CAMPUS DEVELOPMENT AGREEMENT

This CAMPUS DEVELOPMENT AGREEMENT (this “Agreement”) is made and entered into as of the 3rd day of June, 2014, by and among FSD UNIVERSITY, LLC, a Connecticut limited liability company (“FSDU” or “Developer”), THE UNIVERSITY OF CONNECTICUT (the “University”) and, to the extent of Section 2.02 hereof, the STATE OF CONNECTICUT, acting by and through the Secretary of the Office of Policy and Management (the “State”). FSDU, the University and, solely with respect to Section 2.02 hereof, the State are sometimes collectively referred to herein as the “Parties” and individually as a “Party”.

RECITALS

WHEREAS, pursuant to that certain Phase III Development Agreement dated June 3, 2014 (as amended and otherwise in effect from time to time, the “Phase III Development Agreement”) among HBN Front Street District, Inc., a Connecticut corporation (“HBN”), the University, Capital Region Development Authority (the “Authority”) and the State, HBN, the University, the Authority and the State have agreed that the relocation of the University’s Greater Hartford Campus (the “Campus”) to the E/R/R District (as defined below) and the construction and development of a new, first class, state-of-the-art, higher education academic building on the Phase III Lot (as defined below), and the retail and other uses relating thereto, (the “Campus Project”) and any associated public improvements shall constitute Phase III of the E/R/R District (“Phase III”); and

WHEREAS, FSDU, the University and, to the extent of Section 2.02 hereof, the State wish to set forth their agreement as to the terms and conditions for the construction and development of the Campus Project;

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, warranties, agreements, covenants and guarantees set forth herein, the Parties hereto agree as follows:

ARTICLE I
DEFINITIONS AND INTERPRETATION

Section 1.01 Definitions.

For purposes of this Agreement, the following words and terms shall have the meanings set forth below:

“Action” or “Proceeding” means any legal action, lawsuit, proceeding, arbitration, investigation by a Governmental Authority, hearing, audit, appeal, administrative proceeding or judicial proceeding.
“Adriaen’s Landing” is defined in the Second Restated Development Agreement.

“Affiliate” means, with respect to any Person, any Person that, directly or indirectly, controls, is controlled by, or is under common control with, such Person. The term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

“Agents” means a Person’s Affiliates and its or their directors, members, managers, partners, officers, employees, agents, consultants and advisors (including lenders, financial advisors, counsel, accountants, architects, engineers and other professionals) preparing, furnishing, receiving or utilizing, as the case may be, any Proprietary Information.

“Agreement” means this Campus Development Agreement, all recitals, exhibits, schedules and appendices hereto, and any and all supplements and amendments hereto or thereto.

“Applicable Laws” means all laws, statutes, ordinances, rules, regulations, orders or determinations of Governmental Authorities, including Environmental Laws, the State Contracting Requirements, the State Building Code and the State Fire Safety Code, applicable to the design, development, purchase, acquisition, disposition, equipping, construction, financing, leasing, maintenance, ownership, occupancy, possession, control, management, use or non-use or operation of any property, facility, structure or improvement forming part of the E/R/R District, the authorization, execution, delivery and performance by the Parties of their respective obligations under the Second Restated Development Agreement, this Agreement or the Campus Project Documents or the consummation of the transactions contemplated thereby, all after giving effect to the Implementing Legislation and except as may be pre-empted by federal law (in which case the governing federal law shall be the Applicable Law).

“Applicable Taxes” means, with respect to a taxpayer, all applicable taxes, assessments, fees and other governmental charges, or any payments in lieu of taxes, due from such taxpayer to the State, any federal taxing authority, any municipality or other local taxing or assessment district or authority, or to the Authority pursuant to the Implementing Legislation, arising from, based upon or otherwise relating to the design, development, purchase, acquisition, disposition, equipping, construction, financing, leasing, maintenance, ownership, occupancy, possession, control, management, use or non-use or operation of any property, facility, structure or improvement forming part of the E/R/R District, the authorization, execution, delivery and performance by the Parties of their respective obligations under the Campus Project Documents or the consummation of the transactions contemplated thereby, whether in the nature of income taxes, sales and use taxes, admissions, cabaret and dues taxes, corporation business taxes, real and personal property taxes, conveyance taxes, franchise taxes, motor vehicle taxes, employment and withholding taxes, license, registration and filing fees or otherwise, together with all penalties, fines and interest payable with respect to any of the foregoing, all after giving effect to the Implementing Legislation.

“Approval,” “Approve” or “Approved” means (a) with respect to any item or matter for which the approval of the University or the University Representative, as the case may be,
required under the terms of this Agreement, the specific approval of such item or matter by University pursuant to a written instrument executed by the University or the University Representative, as applicable, delivered to Developer, and shall not include any implied or imputed approval, and no approval by the University or the University Representative pursuant to this Agreement shall be deemed to constitute or include any approval required in connection with any University Legal Requirements, unless such written approval shall so specifically state; (b) with respect to any item or matter for which the approval of Developer is required under the terms of the Agreement, the specific approval of such item or matter by Developer or the Developer Representative, as the case may be, pursuant to a written instrument executed by a duly authorized officer of Developer or the Developer Representative, as permitted pursuant to the terms of this Agreement, and delivered to the University, and shall not include any implied or imputed approval; and (c) with respect to any item or matter for which the approval of any other Person is required under the terms of this Agreement, the specific approval of such item or matter by such Person pursuant to a written instrument executed by a duly authorized representative of such Person and delivered to the University or Developer, as applicable, and shall not include any implied or imputed approval.

“Approved Changes” means changes in the Campus Project Plans and Change Orders to the Campus Project Plans that are (i) either: (a) required by any Governmental Authority or required to obtain any necessary Governmental Permit; (b) required to cure any defect or discrepancy in the Campus Project Plans; (c) necessary as a result of the unavailability of particular materials or equipment or in order to avoid significant delays in construction attributable to such unavailability; or (d) involve minor changes that are not inconsistent with the intent of the Phase III Concept Plan, the functionality of the particular building or structure, or its relationship to or integration with other buildings or structures in the E/R/R District and (ii) are Approved in writing by Developer and the University and, if required under the Phase III Development Agreement, the State Parties.

“Architect” means Robert A.M. Stern Architects or such other qualified architectural firm with current design experience for major projects of comparable scope to the Campus Project as may be selected by Developer and Approved by the University.

“Architect’s Contract” means the contract between Developer and the Architect for the design of the Campus Project, and any amendments or modifications thereto Approved by the University.

“As-Built Survey” means a survey prepared following Substantial Completion of the Campus Project for the purposes of establishing the final, exact legal description of the Phase III Lot and to reflect the final building plans and/or the actual location of all improvements, street lines, sidewalks, loading docks, overhangs and similar matters.


“Auditors of Public Accounts” means the Auditors of Public Accounts of the State of Connecticut.

“Authority” is defined in the Recitals hereto.


“Business Day” means each day on which offices of the State in the State of Connecticut are open for business.

“Campus” is defined in the Recitals hereto.

“Campus Project” is defined in the Recitals hereto.

“Campus Project Budget” means the total budget for all Campus Project Costs (which is currently estimated not to exceed $87,000,000), submitted by Developer and Approved by the University, and attached hereto as Exhibit A, together with any amendments thereto up to the Substantial Completion Date. The Campus Project Budget shall include a Contingency in order to protect the interests of the Parties.

“Campus Project Construction Commencement Deadline” means June 30, 2015.

“Campus Project Construction Contract” has the meaning set forth in Section 7.04(b).

“Campus Project Construction Documents” means any and all contracts, documents or other instruments entered into by or on behalf of Developer or any Developer Affiliates for the development, design, construction or furnishing of the Campus Project Improvements, including the Campus Project Construction Contract.

“Campus Project Construction Schedule” means a schedule of critical dates relating to the Campus Project Improvements Work (which dates may be described or set forth as intervals of time from or after the completion or occurrence of the preceding task or event), which schedule shall include the estimated dates for (i) completion of the Campus Project Plans in detail sufficient for satisfaction of all Applicable Laws (including issuance of necessary building permits), (ii) issuance of all Governmental Permits and satisfaction of all Applicable Laws prerequisite to commencement of the Campus Project Improvements Work and (iii) Substantial Completion of the Campus Project Improvements Work. The Campus Project Construction Schedule shall be adjusted as appropriate to reflect the delay in the Campus Project Improvements Work resulting from each occurrence of Excusable Developer Delay in accordance with the provisions of this Agreement.

“Campus Project Costs” means the sum of all Direct Costs and Indirect Costs that will be incurred in order for Developer to fulfill its obligations under this Agreement with respect to the Campus Project Improvements Work and to cause Final Completion of the Campus Project Improvements Work, including all infrastructure, demolition, site preparation, Pre-Development Expenses, Design Fees and any amounts payable to a third party under any of the Campus Project Construction Documents. Campus Project Costs shall include all Direct Costs and
Indirect Costs associated with the design and construction of the shell of the Phase III Retail Space (including the provision of (i) utilities stubbed to the shell space and (ii) fire suppression for the shell space as required by Applicable Laws) but shall not include any costs associated with the marketing, leasing, improvement or fit-out of the Phase III Retail Space.

"Campus Project Documents" means this Agreement, the Security Documents, the Ground Lease and each other document, agreement or instrument between Developer, a Developer Affiliate or the University that is contemplated by, or is entered into to give effect to the covenants and agreements of Developer or the University under this Agreement or any of the other Campus Project Documents, together with any exhibits and schedules thereto, and amendments and modifications thereof.

"Campus Project Funding" is defined in Section 5.05(a).

"Campus Project Funding Payment" or "Campus Project Funding Payments" is defined in Section 5.05(b).

"Campus Project Improvements" means the Campus Project and the Phase III Public Improvements, including the FF&E Requirements and described in the Campus Project Plans.

"Campus Project Improvements Work" means the design, development and construction of the Campus Project Improvements (including any associated infrastructure, demolition or site preparation) in accordance with the terms of this Agreement and the Campus Project Plans.

"Campus Project Personal Property" means any and all movable equipment, furniture, fixtures and other tangible personal property that are located on or within the Campus Project.

"Campus Project Plans" is defined in Section 5.04(c).

"Campus Project Schedule" is defined in Section 5.02(a).

"Casualty" means, with respect to the Campus Projects Improvements, physical damage, physical destruction or other property casualty resulting from any fire or any other Uncontrollable Circumstance or other sudden, unexpected or unusual cause.

"Change in Control" is defined in Section 15.01(f).

"Change Order" or "Change Orders" is defined in Section 7.09.

"City" means the City of Hartford, Connecticut.

"Claims" shall mean and include any and all actions, causes of action, suits, disputes, controversies, claims, debts, sums of money, offset rights, defenses to payment, agreements, promises, notes, losses, damages and demands of whatsoever nature, known or unknown, whether in contract or in tort, at law or in equity, for money damages or dues, recovery of property, or specific performance, or any other redress or recompense which have accrued or
may ever accrue, may have been had, may be now possessed, or may or shall be possessed in the future by or on behalf of any Person against any other Person for, upon, by reason of, on account of, or arising from or out of, or by virtue of, any transaction, event or occurrence, duty or obligation, indemnification, agreement, promise, warranty, covenant or representation, breach of fiduciary duty, breach of any duty of fair dealing, breach of confidence, breach of funding commitment, undue influence, duress, economic coercion, conflict of interest, negligence, bad faith, malpractice, violations of any Applicable Law, intentional or negligent infliction of mental distress, tortious interference with contractual relations, tortious interference with corporate governance or prospective business advantage, breach of contract, deceptive trade practices, libel, slander, usury, conspiracy, wrongful acceleration of any indebtedness, wrongful foreclosure or attempt to foreclose on any collateral relating to any indebtedness, action or inaction, relationship or activity, service rendered, matter, cause or thing, whatsoever, express or implied.


“Collateral Assignments” is defined in Section 11.02.

“Conditions to Commencement” is defined in Section 5.03.

“Conditions to Developer Obligations” is defined in Section 5.01(a).

“Conditions to University Obligations” is defined in Section 5.01(b).

“Connecticut Adverse Law” means an Applicable Law which (i) is enacted or adopted by the State of Connecticut after the Effective Date, (ii) is not by its terms of general applicability, or is by its terms of general applicability but in application only affects Adriaen’s Landing, the E/R/R District or Developer as it applies to the Campus Project, and (iii) makes compliance by Developer with its obligations under this Agreement materially more burdensome or has the effect of materially impairing the rights of Developer under this Agreement.

“Construction Commencement Date” has the meaning set forth in Section 5.03.

“Construction Manager” means Whiting-Turner Contracting Company, Inc. or such other qualified construction management firm with current construction experience with major projects of comparable scope to the Campus Project selected by Developer and Approved by the University.

“Contingency” means the amount(s) allocated as contingency reserve(s) in the Campus Project Budget and to be advanced only with the Approval of the University in accordance with the provisions of this Agreement.

“Contract Compliance Officer” is defined in the Phase III Development Agreement.
“Cost Overruns” has the meaning set forth in Section 7.05.

“Declaration” is defined in the Phase III Development Agreement.

“Design Development Documents” is defined in Section 5.04(b).

“Design Fees” means the fees paid by Developer to the Architect or other design professional for the preparation of plans and specifications for the Campus Project Improvements.

“Developer” is defined in the Preamble hereof.

“Developer Affiliate” is defined in the Phase III Development Agreement.

“Developer Default” is defined in Section 14.01(a).

“Developer Delay” means any delay by Developer in achieving any of its deadlines for performance of obligations under this Agreement.

“Developer Fee” is defined in Section 5.06.

“Developer Obligations” means all obligations and liabilities of Developer to the University existing on the date of this Agreement or arising thereafter, direct or indirect, joint or several, absolute or contingent, matured or unmatured, liquidated or unliquidated, unsecured or secured, arising by contract, operation of law or otherwise, arising or incurred under this Agreement or any of the other Campus Project Documents or in respect of any of the Campus Project Funding Payments.

“Developer Reimbursed Parties” is defined in Section 17.02.

“Developer Representative” is defined in Section 2.02(b).

“Direct Costs” means direct construction costs incurred by Developer in connection with the construction of the Campus Project, as itemized in the Campus Project Budget, as the same may be revised from time to time with the Approval of the University.

“Effective Date” is defined in Section 2.01.

“ELUR” is defined in the Phase III Development Agreement.

“Environmental Claim” means any Action or Proceeding regarding the Phase III Lot or the Campus Project (i) arising under an Environmental Law or (ii) related to or arising out of an actual or alleged Environmental Event.

“Environmental Condition” and “Environmental Conditions” mean (i) circumstances with respect to soil, surface water, ground water, and/or and similar environmental media at,
emanating from or migrating onto the Phase III Lot that may require responsive or remedial action and/or that may result in claims or demands by, or liabilities to, third parties, including but not limited to any Governmental Authorities or (ii) any Release of any Regulated Materials into the environment, or (iii) any noncompliance with any Environmental Law.

“Environmental Event” means the occurrence of any of the following: (i) any noncompliance with an Environmental Law; (ii) an Environmental Condition requiring responsive or remedial action, including an Environmental Condition at the Campus Project caused by a third party; (iii) any event on, at or from the Phase III Lot or the Campus Project, or related to the operation thereof of such a nature as to require reporting to applicable Governmental Authorities under any Environmental Law; (iv) an emergency Environmental Condition; (v) the existence or discovery of any escape, seepage, leakage, spillage, emission, discharge or disposal of or other release of any kind of Regulated Materials on, at or from the Phase III Lot or the Campus Project which may cause a threat or actual injury to human health, the environment, plant or animal life; or (vi) any Environmental Claim, or the filing or imposition of any environmental lien against the Phase III Lot or the Campus Project, because of, resulting from, in connection with, or arising out of any of the matters referred to in clauses (i) through (v) preceding.

“Environmental Laws” means any and all laws, statutes, ordinances, rules, regulations, orders, or determinations, now or hereafter existing, of any Governmental Authority pertaining to the environment, including without limitation, the federal Water Pollution Control Amendments of 1972 as amended by the Clean Water Act, as amended, 33 U.S.C. §§ 1251 et seq., the federal Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq., the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq., the federal Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §§ 6901 et seq., the federal Hazardous Materials Transportation Act of 1975, as amended, 49 U.S.C. §§ 5101 et seq., the federal Safe Drinking Water Act, as amended, 42 U.S.C. §§ 300f et seq., the federal Toxic Substances Control Act, as amended, 15 U.S.C. §§ 2601 et seq. and any and all comparable or similar environmental laws, statutes, ordinances, rules or regulations of the State applicable to the regulation or control of any Regulated Materials or to the design, development, purchase, acquisition, disposition, equipping, construction, financing, leasing, maintenance, ownership, occupancy, possession, control, management, use or non-use or operation of any property, facility, structure or improvement forming part of the E/R/R District, the RSRs and applicable requirements of the ELUR and the RAP, all after giving effect to the Implementing Legislation.

“E/R/R District” is defined in the Second Restated Development Agreement.

“Excusable Developer Delay” means any Developer Delay which is caused by or attributable to (but only to the extent of) Uncontrollable Circumstance.

“Excusable Developer Delay Period” means with respect to any particular occurrence of Excusable Developer Delay, that number of days of delay in the performance by Developer of its obligations under the Agreement actually resulting from such occurrence of Excusable Developer Delay.

June 3, 2014
"Excusable University Delay" means any University Delay which is caused by or attributable to (but only to the extent of) Uncontrollable Circumstance.

"Excusable University Delay Period" means with respect to any particular occurrence of an Excusable University Delay, that number of days of delay in the performance by University of its obligations hereunder actually resulting from such occurrence of Excusable University Delay.

"Existing Environmental Conditions" means, with respect to the Phase III Lot, the Environmental Conditions at, on or under such Phase III Lot, including the presence of Regulated Materials, on or before the Phase III Takedown Date (other than Environmental Conditions on the Phase III Lot caused by or arising from actions of Developer or its Permittees in connection with their occupancy of the Phase I Lot or the Phase II Lot (as such terms are defined in the Phase III Development Agreement).

"Fee Conveyance" is defined in the Phase III Development Agreement.

"Fee Conveyance Closing" is defined in the Phase III Development Agreement.

"FF&E Requirements" means the specifications and requirements for the Campus Project Personal Property to be part of the Campus Project Improvements at the Substantial Completion thereof.

"Final Completion" means, with respect to the Campus Project Improvements Work or any component of the Campus Project Improvements Work, (A) the final completion of the design, development, construction, furnishing and all other aspects of such work and Campus Project Improvements substantially in accordance with the Campus Project Plans or other plans therefor (all of which have been Approved pursuant to the terms of this Agreement, as and if required), all Applicable Laws and all other requirements of this Agreement, including the completion of the punch-list type items referred in Section 6.01(f) and (B) the issuance of all Governmental Permits necessary to use, occupy and operate all aspects and areas of the Campus Project Improvements, in accordance with the terms of this Agreement.

"Final Notice" has the meaning set forth in Section 14.03.

"FOIA" is defined in Section 18.05.

"FSDU" is defined in the Preamble hereof.


"Governmental Authority" and "Governmental Authorities" means any and all federal, State or local governmental, administrative or judicial bodies, instrumentalities or agencies, including all political subdivisions of the State of Connecticut (including municipalities, taxing, fire and water districts and other governmental units).
“Governmental Permits” means all permits, authorizations, registrations, consents, approvals, waivers, exceptions, variances, orders, judgments, decrees, licenses, exemptions, publications, filings, notices to and declarations of or with, or required by, Governmental Authorities pursuant to Applicable Laws, including those relating to traffic, environmental protection, wetlands, zoning, site approval, building and public health and safety, that are required for the development, construction and operation of any property, facility, structure or improvement forming part of the Campus Project.

“Ground Lease” means the ground lease of the Phase III Lot from the Authority, as lessee, to Developer, as lessee.

“HBN” is defined in the Recitals hereof.

“Implementing Legislation” is defined in the Second Restated Development Agreement.

“Independent Auditor” means the independent auditor designated by the University for the Campus Project.

“Indirect Costs” means and includes survey charges, engineering fees, architectural fees, legal fees (except those incurred by Developer in preparation or negotiation of this Agreement, the Security Documents, the Ground Lease or the Phase III Development Agreement and any legal fees incurred by Developer in any action or proceeding against the University), premiums for insurance, accounting fees, overhead and administrative costs, fees and costs incurred pursuant to Section 11.01 of the Phase III Development Agreement, fees and costs incurred pursuant to Sections 9.01, 12.01, 13.01 and 28.01 of the Ground Lease and all other expenses which are expenditures relating to the Campus Project and are not Direct Costs.

“Jobs Initiative” is defined in the Phase III Development Agreement.

“Late Opening Charges” means one hundred percent (100%) of (i) the liquidated damages (as set forth in the Campus Project Construction Contract) actually paid to Developer by the Construction Manager pursuant to the terms of the Campus Project Construction Contract for the Construction Manager’s failure to cause Substantial Completion of the Campus Project Improvements Work to occur on or before the Substantial Completion Date; and (ii) any additional amount awarded to Developer in connection with the Construction Manager’s failure to cause Substantial Completion of the Campus Project Improvements Work to be completed by the Substantial Completion Date; in both cases, net of any third party expenses of Developer associated with collecting any such amounts.

“Leasehold Mortgage” means the Leasehold Mortgage Deed and Security Agreement, dated or to be dated on or prior to the Effective Date, made by Developer in favor of the University pursuant to which Developer grants a mortgage lien and security interest in and to Developer’s interests under the Ground Lease, such Leasehold Mortgage to be in form and substance satisfactory to the University.

“Lien” means any mortgage, pledge, security interest, encumbrance, lien or charge of any
kind (including any agreement to give any of the foregoing), any conditional sale or other title
retention agreement, and any lease in the nature thereof but shall exclude Permitted
Encumbrances.

"Losses" means any and all liability, loss, damage, claim, expense, cost, obligation or
injury resulting from any and all third party claims, actions, suits, proceedings, demands,
assessments and judgments, together with reasonable costs and expenses including the
reasonable legal expenses relating thereto, all to the extent not covered and paid or reimbursed
under policies of insurance contemplated by this Agreement.

"Milestone Schedule" is defined in Section 5.02(a).

"Minimum Requirements" means the criteria that shall be incorporated into the design
and construction of the Campus Project set forth on Exhibit C attached hereto.

"Other Consultants" means the engineers, surveyors, licensed environmental
professionals and other consultants engaged by Developer with respect to the Campus Project.

"Parties" or "Party" has the meaning set forth in the Preamble to this Agreement.

