i) If the Expansion Delivery Date shall not occur by October 1, 2022, for any reason other than Buyer Delay, then (after the Possession Date with respect to the GMHC Second Floor Expansion Unit) Buyer shall receive a credit against the Purchase Price (to be applied against the first Installment Purchase Payment(s) due hereunder after the Possession Date with respect to the GMHC Second Floor Expansion Unit until such credit has been applied in full) in an amount equal to the Daily Rate multiplied by the number of days from and after October 1, 2022, through and including the day immediately preceding the day on which the Expansion Delivery Date occurs; and
- (ii) If the Expansion Delivery Date shall not occur by December 1, 2022, for any reason other than Buyer Delay, then (after the Possession Date with respect to the GMHC Second Floor Expansion Unit) Buyer shall receive a credit (to be applied against the first Installment Purchase Payment(s) due hereunder after the Possession Date with respect to the GMHC Second Floor Expansion Unit until such credit has been applied in full) in an amount equal to the Daily Rate multiplied by the number of days from and after December 1, 2022, through and including the day immediately preceding the day on which the Expansion Delivery Date occurs.

SECTION 2.5.3. Survival. The payment obligations and adjustments of Purchase Price set forth in this Section 2.5 shall survive the Closing and delivery of Possession.

SECTION 2.6 No-Action Letter and other Condominium Approvals.

(a) Buyer acknowledges and agrees that the conversion of the Building and Land to a Condominium involves and includes, without limitation, the receipt by Seller of the following: (x) a “no action letter” or “no jurisdiction letter” (the “No-Action Letter”) issued by the Real Estate Finance Bureau of the New York State Attorney General (the “Attorney General”) confirming that an offering plan is not required in connection with this transaction (which has already been obtained); (y) approval by the Tax Map Unit of the Land Records Division of the City of New York of the Condominium Documents to be recorded (or, with respect to the Floor Plans, filed) with the City Register’s Office; and (z) satisfaction of all other qualifications and conditions, if any, imposed by applicable laws, rules and regulations of the Attorney General and any other governmental agency having jurisdiction with respect to the Condominium Documents. (Sub-clauses (x), (y) and (z) of this Section 2.6(a) are collectively referred to herein as “Condominium Approvals”). Buyer and Seller acknowledge that a “No-Action Letter” with respect to the creation of the proposed Condominium was issued by the Office of the New York State Attorney General on May 1, 2018, a copy of which is annexed hereto as Exhibit F.

(b) Seller shall also be responsible, at Buyer's sole cost and expense, for preparing and submitting to the Attorney General and any other governmental agencies having jurisdiction with respect to the Condominium Documents, any and all remaining certificates, affidavits, and other documentation required by such agencies in connection with the other Condominium Approvals, including, without limitation, the Floor Plans. Seller shall diligently pursue the Condominium Approvals, and Buyer shall be responsible for fifty percent (50%) of all costs and fees (including reasonable legal fees and expenses) due in connection with all Condominium Approvals (which Buyer shall pay within thirty (30) days after Seller's rendition of a statement therefor from time to time, which statement shall have annexed thereto documentation that reasonably substantiates the costs set forth thereon and may be rendered from time to time by Seller (without duplication from any previous invoices)). Seller shall keep Buyer informed on a reasonable basis as to Seller's efforts in securing the remaining Condominium Approvals. Buyer acknowledges and agrees that (i) Seller's counsel shall be primarily handling the processing of the such Condominium Approvals, and (ii) Buyer shall cooperate with Seller's counsel in all reasonable respects in connection with Seller's counsel's efforts to obtain the No-Action Letter and other Condominium Approvals.

(c) It shall be a condition precedent to both Seller's and Buyer's obligation to close the transaction contemplated hereby that any and all remaining Condominium Approvals shall have been obtained by Seller (but with Buyer being responsible for fifty percent (50%) of all costs and fees, including reasonable legal fees and expenses, due in connection therewith as hereinabove set forth). Notwithstanding anything to the contrary stated in this Agreement, Buyer acknowledges that Seller does not guarantee the satisfaction of the condition precedent described in this Section 2.6, and Buyer agrees that Seller's failure to satisfy such condition precedent, so long as Seller has diligently performed its obligations under Section 2.6(b), shall not be deemed to be a default under this Agreement; but rather, the same shall merely be a failure of a condition to Closing, and in such event either Seller or Buyer may, as its sole remedy for the failure of such condition, terminate this Agreement, whereupon this Agreement and the obligations of the parties hereunder shall terminate (and no party hereto shall have any further obligations in connection herewith, except under those provisions that are expressly stated to survive a termination of this Agreement).

(d) The provisions of this Section 2.6 regarding payments by Buyer are not intended to be, and shall not be, in addition to the payments to be made by GMHC pursuant to Paragraph 12 of the Omnibus Agreement.

ARTICLE III

REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER

SECTION 3.1 Seller's Representations, Warranties and Covenants. Seller hereby represents, warrants and covenants to Buyer as follows:

(a) Formation; Existence. It is a limited liability company duly formed, validly existing and in good standing under the laws of the State of New York.

(b) Power and Authority. It has all requisite power and authority to enter into this Agreement and the other Transaction Documents, to perform its obligations hereunder and under the other Transaction Documents and to consummate the transactions contemplated hereby. The execution, delivery and performance of this Agreement and the consummation of the transactions provided for in this Agreement have been duly authorized by all necessary action on its part. This Agreement has been duly executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights and by general principles of equity (whether applied in a proceeding at law or in equity).

(c) Foreign Person. It is not a "foreign person" as defined in Internal Revenue Code Section 1445 and the regulations issued thereunder.

(d) Bankruptcy. It has not (i) made a general assignment for the benefit of creditors, (ii) filed a voluntary petition in bankruptcy or suffered the filing of an involuntary petition by Seller's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Seller's assets, which remains pending, or (iv) suffered the attachment or other judicial seizure of all, substantially all of Seller's assets, which remains pending.

(e) Real Estate Tax Exemption. Seller shall, in good faith, cooperate with Buyer in connection with obtaining, and thereafter annually renewing, the Real Estate Tax Exemption from the New York City Department of Finance, provided that, in connection therewith, (i) Seller shall have no obligation to incur any expenses or liability, and (ii) Seller shall not be required to take any action that is likely to materially and adversely affect Seller, any SellerRelated Entity or the owner of any other leasehold condominium unit in the Building. In connection with any such annual renewal, Seller shall deliver to Buyer, upon Buyer's request therefor, copies of any amendments to the Ground Lease or the Condominium Documents that first become effective after the Closing Date. Notwithstanding anything set forth in this Agreement, Buyer acknowledges that Seller does not guarantee the receipt, or thereafter any renewal, of said Real Estate Tax Exemption, and Buyer agrees that Buyer's failure to so receive or renew said Real Estate Tax Exemption shall not be deemed to be a default under this Agreement.

(f) SNDA. Effective as of the Closing Date, and except for a fee mortgage whose mortgagee has delivered an Approved SNDA to Buyer, there will be no fee mortgage encumbering the Land. Thereafter, for the remainder of the Installment Payment Term, Seller shall not permit Ground Landlord to enter into any fee mortgages encumbering Ground Landlord's interest in the Land, unless, within thirty (30) days after Ground Landlord shall enter into any fee mortgage encumbering the Ground Landlord's interest in the Land, Ground Landlord shall obtain and deliver to Buyer an Approved SNDA. Buyer shall, within thirty (30) days after written request by Seller, reimburse Seller or Ground Landlord for all reasonable costs and expenses (including actual legal fees), in excess of \$2,500.00 (such amount to be Adjustedby-CPI), incurred by Seller and/or Ground Landlord and such mortgage holder in connection with obtaining any particular SNDA, provided,

Buyer's reimbursement obligation with respect to the SNDA obtained from the fee mortgagee on the Closing Date shall not exceed \$5,000.00.

(g) No Leases. Except for the Ground Lease and the occupancy rights granted pursuant to this Agreement, effective as of the Closing, there will be no space leases or other rights of occupancy or use in effect for any portion of the Initial GMHC Unit (and effective as of the Possession Date for the GMHC Second Floor Expansion Unit, there will be no space leases or other rights of occupancy or use in effect for any portion of the GMHC Second Floor Expansion Unit), and the Initial GMHC Unit and GMHC Second Floor Expansion Unit, as the case may be, will, on the delivery of Possession thereof to Buyer, be delivered to Buyer vacant and free of possessory rights of any parties, subject only to the Permitted Exceptions and the rights granted or reserved pursuant to this Agreement.

(h) No Options. No third party has, or shall be provided with any right, option or election to purchase or lease all or any part of the Property at any time during the Installment Payment Term (unless any such right, option or election is conditioned upon such portion of the Property then being owned by any Seller-Related Entity).

(i) Ground Lease. The Condominium Board is not currently in default under the Ground Lease, and there are no events that have occurred that, with notice or lapse of time or both, would constitute a default on the part of the Condominium Board or, to the knowledge of Seller, Ground Landlord.

(j) Legal Actions. There are no pending (or, to Seller's knowledge, threatened) material actions, suits, arbitrations, proceedings, judgments, orders or decrees against Seller relating to the Property, the Building or the Condominium that would materially interfere with, or materially adversely affect, Buyer's ability to use and occupy the Property for the intended use. This Section 3.1(j) shall not apply to claims covered by insurance.

(k) Seller's Insurance. Seller and/or the Condominium currently maintain, and, to the extent required under the Condominium Documents, shall keep in effect during the Installment Payment Term, property and casualty insurance policies and liability insurance policies that are in compliance with the Condominium Documents and all Applicable Laws. Neither Seller nor the Condominium Board has received written notice that such insurance policies are not in force or effect.

(l) Non-Contravention. This Agreement and the Transaction Documents do not and will not contravene any provision of the organizational documents of Seller, any judgment, order, decree, writ or injunction to which Seller is a party or any provision of any Applicable Law to which Seller is bound. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby do not and will not require the consent of any third party (including, without limitation, the consent of any direct or indirect partner of Seller) unless such consent has or will be obtained by Seller.

(m) Condemnation. As of the date hereof, Seller has not received written notice of any pending condemnation or eminent domain proceedings by any Governmental

Authority affecting the Property, the Building, the Land or any part thereof, and, to Seller's actual knowledge as of the date hereof, no such condemnation or eminent domain proceedings have been threatened by any Governmental Authority.

- (n) Anti-Terrorism Law.
- (i) None of Seller or, to Seller's actual knowledge, its Affiliates, is in violation of any laws relating to terrorism, money laundering or the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Action of 2001, Public Law 107-56 and Executive Order No. 13224 (Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism) (collectively, the "Anti-Money Laundering and Anti-Terrorism Laws").
- (ii) None of Seller or, to Seller's actual knowledge, its Affiliates, is acting, directly or indirectly, on behalf of terrorists, terrorist organizations or narcotics traffickers, including those persons or entities that appear on the Annex to the Executive Order, or are included on any relevant lists maintained by the Office of Foreign Assets Control of U.S. Department of Treasury, U.S. Department of State, or other U.S. government agencies (collectively, all as may be amended from time to time, the "Government List").
- (iii) None of Seller or, to Seller's actual knowledge, its Affiliates (A) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any person included in any Government List, (B) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order, or (C) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Money Laundering and Anti-Terrorism Laws.
- (iv) Seller understands and acknowledges that Buyer may become subject to further anti-money laundering regulations, and agrees to execute instruments, provide information, or perform any other acts as may reasonably be requested by Buyer, for the purpose of: (A) carrying out due diligence as may be required by applicable law to establish Seller's identity and source of funds; (B) maintaining records of such identities and sources of funds, or verifications or certifications as to the same; and (C) taking any other actions as may be required to comply with and remain in compliance with anti-money laundering regulations applicable to Buyer.
- (v) Neither Seller, nor any Affiliate of Seller, is a country, territory, individual or entity named on a Government List, and the monies used in connection

with this Agreement and amounts committed with respect thereto, were not and are not derived from any activities that contravene any applicable anti-money laundering or anti-bribery laws and regulations (including funds being derived from any person, entity, country or territory on a Government List or engaged in any unlawful activity defined under Title 18 of the United States Code, Section 1956(c)(7)).

SECTION 3.2 Survival. The representations and warranties set forth in Section 3.1 above shall survive the Closing and delivery of Possession to Buyer until, with respect to each Unit comprising the GMHC Unit, the first (1st) anniversary of the Possession Date for such Unit. For the avoidance of doubt, unless expressly stated otherwise, the representations, warranties and covenants set forth in Section 3.1 above apply only to the state of affairs existing on the date of Closing or delivery of Possession (as applicable).

ARTICLE IV REPRESENTATIONS, WARRANTIES AND COVENANTS OF BUYER

SECTION 4.1 Buyer's Representations, Warranties and Covenants. Buyer hereby represents, warrants and covenants to Seller as follows:

(a) Formation; Existence. It is a New York not-for-profit corporation duly organized under the Law of the State of New York, and has the power and authority to enter into and perform its obligations under this Agreement.

(b) Power; Authority. (i) Buyer has all requisite power and authority to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby, and (ii) the execution, delivery and performance of this Agreement, the purchase of the Property and the consummation of the transactions provided for herein have been duly authorized by all necessary action on the part of Buyer. This Agreement has been duly executed and delivered by Buyer and constitutes the legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights and by general principles of equity (whether applied in a proceeding at law or in equity).

(c) Bankruptcy. It has not (i) made a general assignment for the benefit of creditors, (ii) filed a voluntary petition in bankruptcy or suffered the filing of an involuntary petition by Buyer's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Buyer's assets, which remains pending, or (iv) suffered the attachment or other judicial seizure of all, substantially all of Buyer's assets, which remains pending.

(d) Cooperation. Buyer shall cooperate with Seller and Ground Landlord, without Buyer being obligated to incur any expense or liability thereby, in all reasonable respects in connection with Seller's and/or Ground Landlord's efforts, from and after the date hereof, to (i) finance their respective interests in the Land and the Declarant Units; and

(ii) subdivide the Declarant Units to effectuate Seller's rights as the Declarant under the Condominium Documents. Buyer's cooperation shall include, but not be limited to, consenting to any modifications to the Condominium Documents that may reasonably be required in connection therewith; provided, however, that Buyer shall not be bound by any amendment or modification of the Condominium Documents that, except with respect to any amendment or modification thereof expressly contemplated by the Transaction Documents, has a material adverse impact on

Buyer's use or occupancy of, or allocation of costs with respect to, the GMHC Unit. Seller shall provide Buyer with a copy of any modification of the Condominium Documents promptly following its execution.

(e) Real Estate Tax Exemption. Promptly following the Closing, Buyer, at its own cost and expense, may seek to obtain the Real Estate Tax Exemption from the New York City Department of Finance. Buyer shall keep Seller informed on a reasonable basis as to Buyer's efforts in securing the Real Estate Tax Exemption from the New York City Department of Finance, including, without limitation, the delivery by Buyer to Seller of copies of any correspondence between Buyer and the New York City Department of Finance that is material to the Real Estate Tax Exemption. Seller acknowledges and agrees that (i) Buyer's counsel shall be primarily handling the processing of Buyer's application for the Real Estate Tax Exemption, and

(ii) Seller shall cooperate with Buyer's counsel in all reasonable respects in connection with Buyer's counsel's efforts to obtain the Real Estate Tax Exemption from the New York City Department of Finance, provided that Seller shall have no obligation to incur any expenses or liability in connection therewith.

(f) Use. Buyer may use the Property only for the Authorized Use (but subject to the provisions of Section 19G of Exhibit C to the Omnibus Agreement), and for no other purpose. Buyer will not at any time use or occupy the Property in a manner that is in violation of an enforcement action for the violation of the certificate of occupancy issued for the Building.

(g) Non-Contravention. This Agreement and the Transaction Documents do not and will not contravene any provision of the organizational documents of Buyer, any judgment, order, decree, writ or injunction to which Seller is a party or any provision of any Applicable Law to which Buyer is bound. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby do not and will not require the consent of any third party (including, without limitation, the consent of any Governmental Authority) unless such consent has or will be obtained by Buyer.

(h) Anti-Terrorism Law.

(i) None of Buyer or, to Buyer's actual knowledge, its Affiliates, is in violation of any the Anti-Money Laundering and Anti-Terrorism Laws.

(ii) None of Buyer or, to Buyer's actual knowledge, its Affiliates, is acting, directly or indirectly, on behalf of terrorists, terrorist organizations or

narcotics traffickers, including those persons or entities that appear on the Annex to the Executive Order, or are included on any Government List.

- (iii) None of Buyer or, to Buyer's actual knowledge, its Affiliates (A) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any person included in any Government List, (B) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order, or (C) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Money Laundering and Anti-Terrorism Laws.
- (iv) Buyer understands and acknowledges that Seller may become subject to further anti-money laundering regulations, and agrees to execute instruments, provide information, or perform any other acts as may reasonably be requested by Seller, for the purpose of: (A) carrying out due diligence as may be required by applicable law to establish Buyer's identity and source of funds; (B) maintaining records of such identities and sources of funds, or verifications or certifications as to the same; and (C) taking any other actions as may be required to comply with and remain in compliance with anti-money laundering regulations applicable to Seller.
- (v) Neither Buyer, nor any Affiliate of Buyer, is a country, territory, individual or entity named on a Government List, and the monies used in connection with this Agreement and amounts committed with respect thereto, were not and are not derived from any activities that contravene any applicable anti-money laundering or anti-bribery laws and regulations (including funds being derived from any person, entity, country or territory on a Government List or engaged in any unlawful activity defined under Title 18 of the United States Code, Section 1956(c)(7)).

SECTION 4.2 Survival. The representations, warranties and covenants set forth in Section 4.1 above shall survive the Closing and delivery of Possession until the earlier of the expiration of the Installment Payment Term or the termination of this Agreement.

ARTICLE V

CONDITIONS PRECEDENT TO CLOSING

SECTION 5.1 Conditions Precedent to Seller's Obligations. The obligation of Seller to consummate the Closing and deliver Possession shall be subject to the performance and observance, in all material respects, by Buyer of all covenants and agreements of this Agreement to be performed or observed by Buyer prior to or on the Closing Date and the applicable Possession Date, as applicable, and the fulfillment on or before the Closing Date and the applicable Possession Date, as applicable, of all other conditions precedent to the Closing and the delivery of Possession, as applicable, benefiting Seller specifically set forth in this Agreement (including, without

limitation, all Buyer deliveries set forth in Section 6.1 below), any or all of which may be waived by Seller in its sole discretion.

SECTION 5.2 Conditions Precedent to Buyer's Obligations. The obligation of Buyer to consummate the transactions contemplated by this Agreement shall be subject to the performance and observance, in all material respects, by Seller of all covenants, warranties and agreements of this Agreement to be performed or observed by Seller prior to or on the Closing Date and the applicable Possession Date, as applicable, and the fulfillment on or before the Closing Date and the applicable Possession Date, as applicable, of all other conditions precedent to Closing or the delivery of Possession, as applicable, benefiting Buyer specifically enumerated in this Agreement (including, without limitation, all Seller deliveries set forth in Section 6.2 below), any or all of which may be waived by Buyer in its sole discretion. In addition, the following are conditions precedent to Buyer's obligation as to the Closing and the delivery of Possession:

- (a) The Closing:
 - (i) The Condominium Documents shall have been recorded with the City Register's Office.
 - (ii) Seller shall be able to convey title to the GMHC Unit subject to and in accordance with the provisions of Article VIII of this Agreement.
 - (iii) The representations and warranties of Seller set forth in Section 3.1 shall be true as of the Closing Date shall be true and correct in all material respects on and as of the Closing Date as if made on and as of such date.
- (b) Delivery of Possession:
 - (i) INTENTIONALLY OMITTED.
 - (ii) With respect to the GMHC Second Floor Expansion Unit, Seller's Work with respect to the GMHC Second Floor Expansion Unit shall be substantially completed in accordance with the provisions of Section 10.1 below, and Seller shall have given Buyer thirty (30) days' notice thereof.
 - (iii) The representations and warranties of Seller set forth in Section 3.1 to be true as of the date of Possession shall be true and correct in all material respects on and as of the date of Possession as if made on and as of such date.

SECTION 5.3 Waiver of Conditions Precedent.

(a) The Closing shall constitute conclusive evidence that Seller and Buyer have respectively waived any conditions precedent to the Closing that are not satisfied as of the Closing Date.

(b) Delivery and acceptance of Possession by Buyer shall constitute conclusive evidence that Seller and Buyer have respectively waived any conditions precedent to the delivery of Possession that are not satisfied as of the delivery of Possession, except (with respect to the Closing of the GMHC Second Floor Expansion Unit) those provisions set forth in Article X as to Punchlist Work and Seller's obligations in connection therewith that expressly survive the delivery of Possession of the GMHC Second Floor Expansion Unit.

(c) Notwithstanding anything to the contrary, no waiver pursuant to this Section 5.3 shall prevent or limit a cause of action as to any state of facts, omissions, actions or otherwise arising out of the fraud or intentional misrepresentation of (i) Buyer or Buyer's employees, or (ii) Seller, Ground Landlord or any party acting on behalf of Seller or Ground Landlord.

ARTICLE VI CLOSING DELIVERIES

SECTION 6.1 Buyer Deliveries. Buyer shall deliver the following to Seller at Closing:

- (a) a power of attorney, in substantially the form of Exhibit H attached hereto, duly executed and acknowledged by Buyer;
- (b) an original counterpart of the Deed duly executed and acknowledged by Buyer;
- (c) two (2) originals of the Omnibus Agreement duly executed by Buyer;
- (d) a limited power of attorney, in substantially the form of Exhibit B of the Omnibus Agreement;
- (e) two (2) originals of the Installment Payments Mortgage;
- (f) evidence reasonably satisfactory to Seller respecting the due organization of Buyer and the due authorization and execution by Buyer of this Agreement and the documents required to be delivered by Buyer hereunder;
- (g) all Transfer Tax Instruments, in each case, using applicable documentation prepared by Seller and duly executed and acknowledged by Buyer;
- (h) such assignments, instruments of transfer, and other documents as Seller may reasonably require in order to complete the transactions contemplated hereunder or to evidence compliance by Buyer with the covenants, agreements, representations and warranties made by it hereunder, in each case, duly executed by Buyer; and
- (i) such other documents and instruments as may be required to be delivered by Buyer at Closing pursuant to the terms of this Agreement.

SECTION 6.2 Seller Deliveries.

- (a) Seller shall deliver the following to Buyer at the Closing:

- (i) a commercial condominium unit deed (a “Deed”) in substantially the form of Exhibit I attached hereto duly executed and acknowledged by Seller;
- (ii) a letter from the Condominium Board in substantially the form of Exhibit M attached hereto stating that all Common Charges for the Property are paid in full;
- (iii) two (2) originals of the Omnibus Agreement duly executed by Seller and Ground Landlord;
- (iv) an affidavit that Seller is not a “foreign person” within the meaning of the Foreign Investment in Real Property Tax Act of 1980, as amended, in substantially the form of Exhibit J attached hereto;
- (v) all Transfer Tax Instruments, in each case, using applicable documentation prepared and duly executed and acknowledged by Seller;
- (vi) such other documents and instruments as may be required to be delivered by Seller at Closing pursuant to the terms of this Agreement; and
- (vii) an estoppel from the Ground Landlord in the form set forth on Exhibit K attached hereto.

(b) Seller shall deliver the following to Buyer at, or prior to, the delivery of Possession of GMHC Second Floor Expansion Unit:

- (i) Possession of the GMHC Second Floor Expansion Unit; and
- (ii) keys to the GMHC Second Floor Expansion Unit.

ARTICLE VII RELEASE

SECTION 7.1 Examination; No Contingencies. Buyer represents to Seller that Buyer has inspected the Property and accepts it as is, subject to the provisions hereof with respect to Seller’s Work described in Section 10.1 of this Agreement. In any event, except for Seller’s Work, Seller makes no representation as to the condition of the Premises. Buyer, by accepting Possession of the Initial GMHC Unit or the GMHC Second Floor Expansion Unit, as the case may be (not including inspection, measurement and other customary pre-possession activities), shall be deemed conclusively to have agreed that Seller has performed all of its obligations under this Agreement and the other Transaction Documents with respect to such Unit up to the time of such possession and that such Unit is in satisfactory condition as of the date of such possession, unless (with respect to the GMHC Second Floor Expansion Unit only) within thirty (30) days after such acceptance of possession Buyer shall give written notice (hereinafter called the “Punchlist Notice”) to Seller specifying the respects in which Seller’s Work has not been completed with respect to such Unit, in which event such Unit shall be conclusively deemed to be in satisfactory condition except for the items set forth in the Punchlist Notice (the “Punchlist Work”), and Seller shall act diligently to

complete or correct, as the case may be, the Punchlist Work. The giving of the Punchlist Notice shall have no effect whatsoever upon the Initial Possession Date or any subsequent Possession Date. Buyer agrees that neither Seller, nor any Seller-Related Entity, nor any broker, agent, employee or representative of Seller or any Seller-Related Entity, has made, and Buyer does not rely on, any representations, warranties or promises with respect to the Building, the Land, the Property or this Agreement (including, without limitation, as to the present or future condition of the GMHC Unit), except as herein expressly set forth, and no rights, easements or licenses are acquired by Buyer by implication or otherwise except as expressly set forth in this Agreement. Seller makes no representation as to the design, construction, development, or use of the Property, the Land or the Building, except as may be expressly set forth in this Agreement. (For the avoidance of doubt, all references in this Section 7.1 to “this Agreement” shall be deemed to include all of the exhibits that are annexed hereto).

ARTICLE VIII TITLE AND PERMITTED EXCEPTIONS

The Property shall be sold and is to be conveyed, and Buyer agrees to purchase the Property, subject solely to the Permitted Exceptions; it being agreed, however, that Seller shall be obligated to cause any mechanic’s lien filed against the Initial GMHC Unit or the GMHC Second Floor Expansion Unit, as the case may be, prior to the applicable Possession Date therefor to be discharged of record (whether by bonding or otherwise) within sixty (60) days following Seller having received notice of the filing thereof. In the event that, at the scheduled Closing Date, title to the Property is subject to impediments to title that do not constitute Permitted Exceptions, Seller shall be entitled to adjourn the Closing Date on written notice to Buyer for one or more periods, not to exceed forty-five (45) days in the aggregate (subject to extension, if necessary, by reason of force majeure), to undertake to eliminate all impediments to title that do not constitute Permitted Exceptions.

ARTICLE IX TRANSACTION COSTS; RISK OF LOSS

SECTION 9.1 Transaction Costs.

(a) Buyer shall pay (i) subject to the provisions of Section 15.6(a), all state and county transfer taxes, including transfer taxes of the State of New York, of the County of New York and of the City of New York, payable in connection with the transaction contemplated herein (collectively, “Transfer Taxes”), (ii) the cost of any title insurance policy, title endorsements and affirmative title insurance required or desired by Buyer, (iii) the costs of any survey of the Land, the Building and/or the Property (or an update thereto), (iv) all recording fees payable in connection with the recording of the Deed, (v) all fees, costs or expenses in connection with Buyer’s due diligence reviews hereunder, (vi) all costs in connection with applying for and obtaining the Real Estate Tax Exemption, (viii) fifty percent (50%) of Seller’s legal, consulting and other professional fees and expenses incurred in connection with this Agreement, the other Transaction Documents and the transaction contemplated hereby and thereby (which Buyer shall pay within thirty (30) days after Seller’s rendition of a statement therefor from time to time, which statement shall have annexed thereto documentation that reasonably substantiates the costs set forth thereon and may

be rendered from time to time by Seller (without duplication from any previous invoices)); and (ix) any other closing costs. Notwithstanding anything contained herein to the contrary, Buyer acknowledges and agrees that Seller shall have the right, at Buyer's cost and expense, to record the Installment Payments Mortgage; subject to the provisions of Section 15.6(a), all such taxes (including, without limitation, any mortgage recording tax), recording fees or other costs in connection therewith (collectively, "Mortgage Recording Taxes") shall be paid by Buyer to Seller within ten (10) days after demand by Seller therefor.

(b) Buyer shall indemnify Seller, Ground Landlord and the Seller-Related Entities from and against any and all loss, damage, cost, charge, liability or expense that Seller may sustain or incur in connection with Buyer's obligation to timely pay any of the aforementioned taxes, fees or other charges for which Buyer has assumed responsibility under this Section 9.1.

The provisions of this Section 9.1 shall survive the Closing and delivery of Possession or the termination of this Agreement.

SECTION 9.2 Risk of Loss.

(a) Notwithstanding anything to the contrary implied or provided by law or in equity, but subject to the provisions of Section 9.2(b) below, if, after the date hereof but prior to the Closing Date, any portion of the Property is damaged by fire, the elements or any other casualty, or if any portion of the Property is taken by eminent domain or otherwise, (i) this Agreement shall remain in full force and effect, (ii) Seller shall diligently pursue the restoration of the GMHC Unit, and (iii) the parties shall nonetheless proceed with the delivery of Possession in accordance with this Agreement. Provided that this Agreement is not terminated in accordance with the express terms and provisions of this Section 9.2, the delivery of Possession shall be adjourned, if necessary, for such period of time that would reasonably allow Seller to fulfill Seller's obligations under this Agreement.

(b) Notwithstanding the provisions of Section 9.2(a) above, if, prior to the Closing Date, the Building or the Property shall be damaged by fire or other casualty, or any portion of the Property is taken by eminent domain or condemnation, in either case, in a manner that would entitle Buyer or Seller (or Seller-Related Entity) to terminate the Transaction Documents in accordance with the express provisions of (in the event of fire or other casualty) Sections 5.3 of the Condominium By-Laws or Section 13.01 of the Ground Lease, or (in the event of a taking by eminent domain or condemnation) Section 4 of Exhibit I of the Condominium Declaration, said provisions of the Condominium By-Laws, Ground Lease or Condominium Declaration (as applicable) shall govern, and if any such party exercises its right to terminate (or cause the termination of) the Transaction Documents as aforesaid, this Agreement shall be similarly terminated.

(c) The provisions of this Section 9.2 are intended to supersede those of Section 51311 of the General Obligations Law of New York, and are hereby deemed to constitute an express agreement to the contrary.

ARTICLE X

SELLER'S WORK; BUYER ALLOWANCE

SECTION 10.1 Seller's Work.

(a) Seller hereby agrees to perform the work and improvements (hereinafter called "Seller's Work") in and to the GMHC Unit as further described in Exhibit D attached hereto and in the workletter ("Workletter") referenced in Exhibit D and the concept plan ("Concept Plan") attached hereto as Exhibit D-1 and initialed by Buyer. Buyer acknowledges and agrees that Seller's Work with respect to the Initial GMHC Unit has been fully completed, including the Punchlist Work. With respect to the GMHC Second Floor Expansion Unit, promptly following the date that Seller shall obtain vacant possession of such Unit, Seller's Work shall be commenced and shall be diligently performed with building standard materials and finishes at Seller's cost and expense, in a good and workmanlike manner subject to Buyer Delays (as hereinafter defined) or force majeure. If at any time Seller determines that the cost of Seller's Work shall include any non-building standard materials or finishes, then within seven (7) days after notice from Seller (in reasonable detail, and with reasonable back-up documentation), Buyer shall pay to Seller an amount equal to the cost of such non-building standard materials or finishes. In addition, any changes or substitutions in Seller's Work requested by Buyer (which Seller may approve or disapprove in its sole discretion) shall be performed at Buyer's sole cost and expense. Notwithstanding anything to the contrary in this Section 10.1, the cost and expense of Seller's Work as it relates to the GMHC Second Floor Expansion Unit shall be prorated between Seller and Buyer based on the ratio of the remaining Installment Payment Term from the Possession Date for the GMHC Second Floor Expansion Unit to the Installment Payment Term for the Initial GMHC Unit, such that Buyer shall reimburse to Seller a percentage (equal to the quotient, expressed as a percentage, of (i) the number of months from and after the Initial Possession Date through and including the day immediately preceding the Possession Date with respect to the GMHC Second Floor Expansion Unit, divided by (ii) the number of months from and after the Initial Possession Date through and including the last day of the Installment Payment Term). Within seven (7) days after notice from Seller (with reasonable backup documentation as to such percentage and the aggregate actual, reasonable out-of-pocket cost of Seller's Work), Buyer shall reimburse to Seller an amount equal to such percentage of the cost and expense of Seller's Work for the GMHC Second Floor Expansion Unit.

(b) If (A) a delay shall occur in the completion of Seller's Work for the GMHC Second Floor Expansion Unit as the result of any of the following (herein referred to as a "Buyer Delay"): (i) any direction by Buyer that Seller hold up proceeding with a segment of Seller's Work preliminary to a possible change therein by Buyer or for any other reason, (ii) a failure by Buyer to finalize the plans and specifications for Seller's Work on or before the date of this Agreement, (iii) any change by Buyer in any plan, specification or finish information to be furnished by Buyer, if any, (iv) any delay caused by any other act or omission of Buyer, its agents, employees or contractors, (v) the fact that a change requested by Buyer to Seller's Work requires lead time to obtain or construction time to perform, in excess of that required for Seller's standard work with reasonable diligence in obtaining and performing the same on the part of Seller ("Long Lead Items"), (vi) Buyer's failure to pay the excess cost of Seller's Work as provided in Section 10.1(a) above, (vii) any delay resulting from the inability of Seller to obtain any necessary building

or alteration permit or certificate of occupancy (including because of any stop-work order, inspection failure or other governmental impairment of Seller's ability to perform or complete Seller's Work) as a result of Buyer's proposed use of the Property failing to comply with any zoning ordinance or other applicable ordinance governing the use of the Property, or (viii) if work is to be done by Buyer, its employees or contractors, which under good construction scheduling practice should be completed before some portion of Seller's Work is done, and Buyer's work is not completed on schedule, then (B) the Possession Date for the GMHC Second Floor Expansion Unit shall (even though no Certificate of Occupancy has been issued or Seller's Work has not been substantially completed) be deemed to be one day earlier than the Possession Date for the GMHC Second Floor Expansion Unit for each day of such delay.

The extent of any delay referred to in Clause (A) of the first paragraph of this Section 10.1(b) shall be determined in the following manner: Seller shall give written notice to Buyer of the estimated length of the delay involved within a reasonable time after the information necessary to estimate such delay is available to Seller (which written notice shall include the reasons for Seller's estimate) and the extent of such delay shall be deemed to be as so estimated unless, within five (5) Business Days after the giving of such written notice, Buyer shall notify the Seller of any disagreement therewith (including Buyer's reasons therefor).

SECTION 10.2 Buyer Allowance. Buyer acknowledges that Seller has paid or credited to Buyer an allowance (the "Buyer Allowance") in the amount of, that has been applied to Buyer's furniture, fixtures and equipment expenses (including without limitation expenses for IT equipment, phones, signage, security equipment and cabling), Buyer's professional fees, consultant fees and Buyer's moving costs (regardless of whether any such fees, costs and expenses have been incurred by Buyer prior to the date of this Agreement, but, in all cases, excluding any fees, costs and expenses to the extent incurred for items not to be installed and used solely at the Building or for other fees and costs not relating to Buyer's relocation to the Building).

SECTION 10.3 Access to, and License to Perform Seller's Work in, the GMHC Unit. For the period commencing on the Closing Date and ending on the Possession Date for the GMHC Second Floor Expansion Unit, Buyer hereby grants Seller, and Seller's agents, employees and contractors, a license to utilize and access such Unit for the purpose of performing Seller's Work therein; it being understood and agreed that, during such period of time (and other than a period of time during which the items of Seller's Work being performed in such Unit shall consist only of Punchlist Work), Buyer shall have no right to access or utilize the GMHC Second Floor Expansion Unit for any purposes.

SECTION 10.4 Survival. The provisions of this Article X shall survive the Closing and delivery of Possession.

ARTICLE XI INDEMNIFICATION, LIMITATION OF LIABILITY

SECTION 11.1 Indemnification by Buyer. Buyer covenants and agrees to indemnify and save harmless Seller and the Seller-Related Entities, and their respective contractors, officers, agents, employees, licensees and invitees (collectively, the "Seller Indemnified Parties") from and

against any and all liability (statutory or otherwise), claims, suits, demands, damages, judgments, costs, interest and expenses, including, but not limited to, counsel fees and disbursements incurred in the defense of any action or proceeding whether incurred in a third party action or in an action brought by the indemnifying party (collectively, “Liabilities”), to which the Seller Indemnified Parties may be subject or which they may suffer by reason of, or by reason of any claim for, any injury to, or death of, any person or persons (including, without limitation, any of the Seller Indemnified Parties) or damage to property (including any loss of use thereof) (i) arising from or in connection with the occupancy or use of or from any work, installation or thing whatsoever done in, at or about the Property during the Installment Payment Term caused by Buyer (or prior to and/or subsequent thereto, if Buyer is then in possession of, or otherwise exercises any control over, the Property or any part thereof), (ii) arising from any condition of the Property caused in whole or in part by Buyer, or any of Buyer’s officers, directors, agents, contractors, employees, tenants, licensees or invitees, (iii) resulting from any default by Buyer in the performance of Buyer’s obligations under this Agreement or any of the other Transaction Documents, or (iv) resulting from any negligent acts or omissions of Buyer or any of Buyer’s officers, directors, agents, contractors, employees, tenants, licensees or invitees; provided that Buyer shall not be responsible for Liabilities resulting directly, primarily or proximately from the negligence or willful misconduct of Seller or the Seller Indemnified Parties.

SECTION 11.2 Indemnification by Seller. Seller covenants and agrees to indemnify and save harmless Buyer and its contractors, officers, agents, employees, licensees and invitees (collectively, the “Buyer Indemnified Parties”), from and against any and all Liabilities, to which the Buyer Indemnified Parties may be subject or which they may suffer by reason of, or by reason of any claim by a party other than Buyer, or Buyer’s officers, agents, or employees for any injury to, or death of, any person or persons or damage to property (including any loss of use thereof) resulting from any default by Seller in the performance of Seller’s obligations under this Agreement or any of the other Transaction Documents; provided that Seller shall not be responsible for Liabilities resulting directly, primarily or proximately from the negligence or willful misconduct of the Buyer Indemnified Parties.

SECTION 11.3 Limitation of Liability. Buyer agrees that, notwithstanding any contrary provisions of this Agreement or any of the other Transaction Documents, Buyer shall look only to the Seller’s estate and property in the Units (and the proceeds thereof) for the satisfaction of Buyer’s remedies for the collection of a judgment (or other judicial process) requiring the payment of money by Seller hereunder, and no other property or assets of the Seller or any partner, member, officer, director or shareholder thereof, disclosed or undisclosed, shall be subject to levy, execution or other enforcement procedure for the satisfaction of Buyer’s remedies under or with respect to this Agreement or any of the other Transaction Documents, the relationship of Seller and Buyer hereunder or Buyer’s use or occupancy of the Property.

SECTION 11.4 Exculpation. Neither Seller nor any Seller-Related Entity shall have any personal liability, directly or indirectly, under or in connection with this Agreement or any agreement made or entered into under or pursuant to the provisions of this Agreement, or any amendment or amendments to any of the foregoing made at any time or times, heretofore or hereafter, and Buyer and its successors and assigns and, without limitation, all other persons and entities, shall, subject to Section 11.3, look solely to Seller’s assets for the payment of any claim

or for any performance, and Buyer, on behalf of itself and its successors and assigns, hereby waives any and all such personal liability, except as to any action of such Person that is established by means of a final nonappealable judgment to constitute fraud or criminal misconduct.

SECTION 11.5 Survival. The provisions of this Article XI shall survive Closing or other termination of this Agreement.

ARTICLE XII TAX CERTIORARI PROCEEDINGS

SECTION 12.1 Prosecution and Settlement of Proceedings. Seller and Ground Landlord shall have the right, at any time and from time-to-time, to file applications for the reduction of the assessed valuation of the Property, the Building and the Land or any portion of any of the foregoing and/or institute certiorari proceedings to review such assessed valuations for the 2020-2021 tax year and any tax year(s) prior thereto. In connection therewith, or if Seller has heretofore filed applications for the reduction of the assessed valuation of the Property and/or instituted certiorari proceedings to review such assessed valuations for any prior tax years, Buyer acknowledges and agrees that Seller shall have sole control of such proceedings, including the right to withdraw, compromise and/or settle the same or cause the same to be brought on for trial and to take, conduct, withdraw and/or settle appeals, and Buyer hereby consents to such actions as Seller may take therein. Any tax savings, credit or refund for any year or years prior to the tax year in which the Closing Date occurs shall belong solely to Seller; provided, however, that, if Seller receives any refund of real estate taxes for any tax year for which Buyer has made a payment of real estate taxes with respect to the GMHC Unit, Seller shall (after deducting from such refund all reasonable expenses incurred in connection therewith) pay to Buyer, within ninety (90) days after receipt, an equitable allocation of the net refund received by Seller in connection therewith. Buyer shall execute all consents, receipts, instruments and documents that may reasonably be requested, and shall otherwise reasonably cooperate with Ground Landlord, in order to facilitate settling such proceeding and collecting the amount of any tax savings, credit or refund. In addition, Seller shall have the right, following the Closing Date, to file applications for the reduction of the assessed valuation of the Property and/or institute certiorari proceedings to review such assessed valuations for any period of time prior to the Closing Date, and all of the foregoing provisions of this Section 12.1 shall apply thereto.

SECTION 12.2 Survival. The provisions of this Article XII shall survive the Closing and the delivery of Possession.

ARTICLE XIII TERMINATION AND DEFAULT

SECTION 13.1 Buyer Defaults.

(a) If at any time during the Installment Payment Term one or more of the following events (each, an “Event of Default”, collectively “Events of Default”) shall occur: (1) there shall be a breach or default by Buyer in the payment of (x) the Installment Purchase Payments or (y) any monthly installment of Common Charges and/or Special Assessments to the Condominium

Board under the Condominium Documents, and such breach or default shall continue for at least five (5) business days after Seller or the Condominium shall have delivered a notice to Buyer of such breach or default, provided, no grace period shall apply to the third and any subsequent late payments (as to which notice of late payment was given) of any amount referred to in this clause (1) during any twelve (12) month period (in each case, a “Buyer Recurring Payment Monetary Default”), or (2) there shall be a breach or default by Buyer in the payment of any monetary obligations under this Agreement or any of the other Transaction Documents other than the payment of (x) the Installment Purchase Payments or (y) any monthly installment of Common Charges and/or Special Assessments to the Condominium Board under the Condominium Documents, and such breach or default shall continue for at least ten (10) business days after Seller or the Condominium shall have delivered a notice to Buyer of such breach or default, provided, no grace period shall apply to the third and any subsequent late payments (as to which notice of late payment was given) of any amount in excess of \$10,000 (such amount to be Adjusted-by-CPI) referred to in this clause (2) during any twelve (12) month period (in each case, a “Buyer Non-Recurring Payment Monetary Default”; Buyer Non-Recurring Payment Monetary Defaults and Buyer Recurring Payment Monetary Defaults are collectively referred to as “Buyer Monetary Defaults”); or (3) whenever Buyer shall do or permit anything to be done, whether by action or inaction, contrary to or in violation of any of Buyer’s obligations, or, the terms, conditions or provisions of this Agreement or any of the other Transaction Documents, other than as provided in clauses (1) and (2) of this sentence, and if such situation shall continue and shall not be remedied by Buyer within thirty (30) days after Seller or the Condominium Board shall have given to Buyer a notice specifying the same, or, in the case of a happening or default which cannot with due diligence be cured within a period of thirty (30) days and the continuation of which for the period required for cure will not subject Seller or any SellerRelated Entity to the reasonable likelihood of criminal or civil liability or termination of any lease or foreclosure of any mortgage, if Buyer shall not, (i) within said thirty (30) day period advise Seller or the Condominium Board, as applicable, of Buyer’s intention to duly institute all steps necessary to remedy such situation, (ii) duly institute within said thirty (30) day period, and thereafter diligently and continuously prosecute to completion all steps necessary to remedy the same and (iii) complete such remedy within such time after the date of the giving of said notice as Seller or the Condominium Board, as applicable, shall reasonably be necessary (each, a “Buyer Nonmonetary Default”); then, during such time as such Events(s) of Default are continuing Seller may at any time (subject, in each case, to Section 13.1(b) hereof), at Seller’s option, deliver to Buyer a written notice stating that a default by Buyer has occurred and specifying the nature of such default, and stating that an Event of Default will occur if such default is not cured within the time period specified in the notice (which shall be not less than the time period specified for an Event of Default under this Agreement) (in each case, a “Termination Notice”), and, in the event a Termination Notice is given, this Agreement and the Installment Payment Term shall come to an end and expire upon the expiration of said time period with the same effect as if the date of expiration of said period were the expiration date of the Installment Payment Term, and this Agreement shall be null and void and of no further force or effect (and the other Transaction Documents shall likewise be deemed terminated as detailed therein), and neither party shall have any rights or obligations against or to the other, except that: (i) those provisions hereof which by their terms expressly survive the termination of this Agreement shall continue to survive; and (ii) Seller shall have the right to pursue any of the remedies available to Seller that are set forth in Section 13.1(c) and Section 13.1(d).

(b) Notwithstanding anything in this Section 13.1 to the contrary, Seller hereby agrees that Seller shall have no right to terminate this Agreement or to initiate or acquiesce in the termination of the Ground Lease in connection with any Buyer Nonmonetary Default (after notice and the expiration of any applicable cure period), unless and until Seller has fully complied with the requirements of this Section 13.1(b):

- (i) Buyer shall have the right prior to the expiration date of the cure period set forth in the notice of Buyer Nonmonetary Default to petition a court of competent jurisdiction in the State of New York for a temporary restraining order or preliminary injunction preventing Seller from terminating this Agreement and/or Buyer's rights hereunder pending the adjudication of such Buyer Nonmonetary Default (such temporary restraining order or preliminary injunction being referred to herein as "Buyer's Injunctive Relief"); and if Buyer's petition for Buyer's Injunctive Relief shall have been timely filed, then, from and after the date on which Buyer's petition for Buyer's Injunctive Relief is filed, Seller shall take no further action to terminate this Agreement and/or Buyer's rights hereunder or to initiate or acquiesce in the termination of the Ground Lease and/or Buyer's rights thereunder pending a decision by the court on whether to grant Buyer's Injunctive Relief, and if such temporary restraining order or preliminary injunction is granted, then pending the adjudication of the underlying Buyer Nonmonetary Default as provided below, Seller shall take no further action to terminate this Agreement and/or Buyer's rights hereunder; and
- (ii) If a court of competent jurisdiction shall deliver a determination ordering or permitting the termination of this Agreement or the Ground Lease and/or Buyer's rights hereunder (or thereunder) on the basis that a Buyer Nonmonetary Default has occurred, and if such determination has not been stayed pending appeal, then (x) Buyer shall cooperate with Seller in reconveying the Property to Seller, and (y) Seller shall have the further remedies set forth in Section 13.1(d) hereto.

(c) In case of any Event of Default that (pursuant to the terms of Section 13.1(a)) results in the termination of this Agreement, then:

- (i) The Installment Purchase Payments and all other amounts due hereunder and other the other Transaction Documents shall become due thereupon and be paid up to the time of such termination;
- (ii) Seller may resell the Property or lease the Property or any part or parts thereof, either in the name of Buyer or otherwise, on such terms and conditions as Seller may elect in its sole discretion; and/or
- (iii) Buyer or the legal representatives of Buyer shall pay to Seller, as liquidated damages for such Event of Default, unless Seller elects to collect damages in accordance with Section 13.1(d), any deficiency between (x) all payments

that have then, and which otherwise would have, become due under this Agreement and under the other Transaction Documents, and (y) if the Property shall have been reconveyed to Seller, and Seller shall have sold or leased the Property to a third party, or otherwise permitted the occupancy thereof by a third party, the sales proceeds or rent collected by Seller on account thereof and allocable to the remainder of the Installment Payment Term. In computing such liquidated damages there shall be added to said deficiency such expenses as Seller may incur in connection with such sale or leasing, such as legal expenses, attorneys' fees, brokerage, advertising and for keeping the Property in good order or for preparing the same for sale or leasing. Any such liquidated damages shall be paid in monthly installments by Buyer on the first day of each month and any suit brought to collect the amount of the deficiency for any month shall not prejudice in any way the rights of

Seller to collect the deficiency for any subsequent month by a similar proceeding. Seller in putting the Property in good order or preparing the same for sale or lease may, at Seller's option, make such alterations, repairs, replacements, and/or decorations in the Property as Seller, in Seller's sole judgment, considers advisable and necessary for the purpose of selling or leasing the Property, and the making of such alterations, repairs, replacements and/or decorations shall not operate or be construed to release Buyer from liability hereunder as aforesaid. Seller shall in no event be liable in any way whatsoever for failure to sell or lease the Property, or in the event that the Property is leased, for failure to collect the rent thereof under such lease, and in no event shall Buyer be entitled to receive any excess, if any, of such net sales proceeds or rents collected over the sums payable by Buyer to Seller hereunder. If the Property or any part thereof should be leased in combination with other space, then proper apportionment on a square foot basis shall be made of the rent received from such leasing and of the expenses of leasing. Seller shall be under no obligation in leasing the Property to give priority to the leasing thereof over other vacant space in the Building of which the Property is a part.

(d) Seller, in its sole discretion, in lieu of the damages described in Section 13.1(c)(iii), may elect to require Buyer to pay to Seller as liquidated damages, and Buyer hereby covenants to pay to Seller, a sum which represents the then present value (such computation to be made by using the then Prime Rate of the excess, if any, of (1) all Installment Purchase Payments, and all Common Charges and Special Assessments, and all other payments which would have become due under this Agreement or the other Transaction Documents, had this Agreement and the other Transaction Documents not so terminated, for the period from the date of such termination (a "Default Termination") to the date which would have constituted of the last day of the Installment Payment Term, over (2) the aggregate fair rental value of the Property for the same period. If the Property or any part thereof be leased by Seller before presentation of proof of such damages to any court, commission or tribunal, the amount of rent set forth in such lease shall, prima facie, be the fair rental value for the Property, or part thereof, so leased for the term of such lease.

(e) Upon a Default Termination, Seller shall be entitled to retain all monies, if any, paid by Buyer to Seller whether as advance payments, security deposit (and interest thereon, if any) or otherwise, but such monies shall be credited by Seller against any Installment Purchase Payments and other amounts due to Seller hereunder or under the other Transaction Documents, subject to Buyer's right to an accounting as to all such monies, at the time of such Default Termination, or at Seller's option, against any damages payable by Buyer under this Section 13.1 or pursuant to law.

(f) In addition to any other remedies Seller may have under this Agreement or any other Transaction Document, and without reducing or adversely affecting any of Seller's rights and remedies under this Section 13.1, if any Installment Purchase Payment or other amounts or damages payable hereunder by Buyer to Seller are not paid within five (5) days after notice, Buyer shall be required to pay Seller, upon demand, a late charge with respect to such unpaid amount at the Default Rate from the due date thereof until paid, in default of which Seller shall have the same remedies as for nonpayment of the Installment Purchase Payments.

(g) For the purpose of computing under Sections 13.1(c) and (d) of this article, the amount of Common Charges and Special Assessments payable for the remainder of the Installment Payment Term shall be equal to the Common Charges and Special Assessments payable by Buyer for the calendar year immediately preceding the calendar year in which the Default Termination occurs (or if the Default Termination occurs prior to the end of the calendar year in which the Closing Date occurs, then Seller's reasonable estimate of what Common Charges and Special Assessments would have been had Closing Date occurred one year earlier), increased each year by the percentage increase in Common Charges and Special Assessments for the immediately preceding calendar year over the Common Charges and Special Assessments for the twelve-month period prior thereto (or, if the Installment Payment Term did not occur throughout such prior years, Seller's reasonable estimate of what such increase would have been had the Installment Payment Term occurred during such years).

SECTION 13.2 Omnibus Relief.

Nothing in this Agreement or any other Transaction Document shall be construed as limiting or precluding the recovery by Seller against Buyer of any sums or damages to which, in addition to the damages specified above, Seller may lawfully be entitled by reason of any default under this Agreement or any other Transaction Document on the part of Buyer, subject, however, to the express provisions of the Transaction Documents. In the event of a breach or threatened breach by Buyer of any of the covenants or provisions hereof or any other Transaction Document, Seller shall have the right of injunction and the right to invoke any remedy allowed at law or in equity, subject, however, to the express provisions of the Transaction Documents. Mention in this Agreement or any other Transaction Document of any particular remedy shall not preclude Seller from any other remedy in law or in equity, subject, however, to the express provisions of the Transaction Documents. In any event (and notwithstanding any provision of this Agreement to the contrary), the exercise by Seller of Seller's remedies under this Agreement or any other Transaction Document shall be subject to the provisions of Section 13.1(b) hereof.

SECTION 13.3 No Waiver. No waiver by either party of any breach or default hereunder shall constitute or be construed as a waiver by such party of any subsequent breach or default of the same obligation, or of any breach or default of any other provision of this Agreement.

SECTION 13.4 Buyer's Promissory Note. Buyer acknowledges and agrees that, on or prior to the date of this Agreement, Buyer executed and delivered a promissory note in the amount of (the "Promissory Note") to Ground Landlord. In the event that any Event of Default (as such term is defined in the Promissory Note) under the Promissory Note shall occur, an Event of Default under this Agreement, in the nature of a Buyer Recurring Payment Monetary Default, shall be deemed to have occurred, and Seller shall have all of the remedies available to Seller in connection with an Event of Default under the Promissory Note as are available to Seller in connection with an Event of Default that is a Buyer Recurring Payment Monetary Default, provided however, if Buyer cures such Event of Default under the Promissory Note prior to Seller providing written notice to Buyer that Seller intends to terminate this Agreement due to the existence of such Event of Default under the Promissory Note, then no such Event of Default shall be deemed to have occurred and this Agreement shall continue in full force and effect.

SECTION 13.5 Survival. The provisions of this Article XIII shall survive the termination of this Agreement.

ARTICLE XIV MISCELLANEOUS

SECTION 14.1 Broker.

(a) Seller represents and warrants to Buyer that Seller has dealt with no broker, salesman, finder or consultant with respect to this Agreement or the transactions contemplated hereby other than Broker. Seller agrees to indemnify Buyer against all claims, losses, damages, liabilities, costs, expenses and charges, including reasonable legal fees and expenses, resulting from Seller's breach of the foregoing representation and warranty. Seller shall be responsible for the payment of a brokerage commission to Broker pursuant to a separate written agreement. The provisions of this Section 14.1(a) shall survive the Closing and delivery of Possession or any termination of this Agreement.

(b) Buyer represents and warrants to Seller that Buyer has dealt with no broker, salesman, finder or consultant with respect to this Agreement or the transactions contemplated hereby other than Broker. Buyer agrees to indemnify Seller against all claims, losses, damages, liabilities, costs, expenses and charges, including reasonable legal fees and expenses, resulting from Buyer's breach of the foregoing representation and warranty. The provisions of this Section 14.1(b) shall survive the Closing and delivery of Possession or any termination of this Agreement.

SECTION 14.2 Press Release; Income Taxes. Any press release or other public disclosure regarding this Agreement or the transaction contemplated hereby shall not be made without Buyer's and Seller's prior written consent. The provisions of this Section 14.2 shall survive the Closing and delivery of Possession or any termination of this Agreement. For federal, state and

local income tax purposes only, the parties hereto shall, and shall cause their respective affiliates to, take the position that the transaction contemplated by this Agreement and the other Transaction Documents is a lease and not a sale.

SECTION 14.3 IRS Reporting Requirements. For the purpose of complying with any information reporting requirements or other rules and regulations of the IRS that are or may become applicable as a result of or in connection with the transaction contemplated by this Agreement, including, but not limited to, any requirements set forth in proposed Income Tax Regulation Section 1.6045-4 and any final or successor version thereof (collectively, the “IRS Reporting Requirements”), Seller and Buyer hereby designate and appoint Royal Abstract Of New York LLC (“Royal”) to act as the “Reporting Person” (as that term is defined in the IRS Reporting Requirements) to be responsible for filing a 1099-S form. Royal hereby acknowledges and accepts such designation and appointment, and agrees to file the 1099-S form promptly after receipt of such form (completed and executed by Seller). Without limiting the responsibility and obligations of Royal as the Reporting Person, Seller and Buyer hereby agree to comply with any provisions of the IRS Reporting Requirements (other than filing of the 1099-S form by the Reporting Person as provided herein) including, but not limited to, the requirement that Seller and Buyer each retain an original counterpart of this Agreement for at least four years following the calendar year of the Closing.

SECTION 14.4 Successors and Assigns; No Third-Party Beneficiaries. The stipulations, terms, covenants and agreements contained in this Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective permitted successors and assigns (including any successor entity after a merger, consolidation, purchase or other similar transaction involving a party hereto), and nothing herein expressed or implied shall give or be construed to give to any person or entity, other than the parties hereto and such assigns, any legal or equitable rights hereunder.

SECTION 14.5 Assignment. This Agreement may only be assigned or transferred by Buyer in accordance with the provisions of the Condominium Documents and the other Transaction Documents.

SECTION 14.6 Further Assurances. Each party hereto, from time to time, as and when requested by the other party, shall execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further or other actions as the requesting party may reasonably deem necessary or desirable to consummate the transactions contemplated by this Agreement; provided, however, that the party receiving any such request shall not be obligated to incur any cost or liability in connection with such actions.

SECTION 14.7 Notices. Except as expressly provided to the contrary in this Agreement, all notices under this Agreement shall be made by registered or certified mail, return receipt requested, postage prepaid, or by nationally recognized overnight delivery service providing proof of delivery as follows:

(a) To Seller:	Glenhill Associates Leasehold, LLC c/o George Comfort & Sons, Inc. 200 Madison Avenue

New York, New York 10016
Attention: Mr. Peter S. Duncan

With a copy to: Federman Steifman LLP
The News Building
220 East 42nd Street, 29th Floor
New York, NY 10017
Attn: Michael K. Federman, Esq.

And to: Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, New York 10038-4982
Attention: Trevor Adler, Esq.

To Buyer: Gay Men's Health Crisis, Inc.
307 West 38th Street
New York, New York 10018
Attention: Vice President – Operations

With a copy to: Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, New York 10019
Attention: Meredith J. Kane, Esq.

Either party may change these persons or addresses by giving notice as provided above. Buyer shall also give required notices to any fee mortgagee after receiving notice from Seller of the mortgagee's name and address. All notices shall be deemed given when delivered by overnight delivery service or three (3) days after the notice by registered or certified mail is mailed. Each party's attorney shall be authorized to give notices on behalf of such party.

SECTION 14.8 Entire Agreement; Amendments. All understandings and agreements heretofore made between the parties hereto are merged in this Agreement, which alone fully and completely expresses the agreement between Seller and Buyer and any executory agreement hereafter made shall be ineffective to change, modify, discharge or effect an abandonment of it in whole or in part, unless such executory agreement is in writing and signed by the party against whom enforcement of the change, modification, discharge or abandonment is sought.

SECTION 14.9 No Waiver. The failure of Seller to seek redress for violation of, or to insist upon the strict performance of any covenant or condition of this Agreement, shall not prevent a subsequent act which would have originally constituted a violation from having all the force and effect of an original violation. The receipt by Seller of any Installment Purchase Payment or other amount with knowledge of the breach of any covenant of this Agreement or any other Transaction Document shall not be deemed a waiver of such breach and no provision of this Agreement shall be deemed to have been waived by Seller unless such waiver is in writing signed by Seller. No

payment by Buyer or receipt by Seller of a lesser amount than the Installment Purchase Payment herein stipulated shall be deemed to be other than on account of the earliest Installment Purchase Payment, nor shall any endorsement or statement of any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Seller may accept such check or payment without prejudice to Seller's right to recover the balance of such Installment Purchase Payment or pursue any other remedy set forth in this Agreement.

SECTION 14.10 Governing Law. This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with, the laws of the State of New York.

SECTION 14.11 Submission to Jurisdiction. Each of Buyer and Seller agrees to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in any New York State court of competent jurisdiction with venue in the City and County of New York. Each of Buyer and Seller further agrees that service of any process, summons, notice or document by U.S. registered mail to such party's respective address set forth above shall be effective service of process for any action, suit or proceeding in New York with respect to any matters to which it has submitted to jurisdiction as set forth above in the immediately preceding sentence.

SECTION 14.12 Severability. If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

SECTION 14.13 Section Headings. The headings of the various Sections of this Agreement have been inserted only for purposes of convenience, are not part of this Agreement and shall not be deemed in any manner to modify, explain, expand or restrict any of the provisions of this Agreement.

SECTION 14.14 Counterparts. This Agreement may be executed in two or more counterparts, which taken together will constitute collectively one agreement.

SECTION 14.15 Acceptance of Deed. Except as otherwise expressly provided in this Agreement, Buyer's acceptance of the Deed shall be deemed a discharge of all of the obligations of Seller hereunder and all of Seller's representations, warranties, covenants and agreements in this Agreement shall merge in the documents and agreements executed at the Closing and shall not survive the Closing or delivery of Possession, except and to the extent that, pursuant to the express provisions of this Agreement, any of such representations, warranties, covenants or agreements are to survive the Closing and delivery of Possession. For the avoidance of doubt, (i) any covenants or obligations that are to be satisfied or performed after the Closing and prior to the delivery of Possession expressly survive the Closing, and (ii) any covenants or obligations that may be satisfied or performed after the delivery of Possession (e.g., any Latent Defects or, with respect to the GMHC Second Floor Expansion Unit only, any Punchlist Work) expressly survive the Closing and delivery of Possession.

SECTION 14.16 Interpretation. Notwithstanding anything to the contrary contained in this Agreement:

(a) In each instance in this Agreement in which Buyer is obligated to pay or reimburse Seller for attorneys' fees, costs, disbursements or expenses, it shall be deemed that Buyer shall only be obligated to pay or reimburse Seller for Seller's reasonable counsel or attorneys' fees, costs, disbursements or expenses.

(b) In each instance in this Agreement in which the words "Buyer's default", "default of Buyer," or words of similar import appear, it shall be deemed that the words "beyond the expiration of any applicable cure, grace and notice periods" be added thereafter.

(c) The invalidity or unenforceability of any provisions of this Agreement is not to affect or impair any other provision.

(d) Where Buyer consists of more than one party, the obligations of each such party hereunder shall be joint and several.

(e) The words "include" or "including" shall be construed as incorporating "but not limited to" or "without limitation."

(f) The phrase "at Buyer's expense" means at the sole and exclusive expense of Buyer, who shall be responsible for all costs involved in, or associated with, the applicable matter.

(g) Except to the extent (if any) otherwise expressly provided in this Agreement, the phrase "in Seller's judgment" means in Seller's sole and exclusive discretion and judgment.

(h) Wherever this Agreement imposes any obligation upon Buyer, or provides that Buyer shall be responsible for any action or matter, the Lease shall be construed to mean that Buyer shall perform or undertake the matter at Buyer's expense, unless expressly specified otherwise.

(i) The parties intend that the obligations of Buyer hereunder shall be separate and independent covenants and agreements and shall continue unaffected unless such obligations shall have been modified or terminated by the express agreement of Seller.

SECTION 14.17 Recordation. Neither this Agreement nor any memorandum or notice of this Agreement may be recorded by any party hereto without the prior written consent of the other party hereto. In furtherance of the foregoing, Buyer hereby indemnifies Seller against any and all liabilities, damages, losses, costs or expenses arising out of a breach of this Section 14.17.

SECTION 14.18 Waiver of Jury Trial. It is mutually agreed by and between Seller and Buyer that the respective parties hereto shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other (except for personal injury or property damage) on any matters whatsoever arising out of or in any way connected with this Agreement or the other Transaction Documents, the relationship of Seller and Buyer, Buyer's use of or occupancy of the Property, and any emergency statutory or any other statutory remedy.

SECTION 14.19 Attorneys' Fees. If Buyer shall at any time default in the performance of any monetary or non-monetary obligation under this Agreement or any other Transaction Document and Seller shall institute any action or proceeding against Buyer based upon any such default, then Buyer shall reimburse Seller for the legal fees and expenses thereby incurred by Seller; provided, however, that in the case of any action or proceeding between Seller and Buyer, the substantially prevailing party shall be entitled to reimbursement of its actual, reasonable out-of-pocket legal fees and disbursements by the other party.

SECTION 14.20 Estoppel.

(a) Buyer, at any time, and from time to time (but not more than three (3) times during any twelve (12) month period), within ten (10) days' of written request by Seller, shall execute, acknowledge and deliver to Seller, and/or to any other person specified by Seller, a statement certifying that this Agreement is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified and stating the modifications), stating the dates to which Installment Purchase Payments and any other sums due under this Agreement have been paid, stating whether or not there exists any default by Seller under this Agreement or the other Transaction Documents, and, if so, specifying each such default, and certifying as to such other matters as Seller may reasonably request. The foregoing shall not limit any other rights and remedies available to Seller for breach of this Section 14.21.

(b) Seller, at any time, and from time to time (but not more than three (3) times during any twelve (12) month period), within ten (10) days' of written request by Buyer, shall execute, acknowledge and deliver to Buyer, or to any other person specified by Buyer, a statement certifying that this Agreement is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified and stating the modifications), stating the dates to which Installment Purchase Payments and any other sums due under this Agreement have been received by Seller, and stating whether or not Seller has delivered a notice of default to Buyer under this Agreement or the other Transaction Documents, and, if so, specifying each such default.

(c) In addition to its obligations under Section 14.20(a) hereof, upon at least ten (10) days' prior notice by Seller to Buyer at any time after the Closing, and from time to time thereafter (but no more than once during any calendar year), Buyer shall execute, acknowledge and deliver to the party so requesting, and/or any other Person specified by Seller, an estoppel certificate in substantially the form of Exhibit L attached hereto supplemented with such additional factual information, similar in nature to the information found on Exhibit L, as may be reasonably requested.

SECTION 14.21 Survival. The provisions of this Article XIV shall survive the Closing and the delivery of Possession or a termination of this Agreement.

ARTICLE XV
SECURITY DEPOSIT

SECTION 15.1 Amount of Security. Buyer previously deposited with a SellerRelated Entity a cash security deposit in the amount of the "Security Deposit", which Buyer now agrees

shall be held by Seller as security for the faithful performance and observance by Buyer of the terms, provisions and conditions of this Agreement and all of the other Transaction Documents.

SECTION 15.2 Buyer Default. It is agreed that in the event Buyer defaults (beyond any applicable notice and grace period) in respect of any of the terms, provisions and conditions of this Agreement or any of the other Transaction Documents, including, but not limited to, the payment of any amounts that Buyer is obligated to pay pursuant to this Agreement or any of the other Transaction Documents (collectively, "Transaction Payments"), Seller may use, apply or retain the whole or any part of the Security Deposit to the extent required for the payment of any Transaction Payments as to which Buyer is in default or for any sum which Seller or any Seller-Related Entity may reasonably expend or may be required to expend by reason of such default, including, but not limited to, any damages or deficiency in the leasing of the GMHC Unit, whether such damages or deficiency accrued before or after any legal action on the part of Seller or any other Seller-Related Entity. If, as a result of any application by Seller or any other Seller-Related Entity of all or any part of the Security Deposit, the amount of cash so on deposit with Seller shall be less than that required pursuant to Section 15.1 above, Buyer shall within five (5) days after notice deposit with Seller cash in an amount equal to the deficiency.

SECTION 15.3 Interest on Security Deposit. From and after the Closing Date, Seller shall place the cash Security Deposit in an interest-bearing account at a major money center bank in New York, and all interest except for one percent (1%) per annum of the principal amount of the Security Deposit (which shall be retained and paid to Seller's agent as an administration charge in connection with the maintenance of the security account) shall accumulate as an additional security deposit.

SECTION 15.4 Return of Security Deposit. If, at the expiration of the Installment Payment Term, Buyer shall not be in default in the payment of any Transaction Payments (or in the keeping of any of the other terms, provisions, covenants and conditions of this Agreement or any of the other Transaction Documents that requires Seller or any Seller-Related Entity to expend funds to cure), the Security Deposit shall be returned to Buyer within thirty (30) days after the later of the date fixed as the end of the Installment Payment Term and the date of delivery to Seller (or to such Seller-Related Entity as Seller shall designate) of entire possession of the GMHC Unit in the required condition.

SECTION 15.5 Letter of Credit.

(i) In place of the cash Security Deposit, Buyer may deposit with Seller a non-documentary letter of credit of any bank that is a member of the Clearinghouse Association, or another bank or trust company designated by Buyer, but subject to the written approval of Seller, which approval shall not be unreasonably withheld, conditioned or delayed.

(ii) The letter of credit shall be in the amount of Security Deposit and shall be substantially in the form annexed hereto as Exhibit O (or such other form as is reasonably acceptable to Seller, taking into account the provisions of this Article 15 and Exhibit O), and shall state that it is payable unconditionally to Seller on demand upon presentation of a sight draft under the letter of credit before the expiration date set forth in the letter of credit.

(iii) Without affecting the non-documentary status of the letter of credit and without involving the issuer of the letter of credit in any matters affecting this Agreement or any of the other Transaction Documents, Seller shall not present a draft under the letter of credit for payment unless (i) there is a default (beyond all applicable notice, grace and cure periods) by Buyer (whereupon the funds paid on the letter of credit shall be applied by Seller as provided for under Section 15.2 above in respect to the cash security), or (ii) the issuer of the letter of credit gives Seller written notice of the non-renewal thereof (or, in the case of a non-evergreen letter of credit, the letter of credit expires before thirty (30) days after the last day of the Installment Payment Term), and at least twenty (20) days before the expiration of the letter of credit cash or a renewal or replacement letter of credit complying with the provisions of this Section 15.5 shall not have been delivered to Seller (in either case in the then-applicable amount of the Security Deposit). Buyer must keep renewing the letter of credit unless cash is substituted therefor, without any need on the part of Seller to give Buyer any notice that it is in default in supplying that renewal, any provision of this Agreement (or any of the other Transaction Documents) as to notice of default to Buyer to the contrary notwithstanding.

(iv) The employment of a letter of credit is an accommodation to Buyer and the object of this Section 15.5 is not to diminish Seller's rights to deal with the Security Deposit as would prevail if it were cash.

(v) Without limiting the provisions of this Article 15, the issuer of the letter of credit has no interest in, or concern with, this Agreement (or any of the other Transaction Documents) or the performance under them by any party to this Agreement (or any of the other Transaction Documents). The issuer's sole obligation is to honor a sight draft timely drawn and presented.

SECTION 15.6 Security Reductions.

(a) Seller shall, on or prior to the Closing Date, draw down on the Security Deposit then held by Seller pursuant to this Article 15 in the amount of (the "Initial Reduction Amount") which shall be applied by Seller to any Transfer Taxes and Mortgage Recording Taxes due at Closing in accordance with Section 9.1(a) hereof. For the avoidance of doubt, if the amount of Transfer Taxes and Mortgage Recording Taxes due in connection with Closing pursuant to Section 9.1(a) hereof shall (i) exceed the Initial Reduction Amount, then at Closing, Tenant shall pay any such amounts due therefor in excess of the Initial Reduction Amount, or (ii) be less than the Initial Reduction Amount, then Seller shall return any such excess of the Initial Reduction Amount not credited to Transfer Taxes or Mortgage Recording Taxes at Closing to Buyer promptly after the Closing Date. Such draw by Seller of the Initial Reduction Amount shall be deemed a reduction of the Security Deposit, and Buyer shall not be required to replenish the Initial Reduction Amount.

(b) Notwithstanding anything to the contrary contained herein, in addition to the reduction of the Security Deposit amount pursuant to Section 15.6(a) above, Buyer shall have the right on June 30, 2021 (the "Second Reduction Date"), and on each successive anniversary of the Second Reduction Date, to further reduce the amount of the Security Deposit, provided that (i) in

each case no Event of Default (as hereinafter defined) shall have occurred and be continuing and (ii) in no event whatsoever shall the Security Deposit be reduced. If an Event of Default shall have occurred and is continuing on the Second Reduction Date or any anniversary thereof, Buyer shall not have the right to reduce amount of the Security Deposit under this Section 15.6 prior to the date thereafter that such Event of Default has been cured to the reasonable satisfaction of Seller.

SECTION 15.7 Seller Cooperation. At any time when the amount or instrument of the Security Deposit is to be changed, Seller shall cooperate with Buyer in connection with such (as reasonably requested), including without limitation by executing all customary and reasonable documents required by the issuing bank and returning any prior letter of credit or cash immediately upon receipt of a replacement letter of credit or cash. Any change to a letter of credit may occur by an amendment to such letter of credit or by delivery of a new letter of credit.

ARTICLE XVI EXPANSION OPTION

SECTION 16.1 Expansion Option. Buyer shall have a right (the “Expansion Option”) to purchase the entire Sixth Floor Unit and/or the entire Ninth Floor Unit (each are sometimes referred to herein as an “Expansion Unit”), which shall be exercisable as follows:

(a) Provided Buyer has not previously exercised the Expansion Option as to the applicable Expansion Unit, at least six (6) months, but not more than twelve (12) months (fifteen (15) months in the case of the Sixth Floor Unit), before an Expansion Unit will be available for leasing or purchase, Seller shall deliver written notice to Buyer that an Expansion Unit is available for purchase (“Expansion Notice”). Except as expressly provided in this Section 16.1 to the contrary, Seller shall not sell or lease any Expansion Unit (or any portion thereof) without having given the applicable Expansion Notice to Buyer.

