EXECUTION DOCUMENT

PHASE III DEVELOPMENT AGREEMENT

This PHASE III DEVELOPMENT AGREEMENT (this “Agreement”) is made and entered into as of the 3rd day of June, 2014, by and among HBN FRONT STREET DISTRICT, INC., a Connecticut corporation (“Developer”), THE UNIVERSITY OF CONNECTICUT (the “University”), the CAPITAL REGION DEVELOPMENT AUTHORITY (formerly known as the Capital City Economic Development Authority), a body corporate and public constituting a public instrumentality and political subdivision of the State of Connecticut (the “Authority”), and the STATE OF CONNECTICUT, acting by and through the Secretary of the Office of Policy and Management (the “State”).

RECITALS

WHEREAS, Developer has been designated and acts as the private developer of the E/R/R District (as defined below) pursuant to that certain Second Amended and Restated Development Agreement, dated as of June 19, 2008, by and among Developer, 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 the date hereof (the “Existing Agreement”), which also sets forth the respective roles, responsibilities and obligations of the Developer, the Authority and the State in the development of the E/R/R District; and

WHEREAS, the Existing Agreement contemplates a Phase I consisting of retail and entertainment uses, a Phase II consisting of residential, retail and entertainment uses and a Phase III and Phase IV to consist of such retail and other uses as may be agreed upon among the Developer, the Authority and the State; and

WHEREAS, Developer, 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 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 contemplated retail and other uses relating thereto (the “Campus Project”) and any associated public improvements shall constitute Phase III; and

WHEREAS, Developer, the Authority and the State wish to set forth their agreement as to the terms and conditions for the construction and development of the Campus Project and to join the University as a party thereto to the extent, and solely to the extent, set forth in this Agreement;

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:

“Actual Enrollment” is defined in Section 5.01(b)(iii).

“Adriaen’s Landing” means the mixed-use development proposed for the Adriaen’s Landing Site as generally described in the Master Development Plan.

“Adriaen’s Landing Site” means the area of land adjacent to Interstate 91 in Hartford, Connecticut designated in the Master Development Plan as the site for Adriaen’s Landing.

“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.

“Agreement” means this Phase III 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 Existing Agreement, this Agreement or the Operative Agreements 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 Private Development District 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 Operative Agreements 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.

"Architect" means a qualified architectural firm with current design experience for major projects of comparable scope to the Campus Project as may be selected by Developer and acceptable to the University and the Authority, as architect for the Campus Project. The Authority and the University agree that Robert A.M. Stern Architects is a qualified architectural firm for the Campus Project acceptable to the State Parties and the University.

"As-Built Survey" means a survey prepared following Substantial Completion 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" means the Capital Region Development Authority, and its successors and permitted assigns.

"Authority Legislation" means Chapter 588x of the General Statutes, as amended.

"Bankruptcy Code" means the federal Bankruptcy Code of 1978, as amended, and the rules and regulations promulgated thereunder.

"Benchmark Enrollment" is defined in Section 5.01(b)(iii).

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

"Campus" is defined in the Recitals hereto.

"Campus Development Agreement" means that certain turnkey development agreement to be executed by and between Developer and the University with respect to the development
and construction of the Campus Project by Developer and transfer of title of the Campus Project by Developer to the University.

"Campus Project" is defined in the Recitals hereto.

"Campus Project Plans" is defined in Section 6.08(c).

"CEPA" means the Connecticut Environmental Policy Act.

"Change in Control" is defined in Section 13.01(a)(vi).

"City" means the City of Hartford, Connecticut.


"Combined Projects" is defined in the Existing Agreement.

"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 Consultant" is defined in the Existing Agreement.

"Construction Manager" means a 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 Authority and the University, as construction manager for the Campus Project. The University and the Authority acknowledge that Whiting Turner Construction Company is an acceptable construction manager for purposes of the construction of the Campus Project.

"Contract Compliance Officer" is defined in Section 4.05.

"Convention Center" means the Connecticut Convention Center, developed pursuant to the Implementing Legislation and located at 100 Columbus Boulevard in the City.

"Convention Center Garages" means the completed public parking garages owned and operated by the Authority and located beneath, and in the parking structure (including exposed surface parking) to the south of, the Connecticut Convention Center.

"Declaration" is defined in Section 8.05.
“DEEP” means the Department of Energy and Environmental Protection of the State of Connecticut (formerly known as the Department of Environmental Protection).

“Design Development Documents” is defined in Section 6.08(b).

“Developer” means HBN Front Street District, Inc., a Connecticut corporation.

“Developer Affiliate” is defined in Section 6.02.

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

“Effective Date” is defined in Section 2.01.

“EIE/EIS” means the combined environmental impact evaluation and environmental impact statement with respect to Adriaen’s Landing prepared in accordance with CEPA and NEPA, respectively, copies of which have been provided to Developer and the University.

“ELUR” is defined in Section 8.09.

“Enrollment Deficiency” means the occurrence of any of the events set forth in subsections (y) or (z) of Section 5.01(b)(iii).

“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 E/R/R District that may require 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 Covenant” is defined in Section 8.08.

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.

“Environmental Remediation” is defined in Section 5.02.

“E/R/R District” is defined in the Existing Agreement.

“Executive Director” means the executive director of the Authority, or his designee.

“Existing Concept Plan” means the “Concept Plan” as such term is defined in the Existing Agreement.

“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).

“Fee Conveyance” is defined in Section 5.01.

“Fee Conveyance Closing” is defined in Section 9.01.

“FOIA” is defined in Section 16.06.

“Garage Operator” is defined in the Existing Agreement.

“Garage Rules and Regulations” is defined in the Existing Agreement.

“Garages” means the North Garage, the South Garage, the Convention Center Garages and the Science Center Garages.

“General Assembly” means the General Assembly of the State of Connecticut.


“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 (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 and operation of any property, facility, structure or improvement forming part of the E/R/R District, all after giving effect to the Implementing Legislation.

“Ground Lease” means the ground lease of the Phase III Lot from the State or the Authority, as lessor, to Phase III Developer Affiliate, as lessee, in substantially the form of Exhibit A attached hereto.

“Hartford Campus District” is defined in Section 5.01(b)(iii).


“Independent Auditor” means the independent auditing firm engaged by the University at its cost and expense and which may be designated by the Secretary to review and report on the expenditure of public funds, if any, by the State Parties in connection with the Campus Project in accordance with Section 32-655a(2) of the General Statutes.

“Independent Oversight Consultant” means the consultant engaged by the University at its cost and expense and which may be designated by the Secretary to review and report on RAP compliance in connection with the Campus Project, including detailed plans for DEEP Commissioner’s approval that show how the component parcel is meeting the RSRs in accordance with Section 32-655a(8) of the General Statutes.

“Jobs Initiative” is defined in Section 4.02(b).

“Leasehold Mortgage” is defined in Section 6.03.

“Legislative Findings” means the legislative findings set forth in the Implementing Legislation.

“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.

"Master Development Plan" means the Master Development Plan filed by the Governor with the General Assembly on March 3, 2000, as the same may be modified by the Secretary pursuant to Section 35 of Public Act 00-140, to the extent relating to the E/R/R District.

"Material Developer Default" is defined in Section 14.06(b).

"Material State Default" is defined in Section 14.06(b).

"Material University Default" is defined in Section 14.06(b).

"Milestone Schedule" is defined in Section 6.05.

"NEPA" means the National Environment Policy Act.

"North Garage" is defined in the Existing Agreement.