"Payment Bond" means a payment bond in the form of AIA Document A312 or such
other form Approved by the University with the Construction Manager or with each of
Developer’s major subcontractors, as principal, with a Qualified Surety, which is acceptable to
the University and licensed to do business in the State of Connecticut, as surety, and with a dual
obligee rider in favor of the Developer, the University and the State Parties.

"Payment Request" means with respect to each Campus Project Funding Payment,
Developer’s requisition for such Campus Project Funding Payment, and documents required by
this Agreement to be furnished to the University as a condition to such Campus Project Funding
Payment and attached hereto as Exhibit B.

"Performance Bond" means a performance bond in the form of AIA Document A312 or
such other form Approved by the University, with the Construction Manager or with each of
Developer’s major subcontractors, as principal, with a Qualified Surety, which is acceptable to
the University and licensed to do business in the State of Connecticut, as surety, with a dual
obligee rider in favor of Developer, the University and the State Parties.

"Permitted Encumbrances" means (i) the Declaration, (ii) the ELUR, and (iii) any of the
following: (A) liens for taxes, assessments or governmental charges or levies not yet delinquent;
(B) inchoate liens imposed by law but not yet having attached to any real property or leasehold,
such as materialmen’s, mechanics’, carriers’, worker’s, employees’ and repairmen’s liens and
other similar liens arising in the ordinary course of business and securing obligations that have
not remained unpaid for more than thirty (30) days from the date the same shall have become
due; (C) any lien described in (A) or (B) which is being contested in good faith in accordance
with law so long as no foreclosure sale can occur during such proceedings and provided
adequate reserves or a surety bond from a Qualified Surety acceptable to the University and the
State Parties are deposited in escrow with an escrow agent acceptable to the University and the
State Parties sufficient for the payment of all such taxes and liens, including interest and penalties thereon; (D) pledges of deposits to secure obligations under worker’s compensation laws or similar legislation or to secure public or statutory obligations; (E) liens or encumbrances in favor of the University and the State Parties created pursuant to the Campus Project Documents; (F) utility, access and other easements and rights of way, encroachments and exceptions which will not interfere with or impair the present or future operation of the property; (G) rights of tenants, occupants and licensees pursuant to leases, occupancy agreements or other such rental agreements; (H) rights, interests, privileges or entitlements Approved in writing by the University and the State Parties; and (I) such minor defects, irregularities, encumbrances, easements, rights of way and clouds on title as normally exist with respect to similar properties and which do not materially impair the value or utility of the property affected thereby.

“Permittees” means a Person and its officers, directors, partners, shareholders, members, managers, employees, agents, contractors, subcontractors, customers, visitors, guests, invitees, licensees, tenants, subtenants and concessionaires.

“Person” means any natural person, corporation, partnership, limited liability company, association, trust, other business entity or governmental unit.

“Phase III” is defined in the Recitals hereof.

“Phase III Concept Plan” is defined in the Phase III Development Agreement.

“Phase III Development Agreement” is defined in the Recitals hereof.

“Phase III Lot” means that portion of the E/R/R District depicted as the Phase III Lot on the Survey. The exact legal description of the Phase III Lot shall be subject to such minor variations as may be agreed to by the parties to reflect final building plans and/or the actual location of street lines, sidewalks, loading docks, overhangs and similar matters as set forth on the As-Built Survey.

“Phase III Master Retail Space Lease” is defined in Section 7.01(d).

“Phase III Public Improvements” means Public Infrastructure to be constructed by Developer, as contemplated on the Campus Project Plans and/or Phase III Public Improvements Plans.

“Phase III Public Improvements Plans” is defined in Section 5.04(c).

“Phase III Retail Space” means commercial and retail space, as contemplated on the Campus Project Plans, which shall be leased by the University to Developer or a Developer Affiliate for sub-lease to retail and commercial tenants acceptable to the University. Any commercial or retail space, such as a bookstore, coffee shop or café, within the Campus Project which is operated by the University or leased directly by the University to the operator thereof shall not constitute Phase III Retail Space.
“Phase III Takedown” means the transfer by the Authority to Developer or a Developer Affiliate, by the Ground Lease, of legally sufficient interests (which may include, with respect to Public Infrastructure, easement rights during the term of such lease) in the Phase III Lot to permit Developer to commence construction of the Campus Project and Phase III Public Improvements thereon.

“Phase III Takedown Closing” is defined in the Phase III Development Agreement.

“Phase III Takedown Date” means the date of the Phase III Takedown Closing.

“Pre-Development Agreement” means that certain Predevelopment Agreement dated September 3, 2013 by and between Developer and the University with respect to the Campus Project, as amended pursuant to that certain First Amendment to Predevelopment Agreement dated March 4, 2014.

“Pre-Development Expenses” means third party design, survey, site preparation and/or other pre-construction expenses of Developer incurred under the Pre-Development Agreement.

“Prime Construction Contractor” means each general contractor, construction manager or other construction professional with primary responsibility for construction activities with respect to any component of the Campus Project.

“Project Director” means Peter J. Christian or such other senior executive of Developer with principal responsibility for the coordination and supervision of the design, development and construction of Phase III, as is designated in writing from time to time by Developer to the State Parties and the University.

“Proprietary Information” means any and all information furnished by the University or Developer or any Developer Affiliate, or any of their Agents, pursuant to this Agreement, whether furnished before or after the date hereof, whether oral, written, recorded or electronic, and regardless of the manner in which furnished, which relates to the business, operations and assets of Developer or any Developer Affiliate, or to Phase III, including appraisals, feasibility studies, cost estimates, project layouts, designs and plans, project budgets and schedules, planning and implementation studies, traffic studies, legal memoranda and opinions, financial statements, financial commitments and all other information which is customarily treated as proprietary or confidential by a private developer in similar circumstances. The term “Proprietary Information” also includes all summaries, extracts, compilations, analyses, notes or other information prepared by the University, Developer, any Developer Affiliate or their Agents that are based on, contain or reflect any Proprietary Information. “Proprietary Information” does not include information which (i) is or becomes generally available to the public other than as a result of a disclosure, directly or indirectly, by the University or its Agents; provided, however, that information shall not be disqualified as Proprietary Information merely because it is embraced by more general or generic information which is in the public domain or available from a third party, (ii) was available on a nonconfidential basis prior to its disclosure by the University or its Agents, or (iii) becomes available on a nonconfidential basis from a person other than the University or its Agents who are not otherwise bound by a confidentiality
agreement with the University, Developer, a Developer Affiliate or their respective Agents, or is otherwise not under an obligation to Developer, a Developer Affiliate or their respective Agents not to transmit such information to other Persons. The failure to mark any materials or information "proprietary" shall not affect the proprietary nature thereof.

"Public Infrastructure" means the streets, lighting, plazas, sidewalks, landscaping and other public amenities constructed or to be constructed on or adjacent to the Phase III Lot in accordance with the Phase III Public Improvement Plans.

"Qualified Surety" means any surety which has been Approved by the University and which has an Alfred M. Best Company, Inc. rating of "A" or better and a financial size category of not less than "VIII" (or, if Alfred M. Best Company, Inc. no longer uses such rating system, then the equivalent or most similar ratings under the rating system then in effect, or if Alfred M. Best Company, Inc. is no longer the most widely accepted rater of the financial stability of sureties providing coverage such as that required by this Agreement, then the equivalent or most similar rating under the rating system then in effect of the most widely accepted rater of the financial stability of such insurance companies at the time).

"Quality Standard" means a first-class, state-of-the-art, comparable to other higher education academic buildings and structured parking, and satisfying such other standards to be mutually agreed to between the Parties and set forth on Exhibit C attached hereto.

"RAP" is defined in the Phase III Development Agreement.

"Regulated Materials" means (i) any chemical, compound, material, mixture or substance that is now or hereafter defined, determined, listed, classified, identified, regulated as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous waste," "restricted hazardous wastes," "pollutants," "contaminants," "toxic wastes," "toxic materials," or "toxic substances" or terms of similar meaning under any Applicable Law, or under the regulations adopted or promulgated pursuant thereto, including any Environmental Laws and (ii) any oil, petroleum or petroleum derived substance, any flammable substances or explosives, any radioactive substances or radioactive materials, any hazardous wastes or substances, any toxic wastes or substances, or any other materials or pollutants which cause any part of any facility, structure or improvement to be in violation of any Environmental Law and (iii) asbestos in any form, urea formaldehyde foam insulation, or electrical equipment which contains any oil or dielectric fluid containing levels of polychlorinated biphenyls in excess of applicable legal or regulatory limits.

"RCA" means that certain Reciprocal Covenant Agreement among the State Parties, Developer, FSD Apartments, LLC, and Adriaen’s Landing Hotel, LLC, dated as of June 1, 2009 and recorded at Volume 6263, Page 1 of the Hartford Land Records, as amended by the First Amendment thereto, dated as of December 17, 2013, and recorded at Volume ____, Page ____ of the Hartford Land Records.

"Release" means any release, spill, leaking, pumping, injection, deposit, discharge, emission, disposal, leaching, or migration into the indoor or outdoor environment including, without limitation, the movement of Regulated Materials through soil, surface water, ground
water, air or similar environmental media.

“Representative” means the individual reference to the Developer Representative and the University Representative and “Representatives” means the collective reference to each Representative.

“Retainage” is defined in Section 5.05(d).

“Review and Approval or Consent Rights” has the meaning set forth in Section 9.02(a).

“Reviewing Party” has the meaning set forth in Section 9.02(a).

“RSRs” means, collectively, the Remediation Standard Regulations, Regulations of Connecticut State Agencies, Section 221-133k-1, et seq.

“Schematic Design Documents” is defined in Section 5.03(a).

“Second Restated Development Agreement” means the Second Amended and Restated Development Agreement, dated as of June 19, 2008, by and among HBN, the Authority and the State, as amended by Amendment #1, dated December 22, 2010, that certain Second Amendment to Second Amended and Restated Development Agreement dated July 17, 2013 and that certain Third Amendment to Second Amended and Restated Development Agreement dated June 3, 2014.

“Secretary” is defined in the Second Restated Development Agreement.

“Security Documents” means the Leasehold Mortgage, the Collateral Assignments, and any other document, certificate or instrument executed by Developer or any other obligated party in connection with this Agreement, together with all amendments, modifications, renewals or extensions thereof, now or hereafter securing the Developer Obligations.

“Site Assessments” is defined in the Phase III Development Agreement.

“State” is defined in the Preamble hereto.

“State Building Code” means the State Building Code adopted and administered pursuant to Section 29-252 of the General Statutes, including all amendments and revisions thereto and all interpretations applicable thereto.

“State Comptroller” is defined in the Second Restated Development Agreement.

“State Contracting Requirements” is defined in Section 3.04(a).

“State Fire Safety Code” means the State Fire Safety Code adopted and administered pursuant to Section 29-292 of the General Statutes, including all amendments and revisions thereto and all interpretations applicable thereto.
“State Indemnified Parties” is defined in Section 17.01(a).

“State Parties” is defined in the Phase III Development Agreement.

“Stored Materials” has the meaning set forth in Section 5.05(g).

“Submitting Party” has the meaning set forth in Section 9.02(a).

“Substantial Completion,” “Substantially Completed” and similar terms mean, with respect to the Campus Project, substantially completed in accordance with the approved Campus Project Plans and Phase III Public Improvement Plans as certified by the Architect, subject to any Approved Changes, including the completeness of all building systems, interior and exterior finishes, exterior improvements, landscaping, exterior lighting, and the removal of all construction equipment and materials, and ready and permitted for use and occupancy under all Applicable Laws, including the issuance of an appropriate temporary or permanent certificate of occupancy, if applicable, notwithstanding that minor “punch list” items may remain to be completed. “Substantial Completion” shall not require completion of the interior of any Phase III Retail Space.

“Substantial Completion Date” means the date upon which Substantial Completion of the Campus Project Improvements Work occurs.

“Substantial Completion Date” means June 30, 2017, as such date may be extended by (i) an Excusable Developer Delay Period or (ii) Section 5.2, each in accordance with the terms of this Agreement.

“Survey” means the plan entitled “Lease Line Plan Front Street District, Arch Street and Columbus Boulevard, Hartford Connecticut,” prepared for the H.B. Nitkin Group, dated January 14, 2008, and as revised through May 16, 2014, prepared by BSC Group, and attached hereto as Exhibit D.

“Takedown Insurance Requirements” are defined in Section 13.02.

“Transfer” means any sale, assignment, conveyance, lease, mortgage, pledge, encumbrance or other transfer, but shall exclude Permitted Encumbrances.

“Uncontrollable Circumstance” means any event which renders impossible, prevents, interrupts or delays the performance of an obligation of a Party to this Agreement, if such event is beyond the reasonable control of such Party and which, by the exercise of due diligence, such Party would be unable to overcome, including, but not limited to: strikes, lockouts, sit-downs, material or labor restrictions imposed by any Governmental Authority, shortages of material or labor, unusual transportation delays, riots, floods, explosions, earthquakes, fire, unusually unfavorable weather (including wet grounds or inclement weather which prevents construction), acts of the public enemy, wars, insurrections, the inability to secure necessary Governmental Permits or required agreements with Governmental Authorities and/or utility companies (provided that such Party has acted with due diligence and dispatch to negotiate and enter into
such agreements and to apply for, pursue and secure such Governmental Permits, including the prosecution or defense of any appeals therefrom, and the commencement and continued pendency of legal proceedings not brought by any Party to this Agreement or any Affiliate thereof and not based on any event or circumstance which constitutes a breach or default by such Party of any obligations, covenants or agreements under this Agreement or which is otherwise within the reasonable control of such Party, which legal proceedings restrain or enjoin the performance by such Party of such obligation, or, if adversely determined, would effectively prohibit the financing, development or operation of the Campus Project.

"University" is defined in the Preamble hereof.

"University Construction Inspector" means the University Representative or such other Person designated by the University to perform the functions of the University Construction Inspector under this Agreement.

"University Default" is defined in Section 14.01(b).

"University Delay" means any delay by the University in achieving any of its deadlines for performance of obligations under this Agreement.

"University Legal Requirements" means all requirements imposed on the University under the General Statutes and Applicable Laws, including, without limitation, as set forth on Schedule 3.03.

"University Representative" is defined in Section 2.02(a).

Section 1.02  Interpretation.

(a) References to a "Section," "Sections," "Article" or "Articles" herein refer to this Agreement unless otherwise stated.

(b) Words of the masculine gender mean and include correlative words of the feminine and neuter genders and words importing the singular number mean and include the plural number and vice versa.

(c) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or index of schedules and exhibits appended hereto or to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(d) Words such as "hereunder," "hereto," "hereof" and "herein" and other words of similar import shall, unless the context requires otherwise, refer to the whole of this Agreement and not to any particular article, section, subsection, paragraph or clause hereof.

(e) A reference to "including" means including without limiting the generality of any description preceding such term and for purposes of this Agreement the rule of ejusdem generis
shall not be applicable to limit or restrict a general statement, followed by or referable to an enumeration of specific matters, to matters similar to, or of the same type, class or category as, those specifically mentioned.

(f) Any reference to “days” shall mean calendar days unless otherwise expressly specified.

(g) Any reference to any statute, law or regulation (including the Implementing Legislation) includes all statutes, laws or regulations amending, consolidating or replacing the same from time to time, and a reference to a law or statute includes all regulations, codes or other rules issued or otherwise applicable under such law or statute unless otherwise expressly provided in such law or statute or in this Agreement. This rule of interpretation shall be applicable in all cases notwithstanding that in some cases specific references in this Agreement render the application of this rule unnecessary.

(h) Unless expressly stated to be at the sole discretion of a Party, approvals, consents, waivers, acceptances, concurrences and permissions required to be given or made by any Party hereunder shall not be unreasonably withheld, conditioned or delayed. In determining the “reasonableness” of the granting or denial of any approval, consent, waiver, acceptance or concurrence of any Party hereto, the University shall be entitled to consider matters of public policy as well as business and financial considerations, and Developer may consider business and financial considerations.

(i) All notices to be given hereunder shall be given in writing (whether or not so specified in a particular provision of this Agreement) within a reasonable time unless otherwise specifically provided.

(j) Whenever any calculation or valuation may be made for any purposes hereunder and the method or manner of such calculation or valuation is not provided for in this Agreement, it shall be done in accordance with generally accepted accounting principles consistently applied or in such other manner as may be mutually agreed by the Parties, unless otherwise required by Applicable Laws.

(k) Developer and the University have participated in the drafting of this Agreement and any ambiguity contained in this Agreement shall not be construed against Developer or the University solely by virtue of the fact that either Developer or the University may be considered the drafter of this Agreement or any particular part hereof.

(l) Each schedule and exhibit referred to in this Agreement shall be considered a part of this Agreement as if fully set forth herein.

ARTICLE II
EFFECTIVENESS AND RELATED MATTERS

Section 2.01 Effective Date.
This Agreement shall become effective between and among the Parties on the date first set forth above (the “Effective Date”).

Section 2.02 Certification by the Secretary.

The Secretary hereby certifies that the Campus Project and the Phase III Public Improvements are consistent with the Master Development Plan and that the development and construction of Phase III by Developer as set forth in this Agreement shall constitute “on-site related private development” under the Implementing Legislation.

Section 2.03 Representatives.

(a) The University hereby designates Robert Corbett to be the representative of University (the “University Representative”), and the University shall have the right, from time to time, to change the Person who is the University Representative by giving at least five (5) Business Days prior written notice to Developer thereof. The only functions under this Agreement of the University Representative shall be as expressly specified in this Agreement. Any one of the Persons from time to time serving as the University Representative shall have the power to bind the University in those instances in which this Agreement specifically provides for the Approval, decision, confirmation or determination of the University Representative and in no other instances; provided, however, that notwithstanding anything in this Agreement to the contrary, the University Representative shall not have any right to modify, amend or terminate this Agreement or any of the other Campus Project Documents.

(b) Developer hereby designates Peter J. Christian to be the representative of Developer (the “Developer Representative”), who shall be authorized to act on behalf of Developer under this Agreement. Developer shall have the right, from time to time, to change the Person who is the Developer Representative by giving at least five (5) Business Days prior written notice to the University thereof. Any written Approval, decision, confirmation or determination hereunder by the Developer Representative shall be binding on Developer; provided, however, that notwithstanding anything in this Agreement to the contrary, the Developer Representative shall not have any right to modify, amend or terminate this Agreement or any of the other Campus Project Documents.

Section 2.04 Cooperation Generally; Good Faith Efforts.

(a) The Parties intend that the design, development, construction and furnishing of the Campus Project shall be a cooperative process. The Parties agree that each Representative will have full access to any information available to Developer from the Construction Manager, the Architect and all other contractors, consultants and other Persons retained in connection with the design, development, construction and furnishing of the Campus Project. For purposes of participating in the process of managing construction costs and continuing to be involved and informed during the design and construction of the Campus Project, each Representative will be given a reasonable opportunity to be present at all meetings and briefings with the Construction Manager, the Architect and all contractors, consultants and other Persons engaged with regard to the design, development, construction and furnishing of the Campus Project; provided however, that all contractually required communications (subject to the other applicable provisions of this
Agreement and the Phase III Development Agreement), obligations and ultimate authority with respect to the Campus Project, the Architect, the Construction Manager or anyone acting through or on their behalf rests with Developer as long as the Campus Project is built in accordance with the Campus Project Plans and the University is not exercising any of its rights and remedies under this Agreement, the Security Documents or any of the other Campus Project Documents as a result of a Developer Default.

(b) The Parties further acknowledge that in order to achieve the objectives of this Agreement, further actions and the execution and delivery of further agreements and instruments will be required or may be reasonably requested by another Party in order to consummate and make effective the transactions contemplated hereby or clarify the understandings of the Parties in light of subsequent developments or events. Such agreements and instruments may include the completion of certain schedules and exhibits to this Agreement, the negotiation and completion of the other Campus Project Documents, future agreement on specific matters as provided in this Agreement, changes in the Campus Project Plans which the Parties agree are in the best interest of the Campus Project, and necessary amendments to this Agreement or any of the other Campus Project Documents. Accordingly, the Parties agree to consult and cooperate reasonably and in good faith with respect to the taking of any such further actions, the approval of any such changes, and the negotiation, preparation and execution of any such amendments, agreements or instruments as may be necessary or desirable for such purposes, and the Parties generally agree to act in good faith in taking any actions or failing to take any actions pursuant to this Agreement; provided, however, that nothing in this Section 2.04(b) is intended (i) to obligate any Party to take any action or execute any agreement or instrument that is inconsistent with any material provisions of this Agreement, or (ii) to release any Party from any of its obligations under this Agreement. Except as expressly provided in this Agreement, no dispute among the Parties with respect to any such amendments, agreements or instruments shall give rise to a right in any Party to terminate this Agreement.

Section 2.05 Connecticut Adverse Law.

It is not expected by the Parties that any Connecticut Adverse Law will be enacted or adopted. If a Connecticut Adverse Law is enacted or adopted, the Parties agree to enter into good faith negotiations for the purpose of fairly allocating among them, in a manner consistent with the other understandings in this Agreement, any increased costs or expenses incurred or to be incurred in order to comply with the Connecticut Adverse Law, or for the purpose of agreeing on amendments to this Agreement designed to preserve the benefit of the bargain of the Parties contemplated hereby. If the Parties are unable to agree on such allocations or amendments in response to a Connecticut Adverse Law, Developer may terminate this Agreement by sixty (60) days’ prior notice given to the State Parties after Developer learns of such Connecticut Adverse Law but in no event later than one hundred twenty (120) days following the date of enactment or adoption of such Connecticut Adverse Law.

ARTICLE III
COMPLIANCE WITH LAWS; STATE CONTRACTING REQUIREMENTS
Section 3.01 Compliance with Laws Generally; No Restrictions on Police Powers.

With respect to the development of the Campus Project and the performance of their other obligations under this Agreement, each of the Parties agrees that it shall comply at all times with all Applicable Laws. In connection with all contracts and subcontracts with respect to the Campus Project entered into by the Parties, the Parties shall require compliance by the other parties to such contracts and subcontracts with Applicable Laws. Developer acknowledges that nothing in this Agreement is in derogation of or restricts the exercise of the police powers of the State of Connecticut.

Section 3.02 Applicable Taxes.

Developer shall pay all Applicable Taxes when due with respect to the Phase III Lot after the Phase III Takedown has occurred, except for such Applicable Taxes (a) that Developer is contesting in good faith by appropriate proceedings, (b) for which Developer has established adequate reserves, (c) as to which nonpayment will not result in the imposition of any Lien prohibited by Section 3.08 and (d) as to which Developer is exempt from the payment thereof under the Implementing Legislation or any exemption available to the University with respect to the Campus Project. All Applicable Taxes shall be a Campus Project Cost and included with the Campus Project Budget subject to the Approval of the University.

Section 3.03 State Contracting Requirements.