(b) Within thirty (30) days (sixty (60) days in the case of Sixth Floor Unit) after delivery of an Expansion Notice, Buyer shall notify Seller in writing (“Exercise Notice”) whether Buyer desires to exercise the Expansion Option and to purchase the applicable Expansion Unit. If Buyer timely gives an Exercise Notice, the applicable Expansion Unit shall be sold to Buyer on the following terms:

- (i) the closing for the applicable Expansion Unit pursuant to the terms and conditions of this Agreement shall occur on the date (the “Applicable Expansion Space Inclusion Date”) which is the date on which Seller delivers to Buyer possession of the applicable Expansion Unit with Seller’s Work therein substantially completed and otherwise in its then “as is” condition;
- (ii) all of the terms, covenants and conditions of this Agreement and the Other Transaction Documents applicable to the Initial GMHC Unit shall be applicable to such Expansion Unit, except as modified herein;
- (iii) Buyer shall pay for the applicable Expansion Unit an amount (the “Applicable Space Amount”) based on 100% of the fair market rent for the applicable Expansion Unit. For purposes hereof, “fair market rent” shall

mean the rental rate that would be paid in an arms-length transaction between a landlord who is under no compulsion to lease and a tenant who is under no compulsion to rent the Expansion Unit in question, based upon the rental market for comparable premises in comparable buildings in Manhattan, New York, under terms substantially similar (in all material respects) to those in this Agreement and the other Transaction Documents taking into consideration all relevant factors, including, without limitation, the performance and allocation of payment for Seller's Work as provided herein and in the immediately succeeding sentence. The Applicable Space Amount for the applicable Expansion Unit shall be calculated using the fair market rent for such Expansion Unit determined as hereinafter set forth and a methodology reasonably consistent with the methodology the parties utilized in calculating the initial rent due under the Ground Lease and the Purchase Price under this Agreement for the Initial GMHC Unit (taking into account, inter alia, common charges and operating expenses to be payable by Buyer with respect to the Expansion Unit); and

- (iv) The Applicable Space Amount shall be due and payable in accordance with the following: from and after the Applicable Expansion Space Inclusion Date, (i) Buyer shall be deemed to be responsible for the Common Charges (inclusive of the rent due under the Ground Lease) for the applicable Expansion Unit, and (ii) if the Applicable Space Amount (calculated on a per rentable square foot basis), as finally determined, exceeds the rent payable under the Ground Lease (calculated on a per rentable square foot basis) applicable to such Expansion Unit, then such excess shall be deemed to be added to the Purchase Price due and payable under this Agreement (on a going-forward basis), and the Installment Purchase Payments shall be modified accordingly.

(c) Seller shall perform Seller's Work for the applicable Expansion Unit in accordance with Exhibit D to this Agreement, and Buyer shall share in the costs and expenses of such Seller's Work on a prorata basis in the same manner as is provided in Section 10.1 of this Agreement for the sharing of expenses for Seller's Work in relation to the GMHC Second Floor Expansion Unit (i.e., the cost and expense of Seller's Work as it relates to the applicable Expansion Unit shall be prorated between Seller and Buyer based on the ratio of the Installment Payment Term of the applicable Expansion Unit, to the Installment Payment Term for the Initial GMHC Unit, such that Buyer shall reimburse to Seller a percentage (equal to the quotient, expressed as a percentage, of (i) the number of months in the Installment Payment Term from and after the Initial Possession Date through and including the day immediately preceding the Applicable Expansion Space Inclusion Date, divided by (ii) the number of months in the Installment Payment Term) of the cost of such Seller's Work. Within seven (7) days after notice from Seller (with reasonable backup documentation as to such percentage and the aggregate actual, reasonable out-of-pocket cost of Seller's Work), Buyer shall reimburse to Seller an amount equal to such percentage of the cost and expense of Seller's Work for the applicable Expansion Unit).

(d) If Buyer shall exercise the Expansion Option, then Seller shall prepare and deliver an amendment to this Agreement (and Other Transaction Documents, if applicable) memorializing the purchase of such Expansion Unit and otherwise incorporating the terms contained herein, and each of Seller and Buyer shall, within ten (10) days after receipt thereof, execute such amendment (but such amendment shall not be required to effectuate the same, it being understood and agreed that the provisions of this Section 16.1 shall apply notwithstanding any party's failure to execute such amendment). Unless otherwise agreed by the Seller, Buyer may not exercise the Expansion Option for less than the entirety of an Expansion Unit offered to Buyer.

(e) If Buyer does not timely give an Exercise Notice (it being agreed that time is of the essence with respect to the giving of such notice and the execution of such amendment), Buyer shall have no further rights under this Expansion Option with respect to such Expansion Unit, and Seller shall be free to sell or lease any or all of such Expansion Unit to a third party or parties from time to time on such terms and conditions as Seller may deem appropriate (subject to the further provisions of this Section 16.1).

(f) Notwithstanding anything to the contrary set forth herein, it shall be an express condition to Buyer's rights to exercise the Expansion Option, to enter into an amendment of this Agreement (and the Other Transaction Documents, if applicable) purchasing any Expansion Unit, and to take possession of the applicable Expansion Unit that, as of the date that Buyer exercises the Expansion Option and as of the date the applicable Expansion Unit is delivered to Buyer (i) no event of default shall have occurred and be continuing under this Agreement or any Other Transaction Document, (ii) Buyer and its Affiliates shall be in occupancy of at least eighty percent (80%) of the GMHC Unit (calculated without taking into account the Expansion Unit), and (iii) this Agreement and all Other Transaction Documents shall be in full force and effect. In addition, the Expansion Option as to the Sixth Floor Unit shall supersede any renewal, extension, expansion, right of first offer, or right of refusal of a tenant under an existing lease which is applicable to the Sixth Floor Unit (whether or not any such renewal, extension or expansion is pursuant to any term in such lease), but the Expansion Option as to the Ninth Floor Unit shall be subject and subordinate to Seller's right to renew, extend or expand the lease of any tenant currently leasing any portion of the Ninth Floor Unit. Buyer acknowledges that the Expansion Option shall only apply to the first availability of any Expansion Unit during the Ground Lease Term and, if any Expansion Unit, or any portion thereof, becomes available again during the Ground Lease Term, Seller may sell or lease such vacant space to any third party on any terms which are acceptable to Seller without first offering such space to Buyer for sale or leasing.

(g) Buyer acknowledges and agrees that the rights of Buyer under this Section 20 are personal to Buyer and Buyer's Affiliates, and shall not be exercisable by any purchaser or tenant (or subtenant) of the GMHC Unit (or any portion thereof), other than a purchaser of the GMHC Unit that has acquired Buyer's assets and is continuing Buyer's business operations in the GMHC Unit.

(h) (i) After Seller receives an Exercise Notice with respect to Sixth Floor Unit or the Ninth Floor Unit, Seller shall make the initial determination of the Applicable Space Amount for such Expansion Unit ("Seller's Submitted Amount"). Seller shall give notice to Buyer of Seller's Submitted Amount within thirty (30) days after receipt of such notice from

Buyer. If Seller and Buyer shall fail to agree upon the Applicable Space Amount for the Expansion Unit within thirty (30) days after delivery of such notice by Seller, then Seller and Buyer each shall give notice to the other setting forth the name and address of an arbitrator designated by the party giving such notice. If either party shall fail to give notice of such designation within ten (10) Business Days after the end of such thirty (30) day period, then the arbitrator chosen shall make the determination alone. If two arbitrators shall have been designated, within thirty (30) days thereafter such two arbitrators shall make their determinations of the Applicable Space Amount for the Expansion Unit in writing and give notice thereof to each other and to Seller and Buyer. Such two arbitrators shall have thirty (30) days after the receipt of notice of each other's determinations to confer with each other and to attempt to reach agreement as to the determination of the Applicable Space Amount for the Expansion Unit. If such two arbitrators shall concur as to the determination of such Applicable Space, such concurrence shall be final and binding upon Seller and Buyer. If such two arbitrators shall fail to concur, then such two arbitrators shall immediately designate a third arbitrator. If the two arbitrators shall fail to agree upon the designation of such third arbitrator within five (5) days, then either party may apply to the American Arbitration Association or any successor thereto having jurisdiction for the designation of such arbitrator. All arbitrators shall be real estate appraisers or consultants who shall have had at least ten (10) years continuous experience in the business of appraising or managing real estate or acting as real estate agents or brokers in the Borough of Manhattan and shall not be affiliated with Seller or Buyer. The third arbitrator shall conduct such hearings and investigations as he may deem appropriate and shall, within thirty (30) days after his designation, choose one of the determinations of the two arbitrators originally selected by the parties, and that choice by the third arbitrator shall be binding upon Seller and Buyer. Each party shall pay its own counsel fees and expenses, if any, in connection with any arbitration under this Section, including the expenses and fees of any arbitrator selected by it in accordance with the provisions of this Section 16.1, and the parties shall share equally all other expenses and fees of any such arbitration. The determination rendered in accordance with the provisions of this Section shall be final and binding in fixing the Applicable Space Amount for the Expansion Unit. The arbitrators shall not have the power to add to, modify or change any of the provisions of this Agreement or any of the Other Transaction Documents.

- (ii) Prior to the determination of the arbitrators, Buyer shall pay, as the Applicable Space Amount for the Expansion Unit, the Applicable Space Amount payable on a per rentable square foot basis for the GMHC Initial Unit, and in the event the arbitrators determine that the Applicable Space Amount payable pursuant to this Section 16.1(h)(ii) is more than that being paid by Buyer, then Buyer shall pay the amount of such underpayment, with interest thereon at the rate of the Prime Rate plus two hundred (200) basis points, within thirty (30) days after the arbitrators' determination. In the event the arbitrators determine that the Applicable Space Amount payable pursuant to this Section 16.1(h)(ii) is less than that being paid by Buyer, then Seller shall pay to Buyer the amount of such overpayment, with interest thereon at the rate of the Prime Rate plus two hundred (200) basis points, within thirty (30) days after the arbitrators' determination.

[Signatures on immediately following page]

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the day and year first above written.

SELLER:

GLENHILL ASSOCIATES LEASEHOLD, LLC,
a New York limited liability company

By: GLENHILL ASSOCIATES, LLC, a New York limited liability company, its sole member

By: Glenhill Manager LLC, a Delaware limited liability company, its managing member

By: Glenhill Holdings LLC, a Delaware limited liability company, its sole member

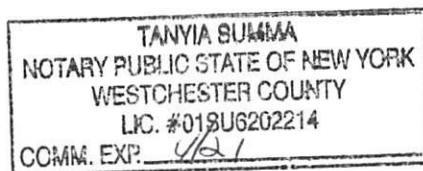
By: 
Name: Dana Comfort
Title: Managing Member

SELLER ACKNOWLEDGMENT

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

On the 13 day of October in the year 2020, before me, the undersigned, personally appeared Dana Bonifant, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Tanyia Summa
Notary Public



BUYER:

GAY MEN'S HEALTH CRISIS, INC.

By: Kelsey L.
Name: Kelsey Lorie
Title: Chief Executive Officer

BUYER ACKNOWLEDGMENT

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

On the 14th day of September in the year 2020, before me, the undersigned, personally appeared Kelsey Lorie, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Barry Langman
Notary Public

BARRY LANGMAN
Notary Public, State of New York
No. 02LA5029645
Qualified in New York County
Commission Expires Dec. 27, 2022

Accepted and Agreed as to Section 14.3

ROY AL ABSTRACT OF NEW YORK LLC

By: _____

Name: Michael Roberts

Title: COO & General Counsel

EXHIBIT A

LEGAL DESCRIPTION OF THE LAND

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of 38th Street, distant 100 feet 5 inches westerly from the corner formed by the intersection of the said northerly side of 38th Street and the westerly side of Eighth Avenue;

RUNNING THENCE northerly to a point distant 100 feet westerly from the westerly side of Eighth Avenue, 44 feet 9 inches;

THENCE still northerly and parallel with the westerly side of Eighth Avenue, 54 feet to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 25 feet;

THENCE northerly parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 98 feet 9 inches to the southerly side of 39th Street;

THENCE westerly along said southerly side of 39th Street, 25 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, 98 feet 9 inches to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 100 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, and part of the distance through a party wall, 49 feet 9 inches;

THENCE easterly and parallel with the northerly side of 38th Street, 3-1/4 inches;

THENCE again southerly and parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 49 feet to the northerly side of 38th Street; and

THENCE easterly along said northerly side of 38th Street, 149 feet 3-3/4 inches to the point or place of BEGINNING.

EXHIBIT B
FORM OF MEMORANDUM OF GROUND LEASE

MEMORANDUM OF LEASE

GLENHILL ASSOCIATES, LLC,

Landlord

-and-

GLENHILL ASSOCIATES LEASEHOLD, LLC

Tenant

Dated as of _____, 2020

The Premises affected by the within instrument lies in the
City of New York, County of New York, State of New York

Address of Property:

307 West 38th Street, New York, New York (Block 762 formerly known as Lot 25 now known as Lots
1201-1237)

Record and Return to:

Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, New York 10038
Attention: Trevor T. Adler, Esq.

Memorandum of Lease Pursuant to Section 291-c of The New York Real Property Law

Lease and Date of
Execution of Lease: Amended and Restated Agreement of Lease between Glenhill Associates, LLC, as landlord, and Glenhill Associates Leasehold, LLC, as tenant, dated as of _____, 2020 (the “**Lease**”). The provisions of the Lease are hereby incorporated herein by reference.

Name and Address of
Landlord: Glenhill Associates, LLC
c/o George Comfort & Sons, Inc.
200 Madison Avenue
New York, New York 10016

Name and Address of
Tenant: Glenhill Associates Leasehold, LLC
c/o George Comfort & Sons, Inc.

200 Madison Avenue

New York, New York 10016

Description of Demised
Premises: The parcels of land more particularly bounded and described on Exhibit A annexed hereto (the “**Land**”) together with the buildings and other improvements now or hereafter erected thereon (collectively, the “**Building**”) known as 307 West 38th Street, New York, New York (with said Land and Building being hereinafter collectively referred to as the “**Premises**”).

Term of Lease: The term of the Lease shall commence on _____ (the “**Commencement Date**”), and shall expire on _____ (the “**Expiration Date**”), both dates inclusive.

Memorandum of Lease: This instrument, executed in connection with the Lease, is intended to be and is entered into as a memorandum thereof solely for the purpose of recordation and the giving of notice of the tenancy created by the Lease and of the rights and obligations of Landlord and Tenant thereunder, and shall not, in any event, be construed to change, vary, modify or interpret the Lease or any of the terms, covenants or conditions thereof, or any part thereof, which are set forth, described or summarized herein, and reference is hereby made to the Lease for any and all purposes. All capitalized terms used in this Memorandum of Lease shall have, unless otherwise defined herein, the meanings ascribed to them in the Lease. This Memorandum is made pursuant to Section 291-c and Section 294 of the Real Property Law of the State of New York.

Counterparts:

This Memorandum of Lease may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Memorandum of Lease on the day and year first above written.

LANDLORD:

GLENHILL ASSOCIATES, LLC, a New York limited liability company, its sole member

By: Glenhill Manager LLC, a Delaware limited liability company, its managing member

By: Glenhill Holdings LLC, a Delaware limited liability company, its sole member

By:

Name: Dana Comfort
Title: Managing Member

TENANT:

GLENHILL ASSOCIATES LEASEHOLD, LLC,
a New York limited liability company

By: GLENHILL ASSOCIATES, LLC, a New York limited liability company, its sole member

By: Glenhill Manager LLC, a Delaware limited liability company, its managing member

By: Glenhill Holdings LLC, a Delaware limited liability company, its sole member

By:

Name: Dana Comfort
Title: Managing Member

STATE OF NEW YORK)

) ss.:

COUNTY OF NEW YORK)

On the _ day of ___ in the year 2020, before me, the undersigned, personally appeared ___, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)

) ss.:

COUNTY OF NEW YORK)

On the _ day of ___ in the year 2020, before me, the undersigned, personally appeared ___, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

Exhibit A

Legal Description

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of 38th Street, distant 100 feet 5 inches westerly from the corner formed by the intersection of the said northerly side of 38th Street and the westerly side of Eighth Avenue;

RUNNING THENCE northerly to a point distant 100 feet westerly from the westerly side of Eighth Avenue, 44 feet 9 inches;

THENCE still northerly and parallel with the westerly side of Eighth Avenue, 54 feet to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 25 feet;

THENCE northerly parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 98 feet 9 inches to the southerly side of 39th Street;

THENCE westerly along said southerly side of 39th Street, 25 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, 98 feet 9 inches to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 100 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, and part of the distance through a party wall, 49 feet 9 inches;

THENCE easterly and parallel with the northerly side of 38th Street, 3-1/4 inches;

THENCE again southerly and parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 49 feet to the northerly side of 38th Street; and

THENCE easterly along said northerly side of 38th Street, 149 feet 3-3/4 inches to the point or place of BEGINNING.

EXHIBIT C

PERMITTED EXCEPTIONS

1. Survey made by Gerald T. O'Buckley dated April 25, 2014, last updated to October 21, 2017, discloses the following:

a. Encroachments on and projections over West 38th Street by:

Signs	3.0 feet more or less;
Entrance trim	1.5 feet more or less;
Lights	2.0 feet;
Air conditioner units	up to 1.5 feet;
Vents	up to 2.0 feet;
Ornamental	up to 0.6 feet;
Security camera	0.8 feet more or less;
Stand pipe	an undetermined extent
Temporary sidewalk shed:	11.0 feet

b. Easterly and westerly walls of the 4-story brick on subject premises are party walls;

c. Encroachments upon and projections over West 39th Street by:

Pipes	up to 0.8 feet;
Window trim	0.1 feet more or less
Ornamental	up to 1.0 feet;
Air conditioner units	1.3 feet.

2. Party Wall Agreement between Susan P. Hammond and Henry P. McLean dated June 6, 1853, recorded June 14, 1983 in Liber 643 page 319.

3. Party Wall Agreement between Frederick Wannemacher and John D. Hassinger dated April 10, 1862, recorded March 20, 1862 in Liber 872 page 309.

4. Boundary Line Agreement between Joseph Manheimer, 307 West 38th Street Inc. and 135 Broadway Holding Corporation dated November 22, 1926, recorded December 31, 1926 in Liber 3585 page 142.

C-1
D-1
D-2

EXHIBIT A-1 TO EXHIBIT D

WORKLETTER

[July 28, 2017]

307 West 38th Street
GMHC Workletter

The following scope of work and associated specifications, or comparably priced equals, are the George Comfort & Son, Inc. Workletter to be provided to GMHC. GMHC shall have the right to make substitutions that are more expensive, provided GMHC pays the difference between what is set forth herein and the price of such substitutions based on competitive bid pricing

1.0 Partitions Assemblies

- 1.1 Demising partitions between Common & GMHC spaces consisting of: (1) layer 5/8" gypsum type 'x' fire code fastened to each side of galvanized 20 ga. Non Load Bearing (NLB) metal studs. Stud are to be 2-1/2" wide @ 16" O.C. (S.S.M.A. #250S125-30). Studs run from floor slab to ceiling slab with appropriate fire stop sealant at track connection to slab (varies depending on composite metal deck or concrete slab). Gypsum runs from floor slab to ceiling slab with a sound attenuation blanket inside cavity running the full height of the wall. Columns and perimeter and core walls to be patched and enclosed throughout.
- 1.2 Interior partitions inside GMHC spaces, excluding Pantry & Lavatories, consisting of: (1) layer 5/8" gypsum wallboard fastened to each side of a galvanized 20 ga. NLB metal studs. Studs are to be 2-1/2" wide @ 24" O.C. (S.S.M.A. #250S125-30). Studs run from floor slab to ceiling slab. Gypsum runs full height from slab to slab. All conference rooms and offices shall have the wall installed full height and receive sound attenuation blankets as noted above. All full height wall construction to include return air transfer ductwork for proper air flow and sound attenuation.
- 1.3 Interior partitions inside GMHC spaces designated as Pantry or Lavatory, consisting of: (1) layer 5/8" moisture/mildew resistant gypsum wallboard fastened to each side of a galvanized 20 ga. NLB metal studs. Studs are to be 3-5/8" wide, or as required to accommodate plumbing, @ 24" O.C. (S.S.M.A. #362S125-30). Studs run from floor slab to ceiling slab. Gypsum runs full height from slab to slab.
- 1.4 GMHC will provide all furniture.
- 1.5 Seller will provide all blocking on one wall (up to 10LF) in each private office and at each TV monitor location to support GMHC's overhead furniture cabinetry/shelves or AV equipment.

1.6 Poke through stub up will be utilized in conference areas, open areas and training rooms as required for floor outlet where possible. Trenching utilized when necessary.

2.0 Ceiling Assemblies

2.1 Acoustical Ceiling Tile in Common space & GMHC space, excluding Reception Area, shall be: Armstrong's Dune 24"x 24" x 3/4" #1775 Tegular tile in Armstrong's Silhouette XL 9/16" Bolt slot grid with a 1/8" reveal with shadow reveal molding at partitions.

2.2 Conference Room ceiling shall be: Armstrong's Dune 24"x 24" x 3/4" #1775 Tegular tile in Armstrong's Silhouette XL 9/16" Bolt slot grid with a 1/8" reveal with shadow reveal molding at partitions.

2.3 Assume that up to 60% of the space on each floor will have the acoustical ceiling tile system as specified above, and up to 40% of the space on each floor will be an open ceiling condition exposed to the slab above. In areas of open ceiling, the slab and beams shall be patched smooth and level ready for finish painting and painted by Seller.

2.4 Ceiling tile at Client Service Warming/Serving Pantry shall be Armstrong Ultima Health Zone #1446 white beveled tegular tile.

3.0 Doors & Frames

3.1 One GMHC Entry Door on each floor to be a pair of 3' x 8' herculite type frameless glass doors with top and bottom metal shoe and self-closing pivot hinges. Hardware shall be: ADA compliant length stainless steel door pull and magnetic lock at header. With tie in to the GMHCs cardreader security system.

3.2 GMHC Interior Doors: 3' x 8' x 1-3/4" hollow metal doors and frames. Door hardware is (2) pairs of butt hinges 4-1/2"x 4-1/2" Full ball bearing hinges by Stanley or equivalent; Office Lockset by Schlage or equivalent, style: Athens 'D' series #D-10S in a brushed chrome finish (#626); (3) Ives or equivalent door silencers; & Floor mounted dome stop by Ives or equivalent #FS13 in a brushed chrome finish (#626). Doors to private offices to have a 2' x 8' clear glass side light integral with the HM door frame. All doors to have lockset hardware. GMHC Conference Room Doors: 3' x 8' x 1-3/4" hollow metal doors and frames. Door hardware is (2) pairs of butt hinges 4-1/2"x 4-1/2" Full ball bearing hinges by Stanley or equivalent; Office Lockset by Schlage or equivalent, style: Athens 'D' series #D-10S in a brushed chrome finish (#626); (3) Ives or equivalent door silencers; & Floor mounted dome stop by Ives or equivalent #FS13 in a brushed chrome finish (#626). Doors to all conference rooms to have a 2' x 8' clear glass sidelight integral with the HM door frame. Interview Room doors to have integral vision panel instead of sidelight. All doors to have lockset hardware.

3.3 GMHC Pantry Doors: 3' x 8' x 1-3/4" hollow metal doors and frames. Door hardware is (2) pairs of butt hinges 4-1/2"x 4-1/2" Full ball bearing hinges by Stanley or equivalent; Passage latchset by Schlage or equivalent, style: Athens 'D' series #D-10S in a brushed chrome finish (#626); (3) Ives or equivalent door silencers; & Floor mounted dome stop by Ives or equivalent #FS13 in a brushed chrome finish (#626).

3.4 GMHC Closet Doors: 3' x 8' x 1-3/4" hollow metal doors and frames. Door hardware is (2) pairs of butt hinges 4-1/2"x 4-1/2" Full ball bearing hinges by Stanley or equivalent; Dummy Trim by Schlage or equivalent, style: Athens 'D' series in a brushed chrome finish (#626); Heavy duty magnetic catches; (3) Ives or equivalent door silencers; & Floor mounted dome stop by Ives or equivalent #FS13 in a brushed chrome finish (#626).

4.0 Lighting

4.1 GMHC Area: Lighting shall be 2' x 2' LED Building Standard or recessed LED strip light fixtures.

4.2 GMHC Conference Rooms: Lighting shall be 2' x 2' LED Building Standard Fixtures.

4.3 GMHC Pantry & Copy Rooms: Lighting shall be 2' x 2' LED Building Standard Fixtures. All light fixtures in the Client Service Warming / Serving Pantry, shall be sealed type in accordance with NYC Department of health requirements.

4.4 GMHC Exit Signs: Atlite edge lit LED Model Marathon Series or equal. Red letters on clear background.

4.5 In areas where the ceiling is open to the slab above install building standard pendant mounted LED Building Standard light fixtures.

4.6 Provide emergency egress lighting with integral 90 minute backup as required by NYC Building Code.

4.7 Provide code required egress and building core room identification signage as required by the NYC Building Code.

4.8 Lighting control shall meet the requirements of the 2016 NYC Energy Conservation Code. All dimming controls at GMHC expense.

4.9 Provide ceiling mounted dual technology occupancy sensors in open office areas.

4.10 Provide combination wall mounted vacancy sensor/switch at each private office and enclosed rooms.

- 4.11 Provide day light sensors for day light zones and time clock controls as required by code.
- 4.12 Provide manual controls as required by code.
- 4.13 Lighting load densities shall meet the requirements of the NYC Energy Conservation Code. Provide all necessary electrical circuits, dimming controls, breakers, panels, etc as required for all lighting fixtures and controls as required by code. All dimming controls at GMHC expense.

5.0 Flooring

- 5.1 All surfaces to receive new floor covering to be properly patched and prepared. Flash patch as required for a smooth level transitioning of all flooring materials.
- 5.2 GMHC Private Offices; Conference Rooms and Open Areas. Carpet or Resilient Flooring as specified in the plans. Resilient tile limited to 31,021SF. Carpet spec to be selected from product lines presented by Seller and GC.
- 5.3 GMHC Pantry, Storage, and Equipment & Copy Rooms: VCT (static dissipative in low voltage/IT equipment rooms) or other resilient type flooring to be specified by GMHC Material to be selected from product lines presented by Seller and GC.
- 5.4 GMHC Reception on each floor: Either carpet tile; VCT or other resilient type flooring as noted above. This area might also be a grind and sealed concrete slab condition not to exceed 750 SF per floor X six (6) floors= 4500 SF in total.
- 5.5 All wall base to be 4" high rubber, straight or cove depending on the floor finish, as manufactured by Johnsonite. Use rolled goods to minimize seams. Color to be specified by GMHC.
- 5.6 Client Service Warming / Serving Pantry: Dex-O-Tex troweled on floor with a seamless 6" base or comparably priced alternate material up to 2,000SF
- 5.7 Client dining area to receive VCT flooring with rubber base. Client may opt to upgrade materials at their additional cost. Material to be selected floor and accompanying base product lines presented by Seller & GC.
- 5.8 Client servery area shall have VCT or a ground and sealed concrete slab separate of the SF Allowance Noted in 5.3.
- 5.9 Seller will reinforce the floors and other structural elements if necessary to bear the load of GMHC's installation. GMHC to cooperate in design of elements to be respective of structural limitations where suitable (placing heavy equipment over beam locations etc.)

6.0 Finishes

6.1 GMHC Private Offices, Conference Room, Open Areas, Pantry, Storage & Filing Rooms:

Walls to receive (1) Coat primer & (2) coats Benjamin Moore Latex paint. Color to be specified by GMHC, in an eggshell finish. Allow for three accent color breaks. All doors/frames and other metal surfaces to receive semi-gloss finish

6.2 In areas of open ceiling paint all exposed rectangular ductwork; conduits; Pipes and the beams and slab above.

6.3 Walls of Client Service Warming/Serving Pantry to receive Marlite fiberglass reinforced polyester panels as noted on plans. Up to 325LF.

6.4 Walls behind cooking equipment in Client Service Warming/Serving Pantry to receive stainless steel panels as noted on plans. Up to 40LF

6.5 Perimeter walls of Client Service Warming / Serving Pantry shall be painted with semi-gloss finish epoxy paint as noted on plans.

6.6 In areas of opens ceiling paint all exposed ductwork. GMHC reserves the right to leave the ductwork unpainted based on final decision approval.

7.0 Millwork

7.1 One GMHC Pantry on each floor: Allow for 8'-0" max upper & lower plastic laminate cabinets. Layout could be a straight run or L configuration based on final plan layout. Horizontal surfaces to have Formica 949-90 White gloss finish. Interior of cabinets shall be clear birch with a lacquered finish. Cabinets, drawers, & doors to all have edge finger pulls, adjustable shelves (2) per cabinet, & full extension drawer glides. Counters to be Formica 949-58 White with 4" backsplash. Client may opt to upgrade materials at their additional cost.

7.2 GMHC Coat Closet: (1) clear birch shelf with a lacquered finish, & polished chrome coat rod. A portion of each closet to be ADA compliant. Quantity of closets as noted on final plans.

7.3 Removed.

7.4 Mailroom to receive a 30" x about 20' of plastic laminate countertop mounted 36" AFF and supported by nut & bolt type open metal shelving

8.0 Plumbing

8.1 Pantry sinks to be ADA 4" deep under mount Elkay Sink with Elkay faucet handles #LK500HA08T4 and (1) above counter copper water connection for hook-up to the GMHC's coffee maker.

- 8.2 Hot and Cold water supply, waste and vent lines as required by Code. Seller to provide domestic water heaters required for hot water distribution to restrooms and pantry sinks and dishwashers as required.
- 8.3 Drinking fountains and bottle refill as required by Code.
- 8.4 Client Service Warming / Serving Pantry: GMHC will provide and install all equipment. Seller to provide all plumbing and connect all electrical and water service, and install up to (15) floor drains and a two-foot by six-foot trough drain. Seller to provide two (2) 150 gallon domestic water heaters for Client Service Warming /Serving Pantry.
- 8.5 Provide 4 pressure reducing valves for 120 psi condensing water required for food service equipment.
- 8.6 Provide secondary condenser water loop to provide maximum 120 psig condenser water to all food service equipment via a plate-and-frame heat exchanger, duplex inline pumps, and expansion tank / chemical pot feeder.
- 8.7 Provide floor sinks, hand sinks, mop sinks, faucets and mounting holes according to plan for bathrooms and pantries. Additional sink in the art room (4-22) at GMHC expense.
- 8.8 Provide local water filters as specified.
- 8.9 Provide “P” traps on Hand Sinks
- 8.10 Restrooms: Fully renovate and expand both the Men’s & Women’s restrooms on each floor as illustrated on final plans and in accordance with the building standard fixtures; finishes and accessories. Ceramic Tile floor and base, solid surface vanity, under mount sinks, factory painted metal or phenolic graffiti resistant toilet partitions and building standard accessories—paper towel; toilet paper soap dispensers and recessed waste baskets.
- 8.11 ADA/Gender Neutral Restroom: Provide (1) new single occupant restroom on each floor as illustrated on final plans using the same building standard fixtures; finishes and accessories. Ceramic Tile floor and base, solid surface vanity, under mount sinks. One of these restrooms shall also contain a handicapped accessible shower.
- 8.12 Provide dry-type sprinkler heads within the walk-in refrigerated boxes so that water within the sprinkler does not freeze.
- 8.13 Seller to provide all architectural and MEP engineering drawings and material specifications as required to construct the new restrooms.
- 8.14 Provide all necessary hot water, cold water, drain, waste and vent piping for all plumbing fixtures and equipment as may be required for a complete operable

system in accordance with fixture allowance noted in 8.4 above. Any additional connections would be at GMHC's expense.

8.15 Provide 200 Linear Feet of trace piping in the floor at GMHC expense.

9.0 Appliances

9.1 Each GMHC Pantry to receive (1) full height commercial grade refrigerator and (1) microwave. \$1,500 appliance allowance per pantry.

9.2 GMHC to provide all appliances for the Client Service Warming / Serving Pantry. Seller to provide and connect all electrical and water service as required, and install floor drains as per 8.4 above.

9.3 Central grease trap installed on the floor below with exhaust, grease interceptors, 22 air gap assemblies and shut off valves on supply lines to equipment to be provided according to plan and kitchen requirement narrative issued by RDA.

10.0 HVAC:

10.1 Provide and install a new cooling tower plant (which shall operate 12 months per year) on the rooftop of the building (including required dunnage piping from towers to all GMHC AC systems, winterization heaters, insulation, chemical treatment system, vibration isolators, pumps, power, controls, etc.) with enough capacity to meet the requirements of the occupant load or use on each floor with a minimum to support one ton per 350 usable square feet, plus the supplemental cooling called for in 10.2 and 10.3 below. The assembly shall include condenser water supply and return piping from cooling tower to new mechanical rooms on each floor. Each Unit will be equipped with an economizer coil and an external heating coil for morning warm up operation. AC units shall be equipped with variable frequency drives for VAV operation. MERs shall be equipped with return air walls or return ductwork to accommodate the GMHC ceiling and mitigate noise in the GMHC space. Seller shall provide additional capacity at each DX unit on the Client Service Warming /Serving Pantry floor, minimum 25tons each unit. Combined tonnage to be provided included the supplemental units reference in 10.2 & 10.3 equates to 310 tons.

10.2 Provide all standard rectangular ductwork distribution including VAV boxes, air diffusers, duct insulation (both thermal and internal acoustic lining), dampers, thermostats, balancing and controls throughout the space to accommodate the GMHC's layout as illustrated on the final plans. Distribution to be installed as a VAV system with all necessary direct digital controls tied into the building's BMS system. Seller shall diligently pursue installation and completion of BMS system, but this is not considered part of delivery conditions.

10.3 Provide and install (8) computer grade water cooled supplemental AC units to service selected areas of the GMHC's space such as the IT rooms for the IDF Rooms; large conference rooms, training rooms or other meeting spaces will utilize standard commercial grade AC units. Units to be sized in accordance with GMHCs final plans. Provide all necessary piping, trim, and BMS monitoring of the critical alarm points Seller shall make available the total of 40-tons of condenser water for the GMHC for the units called for in this section. The supplemental water will be available downstream of the existing floor shut off valves. GMHC shall size each unit and use the tonnage distributed across all the floors as required. In total, Seller shall provide GMHC with a cumulative total of 310 Tons of condenser water. Seller shall diligently pursue installation and completion of BMS system, but this is not considered part of delivery conditions.

10.4 Provide and install Client Service Warming / Serving Pantry (2) Type 2 exhaust hoods vented through window. Provide steam traps, strainers, steam line shock arrestors Any necessary fans, louvers and controls as required by NYC Code. Black iron or welded ductwork is excluded.

10.5 Outdoor air shall be provided to MERs to meet code requirements.

11.0 Sprinkler and Fire Alarm:

11.1 Provide and install a code compliant sprinkler and fire alarm system to accommodate the GMHC's layout as illustrated on the final plans, including fire extinguishers and fire hoses in recessed cabinets.

11.2 Fire alarm annunciation and notification devices as required by the NYC Building Code and ADA as well as head-end programming and graphics.

11.3 Provide smoke detectors in elevator lobbies and elsewhere as required by Code and the Authority Having Jurisdiction. Elevator lobby smoke detectors shall be programmed to recall the elevators to the lobby.

11.4 Provide fire warden stations on each floor where required per code

11.5 Provide smoke detectors and fans in all electrical closets/rooms, mechanical rooms, telecommunication rooms, and all similar rooms as required by the NYC Building Code.

12.0 Electrical:

12.1 Each private office to get (1) wall mounted double duplex and (1) duplex electrical outlet; and (1) Tel/Data outlet stub up.

12.2 Each furniture workstation cluster to receive a power in-feed with enough circuits to accommodate three (3) duplex electrical outlets per station. Quantity of circuits

shall be as required such that no more than four (4) workstation positions on any one circuit. Electrical outlets and harness to be provided by GMHC's furniture dealer. Seller to install outlets and harness and make all final connections.

- 12.3 Each workstation cluster to receive Tel/Data box and conduit stub up for infeed of GMHC's tel/data cabling.
- 12.4 Each conference/meeting room to get (1) floor mounted Electrical/Tel/Data outlet installed flush with the floor; (1) wall mounted duplex electrical outlet and AV box connected to the floor outlet; and (2) additional wall mounted duplex electrical outlets (stub ups for electrical, voice/data and A/V at conference room table locations).
- 12.5 Client Service Warming / Serving Pantry and each GMHC Pantry to get enough power & electrical outlets to service all the appliances and (2) additional 20 Amp sep circuit duplex electrical outlets mounted above the countertop. GFI as required by code.
- 12.6 Provide disconnects or other devices as required by local codes.
- 12.7 Wall or column mounted switches, specifically for exhaust hood lights and disconnect switches.
- 12.8 Control wiring for exhaust hood and cooking equipment fire protection system.
- 12.9 Walk-in refrigeration unit to have standalone controls provided by equipment supplier. No tie in to building systems or BMS.
- 12.10 Conduit for drink stations.
- 12.11 Vapor proof junction boxes, electrical outlets, cover plates, switches.
- 12.12 Drain line heaters for indirect waste located in walk in freezer
- 12.13 Electric shut-off contactors to shut off electric to items protected by fire protections system.
- 12.14 All copy/printer equipment to get (1) 20 amp separate duplex and (1) Tel/Data outlet stub up. GMHC to specify the type of outlet that is compatible with their copy equipment.
- 12.15 Electrical service to the IT Room; IDF rooms, Mailroom and Client Warming / Serving Pantry to be worked out per GMHC's final plans. Seller to provide isolated ground to building steel for each IT or IDF room.

12.16 Additional separate circuit and standard duplex electrical outlets as specified on GMHC's final plans as needed for copier, printers, AV, security systems and office equipment, as per GMHC's plan. Limited to (20) additional locations per floor

12.17 GMHC will be responsible for low voltage wiring and terminations. Stub-ups, drag lines & back boxes to be provided by Seller.

12.18 Provide a new electrical closet per floor. Each closet shall contain the following:

- Provide 120/208V, low and/or high-voltage 42 pole panel boards with main circuit breakers as required for circuiting requirements.
- GMHC is allocated 6 watts demand per usable square foot. GMHC shall have the right to re-allocate power across the stack of floors as required.

12.19 Power and voice/data infeeds at furniture workstations to be provided by Seller, GMHC responsible for low voltage wiring and terminations. Seller to install electrified base components

12.20 Provide general convenience receptacles and circuits per the GMHC's plans.

13.0 Security

13.1 Seller to provide stub-ups & back boxes for card reader security system to control access to the ground floor interior entrance doors; the main entrance door to the GMHC's space on each floor; the entrance door to the south fire stair on each floor; the IT Room; and at (6) other rooms to be determined. GMHC responsible for security system equipment, low voltage wiring and terminations.

13.2 Seller shall provide and install mag locks required for security system. Seller will secure reentry floors and coordinate with the required security system. Floors will be locked by mag lock except in the event of an emergency.

14.0 Miscellaneous:

14.1 Configure the ground floor entrance area in accordance with GMHC's final drawings (similar to the attached design) and to include a glass vestibule double door and walk-off mat inside the existing street entrance; a secondary glass security door with mag lock; porcelain floor tile throughout; gyp bd. wall extended full height; an independent air-cooled AC system (IEC Fan Coil Units Model HPY); heat; pendant lights; (10) duplex electrical outlets; and ramp the slab to account for the height difference in the floor in the lobby area and the service elevator area (about 6-8"). Construction cost allowance.

14.2 Provide and install building standard mecco type roller window shades at all perimeter windows.

14.3 Provide (2) new passenger elevator cabs that service all of the GMHCs floors with building standard interior finishes and code compliant call buttons; and indication lights.

14.4 Scrape and paint all perimeter radiators and install new Dan-Foss control valves on each unit. Relocate and/or provide additional radiator units as required to accommodate the GMHC's layout.

14.5 Paint the walls and floor/stairs of the south side Fire Stair and provide new lighting.

14.6 Provide a 20-year warranty of the 5th floor roof membrane and flashing of the annex building. Repair all water damaged walls and slab on the north side of the 4th floor. Seller reserves the right to use 5th Floor annex roof for mechanical equipment.

15.0 Audio Visual

15.1 Seller shall provide electric conduit and blocking for GMHC's systems. Limited to 35 locations.

16.0 Miscellaneous

16.1 Seller will be required to file for and secure permits as required; pay all associated fees; and secure all sign-offs; special inspections and final close outs with the Department of Buildings.

16.2 Commissioning: provide all MEP and lighting systems commissioning services as required by the NYC Code.

EXHIBIT A-2 TO EXHIBIT D

Costs for Buyer to Pay

<u>GMHC items above the \$320,000</u>			
1	Previously agreed to	Dimming controls throughout.	Tenant to pay
2	Previously agreed to	Plumbing and vanity for sink at Art Room (4-22).	Tenant to pay
3	Previously agreed to	200LF heat trace on grease trap piping	Tenant to pay
4	New	Custom Reception Desks added with solid surfacing and signage (Floors 4/5/7)	Tenant to pay
5	New	Vinyl graphic decorative signage in elevator lobbies	Tenant to pay
6	New	Painting feature walls (walls to be painted two colors in a diagonal pattern).	Tenant to pay
7	New	Flooring installed in a decorative patterns – multi colored.	Tenant to pay
8	New	Decorative reveals on the ground and 7th floor	Tenant to pay
9	New	Reference to Sonaspay acoustical ceiling treatment (SA-1)	Tenant to pay
10	New	Longer ramp on ground floor due to new restroom bump out	Landlords cost

A2 to Exhibit D

Exhibit E

EXHIBIT F

NO-ACTION LETTER

[SEE ATTACHED]

Exhibit F



**STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL**

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF ECONOMIC JUSTICE
REAL ESTATE FINANCE BUREAU

Writer's Direct Info:
(212) 416-8772
Jamie.Pierre-Louis@ag.ny.gov

May 01, 2018 Trevor

Adler, Esq.
Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, NY 10038-4982

Re: 307 WEST 38TH CONDOMINIUM
File No.: NA18-0049
Acceptance Date: 4/30/2018
Filing Fee: \$225.00 Receipt Number: 145583

Dear Trevor Adler:

The Department of Law has reviewed your application for a no-action letter concerning a transaction involving the above premises, submitted on 3/15/2018.

On the basis of the facts and circumstances stated in your letter and supporting documentation, the Department has determined that it will not take any enforcement action because the described transaction occurs without filing or registration pursuant to Section 352-e and Section 359-e of the General Business Law. We understand that it is your opinion as counsel that the transaction is not subject to those registration and filing requirements.

This position is based solely upon the limited information supplied and representations made in your letter and supporting documentation. Any different set of facts or circumstances might result in the Department taking a different position. In addition, this letter expresses the Department's position on enforcement action which could arise from this transaction only, occurring without filing or registration, and does not purport to express any legal conclusion on any subsequent transaction or offering.

The issuance of this letter shall not be construed to be a waiver of or limitation on the Attorney General's authority to take enforcement action for violations of Article 23-A of the General Business Law and other applicable provisions of law.

Very truly yours,
Jamie Pierre-Louis

Jamie Pierre-Louis
Assistant Attorney General

28 LIBERTY STREET, NEW YORK, NY 10005 • PHONE (212) 416-8122 • FAX (212) 416-8136 • WWW.AG.NY.GOV

EXHIBIT G

FORM OF SNDA

[SEE ATTACHED]

RECORD AND RETURN TO:

Riemer & Braunstein LLP
Seven Times Square, Suite 2506 New
York, New York 10036
Attention: Steven J. Weinstein, Esq.

**SUBORDINATION, NON-DISTURBANCE AND
ATTORNMENMENT AGREEMENT**

JPMORGAN CHASE BANK, N.A.
(Administrative Agent)

and

GLENHILL ASSOCIATES, LLC
(Landlord)

and

GLENHILL ASSOCIATES LEASEHOLD, LLC
(GALLLC or Tenant)

and

GAY MEN'S HEALTH CRISIS, INC. (GMHC
Unit Owner)

Dated: as of _____, 2020

Location: 307 West 38th Street, New York, New York

**SUBORDINATION, NONDISTURBANCE
AND ATTORNMENT AGREEMENT**

THIS SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT (this “**Agreement**”) is made as of the ___ day of _____, 2020, among JPMORGAN CHASE BANK, N.A., whose mailing address is _____, as administrative agent (together with any successors or assigns, “**Administrative Agent**”), GLENHILL ASSOCIATES, LLC, a New York limited liability company having an office at c/o George Comfort & Sons, Inc., 200 Madison Avenue, New York, New York 10016, as landlord under the Lease (hereinafter defined) (together with any successor or assign, “**Landlord**”), GLENHILL ASSOCIATES LEASEHOLD, LLC, a New York limited liability company having an office at c/o George Comfort & Sons, Inc., 200 Madison Avenue, New York, New York 10016 (“**GALLLC**”, and, together with any successor or assign, including as set forth in Section 7, hereof, “**Tenant**”), and GAY MEN’S HEALTH CRISIS, INC., a New York not-for-profit corporation having an address at 307 West 38th Street, New York, New York 10016 (together with any successor or assign “**GMHC Unit Owner**”).

W I T N E S S E T H:

WHEREAS, Landlord (as hereinafter defined) is the owner of the fee interest in the land, located at 307 West 38th Street, New York, New York, and more particularly described on Exhibit A-1 annexed hereto and by this reference made a part hereof (such land, together with the building and other improvements located thereon, the “**Property**”); and

WHEREAS, Landlord and GALLLC entered into a certain Amended and Restated Agreement of Lease dated as of _____, 2020, demising the Property (as the same may be amended or supplemented from time to time with the written consent of Administrative Agent (and, subject to this Agreement, GMHC Unit Owner), the “**Lease**”); and

WHEREAS, GALLLC has subjected its leasehold interest in the land and its fee interest in the building and other improvements which are part of the Property to a condominium form of ownership, which condominium is known as the 307 West 38th Condominium (“**Condominium**”); and

WHEREAS, GMHC Unit Owner, as purchaser of the GMHC Unit (as defined and more particularly described on Exhibit A-2 attached hereto), and GALLLC, as seller of the GMHC Unit, entered into that certain Purchase and Sale Agreement, dated as of _____, 2020 (the “**Sale Agreement**”), pursuant to which GALLLC has sold its right, title and interest to the GMHC Unit to GMHC Unit Owner, as more particularly described in the Sale Agreement. In conjunction with such sale, GMHC Unit Owner has granted a mortgage interest in and to the GMHC Unit in favor of GALLLC pursuant to a certain Mortgage and Security Agreement dated as of _____, 2020 (the “**Unit Mortgage**”), such Unit Mortgage recorded or to be recorded in the Office of the City Register of the City of New York, New York (the “**Registry**”); and

WHEREAS, Administrative Agent is the mortgagee under that certain Mortgage Assumption, Consolidation and Modification Agreement dated as of October 31, 2017, recorded on December 5, 2017 in the Registry, as City Register File No. (CFRN) 20170004455677, (as the same may be amended, supplemented, extended, renewed, restated, replaced, substituted or otherwise modified from time to time, including without limitation, modifications which increase the principal amount secured thereby, collectively, the “**Mortgage**”), which encumbers, among other things, Landlord’s interests in the Property and the Lease, and GALLLC’s interest as declarant of the Condominium and as owner of the units of the Condominium (other than the GMHC Unit) (collectively, the “**Mortgaged Property**”); and

WHEREAS, Landlord, GALLLC and GMHC Unit Owner entered into that Omnibus Agreement, dated as of _____, 2020 (the “**Omnibus Agreement**”); with the Lease, the Sale Agreement, the Omnibus Agreement, the Unit Mortgage, and the Condominium Documents (as such term is defined in the Omnibus Agreement) being collectively referred to herein as the “**Transaction Documents**”, and with the Lease, the Sale Agreement and the Omnibus Agreement being referred to herein as the “**Landlord Documents**”) pursuant to which (i) certain obligations of the tenant under the Lease were assumed by GMHC Unit Owner, (ii) certain rights of the tenant under the Lease shall run to the benefit of GMHC Unit Owner, and (iii) certain obligations of landlord under the Lease shall run to the benefit of GMHC Unit Owner; and

WHEREAS, Administrative Agent, Landlord, Tenant and GMHC Unit Owner wish to enter into this Agreement (i) to confirm the subordination of the Lease to the lien of the Mortgage, (ii) to provide that, subject to the terms of this Agreement, GMHC Unit Owner’s possession of the GMHC Unit will not be disturbed in the event of foreclosure of the Mortgage, (iii) to provide that Tenant and, with respect to its interest in the Lease via the Omnibus Agreement, GMHC Unit Owner, will attorn to Purchaser (as hereinafter defined), and Purchaser will recognize Tenant and GMHC Unit Owner and (iv) to provide for certain other matters;

NOW, THEREFORE, in consideration of the premises and the execution of this Agreement by the parties, Landlord, Administrative Agent, Tenant and GMHC Unit Owner hereby agree as follows:

1. Definitions. For the purposes of this Agreement, the following terms shall have the following meanings:

Demised Premises: The portion of the Property now or hereafter conveyed to GMHC Unit Owner.

Person: An individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, governmental authority or other entity of whatever nature.

Purchaser: Any Person acquiring the Mortgaged Property (i) in any foreclosure or any action or proceeding (judicial or nonjudicial) instituted under or in connection with the Mortgage, (ii) by delivery of a deed or assignment given in lieu of foreclosure, or (iii) by order of the United States Bankruptcy Court, and, with respect to (i), (ii) and (iii), such Person’s successors and assigns.

2. Subordination. The Lease, the other Transaction Documents and Tenant's interest thereunder and GMHC Unit Owner's interests thereunder (including, by means of the Omnibus Agreement, GMHC Unit Owner's third-party interests thereunder, as applicable) are now and at all times shall continue to be subject and subordinate in each and every respect (except as otherwise expressly provided in this Agreement) to the Mortgage and to the lien of the Mortgage.

3. Nondisturbance. So long as the Lease is in full force and effect and there exists no default by GMHC Unit Owner under the Transaction Documents that (i) continues beyond the expiration of any applicable notice and grace period, and (ii) would either (x) permit Landlord to terminate the Lease or (y) permits GALLLC, or any other holder thereof, to foreclose the Unit Mortgage, (a) neither Administrative Agent nor Purchaser shall terminate the Lease nor shall Administrative Agent or Purchaser disturb or affect GMHC Unit Owner's right, title and interest to the GMHC Unit, or GMHC Unit Owner's use and possession of the GMHC Unit, in accordance with, but subject to the terms and provisions of, the Transaction Documents, or rights of GMHC Unit Owner under the Transaction Documents by reason of the subordination of the Lease to the Mortgage or in any foreclosure action or any other action or proceeding (judicial or otherwise) instituted under or in connection with the Mortgage, and (b) GMHC Unit Owner shall not be named or joined in any foreclosure action or other proceeding to enforce the Mortgage, unless GMHC Unit Owner is deemed a necessary party by the court or by applicable law, in which event GMHC Unit Owner may be so named or joined, but such naming or joining shall not otherwise be in derogation of the rights of GMHC Unit Owner, set forth in this Agreement.

4. Attornment and Recognition.

(a) If the interests of Landlord in any of the Mortgaged Property shall be transferred to Purchaser, then as applicable, (v) Tenant and GMHC Unit Owner, as applicable, shall be bound to Purchaser under all of the then executory terms, covenants and conditions of, together with all continuing obligations under, the Lease and the other Transaction Documents, as applicable, for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected by Tenant and GMHC Unit Owner, as applicable, in accordance with any option therefor in the Lease, with the same force and effect as if Purchaser were the landlord under the Lease (and the holder of Landlord's interests under the Transaction Documents), (w) Purchaser shall recognize the rights of Tenant and GMHC Unit Owner, as applicable, under the Transaction Documents, (x) the Lease shall continue in full force as a direct lease between Tenant and Purchaser and the respective executory and continuing rights and obligations of Tenant and Purchaser, to the extent of the then remaining balance of the term of the Lease and any such extensions and renewals, shall be and are the same as set forth therein, (y) the Omnibus Agreement and the Sale Agreement shall continue in full force as direct agreements between GMHC Unit Owner and Purchaser, and the respective executory and continuing rights and obligations of GMHC Unit Owner and Purchaser, to the extent of the then remaining balance of the term of the Lease, and any such extensions and renewals, shall be and are the same as set forth therein, and (z) Purchaser shall not be:

(i) liable for any act or omission of or default by Landlord or any prior landlord under any of the Landlord Documents; provided, however, the foregoing shall not relieve Purchaser from any obligation to remedy any default (but only to the extent such default is

not personal to Landlord or any prior landlord and therefore uncurable by Purchaser, including, without limitation, a default resulting from the bankruptcy of Landlord) that (a) accrues after the date that Purchaser succeeds to Landlord's interest in the Mortgaged Property or (b) is a default which both (y) causes an actual and material impairment of GMHC Unit Owner's permitted use or occupancy of the Demised Premises for the contemplated uses in accordance with the terms of the Transaction Documents, including, without limitation, (A) any failure to perform or provide all services and repairs (including, without limitation, any restoration of the Property following a casualty) to be performed or provided pursuant to the Transaction

Documents by Landlord, Tenant and/or, if then controlled by Purchaser, the Condominium Board (as such term is defined in the Condominium Documents), (B) any failure by Landlord, Tenant and/or, if then controlled by Purchaser, the Condominium Board to cooperate with GMHC Unit Owner in an instance where any of the Transaction Documents require Landlord, Tenant and/or the Condominium Board to do so, and (C) if the Purchaser is the owner of the Second Floor Expansion Unit (as defined in the Sale Agreement), any failure by Tenant to deliver the Second Floor Expansion Unit to GMHC Unit Owner, and (z) is of a continuing nature that Purchaser can cure through the exercise of commercially reasonable efforts;

(ii) subject to any credits, claims, setoffs or defenses which Tenant (or GMHC Unit Owner) might have pursuant to the express provisions of any of the Transaction Documents against Landlord or any prior landlord as a result of any acts or omissions of Landlord or any prior landlord, unless Tenant (or GMHC Unit Owner) shall have notified Administrative Agent and given Administrative Agent an opportunity to cure the default or the event giving rise to any such credit, claim, setoff or defense in accordance with the provisions of paragraph 5(b) below;

(iii) bound by any fixed rent, basic rent, additional rent, installment sales payment, or other amounts which Tenant (or GMHC Unit Owner), including, without limitation, any Common Charges (including, without limitation, Fixed Annual Rent that is a component of Common Charges payable by GMHC Unit Owner through Tenant) or Installment Purchase Payments (as such terms are defined in the Transaction Documents), may have paid to Landlord more than thirty days in advance of the respective due dates set forth in any of the Transaction Documents therefor, and all such prepaid amounts (to the extent paid more than thirty days in advance) shall remain due and owing without regard to such prepayment;

(iv) bound by any cancellation or termination of any of the Transaction Documents made without Administrative Agent's prior written consent;

(v) bound by any amendment or modification of the Lease or any of the other Transaction Documents or surrender of the Demised Premises made without Administrative Agent's prior written consent; provided, however, Administrative Agent's consent shall not be required with respect to any amendment or modification of the Lease or any of the other Transaction Documents which is merely being entered into by Landlord, Tenant and/or GMHC Unit Owner to evidence the exercise by GMHC Unit Owner of any right or option expressly granted to it under any Transaction Document as each exist on the date hereof; provided such amendment or modification does not otherwise modify or amend the terms of the Lease or any of the other Transaction Documents;

(vi) responsible for the making of repairs in or to the Property in the case of damage or destruction of the Property or any part thereof due to fire or other casualty or by reason of a condemnation, unless Purchaser (as landlord under the Lease) or Tenant (under the Condominium Documents), as the case may be, shall be obligated under the Lease or the Condominium Documents to make such repairs and has received the applicable net proceeds of any insurance or taking attributable thereto; provided however, if for any reason Purchaser does not make any such required repairs within the later of (x) twelve months after such damage, destruction or condemnation, or (y) thirty days after written request from GMHC Unit Owner, then to the extent that GMHC Unit Owner has such right under the Transaction Documents, GMHC Unit Owner shall have the right to terminate the Transaction Documents on thirty days written notice to the Purchaser (the “**Termination Period**”); provided further, Purchaser shall have the right during the Termination Period to notify GMHC Unit Owner in writing of Purchaser’s election to undertake such repairs, and provided that Purchaser promptly commences such repairs, proceeds therewith in good faith and in an expeditious manner, and completes such repairs within six months of such written election, GMHC Unit Owner shall have no right to terminate due to such occurrence;

(vii) obligated to make any payment to Tenant (or GMHC Unit Owner) required to be made by Landlord prior to the date on which the interests of Landlord under any of the Transaction Documents are transferred to Purchaser, except for (x) the timely return of any purchase deposit to GMHC Unit Owner actually received by Purchaser that is required to be returned pursuant to the terms of the Transaction Documents and (y) the credit or refund to Tenant (or GMHC Unit Owner) as provided under any of the Transaction Documents of any prepayment of rent or other charges paid by Tenant (or GMHC Unit Owner) if such prepayment is actually received by Purchaser;

(viii) liable for any obligation of Landlord under the Transaction Documents accruing after an assignment by Purchaser of its interest under such Transaction Documents, provided such obligation has been assumed by Purchaser’s assignee; or

(ix) obligated to complete any Seller’s Work (as such term is defined in the Sale Agreement), although if Purchaser elects not to (or Purchaser otherwise does not) complete Seller’s Work with respect to the Second Floor Expansion Unit, Purchaser shall recognize GMHC Unit Owner’s right to complete any such Seller’s Work that shall not have been completed, together with GMHC Unit Owner’s right to offset against the obligation of GMHC Unit Owner under the Sale Agreement all reasonable costs incurred by GMHC Unit Owner to effect such completion, together with interest thereon, at the Default Rate (as such term is defined in the Lease) from the date that GMHC Unit Owner shall have incurred such costs until the date that GMHC Unit Owner shall have fully offset the same; but only to the extent that GMHC Unit Owner provides to Purchaser notice and reasonable written evidence of the incurrence thereof.

(b) Tenant hereby agrees to attorn to Purchaser, including Administrative Agent if it be Purchaser, as its landlord, said attornment to be effective and self-operative upon Purchaser’s succeeding to the interest of Landlord under the Lease without the execution of any further instruments. GMHC Unit Owner hereby also agrees to allow and recognize Purchaser, including Administrative Agent if it be Purchaser, to be substituted for Landlord for all purposes

under the Landlord Documents, said substitution and recognition to be effective and selfoperative upon (i) Purchaser's succeeding to the interest of Landlord under the Lease without the execution of any further instruments and (ii) Purchaser's having notified GMHC Unit Owner thereof. Tenant and GMHC Unit Owner agree, however, to execute and deliver at any time, and from time to time, upon the request of Purchaser or any other holder(s) of any indebtedness or other obligations secured by the Mortgage, any instrument or certificate which, in its reasonable judgment, Landlord, Purchaser or such other holder(s), as the case may be, deems necessary or appropriate in any such foreclosure proceeding or, conveyance in lieu of foreclosure or otherwise to evidence such attornment or substitution and recognition, as applicable. Upon such attornment and substitution and recognition, the Lease shall, subject to the terms of this Agreement, continue in full force as a direct lease between Tenant and Purchaser, and the Landlord Documents to which GMHC Unit Owner is a party shall continue in full force as direct agreements between GMHC Unit Owner and Purchaser, and the respective rights and obligations of Tenant, GMHC Unit Owner and Purchaser upon such attornment and substitution and recognition, to the extent of the then remaining balance of the term of the Lease and any such extensions and renewals, shall be and are the same as now set forth in the Lease and the other Transaction Documents to which GMHC Unit Owner is a party, as modified by this Agreement.

(c) If Purchaser shall succeed to the interests of landlord in any of the Mortgaged Property by reason of a foreclosure or otherwise:

(i) The liability of Purchaser under the Lease or any of the other Landlord Documents for damages or otherwise shall be limited to Purchaser's interest in the Property including rents therefrom. Neither Purchaser nor any of the directors, officers, employees, shareholders, partners, principals, agents or servants of Purchaser shall have any liability (personal or otherwise) hereunder beyond Purchaser's interest in the Property.

(ii) No other property or assets of Purchaser or any property of the directors, officers, employees, shareholders, partners, principals, agents or servants of Purchaser shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies hereunder or under the Lease.

(d) Notwithstanding anything to the contrary contained herein, Administrative Agent, Tenant and GMHC Unit Owner hereby acknowledge and agree that:

(i) nothing contained herein shall prohibit Administrative Agent from exercising any of its rights and remedies under the Mortgage and related loan documents (including, without limitation, foreclosing on the Declarant Unit (as defined in the Condominium Documents)) regardless of whether Tenant and/or GMHC Unit Owner is in default under the Lease or any of the other Transaction Documents, subject, however, to Administrative Agent's agreement pursuant to the express terms and conditions set forth in Section 3 of this Agreement not to terminate the Lease or the other Landlord Documents and/or disturb or affect GMHC Unit Owner, and subject to Administrative Agent's agreement pursuant to the express terms and conditions set forth in Section 4(a) of this Agreement to recognize the rights of GMHC Unit Owner;

(ii) in the event that the Lease is terminated for any reason (other than

as a result of a default by GMHC Unit Owner under the Transaction Documents), including, without limitation, as a result of a rejection of the Lease in a bankruptcy proceeding, upon Administrative Agent's or GMHC Unit Owner's request in its sole discretion, GMHC Unit Owner and the then current fee owner of the Property (which fee owner may be Administrative Agent or Purchaser in the event that such party shall succeed to the interests of landlord) shall enter into a new space lease for the premises comprising the GMHC Unit and other applicable documents with and such space lease and other applicable documents shall be upon substantially the same economic and other terms and conditions as the prior Agreement of Lease dated as of August 28, 2017 between Landlord and GMHC Unit Owner for the balance of the unexpired term of said lease as would have existed immediately prior to such termination so as to place the parties in the same economic condition as they would have been in had such termination not occurred, except that Administrative Agent or Purchaser, as applicable, shall assume in writing the obligations of Landlord to pay all Real Estate Taxes (as such term is defined in the Lease) on the premises comprising the GMHC Unit to the extent GMHC Unit Owner would no longer be eligible for an exemption from the payment of such Real Estate Taxes as a result of the parties having entered into such new space lease;

(iii) all of the respective rights of Tenant and GMHC Unit Owner (but not any of their respective obligations under the Lease or the other Transaction Documents which are expressly required pursuant to the terms of the Lease or the other Transaction Documents to survive any termination of the Lease or the other Transaction Documents), title and interest in the Lease, the other Transaction Documents and the GMHC Unit shall be extinguished upon a termination of the Lease and/or the other applicable Transaction Documents by Administrative Agent, Landlord or Purchaser (1) pursuant to an express provision set forth in the Lease and/or the other Transaction Documents or (2) in connection with Administrative Agent exercising its rights and remedies under the Mortgage and related loan documents at a time when a default by GMHC Unit Owner under any of the Transaction Documents has occurred that (A) continues beyond the expiration of any applicable notice and grace period and (B) would permit a termination of the Lease pursuant to the terms of the Transaction Documents; and

(iv) in the event of any termination of the Lease by reason of GMHC Unit Owner's default under any of the Transaction Documents, and if and to the extent that such termination is otherwise permitted pursuant to the terms of the Transaction Documents, this Agreement shall, automatically and without further act of the parties, terminate and be of no further force or effect from and after the applicable termination date.

5. Covenants of Tenant and GMHC Unit Owner.

(a) Tenant and GMHC Unit Owner, as applicable, agree for the benefit of Administrative Agent that, so long as the Mortgage remains a lien upon the Property or any interest therein (including any leasehold estate):

(i) Tenant shall not pay any rent payable by Tenant pursuant to the Transaction Documents (including, without limitation, Additional Rent (as such term is defined in the Lease)) more than 30 days in advance of the date due and payable, and GMHC Unit Owner shall not pay any Common

Charges (including, without limitation, Fixed Annual Rent that is a component of Common Charges payable by GMHC Unit Owner through Tenant) or Installment Purchase Payments (as such terms are defined in the Transaction Documents) payable by GMHC Unit Owner pursuant to the Transaction Documents more than 30 days in advance of the date due and payable;

(ii) Tenant will not surrender Tenant's estate under the Lease, and GMHC Unit Owner will not surrender the GMHC Unit, except in such instances as such surrender would be permitted pursuant to an express provision set forth in the Lease or the other

Transaction Documents as of the date hereof;

(iii) Tenant and GMHC Unit Owner, as applicable, will not consent to any modification or amendment to the terms of the Lease or any of the other Transaction Documents without consent of Administrative Agent; provided, however, Administrative Agent's consent shall not be required with respect to any amendment or modification of the Lease or any of the other Transaction Documents which is merely being entered into by Landlord, Tenant and/or GMHC Unit Owner to evidence the exercise by GMHC Unit Owner of any right or option expressly granted to it under any Transaction Document as each exist on the date hereof; provided such amendment or modification does not otherwise modify or amend the terms of the Lease or any of the other Transaction Documents; and

(iv) Tenant and GMHC Unit Owner, as applicable, will not consent to termination of the Lease or any of the other Landlord Documents by Landlord thereunder without consent of Administrative Agent; provided, however, that Administrative Agent's consent shall not be required with respect to any termination of the Lease or surrender of the Demised Premises that is expressly provided for or permitted under the Lease or any of the other Transaction Documents as of the date hereof, so long as Administrative Agent is given notice and the opportunity to cure such default, if applicable, in accordance with the terms of this Agreement.

(b) If any act or omission of Landlord, Tenant or the Condominium Board would give Tenant or GMHC Unit Owner, as applicable, the right, immediately or after notice or lapse of a period of time or both, to cancel or terminate any of the other Transaction Documents (other than the Lease, as to which clause (a)(iv) above shall apply), to claim a partial or total eviction or constructive eviction, or to seek any credits, claims, offsets or defenses, Tenant and GMHC Unit Owner, as applicable, shall not exercise such right and no notice of cancellation, termination or abatement of rents, additional rents or other sums shall be effective, unless and until:

(i) Tenant or GMHC Unit Owner, as applicable, has given written notice of such act or omission to Landlord and Administrative Agent;

(ii) Landlord shall have not cured the same within the time limits set forth in the Lease or the other Transaction Documents, as applicable; and

(iii) Administrative Agent shall have failed to remedy such act or omission within the period of time equal to the cure period available to Landlord under the Lease or the other Transaction Documents, as applicable, plus 60 days and commencing on the date that Administrative Agent shall have received notice from Tenant or GMHC Unit Owner, as applicable, of such default.

Notwithstanding the foregoing, if such default is not capable of cure within the relevant 60-day period, then, provided that Administrative Agent or Purchaser, as the case may be, has commenced such cure within the relevant 60-day period, then such period shall be extended so long as Administrative Agent or Purchaser, as the case may be, is thereafter diligently pursuing any action necessary to cure such default or remedy such circumstance.

(c) Tenant shall promptly notify Administrative Agent of any default by Landlord under the Lease or any of the other Landlord Documents, as applicable, or any circumstance which would entitle Tenant or GMHC Unit Owner to cancel or terminate the Lease or any of the other Transaction Documents, as applicable, or abate or offset against the rents, additional rents or other sums payable thereunder at the same time as such a notification is delivered to Landlord. GMHC Unit Owner shall promptly notify Administrative Agent of any default by Landlord, Tenant and/or the Condominium Board (as applicable) under any of the Transaction Documents, or any circumstance which would entitle GMHC Unit Owner to cancel or terminate any of the Transaction Documents, or abate or offset against the rents, additional rents or other sums payable thereunder at the same time as such a notification is delivered to Landlord, Tenant and/or the Condominium Board (as applicable). Any failure by Tenant to comply with any of Tenant's obligations set forth in this Section 5 or any other provision of this Agreement shall not be deemed to be a failure of GMHC Unit Owner to perform hereunder, nor shall such failure by Tenant reduce or impair any of GMHC Unit Owner's rights or protections under this Agreement.

6. Payment to Administrative Agent. After notice is given to Tenant or GMHC Unit Owner by Administrative Agent that the rentals or other monies under the Lease or other Transaction Documents, as applicable, should be paid to Administrative Agent, Tenant or GMHC Unit Owner, as applicable, shall pay to Administrative Agent, or in accordance with the directions of Administrative Agent, all rentals and other monies then due and to become due to Landlord or Tenant under the Lease or the other Transaction Documents, as applicable, and (i) Landlord hereby expressly authorizes Tenant and GMHC Unit Owner to make such payments to Administrative Agent and hereby fully releases and discharges Tenant and GMHC Unit Owner of and from any liability to Landlord on account of any such payments, and (ii) Tenant hereby expressly authorizes GMHC Unit Owner to make such payments to Administrative Agent and hereby fully releases and discharges GMHC Unit Owner of and from any liability to Tenant on account of any such payments.

7. Successors and Assigns. This Agreement shall inure to the benefit of and shall be binding upon Tenant, GMHC Unit Owner, Landlord, Administrative Agent and Purchaser, and their respective heirs, personal representatives, successors and assigns. Administrative Agent and GMHC Unit Owner acknowledge and agree that, upon recording of the Declaration, the Condominium Board shall succeed to all right, title and interest of Tenant under the Lease.

8. Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to any principles of conflict of laws.

9. Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

10. Recording. This Agreement may be recorded in the Office of the New York City Registrar, New York County, New York land records, by Tenant or GMHC Unit Owner at Tenant's or GMHC Unit Owner's sole cost and expense. After the termination of the Lease, promptly upon request by Administrative Agent or Purchaser, Tenant shall, at Tenant's sole cost and expense, execute and record in the same office an instrument in a form reasonably requested by Administrative Agent or Purchaser to evidence that the Lease has been terminated and that this Agreement is of no further force or effect.

11. Consent by Landlord. Landlord is executing this Agreement for the purpose of (i) evidencing its consent hereto, (ii) agreeing to be bound by the provisions of hereof that are applicable to Landlord, and (iii) acknowledging that nothing contained herein or resulting from the parties' performance hereof creates any offsets, defenses or claims under the Mortgage, the loan documents related thereto or the Lease. Administrative Agent and Tenant acknowledge that nothing contained herein is intended to modify the Mortgage or the loan documents related thereto.

12. Notices. Any notice, request or demand given or made under this Agreement shall be in writing and shall be hand delivered or sent by Federal Express or other reputable courier service, and shall be deemed given the earlier of when delivered or one (1) Business Day after deposit with Federal Express or other reputable courier service, addressed as follows:

If to Administrative Agent, addressed to:

[TBD]

If to Landlord, addressed to:

Glenhill Associates, LLC c/o
George Comfort & Sons, Inc.
200 Madison Avenue
New York, New York 10016

If to Tenant, addressed to:

The Board of Managers of 307 West 38th Condominium
c/o George Comfort & Sons, Inc. 200 Madison Avenue
New York, New York 10016
Attention: Mr. Dana Comfort

If to GMHC Unit Owner, addressed to:

Gay Men's Health Crisis, Inc.
307 West 38th Street
New York, NY 10016
Attention: Vice President - Operations

with a copy to:

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019
Attention: Meredith J. Kane, Esq. (Ref. 22218/001)

Each party to this Agreement may designate a change of address by notice given, as herein provided, to the other party fifteen (15) days prior to the date such change of address is to become effective.

13. Miscellaneous.

(a) GMHC Unit Owner and Tenant acknowledge and agree that neither Administrative Agent, nor Landlord nor Purchaser shall be prohibited or precluded from terminating the Lease or any of the other Transaction Documents and thereby extinguishing the GMHC Unit and GMHC Unit Owner's respective rights (but not any obligations under the Lease or the other Transaction Documents which are expressly required to survive any termination of the Lease or the other Transaction Documents), title and interest therein in connection with Administrative Agent exercising its rights and remedies under the Mortgage and related loan documents at a time when a default by GMHC Unit Owner under any of the Transaction Documents has occurred that (A) continues beyond the expiration of any applicable notice and grace period and (B) would permit a termination of the Lease pursuant to the terms of the Transaction Documents.

(b) Nothing in this Agreement shall adversely affect or impair the rights and remedies available to the Tenant or any subsequent holder, including, without limitation, the Administrative Agent or the Purchaser, under the Unit Mortgage and Sale Agreement in the event of a default by GMHC Unit Owner thereunder.

(c) Notwithstanding any provisions of this Agreement, Administrative Agent's consent shall not be required with respect to any modification of the Transaction Documents made solely to accommodate and memorialize the inclusion of the Second Floor Expansion Unit into the GMHC Unit, to the extent contemplated under the currently existing Transaction Documents; it being agreed that all references elsewhere in this Agreement to the Transaction Documents "as of the date hereof" (or words to the same effect) shall be construed to refer to the Transaction Documents as the same exist upon the modification permitted pursuant to this Section 13(c).

(d) Administrative Agent shall not be liable with respect to any representations, warranties or indemnities related thereto from Landlord, whether pursuant to the Lease or otherwise, including, but not limited to, any representation, warranty or related indemnity concerning the use of the Property, compliance with zoning, landlord's title, landlord's authority, habitability or fitness for purposes or commercial suitability, or hazardous wastes, hazardous substances, toxic materials or similar phraseology relating to the environmental condition of the Property or any portion thereof, but nothing herein shall be deemed to limit the other remedies set forth in the Transaction Documents.

14. Modification. This Agreement may not be modified in any manner or terminated except by an instrument in writing executed by the parties hereto.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have executed the foregoing agreement as of the day and year first hereinabove written.