"Operative Agreements" means this Agreement, the Declaration, the Ground Lease, the ELUR, the Campus Development Agreement, the Parking Agreement and each other document, agreement or instrument between Developer, a Developer Affiliate, either or both of the State Parties or the University that is contemplated by, or is entered into to give effect to the covenants and agreements of the State Parties, Developer or the University under, this Agreement or any of the other Operative Agreements, together with any exhibits and schedules thereto, and amendments and modifications thereof.

"OPM" means the Office of Policy and Management of the State of Connecticut established by Section 4-65a of the General Statutes or any successor body exercising similar powers and duties.

"Option" is defined in Section 5.01(b)(iii).

"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 surety company with an A.M. Best Company Rating of A- or better, which is reasonably 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.

"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 surety company with an A.M. Best Company Rating of A- or better, 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 Changes" means changes in the Plans and change orders to the Plans that are 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 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; (d) involve minor changes that are not inconsistent with the intent of the Existing Concept Plan, the Phase III Concept Plan, the functionality of the particular building or structure, or its relationship to or integration with other buildings or structures; or (e) are approved in writing by Developer, the University and, if such changes materially amend the Phase III Concept Plan or violate the Implementing Legislation, 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 reputable company acceptable to the State Parties and the University are deposited in escrow with an escrow agent acceptable to 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 State Parties and the University created pursuant to the Operative Agreements; (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 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.

"Permitted University Completion Rights" means the right of the University to complete or cause the completion of the Campus Project pursuant to the exercise of its rights and remedies under this Agreement, the Campus Development Agreement, the Phase III Security Documents, the Payment Bond, the Performance Bond and Applicable Law.

"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 I” is defined in the Existing Agreement.

“Phase I Lot” is defined in the Existing Agreement.

“Phase II” is defined in the Existing Agreement.

“Phase II Lot” is defined in the Existing Agreement.

“Phase III” means the development and construction to Substantial Completion of the Campus Project and the Phase III Public Improvements on the Phase III Lot as contemplated by this Agreement and the Campus Development Agreement.

“Phase III Construction Commencement Deadline” is defined in Section 6.05(b).

“Phase III Concept Plan” is defined in Section 6.06.

“Phase III Developer Affiliate” means FSD University, LLC.

“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 Parking” is defined in Section 7.01(a).

“Phase III Parking Agreement” is defined in Section 7.01(b).

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

“Phase III Public Improvements Plans” is defined in Section 6.08.

“Phase III Retail Space” means commercial and retail space within the Campus Project, 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 in accordance with the terms and conditions of the Campus Development Agreement. 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 Security Documents” is defined in Section 6.02.

“Phase III State Parties Funding” means public funding, if any, provided by the State
Parties for construction and development of the Campus Project or any Phase III Public Improvements under this Agreement. Phase III State Parties Funding" shall not include any public funding provided the University.

"Phase III Takedown" means the transfer by the State or 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 Section 8.07.

"Phase III Takedown Conditions" means the conditions to the Phase III Takedown obligations of Developer, the State Parties and the University set forth in Section 8.02.

"Phase III Takedown Date" means the date of the Phase III Takedown Closing.

"Phase IV" is defined in the Existing Agreement.

"Plans" means the Campus Project Plans and the Phase III Public Improvement Plans.

"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.

"Private Component Plans" is defined in the Existing Agreement.

"Private Components" is defined in the Existing Agreement.


"Private Development Parcels" is defined in the Existing Agreement.

"Project Comptroller" means the member of the University’s senior staff then designated by the Secretary to serve as and perform the duties, if any, of “project comptroller” in accordance with Section 32-655a(l)(A) of the General Statutes with respect to 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.

"Project Documents" means all books, records, plans and specifications, surveys, test
results, drawings, renderings, schematics, models, schedules, budgets, cost estimates, invoices, data, reports, assessments, studies, contracts and agreements, and other materials, documents and information, including all such materials, documents and information in electronic form, (i) relating to the condition of the E/R/R District or the design, development, construction, cost or funding of the Campus Project, (ii) relating to any cost allocation between the parties or the incurrence, payment or calculation of reimbursable expenses or otherwise necessary for proper financial management in accordance with Article X, or (iii) relating to Developer to the extent such information is necessary for purposes of any required review, consent or approval of the State Parties pursuant to this Agreement or any oversight responsibilities under Articles III, IV or X, or in order to determine compliance by Developer with its commitments and obligations under this Agreement.

"Project Schedule" is defined in Section 6.05(a).

"Proprietary Information" means any and all information furnished by Developer, any Developer Affiliate, or any of their Representatives, 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 State Parties or their Representatives 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 State Parties, the University or their Representatives; 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 State Parties or their Representatives, or (iii) becomes available on a nonconfidential basis from a person other than the State Parties, the University or their Representatives who are not otherwise bound by a confidentiality agreement with the State Parties, the University, Developer, a Developer Affiliate or their respective Representatives, or is otherwise not under an obligation to Developer, a Developer Affiliate or their respective Representatives 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 Components" means the North Garage, the South Garage and the Public Infrastructure.

"Public Infrastructure" means the streets, lighting, plazas, sidewalks, public vias, surface parking, landscaping and other public amenities constructed or to be constructed on or adjacent to (i) a Private Development Parcel under the Existing Agreement, or (ii) the Phase III Lot in
accordance with Plans approved as contemplated by this Agreement, other than the North Garage and the South Garage.

“RAP” means that certain Remediation Action Plan, Adriaen’s Landing, Hartford, Connecticut, prepared by Haley & Aldrich, Inc. and GZA GeoEnvironmental, Inc. File No. 91268-523 December 2000 as approved by DEEP in a letter dated March 9, 2001, and as modified by letter from the Authority to DEEP dated September 26, 2003, as approved by DEEP, a copy of which has been provided to Developer and the University.

“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.

“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.

“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.

“Representatives” 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.

“Rolling Three Year Average Enrollment” is defined in Section 5.01(b)(iii).

“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 6.08(a).
“Science Center” means the Connecticut Science Center, developed pursuant to the Implementing Legislation and located at 250 Columbus Boulevard in the City.

“Science Center Garages” means the completed public parking garages owned and operated by the Authority and located beneath the Science Center.

“Secretary” means the Secretary of the Office of Policy and Management of the State of Connecticut.

“Site Assessments” means the environmental, hydrologic, geologic, soil, archaeological and other technical assessments and studies with respect to the E/R/R District listed on attached Schedule 5.02.

“South Garage” is defined in the Existing Agreement.

“State” means the State of Connecticut acting by and through the Secretary of the Office of Policy and Management, and its successors and permitted assigns.

“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” means the Comptroller of the State of Connecticut.

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

“State Default” is defined in Section 14.02(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 15.01(a).

“State Parties” means the State and/or the Authority, as the context requires.

“Substantial Completion,” “Substantially Completed” and similar terms mean, with respect to the Campus Project, substantially completed in accordance with the approved Plans as certified by the Architect, subject to any Permitted 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.

“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 B.

“Takedown Insurance Requirements” are defined in Section 11.03.

“Title Commitment” means a commitment from a title insurance company licensed to conduct business in the State of Connecticut, chosen by the University, to insure the University’s fee or leasehold interest in one or more Private Development Parcels, subject to the encumbrances set forth therein.

“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 (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), environmental conditions (not the result of any action or omission of such party) requiring remediation, changes in any Applicable Law, failure of the State Parties to comply with the deadlines set forth on the Milestone Schedule and Project Schedule for duties of the State Parties, 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 E/R/R District.

“University” means The University of Connecticut.

“University Default” is defined in Section 14.03(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 State Parties shall be entitled to consider matters of public policy, including the Legislative Findings, 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) The State Parties, Developer and the University have participated in the drafting of this Agreement and any ambiguity contained in this Agreement shall not be construed against the State Parties, Developer or the University solely by virtue of the fact that either the State Parties, 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 Cooperation Generally; Good Faith Efforts.