With respect to the development of Phase III, Developer agrees to comply with all applicable additional contracting requirements of the State of Connecticut set forth in attached Schedule 3.03, and for purposes of Schedule 3.03 and this Section 3.03 only, Developer shall be deemed a “Contractor,” and this Agreement shall be deemed the “contract.” In the event of any inconsistency between the requirements of Schedule 3.03 and the requirements of Applicable Law, including the Implementing Legislation, such requirements of Applicable Law shall govern.

Section 3.04 Contract Compliance.

(a) Developer acknowledges that the award and administration of contracts for the Campus Project is subject to (i) applicable requirements of the Implementing Legislation, including particularly Sections 32-655a and 32-656 of the General Statutes, (ii) applicable requirements of Part III of Chapter 557 of the General Statutes, except that the provisions relating to the payment of prevailing wages to workers in connection with a public works project, including, but not limited to, Section 31-53 of the General Statutes, shall not apply to the Campus Project if the Prime Construction Contractor has negotiated other wage terms pursuant to a project labor agreement, (iii) applicable additional contracting requirements of the State of Connecticut and/or the University set forth in attached Schedule 3.03, including to the extent made applicable to subcontractors by the terms thereof, and (iv) the requirements of Article IV with respect to contractor and employee set-asides and preferences (all together, the “State Contracting Requirements”).
(b) All contracts and subcontracts with respect to the development of the Campus Project shall be awarded and administered in accordance with all applicable State Contracting Requirements.

Section 3.05 Required Oversight and Control of Expenditures and Construction Quality.

(a) This Agreement is subject to the applicable requirements of Section 32-655a of the General Statutes with respect to governmental oversight and control of expenditures and construction quality.

(b) Developer agrees (i) to reasonably cooperate with the Independent Auditor, the State Comptroller and the Auditors of Public Accounts in connection with their responsibilities under Section 32-655a of the General Statutes or other Applicable Laws, (ii) to provide the Independent Auditor, the State Comptroller and the Auditors of Public Accounts with access, upon reasonable prior notice, to all Campus Project Documents as may reasonably be requested by the Independent Auditor, the State Comptroller and the Auditors of Public Accounts in order to comply with the requirements of Section 32-655a of the General Statutes or such other Applicable Laws, and (iii) to provide the University and the University Representative with unrestricted access to the Project Director and his staff. The Project Director and his staff shall cooperate with, and respond promptly to reasonable questions and requests from the University and the University Representative.

Section 3.06 Compliance with Construction Standards and Applicable Law.

The Campus Project shall be designed and constructed so as to protect the environment and the public health and safety consistent with Applicable Laws. The design and construction of the Campus Project shall meet all established standards under the State Building Code and the State Fire Safety Code. The actual construction of the Campus Project shall conform to the State Building Code, the State Fire Safety Code, other Applicable Laws and the Campus Project Plans.

Section 3.07 Ownership and Use of Campus Project Documents; Work Product.

(a) Each of Developer and the University shall be owners or joint owners of all Campus Project Documents paid for, in whole or in part, by such Party (whether by way of direct payment or reimbursement); provided, that the State Parties shall be entitled to use any Campus Project Documents relating to the Phase III Public Improvements. The Parties shall not use the Project Documents for purposes other than the development of the Campus Project (which shall include, in the case of Developer, the development of the Phase III Retail Space and the construction of any related tenant improvements relating thereto), nor shall any Party release, reproduce, distribute or publish any such Campus Project Documents nor authorize others to do so, without written permission from the other Parties; provided, however, that a Party may, without written permission from the other Parties, (i) use any references to or portion of the Campus Project Documents in the marketing or promotion of the Campus Project or (ii) release, reproduce, distribute, or publish such Campus Project Documents to the Project Director, the Architect, any of the Other Consultants, the Construction Manager and to a Party’s attorneys, contractors, subcontractors, and other consultants provided such contractors, subcontractors, and
consultants have agreed in writing to the same non-disclosure requirements as are binding on the parties hereunder. In the event of a Developer Default, the University and, with the written consent of the University, the State Parties, shall be entitled to use, and Developer shall be deemed to have granted a license to the University and the State Parties to use, including the right to license others to use, all Campus Project Documents for the purpose of the construction and development of the Campus Project. The provisions of this Section 3.07 shall survive the termination of this Agreement and shall be in addition to any rights of the University under any Security Documents. Developer shall ensure that the Architect and each of the Other Consultants acknowledges the provisions of this Section 3.07(a) in the Architect’s Contract and any contract executed by any Other Consultant.

(b) Notwithstanding anything to the contrary contained herein, the provisions of this Section 3.07 shall be subject to, and limited by, such reasonable requirements of the Architect and the Other Consultants with respect to (i) use of such plans, specifications and other work product solely with respect to the construction and development of the E/R/R District, (ii) use of the Architect’s or any Other Consultant’s name, (iii) payment in full for Architect’s and Other Consultant’s services to date, and (iv) limitations on, and/or release of, the Architect’s or Other Consultant’s liability for such future use.

(c) The Architect’s Contract and each contract or agreement with any of the Other Consultants shall acknowledge the terms and conditions of this Section 3.07 and provide that Developer may assign any and all of its rights thereunder to the University pursuant to the Collateral Assignments and, upon the Fee Conveyance, pursuant to such assignments thereof by Developer which may be required by the University and which permit the University to enforce all rights and remedies of Developer thereunder.

Section 3.08 Liens.

Developer shall not cause any Lien to be filed, or suffer or permit any Lien to be maintained of record, by any Person claiming by or through Developer or any Developer Affiliate or resulting from any claim against Developer or any Developer Affiliate, against any portion of the Phase III Lot or the Campus Project Improvements except for the Security Documents. This prohibition shall continue as to property actually conveyed to Developer by the Ground Lease, which shall thereupon become subject to applicable provisions of any such lease and the Declaration. If any such Lien shall be filed notwithstanding the prohibition of this Section 3.08, Developer shall promptly (with the prior written Approval of the University if any such payment shall not be in compliance with the Campus Project Budget) cause such Lien to be released or bonded, the cost and expense of which shall be a Campus Project Cost unless otherwise the obligation of the Prime Construction Contractor pursuant to the terms of the Campus Project Construction Contract. So long as Developer has protected the interests of the University and the State Parties by the filing of a bond or otherwise in a manner satisfactory to the University and the State Parties, in their sole and absolute discretion, Developer shall have the right to contest in good faith any claim, lien or encumbrance, provided that Developer does so diligently and without prejudice to the University or delay in completing construction of the Campus Project Improvements.

ARTICLE IV
EMPLOYMENT OBLIGATIONS

Section 4.01 Employment Preferences and Obligations.

Developer acknowledges that, subject to any applicable federal regulation, the University Legal Requirements requires that each Prime Construction Contractor make reasonable efforts to hire or cause to be hired available and qualified residents of the City and available and qualified members of minorities, as defined in Section 32-9n of the General Statutes, for construction jobs with respect to the Campus Project at all levels of construction activity. Developer agrees to require that each Prime Construction Contractor with respect to the Campus Project make, and adequately document, such efforts.

Section 4.02 Employment Practices; Jobs Initiative.

(a) In furtherance of its responsibilities under Section 4.01, Developer shall, subject to any applicable federal regulation, require each Prime Construction Contractor with respect to the Campus Project to employ industry standard job advertising and recruitment practices in an effort to attract qualified City residents and minorities as applicants for all jobs related to the construction of the Campus Project, and otherwise to comply with all Applicable Laws relating to hiring and employment practices in connection with the construction of the Campus Project, including taking affirmative action to provide equal opportunity for employment without regard to race, creed, color, national origin, ancestry, gender, sexual preference, marital status or civil union status.

(b) Developer agrees to comply with, and cause each Prime Construction Contractors to comply with, all applicable provisions of the Phase III Development Agreement with respect to the Jobs Initiative.

Section 4.03 Small Contractor and Minority Business Enterprise Set Asides.

Developer acknowledges that work with respect to the Campus Project is subject to the applicable requirements of Section 4a-60g of the General Statutes relating to a set-aside program for small contractors and minority business enterprises and agrees to cooperate with the University and the State Parties, and with the Department of Administrative Services (or its successor) as administrator of the set-aside program, in an effort to achieve compliance with applicable requirements of Section 4a-60g.

Section 4.04 Prevailing Wage/Project Labor Agreement.

(a) Developer acknowledges that the State Contracting Requirements requires that the wages paid on an hourly basis to any mechanic, laborer or workman employed by a Prime Construction Contractor with respect to the construction of the Campus Project be at a rate not less than is customary or prevailing for the same work in the same trade or occupation in the City, unless wage rates for such work are otherwise established pursuant to a project labor agreement Approved by the State Parties and the University in accordance with subsection (b)
below. Subject to any applicable federal regulation, Developer agrees to require that each Prime Construction Contractor with respect to the Campus Project and the Phase III Public Improvements comply with such prevailing wage requirement. For purposes hereof, the determination of wage rates that are "customary or prevailing" shall be in accordance with the requirements of Section 31-53 of the General Statutes. Nothing in this Section 4.04 shall be construed to relieve Developer or any Prime Construction Contractor from the obligation to comply with any other applicable legal requirements relating to wages or benefits.

(b) Subject to Applicable Laws, any project labor agreement with respect to construction of the Campus Project shall be subject to review and approval by the University.

Section 4.05 Contract Compliance Monitoring.

Developer agrees to comply with, and cause each Prime Construction Contractors to comply with, all applicable provisions of the Phase III Development Agreement with respect to contract compliance monitoring and cooperation with the Contract Compliance Officer, including, without limitation, Section 4.05 of the Phase III Development Agreement.

Section 4.06 Federal Preemption.

Notwithstanding the terms of this Article IV, in the event that any requirement hereunder is inconsistent with any applicable federal statute, regulation, or executive order, such requirement shall be deemed to be limited to the extent consistent with such statute, regulation or executive order.
ARTICLE V
CONDITIONS TO EFFECTIVENESS OF AGREEMENT, COMMENCEMENT OF
CONSTRUCTION AND OTHER CONSTRUCTION TERMS AND CONDITIONS

Section 5.01 Conditions to Effectiveness.

(a) **Obligation of Developer.** This Agreement shall not be effective with respect to
Developer and Developer shall not be obligated to move forward with any of the terms of this
Agreement until the following conditions (the “Conditions to Developer Obligations”) are
satisfied:

(i) The University and the State Parties shall have executed and delivered the Phase
III Development Agreement; and

(ii) The University shall have executed this Agreement.

Developer shall provide written notice to the University when the Conditions to Developer
Obligations are satisfied or waived.

(b) **Obligation of the University.** This Agreement shall not be effective with respect
to the University and the University shall not be obligated to move forward with any of the terms
of this Agreement until the following conditions (the “Conditions to University Obligations”) are
satisfied:

(i) HBN and the State Parties shall have executed and delivered the Phase III
Development Agreement;

(ii) Developer shall have executed and delivered this Agreement;

(ii) Developer shall have executed and delivered a certificate stating that (i) no action,
suit, investigation or proceeding is pending or, to the knowledge of Developer, threatened in any
court or before any arbitrator or governmental instrumentality that purports to affect Developer
or any transaction contemplated by this Agreement or the Phase III Development Agreement,
and (ii) immediately after giving effect to this Agreement, and all the transactions contemplated
herein and therein to occur on such date, (A) no Developer Default exists, and (B) all
representations and warranties contained in this Agreement are true and correct in all material
respects; and

(iii) Developer shall have executed and delivered a certificate of the manager of FSDU
certifying as to the incumbency and genuineness of the signature of each officer of Developer
who will execute this Agreement, the Security Documents and the other Project Documents to
which it is a party and certifying that attached thereto is a true, correct and complete copy of (A)
the article of organization of Developer and all amendments thereto, (B) the operating agreement
of Developer, (C) incumbencies for each officer of Developer, and (D) resolutions duly adopted
by the board of directors or managers of Developer authorizing the transactions contemplated
hereunder and the execution, delivery and performance of this Agreement, the Security
Documents and the other Campus Project Documents to which it is a party.

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The University shall provide written notice to Developer when the Conditions to University Obligations are satisfied or waived.

Section 5.02 Campus Project Schedule.

(a) Developer and the University have prepared a milestone schedule attached hereto as Schedule 5.02, which identifies by date significant milestones in the construction process of Phase III (the “Milestone Schedule”). Developer shall prepare, in consultation with the University, a detailed schedule for the development of Phase III consistent with the Milestone Schedule and this Agreement (the “Campus Project Schedule”), including target dates for the selection of professionals and consultants, development of cost estimates and preliminary and final budgets, completion of the Design Development Documents, completion of full construction plans and specifications and bid documents, completion of major phases of construction, and Substantial Completion, and opening. The Campus Project Schedule shall be subject to modification from time to time by mutual agreement of the Parties, including as may be necessary as a result of any Uncontrollable Circumstance.

(b) The Parties shall diligently proceed with the planning, development, construction and completion of the Campus Project in accordance with the Milestone Schedule and the Campus Project Schedule. Subject to the receipt of all necessary Governmental Permits for the commencement of construction of the Campus Project and the completion of the Campus Project Documents, Developer shall commence construction of the Campus Project and Phase III Public Improvements as soon as practicable consistent with the Milestone Schedule and the Campus Project Schedule but in no event later than as provided in this Agreement, subject only to delays caused by Uncontrollable Circumstances or University Default, and will diligently pursue completion of Phase III as soon as practicable consistent with the completion date set forth in this Agreement.

(c) Developer shall prepare a site utilization plan for the E/R/R District during construction of Phase III, which shall include use by Developer of portions of the E/R/R District for laydown and other construction-related purposes, as required by the Phase III Development Agreement.

Section 5.03 Conditions to Commencement of Construction. Developer shall not be obligated to commence the construction of the Campus Project until the conditions in subsections (a) through (d) of this Section 5.03 (the “Conditions to Commencement”) are satisfied or waived, such conditions to be satisfied on or before the respective dates set forth below. Developer shall provide written notice to the University when the Conditions to Commencement are satisfied and specify such date as the “Construction Commencement Date.” Developer and the University acknowledge and agree that the timeframes within which each of the Conditions to Commencement are to be satisfied shall be implemented in a manner that assures, to the extent commercially reasonable and in accordance with Applicable Law, that Developer will achieve Substantial Completion of the Campus Project Improvements Work on or before the Substantial Completion Date (as the same may be extended by an Excusable Developer Delay Period).

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(a) **Phase III Takedown Closing.** The Phase III Takedown Closing shall have occurred and Developer shall have executed and delivered the Security Documents to the University contemporaneously therewith.

(b) **Architect and Other Consultants.** As soon as commercially reasonable after the Conditions to Developer Obligations are satisfied, Developer and the Architect shall have entered into the Architect’s Contract in accordance with any requirements of Applicable Law and, to the extent not retained through the Architect, Developer shall have entered into contracts with the Other Consultants in accordance with any requirements of Applicable Law. Prior to the submission of the Architect’s Contract to the Architect (and the submission of any contract to any Other Consultant), Developer and the University shall have mutually agreed on the form thereof.

(c) **Campus Project Construction Contract.** As soon as commercially reasonable after the selection of the Construction Manager and in accordance with all Applicable Laws, Developer and the Construction Manager shall have entered into the Campus Project Construction Contract (including the FF&E Requirements). Prior to the submission of the Campus Project Construction Contract to the Construction Manager, Developer and the University shall have mutually agreed on the form thereof.

(d) **Campus Project Plans.** As soon as commercially reasonable after the execution of the Campus Project Construction Contract and in accordance with all Applicable Laws, the Campus Project Plans and the Phase III Public Improvement Plans shall have been Approved by each of the Parties in accordance with Section 5.04.

**Section 5.04 Approval of Designs, Plans, Etc.**

(a) Based upon and consistent with the Phase III Concept Plan, Developer shall ensure that the Architect, under the direction of the Project Director, and in consultation with the University, shall prepare for Approval by the University schematic design documents (the “Schematic Design Documents”) for the Campus Project and the Phase III Public Improvements, consistent with American Institute of Architects standards, which shall include drawings and other documents illustrating the scale and relationship of each major element of the Campus Project to the E/R/R District. The Schematic Design Documents shall be submitted for review and comment by the State Parties as required by the Phase III Development Agreement.

(b) Following the Approval of the Schematic Design Documents by the University, Developer shall ensure that the Architect, under the direction of the Project Director, and in consultation with the University, shall prepare design development documents for Approval by the University (the “Design Development Documents”) for each part of the Campus Project and the Phase III Public Improvements, consistent with American Institute of Architects standards, which shall include drawings and other documents to fix and describe the size and character of each major element thereof as to architectural, structural, mechanical and electrical systems, materials and such other characteristics as may be appropriate. The Design Development Documents shall be submitted for review and comment by the State Parties in accordance with the Milestone Schedule as required by the Phase III Development Agreement.
Based upon and consistent with the Design Development Documents Approved by the University, Developer shall ensure that the Architect shall prepare for Approval by the University full construction documents for each part of the Campus Project (collectively, the “Campus Project Plans”) and the Phase III Public Improvements (the “Phase III Public Improvements Plans”), which shall be prepared in accordance with American Institute of Architects standards to allow bids to be obtained on the work described therein. The Campus Project Plans and the Phase III Public Improvements Plans shall include all architectural, mechanical, electrical and plumbing drawings and specifications necessary to complete the construction of the Campus Project and the Phase III Public Improvements. The Campus Project Plans and the Phase III Public Improvements Plans shall be submitted for review and comment by the State Parties in accordance with the Milestone Schedule as required by the Phase III Development Agreement.

The Schematic Design Documents, the Design Development Documents, the Campus Project Plans and the Phase III Public Improvements Plans shall conform to the State Building Code, the State Fire Safety Code, all University Legal Requirements, the Quality Standard, the Minimum Standards, and all other Applicable Laws.

Section 5.05 Financing for Campus Project.

(a) **Funding by the University.** The University shall provide all financing and funding necessary to construct and complete the Campus Project and the Phase III Public Improvements (the “Campus Project Funding”). Nothing in this Agreement shall be deemed to constitute a financing condition or contingency with respect to the development commitments of Developer, except for the failure of the University to provide the Campus Project Funding, upon satisfaction by Developer of all terms and conditions of such financing or funding under this Agreement.

(b) **Agreement to make Payments.** Subject to the terms and conditions of this Agreement, upon submission by Developer of a Payment Request in accordance with Section 5.05(i), the University shall make payments of Campus Project Funding (each, a “Campus Project Funding Payment” and, collectively, “Campus Project Funding Payments”) to Developer to pay for Campus Project Costs actually incurred by Developer and reflected in the Campus Project Budget as being funded by the Campus Project Funding.

(c) **Compliance with Campus Project Budget.** The Campus Project Budget reflects by category and line items, the purposes and the amounts for which funds to be advanced by the University under this Agreement are to be used. The University shall not be required to disburse for any category or line item more than the amount specified therefor in the Campus Project Budget. Except to take into account any Change Orders entered into pursuant to Section 7.09, Developer shall not amend or modify the Campus Project Budget in any material respect without the prior Approval of the University Representative. Developer will promptly provide the University Representative with notice of any proposed material change to the Campus Project Budget for the University’s Approval. If the University Representative disapproves or fails to Approve a proposed material change to the Campus Project Budget, Developer shall have the right, within five (5) business days after the date Developer receives notice of such disapproval or failure to Approve, to re-submit the disapproved or not Approved change to the University.
Representative, altered to satisfy the University Representative’s basis for disapproval or failure to Approve. Any resubmission made pursuant to this Section 5.05(c) shall be subject to Approval by the University Representative.

(d) **Amount of Payments.** In no event shall the University be obligated to make Campus Project Funding Payments which exceed, in the aggregate, the total Campus Project Costs actually incurred by Developer. In no event shall any Campus Project Funding Payment for Direct Costs of constructing the Campus Project Improvements exceed an amount equal to (a) the total value of the labor, materials, fixtures, machinery and equipment completed, approved and incorporated into Phase III Lot or the Campus Project Improvements prior to the date of the Payment Request for such Campus Project Funding Payment (or stored materials in compliance with Section 5.05(h) hereof), less (b) retainage in an amount equal to five percent (5%) of such total value ("Retainage"), less (c) the total amount of any Campus Project Funding Payments previously made by the University for such Direct Costs. Retainage shall be advanced by the University to Developer upon satisfaction of the conditions set forth in Section 5.05(m). With respect to any other Direct Costs and Indirect Costs in no event shall any Campus Project Funding Payment exceed an amount equal to the amount of such Direct Costs and Indirect Costs Approved by the University, incurred by Developer prior to the date of the Payment Request for such Campus Project Funding Payment, and theretofore paid or to be paid with the proceeds of such Campus Project Funding Payment, less the total amount of any Campus Project Funding Payments previously made by the University for such Direct Costs and Indirect Costs. Notwithstanding the foregoing, any Retainage shall be (i) subject to agreed to carve outs for certain Prime Construction Contractor costs, (ii) not duplicative with retainage withheld by Developer from the Prime Construction Contractor and/or its subcontractors and (iii) subject to reduction for early completion subcontractors upon written approval by the University.

(e) **Quality of Work.** No Campus Project Funding Payment shall be due unless all work done at the date the Payment Request for such Campus Project Funding Payment is submitted is done in a good and workmanlike manner and without defects, as confirmed by the report of the University Construction Inspector.

(f) **Cost Overruns and Savings.** If Developer becomes aware of any change in Campus Project Costs which will increase or decrease a category or line item of Campus Project Costs reflected on the Campus Project Budget (as the Campus Project Budget is revised from time to time and Approved by the University), Developer shall immediately notify the University in writing and promptly submit to the University for its Approval a revised Campus Project Budget. If the revised Campus Project Budget indicates an increase in a category or line item of Campus Project Costs, no further Campus Project Funding Payments need be made by the University for such category or line item unless and until the revised Campus Project Budget so submitted by Developer is Approved by the University. If the revised Campus Project Budget indicates a decrease in a category or line item of Campus Project Costs, no reductions in Campus Project Costs will be made or savings reallocated by Developer unless and until (x) the revised Campus Project Budget so submitted by Developer is Approved by the University, and (y) in the case of decreases in a category or line item of Direct Costs, Developer has furnished the University and the University Representative with evidence satisfactory to them that the labor performed and materials supplied in connection with such category or line item of Direct Costs have been satisfactorily completed in accordance with the Campus Project Plans and paid for in
(g) **Contingency Reserve.** The amount allocated as Contingency in the Campus Project Budget is not intended to be disbursed and will only be disbursed upon the prior Approval of the University. The disbursement of portion of Contingency shall in no way prejudice the University from withholding disbursement of any further portion of Contingency.