ADMINISTRATIVE AGENT:

JPMORGAN CHASE BANK, N.A.,

By: _____

Name:

Title:

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

On _____, 2020, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

07/10/2018

LANDLORD:

GLENHILL ASSOCIATES, LLC, a New York limited liability company, its sole member

By: Glenhill Manager LLC, a Delaware limited liability company, its managing member

By: Glenhill Holdings LLC, a Delaware limited liability company, its sole member

By:

Name: Dana Comfort
Title: Managing Member

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

On _____, 2020, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

TENANT:

GLENHILL ASSOCIATES LEASEHOLD, LLC,
a New York limited liability company

By: GLENHILL ASSOCIATES, LLC, a New York limited liability company, its sole member

By: Glenhill Manager LLC, a Delaware limited liability
company, its managing member

By: Glenhill Holdings LLC, a Delaware limited liability
company, its sole member

By:

Name: Dana Comfort
Title: Managing Member

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

On _____, 2020, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

GMHC UNIT OWNER:

GAY MEN'S HEALTH CRISIS, INC.

By: _____
Name:
Title:

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

On _____, 2020, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the

instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

EXHIBIT "A-1"
LEGAL DESCRIPTION (FEE)

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of 38th Street, distant 100 feet 5 inches westerly from the corner formed by the intersection of the said northerly side of 38th Street and the westerly side of Eighth Avenue;

RUNNING THENCE northerly to a point distant 100 feet westerly from the westerly side of Eighth Avenue, 44 feet 9 inches;

THENCE still northerly and parallel with the westerly side of Eighth Avenue, 54 feet to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 25 feet;

THENCE northerly parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 98 feet 9 inches to the southerly side of 39th Street;

THENCE westerly along said southerly side of 39th Street, 25 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, 98 feet 9 inches to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 100 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, and part of the distance through a party wall, 49 feet 9 inches;

THENCE easterly and parallel with the northerly side of 38th Street, 3-1/4 inches;

THENCE again southerly and parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 49 feet to the northerly side of 38th Street; and

THENCE easterly along said northerly side of 38th Street, 149 feet 3-3/4 inches to the point or place of BEGINNING.

EXHIBIT "A-2"
LEGAL DESCRIPTION (GMHC UNIT)

The leasehold condominium unit(s) described below (hereinafter collectively referred to as the "Unit") known as the GMHC Unit in the building (the "Building") to be known as the 308 West 37th Condominium and by the street number 308 West 37th Street, Borough of Manhattan, City, County and State of New York, said Unit being designated and described as the GMHC Unit in the declaration dated _____, 2020 made by Glenhill Associates Leasehold, LLC pursuant to Article 9-B of the Real Property Law of the State of New York establishing a plan for qualified leasehold condominium ownership of the Building (which declaration, as amended and restated, is hereinafter referred to as the "Declaration"). The premises within which the Unit is located (the "Land") is more particularly described below.

<u>UNIT</u>	<u>TAX LOT</u>	<u>COMMON ELEMENTS %</u>
6	1206	0.4225%
17	1217	5.6267%
18	1218	1.2900%
19	1219	7.1701%
20	1220	7.1701%
21	1221	5.9302%
23	1223	5.8902%
24	1224	5.8902%

The Land upon which the Building containing the Unit is situated is bounded and described as follows:

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of 38th Street, distant 100 feet 5 inches westerly from the corner formed by the intersection of the said northerly side of 38th Street and the westerly side of Eighth Avenue;

RUNNING THENCE northerly to a point distant 100 feet westerly from the westerly side of Eighth Avenue, 44 feet 9 inches;

THENCE still northerly and parallel with the westerly side of Eighth Avenue, 54 feet to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 25 feet;

THENCE northerly parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 98 feet 9 inches to the southerly side of 39th Street;

THENCE westerly along said southerly side of 39th Street, 25 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, 98 feet 9 inches to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 100 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, and part of the distance through a party wall, 49 feet 9 inches;

THENCE easterly and parallel with the northerly side of 38th Street, 3-1/4 inches;

THENCE again southerly and parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 49 feet to the northerly side of 38th Street; and

THENCE easterly along said northerly side of 38th Street, 149 feet 3-3/4 inches to the point or place of BEGINNING.

EXHIBIT H

POWER OF ATTORNEY

Terms used in this Unit Owner's Power of Attorney which are used (a) in the declaration (the "Declaration") establishing a plan for condominium ownership of the premises known as "307 West 38th Condominium" (the "Condominium") and by the street number 307 West 38th Street, New York, New York under Article 9-B of the Real Property Law of the State of New York, dated as of _____, 2020, and recorded in the Office of the Register of the City of New York, New York, County of New York (the "City Register's Office") on _____, under CRFN _____, as the Declaration is further amended, restated or supplemented at any time, or (b) in the By-Laws of the Condominium ("By-Laws") attached to, and recorded together with, the Declaration, as the same is amended, restated or supplemented at any time, shall have the same meanings in this Power of Attorney as in the Declaration or the By-Laws.

The undersigned, GAY MEN'S HEALTH CRISIS, INC., a New York not-for-profit corporation, duly organized under the Law of the State of New York, as the owner of the Condominium Unit[s] (collectively, the "Unit") in the 307 West 38th Condominium, which are designated and described in the Declaration as the "GMHC Unit" in the Building known as 307 West 38th Street, Borough of Manhattan, New York, New York, and hereby nominates, constitutes and appoints the persons who may from time to time constitute the Condominium Board true and lawful attorneys-in-fact for the undersigned, coupled with an interest, with power of substitution, in their own names, as members of the Condominium Board or in the name of their designee (corporate or otherwise), on behalf of all Unit Owners, in accordance with such Unit Owners' respective interests in the Common Elements, subject to the provisions of the Ground Lease and the By-Laws then in effect, (1)(a) to acquire or lease any Unit, together with its appurtenant interests, from any Unit Owner desiring to sell, convey, transfer, assign, surrender or lease the same, (b) to acquire any Unit, together with its appurtenant interests, from any Unit Owner who elects to surrender the same pursuant to the By-Laws, (c) to acquire any Unit, together with its appurtenant interests, which becomes the subject of a foreclosure or other similar sale, all on such terms and at such price or rental, as the case may be, as said attorneys-in-fact shall deem proper, in the name of the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, and, after any such acquisition or leasing, to convey, sell, lease, sublease, mortgage or otherwise deal with (but not vote the interest appurtenant thereto) any such Unit so acquired by them, or to sublease any Unit so leased by them without the necessity of further authorization by the Unit Owners, on such terms as said attorneys-in-fact may determine, granting to said attorneys-in-fact the power to do all things in the said premises which the undersigned could do if the undersigned were personally present, and (d) to enforce the Condominium Board's lien for unpaid Common Charges; (2) upon determination by the Condominium Board, to commence, pursue, appeal, settle and/or terminate administrative and certiorari proceedings to obtain reduced real estate tax assessments with respect to the Units, including retaining counsel and taking any other actions that the Condominium Board deems necessary or appropriate, and (3) to execute, acknowledge and deliver (a) any declaration or other instrument affecting the Common Elements that the Condominium Board, with respect to the Common Elements deem necessary or appropriate to comply with any ordinance, regulation, zoning resolution or requirement of the Department of Buildings, the City Planning Commission,

Exhibit H

the Board of Standards and Appeals, or any other public authority, applicable to the Maintenance, demolition, construction, Alteration, repair or restoration of the Common Elements or (b) any consent, covenant, restriction, easement or declaration, or any amendment thereto, affecting the Common Elements that the Condominium Board deems necessary or appropriate, if and to the extent that the same shall not materially increase GMHC obligations under the GMHC Transaction Documents, materially reduce GMHC rights under the GMHC Transaction Documents, or cause Buyer to lose all or any portion of any Real Estate Tax Exemption that Buyer would otherwise have with respect to the GMHC Units.

The acts of a majority of such persons constituting the Condominium Board, as applicable, shall constitute the acts of said attorneys-in-fact.

The undersigned hereby nominates, constitutes and appoints Declarant, true and lawful attorney-in-fact for the undersigned, coupled with an interest, with power of substitution, on behalf of all Unit Owners, in accordance with such Unit Owners' respective interests in the Common Elements, subject to the provisions of the Ground Lease, Declaration and By-Laws then in effect, to do the following: (1) to perform any act that would otherwise be required by a meeting or vote of the Unit Owners under the Declaration and By-Laws (including, without limitation, to vote whether to restore or not in the event of a substantial Casualty or Condemnation, and to vote whether to terminate the Condominium, and to vote to elect members and officers of the Condominium Board and to vote whether to amend the Declaration and ByLaws); and (2) amend the terms and provisions of the Declaration, By-Laws and the Rules and Regulations of the Condominium (but only on five (5) Business Days prior written notice to GMHC), execute, obtain or amend any permits, applications or documents required to undertake, perform or complete work to the Units or Common Elements by Declarant or obtain an amended certificate of occupancy therefor, or any of said documents, when such amendment: (i) shall be required to reflect any changes in Units and/or the reapportionment of the Common Interests of the Units resulting therefrom made by Declarant in accordance with the Declaration, or (ii) shall be required by (a) a lender designated by Declarant to make a mortgage loan secured by a mortgage on any Unit, referred to as a "Permitted Mortgagee" in the Declaration (if and to the extent that the same shall not materially increase GMHC obligations under the GMHC Transaction Documents, materially reduce GMHC rights under the GMHC Transaction Documents, or cause Buyer to lose all or any portion of any Real Estate Tax Exemption that Buyer would otherwise have with respect to the GMHC Units), (b) any governmental agency having regulatory jurisdiction over the Condominium, (c) any title insurance company selected by Declarant to insure title to any Unit (if and to the extent that the same shall not materially increase GMHC obligations under the GMHC Transaction Documents, materially reduce GMHC rights under the GMHC Transaction Documents, or cause Buyer to lose all or any portion of any Real Estate Tax Exemption that Buyer would otherwise have with respect to the GMHC Units), or (d) to effectuate the provisions of the Ground Lease, Declaration and/or By-Laws.

This Power of Attorney shall be irrevocable.

(SIGNATURES FOLLOW ON NEXT PAGE)

IN WITNESS WHEREOF, the undersigned has/have executed this Power of Attorney as of _____.

GAY MEN'S HEALTH CRISIS, INC., a New
York not-for-profit corporation

By:

Name:

Title:

STATE OF NEW YORK)

) ss.:

COUNTY OF NEW YORK)

On the _ day of ____ in the year __, before me, the undersigned, personally appeared ____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

Exhibit

UNIT: _____
TITLE COMPANY: _____
TITLE NUMBER: _____

**POWER OF ATTORNEY
FOR “UNIT []”) FOR
307 WEST 38TH CONDOMINIUM**

After recording, please return by mail to:

Stroock & Stroock & Lavan LLP

180 Maiden Lane

New York, New York 10038

Attn: Trevor Adler, Esq.

EXHIBIT I
FORM OF DEED

CONDOMINIUM UNIT DEED

from

GLENHILL ASSOCIATES LEASEHOLD, LLC

Grantor

to

GAY MEN'S HEALTH CRISIS, INC.

Grantee

Affecting the GMHC Unit in the Building Known
as 307 West 38th Condominium

Section: []

Block: 762

Lot(s): []

Borough of Manhattan, New York, New York

RECORD AND RETURN TO:

Paul, Weiss, Rifkind, Wharton & Garrison LLP

1285 Avenue of the Americas
New York, NY 10019-6064
Attention: Barry Langman, Esq.

Exhibit I-1
CONDOMINIUM UNIT DEED

THIS INDENTURE, made as of the [] day of [], 20[], by **GLENHILL ASSOCIATES LEASEHOLD, LLC**, a limited liability company organized and existing under the laws of the State of New York ("Grantor"), having an office at c/o George Comfort & Sons, Inc. 200 Madison Avenue, New York, New York, 10016, as grantor, in favor of **GAY MEN'S HEALTH CRISIS, INC.**, a New York not-for-profit corporation ("Grantee"), having an office at 307 West 38th Street, New York 10018.

W I T N E S S E T H:

That Grantor, in consideration of Ten Dollars (\$10.00) and other valuable consideration, hereby grants, conveys and releases, without recourse or warranty and subject to the reservations and reversions hereinafter set forth, unto the Grantee and the successors and permitted assigns of the Grantee, forever:

Grantor's interest in that certain leasehold commercial condominium unit (the "Unit") located in the building (the "Building") known as "307 West 38th Condominium" (the "Condominium") located at 307 West 38th Street, Borough of Manhattan, County of New York, City and State of New York (the "Land" together with the Building is collectively the "Property"), as more particularly described in Schedule A annexed hereto and made a part hereof, which Unit is designated and described as the "GMHC Unit" in the declaration (the "Declaration") establishing under Article 9-B of the Real Property Law of the State of New York a plan for leasehold condominium ownership of the Property, which Declaration is dated as of _____, 2020, and was recorded in the Office of the Register of The City of New York, New York County (the "City Register's Office") on _____, 2020, under CRFN _____ and also designated as those certain Tax Lots as described on Schedule A-1 attached hereto and made a part of, in Block _____ of Section _____ of the Borough of Manhattan on the Tax Map of the Real Property Assessment Department of The City of New York and on the Floor Plans of said Building, certified by _____, Architect, on _____, 2020, and filed in the Real Property Assessment Department of the City of New York on _____, 2020 as Condominium Plan No. _____ also filed in the City Register's Office on _____, 2020, under CRFN _____.

Together with the undivided interests in Common Elements (all capitalized terms used herein that are not separately defined herein shall have the meanings ascribed to them in the Declaration), and any easements, appurtenant to the Unit as set forth in the Declaration (collectively, the "Appurtenant Rights");

Subject to the terms, conditions, easements, restrictions and other provisions set forth in the Declaration and the By-Laws (including any rules and regulations of the Condominium), as the same may be amended from time to time in accordance with the terms thereof, all of which shall constitute covenants running with the Land and shall bind any person having at any time any interest or estate in the Unit as though recited and stipulated at length herein; and

Subject also to such other liens, agreements, covenants, easements, consents, restrictions and other matters as pertain to the Unit and/or the Property as more particularly described in Schedule B (the "Permitted Encumbrances") annexed hereto and made a part hereof;

TO HAVE AND TO HOLD the Unit (together with the Appurtenant Rights) unto the Grantee and its successors and assigns of Grantee forever.

Grantor covenants that it has not done or suffered anything whereby the Unit has been encumbered in any way whatever, except the Declaration, the By-Laws, the Permitted Encumbrances and such other matters that are referred to herein.

Grantee by accepting delivery of this deed covenants and agrees to be bound by and to comply with the provisions of the Ground Lease, the Declaration and the By-Laws of the Condominium (including but not limited to the rules and regulations thereunder) recorded simultaneously with and as part of the Declaration, as the same may be amended from time to time by instruments recorded in the City Register's Office.

Subject to any restrictions contained in the Declaration or in the By-Laws, the Unit may be used for commercial purposes only.

In compliance with Section 13 of the Lien Law of the State of New York, the Grantor shall receive any and all consideration for this conveyance and shall hold the right to receive such consideration as a trust fund for the purpose of paying the cost of the improvements (if any) and shall apply the same first to the payment of the cost of the improvements (if any) before using any part of the same for any other purpose.

The terms "Grantor" and "Grantee," shall be read as "Grantors" and "Grantees" whenever the sense of the deed so requires.

IN WITNESS WHEREOF, the Grantor has duly executed this Indenture as of the day and year first above written.

GRANTOR:

GLENHILL ASSOCIATES LEASEHOLD, LLC,
a New York limited liability company

By: GLENHILL ASSOCIATES, LLC, a New York limited
liability company, its sole member

By: Glenhill Manager LLC, a Delaware limited liability
company, its managing member

By: Glenhill Holdings LLC, a Delaware limited liability
company, its sole member

By:

Name: Dana Comfort

Title: Managing Member

GRANTEE:

GAY MEN'S HEALTH CRISIS, INC., a New York notfor-
profit corporation

By:

Name:

Title:

STATE OF NEW YORK)

) ss.:

COUNTY OF NEW YORK)

On the _____ day of _____ in the year _____, before me, the undersigned, personally appeared ___, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Exhibit H-4

Notary Public

[illegible]

On the _____ day of _____ in the year _____, before me, the undersigned, personally appeared ____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

SCHEDULE A Description of Land

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of 38th Street, distant 100 feet 5 inches westerly from the corner formed by the intersection of the said northerly side of 38th Street and the westerly side of Eighth Avenue;

RUNNING THENCE northerly to a point distant 100 feet westerly from the westerly side of Eighth Avenue, 44 feet 9 inches;

THENCE still northerly and parallel with the westerly side of Eighth Avenue, 54 feet to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 25 feet;

THENCE northerly parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 98 feet 9 inches to the southerly side of 39th Street;

THENCE westerly along said southerly side of 39th Street, 25 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, 98 feet 9 inches to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 100 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, and part of the distance through a party wall, 49 feet 9 inches;

THENCE easterly and parallel with the northerly side of 38th Street, 3-1/4 inches;

THENCE again southerly and parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 49 feet to the northerly side of 38th Street; and

THENCE easterly along said northerly side of 38th Street, 149 feet 3-3/4 inches to the point or place of BEGINNING.

SCHEDULE A-1

<u>UNIT</u>	<u>TAX LOT</u>	<u>COMMON ELEMENTS %</u>
6	1206	0.4225%
17	1217	5.6267%
18	1218	1.2900%
19	1219	7.1701%
20	1220	7.1701%
21	1221	5.9302%
23	1223	5.8902%
24	1224	5.8902%

SCHEDULE B
PERMITTED ENCUMBRANCES

[To be Attached]

EXHIBIT J

FORM OF FIRPTA

CERTIFICATION OF NON-FOREIGN STATUS UNDER TREASURY REGULATIONS SECTION 1.1445-2(b)

(ENTITY TRANSFEROR, AS OWNER OF DISREGARDED ENTITY)

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including Section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by Glenhill Associates Leasehold, LLC ("Glenhill"), the undersigned hereby certifies the following:

1. Glenhill. is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. [Glenhill is not a disregarded entity as defined in § 1.1445-2(b)(2)(iii);]
3. Glenhill's. employer identification number is []; and
4. Glenhill's office address is 200 Madison Avenue, New York 10016.

Glenhill understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of Glenhill.

GLENHILL ASSOCIATES LEASEHOLD, LLC,
a New York limited liability company

By: GLENHILL ASSOCIATES, LLC, a New York limited
liability company, its sole member

By: Glenhill Manager LLC, a Delaware limited liability
company, its managing member

By: Glenhill Holdings LLC, a Delaware limited liability company,
its sole member

By:

Name: Dana Comfort
Title: Managing Member

Dated: _____

Exhibit J

EXHIBIT K

FORM OF GROUND LANDLORD ESTOPPEL CERTIFICATE

ESTOPPEL

THIS ESTOPPEL (this “Estoppel”) is made as of [_____, 20__], by GLENHILL ASSOCIATES, LLC, a New York limited liability company, having an address at c/o George Comfort & Sons, Inc., at 200 Madison Avenue, New York, New York 10016 (together with its successors and/or assigns, the “Ground Landlord”) in favor of GAY MEN’S HEALTH CRISIS, INC., a New York not-for-profit corporation with an address at 446 West 33rd Street, New York, New York 10001 (“GMHC Unit Owner”).

WHEREAS, Pursuant to that certain Purchase and Sale Agreement dated as of _____, 2020, between Glenhill Associates Leasehold, LLC, (“Declarant”) and GMHC Unit Owner, Declarant agreed to sell, and GMHC Unit Owner agreed to purchase, those certain leasehold condominium unit[s] collectively known as the GMHC Unit (as defined therein) located at 307 West 38th Street, in the Borough of Manhattan, City of New York (the “Property”) which Property is subject to that certain Amended and Restated Agreement of Lease, dated as of _____, 2020 (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the “Ground Lease”) between Ground Landlord and Declarant as to each of which the Condominium Board of Managers of 307 West 38th Condominium (“Ground Tenant”) has succeeded to Declarant’s rights and obligations as tenant thereunder, subject to and in accordance with the terms thereof.

NOW THEREFORE, in order to induce GMHC Unit Owner to purchase the GMHC Unit and for other consideration the receipt and sufficiency of which are hereby acknowledged, Ground Landlord intending to be legally bound hereby represents, warrants, covenants and agrees as follows:

1. Ground Landlord hereby represents and warrants that:
 - (a) The term of the Ground Lease commenced on [_____, 20__], and will terminate on [_____, 20__], unless upon the earlier termination of the Ground Lease pursuant to the terms thereof.
 - (b) The Ground Lease has not been terminated.
 - (c) The Ground Lease requires that the amount of \$_____ to be paid monthly for the period beginning [_____, 20__] and ending [_____, 20__]. All amounts due under the Lease have been paid for the period ending [_____, 20__].

Exhibit K-1

- (d) Except for the current month and an additional month, Ground Tenant has not prepaid any rent nor received any concession or rental reduction attributable to the period after the date hereof.
 - (e) Ground Landlord has not received from Ground Tenant any notices of default by Ground Landlord under the Ground Lease, nor has Ground Landlord delivered to Ground Tenant any notice of default by Ground Tenant under the Ground Lease.
 - (f) Ground Landlord has received no written notice from Ground Tenant of, and, to the Ground Landlord's actual knowledge, Ground Tenant has not threatened, the existence of any setoffs to the enforcement of any or all of the terms, conditions or covenants contained in the Ground Lease, or any defenses to the enforcement of any or all of the terms, conditions or covenants contained in the Ground Lease [except as follows: _____].
 - (g) There are no judgments, suits or claims pending, filed or, to the Ground Landlord's actual knowledge, threatened against Ground Tenant under bankruptcy, debtor or reorganization, moratorium or similar laws of the United States, any state thereof or any jurisdiction.
2. This Estoppel and the representations, warranties and covenants contained herein are given with the understanding that this Estoppel constitutes a material inducement for GMHC Unit Owner to purchase the GMHC Unit. This Estoppel and the representations, warranties and covenants contained herein may be relied upon by GMHC Unit Owner, its successors and assigns. Notwithstanding the foregoing, Ground Landlord shall have no liability to the GMHC Unit Owner, its successors and assigns, with respect to this Estoppel, except that Ground Landlord and its successors and assigns shall be estopped with respect to the representations made herein.
3. The term "Ground Landlord's actual knowledge" as used herein means the actual knowledge (and not the implied or constructive knowledge) without any duty of investigation or inquiry by the undersigned.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the undersigned has executed this Estoppel as of the day and year first above written.

GROUND LANDLORD:

Exhibit K-2

GLENHILL ASSOCIATES, LLC, a New York limited liability company, its sole member

By: Glenhill Manager LLC, a Delaware limited liability company, its managing member

By: Glenhill Holdings LLC, a Delaware limited liability company, its sole member

By:

Name: Dana Comfort

Title: Managing Member

EXHIBIT L

FORM OF GMHC UNIT OWNER ESTOPPEL

ESTOPPEL

THIS ESTOPPEL (this “Agreement”) is made as of [_____, 20__], by [_____, a _____], having an address at [_____] (“GMHC Unit Owner”), in favor of GLENHILL ASSOCIATES, LLC, a New York limited liability company, having an address at [_____] (together with its successors and/or assigns, the “Ground Landlord” or “Borrower”), GLENHILL ASSOCIATES LEASEHOLD, LLC, a New York limited liability company, having an address at [_____] (together with its successors and/or assigns, “Declarant”), CONDOMINIUM BOARD OF MANAGERS OF 307 West 38th Condominium, having an address at [_____] (the “Ground Tenant”) together with Borrower’s lender, [_____] having an address at [_____] (together with its successors and/or assigns, “Lender”).

A. Reference is hereby made to the following documents (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, hereafter collectively referred to as the “Condominium Documents”): (i) Declaration of 307 West 38th Condominium, dated as of _____, 2020, made by Declarant, and (ii) By-Laws of 307 West 38th Condominium. The condominium regime created by the Condominium Documents is hereafter referred to as the “Condominium”.

B. GMHC Unit Owner has been informed that Lender anticipates making a loan (the “Loan”) to Borrower pursuant to a certain Loan Agreement (the “Loan Agreement”) between Borrower and Lender and secured by a certain [Consolidated Mortgage] and Security Agreement between Lender and Borrower[, Ground Tenant and/or Declarant¹] and (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the “Security Instrument”) encumbering Borrower [, Ground Tenant and/or Declarant²] respective interests in that certain property located at 307 West 38th Street in the Borough of Manhattan, City of New York, (the “Property”), which Property is subject to that certain Amended and Restated Agreement of Lease, dated as of _____, 2020 (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the “Ground Lease”) between Ground Landlord and Declarant as to each of which Ground Tenant has succeeded to Declarant’s rights and obligations as tenant thereunder, subject to and in accordance with the terms thereof. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Loan Agreement and the Security Instrument.]

¹ Revise as needed.

² Revise as needed.

C. Declarant is the owner and holder of all of the unsold condominium units in the leasehold condominium known as "307 West 38th Condominium", located at the Property and designated and described as such in the Condominium Documents.

NOW THEREFORE, [in order to induce Lender to make the Loan to Borrower] and for other consideration the receipt and sufficiency of which are hereby acknowledged, GMHC Unit Owner intending to be legally bound hereby represents, warrants, covenants and agrees as follows:

1. GMHC Unit Owner hereby represents and warrants that:

- (a) Described on Exhibit A are the Condominium Documents, Omnibus Agreement and Purchase and Sale Agreement (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, collectively, the "Transaction Documents"), and except as set forth on Exhibit A there are no other understandings with respect to the subject matter set forth therein between GMHC Unit Owner and Borrower other than as set forth in the Transaction Documents.
- (b) To the knowledge of GMHC Unit Owner, the Transaction Documents are in full force and effect, none of the Transaction Documents have been further supplemented, amended, modified or superseded except as set forth on Exhibit A, and no other agreements or understandings exist between GMHC Unit Owner and Borrower with respect to the Condominium except as set forth on Exhibit A.
- (c) GMHC Unit Owner owns a [_____] % interest in the common elements subject to the Condominium. To the knowledge of GMHC Unit Owner, Declarant, [_____] , [_____] and [_____] are currently the only Unit Owners in the Condominium.
- (d) To the knowledge of GMHC Unit Owner, neither the Condominium Board (as defined in the Condominium Documents) nor any other party to the Condominium has established any supplemental assessments or special assessments pursuant to the Condominium Documents, and the Condominium Board has not established a working capital or any other similar type of reserve.
- (e) There are no judgments, suits or claims pending, filed or, to the knowledge of GMHC Unit Owner, threatened against GMHC Unit Owner in connection with the GMHC Unit.
- (f) To the knowledge of GMHC Unit Owner, none of Borrower, Declarant nor Ground Tenant is in default or in violation of any of its obligations to GMHC Unit Owner under the Condominium

Documents, and GMHC Unit Owner does not have any knowledge of the existence of any event which, with the giving of notice, the passage of time or both would constitute a default by Borrower, Declarant and/or Ground Tenant under the Condominium Documents.

- (g) GMHC Unit Owner has not received written notice of any pending eminent domain proceedings or other proceedings of any kind affecting the GMHC Unit.
- (h) GMHC Unit Owner does not have any right of first refusal or option to purchase Borrower's or Ground Tenant's respective interests in the Property.

2. This Estoppel and the representations, warranties and covenants contained herein are given with the understanding that this Estoppel constitutes a material inducement for Lender in making the Loan to Borrower and that Lender shall rely hereon in making the Loan to Borrower. This Estoppel and the representations, warranties and covenants contained herein may be relied upon by Lender, its successors and assigns and any nationally recognized statistical rating agency rating Notwithstanding the foregoing, the GMHC Unit Owner shall have no liability to the Lender, its successors and assigns, any nationally recognized statistical rating agency rating any securities issued in connection with the Loan or any portion thereof or any other third-party under or with respect to this Estoppel, except that GMHC Unit Owner and its successors and assigns shall be estopped with respect to the representations made herein. To the extent that there are any conflicts between the terms of this Estoppel and the Condominium Documents, the terms of this Estoppel shall control.

IN WITNESS WHEREOF, the undersigned has executed this Estoppel as of the day and year first above written.

GMHC UNIT OWNER

GAY MEN'S HEALTH CRISIS, INC., a New
York not-for-profit corporation

By:

Name:

Title:

EXHIBIT A

CONDOMINIUM DOCUMENTS

(attached hereto)

Exhibit L-3

EXHIBIT B

LEGAL DESCRIPTION

(attached hereto)

EXHIBIT M

FORM OF COMMON CHARGES LETTER

The Board of Managers of 307 West 38th Condominium c/o
George Comfort & Sons, Inc.
200 Madison Avenue
New York, New York 10016

_____, 2020

446 West 33rd Street
New York, New York 10001
Attention: _____

Re: “GMHC Unit” of 307 West 38th Condominium,
307 West 38th Street, New York, New York

Ladies and Gentlemen:

Reference is made to that certain declaration (the “Declaration”) establishing under Article 9-B of the Real Property Law of the State of New York a plan for leasehold condominium ownership of certain property located at 307 West 38th Street, New York, New York, which Declaration is dated as of _____, 2020, and was recorded in the Office of the Register of The City of New York, New York County (the “City Register’s Office”) on _____, 2020, under CRFN _____.

Please be advised that Common Charges (as defined in the Declaration) for “GMHC Unit” (as more particularly described in Exhibit B to the Declaration) have been paid through and including _____, 2020, and that there are no unpaid Common Charges or other liens against such GMHC Unit arising by reason of non-payment of Common Charges.

The Board of Managers of
307 West 38th Condominium

By:

Name:
Title:

Exhibit M

EXHIBIT N

FORM OF INSTALLMENT PAYMENTS MORTGAGE

[SEE ATTACHED]

GAY MEN'S HEALTH CRISIS, INC., as mortgagor
(Payor)

To

GLENHILL ASSOCIATES LEASEHOLD, LLC, as mortgagee
(Payee)

MORTGAGE AND SECURITY AGREEMENT

Dated: _____, 2020
Location: 307 West 38th Street, New York, New York

Block: 762
Lots: Lots 1206, 1217, 1218, 1219, 1220, 1221, 1223 and
1224 (formerly known as a portion of Lot 25)
County: New York

UPON RECORDATION RETURN TO:

Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, New York 10038
Attention: Trevor Adler, Esq.

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THIS MORTGAGE AND SECURITY AGREEMENT (this “**Security Instrument**”) is made as of the ____ day of _____, 2020, by **GAY MEN’S HEALTH CRISIS, INC.**, a New York not-for-profit corporation with an address at 446 West 33rd Street, New York, New York 10001, as mortgagor (“**Payor**”), to **GLENHILL ASSOCIATES LEASEHOLD, LLC**, a New York limited liability company, having an address c/o George Comfort & Sons, Inc., 200 Madison Avenue, New York, New York 10016, as mortgagee (“**Payee**”). All capitalized terms not defined herein shall have the meanings ascribed thereto in the PSA (as such term is defined below).

RECITALS:

Pursuant to that certain purchase and sale agreement of even date herewith between Payee and Payor, Payee is obligated to pay to Payee a purchase price of Sixteen Million Five Hundred Eighty-Eight Thousand One Hundred Six and 32/100 Dollars (\$16,588,106.32) in lawful money of the United States of America (with such purchase and sale agreement, together with all extensions, renewals, modifications, substitutions and amendments thereof, being collectively referred to herein as the “**PSA**”), with principal and interest thereon to be payable in Installment Purchase Payments (as such term is defined in the PSA), as and when set forth on the installment payment schedule annexed as Exhibit E to the PSA, in accordance with the terms and conditions provided in the PSA.

Payor desires to secure the payment and performance of the Obligations (as defined in Section 2.1 hereof).

1 - GRANTS OF SECURITY

1.1 PROPERTY MORTGAGED. Payor does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to Payee, and grant a security interest to Payee in and to Payor’s right, title and interest, if any, in and to the following property, rights, interests and estates now owned, or hereafter acquired by Payor (collectively, the “**Property**”): (a) all right, title and interest of Payor to the leasehold condominium units (whether acquired by Payor on the date hereof or hereafter acquired, which are referred to herein, collectively, as the “**Condominium Unit**”) in the condominium (the “**Condominium**”) located on the land described in Exhibit A hereto and made a part hereof (the “**Land**”) established pursuant to the instruments more particularly described in Exhibit B (which instruments, together with any bylaws and/or rules or regulations issued pursuant thereto, shall hereinafter be referred to as the “**Condominium Documents**”), together with the interest of the owner of such Condominium Unit in the common

areas or elements of the Condominium, all as more particularly described in Exhibit A-1; (b) all right, title and interest of Payor (through ownership of the Condominium Unit) in the buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land (collectively, the **“Improvements”**); (c) all right, title and interest of Payor (through ownership of the Condominium Unit) in all easements, rights of way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements and the

reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Payor of, in and to the Condominium Unit, the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto; (d) all furnishings, machinery, equipment and all other fixtures (including, but not limited to, all heating, air conditioning, plumbing, lighting, communications and elevator fixtures) permanently attached to the Condominium Unit, the Land and the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Condominium Unit (collectively, the “**Fixtures**”), and the right, title and interest of Payor in and to any of the Fixtures that may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state where the Property is located (the “**Uniform Commercial Code**”), superior in lien to the lien of this Security Instrument and all proceeds and products of the above; (e) all right, title and interest of Payor in all awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the property described by the foregoing clauses (a) – (d), whether from the exercise of the right of eminent domain (including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the property described by clauses (a) – (c) above; (f) all right, title and interest of Payor in all proceeds of and any unearned premiums on any insurance policies covering the property described by clauses (a) – (d) above, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to such property; (g) all right, title and interest of Payor in all refunds, rebates or credits in connection with a reduction in real estate taxes and assessments charged against the property described by clauses (a) – (d) above as a result of tax certiorari or any applications or proceedings for reduction; (h) all proceeds of the conversion, voluntary or involuntary, of any of the foregoing including, without limitation, proceeds of insurance and condemnation awards, into cash or liquidation claims; (i) the right, in the name and on behalf of Payor, to appear in and defend any action or proceeding brought with respect to any of the foregoing and to commence any action or proceeding to protect the interest of Payee in any of the foregoing; (j) all right, title and interest of Payor in all agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Condominium Unit, the Land and any part thereof and any Improvements or respecting any business or activity conducted in or on the Condominium Unit, the Land and any part thereof and all right, title and interest of Payor therein and thereunder, including, without limitation, the right, upon the happening of any default hereunder, to receive and collect any sums payable to Payor thereunder; and (k) any and all other rights of Payor in and to the items set forth in clauses (a) through (j) above.

1.2 SECURITY AGREEMENT. This Security Instrument is both a real property mortgage and a “security agreement” within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of

Payor in the Property. By executing and delivering this Security Instrument, Payor hereby grants to Payee, as security for the Obligations, a security interest in the Property to the full extent that the Property may be subject to the Uniform Commercial Code.

CONDITIONS TO GRANT

TO HAVE AND TO HOLD the above granted and described Property unto and to the use and benefit of Payee, and the successors and assigns of Payee, forever;

PROVIDED, HOWEVER, these presents are upon the express condition that, if Payor shall well and truly pay to Payee the Payment Obligation at the time and in the manner provided in the PSA and this Security Instrument, shall well and truly perform the Other Obligations (as defined in Section 2.1 hereof) as set forth in this Security Instrument, and shall well and truly abide by and comply with each and every covenant and condition set forth herein and in the PSA, then these presents and the estate hereby granted shall cease, terminate and be void.

2 - PAYMENT OBLIGATIONS SECURED

2.1 PAYMENT OBLIGATIONS SECURED. This Security Instrument and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the payment of the Total Payment Obligation and the performance of the Other Obligations, in such order of priority as Payee may determine in its sole discretion. For purposes hereof, the term “**Total Payment Obligation**” shall mean aggregate of (i) the Installment Purchase Payment obligations set forth in the PSA in lawful money of the United States of America, (ii) interest, default interest, late charges, prepayment premiums and other sums, as provided in the PSA or the other Payment Obligation Documents (defined below), (iii) all other monies agreed or provided to be paid by Payor in the PSA or the other Payment Obligation Documents and (iv) all sums advanced by Payee pursuant to this Security Instrument to protect and preserve the Property and to enforce the lien and the security interest created hereby (this clause (iv), the “**Security Instrument Payment Obligation**”). For purposes hereof, the term “**Other Obligations**” shall mean the obligations of Payor (other than the obligation to pay the Payment Obligation) contained in the PSA and the other Payment Obligation Documents (as hereinafter defined). For purposes hereof, the term “**Payment Obligation Documents**” shall mean the PSA, and any other documents or instruments that now or shall hereafter wholly or partially secure or guarantee payment of the Installment Purchase Payments or that have otherwise been executed or are hereafter executed by Payor and/or any other person or entity in connection with Payor’s payment obligation (the “**Payment Obligation**”) set forth in the PSA and

any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part thereof, and the Security Instrument Payment Obligation. Payor's obligations for the payment of the Total Payment Obligation and the performance of the Other Obligations are referred to collectively below as the "**Obligations.**" All the covenants, conditions and agreements contained in the PSA and the other Payment Obligation Documents are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein.

3 - PAYOR COVENANTS

Payor covenants and agrees that:

3.1 PAYMENT. Payor shall pay the Total Payment Obligation at the time and in the manner provided in the PSA, this Security Instrument and the other Payment Obligation Documents.

3.2 CHANGE OF NAME, IDENTITY OR STRUCTURE. Payor shall not change Payor's name, identity (including its trade name or names) or, if not an individual, Payor's corporate, limited liability company, partnership or other structure without notifying Payee of such change in writing at least thirty (30) days prior to the effective date of such change and, in the case of a change in Payor's structure, without first obtaining the prior written consent of Payee. Payor shall execute and deliver to Payee, prior to or contemporaneously with the effective date of any such change, any financing statement or financing statement change required by Payee to establish or maintain the validity, perfection and priority of the security interest granted herein, and to the extent permitted by applicable law, hereby authorizes Payee to file any such financing statement on Payor's behalf. At the request of Payee, Payor shall execute a certificate in form satisfactory to Payee listing the trade names under which Payor intends to operate the Property, and representing and warranting that Payor does business under no other trade name with respect to the Property.

3.3 EXISTENCE. Payor shall continuously maintain its existence and its rights to do business in the state where the Property is located, together with its franchises and trade names.

4 - COVENANTS, REPRESENTATIONS AND WARRANTIES

Payor covenants, represents and warrants to Payee that:

4.1 WARRANTY OF TITLE. Payor shall forever warrant, defend and preserve the title and the validity and priority of the lien of this Security Instrument and shall forever warrant and defend the same to Payee against the claims of all persons

whomsoever. If the lien, security interest, validity, enforceability or priority of this Security Instrument, or if title or any of the rights of Payor or Payee in or to the Property, shall be endangered or questioned, or shall be attacked directly or indirectly, or if any action or proceeding is instituted against Payor or Payee with respect thereto, Payor shall promptly notify Payee thereof and shall diligently cure or otherwise resolve any defect which may be developed or claimed, and shall take all necessary and proper steps for the defense of such action or proceeding, including, without limitation, the employment of counsel, the making of a demand for such defense under Payor's title insurance policy, the prosecution or defense of litigation and, subject to Payee's prior written approval, the compromise, release or discharge of any and all adverse claims. Payee (whether or not named as a party to such actions or proceedings) is hereby authorized and empowered (but shall not be obligated) to take such additional steps as Payee may reasonably deem necessary or proper for the defense of any such action or proceeding for the protection of the lien, security interest, validity, enforceability or priority of this Security Instrument or of such title or rights, including the employment of counsel, the prosecution or defense of litigation, the compromise, release or discharge of such adverse claims, the purchase of any tax title and the removal of such prior liens and security interests. Payor shall, within ten (10) days after demand, pay or reimburse Payee for all out-of-pocket expenses (including reasonable attorneys' fees and disbursements) reasonably incurred by Payee in connection with the foregoing matters. All such costs and expenses of Payee, until paid or reimbursed by Payor, shall be part of the Obligations and shall be and shall be deemed to be secured by this Security Instrument. It is further agreed that Payor hereby appoints Payee as Payor's attorney-in-fact, which appointment is irrevocable and shall be deemed to be coupled with an interest, to, during the existing of an Event of Default, execute, acknowledge, deliver and file, register or record for and in the name of Payor of any of the documents or instruments referred to in this Section 4.1.

4.2 BUSINESS PURPOSES. The Payment Obligation is solely for the business purpose of Payor, and is not for personal, family, household or agricultural purposes.

4.3 DISCLOSURE. To Payor's best knowledge, Payor has disclosed to Payee all material facts and has not failed to disclose any material fact that could cause any representation or warranty made herein to be materially misleading.

5 - OBLIGATIONS AND EXPENSES

5.1 NO PAYEE OBLIGATIONS. By accepting or approving anything required to be observed, performed or fulfilled or to be given to Payee pursuant to this Security Instrument, the PSA or the other Payment Obligation Documents, Payee shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Payee.

5.2 EXPENSES. Payor will pay or, on demand, reimburse Payee for the payment of, any reasonable out of pocket costs and expenses reasonably incurred by Payee in connection with all documents necessary to perfect the lien or security interest of this Security Instrument upon, and the interest of Payee in, the Property, and the ongoing administration thereof.

5.3 OTHER EXPENSES. Payor shall pay or, on demand, reimburse Payee for the payment of any out-of-pocket costs or expenses (including reasonable attorneys' fees and disbursements and reasonable collection costs) reasonably incurred or expended in connection with or incidental to (i) the occurrence of any Event of Default by Payor hereunder or under any of the other Payment Obligation Documents, or (ii) the exercise or enforcement by or on behalf of Payee of any of its rights or remedies or Payor's obligations under this Security Instrument or under the other Payment Obligation Documents, including, without limitation, the enforcement, compromise or settlement of this Security Instrument or the Obligations or the defense or assertion of the rights and claims of Payee hereunder in respect thereof, by litigation or otherwise.

6 - FURTHER ASSURANCES

6.1 RECORDING OF SECURITY INSTRUMENT, ETC. Upon receipt of written notice from Payee and thereafter, from time to time, Payor shall cause this Security Instrument and any of the other Payment Obligation Documents creating a lien or security interest or evidencing the lien hereof upon the Property to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the lien or security interest hereof upon, and the interest of Payee in, the Property. Payor shall, within twenty (20) days after demand therefor, pay or reimburse Payee for all duties, imposts, filing, registration and recording fees,

and any and all expenses incident to registration and recording of the Payment Obligation Documents and any amendment or supplement thereto. Any such costs and expenses incurred by Payee, until paid or reimbursed by Payor, shall be part of the Obligations and shall be and shall be deemed to be secured by this Security Instrument.

6.2 FURTHER ACTS, ETC. Payor shall, at the cost of Payor, and without expense to Payee, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignments, transfers, deeds to secure debt, financing statements (including any amendment or continuation thereof), and assurances as Payee shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Payee the property and rights hereby mortgaged, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Payor may be or may hereafter become bound to convey or assign to Payee, or for carrying out the intention or facilitating the performance of the terms of this Security Instrument or for filing, registering or recording this Security Instrument, or for complying with all Applicable Laws, and Payor hereby authorizes Payee to execute any of the foregoing in the name of Payor or without the signature of Payor to the extent that Payee may lawfully do so. Payor hereby authorizes Payee, at Payee's election, to file in the appropriate filing or recording offices, with or without the signature of Payor, one or more financing statements (including any amendment or continuation thereof), chattel mortgages or other instruments to establish, maintain, or evidence more effectively the validity, perfection or priority of the security interest of Payee in the Property. Payor grants to Payee an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Payee at law and in equity, including without limitation all rights and remedies available to Payee pursuant to this Section 6.2.

6.3 CHANGES IN DOCUMENTARY STAMP LAWS.

If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the PSA, this Security Instrument, or any of the other Payment Obligation Documents or impose any other tax or charge on the same, Payor shall promptly pay for the same, with interest and penalties thereon, if any.

7 - DEFAULT

7.1 EVENTS OF DEFAULT. The occurrence of any one or more of the following events shall constitute an “**Event of Default**”: (a) if any Installment Purchase Payment is not paid on the date the same is due, following applicable notice and cure period under the PSA; or if the entire Total Payment Obligation is not paid on or before the expiration of the Installment Payment Term; (b) if (i) Payor shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, adjustment, liquidation, dissolution or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its assets, or Payor shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against Payor any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed or undischarged for a period of ninety (90) days; or (iii) there shall be commenced against Payor any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets which results in the entry of any order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within ninety (90) days from the entry thereof; or (c) if Payor fails to perform any obligation in this Security Instrument other than the Payment Obligations, and such default continues for thirty (30) days after notice from Payee, provided that if such default cannot reasonably be cured within such thirty (30) day period and Payor shall have commenced to cure such default within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for so long as it shall require Payor in the exercise of due diligence to cure such default, (d) if an Event of Default occurs under the PSA, or the other Payment Obligation Documents, beyond the notice and cure periods set forth therein, or (e) if an Event of Default occurs under an Additional Mortgage (as hereinafter defined). Notwithstanding anything in this Section 7.1, Article 8 or Section 16.7 to the contrary, Payee hereby agrees that it shall not exercise any of Payee’s rights or remedies under this Security Instrument in connection with an Event of Default arising from any Buyer Nonmonetary Default (as such term is defined in the PSA), for so long as Seller (as such term is defined in the PSA) is prohibited pursuant to Section 13.1(b) of the PSA from

terminating the PSA and/or initiating or acquiescing in the termination of the Ground Lease in connection with said Buyer Nonmonetary Default.

8 - RIGHTS AND REMEDIES

8.1 REMEDIES. Upon the occurrence of any Event of Default, Payor agrees that Payee may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Payor and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Payee may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Payee: (a) with or without entry, institute proceedings, judicial or otherwise, for the complete or partial foreclosure of this Security Instrument under any applicable provision of law in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner, any partial foreclosure to be subject to the continuing lien and security interest of this Security Instrument for the balance of the Total Payment Obligation not then due, unimpaired and without loss of priority; (b) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Payor therein and rights of redemption thereof, pursuant to power of sale, judicial decree or otherwise, at one or more sales, as an entirety or in one or more parcels; (c) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the PSA or in the other Payment Obligation Documents; (d) recover judgment on the PSA either before, during or after any proceedings for the enforcement of this Security Instrument or the other Payment Obligation Documents; (e) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Total Payment Obligation and without regard for the solvency of Payor or of any person, firm or other entity liable for the payment of the Total Payment Obligation; (g) enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Payor and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Payor and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Payor agrees to surrender possession of the Property and of such books, records and accounts to Payee upon demand, and thereupon Payee may exercise all rights

and powers of Payor with respect to the Property including, without limitation, (1) the right to use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat; (2) the right to make or complete any construction, alterations, additions, renewals, replacements and improvements to or on the Property as Payee deems advisable; (3) the right to make, cancel, enforce or modify leases, obtain and evict tenants, and demand, sue for, collect and receive all rents of the Property and every part thereof; (h) require Payor to pay monthly in advance to Payee, or any receiver appointed to collect the rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Payor; (i) require Payor to vacate and surrender possession of the Property to Payee or to such receiver and, in default thereof, Payor may be evicted by summary proceedings or otherwise; (j) apply the receipts from the Property, any deposits and interest thereon to the payment of the Obligations, in such order, priority and proportions as Payee shall deem appropriate in its sole discretion; or (k) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: the right to take possession of the Fixtures or any part thereof, and to take such other measures as Payee may deem necessary for the care, protection and preservation of the Fixtures. Any notice of sale, disposition or other intended action by Payee with respect to the Fixtures sent to Payor in accordance with the provisions hereof at least five (5) days prior to such action, shall constitute commercially reasonable notice to Payor. Upon any foreclosure or other sale of the Property pursuant to the terms hereof, Payee may bid for and purchase the Property and shall be entitled to apply all or any part of the secured indebtedness as a credit against the purchase price.

In the event of a sale, by foreclosure, power of sale, or otherwise, of less than all of the Property, this Security Instrument shall continue as a lien and security interest on the remaining portion of the Property unimpaired and without loss of priority.

8.2 APPLICATION OF PROCEEDS. The purchase money, proceeds and avails of any disposition of the Property, or any part thereof, or any other sums collected by Payee pursuant to the PSA, this Security Instrument or the other Payment Obligation Documents, may be applied by Payee to the payment of the Total Payment Obligation in such priority and proportions as Payee in its discretion shall deem proper.

8.3 RIGHT TO CURE DEFAULTS. Upon the occurrence of any Event of Default, Payee may, but without any obligation to do so and without notice to or demand on Payor and without releasing Payor from any obligation hereunder or curing or being deemed to have cured any default hereunder, make or do the same in such manner and to such extent as Payee may deem necessary to protect the security hereof. Payee is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Total Payment Obligation, and the cost and expense thereof (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Section 8.3, shall constitute a portion of the Total Payment Obligation and shall be due and payable to Payee upon demand. All such costs and expenses incurred by Payee in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the Interest Rate (as such term is defined in the PSA), for the period after notice from Payee that such cost or expense was incurred to the date of payment to Payee. All such costs and expenses incurred by Payee together with interest thereon calculated at the Interest Rate shall be deemed to constitute a portion of the Total Payment Obligation and be secured by this Security Instrument and the other Payment Obligation Documents and shall be immediately due and payable upon demand by Payee therefor.

8.4 ACTIONS AND PROCEEDINGS. Payee has the right to appear in and defend any action or proceeding brought with respect to the Property and to bring any action or proceeding, in the name and on behalf of Payor, which Payee, in Payee's discretion, decides should be brought to protect Payee's interest in the Property.

8.5 RECOVERY OF SUMS REQUIRED TO BE PAID. Payee shall have the right from time to time to take action to recover any sum or sums that constitute a part of the Total Payment Obligation as the same become due, without regard to whether or not the balance of the Total Payment Obligation shall be due, and without prejudice to the right of Payee thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Payor existing at the time such earlier action was commenced.

8.6 OTHER RIGHTS, ETC. (a) The failure of Payee to insist upon strict performance of any term hereof shall not be

deemed to be a waiver of any term of this Security Instrument. Payor shall not be relieved of Payor's obligations hereunder by reason of (i) the failure of Payee to comply with any request of Payor to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions hereof or of the PSA or the other Payment Obligation Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any person liable for the Total Payment Obligation or any portion thereof, or (iii) any agreement or stipulation by Payee extending the time of payment or otherwise modifying or supplementing the terms of the PSA, this Security Instrument or the other Payment Obligation Documents.

(b) It is agreed that Payee shall have no liability whatsoever for any decline in value of the Property, for failure to maintain insurance policies covering the Property while Payee is in possession of the Property, or for any failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Payee shall not be deemed an election of judicial relief, if any such possession is requested or obtained, with respect to any Property or collateral not in Payee's possession.

(c) The rights of Payee under this Security Instrument shall be separate, distinct and cumulative, and none shall be given effect to the exclusion of the others. No act of Payee shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Payee shall not be limited exclusively to the rights and remedies herein stated, but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

8.7 RIGHT TO RELEASE ANY PORTION OF THE PROPERTY. Payee may release any portion of the Property for such consideration as Payee may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Payee for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Payee may require without being accountable for so doing to any other lienholder. This Security Instrument shall continue as a lien and security interest in the remaining portion of the Property.

8.8 DEFAULT INTEREST AND LATE CHARGES. Payor acknowledges that, without limitation to any of Payee's rights or remedies set forth in this Security Instrument, Payee has the right following an Event of Default to demand interest on the unpaid Installment Purchase Payments at the Interest Rate in accordance with the terms of the PSA.

8.9 REMEDIES OF PAYOR. In the event that a claim or adjudication is made that Payee or its agents have acted unreasonably or unreasonably delayed acting in any case where by law or under this Security Instrument or the other Payment Obligation Documents, Payee or such agent, as the case may be, has an obligation to act reasonably or promptly, Payor agrees that neither Payee nor its agents shall be liable for any monetary damages, and Payor's sole remedies shall be

limited to commencing an action seeking injunctive relief or declaratory judgment. The parties hereto agree that any action or proceeding to determine whether Payee has acted reasonably shall be determined by an action seeking declaratory judgment.

9 - WAIVERS

9.1 WAIVER OF COUNTERCLAIM. Payor hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against Payor by Payee arising out of or in any way connected with this Security Instrument, the PSA, any of the other Payment Obligation Documents, or the Obligations. Any assignee of Payee's interest in this Security Instrument and the other Payment Obligation Documents shall take the same free and clear of all offsets, counterclaims or defenses that are unrelated to the PSA or any of the other Payment Obligation Documents that Payor may otherwise have against any assignor of the PSA or any of the other Payment Obligation Documents, and no such unrelated counterclaim or defense shall be interposed or asserted by Payor in any action or proceeding brought by any such assignee upon the PSA or any of the other Payment Obligation Documents, and any such rights to interpose or assert any such unrelated offset, counterclaim or defense in any such action or proceeding is hereby expressly waived by Payor. For the avoidance of ambiguity, it is agreed that Payor will retain such offsets, counterclaims and defenses that are available to Payor pursuant to the terms of the PSA or any of the other Payment Obligation Documents

9.2 MARSHALLING AND OTHER MATTERS. Payor hereby waives, to the extent permitted by law, the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Payor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Payor, and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument and on behalf of all persons to the extent permitted by applicable law.

9.3 WAIVER OF NOTICE. Payor shall not be entitled to any notices of any nature whatsoever from Payee except with respect to matters for which this Security Instrument (or the PSA) specifically and expressly provides for the giving of notice by Payee to Payor and except with respect to matters for which Payee is required by applicable law to give notice, and Payor hereby expressly waives the right to receive any notice from Payee with respect to any matter for which this Security Instrument does not specifically and expressly provide for the giving of notice by Payee to Payor.

9.4 SOLE DISCRETION OF PAYEE. Wherever pursuant to this Security Instrument (a) Payee exercises any right given to Payee to approve or disapprove, (b) any arrangement or term is to be satisfactory to Payee, or (c) any other decision or determination is to be made by Payee, the decision of Payee to approve or disapprove, all decisions that arrangements or terms are satisfactory or not satisfactory and all other decisions and determinations made by Payee, shall be in the sole and absolute discretion of Payee and shall be final and conclusive, except as may be otherwise expressly and specifically provided herein.

9.5 WAIVER OF TRIAL BY JURY. PAYOR HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER IN CONTRACT, TORT OR OTHERWISE, RELATING DIRECTLY OR INDIRECTLY TO THE PAYMENT OBLIGATION, THE PSA, THIS SECURITY INSTRUMENT OR THE OTHER PAYMENT OBLIGATION DOCUMENTS OR ANY ACTS OR OMISSIONS OF PAYEE, ITS OFFICERS, EMPLOYEES, DIRECTORS OR AGENTS IN CONNECTION THEREWITH.

10 - RECOURSE

10.1 RECOURSE. Payee shall have the right to enforce the liability and obligation of Payor to perform and observe the obligations contained in the PSA or the Payment Obligation Documents by any action or proceeding wherein a money judgment shall be sought against Payor, and at Payee's option, Payee may sell the Property under any power of sale or right of non-judicial foreclosure or bring a foreclosure action, confirmation action, action for specific performance or other appropriate action or proceeding to enable Payee to enforce and realize upon the PSA, this Security Instrument, the other Payment Obligation Documents, and the interest in the Property, and any other collateral given to Payee created by the PSA, this Security Instrument and the other Payment Obligation Documents.

10.2 BANKRUPTCY CLAIMS. Nothing herein shall be deemed to be a waiver of any right that Payee may have under Sections 506(a), 506(b), 1111(b) or any other provisions of the Bankruptcy Code to file a claim for the full amount of the Total Payment Obligation or to require that all collateral shall continue to secure all of the Total Payment Obligation owing to Payee in accordance with the PSA, this Security Instrument and the other Payment Obligation Documents.

11 - NOTICES

11.1 NOTICES. All notices, demands or requests made pursuant to, under or by virtue of this Security Instrument must be in writing and delivered in accordance with the provisions of Section 14.7 of the PSA. All notices hereunder or under any applicable law pertaining hereto shall be deemed sufficiently served for all purposes when given pursuant to said Section 14.7 of the PSA. For purposes hereof, notices may be given by the parties hereto or by their respective attorneys.

12 - APPLICABLE LAW

12.1 CHOICE OF LAW. This Security Instrument shall be governed, construed, applied and enforced in accordance with the laws of the State of New York and the applicable laws of the United States of America.

12.2 USURY LAWS. This Security Instrument and the PSA are subject to the express condition that at no time shall Payor be obligated or required to pay interest on the Total Payment Obligation at a rate that could subject the seller under the PSA to either civil or criminal liability as a result of being in excess of the maximum interest rate that Payor is permitted by applicable law to contract or agree to pay. If, by the terms of this Security Instrument or the PSA, Payor is at any time required or obligated to pay interest on the Total Payment Obligation at a rate in excess

of such maximum rate, the rate of interest under the Security Instrument and the PSA shall be deemed to be immediately reduced to such maximum rate, the interest payable shall be computed at such maximum rate, and all prior interest payments in excess of such maximum rate shall be applied and shall be deemed to have been payments in reduction of the Purchase Price. All sums paid or agreed to be paid to Payee for the use, forbearance, or detention of the Total Payment Obligation shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full stated term of the Installment Payment Term until payment in full so that the rate or amount of interest on account of the Total Payment Obligation does not exceed the maximum lawful rate of interest from time to time in effect and applicable to the Total Payment Obligation for so long as the Total Payment Obligation is outstanding.

12.3 PROVISIONS SUBJECT TO APPLICABLE LAW. All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this Security Instrument or any application thereof shall be invalid or unenforceable, the remainder of this Security Instrument and any other application of the term shall not be affected thereby.

13 - SECONDARY MARKET

13.1 TRANSFER OF PAYMENT OBLIGATIONS. Payee may, at any time, sell, transfer or assign the PSA, this Security Instrument and the other Payment Obligation Documents, but only to (i) a Person to whom Payee sells its interest in the Property, or (ii) a mortgagee or other lender where the obligations owed it are secured by Payee's interest in the Land and Improvements in which the Property is located (the "**Collateral Assignee**"). Payee may forward to each Collateral Assignee all documents and information which Payee now has or may hereafter acquire relating to the Total Payment Obligation and to Payor and the Property, whether furnished by Payor or otherwise, as Payee determines necessary or desirable. Payor, agrees to cooperate with Payee in connection with any transfer made to a Collateral Assignee pursuant to this Section 13.1. In addition to any other obligations Payor may have under this Section 13.1, Payor shall execute such amendments to the Payment Obligation Documents and Payor's organizational documents as may be reasonably requested by the seller under the PSA or any Collateral Assignee to effect the assignment of the PSA and the other Payment Obligation Documents; provided, however, that Payor shall not be required to modify or amend any Payment Obligation Document if the overall effect of such modification or amendment would (y) change the Installment Purchase Payments set forth in the PSA, or (z) modify or amend any other material economic term of the PSA or the other Payment Obligation Documents.

14 - DEFINITIONS

14.1 GENERAL DEFINITIONS. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in singular or plural form and the word "Payor" shall mean "each Payor and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word

“person” shall include an individual, corporation, partnership, limited liability company, trust, unincorporated association, government, governmental authority, and any other entity, the word “Property” shall include any portion of the Property and any interest therein, and the phrases “attorneys’ fees”, “legal fees” and “counsel fees” shall include any and all reasonable attorneys’, paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre trial, trial and appellate levels incurred or paid by Payee in protecting its interest in the Property, the leases and enforcing its rights hereunder. The terms “include(s)” and “including” shall mean “include(s), without limitation” and “including, without limitation”, respectively.

15 - MISCELLANEOUS PROVISIONS

15.1 NO ORAL CHANGE. This Security Instrument, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Payor or Payee, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

15.2 LIABILITY. If Payor consists of more than one person, the obligations and liabilities of each such person hereunder shall be joint and several. This Security Instrument shall be binding upon and inure to the benefit of Payor and Payee and their respective successors and assigns forever.

15.3 INAPPLICABLE PROVISIONS. If any term, covenant or condition of the PSA or this Security Instrument is held to be invalid, illegal or unenforceable in any respect, the PSA and this Security Instrument shall be construed without such provision.

15.4 HEADINGS, ETC. The headings and captions of various Sections of this Security Instrument are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

15.5 DUPLICATE ORIGINALS; COUNTERPARTS. This Security Instrument may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Security Instrument may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Security Instrument. The failure of any party hereto to execute this Security Instrument, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

15.6 NUMBER AND GENDER. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

15.7 SUBROGATION. If any or all of the proceeds of the Installment Purchase Payments have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Payee shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in

favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Payee and are merged with the lien and security interest created herein as cumulative security for the payment and performance of the Obligations.

15.8 ENTIRE AGREEMENT. The PSA, this Security Instrument and the other Payment Obligation Documents constitute the entire understanding and agreement between Payor and Payee with respect to the transactions arising in connection with the Total Payment Obligation and supersede all prior written or oral understandings and agreements between Payor and Payee with respect thereto. Payor hereby acknowledges that, except as incorporated in writing in the PSA, this Security Instrument and the other Payment Obligation Documents, there are not, and were not, and no persons are or were authorized by Payee to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the transaction which is the subject of the PSA, this Security Instrument and the other Payment Obligation Documents.

15.9 ADDITIONAL MORTGAGES. Payor agrees that at such time, if any, as Payor or any of its affiliates shall acquire any additional condominium units in the Condominium, Payor or such affiliate will at the time of the acquisition of such additional unit or units execute, acknowledge and deliver to Payee a new mortgage and security agreement (an “**Additional Mortgage**”), in the form of this Security Instrument but with factual inserts as to parties, amount secured, description of the new units and such modified to reflect the facts, to secure payment of the deferred purchase price in respect of such units. Payor shall, within twenty (20) days after demand therefor, pay or reimburse Payee for all duties, imposts, filing, registration and recording fees, and any and all expenses incident to registration and recording of the Additional Mortgage and any amendment or supplement thereto. Any such costs and expenses incurred by Payee, until paid or reimbursed by Payor, shall be part of the obligations secured by the Additional Mortgage.

16 - STATE SPECIFIC PROVISIONS

16.1 TRUST FUND. This Security Instrument is subject to the trust fund provisions of Section 13 of the New York Lien Law.

16.2 COMMERCIAL PROPERTY. Payor represents that this Security Instrument does not encumber real property principally improved or to be improved by one or more structures containing in the aggregate not more than six residential dwelling units, each having its own separate cooking facilities.

16.3 INSURANCE. The provisions of subsection 4 of Section 254 of the New York Real Property Law covering the insurance of buildings against loss by fire shall not apply to this Security Instrument. In the event of any conflict, inconsistency or ambiguity between the provisions of the Condominium Documents and the provisions of subsection 4 of Section 254 of the New York Real Property Law covering the insurance of buildings against loss by fire, the provisions of the PSA or other Condominium Documents shall control.

16.4 LEASES. Payee shall have all of the rights against lessees of the Property set forth in Section 291-f of the Real Property Law of New York.

16.5 STATUTORY CONSTRUCTION. The clauses and covenants contained in this Security Instrument that are construed by Section 254 of the New York Real Property Law shall be construed as provided in those sections (except as provided in Section 16.3). The additional clauses and covenants contained in this Security Instrument shall afford rights supplemental to and not exclusive of the rights conferred by the clauses and covenants construed by Section 254 and shall not impair, modify, alter or defeat such rights (except as provided in Section 16.3), notwithstanding that such additional clauses and covenants may relate to the same subject matter or provide for different or additional rights in the same or similar contingencies as the clauses and covenants construed by Section 254. The rights of Payee arising under the clauses and covenants contained in this Security Instrument shall be separate, distinct and cumulative and none of them shall be in exclusion of the others. No act of Payee shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision, anything herein or otherwise to the contrary notwithstanding. In the event of any inconsistencies between the provisions of Section 254 and the provisions of this Security Instrument, the provisions of this Security Instrument shall prevail.

16.6 MAXIMUM PRINCIPAL AMOUNT SECURED. Notwithstanding anything to the contrary contained in this Security Instrument, the maximum amount of principal indebtedness secured by this Security Instrument or which under any contingency may be secured by this Security Instrument is the amount of \$16,588,106.32, plus (a) taxes, charges or assessments which may be imposed by law upon the Property; (b) the expenses of any litigation to prosecute or defend the rights and lien created by this Security Instrument, (c) any amount, cost or charges to which the Security Instrument becomes subrogated, upon payment, whether under recognized principles of law or equity, or under express statutory authority, and (d) interest at the Interest Rate (or regular interest rate).

16.7 POWER OF SALE. In addition to any other remedies provided to Payee under this Security Instrument (and in furtherance of the provisions of Subsection 8.1(b) above) or under the other Payment Obligation Documents (but subject to the provisions of the last sentence of Section 7.1 above), upon the occurrence and continuance of an Event of Default, to the extent permitted by applicable law, Payee may sell or offer for sale the Property in such portions, order and parcels as Payee may determine, with or without having first taken possession of same, in accordance with the terms and provisions of applicable law including the New York Real Property Actions and Proceedings Law.

16.8 CONFLICTING PROVISIONS. The provisions of this Article are intended to supplement, and not limit, the other provisions of this Security Instrument; provided, however, that in the event the provisions of this Article contradict any other provision of this Security Instrument, the provisions of this Article shall govern.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, THIS SECURITY INSTRUMENT has been executed by Payor as of the day and year first above written.

PAYOR:

GAY MEN'S HEALTH CRISIS, INC., a New York not-for-profit corporation

By:

Name:

Title:

ACKNOWLEDGMENT

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

On the ____ day of _____ in the year 2020, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she/he executed the same in her/his capacity, and that by her/his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public (SEAL)

EXHIBIT A

(Description of Land)

The condominium units knowns as "GMHC Units" in the building ("**Building**") known as "307 West 38th Condominium" (the "**Condominium**") and by the street number 307 West 38th Street,

Borough of Manhattan, City, County and State of New York, such GMHC Units being designated and described in a certain declaration of condominium dated as of _____, 2020, made by Glenhill Associates Leasehold, LLC (“**Declarant**”) pursuant to Article 9-B of the Real Property Law of the State of New York (“**Condominium Act**”) establishing a plan for condominium ownership of the Building and the land (“**Land**”) upon which the Building is situate, which declaration of condominium was recorded in the Office of the Register of The City of New York, New York County (“**City Register’s Office**”) on _____, 202_, under CRFN _____ (“**Declaration**”). The GMHC Units are designated as those certain Tax Lots as described on Exhibit A-1 attached hereto and made a part of in, in Block 762 of the Borough of Manhattan on the Tax Map of the Real Property Assessment Department of The City of New York and on the Floor Plans of the Building, certified by _____ on _____, 202_, and filed in the Real Property Assessment Department of the City of New York on _____, 202_ as Condominium Plan No. _____ also filed in the City Register’s Office on _____, 202_, under CRFN _____.

The portion of the land upon which the Condominium is located is more particularly described as follows:

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of 38th Street, distant 100 feet 5 inches westerly from the corner formed by the intersection of the said northerly side of 38th Street and the westerly side of Eighth Avenue;

RUNNING THENCE northerly to a point distant 100 feet westerly from the westerly side of Eighth Avenue, 44 feet 9 inches;

THENCE still northerly and parallel with the westerly side of Eighth Avenue, 54 feet to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 25 feet;

THENCE northerly parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 98 feet 9 inches to the southerly side of 39th Street;

THENCE westerly along said southerly side of 39th Street, 25 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, 98 feet 9 inches to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 100 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, and part of the distance through a party wall, 49 feet 9 inches;

THENCE easterly and parallel with the northerly side of 38th Street, 3-1/4 inches;

THENCE again southerly and parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 49 feet to the northerly side of 38th Street; and

THENCE easterly along said northerly side of 38th Street, 149 feet 3-3/4 inches to the point or place of BEGINNING.

Exhibit A-1

<u>UNIT</u>	<u>TAX LOT</u>	<u>COMMON ELEMENTS %</u>
6	1206	0.4225%
17	1217	5.6267%
18	1218	1.2900%
19	1219	7.1701%
20	1220	7.1701%
21	1221	5.9302%
23	1223	5.8902%
24	1224	5.8902%

EXHIBIT B

(Description of Condominium Documents)

1. That certain Declaration of Condominium dated as of _____, 2020, made by Glenhill Associates Leasehold, LLC, as Declarant pursuant to Article 9-B of the Real Property Law of the State of New York establishing a plan for condominium ownership of the Building and the Land upon which the Building is situate, which Declaration of Condominium was recorded in the Office of the Register of The City of New York, New York County (**“City Register’s Office”**) on _____, 202_, under CRFN _____.
2. Those certain Tax Map of the Real Property Assessment Department of The City of New York, certified by _____ on _____, 202_, and filed in the Real Property Assessment Department of the City of New York on _____, 202_ as Condominium Plan No. _____ also filed in the City Register’s Office on _____, 202_, under CRFN _____.

EXHIBIT O

FORM OF LETTER OF CREDIT

IRREVOCABLE LETTER OF CREDIT
DATE:
CREDIT NO:
PAGE NO.: 1
AMOUNT: U.S. [\$]

BENEFICIARY:

APPLICANT:

GLENHILL ASSOCIATES LEASEHOLD, LLC GAY MEN'S HEALTH CRISIS, c/o
George Comfort & Sons, Inc. INC.
Madison Avenue
New York, New York 10016 Attn:
Peter S. Duncan

Gentlemen:

We hereby issue in your favor our irrevocable letter of credit No.: for account of Gay Men's Health Crisis, Inc. ("Applicant"), for a sum not to exceed [] and 00/100 U.S. Dollars (\$.00) in the aggregate available against your sight draft(s) drawn on us.

Partial drawings are allowed under this Letter of Credit.

This Letter of Credit is transferable and assignable to any transferee of Beneficiary as permitted under that certain Purchase and Sale Agreement, dated _____, 202__ between Beneficiary, as Seller, and Applicant, as Buyer (the "PSA"), and this Letter of Credit may be successively transferred and/or assigned pursuant to the terms of the PSA. Our transfer charges, if any, shall be for the account of Applicant and our obligations to you hereunder shall not be contingent upon the receipt of such charges.

This Letter of Credit is valid for presentation at our offices at on or before the close of business on _____, 20__; provided that, it is a condition of this Letter of Credit that it shall be automatically extended without amendment for a period of one year from the current or any future expiration date, unless at least thirty (30) days prior to the then current expiration date, we shall notify you at the address shown above, in writing by overnight courier service, at the above listed address (or such other address of which you notify us in writing from time to time) of our intention not to renew this Letter of Credit. In all events, this Letter of Credit shall expire no later than _____, 20__.

Notwithstanding the foregoing, drawings under this Letter of Credit presented by facsimile ("fax") to fax number are acceptable, provided that such fax presentation is received on or before the expiration date in accordance with the terms and conditions of this Letter of Credit. Presentation of original documents is not required if drawings are presented via fax.

Exhibit O

NY 77529582

Except as expressly stated herein, payment under this Letter of Credit is not subject to any conditions, qualifications or deliveries.

This Letter of Credit shall be subject to the: (i) International Standby Practices, ISP98, International Chamber of Commerce Publication No. 590 ("ISP98") and (ii) to the extent not inconsistent with ISP98, the laws of the State of New York, and in the event of any conflict, the laws of the State of New York will control, without regard to principles of conflict of laws. This Letter of Credit shall be deemed to be issued under the laws of the State of New York and shall be governed by and construed in accordance with the laws of the State of New York with respect to matters not governed by the Uniform Customs and matters on which the Uniform Customs and the laws of the State of New York are inconsistent.

We hereby agree with you that drafts drawn under and in compliance with the terms of this Letter of Credit shall be duly honored on presentation to us.

Very truly yours,

By: _____

Authorized Officer

NY 77529582

Exhibit O

EXHIBIT “J3” Fully Executed AR Ground Lease - November 6, 2020- redacted

AMENDED AND RESTATED AGREEMENT OF LEASE

Between

GLENHILL ASSOCIATES, LLC

Landlord

and

GLENHILL ASSOCIATES LEASEHOLD, LLC

Tenant

Dated as of November 6, 2020

307 West 38th Street
New York, New York

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EXHIBITS

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Exhibit C	Form of Tenant Estoppel Certificate
Exhibit D	Form of Approved SNDA
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Exhibit F	Form of Memo of Ground Lease

NY 77529680

THIS AMENDED AND RESTATED AGREEMENT OF LEASE (this “***Lease***”) is dated as of 6th day of November 2020, by and between **GLENHILL ASSOCIATES, LLC**, a New York limited liability company, having an office c/o George Comfort & Sons, Inc., 200 Madison Avenue, New York, New York 10016, as landlord, and **GLENHILL ASSOCIATES LEASEHOLD, LLC**, a New York limited liability company, having an office c/o George Comfort & Sons, Inc., 200 Madison Avenue, New York, New York 10016, as tenant. This Lease amends, restates and supersedes, in its entirety, that certain agreement of lease dated as of March 23, 2018, between Landlord and Tenant (the “***Original Lease***”), a memorandum of which was recorded on April 11, 2018, at CRFN 2018000121324. **W I T N E S S E T H**:

Landlord and Tenant, for One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby agree as follows:

ARTICLE 1 Definitions

Section 1.01. For all purposes of this Lease, the following words and phrases shall have the following meanings:

“***Affiliate***” shall mean a (i) a Controlling Person or a Controlled Person, or (ii) in the case of a not-for-profit or statutorily-created entity, an entity that has identical or substantially overlapping boards of directors or trustees with another entity.