The parties agree to act, consult and cooperate reasonably and in good faith with respect to the rights, duties and obligations of the parties under this Agreement, including, without limitation, the granting of consents and approvals as contemplated hereunder, and the negotiation, preparation and execution of any amendments or modifications to this Agreement as may be necessary or desirable in order to effectuate the purposes and intent of this Agreement; provided, however, that nothing in this Section 2.03 is intended (i) to obligate any party to take any action or grant any consent or approval 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, including any instruments contemplated by Sections 5.04, 6.05(c), 8.05 and 8.06, shall give rise to a right in any party to terminate this Agreement.
Section 2.04  **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.

Section 2.05  **Implementing Legislation.**

Notwithstanding anything to the contrary herein, this Agreement is subject in all respects to the Implementing Legislation, and neither the State, the University nor the Authority shall have any obligation with respect to the development of the Campus Project except in conforming with applicable provisions of the Implementing Legislation.

**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, and (c) as to which nonpayment will not result in the imposition of any Lien prohibited by Section 3.08.
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 to reasonably cooperate with the Project Comptroller, the Independent Auditor, the Construction Consultant, the Independent Oversight Consultant, 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 and (i) to provide the Project Comptroller, the Independent Auditor, the Construction Consultant, the Independent Oversight Consultant, the State Comptroller and the Auditors of Public Accounts with access,
upon reasonable prior notice, to all Project Documents as may reasonably be requested by the Project Comptroller, the Independent Auditor, the Construction Consultant, 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 (ii) to provide the Project Comptroller, the Construction Consultant or the Independent Oversight Consultant 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 Project Comptroller, the Construction Consultant and the Independent Oversight Consultant.

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. Developer and the University shall use commercially reasonable efforts to require the Architect to certify that actual construction of the Campus Project conforms to the State Building Code, the State Fire Safety Code, other Applicable Laws and the approved Plans.

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

(a) Each of Developer and the University shall be owners or joint owners of all Project Documents; provided, that the State Parties shall be entitled to use any 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, nor shall any party release, reproduce, distribute or publish any such 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 Project Documents in the marketing or promotion of the Campus Project or (ii) release, reproduce, distribute, or publish such Project Documents to the Project Director, the Architect, 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 Material Developer Default, the University and, subject to the exercise of Permitted University Completion Rights, 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 Project Documents for the purpose of the development of the Campus Project. The provisions of this Section 3.07 shall survive the termination of this Agreement.

(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 with respect to (i) use of such plans, specifications and other work product solely with respect to development of the E/R/R District, (ii) use of the Architect's name, (iii) payment in full for Architect's services to date, and (iv) limitations on, and/or release of, the Architect's liability for such future use.
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 improvements thereon. 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 cause such Lien to be released or bonded in accordance with the applicable terms and conditions of the Campus Development Agreement.

ARTICLE IV
CONTRACTOR AND EMPLOYMENT SET ASIDES AND PREFERENCES

Section 4.01  Employment Preferences.

Developer acknowledges that, subject to any applicable federal regulation, the Implementing Legislation 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 has been advised by the Authority that a jobs initiative program has been created which will target unemployed and underemployed residents of the City for construction jobs related to the Combined Projects and the Campus Project (the “Jobs Initiative”). The elements of the Jobs Initiative include (i) community outreach to identify suitable unemployed and underemployed City residents, (ii) arrangements for necessary job
skills training for available construction jobs related to the Campus Project, and (iii) ongoing job support services to those hired for Campus Project construction jobs. Developer agrees, directly or through arrangements with the Prime Construction Contractors, to make reasonable good faith efforts to hire and retain qualified job applicants identified, trained and made available through the Jobs Initiative for available construction jobs related to the Campus Project and Phase III Public Improvements. Each time that such job openings are identified or listed, first consideration shall be given to the City residents then identified, trained and available through the Jobs Initiative. The parties acknowledge that the goal of the Jobs Initiative is that thirty percent (30%) of construction jobs with respect to the Combined Projects and the Campus Project be offered to such City residents, but also recognize that the achievement of such hiring goal will be dependent upon the success of the Jobs Initiative in making qualified applicants available to the Prime Construction Contractors at the times that job openings need to be filled in order not to delay the Campus Project. Nothing in this Section 4.02(b) shall require Developer or any Prime Construction Contractor to hire or retain workers that Developer or any such Prime Construction Contractor reasonably believes are not qualified for such available jobs. The employment preference requirements set forth in Sections 4.01 and 4.02 shall operate concurrently, with the effect that job offers to City residents through the Jobs Initiative pursuant to Section 4.02 may be considered in connection with the determination of whether a reasonable effort has been made to hire City residents as required by Section 4.01, and, for purposes of determining compliance with Sections 4.01 and 4.02, efforts made or jobs offered pursuant to such Sections shall be counted notwithstanding the fact that such efforts or job offers may also satisfy other job preference requirements within Applicable Laws or agreements with Governmental Authorities.

Section 4.03 Small Contractor and Minority Business Enterprise Set Asides.

Developer acknowledges that work with respect to the Combined Projects and 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 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 by the State Parties with applicable requirements of Section 4a-60g.

Section 4.04 Prevailing Wage/Project Labor Agreement.

(a) Developer acknowledges that the Implementing Legislation 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
c 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 State Parties
and the University.

Section 4.05 Contract Compliance Monitoring.

Developer acknowledges that subsection (i) of Section 32-656 of the General Statutes
requires the Secretary and the Authority jointly, at their sole cost and expense (which cost and
expense shall be reimbursed by the University), to select and appoint an independent construction
contract compliance officer or agent (the “Contract Compliance Officer”) to monitor compliance
by the Secretary, the Authority and each Prime Construction Contractor with provisions of
Applicable Law, including the Implementing Legislation, and with applicable requirements of
contracts (including Articles III and IV of this Agreement) relating to set-asides for small
contractors and minority business enterprises and required efforts to hire available and qualified
members of minorities and available and qualified residents of the City for construction jobs with
respect to the Campus Project. Pursuant to such subsection, the Contract Compliance Officer is
required to file quarterly reports of findings and recommendations with the Secretary and the
Authority. Developer agrees (a) to cooperate, and to require each Prime Construction Contractor
engaged by Developer to cooperate, with the Contract Compliance Officer, (b) to provide, and to
require each Prime Construction Contractor engaged by Developer to provide, such information
with respect to job recruitment, job offers, employee residence, wage rates, contract awards to
small contractors and minority business enterprises, and other relevant workforce, payroll and
subcontracting records, as may be reasonably requested from time to time by the Contract
Compliance Officer. In the event that any report of such Contract Compliance Officer includes
findings or recommendations to the effect that applicable employee preference or contractor set-
aside requirements are not being complied with in respect of the Campus Project and/or Phase III
Public Improvements, Developer shall promptly prepare and submit to the State Parties and the
University its plan of action to remedy such non-compliance (and/or evidence rebutting the
finding of non-compliance by the Contract Compliance Officer) and, upon approval of and
subject to any reasonable modifications requested by the State Parties, shall promptly and
diligently implement any such plan of action.

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
TRANSFER OF PHASE III LOT FOR DEVELOPMENT: USE RESTRICTIONS: STATE REVERSIONARY RIGHTS

Section 5.01  Site Acquisition; Fee Conveyance; Phase III Retail Space.