(h) **Stored Materials.** The University shall not be required to disburse any funds for any materials, furnishing, fixtures, machinery or equipment not yet incorporated into the Phase III Lot or the Campus Project Improvements ("Stored Materials"). Any disbursement for the cost of Stored Materials shall be subject to Retainage in an amount equal to five percent (5%) and shall be contingent upon the University receiving satisfactory evidence that:

(i) the Stored Materials are components in a form ready for incorporation into the Phase III Lot or the Campus Project Improvements and shall be so incorporated within a commercially reasonable period (but not in excess of six (6) months without the prior written Approval of the University);

(ii) the Stored Materials are stored at the Phase III Lot, in a bonded warehouse, at a site controlled by Developer, or at such other site as the University shall Approve, and are protected against theft and damage and, if stored on a location other than the Phase III Lot, are subject to a written agreement granted the University access to the Stored Materials;

(iii) the Stored Materials have been paid for in full or will be paid for with the Campus Project Funding to be disbursed and all lien rights or claims of the supplier have been released or will be released upon payment with disbursed funds;

(iv) the University has or will have upon payment with disbursed funds a perfected, first priority security interest in the Stored Materials; and

(v) the Stored Materials are insured for an amount equal to their replacement cost.

(i) **Payment Request.** At such time as Developer shall desire to obtain an Campus Project Funding Payment, Developer shall complete, execute and deliver to the University a Payment Request. Each Payment Request shall be accompanied by:

(i) If the Payment Request includes payment for Direct Costs, a completed and itemized Direct Cost Statement in the form of Schedule I of Exhibit B attached hereto, executed by Developer, together with invoices for all items of Direct Cost covered thereby;

(ii) If the Payment Request includes amounts to be paid under the Campus Project Construction Contract: (i) a completed and fully itemized Application and Certificate for Payment (AIA Document G702 or similar form Approved by the University) containing the certification of the Construction Manager and the Architect as to the accuracy of same, and showing all subcontractors and materialmen by name and trade or job, the total amount of each subcontract or purchase order, the amount theretofore paid to each subcontractor or materialman as of the date of such application, and the amount to be paid from the proceeds of the Campus Project Funding Payment to each subcontractor
and materialman; and (ii) copies of requisitions and invoices from subcontractors and materialmen supporting all items of cost covered by the application;

(iii) If the Payment Request includes payments for Indirect Costs, it shall be accompanied by a completed and itemized Indirect Cost Statement in the form of Schedule II of Exhibit B attached hereto, executed by Developer, together with invoices for all items of Indirect Costs covered thereby;

(iv) Written lien waivers from the Construction Manager and such laborers, subcontractors and materialmen for work done and materials supplied by them which were paid for pursuant to the preceding Payment Request;

(v) A written request of Developer for any necessary changes in the Campus Project Plans, the Campus Project Budget or the Campus Project Schedule;

(vi) Copies of all Change Orders and construction change directives, accompanied by a Change Order summary prepared by and executed by Developer, copies of all subcontracts, and, to the extent requested by the University, of all inspection or test reports and other documents relating to the construction of the Campus Project Improvements, not previously delivered to the University;

(vii) If the Payment Request includes payment for Stored Materials, evidence as to the satisfaction of the requirements set forth in Section 5.05(h) hereof; and

(viii) Such other information, documentation and certification as the University shall reasonably request.

(j) **Notice and Frequency of Campus Project Funding Payments.** Each Payment Request shall be submitted to the University at least ten (10) Business Days prior to the date of the requested Campus Project Funding Payment, and no more frequently than once each month.

(k) **Deposit of Payments.** Except as otherwise provided for in Section 5.05(l), the University shall deposit the proceeds of each Campus Project Funding Payment into a bank account designated by Developer to the University in writing within thirty (30) calendar days of the submission of a Payment Request which meets the requirements of subsection (i) above and is otherwise Approved by the University for payment.

(l) **Payments to Construction Manager.** At its option, the University may make any or all advances for Direct Costs incurred under the Campus Project Construction Contract directly to Construction Manager for deposit in an appropriately designated special bank account, and the execution of this Agreement by Developer shall, and hereby does, constitute an irrevocable authorization so to advance the proceeds of any such Campus Project Funding Payment. No further authorization from Developer shall be necessary to warrant such direct advances to the Construction Manager and all such advances shall satisfy pro tanto the obligations of the University hereunder and shall be secured by the Leasehold Mortgage and the other Security Documents as fully as if made directly to Developer.

(m) **Payments Do Not Constitute a Waiver.** No Campus Project Funding Payment made by the University shall constitute a waiver of any of the conditions to the University’s obligation to make further Campus Project Funding Payments nor, in the event Developer fails to
satisfy any such condition, shall any such Campus Project Funding Payment have the effect of precluding the University from thereafter declaring such failure to satisfy a condition to be a Developer Default.

(n) **Release of Retainage.** In addition to the conditions hereinbefore set forth in this Section 5.05, the University’s obligation to make any advance of Retainage shall be subject to receipt by the University of the following:

(i) **Governmental Permits.** Evidence satisfactory to the University that Developer has obtained all Governmental Permits from, given all notices to, and taken all such other actions with respect to, such Governmental Authority as may be required under Applicable Laws for the permanent use and occupancy of the Campus Project Improvements for their intended uses, together with copies of all such Governmental Permits.

(ii) **Approval by University Construction Inspector.** Notification from the University Construction Inspector to the effect that the Campus Project Improvements have been completed in a good and workmanlike manner in accordance with the Campus Project Plans.

(iii) **Final Survey.** The final As-Built Survey acceptable to the University showing the as-built location of the completed Campus Project Improvements.

(iv) **Payment of Costs.** Evidence satisfactory to the University that all sums due in connection with the construction of the Campus Project Improvements have been paid in full (or will be paid out of the funds requested to be advanced) and that no party claims or has a right to claim any statutory or common law lien arising out of the construction of the Campus Project Improvements or the supplying of labor, material, and/or services in connection therewith.

(v) **Final Lien Waivers.** Final lien waivers (on AIA Document G706 or other form satisfactory to the University) and receipts acknowledging payment in full from the Construction Manager and such laborers, subcontractors and materialmen as may be requested by the University, duly executed and notarized.

(vi) **Consent by Surety.** Evidence satisfactory to the University that the surety company or companies issuing the Payment Bond and the Performance Bond have consented to final payment to Developer (or the Construction Manager or any subcontractor named as principal therein.)

(vii) **Documents.** Receipt by the University of all drawings, binders, certificates, records and other documents required under Section 7.04(c).

(viii) **Employment Obligation Compliance.** Receipt by the University of a final report or reports with respect to Developer’s compliance with its obligations under Article IV hereof.

**Section 5.06 Developer Fee.** In consideration of its services under this Agreement, Developer shall be paid a development fee by the University in an amount equal to one and one-
half percent (1.5%) of the Campus Project Costs (the "Developer Fee"), payable pro rata with each Payment Request submitted by Developer.

Section 5.07 Agreement to Consult and Assist. Prior to the Construction Commencement Date, the Representatives shall meet and consult with each other and reasonably assist each other with respect to satisfaction of the Conditions to Commencement.

Section 5.08 Governmental Permits. As soon as commercially reasonable after the completion and delivery to Developer of the Campus Project Plans and in accordance with all Applicable Laws, Developer shall have obtained all Governmental Permits necessary to permit commencement of construction of the Campus Project, including building permits and engineering and land use approvals necessary for the commencement of development and construction of the Campus Project, and shall diligently pursue applications for all other Governmental Permits necessary to permit the completion of the Campus Project.

ARTICLE VI CERTAIN DEADLINES AND DELIVERABLES

Section 6.01 Deadlines Subsequent to Effective Date. Subject to extension as a result of an Excusable Developer Delay Period or an Excusable University Delay Period, as appropriate, in accordance with the terms of this Agreement and after the Construction Commencement Date, the Parties shall meet the following deadlines in connection with the following matters:

(a) Scheduled Campus Project Start Date Milestone. Developer shall cause the construction (which includes demolition and other site preparation) of the Campus Project to commence on or before the Campus Project Construction Commencement Deadline.

(b) Construction Schedule. Developer will provide the University Representative with notice of any material change to the Construction Schedule for the University’s Approval.

(c) Substantial Completion. Developer shall cause Substantial Completion of the Campus Project Improvements Work to occur on or before the Substantial Completion Date. On or before the date that is ninety (90) days prior to the Substantial Completion Date, Developer Representative shall provide written notice to the University as to whether Developer Representative believes (to the best of the knowledge of the Developer Representative after reasonable inquiry) that the Substantial Completion Date will be met.

(d) Punch-list Items. Within ten (10) Business Days following Substantial Completion, Developer Representative and the University Representative shall meet to inspect the Campus Project and to prepare a "punch-list" of items that are reasonably required to be completed or repaired prior to Final Completion of the Campus Project. Developer shall cause the Construction Manager shall complete, or cause to be completed, all reasonable punch-list items within thirty (30) days after the inspection or as soon as is reasonably practicable in light of the work to be performed.

(e) Final Completion. On or before the date which is ninety (90) days after the Substantial Completion Date, Developer shall cause Final Completion of the Campus Project
Improvements Work to occur (using its commercially reasonable efforts to not unreasonably interfere with the University’s operations and academic activities at the Campus Project).

Section 6.02 Extension of Substantial Completion Date. In the event Developer fails to achieve Substantial Completion of the Campus Project Improvements Work on or before the Substantial Completion Date (as the same may have been extended by any Excusable University Delay Period), the University shall have the continuing right and option to extend the Substantial Completion Date, as such Substantial Completion Date may be extended pursuant to the terms of this Section 6.02 so that Developer may cause Substantial Completion of the Campus Project Improvements Work to occur, provided each of the following requirements is satisfied:

(i) Developer must continue to diligently and continuously prosecute the Campus Project Improvements Work (subject to Excusable University Delay) after the original Substantial Completion Date (as the same may have been extended by Excusable University Delay or the terms of this Section 6.02).

(ii) So long as this Agreement is in full force and effect and a Developer Default does not remain uncured, Developer shall pay to the University the Late Opening Charges, as liquidated damages and not as a penalty and as the University’s sole remedy, for each day after the original Substantial Completion Date (as the same may have been extended by Excusable University Delay Period) which elapses before Substantial Completion of the Campus Project Improvements Work. The University and Developer agree that because of the difficulty or impossibility of determining the University’s damages as a result of such a delay in Substantial Completion of the Campus Project Improvements Work, the difficulties of proof of loss and the inconvenience or nonfeasibility of the University otherwise having a remedy for such failure to achieve Substantial Completion of the Campus Project Improvements Work by the original Substantial Completion Date (as the same may have been extended by any Excusable University Delay Period or the terms of this Section 6.02), the Late Opening Charges are a reasonable amount to be paid for such failure.

In the event the Construction Manager fails to cause Substantial Completion of the Campus Project Improvements Work to occur on or before the date required by the Campus Project Construction Contract, Developer hereby agrees to use good faith, commercially reasonable effort to collect from the Construction Manager the liquidated damages set forth in the Campus Project Construction Contract for such failure. Developer will not (i) amend or modify the provisions providing for liquidated damages in the Campus Project Construction Contract, (ii) waive, release, reduce or terminate the liquidated damages payable by the Construction Manager thereunder or (iii) waive, release, extend or terminate the Construction Manager’s obligation to achieve Substantial Completion in accordance with the Campus Project Construction Schedule, without the prior Approval of the University.
ARTICLE VII
CONSTRUCTION OF CAMPUS PROJECT; GENERAL WORK REQUIREMENTS

Section 7.01 General Provisions.

(a) Campus Project. Developer shall design, develop and construct the Campus Project in accordance with the terms and conditions of this Agreement and all Applicable Laws, and shall diligently and continuously adhere to the Campus Project Schedule (subject to any Excusable Developer Delay or any Excusable University Delay permitted in accordance with the terms of this Agreement).

(b) Quality Standard and Minimum Requirements. The University and Developer covenant and agree that the scope of design and development specifications for construction, and the construction, of the Campus Project will adhere to the Quality Standard and include the Minimum Requirements.

(c) Phase III Retail Space. The University and Developer shall work cooperatively to provide between 19,000 rentable square feet and 20,000 rentable square feet within the Campus Project for the Phase III Retail Space with rentable square feet being calculated for purposes of this subsection (c) in accordance with the BOMA Standard. If less than 19,000 rentable square feet is provided within the Campus Project, Developer shall be reimbursed by the University (in a manner mutually agreeable to the Parties following Substantial Completion and the closing of the Fee Conveyance) at a rate of $225.00 per rentable square foot for the difference between the actual number of rentable square feet provided for the Phase III Retail Space and 19,000 rentable square feet; provided, however, that the University’s obligations under this Section 7.04(c) shall only arise following the Substantial Completion of the Campus Project and shall terminate (i) immediately upon a termination of this Agreement pursuant to Section 14.03(b) and (ii) at the option of the University if this Agreement is terminated prior to Substantial Completion pursuant to Section 14.03(a) as a result of (i) any criminal or fraudulent conduct by Developer, (ii) any wilful or intentional misrepresentation or wilful violation of law by Developer, (iii) the institution by or against Developer of bankruptcy, reorganization, receivership, arrangement, insolvency or liquidation proceedings, or other proceedings for relief under any federal or state bankruptcy law, or similar law for the relief of debtors, and, if instituted against Developer, are allowed against it or are consented to by it or are not dismissed within ninety (90) days after such institution, or (iv) a Change of Control in violation of Section 15.01(e). Developer shall be responsible for all costs and expenses associated with the marketing, leasing, improvement and fit-out of the Phase III Retail Space (which shall not constitute Campus Project Costs).

(d) Phase III Retail Space Lease. The Phase III Retail Space shall be leased for a per annum rent of $1.00 by the University to Developer or a Developer Affiliate following Substantial Completion and the closing of the Fee Conveyance pursuant to a mutually agreeable master space lease (the “Phase III Master Retail Space Lease”). The terms and conditions of the Phase III Master Retail Space Lease shall be negotiated by the Parties prior to the commencement of construction of the Campus Project; provided, however, the Parties agree that the Phase III Master Retail Space Lease shall have a term of at least fifty (50) years and the

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Developer shall be provided with an option to extend the term for additional periods of time upon mutually agreeable terms and conditions. It is the expectation of the Parties that the Phase III Master Retail Space Lease shall permit Developer or a Developer Affiliate to lease the Phase III Retail Space to retail tenants and contain terms and conditions (i) which are consistent with the retail leases under Phase I and Phase II (including, without limitation, the use limitations and prohibitions set forth in the Declaration and the RCA) and (ii) which may be reasonably required by the University to ensure compliance with its corporate social responsibility policies and codes of conduct, its product and service exclusivity arrangements and its public mission as the State’s flagship institution of higher education. Notwithstanding any provision of this Agreement to the contrary, neither Developer nor a Developer Affiliate shall lease any Phase III Retail Space to any tenant for any of the uses or purposes set forth on Schedule 7.01.A. Leases of Phase III Retail Space by Developer or Developer Affiliate for any other use or purpose (other than the uses or purposes set forth on Schedule 7.01.B) shall require the prior written Approval of the University (which Approval shall not be unreasonably withheld or delayed). Notwithstanding any provision of this Agreement to the contrary, the Phase III Master Retail Space Lease shall provide that neither Developer nor any Developer Affiliate may enter into any lease for any use or purpose set forth on Schedule 7.01.B which may, as a result of the location of the Phase III Retail Space within the shell of the Campus Project, produce or generate noises, odors, trash or refuse at levels or quantities which may reasonably be expected to interfere with the University’s use and occupancy of the Campus Project as a higher education academic building without the prior written Approval of the University (which Approval shall not be unreasonably withheld or delayed). The Phase III Master Retail Space Lease and any retail tenant lease or sub-lease shall be subject to the Declaration and other applicable agreements and restrictions relating to Adriaen’s Landing. The provisions of this Section 7.01(d) shall survive the termination of this Agreement (other than a termination pursuant to Section 14.03(b) hereof and a termination at the option of the University as a result of the occurrence of any of the events set forth in clauses (i) through (iv) of the second sentence of Section 7.01(c).

(e) **Naming and Sponsorship Rights.** Developer acknowledges and agrees that the University shall have the exclusive rights with respect to product and service exclusivity, sponsorship, advertising and naming rights arrangements with respect to the Campus Project.

**Section 7.02 University’s Access to the Campus Project.** Prior to the Substantial Completion of the Campus Project, the University, its agents, contractors, licensees, and concessionaires shall have the right of access, for themselves and their authorized representatives, to the Campus Project and all portions thereof for the following purposes: (a) conducting inspections for purposes of determining compliance with this Agreement; and (b) installation of any additional fixtures or equipment Approved by the University and not included in the Campus Project Budget. Such access shall be without charge, at normal construction hours during the construction period, provided the University and all such agents and contractors (i) notify Developer in advance of such proposed entry, (ii) do not hinder or interfere with the construction of the Campus Project or the activities of Developer’s contractors (including the Construction Manager) and coordinate such work with such activities of Developer’s contractors (including the Construction Manager) to minimize the risk of creating Cost Overruns, (iii) pay all costs of such work, (iv) take such reasonable protective precautions or measures as Developer or its contractors (including the Construction Manager) may reasonably request, given the stage of the construction of the Campus Project at the time of such entry and (v) comply with and be
subject to the provisions of the Campus Project Construction Contract relating to the University’s rights to access including providing the insurance required by the terms of the Campus Project Construction Contract (or, if the Construction Manager does not specify the same, then by providing such insurance as Developer may reasonably request).

Section 7.03 Pre-Existing Site Conditions. Prior to the Substantial Completion of the Campus Project, Developer shall be responsible for performing or causing to be performed, and for paying the cost of performing, as a Campus Project Cost and as part of the Campus Project Budget, any and all corrective or remedial actions (including all investigation, monitoring, etc.) required by Applicable Law to be performed with respect to any (i) state historical landmarks present at, in, on or under the Phase III Lot prior to the Construction Commencement Date and (ii) any Existing Environmental Conditions in accordance with the Phase III Development Agreement and Section 9.02.

Section 7.04 Work Performed.

(a) General Requirements. Developer shall, at its sole cost and expense, as a Campus Project Cost and as part of the Campus Project Budget (except as otherwise provided in this Agreement), perform or cause the performance of the Campus Project Improvements Work in accordance with and subject to the terms of this Agreement, and Developer shall promptly and faithfully cause the Construction Manager to perform that portion of the Campus Project Improvements Work to be performed under the Campus Project Construction Contract in accordance with the terms and provisions thereof and keep and perform all of the covenants and conditions contained in the Campus Project Construction Contract to be kept and performed by Developer; provided, however (i) Developer shall not be in breach of its obligations in this sentence if its failure to so keep and perform is caused by the failure of the University to perform its respective obligations under this Agreement and (ii) so long as Developer is using good faith, diligent efforts to achieve Substantial Completion of the Campus Project Improvements Work. Developer will at all times continually enforce all material obligations of all Persons under the Campus Project Construction Contract and will promptly, after Developer learns of the same, notify the University of any default by any Person under the Campus Project Construction Contract, and of the remedy or course of action sought by the University in response to such default.

(b) Campus Project Construction Contract. The construction management at risk agreement to be executed by Developer and the Construction Manager with respect to the construction of the Campus Project (the “Campus Project Construction Contract”) shall (i) contain a completion guaranty and guaranteed maximum or fixed price for the Final Completion of the Campus Project Improvements Work, (ii) cause the Construction Manager to obtain, keep and maintain the Payment Bond and the Performance Bond from a Qualified Surety in a total amount equal to one hundred percent (100%) of the costs of the Campus Project Improvements Work, such performance and payment bonds to be held by and firmly bound unto Developer, the University and the State Parties as co-obligees, (iii) comply with the terms of Section 7.05 below and (iv) be subject to Approval by the University, including any amendment or modification thereof.
(c) **Record Drawings and Other Documents.** Upon Substantial Completion of the Campus Project Improvements Work, Developer shall furnish, in hard copy and, to the extent available, electronic form, to the University (i) three (3) copies of the as-built drawings that the Construction Manager delivers to the University under the Campus Project Construction Contract, (ii) three (3) copies of the operating and maintenance data binders supplied by the Construction Manager under the Campus Project Construction Contract, (iii) a copy of the certificate of occupancy for the Campus Project, (iv) copies of all written warranties and guaranties with respect to the Campus Project, and (v) copies of mechanic’s lien waivers and proof of payment to all contractors and subcontractors.

(d) **Remedy for Failure to Achieve Substantial Completion by the Substantial Completion Date.** Developer’s liability to the University for Developer’s failure to achieve Substantial Completion of the Campus Project Improvements Work on or before the Substantial Completion Date shall, absent fraud or willful misconduct by Developer, be limited to the University’s right to receive the Late Opening Charges. Notwithstanding anything to the contrary contained in this Agreement, the University shall have no rights or remedies against Developer, other than the recovery of the Late Opening Charges as set forth in this Section 7.04(d), as a result of Developer’s failure to achieve Substantial Completion of the Campus Project Improvements Work as required by this Agreement so long as Developer is exercising good faith, diligent efforts to achieve such Substantial Completion of the Campus Project Improvements Work. Nothing in this Section 7.04(d) is intended to limit any damages the University may recover from the Architect, the Construction Manager or any Prime Construction Contractor with regard to a delay in the completion of the Campus Project Improvements Work.

(e) **Warranty Claims.** Developer shall take commercially reasonable efforts to enforce all warranty and similar claims with respect to the Campus Project at Developer’s cost and expense. Developer shall make the University aware of any defects or warranty issues which come to its attention with respect to the Campus Project. Developer and the University shall cooperate with each other in prosecuting any and all warranty and similar claims, at Developer’s cost and expense, under any and all contracts or other agreements with third parties for the design or construction of the Campus Project.

(f) **Construction Cooperation.** Developer will conduct the Campus Project Improvements Work, and require the Construction Manager to conduct the Campus Project Improvements Work, in accordance with the cooperative process described in Section 2.03, including the following:

(i) instructing the Construction Manager, the Architect or any of the Other Consultants to provide the University with a duplicate copy (in hard copy and electronic form to the extent available) of all preliminary drawings or specifications, written notices and other documentation delivered or received by any of them contemporaneously with their delivery to Developer, including advance notice of any weekly progress meetings and design review meetings; and

(ii) allowing the University Representative to attend all meetings with any Persons or Governmental Authority relating to the Campus Project Improvements Work, including weekly progress meetings and design review meetings.
Section 7.05  **Cost Overruns.** The Construction Manager shall be responsible for any Cost Overruns. The term “Cost Overruns” as used in this Agreement shall mean the amount by which Direct Costs included in the Guaranteed Maximum Price (as that term is defined in the Campus Project Construction Contract), exceed the Guaranteed Maximum Price; provided, that Cost Overruns shall not include such excess costs and expenses (a) to the extent such excess arises out of or is attributable to any cost or expense caused by the request, act or omission of the University, including any requested Change Order Approved by the University or (b) for which any Party is expressly liable by a provision of this Agreement, in each case, such excess costs and expenses to be paid by the Party responsible therefor.