“***Agreed Method of Measurement***” shall mean the Real Estate Board of New York method of measurement for office buildings which requires each floor to be measured to the outside surface of the building.

“***Alterations***” shall have the meaning set forth in Section 15.01.

“***Applicable Laws***” shall mean all laws, orders, ordinances and regulations of any Governmental Authority, in each case to the extent the same has jurisdiction over the Person or property in question.

“***Approved SEDA***” shall mean a subordination, nondisturbance and attornment agreement in substantially the form attached hereto as Exhibit D, or in such other commercially reasonable form provided that any variations between the provisions of such other form and the provisions of Exhibit D do not adversely affect (other than to a de minimis extent) the rights of GMHC under the GMHC Transaction Documents or under such form.

“***As-Built Plans***” shall mean revised Final Plans, updated following the completion of the construction work to which such Final Plans relate, by the architect for such work, to show all changes and deviations from the original Final Plans for such work made or permitted, pursuant to change orders or otherwise, during the course of such work.

“***Assignment of Subleases***” shall have the meaning set forth in Section 2.02(d).

“***Authorized Use***” shall mean, with respect to each of the Units, such uses as are permitted for each of the Units, respectively, pursuant to the Condominium Documents and all Applicable Laws (including, without limitation, the certificate of occupancy for the Building).

“***Base Building***” shall have the meaning set forth in Section 13.02.

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“Base Building Systems” shall mean the electrical, mechanical/HVAC, plumbing, sprinkler and other utility systems of the Building, elevator, heating, ventilating, air conditioning and fire and life safety systems, emergency generator(s), security systems, cooling towers servicing the Building and related facilities including, but not limited to, the following (which are subject to change from time to time): (a) the low pressure boiler of the Building; (b) the electrical system of the Building (including any and all switchboards, feeders, panels, transformers and meters), up to the main disconnect switch at the switchboard serving the elements of any Subtenant’s Premises in the Building; (c) the plumbing and sanitary systems of the Building, but excluding any branch systems and pipes from and after the point of entry to or exit from any Subtenant’s Premises in the Building; (d) the main telephone switching equipment and closet for the Building; (e) two-way voice communications fire alarm (excluding any Unit devices), and life safety systems (including, without limitation, generator and emergency generator, panel and distribution systems for the Building), (f) all information technology closets and distribution systems for the Building, up to the distribution switch for any Subtenant’s Premises in the Building; (g) the sprinkler system for the Building, including fire pump, up to the point of entry to any Subtenant’s Premises in the Building (excluding any dedicated sub-systems); (h) the security system for the Building (including, without limitation, technology operations, communications, lighting (including exterior and interior lighting in stairways and corridors), cameras, cross-monitoring at street, closed circuit television systems, card control/access devices, if any, and door positions switches), but excluding any security systems from and after the point of entry to or exit from any Subtenant’s Premises in the Building (which exclusion shall include, without limitation, any security system attached to the entrance doors to any Subtenant’s Premises in the Building); (i) the cooling towers located on the roof and base building air handler units; (j) the domestic water tank and risers and condenser water systems; (k) generator and associated emergency power backup; (l) smoke purge; and (m) to the extent not specifically identified as part of or servicing only a particular Unit or any Subtenant’s Premises in the Building, all other risers, shafts, equipment, apparatus, and installations the common use of which is necessary or convenient for the existence, maintenance or safe operation of more than one (1) Subtenant’s Premises or Unit in the Building.

“Basic Rent” shall have the meaning set forth in Section 4.01(a).

“Building” shall mean the building known as 307 West 38th Street, New York, New York (including all below grade segments) and all other Improvements situated on the Land.

“Business Day” shall mean any day other than a Saturday, Sunday or other day on which banks are authorized or required by law to be closed in the City of New York.

“Casualty Work” shall have the meaning set forth in Section 13.04.

“Commencement Date” shall have the meaning set forth in Section 3.01.

“Common Charges” refers to the assessments and other amounts payable under the Condominium Documents to the Condominium Board by the Unit Owners for the purpose of enabling the Condominium Board to pay the Common Expenses.

“Common Expenses” refers to costs and expenses and taxes thereon, if any, incurred or borne by the Condominium Board or on behalf of the Condominium to operate, maintain and repair the Premises, excluding the Units, as more particularly set forth in the Condominium Documents.

“Condemnation Work” shall have the meaning set forth in Section 14.04(a).

“Condominium” shall have the meaning set forth in Section 2.02(b).

“Condominium Board” shall have the meaning assigned thereto in the Condominium Declaration.

“Condominium Date” shall mean the date upon which the Condominium Declaration shall be recorded.

“Condominium Declaration” shall mean that certain condominium declaration (inclusive of the by-laws attached thereto, and as amended, modified, restated, consolidated, replaced or supplemented from time to time in accordance with the terms thereof) pursuant to which the Premises shall be made subject to a condominium form of ownership.

“Condominium Documents” shall have the meaning set forth in Section 2.02(b).

“Controlled Person” shall mean (i) a family member of a Controlling Person or (ii) a Person (1) fifty percent (50%) or more of the beneficial interest in which is owned, directly or indirectly, by any one or more Persons who, acting singly or together, are Controlling Persons, and/or by family members of Controlling Persons, or (2) material decisions concerning the management of which can be unilaterally made or vetoed by any one or more Persons who, acting singly or together, are Controlling Persons (and/or by family members of Controlling Persons) acting in its or their capacity as trustee(s), general partner(s) or controlling shareholder(s), or the equivalent, of such Person. For purposes of this paragraph, a Person shall be deemed to be a “family member” of a Controlling Person if (and only if) such Person is a parent, spouse, sibling, child or grandchild of a Controlling Person, or a trust (or the equivalent) for the benefit of any such individual.

“Controlling Person” shall mean a Person that (i) owns, directly or indirectly, fifty percent (50%) or more of the beneficial interest in a Person or (ii) as a trustee, general partner or controlling shareholder (or the equivalent) of a Person has the power unilaterally to make or veto material decisions concerning the management of such Person.

“Date of Taking” shall have the meaning set forth in Section 14.03.

“Declarant” shall mean, from and after the Condominium Date, Initially Named Tenant, and any successor to Initially Named Tenant, other than the Condominium.

“Declarant Entity” or **“Declarant Entities”** shall mean Declarant and any immediate or remote parent, affiliate or subsidiary of Declarant, and/or any employee, director, partner, officer, member, beneficiary or trustee of Declarant or any immediate or remote parent, affiliate or subsidiary of Declarant.

“Declarant Unit(s)” shall have the meaning set forth in Section 2.02(c).

“Declarant Unit Owner” shall have the meaning set forth in Section 2.02(c).

“Default” shall mean any condition or event which constitutes or would, after notice or lapse of time, or both, constitute an Event of Default.

“Default Rate” shall mean the lower of (i) four (4) percentage points per annum in excess of the Prime Rate and (ii) the maximum legal rate of interest.

“Development Rights” shall mean all unused floor area development rights with respect

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to the Land and/or the Building that are now owned, subsequently acquired or that may become available under the Zoning Resolution, including, without limitation, any so called “air rights”, “air space”, “zoning rights” or “development rights” above or appurtenant to the Land or the Building.

“Emergency” shall mean any situation (a) impairing or imminently likely to impair structural support of any portion of the Building or causing or imminently likely to cause bodily injury to persons or physical damage to the Building or any property in, on, under, within, upon or about the Building, (b) causing or imminently likely to cause economic loss to Landlord, Tenant, Subtenant, Unit Owner, or any other permitted occupant of the Building, (c) causing or imminently likely to cause loss of any utility, elevator service or other essential services to the Building, (d) causing or imminently likely to cause interference (other than de minimis interference) with ingress to and egress from the Building, or (e) ordered by a governmental agency, the New York City Fire Department or Requirements.

“Equipment” shall mean and include, but shall not be limited to, machinery, engines, dynamos, boilers, elevators, radiators, air conditioning compressors, ducts, pipes, conduits and fittings at any time hereafter erected, constructed, affixed or attached to or placed in or placed upon the Land or the Improvements and used in connection with the operation, maintenance, repair or replacement of the Improvements, and any and all alterations, renewals and replacements thereof, additions thereto and substitutes therefor.

“Event of Default” shall have the meaning set forth in Section 23.01.

“Existing Subleases” shall mean the current leases, tenancies (other than subleases from the Existing Subtenants to other parties) and other arrangements, both voluntary and involuntary, written and oral under which the Premises are leased, rented or otherwise occupied as of the date of this Lease.

“Existing Subrents” shall mean all of the current rentals, including, without limitation, base rent and additional rent, plus any surcharges or additional payments due under each of the Existing Subleases.

“Existing Subtenant” shall mean the Persons leasing, renting or otherwise occupying the Existing Subleases.

“Expiration Date” shall have the meaning set forth in Section 3.01.

“Fee Default Notice” shall have the meaning set forth in Section 43.02.

“Fee Mortgage” shall have the meaning set forth in Section 43.01.

“Fee Mortgagee” shall have the meaning set forth in Section 43.01.

“Final Plans” shall mean final working drawings and specifications, prepared or caused to be prepared by Tenant, that comply with all Applicable Laws and other Requirements.

“Floor Plans” shall have the meaning ascribed thereto in the Condominium Documents.

“Force Majeure” means actual delays (after taking into account all reasonable measures that are taken or should reasonably have been taken by the Delayed Party (as hereafter defined) to mitigate the effect of the following) which are caused by any of the following and which are not attributable to the improper acts or omissions of the Delayed Party or its Affiliates: an act of God, an industry-wide inability

to obtain labor, equipment, supplies or materials or reasonable substitutes therefore in the open market, an enemy action, terrorism, a civil commotion, an earthquake, a flood, a fire or any other casualty, a war, hostilities, an invasion, an insurrection, a riot, mob violence, malicious mischief, sabotage, embargo, an unusual failure of transportation, a strike of any labor union, a lockout, a condemnation, litigation which results in an injunction or a restraining order, or any other similar cause not within the reasonable control of the Delayed Party, (i) the existence of which shall either be actually known by the Harmed Party or the party being delayed (the “Delayed Party”) shall have notified the other party (the “Harmed Party”) by notice given not later than five (5) Business Days after the Delayed Party first actually knew of the existence or occurrence thereof, and (ii) which has the effect of delaying the Delayed Party’s performance of its obligations hereunder, which event shall be deemed to continue only as long as the Delayed Party shall be using reasonable efforts within the Delayed Party’s control promptly to minimize the effects thereof. The period of delay caused by any occurrence of an event of Force Majeure shall be deemed to commence on the earlier of (x) the date that the Delayed Party has actual knowledge of such occurrence, and (y) five (5) Business Days before the date the Delayed Party gives notification to the Harmed Party of such occurrence. Upon cessation of the event of Force Majeure causing such delay, (1) the Delayed party shall deliver notice of the cessation of the event of Force Majeure to the Harmed Party together with an estimate of the number of days of delay caused by the event of Force Majeure, and (2) the Delayed Party shall recommence or continue the performance of the obligation affected by such event of Force Majeure. Under no circumstances shall the non-payment of money or a failure attributable to a lack of funds (including any failure to satisfy a lien, judgment or other monetary obligation) be deemed to be (or to have caused) an event of Force Majeure.

“**Full Insurable Value**” shall have the meaning set forth in Section 9.05.

“**General Common Elements**” shall have the meaning assigned thereto in the Condominium Declaration.

“**GMHC**” shall have the meaning set forth in Section 2.02(c).

“**GMHC Omnibus Agreement**” shall have the meaning set forth in Section 2.02(c).

“**GMHC Sale Agreement**” shall have the meaning set forth in Section 2.02(c).

“**GMHC Second Floor Date**” shall mean the Possession Date (as defined in the GMHC Sale Agreement) for the GMHC Second Floor Expansion Unit (as defined in the GMHC Sale Agreement).

“**GMHC Successor**” shall have the meaning ascribed thereto in the Condominium Documents.

“**GMHC Transaction Documents**” shall mean the Condominium Documents, GMHC Omnibus Agreement, the GMHC Sale Agreement and the Installment Payments Mortgage (as such term is defined in the GMHC Sale Agreement), together with all other written agreements between GMHC and Declarant and/or Landlord relating to the GMHC Unit or GMHC’s rights or obligations with respect to the GMHC Unit.

“**GMHC Unit**” shall have the meaning set forth in Section 2.02(c).

“**GMHC Unit Owner**” shall have the meaning set forth in Section 2.02(c).

“**Governmental Actions**” shall have the meaning set forth in Section 25.02(b).

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Governmental Authority” shall mean any or all of the federal, state, city, county and borough governments, any and all departments, subdivisions, bureaus, agencies or offices thereof, and any and all other governmental, public or quasi-public authorities having jurisdiction over the Premises.

“Hazardous Material(s)” shall have the meaning set forth in Section 25.04.

“Hazardous Material Law(s)” shall have the meaning set forth in Section 25.05.

“Impositions” shall have the meaning set forth in Section 5.01(a).

“Improvements” shall mean any and all buildings, improvements and structures now or from time to time hereafter erected on the Land and the Equipment.

“Initially Named Tenant” shall mean Glenhill Associates Leasehold, LLC.

“Initial Payment Date” shall have the meaning ascribed thereto in the GMHC Sale Agreement.

“Installment Purchase Payments” shall mean the monthly installment payments made by the GMHC Unit Owner to Declarant for the purchase of the GMHC Unit, as more particularly set forth in the GMHC Sale Agreement.

“Land” shall mean the parcel of land lying and being in the City of New York, Borough of Manhattan, State of New York, bounded as described in Exhibit A attached hereto.

“Landlord” shall mean Glenhill Associates, LLC, a New York limited liability company, and its successors and assigns.

“Landlord Indemnitees” shall mean Landlord, all Related Parties of Landlord and any holder of a Fee Mortgage and any of their trustees, principals, partners, members, officers, directors, shareholders, employees, agents, licensees, invitees, servants or contractors in their respective capacities as such.

“Landlord’s Full Partial Condemnation Value Amount” shall have the meaning set forth in Section 14.04(b)(iii).

“Lease Year” shall mean each period of twelve (12) consecutive months during the Term of this Lease commencing on the Initial Payment Date.

“Original Lease” shall have the meaning set forth in the preamble to this Lease.

“Partial Taking” shall have the meaning set forth in Section 14.04(a).

“Permitted Exceptions” shall mean the Permitted Exceptions as described in Section 1.1 of the GMHC Sale Agreement and the Permitted Exceptions set forth on Exhibit B annexed hereto.

“Permitted Use” shall have the meaning set forth in Section 6.01.

“Person” shall mean and include any individual, corporation, partnership, joint venture,

trust or unincorporated association and any federal, state, county, municipal or foreign government, or any bureau, department or agency thereof.

“Premises” shall have the meaning set forth in Section 2.02(a).

“Prime Rate” shall mean the rate announced (whether or not actually charged) from time to time by Citibank, N.A., or any successor of such bank, as its base/reference rate (or the equivalent) in effect in New York City, or, if no such bank shall exist, the rate published by The Wall Street Journal (or, if The Wall Street Journal shall not be published, a domestic financial newspaper of comparable status) from time to time as the generally prevailing rate of interest charged by commercial banks on ninety (90) day unsecured loans to their most preferred corporate customers in New York City.

“Prohibited Activities or Conditions” shall have the meaning set forth in Section 25.01.

“Prohibited Person” shall mean (i) any Person on, or, under the relevant statute and/or regulations governing any such list, deemed to be on, the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or on any comparable list hereafter maintained by said Office or successor thereto, or by any other office or agency of the government of the United States or any similarly designated Persons under any federal statute which is a successor to or similar to or of similar import as the statutes currently providing for such designations or maintenance of lists of such designated Persons or (ii) if such Person shall be the “Tenant” under this Lease, a Person entitled to diplomatic or sovereign immunity which has not been effectively waived.

“Prohibited Transferee” shall mean any Person that, at the time of a determination provided for in this Lease as to whether such Person is a Prohibited Transferee, (i) has been convicted, or is owned or controlled (as determined in accordance with the immediately following sentence) by a Person who has been convicted, of any felony in the five (5) years immediately preceding such determination, (ii) is a Prohibited Person. A Person shall be deemed to own or control another Person if (and only if) such Person would qualify as a Controlling Person with respect to such other Person if such other Person were Tenant.

“Prohibited Uses” shall have the meaning set forth in Section 6.02.

“Qualified Appraiser” shall mean a member of the Appraisal Institute, or a comparable national professional organization existing from time to time, who shall be independent of Landlord, Tenant, and all Fee Mortgagees and each of their Affiliates and so certifies to each of Landlord and Tenant in the manner presently provided by MAI appraisers and who shall at the time in question be currently active and have at least fifteen (15) years of experience in the valuation of commercial real estate in the City of New York. The designation of “Qualified Appraisers” shall be subject to the reasonable satisfaction of both Landlord and Tenant.

“Related Parties” with respect to a Person (other than GMHC), shall mean and include (i) any Affiliate of such Person and any trustee, officer, director, employee, agent, consultant, shareholder or member of such Person or any of its Affiliates; (ii) any member of such Person or any of its Affiliates or any member of any such member or any trustee, officer, director, employee, agent, consultant, shareholder or partner of any such member; (iii) any partner of such Person or any of its Affiliates or any partner of any such partner or any trustee, officer, director, employee, agent, consultant, member or shareholder of any such partner; (iv) any legal representative, heir, estate, successor, or assignee of any of the foregoing; and

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(v) any corporation (or any trustee, officer, director, employee, agent, consultant, member or shareholder thereof), partnership (or any partner thereof), limited liability company (or any member thereof), individual, or entity to which the interest of such Person or any of its Affiliates in the Premises or part thereof or interest therein shall have been transferred (or any legal representative, heir, estate, successor, or assignee of any thereof).

“Rent” shall have the meaning set forth in Section 4.02.

“Requirements” shall mean any and all present and future statutes, laws, ordinances, orders, directives, rules, regulations and requirements of any Governmental Authority having jurisdiction over the Premises, and the appropriate departments, commissions, boards and officers thereof, the orders, rules and regulations of the National Fire Protection Association, or any other body now or hereafter constituted exercising similar powers, and the direction of any public officer pursuant to law, whether now or hereafter in force.

“Structural Components” shall mean the roof, facade, floor slabs, structural steel and supports and Base Building Systems of the Premises.

“Sublease” shall mean any lease (other than this Lease), sublease, master sublease, license agreement, concession agreement or other occupancy agreement covering the Premises, or any part thereof, that shall be entered into or permitted by Tenant or the Condominium Documents, and shall include, without limitation, the Existing Subleases and, from and after the Condominium Date, any Unit (but, from and after the Condominium Date, the rights and obligations of any party set forth in Article 20 with respect to any “Sublease” shall not apply to the transfer of any lease, sublease, license agreement, concession agreement or other occupancy agreement for an individual Unit or any portion thereof).

“Sublease Premises” shall mean (i) the portion of the Premises demised to a Subtenant under the Sublease to which such Subtenant is a party, a (ii) Unit, or (iii) a portion of a Unit leased (or further subleased) to an occupant thereof, all as applicable.

“Subleasehold Improvements” shall mean any and all improvements or equipment made or located within the portions of the Premises occupied or intended for occupancy by Subtenants and which are not required for the proper operation, maintenance, repair or replacement of the Improvements, it being understood and agreed that the Subleasehold Improvements may not be located entirely within a Subtenant’s premises (e.g., an emergency generator installed by a Subtenant in a vented mechanical room located within the common areas of the Improvements).

“substantially all of the Premises” shall have the meaning set forth in Section 14.01(a).

“Subtenant” shall mean a tenant or occupant under a Sublease, and, from and after the Condominium Date, a Unit Owner or a tenant or occupant of a Unit (but, from and after the Condominium Date, the rights and obligations of any party set forth in Article 20 with respect to any “Subtenant” shall not apply to any tenant or occupant of an individual Unit or any portion thereof).

“Successor Landlord” shall have the meaning set forth in Section 43.04.

“Tenant” shall mean (i) prior to the Condominium Date, Glenhill Associates Leasehold, LLC, a New York limited liability company, and (ii) from and after the Condominium Date, the Condominium, and their respective successors and permitted assigns, subject to the provisions of Article 20.

“Term of this Lease” shall have the meaning set forth in Section 3.01.

“Termination”, when used with reference to the Term of this Lease, shall mean

expiration of the Term of this Lease on the scheduled expiration date specified in Section 3.01 hereof or any sooner termination of the Term of this Lease pursuant to any of the provisions hereof, and “**Terminate**” shall mean expire or terminate, or cause to terminate, as aforesaid.

“**Termination Default**” shall mean the occurrence of any one or more of the following events: (1) there shall be a breach or default by a Unit Owner in the payment of any fixed monthly installment of (x) Common Charges or recurring Special Assessments to the Condominium Board under the Condominium Documents, or (y) installment purchase payments (including Installment Purchase Payments in the case of the GMHC Unit Owner) to Declarant under any Unit Purchase Agreement, and such breach or default shall continue for at least ten (10) days after notice shall have been given to such Unit Owner of such breach or default (in each case, a “Recurring Payment Monetary Default”), (2) there shall be a breach or default by a Unit Owner in the payment of any monetary obligations other than the payment of Recurring Payment Monetary Default, and such breach or default shall continue for at least thirty (30) days after the Unit Owner has been given notice of such breach or default (in each case, a “Non-Recurring Payment Monetary Default”; Non-Recurring Payment Monetary Defaults and Recurring Payment Monetary Defaults are collectively referred to as “Monetary Defaults”), (3) there shall be a breach or default by a Unit Owner in the performance of any of such Unit Owner’s non-monetary obligations under the Condominium Documents or the applicable Unit Purchase Agreement, and such breach or default shall continue for at least thirty (30) days after such Unit Owner has been given written notice of such breach or default, or beyond the expiration of the cure period for the relevant obligation set forth in the applicable document (or if no cure period is specified or if such cure period is less than thirty (30) days, thirty (30) days after the Unit Owner has been given notice, which 30-day period shall be extended as necessary so long as the Unit Owner has commenced the cure of such default within such 30day period and thereafter continues diligently to cure) (each, a “Nonmonetary Default”), or (4) there shall be a breach or default by GMHC under any of the GMHC Transaction Documents that results in a termination of the GMHC Sale Agreement.

“**Termination Requirements**” shall mean that the following requirements, with respect to any Unit (other than a Declarant Unit) have been satisfied:

(i) Declarant or the Condominium Board, as applicable, shall have delivered to the Unit Owner a written notice stating that a default by the Unit Owner has occurred under the Condominium Document or the applicable Unit Purchase Agreement and specifying the nature of such default, and stating that a Termination Default will occur if such default is not cured within the time period specified in the notice (which shall be not less than the time period specified for a Termination Default under the Condominium Documents);

(ii) the Unit Owner shall have the right, in the case of a Nonmonetary Default, prior to the expiration date of the cure period set forth in the notice described in clause (i) above, to petition a court of competent jurisdiction in the State of New York for a temporary restraining order or preliminary injunction preventing Landlord, Declarant and/or the Condominium Board, as applicable, from terminating this Lease, the Condominium Documents and/or the Unit Owner’s rights thereunder pending the final adjudication of such Nonmonetary Default (with such temporary restraining order or preliminary injunction being referred to herein as “**Injunctive Relief**”); and if the Unit Owner’s petition for Injunctive Relief shall have been timely filed, then, from and after the date on which such Unit Owner’s petition for Injunctive Relief is filed, Landlord, Declarant or the Condominium Board, as applicable, shall take no further action to terminate this Lease, the Condominium Documents and/or such Unit Owner’s rights thereunder or to initiate or acquiesce in the termination of the Condominium Documents or this Lease and/or such Unit Owner’s rights thereunder pending a decision by the court on whether to grant such Injunctive Relief, and

if such temporary restraining order or preliminary injunction is granted, pending the adjudication of the underlying Nonmonetary Default as provided below, Landlord, Declarant or the Condominium Board, as applicable, shall take no further action to terminate this Lease, the Condominium Documents and/or such Unit Owner's rights thereunder or to initiate or acquiesce in the termination of the Condominium Documents or this Lease and/or such Unit Owner's rights thereunder; and

(iii) If (a) a court of competent jurisdiction shall have issued a determination ordering or permitting the termination of this Lease or the Condominium and/or the Unit Owner's rights hereunder (or thereunder) on the basis that a Nonmonetary Default has occurred, and such determination has not been stayed pending appeal, or (b) a Monetary Default shall have occurred and not have been cured within the respective time periods therefor set forth in the definition of a "Termination Default", then, in either such case, the Termination Requirements shall be deemed to have been satisfied with respect to the defaulting Unit Owner.

"Total Taking" shall have the meaning set forth in Section 14.01(a).

"Transfer" shall have the meaning set forth in Section 20.01(a).

"Unit" shall have the meaning set forth in Section 2.02(c).

"Unit Owner" shall have the meaning set forth in Section 2.02(c).

"Unit Purchase Agreement" shall mean the applicable unit purchase and sale agreement pursuant to which such Unit has been transferred to a Unit Owner. The GMHC Sale Agreement is the Unit Purchase Agreement applicable to the GMHC Unit and the GMHC Unit Owner.

"Zoning Resolution" shall mean the Zoning Resolution of The City of New York.

ARTICLE 2 Creation of Leasehold Interest; Premises; Representations and Warranties; Covenants; Condominium

Section 2.01. Landlord, for good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, demises and leases the Premises unto Tenant, and Tenant takes and hires the Premises from Landlord, subject to the Permitted Exceptions and to the covenants, conditions and agreements hereinafter set forth, to have and to hold the Premises unto Tenant and its permitted successors and assigns during the Term of this Lease.

Section 2.02. (a) For purposes of this Lease, **"Premises"** shall mean the Land and the Improvements, together with any and all easements, appurtenances, hereditaments and other rights or privileges now or hereafter belonging thereto other than the Development Rights (which Development Rights are reserved for the exclusive use of (or transfer by) Landlord). In furtherance of the foregoing, Tenant (i) acknowledges that Tenant is not a "party in interest" as defined in the Zoning Resolution, and shall not and cannot become a "party in interest" under any circumstances by virtue of its leasehold interest in the Premises, and (ii) will, at the request of Landlord, acknowledge that Tenant (x) is not a "party in interest" as defined in the Zoning Resolution, and shall not and cannot become a "party in interest" under any circumstances by virtue of its leasehold interest in the Premises, and/or (y) would not be "adversely affected" (within the meaning of the Zoning Resolution) by any development of the Land or the Building or any such combining of portions of the Premises into a single zoning "lot" or "development" or "enlargement" (as those terms are now, or may hereafter be, defined in the Zoning Resolution), nor by the filing of any declaration combining all or a part of the Land or the Building with any other premises. Notwithstanding the foregoing, in the event that Tenant is deemed to have any of the Development

Rights disclaimed in this Section 2.02(a) above, or is deemed to be a party in interest, Tenant will, at the request of Landlord, (A) transfer such rights and any rights as a party in interest to Landlord, and (B) execute and deliver to Landlord a waiver of Tenant's right to join in a Declaration of Restrictions pursuant to Section 12-10 of the Zoning Resolution (a "Zoning Waiver"). If Tenant fails to so execute any such acknowledgement, transfer or Zoning Waiver within ten (10) days after Landlord's written request therefor, Tenant hereby irrevocably appoints Landlord as its agent and attorney-in-fact, coupled with an interest, to execute and deliver the same in Tenant's name.

(b) Landlord hereby acknowledges and agrees that Tenant shall be entitled to (and Tenant agrees that Tenant shall) (i) use commercially reasonable efforts to subject the Premises to a leasehold condominium form of ownership following the date hereof (the "**Condominium**") and (ii) satisfy the requirements set forth in Section 2.02(c) below, and Landlord hereby consents to the submission of the Premises to such leasehold condominium form of ownership. The Condominium Declaration and other related documents that shall be filed and/or recorded to convert the Premises to a Condominium (as the same may be amended, modified or restated from time to time, collectively, the "**Condominium Documents**") shall be subject and subordinate in all respects to the terms of this Lease. The Condominium Documents and all amendments, modifications or supplements thereto shall be subject to Landlord's review and approval, which approval shall not be unreasonably withheld. If, for any reason, the Condominium Date shall not occur on or before the one hundred eightieth (180th) day following the Commencement Date (the "**Outside Date**"; it being understood and agreed that, so long as this Lease has not been terminated, the Outside Date may be extended by the written agreement of each of Landlord, Tenant and GMHC), then, notwithstanding anything to the contrary set forth elsewhere in this Lease, this Lease shall automatically Terminate, and the obligations of Tenant in the event of a Termination shall thereupon become effective.

(c) The Condominium shall initially contain the following thirty-seven (37) commercial condominium units, consisting of: (i) four (4) commercial condominium units located on portions of the Cellar Floor, (ii) seven (7) commercial condominium units located on portions of the Ground Floor (1st Floor), (iii) five (5) commercial condominium units located on portions of the Mezzanine, (iv) two (2) commercial condominium units located on portions of the Second (2nd) Floor, (v) a commercial condominium unit located on portions of the Third (3rd) Floor, (vi) a commercial condominium unit located on portions of the Fourth (4th) Floor, (vii) a commercial condominium unit located on portions of the Fifth (5th) Floor, (viii) a commercial condominium unit located on portions of the Sixth (6th) Floor, (ix) a commercial condominium unit located on portions of the Seventh (7th) Floor, (x) a commercial condominium unit located on portions of the Eighth (8th) Floor, (xi) a commercial condominium unit located on portions of the Ninth (9th) Floor, (xii) a commercial condominium unit located on portions of the Tenth (10th) Floor, (xiii) a commercial condominium unit located on portions of the Eleventh (11th) Floor, (xiv) a commercial condominium unit located on portions of the Twelfth (12th) Floor, (xv) a commercial condominium unit located on portions of the Thirteenth (13th) Floor, (xvi) a commercial condominium unit located on portions of the Fourteenth (14th) Floor, (xvii) a commercial condominium unit located on portions of the Fifteenth (15th) Floor, (xviii) a commercial condominium unit located on portions of the Sixteenth (16th) Floor, (xix) a commercial condominium unit located on portions of the Seventeenth (17th) Floor, (xx) a commercial condominium unit located on portions of the Eighteenth (18th) Floor, (xxi) a commercial condominium unit located on portions of the Nineteenth (19th) Floor, (xxii) a commercial condominium unit located on portions of the Twentieth (20th) Floor, (xxiii) a commercial condominium unit located on portions of the 21st Floor Penthouse, with all of the foregoing being as shown on the Floor Plans. The Units to be purchased by GMHC pursuant to the GMHC Sale Agreement, along with any additional Units purchased by GMHC from time to time, shall be designated collectively as the "**GMHC Units**" (with all of the GMHC Units being sometimes referred to herein collectively as the "**GMHC Unit**"). All Units other than the GMHC Unit may initially be referred to herein individually as a "**Declarant Unit**", and may collectively be referred to herein as the "**Declarant Units**", provided however, that once Declarant conveys a Declarant Unit to a Person other than Declarant or any of Declarant's successors or affiliates, such Unit shall not be deemed to be a Declarant Unit for so long as it remains owned by a Person other than Declarant

or any of Declarant's successors or affiliates. For the avoidance of doubt, any Unit owned by Declarant or any of Declarant's successors or affiliates at any time, including a Unit that has been conveyed and then repurchased by Declarant or any of Declarant's successors or affiliates at any time in the future, shall also be considered a Declarant Unit for purposes of the Condominium Documents. The owner of a leasehold condominium unit in the Premises

(a *"Unit"*) is referred to herein as a *"Unit Owner"*, the owner of the Declarant Units is sometimes referred to as the *"Declarant Unit Owner"*, and the owner of the GMHC Unit is sometimes referred to as the *"GMHC Unit Owner"*. Landlord acknowledges that Tenant, pursuant to that certain Sale and Purchase Agreement dated as of the date hereof (as the same may be amended, modified or restated from time to time, the *"GMHC Sale Agreement"*) by and between Tenant, as seller, and Gay Men's Health Crisis, Inc. (*"GMHC"*), as purchaser, intends to sell the GMHC Unit to GMHC effective immediately following the Condominium Date. Landlord hereby consents to the sale of the GMHC Unit to GMHC, subject to applicable Requirements and GMHC's compliance with such applicable Requirements. The parties hereto acknowledge that, concurrently with the execution of this Lease, Landlord, Tenant and GMHC are entering into an agreement, dated as of the date hereof, that memorializes certain rights and obligations among such parties (as the same may be amended, modified or restated from time to time, the *"GMHC Omnibus Agreement"*).

(d) Simultaneously with the execution of this Lease, Landlord shall assign its interest in the Existing Subleases to Tenant pursuant to that certain Assignment and Assumption of Leases dated as of the date hereof (the *"Assignment of Subleases"*) by and between Landlord, as assignor, and Tenant, as assignee. Pursuant to the Assignment of Subleases, Tenant shall assume all of Landlord's obligations and liabilities under the Existing Subleases arising from and after the date hereof. Upon the Condominium Date, all Existing Subrents and other charges and expenses payable or reimbursable by Existing Subtenants and apportioned to Tenant pursuant to the provisions of paragraph (f) of Section 8.01 below shall become the property of Declarant Unit Owner, and all rights and obligations of the landlord under the Existing Subleases shall be deemed assigned and transferred by Tenant to Declarant Unit Owner; it being agreed that no such rights and obligations shall be assigned or otherwise transferred to the Condominium Board. Notwithstanding the foregoing, Landlord shall remain jointly and severally liable with Declarant Unit Owner with respect to any action, proceeding or contest by an Existing Subtenant in which such Existing Subtenant shall prevail.

Section 2.03. Landlord represents, warrants and covenants to Tenant:

(a) Landlord is a limited liability company duly formed, validly existing and in good standing under the laws of the State of New York.

(b) Landlord has all requisite power and authority, in accordance with applicable Requirements, to enter into this Lease and to carry out the transactions contemplated hereby. The execution, delivery and performance of this Lease by Landlord has been duly authorized and (i) does not violate any provision of, or require any filing, registration, consent or approval under any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award currently in effect having applicability to Landlord or the Premises; (ii) to Landlord's knowledge, will not result in a breach of or constitute a default or require any consent under any indenture, lease, loan or credit agreement of Landlord or any other instrument by which Landlord or the Premises may be bound or affected; and (iii) to Landlord's knowledge, will not cause Landlord to be in default under any such law, rule, regulation, order, writ, judgment, injunction, decree, determination or award, or any such indenture, lease, agreement or instrument. This Lease constitutes Landlord's legal, valid and binding obligation, enforceable against Landlord in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights and by general principles of equity (whether applied in a proceeding at law or in equity).

(c) Landlord shall, in good faith, cooperate with GMHC in connection with obtaining the Real Estate Tax Exemption (as defined in the GMHC Sale Agreement) from the New York City Department of Finance, provided that Landlord shall have no obligation to incur any expenses or suffer any liability in connection therewith. Provided that the GMHC Unit Owner is not in default under any of the GMHC Transaction Documents beyond the expiration of any applicable cure period, the GMHC Unit Owner shall be deemed to be a third-party beneficiary of this paragraph (c).

(d) Except for those mortgagees who will have delivered an Approved SNDA prior to the Commencement Date, there will be no mortgagees under any fee mortgage encumbering the Land and/or the Building on the Commencement Date. Following the Commencement Date, Landlord shall not enter into any fee mortgage encumbering Landlord's interest in the Land, unless, within thirty (30) days after Landlord shall enter into any fee mortgage encumbering the Landlord's interest in the Land, Landlord shall obtain and deliver to Tenant an Approved SNDA. Provided that the GMHC Unit Owner is not in default under any of the GMHC Transaction Documents beyond the expiration of any applicable cure period, the GMHC Unit Owner shall be deemed to be a third-party beneficiary of this paragraph (d).

Section 2.04. Tenant represents and warrants to Landlord that:

(a) Tenant is a limited liability company duly formed, validly existing and in good standing under the laws of the State of New York.

(b) Tenant has all requisite power and authority, in accordance with applicable Requirements, to enter into this Lease and to carry out the transactions contemplated hereby.

(c) The execution, delivery and performance of this Lease by Tenant has been duly authorized and (i) does not violate any provision of, or require any filing, registration, consent or approval under any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award currently in effect having applicability to Tenant or, to Tenant's knowledge, the Premises; (ii) will not result in a breach of or constitute a default or require any consent under any indenture, lease, loan or credit agreement of Tenant or any other instrument by which Tenant may be bound or affected; and (iii) will not cause Tenant to be in default of any such law, rule, regulation, order, writ, judgment, injunction, decree, determination or award, or any such indenture, lease, agreement or instrument. This Lease constitutes Tenant's legal, valid and binding obligation, enforceable against Tenant in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights and by general principles of equity (whether applied in a proceeding at law or in equity).

(d) Tenant has not (i) made a general assignment for the benefit of creditors, (ii) filed a voluntary petition in bankruptcy or suffered the filing of an involuntary petition by Tenant's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Tenant's assets, which remains pending, or (iv) suffered the attachment or other judicial seizure of all, substantially all of Tenant's assets, which remains pending.

Section 2.05. Landlord and Tenant acknowledge and agree that: (i) this Lease constitutes the amended and restated lease referred to in Section 2.05 of the Original Lease; (ii) the memorandum of the Original Lease that was annexed thereto has been recorded in the Office of the Register of The City of New York, New York County (the "**Register's Office**"); (iii) such memorandum of the Original Lease shall be replaced and recorded in the Register's Office by a memorandum of this Lease, in

the form that is annexed hereto and made a part hereof as Exhibit F; and (iv) a so-called “NoAction Letter” with respect to the creation of the proposed Condominium was issued by the Office of the New York State Attorney General on May 1, 2018.

ARTICLE 3 Term

Section 3.01. The term during which Tenant shall hereafter be entitled to possess, use and occupy the Premises pursuant to this Lease (the “***Term of this Lease***”) shall (a) commence on the date hereof (the “***Commencement Date***”), (b) consist of (i) the period beginning on the Commencement Date and ending on the day immediately preceding the Initial Payment Date, plus (ii) a period of thirty (30) years and one (1) calendar month commencing on the Initial Payment Date, and (c) expire on the day immediately preceding the thirty (30) year and one (1) month anniversary of the Initial Payment Date (the “***Expiration Date***”) or on such earlier date upon which the Term of this Lease shall expire, be canceled or terminated pursuant to any of the conditions or covenants of this Lease or pursuant to law.

ARTICLE 4 Rent

Section 4.01. (a) Tenant shall pay to Landlord, in currency which at the time of payment is legal tender for public and private debts in the United States of America, the fixed net rental (“***Basic Rent***”), over and above the other and additional payments to be made by Tenant as hereinafter provided, as follows:

(i) for the period commencing on the Commencement Date and continuing through the day immediately preceding the Initial Payment Date, no Basic Rent shall be payable; and

(ii) for the period commencing on the Initial Payment Date and continuing through the Expiration Date, the Basic Rent shall be payable at the annual rate.

(b) Basic Rent shall be payable in equal monthly installments in advance, beginning on the Initial Payment Date and continuing on the first day of each calendar month thereafter occurring during the Term of this Lease. If the Initial Payment Date shall occur on a day that is other than the first day of a calendar month, then the monthly installment due for such partial month shall be prorated and paid together with the full monthly installment payable on the first day of the immediately succeeding calendar month. If the Term of this Lease shall expire on a day that is other than the last day of a calendar month, then Basic Rent shall be payable, on a prorated basis, only for the portion of the calendar month that is within the Term of this Lease.

(c) Although it is the understanding of the parties that, under existing law, no commercial rent or occupancy tax imposed in Title 11, Chapter 7 of the New York City Administrative Code (the “***CRT***”) may be imposed upon the Basic Rent being passed through to the Unit Owners through the Common Charges (as such term is defined in the Condominium Declaration) payable by the Unit Owners pursuant to the Condominium Documents (the “***Ground Rent Pass-Through***”), anything to the contrary in this Lease or in the GMHC Transaction Documents notwithstanding, from and after the Initial Payment Date, if a CRT is imposed on the Basic Rent due under this Lease because the Ground Rent Pass-Through is not recognized under the law as a credit or deduction against CRT otherwise due in connection with the Basic Rent, then, regardless of whether the owner of the GMHC Unit is generally entitled under law to an exemption from an obligation to pay CRT, such owner of the GMHC Unit shall be obligated to pay the amount of CRT imposed on the Ground Rent Pass-Through under this Lease, together with interest and penalties thereon, if any, imposed in respect of the late payment thereof, and such amount shall be deemed to be Common Charges payable only by the owner of the GMHC Unit, and the amount payable hereunder by the owner of the GMHC Unit shall be paid by the owner of the GMHC Unit on or before the

later of (x) thirty (30) days after the date the owner of the GMHC Unit shall have received an invoice from any Declarant Entity setting forth the amount payable in respect thereof and (y) thirty (30) days prior to the date such payment shall be due to the taxing authority.

Section 4.02. Until the Condominium Date, Tenant shall pay all Impositions. From and after the Condominium Date, the Unit Owners shall pay Impositions as to their respective Units. Tenant shall also pay all additional rent and all other sums due and payable hereunder. The Basic Rent, Impositions and all other sums due and payable by Tenant pursuant to any provision of this Lease are collectively referred to as “**Rent**”. All Rent (except for the Impositions, which shall be paid in accordance with the terms of Article 5 hereof) shall be paid to Landlord at its office, or such other place, or to Landlord’s agent and at such other place, as Landlord shall designate, from time to time, by notice to Tenant, by Tenant’s good check (subject to collection). At Landlord’s option, all Basic Rent shall be paid by wire transfer of immediately available funds to Landlord’s account in accordance with instructions that Landlord shall from time to time deliver to Tenant. Except as may be specifically set forth herein to the contrary in Article 26, Landlord shall have all the rights and remedies provided for under the terms of this Lease and applicable Requirements in respect to the payment of items of Rent other than Basic Rent as Landlord possesses in respect to the payment of the Basic Rent.

Section 4.03. (a) Notwithstanding any other provision of this Lease, except as may be specifically set forth herein to the contrary, the Rent shall be paid without notice or demand, and without counterclaim, setoff, defense, suspension or deferment, of any kind, and without deduction, abatement or diminution of any kind. This Lease shall not terminate (except as may be expressly set forth herein), and (except as may be expressly set forth in this Lease) Tenant shall not have any right to terminate or void this Lease or be entitled to the abatement (in whole or in part) of any Rent hereunder or any reduction thereof, nor shall the obligations and liabilities of Tenant hereunder be in any way affected for any reason, including, without limitation: (i) any defect in, damage to (subject to the provisions of Article 13), destruction of, or (subject to the terms of Article 14) condemnation of, any part of the Premises; (ii) any restriction of or interference with any use of the Premises or action by Government Authorities or third parties; (iii) any matter affecting title to the Premises except as otherwise expressly set forth in Article 14; (iv) any proceeding relating to Landlord or action taken with respect to this Lease by any trustee or receiver of any successor to Landlord or by any court in any proceedings; (v) any failure by Landlord to perform or comply with this Lease or any other agreement or business dealings with Tenant; (vi) impossibility or illegality of performance by Tenant; (vii) any failure of Existing Subtenants to pay any rent or other amount due or perform any covenant or other obligation under the Existing Subleases; or (viii) any other occurrence whatsoever, whether similar or dissimilar to the foregoing and whether or not Tenant shall have notice or knowledge of any of the foregoing. The obligations of Tenant hereunder shall be separate and independent covenants and agreements.

(b) Tenant shall remain obligated under this Lease in accordance with its terms, and shall not take any action to terminate, rescind or void this Lease, notwithstanding any bankruptcy, insolvency, reorganization, liquidation, dissolution or other proceeding affecting Landlord or any assignee of Landlord or any action with respect to this Lease which may be taken by any trustee, receiver or liquidator or by any court. Tenant waives all rights to terminate or surrender this Lease, or to any abatement, reduction or deferment of Rent (other than pursuant to a right expressly granted to Tenant in this Lease). Each Unit Owner shall be deemed to be a third-party beneficiary of the provisions of this Section 4.03(b).

ARTICLE 5 Impositions

Section 5.01. (a) Subject to the provisions of Section 4.02, Tenant covenants and agrees to pay, as hereinafter provided, all of the following items (collectively “**Impositions**”): all taxes (including, without limitation, all ad valorem, real estate, sales and use, value added, single business, gross receipts, transaction, taxes on rent, privilege, or similar taxes), all assessments (including, without limitation, all

assessments for public improvements or benefits, and any other assessments of whatever name, nature, and kind, and whether or not now within the contemplation of the parties, including any special assessments for or imposed by any business improvement district or by any special assessment district), water, sewer, or other rents and charges, excises, levies, fees (including, without limitation, license, permit, inspection, authorization, and similar fees), fines, penalties, and all other governmental charges and any interest or costs with respect thereto, charges for any easement or agreement maintained for the benefit of the Premises, in each case whether general or special, ordinary or extraordinary, or foreseen or unforeseen, of every character, kind and nature whatsoever which at any time during the Term of this Lease may be assessed, levied, confirmed, imposed upon, or grow or become due and payable out of or in respect of, or charged with respect to or become a lien on the Premises, or the sidewalks or streets in front of or adjoining the Premises, or any vault, passageway or space in, over or under such sidewalk or street, or any other appurtenances of the Premises, or any personal property, Base Building Systems or other facility used in the operation thereof, or the rent or income received therefrom, or any use, possession or occupancy thereof, or this transaction or the Rent payable hereunder, together with any and all interest, penalties, and costs resulting from delayed payment of any of the foregoing.

(b) The parties agree that nothing herein contained shall require Tenant to pay municipal, state or federal income, gross receipts, inheritance, estate, succession, profit, transfer, capital gains or gift taxes of Landlord, or any corporate franchise taxes imposed upon Landlord or any successor of Landlord or any other taxes of the same or similar import now or hereafter enacted or imposed on Landlord; provided, however, that if at any time during the Term of this Lease the present method of taxation or assessment shall be so changed that there shall be substituted in whole or in part for the types of taxes, assessments, levies, impositions or charges now or hereafter levied, assessed or imposed on real estate and the improvements thereon, a capital levy or other tax levied, assessed or imposed on the rents received by Landlord from said real estate or the rents reserved herein or any part thereof, then any such capital levy or other tax shall, to the extent that it is so substituted, be deemed to be included within the term "Impositions".

Section 5.02. Any Imposition, other than an Imposition which has been converted into installment payments as referred to in Section 5.01, relating to a fiscal period of the taxing authority, a part of which period is included within the Term of this Lease and a part of which is included in a period of time prior to the Commencement Date or after the expiration or termination of the Term of this Lease, shall (whether or not such Imposition shall be assessed, levied, confirmed, imposed upon or in respect of or become a lien upon the Premises, or shall become payable during the Term of this Lease) be apportioned between Landlord and Tenant as of the Commencement Date or the expiration or termination of the Term of this Lease (as the case may be), so that Tenant shall pay that portion of such Imposition which that part of such fiscal period included within the Term of this Lease bears to such fiscal period, and Landlord shall pay the remainder thereof, provided, however, that Tenant shall not be entitled to receive any apportionment during the existence of a Default (unless and until cured).

Section 5.03. Subject to the terms of the Condominium Documents and the GMHC Sale Agreement, Tenant shall have the right at its own expense to contest the amount or validity, in whole or in part, of any Imposition by appropriate proceedings.

Section 5.04. Tenant shall have the right to seek a reduction in the valuation of the Premises assessed for tax purposes, and to prosecute any action or proceeding in connection therewith. Tenant shall be authorized to collect any tax refund obtained by reason thereof and, to the extent such refund is for Impositions paid by Tenant, to retain the same, subject to Tenant's obligation to pay to Landlord Landlord's pro rata share of the amount thereof (net of any reasonable expenses incurred by Tenant in connection with obtaining such refund) pursuant to the provisions of Section 5.02 hereof. Landlord shall not be required to join in any proceedings referred to in this Section 5.04 unless the provisions of any Requirement at the time in effect shall require that such proceedings be brought by and/or in the name of

Landlord, in which event Landlord shall at the request and expense of Tenant join and reasonably cooperate in such proceedings or permit the same to be brought in its name, provided such joinder shall not subject Landlord to any cost, expense or liability of any nature whatsoever, and Tenant hereby indemnifies and agrees to defend and save Landlord free and harmless from and against any costs, expenses or liability arising as a result of such joinder.

Section 5.05. Landlord agrees that whenever Landlord's cooperation is required in any of the proceedings brought by Tenant as aforesaid, Landlord will reasonably cooperate therein at the request and expense of Tenant, provided same shall not subject Landlord to any cost, expense or liability of any nature whatsoever, and Tenant hereby indemnifies and agrees to defend and save Landlord free and harmless from and any against costs, expenses or liability arising as a result of such cooperation.

Section 5.06. Any certificate, advice or bill of the appropriate official designated by law to make or issue the same or to receive payment of any Imposition, of nonpayment of such Imposition, shall be prima facie evidence that such Imposition is due and unpaid at the time of the making or issuance of such certificate, advice or bill, at the time or date stated therein.

Section 5.07. In respect of any payments of Impositions made by Tenant directly to the taxing authority, Tenant shall upon Landlord's request furnish to Landlord copies of receipted bills, if available, or other reasonably satisfactory evidence of payment thereof.

ARTICLE 6 Use and Operation of Premises

Section 6.01. Subject to Section 6.02, Tenant shall, throughout the Term of this Lease, use and operate or cause to be used or operated the entire Premises for any lawful purpose and for no other purpose (the "**Permitted Use**").

Section 6.02. Tenant shall not permit any use of the Premises for such uses as are deemed to be a "Declarant Prohibited Action" pursuant to the Condominium Documents, or are prohibited by any Applicable Laws or Requirements (including, without limitation, the certificate of occupancy for the Building) (collectively, "**Prohibited Uses**").

ARTICLE 7 Entry on Premises by Landlord

Section 7.01. In addition to any rights of entry or re-entry granted to Landlord under any other provisions of this Lease, Landlord and its authorized representatives shall have the right (but not the obligation) to enter the Premises at all reasonable times for the purpose of (a) inspecting the same, (b) performing any improvements to the Premises, and (c) making any necessary repairs thereto and performing any other work therein that may be necessary by reason of Tenant's failure to make any such repairs or perform any such work or to commence same within thirty (30) days after written notice from Landlord, except that no notice shall be required in case of an Emergency; provided, however, that if Tenant's failure to make such repairs or perform such other work shall have been attributable to Force Majeure and Tenant shall have so notified Landlord by prompt written notice, as required pursuant to the provisions of this Lease, Landlord shall not exercise such right of entry for the purpose of making such repairs or performing such other work except to the extent necessary in an Emergency or to remedy conditions that would have a material and adverse impact on Landlord's interest in the Premises. Tenant shall promptly reimburse Landlord upon demand for any costs or expenses reasonably incurred by Landlord in making such repairs or performing such other work. Nothing herein contained shall create or imply any duty upon the part of Landlord to make any such repairs to do any such work, and performance thereof by Landlord shall not constitute a waiver of any default by Tenant with respect to the same. Any entry for the purpose of actually performing work pursuant to this Article 7 shall be permitted on reasonable prior notice to Tenant and the affected Subtenants (which notice need not be given in writing), except that no prior

notice will be necessary in the case of an Emergency or in the event of an entry made for the purpose of performing an inspection. Notwithstanding the foregoing, Tenant shall (and Tenant shall cause each affected Subtenant to) reasonably cooperate with Landlord so as to allow Landlord to proceed with any required repairs or other unscheduled work when it shall be reasonably practical for Landlord to do so in conjunction with other work being performed in other Units or in the Building generally upon reasonable prior notice to Tenant as aforesaid (except in the case of an Emergency). Each Subtenant shall be entitled to have a representative present (provided that the affected Subtenant makes such a representative available) when Landlord enters upon the Sublease Premises of such Subtenant, except in the case of Emergency. Landlord shall use commercially reasonable efforts to minimize interference with the business operations of the Tenant, and any affected Subtenants in connection with such entry into the Premises and any such repairs or other work to be performed (but shall not be obligated to use overtime or premium pay labor).

Section 7.02. Landlord may, during the progress of any such repairs or other work in the Premises, keep and store therein all necessary materials, tools, supplies and equipment. Landlord shall not be liable for inconvenience, annoyance, disturbance or loss of business of Tenant or any Subtenant by reason of making such repairs or the performance of any such work, or on account of bringing such materials, tools, supplies and equipment into or through the Premises during the course thereof, and the obligations and liabilities of Tenant under this Lease shall not be affected or released thereby. Landlord shall be responsible, however, for assuring that any work done by Landlord pursuant to this Section 7.02 shall be done in a good and workmanlike manner, and in performing any such work, Landlord shall use commercially reasonable efforts (but without being obligated to employ overtime or premium pay labor) to minimize any resulting inconvenience to Tenant and any affected Subtenants.

Section 7.03. Landlord shall have the right to enter the Premises at all reasonable times during usual business hours (upon reasonable prior notice to Tenant and any affected Subtenants, and subject to any restrictions on Tenant's access to (i) sublet space that may be expressly provided for in any Sublease, and/or (ii) any Units that may be expressly provided for in the Condominium Documents) for the purpose of showing the same to prospective purchasers or mortgagees. During the thirty-six (36) month period preceding the Expiration Date, Landlord shall have the right to enter the Premises at all reasonable times during usual business hours (upon reasonable prior notice to Tenant and any affected Subtenants, and subject to any reasonable restrictions on Tenant's access to (i) sublet space that may be expressly provided for in any Sublease, and/or (ii) any Units that may be expressly provided for in the Condominium Documents) for the purpose of showing portions of the Premises to prospective tenants or other Persons who are considering leasing or otherwise taking occupancy of the Premises (or any portions thereof).

ARTICLE 8 Closing Apportionments

Section 8.01. The following are to be apportioned as of midnight of the day before the Commencement Date, in accordance with (except as otherwise herein provided) "the customs in respect of title adopted by the Real Estate Board of New York, Inc.":

- (a) Impositions;
- (b) Water charges and sewer rents, provided that Landlord shall not adjust or have any obligation to discharge any water charge or sewer rent affecting the Premises which is the obligation of a tenant to pay under its lease. If there is a water meter on the Premises, apportionment shall be based on the last available reading;
- (c) Electricity, steam and gas;
- (d) Street vault charges, if any;

(e) Fuel, if any, at the price then charged on the Commencement Date by Landlord's supplier;

(f) Existing Subrents, under the Existing Subleases, as and when collected. In the event that there are any past due Existing Subrents for the month preceding the Commencement Date owing by Existing Subtenants at the Commencement Date (it being agreed that Landlord is entitled hereunder to all past due Existing Subrents regardless of the period of delinquency, and that Tenant will cooperate with Landlord (other than being required to litigate) in collection of such arrears over one (1) month), Tenant agrees that the first monies received by Tenant from the tenants owing such past due Existing Subrents for the month preceding the Commencement Date shall be received by Tenant as trustee for Landlord on account of or in payment for such past due Existing Subrents and Tenant agrees to remit forthwith to Landlord the amount of such past due Existing Subrents to which Landlord is entitled, so collected, out of such monies received by Tenant without claim of setoff, abatement or deduction. All other past due Existing Subrents shall be forwarded to Landlord as and when collected by Tenant, if as and when Existing Subrents are current with Tenant and less any reasonable, actual out-of-pocket costs of collection incurred by Tenant. Landlord shall retain all rights against existing tenants and occupants accruing prior to the Commencement Date, including, without limitation, any claims for damages due to any such tenant's default except the right to bring a dispossession proceeding. Existing Subrents past due or unpaid for the month in which the Commencement Date occurs shall be apportioned as of the day before the Commencement Date as aforesaid, and Tenant and Landlord shall re-apportion all such past due Existing Subrents when collected. Any percentage Existing Subrent, escalation charges, operating expenses, cost of living adjustments or other charges of a similar nature received by Tenant subsequent to the Commencement Date from tenants of the Premises pursuant to the leases for a period of time which includes the period prior to the Commencement Date shall be apportioned between Landlord and Tenant upon receipt thereof. Any monies collected by Tenant on account thereof from any such Existing Subtenant shall be received by Tenant as trust funds to be apportioned between Landlord and Tenant in accordance herewith as and when collected in the same manner as the apportionment of Existing Subrents in the manner provided above. Tenant may, but shall not be obligated to, institute such actions as may be necessary to enforce collection of any unpaid Existing Subrent and/or additional Existing Subrent as and when due. All expenses incurred by Tenant in connection therewith shall be apportioned in the same manner as the apportionment of the additional Existing Subrents. The provisions of this paragraph shall survive the Commencement Date;

(g) Employees' wages, including any fringe benefits, vacation pay, union, welfare and pension contributions, social security, unemployment compensation taxes, payroll taxes, disability insurance and worker's compensation insurance;

(h) Periodically recurring governmental fees for transferable licenses or permits issued in respect of the Premises, or any part thereof; and

(i) Payments (including prepayments) and charges relating to Service Contracts.

The net apportionments and payments required to be made pursuant to the provisions of this Article 8 shall be made by Landlord or Tenant, as the case may be, to the other, by bank wire transfer of immediately available federal funds or by certified check or official bank check, except that amounts of Twenty-Five Thousand and No/100 Dollars (\$25,000.00) or less may be paid by check, subject to collection. Any errors, omissions or revisions in computing apportionments at the Commencement Date shall be corrected. This provision shall survive the Commencement Date.

Section 8.02. Upon the expiration or sooner termination of this Lease, Tenant and Landlord shall repeat the process described in Section 8.01, substituting "Landlord" for "Tenant", and "Tenant" for "Landlord". Tenant hereby grants to Landlord an irrevocable power of attorney, coupled with an interest, and so appoints Landlord as Tenant's attorney-in-fact for the limited purpose of executing all

documents and entering into the apportionments and adjustments. The provisions of this Section 8.02 shall survive the Termination of the Term of this Lease.

ARTICLE 9 Insurance

Section 9.01. (a) Subject to the provisions of Section 9.01(c), at all times throughout the remaining Term of this Lease, at no cost or expense to Landlord, Tenant shall maintain or cause to be maintained, for the benefit of Landlord and Tenant (as named insureds, as their respective interests may appear, except that Landlord shall be a loss payee with respect to the rent insurance coverage described in subparagraph (iii) of this paragraph), all of the following insurance coverages with respect to the Premises (except to the extent that such coverages would be duplicative of the coverages required under Section 9.02):

(i) insurance against loss or damage by fire and such other hazards as may be included in the standard form of special perils form building insurance from time to time available, in an amount not less than one hundred percent (100%) of the then Full Insurable Value of the Building, as applicable;

(ii) boiler and machinery insurance, written on a comprehensive form and appropriately coordinated under a "joint loss agreement" (or the equivalent) with the coverage described in this paragraph (a), covering all steam, mechanical and electrical equipment, including, without limitation, any boilers, pressure vessels, pressure piping, components of any central heating, ventilation or air conditioning system, or similar apparatus, installed in the Building, in an amount reasonably satisfactory to Landlord;

(iii) insurance under a rent or business interruption insurance policy covering risk of loss due to the occurrence of any of the hazards covered by the insurance described in subparagraph (i) or subparagraph (ii) of this paragraph (a), with coverage in a face amount not less than the aggregate amount, for a minimum period of one (1) year following the occurrence of the insured-against fire or other hazard, of (1) Basic Rent, (2) Impositions, (3) premiums for insurance required to be carried pursuant to this Lease, and (4) any other amounts due pursuant to this Lease; provided, however, to the extent that the amounts for items 2, 3, or 4 are not known at the time such rent or business interruption insurance is secured, insurance coverage for such items shall be in amounts as reasonably estimated by Tenant;

(iv) such insurance against other risks or hazards as Landlord may reasonably require, including, without limitation, insurance against (to the extent, if any, not covered by the special perils form policy described above) damage caused by water leakage, flood, collapse, terrorism or earthquakes, if at the time of such requirement by Landlord, such insurance is generally carried by prudent owners of commercial office buildings in New York City that are comparable to the Improvements, in amounts reasonably satisfactory to Landlord; and

(v) such other insurance as may be required by any Fee Mortgagee.

(b) Throughout the remaining Term of this Lease, at no cost or expense to Landlord, Tenant shall also maintain, or cause to be maintained, the following insurance coverages with respect to the Premises (except to the extent that such coverages would be duplicative of the coverages required under Section 9.02):

(i) insurance (naming Landlord as an additional insured) against claims for bodily injury, death or property damage occurring on, in or about the Building under a commercial general liability policy, with a combined single limit (or separate limits, if separate limits shall

hereafter commonly be obtained by prudent owners of office buildings in New York City that are comparable to the Building), in respect of bodily injury, death and property damage caused by any single occurrence, in amount(s) reasonably satisfactory to Landlord, which insurance shall include, without limitation, sprinkler leakage, water damage and/or other legal liability coverage to the extent commonly carried by prudent owners of office buildings in New York City that are comparable to the Building, contractual liability coverage with limits in amounts reasonably satisfactory to Landlord; and

(ii) to the extent, if any, not included in the coverage required under subparagraph (i) of this paragraph, workers' compensation insurance and any and all other statutory forms of insurance now or hereafter prescribed by law, covering all persons employed in or about the Premises by Tenant or its agents or contractors.

(c) Notwithstanding anything to the contrary set forth in this Section 9.01, (i) Tenant shall not be obligated to maintain any insurance coverages with respect to the Premises that substantially duplicate insurance coverages otherwise maintained by Landlord, and (ii) Tenant shall not be obligated to maintain any insurance coverages with respect to the Premises that substantially duplicate insurance coverages that are required to be maintained by Unit Owners pursuant to the provisions of the Condominium Declaration.

Section 9.02. (a) At all times when demolition, construction or renovation work shall be in progress in connection with any Alterations, Tenant shall, at no cost to Landlord, cause Tenant's contractor to maintain, for the benefit of Landlord and Tenant (as additional insureds), commercial general liability insurance and automobile liability insurance and Workers Compensation insurance with respect to such work, which insurance shall include premises and operations liability on the operations of all contractors and subcontractors, products/completed operations, contractual liability (designating the indemnity provisions of all pertinent construction agreements) and automobile liability for all owned and non-owned vehicles, shall include coverage against all risks of liability associated with any explosion, collapse or underground damage and shall not be limited by reason of the proximity of the Premises or any such work to any railroad-related equipment or operations. To the extent any portion of the Premises shall be occupied during the course of any such work, the insurance coverage required by this paragraph shall be obtained such that it shall not be subject to impairment by reason of such occupancy. The insurance coverage required by this paragraph with respect to any Alterations shall be subject to a limit or limits, in respect of bodily injury, death and property damage caused by any single occurrence, in amount(s) reasonably satisfactory to Landlord.

(b) At all times when construction or renovation work shall be in progress with respect to any Alteration, Tenant shall, at no cost to Landlord, maintain or cause to be maintained (either by separate policy or by endorsement to a policy providing the coverage required by Section 9.01(a)(i)), for the benefit of Landlord and Tenant (as named insureds), "all risk" builder's risk insurance, written on a completed value (non-reporting) basis, in an amount not less than one hundred percent (100%) of the value of the Alteration. To the extent that any portion of the Premises shall be occupied during the course of any such work, the insurance coverage required by this paragraph shall be obtained such that it shall not be subject to impairment by reason of such occupancy.

(c) In connection with any Alterations involving alterations to Structural Components, Tenant, at no cost to Landlord, shall utilize commercially reasonable efforts to cause such architects and engineers to carry errors and omissions insurance, with limits in amounts reasonably satisfactory to Landlord.

Section 9.03. The loss payable under any policy providing any coverage described in Section 9.01(a) or Section 9.02(b) shall be payable to Landlord or Tenant, as their interests may appear.

Section 9.04. (a) Notwithstanding anything to the contrary contained in this Article 9, Landlord agrees that any or all of the insurance required by Section 9.01(a) and Section 9.01(b) may be carried in the form of blanket policies covering other property owned or leased by Tenant or its Affiliates, as well as the Premises, provided that (x) the policies otherwise comply in all respects with the provisions of this Lease, and (y) the policies are in amounts reasonably satisfactory to Landlord.

(b) Landlord further agrees that, at Tenant's option, any liability insurance required by this Article 9 may be carried in the form of two or more policies, one for primary coverage and one or more for excess coverage over and above such primary coverage, provided that the limit or limits provided for with respect to such primary coverage shall satisfy the underlying limit requirements of such excess coverage, so that there shall be no resulting gap in the coverage required hereunder.

(c) Landlord further agrees that Tenant may engage an insurance carrier who is an Affiliate of Tenant to provide terrorism coverage with respect to Tenant's commercial property insurance; provided, that, such affiliated insurance carrier is chartered by the State of New York and authorized to provide insurance as a "captive" insurer.

Section 9.05. For purposes of this Lease, "**Full Insurable Value**" shall mean actual replacement cost (including debris removal, but excluding foundation and excavation costs), without deduction for depreciation. As and when it may be required by any applicable policy, determinations shall be made from time to time with respect to the Full Insurable Value of the Improvements. Such determinations shall be made by an insurance company providing or offering to provide the coverage required by subparagraph (a)(i) of Section 9.01, or by a Qualified Appraiser, selected and paid by Tenant and satisfactory to such insurance company. Immediately upon the making of any such determination, Tenant shall deliver to Landlord a notice thereof, together with a copy of the report of the insurance company or Qualified Appraiser that shall have made such determination. Notwithstanding the foregoing, if Landlord shall reasonably believe that any such determination materially understates the Full Insurable Value of the Improvements, and shall so notify Tenant within thirty (30) days after receipt from Tenant of the applicable notice and report pursuant to the preceding sentence, with respect thereto, then Landlord, at Landlord's expense, shall have the right to have such Full Insurable Value determined, for purposes of Section 9.01(a) and this Section 9.05, by a Qualified Appraiser, selected by Landlord, who shall be satisfactory to the applicable insurance company and reasonably satisfactory to Tenant.

ARTICLE 10 Landlord's Right to Perform Tenant's Covenants

Section 10.01. Tenant agrees that if it shall at any time fail to take out, pay for, maintain or deliver any of the insurance policies provided for in this Lease following any applicable notice and cure period (subject to the provisions of Section 9.09, Section 9.10, Section 9.11 and Section 9.12), or, within thirty (30) days after notice from Landlord, to commence the performance of any other act on Tenant's part to be performed hereunder (except that no notice shall be required in cases of emergency), then Landlord, upon notice to Tenant and without waiving any other right or remedy of Landlord or releasing Tenant from any obligation of Tenant contained in this Lease, may, but shall not be obligated to, take out, pay for and maintain such insurance policy, or perform such other act on Tenant's part to be performed as provided in this Lease. All reasonable costs and expenses paid or incurred by Landlord in connection with the performance of any such act by Landlord, together with all reasonable attorney's fees, shall be payable to Landlord on demand, as additional rent hereunder. Notwithstanding the foregoing, if Tenant shall fail to maintain any insurance as required by this Lease, Landlord's damages in the event of any insurable loss shall not be limited to the amount of the premium for such insurance by reason of any failure by Landlord to cure such default of Tenant as permitted by this Section 10.01.

ARTICLE 11 Repair and Maintenance of Premises

Section 11.01. Tenant shall not cause or permit any waste on the Premises.

Section 11.02. Throughout the Term of this Lease, and except as otherwise set forth in Section 11.04, Tenant, at its sole cost and expense, shall keep the Premises and the adjoining sidewalks and curbs clean and in good condition free of accumulations of snow, ice, dirt and rubbish, and shall promptly make all repairs, replacements and upgrades (whether structural or non-structural, foreseen or unforeseen, ordinary or extraordinary) necessary to maintain the Premises in a condition appropriate for buildings of similar construction, age and use in the Borough of Manhattan, City of New York, and to avoid any structural damage or injury to the Premises. Landlord shall not be required to furnish any utilities, services or facilities, or to maintain or make any repairs, in or to the Premises. Tenant hereby assumes the full and sole responsibility for furnishing all required utilities, services and facilities to the Premises, including, but not limited to, electricity, water, heat, ventilation and air conditioning, and for the condition, operation, repair, maintenance and management of the Premises, and Tenant expressly waives the benefit of any existing or future statute, law, ordinance or judicial or administrative decision of any governmental authority that would otherwise permit Tenant to make repairs or replacements at Landlord's expense, or to Terminate the Term of this Lease because of Landlord's failure to keep the Premises or any part thereof in good order, condition and repair, or to abate or reduce any of Tenant's obligations hereunder on account of the Premises or any part thereof being in need of repair or replacement. All repairs and replacements shall be at least equal in quality to the original work (or a commercially reasonable substitute).

Section 11.03. Upon the occurrence of any Event of Default, until and unless (prior to any resulting Termination of the Term of this Lease) such Event of Default shall have been cured and Landlord shall have received notice of such cure, or upon any Termination of the Term of this Lease, Landlord shall, at Landlord's option, have the right to succeed to the interest or rights of Tenant under any assignable contracts relating to the operation, maintenance and repair of the Premises, and Tenant agrees to use commercially reasonable efforts to provide for such contingency in all material contracts that Tenant enters into with any prime contractors, architects and engineers providing services relating to the operation, maintenance and repair of the Premises, and to execute and deliver or use reasonable good faith efforts to cause to be executed and delivered to Landlord, promptly upon execution of such contracts, any further conditional assignments, "attornment" agreements or other instruments that shall be necessary to permit Landlord to exercise such option. Notwithstanding the foregoing, Landlord shall not be deemed to have assumed any obligation of Tenant under any contract of a kind described in this Section 11.03 until and unless Landlord shall otherwise agree in writing with the Person entitled to enforce the performance of such obligation.

Section 11.04. Notwithstanding anything to the contrary contained in Section 11.02, if, during the Term of this Lease, it shall become necessary to purchase any item of capital equipment or make any capital expenditure then such item shall be purchased by Landlord or performed at Landlord's expense except if designed to result in savings or reductions in operating expenses for the Building, then the costs for same shall be payable by Tenant (to the extent of the cost savings only).

ARTICLE 12 Compliance with Requirements

Section 12.01. Throughout the Term of this Lease, except as may otherwise be expressly provided herein, Tenant shall promptly comply, at Tenant's sole cost and expense, with all Requirements that may be applicable to the Premises and the sidewalks and curbs adjoining the same or to the use or manner of use of the same. Tenant shall likewise observe and comply with the requirements of all policies of liability, fire and other insurance at any time in force with respect to the Premises.

Section 12.02. Tenant shall have the right to contest by appropriate administrative or legal proceedings the validity or application of any law, ordinance, order, rule, regulation or requirement of the nature referred to in Section 12.01, and if compliance with any such law, ordinance, order, rule, regulation or requirement pending the prosecution of any such proceedings may legally be held in abeyance without subjecting Landlord to any civil or criminal liability or risk of loss of or forfeiture of the Premises for failure to so comply therewith, Tenant may postpone compliance therewith until the final determination of such proceedings, provided that all such proceedings shall be prosecuted with all due diligence and dispatch, and provided that Tenant shall provide Landlord with cash or other security reasonably satisfactory to Landlord sufficient to protect Landlord against any civil liability that might be incurred by Landlord (if Landlord shall be a Person subject to such liability) by reason of any lien attaching to the Premises or otherwise. Landlord agrees to execute and deliver any papers that may be reasonably necessary to permit Tenant to contest the validity or application of any such law, ordinance, order, rule, regulation or requirement, provided that Landlord incurs no liability in so doing, and provided that (in the circumstances described in the preceding sentence) Tenant provides Landlord with appropriate security as provided in the preceding sentence.

Section 12.03. If Landlord shall ultimately be subject to any liability for the payment of any costs or expenses in connection with any proceedings described in Section 12.02, Tenant shall indemnify and save harmless Landlord from any such costs or expenses.

ARTICLE 13 Damage or Destruction

Section 13.01. (a) Except as otherwise expressly provided in this Article 13, this Lease shall not terminate or be forfeited or be affected in any manner by reason of damage to or total, substantial or partial destruction of the Premises or any part or parts thereof or by reason of the untenability of the same or any part thereof, for or due to any reason or cause whatsoever, and Tenant, notwithstanding any law or statute present or future, waives any and all rights to quit or surrender the Premises or any part thereof. Provided that this Lease remains in full force and effect, Tenant expressly agrees that its obligations hereunder, including the payment of any and all Rent, shall continue as though said Premises had not been damaged or destroyed and without abatement, suspension, diminution or reduction of any kind. Notwithstanding anything to the contrary contained herein, from and after the Condominium Date, if there shall be any inconsistencies between the terms and conditions of this Article 13 and the terms and conditions of the Condominium Documents as between Landlord and Tenant, then, except as to the provisions of Sections 13.01(b) below, the terms and conditions of the Condominium Documents shall govern.

(b) If (i) the GMHC Unit is rendered wholly unusable, or (ii) (whether or not the GMHC Unit is damaged in whole or in part, if the Building shall be so damaged that the Condominium Board shall decide to demolish it or to rebuild it, then, in any of such events and provided the Declarant Unit Owner (x) owns all of the Units in the Building other than the GMHC Unit and (y) has elected to terminate the leases or other occupancy agreements of seventy-five percent (75%) of all of the tenants or occupants in the Declarant Units, then in any of such events, Landlord may elect to terminate this Lease by serving Tenant with notice of such election given within one hundred twenty (120) days after such fire or casualty, specifying a date for the expiration of this Lease, which date shall not be more than ninety (90) days after the giving of such notice, and upon the date specified in such notice the term of this Lease shall expire as fully and completely as if such date were the date set forth in this Lease for the termination of this Lease and Tenant shall forthwith quit, surrender and vacate the Demised Premises without prejudice however, to Owner's rights and remedies against Tenant under the Lease provisions in effect prior to such termination, and any rent owing shall be paid up to such date and any payments of rent made by Tenant which were on account of any period subsequent to such date shall be returned to Tenant.