(a) Pursuant to the Implementing Legislation, the State or the Authority has acquired legally sufficient interests in the Adriaen's Landing Site to proceed with the development of the E/R/R District pursuant and subject to the Existing Agreement. For purposes of this Agreement and the development of the Campus Project, conveyance of interests in the Phase III Lot by the State Parties to Phase III Developer Affiliate for the construction phase shall be pursuant to the Ground Lease and, following the Substantial Completion, the State Parties and Phase III Developer Affiliate shall convey all of their fee and leasehold interests in the Phase III Lot (with the legal description thereof for such purposes being determined by reference to the As-Built Survey) and the improvements thereon to the University as set forth in the Ground Lease the "Fee Conveyance").

(b) The Fee Conveyance shall be subject to, and any quit claim deed or other instrument of conveyance from the State to the University shall include:

(i) a reverter in favor of the State to take all of the University's fee interest and any improvements, at no charge to the State, in the event the University abandons the Campus Project.

(ii) a reverter in favor of the State to take all of the University’s fee interest and any improvements, at no charge to the State, in the event the University discontinues the use and occupancy of the Campus Project as a facility for undergraduate, graduate and/or post-graduate study and instruction consistent with the University's mission and purpose. Discontinuance shall mean ninety (90) or more consecutive days following Fee Conveyance (excluding any instruction gaps occasioned by scheduling breaks between summer, fall and spring semesters or an event caused by Uncontrollable Circumstances).

(iii) an option in favor of the Secretary (pursuant to the Implementing Legislation)(the "Option") to require the University to re-convey the Phase III Lot fee and any improvements to the State, if the "Actual Enrollment" (as defined below) falls below the "Benchmark Enrollment" (as defined below) in the following circumstances:

(x) The Option will not be exercisable in the first (1st) or second (2nd) year after the opening of the Campus Project.

(y) in the third (3rd) or fourth (4th) year after the opening date of the Campus Project, the Option will be exercisable by the Secretary if the Actual Enrollment is less than the Benchmark Enrollment.
(z) Commencing in the fifth (5th) year after the opening date of the Campus Project, the Option will be exercisable if the Rolling Three Year Average Enrollment (as defined below) is less than the Benchmark Enrollment.

If the Secretary elects to exercise the Option under clauses (y) or (z) above, the Secretary shall provide written notice to the University specifying the effective date of the proposed reconveyance. Upon the reconveyance, the University may be granted a license to use and occupy the Phase III Lot, at its expense, for the remainder of the academic year in which the reconveyance occurs to permit the University to conduct a planned and orderly relocation of the Campus. Notwithstanding any provision of this Section 5.01(b) to the contrary, the Secretary shall not be permitted to exercise the Option as a result of any fire or other casualty occurring on the Phase III Lot or in the event that the University undertakes any repairs, renovations or improvements of the Campus Project (whether necessitated by normal wear and tear, Applicable Law or otherwise) as long as the University commences and diligently proceeds with the restoration, repair, reconstruction and rebuilding thereof following any such casualty and/or complete any such repairs, renovations or improvements in a commercially reasonably manner and time frame. In addition, if the Secretary elects not to exercise the Option following the occurrence of an Enrollment Deficiency, and the University cures such Enrollment Deficiency in a succeeding academic year, then the Secretary shall not be permitted to exercise the Option unless and until the occurrence of a subsequent Enrollment Deficiency.

For purposes of the Option:

(A) The term "Benchmark Enrollment" means 2,304 students and was calculated by using the average of the University Registrar's "Tenth Day Census" data for the 2011, 2012 and 2013 fall semesters at the West Hartford Campus plus the Graduate Learning Center in Hartford and multiplying that average by 80 percent (e.g., 2,880 x 0.8 = 2,304). This calculation is presented in tabular form in Schedule 5.01(b)(iii)(A). The Benchmark Enrollment includes full and part time students and includes students enrolled in degree and non-degree programs and courses.

(B) The term "Actual Enrollment" means students attending classes at the Hartford Campus Project inclusive of any ancillary University classroom space which is located in the "Hartford Campus District" within the City of Hartford. The Actual Enrollment includes full and part time students and includes students enrolled in degree and non-degree programs and courses. It includes all programs and courses regardless of whether such programs or courses were in existence at the time of the execution of this Agreement. Nothing in this section shall limit in any way the University's ability to offer classes or conduct and other activities outside the Hartford Campus District, but only students attending classes within the Hartford Campus District shall be counted in the Actual Enrollment for purposes of the Option.

(C) The term "Rolling Three Year Average Enrollment" means, for each year, the calculation determined by averaging the fall semester Actual Enrollment of such year
with the fall semester Actual Enrollment for the two (2) immediately preceding years.

(D) The term “Hartford Campus District” means the geographical area bounded inside the perimeter defined as follows: beginning at the point at the intersection of Sheldon Street and Main Street and traveling east on Sheldon Street to the point where Sheldon Street intersects with South Prospect Street; then continuing north to the point where South Prospect Street intersects with Arch Street; then traveling east to the point where Arch Street intersects with Columbus Boulevard; then crossing Columbus Boulevard on the same easterly line as if Arch Street extended across Columbus Boulevard to a point located twenty five feet before such line would intersect with the Connecticut Convention Center; then traveling from such point along a line which runs on a parallel course twenty five feet from the southwestern wall of the Connecticut Convention Center to a point located on the southern boundary line of the parcel of land upon which the Connecticut Convention Center is located; then turning and following such southern boundary line to the point where the last course of such southern boundary line would intersect the shoreline of the Connecticut River if such boundary line extended to the Connecticut River; then turning north along the shoreline of the Connecticut River to the point where Talcott Street would intersect the shoreline of the Connecticut River if Talcott Street extended to the Connecticut River; then turning westerly along such line to the point where such line intersects with Talcott Street and then continuing along the same line of Talcott Street to the intersection of Main Street and Talcott Street; and finally continuing south along Main Street to the point of beginning. For purposes of illustration, the boundary of the Hartford Campus District is depicted on Schedule 5.01(b)(D).

Following the opening of the Campus Project, for each fall semester, the University shall supply the Secretary its Registrar’s “Tenth Day Census” within thirty (30) days of its issuance.

(iv) a deed restriction prohibiting the University from conveying the Phase III Lot to any Person other than the State, a Governmental Authority owned or controlled by the University or a finance corporation or similar entity owned or controlled by the University unless approved in writing by the Secretary. Any conveyance permitted under this Section 3.01(b)(iv) shall be, and any other conveyance approved by the Secretary shall be, expressly conditioned on the transferee agreeing to be bound by (i) the foregoing reverter and deed restrictions and (ii) the Option.

(c) The University agrees that following the Fee Conveyance it will lease the Phase III Retail Space to Developer or a Developer Affiliate on the terms and conditions provided in the Campus Development Agreement. Any re-conveyance of the Phase III Lot to the State following the exercise of the Option shall be subject to the terms and conditions of any master lease, space lease or tenant lease or sub-lease relating to the Phase III Retail Space. The State hereby agrees to provide a commercially reasonable non-disturbance agreement with respect to any exercise of its rights under Section 5.01 to any tenant sub-lease the Phase III Retail Space upon the written request of Developer Bill Rock comment, which non-disturbance agreement shall be consistent with the agreements provided to retail tenants leasing space in
Phase I and Phase II of the E/R/R District. The form of the Ground Lease for Phase III is attached hereto and made a part hereof as Exhibit A.

(d) If the University’s Board of Trustees includes on a meeting agenda studies, planning, contracting or discussions regarding either (x) a discontinuance of the Campus Project from its use as a first class, state-of-the-art, higher education academic building as set forth in the Recitals or (y) discontinuance as a facility for undergraduate, graduate and/or post-graduate study and instruction consistent with the University’s mission and purpose as set forth in subsection (b)(ii) above, then the University shall provide to the Secretary a copy of Board of Trustees’ agenda and a copy of the material provided to the Board of Trustees regarding that agenda item. The University shall provide prompt written notice to the Secretary if its Board of Trustees takes any action in furtherance of any discontinuance described in the prior sentence. Such written notice shall be given by the University to OPM in writing within ten (10) calendar days following any such action of the Board of Trustees.