Section 7.06  **Pre-Development Expenses.** Pre-Development Expenses shall not be included in the Campus Project Budget and will be paid as provided in the Pre-Development Agreement.

Section 7.07  **Design Fees.** All Design Fees shall be included in the Campus Project Budget and will be paid as part of the Campus Project Costs.

Section 7.08  **Reports; Audit Rights.** Developer shall provide University Representative with a monthly report showing amounts funded against the Campus Project Budget. At Final Completion, Developer shall provide the University with a final, reconciled report certified by the Developer Representative showing all amounts funded against the Campus Project Budget. The University, at its expense (except as provided below), shall have the right, at any time to audit the monthly reports and the final, reconciled report produced by Developer pursuant to this Section 7.08 to confirm Developer’s compliance with the terms of this Agreement. Any such audit will be commenced and conducted with reasonable promptness, after reasonable notice to Developer.

Section 7.09  **Change Orders.** The Parties acknowledge and agree that the Campus Project Plans may need to be supplemented, re-ordered and/or revised from time to time during construction through the use of Change Orders (each, a “Change Order” and, collectively, the Change Orders”). Either Developer or the University may request a Change Order by notifying the other Party of such requested modification and the details and estimated costs thereof, which costs shall (i) include, but not be limited to, associated architectural, engineering, Construction Manager and contractor’s fees for the Change Order and (ii) be the responsibility of the requesting Party to the extent that the requested Change Order results in an increase in the previously budgeted cost for such item within the Campus Project Budget. Accordingly, the Parties agree to cooperate with respect to all proposed modifications. Each Change Order requested by Developer shall be subject to the Approval of the University.

Section 7.10.  **Contracts, Vouchers and Receipts.** Developer shall furnish to the University, promptly on demand, any contracts, subcontracts, bills of sale, statements, receipted vouchers or other agreements relating to the construction of the Campus Project Improvements, including any such items pursuant to which the University has any claim of title to any materials, fixtures or other articles delivered or to be delivered to the Phase III Lot or incorporated or to be incorporated into the Campus Project Improvements. Developer shall furnish to the University, promptly on demand (and, so long as there shall not have occurred a Developer Default, not
more than once per month), a verified written statement, in such form and detail as the University may require, setting forth the names and addresses of all contractors, subcontractors and suppliers furnishing labor or materials in the construction of the Campus Project Improvements and showing all amounts paid for labor and materials and all items of labor and materials furnished or to be furnished for which payment has not been made and the amounts to be paid therefor.

Section 7.11. Payment and Performance of Contractual Obligations. Developer shall perform in a timely manner all of its obligations under the Architect's Contract, the Campus Project Construction Contract and any and all other contracts and agreements related to the construction of the Campus Project Improvements, and Developer will pay when due all bills for services or labor performed and materials supplied in connection with the construction of the Campus Project Improvements. Upon the filing of any mechanic's lien or other lien or encumbrance against the Phase III Lot or the Campus Project Improvements, Developer will promptly discharge the same by payment or filing a bond or otherwise as permitted by Applicable Law as required by Section 3.08.

Section 7.12. Correction of Construction Defects. Promptly following any demand by the University, together with reasonable evidence supporting such demand, Developer shall correct or cause the correction of any structural defects in the Campus Project Improvements, any work that fails to comply with the Quality Standard and the requirements of Section 7.04 and any material departures or deviations from the Campus Project Plans or the Phase III Public Improvement Plans not Approved by the University.

Section 7.13. Fee Conveyance. Developer acknowledges and agrees that it is obligated to terminate the Ground Lease and to convey its leasehold interests in the Phase III Lot and the improvements thereon to the University in connection with the Fee Conveyance. The University acknowledges and agrees that it is obligated to execute and deliver the Phase III Master Retail Space Lease contemporaneously with the Fee Conveyance.

ARTICLE VIII
DELAYS AND EFFECT OF DELAYS

Section 8.01 Excusable Developer Delay. Regardless of the existence or absence of references to Excusable Developer Delay elsewhere in this Agreement, any deadline or time period within which Developer must fulfill the obligations of Developer elsewhere in this Agreement shall each be adjusted as appropriate to include Excusable Developer Delay Periods unless otherwise expressly provided in this Agreement to the contrary; provided that Developer complies with the requirements of this ARTICLE VIII.

With respect to each occurrence of Excusable Developer Delay, Developer shall, within fifteen (15) Business Days after Developer's knowledge of the occurrence of such event of Excusable Developer Delay, give notice to the University Representative of the event constituting Excusable Developer Delay, Developer's good faith estimate of the Excusable Developer Delay Period resulting therefrom and the basis therefor, Developer's good faith estimate of any adjustment resulting therefrom that is to be made to the time for performance, together with reasonable documentation supporting the adjustments proposed. If the University
Representative believes that the documentation supplied is not sufficient to justify the delay claimed or adjustments proposed, the University Representative shall give notice to Developer of the claimed deficiency and Developer shall have a reasonable period of time to more fully document the delay and adjustments claimed. Only one (1) notice from Developer shall be required with respect to a continuing Excusable Developer Delay, except that Developer shall promptly (and in no event less often than every ten (10) Business Days) give notice to the University Representative of any further changes in the additional time for performance claimed by reason of the continuing delay. The University Representative shall have the right to challenge Developer’s assertion of the occurrence of an Excusable Developer Delay, or Developer’s good faith estimate of the Excusable Developer Delay Period or changes in the additional time for performance claimed by reason of the Excusable Developer Delay if the University Representative gives notice to Developer within fifteen (15) Business Days after receipt by the University Representative of such claim of Excusable Developer Delay or notice from Developer of further changes to such dates as a result of such Excusable Developer Delay, as the case may be (which challenge shall be deemed to have been made if the University Representative gives notice to Developer of any claimed deficiency in documentation as provided for above in this Section 8.01).

Section 8.02 Excusable University Delay. Regardless of the existence or absence of references to Excusable University Delay elsewhere in this Agreement, any deadline or time period within which the University must fulfill the obligations of the University in this Agreement shall each be adjusted as appropriate to include Excusable University Delay Periods; provided that (i) the obligation to pay amounts when due pursuant to the terms of this Agreement is not subject to adjustment or extension due to Excusable University Delay, and (ii) the University complies with the requirements of this ARTICLE VIII.

With respect to each occurrence of Excusable University Delay, the University Representative shall, within fifteen (15) Business Days after the University’s knowledge of the occurrence of such event of Excusable University Delay, give notice to Developer of the event constituting Excusable University Delay, the University Representative’s good faith estimate of the Excusable University Delay Period resulting therefrom and the basis therefor, the University Representative’s good faith estimate of any adjustment resulting therefrom that is to be made in the time for performance, together with reasonable documentation supporting the adjustments proposed. If Developer believes that the documentation supplied is not sufficient to justify the delay claimed or adjustment proposed, Developer shall give notice to the University Representative of the claimed deficiency and the University Representative shall have a reasonable period of time to more fully document the delay and adjustments claimed. Only one (1) notice from the University Representative shall be required with respect to a continuing Excusable University Delay, except that the University Representative shall promptly (and in no event less often than every ten (10) Business Days) give notice to Developer of any further changes in the additional time for performance claimed by reason of the continuing delay. Developer shall have the right to challenge the University Representative’s assertion of the occurrence of an Excusable University Delay, or the University Representative’s good faith estimate of the Excusable University Delay Period, or changes in the additional time for performance claimed by reason of Excusable University Delay if Developer gives notice to the University Representative within fifteen (15) Business Days after receipt by Developer of such claim of Excusable University Delay or notice from the University Representative of further
changes to such dates as a result of such Excusable University Delay, as the case may be (which challenge shall be deemed to have been made if Developer gives notice to the University Representative of any claimed deficiency in documentation as provided for above in this Section 8.02).

Section 8.03 Continued Performance; Exceptions. Upon the occurrence of any Developer Delay or University Delay, the Parties shall endeavor to continue to perform their obligations under this Agreement so far as reasonably practicable. Toward that end, Developer and the University each hereby agrees that it shall make all reasonable efforts to prevent and reduce to a minimum and mitigate the effect of any Developer Delay or University Delay occasioned by an Excusable Developer Delay or Excusable University Delay, and shall diligently and continuously use its commercially reasonable efforts to ensure resumption of performance of its obligations under this Agreement after the occurrence of any Excusable Developer Delay or Excusable University Delay. The Parties shall use and continue to use all commercially reasonable efforts to prevent, avoid, overcome and minimize any University Delay or Developer Delay.

ARTICLE IX
ENVIRONMENTAL PROVISIONS

Section 9.01 No Regulated Materials. Developer shall not cause or permit any Regulated Materials to be generated, used, released, stored or disposed of in or about the Phase III Lot or the Campus Project Improvements; provided, however that Developer and any Prime Construction Contractor may use, store and dispose of reasonable quantities of Regulated Materials on the Phase III Lot as may be reasonably necessary for Developer and any such Prime Construction Contractor to construct the Campus Project pursuant to the terms of this Agreement so long as such Regulated Materials are commonly used, or permitted to be used, by reasonable and prudent developers and contractors in similar circumstances and are stored and disposed of in accordance with industry standards, but in all events in compliance with Environmental Laws.

Section 9.02 Remedial Work. Developer shall be responsible for performing or causing to be performed, any and all corrective or remedial actions (including all investigation, monitoring, etc.) required by the RAP or Applicable Law to be performed with respect to any Pre-Existing Environmental Conditions at, in, on or under the Phase III Lot or the Campus Project. Regulated wastes, such as asbestos and industrial wastes shall be properly characterized, manifested and disposed of at an authorized facility with each manifest signed by the Person who is the owner of the Phase III Lot as of the date of such manifest. The cost and expense of such remedial work shall be a Campus Project Cost and included within the Campus Project Budget.

ARTICLE X
CONDEMNATION OR CASUALTY

Section 10.01 Condemnation. If all of the Phase III Lot or the use thereof is taken by power of eminent domain, condemned or sold in lieu of condemnation proceedings, this Agreement shall automatically terminate on the earlier to occur of (i) the date on which title to the Campus Project vests in the condemning authority and (ii) the date on which Developer is dispossessed of the Phase III Lot.

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Section 10.02 Partial or Temporary Condemnation. If a portion of the Campus Project or the use thereof is taken by power of eminent domain, condemned or sold in lieu of condemnation proceedings and such taking materially affects Developer’s ability to Substantially Complete the Campus Project in accordance with the Campus Project Plans, Developer and the University shall have the mutual right to terminate this Agreement effective as of the earlier to occur of (i) the date on which title to the condemned portion of the Campus Project vests in the condemning authority; and (ii) the date on which Developer is dispossessed of the portion of the Campus Project. If all or a portion of the Campus Project or the use thereof is temporarily condemned, this Agreement shall remain in full force and effect. If a portion of the Campus Project or the use thereof is taken by power of eminent domain, condemned or sold in lieu of condemnation proceedings and this Agreement is not terminated pursuant to the terms and conditions of this Section 10.02, this Agreement shall be deemed terminated with respect to only the condemned portion of the Campus Project or use thereof.

Section 10.03 Award. Each Party shall have the right to seek, at its sole cost and expense, any award to which it might be entitled as a result of any condemnation of all or any portion of the Campus Project or the use thereof. Neither Party shall have any rights to any award made to the other, provided, however, that Developer’s right to seek any award shall be limited to any losses arising with respect to the Phase III Retail Space.

Section 10.04 Casualty. If the Campus Project or any portion thereof is damaged or destroyed by Casualty, then neither Party shall have the right to terminate this Agreement and Developer shall promptly use commercially reasonable efforts to restore, repair and continue construction of the Campus Project and the Substantial Completion Date shall be extended by the period of restoration and repair. To that end, Developer shall use all insurance proceeds available for such purposes. The restoration and repair details shall be undertaken in the same manner involved in the original construction of the Campus Project.

ARTICLE XI
SECURITY FOR DEVELOPER’S OBLIGATIONS

Section 11.01 Leasehold Mortgage. The Developer Obligations shall be secured by a perfected first priority Leasehold Mortgage, whether now owned or hereafter acquired, pursuant to the terms of the Security Documents to which Developer is a party. The Leasehold Mortgage shall be released by the University concurrently with the Fee Conveyance and the termination of the Ground Lease.

Section 11.02 Collateral Assignments. The Developer Obligations shall be secured by the collateral assignment by Developer to the University of the following contracts, agreements, rights and interests pursuant to collateral assignment agreements Approved by the University (the “Collateral Assignments”):

(i) The Architect’s Contract and any other contract or agreement with any Other Consultant relating to the Campus Project;
(ii) The Campus Project Construction Contract and any other contract or agreement with any Prime Construction Contractor; and

(iii) All Governmental Permits relating to the Campus Project.

**ARTICLE XII**

**EXAMINATION OF RECORDS; AUDITS**

**Section 12.01 Necessity for Financial Controls.**

In view of the fact that a substantial portion of Campus Project will be paid for with public funds, Developer understands and acknowledges the necessity of stringent financial controls and auditing procedures designed to verify, document and reconcile all costs and expenses of the Campus Project Improvements and the Phase III Public Improvements and all uses of Campus Project Funding, including the controls and procedures set forth in the University Legal Requirements, and agrees to comply with all requirements of Applicable Law relating to the maintenance of books and records, financial reporting, financial controls and auditing with respect to the Campus Project.

**Section 12.02 Books and Accounts.** Developer agrees that, with respect to the Campus Project and any allocation of costs or expenses to the Phase III Public Improvements, it shall comply with, and shall require each of its contractors and subcontractors to comply with, the following accounting and record keeping requirements with respect to any expenditure of Campus Project Funding with respect to the Campus Project:

(i) maintenance of complete accounting records and controls (including detailed support for all cost allocations), on an “open book basis” whereby, during normal business hours, the University, the Independent Auditor, the State Comptroller and the Auditors of Public Accounts, and their respective representatives, can, to the extent relating to the expenditure of Campus Funding, review, copy, verify and audit all records and other financial data relating to the Campus Project and the allocation of costs and expenses between the Parties, or for any proper purpose, including verification of performance pursuant to this Agreement and the other Campus Project Documents, conformance to the approved budgets, compliance with Applicable Laws, and reconciliation and verification of the proper expenditure of Campus Project Funding with respect to the Campus Project;

(ii) arrangements for access to and sharing of all such records and data stored in electronic form; and

(iii) maintenance of all such books and records for a minimum period of three (3) years following completion of the Campus Project or until any related audit, litigation or claim is resolved, whichever is longer.

**Section 12.03 Independent Auditor; Auditors of Public Accounts.**
Developer shall maintain and make available (a) to the Independent Auditor all books and records required in order for the Independent Auditor to perform the duties and functions assigned to the Independent Auditor pursuant to the University Legal Requirements, and (b) to the Auditors of Public Accounts all books and records required in order for the Auditors of Public Accounts to perform the duties and functions assigned to the Auditors of Public Accounts pursuant to Chapter 23 of the General Statutes. All cost allocations to the State Parties and other payment obligations of the State Parties under this Agreement shall be subject to reconciliation, verification, audit and adjustment by the Independent Auditor and the Auditors of Public Accounts. In the event that the Independent Auditor or the Auditors of Public Accounts determine that there has been an improper payment or an overpayment by the University to Developer with respect to the Campus Project, including any improper payment or overpayment resulting from any allocation of costs and expenses to the University not in conformity with this Agreement, Developer shall, upon written request setting forth the basis for such determination by the Independent Auditor or the Auditors of Public Accounts, as the case may be, reimburse the University within thirty (30) days of receiving such request for such improper payment or overpayment. In the event that the Independent Auditor or the Auditors of Public Accounts determine that there has been an underpayment by the University of any amount due Developer with respect to a cost allocation or reimbursement obligation under this Agreement with respect to the Campus Project, the University shall, within thirty (30) days of receiving notice of such underpayment from the Independent Auditor or the Auditors of Public Accounts, make payment to Developer of the additional amount determined to be due. The determinations of the Independent Auditor and the Auditors of Public Accounts with respect to such matters shall be binding and conclusive as between the Parties for purposes of this Agreement, absent manifest error.

**ARTICLE XIII**

**INSURANCE**

**Section 13.01 Insurance as of Effective Date.**

Developer shall obtain and maintain as a Campus Project Cost included in the Campus Project Budget such general liability, automobile liability, valuable papers, workers' compensation, builders' risk and other forms of insurance ordinarily required of Parties providing development services to the State of Connecticut on major public works projects as to be more particularly described in Schedule 13.01.
Section 13.02 Insurance Requirements at Takedown.

As a condition of the Phase III Takedown, Developer shall provide to the University and the State Parties evidence of satisfaction of all applicable insurance requirements set forth in the Ground Lease (the “Takedown Insurance Requirements”).

Section 13.03 Policies Required.

(a) Policies Required During Construction of the Campus Project Improvements Work. At all times during the Campus Project Improvements Work, Developer shall cause the Construction Manager to keep and maintain the policies of insurance required by the terms and conditions of the Campus Project Construction Contract.

(b) Builder’s Risk Insurance. Developer shall maintain additional property insurance written on the so-called “Builder’s Risk Completed Value Non-Reporting Form” during any period in which any Campus Project Improvements Work is being performed, the anticipated costs of which exceed $100,000 in the aggregate, with no coinsurance requirement, and containing a provision granting the insured permission to complete and adding the University as the loss payee for such insurance.

(c) Professional Liability Insurance. Developer shall cause the Architect to keep and maintain at all times the policies of insurance required by the term and conditions of the Architect’s Contract, including, without limitation, professional liability insurance.

ARTICLE XIV
DEFAULTS AND REMEDIES

Section 14.01 Events of Default.

(a) Developer Default. The occurrence of any of the following shall be an event of default by Developer or a “Developer Default”:

(i) failure by Developer to commence construction of Phase III by the Campus Project Construction Commencement Deadline, as such date may be amended by the written agreement of the Parties, subject to Uncontrollable Circumstances and University Default;

(ii) the termination of the Phase III Development Agreement as a result of a default thereunder by Developer or HBN;

(iii) the Transfer of any interest in the Phase III Lot or the buildings and improvements thereon except as permitted by this Agreement and the Phase III Development Agreement;

(iv) the failure of Developer to keep, observe or perform any of the terms, covenants
or agreements contained in this Agreement on Developer’s part to be kept, performed or observed if: (1) such failure is not remedied by Developer within thirty (30) days after notice from the University of such default or (2) in the case of any such default which cannot with due diligence and good faith be cured within thirty (30) days, Developer fails to commence to cure such default within thirty (30) days after such default, or Developer fails to prosecute diligently the cure of such default to completion within such additional period as may be reasonably required to cure such default with diligence and in good faith; it being intended that, in connection with any such default which is not susceptible of being cured with due diligence and in good faith within thirty (30) days but is otherwise reasonably susceptible of cure, the time within which Developer is required to cure such default shall be extended for such additional period as may be necessary for the curing thereof with due diligence and in good faith; provided, however, that if such default is not cured within ninety (90) days after notice from the University of such default (notwithstanding Developer’s diligent prosecution of curative efforts), then such failure shall constitute a Developer Default under this Agreement;

(v) Developer admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors, or applies for or consents to the appointment of a trustee or receiver for itself or for a major part of its property;

(vi) a trustee or receiver is appointed for Developer or for a major part of its property and it is not discharged within ninety (90) days after such appointment;

(vii) bankruptcy, reorganization, receivership, arrangement, insolvency or liquidation proceedings, or other proceedings for relief under any federal or state bankruptcy law, or similar law for the relief of debtors, are instituted by or against Developer, and, if instituted against Developer, are allowed against it or are consented to by it or are not dismissed within ninety (90) days after such institution; or

(viii) the occurrence of an event of default by Developer under the Ground Lease.

In the event that Developer wishes to avail itself of the extended cure rights provided in this Section 14.01(a) in circumstances in which cure is possible, but not within thirty (30) days of the date of notice of default, Developer shall promptly furnish to the University a written statement specifying the actions undertaken or to be undertaken to cure such default, and thereafter, upon the written request of the University shall promptly provide such additional or updated information with respect to such actions as the University may reasonably request.

(b) **University Default.** The occurrence of the following shall be an event of default by the University or a “University Default”:

(i) the failure of the University to perform or observe any of the obligations (except for payments Developer as required under the terms of this Agreement which shall be governed by Section 14(b)(ii) hereof), covenants or agreements to be performed or observed by the University under this Agreement within thirty (30) days (or such longer period as may be permitted in this Agreement) after notice from Developer of such failure, but if such performance or observance cannot reasonably be accomplished within
such thirty (30) day period (or such longer period as may be permitted in this Agreement), then no University Default shall occur unless the University fails to commence such performance or observance within such thirty (30) day period (or such longer period as may be permitted in this Agreement) and fails to diligently prosecute such performance or observance to conclusion thereafter; provided, however, that if such performance or observance has not been accomplished within ninety (90) days after notice from Developer to the University of such failure (notwithstanding the University’s diligent prosecution of its curative efforts), then such failure shall constitute a University Default hereunder; and

(ii) the failure of the University to make payment to Developer as required under this Agreement within sixty (60) days after the date such payment is due, provided, that the failure of the University to pay any amount which is subject of a bona fide dispute shall not constitute a default.

In the event that the University wishes to avail itself of the extended cure rights provided in this Section 14.01(b)(i) in circumstances in which cure is possible, but not within thirty (30) days of the date of notice of default, the University shall promptly furnish to Developer a written statement specifying the actions undertaken or to be undertaken to cure such default, and thereafter, upon the written request of Developer, shall promptly provide such additional or updated information with respect to such actions as Developer may reasonably request.

Section 14.02 Remedies.

(a) University’s Remedies. Subject to this ARTICLE XIV, upon the occurrence of any Developer Default, the University may, in its sole discretion, pursue any one or more of the following remedies, without any notice or demand whatsoever, other than any notice (including Final Notice) expressly provided in this Agreement:

(i) The University may (but under no circumstance shall be obligated to) terminate this Agreement pursuant to Section 14.03;

(ii) The University may suspend, delay or interrupt the construction of the Campus Project in whole or in part for such period of time that the University may determine; and

(ii) The University may exercise any and all other remedies available to University at law or in equity or otherwise provided in this Agreement;

provided that notwithstanding the foregoing or anything else herein to the contrary, the University’s rights under this Section 14.02 shall be subject to the terms and provisions of Section 14.03. Notwithstanding anything to the contrary contained herein, the Developer’s monetary liability for any Developer Default hereunder shall be limited to the forfeiture of any Developer’s Fee not yet due payable from the date of such default; provided, however, that such limitation of liability shall not apply in the case of criminal or fraudulent conduct, intentional misrepresentation or willful violation of law by Developer.