(c) If available insurance proceeds in respect of any damage or destruction to any

part of the Premises, other than the Base Building, are less than the cost of any restoration, repairs, replacement or rebuilding required by this Article 13, Tenant covenants to pay the deficiency (or to cause the Unit Owners to pay the deficiency, but only if and to the extent the same is the obligation of the Unit Owners under the Condominium Documents). If available insurance proceeds in respect of any damage or destruction to any part of the Base Building are, as a result of Tenant's failure to comply with all of Tenant's insurance obligations under Article 9, less than the cost of the Base Building Restoration, Tenant covenants to pay the deficiency. Notwithstanding the foregoing, from and after the Condominium Date, provided that the Condominium (as Tenant hereunder) and each of the Unit Owners (other than the Declarant Unit Owner) maintain the casualty insurance required to be maintained by the Condominium and the Unit Owners (as applicable), Tenant shall not be liable for any deficiency referred to in this Section 13.03.

Section 13.02. If the Improvements shall be destroyed or damaged in whole or in part by fire or other casualty (including any casualty for which insurance was not obtained or obtainable) of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, Tenant shall give to Landlord notice thereof promptly following the time that Tenant became aware of such damage or destruction, and, subject to the provisions of this Article 13, Tenant, at its own cost and expense, whether or not such damage or destruction shall have been insured, and whether or not insurance proceeds, if any, shall be sufficient for the purpose, shall promptly repair, alter, restore, replace and rebuild the same other than any portion of the Base Building (taking into account any then existing Requirements applicable thereto) for a Permitted Use, such that the repaired, altered, restored, replaced or rebuilt structure is at least as valuable as the Improvements existing immediately prior to such occurrence and is an enclosed tenantable or habitable building, as the case may be, with complete and working Structural Components, except to the extent that Tenant is prevented by Requirements or a Partial Taking from rebuilding the Improvements to a similar size (or if less, as permitted by Requirements (the "*Casualty Work*")); and, except as to the Base Building Restoration, Landlord shall in no event be called upon to repair, alter, restore, replace and rebuild any portion of the Improvements, or to pay any of the costs or expenses thereof. In the event that the insurance proceeds are insufficient for the purpose of paying for all of the Casualty Work, Tenant shall nevertheless be required to perform and complete the Casualty Work at its own cost and expense. If, subject to Force Majeure, Tenant shall fail or neglect to perform any of the Casualty Work, with reasonable diligence, or having so commenced such Casualty Work shall fail to complete the same with reasonable diligence in accordance with the terms of this Lease, in each case after the expiration of the notice and cure periods provided for in Article 23 (except to the extent of an emergency involving a threat to safety with respect to the Premises), or if, subject to the provisions of this Article 13, prior to the completion of any such Casualty Work by Tenant, this Lease shall expire or be terminated for any reason, Landlord, upon written notice to Tenant (except in the case of an Emergency), may complete the same at Tenant's expense. All Casualty Work shall be done in accordance with the provisions of Article 15 and the other provisions of this Lease. Prior to commencing any Casualty Work, Tenant shall furnish Landlord with an estimate of the cost of such Casualty Work, prepared by a reputable, licensed architect, general contractor or construction manager reasonably approved by Landlord. If any Base Building Restoration is to be performed by Landlord, Tenant shall coordinate with Landlord to complete the Casualty Work in accordance with the directions of Landlord. From and after the Condominium Date, the references in this Section 13.02 to "Tenant" shall be deemed to include the Unit Owners, when and as applicable, and the Casualty Work for each Unit Owner shall mean only the Casualty Work applicable to such Unit Owner's Unit.

Section 13.03. If such insurance proceeds shall exceed the cost of the Base Building Restoration and the Casualty Work, such excess shall belong to, and may be retained by, Tenant upon completion of and payment for such Base Building Restoration and Casualty Work.

Section 13.04. If (a) the fire or other casualty occurs during the last "X" months of the Term of this Lease (where "X" equals the period of rent insurance coverage actually then being maintained by Tenant, but not more than twenty-four (24) months), and (b) the time period needed to perform the Base

Building Restoration resulting therefrom exceeds “X” months (where “X” equals the period of rent insurance coverage actually then being maintained by Tenant, but not more than twentyfour (24) months) in the reasonable estimate of a reputable contractor selected by Landlord, and

(c) Tenant has complied with all of Tenant’s insurance obligations under Article 9 and sufficient insurance proceeds are available for the Base Building Restoration and have actually been received by Landlord, then, notwithstanding anything to the contrary contained in this Article 13, Tenant shall have the right (but not the obligation) to terminate this Lease (without the obligation to pay any premium or penalty) within sixty (60) days following Landlord’s delivery of such estimate to Tenant, in which case: (i) Tenant shall assign to Landlord all of the insurance proceeds available for restoration and rent loss in connection with such fire or other casualty; (ii) this Lease shall terminate on the tenth (10th) day following delivery by Tenant to Landlord of Tenant’s notice that Tenant elects to terminate this Lease in accordance with the provisions of this Section 13.04 with the same force and effect as if such date were the Expiration Date; (iii) Tenant shall remain responsible for the payment of Rent through what would have been the Expiration Date had Tenant not availed itself of the right to terminate pursuant to this Section 13.04, to the extent not covered by rent insurance proceeds actually received by Landlord, (iv) Landlord shall refund to Tenant any prepaid Rent for any period extending beyond such termination date, to the extent covered by rent insurance proceeds received by Landlord, and (v) upon such assignment and refund, neither party shall have any further obligation to the other pursuant to this Lease other than those that accrued prior to such termination and other than Tenant’s obligation to pay Rent as aforesaid.

Section 13.05. In the event that this Lease shall not be terminated in accordance with the provisions of this Article 13, neither Tenant’s obligation to make payments of Rent and all other charges on the part of Tenant to be paid hereunder, nor (subject to Force Majeure) Tenant’s obligation to perform all other covenants and agreements on the part of Tenant to be performed hereunder, shall be affected by any such damage to or destruction of the Premises, and, to the fullest extent permitted by law, Tenant hereby waives the provisions of any statute or law, including, without limitation, New York Real Property Law Section 227, now or hereafter in effect that would relieve Tenant from any such obligations. Notwithstanding the foregoing, nothing in this Section 13.05 shall be construed to limit any right of the Unit Owners expressly provided in the Condominium Documents or any Unit Purchase Agreement to an abatement or termination of, or offset against, Common Charges or any other payments. Each Unit Owner shall be deemed to be a third-party beneficiary of this Section 13.05.

ARTICLE 14 Condemnation

Section 14.01. (a) If at any time during the Term of this Lease, all or substantially all of the Premises shall be taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain or by agreement between Landlord, Tenant and those authorized to exercise such right (a “**Total Taking**”), this Lease shall terminate and expire on the date of such taking and the Rent shall be apportioned and paid to the date of such taking. Notwithstanding anything to the contrary contained in this Lease, a Total Taking shall not include a taking of the fee interest in the Premises, or any leasehold interest superior to that of Tenant, if after such taking, Tenant’s rights under this Lease are not materially affected. Notwithstanding anything to the contrary contained herein, from and after the Condominium Date, if there shall be any inconsistencies between the terms and conditions of this Article 14 and the terms and conditions of the Condominium Documents, then the terms and conditions of the Condominium Documents shall govern

The term “**substantially all of the Premises**” shall be deemed to mean such portion of the Premises as, when so taken, would leave remaining a balance of the Premises which, due either to the area so taken or the location of the part so taken in relation to the part not so taken, would not under economic conditions, zoning laws or building regulations then existing or prevailing, readily accommodate an altered or new building or buildings of a nature similar to the building or buildings existing upon the Land at the date of such taking and of a size sufficient together with buildings not taken in the condemnation, to

reasonably permit a fair and reasonable return, after payment of all operating expenses thereof, the Rent and the costs in excess of the condemnation proceeds to be made available to Tenant pursuant to this Lease for rebuilding and/or restoring such building, and after performance of all covenants, agreements, terms and provisions herein and by law provided or to be performed and paid by Tenant.

(b) In the event of a Total Taking, Tenant waives all claims for the value of the unexpired Term of this Lease and Landlord shall be entitled to collect the entire award from the condemnor, and Tenant agrees to execute any and all documents that may be required in order to facilitate collection by Landlord of any and all such awards, but the aforesaid award shall be apportioned between Landlord and Tenant as provided in Section 14.02.

(c) In the event of a Total Taking, Tenant waives all claims for any value for its leasehold or its interest in this Lease and all claims for its interest in the Improvements and all claims for any compensation for the cost of construction or the value of the Improvements and Tenant shall be entitled solely to the amounts, if any, payable to it under Section 14.02. Notwithstanding the foregoing, Tenant and each of the Unit Owners shall have the right to make a separate claim in any proceeding with respect to such condemnation or taking for its personal property, trade fixtures, and moving and relocation costs for itself and any subtenants, provided, however, that no such claim shall diminish the award payable to Landlord on account of such condemnation or taking.

Section 14.02. In the event of a Total Taking, the net award (or settlement in lieu thereof) in connection with such Total Taking shall be payable in the following manner and order of priority:

(a) first, to pay any and all reasonable fees and expenses of Landlord and Tenant incurred in collecting the award;

(b) second, to Landlord so much of the balance of the award as shall equal the sum of (1) the net present value as of the Date of Taking of the remaining Basic Rent due under this Lease from the Date of Taking through Expiration Date, plus (2) the net present value as of the Date of Taking of the residual value of the Improvements; and

(c) finally, the balance of the award, if any, to Tenant.

Section 14.03. For the purpose of this Article 14, the Premises or a part thereof, as the case may be, shall be deemed to have been taken or condemned on the date on which actual possession of the Premises or a part thereof, as the case may be, is acquired by any lawful power or authority or the date on which title vests therein, whichever is earlier (the “**Date of Taking**”).

Section 14.04. (a) If less than substantially all of the Premises be so taken or condemned (a “**Partial Taking**”), this Lease and the term hereof shall continue and the Basic Rent shall be abated in an amount equal to (A) the Taking Percentage, multiplied by (B) the Basic Rent payable as of the date immediately preceding the date that the portion of the Premises shall have been so taken or condemned. Notwithstanding the foregoing, other than the abatement of Basic Rent payable hereunder, there shall be no other diminution of any of Tenant’s obligations hereunder. Tenant, at its own cost and expense, whether or not the award or awards, if any, shall be sufficient for the purpose, shall proceed diligently to repair and restore any remaining part of the Improvements or the Premises, other than the Base Building, not so taken so that the latter shall be a complete, rentable, self-contained architectural unit containing, subject to Section 15.01(b), the lesser of (i) the maximum number of square feet then permitted by Requirements, and (ii) the actual number of square feet of the Improvements immediately prior to such taking or condemnation, in good condition and repair and reasonably comparable to the condition as same existed immediately prior to such condemnation (such repair and restoration, collectively, the “**Condemnation Work**”). From and after

the Condominium Date, the references in this Section 14.04 to "Tenant" shall be deemed to include the Unit Owners, when and as applicable, and the Condemnation Work for each Unit Owner shall mean only the Condemnation Work applicable to such Unit Owner's Unit. The term "**Taking Percentage**" means a fraction, expressed as a percentage, the numerator of which is equal to the number of gross square feet of Improvements so taken or condemned, and the denominator of which is equal to gross square feet of the Improvements prior to such taking or condemnation; provided that in each case above the number of gross square feet shall be determined in accordance with the Agreed Method of Measurement.

(b) In the event of a Partial Taking, then subject to the provisions and limitations in this Article 14, the net award (or settlement in lieu thereof) in connection with such Partial Taking shall be payable in the following manner and order of priority:

(i) first, to pay any and all reasonable fees and expenses of Landlord and Tenant incurred in collecting the award;

(ii) second, the Cost of the Condemnation Work (as estimated by a reputable, licensed architect, engineer or construction manager with at least ten (10) years of experience in the construction of comparable buildings selected by Landlord), then so much of the balance of the award up to the amount of such estimated cost shall be paid to Tenant to be held and disbursed in the same manner as provided in Sections 13.02 and 13.04 for the holding and disbursement of (and for purposes of this Section 14.04 such amount shall be deemed to be) Tenant Proceeds (and, in order to give effect thereto, the provisions of Section 13.04 are incorporated into this Section 14.04, mutatis mutandis, as if fully set forth herein, except that, as incorporated into this Section 14.04, all references to "Casualty Work" shall be deemed to refer to the Condemnation Work);

(iii) third, to Landlord so much of the balance of the award as shall equal the Taking Percentage of the sum of (A) the net present value as of the Date of Taking of the remaining Basic Rent due under this Lease from the Date of Taking through the Expiration Date, plus (B) the net present value as of the Date of Taking of the residual value of the Improvements, (the amount equal to the sum of (A) plus (B) being referred to as "**Landlord's Full Partial Condemnation Value Amount**"); and

(iv) finally, the balance of the award, if any, to Tenant.

(c) The Condemnation Work shall be done in accordance with and subject to the provisions of Article 15 and the other provisions of this Lease. If the portion of the award made available by Landlord, as aforesaid, in respect of any taking of any part of the Premises, other than the Base Building, is insufficient for the purpose of paying for the performance and completion of the Condemnation Work other than the Base Building Restoration, Tenant (or the respective Unit Owners) shall nevertheless be required to perform and complete the Condemnation Work, other than the Base Building Restoration, at its own cost and expense without any claim on the part of Tenant (or the respective Unit Owners).

(d) Notwithstanding the foregoing, if less than substantially all of the Premises be so taken or condemned during the last five (5) years of the Term of this Lease, and (i) the cost of the Condemnation Work (as estimated by a reputable, licensed architect, engineer or construction manager with at least ten (10) years of experience in the construction of comparable buildings selected by Tenant, which estimate shall be dispositive) exceeds twenty percent (20%) of the full replacement cost of the Improvements existing immediately prior to such taking or condemnation, then Tenant shall have the option of canceling and terminating this Lease by written notice to Landlord within thirty (30) days after the final determination of the full replacement cost of the Improvements or (ii) the cost of the Condemnation Work

(as estimated by a reputable, licensed architect, engineer or construction manager with at least ten (10) years of experience in the construction of comparable buildings selected by Landlord, which estimate shall be dispositive) exceeds fifty percent (50%) of the full replacement cost of the Improvements existing immediately prior to such taking or condemnation, then Landlord shall have the option of canceling and terminating this Lease by written notice to Tenant within thirty (30) days after the final determination of the full replacement cost of the Improvements. In either of the events set forth in clause (i) or clause (ii) of this Section 14.04(d), this Lease shall terminate on the date which is ninety

(90) days after the giving of such notice, and Tenant shall be under no duty to perform any of the Condemnation Work, provided, however, that (I) all awards and other compensation on account of such taking or condemnation shall be payable, and belong solely, to Landlord (free of any obligation whatsoever under this Lease), (II) Tenant shall pay to Landlord an amount equal to the excess (if any) of the cost of the Condemnation Work (as estimated by Landlord in its reasonable judgment) over the awards and other compensation paid or payable on account of such taking or condemnation, as and when the same become ascertainable, and (III) the Rent shall be apportioned as of the date of the termination of this Lease. All rental insurance proceeds payable in respect of lost rental income up to the date of termination of this Lease shall be payable to and retained by Tenant, and any such insurance payable in respect of any period thereafter shall be payable to and retained by Landlord.

Section 14.05. If the temporary use of the whole or any part of the Premises shall be taken at any time during the Term of this Lease for any public or quasi-public purpose by any lawful power or authority, by the exercise of the right of condemnation or eminent domain, or by agreement between Tenant and those authorized to exercise such right, Tenant shall give prompt notice thereof to Landlord and the Term of this Lease shall not be reduced or affected in any way and Tenant shall continue to pay in full the Rent and other sum or sums of money and charges reserved and provided to be paid by Tenant, but the following shall be applicable:

(a) If the award or awards shall be in the form of rent recoverable in respect of such taking and shall be payable in monthly or more frequent installments, Tenant shall be entitled to make claim for and retain such award or awards in the form of rent so payable, provided that this Lease is then in force and effect, and if any such sums are to be paid to Landlord under the terms hereof, then Landlord shall apply all such sums to amounts which are then due and payable under the terms of this Lease and promptly refund any balance to Tenant.

(b) If the award or awards shall be made in a lump sum or in installments less frequently than monthly, such award or installments thereof shall be disposed of as follows:

(i) If the award or awards shall be made in a lump sum in advance, each such award shall be divided by the number of months included in the period of such temporary use or occupancy for which such lump sum award is paid, and an amount equal to such quotient shall be applied by Landlord as Basic Rent and other Rent pursuant to the applicable provisions of Article 4 of this Lease, and provided that this Lease is then in full force and effect, any balance remaining from the amount applicable to each such month shall be paid by Landlord to Tenant monthly.

(ii) If the award or awards shall be payable in periodic installments less frequently than monthly, each such installment shall be divided by the number of months to which such installment is attributable, and an amount equal to such quotient shall be applied by Landlord as Basic Rent and other Rent pursuant to the applicable provisions of Article 4 of this Lease, and provided that this Lease has not terminated, any balance remaining from the amount applicable to each such month shall be paid by Landlord to Tenant monthly.

Section 14.06. In case of any governmental action, not resulting in the taking or

condemnation of any portion of the Premises but creating a right to compensation therefor, such as the changing of the grade of any street upon which the Premises abut, this Lease shall continue in full force and effect without reduction or abatement of Rent, and the award shall be applied as follows: (x) fifty percent (50%) of the award shall be paid to and retained by Landlord as Landlord's sole property and (y) fifty percent (50%) of the net award shall be paid to and retained by Tenant as Tenant's sole property.

Section 14.07. Notwithstanding anything to the contrary contained in this Article 14, in the event of any permanent or temporary taking of all or any part of the Premises, Tenant and its Subtenants shall have the exclusive right to assert claims for any trade fixtures and personal property so taken which were the property of Tenant or its Subtenants (but not including any Equipment) and for relocation expenses of Tenant and its Subtenants, provided that same shall not reduce the amount otherwise payable to Landlord hereunder, and all awards and damages in respect thereof shall belong to Tenant and its Subtenants, and Landlord hereby waives any and all claims to any part thereof; provided, however, that if there shall be no separate award or allocation for such trade fixtures or personal property, then such claims of Tenant and its Subtenants, or awards and damages, shall be subject and subordinate to Landlord's claims under this Article 14.

Section 14.08. Landlord, Tenant and any Fee Mortgagee shall be entitled to file a claim and otherwise participate in any condemnation or similar proceeding and all hearings, trials and appeals in respect thereof. Landlord shall not, unless an Event of Default or a Default has occurred and is continuing, settle or compromise any taking or other government action creating a right of compensation in Tenant with respect to the Premises during the Term of this Lease or enter into a sale of all or a portion of the Premises which shall occur during the Term of this Lease in lieu of condemnation without the consent of Tenant.

Section 14.09. Notwithstanding anything to the contrary contained herein (but subject to the provisions of this Section 14.09), all awards and damages in connection with any condemnation or eminent domain proceeding shall be used as directed by a Fee Mortgagee, and any abatement of Basic Rent in connection with any condemnation or eminent domain proceeding shall be subject to reasonable and customary terms and conditions as are then imposed by fee mortgagees for properties similar in location, size, class, use, operation and value as the Premises; provided, that nothing in this Section 14.09 shall be construed to limit any right of the Unit Owners expressly provided in the Condominium Documents or any Unit Purchase Agreement to an abatement or termination of, or offset against, Common Charges or any other payments.

ARTICLE 15

Alterations

Section 15.01. Tenant shall not remove, demolish, replace or alter or change the Premises, or any part or parts thereof, or make any addition thereto or construct any building on the Premises, or otherwise cause, permit or suffer any construction, alterations, improvements or additions whether voluntarily or in connection with any restoration, repair, replacement or rebuilding (other than repairs which are ordinary and customary in the maintenance and operation of premises comparable to the Premises) required by this Lease (any such actions being herein referred to as "***Alterations***"), unless Tenant shall comply with the following requirements in connection with all Alterations:

(a) No Alterations shall be commenced until and unless Tenant shall have procured and paid for, insofar as the same may be required from time to time, all applicable permits and authorizations required from agencies, departments or other public authorities having jurisdiction. Landlord shall not unreasonably refuse to join, if necessary, in the application for any such permit or authorization, provided that the same is made without cost or expense to Landlord; provided, however, that Tenant shall not, without Landlord's prior written consent (which consent may be withheld by Landlord for any or no reason), seek

any variance, special permit, zoning map change or zoning text change under the Zoning Resolution, or any other changes in Requirements, ordinances, orders, rules, regulations and requirements requiring discretionary review by the City Council, the Board of Standards and Appeals, the City Planning Commission or any Community Board of the City of New York, or any other legislative or quasi-legislative body. Any consents required under any required governmental permits and authorizations, shall be obtained prior to the commencement of any Alterations, and evidence thereof shall be delivered to Landlord upon request.

(b) No Alterations shall be of such a character as to (x) reduce or impair the value of the Premises below its value immediately before such Alteration unless required by Requirements, or (y) reduce the size or gross square footage of the Premises below its size or gross square feet (utilizing the Agreed Method of Measurement) to less than the size or gross square feet, as the case may be, existing as of the date hereof, subject to any reduction of gross square feet (1) required by Requirements or (2) that has occurred as a result of a Partial Taking.

(c) All Alterations shall be made (i) in a good and workmanlike manner and in compliance with (1) all applicable permits and authorizations and building and zoning laws and all other laws, ordinances, orders, rules, regulations and requirements of all governmental agencies, commissions, boards and officers having jurisdiction, (2) the orders, rules, regulations and requirements of the National Fire Protection Association or any similar body now or hereafter exercising similar functions, and (3) the provisions of all applicable insurance policies, and (ii) substantially in accordance with any Final Plans therefor approved by Landlord (if such approval shall be required under Section 15.02), as the same may be amended in accordance with this Lease.

(d) All Alterations, other than minor non-Structural Component Alterations, shall be performed under the supervision of a licensed architect or engineer reasonably acceptable to Landlord.

(e) No Alteration shall be undertaken until and unless Tenant shall have delivered to Landlord evidence, reasonably satisfactory to Landlord, of insurance coverage satisfying (to the extent applicable) the requirements of Section 9.02 and the other provisions of Article 9, and, if under the provisions of any property, liability or other insurance policy or policies then covering the Premises or any part thereof, any consent, with respect to any Alterations, of the insurance company or companies issuing such policy or policies shall be required to continue and keep such policy or policies in full force and effect, Tenant shall have obtained such consents and paid any additional premiums or charges therefor that may be imposed by said insurance company or companies.

Section 15.02. (a) Tenant shall not make any Alterations that would materially affect the exterior appearance of the Premises, or that would have an adverse impact in a greater than de minimis manner on any Structural Component of the Premises, until and unless (i) Tenant shall have submitted Final Plans for such Alterations to Landlord and (ii) Landlord shall have approved the making of such Alterations in accordance with such Final Plans. Such approval shall not be unreasonably withheld by Landlord. Such approval shall be deemed to have been given with respect to any Final Plans submitted to Landlord if Landlord does not respond within fifteen (15) days to a written request for such approval, provided that such request shall be accompanied by a recital of the effect under this Section 15.02 of a failure by Landlord to respond to such request within such fifteen (15) day period and provided further that no such request shall be delivered to Landlord sooner than thirty (30) days after such Final Plans shall initially have been delivered to Landlord.

(b) As soon as reasonably possible following the completion of any Alterations of a kind described in paragraph (a) of this Section 15.02, Tenant shall deliver to Landlord As-Built Plans for such Alterations. In addition, Tenant shall deliver to Landlord As-Built Plans for all other Alterations, when, as and if such As-Built Plans are otherwise prepared by or for Tenant.

Section 15.03. Upon the occurrence of any Event of Default, until and unless (prior to any resulting Termination of the Term of this Lease) such Event of Default shall have been cured and Landlord shall have received notice of such cure, or upon any Termination of the Term of this Lease, Landlord shall, at its option, have the right to succeed to the interest or rights of Tenant under or with respect to all construction contracts, all payment or performance bonds furnished thereunder, if any, all contracts then in effect between Tenant and any architects, engineers or other professionals, and all plans and specifications, relating to any Alterations including, but not limited to, all As-Built Plans and Final Plans. Notwithstanding the foregoing, Landlord shall not be deemed to have assumed any obligation of Tenant under any contract of a kind described in this Section 15.03 until and unless Landlord shall otherwise agree in writing with the Person entitled to enforce the performance of such obligation.

Section 15.04. From and after the Condominium Date, the references in this Article 15 to “Tenant” shall be deemed to include the Unit Owners, when and as applicable, and the Alterations proposed to be performed by a Unit Owner shall be subject to the provisions of this Article 15. A Unit Owner shall have the right to request Landlord’s consent to a proposed Alteration (that requires Landlord’s consent hereunder) at the same time that such Unit Owner requests the Condominium’s consent to the proposed Alteration, and (i) the consent standards set forth in the Condominium Documents (including, without limitation, Section 5 of Exhibit I to the Condominium Declaration), and (ii) the “deemed consent” provisions set forth in Section 5B(ii) of Exhibit I to the Condominium Declaration, shall each be applicable to Landlord under the same terms as such standards and provisions are applicable to the Condominium Board. Each Unit Owner shall be deemed to be a third-party beneficiary of the rights of Tenant set forth herein.

ARTICLE 16 Default Interest

Section 16.01. If any payment of Rent or any other amount payable hereunder by Landlord or Tenant shall remain unpaid beyond the date on which it shall be due and payable as in this Lease provided, then such overdue amount shall bear interest, from such due date until the date of actual payment thereof, at the Default Rate (computed on the basis of a three hundred sixty-five (365) day year and the actual number of days elapsed). In the event of non-payment of any such interest, Landlord, in addition to all other rights and remedies, shall have all the rights and remedies provided for herein and by law in the case of nonpayment of the Basic Rent. No failure by Landlord or Tenant to insist upon the strict performance by the other of the other’s obligations to pay interest shall constitute a waiver by Landlord of its right to enforce the provisions of this Article 16 in any instance thereafter occurring. Neither the provisions of this Article 16 nor the acceptance of late payments with or without interest shall be construed in any way to extend the grace periods or notice periods, or to impair or constitute a waiver of any of Landlord’s remedies, provided for in this Lease.

ARTICLE 17 Liens

Section 17.01. Tenant shall not for more than sixty (60) days (except as provided below) after notice to Tenant suffer or permit any vendor’s, mechanic’s, laborer’s, or materialman’s statutory or similar lien to be filed against the Premises or any part thereof or any interest of Landlord or Tenant therein by reason of any work, labor, services or materials supplied or claimed to have been supplied to Tenant or anyone holding any interest in the Premises or any part thereof through or under Tenant. If any such lien shall at any time be filed against the Premises or any part thereof or any interest therein, and Tenant shall

not, within sixty (60) days (or such longer period as may be reasonably required so long as Tenant is diligently pursuing the bonding of the same) after notice to Tenant of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or as otherwise permitted by law, then, in addition to any other rights or remedies of Landlord, Landlord may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings; and in any such event Landlord shall be entitled, if Landlord so elects, to compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment for and in favor of the lienor with interest, costs, and allowances. Any such amounts paid by Landlord shall be payable by Tenant to Landlord upon demand, as additional rent, with interest thereon at the Default Rate from the date of payment by Landlord.

Section 17.02. No provision of this Lease shall be deemed to constitute, or be construed in any way as constituting, the consent or request of Landlord, express or implied, to any contractor, subcontractor, vendor, mechanic, laborer or materialman for the furnishing of any labor, services or materials for any specific improvement, alteration to or repair of the Premises or any part thereof, nor as giving Tenant any right, power or authority to contract for or permit the furnishing of any labor, services or materials that could give rise to the filing of any lien against Landlord's interest in the Premises or any part thereof. Landlord shall have the right from time to time to post in or about the Premises such notices of non-responsibility as may be authorized by federal, state or local law.

Section 17.03. Tenant shall have no power to do any act or make any contract which may create or be the foundation for any lien, mortgage or other encumbrance upon the reversion or other estate of Landlord, or of any interest of Landlord in the Premises.

ARTICLE 18 Title to Improvements; Surrender of Premises at End of Term

Section 18.01. Upon the Termination of the Term of this Lease, except as may otherwise be provided in this Lease, Tenant shall surrender to Landlord the Premises in good order and repair, reasonable wear and tear excepted, free and clear of all lettings and occupancies, and free and clear of all liens and encumbrances other than the Permitted Exceptions and any other encumbrances as to which Landlord shall have agreed in writing to subordinate Landlord's interest in the Premises.

Section 18.02. (a) All furniture, furnishings, fixtures and equipment (including, without limitation, all woodwork, cabinetry and millwork) installed in, affixed to, placed upon or used in connection with the Premises by or on behalf of Subtenants, other than any such fixtures and equipment that are necessary for the operation of the Base Building Systems and common areas of the Premises in accordance with this Lease, shall be and remain (to the extent, if any, provided in any applicable Sublease or other agreement) the property of the Subtenant by or for which the same shall have been installed, and such furniture, furnishings, fixtures, and equipment may be removed by such Subtenant upon or at any time prior to the Termination of the Term of this Lease; provided, however, that, if the removal thereof shall injure the Premises or necessitate changes in or repairs to the Premises, Tenant shall, at Tenant's sole cost and expense, repair and restore or cause to be repaired and restored the Premises to its condition immediately preceding the removal of such furniture, furnishings, fixtures and equipment, or, if Tenant shall fail to make any such repair or restoration, then, at Landlord's option, Tenant shall pay or cause to be paid to Landlord immediately upon demand as additional rent the cost of such repair and restoration.

(b) In addition to maintaining the Premises as required by this Lease, Tenant shall keep and maintain on the Premises, at all times during the remaining Term of this Lease, such equipment, in good and usable condition, as shall be necessary for the operation of the Base Building Systems and common areas of the Premises in accordance with this Lease, and shall deliver the same in such condition to Landlord upon the Termination of the Term of this Lease. Tenant shall not, without the prior written consent of Landlord, remove from the Premises any equipment necessary to the operation of the Base

Building Systems and common areas of the Premises in accordance with this Lease, except for repairs, cleaning or other servicing, unless the same shall be promptly replaced by equipment of like or better kind and quality.

Section 18.03. Any personal property of Tenant or any Subtenant that shall remain in the Premises after the Termination of the Term of this Lease (and the termination of such Subtenant's Sublease, if applicable) and the removal of Tenant (and such Subtenant, if applicable) from the Premises may, at the option of Landlord, be deemed to have been abandoned by Tenant or such Subtenant, as the case may be, and may either be retained by Landlord as its property, be stored by Landlord (if required by law) at the sole cost and expense of Tenant or such Subtenant, as the case may be, or be disposed of without accountability, in such manner as Landlord may determine in its sole discretion.

Section 18.04. Upon the Termination of the Term of this Lease, Tenant shall deliver to Landlord (i) a deed, in recordable form, conveying to Landlord all of the then existing Improvements, and (ii) all original Subleases, security deposits and prepaid rents, additional rents and all other amounts due under all Subleases attributable to any period after such Termination (other than any that Tenant shall be obligated to refund by reason of such Termination), lease files, plans, specifications, contracts, records, registers and other papers and documents in Tenant's possession, custody or control relating to the Improvement, operation and/or management of the Premises; provided, however, that Tenant shall not be required so to deliver any books and records, to the extent that the same shall (a) not be pertinent to the ongoing operation of the Premises and (b) relate to any period with respect to which Tenant shall, as of such Termination, no longer have been obligated to maintain books and records pursuant to this Lease. The obligations under this Section 18.04 shall survive the expiration or sooner termination of this Lease.

ARTICLE 19 Existing Condition of the Premises

Section 19.01. Subject to the provisions of Article 2, Tenant agrees (i) to accept the Premises in the existing condition and state of repair as of the Commencement Date and without recourse to Landlord, (ii) to take possession of same "as is" as of the Commencement Date, and (iii) that, except as expressly provided elsewhere in this Lease, no representations, statements or warranties, express or implied, have been made by or on behalf of Landlord in respect thereof or in respect of the condition thereof or the present or future use or occupation that may be made thereof, the zoning or other Requirements, transferable development rights, encumbrances thereon, appurtenances, or title thereto. Without limiting the generality of the foregoing, Landlord, except as expressly provided in this Lease, including, but not limited to, Landlord's representations in Section 25.02, has not made, and Tenant has not relied on, any representations or warranties as to (1) the current or future real estate tax liability, assessment or valuation of the Premises, (2) the potential qualification of the Premises for any and all benefits conferred by Federal, state or municipal laws, whether for subsidies, special real estate tax treatment, insurance, mortgages, or any other benefits, whether similar or dissimilar to those enumerated, (3) the compliance of the Premises, in its current or any future state, with applicable zoning ordinances and the ability to obtain a change in the zoning or a variance with respect to the Premises' non-compliance, if any, with said zoning ordinances, (4) the availability of any financing for the purchase, alteration or operation of the Premises from any source, (5) the current or future use of the Premises, including but not limited to the Premises' use for residential, retail, office or commercial purposes, (6) the present and future condition and operating state of any and all Equipment on the Premises and the present or future structural and physical condition of any building, (7) the ownership or state of title of any personal property on the Premises, (8) the presence or absence of any Requirements and any violations thereof, (9) the compliance of the Premises or the leases affecting the Premises (or the rentals thereunder) with any rent control, rent stabilization or similar law or regulation, (10) the layout, leases, rents, income, expenses, operation, agreements, licenses, easements, instruments, documents or service contracts of or in any way affecting the Premises, (11) the presence or absence of any Hazardous Materials (as hereinafter defined), and the compliance or non-compliance with any Hazardous

Materials Laws (as hereinafter defined), (12) the use of any vaults or area beyond the building line or under the streets or sidewalks adjacent to, or which may be connected with the Premises, and (13) as to any other matter relating to or arising out of the Premises or the Existing Subleases. Landlord shall in no event whatsoever be liable for any latent or patent defects in the Premises. Tenant hereby waives any claims it may have against Landlord or any Related Parties of Landlord relating to or arising out of the foregoing and hereby releases and discharges Landlord and any Related Parties of Landlord from any and all such claims

ARTICLE 20 Transfers by Tenant, Assignment, Subletting

Section 20.01. (a) For purposes of this Lease, the term “Transfer” shall mean

and include

any sale, assignment, sublease, mortgage or other transfer of Tenant’s interest in this Lease and the leasehold estate hereby created. Notwithstanding the foregoing, the term “Transfer” shall not include any sale, assignment, mortgage, lease or sublease or other transfer of individual Units (or portions thereof) from and after the Condominium Date, but shall include a sale, assignment, mortgage, lease, sublease or other transfer covering all of the Units following the Condominium Date.

(b) Landlord’s consent shall be required with respect to any Transfer, subject, however, to Article 2 hereof whereby Landlord recognized and consented to the creation of the Condominium by Tenant.

ARTICLE 21 Transfers by Landlord

Section 21.01. Landlord shall have the unqualified right to sell, assign, mortgage or otherwise transfer all or any part of its rights, title and interest with respect to the Premises, including its interest under this Lease and its reversionary interest in the Premises. Tenant acknowledges receipt of advice from Landlord to the effect that Landlord has and/or may in the future elect to place a mortgage on the right, title and interest of Landlord under this Lease and in the Premises. Landlord agrees that any sale, assignment, mortgage or other transfer of its interest in the Premises shall be subject to this Lease.

ARTICLE 22 Leasehold Mortgages

Section 22.01. Tenant shall not have the right, without the prior written consent of Landlord and the GMHC Unit Owner, which consent, in each case, may be withheld or conditioned in the sole and absolute discretion of Landlord and the GMHC Unit Owner, to place at any time during the Term of this Lease any mortgages on Tenant’s interest in this Lease and the leasehold estate hereby demised, or to assign its rights hereunder as security for such mortgages.

ARTICLE 23 Default Provisions; Conditional Limitations

Section 23.01. Subject to Section 23.06, if one or more of the following events (herein called an “*Event of Default*”) shall occur, i.e.:

(a) if default shall be made in the payment when due of any Rent or other amount payable by Tenant hereunder and such default shall continue for a period of ten (10) days after a written notice specifying such default shall be received by Tenant; or

(b) if default shall be made in the performance of any other covenant or agreement on the part of Tenant to be performed hereunder (including, without limitation, the making or sufferance of any Transfer in violation of this Lease) and such default shall continue for a period

of thirty (30) days after a written notice specifying such default shall be received by Tenant, unless the curing of such default shall require the performance of work or the satisfying of conditions that, by their nature or due to Force Majeure, cannot with due diligence be performed or satisfied within such period of thirty (30) days, in which case such cure period shall be extended for such period as may be reasonably necessary to perform such work or satisfy such conditions with all due diligence; provided that Tenant shall notify Landlord within such period that Tenant is attempting to cure such default and that (subject to Force Majeure) Tenant shall commence to cure such default within such period and thereafter shall proceed with the curing of such default with due diligence;

and, provided that at the time of the occurrence of either of the events described in clauses (a) and/or (b) above, all of the then existing Unit Owners (other than the Declarant) are then in default (after notice and expiration of any applicable cure period) with respect to any of the respective obligations on the part of the Unit Owners set forth in the Condominium Documents; then Landlord may, at its option (but subject to the provisions of Section 23.08), at any time during the continuance of such Event of Default, deliver to Tenant (and each of the Unit Owners) a notice of the occurrence of such Event of Default, and Landlord may, at its option, at any time during the continuance of such Event of Default, deliver to Tenant a notice of election to Terminate the Term of this Lease as of the date that shall be ten (10) days after the date of service of such notice, and, upon the expiration of said ten (10) days, the Term of this Lease, and all right, title and interest of Tenant hereunder, shall expire as fully and completely as if that day were the date herein definitely fixed for the expiration of the Term of this Lease, and upon any such Termination of the Term of this Lease, Tenant shall quit and peacefully surrender the Premises to Landlord.

Section 23.02. Landlord, upon or at any time after any Termination of the Term of this Lease, may, without further notice, enter upon and re-enter the Premises and possess and repossess itself thereof, by force, summary proceedings, ejectment or otherwise, and may dispossess Tenant and remove Tenant and, except as otherwise expressly agreed by Landlord, all other Persons and property from the Premises, and may have, hold and enjoy the Premises and the right to receive and retain all income of and from the same. Except as otherwise provided in this Article 23, Tenant hereby expressly waives, so far as permitted by law, the service of any notice of intention to enter or re-enter the Premises provided for in any statute, or of the institution of legal proceedings to that end, and Tenant, for and on behalf of itself and all Persons claiming through or under Tenant, also waives any and all right of redemption or re-entry or repossession or to restore the operation of this Lease in case Tenant shall be dispossessed by a judgment or by warrant of any court or judge or in case of any entry, re-entry or repossession by Landlord or in case of any Termination of the Term of this Lease. Tenant, so far as permitted by law, hereby waives trial by jury in any action, proceeding or counterclaim brought by Landlord or Tenant on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises or any claim of injury or damage. Except as provided in Section 26.03, no Termination of the Term of this Lease or entry or re-entry of the Premises by Landlord, whether by force, summary proceedings or otherwise, shall discharge or limit any liability of Tenant hereunder. The terms "enter", "re-enter" and "re-entry", as used in this Lease, are not restricted to their technical legal meaning.

Section 23.03. No failure by Landlord to insist upon the strict performance of any term, covenant, agreement, provision, condition or limitation of this Lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance by Landlord of full or partial Rent or other amounts during the continuance of any such breach, shall constitute a waiver of any such breach or of such term, covenant, agreement, provision, condition or limitation. No term, covenant, agreement, provision, condition or limitation of this Lease to be kept, observed or performed by Tenant, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by Landlord. No waiver of any breach shall affect or alter this Lease, but each and every term, covenant, agreement, provision, condition and limitation of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

Section 23.04. In the event of any breach by Tenant of any of the terms, covenants, agreements, provisions, conditions or limitations contained in this Lease, Landlord shall be entitled to enjoin and shall (subject to Section 26.03 and the satisfaction of the Termination Requirements, as applicable) have the right to invoke any right or remedy allowed at law or in equity, by statute or otherwise, as though entry, re-entry, summary proceedings, and other remedies were not provided for in this Lease. Subject to Section 26.03 and the satisfaction of the Termination Requirements, as applicable, each right or remedy of Landlord provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity, by statute or otherwise, and the exercise or the beginning of the exercise by Landlord of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by Landlord of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity, by statute or otherwise.

Section 23.05. From and after any date on which Tenant shall receive a notice from Landlord of the occurrence of an Event of Default under paragraph (a) of Section 23.01, and until such Event of Default shall be cured, Tenant shall not pay, disburse or distribute any then as yet undistributed sums or receivables relating to the Premises or this Lease, except to Landlord or to creditors in payment of amounts then due and owing by Tenant to such creditors (other than to Affiliates of Tenant) for labor, materials or services furnished in connection with the Premises; provided, however, that the foregoing restriction shall be inapplicable in the case of any bona fide dispute between Landlord and Tenant with respect to any amount alleged by Landlord to be due and owing by Tenant hereunder.

Section 23.06. Notwithstanding anything to the contrary contained in this Article 23, this Lease may not be terminated by reason of a Default by Tenant unless and until the Termination Requirements shall have been satisfied with respect to each Unit (other than the Declarant Unit).

Section 23.07. Notwithstanding anything to the contrary contained in this Lease, from and after the Condominium Date, if a Default by Tenant under this Lease shall be caused by an action or omission of one or more (but not all) Unit Owners, then Landlord shall not exercise any of Landlord's remedies for such default in a manner that would have an adverse impact upon any Unit Owners other than the Unit Owner(s) whose action or omission gave rise to such default. The foregoing shall not be construed to preclude Landlord from exercising any of Landlord's remedies in a manner that would have an adverse impact only upon such Unit Owner(s) whose action or omission caused the default in question.

Section 23.08. Notwithstanding anything to the contrary contain in this Lease, any rights or remedies of the Ground Lessor, Ground Lessee, or the Condominium Board, as applicable, in case of a default by the GMHC Unit Owner, shall survive the expiration or earlier termination of the GMHC Transaction Documents.

ARTICLE 24 Indemnification

Section 24.01. (a) Except as otherwise provided in Section 24.02, Tenant shall indemnify Landlord Indemnitees against, and save Landlord Indemnitees harmless from, any and all claims made by or on behalf of any Person (other than Landlord) arising during the Term of this Lease from the conduct or management of the Premises or from any work or other activity whatsoever done in, on or about the Premises, or from any condition of the Premises or any curb or sidewalk adjoining the Premises, or from any breach or default in the performance of any covenant or agreement to be performed under this Lease (other than by Landlord) or from any act (whether or not negligent) or negligence of Tenant or any Subtenants or any of its or their agents, contractors, servants, employees, licensees or invitees or of any other Person in, on or about the Premises, or from any accident, injury or damage whatsoever caused to any Person or property in, on or about the Premises or upon or under the sidewalks adjacent thereto, and Tenant shall further indemnify Landlord Indemnitees against, and save Landlord Indemnitees harmless from, all

judgments, costs, fines, losses, expenses and liabilities incurred in connection with any such claim or any action or proceeding brought with respect to any such claim; and in case any action or proceeding shall be brought against any of the Landlord Indemnitees by reason of any such claim, Tenant shall resist or defend such action or proceeding, at Tenant's sole cost and expense, by counsel reasonably satisfactory to Tenant's insurance company.

(b) In addition, Tenant shall indemnify Landlord Indemnitees against, and save Landlord Indemnitees harmless from, any costs, losses or expenses arising from the gross negligence or any wrongful intentional act of Tenant or any Subtenant or any of their respective contractors, agents or employees.

Section 24.02. Notwithstanding Section 24.01, Tenant shall not be obligated to indemnify Landlord Indemnitees against, or save Landlord Indemnitees harmless from, any claim relating to any accident, injury or damage to the extent caused by the gross negligence or any wrongful intentional act of Landlord or its tenants, licensees, employees or agents.

Section 24.03. Landlord shall indemnify Tenant against, and save Tenant harmless from, any and all claims, judgments, costs, fines, losses, expenses or liabilities to the extent arising from the gross negligence or any wrongful intentional act of Landlord or any employee or agent of Landlord, acting within the scope of such Person's employment or agency.

Section 24.04. The provisions of this Article 24 and all other indemnity provisions elsewhere contained in this Lease shall survive the expiration or earlier termination of this Lease. All indemnity provisions provided for in this Lease shall be deemed to include, even if not so expressly stated, costs and expenses (including, without limitation, reasonable attorneys' fees) incurred by any of the Landlord Indemnitees in connection with the liability, damage, claim or charge to which the indemnity applies.

Section 24.05. (a) If any claim, action or proceeding is made or brought against any of the Landlord Indemnitees by reason of any event for which Tenant has agreed to indemnify the Landlord Indemnitees pursuant to Section 24.01, then, upon demand by such Landlord Indemnitee, Tenant shall, at its sole cost and expense, resist or defend such claim, action or proceeding (in such Landlord Indemnitee's name, if necessary) by the counsel for the insurance carrier of Tenant, or if applicable, any Existing Subtenants or any Subtenant (if such claim, action or proceeding is covered by insurance maintained by Tenant, or if applicable, Existing Subtenant or any Subtenant) or (in all other circumstances) by such counsel as Tenant shall elect and such Landlord Indemnitee shall approve, which approval shall not be unreasonably withheld, conditioned or delayed. In such event, Tenant shall control all decisions in respect of the litigation and settlement of such claim, action or proceeding; provided, however, Tenant shall not enter into any settlement or compromise of any such claims, action or proceeding without the prior written consent of such Landlord Indemnitee (which approval may be withheld in such Landlord Indemnitee's sole and absolute discretion) if such settlement or compromise (i) does not provide for a full release in favor of such Landlord Indemnitee, (ii) provides for any continuing obligation on the part of such Landlord Indemnitee or (iii) restricts or otherwise adversely affects the future use of the Premises.

(b) Notwithstanding the foregoing,

(i) If there exists or is reasonably likely to exist a conflict of interest that would make it inappropriate in the judgment of such Landlord Indemnitee in its reasonable discretion for the same counsel to represent both Tenant and such Landlord Indemnitee, then such Landlord Indemnitee shall be entitled to retain its own counsel at Tenant's sole cost and expense, in which case such Landlord Indemnitee shall be entitled to assume and control the decisions in respect of the litigation and settlement of such claims; provided, however, such Landlord Indemnitee shall not enter into any settlement or compromise of any such claims, action or

proceeding without the prior written consent of Tenant (which approval may be withheld in Tenant's sole and absolute discretion) if such settlement or compromise (i) does not provide for a full release in favor of Tenant, (ii) provides for any continuing obligation on the part of Tenant or (iii) restricts or otherwise adversely affects Tenant's leasehold interest under this Lease;

(ii) Tenant shall not be entitled to assume and control the decisions in respect of the litigation and settlement of such claims and any such decisions in respect of the litigation and settlement of such claims may be made only with Landlord's prior written approval (which approval may be withheld in Landlord's sole and absolute discretion) if a Default or an Event of Default has occurred and is continuing or if such claim, action or proceeding:

(1) involves a governmental proceeding involving a possible imposition of any criminal liability or penalty or material civil penalty on such Landlord Indemnitee; or

(2) involves the granting of material injunctive relief against such Landlord Indemnitee affecting property or activity not related to the Premises.

(iii) Such Landlord Indemnitee may, at its sole cost and expense, engage its own attorneys to defend or assist in its defense.

ARTICLE 25 Environmental Hazards Provision

Section 25.01. Tenant covenants and agrees that, during the Term of this Lease Tenant shall not:

(a) cause or knowingly permit the presence, use, generation, manufacture, production, processing, installation, release, discharge, storage (including aboveground and underground storage tanks for petroleum or petroleum products or other Hazardous Materials), treatment, handling, or disposal of any Hazardous Materials (as defined below) (excluding the safe and lawful use and storage of Hazardous Materials customarily used in the construction, operation and maintenance of comparable properties or for normal household, retail or office and ancillary purposes (including medical and dental offices)) on or under the Premises; or

(b) cause or knowingly permit the transportation to, from or across the Premises of any Hazardous Material (excluding transport for the safe and lawful use and storage of Hazardous Materials customarily used in the construction, operation and maintenance of comparable properties or for normal household or office purposes (including medical and dental offices)); or

(c) cause or knowingly permit any occurrence or condition on the Premises that is in violation of any Hazardous Materials Law.

(d) (The matters described in (a), (b) and (c) above are referred to collectively below as "***Prohibited Activities or Conditions***").

Section 25.02. Landlord makes no representation or warranty as to the existence of Prohibited Activities or Conditions on or under the Land or with respect to the Premises.

(a) Tenant shall take commercially reasonable steps (including but not limited to reasonable and prudent lease or sublease or occupant provisions) to prevent its employees, agents and contractors, and all Subtenants and other occupants on the Premises, from causing or permitting any Prohibited Activities or Conditions. Tenant shall not lease, sublease or permit the occupancy or use of the

Premises to any tenant, subtenant or occupant that, in the ordinary course of its business, would cause, permit or exacerbate any Prohibited Activities or Conditions. All Subleases shall provide that tenants and subtenants shall not cause or permit any Prohibited Activities or Conditions.

(b) Tenant shall promptly notify Landlord in writing of: (i) the occurrence of any Prohibited Activity or Condition on the Premises of which Tenant shall have actual knowledge; (ii) Tenant's actual knowledge of the presence on or under any adjoining property of any Hazardous Materials which can reasonably be expected to have an adverse impact in a greater than de minimis manner on the Premises or the value of the Premises, or the discovery of any occurrence or condition on the Premises or any adjoining real property that could reasonably be expected to cause any restrictions on the ownership, occupancy, transferability or use of the Premises under Hazardous Materials Law, and Tenant shall cooperate with any inquiry from a Governmental Authority regarding the presence of Hazardous Materials at the Premises, and shall comply with any applicable governmental or judicial order which arises from any alleged Prohibited Activities or Conditions; (iii) receipt by Tenant, in writing, of any claim, citation, notice of any pending or threatened suits, proceedings, orders, inquiries or opinions involving the Premises from any Governmental Authority which alleges the violation of any Hazardous Materials Law ("**Governmental Actions**"); (iv) any written claim made by any third-party against Tenant, Landlord or the Premises relating to loss or injury resulting from any Hazardous Materials existing at or originating or migrating from the Premises. Any such notice by Tenant shall not relieve Tenant of, or result in a waiver of, any obligation of Tenant under this Article 25.

Section 25.03. Tenant shall comply, or cause to be complied with, any provision of a Hazardous Materials Law, including any requiring the investigation, removal and/or remediation of any Hazardous Materials at the Premises. Without limiting the generality of the preceding sentence, Tenant shall remove or remediate or cause to be removed or remediated from or at the Premises any Hazardous Materials contamination that is present at the Premises as a result of any Prohibited Activities or Conditions permitted, conducted or caused by Tenant, its employees, agents or contractors, or Subtenants. Tenant shall provide Landlord with copies of any non-privileged reports, studies, investigations or correspondence prepared in connection with any activities associated with or relating to the preceding sentence of this Section 25.03, and shall allow Landlord to provide comments to any such reports, studies, investigations or correspondence required to be submitted to a Governmental Agency prior to their finalization and submittal to any governmental authority. Tenant shall permit Landlord to participate in any in-person or telephonic conferences or meetings held with any governmental authorities that are associated with or relate to the second sentence of this Section 25.03. In the event Tenant fails to honor its obligations included in the second sentence of this Section 25.03, Tenant shall be deemed to have authorized Landlord and its employees, agents and contractors, upon not less than fifteen (15) days' prior written notice to Tenant (except in the case of an emergency as reasonably determined by Landlord, where no such notice shall be required), to enter onto the Premises for the purpose of conducting any environmental audits, studies, investigations, removal actions or remediation of Hazardous Materials, and Tenant shall reimburse Landlord for any reasonable costs and expenses associated therewith incurred by Landlord (including but not limited to reasonable fees and expenses of attorneys and consultants, whether incurred in connection with judicial or administrative process or otherwise).

Section 25.04. The term "Hazardous Material(s)", for purposes of this Article 25 shall mean those materials defined as "hazardous substances," "extremely hazardous substances," "hazardous chemicals," "hazardous materials," "toxic substances," "solid waste," "toxic chemicals," "air pollutants," "toxic pollutants," "hazardous wastes," "extremely hazardous waste," or "restricted hazardous waste" or words of similar meaning by Hazardous Materials Law or regulated by Hazardous Materials Law, including, but not limited to, any petroleum and petroleum products, flammable explosives, radioactive materials (excluding radioactive materials in smoke detectors or medical equipment), polychlorinated biphenyls, lead, asbestos in any form that is or could become friable or toxic mold.

Section 25.05. The term “Hazardous Materials Law(s)”, for the purposes of this Article 25 means all federal, state, and local laws, ordinances and regulations and standards, rules and other legally binding governmental requirements now or hereafter enacted or in force, and any court judgments, in each case, applicable to Tenant with respect to the Premises or to the Premises relating to or imposing liability standards or conduct concerning pollution, the protection of the environment or human health as such relates to exposure to Hazardous Materials on or under the Premises, including, but not limited to, those relating to the generation, manufacture, storage, handling, transportation, disposal, release, emission or discharge of, or exposure to, Hazardous Materials.

Section 25.06. The undertakings of Tenant contained in this Article 25 shall be in addition to any and all other obligations and liabilities that Tenant may have under Requirements and elsewhere in this Lease.

Section 25.07. The representations, warranties, covenants, agreements and undertakings of Tenant contained in this Article 25 shall continue and survive notwithstanding the termination or cancellation of this Lease except with respect to any Prohibited Activities or Conditions or violation of any of the Hazardous Materials Laws which first commences and occurs either prior to the Commencement Date or after the termination or cancellation of this Lease.

ARTICLE 26 Limitation of Landlord’s and Tenant’s Liability

Section 26.01. (a) Notwithstanding anything to the contrary in this Lease, if any Default or Event of Default occurs under this Lease, Landlord may not enforce any judgment for any unpaid or unperformed obligations or other liability under this Lease against any assets of Tenant (or any Affiliate or Related Party of Tenant) other than Tenant’s interest in the Premises and this Lease. Tenant’s liability under this Lease shall be limited to its interest in this Lease and the Premises, and any proceeds thereof (including, without limitation, any insurance proceeds in connection therewith, and any proceeds from the sale or other disposition of Tenant’s interest in the Premises or this Lease). Furthermore, from and after the Condominium Date, all of the rights and obligations of Tenant under this Lease shall be assumed by the Condominium under the Condominium Documents, and the Initially Named Tenant shall be released from all obligations under this Lease, and shall no longer have any rights as Tenant under this Lease (except that the Initially Named Tenant shall have all of the rights and obligations of a Unit Owner that a Unit Owner has under this Lease, unless otherwise provided elsewhere in this Lease). Nothing in this Section 26.01 shall limit:

(i) Tenant’s liability for failure to complete, perform or pay for any Alterations or any work in connection with a casualty or condemnation as this Lease requires (but this clause (a) shall have no application to the assets (other than the Premises) of any Affiliate of Tenant or Related Party of Tenant); or

(ii) Landlord’s right to obtain an injunction or other equitable relief, provided it does not require payment of money, except as otherwise specifically permitted in this Article 26.

(b) In addition, nothing in this Section 26.01 shall be deemed to limit any guarantor’s liability under any guaranty delivered pursuant to this Lease or modify or otherwise affect any personal guaranty or other undertaking that may be delivered to Landlord in connection with this Lease.

Section 26.02. Notwithstanding the provisions of Section 26.01, Landlord shall not be precluded from seeking payment from Tenant or any member, manager, partner, shareholder, member, beneficiary, director, officer, trustee, agent or employee of Tenant, or of any member or partner in or shareholder or beneficiary of Tenant, including, but not limited to, any asset of Tenant, for any loss, damage,

cost, expense, liability, claim and any other obligation incurred by Landlord (including attorney's fees and costs) arising out of or in connection with any of the following events and/or occurrences:

- (a) Fraud or intentional misrepresentation by Tenant in connection with this Lease;
- (b) The gross negligence or willful misconduct of Tenant;
- (c) The breach of any representation, warranty, covenant or indemnification provision in Article 24;
- (d) Wrongful removal or destruction of any portion of the Premises or any intentional waste of the Premises;
- (e) Any Requirement mandating the forfeiture by Tenant of the Premises, or any portion thereof, because of the conduct or purported conduct of criminal activity by Tenant or any Affiliate of Tenant in connection therewith;
- (f) The failure to maintain any insurance as required by the provisions of Article 9;
- (g) The misappropriation or conversion by Tenant of (i) any insurance proceeds paid by reason of any casualty in accordance with Article 13 or (ii) any award received in connection with a taking in accordance with Article 14;
- (h) Failure to pay charges for labor or materials or other charges that can create or permit to be created any lien, encumbrance or charge upon the Premises;
- (i) The filing by Tenant of a voluntary petition under the United States Bankruptcy Code or any other federal or state bankruptcy or insolvency law;
- (j) The filing of an involuntary petition against Tenant under the United States Bankruptcy Code or any other federal or state bankruptcy law, or soliciting or causing to be solicited petitioning creditors or any involuntary petition against Tenant from any Person;
- (k) Tenant filing an answer consenting to, or otherwise acquiescing or joining in any involuntary petition filed against it, by any other Person under the United States Bankruptcy Code or any other federal or state bankruptcy or insolvency law, or soliciting or causing to be solicited petitioning creditors for any involuntary petition from any Person;
- (l) Tenant consenting to, or otherwise acquiescing or joining in an application for the appointment of a custodian, receiver, trustee, or examiner for Tenant or any portion of the Premises; or
- (m) Tenant making an assignment for the benefit of creditors, or admitting, in writing

or in any legal proceeding, its insolvency or inability to pay its debts as they become due.

Notwithstanding anything in this Section 26.02 to the contrary, (i) the liability of each Unit Owner for the payment of any loss, damage, cost, expense, liability, claim or any other obligation incurred by Landlord pursuant to the foregoing shall be expressly limited to the extent that the action (or inaction) of such Unit Owner caused such loss, damage, cost, expense, liability, claim or other obligation incurred by Landlord; and (ii) as Declarant controls the Condominium, liability for the payment of any loss, damage, cost, expense, liability, claim or any other obligation incurred by Landlord as a result of the occurrence of any of the foregoing actions taken by the Condominium (in contradistinction to any Unit Owner) that are not (x) permitted by the terms of the Condominium Documents, or (y) consented to by all of the Unit Owners, shall in each case be solely the liability of Declarant, and Landlord shall have no right to seek payment from any of the Unit Owners (other than the Declarant Unit Owner).

Section 26.03. Notwithstanding anything to the contrary provided or implied elsewhere in this Lease, Tenant agrees that there shall be no personal liability on the part of Landlord arising out of any default by Landlord under this Lease, and that Tenant (and any Person claiming by, through or under Tenant) shall look solely to the equity interest of Landlord or Landlord's successor in the Premises, any insurance proceeds in connection therewith, and, in the event Landlord sells Landlord's interest in the Premises, the proceeds thereof, for the enforcement and satisfaction of any defaults by Landlord hereunder, and that Tenant shall not enforce any judgment or other judicial decree requiring the payment of money by Landlord against any other property or assets of Landlord, and at no time shall any other property or assets of Landlord, or of Landlord's principals, partners, members, shareholders, directors or officers, be subject to levy, execution, attachment or other enforcement procedure for the satisfaction of Tenant's (or such Person's) remedies under or with respect to this Lease, the relationship of Landlord and Tenant hereunder or Tenant's use or occupancy of the Premises; such exculpation of personal liability to be absolute and without any exception.

Section 26.04. The liability of any Fee Mortgagee shall be limited to their respective interests in the Premises, and any proceeds thereof (including, without limitation, any insurance proceeds in connection therewith, and any proceeds from the sale or other disposition of Tenant's interest in the Premises or this Lease), and such Fee Mortgagee shall only have such liability if and for so long as such Fee Mortgagee shall have succeeded to Landlord's interest in this Lease. No Fee Mortgagee shall have any personal liability under or in connection with this Lease. At no time shall any other property or assets of any Fee Mortgagee, or of any of its principals, partners, members, shareholders, directors or officers, be subject to levy, execution, attachment or other enforcement procedure for the satisfaction of any Person's remedies under or with respect to this Lease; such exculpation of personal liability to be absolute and without any exception.

ARTICLE 27 Invalidity of Particular Provisions

Section 27.01. If any term or provision of this Lease or the application thereof to any Person or circumstance shall to any extent be invalid or unenforceable, then the remainder of this Lease, or the application of such term or provision to Persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each term and provision of this Lease shall be valid and be enforceable to the fullest extent permitted by law.

ARTICLE 28 Certificates of Landlord and Tenant

Section 28.01. From time to time, upon no less than fifteen (15) Business Days prior

written notice by Landlord, Tenant shall cause to be executed, acknowledged and delivered to Landlord a statement in writing, signed on behalf of Tenant by an officer, individual managing member, individual general partner or equivalent individual of Tenant or of a Controlling Person certifying that such person is generally familiar with the management of Tenant's affairs relating to this Lease, that this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease is in full force and effect as modified and stating the modifications) and a binding obligation of Tenant, subject to the terms and conditions of this Lease, the dates to which each category of Rent and other charges payable by Tenant hereunder have been paid, the address to which notices to Tenant should be sent pursuant to Article 29, and whether or not, to the actual knowledge of the signer of such statement, Landlord is in default in keeping, observing or performing any term, covenant, agreement, provision, condition or limitation contained in this Lease and, if Landlord is alleged to be in default, specifying each such default, it being intended that any such statement delivered pursuant to this Section 28.01 may be relied upon by Landlord or any prospective purchaser or mortgagee of the fee interest in the Premises, but no such reliance on any such statement shall prevent Tenant from thereafter claiming any default of Landlord as to which the signer shall have had no actual knowledge at the time of the making of such statement. The form of such certificate shall be as set forth on Exhibit C.

Section 28.02. From time to time, upon not less than fifteen (15) Business Days prior written notice by Tenant, Landlord shall cause to be executed, acknowledged and delivered to Tenant a statement in writing, signed on behalf of Landlord by an officer, individual managing member, individual general partner or equivalent individual of Landlord or of a Controlling Person, certifying (i) that such person has the authority to issue such statement and is generally familiar with the management of Landlord's affairs relating to this Lease, (ii) that this Lease is unmodified and in full force and effect (or if there have been modifications, (iii) that this Lease is in full force and effect as modified and stating the modifications) and a binding obligation of Landlord, subject to the terms and conditions of this Lease, (iv) the dates to which payments on account of each category of Rent and other charges payable by Tenant hereunder have been received, (v) the addresses to which notices and Rent to Landlord should be sent pursuant to Article 29, (vi) whether or not, to the actual knowledge of the signer of such statement, Tenant is in default in keeping, observing or performing any term, covenant, agreement, provision, condition or limitation contained in this Lease and, if Tenant is alleged to be in default, specifying each such default of which the signer may have knowledge, and (vii) to such other matters as may be reasonably requested by Tenant, it being intended that any such statement delivered pursuant to this Section 28.02 may be relied upon by Tenant, any Controlling Person, any prospective transferee of Tenant's interest in this Lease, but no such reliance on any such statement shall prevent Landlord from thereafter claiming any default of Tenant as to which the signer shall have had no actual knowledge at the time of the making of such statement.

ARTICLE 29 Notices

Section 29.01. Any notice, demand or request that, under the terms of this Lease or under any statute, must or may be given or made by the parties hereto, shall be in writing, and shall be given or made by hand delivery by mailing the same by registered or certified mail, return receipt requested, or by a nationally recognized overnight delivery service, addressed to Landlord at Glenhill Associates, LLC, c/o George Comfort & Sons, Inc., 200 Madison Avenue, New York, New York 10016, Attention: Mr. Dana Comfort, or to Tenant at Glenhill Associates Leasehold, LLC, c/o George Comfort & Sons, Inc., 200 Madison Avenue, New York, New York 10016, Attention: Mr. Dana Comfort, or at such other addresses as Landlord or Tenant may specify from time to time in a notice delivered in accordance with this Section 29.01. In addition, Landlord and Tenant shall each, in accordance with instructions furnished by the other party from time to time, send to up to ten (10) other Persons in New York copies of any notice, demand or request that shall allege a default by such other party under this Lease, or that shall purport to exercise any right or remedy under this Lease, or that shall be a notice, demand or request the giving of which requires, under the terms of this Lease, a response from such other party within a time period specified in this Lease; provided, however, that no notice, demand or request properly served on

Landlord or Tenant, as the case may be, shall be rendered ineffective by reason of any failure to deliver copies of such notice as provided in this sentence.

Section 29.02. All notices, demands and requests required or permitted hereunder to be given by Landlord and/or Tenant shall be sent by Landlord and/or Tenant, as the case may be, in the manner provided in Section 29.01 addressed to such Person at such place as such Person may from time to time designate in written notice to Landlord and/or Tenant.

Section 29.03. Notwithstanding any other provision of this Lease, any notice, demand or request given hereunder shall be deemed sufficiently given for all purposes hereunder on the earlier of (a) the date of receipt by the party to which such notice, demand or request shall be given or (b) the Business Day on which a mail carrier shall actually deliver (or, if delivery is refused or otherwise not accepted, shall attempt to deliver) such notice, demand or request to the address for such party of which the sender shall most recently have had notice.

ARTICLE 30 Consents and Approvals

Section 30.01. (a) It is understood and agreed that the granting of any consent by Landlord to Tenant to perform any act of Tenant requiring Landlord's consent under the terms of this Lease, or the failure on the part of Landlord to object to any such action taken by Tenant without Landlord's consent, shall not be deemed a waiver by Landlord of its rights to require such consent for any further similar act by Tenant, and Tenant hereby expressly covenants and warrants that as to all matters requiring Landlord's consent under the terms of this Lease, Tenant shall secure such consent for each and every happening of the event requiring such consent, and shall not claim any waiver on the part of Landlord of the requirement to secure such consent.

(b) It is understood and agreed that the granting of any consent by Tenant to Landlord to perform any act of Landlord requiring Tenant's consent under the terms of this Lease, or the failure on the part of Tenant to object to any such action taken by Landlord without Tenant's consent, shall not be deemed a waiver by Tenant of its rights to require such consent for any further similar act by Landlord.

Section 30.02. If Landlord shall be found to have withheld or delayed a required consent or approval in violation of an obligation hereunder not to withhold such consent or approval, or not to withhold such consent or approval unreasonably, as the case may be, Tenant's sole remedy shall be that such consent or approval shall be deemed given, and that any resulting delays shall be deemed to constitute "Force Majeure".

Section 30.03. Landlord shall not be deemed to have incurred or assumed any obligation or responsibility in connection with any construction, renovation, maintenance or operation of the Premises or any part thereof by reason of its approval of any plans or specifications relating thereto, nor shall any such approval be deemed to constitute a determination by Landlord, or a representation or warranty by Landlord to Tenant or any other Person, regarding the sufficiency of any such plans or specifications, the safety of any construction procedures proposed by Tenant, the stability or structural integrity or strength of any part of the Premises, or the quality or suitability of any materials or equipment used therein.

Section 30.04. Except as otherwise expressly provided in this Lease, any approval or consent required under this Lease may be granted or withheld by Landlord in its sole discretion.

ARTICLE 31 Quiet Enjoyment

Section 31.01. Landlord covenants and agrees that Tenant shall lawfully and quietly

hold, occupy and enjoy the Premises during the Term of this Lease without hindrance or molestation by or from anyone claiming by, through or under Landlord, subject to the Permitted Exceptions and subject to the terms and conditions set forth in this Lease.

ARTICLE 32 Vault Space

Section 32.01. Vaults, if any, now or hereafter built, extending horizontally beyond the building lines of the Premises are not included within the Premises, but Tenant may occupy and use the same during the Term of this Lease, subject to such laws, ordinances, orders, rules, regulations and requirements as may be imposed by appropriate governmental authorities with respect thereto and, if required by law, Landlord agrees to execute any license agreements or similar agreements required in order to permit Tenant to use such vaults and areas.

Section 32.02. No revocation on the part of any governmental department or authority of any license or permit to maintain and use any such vault used by Tenant shall in any way affect this Lease or the amount of the Rent or any other charge payable by Tenant hereunder. If any such license or permit shall be revoked with respect to any vault used by Tenant (but not otherwise), Tenant shall, at its sole cost and expense, do and perform all such work as may be necessary to comply with any order relating to such revocation.

ARTICLE 33 Representations

Section 33.01. Each party represents and warrants to the other that, as of the Commencement Date, all of the representations made by such party in this Lease are true and complete in all material respects.

ARTICLE 34 No Reliance

Section 34.01. The consent to or approval of any matter under this Lease by Landlord, and all conditions requiring such consent or approval, are for the sole and exclusive benefit of Landlord, and no other Person may rely on or shall be deemed to be a beneficiary of any such consent, approval or condition, any of which may be waived by Landlord in its sole discretion at any time and from time to time in whole or in part without notice except any Person with respect to which such consent or approval of Landlord is given may rely on such consent or approval. No consent to or approval of any matter under this Lease by Landlord shall impose any obligation or liability on Landlord or constitute an acknowledgment, representation or warranty that such matter complies with any Requirement or any other particular standard or is fit for its intended or any other particular purpose.

ARTICLE 35 Memorandum of Lease

Section 35.01. Simultaneously with the execution of this Lease, Landlord and Tenant will join in the execution of a memorandum of lease in recordable form reasonably satisfactory to Tenant and Landlord. Tenant shall, at Tenant's expense, cause such memorandum of lease to be recorded promptly following the Commencement Date.

Section 35.02. Except as otherwise provided in Section 35.01, no party shall have the right to record this Lease.

ARTICLE 36 No Broker

Section 36.01. Each of Landlord and the Initially Named Tenant represents to the other that it has not dealt with any broker or finder in connection with this Lease, and each party agrees to indemnify, defend and hold harmless the other party from and against any claim, loss, cost or expense,

including, without limitation, reasonable attorneys' fees, that the other party may suffer or incur as a result of any dealings by the representing party with any broker or finder in connection with this Lease.

ARTICLE 37 Covenants to Bind and Benefit Successors and Assigns

Section 37.01. The covenants, terms, conditions and agreements herein contained shall bind and inure to the benefit of Landlord and Tenant and, except as otherwise herein provided, their respective successors and assigns.

Section 37.02. The use of the neuter pronoun in any reference to Landlord or Tenant shall be deemed to include any individual Landlord or Tenant, and the use herein of the words "successors and assigns" or "successors or assigns" of Landlord or Tenant shall be deemed to include the heirs, legal representatives and permitted assigns of any individual Landlord or Tenant.

ARTICLE 38 Governing Law

Section 38.01. This Lease and the performance thereof shall be governed, interpreted, construed and regulated by Requirements of the City and State of New York.

ARTICLE 39 Street Widening

Section 39.01. If at any time during the Term of this Lease any proceedings are instituted or orders made for the widening or other enlargement of any street contiguous to the Premises, or any changes or alterations in or to the sidewalks, vaults, gutters, alleys or curbs contiguous to the Premises, Tenant shall, at Tenant's sole cost and expense, promptly comply with all applicable requirements.

Section 39.02. Tenant shall be permitted to contest in good faith any proceeding or order for street widening or other such changes or alterations, provided that Tenant shall fully comply with the requirements of Section 12.02.

ARTICLE 40 Excavations and Shoring

Section 40.01. (a) To the extent, if any, required by law, Landlord and Tenant shall allow any owner of property adjoining the Premises desiring to excavate on such property, or the City of New York, or any other governmental or quasi-governmental agency or utility company desiring to excavate any street abutting the Premises, to enter the Premises for the purpose of shoring up any intervening wall or foundation during such excavation, provided that such owner, governmental or quasigovernmental agency or utility company shall comply with all Requirements and regulations. Tenant, at Tenant's sole cost and expense, shall repair or cause to be repaired any damage caused to any part of the Premises because of any excavation, construction work or other work of a similar nature that may be done by any Person on any such adjoining property or abutting street.

(b) Landlord hereby assigns to Tenant any and all rights that Landlord may have to sue for, or otherwise recover, from adjoining property owners, or from the City of New York or any other governmental or quasi-governmental agency or utility company, or from its successors or assigns or from any other Person causing damage to the Premises, any amounts expended or losses sustained by Tenant because of the provisions of this Section 40.01, or, if such assignment shall not be permitted by law, Landlord agrees to bring any action in Landlord's name required to enforce such rights for the benefit of Tenant, provided that Tenant shall pay all costs and expenses, including attorney's fees, relating to such action and shall indemnify, defend and hold harmless Landlord against any damage, cost, expense or liability arising in connection therewith. In no event shall Tenant, by reason of any excavation or work

described in this Section 40.01, have any claim against Landlord for damages or for indemnity or for suspension, diminution, abatement or reduction of Rent or any other amounts payable hereunder.