(e) If the Secretary elects to exercise the Option, the Secretary and the University will discuss whether the State may agree to reimburse the University for any private investments made by the University in the Campus Project from sources other than State funding, with no commitments from the State that it will agree to do so.

(f) Following the Phase III Takedown, the provisions of this Section 5.01 shall survive any (i) termination of this Agreement or (ii) breach or default of this Agreement.

Section 5.02 Environmental Remediation.

Developer and the University acknowledge receipt of the Site Assessments, the EIE/EIS and the RAP. The University shall be solely responsible for and shall pay all costs incurred by the State Parties, the University, Developer or any Developer Affiliate in the performance of all environmental investigation, mitigation, containment, removal and monitoring and any other post-remedial activities related to development of the Campus Project and Phase III Public Improvements (e.g. excavation and removal of soil, the placing of piers, footings, foundations, pads, etc.) required by the RAP or otherwise required by DEEP as a result of Existing Environmental Conditions on the Phase III Lot and necessary in order to complete the Campus Project and Phase III Public Improvements in accordance with such plans and designs (the “Environmental Remediation”). The University shall cooperate and work with the Independent Oversight Consultant, who shall review and report on RAP compliance in connection with the Campus Project. The Environmental Remediation shall comply with the RSRs as required by the RAP, including the residential or commercial criteria of the RSRs to the extent applicable to the intended uses with the Campus Project. The University shall not have any environmental investigation, mitigation, containment, removal and monitoring and other post-remedial obligations with respect to Phase I, Phase II or Phase IV.

Section 5.03 Public Infrastructure.

The parties acknowledge and agree that the State has constructed and completed the Public Infrastructure which the State is obligated to construct under the Existing Agreement with
respect to the E/R/R District and that the State shall have no further obligations with respect to
the construction and completion of the Phase III Public Infrastructure.

Section 5.04  **North and South Garages.**

The parties acknowledge and agree that the State has constructed and completed the
North Garage and the South Garage. The parties shall enter into a mutually acceptable reciprocal
easement agreement to address various matters involving the access to, and interrelatedness of,
the North Garage, the South Garage, the Private Components, and the Public Infrastructure and
the Campus Project, and the interface between the North Garage, the South Garage and the
Campus Project, use of public vias, maintenance and shared facilities.

**ARTICLE VI**

**DEVELOPMENT OF CAMPUS PROJECT**

Section 6.01  **Approval of Campus Project as Phase III; Obligation of Developer to
Proceed.**

The State Parties hereby agree that Developer, as the exclusive private developer of the
E/R/R District, subject to the terms and conditions of this Agreement, may proceed with the
development and construction of the Campus Project and the Phase III Public Improvements as
Phase III of the E/R/R District. Developer agrees to commence, proceed with and complete the
development of the Campus Project and the Phase III Public Improvements promptly,
professionally and diligently as required by, and subject to the terms and conditions of, this
Agreement and the Campus Development Agreement.

Section 6.02  **Developer Affiliates.**

In acting hereunder and under the other Operative Agreements, Developer may act through
one or more Affiliates (each, a “Developer Affiliate”), provided that any such Developer
Affiliate (i) is a partnership, corporation or limited liability company duly qualified to transact
business in the State and formed for the limited purpose of developing, owning, leasing,
managing, operating, and/or financing one or more components of the Private Components and
the Campus Project, (ii) has the legal authority to enter into and carry out the transactions to
which it is proposed to be a party, and (iii) expressly assumes for the benefit of the State Parties
and the University all commitments and obligations of Developer under this Agreement
applicable to the proposed activities of such Developer Affiliate, including with respect to
Applicable Laws, Applicable Taxes and State Contracting Requirements under Article III and
with respect to contractor and employee set asides and preferences and prevailing wage
requirements under Article IV and provided further that the Ground Lease shall be entered into
by the Phase III Developer Affiliate as tenant. Notwithstanding that Developer may form and act
through one or more Developer Affiliates, Developer will remain primarily liable for the
performance of all commitments and obligations of Developer under this Agreement, and, in any
case where Developer is acting through a Developer Affiliate, Developer shall cause such
Developer Affiliate to perform, or Developer itself shall perform, each such commitment and obligation.

Section 6.03 Security for Developer Performance. If required by the University, the State Parties acknowledge and agree that Phase III Developer Affiliate shall be permitted (i) to grant to the University a leasehold mortgage with respect to its interests under the Ground Lease (the “Leasehold Mortgage”) and (ii) to collaterally or conditionally assign to the University its rights and interests under its contracts and agreements with the Architect and other design professionals, the Construction Manager, any Prime Construction Contractor or any material supplier of goods, materials or services (collectively, with the Leasehold Mortgage, the “Phase III Security Documents”) to secure Developer’s obligations to the University under the Campus Development Agreement and the other applicable Operative Agreements. The University acknowledges and agrees that it shall not assign any of its rights under the Phase III Security Documents to any Person (other than the State Parties) without the prior written consent of the State Parties.

Section 6.04 [Reserved].

Section 6.05 Project Schedule.

(a) Developer, the University and the State Parties hereby approve the milestone schedule attached hereto as Schedule 6.05, which identifies by date significant milestones in the construction process of Phase III, including, subject to Section 6.05 below, the dates for the commencement and completion of construction (the “Milestone Schedule”). The Milestone Schedule shall be subject to modification from time to time by the prior written agreement of the parties, including as may be necessary as a result of Uncontrollable Circumstances. The Campus Development Agreement shall require Developer to prepare, in consultation with the University, a detailed schedule for the development of Phase III consistent with the Milestone Schedule and this Agreement (the “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, Fee Conveyance and opening. The Project Schedule shall be subject to modification from time to time by agreement of the parties, including as may be necessary as a result of Uncontrollable Circumstances.

(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 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 Operative Agreements, Developer shall commence construction of the Campus Project and Phase III Public Improvements as soon as practicable consistent with the Milestone Schedule and the Project Schedule but in no event later than as provided in the Campus Development Agreement, subject only to delays caused by Uncontrollable Circumstances or State Default or University Default, and will diligently pursue completion of Phase III as soon as practicable consistent with the
completion date set forth in the Campus Development Agreement. Notwithstanding any provision of this Agreement or the Campus Development Agreement to the contrary, and subject only to Uncontrollable Circumstances and State Default, commencement of construction of Phase III shall occur no later than June 30, 2017 (the “Phase III Construction Commencement Deadline”), and Phase III shall be Substantially Completed no later than thirty (30) months following the Phase III Construction Commencement Deadline. In the event that commencement of construction of Phase III has not occurred by the Phase III Construction Commencement Deadline for any reason other than Uncontrollable Circumstances or State Default, the State Parties may terminate this Agreement by written notice to Developer and the University at any time thereafter; provided that if Developer commences construction of Phase III prior to receipt of such notice from the State Parties or the University has commenced and is diligently exercising Permitted University Completion Rights, then such right of the State Parties to terminate this Agreement due to the failure to commence construction of Phase III by the Phase III Construction Commencement Deadline shall be waived, and subject only to Uncontrollable Circumstances and State Default, the University shall, following the exercise of Permitted University Completion Rights, Substantially Complete Phase III no later than eighteen (18) months following the commencement of such Permitted University Cure Rights.

(c) Developer and the State Parties shall jointly 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.