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(b) **Developer's Remedies.** Subject to this ARTICLE XIV, upon the occurrence of any University Default, Developer may, at its sole discretion, pursue any one or more of the following remedies without any notice or demand whatsoever, other than any notice (including Final Notice) expressly provided in this Agreement:

(i) Developer may (but under no circumstance shall be obligated to) terminate this Agreement pursuant to Section 14.03.

(ii) Developer may exercise any and all other remedies available to Developer at law or in equity or otherwise provided in this Agreement or the other Campus Project Documents.

provided that notwithstanding the foregoing or anything else herein to the contrary, Developer's rights under this Section 14.02 shall be subject to the terms and provisions of Section 14.03.

**Section 14.03 Right to Terminate.**

(a) Upon the occurrence of a Developer Default or a University Default, the non-defaulting Party, in addition to its other remedies at law or in equity, shall have the right to give the defaulting Party notice (a "Final Notice") of the non-defaulting Party's intention to terminate this Agreement after the expiration of a period of thirty (30) days from the date such Final Notice is delivered unless the Developer Default or the University Default, as applicable, is cured, and upon expiration of such thirty (30) day period, if any such Developer Default or University Default is not cured, this Agreement shall terminate without liability to the non-defaulting Party. If, however, within such thirty (30) day period the defaulting Party cures such Developer Default or University Default, as applicable, then this Agreement shall not terminate by reason of such Final Notice. Notwithstanding the foregoing, in the event there is an Action or Proceeding pending or commenced between the Parties with respect to the particular Developer Default or University Default covered by such Final Notice, the foregoing thirty (30) day period shall be tolled until a final non-appealable judgment or award, as the case may be, is entered with respect to such Action or Proceeding.

(b) In addition, Developer acknowledges and agrees that this Agreement shall be subject to termination by the University at any time prior to the Phase III Takedown Closing as provided in the Phase III Development Agreement upon written notice to Developer.

**Section 14.04 Cumulative Remedies.** Subject to the provisions of this ARTICLE XV, each right or remedy of the University and Developer provided for in this Agreement shall be cumulative of and shall be in addition to every other right or remedy of the University or Developer provided for in this Agreement, and the exercise or the beginning of the exercise by the University or Developer of any one or more of the rights or remedies provided for in this Agreement shall not preclude the simultaneous or later exercise by the University or Developer of any or all other rights or remedies provided for in this Agreement or hereafter existing at law or in equity, by statute or otherwise.

**Section 14.05 No Indirect Damages.** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY UNDER ANY PROVISION OF THIS AGREEMENT OR
Section 14.06 Equitable Remedies.

(a) **Public Benefit.** Developer acknowledges and agrees that in securing the covenants and agreements of Developer in this Agreement, the State Parties and the University are and shall be acting on behalf of and are vested with the public rights and interests of the citizens of the State of Connecticut, that the terms and provisions of this Agreement are therefore unique matters of public interest; that the nature of the required performance by Developer is unique and cannot be replaced by any substitute performance; that it is essential to the preservation and betterment of the public welfare that Developer perform and discharge its obligations hereunder; and that the agreement of the University to enter into this Agreement is in consideration not only of the covenants and agreements of Developer in this Agreement but also the economic and other benefits, direct and indirect, to the State of Connecticut expected to result from the Campus Project as set forth in the recitals to this Agreement.

(b) **Injunctive Relief.** In light of the foregoing circumstances, Developer agrees that the University shall be entitled to injunctive and other equitable relief for any breach of the covenants of Developer in this Agreement. Developer further specifically acknowledges and agrees that, consistent with applicable rules of procedure and case law and the most common use of terms therein, the injury to the University from any such breach is real, specific, immediate and irreparable.

Section 14.07 No Waivers.

(a) **General.** No failure or delay of any Party, in any one or more instances (i) in exercising any power, right or remedy under this Agreement or (ii) in insisting upon the strict performance by the other Party of such other Party's covenants, obligations or agreements under this Agreement, shall operate as a waiver, discharge or invalidation thereof, nor shall any single or partial exercise of any such right, power or remedy or insistence on strict performance, or any abandonment or discontinuance of steps to enforce such a right, power or remedy or to enforce strict performance, preclude any other or future exercise thereof or insistence thereupon or the exercise of any other right, power or remedy. The covenants, obligations, and agreements of a defaulting Party and the rights and remedies of the other Party upon a default shall continue and remain in full force and effect with respect to any subsequent breach, act or omission.

(b) **No Waiver of Termination Notice.** Without limiting the effect of Section 14.07(a) above, the payment by the University of any amount due under this Agreement to Developer after the termination in any manner of this Agreement, or after the giving by the University of any notice hereunder to effect such termination, shall not, except as otherwise
expressly set forth in this Agreement, reinstate, continue or extend, or destroy, or in any manner impair the efficacy of, any such notice of termination as may have been given hereunder by the University to Developer prior to the receipt of any such amount due under this Agreement or other consideration, unless so agreed to in writing and executed by the University. Neither acceptance of the keys nor any other act or thing done by the University or by its agents or employees shall be deemed to be an acceptance of a surrender of the Campus Project, excepting only an agreement in writing executed by the University accepting or agreeing to accept such a surrender.

Section 14.08 Effect of Termination. If the University or Developer elects to terminate this Agreement, as provided herein (whether such termination occurs pursuant to this ARTICLE XIV or any other provision hereof), this Agreement shall, on the effective date of such termination, terminate with respect to all future rights and obligations of performance hereunder by the Parties (except for the rights and obligations herein that expressly are to survive termination hereof). Termination of this Agreement shall not alter the then existing claims, if any, of either Party for breaches of this Agreement occurring prior to such termination and the obligations of the Parties hereto with respect thereto shall survive termination.

ARTICLE XV
REPRESENTATIONS AND WARRANTIES

Section 15.01 Representations, Warranties and Covenants of Developer. Developer represents, warrants and covenants as follows:

(a) Developer is a limited liability company validly existing under the laws of Connecticut with full power and authority to conduct its business as presently conducted and as contemplated by this Agreement, and to enter into and perform its obligations under this Agreement;

(b) Developer shall maintain its legal existence, will not dissolve, liquidate or wind up its affairs, and will not dispose of all or substantially all of its assets;

(c) neither the articles of organization or operating agreement of Developer or any Applicable Law in any way prohibits, limits or otherwise affects the right or power of Developer to enter into and perform all of the terms and conditions of this Agreement and the transactions contemplated hereby, and Developer is not a party to or bound by any material contract, agreement, indenture, trust agreement, note, obligation or other instrument which would prohibit or limit the same. No consent, authorization or approval of, or other action by, and no notice to or filing with any Governmental Authority or other Person, including any shareholder of Developer, is required for the proper execution, delivery and performance by Developer of this Agreement or any of the transactions contemplated hereby, except for such approvals as have already been obtained;

(d) the execution and delivery of this Agreement by Developer have been duly and validly authorized by all necessary corporate action and this Agreement is a legal, valid and binding obligation of Developer, enforceable against Developer in accordance with its terms; and

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(e) prior to the later of (i) Substantial Completion of the Campus Project and (ii) the Fee Conveyance, without the consent of the State Parties and the University in their sole discretion, there shall be no Change in Control of Developer, and Phase III Developer Affiliate and each other Developer Affiliate that is a party to any Campus Project Document shall remain Affiliates.

For this purpose, “Change in Control”, shall mean a change in ownership or control of Developer (direct or indirect) following which Developer is no longer controlled by Helen Nitkin or Helen Nitkin’s descendants or by any trust, partnership, corporation, limited liability company or other entity in which controlling beneficial interests are owned directly or indirectly by Helen Nitkin or Helen Nitkin’s descendants.

Section 15.02 Representations of the University. The University represents as follows:

(a) The University has the legal power and authority to execute and deliver this Agreement and to carry out and perform all of the terms and provisions of this Agreement and all transactions contemplated hereby, to the extent required to be carried out or performed by the University. The University is not bound by any contract, agreement, mortgage, trust agreement, note, obligation or other instrument which would prohibit, limit or otherwise affect the same.

(b) The execution and delivery of this Agreement by the University has been duly and validly authorized by all necessary action. This Agreement is a legal, valid and binding obligation of the University, enforceable against the University in accordance with its terms except as may be limited by the sovereign immunity of the State.

(c) Neither the execution, delivery, nor performance of this Agreement by the University, nor any action or omission on the part of the University required pursuant hereto, nor the consummation of the transactions contemplated by this Agreement will (i) result in a breach or violation of, or constitute a default under, any Applicable Laws, or (ii) constitute a default or result in the cancellation, termination, or acceleration of, any obligation, or other breach or violation of any loan or other agreement, instrument, indenture, lease, or other material document to which the University is a party or by which the Phase III Lot is bound, or give any Person the right to challenge any such transaction, to declare any such default, cancellation, termination, acceleration, breach or violation or to exercise any remedy or obtain any other relief under any such loan or other agreement, instrument, indenture, lease, or other material document or under any Applicable Law. The University will not be required to give any notice to or obtain any consent from any Person in connection with the execution and delivery of this Agreement which has not already been given or obtained.
ARTICLE XVI
DISPUTES

Section 16.01 Dispute Resolution.

(a) The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation. Any Party may give the other Party written notice of any dispute not resolved in the normal course of business, specifically referring to this Section 16.01. The receiving Party shall promptly submit to the other a written response. The notice and the response shall each include a statement of the Party’s position and a summary of arguments supporting that position. If deemed appropriate, the Parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute. All reasonable requests for relevant information made by any Party to the other Parties should be honored. It is the goal of the Parties to attempt to negotiate resolutions within thirty (30) days of the date a dispute arises. Thereafter, subject to the other terms and conditions of this Agreement, any Party may bring an Action or Proceeding pursuant to Section 16.01(b). All negotiations pursuant to this provision are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence and the FOIA. The Parties shall continue to perform under this Agreement while any such dispute is pending.

(b) The Parties agree that the Superior Court of the State of Connecticut for the judicial district of Hartford (and, in the event of appeal, the appropriate appellate courts of the State of Connecticut) shall be the sole and exclusive jurisdiction and venue for any dispute or disagreement arising under or related to this Agreement; provided, however, that nothing in this Article XVII shall be deemed to constitute (i) an assent by the University to a grant of permission to sue by the Claims Commissioner pursuant to Chapter 53 of the General Statutes (as the same may otherwise be applicable), (ii) a waiver by the State of its sovereign immunity, or (iii) a waiver by the University of any otherwise applicable statutory right of action against Developer.

ARTICLE XVII
INDEMNIFICATION

Section 17.01 Indemnification by Developer.

(a) Subject to the limitations set forth in subsection (b), below, Developer agrees to indemnify and hold harmless the University and each public official and state employee acting on behalf of any of the foregoing, and their respective agents, attorneys and representatives (the “State Indemnified Parties”), against and in respect of any Losses which arise out of or result from (i) the failure of Developer to perform or observe any covenant or condition to be performed or observed by Developer, under this Agreement, or (ii) the negligence or misconduct of Developer, or any of its employees, agents, representatives in connection with the performance or non-performance of its duties and obligations under this Agreement, except to the extent that such Losses arise out of Uncontrollable Circumstances, are excused by other provisions by this Agreement or result from (A) a failure by the University to perform or observe
any covenant or condition to be performed by the State, the Authority or the University under this Agreement, (B) the material inaccuracy of any representation or warranty of the University in this Agreement, (C) the negligence or misconduct of any of the State Indemnified Parties, or (D) the misconduct of the University or any professional or consultant under contract to the University with respect to the Campus Project.

(b) The State Indemnified Parties shall cooperate with Developer and its counsel in any action being actively contested or defended by Developer pursuant to its obligations under this Section 17.01 and shall provide such access to the books and records of the University as shall be necessary in connection with such defense or contest, all at the sole cost and expense of Developer. Developer shall provide such defense or contest through attorneys, accountants, and others selected by Developer and reasonably satisfactory to the Attorney General. Notwithstanding that Developer is actively conducting such defense or contest, any such action may be settled, compromised, or paid by any State Indemnified Party, after notice to and consultation with Developer but without the consent of Developer; provided, however, that if such action is taken without the consent of Developer, then indemnification obligations in respect of such claim shall thereby be nullified. Any such action may be settled, compromised, or paid by Developer, after notice to and consultation with the University but without the University’s consent, so long as such settlement or compromise does not cause any State Indemnified Party to incur any present or future cost, expense, obligation or liability of any kind or nature with respect to such action. The State Indemnified Parties shall also cooperate with Developer in its pursuit of any indemnity under which any State Indemnified Party is entitled to indemnification from any architect, construction manager, engineer, consultant, contractor or sub-contractor.

(c) In the event any action involves matters partly within or partly outside the scope of the indemnification by Developer hereunder, then the reasonable attorneys’ fees, costs, and expenses of contesting or defending such action shall be fairly allocated between the University and Developer as they shall reasonably agree.

Section 17.02 Reimbursement by the University.

The University agrees to reimburse Developer, any Developer Affiliate, and their respective agents, attorneys, and representatives (the “Developer Reimbursed Parties”) for any Losses which arise out of or result from (i) the failure of the University to perform or observe any covenant or condition to be performed or observed by the University under this Agreement, or (ii) the negligence or misconduct of the University, or any of its employees, agents, representatives or independent contractors in connection with the performance or non-performance of the duties and obligations under this Agreement, except to the extent that such Losses arise out of Uncontrollable Circumstances, are excused by other provisions by this Agreement or result from (A) a failure by Developer or any Developer Reimbursed Party to perform or observe any covenant or condition to be performed by Developer under this Agreement, (B) the material inaccuracy of any representation or warranty of Developer in this Agreement, (C) the negligence or misconduct of Developer or any of the Developer Reimbursed Parties, or (D) the conduct or misconduct of the Architect, the Construction Manager, or any other professional or consultant under contract to Developer with respect to the Campus Project.
Section 17.03 Survival.

The provisions of Sections 17.01 or 17.02 shall survive the termination of this Agreement for three (3) years.

ARTICLE XVIII
GENERAL PROVISIONS

Section 18.01 Notices.

(a) Except as otherwise provided in this Agreement, all notices, demands, requests, consents, approvals and other communications required or permitted to be given hereunder, or which are to be given with respect to this Agreement, shall be in writing and shall be deemed delivered (i) upon the delivery by facsimile electronic transmission (provided that such facsimile is sent on a Business Day prior to 5:00 p.m. of the recipient’s local time, and a confirmation copy is sent via another manner set forth in this Section18.01), (ii) the next Business Day following delivery to Federal Express or another nationally recognized air-freight or commercial delivery service for next day delivery, or (iii) two (2) Business Days following deposit thereof in the United States mail, certified mail (return receipt requested), provided such notices shall be addressed or delivered to the Parties at their respective addresses or facsimile telephone numbers set forth below. Copies of all notices delivered hereunder relating to any default, breach, indemnity or reimbursement claim, termination or other matter of similar import, shall also be delivered in the same manner to counsel as indicated below, but the failure to deliver such copy shall not affect the validity or sufficiency of any such notice.

If to Developer:

The HB Nitkin Group
230 Mason Street
Greenwich, CT 06830
Attention: Helen Nitkin
Facsimile: (203) 861-9005

With copies to:

The HB Nitkin Group
230 Mason Street
Greenwich, CT 06830
Attention: HBN Project Director
Facsimile: (203) 861-9005

Robinson & Cole LLP
1055 Washington Boulevard
Stamford, CT 06904
Attention: Steven Elbaum, Esq.
Facsimile: (203) 462-7599

6900000v11
June 3, 2014
If to the University:

The University of Connecticut
Office of the Executive Vice President for Administration
352 Mansfield Road
Unit 1122
Storrs, CT 06269-1122
Attention: Executive Vice President for Administration and Chief Financial Officer
Facsimile: (860) 486-1070

with a copy to:

The University of Connecticut
Planning Architectural & Engineering Services
31 Ledoyt Road U-3038
Storrs, CT 06269-3038
Attention: Laura A. Cruickshank, AIA, University Master Planner and Chief Architect
Facsimile: (860) 486-3117

and

The University of Connecticut
Office of the General Counsel
343 Mansfield Road
Unit 1177
Storrs, CT 06269-1177
Attention: Richard Orr, Esq., General Counsel
Facsimile: (860) 486-4369

(b) Each Party shall have the right to change the place or person to which notices, requests, demands, and communications hereunder shall be sent or delivered by delivering a notice to the other Parties.

(c) Except as otherwise may be expressly provided herein, whenever this Agreement calls for any approval, consent, waiver, acceptance or concurrence by a Party, the approval, consent, waiver, acceptance or concurrence of the person identified below shall be sufficient for purposes hereof:

(i) in the case of Developer, Helen Nitkin or the Project Director; and

(ii) in the case of the University, Executive Vice President for Administration and Chief Financial Officer.

Section 18.02 No Assignment.

(a) Except as otherwise expressly permitted in this Agreement, Developer shall not be
entitled to sell, assign, pledge or encumber this Agreement or any of its rights as against the University hereunder without the prior written consent of the University, and any such prohibited sale, assignment, pledge or encumbrance shall be void.

(b) Except as otherwise expressly permitted in this Agreement, the University shall not sell, assign, pledge or encumber this Agreement or any of its rights hereunder without the prior written consent of Developer. Notwithstanding the foregoing, the University may at any time assign this Agreement or certain of the rights or interests of the University herein, without the consent of Developer, to any other department, agency, quasi-public agency or public corporation of the University (including for the purpose of having such assignee act as the University’s contract administrator under some or all of the provisions of this Agreement), provided that no such assignment shall relieve the University of its obligations hereunder without the consent of Developer.

Section 18.03 Sovereign Immunity.

The Parties acknowledge that the University reserves all immunities and defenses arising out of its sovereign status, including under the Constitution of the State of Connecticut and the Eleventh Amendment of the United States Constitution, and that no waiver of any such immunities or defenses shall be implied or otherwise deemed to exist by reason of its entering into this Agreement, by any express or implied provisions hereof, or by any actions or omissions to act by the University or any other party, whether taken pursuant to this Agreement or otherwise.

Section 18.04 Confidentiality.

The Parties agree, except as required by law, to make reasonable good faith efforts to keep all Proprietary Information confidential and not to disclose or reveal any Proprietary Information to any Person other than their respective Representatives who are participating in the Adriaen’s Landing development with respect to the Campus Project. The Parties shall take reasonable steps to safeguard and protect the confidentiality of the Proprietary Information. The Parties shall not disclose the Proprietary Information to any of their respective Representatives unless such Representatives have been informed of its confidential nature and they have agreed to act in accordance with the terms and conditions of this Agreement. This Section 18.04 is subject in all respects to the provisions of Section 18.05.

Section 18.05 Freedom of Information Act.

The University has advised Developer that the University is a “public agency” for purposes of the Connecticut Freedom of Information Act, Sections 1-200 to 1-241 of the General Statutes, as amended (the “FOIA”), and that information relating to Developer and its affairs received or maintained by the University will constitute “public records or files” for purposes of the FOIA subject to public access and disclosure in the manner provided in the FOIA, unless a specific exemption from the public access and disclosure requirements of the FOIA is available in connection with particular records or files received or maintained by the University. Accordingly, it is agreed that the University shall be relieved from any confidentiality obligations under this Agreement, including Sections 3.07 and 18.04, or otherwise arising that would be in
conflict with its obligations under the FOIA.

Section 18.06 No Waiver.

A failure by any Party to enforce or require compliance with any provision of this Agreement at any time during the term of this Agreement shall in no way affect the validity of this Agreement, or any portion hereof, and shall not be deemed a waiver of the right of any Party thereafter to enforce any and each such provision.

Section 18.07 Severability.

In case any provision in this Agreement shall be held invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions hereof will not in any way be affected or impaired thereby.

Section 18.08 Amendments.

No amendment or modification of this Agreement shall be effective unless in writing and signed by each of the Parties hereto; provided, that the State shall not be required to sign any amendment or modification which does not amend or modify Section 2.02.

Section 18.09 Waiver of Jury Trial.

Each of the Parties hereby irrevocably waives, as against the other Parties hereto, any rights it may have to a jury trial in respect to any civil action arising under this Agreement.

Section 18.10 No Partnership, Joint Venture or Agency.

Nothing contained herein or done pursuant hereto shall be deemed to create, as among Developer and the University, any partnership, joint venture or agency relationship.

Section 18.11 Entire Understanding.

As of the Effective Date, this Agreement shall constitute the entire understanding among the Parties hereto, and shall supersede any and all other previous understandings pertaining to the subject matter of this Agreement, including the Pre-Development Agreement.

Section 18.12 No Third Party Beneficiaries.

This Agreement is for the exclusive benefit of the Parties hereto and no rights of third party beneficiaries are created hereby.

Section 18.13 Binding Effect; Successors and Assigns.

This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns (and any reference to a Party herein shall include the successors and permitted assigns of such Party, unless otherwise indicated). Nothing
in this Section 18.13 shall be deemed to permit any transfer or assignment of this Agreement or the rights or obligations hereunder not otherwise expressly permitted by this Agreement.

Section 18.14 Certain Legal Fees.

Developer and the University each shall be responsible for the fees and disbursements of their own counsel in connection with the negotiation, preparation and execution of this Agreement and the other Campus Project Documents.

Section 18.15 Time of the Essence.

Time is of the essence under this Agreement.

Section 18.16 Governing Law.

This Agreement shall be governed by and construed in accordance with the internal laws of the State of Connecticut, without regard to its principles of conflicts of law.

Section 18.17 Tax-Exempt Bonds.

Developer acknowledges that Campus Project Funding represents the proceeds of tax-exempt bonds and that the use of the Campus Project Improvements, or portions thereof, including the Phase III Retail Space, financed with tax-exempt bonds must at all times comply with the applicable tax-exempt bonding requirements of the Code, including the private activity limitations.

Section 18.18 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

[SIGNATURE PAGES NEXT FOLLOW]
IN WITNESS WHEREOF, the undersigned has caused this Campus Development Agreement to be signed by its duly authorized representative, as such and not individually, as of the day and year first written above.

FSD UNIVERSITY, LLC
By: HBN Front Street District, Inc.,
its sole member and manager

By: ___________________________
   Name: Helen Nitkin
   Title: President

Signature Page 1 of 3
IN WITNESS WHEREOF, the undersigned has caused this Campus Development Agreement to be signed by its duly authorized representative, as such and not individually, as of the day and year first written above.