ARTICLE 41 No Other Agreements; Modification of Lease

Section 41.01. This Lease contains all of the promises, agreements, conditions, inducements and understandings between Landlord and Tenant relative to the subject matter of this Lease and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, expressed or implied, relating thereto between Landlord and Tenant other than as herein set forth. All prior requests for proposals, proposals and other communications relating to the subject matter hereof are hereby fully merged into and/or superseded by this Lease.

Section 41.02. This Lease cannot be changed, modified or terminated orally, but only by a written instrument of change, modification or termination executed and acknowledged by Landlord and Tenant (subject, in any event, to the provisions of Section 41.03).

Section 41.03. It is contemplated by Landlord and Tenant that this Lease will need to be modified in the event of any sales of any of the Declarant Units to a third-party. Notwithstanding the foregoing, Landlord and Tenant agree not to modify the provisions of this Lease for such (or any other) purpose, if and to the extent that the modification in question would create a material adverse impact on a Unit Owner (other than the Declarant Unit Owner), unless the affected Unit Owner consents thereto. In the case of a modification that would otherwise be deemed to create a material adverse impact on a Unit Owner, if Landlord, Tenant, the Condominium Board or any Declarant Entity provides such Unit Owner (effective immediately once such modification becomes effective) with a reasonably equivalent right or benefit for such material right or benefit as shall be denied to such Unit Owner, or with reasonably equivalent compensation for any materially increased obligation imposed upon such Unit Owner, by reason of such modification, then such modification shall be deemed not to create a material adverse impact on such Unit Owner. Any modification of this Lease under the immediately preceding sentence shall not be effective against a Unit Owner (other than the Declarant Unit Owner) until the date that is ten (10) Business Days after a copy of such proposed modification has been delivered to each Unit Owner other than the Declarant Unit Owner, but Landlord and Tenant may proceed with such modification following such 10-Business Day period if Landlord and Tenant in good faith believe that the same will not create (or be deemed to have created) a material adverse impact on a Unit Owner (other than the Declarant Unit Owner). If, during such 10-Business Day period, a Unit Owner (other than the Declarant Unit Owner) shall deliver a written notice to Landlord and Tenant claiming that the proposed modification will in fact create a material adverse impact on such Unit Owner (which notice shall describe in reasonable detail the basis for such claim), then representatives of Landlord, Tenant and such Unit Owner shall consult promptly, reasonably and in good faith as to how to address such material adverse impact (if any shall in fact exist). If (i) no agreement with respect thereto shall be reached by Landlord, Tenant and such Unit Owner, (ii) Landlord and Tenant proceed with such modification, and (iii) such modification does in fact create a material adverse impact on such Unit Owner without such Unit Owner having been offered a reasonably equivalent right or benefit or reasonably equivalent compensation (as aforesaid), then such Unit Owner shall be entitled to require Landlord and Tenant to rescind such modification. In no event whatsoever shall the provisions of this Section 41.03 be amended, modified or waived (in whole or in part) without the prior written approval of the GMHC Unit Owner.

Section 41.04. Each of Landlord and Tenant expressly reserve the right to waive enforcement of any obligation on the part of the other under this Lease, provided that such waiver shall not have a material adverse impact on a Unit Owner (other than the Declarant Unit Owner), unless the affected Unit Owner consents thereto. In the case of a waiver that would otherwise be deemed to create a material adverse impact on a Unit Owner, if Landlord, Tenant, the Condominium Board or any Declarant Entity provides such Unit Owner (effective immediately once such waiver becomes effective) with a reasonably

equivalent right or benefit for such material right or benefit as shall be denied to such Unit Owner, or reasonably equivalent compensation for any materially increased obligation imposed upon such Unit Owner, by reason of such waiver, then such waiver shall be deemed not to create a material adverse impact on such Unit Owner. Any waiver of any obligation of Landlord under this Lease under the immediately preceding sentence shall not be effective against a Unit Owner (other than the Declarant Unit Owner) unless and until a notice describing such waiver has been delivered to such Unit Owner, but Landlord and Tenant may proceed with such waiver (after delivery of such notice) if Landlord and Tenant in good faith believe that the same will not create (or be deemed to have created) a material adverse impact on a Unit Owner (other than the Declarant Unit Owner). If, within ten (10) Business Days after notice of such waiver has been delivered to a Unit Owner (other than the Declarant Unit Owner), a Unit Owner (other than the Declarant Unit Owner) shall deliver a written notice to Landlord and Tenant claiming that the waiver will in fact create a material adverse impact on such Unit Owner (which notice shall describe in reasonable detail the basis for such claim), then representatives of Landlord, Tenant and such Unit Owner shall consult promptly, reasonably and in good faith as to how to address such material adverse impact (if any shall in fact exist). If (i) no agreement with respect thereto shall be reached by Landlord, Tenant and such Unit Owner, (ii) Landlord and Tenant do not rescind such waiver, and (iii) such waiver does in fact create a material adverse impact on such Unit Owner without such Unit Owner having been offered a reasonably equivalent right or benefit or reasonably equivalent compensation (as aforesaid), then such Unit Owner shall be entitled to require Landlord and Tenant to rescind such waiver. In no event whatsoever shall the provisions of this Section 41.04 be amended, modified or waived (in whole or in part) without the prior written approval of the GMHC Unit Owner.

Section 41.05. The Unit Owners shall be deemed to be third-party beneficiaries of all provisions in this Lease pursuant to which such Unit Owners are granted rights or by which such Unit Owners are otherwise materially adversely affected, but subject to any applicable limitations or conditions set forth in this Lease.

ARTICLE 42 No Discrimination

Section 42.01. Tenant covenants and agrees that (i) it shall abide by all applicable federal, state, and local laws, ordinances, rules and regulations from time to time in effect prohibiting or regulating discrimination or segregation by reason of race, color, religion, national origin, ancestry, sex, age, disability or marital status in the sale, transfer or assignment of its interest under this Lease or in the subleasing, use or occupancy of the Premises or any part thereof, including any services provided or privileges granted in connection therewith, or in connection with the erection, maintenance, repair or replacement of the Premises and (ii) it shall include the foregoing provision, *mutatis mutandis*, in all construction contracts, Subleases and management or operating agreements with respect to the Premises or any portion thereof.

ARTICLE 43 Fee Mortgages

Section 43.01. Nothing herein contained shall limit Landlord's right to place any mortgage on the right, title and interest of Landlord under this Lease and in the Premises, including the fee simple and reversionary estates of Landlord therein, including, without limitation, any modifications, consolidations, extensions, renewals and replacements thereof. Provided that Tenant receives an Approved SNDA from the holder or servicer ("**Fee Mortgagee**") of any Fee Mortgage (as hereinafter defined) in favor of Tenant in accordance with the terms of this Section 43.01, this Lease shall be subject and subordinate in all respects to all applicable mortgages (each a "**Fee Mortgage**") that may now or hereafter affect the Premises, to each and every advance made or hereafter to be made under any such Fee Mortgage, and to all renewals, modifications, consolidations, replacements and extensions of any such Fee Mortgage. In confirmation of any such subordination, Tenant agrees to (and, from and after the Condominium Date, Tenant shall require that all then existing Unit Owners shall) promptly execute and deliver any instrument

that Landlord, the Fee Mortgagee or any of their respective successors in interest may reasonably request to evidence such subordination. Notwithstanding the foregoing, this Lease and Tenant's obligations hereunder shall not be affected or impaired in any respect should any such Fee Mortgagee decline to enter into an Approved SNDA, in which case this Lease and all of Tenant's rights hereunder shall nonetheless be subject and subordinate to the applicable Fee Mortgage on the terms of the Approved SNDA. If such Fee Mortgagee is willing to execute and deliver an Approved SNDA and Landlord delivers the same to Tenant, and if Tenant fails or refuses to execute and deliver such Approved SNDA within fifteen (15) Business Days following Landlord's delivery of such Approved SNDA to Tenant, this Lease shall be subject and subordinate to such Fee Mortgage on the terms of such Approved SNDA, and Landlord shall have no further obligation to obtain an Approved SNDA from such Fee Mortgagee. Landlord shall have no liability to Tenant or any of the Unit Owners in the event that a Fee Mortgagee is unwilling to deliver an Approved SNDA to Tenant (provided that, in such instance, this Lease shall not be subject and subordinate to the applicable Fee Mortgage). Tenant acknowledges receipt of advice from Landlord to the effect that Landlord may elect to place a Fee Mortgage on the right, title and interest of Landlord under this Lease and in the Premises in connection with the sale of the GMHC Unit to GMHC or the obligations of GMHC under the GMHC Transaction Documents. Provided that the GMHC Unit Owner is not in default under any of the GMHC Transaction Documents beyond the expiration of any applicable cure period, the GMHC Unit Owner shall be deemed to be a third-party beneficiary of the provisions of this Section 43.01.

Section 43.02. If any act or omission of Landlord would give Tenant the right under Applicable Laws, immediately or after lapse of a period of time, to cancel or terminate this Lease, or to abate the payment of rent or to claim a partial or total eviction or otherwise invoke any remedies under this Lease or at law or in equity against Landlord, Tenant shall not exercise such right (a) until it has given written notice ("**Fee Default Notice**") of such act or omission to Landlord and any Fee Mortgagee; provided the name and address of such Fee Mortgagee shall previously have been furnished to Tenant, and (b) until thirty (30) days shall have elapsed following the giving of the Fee Default Notice if the same reasonably can be remedied within such thirty (30) day period or if the same cannot be reasonably remedied within thirty (30) days until a reasonable period of time has elapsed within which such Fee Mortgagee shall have the right, but shall not be obligated, to cure provided such cure has commenced within the initial thirty (30) day period and is diligently pursuing such cure to completion; provided, however, with respect to defaults for which possession of the Premises is required to cure such default, or in the case of defaults that are not reasonably susceptible of being cured by a Fee Mortgagee (such as the bankruptcy of Landlord), the period to remedy such defaults shall be extended for such time as is necessary for a Fee Mortgagee to promptly institute foreclosure proceedings, and thereafter, subject to extensions for such periods as such Fee Mortgagee may be delayed as a result of Force Majeure, continuously prosecute the foreclosure proceedings with reasonable diligence and continuity to obtain possession and, upon obtaining possession of the Premises, promptly commence to cure such default (other than a default which is not reasonably susceptible of being cured by a Fee Mortgagee) and prosecute such cure to completion with diligence and continuity, subject to extensions for such periods as such Fee Mortgagee may be delayed as a result of an Force Majeure. With respect to defaults not reasonably susceptible to cure by a Fee Mortgagee, the completion of such foreclosure proceeding shall be deemed to remedy such defaults. Nothing in this Section 43.02 shall be construed to limit any right of GMHC (or a GMHC Successor, as applicable) expressly provided in the GMHC Transaction Documents to an abatement or termination of, or offset against, Common Charges or the Installment Purchase Payments.

Section 43.03. Any Fee Mortgagee shall have the right, but not the obligation, through Landlord or as a Successor Landlord (defined below), to (i) perform on behalf of Landlord any covenant or agreement under this Lease to be performed by Landlord by reason of being such Fee Mortgagee (or by power of attorney to the extent necessary and enforceable), and Tenant shall accept such performance by any Fee Mortgagee as if performed by Landlord, and to exercise any and all rights of Landlord under this Lease (through Landlord or as a Successor Landlord); provided, however, that such performance or exercise

by such Fee Mortgagee, shall not, prior to such Fee Mortgagee's succession to Landlord's interest in the Premises through any foreclosure, trustee sale, deed or assignment in lieu of foreclosure, operate to place responsibility for the control, care, management or repair of the Premises upon such Fee Mortgagee, or impose responsibility for the carrying out of the terms and conditions of this Lease, nor shall such Fee Mortgagee be responsible for or liable for (x) any waste committed on the Premises by any party whatsoever, (y) any dangerous or defective condition of the Premises, or (z) any negligence in the management, upkeep, repair or control of the Premises resulting in any damage to property or in any loss or injury or death to any person.

Section 43.04. If Fee Mortgagee, any designee of any Fee Mortgagee or any other person acquiring or succeeding to the interests of Landlord (or its successors and assigns) in the Premises and the rights and obligations of the Landlord (or its successors and assigns) under this Lease (with any of the foregoing and such person's successors and assigns herein being called "**Successor Landlord**") shall succeed to Landlord's interest in the Premises and the rights and obligations of Landlord under this Lease pursuant to any foreclosure, trustee sale, deed or assignment in lieu of foreclosure, Tenant shall automatically attorn to and recognize such Successor Landlord or its designee, which automatic attornment shall be self-operative without the execution of any further instruments, and recognize Successor Landlord as Tenant's landlord under this Lease and shall promptly execute and deliver any reasonable instrument that such Successor Landlord may reasonably request to evidence such attornment, and this Lease shall continue in full force and effect as a direct lease between the Successor Landlord and Tenant upon all of the terms, conditions and covenants as are set forth in this Lease; provided, however, that Successor Landlord shall not be:

- (a) liable for any prior act, omission or default of any prior landlord under this Lease (including, without limitation, Landlord) or for any claim for damages against any such prior landlord (including, without limitation, Landlord), other than a previously accrued abatement of Common Charges expressly provided for in the Condominium Documents;
- (b) subject to any offsets or defenses which Tenant might have against any prior landlord under this Lease (including, without limitation, Landlord), except if the same first arises or occurs following acquisition of title to the Premises, other than a previously accrued offset against Common Charges expressly provided for in the Condominium Documents;
- (c) bound by any Rent which Tenant might have paid for more than the then current quarter to any prior landlord under this Lease (including, without limitation, Landlord) or by any security deposit, cleaning deposit or other prepaid charge which Tenant might have paid in advance to any prior landlord under this Lease (including, without limitation, Landlord) unless Successor Landlord, as the case may be, receives the same;
- (d) bound by any amendment or modification of this Lease made after the date hereof without Fee Mortgagee's consent;
- (e) bound by any agreement of any landlord under this Lease (including, without limitation, Landlord) with respect to the completion of any Alteration at the Premises or for the payment or reimbursement to Tenant of any contribution to the cost of the completion of any such improvements, unless such Successor Landlord shall have consented to the same.

Nothing in this Section 43.04 shall be construed to limit any right of GMHC (or a GMHC Successor, as applicable) expressly provided in the GMHC Transaction Documents to an abatement or termination of, or offset against, Common Charges or the Installment Purchase Payments.

Section 43.05. Upon the written request of either Successor Landlord or Tenant to the other given at the time of foreclosure, trustee's sale or other proceeding for enforcement of the Fee Mortgage or by deed in lieu thereof, the parties shall execute a new lease of the Premises upon the same terms and conditions as this Lease between Landlord and Tenant, which Lease shall cover any unexpired balance of the Term of this Lease existing prior to such foreclosure, trustee's sale or conveyance in lieu thereof; provided that such new lease shall be entered into only if the execution of a new lease (and thereby the termination of this Lease) shall not terminate, materially alter or otherwise materially impair the Condominium or the rights and obligations of the Unit Owners under the Condominium Documents.

Section 43.06. Tenant shall not unreasonably withhold its consent to any modifications to this Article 43 and other provisions of this Lease relating to the rights of a Fee Mortgagee that are reasonably requested by a Fee Mortgagee, provided that any such modification does not adversely affect any of Tenant's rights in any material respect or increase any of Tenant's obligations in any material respect under this Lease and (unless such Fee Mortgagee or prospective Fee Mortgagee enters into an Approved SNDA with Tenant) does not require this Lease to be subordinate to the rights of Fee Mortgagee or prospective Fee Mortgagee. Notwithstanding the foregoing, Landlord and Tenant agree that, so long as GMHC or a GMHC Successor shall own the GMHC Unit, if the modification in question, individually or in the aggregate with all other such modifications, adversely affects any of the GMHC Unit Owner's rights in any material respect, increases any of the GMHC Unit Owner's obligations (under a Condominium Document or otherwise) in any material respect, reduces the obligations of Landlord in any material respect or otherwise materially adversely affects the use or occupancy of the GMHC Unit, then such modification shall not be implemented without (a) the consent of GMHC or the GMHC Successor (as applicable), or (b) the Fee Mortgagee or prospective Fee Mortgagee entering into an Approved SNDA with Tenant. In the case of a modification that would otherwise be deemed to create a material adverse impact on the GMHC Unit Owner as aforesaid, if Landlord, Tenant, the Condominium Board or any Declarant Entity provides the GMHC Unit Owner (effective immediately once such modification becomes effective) with a reasonably equivalent right or benefit for such material right or benefit as shall be denied to the GMHC Unit Owner, or reasonably equivalent compensation for any materially increased obligation imposed upon the GMHC Unit Owner, by reason of such modification, then such modification shall be deemed not to create a material adverse impact on the GMHC Unit Owner. Any such modification under the immediately preceding sentence shall not be effective against the GMHC Unit Owner until the date that is ten (10) Business Days after a copy of such proposed modification has been delivered to the GMHC Unit Owner, but Landlord and Tenant may proceed with such modification following such 10-Business Day period if Landlord and Tenant in good faith believe that the same will not create (or be deemed to have created) a material adverse impact on the GMHC Unit Owner. If, during such 10-Business Day period, the GMHC Unit Owner shall deliver a written notice to Landlord and Tenant claiming that the proposed modification will in fact create a material adverse impact on the GMHC Unit Owner (which notice shall describe in reasonable detail the basis for such claim), then representatives of Landlord, Tenant and the GMHC Unit Owner shall consult promptly, reasonably and in good faith as to how to address such material adverse impact (if any shall in fact exist). If (i) no agreement with respect thereto shall be reached by Landlord, Tenant and the GMHC Unit Owner, (ii) Landlord and Tenant proceed with such modification, and (iii) such modification does in fact create a material adverse impact on the GMHC Unit Owner without the GMHC Unit Owner having been offered a reasonably equivalent right or benefit or reasonably equivalent compensation (as aforesaid), then the GMHC Unit Owner shall be entitled to require Landlord and Tenant to rescind such modification.

ARTICLE 44 Miscellaneous Provisions

Section 44.01. The captions of this Lease are for convenience of reference only and in no way define, limit or describe the scope or intent of this Lease and should not in any way affect the interpretation of this Lease.

Section 44.02. The table of contents attached to this Lease is for convenience of reference only and is not to be deemed or construed in any way to be a part of this Lease or supplemental hereto or amendatory hereof.

Section 44.03. Although the provisions of this Lease were initially drawn by Landlord, they are the result of arms-length negotiations and accordingly shall not be construed for or against Landlord or Tenant, but shall be interpreted in accordance with the general tenor of the language in an effort to reach the intended result.

Section 44.04. Tenant represents to Landlord that it is a duly organized and validly existing limited liability company and in good standing under the laws of the State of New York that it has the full power and authority to enter into and perform its obligations under this Lease; that this Lease has been duly executed by all Persons required to execute the same on behalf of Tenant and constitutes a valid, binding and legal obligation of Tenant.

Section 44.05. Landlord represents to Tenant that it is a duly organized and validly existing limited liability company and in good standing under the laws of the State of New York; that is has the full power and authority to enter into and perform its obligations under this Lease; and that this Lease constitutes a valid, binding and legal obligation of Landlord.

Section 44.06. All provisions of this Lease relating to numbers of days shall be deemed to refer to calendar days, except as may be otherwise expressly provided herein.

Section 44.07. Tenant shall have the privilege of designating a name by which the Premises shall be known during the Term of this Lease, and, subject to any required review by any Governmental Authority, to place one or more appropriate sign(s) on the exterior of the Premises for the purpose of making such name, and/or the name(s) of a major Subtenant or Subtenants, known to the public; provided, however, that the Premises shall not be given, and no such sign shall contain, the name of a Prohibited Transferee, and provided further that Tenant shall have the right to transfer said naming privilege to any of the Declarant Entities.

Section 44.08. Tenant recognizes Landlord's interest in being free from labor difficulties, strikes, picketing, or hand billing on or near any Unit or the Building. Should such difficulties, strikes, picketing, or hand billing be engaged in by Tenant's (or any Unit Owner's) employees or the employees of Tenant's (or a Unit Owner's) contractors, subcontractors, or agents, or be caused by the actions or presence of Tenant's (or a Unit Owner's) employees, contractors, subcontractors, agents, or their employees, Tenant shall (or Tenant shall cause the applicable Unit Owner to) take all reasonable steps to restore harmony. Furthermore, Tenant shall (and shall cause the applicable Unit Owner to be) liable for all damages Landlord occurring as a result of such difficulties, strikes, picketing or hand billing. Notwithstanding the foregoing, the foregoing provisions of this Section 44.08 shall not be deemed applicable to the Declarant Unit Owner. The provisions of this Section 44.08 shall be deemed incorporated into each Sublease and the Condominium Documents.

Section 44.09. If the estate of Landlord and the estate of Tenant in the Premises shall ever be held by the same person, the estate created by and pursuant to this Lease shall not be merged with any superior estate or other interest in the Premises.

[Signatures on immediately following page]

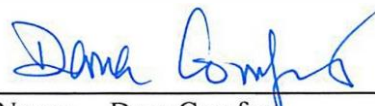
IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed by their duly appointed officers as of the date first above written.

LANDLORD

GLENHILL ASSOCIATES, LLC, a New York limited liability company, its sole member

BY: Glenhill Manager LLC, a Delaware limited liability company, its managing member

By: Glenhill Holdings LLC, a Delaware limited liability company, its sole member

By: 
Name: Dana Comfort
Title: Managing Member

TENANT

GLENHILL ASSOCIATES LEASEHOLD, LLC,
a New York limited liability company

BY: GLENHILL ASSOCIATES, LLC, a New York limited liability company, its sole member

BY: Glenhill Manager LLC, a Delaware limited liability company, its managing member

BY: Glenhill Holdings LLC, a Delaware limited liability company, its sole member

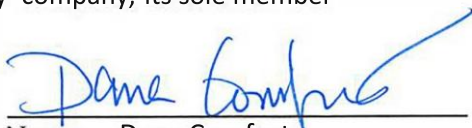
By: 
Name: Dana Comfort
Title: Managing Member

EXHIBIT A

Description of Land

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of 38th Street, distant 100 feet 5 inches westerly from the corner formed by the intersection of the said northerly side of 38th Street and the westerly side of Eighth Avenue;

RUNNING THENCE northerly to a point distant 100 feet westerly from the westerly side of Eighth Avenue, 44 feet 9 inches;

THENCE still northerly and parallel with the westerly side of Eighth Avenue, 54 feet to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 25 feet;

THENCE northerly parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 98 feet 9 inches to the southerly side of 39th Street;

THENCE westerly along said southerly side of 39th Street, 25 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, 98 feet 9 inches to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 100 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, and part of the distance through a party wall, 49 feet 9 inches;

THENCE easterly and parallel with the northerly side of 38th Street, 3-1/4 inches;

THENCE again southerly and parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 49 feet to the northerly side of 38th Street; and

THENCE easterly along said northerly side of 38th Street, 149 feet 3-3/4 inches to the point or place of BEGINNING.

EXHIBIT B

Permitted Exceptions

1. Survey made by Gerald T. O'Buckley dated April 25, 2014, last updated to October 21, 2017, discloses the following:

- (a) Encroachments on and projections over West 38th Street by:

Signs	3.0 feet more or less;
Entrance trim	1.5 feet more or less;
Lights	2.0 feet;
Air conditioner units	up to 1.5 feet;
Vents	up to 2.0 feet;
Ornamental	up to 0.6 feet;
Security camera	0.8 feet more or less;
Stand pipe	an undetermined extent
Temporary sidewalk shed:	11.0 feet

walls;

- (b) Easterly and westerly walls of the 4-story brick on subject premises are party

- (c) Encroachments upon and projections over West 39th Street by:

Pipes	up to 0.8 feet;
Window trim	0.1 feet more or less
Ornamental	up to 1.0 feet;
Air conditioner units	1.3 feet.

2. Party Wall Agreement between Susan P. Hammond and Henry P. McLean dated June 6, 1853, recorded June 14, 1983 in Liber 643 page 319.
3. Party Wall Agreement between Frederick Wannemacher and John D. Hassinger dated April 10, 1862, recorded March 20, 1862 in Liber 872 page 309.
4. Boundary Line Agreement between Joseph Manheimer, 307 West 38th Street Inc. and 135 Broadway Holding Corporation dated November 22, 1926, recorded December 31, 1926 in Liber 3585 page 142.

Exhibit B-1

NY 77529680

EXHIBIT C

Form of Tenant Estoppel Certificate

TENANT ESTOPPEL CERTIFICATE

The undersigned as Tenant under that certain Lease (the "***Lease***") made and entered into as of _____ with [Ground Tenant] a [_____] ("***Landlord***"), for premises on the [_____] floor of the building located at [_____] , New York, New York [_____] (the "***Property***"), certifies as follows:

1. Attached hereto as Exhibit A are true and correct copies of the Lease and all amendments and modifications thereto. The documents contained in Exhibit A represent the entire agreements between the parties as to the premises.

2. The undersigned has commenced occupancy of the premises described in the Lease (the "***Premises***") and currently occupies the Premises. The Lease Term commenced on [_____].

3. The Lease Term expires on [_____].

4. The Lease is in full force and effect and has not been modified, supplemented or amended in any way except as provided in Exhibit A.

5. Base Rent became payable on the Lease on _____.

6. All monthly installments of rent have been paid when due through _____. No installment of rent has been paid more than one (1) month in advance. The current monthly installment of rent for the Lease is \$_____.

7. The undersigned has deposited security in the form of _____ with Landlord in an amount equal to _____.

8. The undersigned's proportionate share of the operating costs and real property taxes is _____.

9. Tenant has not transferred, assigned, or sublet any portion of the Premises nor entered into any license or concession agreements with respect thereto except as follows: _____.

10. Tenant has not mortgaged, hypothecated, assigned, pledged, burdened or encumbered its leasehold interest in the Premises.

11. To the best of Tenant's knowledge, all conditions of the Lease to be performed by Landlord necessary to enforceability of the Lease have been satisfied and Landlord is not in default thereunder. Tenant has not sent to Landlord any notice of default with respect to Landlord's obligations under the Lease which default has not been cured.

12. All improvements required by the terms of the Lease to be made by Landlord have been completed to the satisfaction of Tenant in all respects and Landlord has fulfilled all of its duties under the Lease.

13. Tenant has no option, right of first refusal or other right to purchase the Property or any portion thereof, or any interest therein pursuant to the terms of the Lease or contained in any other document or agreement (written or oral) whatsoever. The only interest of Tenant in the Property is that of a tenant of the Property occupying the Premises pursuant to the terms of the Lease. Tenant hereby waives any option, right of first refusal or other right to purchase the Property or any portion thereof or interest therein that is contained in the Lease or any other document or agreement, if any.

14. To the best of Tenant's knowledge, as of the date hereof, there are no existing defenses or offsets that the undersigned has, which preclude enforcement of the Lease by Landlord.

15. Tenant has no unsatisfied claims, counterclaims, defenses or set-offs against Landlord arising from the Lease or otherwise, except as set forth in Exhibit B attached hereto. Tenant is not entitled to any concession, rebate, allowance or free rent for any period after the date of this certification, except as set forth in Exhibit B attached hereto.

16. There are no actions, voluntary or otherwise, pending or, to the best of Tenant's knowledge, threatened against Tenant under the bankruptcy, reorganization, moratorium or similar law of the United States or any state thereof or any other jurisdiction.

17. The obligations of Tenant under the Lease are guaranteed by _____.

18. The undersigned acknowledges that this Tenant Estoppel Certificate may be delivered to the fee owner of the Property and acknowledges that it recognizes that if same is done, said owner will be relying upon the statements contained herein.

19. The undersigned acknowledges that this Tenant Estoppel Certificate may be delivered to a mortgagee or prospective mortgagee of the fee owner of the Property, or a prospective purchaser or ground lessee of the Property, and its prospective Mortgagee and acknowledges that it recognizes that if same is done, said mortgagee, prospective mortgagee, or prospective purchaser, ground lessee or prospective mortgagee will be relying upon the statements contained herein in making the loan or

acquiring the Property of which the Premises are a part, and that receipt by it of this certificate is a condition of making of the loan or acquisition of the Property.

20. If Tenant is a corporation, limited liability company or partnership, each individual executing this Tenant Estoppel Certificate on behalf of Tenant hereby represents and warrants that Tenant is a duly formed and existing entity qualified to do business in New York and that Tenant has full right and authority to execute and deliver this Tenant Estoppel Certificate and that each person signing on behalf of Tenant is authorized to do so.

Executed at _____ on the _____ day of _____, _____.

“Tenant”

[_____, a
_____]

By:

Name:

Title:

EXHIBIT A TO EXHIBIT C

Lease

(See Attached)

EXHIBIT B to EXHIBIT C

Claims/Counterclaims/Defenses/Setoffs/
Concessions/Rebates/Allowances/Free Rent

[To Be Inserted]

EXHIBIT D

Form of Approved SNDA

(See attached.)

RECORD AND RETURN TO:

Riemer & Braunstein LLP
Seven Times Square, Suite 2506 New
York, New York 10036
Attention: Steven J. Weinstein, Esq.

**SUBORDINATION, NON-DISTURBANCE AND
ATTORNMENMENT AGREEMENT**

JPMORGAN CHASE BANK, N.A.
(Administrative Agent)

and

GLENHILL ASSOCIATES, LLC
(Landlord)

and

GLENHILL ASSOCIATES LEASEHOLD, LLC
(GALLLC or Tenant)

and

GAY MEN'S HEALTH CRISIS, INC. (GMHC
Unit Owner)

Dated: as of _____, 2020

Location: 307 West 38th Street, New York, New York

**SUBORDINATION, NONDISTURBANCE
AND ATTORNMENT AGREEMENT**

THIS SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT (this “**Agreement**”) is made as of the ___ day of _____, 2020, among JPMORGAN CHASE BANK, N.A., whose mailing address is _____, as administrative agent (together with any successors or assigns, “**Administrative Agent**”), GLENHILL ASSOCIATES, LLC, a New York limited liability company having an office at c/o George Comfort & Sons, Inc., 200 Madison Avenue, New York, New York 10016, as landlord under the Lease (hereinafter defined) (together with any successor or assign, “**Landlord**”), GLENHILL ASSOCIATES LEASEHOLD, LLC, a New York limited liability company having an office at c/o George Comfort & Sons, Inc., 200 Madison Avenue, New York, New York 10016 (“**GALLLC**”, and, together with any successor or assign, including as set forth in Section 7, hereof, “**Tenant**”), and GAY MEN’S HEALTH CRISIS, INC., a New York not-for-profit corporation having an address at 307 West 38th Street, New York, New York 10016 (together with any successor or assign “**GMHC Unit Owner**”).

W I T N E S S E T H:

WHEREAS, Landlord (as hereinafter defined) is the owner of the fee interest in the land, located at 307 West 38th Street, New York, New York, and more particularly described on Exhibit A-1 annexed hereto and by this reference made a part hereof (such land, together with the building and other improvements located thereon, the “**Property**”); and

WHEREAS, Landlord and GALLLC entered into a certain Amended and Restated Agreement of Lease dated as of _____, 2020, demising the Property (as the same may be amended or supplemented from time to time with the written consent of Administrative Agent (and, subject to this Agreement, GMHC Unit Owner), the “**Lease**”); and

WHEREAS, GALLLC has subjected its leasehold interest in the land and its fee interest in the building and other improvements which are part of the Property to a condominium form of ownership, which condominium is known as the 307 West 38th Condominium (“**Condominium**”); and

WHEREAS, GMHC Unit Owner, as purchaser of the GMHC Unit (as defined and more particularly described on Exhibit A-2 attached hereto), and GALLLC, as seller of the GMHC Unit, entered into that certain Purchase and Sale Agreement, dated as of _____, 2020 (the “**Sale Agreement**”), pursuant to which GALLLC has sold its right, title and interest to the GMHC Unit to GMHC Unit Owner, as more particularly described in the Sale Agreement. In conjunction with such sale, GMHC Unit Owner has granted a mortgage interest in and to the GMHC Unit in favor of GALLLC pursuant to a certain Mortgage and Security Agreement dated as of _____, 2020 (the “**Unit Mortgage**”), such Unit Mortgage recorded or to be recorded in the Office of the City Register of the City of New York, New York (the “**Registry**”); and

WHEREAS, Administrative Agent is the mortgagee under that certain Mortgage Assumption, Consolidation and Modification Agreement dated as of October 31, 2017, recorded on December 5, 2017 in the Registry, as City Register File No. (CFRN) 20170004455677, (as the same may be amended, supplemented, extended, renewed, restated, replaced, substituted or otherwise modified from time to time, including without limitation, modifications which increase the principal amount secured thereby, collectively, the “**Mortgage**”), which encumbers, among other things, Landlord’s interests in the Property and the Lease, and GALLLC’s interest as declarant of the Condominium and as owner of the units of the Condominium (other than the GMHC Unit) (collectively, the “**Mortgaged Property**”); and

WHEREAS, Landlord, GALLLC and GMHC Unit Owner entered into that Omnibus Agreement, dated as of _____, 2020 (the “**Omnibus Agreement**”; with the Lease, the Sale Agreement, the Omnibus Agreement, the Unit Mortgage, and the Condominium Documents (as such term is defined in the Omnibus Agreement) being collectively referred to herein as the “**Transaction Documents**”, and with the Lease, the Sale Agreement and the Omnibus Agreement being referred to herein as the “**Landlord Documents**”) pursuant to which (i) certain obligations of the tenant under the Lease were assumed by GMHC Unit Owner, (ii) certain rights of the tenant under the Lease shall run to the benefit of GMHC Unit Owner, and (iii) certain obligations of landlord under the Lease shall run to the benefit of GMHC Unit Owner; and

WHEREAS, Administrative Agent, Landlord, Tenant and GMHC Unit Owner wish to enter into this Agreement (i) to confirm the subordination of the Lease to the lien of the Mortgage, (ii) to provide that, subject to the terms of this Agreement, GMHC Unit Owner’s possession of the GMHC Unit will not be disturbed in the event of foreclosure of the Mortgage, (iii) to provide that Tenant and, with respect to its interest in the Lease via the Omnibus Agreement, GMHC Unit Owner, will attorn to Purchaser (as hereinafter defined), and Purchaser will recognize Tenant and GMHC Unit Owner and (iv) to provide for certain other matters;

NOW, THEREFORE, in consideration of the premises and the execution of this Agreement by the parties, Landlord, Administrative Agent, Tenant and GMHC Unit Owner hereby agree as follows:

1. Definitions. For the purposes of this Agreement, the following terms shall have the following meanings:

Demised Premises: The portion of the Property now or hereafter conveyed to GMHC Unit Owner.

Person: An individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, governmental authority or other entity of whatever nature.

Purchaser: Any Person acquiring the Mortgaged Property (i) in any foreclosure or any action or proceeding (judicial or nonjudicial) instituted under or in connection with the

Mortgage, (ii) by delivery of a deed or assignment given in lieu of foreclosure, or (iii) by order of the United States Bankruptcy Court, and, with respect to (i), (ii) and (iii), such Person's successors and assigns.

2. Subordination. The Lease, the other Transaction Documents and Tenant's interest thereunder and GMHC Unit Owner's interests thereunder (including, by means of the Omnibus Agreement, GMHC Unit Owner's third-party interests thereunder, as applicable) are now and at all times shall continue to be subject and subordinate in each and every respect (except as otherwise expressly provided in this Agreement) to the Mortgage and to the lien of the Mortgage.

3. Nondisturbance. So long as the Lease is in full force and effect and there exists no default by GMHC Unit Owner under the Transaction Documents that (i) continues beyond the expiration of any applicable notice and grace period, and (ii) would either (x) permit Landlord to terminate the Lease or (y) permits GALLLC, or any other holder thereof, to foreclose the Unit Mortgage, (a) neither Administrative Agent nor Purchaser shall terminate the Lease nor shall Administrative Agent or Purchaser disturb or affect GMHC Unit Owner's right, title and interest to the GMHC Unit, or GMHC Unit Owner's use and possession of the GMHC Unit, in accordance with, but subject to the terms and provisions of, the Transaction Documents, or rights of GMHC Unit Owner under the Transaction Documents by reason of the subordination of the Lease to the Mortgage or in any foreclosure action or any other action or proceeding (judicial or otherwise) instituted under or in connection with the Mortgage, and (b) GMHC Unit Owner shall not be named or joined in any foreclosure action or other proceeding to enforce the Mortgage, unless GMHC Unit Owner is deemed a necessary party by the court or by applicable law, in which event GMHC Unit Owner may be so named or joined, but such naming or joining shall not otherwise be in derogation of the rights of GMHC Unit Owner, set forth in this Agreement.

4. Attornment and Recognition.

(a) If the interests of Landlord in any of the Mortgaged Property shall be transferred to Purchaser, then as applicable, (v) Tenant and GMHC Unit Owner, as applicable, shall be bound to Purchaser under all of the then executory terms, covenants and conditions of, together with all continuing obligations under, the Lease and the other Transaction Documents, as applicable, for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected by Tenant and GMHC Unit Owner, as applicable, in accordance with any option therefor in the Lease, with the same force and effect as if Purchaser were the landlord under the Lease (and the holder of Landlord's interests under the Transaction Documents), (w) Purchaser shall recognize the rights of Tenant and GMHC Unit Owner, as applicable, under the Transaction Documents, (x) the Lease shall continue in full force as a direct lease between Tenant and Purchaser and the respective executory and continuing rights and obligations of Tenant and Purchaser, to the extent of the then remaining balance of the term of the Lease and any such extensions and renewals, shall be and are the same as set forth therein, (y) the Omnibus Agreement and the Sale Agreement shall continue in full force as direct agreements between GMHC Unit Owner and Purchaser, and the respective executory and continuing rights and obligations of GMHC Unit Owner and Purchaser, to the extent of the then remaining balance of the term of the

Lease, and any such extensions and renewals, shall be and are the same as set forth therein, and (z) Purchaser shall not be:

(i) liable for any act or omission of or default by Landlord or any prior landlord under any of the Landlord Documents; provided, however, the foregoing shall not relieve Purchaser from any obligation to remedy any default (but only to the extent such default is not personal to Landlord or any prior landlord and therefore uncurable by Purchaser, including, without limitation, a default resulting from the bankruptcy of Landlord) that (a) accrues after the date that Purchaser succeeds to Landlord's interest in the Mortgaged Property or (b) is a default which both (y) causes an actual and material impairment of GMHC Unit Owner's permitted use or occupancy of the Demised Premises for the contemplated uses in accordance with the terms of the Transaction Documents, including, without limitation, (A) any failure to perform or provide all services and repairs (including, without limitation, any restoration of the Property following a casualty) to be performed or provided pursuant to the Transaction Documents by Landlord, Tenant and/or, if then controlled by Purchaser, the Condominium Board (as such term is defined in the Condominium Documents), (B) any failure by Landlord, Tenant and/or, if then controlled by Purchaser, the Condominium Board to cooperate with GMHC Unit Owner in an instance where any of the Transaction Documents require Landlord, Tenant and/or the Condominium Board to do so, and (C) if the Purchaser is the owner of the Second Floor Expansion Unit (as defined in the Sale Agreement), any failure by Tenant to deliver the Second Floor Expansion Unit to GMHC Unit Owner, and (z) is of a continuing nature that Purchaser can cure through the exercise of commercially reasonable efforts;

(ii) subject to any credits, claims, setoffs or defenses which Tenant (or GMHC Unit Owner) might have pursuant to the express provisions of any of the Transaction Documents against Landlord or any prior landlord as a result of any acts or omissions of Landlord or any prior landlord, unless Tenant (or GMHC Unit Owner) shall have notified Administrative Agent and given Administrative Agent an opportunity to cure the default or the event giving rise to any such credit, claim, setoff or defense in accordance with the provisions of paragraph 5(b) below;

(iii) bound by any fixed rent, basic rent, additional rent, installment sales payment, or other amounts which Tenant (or GMHC Unit Owner), including, without limitation, any Common Charges (including, without limitation, Fixed Annual Rent that is a component of Common Charges payable by GMHC Unit Owner through Tenant) or Installment Purchase Payments (as such terms are defined in the Transaction Documents), may have paid to Landlord more than thirty days in advance of the respective due dates set forth in any of the Transaction Documents therefor, and all such prepaid amounts (to the extent paid more than thirty days in advance) shall remain due and owing without regard to such prepayment;

(iv) bound by any cancellation or termination of any of the Transaction Documents made without Administrative Agent's prior written consent;

(v) bound by any amendment or modification of the Lease or any of

the other Transaction Documents or surrender of the Demised Premises made without Administrative Agent's prior written consent; provided, however, Administrative Agent's consent shall not be required with respect to any amendment or modification of the Lease or any of the other Transaction Documents which is merely being entered into by Landlord, Tenant and/or GMHC Unit Owner to evidence the exercise by GMHC Unit Owner of any right or option expressly granted to it under any Transaction Document as each exist on the date hereof; provided such amendment or modification does not otherwise modify or amend the terms of the Lease or any of the other Transaction Documents;

(vi) responsible for the making of repairs in or to the Property in the case of damage or destruction of the Property or any part thereof due to fire or other casualty or by reason of a condemnation, unless Purchaser (as landlord under the Lease) or Tenant (under the Condominium Documents), as the case may be, shall be obligated under the Lease or the Condominium Documents to make such repairs and has received the applicable net proceeds of any insurance or taking attributable thereto; provided however, if for any reason Purchaser does not make any such required repairs within the later of (x) twelve months after such damage, destruction or condemnation, or (y) thirty days after written request from GMHC Unit Owner, then to the extent that GMHC Unit Owner has such right under the Transaction Documents, GMHC Unit Owner shall have the right to terminate the Transaction Documents on thirty days written notice to the Purchaser (the "**Termination Period**"); provided further, Purchaser shall have the right during the Termination Period to notify GMHC Unit Owner in writing of Purchaser's election to undertake such repairs, and provided that Purchaser promptly commences such repairs, proceeds therewith in good faith and in an expeditious manner, and completes such repairs within six months of such written election, GMHC Unit Owner shall have no right to terminate due to such occurrence;

(vii) obligated to make any payment to Tenant (or GMHC Unit Owner) required to be made by Landlord prior to the date on which the interests of Landlord under any of the Transaction Documents are transferred to Purchaser, except for (x) the timely return of any purchase deposit to GMHC Unit Owner actually received by Purchaser that is required to be returned pursuant to the terms of the Transaction Documents and (y) the credit or refund to Tenant (or GMHC Unit Owner) as provided under any of the Transaction Documents of any prepayment of rent or other charges paid by Tenant (or GMHC Unit Owner) if such prepayment is actually received by Purchaser;

(viii) liable for any obligation of Landlord under the Transaction Documents accruing after an assignment by Purchaser of its interest under such Transaction Documents, provided such obligation has been assumed by Purchaser's assignee; or

(ix) obligated to complete any Seller's Work (as such term is defined in the Sale Agreement), although if Purchaser elects not to (or Purchaser otherwise does not) complete Seller's Work with respect to the Second Floor Expansion Unit, Purchaser shall recognize GMHC Unit Owner's right to complete any such Seller's Work that shall not have been completed, together with GMHC Unit Owner's right to offset against the obligation of GMHC Unit Owner under the Sale Agreement all reasonable costs incurred by GMHC Unit Owner to effect such

completion, together with interest thereon, at the Default Rate (as such term is defined in the Lease) from the date that GMHC Unit Owner shall have incurred such costs until the date that GMHC Unit Owner shall have fully offset the same; but only to the extent that GMHC Unit Owner provides to Purchaser notice and reasonable written evidence of the incurrence thereof.

(b) Tenant hereby agrees to attorn to Purchaser, including Administrative Agent if it be Purchaser, as its landlord, said attornment to be effective and self-operative upon Purchaser's succeeding to the interest of Landlord under the Lease without the execution of any further instruments. GMHC Unit Owner hereby also agrees to allow and recognize Purchaser, including Administrative Agent if it be Purchaser, to be substituted for Landlord for all purposes under the Landlord Documents, said substitution and recognition to be effective and self-operative upon (i) Purchaser's succeeding to the interest of Landlord under the Lease without the execution of any further instruments and (ii) Purchaser's having notified GMHC Unit Owner thereof. Tenant and GMHC Unit Owner agree, however, to execute and deliver at any time, and from time to time, upon the request of Purchaser or any other holder(s) of any indebtedness or other obligations secured by the Mortgage, any instrument or certificate which, in its reasonable judgment, Landlord, Purchaser or such other holder(s), as the case may be, deems necessary or appropriate in any such foreclosure proceeding or, conveyance in lieu of foreclosure or otherwise to evidence such attornment or substitution and recognition, as applicable. Upon such attornment and substitution and recognition, the Lease shall, subject to the terms of this Agreement, continue in full force as a direct lease between Tenant and Purchaser, and the Landlord Documents to which GMHC Unit Owner is a party shall continue in full force as direct agreements between GMHC Unit Owner and Purchaser, and the respective rights and obligations of Tenant, GMHC Unit Owner and Purchaser upon such attornment and substitution and recognition, to the extent of the then remaining balance of the term of the Lease and any such extensions and renewals, shall be and are the same as now set forth in the Lease and the other Transaction Documents to which GMHC Unit Owner is a party, as modified by this Agreement.

(c) If Purchaser shall succeed to the interests of landlord in any of the Mortgaged Property by reason of a foreclosure or otherwise:

(i) The liability of Purchaser under the Lease or any of the other Landlord Documents for damages or otherwise shall be limited to Purchaser's interest in the Property including rents therefrom. Neither Purchaser nor any of the directors, officers, employees, shareholders, partners, principals, agents or servants of Purchaser shall have any liability (personal or otherwise) hereunder beyond Purchaser's interest in the Property.

(ii) No other property or assets of Purchaser or any property of the directors, officers, employees, shareholders, partners, principals, agents or servants of Purchaser shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies hereunder or under the Lease.

(d) Notwithstanding anything to the contrary contained herein, Administrative Agent, Tenant and GMHC Unit Owner hereby acknowledge and agree that:

(i) nothing contained herein shall prohibit Administrative Agent from exercising any of its rights and remedies under the Mortgage and related loan documents (including, without limitation, foreclosing on the Declarant Unit (as defined in the Condominium Documents)) regardless of whether Tenant and/or GMHC Unit Owner is in default under the Lease or any of the other Transaction Documents, subject, however, to Administrative Agent's agreement pursuant to the express terms and conditions set forth in Section 3 of this Agreement not to terminate the Lease or the other Landlord Documents and/or disturb or affect GMHC Unit Owner, and subject to Administrative Agent's agreement pursuant to the express terms and conditions set forth in Section 4(a) of this Agreement to recognize the rights of GMHC Unit Owner;

(ii) in the event that the Lease is terminated for any reason (other than as a result of a default by GMHC Unit Owner under the Transaction Documents), including, without limitation, as a result of a rejection of the Lease in a bankruptcy proceeding, upon Administrative Agent's or GMHC Unit Owner's request in its sole discretion, GMHC Unit Owner and the then current fee owner of the Property (which fee owner may be Administrative Agent or Purchaser in the event that such party shall succeed to the interests of landlord) shall enter into a new space lease for the premises comprising the GMHC Unit and other applicable documents with and such space lease and other applicable documents shall be upon substantially the same economic and other terms and conditions as the prior Agreement of Lease dated as of August 28, 2017 between Landlord and GMHC Unit Owner for the balance of the unexpired term of said lease as would have existed immediately prior to such termination so as to place the parties in the same economic condition as they would have been in had such termination not occurred, except that Administrative Agent or Purchaser, as applicable, shall assume in writing the obligations of Landlord to pay all Real Estate Taxes (as such term is defined in the Lease) on the premises comprising the GMHC Unit to the extent GMHC Unit Owner would no longer be eligible for an exemption from the payment of such Real Estate Taxes as a result of the parties having entered into such new space lease;

(iii) all of the respective rights of Tenant and GMHC Unit Owner (but not any of their respective obligations under the Lease or the other Transaction Documents which are expressly required pursuant to the terms of the Lease or the other Transaction Documents to survive any termination of the Lease or the other Transaction Documents), title and interest in the Lease, the other Transaction Documents and the GMHC Unit shall be extinguished upon a termination of the Lease and/or the other applicable Transaction Documents by Administrative Agent, Landlord or Purchaser (1) pursuant to an express provision set forth in the Lease and/or the other Transaction Documents or (2) in connection with Administrative Agent exercising its rights and remedies under the Mortgage and related loan documents at a time when a default by GMHC Unit Owner under any of the Transaction Documents has occurred that (A) continues beyond the expiration of any applicable notice and grace period and (B) would permit a termination of the Lease pursuant to the terms of the Transaction Documents; and

(iv) in the event of any termination of the Lease by reason of GMHC Unit Owner's default under any of the Transaction Documents, and if and to the extent that such termination is otherwise permitted pursuant to the terms of the Transaction Documents, this

Agreement shall, automatically and without further act of the parties, terminate and be of no further force or effect from and after the applicable termination date.

5. Covenants of Tenant and GMHC Unit Owner.

(a) Tenant and GMHC Unit Owner, as applicable, agree for the benefit of Administrative Agent that, so long as the Mortgage remains a lien upon the Property or any interest therein (including any leasehold estate):

(i) Tenant shall not pay any rent payable by Tenant pursuant to the Transaction Documents (including, without limitation, Additional Rent (as such term is defined in the Lease)) more than 30 days in advance of the date due and payable, and GMHC Unit Owner shall not pay any Common Charges (including, without limitation, Fixed Annual Rent that is a component of Common Charges payable by GMHC Unit Owner through Tenant) or Installment Purchase Payments (as such terms are defined in the Transaction Documents) payable by GMHC Unit Owner pursuant to the Transaction Documents more than 30 days in advance of the date due and payable;

(ii) Tenant will not surrender Tenant's estate under the Lease, and GMHC Unit Owner will not surrender the GMHC Unit, except in such instances as such surrender would be permitted pursuant to an express provision set forth in the Lease or the other

Transaction Documents as of the date hereof;

(iii) Tenant and GMHC Unit Owner, as applicable, will not consent to any modification or amendment to the terms of the Lease or any of the other Transaction Documents without consent of Administrative Agent; provided, however, Administrative Agent's consent shall not be required with respect to any amendment or modification of the Lease or any of the other Transaction Documents which is merely being entered into by Landlord, Tenant and/or GMHC Unit Owner to evidence the exercise by GMHC Unit Owner of any right or option expressly granted to it under any Transaction Document as each exist on the date hereof; provided such amendment or modification does not otherwise modify or amend the terms of the Lease or any of the other Transaction Documents; and

(iv) Tenant and GMHC Unit Owner, as applicable, will not consent to termination of the Lease or any of the other Landlord Documents by Landlord thereunder without consent of Administrative Agent; provided, however, that Administrative Agent's consent shall not be required with respect to any termination of the Lease or surrender of the Demised Premises that is expressly provided for or permitted under the Lease or any of the other Transaction Documents as of the date hereof, so long as Administrative Agent is given notice and the opportunity to cure such default, if applicable, in accordance with the terms of this Agreement.

(b) If any act or omission of Landlord, Tenant or the Condominium Board would give Tenant or GMHC Unit Owner, as applicable, the right, immediately or after notice or lapse of a period of time or both, to cancel or terminate any of the other Transaction Documents (other than the Lease, as to which clause (a)(iv) above shall apply), to claim a partial or total eviction or constructive eviction, or to seek any credits, claims, offsets or defenses, Tenant and GMHC Unit Owner, as applicable, shall not exercise such right and no notice of cancellation, termination or abatement of rents, additional rents or other sums shall be effective, unless and until:

(i) Tenant or GMHC Unit Owner, as applicable, has given written notice of such act or omission to Landlord and Administrative Agent;

(ii) Landlord shall have not cured the same within the time limits set forth in the Lease or the other Transaction Documents, as applicable; and

(iii) Administrative Agent shall have failed to remedy such act or omission within the period of time equal to the cure period available to Landlord under the Lease or the other Transaction Documents, as applicable, plus 60 days and commencing on the date that Administrative Agent shall have received notice from Tenant or GMHC Unit Owner, as applicable, of such default.

Notwithstanding the foregoing, if such default is not capable of cure within the relevant 60-day period, then, provided that Administrative Agent or Purchaser, as the case may be, has commenced such cure within the relevant 60-day period, then such period shall be extended so long as Administrative Agent or Purchaser, as the case may be, is thereafter diligently pursuing any action necessary to cure such default or remedy such circumstance.

(c) Tenant shall promptly notify Administrative Agent of any default by Landlord under the Lease or any of the other Landlord Documents, as applicable, or any circumstance which would entitle Tenant or GMHC Unit Owner to cancel or terminate the Lease or any of the other Transaction Documents, as applicable, or abate or offset against the rents, additional rents or other sums payable thereunder at the same time as such a notification is delivered to Landlord. GMHC Unit Owner shall promptly notify Administrative Agent of any default by Landlord, Tenant and/or the Condominium Board (as applicable) under any of the Transaction Documents, or any circumstance which would entitle GMHC Unit Owner to cancel or terminate any of the Transaction Documents, or abate or offset against the rents, additional rents or other sums payable thereunder at the same time as such a notification is delivered to Landlord, Tenant and/or the Condominium Board (as applicable). Any failure by Tenant to comply with any of Tenant's obligations set forth in this Section 5 or any other provision of this Agreement shall not be deemed to be a failure of GMHC Unit Owner to perform hereunder, nor shall such failure by Tenant reduce or impair any of GMHC Unit Owner's rights or protections under this Agreement.

6. Payment to Administrative Agent. After notice is given to Tenant or GMHC Unit Owner by Administrative Agent that the rentals or other monies under the Lease or other Transaction Documents, as applicable, should be paid to Administrative Agent, Tenant or GMHC Unit Owner, as applicable, shall pay to Administrative Agent, or in accordance with the directions of Administrative Agent, all rentals and other monies then due and to become due to Landlord or Tenant under the Lease or the other Transaction Documents, as applicable, and (i) Landlord hereby expressly authorizes Tenant and GMHC Unit Owner to make such payments to Administrative Agent and hereby fully releases and discharges Tenant and GMHC Unit Owner of and from any liability to Landlord on account of any such payments, and (ii) Tenant hereby expressly authorizes GMHC Unit Owner to make such payments to Administrative Agent and hereby fully releases and discharges GMHC Unit Owner of and from any liability to Tenant on account of any such payments.

7. Successors and Assigns. This Agreement shall inure to the benefit of and shall be binding upon Tenant, GMHC Unit Owner, Landlord, Administrative Agent and Purchaser, and their respective heirs, personal representatives, successors and assigns. Administrative Agent and GMHC Unit Owner acknowledge and agree that, upon recording of the Declaration, the Condominium Board shall succeed to all right, title and interest of Tenant under the Lease.

8. Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to any principles of conflict of laws.

9. Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

10. Recording. This Agreement may be recorded in the Office of the New York City Registrar, New York County, New York land records, by Tenant or GMHC Unit Owner at Tenant's or GMHC Unit Owner's sole cost and expense. After the termination of the Lease, promptly upon request by Administrative Agent or Purchaser, Tenant shall, at Tenant's sole cost and expense, execute and record in the same office an instrument in a form reasonably requested by Administrative Agent or Purchaser to evidence that the Lease has been terminated and that this Agreement is of no further force or effect.

11. Consent by Landlord. Landlord is executing this Agreement for the purpose of (i) evidencing its consent hereto, (ii) agreeing to be bound by the provisions of hereof that are applicable to Landlord, and (iii) acknowledging that nothing contained herein or resulting from the parties' performance hereof creates any offsets, defenses or claims under the Mortgage, the loan documents related thereto or the Lease. Administrative Agent and Tenant acknowledge that nothing contained herein is intended to modify the Mortgage or the loan documents related thereto.

12. Notices. Any notice, request or demand given or made under this Agreement shall be in writing and shall be hand delivered or sent by Federal Express or other reputable courier service, and shall be deemed given the earlier of when delivered or one (1) Business Day after deposit with Federal Express or other reputable courier service, addressed as follows:

If to Administrative Agent, addressed to:

[TBD]

If to Landlord, addressed to:

Glenhill Associates, LLC c/o
George Comfort & Sons, Inc.
200 Madison Avenue
New York, New York 10016

If to Tenant, addressed to:

The Board of Managers of 307 West 38th Condominium
c/o George Comfort & Sons, Inc. 200 Madison Avenue
New York, New York 10016
Attention: Mr. Dana Comfort

If to GMHC Unit Owner, addressed to:

Gay Men's Health Crisis, Inc.
307 West 38th Street
New York, NY 10016
Attention: Vice President - Operations

with a copy to:

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019
Attention: Meredith J. Kane, Esq. (Ref. 22218/001)

Each party to this Agreement may designate a change of address by notice given, as herein provided, to the other party fifteen (15) days prior to the date such change of address is to become effective.

13. Miscellaneous.

(a) GMHC Unit Owner and Tenant acknowledge and agree that neither Administrative Agent, nor Landlord nor Purchaser shall be prohibited or precluded from terminating the Lease or any of the other Transaction Documents and thereby extinguishing the GMHC Unit and GMHC Unit Owner's respective rights (but not any obligations under the Lease or the other Transaction Documents which are expressly required to survive any termination of the Lease or the other Transaction

Documents), title and interest therein in connection with Administrative Agent exercising its rights and remedies under the Mortgage and related loan documents at a time when a default by GMHC Unit Owner under any of the Transaction Documents has occurred that (A) continues beyond the expiration of any applicable notice and grace period and (B) would permit a termination of the Lease pursuant to the terms of the Transaction Documents.

(b) Nothing in this Agreement shall adversely affect or impair the rights and remedies available to the Tenant or any subsequent holder, including, without limitation, the Administrative Agent or the Purchaser, under the Unit Mortgage and Sale Agreement in the event of a default by GMHC Unit Owner thereunder.

(c) Notwithstanding any provisions of this Agreement, Administrative Agent's consent shall not be required with respect to any modification of the Transaction Documents made solely to accommodate and memorialize the inclusion of the Second Floor Expansion Unit into the GMHC Unit, to the extent contemplated under the currently existing Transaction Documents; it being agreed that all references elsewhere in this Agreement to the Transaction Documents "as of the date hereof" (or words to the same effect) shall be construed to refer to the Transaction Documents as the same exist upon the modification permitted pursuant to this Section 13(c).

(d) Administrative Agent shall not be liable with respect to any representations, warranties or indemnities related thereto from Landlord, whether pursuant to the Lease or otherwise, including, but not limited to, any representation, warranty or related indemnity concerning the use of the Property, compliance with zoning, landlord's title, landlord's authority, habitability or fitness for purposes or commercial suitability, or hazardous wastes, hazardous substances, toxic materials or similar phraseology relating to the environmental condition of the Property or any portion thereof, but nothing herein shall be deemed to limit the other remedies set forth in the Transaction Documents.

14. Modification. This Agreement may not be modified in any manner or terminated except by an instrument in writing executed by the parties hereto.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have executed the foregoing agreement as of the day and year first hereinabove written.

ADMINISTRATIVE AGENT:

JPMORGAN CHASE BANK, N.A.,

By: _____
Name:
Title:

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

On _____, 2020, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

LANDLORD:

GLENHILL ASSOCIATES, LLC, a New York limited liability company, its sole member

By: Glenhill Manager LLC, a Delaware limited liability company, its managing member

By: Glenhill Holdings LLC, a Delaware limited liability company, its sole member

By:

Name: Dana Comfort
Title: Managing Member

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

On _____, 2020, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

TENANT:

GLENHILL ASSOCIATES LEASEHOLD, LLC,
a New York limited liability company

By: GLENHILL ASSOCIATES, LLC, a New York limited liability company, its sole member

By: Glenhill Manager LLC, a Delaware limited liability company, its managing member

By: Glenhill Holdings LLC, a Delaware limited liability
company, its sole member

By:

Name: Dana Comfort

Title: Managing Member

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

On _____, 2020, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

GMHC UNIT OWNER:

GAY MEN’S HEALTH CRISIS, INC.

By: _____
Name:
Title:

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

On _____, 2020, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

EXHIBIT "A-1"
LEGAL DESCRIPTION (FEE)

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of 38th Street, distant 100 feet 5 inches westerly from the corner formed by the intersection of the said northerly side of 38th Street and the westerly side of Eighth Avenue;

RUNNING THENCE northerly to a point distant 100 feet westerly from the westerly side of Eighth Avenue, 44 feet 9 inches;

THENCE still northerly and parallel with the westerly side of Eighth Avenue, 54 feet to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 25 feet;

THENCE northerly parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 98 feet 9 inches to the southerly side of 39th Street;

THENCE westerly along said southerly side of 39th Street, 25 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, 98 feet 9 inches to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 100 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, and part of the distance through a party wall, 49 feet 9 inches;

THENCE easterly and parallel with the northerly side of 38th Street, 3-1/4 inches;

THENCE again southerly and parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 49 feet to the northerly side of 38th Street; and

THENCE easterly along said northerly side of 38th Street, 149 feet 3-3/4 inches to the point or place of BEGINNING.

EXHIBIT "A-2"
LEGAL DESCRIPTION (GMHC UNIT)

The leasehold condominium unit(s) described below (hereinafter collectively referred to as the "Unit") known as the GMHC Unit in the building (the "Building") to be known as the 308 West 37th Condominium and by the street number 308 West 37th Street, Borough of Manhattan, City, County and State of New York, said Unit being designated and described as the GMHC Unit in the declaration dated _____, 2020 made by Glenhill Associates Leasehold, LLC pursuant to Article 9-B of the Real Property Law of the State of New York establishing a plan for qualified leasehold condominium ownership of the Building (which declaration, as amended and restated, is hereinafter referred to as the "Declaration"). The premises within which the Unit is located (the "Land") is more particularly described below.

<u>UNIT</u>	<u>TAX LOT</u>	<u>COMMON ELEMENTS %</u>
6	1206	0.4225%
17	1217	5.6267%
18	1218	1.2900%
19	1219	7.1701%
20	1220	7.1701%
21	1221	5.9302%
23	1223	5.8902%
24	1224	5.8902%

The Land upon which the Building containing the Unit is situated is bounded and described as follows:

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of 38th Street, distant 100 feet 5 inches westerly from the corner formed by the intersection of the said northerly side of 38th Street and the westerly side of Eighth Avenue;

RUNNING THENCE northerly to a point distant 100 feet westerly from the westerly side of Eighth Avenue, 44 feet 9 inches;

THENCE still northerly and parallel with the westerly side of Eighth Avenue, 54 feet to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 25 feet;

THENCE northerly parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 98 feet 9 inches to the southerly side of 39th Street;

THENCE westerly along said southerly side of 39th Street, 25 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, 98 feet 9 inches to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 100 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, and part of the distance through a party wall, 49 feet 9 inches;

THENCE easterly and parallel with the northerly side of 38th Street, 3-1/4 inches;

THENCE again southerly and parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 49 feet to the northerly side of 38th Street; and

THENCE easterly along said northerly side of 38th Street, 149 feet 3-3/4 inches to the point or place of BEGINNING.

EXHIBIT E

Intentionally Omitted

(See attached.)

Exhibit E-1
EXHIBIT F

Form of Ground Lease Memo

MEMORANDUM OF LEASE

GLENHILL ASSOCIATES, LLC,

Landlord

-and-

GLENHILL ASSOCIATES LEASEHOLD, LLC

Tenant

Dated as of _____, 2020

The Premises affected by the within instrument lies in the
City of New York, County of New York, State of New York

Address of Property:

307 West 38th Street, New York, New York (Block 762 Lot 25) Record
and Return to:

Stroock & Stroock & Lavan LLP

180 Maiden Lane

New York, New York 10038

Attention: Trevor T. Adler, Esq.

Memorandum of Lease

Pursuant to Section 291-c of

The New York Real Property Law

Lease and Date of

Execution of Lease:

Amended and Restated Agreement of Lease between Glenhill Associates, LLC, as landlord, and Glenhill Associates Leasehold, LLC, as tenant, dated as of _____, 2020 (the "**Lease**"). The provisions of the Lease are hereby incorporated herein by reference.

Name and Address of
Landlord:

Glenhill Associates, LLC
c/o George Comfort & Sons, Inc.
200 Madison Avenue
New York, New York 10016

Name and Address of
Tenant:

Glenhill Associates Leasehold, LLC
c/o George Comfort & Sons, Inc.
200 Madison Avenue
New York, New York 10016

Description of Demised

Premises: The parcels of land more particularly bounded and described on Exhibit A annexed hereto (the “**Land**”) together with the buildings and other improvements now or hereafter erected thereon (collectively, the “**Building**”) known as 307 West 38th Street, New York, New York (with said Land and Building being hereinafter collectively referred to as the “**Premises**”).

Term of Lease: The term of the Lease shall commence on _____ (the “**Commencement Date**”), and shall expire on _____ (the “**Expiration Date**”), both dates inclusive.

Memorandum of Lease: This instrument, executed in connection with the Lease, is intended to be and is entered into as a memorandum thereof solely for the purpose of recordation and the giving of notice of the tenancy created by the Lease and of the rights and obligations of Landlord and Tenant thereunder, and shall not, in any event, be construed to change, vary, modify or interpret the Lease or any of the terms, covenants or conditions thereof, or any part thereof, which are set forth, described or summarized herein, and reference is hereby made to the Lease for any and all purposes. All capitalized terms used in this Memorandum of Lease shall have, unless otherwise defined herein, the meanings ascribed to them in the Lease. This Memorandum is made pursuant to Section 291-c and Section 294 of the Real Property Law of the State of New York.

Counterparts: This Memorandum of Lease may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Memorandum of Lease on the day and year first above written.

LANDLORD:

GLENHILL ASSOCIATES, LLC, a New York limited liability company, its sole member

By: Glenhill Manager LLC, a Delaware limited liability company, its managing member

By: Glenhill Holdings LLC, a Delaware limited liability company, its sole member

By:

Name: Dana Comfort

Title: Managing

Member

TENANT:

GLENHILL ASSOCIATES LEASEHOLD, LLC,

Exhibit F-2 NY

a New York limited liability company

By: GLENHILL ASSOCIATES, LLC, a New York limited liability company, its sole member

By: Glenhill Manager LLC, a Delaware limited liability company, its managing member

By: Glenhill Holdings LLC, a Delaware limited liability company, its sole member

By:

Name: Dana Comfort
Title: Managing Member

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

On the _____ day of _____ in the year _____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

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

On the _____ day of _____ in the year _____, before me, the undersigned, personally appeared ___, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

Exhibit A

Legal Description

[To be Inserted]

Exhibit F-4 NY

EXHIBIT “J4” Fully Executed Omnibus Agreement- November 6, 2020

OMNIBUS AGREEMENT

This OMNIBUS AGREEMENT (this “Agreement”) is entered into as of November 6, 2020, by and among **GLENHILL ASSOCIATES, LLC**, a New York limited liability company, having an office c/o George Comfort & Sons, Inc., at 200 Madison Avenue, New York, New York 10016 (“Ground Landlord”), **GLENHILL ASSOCIATES LEASEHOLD, LLC**, a New York limited liability company, having an office c/o George Comfort & Sons, Inc., at 200 Madison Avenue, New York, New York 10016 (“Ground Tenant” or “Declarant”), and **GAY MEN’S HEALTH CRISIS, INC.**, a New York not-for-profit corporation with an address at 307 West 38th Street, New York, New York 10018 (“GMHC”). Capitalized terms used but not defined in this Agreement shall have the meanings ascribed to them in the Other Transaction Documents (as such term is defined below).

WHEREAS, pursuant to that certain Amended and Restated Agreement of Lease (as the same may be modified or amended, the “Ground Lease”), dated as of even date herewith, between Ground Landlord, as landlord, and Ground Tenant, as tenant, Ground Landlord leased to Ground Tenant that certain property located at 307 West 38th Street in the Borough of Manhattan, City of New York, together with all buildings and improvements thereon, now existing or hereafter constructed, as more particularly described in the Ground Lease (the “Premises”);

WHEREAS, pursuant to the terms of the Ground Lease, Declarant intends to subject the leasehold interest pursuant to the Ground Lease to a condominium form of ownership to be established pursuant to that certain declaration of 307 West 38th Condominium dated as of even date herewith, and to be recorded in the Office of the Register of The City of New York, New York County (the “Declaration”), which Declaration, as the same may be modified or amended and together with all exhibits and/or rules or regulations issued pursuant thereto, including, without limitation, the Condominium By-Laws, shall hereinafter be referred to as the “Condominium Documents”;

WHEREAS, GMHC, as buyer, and Ground Tenant, as seller, have entered into that certain Purchase and Sale Agreement (the “GMHC Sale Agreement”), dated as of the date hereof, pursuant to which Ground Tenant shall sell to GMHC all of Ground Tenant’s rights and title to the GMHC Unit, as more particularly described in the GMHC Sale Agreement;

WHEREAS, GMHC, as mortgagor, and Ground Tenant, as mortgagee, have entered into that certain mortgage (the “Installment Payments Mortgage”), dated as of the date hereof, pursuant to which GMHC’s payment obligations to Ground Tenant pursuant to the GMHC Sale Agreement are being secured (with the Ground Lease, Condominium Documents, GMHC Sale Agreement and Installment Payments Mortgage being referred to herein, collectively, as the “Other Transaction Documents”);

WHEREAS, Ground Landlord has consented to the Condominium Documents, and to the terms and conditions thereof;

WHEREAS, it is the intention of Ground Landlord, GMHC and Ground Tenant that (i) certain derivative obligations of Ground Tenant under the Ground Lease shall be assumed by

GMHC, as set forth herein and in the Other Transaction Documents, and (ii) certain obligations of Ground Tenant under the Ground Lease shall be assumed by the Condominium Board and/or the Declarant Unit Owner, all as more fully set forth in the Other Transaction Documents, and Ground Landlord acknowledges and agrees to the same and to the performance by such parties of such assumed obligations; and

WHEREAS, it is the intention of Ground Landlord, GMHC and Ground Tenant that certain obligations of Ground Landlord affecting the GMHC Unit under the Ground Lease shall run to the benefit of GMHC, and GMHC shall have recourse to Ground Landlord for certain obligations of Ground Tenant under the Other Transaction Documents, as set forth herein and in the Other Transaction Documents;

NOW, THEREFORE, in consideration of the mutual covenants, representations and provisions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby conclusively acknowledged, the parties hereto hereby agree as follows:

1. Ground Landlord Enforcement of GMHC Obligations.

(a) GMHC, in its capacity as the GMHC Unit Owner, hereby acknowledges and agrees that (i) if the Termination Requirements (as such term is defined in the Condominium Documents) shall have been satisfied as to the GMHC Unit Owner pursuant to the terms of the Condominium Documents, Ground Landlord shall have the right to exercise all remedies under the terms of the Condominium Documents against the GMHC Unit Owner on behalf of, and/or in lieu of, Declarant and/or the Condominium Board, together with or separately from the exercise of Ground Landlord's rights against Ground Tenant under the Ground Lease, and (ii) Ground Landlord shall have the right, subject to complying with the terms of Article 13 of the GMHC Sale Agreement, to exercise all remedies under the GMHC Sale Agreement against the GMHC Unit Owner on behalf of, and/or in lieu of, Declarant (in its capacity as Seller under the GMHC Sale Agreement), together with or separately from the exercise of Ground Landlord's rights against Ground Tenant under the Ground Lease.

(b) Each of the parties to this Agreement agrees to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in any court of competent jurisdiction with venue in the City and County of New York.

(c) The provisions of this Paragraph 1 shall survive the expiration or sooner termination of the term of the Ground Lease (the "Ground Lease Term").

2. Holdover.

(a) The GMHC Unit Owner shall, at the expiration or sooner termination of the Ground Lease Term, or at such other time that the GMHC Unit Owner shall be required (pursuant to the express terms of this Agreement or of any of the Other Transaction Documents) to permanently surrender and vacate the GMHC Unit (or relevant portion thereof), quit and surrender to Ground Landlord the GMHC Unit (or relevant portion thereof), broom clean, in good order and condition, ordinary wear and damages which the GMHC Unit Owner is not required to repair as provided in the Other Transaction Documents excepted, and the GMHC

Unit Owner shall remove all its property from the GMHC Unit (or relevant portion thereof). (All references in this Agreement to the “sooner termination of the Ground Lease Term” shall be deemed to mean an early termination of the Ground Lease resulting from a casualty or condemnation pursuant to, and in accordance with, the relevant provisions of Article 13 or Article 14 of the Ground Lease, or where otherwise expressly permitted pursuant to the Other Transaction Documents.) All property permitted or required to be removed by the GMHC Unit Owner at the end of the Ground Lease Term (or at such earlier time as referenced in this Agreement or any of the Other Transaction Documents) remaining in the GMHC Unit after the date that the GMHC Unit Owner surrenders and vacates the GMHC Unit (or relevant portion thereof) shall be deemed abandoned and may, at the election of Ground Landlord, either be retained as Ground Landlord’s property or may be removed from the GMHC Unit by Ground Landlord, at GMHC’s expense.