Section 6.06 Phase III Concept Plan.

Developer and the University have completed a concept plan for the development for Phase III of the E/R/R District, which is attached to this Agreement as Schedule 6.06, and which otherwise conforms with any applicable provisions of the Implementing Legislation and the Existing Agreement, the Existing Concept Plan, this Agreement or the Declaration (including any amendments to the Declaration as may be entered into to account for Phase III)(the “Phase III Concept Plan”).

Section 6.07 Approval of Phase III Concept Plan by the State Parties.

The State Parties hereby approve the Phase III Concept Plan. The parties agree that the development and construction of Phase III shall substantially conform to the Phase III Concept Plan. The parties acknowledge and agree that any material modification or amendment of the Phase III Concept Plan shall require the prior approval of the State Parties.

Section 6.08 Approval of Designs, Plans, Etc. by the State Parties.

(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 schematic design documents (the “Schematic Design Documents”) for the Campus Project and the Phase III Public Improvements, consistent with applicable 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 Combined Projects. The Schematic Design Documents shall be submitted for review and comment by the State Parties in accordance with the Milestone Schedule.

(b) Following the receipt of any comments from the State Parties with respect to the Schematic Design Documents as set forth in Section 6.08(a), Developer shall ensure that the Architect, under the direction of the Project Director, and in consultation with the University, shall prepare design development documents (the “Design Development Documents”) for each part of the Campus Project and the Phase III Public Improvements, consistent with applicable 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.

(c) Based upon and consistent with the Design Development Documents, Developer shall ensure that the Architect shall prepare 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 applicable 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.

(d) 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, and all other Applicable Laws.

(e) Notwithstanding any provision of this Section 6.08 to the contrary, the State Parties recognize that the Developer and its Architect, at the direction of the University, may (i) design the Campus Project and the Phase III Public Improvements on a “fast-track” basis wherein the commencement of construction for some or all of the Campus Project and/or the Phase III Public Improvements may occur prior to completion of the entire scope of the Campus Project Plans and the Phase III Public Improvements Plans, respectively, and (ii) the Schematic Design Documents and Design Development Documents for the Campus Project Plans and the Phase III Public Improvements Plans, respectively, may be combined into a single design phase. The State Parties agree to undertake the review and comment procedure set forth in this Section 6.08 in a manner consistent with accommodating the fast-track process.

(f) Within fifteen (15) days following the State Parties’ receipt of the Schematic Design Documents, the Design Development Documents, the Campus Project Plans and/or the Phase III Public Improvements Plans, or any portion thereof, the State Parties shall provide to
the Developer, the University and the Architect in writing any comments which result from the State Parties’ review of the plans; provided, that Developer and the University shall not be obligated to accept or incorporate any of the State Parties’ comments into the plans except to the extent that such comments relate to material deviations from the Phase III Concept Plan or violate the Implementing Legislation, the Declaration or the RCA. In such an event, the written comments shall identify in reasonable detail the manner in which the plans deviate from the Phase III Concept Plan or violate the Implementing Legislation, the Declaration or the RCA and shall include suggested revisions to the plans to address any such deviation or violation. If the State Parties fail to provide written comments within said fifteen (15) day period, the State Parties shall be deemed to have waived their right to provide comments with respect to the plans.

Section 6.09 Financing for Campus Project.

The University shall provide all financing and funding necessary to construct and complete the Campus Project and the Phase III Public Improvements. 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 such financing or funding upon satisfaction by Developer of all terms and conditions of such financing or funding under the Campus Development Agreement. The State Parties and Developer shall have the right to terminate this Agreement upon the failure of the University to provide such financing or funding to the satisfaction of the State Parties or Developer; provided, however, that any right of Developer to terminate this Agreement due to the failure of the University to provide any necessary financing or funding shall be exercised in accordance with the Campus Development Agreement and the State Parties shall not have any right to terminate this Agreement under this Section 6.09 if the University is withholding financing or funding from Developer as long as the University is diligently exercising Permitted University Completion Rights and the University achieves Substantial Completion of Phase III on or before the date set forth in the last sentence of Section 6.05(b).

Section 6.10 Common Area Improvements and Maintenance.

The parties will enter into a mutually acceptable common area maintenance agreement allocating responsibility and providing for a sharing of the costs of maintaining the Public Infrastructure and the Phase III Public Infrastructure (which matters may be included in the Declaration).

ARTICLE VII

PARKING

Section 7.01 Parking and Parking Spaces.

(a) The parties recognize that the proper and successful operation of the Campus Project depends upon the availability of sufficient, convenient and secure parking at competitive cost. The parties acknowledge and agree that the proper and successful operation of the Campus Project shall require nine hundred (900) parking spaces (the “Phase III Parking”). The parties acknowledge and agree that at least eight hundred fifty (850) but not more than eight hundred
fifty five (855) of such parking spaces shall be provided by the Authority pursuant to the Phase III Parking Agreement and the remaining parking spaces shall be provided under the structures comprising the Campus Project. At the same time, the parties acknowledge that the portion of the Phase III Parking to be provided by the Authority under the Phase III Parking Agreement will be provided in parking facilities which may be financed in part by, or which may secure payments due with respect to, tax-exempt governmental bonds, including Parking Revenue Bonds issued on a “self-sustaining” basis, and that such parking facilities will be generally open to the public and must be operated so as to maximize utilization of available parking spaces during all hours of operation.

(b) The parties acknowledge and agree that the Authority and the University have entered into a memorandum of understanding attached hereto as Schedule 7.01 with respect to the Phase III Parking. The parties further acknowledge and agree that the Authority and the University intend to enter into a definitive parking agreement to set forth their mutual agreement as to the terms and conditions upon which the Authority shall provide the Phase III Parking to the University (the “Phase III Parking Agreement”). The Authority will operate and maintain the portion of the Phase III Parking provided by the Authority for the Campus Project in accordance with the Phase III Parking Agreement. The portion of the Phase III Parking provided under the structures comprising the Campus Project shall be operated and managed by the University.

Section 7.02 Management and Operation of Garages; Rules and Regulations.

(a) The Authority shall have exclusive control of the management and operation of the Garages, subject only to the Authority’s covenants and agreements in this Article VII and the Declaration. The Authority shall cause the Garages to be managed and operated by an experienced, third party parking management company (the “Garage Operator”), and shall retain the exclusive right from time to time to engage, terminate and replace the Garage Operator. The Authority shall provide a copy to Developer and the University of any management or similar agreement executed between the Authority and the Garage Operator.

(b) The Authority shall have the right from time to time in consultation with the Garage Operator to promulgate, amend and supplement reasonable rules and regulations (the “Garage Rules and Regulations”) for the proper, safe and efficient operation of the Garages and to enforce the Garage Rules and Regulations in a non-discriminatory manner against users of the Garages. The Garage Rules and Regulations shall not be inconsistent with rights conferred upon Developer pursuant to the terms of this Article VII and shall not be enacted or modified until the Authority consults with and considers in good faith the view of Developer and the University.

Section 7.03 Maintenance of Garages.

The Authority agrees to maintain the Garages in a first class condition and to provide for repairs, cleaning, lighting, security, hours of operation, ticketing and attendant operations and other conditions of use and operation which are customary for first class public parking facilities similar in type and location. The Authority will not suffer any condition to exist with respect to the Garages that is unreasonably dangerous or constitutes a public or private nuisance or which would void any insurance carried by the Authority with respect to the Garages. The Authority
shall have the right, upon thirty (30) days’ advance written notice except in the case of emergency, to temporarily close a portion of the Garages for necessary cleaning, maintenance, repair and/or restoration. No damages, compensation or claim shall be payable by the Authority for inconvenience or loss of business arising from necessary cleaning, maintenance, repair and/or restoration of the Garages, provided that, in such event, the Authority shall use good faith efforts to secure reasonably proximate parking in other Authority-controlled parking garages for any such temporarily displaced parkers.