THE UNIVERSITY OF CONNECTICUT

By:

Name: Susan Herbst
Title: President
IN WITNESS WHEREOF, the undersigned has caused this Campus Development Agreement to be signed by its duly authorized representative, as such and not individually, as of the day and year first written above.

(Solely to the extent of Section 2.02)
STATE OF CONNECTICUT,
acting by and through
the Secretary of the
Office of Policy and Management.

By: [Signature]

Name: Karen K. Burfkin
Title: Deputy Secretary of the Office of Policy and Management
EXHIBIT A
CAMPUS PROJECT BUDGET

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Cost</td>
<td>$70,000,000.00</td>
</tr>
<tr>
<td>Architect/Engineering</td>
<td>$7,800,000.00</td>
</tr>
<tr>
<td>FF&amp;E</td>
<td>$4,000,000.00</td>
</tr>
<tr>
<td>Development Fee</td>
<td>$1,300,000.00</td>
</tr>
<tr>
<td>Other Expenses</td>
<td>$1,400,000.00</td>
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<tr>
<td>Contingency</td>
<td>$2,500,000.00</td>
</tr>
<tr>
<td>Total Estimate</td>
<td>$87,000,000.00</td>
</tr>
</tbody>
</table>
EXHIBIT B
PAYMENT REQUEST

DRAW REQUEST NO. _______

TO: ______________________

PROJECT ______________________
LOCATION ______________________

FOR PERIOD ENDING ______________________

In accordance with the Campus Development Agreement dated _________, Developer requests that a Campus Project Funding Payment in the amount of $______________ be paid to Developer. The proceeds should be credited to the account of ______________________, Account No. ______________________, at ______________________.

1. CURRENT PAYMENT REQUEST $______________
   FOR DIRECT COSTS

2. CURRENT PAYMENT REQUEST $______________
   FOR INDIRECT COSTS

3. TOTAL PAYMENT REQUEST $______________

AUTHORIZED SIGNER:

__________________________________________________________________________  Dated: ______________________

690000v11
June 3, 2014
Exhibit B
EXHIBIT C
MINIMUM REQUIREMENTS
(Exhibit Appears on Next Page)
## A. Building Sharable

### Instructional spaces

<table>
<thead>
<tr>
<th>Space Type</th>
<th>Seats</th>
<th>Qty</th>
<th>MAIN</th>
<th>180K Program (Base Building)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Auditorium</td>
<td>200</td>
<td>1</td>
<td>0</td>
<td>15</td>
</tr>
<tr>
<td>Control rooms</td>
<td></td>
<td></td>
<td></td>
<td>80</td>
</tr>
<tr>
<td>Storage room</td>
<td></td>
<td></td>
<td></td>
<td>100</td>
</tr>
<tr>
<td>Large classroom</td>
<td>75</td>
<td>2</td>
<td>1</td>
<td>1,500</td>
</tr>
<tr>
<td>Medium classrooms</td>
<td>50</td>
<td>16</td>
<td>12</td>
<td>1,200</td>
</tr>
<tr>
<td>Medium classrooms</td>
<td>50</td>
<td>6</td>
<td>2</td>
<td>1,500</td>
</tr>
<tr>
<td>Small classrooms</td>
<td>30</td>
<td>10</td>
<td>5</td>
<td>700</td>
</tr>
<tr>
<td>Class/lab MATH Lab</td>
<td>40</td>
<td>2</td>
<td>2</td>
<td>1,000</td>
</tr>
<tr>
<td>Distance learning classroom/TV</td>
<td>30</td>
<td>2</td>
<td>2</td>
<td>300</td>
</tr>
<tr>
<td>Distance learning classroom/TV</td>
<td>50</td>
<td>1</td>
<td>1</td>
<td>30</td>
</tr>
<tr>
<td>Production room</td>
<td></td>
<td>1</td>
<td>1</td>
<td>150</td>
</tr>
<tr>
<td>Control room</td>
<td></td>
<td>1</td>
<td>1</td>
<td>100</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>27,950</strong></td>
</tr>
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</table>

### Meeting Space

<table>
<thead>
<tr>
<th>Space Type</th>
<th>Seats</th>
<th>Qty</th>
<th>MAIN</th>
<th>180K Program (Base Building)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ceremonial room</td>
<td>100</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Kitchenette</td>
<td></td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Storage room</td>
<td></td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Zachs Community Room</td>
<td>200</td>
<td>1</td>
<td>1</td>
<td>2,000</td>
</tr>
<tr>
<td>Kitchenette/pantry</td>
<td></td>
<td>1</td>
<td>1</td>
<td>200</td>
</tr>
<tr>
<td>Storage</td>
<td></td>
<td>1</td>
<td>1</td>
<td>100</td>
</tr>
<tr>
<td>Large conference room</td>
<td>25-30</td>
<td>2</td>
<td>1</td>
<td>720</td>
</tr>
<tr>
<td>Medium conference room</td>
<td>15-20</td>
<td>4</td>
<td>4</td>
<td>500</td>
</tr>
<tr>
<td>Small conference room</td>
<td>8-10</td>
<td>4</td>
<td>4</td>
<td>200</td>
</tr>
<tr>
<td>Meeting rooms</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>4,720</strong></td>
</tr>
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</table>

### Student Resource

<table>
<thead>
<tr>
<th>Space Type</th>
<th>Seats</th>
<th>Qty</th>
<th>NEW</th>
<th>180K Program (Base Building)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Director office</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>120</td>
</tr>
<tr>
<td>Staff offices</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>80</td>
</tr>
<tr>
<td>Service desk/staff</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>270</td>
</tr>
<tr>
<td>Service desk/staff</td>
<td></td>
<td>1</td>
<td>1</td>
<td>150</td>
</tr>
<tr>
<td>Historian</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>150</td>
</tr>
<tr>
<td>Support staff</td>
<td></td>
<td>1</td>
<td>1</td>
<td>270</td>
</tr>
<tr>
<td>Storage</td>
<td></td>
<td>1</td>
<td>1</td>
<td>100</td>
</tr>
<tr>
<td>Work area</td>
<td></td>
<td>1</td>
<td>1</td>
<td>80</td>
</tr>
<tr>
<td>Tutoring centers</td>
<td></td>
<td>2</td>
<td>2</td>
<td>500</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>1,000</strong></td>
</tr>
</tbody>
</table>

---

690000v11
June 3, 2014
Exhibit C
| Library - stack | 1 | 1 |
| Display cases | 1 | 1 |
| Seating area | 75 | 0 | 0 |
| Super Homer Terminal Area | 15 | 1 | 1 |
| Individual study | 10 | 10 |
| Media-scapes rooms | 2-4 | 4 | 4 |
| Presentation room | 2 | 1 | 1 |
| Study rooms | 4-6 | 2 | 2 |
| Study rooms | 6-8 | 2 | 2 |
| **Total** | | | |
| | 2,700 | 0 | 0 |
| | 70 | 0 | 0 |
| | 30 | 0 | 0 |
| | 360 | 0 | 0 |
| | 20 | | |
| | 100 | | |
| | 100 | 0 | 0 |
| | 100 | 0 | 0 |
| | 200 | 0 | 1,200 |

**Student Common Space**

<table>
<thead>
<tr>
<th>Space Type</th>
<th>Seats</th>
<th>Qty</th>
<th>NEW</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff offices</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Student government offices</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>OASIS lounge</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Graduate student lounge</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Undergraduate student lounge</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Game room</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>TV room</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Student clubs &amp; organizations UG</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Student organization area- Grad</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td><strong>Fitness center</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Locker</td>
<td>0</td>
<td>0</td>
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</tr>
<tr>
<td>Storage</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td><strong>Café</strong></td>
<td>100</td>
<td>0</td>
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</tr>
<tr>
<td>Kitchen</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Dry storage</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Cold storage</td>
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Page 2 of 9
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| Visitor office | 1 | 1 |
| Staff office | 1 | 1 |
| Staff office | 2 | 2 |
| Conference room | 8-10 | 1 | 1 |
| Reception | 1 | 1 |

**GHC-Student Services**

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**GHC-Business & Admin Services**

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Page 3 of 9

6900000v11
June 3, 2014

Exhibit C
## B. Dedicated spaces

### Department of Public Policy

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<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Staff/Reception</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Adjunct/GA's office</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Meeting room</td>
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**School of Business - Undergraduate**

<table>
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<th>Space Type</th>
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<tbody>
<tr>
<td>Faculty offices</td>
<td>6</td>
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<tr>
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**School of Business - downtown**

<table>
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<tbody>
<tr>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Director</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Assistant director</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Program managers</td>
<td>6</td>
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</tr>
<tr>
<td>Faculty offices</td>
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**180K Program (Base Building)**

<table>
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<th>Total</th>
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<tr>
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</tr>
<tr>
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<tr>
<td>80</td>
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<td>200</td>
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<tr>
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690000v11
June 3, 2014

Exhibit C
<table>
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<tbody>
<tr>
<td></td>
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</tr>
<tr>
<td>Storage</td>
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<tr>
<td>Conference spaces</td>
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**Student Areas**

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<tr>
<td>Distance learning classroom</td>
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<td>MGT &amp; HRM class/comp. lab</td>
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**Accelerator Suite**

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<td>Computer area</td>
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**School of Business - FT MBA**

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<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Program director</td>
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<td>1</td>
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<tr>
<td>Program manager</td>
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<td>120</td>
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<tr>
<td>Staff offices</td>
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<tr>
<td>Support staff workstations</td>
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<tr>
<td>Seminar room</td>
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<td>1</td>
<td>500</td>
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<td>Landing zone</td>
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<tr>
<td>Classrooms</td>
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<td>0</td>
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**School of Social Work**

**Faculty Offices**

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</thead>
<tbody>
<tr>
<td>Faculty Offices</td>
<td>26</td>
<td>26</td>
<td>26</td>
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<tr>
<td>Adjuncts office space</td>
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<td>2</td>
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<td>Meeting rooms</td>
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<td>1</td>
<td>80</td>
</tr>
<tr>
<td>Future hires</td>
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<td>0</td>
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<tr>
<td>Faculty support</td>
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<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Doctoral program director</td>
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<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Doctoral/MSW program staff</td>
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<td>1</td>
<td>1</td>
<td>0</td>
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<tr>
<td>MSW program director</td>
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**Student areas**

<table>
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<td></td>
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<td>Sq Ft</td>
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<td>300</td>
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<tr>
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<tr>
<td>Student Services</td>
<td>Seats</td>
<td>Qty</td>
</tr>
<tr>
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<td>-------</td>
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<tr>
<td>Director office</td>
<td>1</td>
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</tr>
<tr>
<td>Office</td>
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<td>1</td>
</tr>
<tr>
<td>Staff support</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Financial Aid &amp; Admissions</td>
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<td></td>
</tr>
<tr>
<td>Private offices</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Private office</td>
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<td>1</td>
</tr>
<tr>
<td>Support staff</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>HR &amp; Finance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Director office</td>
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<td>1</td>
</tr>
<tr>
<td>Support staff</td>
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<td>1</td>
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<tr>
<td>Outreach &amp; Alumni Relations</td>
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<td></td>
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<td>Private office</td>
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<td>1</td>
</tr>
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<td>Private offices</td>
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<td>2</td>
</tr>
<tr>
<td>Support staff</td>
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<td>1</td>
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<td>Field program</td>
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<td>Private offices</td>
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<td>Shared Office</td>
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<td>Storage</td>
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<table>
<thead>
<tr>
<th>SSSSW Dean's Office</th>
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<tr>
<td>Dean's Office</td>
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</tr>
<tr>
<td>Associate Dean</td>
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</tr>
<tr>
<td>Reception</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Support staff</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Meeting room</td>
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<table>
<thead>
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<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Staff office</td>
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### Classrooms

<table>
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<tbody>
<tr>
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<tr>
<td>Lecture hall</td>
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<td>Cafeteria</td>
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<td>0</td>
</tr>
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### CTCC

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<th>Subtotal Sq Ft</th>
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<td>120</td>
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<td>100</td>
<td>100</td>
</tr>
<tr>
<td>Staff office</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>Landing zone</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>Meeting space</td>
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<td>1</td>
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<tr>
<td>Storage</td>
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### C. Building Support

#### Information Technology

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<td>64</td>
<td>256</td>
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<td>64</td>
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<td>64</td>
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<td>256</td>
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<td>Repair area</td>
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<td>300</td>
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<tr>
<td>Testing room</td>
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<td>Server desk</td>
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#### Telecommunication

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<th>Subtotal Sq Ft</th>
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<tbody>
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<td>Telecom entrance facility</td>
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<td>1</td>
<td>150</td>
<td>150</td>
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<tr>
<td>Server room</td>
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<td>1</td>
<td>1</td>
<td>100</td>
<td>100</td>
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<tr>
<td>Telecom rooms</td>
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#### Building Services

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</thead>
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<tr>
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<tr>
<td>Mail/sorting/receiving</td>
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<td>375</td>
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<td>Work area</td>
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<td>150</td>
<td>600</td>
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<td>75</td>
<td>300</td>
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<td>Kitchenette</td>
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<td>4</td>
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<td>100</td>
<td>400</td>
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<tr>
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### *Facilities Operations*
## Space Type

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</tr>
<tr>
<td>Map/break area</td>
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<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Storage</td>
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<td></td>
</tr>
<tr>
<td>Key room</td>
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</tr>
<tr>
<td>Lockers</td>
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<tr>
<td>Locker room</td>
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<tr>
<td>Custodial closet</td>
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</tr>
<tr>
<td>Equipment storage</td>
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</tr>
<tr>
<td>Tool room &amp; shop</td>
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<td>1</td>
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</tr>
<tr>
<td>Janitor's Closets</td>
<td>5</td>
<td>5</td>
<td></td>
</tr>
</tbody>
</table>

*dedicated parking space for a full-size truck and a few maintenance parking spaces

### Public Safety (24/7 coverage)

<table>
<thead>
<tr>
<th>Seats Type</th>
<th>Seats</th>
<th>Qty</th>
<th>NEW</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sergeant office</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Staff/Reception</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Staff area</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Central headquarters office</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Support staff</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Conference room</td>
<td>8-10</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Break room</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Interview room</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Control room</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Holding room</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Locker area</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
</tbody>
</table>

*dedicated parking spaces for 4-5 cars

### Campus Common Space

<table>
<thead>
<tr>
<th>Seats Type</th>
<th>Seats</th>
<th>Qty</th>
<th>Qty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Commons (Zach's Hall)</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building Lobby</td>
<td>1</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 180K Program (Base Building)

<table>
<thead>
<tr>
<th>Seats Type</th>
<th>Sq Ft</th>
<th>Subtotal Sq Ft</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff office</td>
<td>100</td>
<td>100</td>
<td></td>
</tr>
<tr>
<td>Map/break area</td>
<td>200</td>
<td>200</td>
<td></td>
</tr>
<tr>
<td>Storage</td>
<td>80</td>
<td>80</td>
<td></td>
</tr>
<tr>
<td>Key room</td>
<td>80</td>
<td>80</td>
<td></td>
</tr>
<tr>
<td>Lockers</td>
<td>150</td>
<td>150</td>
<td></td>
</tr>
<tr>
<td>Locker room</td>
<td>100</td>
<td>100</td>
<td></td>
</tr>
<tr>
<td>Custodial closet</td>
<td>150</td>
<td>150</td>
<td></td>
</tr>
<tr>
<td>Equipment storage</td>
<td>250</td>
<td>250</td>
<td></td>
</tr>
<tr>
<td>Tool room &amp; shop</td>
<td>300</td>
<td>300</td>
<td></td>
</tr>
<tr>
<td>Janitor's Closets</td>
<td>400</td>
<td>400</td>
<td>1,810</td>
</tr>
</tbody>
</table>

### 180K Program (Base Building)

<table>
<thead>
<tr>
<th>Seats Type</th>
<th>Sq Ft</th>
<th>Subtotal Sq Ft</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sergeant office</td>
<td>100</td>
<td>100</td>
<td></td>
</tr>
<tr>
<td>Staff/Reception</td>
<td>130</td>
<td>130</td>
<td></td>
</tr>
<tr>
<td>Staff area</td>
<td>200</td>
<td>200</td>
<td></td>
</tr>
<tr>
<td>Central headquarters office</td>
<td>120</td>
<td>120</td>
<td></td>
</tr>
<tr>
<td>Support staff</td>
<td>160</td>
<td>160</td>
<td></td>
</tr>
<tr>
<td>Conference room</td>
<td>450</td>
<td>450</td>
<td>1,528</td>
</tr>
<tr>
<td>Break room</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interview room</td>
<td>100</td>
<td>100</td>
<td></td>
</tr>
<tr>
<td>Control room</td>
<td>64</td>
<td>64</td>
<td></td>
</tr>
<tr>
<td>Holding room</td>
<td>64</td>
<td>64</td>
<td></td>
</tr>
<tr>
<td>Locker area</td>
<td>450</td>
<td>450</td>
<td>1,528</td>
</tr>
</tbody>
</table>

### TOTAL BUILDING

<table>
<thead>
<tr>
<th>Seats Type</th>
<th>Sq Ft</th>
<th>Subtotal Sq Ft</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Commons</td>
<td>4,000</td>
<td>4,000</td>
<td></td>
</tr>
<tr>
<td>Building Lobby</td>
<td>2,000</td>
<td>2,000</td>
<td>6,000</td>
</tr>
</tbody>
</table>

**TOTAL New ASF:** 85,255  
**TOTAL New GSF:** 142,092  
(60% grossing factor)

**RETAIL SPACE:** 19,000  
**PARKING GARAGE:** 19,000  
**TOTAL Building GSF:** 180,092
SCHEDULE 3.03
STATE CONTRACTING REQUIREMENTS

[Schedule Commences on Next Following Page]
REQUIRED CONTRACT TERMS – STATE OF CONNECTICUT

Rev. 1/2014

(The following State of Connecticut contract provisions may not be revised or deleted without written approval of the Office of the Attorney General.)

Required Contract Provisions – State of Connecticut: References in this section to "Contract" shall mean this _____________ and references to "Contractor" shall mean _____________.

1. Statutory Authority. Connecticut General Statutes §§ 4a-52a, 10a-104, 10a-108, 10a-109d (a)(5) and/or 10a-151b, provide the University with authority to enter into contracts in the pursuit of its mission.

2. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Connecticut without regard to its principles of conflicts of laws.

3. Indemnification. The Contractor hereby indemnifies and shall defend and hold harmless the State of Connecticut, its officers and its employees from and against any and all suits, actions, legal or administrative proceedings, claims, demands, liabilities, monetary loss, interest, attorneys’ fees, costs and expenses of whatsoever kind or nature arising out of the performance of this agreement, including those arising out of injury to or death of Contractor’s employees or subcontractors, whether arising before, during or after completion of the services hereunder and in any manner directly or indirectly caused, occasioned or contributed to in whole or in part, by reason of any intentional, reckless or negligent act or omission of the Contractor or its employees, agents or subcontractors.

4. Claims. The Contractor agrees that the sole and exclusive means for the presentation of any claim against the State of Connecticut or the University of Connecticut arising from this Agreement shall be in accordance with Chapter 53 of the Connecticut General Statutes (Claims Against the State) and the Contractor further agrees not to initiate any legal proceedings in any state or federal court in addition to, or in lieu of, said Chapter 53 proceedings.


1. Non-discrimination. References in this section to "Contract" shall mean this _____________ and references to "Contractor" shall mean the _____________.

(a) For purposes of this Section, the following terms are defined as follows: (i) "Commission" means the Commission on Human Rights and Opportunities; (ii) "Contract" and “contract” include any extension or

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modification of the Contract or contract; (iii) "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor; (iv) "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose; (v) "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations; (vi) "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements; (vii) "marital status" means being single, married as recognized by the State of Connecticut, widowed, separated or divorced; (viii) "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders; (ix) "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and (x) "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

For purposes of this Section, the terms "Contract" and "contract" do not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

(b) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding,
a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.

(c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

(d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.

(e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes §46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

(f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.

(g) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the

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Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.

(h) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

6. **State Executive Orders**

The Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Contract as if they had been fully set forth in it. At the Contractor's request, the Client Agency shall provide a copy of these orders to the Contractor. The Contract may also be subject to Executive Order No. 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms and Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services, in accordance with their respective terms and conditions.

7. **Insurance** The Contractor agrees that while performing all services specified in this agreement (s)he will carry sufficient insurance (liability and/or other) as applicable according to the nature of the service to be performed so as to "save harmless" the State of Connecticut from any insurable cause whatsoever. If requested, certificates of such insurance will be filed with the contracting State agency prior to the performance of such services.

8. **Termination for Convenience**

(a) The University may terminate performance of work under the Contract in whole or in part
whenever, for any reason, the University shall determine that such termination is in the best interest of the University and/or the State of Connecticut.

(b) This Agreement shall remain in full force and effect for the entire term of the contract period stated in section ____ above unless cancelled by the University, by giving the Contractor written notice of such intention. The required number of days written notice is ___________. In the event that the University elects to terminate the Contract pursuant to this provision, the Contract Administrator and/or designee shall notify the Contractor by certified mail, return receipt requested. Termination shall be effective as of the close of business on the date specified in the notice.

9. **Quality Surveillance and Examination of Records**

(a) All services performed by Contractor shall be subject to the inspection and approval of the University or the State at all times, and Contractor shall furnish all information concerning the services.

(b) The University or the State or its representatives shall have the right, at reasonable hours, to inspect or examine the part of the plant or place of business or any books, records, and other documents of Contractor or its subcontractors pertaining to work performed under this Agreement and shall allow such representatives free access to any and all such plants, places of business, books and records. The State will give the Contractor at least twenty-four (24) hours notice of such intended examination. At the State's request, the Contractor shall provide the University or the the State with hard copies or an electronic format of any data or information in the possession or control of the Contractor which pertains to the State's business under this Agreement.

(c) The Contractor shall retain and maintain accurate records and documents relating to performance of services under this Agreement for a minimum of three (3) years after the final payment by the State and shall make them available for inspection and audit by the University or the State. Any subcontractor under this Agreement shall retain and maintain accurate records and documents relating to performance of services under this Agreement for a minimum of three (3) years from the expiration of the subcontract.

(d) In the event that this Agreement constitutes a grant Agreement, and the Contractor is a public or private agency other than another state agency, the Contractor shall provide for an audit acceptable to the University or the State, in accordance with the provisions of Connecticut General Statutes § 7-396a.