(b) If the GMHC Unit is not surrendered within sixty (60) days after the expiration or sooner termination of the Ground Lease Term, GMHC hereby indemnifies Ground Landlord against liability resulting from the delay by GMHC in so surrendering the GMHC Unit, including any claims made by any succeeding tenant or prospective tenant founded upon such delay. If GMHC remains in possession of the GMHC Unit after the expiration or sooner termination of the Ground Lease Term without the execution of a lease, GMHC, at the option of Ground Landlord, shall be deemed to be occupying the GMHC as a tenant from month-to-month upon all of the terms and conditions which applied to GMHC’s occupancy immediately prior to the termination of the Ground Lease Term, except that GMHC shall pay to Ground Landlord for use and occupancy of the GMHC Unit an amount (the “Occupancy Payment”) equal to one and one-half (1-1/2) times the greater of (i) the sum of (A) the monthly Installment Purchase Payments (as such term is defined in the GMHC Sale Agreement) and Common Charges prevailing in the month immediately prior to the expiration or sooner termination of the Ground Lease Term, (B) the amount of Special Assessments (whether payable on an annual or monthly basis) prevailing in the year or month, as applicable, immediately prior to the expiration or sooner termination of the Ground Lease Term, and (C) the amount of Impositions (as such term is defined in the Ground Lease) allocable to the GMHC Unit for the holdover period (provided that such Impositions are required to be paid in connection with the GMHC Unit pursuant to Applicable Laws (as such term is defined in the Declaration), or (ii) the then fair market rental value of the GMHC Unit (as reasonably determined), for each month or any part thereof.

(c) The receipt and acceptance by Ground Landlord of all or any portion of the Occupancy Payment shall not be deemed a waiver or acceptance by Ground Landlord of the GMHC Unit Owner’s breach of the GMHC Unit Owner’s covenants and agreements under this Paragraph 2, or a waiver by Ground Landlord of such rights as Ground Landlord might have to institute any summary holdover proceedings against the GMHC Unit Owner, or a waiver by Ground Landlord of Ground Landlord’s rights to enforce any of Ground Landlord’s rights, or pursue any of Ground Landlord’s remedies against the GMHC Unit Owner in such event as may be available to Ground Landlord under this Agreement, or at law or equity. Ground Landlord hereby notifies the GMHC Unit Owner, and the GMHC Unit Owner acknowledges receipt of such notice, that a holdover by the GMHC Unit Owner is likely to result in significant harm to Ground Landlord, and that the additional costs that Ground Landlord is likely to incur in operating the Building (as such term is defined in the Condominium Documents) during the holdover period will exceed the amount of the Occupancy Payments.

(d) The provisions of this Paragraph 2 shall survive the expiration or sooner termination of the Ground Lease Term.

3. Re-Purchase Option.

(a) In addition to the rights available to Ground Landlord under Paragraphs 1 and 2 above, in the event that the Termination Requirements shall have been satisfied with respect to the GMHC Unit Owner or upon the expiration or sooner termination of the Ground Lease Term, Ground Landlord shall have the right (but not the obligation) to exercise an option (the "Re-Purchase Option") whereby, on at least five (5) days' notice from Ground Landlord, the GMHC Unit Owner shall be obligated, in consideration for a payment of \$10, to deliver to Ground Landlord the Reconveyance Documents and Reconveyance Fees (as such terms are defined Subparagraph 3(d) below), and, if the GMHC Unit Owner fails to deliver the Reconveyance Documents and/or pay the Reconveyance Fees to Ground Landlord within five (5) days after Ground Landlord's written request therefor, then Ground Landlord is hereby irrevocably authorized (subject to the further provisions of this Section 3(a)) to (i) execute the Reconveyance Documents on behalf of the GMHC Unit Owner pursuant to the power of attorney in substantially the form of Exhibit A attached hereto, which the GMHC Unit Owner shall execute and deliver to Ground Landlord simultaneously with the execution and delivery of this Agreement, and (ii) pay the Reconveyance Fees on behalf of the GMHC Unit Owner, and all such Reconveyance Fees, together with all reasonably attorney's fees and other expenses incurred by Ground Landlord in connection with the preparation and recording of the Reconveyance Documents, shall be reimbursed by GMHC to Ground Landlord within thirty (30) days after written request therefor. If Ground Landlord elects to exercise the Re-Purchase Option, then, upon delivery to Ground Landlord of the Reconveyance Documents, the same shall be deemed to extinguish all of the GMHC Unit Owner's right, title and interest in and to the GMHC Unit, as if the date of such delivery were the expiration date of the Ground Lease Term. Without limiting any rights or remedies available to Ground Landlord in connection therewith, the GMHC Unit Owner expressly agrees that Ground Landlord shall have such specific performance, mandatory injunction and/or other equitable remedies that Ground Landlord deems appropriate in exercising Ground Landlord's right to acquire the GMHC Unit in accordance with the terms of this Paragraph 3. Ground Landlord hereby agrees to indemnify, defend and hold harmless the GMHC Unit Owner from and against any and all liabilities, claims, suits, demands, judgments, costs, interest and expenses (including, without limitation, reasonable counsel fees and disbursements, but excluding consequential damages) resulting from any improper or unauthorized use by Ground Landlord of the power of attorney set forth in this Section 3(a).

(b) The parties hereto expressly agree that it is the intent of the parties that the Re-Purchase Option set forth in this Paragraph 3 not be construed in a manner that would violate any statutory or common law rule against perpetuities. Accordingly, the parties hereto agree that the Re-Purchase Option may be exercised (if at all) by Ground Landlord only within a period of time that does not exceed 21 years after the death of the last living descendent of Elizabeth II, Queen of the United Kingdom of Great Britain and Northern Ireland.

(c) The parties hereto expressly acknowledge and agree that the Re-Purchase Option is a material benefit to all of the parties hereto, is based on independent, bargained for and significant consideration, and shall not be deemed to be a clog or other restraint on GMHC's

equity of redemption; it being agreed that any such equity of redemption, if otherwise found to be applicable, shall be deemed to have been fully satisfied upon satisfaction of the Termination Requirements or the expiration or sooner termination of the Ground Lease Term, and shall be of no force or effect following the satisfaction of the Termination Requirements or the expiration or sooner termination of the Ground Lease Term. GMHC acknowledges and agrees that the Re-Purchase Option constitutes a material portion of the benefit of Ground Landlord's bargain embodied in the Other Transaction Documents, and that such Re-Purchase Option not be construed in a manner that would violate any statutory or common law rule against clogging the equities of redemption. In furtherance thereof, the parties hereto acknowledge and agree that, notwithstanding GMHC's payment obligations under the GMHC Sale Agreement being secured by a mortgage, the parties do not wish any equity of redemption rights to be deemed applicable to the Other Transaction Documents. The parties hereto also acknowledge and agree that: (x) the GMHC Unit is a leasehold condominium unit, (y) owners of leasehold condominium units own such units only for the duration of the underlying leasehold, after which duration such leasehold condominium units dissolve and cease to exist, and (z) by reason thereof, all of the GMHC Unit Owner's rights and abilities to use and enjoy the benefits of ownership of the GMHC Unit would in any event expire and cease to exist upon the expiration of the Ground Lease Term. Accordingly, GMHC acknowledges and agrees that GMHC is not entitled to the statutory or common law rights and equities of a mortgage debtor.

(d) For purposes of this Paragraph 3, (i) the "Reconveyance Documents" shall collectively mean (x) a commercial condominium unit deed conveying the GMHC Unit from the GMHC Unit Owner to Ground Landlord, in substantially the form of **Exhibit B** attached hereto, duly executed and acknowledged by the GMHC Unit Owner (the "Reconveyance Deed"), and (y) all transfer tax returns, equalization forms and other forms and instruments that are required by Applicable Laws in connection with the recordation of the Reconveyance Deed (collectively, the "Transfer Tax Instruments"), and (ii) the "Reconveyance Fees" shall collectively mean all recording fees payable in connection with the recording of the Reconveyance Deed and all state, county and city real property transfer taxes, if and as applicable, in connection with the conveyance of the Reconveyance Deed.

(e) Each of parties hereto acknowledge that it is sophisticated and experienced in the fields of real estate acquisition, operation and financing, and that each has been represented by sophisticated real estate counsel in connection with all aspects of the negotiation and drafting of this Agreement and the Other Transaction Documents.

4. Other Unit Owners. The GMHC Unit Owner acknowledges that it has been advised by Ground Landlord and Ground Tenant that Ground Tenant (or Declarant) has and may continue to sell other condominium units in the Premises to other parties, and that Ground Landlord and/or Ground Tenant (or Declarant) may desire to negotiate business arrangements with such other parties that differ from the business arrangements negotiated with the GMHC Unit Owner. Accordingly, the GMHC Unit Owner expressly agrees that, subject to the express limitations set forth in the Other Transaction Documents, both Ground Landlord and/or Ground Tenant (and/or the Declarant) are free to negotiate such business arrangements with other condominium unit owners as Ground Landlord and/or Ground Tenant (and/or Declarant) may desire, including, without limitation, an amendment or modification of the Condominium Documents and the Ground Lease, but only to the extent (if any) that such business

arrangements, amendments or modifications do not materially adversely affect the GMHC Unit Owner's rights, increase the costs to or liabilities of the GMHC Unit Owner or reduce the obligations or liabilities of Ground Landlord, Ground Tenant or Declarant to the GMHC Unit Owner with respect to the GMHC Unit or the Common Elements. The foregoing shall not in any way be deemed to restrict the rights of Declarant, as otherwise set forth in the Condominium Documents, or to provide the Declarant with any right or power that is not otherwise set forth in the Condominium Documents.

5. GMHC Unit Owner Rights.

(a) Ground Tenant hereby agrees that, throughout the Ground Lease Term, Ground Tenant shall use commercially reasonable efforts to enforce the rights of Ground Tenant under the Ground Lease. Each of Ground Landlord and Ground Tenant hereby agrees that, throughout the Ground Lease Term, it shall recognize the GMHC Unit Owner's third-party beneficiary rights, perform its obligations for the benefit of the GMHC Unit Owner and reasonably cooperate with the GMHC Unit Owner so as to allow the GMHC Unit Owner to enforce the rights identified in the Ground Lease as being third-party beneficiary rights of the Unit Owners and/or of the GMHC Unit Owner. Notwithstanding anything contained herein to the contrary, GMHC hereby acknowledges and agrees that GMHC (and any Successor (as such term is defined in the Condominium Documents) to GMHC) shall not have any rights, title or interest under, to or in the Ground Lease (except for such third-party beneficiary rights expressly provided for in this Agreement or the Ground Lease).

(b) Ground Landlord and Ground Tenant agree that, in any instance where Ground Tenant has an obligation under the Ground Lease to which the GMHC Unit Owner is a third-party beneficiary either expressly or in its capacity as a Unit Owner, if Ground Tenant has insufficient funds to perform such obligation, Ground Landlord shall be jointly and severally liable with Ground Tenant to the GMHC Unit Owner for the performance of such obligation, subject to Ground Landlord's limitation of liability under the Ground Lease and this Agreement.

(c) In any instance where, pursuant to the Condominium Documents, the owner of the GMHC Unit shall be entitled to an abatement of Common Charges as to all or a portion of such Common Charges (based on the portion of the GMHC Unit to which such abatement is applicable), the owner of the GMHC Unit shall also be entitled to an abatement of Installment Purchase Payments under the GMHC Sale Agreement, for the same duration and as applicable to the same portion of the GMHC Unit (which abatement shall be allocated on a pro rata square footage basis). In any instance where, pursuant to the GMHC Sale Agreement, the owner of the GMHC Unit shall be entitled to an abatement of Installment Purchase Payments as to all or a portion of such Installment Purchase Payments (based on the portion of the GMHC Unit to which such abatement is applicable), the owner of the GMHC Unit shall also be entitled to an abatement of Common Charges under the Condominium Documents, for the same duration and as applicable to the same portion of the GMHC Unit (which abatement shall be allocated on a pro rata square footage basis).

(d) In any instance where, pursuant to the Condominium Documents, the obligation of the owner of the GMHC Unit to pay Common Charges shall terminate as to all or a portion of such Common Charges (based on the portion of the GMHC Unit to which such

termination is applicable), the obligation of the owner of the GMHC Unit to pay Installment Purchase Payments under the GMHC Sale Agreement shall also terminate as to the portion of the Installment Purchase Payments allocable (on a pro rata square footage basis) to the portion of the GMHC Unit as to which such termination is applicable. In any instance where, pursuant to the GMHC Sale Agreement, the obligation of the owner of the GMHC Unit to pay Installment Purchase Payments shall terminate as to all or a portion of such Installment Purchase Payments (based on the portion of the GMHC Unit to which such termination is applicable), the obligation of the owner of the GMHC Unit to pay Common Charges under the Condominium Documents shall also terminate as to the portion of the Common Charges allocable (on a pro rata square footage basis) to the portion of the GMHC Unit as to which such termination is applicable.

(e) Without limiting the generality of the GMHC Unit Owner's third-party beneficiary rights set forth in the Ground Lease, Ground Landlord and Ground Tenant agree that any modification of Section 23.06 of the Ground Lease in a manner that would allow a termination of the Ground Lease without the occurrence of a GMHC Unit Owner's Termination Default (as such term is defined in the Ground Lease), or that would otherwise materially adversely affect the GMHC Unit Owner or the GMHC Unit, shall be of no force or effect as against the GMHC Unit Owner without GMHC's written consent.

6. Ground Landlord Liability. Ground Landlord and GMHC agree that GMHC (and any Successor to GMHC) shall have recourse solely against Ground Landlord (subject to Ground Landlord's limitation of liability under the Ground Lease and this Agreement) and Ground Tenant/Declarant (but only if and to the extent that Ground Tenant/Declarant has liability to GMHC therefor pursuant to the relevant Other Transaction Document), as applicable, for the recovery of damages suffered by GMHC by reason of (i) Ground Tenant's breach of Ground Tenant's obligations to GMHC under the GMHC Sale Agreement, (ii) Declarant's breach of Declarant's obligations to GMHC under the Condominium Documents, or (iii) the Condominium Board's breach of the Condominium Board's obligations to GMHC under the Condominium Documents (but only so long as Declarant or an affiliate thereof controls the Condominium Board), in each case, only if and to the extent that (x) GMHC is expressly entitled to recover such damages under the GMHC Sale Agreement or the Condominium Documents (as applicable), and (y) GMHC shall be unable to do so as a result of Ground Landlord's or Declarant's or the Condominium Board's (as applicable) lack of funds.

7. Brokers.

(a) Ground Landlord represents and warrants to GMHC that Ground Landlord has dealt with no broker, salesman, finder or consultant with respect to this Agreement or the transactions contemplated hereby or under the GMHC Sale Agreement other than Broker (as such term is defined in the GMHC Sale Agreement). Ground Landlord agrees to indemnify GMHC against all claims, losses, damages, liabilities, costs, expenses and charges, including reasonable legal fees and expenses, resulting from Ground Landlord's breach of the foregoing representation and warranty. The provisions of this Paragraph 7(a) shall survive the Possession Date (as such term is defined in the GMHC Sale Agreement) or any termination of this Agreement.

(b) GMHC represents and warrants to Ground Landlord that GMHC has dealt

with no broker, salesman, finder or consultant with respect to this Agreement or the transactions contemplated hereby other than Broker. GMHC agrees to indemnify Ground Landlord against all claims, losses, damages, liabilities, costs, expenses and charges, including reasonable legal fees and expenses, resulting from GMHC's breach of the foregoing representation and warranty. The provisions of this Paragraph 7(b) shall survive the Possession Date or any termination of this Agreement.

8. Tax Certiorari Proceedings. Ground Tenant and/or the Condominium Board shall have the right, at any time and from time-to-time, to file applications for the reduction of the assessed valuation of the GMHC Unit, the Building and the Land or any portion of any of the foregoing and/or institute certiorari proceedings to review such assessed valuations for any tax year(s). The GMHC Unit Owner acknowledges and agrees that Ground Tenant and/or the Condominium Board shall have sole control of such proceedings, including the right to withdraw, compromise and/or settle the same or cause the same to be brought on for trial and to take, conduct, withdraw and/or settle appeals, and the GMHC Unit Owner hereby consents to such actions as Ground Tenant and/or the Condominium Board may take therein. The GMHC Unit Owner shall execute all consents, receipts, instruments and documents that may reasonably be requested, and shall otherwise reasonably cooperate with Ground Tenant and/or the Condominium Board, in order to facilitate settling such proceeding and collecting the amount of any refund, credit or tax savings. Any net tax savings, credit or refund granted for the GMHC Unit (i.e., after deduction for attorney's fees and other expenses related to obtaining such tax savings, credit or refund) with respect to any tax years occurring prior to the expiration or sooner termination of the Ground Lease Term shall belong solely to the GMHC Unit Owner, if and only to the extent that the GMHC Unit Owner shall have theretofore actually paid the real estate taxes for which such savings, credit or refund is being granted. Any and all other tax savings, credits or refunds shall belong solely to Ground Tenant and/or the Condominium Board. The GMHC Unit Owner shall maintain all books and records relating to income and expenses for the GMHC Unit for a period of up to six (6) full tax years following the tax year in which the expiration or sooner termination of the Ground Lease Term shall occur. The provisions of this Paragraph 8 shall survive the expiration or sooner termination of the Ground Lease Term.

9. Notices. Any notice, request, consent, statement, approval or other communication required to be given by or on behalf of either party upon the other made pursuant to, under or by virtue of this Agreement must be in writing and shall be made by registered or certified mail, return receipt requested, postage prepaid, or by nationally recognized overnight delivery service providing proof of delivery as follows:

- (i) If to Ground Landlord:

Glenhill Associates, LLC
c/o George Comfort & Sons, Inc.
200 Madison Avenue
New York, New York 10016
Attention: Mr. Dana Comfort

with copies thereof at all times to:

Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, New York 10038-4982
Attention: Trevor T. Adler, Esq.

(ii) If to Ground Tenant:

Glenhill Associates Leasehold, LLC
c/o George Comfort & Sons, Inc.
200 Madison Avenue
New York, New York 10016
Attention: Mr. Dana Comfort

with copies thereof at all times to:

Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, New York 10038-4982
Attention: Trevor T. Adler, Esq.

(iii) If to GMHC:

Gay Men's Health Crisis, Inc.
307 West 38th Street
New York, New York 10018
Attention: Vice President – Operations

with copies thereof at all times to:

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, New York 10019
Attention: Meredith J. Kane, Esq.

Any party may change these persons or addresses by giving notice as provided above. All notices shall be deemed given when delivered by overnight delivery service or three (3) days after the notice by registered or certified mail is mailed. Each party's attorney shall be authorized to give notices on behalf of such party.

10. Miscellaneous.

(a) Headings and Definitions. The headings contained in this Agreement are for reference purposes only, and shall not in any way affect the meaning or interpretation hereof.

(b) Governing Law. This Agreement shall be construed under and in accordance with the laws of the State of New York applicable to contracts to be fully performed in such State, without regard to conflicts of laws. Exclusive jurisdiction of any dispute between any of the parties hereto shall lie in the courts located in New York County.

(c) Waiver. The waiver by any party of a breach of any provision of this Agreement shall not be deemed a waiver of any subsequent breach whether of the same or another provision of this Agreement.

(d) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

(e) Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective heirs, administrators, executors, assigns and successors in interest.

(f) Amendments in Writing. The provisions of this Agreement may not be amended or altered except by a written instrument duly executed by each of the parties hereto.

(g) Further Assurances. Each of the parties shall execute such other and further documents (and shall amend, or consent to the amendment of, any of the documents referred to in the preamble to this Agreement) and do such further acts as may be reasonably required to effectuate the intent of the parties and carry out the terms of this Agreement, provided that in no event shall the foregoing be construed to override, negate or diminish the indemnities, protections and/or rights granted to the GMHC Unit Owner, Ground Landlord, Declarant and/or the Condominium Board elsewhere in this Agreement or any of the Other Transaction Documents. Without limiting the generality of the foregoing, in connection with any sale to third parties or marketing to the public by Ground Tenant (or Declarant) of other condominium units in the Building (as described in Paragraph 4 above), GMHC agrees that (in accordance with the provisions of the Condominium Documents) Declarant has the right to execute and file or record all documents necessary to accomplish such modifications and amendments of the Condominium (as such term is defined in the Condominium Documents); provided, however, that, so long as the GMHC Unit Owner is not in default of any obligations of the GMHC Unit Owner under this Agreement or any of the Other Transaction Documents beyond any applicable cure and grace periods hereunder or thereunder, the GMHC Unit Owner shall not be bound by any amendment or modification of the Condominium Documents (except with respect to any such amendment or modification (i) expressly contemplated under the Ground Lease, or (ii) terminating the Ground Lease pursuant to the express terms of this Agreement or any of the Other Transaction Documents) made without the GMHC Unit Owner's consent that has a material adverse impact on the GMHC Unit Owner's use or occupancy of, or allocation of costs with respect to, the GMHC Unit. The GMHC Unit Owner shall also execute such other modifications and amendments of the Condominium Documents (or shall consent to such modifications and amendments), if necessary and as may be reasonably requested by Ground Tenant (or Declarant).

11. Declarant's Right of First Refusal & Flip Tax.

(a) Declarant's ROFR.

(i) If the GMHC Unit Owner desires to sell or transfer the GMHC Unit (or any portion thereof constituting a separate Unit in the Condominium) or to lease all or

any part of the GMHC Unit (with any of such transactions being deemed a “Transfer”), the GMHC Unit Owner shall notify Declarant of the name of the proposed purchaser/transferee or tenant, such information as to the purchaser/transferee’s or tenant’s financial condition as Declarant may reasonably require, and of the terms and conditions of the purchase/transfer or lease. Except in the case of a lease for a term of less than five (5) years, such notice shall contain an offer to vacate and surrender, as of the Special Surrender Date (as hereinafter defined), either (1) if the GMHC Unit Owner proposes to lease only a part of the GMHC Unit, the space to be demised by the proposed lease together with such other space, if any, as may be reasonably required for public corridors, toilets and core facilities serving the space so proposed to be leased (said space(s) being herein collectively called a “Partial Space”) or (2) if GMHC Unit Owner proposes to sell or transfer the GMHC Unit or to lease all or substantially all of the GMHC Unit (or to sell, transfer or lease any portion of the GMHC Unit constituting a separate Unit in the Condominium), the entire GMHC Unit (or such separate Unit, as the case may be). The term “Transfer Space” shall mean either the relevant Partial Space in the case of clause (1) above, or the entire GMHC Unit in the case of clause (2) above. The term “Special Surrender Date” shall mean a date to be specified in such notice from the GMHC Unit Owner; provided, however, that said date shall be the last day of a calendar month during the Ground Lease Term, and not earlier than sixty (60) days after the giving of such notice and not later than the effective date of the sale/transfer or the date for the commencement of the term of the proposed lease. Such notice shall constitute an offer to Declarant, (A) in the case of a proposed lease of Partial Space, to require that the GMHC Unit Owner lease the Partial Space to Declarant or Declarant’s designee, on the terms set forth in Paragraph 11(a)(ii) below, or (B) in the case of a proposed sale, transfer or lease of the entire GMHC Unit (or any portion thereof constituting a separate Unit in the Condominium), to acquire the GMHC Unit (or such separate Unit, as the case may be) on the terms set forth in Paragraph 11(a)(iii) below (either, a “ROFR Option”). Declarant may accept such offer by a notice given to the GMHC Unit Owner within thirty (30) days after the receipt of such notice from the GMHC Unit Owner. If Declarant accepts such offer, the GMHC Unit Owner shall terminate its occupancy of the GMHC Unit (or the applicable portion thereof), as the case may be, not later than the Special Surrender Date. If Declarant accepts such offer with respect to less than the entire GMHC Unit, then the GMHC Unit Owner shall erect such demising walls and partitions, and perform such other work as may be commercially reasonably necessary to separate such portion of the GMHC Unit conveyed or leased to Declarant (or its designee), at the GMHC Unit Owner’s sole cost and expense.

(ii) If Declarant accepts such offer and requires that the GMHC Unit Owner execute and deliver a lease (a “ROFR Lease”) to Declarant (or Declarant’s designee) of Partial Space pursuant to Paragraph 11(a)(i) above, the ROFR Lease shall be upon the same terms as pertain to the GMHC Unit Owner’s rights of occupancy of the Transfer Space pursuant to the Condominium Documents, except for such terms thereof as are inapplicable, and except that: (A) the term of the ROFR Lease shall be for the balance of the Ground Lease Term (less one day), commencing on the commencement date set forth in the ROFR Notice; (B) the monthly fixed rent payable pursuant to the ROFR Lease shall be an amount equal to (I) the pro rata share of the monthly amount of Common Charges and Special Assessments for the Transfer Space that the GMHC Unit Owner is then paying to the Condominium Board, plus (II) the pro rata share of the Installment Purchase Payment payable under the GMHC Sale Agreement for the balance of the Installment Payment Term; (C) Declarant’s share of Common Charges payable under the ROFR Lease shall be determined based on the relative sizes of the Partial Space and the entire GMHC

Unit; (D) Declarant (or Declarant's designee) shall have the unrestricted right to assign the ROFR Lease or any interest therein, to sublet all or any part of the Partial Space and/or to make any alterations, decorations, additions or improvements in and to the Partial Space; and (E) at the expiration of the term of the ROFR Lease, the Partial Space shall be returned to the GMHC Unit Owner in its then "as-is" condition. Performance by Declarant and/or any assignee or sublessee thereof of any tier during such recapture shall be deemed performance by the GMHC Unit Owner of a similar obligation under the GMHC Sale Agreement (and the Condominium Documents and this Agreement) related to the Partial Space (it being agreed that Declarant shall indemnify the GMHC Unit Owner from any actual direct loss, cost or expense that the GMHC Unit Owner may incur on account of any act or omission by Declarant and/or any assignee or sublessee thereof of any tier in the Partial Space during the term of the ROFR Lease, including, without limitation, any obligations of the GMHC Unit Owner under the Condominium Documents or this Agreement); and Declarant shall cause the Condominium Board to release the GMHC Unit Owner of its liability for the Partial Space during the term of the ROFR Lease either by paying its pro rata share of the Common Charges and Special Assessments for the Transfer Space directly to the Condominium Board or by reimbursing the GMHC Unit Owner for such Common Charges and Special Assessments.

(iii) If Declarant requires that the GMHC Unit (or a portion thereof constituting a separate Unit in the Condominium) be conveyed by GMHC to Declarant pursuant to Paragraph 11(a)(i) above, then: (1) on the Special Surrender Date (the "Deed Delivery Date"), GMHC shall deliver to Declarant an executed and acknowledged deed, in recordable form, for the GMHC Unit (or such separate Unit, as the case may be), together with such other documents or instruments as may be reasonably necessary or appropriate for or to evidence the full and effectual vesting in Declarant of possession of and title to the GMHC Unit (or such separate Unit, as the case may be), and (2) the total ROFR consideration for the GMHC Unit (or such separate Unit, as the case may be) shall be the balance of the Installment Purchase Payments payable under the GMHC Sale Agreement (or, in the case of a portion of the GMHC Unit constituting a separate Unit in the Condominium, the balance of the Installment Purchase Payments payable under the GMHC Sale Agreement for such separate Unit, which, if not expressly stated, shall be allocated based on the ratio of square footage in such separate Unit to the entire GMHC Unit) for the remainder of the Installment Payment Term, which Declarant shall allow GMHC to offset against any existing or future obligations to Declarant under the GMHC Sale Agreement, which credit shall be applied to the next due installment of such obligation). Upon delivery to Declarant of the aforesaid deed (together with such other documents or instruments), the same shall be deemed to extinguish all of the GMHC Unit Owner's right, title and interest in and to the GMHC Unit (or such separate Unit, as the case may be), as if the date of such delivery were the expiration date of the Installment Payment Term with respect thereto, and Declarant shall cause the Condominium Board to release GMHC of its liability for the GMHC Unit (or such separate Unit, as the case may be) under the Condominium Documents accruing following the Deed Delivery Date pursuant to Section 5.4.2 of the Condominium Documents, including, without limitation, for the payment of any part of the Common Charges assessed against the GMHC Unit (or such separate Unit, as the case may be).

(b) Flip Tax.

(i) If Declarant shall not have exercised an ROFR Option with respect to a proposed Transfer and the Condominium Board shall give its consent to such proposed Transfer by the GMHC Unit Owner, the GMHC Unit Owner shall, in consideration therefor, pay to Declarant an amount (the "Flip Tax") equal to fifty (50%) percent of the amount, if any, by which the total of (X) in the case of a lease of Transfer Space, any and all rents, additional charges or other consideration payable under the lease to the GMHC Unit Owner by the tenant, regardless of how such consideration is designated by the GMHC Unit Owner and/or the tenant (including, but not limited to, sums paid for the sale or rental of the GMHC Unit Owner's fixtures, leasehold improvements, equipment, furniture or other personal property), or (Y) in the case of a sale or other transfer (other than a lease) of Transfer Space, all sums and other considerations paid to the GMHC Unit Owner by or on behalf of the purchaser or transferee for or by reason of such Transfer (including, but not limited to, sums paid for the sale of the GMHC Unit Owner's fixtures, equipment, furniture, furnishings or other personal property, less the unamortized or undepreciated cost thereof (to the extent that the same is being conveyed in connection with such sale or other transfer)), which, in the case of the transactions described in either of the foregoing clauses (X) or (Y), is in excess of the sum of (A) (1) the Common Charges accruing in respect of the Transfer Space (at the rate per square foot payable by the GMHC Unit Owner under the Condominium Documents) during, as applicable, (I) if the transaction is a Transfer other than a lease for less than the remainder of the Installment Payment Term (a "Balance of the Term Transaction"), the balance of the Installment Payment Term, or (II) if the transaction is a lease with a term that is less than the remainder of the Installment Payment Term (a "Partial Term Transaction"), the term of such lease, and (2) the pro rata share of the Installment Purchase Payment payable under the GMHC Sale Agreement during the term of the Balance of the Term Transaction or the Partial Term Transaction, as applicable, with respect to the Transfer Space, plus (B) the amortization of the cost of "GMHC's Initial Improvements" (as hereinafter defined) over the Installment Payment Term, assuming that the cost of the same is to be amortized on a straight-line basis over the Installment Payment Term (e.g., assuming the cost of GMHC's Initial Improvements is \$60,000.00, the Installment Payment Term is thirty (30) years, and the term of the proposed Partial Term Transaction is five (5) years, then the amortization of the cost of GMHC's Initial Improvements over the term of such proposed Partial Term Transaction is \$10,000.00), plus (C) the "Permitted Expenses" (as hereinafter defined) incurred by GMHC in connection with the applicable Transfer.

(ii) For the purposes of this Agreement, the term the "Permitted Expenses" shall be defined as: (A) the commercially reasonable brokerage commission(s) incurred by the GMHC Unit Owner in connection with such Transfer (not to exceed the amount of commissions then payable by Declarant as a result of leasing space or selling Units in the Building, as applicable); (B) the reasonable advertising costs incurred by the GMHC Unit Owner in connection with such Transfer; and (C) the reasonable out-of-pocket costs incurred by the GMHC Unit Owner in preparing the space for such transferee or providing an improvement allowance.

(iii) Solely for the purposes of this subparagraph (b), the term "GMHC's Initial Improvements" shall be defined as those initial alterations, improvements, additions and installations made by and at the expense of GMHC (without reimbursement from

Declarant) in and to the GMHC Unit at the commencement of the Installment Payment Term, excluding, however, the cost of decorations, personal property, furniture, trade fixtures, equipment, furnishings and any other items which are removable by the GMHC Unit Owner at the expiration or sooner termination of the Ground Lease Term, and upon request by Declarant, the GMHC Unit Owner shall provide Declarant with conformed copies of the GMHC Unit Owner's tax returns, paid invoices, or other reasonable proof or documentation corroborating the cost of GMHC's Initial Improvements.

(iv) The sums payable under this subparagraph (c) shall be paid to Declarant as and when payable by the transferee of the Transfer Space to the GMHC Unit Owner.

(c) Exempted Transactions. Notwithstanding any provision of this Paragraph 11, Paragraph 11(a), (b) and (c) hereof shall not apply to (i) any Permitted Transactions (as such term is defined in the Condominium Documents), or to (ii) any lease or license of any portion of the GMHC Unit to an affiliate of GMHC (or the use or occupancy of any portion of the GMHC Unit by an affiliate of GMHC), or (iii) any use of "desk space" within the GMHC Unit which is permitted without the consent of the Condominium Board pursuant to the Condominium Documents.

(d) No Release. Neither any sale of any GMHC Unit or lease or other transfer of the GMHC Unit Owner's interest therein, nor any leasing, occupancy, or use of any GMHC Units or any part thereof by any Person other than the GMHC, nor any collection of any Flip Tax by the Declarant as provided in this Paragraph 11, nor any application of any such Flip Tax as provided in this Paragraph 11 shall, in any circumstances, relieve or release GMHC of its obligation fully to observe and perform the terms, covenants and conditions of this Agreement and the Other Transaction Documents on GMHC's part to be observed or performed; it being agreed that GMHC shall remain jointly and severally liable therefor together with any and all direct or indirect purchasers, lessees, occupants and/or other transferees of GMHC.

(e) Survival. The provisions of this Paragraph 11 shall survive the Closing, delivery of Possession and the Deed Delivery Date.

12. GMHC's Leasehold Condominium Reimbursement.

(a) Ground Landlord, Declarant and/or the Condominium Board (on the one hand) and GMHC (on the other hand) shall share (on a 50/50 basis) the actual and reasonable costs incurred by Ground Landlord, Declarant and/or the Condominium Board in connection with the endeavor to convert the Property to a leasehold condominium regime (a "Leasehold Condominium Conversion"), including the costs of legal fees of Ground Landlord, Declarant and/or the Condominium Board, and GMHC shall reimburse Ground Landlord for such 50% share on or prior to thirty (30) days after Ground Landlord's rendition of a statement therefor, which statement shall have annexed thereto documentation that reasonably substantiates the costs set forth thereon and may be rendered from time to time by Ground Landlord (without duplication from any previous invoices). GMHC shall pay 100% of GMHC's own fees and expenses incurred in connection with the Leasehold Condominium Conversion and in GMHC's pursuit of the Real Estate Tax Exemption (as defined in the GMHC Sale Agreement) and GMHC shall pay 100% of any transfer and/or recording taxes related to the transfer of the GMHC Unit

to GMHC.

(b) The provisions of this Paragraph 12 shall survive the expiration or sooner termination of the Ground Lease Term.

13. Declarant's Right to Cure Defaults; Fees and Expenses. If the GMHC Unit Owner shall default in the observance or performance of any term or covenant on the GMHC Unit Owner's part to be observed or performed under or by virtue of any of the terms or provisions in any article of this Agreement or the Other Transaction Documents, then, unless otherwise provided elsewhere in this Agreement or the Other Transaction Documents, Declarant may after reasonable prior notice (except that no notice shall be required in event of an emergency) perform such obligation of the GMHC Unit Owner. If Declarant, in connection with the foregoing or in connection with any default by the GMHC Unit Owner in the covenant to pay rent under this Agreement or any of the Other Transaction Documents, makes any expenditures or incurs any obligations for the payment of money, including but not limited to reasonable attorney's fees, in instituting, prosecuting or defending any action or proceeding, then the GMHC Unit Owner will reimburse Declarant for such sums so paid or obligations incurred with interest and costs.

14. Consents. If in this Agreement or any Other Transaction Document it is provided that the consent or approval of Ground Landlord, Declarant or the Condominium Board as to any matter will not be unreasonably withheld, and it is established by a court or body having final jurisdiction thereover that Ground Landlord, Declarant or the Condominium Board, as the case may be, has been unreasonable, the only effect of such finding shall be that Ground Landlord, Declarant or the Condominium Board, as the case may be, shall be deemed to have given its consent or approval; but Ground Landlord, Declarant or the Condominium Board, as the case may be, shall not be liable to GMHC in any respect for money damages by reason of withholding its consent or approval or under any other circumstances whatsoever.

15. Force Majeure. Except as otherwise provided in this Agreement or the Other Transaction Documents, this Agreement and the Other Transaction Documents and the obligation of the GMHC Unit Owner to pay any amounts hereunder and thereunder and perform all of the other covenants and agreements hereunder or thereunder on the part of the GMHC Unit Owner to be performed shall in no wise be affected, impaired or excused because either Ground Landlord, Declarant or the Condominium Board is unable to fulfill any of its obligations under this Agreement or the Other Transaction Documents or to supply or is delayed in supplying any service expressly or impliedly to be supplied or is unable to make, or is delayed in making any repair, additions, alterations or decorations or is unable to supply or is delayed in supplying any equipment or fixtures if either Ground Landlord, Declarant or the Condominium Board, as the case may be, is prevented or delayed from so doing by reason of strike or labor troubles or any cause whatsoever including, but not limited to, government preemption in connection with a national emergency or by reason of any rule, order or regulation of any department or subdivision thereof of any government agency or by reason of the conditions of supply and demand which have been or are affected by war or other emergency.

16. Litigation. It is mutually agreed by and between the parties hereto that they shall and hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of

the parties hereto against the other (except for personal injury or property damage) on any matters whatsoever arising out of or in any way connected with this Agreement or the other Transaction Documents, the relationship of Ground Landlord, Declarant, the Condominium Board and the GMHC Unit Owner, the GMHC Unit Owner's use of or occupancy of the GMHC Unit, and any emergency statutory or any other statutory remedy. It is further mutually agreed that in the event Ground Landlord, Declarant, or the Condominium Board commences any summary proceeding for possession of the GMHC Unit or non-payment, the GMHC Unit Owner will not interpose any counterclaim of whatever nature or description in any such proceeding, except for mandatory/compulsory counterclaims which, if not interposed, would be waived.

17. Survival of Obligations. Any obligation of Ground Landlord, Declarant, or the Condominium Board, or the GMHC Unit Owner which by its nature or under the circumstances can only be, or by the provisions of this Agreement or any Other Transaction Document may be, performed after the expiration or earlier termination of the Ground Lease, and any liability for a payment which shall have accrued to or with respect to any period ending at the time of such expiration or termination, unless expressly otherwise provided in this Agreement or any Other Transaction Document, shall survive the expiration or earlier termination of the Ground Lease.

18. Agent. Ground Landlord and Declarant represent to GMHC, and GMHC acknowledges and agrees that, in addition to Ground Landlord and Declarant, the managing agent for the Building, and attorneys for Ground Landlord and Declarant have been granted express authority to duly and effectively render all notices that may be required to be given to the GMHC Unit Owner by Ground Landlord and/or Declarant in accordance with the terms, covenants, provisions, agreements and conditions of this Agreement and any Other Transaction Document. The GMHC Unit Owner further agrees to waive any and all claims it may have against Ground Landlord and/or Declarant, its attorneys and/or agents with respect to the authority or ability each of the foregoing to render such notices for and on behalf of Ground Landlord and/or Declarant. Ground Landlord and/or Declarant may, from time to time, change the designation of such attorneys and/or agents upon prior written notice to the GMHC Unit Owner.

19. Attorney's Fees. If the GMHC Unit Owner shall at any time default in the performance of any monetary or non-monetary obligation under this Agreement or any Other Transaction Document and Ground Landlord, Declarant or the Condominium Board shall institute any action or proceeding against the GMHC Unit Owner based upon any such default, then the GMHC Unit Owner shall reimburse Ground Landlord, Declarant or the Condominium Board for the legal fees and expenses thereby incurred by such party; provided, however, that in the case of any action or proceeding between Ground Landlord, Declarant and/or the Condominium Board, on the one hand, and the GMHC Unit Owner, on the other hand, the substantially prevailing party shall be entitled to reimbursement of its actual, reasonable out-of-pocket legal fees and disbursements by the other party.

20. Substitution of GMHC Ground Floor Unit. In the event that Declarant and the Condominium Board determine, in their sole but reasonable discretion, that recurring protests (or other recurring activities or occurrences not in keeping with the Building's standards and other tenancies, as reasonably determined by Declarant and the Condominium Board) at the GMHC Unit Owner's 38th Street entrance arising from the GMHC Unit Owner's uses are causing

disruption to the operation of the Building, Declarant and the Condominium Board shall have the absolute and unqualified right, upon ninety (90) days prior written notice to the GMHC Unit Owner (and otherwise in accordance with this Paragraph 20), to substitute for the existing GMHC Ground Floor Unit (and GMHC Unit Owner's dedicated ground floor entrance to the GMHC Units) a portion of the ground floor in the Building (which may be comprised of all or portions of the Common Elements, one or more Declarant's Units and/or the existing GMHC Ground Floor Unit) with direct access to 39th Street. Such notice shall specify and designate the space so substituted for the existing GMHC Ground Floor Unit, which space may, as of the date hereof, be designated as either part of a Declarant Unit or the General Common Elements (the "Substituted GMHC Unit"), whereupon the existing GMHC Ground Floor Unit shall be re-designated to constitute a Declarant's Unit or General Common Elements (or portions of each), as determined by Declarant and the Condominium Board in their sole discretion, for all purposes. In the event of the substitution of space as provided in this Paragraph 20 the following provisions 20(a) through 20(d) shall apply:

(a) In no event shall the Substituted GMHC Unit contain less than ninety percent (90%) of the existing GMHC Ground Floor Unit, the Substituted GMHC Unit shall be for the GMHC Unit Owner's exclusive use (and not used as a freight entrance or any other use) and the Substituted GMHC Unit shall have direct access to the GMHC Elevators (as such term is defined in the Declaration) in a similar manner to which the GMHC Unit Owner has access to the GMHC Elevators via the original ground floor entrance to the GMHC Units.

(b) Declarant shall, at Declarant's expense, renovate and prepare the Substituted GMHC Unit to be in substantially the same condition (including substantially the same level of finish) as the existing GMHC Ground Floor Unit, and shall have the right to remove and relocate any floor covering, cabinet work, and any other decoration to the Substituted GMHC Unit, as well as telephone lines and any other communication line to the Substituted GMHC Unit. Declarant shall, at Declarant's expense, move or replace the GMHC Unit Owner's Signage such that such Signage is of no lesser quality and utility. Declarant shall also reimburse the GMHC Unit Owner for all reasonable expenses incurred by the GMHC Unit Owner to third parties resulting from the substitution described in this Paragraph 20. All such renovations, removals, relocation and other work shall be done in manner that minimizes inconvenience to the GMHC Unit Owner, its employees and its invitees, and that does not prevent or unreasonably impede access to the GMHC Dedicated Elevators at any time.

(c) As soon as Declarant has completed preparing the Substituted GMHC Unit as set forth in subparagraph 20(b), the GMHC Unit Owner, upon five (5) Business Days prior written notice, shall move to the Substituted GMHC Unit at Declarant's sole cost and expense, and upon failure of the GMHC Unit Owner so to move to the Substituted GMHC Unit, Declarant or the Condominium Board, as agent for the GMHC Unit Owner (but still at Declarant's sole cost and expense), may remove the GMHC Unit Owner from the existing GMHC Ground Floor Unit to the Substituted GMHC Unit. The failure of the GMHC Unit Owner to move to the Substituted GMHC Unit pursuant to this Paragraph 20 (including, without limitation, Declarant's or the Condominium Board's removing the GMHC Unit Owner to the Substituted GMHC Unit as set forth in the immediately preceding sentence) shall be deemed a default under the GMHC Transaction Documents.

(d) Upon request from Declarant, the GMHC Unit Owner shall supply Declarant with evidence of out-of-pocket expenses incurred by the GMHC Unit Owner in moving from the existing GMHC Ground Floor Unit to the Substituted GMHC Unit.

Following any substitution of space referred to in this Paragraph 20, the GMHC Unit Owner, Declarant, the Condominium Board and the other Unit Owners shall, at the request of any of the Condominium Board or the GMHC Unit Owner, execute such deeds and other instruments and take such other steps that may reasonably be required to effectuate such substitution, including an amendment to the Floor Plans and the Declaration reflecting such substitution and any changes to the Common Interest resulting therefrom (which shall be determined in accordance with Article 12 of the Declaration).

21. Re-Entry. Ground Landlord and Ground Tenant acknowledge any rights of reentry into the GMHC Unit as set forth in any of the Other Transaction Documents do not confer on Ground Landlord or Ground Tenant the authority to operate a substance use disorder program. Ground Landlord and Ground Tenant agree to give (and/or to cause the Condominium Board to give) the New York State Office of Alcoholism and Substance Abuse Services at least thirty days' notice by certified mail of the intent to re-enter the GMHC Unit or to initiate dispossess proceedings and at least sixty days' notice of the expiration of the Ground Lease.

22. Effective Date. Notwithstanding the date of this Agreement first set forth above, the terms of this Agreement shall be effective from and after the date of the Closing (as such term is defined in the GMHC Sale Agreement).

23. GMHC Standards. Attached hereto as Exhibit C (and hereby made a part hereof) are certain provisions agreed by GMHC, Ground Landlord and Ground Tenant (and, by its execution of this Agreement, the Condominium Board). Such provisions are to be deemed the "Differentiated Standards" (as defined in the Declaration) applicable to GMHC and the "GMHC Standards" (as defined in the Declaration).

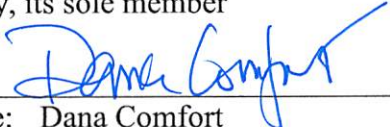
[Signatures on immediately following page]

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

GLENHILL ASSOCIATES, LLC, a New York limited liability company, its sole member

By: Glenhill Manager LLC, a Delaware limited liability company, its managing member

By: Glenhill Holdings LLC, a Delaware limited liability company, its sole member

By: 

Name: Dana Comfort

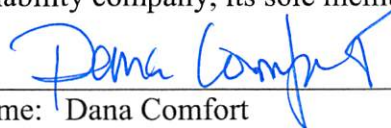
Title: Managing Member

GLENHILL ASSOCIATES LEASEHOLD, LLC,
a New York limited liability company

By: GLENHILL ASSOCIATES, LLC, a New York limited liability company, its sole member

By: Glenhill Manager LLC, a Delaware limited liability company, its managing member

By: Glenhill Holdings LLC, a Delaware limited liability company, its sole member

By: 

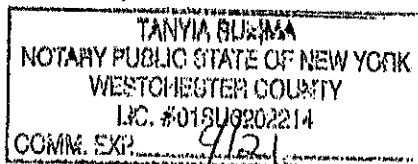
Name: Dana Comfort

Title: Managing Member

GROUND LANDLORD ACKNOWLEDGMENT

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

On the 13th day of October in the year 2020, before me, the undersigned, personally appeared Dana Comfort, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



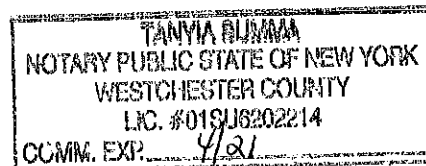
Tanya Blumma
Notary Public

GROUND TENANT ACKNOWLEDGMENT

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

On the 13th day of October in the year 2020, before me, the undersigned, personally appeared Dana Comfort, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Tanya Blumma
Notary Public



The undersigned executes this Agreement to evidence its agreement to, and agreement to be bound by, the provisions of Exhibit C attached hereto (with such provisions being the "Differentiated Standards" applicable to GMHC and the "GMHC Standards" under the Declaration):

**THE BOARD OF MANAGERS OF 307 WEST 38TH
CONDOMINIUM**

By: 
Name: Zander Comfort
Title: President

GAY MEN'S HEALTH CRISIS, INC. ("GMHC")

By: Kelsey Li
Name: Kelsey Louie
Title: Chief Executive Officer

GMHC ACKNOWLEDGMENT

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

On the 11th day of September in the year 2020, before me, the undersigned, personally appeared Kelsey Louie, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Barry Langman
Notary Public

BARRY LANGMAN
Notary Public, State of New York
No. 02LA5029645
Qualified in New York County
Commission Expires Dec. 27, 2022

EXHIBIT A

LIMITED POWER OF ATTORNEY

Terms used in this Limited Power of Attorney that are used in that certain omnibus agreement (the “Omnibus Agreement”), dated as of _____ 2020, by and among **GLENHILL ASSOCIATES, LLC** (together with its successors and assigns, “Ground Landlord”), **GLENHILL ASSOCIATES LEASEHOLD, LLC**, and the undersigned, **GAY MEN’S HEALTH CRISIS, INC.**, shall have the same meanings in this Limited Power of Attorney as in the Omnibus Agreement.

The undersigned, **GAY MEN’S HEALTH CRISIS, INC.**, a New York not-for-profit corporation, duly organized under the Law of the State of New York, as the owner of the Condominium Unit (the “Unit”) in the 307 West 38th Condominium, which is designated and described in the Declaration as the “GMHC Unit” and also designated as Tax Lots _____ in Block _____ of the Borough of Manhattan on the Tax Map of the Real Property Assessment Department of The City of New York and on the floor plans annexed to the Declaration, does hereby nominate, constitute and appoint the persons who may from time to time constitute Ground Landlord true and lawful attorneys-in-fact for the undersigned, coupled with an interest, with power of substitution, in their own names, as members of Ground Landlord, subject to the provisions of the Omnibus Agreement then in effect, to execute, acknowledge and deliver all Transfer Tax Instruments required by Applicable Laws in connection with the recordation of the Reconveyance Deed (as such terms are each defined in the Omnibus Agreement) on behalf of the undersigned; provided, however, that Ground Landlord agrees to exercise this Limited Power of Attorney in good faith and solely for the purposes expressly enumerated in the Omnibus Agreement and for no other purpose.

The acts of a member or authorized signatory of Ground Landlord shall constitute the acts of said attorneys-in-fact.

We hereby nominate, constitute and appoint Ground Landlord, true and lawful attorney-in-fact for the undersigned, coupled with an interest, with power of substitution, subject to the provisions of the Omnibus Agreement then in effect, to do the following: complete and submit to the Office of the Register of The City of New York, New York County for recording, on behalf of the undersigned, the Reconveyance Deed and all Transfer Tax Instruments required by Applicable Laws in connection with the recordation of the Reconveyance Deed when such completion shall be required by any governmental agency or instrumentality to effectuate the recording of the Reconveyance Deed in conjunction with the aforementioned execution, acknowledgement, delivery and recording of the Reconveyance Documents; provided, however, that Ground Landlord agrees to exercise this Limited Power of Attorney in good faith and solely for the purposes expressly enumerated in the Omnibus Agreement and for no other purpose.

This Limited Power of Attorney shall be irrevocable.

(SIGNATURES FOLLOW ON NEXT PAGE)

IN WITNESS WHEREOF, the undersigned has/have executed this Limited Power of Attorney as of _____, 2020.

GAY MEN'S HEALTH CRISIS, INC.,
a New York not-for-profit corporation

Name:

Title:

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

On the _____ day of _____ in the year 202__, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

EXHIBIT B

Reconveyance Deed

CONDOMINIUM UNIT DEED

from

GAY MEN'S HEALTH CRISIS, INC.

Grantor

to

GLENHILL ASSOCIATES LEASEHOLD, LLC

Grantee

Affecting the GMHC Unit in
the Building Known as 307 West 38th Condominium

Section:

Block:

Lot(s):

Borough of Manhattan, New York, New York

RECORD AND RETURN TO:
Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, New York 10038
Attention: Trevor T. Adler, Esq.

.

CONDOMINIUM UNIT DEED

THIS INDENTURE, made as of the [_____] day of [____], 20[____], by

GAY MEN'S HEALTH CRISIS, INC., a New York not-for-profit corporation ("Grantor") with an address at 446 West 33rd Street, New York, New York 10001, as grantor, in favor of **GLENHILL ASSOCIATES LEASEHOLD, LLC**, a New York limited liability company ("Grantee"), having an office c/o George Comfort & Sons, Inc., at 200 Madison Avenue, New York, New York 10016.

W I T N E S S E T H:

That Grantor, in consideration of Ten Dollars (\$10.00) and other valuable consideration, hereby grants, conveys and releases, without recourse or warranty and subject to the reservations and reversions hereinafter set forth, unto the Grantee and the successors and permitted assigns of the Grantee, forever:

Grantor's interest in that certain leasehold commercial condominium unit (the "Unit") located in the building (the "Building") known as "307 West 38th Condominium" (the "Condominium") located at 307 West 38th Street, Borough of Manhattan, County of New York, City and State of New York (the "Land" together with the Building is collectively the "Property"), as more particularly described in Schedule A annexed hereto and made a part hereof, which Unit is designated and described as the "GMHC Unit" in the declaration (the "Declaration") establishing under Article 9-B of the Real Property Law of the State of New York a plan for leasehold condominium ownership of the Property, which Declaration is dated as of _____, 2020, and was recorded in the Office of the Register of The City of New York, New York County (the "City Register's Office") on _____, 2020, under CRFN _____. The Unit is designated as tax lot number _____ in Block _____ of Section _____ of the Borough of Manhattan on the Tax Map of the Real Property Assessment Department of The City of New York and on the Floor Plans of said Building, certified by _____, Architect, on _____, 2020, and filed in the Real Property Assessment Department of the City of New York on _____, 2020 as Condominium Plan No. _____ also filed in the City Register's Office on _____, 2020, under CRFN _____.

Together with the undivided interests in Common Elements (all capitalized terms used herein that are not separately defined herein shall have the meanings ascribed to them in the Declaration), and any easements, appurtenant to the Unit as set forth in the Declaration (collectively, the "Appurtenant Rights");

Subject to the terms, conditions, easements, restrictions and other provisions set forth in the Declaration and the By-Laws (including any rules and regulations of the Condominium), as the same may be amended from time to time in accordance with the terms thereof, all of which shall constitute covenants running with the Land and shall bind any person having at any time any interest or estate in the Unit as though recited and stipulated at length herein; and

Subject also to such other liens, agreements, covenants, easements, consents, restrictions and other matters as pertain to the Unit and/or the Property as more particularly

described in Schedule B (the "Permitted Encumbrances") annexed hereto and made a part hereof;

TO HAVE AND TO HOLD the Unit (together with the Appurtenant Rights) unto the Grantee and its successors and assigns of Grantee forever.

Grantor covenants that it has not done or suffered anything whereby the Unit has been encumbered in any way whatever, except the Declaration, the By-Laws, the Permitted Encumbrances and such other matters that are referred to herein.

Grantee by accepting delivery of this deed covenants and agrees to be bound by and to comply with the provisions of the Ground Lease, the Declaration and the By-Laws of the Condominium (including but not limited to the rules and regulations thereunder) recorded simultaneously with and as part of the Declaration, as the same may be amended from time to time by instruments recorded in the City Register's Office.

Subject to any restrictions contained in the Declaration or in the By-Laws, the Unit may be used for commercial purposes only.

In compliance with Section 13 of the Lien Law of the State of New York, the Grantor shall receive any and all consideration for this conveyance and shall hold the right to receive such consideration as a trust fund for the purpose of paying the cost of the improvements (if any) and shall apply the same first to the payment of the cost of the improvements (if any) before using any part of the same for any other purpose.

The terms "Grantor" and "Grantee," shall be read as "Grantors" and "Grantees" whenever the sense of the deed so requires.

IN WITNESS WHEREOF, the Grantor has duly executed this Indenture as of the day and year first above written.

GRANTOR:

GAY MEN'S HEALTH CRISIS, INC., a New York not-for-profit corporation

By: _____
Name:
Title:

GRANTEE:

GLENHILL ASSOCIATES LEASEHOLD, LLC,
a New York limited liability company

By: GLENHILL ASSOCIATES, LLC, a New York
limited liability company, its sole member

By: Glenhill Manager LLC, a Delaware limited
liability company, its managing member

By: Glenhill Holdings LLC, a Delaware
limited liability company, its sole
member

By: _____
Name: Dana Comfort
Title: Managing Member

COUNTY OF NEW YORK)

On the _____ day of _____ in the year 2020, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

COUNTY OF NEW YORK)

On the _____ day of _____ in the year 2020, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

EXHIBIT C

GMHC Standards

All capitalized terms used in this Exhibit C shall have the meanings set forth in the Declaration and By-Laws unless otherwise defined herein.

Notwithstanding anything to the contrary contained in the Declaration and the By-Laws, the provisions set forth in this Exhibit C (the “GMHC Standards”) shall be interpreted in all instances to give effect to the overriding principle that the provisions of the Declaration shall be applied to the GMHC Unit only to the extent that the benefits and the limitations and obligations set forth therein, do not conflict with, and are not inconsistent with this Exhibit C, and any conflict or inconsistency shall be resolved in favor of these GMHC Standards.

In addition, if any statement contained in the GMHC Sale Agreement or the Omnibus Agreement to which this Exhibit C is attached (the “GMHC Omnibus Agreement”) is not consistent with the terms of the Declaration or the By-Laws, the provisions of the GMHC Sale Agreement or the GMHC Omnibus Agreement, as applicable, shall prevail and such provision shall be deemed to be included in this Exhibit C.

SECTION 1 ALTERATIONS

A. Notwithstanding anything to the contrary contained in Section 5.13.3 of the By-laws, if the Alterations are solely cosmetic in nature, cost less than One Hundred Thousand Dollars (\$100,000.00) (as Adjusted-by-CPI) in the aggregate (as determined on a per-project basis), are Non-Structural, and do not require a building permit, then such Alterations shall not require the Condominium Board’s consent but shall require reasonable prior notice to the Condominium Board.

B. Supplementing Section 5.13 of the By-laws, the Condominium Board hereby agrees not to impose any fee in connection with the GMHC Unit Owner’s construction other than the Condominium Board’s actual reasonable out-of-pocket costs and expenses incurred by the Condominium Board in connection with work to be performed by the GMHC Unit Owner in the GMHC Units.

SECTION 2 END OF GROUND LEASE TERM

Supplementing Section 5.13.6 of the By-laws, the GMHC Unit Owner shall, unless otherwise directed by Fee Owner or the Condominium Board, remove at or before the expiration of the Ground Lease term or within fifteen (15) days after any earlier termination of the Ground Lease, all Alterations which in the Condominium Board’s or Fee Owner’s reasonable judgment are of a “non-standard nature” (as defined below), such as internal stairways, slab openings, special electronic data processing installations, and vaults, and the shall repair or pay the cost of repairing any damage to the GMHC Units or the Building resulting from the removal thereof and restoring the GMHC Units to their condition prior to the installation thereof. Upon receipt of the GMHC Unit Owner’s request for a determination, delivered to the

Condominium Board simultaneous with the GMHC Unit Owner's request for the Condominium Board's consent to any Alterations, the Condominium Board will inform the GMHC Unit Owner by written notice as to whether any of such Alterations that are the subject of the GMHC Unit Owner's consent are of a non-standard nature and if so, whether the Condominium Board will require the removal of any such Alterations at the expiration of the Ground Lease or earlier termination of the Condominium (it being understood and agreed that such written notice shall be binding on the Condominium Board, the Declarant and Fee Owner); if the Condominium Board shall fail to respond to the GMHC Unit Owner's request for a determination within ten (10) days then the GMHC Unit Owner shall have the right to give a second request (stating in bold and capitalized letters "REQUEST FOR DETERMINATION AS TO NON-STANDARD NATURE. FAILURE TO RESPOND WILL RESULT IN DEEMED APPROVAL"), and if the Condominium Board shall fail to respond to such second request within ten (10) days then such Alterations shall be deemed not non-standard and Owner will not be permitted to require the removal of any such Alterations at the expiration or earlier termination of the Ground Lease. For purposes of the Condominium Documents, an Alteration is of a "non-standard nature" if such alteration is not a typical or customary office installation and is more expensive to remove than a typical or customary office installation. Notwithstanding anything to the contrary contained herein, kitchens, internal stairs, vaults and raised flooring shall constitute Alterations of a non-standard nature and shall be required to be removed by the GMHC Unit Owner at the expiration or earlier termination of the Ground Lease. Any dispute between the Condominium Board (or Fee Owner) and the GMHC Unit Owner with respect to whether the Condominium Board (or Fee Owner) may require the removal of any alteration pursuant to the terms hereof may be submitted for decision to the New York office of the American Arbitration Association, whose determination shall be final and conclusive upon the parties hereto. Each party shall bear its own costs in connection with such arbitration procedure.

SECTION 3 TRANSFER RIGHTS

A. The GMHC Unit Owner, for itself, its heirs, distributes, executors, administrators, legal representatives, successors and assigns, expressly covenants that it shall not (i) sell, mortgage or encumber the GMHC Unit Owner's interest in the GMHC Units or any part thereof, nor (ii) lease, sublease or suffer or permit the GMHC Units or any part thereof to be used by others, without the prior written consent of the Condominium Board in each instance.

B. Any transfer, by operation of law or otherwise (and whether in one or more transactions), of more than fifty percent (50%) direct or indirect ownership interests in the GMHC Unit Owner, shall be deemed a sale of the GMHC Units within the meaning of this Section 3. The execution of an agreement by or on behalf of the GMHC Unit Owner by which a third party agrees to perform the GMHC Unit Owner's obligations under the GMHC Transaction Documents shall also be deemed such a sale of the GMHC Units.

C. No sale or transfer shall be effective unless and until the purchaser shall execute, acknowledge and deliver to Declarant and the Condominium Board an agreement, in form and substance reasonably satisfactory to Declarant and the Condominium Board, whereby the purchaser shall (i) assume the obligations and performance of the GMHC Transaction Documents and agree to be bound by all of the covenants, agreements, terms, provisions and

conditions hereof on the part of the GMHC Unit Owner to be performed or observed on and after the effective date of any such sale or transfer and (ii) agree that the provisions of this Section 3 shall, notwithstanding such sale or transfer, be binding upon it in the future.

D. If the GMHC Units are sold or transferred, or if the GMHC Units or any part thereof are leased or occupied by anyone other than the GMHC Unit Owner, the Condominium Board may, after default by the GMHC Unit Owner, collect Common Charges and Special Assessments from the purchaser or transferee, tenant or occupant, and apply the net amount collected to the Common Charges and Special Assessments due under the Condominium Documents, but no such sale, transfer, letting, occupancy or collection shall be deemed a waiver of this covenant, or the acceptance of the purchaser, transferee, tenant or occupant as a Unit Owner, or a release of the GMHC Unit Owner from the further performance by the GMHC Unit Owner of covenants on the part of the GMHC Unit Owner contained in the GMHC Transaction Documents.

E. If the Declarant does not accept an offer made by the GMHC Unit Owner in a notice given to the Condominium Board pursuant to Section 11(a) of the GMHC Omnibus Agreement, (or if no such offer is applicable under said Section 11(a)), the Condominium Board will not unreasonably withhold or delay its consent to the proposed sale of the GMHC Unit or leasing referred to in said notice on the terms and conditions set forth in the notice; provided, however, that the Condominium Board shall not in any event be obligated to consent to any such proposed sale or lease unless:

- (i) There shall be not more than four (4) occupants on any separate floor of the Property at any one time during the term hereof;
- (ii) The financial condition of the proposed purchaser or tenant, in light of the ability of such proposed seller or tenant to fulfill its obligations under the GMHC Transaction Documents or the lease (as the case may be), must be satisfactory to the Condominium Board in the Condominium Board's reasonable discretion;
- (iii) Any proposed instrument of sale or lease must be submitted to the Condominium Board at least thirty (30) days before the commencement date thereof, accompanied by financial information relating to the proposed purchaser or tenant (sufficient to fulfill clause (ii) above) and any other information reasonably required by the Condominium Board;
- (iv) The lease must provide that the same is subject to all of the terms and conditions of the GMHC Transaction Documents and shall be for a term ending no later than one (1) day prior to the expiration date of the Ground Lease and the lease must provide that in the event of the foreclosure of any lien against the GMHC Units or cancellation or termination of the Condominium for any reason whatsoever or of the surrender of the GMHC Units whether voluntary, involuntary or by operation of law, prior to the expiration date of such lease, including extensions and renewals granted thereunder, the tenant agrees to make full and complete attornment to the successor owner of the GMHC Units or the Condominium Board or its designee, as applicable (each, a "Successor GMHC Unit Owner"),

for the balance of the term of the lease, at the option of the Successor GMHC Unit Owner at any time during the proposed tenant's occupancy of any portion of the GMHC Units, which attornment shall be evidenced by an agreement in form and substance satisfactory to the Successor GMHC Unit Owner, which the proposed tenant agrees to execute and deliver at any time within five (5) days after request of the Successor GMHC Unit Owner, and the proposed tenant waives the provisions of any law now or hereafter in effect which may give the proposed tenant any right of election to terminate the lease or to surrender possession of its leased premises in the event any proceeding is brought by any party to foreclose any such lien against the GMHC Units or terminate the Condominium;

- (v) The space proposed to be leased shall be required to be regular in shape and configuration with appropriate means of ingress and egress suitable for normal renting purposes;
- (vi) The purchaser or tenant must be subject to service of process in New York State and must carry on a trade or business consistent with the then-applicable class and standard of the Building (excluding, without limitation, an employment and/or travel agency, a messenger service, a photographic and/or reproduction service, a retail operation at the GMHC Units, the sale of foodstuffs or edibles, a mailing address or telephone answering service, a governmental or quasi-governmental agency, authority, bureau or department, and/or such other particular businesses, professions or activities as to which the Condominium Board has in writing granted another Unit Owner in said Building a restrictive covenant prohibiting such uses in the Building);
- (vii) No sale or lease shall relieve the GMHC Unit Owner of its obligations or liabilities under the GMHC Transaction Documents, or shall be deemed a consent to a further sale or lease;
- (viii) The GMHC Unit Owner shall not be in monetary or material non-monetary default under any of the terms and conditions of the GMHC Transaction Documents at the time of any notice or request for consent under the terms of this Section and at the effective date of the sale or the commencement date of such lease;
- (ix) The GMHC Unit Owner shall pay as a Special Assessment the Condominium Board's reasonable attorneys' fees in connection with such sale or lease;
- (x) The purchaser or tenant shall not be a then existing Unit Owner or occupant of the Building, if comparable space is then available in the Building for a comparable term;
- (xi) Any lease shall not be advertised at a rental rate less than the rental rate (if any) then being charged by Declarant for any comparable space in the Building and for a comparable term, at the time of such lease; and

F. The Condominium Board's consent, if any, shall be evidenced by the delivery of, and shall be subject to the terms and conditions of, a consent to sale or lease duly executed by the Condominium Board, the GMHC Unit Owner and the purchaser or tenant on the Condominium Board's commercially reasonable customary form, as prepared by the Condominium Board.

G. The listing of any name other than that of the GMHC Unit Owner, whether on the doors of the GMHC Units or the Building directory, or otherwise, shall not operate to vest any right or interest in the GMHC Transaction Documents or in the GMHC Units, nor shall it be deemed to be the consent of the Condominium Board to any sale or transfer or lease of the GMHC Units or to the use or occupancy thereof by any other party.

H. Notwithstanding any provision of Article 7 of the By-Laws, Section 11 of the GMHC Omnibus Agreement, or this Section 3, Section 7.1 of the By-Laws, Section 11 of the GMHC Omnibus Agreement and any provision of any document requiring the consent or approval of Declarant and/or the Condominium Board (the "Excluded Provisions") shall not apply to the following transactions (collectively, "Permitted Transactions"):

- (i) transactions with an entity into which the GMHC Unit Owner (or an Affiliate of the GMHC Unit Owner) is merged or consolidated, or transactions with an entity to which substantially all of the assets of the GMHC Unit Owner are transferred;
- (ii) a sale or transfer of the GMHC Units to an Affiliate of the GMHC Unit Owner; or
- (iii) a transfer of any interest in the GMHC Unit Owner, including, without limitation, a majority or controlling interest in the GMHC Unit Owner;

provided that in any of such events (except a single transfer of a minority or non-controlling interest in the GMHC Unit Owner) (A) the successor to the GMHC Unit Owner has a net worth computed in accordance with generally accepted accounting principles at least equal to the net worth of the GMHC Unit Owner as of August 28, 2017 (the "Minimum Net Worth"), (B) proof reasonably satisfactory to the Condominium Board of such Minimum Net Worth shall have been delivered to the Condominium Board at least thirty (30) days prior to the effective date of any such transaction, (C) a duplicate original copies of the documents effectuating such sale or transfer in form and substance satisfactory to the Condominium Board, duly executed by the GMHC Unit Owner, shall have been delivered to the Condominium Board at least ten (10) Business Days prior to the effective date of any such transaction, (D) an instrument in form and substance reasonably satisfactory to the Condominium Board, duly executed by the purchaser or transferee, in which such purchaser or transferee assumes observance and performance of, and agrees to be bound by, all of the terms, covenants and conditions of the GMHC Transaction Documents on the GMHC Unit Owner's part to be performed and observed shall have been delivered to the Condominium Board at least ten (10) Business Days prior to the effective date of any such transaction and (E) such merger, consolidation or transfer shall be for a good business purpose and not principally for the purpose of transferring the GMHC Units.

I. Furthermore, the Excluded Provisions shall not apply to (i) any lease or license of any portion of the GMHC Units to an affiliate of the GMHC Unit Owner (or the use or occupancy of any portion of the GMHC Units by an affiliate of the GMHC Unit Owner) and (ii) the use of “desk space” within the GMHC Units comprising in the aggregate not more than fifteen percent (15%) of the square footage of the GMHC Units by clients, customers, consultants, other professionals and/or not-for-profit organizations related to the operations or missions of the GMHC Unit Owner (provided, in the case of this clause (ii) that (x) each such “desk space” user shall be engaged in a business or activity which is commensurate with the standards of the Building and which is a use permitted under Article 8 of the Declaration hereof in accordance with the Condominium Documents, (y) upon the request of the Condominium Board, not more often than quarterly (except during the continuance of an Event of Default, as defined in the GMHC Purchase Agreement), the GMHC Unit Owner shall provide the Condominium Board with a written list of each such “desk space” user currently in the GMHC Units and (z) such “desk space” users shall not be permitted to have signage outside the GMHC Units). Each such lease, license, use or occupancy under this Section 3(I) shall be subject and subordinate to the Condominium Documents and to the matters to which the Condominium Documents are or shall be subject and/or subordinate, and in the event of the expiration or earlier termination of the Ground Lease or the Condominium Documents, the same shall immediately terminate.

SECTION 4 CONDEMNATION

A. If all or substantially all of the Building or the GMHC Units shall be taken by Condemnation or in any other manner for any public or quasi-public use or purpose, the Condominium shall terminate as of the date of vesting of title on such taking (the “Date of the Taking”), and the Common Charges shall be prorated and adjusted as of such date.

B. If more than forty (40%) percent of the Building (but less than all or substantially all of the Building) shall be so taken, the Condominium shall be unaffected by such taking, except that the Condominium Board may, at its option, terminate the Condominium by giving the GMHC Unit Owner notice to that effect within ninety (90) days after the Date of the Taking. Notwithstanding the foregoing, if twenty (20%) percent or more of the GMHC Units shall be so taken and the remaining area of the GMHC Units shall not be sufficient, in the GMHC Unit Owner’s reasonable judgment, for the GMHC Unit Owner to continue the operation of its business, or if either access to the GMHC Units or the standard or class of the Building is materially adversely affected, then the GMHC Unit Owner may (at its option) terminate the Condominium by giving the Condominium Board notice to that effect within ninety (90) days after the Date of the Taking. The Condominium shall terminate on the date that such notice from the GMHC Unit Owner or the Condominium Board to the other shall be given, and the Common Charges and Special Assessments shall be prorated and adjusted as of such termination date, except that with respect to any portion of the GMHC Units which is the subject of the taking, if earlier, as of the Date of the Taking. Upon any such partial taking and the Condominium continuing in force as to any part of the GMHC Units, the Common Charges and Special Assessments shall be equitably adjusted, taking into account the rentable area remaining.

C. The Fee Owner or the Condominium Board, as the case may be, shall be entitled to receive the entire award or payment in connection with any taking without deduction therefrom for any estate vested in the GMHC Unit Owner and the GMHC Unit Owner shall receive no part of such award except as hereinafter expressly provided in this Section 4. The GMHC Unit Owner hereby expressly assigns to the Condominium Board all of its right, title and interest in and to every such award or payment; *provided, however*, that the GMHC Unit Owner shall have the right to make a separate claim for its moving expenses and to the extent the award otherwise payable to Fee Owner and the Condominium Board shall not be diminished thereby, for any of the GMHC Unit Owner's personal property taken.

D. If the temporary use or occupancy of all or any part of the GMHC Units shall be taken by Condemnation or in any other manner for any public or quasi-public use or purpose, the GMHC Unit Owner shall be entitled, except as hereinafter set forth, to receive that portion of the award or payment for such taking which represents compensation for the use and occupancy of the GMHC Units, for the taking of GMHC Unit Owner's personal property and for moving expenses, and the Condominium Board shall be entitled to receive that portion which represents reimbursement for the cost of restoration of the GMHC Units. The Condominium shall be and remain unaffected by such taking and the GMHC Unit Owner shall continue to be responsible for all of its obligations under the GMHC Transaction Documents insofar as such obligations are not affected by such taking and shall continue to pay in full the Common Charges and Special Assessments when due. If the period of temporary use or occupancy shall extend beyond the expiration date of the Ground Lease, that part of the award which represents compensation for the use and occupancy of the GMHC Units (or a part thereof) shall be divided between Fee Owner and the GMHC Unit Owner so that the GMHC Unit Owner shall receive so much thereof as represents the period up to and including such expiration date and Fee Owner shall receive so much thereof as represents the period after such expiration date. All monies paid as, or as part of, an award for temporary use and occupancy for a period beyond the date to which Common Charges and Special Assessments have been paid shall be received, held and applied by the Condominium Board as a trust fund for payment of the Common Charges and Special Assessments becoming due under the Condominium Documents.

E. In the event of a taking of less than the whole of the Building and/or the Land which does not result in termination of the Condominium, or in the event of a taking for a temporary use or occupancy of all or any part of the GMHC Units which does not result in a termination of the Condominium, the Condominium Board, at its expense, and whether or not any award or awards shall be sufficient for the purpose, shall (or shall cause the Fee owner to) proceed with reasonable diligence to repair the remaining parts of the Building and the GMHC Units to a condition not less than substantially their former condition to the extent that the same may be feasible (subject to reasonable changes which Fee Owner or the Condominium Board shall deem desirable) and so as to constitute a complete and useable Building and GMHC Units.