Section 7.04  Obligation to Restore.

If the South Garage, the North Garage or Public Infrastructure located outside the area leased to Developer is damaged or destroyed by fire or other casualty, the State Parties shall promptly commence the restoration, repair, reconstruction and rebuilding thereof at the “State Parties” sole cost and expense, and shall, in a commercially reasonably manner and in a commercially reasonable time frame, thereafter restore the South Garage, the North Garage and/or such Public Infrastructure, as applicable, unless such restoration is not legally possible. The restored improvements do not have to be similar to the original South Garage, the North Garage and such Public Infrastructure, but must be of a standard comparable with that of such improvements immediately prior to the casualty, and must result in the aggregate number of parking spaces in the South Garage and North Garage not being materially reduced. Notwithstanding the foregoing, in the event of any material damage to or destruction of the South Garage, the North Garage and/or such Public Infrastructure subsequent to the fiftieth (50th) anniversary of Substantial Completion of the Private Components on Phase I, State Parties shall have the right not restore the South Garage, the North Garage and/or such Public Infrastructure.

Section 7.05  Additional Garage Levels.

The State Parties shall retain the right at any point in the future to add additional levels to the South Garage and/or North Garage at their sole cost and expense. If the State Parties elect to add one or more additional levels, they shall provide to Developer and the University prior written notice of such election no less than 180 days before commencement of construction. Construction of the additional levels shall be performed (i) to a standard and with materials of a quality no less than that of the initial construction of the South Garage, (ii) in a professional and diligent manner, and (iii) in a manner designed to minimize, to the extent reasonably practicable, interference with the rights of the University under the Phase III Parking Agreement.

ARTICLE VIII
PHASE III TAKEDOWN AGREEMENTS

Section 8.01  Takedown Agreement.

Developer and the State Parties agree to effectuate the Phase III Takedown as to which the conditions set forth in Section 8.02 are satisfied, subject to the other terms and conditions of this Agreement.
Section 8.02  Takedown Conditions.

(a)  **Developer Takedown Conditions.** Developer’s obligations with respect to the Phase III Takedown are subject to the fulfillment of each of the following conditions, which may be waived in whole or in part by Developer:

(i)  no Material State Default or Material University Default has occurred and is continuing, and the State Parties and the University, as applicable, have delivered to Developer a certification to that effect;

(ii)  the material representations of the State Parties and the University contained herein are materially true and correct as of the Phase III Takedown Date, and the State Parties and the University, as applicable, have delivered to Developer a certificate to that effect;

(iii)  Developer and the University have executed and delivered the Campus Development Agreement; and

(iv)  Developer has received an acceptable Title Commitment with respect to the Phase III Lot.

(b)  **State Takedown Conditions.** The State Parties’ obligations with respect to the Phase III Takedown are subject to the fulfillment of each of the following conditions, which may be waived in whole or in part by the State Parties:

(i)  Developer shall have notified the State Parties of the proposed Phase III Takedown at least fifteen (15) days prior to the projected Phase III Takedown Date;

(ii)  Developer shall have provided the State Parties with a true and correct copy of the executed Campus Development Agreement;

(iii)  Developer has provided to the State Parties a copy of a completed contract with the Construction Manager covering all work necessary to achieve Substantial Completion of the Campus Project and the Phase III Public Improvements to be constructed on the Phase III Lot, and, to the extent then available as a result of the use of a “fast-track” design process as set forth in Section 6.08(e), evidence of satisfactory Payment Bonds and Performance Bonds with respect to the obligations of the Construction Manager;

(iv)  Developer has provided to the State Parties satisfactory assurances of completion of the Campus Project and the Phase III Public Improvements to be constructed, covering cost-overrun and Uncontrollable Circumstance risk;

(v)  Developer has provided evidence of the satisfaction of the Takedown Insurance Requirements;
(vi) no Material Developer Default has occurred and is continuing beyond any applicable notice and cure period, and Developer has delivered to the State Parties a certification to that effect; and

(vii) the material representations and warranties of Developer and the University contained herein are materially true and correct as of the Phase III Takedown Date, and Developer and the University, as applicable, have delivered to the State Parties a certificate to that effect.

(c) University Takedown Conditions. The University’s obligations with respect to the Phase III Takedown are subject to the fulfillment of each of the following conditions, which may be waived in whole or in part by the University:

(i) Developer shall have notified the University of the proposed Phase III Takedown at least fifteen (15) days prior to the projected Phase III Takedown Date;

(ii) the University shall have received and approved the Phase III Concept Plan;

(iii) Developer has provided to the University a copy of a completed contract with the Construction Manager covering all work necessary to achieve Substantial Completion of the Campus Project and the Phase III Public Improvements to be constructed on the Phase III Lot, and evidence of satisfactory Payment Bonds and Performance Bonds with respect to the obligations of the Construction Manager;

(iv) Developer has provided to the University satisfactory assurances of completion of the Campus Project and the Phase III Public Improvements to be constructed, covering cost-overrun and Uncontrollable Circumstance risk;

(v) Developer has provided evidence of the satisfaction of the Takedown Insurance Requirements;

(vi) no Material Developer Default has occurred and is continuing beyond any applicable notice and cure period, and Developer has delivered to the University a certification to that effect; and

(viii) the material representations and warranties of Developer contained herein are materially true and correct as of the Phase III Takedown Date, and Developer has delivered to the University a certificate to that effect.

Section 8.03 Restrictions on Transfer.

After the Phase III Takedown, neither Developer nor any Developer Affiliate shall Transfer any interest in the Phase III Lot or the buildings and improvements thereon, except for the Fee Conveyance to the University as set forth in the Ground Lease, unless the State Parties and the University have provided their prior written consent, which may be withheld in their sole
discretion.

Section 8.04 Transfers Subject to Declaration and ELUR.

Any Transfer of any interest in the Phase III Lot, including the Fee Conveyance, whether or not permitted hereunder, shall be subject to the Declaration and the ELUR.

Section 8.05 Declaration.

The parties acknowledge that it will be necessary and appropriate to enter into a declaration and agreement of restrictive covenants and conditions and a reciprocal easement and operating agreement with respect to the Campus Project (together, the “Declaration”) in order to assure the proper integration, functionality and operation of the structures and uses in the E/R/R District as well as the proper relationship of such structures and uses to Adriaen’s Landing as a whole. If the State Parties, Developer, the University and the other parties thereto agree, the Declaration may consist of or incorporate by reference the existing Declaration of Covenants and Agreements, recorded at Volume 6154, Page 186 of the Hartford Land Records, as amended by that certain First Amendment to Declaration of Covenants and Agreements, dated as of December 17, 2013, and as further amended to add the University as a party thereto and to include the Campus Project therein. Developer and the University shall enter into an amendment to the RCA, subjecting all of the Phase III Lot and the Campus Project to the terms thereof. The Declaration shall include matters customarily addressed in similar agreements with respect to major urban mixed-use projects including both public and private participants, including use restrictions, hours of operation, signage, design standards, construction standards, common area maintenance costs, building heights, approval of additions and alterations, access easements, utility easements, rooftop use, security, lighting, rubbish removal, cleaning and maintenance. The parties shall prepare, negotiate and complete the form of Declaration promptly, diligently and in good faith, recognizing, however, that certain information which may be necessary in order to complete the form of Declaration may not be available until the Plans for the Campus Project are substantially complete. The Declaration shall be recorded in Hartford Land Records contemporaneously with the recording of the Ground Lease. The parties agree that the Declaration must be completed no later than the Phase III Takedown Date.