(e) The Contractor must incorporate this paragraph verbatim into any Agreement it enters into with any subcontractor providing services under this Agreement.
10. **Force Majeure.** If the performance of obligations under this Agreement are rendered impossible or hazardous or is otherwise prevented or impaired due to illness, accident, Act(s) of God, riots, strikes, labor difficulties, epidemics, earthquakes, and/or any other cause or event, similar or dissimilar, beyond the control of the Contractor, then each party's obligations to the other under this Agreement shall be excused and neither party shall have any liability to the other under or in connection with this Agreement.

11. **Entire Agreement and Amendment.** This Agreement is the entire agreement between the Contractor and the University and supersedes and rescinds all prior agreements relating to the subject matter hereof. This Agreement may be amended only in writing signed by both the Contractor and the University. The Contractor indicates it has read and freely signed this Agreement, which shall take effect as a sealed instrument. The Contractor further certifies that the terms of this agreement are legally binding and its duly authorized representative has signed this agreement after having carefully read and understood the same.
If this contract is $50,000 or more in a calendar year or part of a series with a value of $100,000 or more, insert the following SEEC language (including Exhibit A).

SEEC Campaign Contribution Restrictions (Required For Contracts $50,000 or More in a calendar year or a series with a value of $100,000 or more). For all State contracts as defined in Public Act 10-01 having a value in a calendar year of $50,000 or more or a combination or series of such agreements or contracts having a value of $100,000 or more, the authorized signatory to this Agreement expressly acknowledges receipt of the State Elections Enforcement Commission’s Notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the Notice, referenced herein (or attached hereto as Exhibit A).

CONNECTICUT STATE ELECTIONS ENFORCEMENT COMMISSION

NOTICE TO EXECUTIVE BRANCH STATE CONTRACTORS AND PROSPECTIVE STATE CONTRACTORS OF CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS

This notice is provided under the authority of Connecticut General Statutes §9-612(g)(2), as amended by P.A. 10-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined on the reverse side of this page).

CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS

No state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer; (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee (which includes town committees).

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

On and after January 1, 2011, no state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a

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quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall knowingly solicit contributions from the state contractor’s or prospective state contractor’s employees or from a subcontractor or principals of the subcontractor on behalf of (i)

an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor,

Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

DUTY TO INFORM

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

PENALTIES FOR VIOLATIONS

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties—Up to $2,000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of up to $2,000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or not more than $5,000 in fines, or both.

CONTRACT CONSEQUENCES

In the case of a state contractor, contributions made or solicited in violation of the above prohibitions may resulting the contract being voided.

In the case of a prospective state contractor, contributions made or solicited in violation of the above prohibitions shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State shall not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.
DEFINITIONS

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has managerial or discretionary responsibilities with respect to a state contract, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination of series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan, a loan to an individual for other than commercial purposes or any agreement or contract between the state or any state agency and the United States Department of the Navy or the United States Department of Defense.
“State contract solicitation” means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

“Managerial or discretionary responsibilities with respect to a state contract” means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

“Dependent child” means a child residing in an individual’s household who may legally be claimed as a dependent on the federal income tax of such individual.

“Solicit” means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

“Subcontractor” means any person, business entity or nonprofit organization that contracts to perform part or all of the obligations of a state contractor’s state contract. Such person, business entity or nonprofit organization shall be deemed to be a subcontractor until December thirty first of the year in which the subcontract terminates. “Subcontractor” does not include (i) a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or (ii) an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person’s capacity as a state or quasi-public agency employee.

“Principal of a subcontractor” means (i) any individual who is a member of the board of directors of, or has an ownership interest of five percent or more in, a subcontractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a subcontractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a subcontractor, which is not a business entity, or if a subcontractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any subcontractor who has managerial or discretionary responsibilities with respect to a subcontract with a state contractor, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the subcontractor.
REQUIRED SUPPORTING DOCUMENTATION THAT MUST ACCOMPANY ALL STATE CONTRACTS

(1) **Contractor Signing Authority:** The individual signing a contract on behalf of a contractor must provide documentation to show that s/he has been duly authorized by the company to execute the contract. **Unless the contractor is a solely-owned entity, the signing authority must be executed by an officer other than the contract signatory.** The contractor’s signing authority documentation must indicate when such authority was granted and state that signing authority was in full force and effect on the date their signatory executed the contract. Signing authority must have been granted by the governing body of the contractor prior to contract execution and their resolution or certification must be executed on or shortly after contract execution date. Sample forms are located at:

http://www.attorneygeneral.uconn.edu/contracts.html#CorpRes

(2) **CHRO Nondiscrimination Certification:** A Nondiscrimination Certification must be provided by all University contractors for all contracts/agreements with individuals, corporations and/or other entities, regardless of type, term, cost or value. A Certification is required for all original contracts/agreements, as well any subsequent amendments. Nondiscrimination Certifications must be signed prior to or simultaneous with the contract execution date by a contractor’s authorized official and not necessarily the contract signatory.

The Nondiscrimination Certification forms may be found at:


**EXEMPTIONS** - Pursuant to Public Act No. 09-158, Section 1(a)(5)(d), the entities listed below are exempt and, therefore, not required to submit a nondiscrimination certification form when entering into a contract with the State:

1. political subdivisions of the State of Connecticut, including, but not limited to municipalities;
2. quasi-public agencies, as defined in C.G.S. § 1-120;
3. other states of the United States, including, but not limited to, the District of Columbia, Puerto Rico, U.S. territories and possessions, and federally recognized Indian tribal governments, as defined in C.G.S. § 1-267;
4. the federal government;
5. foreign governments; and
6. an agency of a subdivision, agency, state or government listed in items 1-5.

(3) OPM Ethics Affidavits: For all contracts with a “Value*” of $50,000 or more in a calendar or fiscal year, the University must also obtain the following affidavits for all University contracts: [Note: *Value of the contract means the dollar amount (or equivalent benefit) expended or received by the State in accordance with the contract.]

   a. ETHICS FORM 1 — a Contractor-executed and notarized Gift and Campaign Contribution Certification (Office of Policy and Management “OPM” Form 1*) [*Form 1 is also used with a multi-year contract to update the initial certification on an annual basis];

   b. ETHICS FORM 3 — a University-executed Certification of State Agency Official or Employee Authorized to Execute Contract (OPM Form 3) for all contracts/agreements with a value of $50,000 or more in a calendar or fiscal year;

   c. ETHICS FORM 5 — a Contractor-executed Consulting Agreement Affidavit (OPM Form 5) is normally provided with a bid or proposal; however, if it is a sole source or no-bid contract, it is submitted at the time of contract execution; and

   d. ETHICS FORM 6 — a Contractor-executed Affirmation of Receipt of State Ethics Laws Summary must accompany any large State construction or procurement contracts with a “COST” (expenditure or equivalent benefit) of more than $500,000. When applicable, Form 6 is also used by a subcontractor or consultant of the contractor. The subcontractor or consultant submits the form to the contractor, who then submits it to the awarding State agency.

   e. ETHICS FORM 7 — a Contractor-executed Iran Investment Certification must accompany any large state contract over $500,000.00 with entities outside the United States and United States subsidiaries of foreign entities.

Execution of Ethics Affidavits: Pursuant to Conn. Gen. Stat. § 4-252(c)(1), all ethics affidavits must be executed by an official duly authorized to execute the contract/agreement on behalf of the Contractor and must be signed simultaneous with contract execution.

Ethics Affidavits, Certifications and further definitions, samples and information may be found at: http://www.ct.gov/opm/cwp/view.asp?a=2982&q=386038&opmNav_GID=1806
EXEMPTIONS: Ethics Affidavits and certifications are **NOT** required for grants or loans, as such awards are not: (1) large state contracts, as defined by Connecticut General Statutes § 4-250; (2) State Contracts, as defined by Executive Order 7C, Paragraph 2(f); or (3) contracts for the purchase of goods and services, as used in Connecticut General Statutes § 4-81.

Affidavits are also **NOT** required for contracts between a state agency or a quasi-public state agency and a political subdivision of the State.
SCHEDULE 5.02
MILESTONE SCHEDULE

Schematic Design Completion by September 1, 2014
Design Development Completion by December 31, 2014
Construction Documents Completion by May 31, 2015
Construction Commencement by June 30, 2015
Foundations Completion by December 31, 2015
Building Enclosure Complete by September 31, 2015
Substantial Completion by June 30, 2017
SCHEDULE 7.01.A.
PHASE III RETAIL SPACE PROHIBITED USES

No portion of the Phase III Retail Space may be used or occupied for:

1. colleges, universities schools of any nature (including, without limitation any trade or occupational school or any other operation serving primarily students or trainees rather than retail customers);

2. any movie theater, bowling alley, dance hall, discotheque or social club;

3. any church, synagogue or other religious facility;

4. any gasoline or service station, automotive service or repair business;

5. any facility for the sale, lease or rental of automobiles, trucks, motorcycles, recreational vehicles, boats or other vehicles;

6. any manufacturing facility;

7. any dry cleaner (except that a drop off/pick up only type of facility shall be allowed);

8. any retail operation which sells or distributes firearms or explosive devices;

9. any “second hand” store, used clothing or thrift store, pawn shop, salvation army type store, “surplus” store or liquidation outlet;

10. any facility that sells or displays any material that is obscene, pornographic or similarly sexually explicit;

11. any mortuary or funeral parlor;

12. any coin operated laundry;

13. any children’s recreational, educational or day-care facility;

14. any massage parlor or nail salon

15. any “head” shop, tattoo or piercing parlor or any check cashing or similar operation;

16. any off-track betting, casino or other type of gambling operation or sports facility in which gambling is allowed;

17. any dispensary or drug treatment facility; or
18. any use involving the use, storage, disposal or handling of hazardous materials or underground storage tanks.
SCHEDULE 7.01.B.
PHASE III RETAIL SPACE APPROVED USES

A. Restaurants /Food Service (all types, except nightclubs)

B. Retail

1. Soft goods
2. Electronics/phones/computers/audio/music
3. Fitness (service)
4. Health & Beauty/Pharmacy
5. Home furnishings and accessories
6. Convenience grocery
7. Drop Off/Pick Up Dry Cleaning
8. UConn bookstore
9. Hobbies/toys/games
10. Health & Beauty services (spa, hair salon, barber, etc.)(but excluding standalone nail salons)
11. Jewelry/fashion accessories
12. Sporting goods
13. Musical instruments
14. Office and art supplies

C. Office/Commercial

1. UConn Health Medical Office
2. Finance, insurance, real estate
3. Banking services
4. Test Preparation Center/Provider (i.e., SAT, GRE, LSAT and MCAT)
SCHEDULE 13.01
INSURANCE

§ 13.1 DEVELOPER'S LIABILITY INSURANCE

§ 13.1.1 The Developer shall demonstrate and provide evidence of insurance in an industry accepted certificate of insurance and maintain with a company or companies lawfully authorized to do business in the jurisdiction in which the Campus Project is located such insurance as will protect the Developer from claims set forth below which may arise out of or result from the Developer’s operations and completed operations under this Agreement and for which the Developer may be legally liable, whether such operations be by the Developer or by Construction Manager or any Prime Construction Contractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

.1 Claims under workers’ compensation, disability benefit and other similar employee benefit acts that are applicable to the Campus Project Improvements Work to be performed;

.2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Developer’s employees;

.3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Developer’s employees;

.4 Claims for damages insured by usual personal injury liability coverage;

.5 Claims for damages, other than to the Campus Project Improvements Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;

.6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;

.7 Claims for bodily injury or property damage arising out of completed operations; and

.8 Claims involving contractual liability applicable to the Developer’s obligations under Section 17.01.

§ 13.1.2 The insurance required by Section 13.1.1 of this Schedule 13.01 shall be written for not less than limits of liability specified in the Campus Project Construction Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Campus Project Improvements Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Developer’s completed operations coverage, until the expiration of the period for correction of Campus Project Improvements Work or for such other period for maintenance of completed operations coverage as specified in the Campus Project Construction Documents.

.1 Campus Project Improvements Worker’s Compensation Insurance: Campus Project Improvements Worker’s Compensation Insurance in Statutory Limits of the Campus Project Improvements Worker’s Compensation Laws of the State of Connecticut, and other extensions, with Coverage B – Employer’s Liability of not less than limits of $1,000,000 – Each Accident, $1,000,000 – Policy Limit and
$1,000,000 – Each Employee. Coverage under the Broad Form All State extension shall also be included.

2 **Commercial General Liability Insurance:** $1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall include Premises and Operations, Independent Developers, Products and Completed Operations, Contractual Liability and Broad Form Property Damage coverage. If a general aggregate is used, the general aggregate limit shall apply separately to the project or the general aggregate limit shall be twice the occurrence limit. The coverage shall contain no special limitations on the scope of protection afforded to the State. Said policy shall also state that it is primary insurance, and that the University, the State of Connecticut, the Authority, the Developer, and such other persons or interests as the University may designate as additional insured in connection with the performance of the Campus Project Improvements Work, including hazards of operations (including explosion, collapse and underground coverage), elevators, independent contractors, employees as additional insured, completed operations for a period of three (3) years after final completion of the Campus Project Improvements Work.

3 **Automobile Liability Insurance:** Automobile Liability Insurance covering all owned, non-owned and hired automobiles, trucks and trailers of the respective parties required to provide and maintain this insurance. Such insurance shall provide coverage not less than that of the Standard Comprehensive Automobile Liability policy in limits not less than, as respects Developer, Construction Manager, any Prime Construction Contractors and all tiers of subcontractors, $1,000,000 Combined Single Limit each occurrence for Bodily Injury and Property Damage.

4 **Umbrella Liability Insurance:** Umbrella liability (following form) in the amount of $10,000,000 per occurrence.

5 **Aircraft Liability:** If aircraft of any kind is used by the Developer, Construction Manager, any Prime Construction Contractors, any tier of subcontractor or by anyone else on their behalf, the Developer, the Construction Manager, any such Prime Construction Contractor or subcontractor shall maintain or cause the operator of the aircraft to maintain aircraft public liability insurance insuring passengers and the general public against personal injury, bodily injury or property damage arising from aircraft owned, used, operated or hired in connection with the Campus Project Improvements Work by the Developer, the Construction Manager, any Prime Construction Contractor, any subcontractor or anyone else in limits of $50,000,000 Combined Single Limit for any one occurrence, each aircraft.

6 **Developer’s Pollution Liability:** If the Campus Project Improvements Work of this project includes the abatement, removal, cleanup or handling of any asbestos, PCB’s, lead based paint, or other pollutants or hazardous materials, then the Developer shall also provide evidence that Pollution Liability Insurance, including completed operations and Contractual Liability coverage of not less than limits of $5,000,000 has been procured and in force on the project. However, if the Developer demonstrates that coverage for claims arising out of the abatement, removal, cleanup or other handling of asbestos, PCB’s, lead based paint, or other pollutants or hazardous materials is covered by the Developer’s general liability insurance, a separate Developer’s Pollution Liability Policy will not be required.
.7 **Builder’s Risk:** The Developer shall purchase and maintain Builder’s Risk Insurance, ISO CP 30 10 00 special form, in the amount of the initial contract amount plus values of subsequent modifications or change orders on a replacement cost basis. The Builder’s Risk coverage shall be written on a Special Covered Cause of Loss form and shall include theft, vandalism, malicious mischief, collapse, temporary buildings, transit, debris removal, increased cost of construction, architect fees and expenses, soft costs, flood and earthquake. Builder’s Risk shall include portions of Campus Project Improvements Work located away from site but intended for use at the site. Developer shall obtain consent of the insurance company and delete any provisions with regard to restrictions within any occupancy clause. Equipment break down coverage shall be included and shall cover insured equipment during installation and testing.

.8 It is agreed that the University, the State of Connecticut, the Authority and their officers, officials, agents, employees, boards and commissions shall be additional named insureds under the coverages described in Clauses 13.1.2.2; 13.1.2.3; 13.1.2.4; 13.1.2.5; 13.1.2.6; 13.1.2.7 and that said coverage(s) is provided for all operations, uses, occupations, acts and activities of the insureds under the Campus Project Construction Documents and under any amendments, modifications, extensions or renewals of said Campus Project Construction Documents regardless of whether liability is attributable to the named insureds or a combination of the named insureds and the additional named insureds.

.9 If the Construction Manager is a joint venture, the joint venture and each individual partner of the joint venture must be designated in each policy as named insureds.

.10 A Certificate of Insurance shall clearly indicate the Project name, Project number or some easily identifiable reference to the relationship to the University.

.11 Each liability policy shall contain a Cross Liability Endorsement.

.12 Coverage, written on an occurrence basis, shall be maintained without interruption from date of commencement of the Campus Project Improvements Work until date of final payment and termination of any coverage required to be maintained after final payment.

.13 All insurance secured by Developer, the Construction Manager, any Prime Construction Contractor or subcontractor pursuant to the University’s requirements under the provisions of this Section 13.1.2 shall be in policies subject to the University’s approval, as to form, content, limits of liability, cost and issuing companies. Such companies shall have and maintain an A.M. Best rating of not less than A-(VII), or otherwise acceptable to University.

.14 If the Developer, the Construction Manager, any Prime Construction Contractor or subcontractor maintains insurance against physical loss or damage to Developer’s construction equipment and tools, such insurance shall include an insurer’s waiver of rights of subrogation in favor of University.

§ 13.1.3 Certificates of insurance acceptable to the University shall be filed with the University prior to commencement of the Campus Project Improvements Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 13.1 shall contain a provision that coverages afforded under the policies will not be canceled, terminated or materially changed, altered or allowed to expire until at least

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Schedule 13.01
thirty (30) days’ prior written notice has been given to the University. If any of the foregoing
insurance coverages are required to remain in force after final payment and are reasonably
available, an additional certificate evidencing continuation of liability coverage, including
coverage for completed operations, shall be submitted with the final Application for Payment as
required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the
expiration of the time required by Section 13.1.2. Information concerning reduction of coverage
on account of revised limits or claims paid under the General Aggregate, or both, shall be
furnished by the Developer with reasonable promptness in accordance with the Developer’s
information and belief and shall identify on their faces the project name and contract number to
which they apply. The Certificate(s) of Insurance must also provide clear evidence that the
Developer’s Insurance Policies contain at least the minimum limits of coverage and special
provisions prescribed in this Schedule 13.01.

§ 13.1.4 The Developer shall cause the commercial liability coverage required by the Campus
Project Construction Documents to include (1) the University, the State of Connecticut and the
Authority and their officers, officials, agents, employees, boards and commissions; the Architect;
the Architect’s consultants and the Other Consultants, if any, as additional insureds for claims
caused in whole or in part by the Developer’s negligent acts or omissions during the Developer’s
operations; and (2) the University, the State of Connecticut, the Authority and their officers,
officials, agents, employees, boards and commissions as additional insureds for claims caused in
whole or in part by the Developer’s negligent acts or omissions during the Developer’s
completed operations.

§ 13.2 UNIVERSITY’S LIABILITY INSURANCE

NOT USED.

§ 13.3 PROPERTY INSURANCE

§ 13.3.1 Property insurance on an all-risk basis, including coverage for the perils of earthquakes
and floods, has been purchased by the University. Insurance required by Section 13.3 of this
Schedule 13.01 is not intended to cover machinery, tools and equipment of the Developer, the
Construction Manager, any Prime Construction Contractor or subcontractor which is used in the
performance of the Campus Project Improvements Work, but is not incorporated into the
permanent improvements, nor any materials and equipment paid for by the University and stored
off-site, for which the Developer, the Construction Manager, any Prime Construction Contractor
or subcontractor shall procure property insurance satisfactory to the University. The Developer,
the Construction Manager, any Prime Construction Contractor or subcontractor shall, at its own
expense, provide coverage for its machinery, tools and equipment subject to these provisions.
Notwithstanding any provision of this Section 13.3.1 to the contrary, Builder’s Risk insurance
shall be maintained by Developer at all times prior to Final Completion and the Fee Conveyance.

§ 13.3.1.1 NOT USED.

§ 13.3.1.2 If the University does not intend to purchase such property insurance required by the
Contract and with all of the coverages in the amount described above, the University shall so
inform the Developer in writing prior to commencement of the Campus Project Improvements Work. The Developer may then procure and maintain insurance that will protect the interests of the Developer, the Construction Manager, any Prime Construction Contractor or subcontractor in the Campus Project Improvements Work, and by appropriate Change Order the cost thereof shall be charged to the University. If the Developer, the Construction Manager, any Prime Construction Contractor or subcontractor is damaged by the failure or neglect of the University to purchase or maintain insurance as described above, without so notifying the Developer in writing, then the University shall bear all reasonable costs properly attributable thereto.

§ 13.3.1.3 If the University’s property insurance requires deductibles, the Developer, the Construction Manager, any Prime Construction Contractor or subcontractor shall pay costs not covered because of such deductibles.

§ 13.3.1.4 NOT USED.

§ 13.3.1.5 Partial occupancy or use following Substantial Completion shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The University and the Developer shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ 13.3.2 BOILER AND MACHINERY INSURANCE

The University shall purchase and maintain boiler and machinery insurance required by the Campus Project Construction Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the University; this insurance shall include interests of the University, Developer, in the Campus Project Improvements Work, and the University and Developer shall be named insureds.

§ 13.3.3 NOT USED.

§ 13.3.4 NOT USED.

§ 13.3.5 NOT USED.

§ 13.3.6 NOT USED.

§ 13.3.7 WAIVERS OF SUBROGATION

The University and Developer waive all rights of subrogation against (1) each other and any of their subcontractors of all tiers, agents and employees, each of the other, and (2) the Architect, Architect’s consultants, the Other Consultants, if any, and any of their subcontractors of all tiers, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section 13.3, the boiler and machinery insurance maintained by the University or other property insurance applicable to the Campus Project
Improvements Work, except such rights as they have to proceeds of such insurance held by the University as fiduciary. The University or Developer, as appropriate, shall require of the Architect, Architect’s consultants, Other Consultants, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ 13.3.8 A loss insured under the University’s property insurance shall be adjusted by the University as fiduciary and made payable to the University as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 13.3.10. The Developer shall pay subcontractors their just shares of insurance proceeds received by the Developer, and by appropriate agreements, written where legally required for validity, shall require subcontractors to make payments to their subcontractors in similar manner.

§ 13.3.9 If required in writing by a party in interest, the University as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the University’s duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The University shall deposit in a separate account proceeds so received, which the University shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Contract between the University and Developer. If after such loss no other special agreement is made and unless the University terminates this Agreement for convenience, replacement of damaged property shall be performed by the Developer after notification of a Change in the Campus Project Improvements Work in accordance with Section 7.09 of this Agreement.

§ 13.3.10 The University as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five (5) days after occurrence of loss to the University’s exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the University and Developer as the method of binding dispute resolution in this Agreement. If the University and Developer have selected arbitration as the method of binding dispute resolution, the University as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.