SECTION 5 LATE PAYMENT

A. Time shall be deemed of the essence with respect to the payment of Common Charges, Special Assessments and all other amounts payable under the Condominium Documents. If the GMHC Unit Owner shall fail to pay any installment of Common Charges,

Special Assessments and all other amounts payable under the Condominium Documents when first due hereunder (irrespective of any grace period as may be applicable thereto) and if such failure to pay shall continue for more than five (5) days after such payment was first due, then the GMHC Unit Owner shall be required to pay the Condominium Board, upon demand, a late charge of \$.05 for each \$1.00 of Common Charges, Special Assessments and all other amounts payable under the Condominium Documents which remains unpaid during each month (or portion thereof), and such late charge shall be deemed a Special Assessment hereunder. Nothing herein contained shall be intended to violate any applicable law, code or regulation and in all instances all such charges shall be automatically reduced to any maximum applicable legal rate or charge. The provisions of this paragraph are in addition to any claim for damages and all other remedies available to the Condominium Board for nonpayment of Common Charges, Special Assessments or any other amounts payable under the Condominium Documents .

B. If the GMHC Unit Owner is in arrears in the payment of Common Charges, Special Assessments or any other amounts payable under the Condominium Documents beyond applicable notice, grace and cure periods, the GMHC Unit Owner waives its right, if any, to designate the items against which any payments made by the GMHC Unit Owner are to be credited and the GMHC Unit Owner agrees that the Condominium Board may apply any payments made by the GMHC Unit Owner to any item the Condominium Board sees fit, irrespective of and notwithstanding any designation or request by the GMHC Unit Owner as to the item against which any such payments shall be credited.

C. Returned checks – In the event that the GMHC Unit Owner shall make any payments due under the GMHC Transaction Documents by ordinary check, and that check shall be returned for insufficient or uncollected funds, or the account being closed, then for a period of twenty four (24) months thereafter Fee Owner, Declarant or the Condominium Board, as the case may be, shall not be obligated to accept any payment from, or on behalf of the GMHC Unit Owner for any amount payable under the GMHC Transaction Documents which is not made by certified check, official bank check or cash. In the event any payment made by the GMHC Unit Owner to Fee Owner, Declarant or the Condominium Board shall be returned for any of the above reasons, there shall be an additional charge to the GMHC Unit Owner of One Hundred Dollars (\$100.00) payable within 10 days after demand.

SECTION 6 INDEMNITY

The Condominium Board covenants and agrees to indemnify and save harmless the GMHC Unit Owner and its contractors, officers, agents, employees, licensees and invitees (collectively, the “GMHC Indemnified Parties”), from and against any and all Liabilities, to which the GMHC Indemnified Parties may be subject or which they may suffer by reason of, or by reason of any claim by a party other than the GMHC Unit Owner for any injury to, or death of, any person or persons or damage to property (including any loss of use thereof) resulting from any default by the Condominium Board in the performance of its obligations under the Condominium Documents; provided that the Condominium Board shall not be responsible for Liabilities resulting directly, primarily or proximately from the negligence or willful misconduct of the GMHC Indemnified Parties.

SECTION 7
SUPPLEMENT TO OBLIGATION TO COMPLY WITH LEGAL REQUIREMENTS

Supplementing the provisions of Section 27.1 of the Declaration:

A. The GMHC Unit Owner may, after securing the Condominium Board to the Condominium Board's reasonable satisfaction against all damages, interest, penalties and expenses (including, but not limited to, reasonable attorney's fees) by cash deposit or by surety bond in an amount and in a company reasonably satisfactory to the Condominium Board, contest and appeal any Applicable Laws, provided same is done with all reasonable promptness and provided such appeal shall not subject any Condominium Indemnified Party to prosecution for a criminal offense or constitute a default under any Superior Instrument, or cause the GMHC Units or any part thereof to be forfeited, condemned or vacated.

B. The GMHC Units are being delivered to the GMHC Unit Owner with a code compliant fire safety system as part of Seller's Work. In the event the GMHC Unit Owner makes Alterations to the GMHC Unit following the completion of the Seller's Work, the Condominium Board shall, at the GMHC Unit Owner's expense, install fire extinguishers, smoke detectors, or perform such other changes, modifications or Alterations of any existing Base Building Systems in the GMHC Units or are necessary to prevent the imposition of a penalty, an additional charge, or an increase in fire insurance rates of the Condominium Board, the Declarant or Fee Owner as a result of the use of the GMHC Units whether or not the same is a use permitted under the terms and conditions of the Declaration. The Condominium Board shall be responsible for the Maintenance of all portions of the Base Building Systems set forth in this Section 7, except that the GMHC Unit Owner shall be responsible for such Maintenance to the extent required as a result of Alterations performed by or for the GMHC Unit after the GMHC Closing Date or as a result of the willful misconduct, negligence or improper act or omission of the GMHC Unit Owner or any of the GMHC Indemnified Parties. All Alterations and Maintenance performed or installations made by the GMHC Unit Owner (or by the Condominium Board at the GMHC Unit Owner's request) in and to the GMHC Units shall conform to the requirements of the fire safety system serving the Building and all Applicable Law. Any proposed Alterations to such Base Building Systems shall be subject to the Condominium Board's prior written approval, which shall not be unreasonably withheld or delayed. The GMHC Unit Owner acknowledges that the approval shall not be deemed a representation by the Condominium Board that the GMHC Unit Owner's proposed Alterations comply with Applicable Law and the GMHC Unit Owner shall be solely responsible for ensuring such compliance at the GMHC Unit Owner's sole cost and expense. The Condominium Board shall file the plans and specifications depicting the GMHC Unit Owner's fire safety system with the appropriate government authorities at the GMHC Unit Owner's sole cost and expense. The GMHC Unit Owner shall reimburse the Condominium Board, within ten (10) days of receiving an invoice therefor, for any filing fees and for any out-of-pocket consultant, engineering or architectural fees incurred by the Condominium Board in connection with reviewing the GMHC Unit Owner's plans and specifications. All work affecting the fire safety system serving the GMHC Units shall be performed by the Condominium Board's contractor, at the GMHC Unit Owner's sole cost and expense, and the GMHC Unit Owner shall pay to the Condominium Board the cost of such work within ten (10) days of receiving an invoice therefor. The amounts charged by the Condominium Board's contractor for such work shall be the same amounts as the

Condominium Board and the GMHC Unit Owner (acting reasonably) shall mutually determine that the Condominium Board's contractor would charge the Condominium Board or any other Unit Owner for such work (and the GMHC Unit Owner may make reasonable inquiries of the Condominium Board's contractor in order to confirm such normal charges). Such work shall include, without limitation, [1] relocation of existing fire detection devices, alarm signals and/or communication devices necessitated by the alteration of the GMHC Units, and [2] installation of such additional fire control or detection devices as may be required as a result of the GMHC Unit Owner's particular use or manner of use of the GMHC Units. The GMHC Unit Owner hereby agrees to install at the GMHC Unit Owner's sole cost and expense "deluge" sprinklers in the event the Condominium Board or Declarant installs new windows in walls of the GMHC Units that are "lot line" windows. The GMHC Unit Owner is responsible for making all modifications to the sprinkler system in the GMHC Units to accommodate changes in the layout of the GMHC Units, lot line requirements and any necessary changes to sprinkler branch piping to ensure the system within the Property is fully compliant with all Applicable Laws in effect throughout the term of the Ground Lease.

C. If any violations of any Applicable Laws (whether or not existing on the date hereof and/or the GMHC Closing Date), which are not due to any act or omission of the GMHC Unit Owner, any tenant or subtenant of the GMHC Unit Owner, or their respective employees, representatives, agents or contractors and which are not due to the violation of any zoning ordinance or other applicable ordinance governing the use of the GMHC Unit resulting from the GMHC Unit Owner's proposed use of the GMHC Unit ("Existing Violations") shall delay (or prevent) the GMHC Unit Owner from obtaining any governmental permits, consents, approvals or other documentation required by the GMHC Unit Owner for (A) the performance of any Alteration that is in accordance with the Condominium Documents or (B) the lawful occupancy of a substantial portion of the GMHC Unit upon completion of any Alteration therein, then, upon the giving of notice by the GMHC Unit Owner to the Condominium Board of such prevention or delay and of the applicable Existing Violations, (i) the Condominium Board shall promptly commence and thereafter diligently prosecute to completion the cure and removal of record of such Existing Violations, and (ii) if the GMHC Unit Owner shall be actually delayed in or prevented from (x) occupying a material portion of the Property or (y) substantially completing any alteration solely as a result of any Existing Violation and the failure to complete such alteration prevents the GMHC Unit Owner from, or delays the GMHC Unit Owner in, occupying a material portion of the Property, then Common Charges in respect of such portion of the Property that the GMHC Unit Owner is actually prevented from, or delayed in, occupying shall be abated by one day for each day of such actual delay in occupancy or substantial completion.

D. Notwithstanding any provision of this Section 7 or any other provision of the Condominium Documents, (A) in no event shall the Condominium Board assert any default under the Condominium Documents by reason of any failure of the GMHC Unit to be used and occupied in conformance with the certificate of occupancy, licenses, permits, or laws, regulations (including, without limitation, any applicable zoning or land use regulations) or ordinances enforcing the foregoing, unless (and only to the extent that) (i) a government authority having jurisdiction shall have issued a violation, summons, notice of enforcement action or like writing with respect to such failure, (ii) Declarant or the Condominium Board is unable to obtain a license, permit, certificate, or other similar approval (in any such case, for Alterations or occupancy) from a government authority as a result of such failure, or (iii) such failure is the

direct, primary or proximate cause of actual damage or loss to Owner or the Building, (B) Declarant or the Condominium Board shall not (without the GMHC Unit Owner's consent in each instance) voluntarily modify the certificate of occupancy, licenses or permits, or pursue any zoning or land use variance or like action, if the same would or could have the effect of limiting the GMHC Unit Owner's use of the GMHC Unit for the uses described in Section 8.2 of the Declaration and (C) Declarant and the Condominium Board shall cooperate with the GMHC Unit Owner (as reasonably requested from time to time, and at the GMHC Unit Owner's cost and expense) in pursuing modifications to the certificate of occupancy, licenses or permits or zoning or land use variances or like actions to expand the GMHC Unit Owner's uses (but not for uses other than those uses described in Section 8.2 of the Declaration) in the GMHC Unit.

SECTION 8 INSTALLATIONS

The GMHC Unit Owner acknowledges and agrees that neither Fee Owner, Declarant or the Condominium Board shall have any obligation, liability or responsibility of any nature regarding the suitability, performance or otherwise, of any finish installations made by Fee Owner, Declarant or the Condominium Board, if any, nor shall Fee Owner, Declarant or the Condominium Board at any time have any obligation, liability or responsibility of any nature regarding the suitability, performance or otherwise, of any finish installations at any time made in the GMHC Unit by or for the GMHC Unit Owner or existing in the GMHC Unit on the GMHC Closing Date, and the GMHC Unit Owner agrees to maintain and/or replace, if necessary, all of the same. As used in this Section the term "installations" shall include, without limitation, carpeting and/or other floor covering materials.

SECTION 9 SUPPLEMENT TO OBLIGATION TO COMPLY WITH RULES AND REGULATIONS

Supplementing Section 2.3.2.10 of the By-laws, reasonable notice of any additional Rules and Regulations shall be given to the GMHC Unit Owner. In case the GMHC Unit Owner disputes the reasonableness of any additional Rules and Regulations hereafter made or adopted by the Condominium Board or its agents, the questions of the reasonableness of such Rules and Regulations shall be submitted for decision to the New York office of the American Arbitration Association, whose determination shall be final and conclusive upon the GMHC Unit Owner and the Condominium Board. The right to dispute the reasonableness of any Rules and Regulations upon the GMHC Unit Owner's part shall be deemed waived unless the same shall be asserted by service of a notice in writing upon the Condominium Board within ten (10) days after the giving of notice thereof.

SECTION 10 GMHC USE OF BUILDING FREIGHT ELEVATOR, STAIRWAYS, AND 4TH FLOOR ROOF DECK

Supplementing Section 5.12.2 of the By-laws, if the GMHC Unit Owner desires to use the Building freight elevator (i.e., not one of the GMHC Unit Owner's dedicated elevators), the GMHC Unit Owner acknowledges and agrees that, as of August 28, 2017, the standard Building charge therefor at all times other than during business hours (including,

without limitation, all Saturdays, Sundays and legal holidays) is Eighty-Five Dollars (\$85.00) per hour with a minimum charge of four (4) hours. Such standard Building freight elevator is subject to increase at any time upon reasonable written notice to the GMHC Unit Owner, and in no event shall any unit owner or tenant be charged a lower amount. There is no charge to the GMHC Unit Owner for non-exclusive and non-reserved use of the Building's freight elevator during normal business hours, and no charge to the GMHC Unit Owner for use of the GMHC Unit Owner's dedicated elevators.

The GMHC Unit Owner shall be permitted (at no charge) (i) to use the stairways of the Building for passage among the floors constituting the GMHC Unit (and to the roof deck over the 4th floor of the Building) and (ii) to have exclusive use of the roof deck over the 4th floor of the Building. Nothing provided herein shall limit Declarant's or the Condominium Board's right to install its generator on the roof over the 4th floor of the Building in the location shown on Exhibit F attached to the Declaration. For the avoidance of doubt and for purposes of clarity, the easements granted to GMHC for use of the stairwells and the exclusive use of the roof deck over the 4th floor are more particularly set forth in Section 14.14 of the Declaration.

SECTION 11 SUPPLEMENT TO CURTAILMENT OF SERVICES

Supplementing Section 5.11.6 of the By-laws, notwithstanding anything to the contrary contained in the Declaration or the By-laws, in the event the Condominium Board fails to provide any of the services required to be furnished by the Condominium Board pursuant to the Declaration or the By-laws for more than five (5) consecutive Business Days and restoration of such services is within the Condominium Board's reasonable control, and as a result of such failure to provide services, the GMHC Unit Owner is unable to occupy all of the GMHC Units for the operation of its business, then (provided the GMHC Unit Owner is not in monetary or material non-monetary default under the GMHC Transaction Documents beyond the expiration of any applicable notice and cure period), then the GMHC Unit Owner's Common Charges shall be abated, based on the portion(s) of the GMHC Units that is/are unable to be occupied by GMHC for the operation of its business, for each day such service(s) is not so provided commencing with the day immediately following such five (5) Business Day period and ending on the earlier of (i) the date such service(s) is restored, and (ii) the date upon which the GMHC Unit Owner re-occupies the applicable portion(s) of the GMHC Units for the ordinary conduct of its business.

SECTION 12 SUPPLEMENT TO MAINTENANCE AND REPAIRS

Supplementing Section 5.12.2.2 of the By-laws, notwithstanding anything to the contrary contained herein, in the event the Condominium Board fails to perform the Condominium Board's maintenance obligations provided in Section 5.12.2.2 of the By-laws and the performance of such maintenance obligations is solely within the Condominium Board's control, and as a result of such failure to perform such obligations access to the GMHC Units is unavailable for five (5) consecutive Business Days and the GMHC Unit Owner is unable to occupy the entire GMHC Units for the operation of its business, then provided the GMHC Unit Owner is not in default under the GMHC Transaction Documents beyond the expiration of any

applicable notice and cure period, the GMHC Unit Owner's Common Charges shall be abated, based on the portion(s) of the GMHC Units that is unable to be occupied for the operation of GMHC's business, for each day maintenance obligation is not performed commencing with the day immediately following such five (5) Business Day period and ending on the earlier of (i) the date such maintenance obligation is performed, and (ii) the date upon which the GMHC Unit Owner re-occupies the applicable portion(s) of the GMHC Units for the ordinary conduct of its business.

SECTION 13 SUPPLEMENT TO WINDOW CLEANING

The Condominium Board shall clean the exterior of the Building windows in the GMHC Unit (other than the Ground Floor Windows of the Building located within or appurtenant to Unit 6, which shall be the responsibility of the GMHC Unit Owner, at the GMHC Unit Owner's sole cost and expense (at the then-applicable building standard rate)); payments are due 10 days after demand, evidenced by invoice (provided, however, that if the Condominium Board cleans the windows more often than four (4) times in any twelve (12) month period, such additional cleanings shall be at the Condominium Board's sole cost and expense). As of August 28, 2017, the building standard window cleaning charge is \$30.00 per window per cleaning, which amount is subject to reasonable increases by the Condominium Board from time to time thereafter.

SECTION 14 HAZARDOUS MATERIALS

Supplementing Section 5.16 of the By-laws and notwithstanding anything to the contrary contained therein, the GMHC Unit Owner shall not be responsible for any toxic or hazardous materials which were not introduced to the GMHC Unit by GMHC Unit Owner or its contractors, subtenants, agents, employees, invitees or licensees.

SECTION 15 DEDICATED LOBBY AND ELEVATORS

It is expressly understood and agreed that:

A. The GMHC Ground Floor Unit shall be the GMHC Unit Owner's dedicated entrance to the Building;

B. The Condominium Board shall dedicate the two (2) most easterly freight elevators to the GMHC Unit Owner's exclusive use (and neither the Condominium Board nor any other Unit Owner or occupant shall have access to such elevators, subject to the Condominium Board's limited right to use the GMHC Unit Owner's freight elevator during service outages pursuant to Section 5.11.2 of the By-laws);

C. Declarant shall (or shall cause Fee Owner, in either case at Declarant's or Fee Owner's cost, as part of Seller's Work) upgrade such two (2) elevators operationally and aesthetically to be passenger elevators;

D. Declarant shall (or shall cause Fee Owner, in either case at Declarant's or Fee Owner's cost, as part of Seller's Work) enclose the area around such two (2) dedicated elevators in a manner that is consistent with a dignified lobby and that is demised from the remaining freight elevator and the surrounding service area; and

E. The Condominium Board (at the GMHC Unit Owner's cost) shall cooperate (as reasonably requested by the GMHC Unit Owner from time to time) with any efforts by the GMHC Unit Owner to obtain a separate street address for the GMHC Unit and the GMHC Unit Owner's dedicated entrance.

F. For the avoidance of doubt and for purposes of clarity, the easements granted to GMHC for the exclusive use of the dedicated elevators are more particularly set forth in Section 14.14 of the Declaration.

SECTION 16 CLEANING AND RUBBISH REMOVAL SERVICE

A. The GMHC Unit Owner shall be solely responsible to clean the GMHC Units. The GMHC Unit Owner shall have the right to use for such work either the contractor then providing cleaning services on behalf of the Condominium Board in the Building (provided that the prices charged by the Condominium Board's contractor(s) are comparable to the prices charged by other reputable contractors performing similar services for other Manhattan office buildings for the same work) or a cleaning contractor selected by the GMHC Unit Owner and approved by the Condominium Board.

B. The GMHC Unit Owner acknowledges that the Condominium Board selects the designated carting company for rubbish removal service for the entire Building. The GMHC Unit Owner shall pay all charges for the GMHC Unit Owner's rubbish removal service directly to the designated carting company (to the extent that such charges are commercially reasonable, and relate only to the GMHC Units) and the Condominium Board shall not be liable to pay the carting company for the GMHC Unit Owner's rubbish removal services. Notwithstanding the foregoing, the GMHC Unit Owner shall be responsible, at its sole cost and expense (and using a carting company reasonably selected by the GMHC Unit Owner), for the proper disposal of any medical waste or any other waste generated by the GMHC Unit Owner which is not typically generated by an office use.

C. The GMHC Unit Owner shall not place, deposit and/or store any refuse and rubbish in any portion of the Building other than the GMHC Units; except such locations in the Building and at such times as shall be specified by the Condominium Board.

D. The GMHC Unit Owner agrees that the contract between carting company and the GMHC Unit Owner shall be a month-to-month contract only and the Condominium Board has the right to immediately terminate the carting company and designate a new carting company at any time, without prior notice to the GMHC Unit Owner and GMHC Unit Owner's contract shall be deemed automatically terminated if, as and when the contract between Condominium Board and the Building designated carting company shall terminate.

SECTION 17

HVAC

The GMHC Unit Owner shall be permitted to use the heat, ventilation and air conditioning (“HVAC”) facilities located in the GMHC Units. The entire HVAC system has been or is being installed by the Condominium Board, and the Condominium Board agrees to maintain, repair or replace such HVAC system at the Condominium Board’s sole cost and expense (except as expressly set forth in this Section 17). The GMHC Unit Owner shall use such HVAC system in accordance with the reasonable rules and regulations of the Condominium Board and the instructions of the manufacturer. Title to the HVAC facilities shall be and remain with the Condominium Board at all times. The Condominium Board shall have free and unrestricted access at reasonable times and upon reasonable advance notice (except in the event of an Emergency or if the Condominium Board is required to comply with any Applicable Law or if the Condominium Board may be subject to civil or criminal penalty or fine), which notice may be telephonic, to any and all HVAC facilities in the GMHC Units. The GMHC Unit Owner covenants and agrees that it shall pay to the Condominium Board as a Special Assessment without set-off or deduction the cost of any and all electric current used in the operation of the HVAC facilities servicing the GMHC Units as measured by the submeter installed by the Condominium Board for such purposes in accordance with the provisions of Section 5.11.1.2(b) of the By-laws within ten (10) days after being billed therefor. Under no circumstances whatsoever shall the GMHC Unit Owner be permitted to install “louvers” on the side of the Building which has a southern exposure. The Condominium Board shall Maintain the cooling tower and the related Base Building Systems that deliver condenser water to the GMHC Units and other components of the base Building HVAC system excluding the air handlers and direct expansion units servicing the GMHC Units. The costs and expenses of operating and Maintaining the Condominium Board’s condenser water system shall be included in Common Expenses. Notwithstanding anything to the contrary provided in this Section 17, (a) the Condominium Board shall be responsible for all Maintenance of the HVAC system and, in furtherance thereof, shall maintain one or more commercially reasonable repair and maintenance contracts for the HVAC system, all at the Condominium Board’s expense (except that the GMHC Unit Owner shall reimburse the Condominium Board for any portion of the cost of such contract(s) applicable to the portions of the HVAC system exclusively serving the GMHC Units, (in a reasonably apportioned amount without markup or supplemental fees on the part of the Condominium Board), within thirty (30) days after invoice (with reasonable backup documentation) from time to time) and (b) if any component of the air handlers and direct expansion (DX) units servicing the GMHC Units (or any other portion of the HVAC system exclusively serving the GMHC Units) (i) ceases to operate (and such ceasing is not due to the misuse or neglect by the GMHC Unit Owner) or has reached the end of its expected useful life and (ii) cannot reasonably be repaired using conventional methods, the Condominium Board shall be responsible, at the Condominium Board’s cost (and not as a Common Charge), for the capital repair and/or replacement of such component of such air handlers and direct expansion (DX) units servicing the GMHC Units (or such other portion of the HVAC system exclusively serving the GMHC Units). In no event shall the maintenance, repair and/or replacement obligations of the Condominium Board provided in this Section apply to any supplemental HVAC facilities installed by or on behalf of the GMHC Unit Owner.

SECTION 18
DIRECTORY LISTINGS

The GMHC Unit Owner shall be permitted to have, at no cost to the GMHC Unit Owner, two listings on the directory in the main lobby of the Building; it being understood and agreed by the GMHC Unit Owner that the GMHC Unit Owner will be charged, at the Condominium Board's customary rates therefor, for any additional listings requested by the GMHC Unit Owner which the Condominium Board may allow and/or changes to same, such charges to be paid to the Condominium Board, as a Special Assessment, without set-off or deduction. Subject to the foregoing, the GMHC Unit Owner shall be permitted to list the name of the GMHC Unit Owner and the names of persons or entities affiliated with the GMHC Unit Owner; it being specifically understood and agreed by the GMHC Unit Owner that no listing other than the name of the GMHC Unit Owner shall be deemed to grant such party any right or interest in the GMHC Units, and the same shall not be deemed or construed as a consent by the Condominium Board to a sale or lease to, or unauthorized occupancy of the GMHC Units by, such other party, except as otherwise provided herein. The GMHC Unit Owner, at the GMHC Unit Owner's sole cost and expense, may install and maintain its own separate directory in the GMHC Unit Owner's separate ground floor entrance.

SECTION 19
MISCELLANEOUS

A. If in the GMHC Transaction Documents it is provided that the consent or approval of the Condominium Board, Fee Owner or Declarant as to any matter will not be unreasonably withheld, and it is established by a court or body having final jurisdiction thereover that the Condominium Board, Fee Owner or Declarant has been unreasonable, the only effect of such finding shall be that the Condominium Board, Fee Owner or Declarant shall be deemed to have given its consent or approval; but the Condominium Board, Fee Owner or Declarant shall not be liable to the GMHC Unit Owner in any respect for money damages by reason of withholding its consent or approval or under any other circumstances whatsoever.

B. If the GMHC Unit Owner or (with the GMHC Unit Owner's authorization) any subtenant requests the Condominium Board's consent or approval to Alterations, sale, leasing or any other matter or thing requiring the Condominium Board's consent or approval under the GMHC Transaction Documents, including, without limitation the GMHC Unit Owner's plans for Alterations and if in connection with such request the Condominium Board seeks the advice of its independent, third party attorneys, architects and/or engineers, then the Condominium Board, as a condition precedent to granting its consent or approval, may require (in addition to any other requirements of the Condominium Board in connection with such request) that the GMHC Unit Owner pay the reasonable fees of the Condominium Board's attorneys, architects and/or engineers in connection with the consideration of such request and/or the preparation of any documents pertaining thereto.

C. If any sales or use taxes or any other taxes or charges (whether similar or dissimilar) are or shall be imposed upon the Condominium Board in connection with the services to be provided by the Condominium Board to the GMHC Unit Owner in accordance with the terms of the Declaration or By-laws, the GMHC Unit Owner covenants and agrees that, where

permitted by law, the GMHC Unit Owner shall pay to the Condominium Board, promptly after demand, the GMHC Unit Owner's pro rata share of such taxes or charges, as a Special Assessment, without set-off or deduction. If any real property transfer taxes other similar taxes or charges are or shall be imposed in connection with the transfer of the GMHC Units by the GMHC Unit Owner or an Affiliate of the GMHC Unit Owner, the GMHC Unit Owner covenants and agrees that the GMHC Unit Owner shall pay to the Condominium Board, promptly after demand, the amount of such taxes or charges, as a Special Assessment, without set-off or deduction.

D. The GMHC Unit Owner acknowledges and agrees that, in addition to the Condominium Board, the Condominium Board's managing agent, and the Condominium Board's attorneys have been granted express authority to duly and effectively render all notices that may be required to be given to the GMHC Unit Owner by the Condominium Board in accordance with the terms, covenants, provisions, agreements and conditions of the GMHC Transaction Documents. The GMHC Unit Owner further agrees to waive any and all claims it may have against the Condominium Board, its attorneys and/or agents with respect to the authority or ability each of the foregoing to render such notices for and on behalf of the Condominium Board. The Condominium Board may, from time to time, change the designation of such attorneys and/or agents upon prior written notice to the GMHC Unit Owner.

E. Notwithstanding anything to the contrary contained in the Condominium Documents, with respect to the GMHC Units, the Condominium Board shall use reasonable efforts to minimize interference with the GMHC Unit Owner's business and with access to the GMHC Units, in connection with any Maintenance or work which the Condominium Board is obligated to perform or desires to perform, in and to the GMHC Units, or in connection with any inspection or showing thereof, or entry therein, by the Condominium board, pursuant to the terms, covenants, conditions, provisions and agreements of the Condominium Documents; provided, however, that the foregoing shall not require the Condominium Board in any way to expend sums on an overtime basis, nor shall the foregoing entitle the GMHC Unit Owner to any diminution, reduction or abatement of Common Charges or Special Assessments or any other compensation whatsoever.

F. In each instance in the GMHC Transaction Documents in which the GMHC Unit Owner is obligated to pay or reimburse the Condominium Board, Fee Owner or Declarant for attorneys' fees, costs, disbursements or expenses, it shall be deemed that the GMHC Unit Owner shall only be obligated to pay or reimburse the Condominium Board, Fee Owner or Declarant for its reasonable counsel or attorneys' fees, costs, disbursements or expenses.

G. The GMHC Unit Owner will not at any time use or occupy any portion of the GMHC Units in a manner that is in violation of an enforcement action regarding the violation of the certificate of occupancy issued for the Building of which the GMHC Units are a part. GMHC has inspected the GMHC Units and accepts them as is, subject to the provisions set forth in the GMHC Sale Agreement with respect to Seller's Work. In any event, except for Seller's Work and as otherwise expressly set forth in the Other Transaction Documents, neither Ground Landlord nor Ground Tenant makes any representation as to the condition of the GMHC Units. Neither Ground Landlord nor Ground Tenant (or their respective agents) have made any representations or promises with respect to the physical condition of the Building, the land upon

which it is erected or the GMHC Units, the expenses of operation, the uses that can lawfully be conducted at the GMHC Units (including the Authorized Use, as such term is defined in the GMHC Sale Agreement), or any other matter or thing affecting or related to the GMHC Units, except as expressly set forth in the Other Transaction Documents, and no rights, easements or licenses are acquired by the GMHC Unit Owner by implication or otherwise except as expressly set forth in the provisions of the Other Transaction Documents. GMHC has inspected the Building and the GMHC Units and is thoroughly acquainted with their condition and, subject to the completion of Seller's Work (including all Punchlist Work, if any), agrees to take the same "as is", and acknowledges that (subject to the provisions of the GMHC Sale Agreement) the taking of possession of the GMHC Units by GMHC (without the giving of simultaneous written notice from GMHC to Ground Tenant identifying the non-conforming condition) shall be conclusive evidence that the GMHC Units and the Building of which the same form a part were in good and satisfactory condition at the time such possession was so taken. GMHC shall be solely responsible for GMHC's inability to conduct its intended business activities in the GMHC Units or the failure of Ground Tenant to complete Seller's Work in the GMHC Units, in either case to the extent (if any) that the same occurs as a result of the violation of any applicable zoning or land use regulations by GMHC's intended uses of the GMHC Units. GMHC's inability to conduct its business activities in the GMHC Units or Ground Tenant's failure to complete Seller's Work in the GMHC Units, in either case to the extent (if any) that the same occurs as a result of the violation of any applicable zoning or land use regulations by GMHC's intended use of the GMHC Units, shall not relieve the GMHC Unit Owner of any of the GMHC Unit Owner's obligations under this Agreement or the Other Transaction Documents, including, without limitation, GMHC Unit Owner's obligation to pay the Common Charges (as such term is defined in the Declaration), Ground Rent (as such term is defined in the Declaration) and Installment Purchase Payments (as such term is defined in the GMHC Sale Agreement) throughout the Installment Payment Term (such term is defined in the GMHC Sale Agreement).

SCHEDULE A
Description of Land

The condominium unit[s] known as the “GMHC Unit” in the building (“**Building**”) known as “307 West 38th Condominium” (the “**Condominium**”) and by the street number 307 West 38th Street, Borough of Manhattan, County of New York, City and State of New York, such GMHC Unit being designated and described in a certain declaration of condominium dated as of _____, 2020, made by Glenhill Leasehold Associates, LLC (“**Declarant**”) pursuant to Article 9-B of the Real Property Law of the State of New York (“**Condominium Act**”) establishing a plan for condominium ownership of the Building and the land (“**Land**”) upon which the Building is situate, which declaration of condominium was recorded in the New York County Office of the Register of The City of New York (“**City Register’s Office**”) on _____, 2020, under CRFN _____ (“**Declaration**”), which Declaration was recorded in the City Register’s Office on _____, 2020, under CRFN _____. The GMHC Unit is designated as Tax Lot No. _____ in Block _____ of Section _____ of the Borough of Manhattan on the Tax Map of the Real Property Assessment Department of The City of New York and on the Floor Plans of the Building, certified by _____ on _____, 2020, and filed in the Real Property Assessment Department of the City of New York on _____, 2020 as Condominium Plan No. _____ also filed in the City Register’s Office on _____, 2020, under CRFN _____.

TOGETHER with _____% undivided interest in the Common Elements as set forth in the Condominium Declaration.

The portion of the land upon which the GMHC Unit is located is more particular described as follows:

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of 38th Street, distant 100 feet 5 inches westerly from the corner formed by the intersection of the said northerly side of 38th Street and the westerly side of Eighth Avenue;

RUNNING THENCE northerly to a point distant 100 feet westerly from the westerly side of Eighth Avenue, 44 feet 9 inches;

THENCE still northerly and parallel with the westerly side of Eighth Avenue, 54 feet to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 25 feet;

THENCE northerly parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 98 feet 9 inches to the southerly side of 39th Street;

THENCE westerly along said southerly side of 39th Street, 25 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, 98 feet 9 inches to the centre line of the block;

THENCE westerly along said centre line of the block and parallel with the northerly side of 38th Street, 100 feet;

THENCE southerly parallel with the westerly side of Eighth Avenue, and part of the distance through a party wall, 49 feet 9 inches;

THENCE easterly and parallel with the northerly side of 38th Street, 3-1/4 inches;

THENCE again southerly and parallel with the westerly side of Eighth Avenue and part of the distance through a party wall, 49 feet to the northerly side of 38th Street; and

THENCE easterly along said northerly side of 38th Street, 149 feet 3-3/4 inches to the point or place of BEGINNING.

SCHEDULE B

PERMITTED ENCUMBRANCES

1. Survey made by Gerald T. O'Buckley dated April 25, 2014, last updated to October 21, 2017, discloses the following:

(a) Encroachments on and projections over West 38th Street by:

Signs	3.0 feet more or less;
Entrance trim	1.5 feet more or less;
Lights	2.0 feet;
Air conditioner units	up to 1.5 feet;
Vents	up to 2.0 feet;
Ornamental	up to 0.6 feet;
Security camera	0.8 feet more or less;
Stand pipe	an undetermined extent
Temporary sidewalk shed:	11.0 feet

(b) Easterly and westerly walls of the 4-story brick on subject premises are party walls;

(c) Encroachments upon and projections over West 39th Street by:

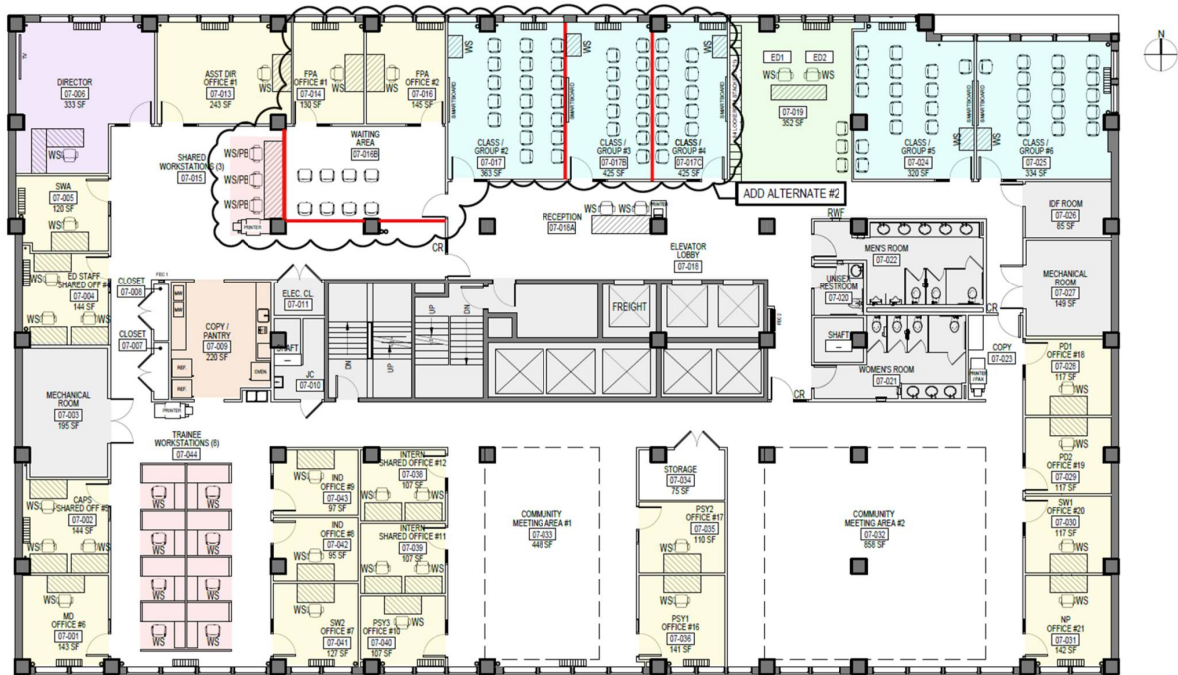
Pipes	up to 0.8 feet;
Window trim	0.1 feet more or less
Ornamental	up to 1.0 feet;
Air conditioner units	1.3 feet.

2. Party Wall Agreement between Susan P. Hammond and Henry P. McLean dated June 6, 1853, recorded June 14, 1983 in Liber 643 page 319.

3. Party Wall Agreement between Frederick Wannemacher and John D. Hassinger dated April 10, 1862, recorded March 20, 1862 in Liber 872 page 309.

4. Boundary Line Agreement between Joseph Manheimer, 307 West 38th Street Inc. and 135 Broadway Holding Corporation dated November 22, 1926, recorded December 31, 1926 in Liber 3585 page 142.

EXHIBIT “K” Tenant’s Concept Plan



LEGEND

CLASSROOMS (5) - 1449 SF	WORKSTATIONS (11)	MILIEU - 352 SF	NOT IN CONTRACT
DIRECTORS OFFICE (1) - 338 SF	OFFICES (19) - 2,543 SF	COPY / PANTRY - 220 SF	NEW PARTITIONS

ABBREVIATIONS

CR	CARD READER
WS	WORK STATION WITH PANIC BUTTON
WS/PB	WORK STATION WITHOUT P. BUTTON
RWF	RECESSED WATER FOUNTAIN

Affidavit

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

Tracy Breen, M.D., being duly sworn and deposes and says:

1. I am the President of St. Luke's-Roosevelt Hospital Center d/b/a Mount Sinai Morningside/Mount Sinai West, which is submitting a Limited Review Application to relocate an extension clinic from 411 West 114th Street, New York (New York County), New York 10025 to 307 West 38th Street, New York (New York County), New 10018.
2. The Lease for this site will be between Gay Men's Health Crisis, Inc. as Lessor and St. Luke's-Roosevelt Hospital Center as Lessee.
3. I certify the following statement, which is made to the best of my knowledge: The Lessor and the Lessee are not related, and the lease will be an arm's-length agreement.

Signature

Sworn to before me this _____ day
of _____ 2025

Notary Public, State of New York

HELMSLEY SPEAR

Established 1866

Leonard Zimmerman
Executive Managing Director

747 Third Avenue, 11th Floor
New York, NY 10017

T: 212-508-7817
M: 917-828-0086

lzimmerman@helmsleyspear.com
www.helmsleyspear.com

March 17, 2025

Ms. Mitsuko Ueda Pietrycha
Director of Acquisitions and Dispositions
Real Estate Services
Mount Sinai Health System
150 East 42nd Street, 2nd Floor
New York, NY 10017

Dear Mitsuko:

The purpose of this letter is to provide our professional opinion regarding current market conditions for professional office and medical space in and around the properties located at 307 West 38th Street, New York, NY.

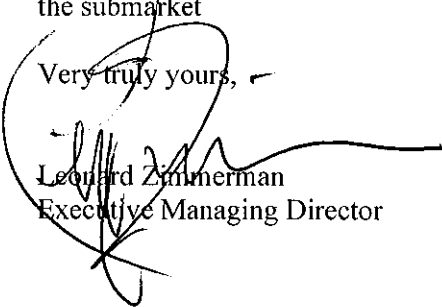
On March 17, 2025, we inspected the entire 7th floor of 16,727 rentable square feet. The space is located within a 30-year condo lease by Gay Men's Health Crisis (GMHC) in a condo building which is owned by George Comfort.

The following opinion is based on a number of factors including market rental rates within the submarket where the building/office space is located, market knowledge and experience representing tenants and landlords.

Given the building, quality of the space, location of the building/space, and the space having been designated for not-for-profit entity able to receive a tax-exempt status (thereby eliminating payment of real estate taxes which currently for 2025 are approx. \$7.00 per rsf. per annum) the medical office space lease rate for a ten (10) year lease term at 307 East 38th Street, New York, would fall between \$19.00 - \$24.00 per RSF. Electricity would either be direct or \$3.00 - \$3.25 per sq. ft. but not include standard office cleaning. The tenant could expect to receive 3-5 months of free rent.

We believe that the above lease rates and expenses are consistent and reflective for medical office space in the submarket

Very truly yours, -



Leonard Zimmerman
Executive Managing Director



March 18, 2025

Mitsuko Ueda
Director of Acquisitions and Dispositions
Mount Sini Health Systems
150 E 42nd Street, 2nd Floor
New York, NY 100017

Dear Mitsuko,

This letter is to confirm that an annual rent of an approximately a \$21 per square foot rate to start for the sublease space at 307 West 38th Street, New York, 10018, in the Midtown West market, is in line with market price for a space of this size and condition in this market. There were several additional factors to note on how we derived at the rental rate in which we got to this rental rate, as outlined below.

- The space is currently only applicable to non-for-profit use as it has a tax abatement for GMHC, through a 30-year leasehold condo.
- This portion of the building has its own dedicated entry, which is conducive to similar uses.
- We incorporated the market free rent into the overall rental rate, amortized into the deal, to make for a more consistent annual rent throughout the lease term.

I, Steven Evans, am a Licensed Real Estate Salesperson in the state of New York, specializing in the Manhattan market. I represent both tenants and landlords and have a strong understanding of the local market.

Please feel free to contact me if you require any additional information.

Sincerely,

Steven Evans
Director Of Commercial Leasing
O:212.825.0050
C:646.533.9589

Schedule LRA 4/Schedule 7 CON Forms Regarding Environmental issues

Contents:

Schedule LRA 4/Schedule 7 - Environmental Assessment

Environmental Assessment			
Part I.	The following questions help determine whether the project is "significant" from an environmental standpoint.	Yes	No
1.1	If this application involves establishment, will it involve more than a change of name or ownership only, or a transfer of stock or partnership or membership interests only, or the conversion of existing beds to the same or lesser number of a different level of care beds? Not Applicable	☐	☐
1.2	Does this plan involve construction and change land use or density?	☐	☒
1.3	Does this plan involve construction and have a permanent effect on the environment if temporary land use is involved?	☐	☒
1.4	Does this plan involve construction and require work related to the disposition of asbestos?	☐	☒
Part II.	If any question in Part I is answered "yes" the project may be significant, and Part II must be completed. If all questions in Part II are answered "no" it is likely that the project is not significant	Yes	No
2.1	Does the project involve physical alteration of ten acres or more?	☐	☒
2.2	If an expansion of an existing facility, is the area physically altered by the facility expanding by more than 50% and is the total existing and proposed altered area ten acres or more?	☐	☒
2.3	Will the project involve use of ground or surface water or discharge of wastewater to ground or surface water in excess of 2,000,000 gallons per day?	☐	☒
2.4	If an expansion of an existing facility, will use of ground or surface water or discharge of wastewater by the facility increase by more than 50% and exceed 2,000,000 gallons per day?	☐	☒
2.5	Will the project involve parking for 1,000 vehicles or more?	☐	☒
2.6	If an expansion of an existing facility, will the project involve a 50% or greater increase in parking spaces and will total parking exceed 1000 vehicles?	☐	☒
2.7	In a city, town, or village of 150,000 population or fewer, will the project entail more than 100,000 square feet of gross floor area?	☐	☒
2.8	If an expansion of an existing facility in a city, town, or village of 150,000 population or fewer, will the project expand existing floor space by more than 50% so that gross floor area exceeds 100,000 square feet?	☐	☒
2.9	In a city, town or village of more than 150,000 population, will the project entail more than 240,000 square feet of gross floor area?	☐	☒
2.10	If an expansion of an existing facility in a city, town, or village of more than 150,000 population, will the project expand existing floor space by more than 50% so that gross floor area exceeds 240,000 square feet?	☐	☒
2.11	In a locality without any zoning regulation about height, will the project contain any structure exceeding 100 feet above the original ground area?	☐	☒
2.12	Is the project wholly or partially within an agricultural district certified pursuant to Agriculture and Markets Law Article 25, Section 303?	☐	☒
2.13	Will the project significantly affect drainage flow on adjacent sites?	☐	☒

2.14	Will the project affect any threatened or endangered plants or animal species?	☐	☒	
2.15	Will the project result in a major adverse effect on air quality?	☐	☒	
2.16	Will the project have a major effect on visual character of the community or scenic views or vistas known to be important to the community?	☐	☒	
2.17	Will the project result in major traffic problems or have a major effect on existing transportation systems?	☐	☒	
2.18	Will the project regularly cause objectionable odors, noise, glare, vibration, or electrical disturbance as a result of the project's operation?	☐	☒	
2.19	Will the project have any adverse impact on health or safety?	☐	☒	
2.20	Will the project affect the existing community by directly causing a growth in permanent population of more than five percent over a one-year period or have a major negative effect on the character of the community or neighborhood?	☐	☒	
2.21	Is the project wholly or partially within, or is it contiguous to any facility or site listed on the National Register of Historic Places, or any historic building, structure, or site, or prehistoric site, that has been proposed by the Committee on the Registers for consideration by the New York State Board on Historic Preservation for recommendation to the State Historic Officer for nomination for inclusion in said National Register?	☐	☒	
2.22	Will the project cause a beneficial or adverse effect on property listed on the National or State Register of Historic Places or on property which is determined to be eligible for listing on the State Register of Historic Places by the Commissioner of Parks, Recreation, and Historic Preservation?	☐	☒	
2.23	Is this project within the Coastal Zone as defined in Executive Law, Article 42? If Yes, please complete Part IV.	☐	☒	
Part III.		Yes	No	
3.1	Are there any other state or local agencies involved in approval of the project? If so, fill in Contact Information to Question 3.1 below.		☒	☐
	Agency Name:	New York State Office of Mental Health		
	Contact Name:	Gina Bae, Director, Bureau of Inspection & Certification		
	Address:	44 Holland Avenue		
	State and Zip Code:	Albany, New York 12229		
	E-Mail Address:	Gina.Bae@omh.ny.gov		
	Phone Number:	(518) 474-5570		
	Agency Name:	New York State Office of Addiction Supports & Services		
	Contact Name:	Dena Holmes, Director, Bureau of Certification		
	Address:	1450 Western Avenue		
	State and Zip Code:	Albany, New York 12203		
	E-Mail Address:	Dena.Holmes@oasas.ny.gov		
	Phone Number:	(518) 485-2250		
	Agency Name:			
	Contact Name:			

	Address:			
	State and Zip Code:			
	E-Mail Address:			
	Phone Number:			
	Agency Name:			
	Contact Name:			
	Address:			
	State and Zip Code:			
	E-Mail Address:			
	Phone Number:			
3.2	Has any other agency made an environmental review of this project? If so, give name, and submit the SEQRA Summary of Findings with the application in the space provided below.		Yes ☐	No ☒
	Agency Name:			
	Contact Name:			
	Address:			
	State and Zip Code:			
	E-Mail Address:			
	Phone Number:			
3.3	Is there a public controversy concerning environmental aspects of this project? If yes, briefly describe the controversy in the space below.		Yes ☐	No ☒
Part IV.	Storm and Flood Mitigation			
	Definitions of FEMA Flood Zone Designations			
	Flood zones are geographic areas that the FEMA has defined according to varying levels of flood risk. These zones are depicted on a community's Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map. Each zone reflects the severity or type of flooding in the area.			
	Please use the FEMA Flood Designations scale below as a guide to answering all Part IV questions regardless of project location, flood and or evacuation zone.		Yes	No
4.1	Is the proposed site located in a flood plain? If Yes, indicate classification below and provide the Elevation Certificate (FEMA Flood Insurance).		☐	☒
	Moderate to Low Risk Area		Yes	No
	Zone	Description	☐	☒
	In communities that participate in the NFIP, flood insurance is available to all property owners and renters in these zones:			
	B and X	Area of moderate flood hazard, usually the area between the limits of the 100-year and 500-year floods. Are also used to designate base floodplains of lesser hazards, such as areas protected by levees from 100-year flood, or shallow flooding areas with average depths of less than one foot or drainage areas less than 1 square mile.	☐	

	C and X	Area of minimal flood hazard, usually depicted on FIRMs as above the 500-year flood level.	☐	
	High Risk Areas		Yes	No
	Zone	Description	☐	☒
	In communities that participate in the NFIP, mandatory flood insurance purchase requirements apply to all these zones:			
	A	Areas with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30-year mortgage. Because detailed analyses are not performed for such areas; no depths or base flood elevations are shown within these zones.	☐	
	AE	The base floodplain where base flood elevations are provided. AE Zones are now used on new format FIRMs instead of A1-A30.	☐	
	A1-30	These are known as numbered A Zones (e.g., A7 or A14). This is the base floodplain where the FIRM shows a BFE (old format).	☐	
	AH	Areas with a 1% annual chance of shallow flooding, usually in the form of a pond, with an average depth ranging from 1 to 3 feet. These areas have a 26% chance of flooding over the life of a 30-year mortgage. Base flood elevations derived from detailed analyses are shown at selected intervals within these zones.	☐	
	AO	River or stream flood hazard areas, and areas with a 1% or greater chance of shallow flooding each year, usually in the form of sheet flow, with an average depth ranging from 1 to 3 feet. These areas have a 26% chance of flooding over the life of a 30-year mortgage. Average flood depths derived from detailed analyses are shown within these zones.	☐	
	AR	Areas with a temporarily increased flood risk due to the building or restoration of a flood control system (such as a levee or a dam). Mandatory flood insurance purchase requirements will apply, but rates will not exceed the rates for unnumbered A zones if the structure is built or restored in compliance with Zone AR floodplain management regulations.	☐	
	A99	Areas with a 1% annual chance of flooding that will be protected by a Federal flood control system where construction has reached specified legal requirements. No depths or base flood elevations are shown within these zones.	☐	
	High Risk Coastal Area		Yes	No
	Zone	Description		
	In communities that participate in the NFIP, mandatory flood insurance purchase requirements apply to all these zones:			
	Zone V	Coastal areas with a 1% or greater chance of flooding and an additional hazard associated with storm waves. These areas have a 26% chance of flooding over the life of a 30-year mortgage. No base flood elevations are shown within these zones.	☐	☒
	VE, V1 - 30	Coastal areas with a 1% or greater chance of flooding and an additional hazard associated with storm waves. These areas have a 26% chance of flooding over the life of a 30-year mortgage. Base flood elevations derived from detailed analyses are shown at selected intervals within these zones.	☐	
	Undetermined Risk Area		Yes	No
	Zone	Description	☐	☒

	D	Areas with possible but undetermined flood hazards. No flood hazard analysis has been conducted. Flood insurance rates are commensurate with the uncertainty of the flood risk.		
4.2	Are you in a designated evacuation zone?		☐	☒
	If Yes, the Elevation Certificate (FEMA Flood Insurance) shall be submitted with the application.			
	If yes which zone is the site located in?			
4.3	Does this project reflect the post Hurricane Lee, and or Irene, and Superstorm Sandy mitigation standards?		☐	☒
	If Yes, which floodplain?	100 Year	☐	
		500 Year	☐	

The Elevation Certificate provides a way for a community to document compliance with the community's floodplain management ordinance.

[FEMA Elevation_Certificate_and Instructions](#)

Schedule LRA 5

Space & Construction Cost Distribution

☐ New

□ Alteration

Not Applicable - No Construction

1. If new construction is involved, is it “freestanding”? Yes ☐ No ☐

2. (Check where applicable) The facilities to be affected by this project are located in a:

☐ Dense Urban Area ☐ Other Metropolitan or Suburban Area ☐ Rural Area

3. This submission consists of: ☐ New Construction Report Number of pages _____
☐ Alteration Construction Report Number of pages _____

Do not use the master copy. Photocopy master and then complete copy if this schedule is required.

New York State Department of Health Certificate of Need Application

Schedule 6

Architectural Submission Requirements for Contingent Approval and Contingency Satisfaction

Schedule applies to all projects with construction, including Articles 28 & 40, i.e., Hospitals, Diagnostic and Treatment Centers, Residential Health Care Facilities, and Hospices.

Instructions

- Provide Architectural/Engineering Narrative using the format below.
- Provide Architect/Engineer Certification form:
 - [Architect's Letter of Certification for Proposed Construction or Renovation for Projects That Will Be Self-Certified. Self-Certification Is Not an Option for Projects over \\$15 Million, or Projects Requiring a Waiver](#) (PDF)
 - [Architect's Letter of Certification for Proposed Construction or Renovation Projects to Be Reviewed by DOH or DASNY](#) (PDF) (Not to Be Submitted with Self-Certification Projects)
 - [Architect's Letter of Certification for Completed Projects](#) (PDF)
 - [Architect's or Engineer's Letter of Certification for Inspecting Existing Buildings](#) (PDF)
- Provide FEMA BFE Certificate. Applies only to Hospitals and Nursing Homes.
 - [FEMA Elevation Certificate and Instructions.pdf](#)
- Provide Functional Space Program: A list that enumerates project spaces by floor indicating size by gross floor area and clear floor area for the patient and resident spaces.
- For projects with imaging services, provide Physicist's Letter of Certification and Physicist's Report including drawings, details and supporting information at the design development phase.
 - [Physicist's Letter of Certification](#) (PDF)
- Provide Architecture/Engineering Drawings in PDF format created from the original electronic files; scans from printed drawings will not be accepted. Drawing files less than 100 MB, and of the same trade, may be uploaded as one file.
 - [NYSDOH and DASNY Electronic Drawing Submission Guidance for CON Reviews](#)
 - [DSG-1.0 Schematic Design & Design Development Submission Requirements](#)
- Refer to the Required Attachment Table below for the Schematic Design Submission requirements for Contingent Approval and the Design Development Submission requirements for Contingency Satisfaction.
 - Attachments must be labeled accordingly when uploading in NYSE-CON.
 - Do not combine the Narrative, Architectural/Engineering Certification form and FEMA BFE Certificate into one document.
 - If submitted documents require revisions, provide an updated Schedule 6 with the revised information and date within the narrative.

Architecture/Engineering Narrative

Narrative shall include but not limited to the following information. Please address all items in the narrative including items located in the response column. **Incomplete responses will not be accepted.**

Project Description	
Schedule 6 submission date: 11/17/2025	Revised Schedule 6 submission date: N/A Click to enter a date.
Does this project amend or supersede prior CON approvals or a pending application? No If so, what is the original CON number? N/A	
Intent/Purpose: Relocation of existing C.A.R.E.S. program.	
Site Location: 307 West 38 Street, 7th Floor, New York, N.Y. 10018	
Brief description of current facility, including facility type:	

New York State Department of Health Certificate of Need Application

Schedule 6

Currently, the C.A.R.E.S. program occupies the 2 nd floor of a former 9-story high, residential building converted to out-patient facilities, within the Mount Sinai Morningside Campus	
Brief description of proposed facility: The program will occupy the entire 7 th floor (11,375 net sf) and will be comprised of educational and administrative components for adolescent teens. The existing configuration of the 7 th floor space meets the programmatic and special needs of the program and complies with Articles 28, 31 and 32 standards.	
Location of proposed project space(s) within the building. Note occupancy type for each occupied space. Seventh (7 th) floor of a Mid-town Manhattan office building, Occupancy type is "Business".	
Indicate if mixed occupancies, multiple occupancies and or separated occupancies. Describe the required smoke and fire separations between occupancies: N/A	
If this is an existing facility, is it currently a licensed Article 28 facility?	Yes
Is the project space being converted from a non-Article 28 space to an Article 28 space?	Yes
The C.A.R.E.S. program will occupy the entire 7 th floor, with a dedicated elevator access from the lobby.	
List exceptions to the NYSDOH referenced standards. If requesting an exception, note each on the Architecture/Engineering Certification form under item #3. No Exceptions noted	
Does the project involve heating, ventilating, air conditioning, plumbing, electrical, water supply, and fire protection systems that involve modification or alteration of clinical space, services or equipment such as operating rooms, treatment, procedure rooms, and intensive care, cardiac care, other special care units (such as airborne infection isolation rooms and protective environment rooms), laboratories and special procedure rooms, patient or resident rooms and or other spaces used by residents of residential health care facilities on a daily basis? If so, please describe below. Click here to enter text.	Not Applicable
Provide brief description of the existing building systems within the proposed space and overall building systems, including HVAC systems, electrical, plumbing, etc.	
The space is air conditioned via 2 AC Units that are equipped with electric heating coils that each serve approximately 1/2 the floor and utilizes the ceiling plenum as a return air plenum. The perimeter spaces are also heated via hot water baseboard units. Similarly there are 2 electrical closets with 120/208 volt panels that each serve approximately 1/2 of the floor. There is also a 480-volt panel in each of the 2 mechanical rooms that serve the AC unit, supply air fans, and electric heat. Emergency lighting is powered by a central inverter (battery system.) The space is fully sprinklered and equipped with a newer fire alarm system.	
Describe existing and or new work for fire detection, alarm, and communication systems: The existing fire alarm, fire protection, and communication systems will remain as is since the existing space is not being renovated	
If a hospital or nursing home located in a flood zone, provide a FEMA BFE Certificate from www.fema.gov , and describe the work to mitigate damage and maintain operations during a flood event. N/A	
Does the project contain imaging equipment used for diagnostic or treatment purposes? If yes, describe the equipment to be provided and or replaced. Ensure physicist's letter of certification and report are submitted. No imaging equipment used.	
Does the project comply with ADA? If no, list all areas of noncompliance. Yes	
Other pertinent information: No	
Project Work Area	Response
Type of Work	N/A - No Construction
Square footages of existing areas, existing floor and or existing building.	262,963 sf (bldg area)

New York State Department of Health Certificate of Need Application

Schedule 6

Square footages of the proposed work area or areas. Provide the aggregate sum of the work areas.	11,375 sq.ft.
Does the work area exceed more than 50% of the smoke compartment, floor or building?	Less than 50% of the floor
Sprinkler protection per NFPA 101 Life Safety Code	Sprinklered throughout
Construction Type per NFPA 101 Life Safety Code and NFPA 220	Type 1 (332)
Building Height	260'-0"
Building Number of Stories	20
Which edition of FGI is being used for this project?	2018 Edition of FGI
Is the proposed work area located in a basement or underground building?	Not Applicable
Is the proposed work area within a windowless space or building?	No
Is the building a high-rise?	No
If a high-rise, does the building have a generator?	No
What is the Occupancy Classification per NFPA 101 Life Safety Code?	Chapter 38 New Business Occupancy
Are there other occupancy classifications that are adjacent to or within this facility? If yes, what are the occupancies and identify these on the plans. No other relevant occupancies.	No
Will the project construction be phased? If yes, how many phases and what is the duration for each phase? Click here to enter text.	No
Does the project contain shell space? If yes, describe proposed shell space and identify Article 28 and non-Article 28 shell space on the plans. Click here to enter text.	No
Will spaces be temporarily relocated during the construction of this project? If yes, where will the temporary space be? Click here to enter text.	No
Does the temporary space meet the current DOH referenced standards? If no, describe in detail how the space does not comply. Click here to enter text.	Not Applicable
Is there a companion CON associated with the project or temporary space? If so, provide the associated CON number. Click here to enter text.	Not Applicable
Will spaces be permanently relocated to allow the construction of this project? If yes, where will this space be? Click here to enter text.	Not Applicable
Changes in bed capacity? If yes, enumerate the existing and proposed bed capacities. Click here to enter text.	Not Applicable
Changes in the number of occupants? If yes, what is the new number of occupants? Click here to enter text.	No
Does the facility have an Essential Electrical System (EES)? If yes, which EES Type? Click here to enter text.	Not Applicable
If an existing EES Type 1, does it meet NFPA 99 -2012 standards?	Not Applicable
Does the existing EES system have the capacity for the additional electrical loads? Click here to enter text.	Not Applicable
Does the project involve Operating Room alterations, renovations, or rehabilitation? If yes, provide brief description. Click here to enter text.	Not Applicable
Does the project involve Bulk Oxygen Systems? If yes, provide brief description. Click here to enter text.	Not Applicable
If existing, does the Bulk Oxygen System have the capacity for additional loads without bringing in additional supplemental systems?	Not Applicable
Does the project involve a pool?	No

**New York State Department of Health
Certificate of Need Application**

Schedule 6

REQUIRED ATTACHMENT TABLE			
SCHEMATIC DESIGN SUBMISSION for CONTINGENT APPROVAL	DESIGN DEVELOPMENT SUBMISSION (State Hospital Code Submission) for CONTINGENCY SATISFACTION	Title of Attachment	File Name in PDF format
•		Architectural/Engineering Narrative	A/E Narrative.PDF
•		Functional Space Program	FSP.PDF
•		Architect/Engineer Certification Form	A/E Cert Form. PDF
•		FEMA BFE Certificate	FEMA BFE Cert.PDF
•		Article 28 Space/Non-Article 28 Space Plans	CON100.PDF
•	•	Site Plans	SP100.PDF
•	•	Life Safety Plans including level of exit discharge, and NFPA 101-2012 Code Analysis	LSC100.PDF
•	•	Architectural Floor Plans, Roof Plans and Details. Illustrate FGI compliance on plans.	A100.PDF
•	•	Exterior Elevations and Building Sections	A200.PDF
•	•	Vertical Circulation	A300.PDF
•	•	Reflected Ceiling Plans	A400.PDF
optional	•	Wall Sections and Partition Types	A500.PDF
optional	•	Interior Elevations, Enlarged Plans and Details	A600.PDF
	•	Fire Protection	FP100.PDF
	•	Mechanical Systems	M100.PDF
	•	Electrical Systems	E100.PDF
	•	Plumbing Systems	P100.PDF
	•	Physicist's Letter of Certification and Report	X100.PDF

SCHEDULE LRA 6 ATTACHMENT

ARCHITECTURAL INFORMATION

1. Architect/Applicant Certification for Existing Building
2. Functional Space Program
3. Drawings



**CERTIFICATION LETTER FOR INSPECTING EXISTING BUILDINGS
FOR
ARCHITECTS/ENGINEERS**

Date: April 14, 2025
CON Number: TBD
Facility Name: Mount Sinai West
Facility ID Number: 1466
Facility Address: 1000 10th Avenue, New York, NY 10019

NYS Department of Health/Office of Health Systems Management
Center for Health Care Facility Planning, Licensure and Finance
Bureau of Architectural and Engineering Review
ESP, Corning Tower, 18th Floor
Albany, New York 12237

To The New York State Department of Health:

I hereby certify that:

1. I have been retained to evaluate the aforementioned facility for compliance with all applicable codes and regulations that are in effect at the time this application is being submitted.
2. I have ascertained that, to the best of my knowledge, information and belief, the existing structure is compatible with the programmatic features for the referenced project and in accordance with any project definitions, modifications and or revisions approved or required by the New York State Department of Health.
3. The above-reference structure is in compliance with all applicable local, state, and federal codes, statutes, and regulations, and the applicable provisions of the State Hospital Code -- 10 NYCRR Part 711 (General Standards for Construction) and Parts (check all that apply):
 - a. ☐ 712 (Standards of Construction for General Hospital Facilities)
 - b. ☐ 713 (Standards of Construction for Nursing Home Facilities)
 - c. ☐ 714 (Standards of Construction for Adult Day Health Care Program Facilities)
 - d. ☒ 715 (Standards of Construction for Freestanding Ambulatory Care Facilities)
 - e. ☐ 716 (Standards of Construction for Rehabilitation Facilities)
 - f. ☐ 717 (Standards of Construction for New Hospice Facilities and Units)

PLEASE NOTE ANY EXCEPTIONS HERE:

4. I understand that if upon evaluation of the facility a component is inconsistent with the State Hospital Code (10 NYCRR Parts 711, 712, 713, 714, 715, 716, or 717), I shall bring this to the

ARCHITECTURAL AND ENGINEERING LETTER OF CERTIFICATION FOR INSPECTING EXISTING BUILDINGS

attention of the Bureau of Architecture and Engineering Review (BAER) of the New York State Department of Health for compliance resolution.

5. I understand non-article 28 areas, spaces, rooms and facilities being converted to Article 28 facilities shall be evaluated and shall be brought into compliance for new construction standards as indicated with applicable requirements of 10 NYCRR Parts 711, 712, 713, 714, 715, 716 and 717 shall be met.
6. I understand that upon completion of evaluation, the costs of any subsequent corrections necessary to achieve compliance with applicable requirements of 10 NYCRR Parts 711, 712, 713, 714, 715, 716 and 717, when the prior work was not completed properly as certified herein, may not be considered allowable costs for reimbursement under 10 NYCRR Part 86.

This certification is being submitted to facilitate the CON review and subsequent to formal plan approval by your office.

Project Name: Relocation of C.A.R.E.S. Program

Location: 307 West 38th Street, 7th Fl., New York, N.Y. 10018

Description: Relocation of CARES Program



Signature of NYS Licensed Architect/Engineer

Carlos H. Alvarado

Name of Architect/Engineer (Print)

020182

Professional New York State License Number

34 West 27th Street, New York, N.Y. 10001

Business Address

Architectural or Engineering Professional



The undersigned applicant understands and agrees that, notwithstanding this architectural/engineering certification the Department of Health shall have continuing authority to (a) review the plans in existence and/or inspect the project with regard thereto, and (b) withdraw its approval thereto. The applicant shall have a continuing obligation to make any changes required by the Department to comply with existing and future codes and regulations.

Authorized Signature for Applicant

Date

Name (Print)

Title

Notary signing required for the applicant

STATE OF NEW YORK

County of _____

)

) SS:

)

On the ____ day of _____, 20____, before me personally appeared _____, to me known, who being by me duly sworn, did depose and say that he/she is the _____ of the _____, the corporation described herein which executed the foregoing instrument; and that he/she signed his/her name thereto by order of the board of directors of said corporation.

(Notary) _____

ARCHITECTURAL AND ENGINEERING LETTER OF CERTIFICATION FOR INSPECTING EXISTING BUILDINGS

C.A.R.E.S. PROGRAM**SPACE PROGRAM**

PROJECT: **Relocation of C.A.R.E.S. Program**
307 West 38th Street, 7th Fl., New York, New York 10018.

PROJECT NUMBER **625001**

Date: **JANUARY 22, 2025**

RE: **SPACE PROGRAM**

PROJECT OBJECTIVES/GOALS

The relocation of the C.A.R.E.S. Program to a Mid-town office building will not only make the commute more convenient for their constituents, but also afford them more spacious accommodations with ample space for clinical and administrative group components.

Existing space, in its present configuration, satisfied C.A.R.E.S. programmatic and spacial needs. No construction/renovation is needed to the existing layout to provide the end users a comfortable and esthetically pleasing environment.

1.0 SCOPE OF OPERATIONS

CARES provides multidisciplinary therapeutic services to students whose emotional and/or behavioral difficulties have interfered with their success at school.

2.0 FUNCTIONAL RELATIONSHPS

This relocation allows these services to be located closer to various means of transportation.

3.0 SPACE/FUNCTIONAL REQUIREMENTS

CODE	SPACE NAME	NET AREA OF SPACE	NO OF SPACES	TOTAL NET AREA	NO. OF OCCUP -ANTS	EQUIPMENT, FURNITURE & REMARKS
3.01	Reception Area	240 sf	2	240 sf	4-5	- Location: Controls access unit 2 Work Stations
3.02	Milieu space	352 sf	1	352 sf	7-10	2 Work Stations - Visitors' Chairs
3.03	Class/Group Rms	280 sf	5	1,400 sf	75	Classroom set-up
3.04	FPA Offices	140 sf	2	280 sf	4-5	- Office set-up - Visitors' Chairs
3.05	Waiting Area	270 sf	1	270 sf	8-10	8 Visitors' Chairs
3.06	Assist. Director's Office	240 sf	1	240 sf	1-2	- Office set-up - Visitors' Chairs Visitors' Chairs
3.07	Director's Office	330 sf	1	330 sf	1-5	- Office set-up - Conference Table and Chairs
3.08	Private Offices	110 sf	11	1,100 sf	11	Office set-up

Relocation of C.A.R.E.S. Program

MSH

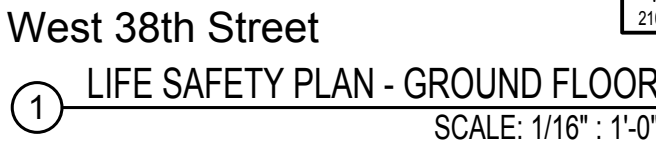
01/22/2025

						• Visitors' Chairs

3.0 SPACE/FUNCTIONAL REQUIREMENTS (cont'd)

CODE	SPACE NAME	NET AREA OF SPACE	NO OF SPACES	TOTAL NET AREA	NO. OF OCCUP -ANTS	REMARKS
3.09	Shared Offices (3 positions)	145 sf	2	290 sf	6	• 3 work positions
3.10	Shared Offices (2 positions)	107 sf	2	214 sf	4	• 2 work positions
3.11	Open Work Cubicles (Large)	30 sf	8	240 sf	8	• Modular work station
3.12	Work Counter	20 sf	3	60sf	3	• Counter Work Position
3.13	Pantry/copy area	220 sf	1	220 sf	2	• Pantry Set-up • Work Counter
3.14	Community Mtg Area #1 & 2	448 sf 858sf	2	1,306 sf	3	• Multipurpose Area
3.15	Pantry/copy area	220 sf	1	220 sf	2	• Pantry Set-up • Work Counter
TOTAL NET AREA				6,328 s.f.		
TOTAL GROSS AREA				11,375 s.f.		

NOTE: Required support services toilet facilities, janitor's closet, electrical closet, mechanical rms, storage, IDF rm, etc., will remain "as is"



 1HR 1 HOUR FIRE BARRIER
 2HR 2 HOUR FIRE BARRIER
 TRAVEL PATH TO EXIT
 EXIT STAIRWELL
 EXTERIOR EXIT

CODE	NYCBC2022	ACTUAL / REMARKS (IF APPLICABLE)
TRAVEL DISTANCE FROM ANY POINT OF THE SUITE AND NEAREST EXIT	1017.2 SHALL NOT EXCEED 200 FT. W/O SPRINKLER. 300 FT WITH SPRINKLER	ACTUAL 171'-5" TO THE NEAREST EXIT
MINIMUM CORRIDOR WIDTH	1020.1.1 > 30" CLEAR FOR OCCUPANCY "B"	46" CLEAR WIDTH ACTUAL
MINIMUM DOOR WIDTH	1005.3.2 EGRESS COMPONENT WIDTH * 0.2" PER OCCUPANT	123 X 0.2 = 24.6" DOOR WIDTH REQUIRED 150" PROVIDED

SCALE
AS NOTED

DATE
3/12/2025

PROJECT NUMBER
625001

SHEET NUMBER
XX OF 08

Limited Review Application

Schedule LRA 7

State of New York Department of Health/Office of Health Systems Management

Proposed Operating Budget

Budget	Current Year	First Year (Projected)	Third Year (Projected)
Revenues			
Service Revenue			
Grants Funds			
Foundation			
Other			
Fees			
Other Income			
(1) Total Revenues	\$		
Expenses			
Salaries and Wage Expense			
Employee Benefits			
Professional Fees			
Medical & Surgical Supplies			
Non-Medical Equipment			
Purchased Services			
Other Direct Expense			
Utilities Expense			
Interest Expense			
Rent Expense			
Depreciation Expense			
Other Expenses			
(2) Total Expense	\$		
Net Total - (1-2) →	\$		

Limited Review Application

Schedule LRA 7

State of New York Department of Health/Office of Health Systems Management

* Various inpatient services may be reimbursed as discharges or days. Applicant should indicate which method checkbox applies to this table by choosing the appropriate checkbox

Patient Days

Patient Discharges

Inpatient Services Source of Revenue		Total Current Year			First Year Incremental			Third Year Incremental		
		Patient Days or	Net Revenue*		Patient Days or	Net Revenue*		Patient Days or	Net Revenue*	
			%	Dollars (\$)		%	Dollars-(\$)		%	Dollars-(\$)
Commercial	Fee for Service	Not Applicable								
	Managed Care									
Medicare	Fee for Service									
	Managed Care									
Medicaid	Fee for Service									
	Managed Care									
Private Pay										
OASAS										
OMH										
Charity Care										
Bad Debt										
All Other										
Total										

Limited Review Application

Schedule LRA 7

State of New York Department of Health/Office of Health Systems Management

Outpatient Services Source of Revenue		Total Current Year			First Year Incremental			Third Year Incremental		
		Visits	Net Revenue*		Visits	Net Revenue*		Visits	Net Revenue*	
			%	Dollars (\$)		%	Dollars (\$)		%	Dollars (\$)
Commercial	Fee for Service									
	Managed Care			\$						
Medicare	Fee for Service									
	Managed Care									
Medicaid	Fee for Service			\$						
	Managed Care			\$						
Private Pay				\$						
OASAS										
OMH										
Charity Care										
Bad Debt										
All Other										
Total										

Total of Inpatient and Outpatient Services									

	Title of Attachment	Filename of Attachment
1. In an attachment, provide the basis and supporting calculations for all revenues by payor.	Rates are based on the experience of Mount Sinai.	N/A
2. In an attachment, provide the basis for charity care.	Charity Care is based on the experience of Mount Sinai.	N/A

* Net Deductions from Revenue