Section 8.06 Construction Access.

The parties acknowledge that the location and size of the E/R/R District and the proximity of the buildings already constructed and to be constructed thereon will present certain challenges in regard to construction deliveries and staging areas, the placement of cranes, hoists, chutes, scaffolding, fencing, erosion control systems, and similar construction equipment and structures. The parties shall include in the Ground Lease provisions to permit such construction activities and access to adjacent Parcels. The Developer and the University shall repair or otherwise make payment to the State Parties in respect of any actual damages to any Public Components arising from the construction of the Campus Project and related construction laydown rights.
Section 8.07  Closing of Phase III Takedown.

The closing of the Phase III Takedown (the “Phase III Takedown Closing”) shall take place at a location, date and time agreed to by the parties which is not later than thirty (30) days after the satisfaction of all Phase III Takedown Conditions, unless the parties agree to a later date. At the Closing, the following documents will be executed and delivered:

(i)  the Ground Lease, subject to the Declaration, the ELUR and the RCA;

(ii) the Declaration, unless already executed, delivered and recorded;

(iii) the RCA;

(iv) other appropriate forms and filings as may be required in connection with such conveyance under Applicable Law; and

(v) opinions of counsel and corporate and closing certificates customary in connection with the closing of property transfers and financing relating to major mixed-use public and private development projects.

Section 8.08  Ongoing Environmental Covenant of State.

At the Phase III Takedown, the State shall deliver to Developer or, if applicable, the Developer Affiliate to which rights in the Phase III Lot are being conveyed, for its benefit and the benefit of its successors and permitted assigns, including the University, an undertaking with respect to Existing Environmental Conditions on the Phase I Lot and the Phase II Lot substantially to the following effect:

(i) solely to the extent set forth in the Existing Agreement, the State shall remain responsible for Existing Environmental Conditions on the Phase I Lot and the Phase II Lot, except to the extent such Existing Environmental Conditions are exacerbated by the actions of Developer or such Developer Affiliate, its successors or assigns, or any of their Permittees occupying, using or performing work with respect to the Campus Project;

(ii) notwithstanding the terms of clause (i) above, the State shall not be responsible for, and will have no obligation under clause (i) above with respect to, the environmental expenses resulting from any penetration or disturbance of, or damage to, any pad, cap, membrane, ventilation system or other structure or system constructed or installed on, under or around the Phase I Lot or the Phase II Lot in accordance with the RAP, caused by the actions of Developer or such Developer Affiliate, its successors or assigns, or any of their Permittees occupying, using or performing work with respect to the Phase I Lot or the Phase II Lot, or any Release that results from any such penetration, disturbance or damage, and all costs incurred in repairing or restoring such structure or system or in containing, mitigating or remediating any such Release, shall be at the sole risk and expense of Developer or such Developer Affiliate, as applicable, or its successors or
assigns;

(iii) in the event of any payment by the State of environmental expenses pursuant to clause (i) above, the University, Developer or such Developer Affiliate, as applicable, or its successors and assigns shall be required to pursue, at the direction and sole expense of the State, any responsible third parties against which they may have recourse for such environmental expense and reimburse the State from any amounts so recovered. The undertakings of the State pursuant to this Section 8.08 are referred to herein as the "Environmental Covenant"; and

(iv) notwithstanding any provision of this Section 8.08 to the contrary, the University shall be responsible for all Existing Environmental Conditions on the Phase III Lot and all costs incurred for the remediation of such conditions shall be at the sole cost and expense of the University, as applicable, or its successors and assigns, and the obligations of the University under this subsection (iv) shall survive any termination of this Agreement (other than a termination by the University under Section 14.06(b) hereof), the Phase III Takedown and the Fee Conveyance.

Section 8.09 Environmental Land Use Restriction.

The RAP provides for Environmental Remediation by the State in accordance with the residential and commercial criteria of the RSR applicable to the planned improvements within the E/R/R District. Following completion, Adriaen’s Landing, including the E/R/R District, will be subject to an environmental land use restriction ("ELUR") required by DEEP and based on the RAP and the completed Environmental Remediation. The Ground Lease and any subsequent fee transfer of the Phase III Lot and the improvements thereon to the University shall be made expressly and automatically subject and subordinate to the ELUR. The parties shall cooperate in the preparation, negotiation and completion of an acceptable ELUR.

Section 8.10 Developer Environmental Compliance.

(a) Following the Phase III Takedown, and with respect to the construction of the Campus Project thereon and the ownership, use, occupancy, operation, maintenance or repair thereof, any alteration or addition thereto, or any demolition thereof, Developer and each Developer Affiliate and their successors and assigns shall comply with all Environmental Laws and shall have sole responsibility for any Regulated Materials brought onto the Phase III Lot by Developer, any Developer Affiliate or any of their Permittees or the presence, use, storage, release, emission, disposal, leaching, or migration of such Regulated Materials anywhere at, in, under, on or over the Phase III Lot, or a Release of such Regulated Materials from such Phase III Lot. Developer and any Developer Affiliate shall remediate at its sole cost and expense any Release of such Regulated Materials at, in, under, on, about or from the Phase III Lot caused by Developer, a Developer Affiliate or any of their Permittees.

(b) The Declaration and/or the Ground Lease (or such other document or instrument as the parties shall agree) will include customary indemnification provisions in favor of the
State Indemnified Parties for Losses resulting from the failure of Developer, any Developer Affiliate, or any of their successors or assigns to comply with Environmental Laws as provided in subsection (a) above, or from the presence, use, storage, release, emission, disposal, leaching, or migration of Regulated Materials brought onto the Phase III Lot or any other part of the E/R/R District by Developer, any Developer Affiliate or any of their Permittees, or a Release of any such Regulated Materials from any Private Development Parcel.

ARTICLE IX
FEE CONVEYANCE CLOSING

Section 9.01 Fee Conveyance; Closing.

The closing of the Fee Conveyance (the “Fee Conveyance Closing”) shall take place at a location, date and time agreed to by the parties which is not later than thirty (30) days after the Substantial Completion of the Campus Project as set forth in the Campus Development Agreement unless the parties agree to a later date.

Section 9.02 Closing Documents.

At the Fee Conveyance Closing, the following documents will be executed and delivered:

(i) a quit claim deed from the State to the University with respect to the Phase III Lot and any buildings and improvements located thereon;

(ii) a quit claim deed from Phase III Developer Affiliate to the University with respect to its leasehold interests in the Phase III Lot and any buildings and improvements located thereon;

(iii) an owner’s affidavit executed by the State Parties and the Phase III Developer Affiliate in a form acceptable to the University’s title insurance company; and

(iv) amendments, if necessary, to the Declaration, the ELUR and the RCA;

(v) other appropriate forms and filings as may be required in connection with such conveyance under Applicable Law;

(vi) opinions of counsel and corporate and closing certificates customary in connection with the closing of property transfers and financing relating to major mixed-use public and private development projects; and

(vii) acknowledgements of assignment of permits, approvals and construction documents.
ARTICLE X  
EXAMINATION OF RECORDS; AUDITS

Section 10.01 Necessity for Financial Controls.

In view of the fact that a substantial portion of Adriaen’s Landing 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 Public Components and all uses of Phase III State Parties Funding, including the controls and procedures set forth in the Implementing Legislation, 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 Phase III.

Section 10.02 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 Phase III State Parties 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 State, the Authority, the Project Comptroller, 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 Phase III State Parties 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 Operative Agreements, conformance to the approved budgets, compliance with Applicable Laws, and reconciliation and verification of the proper expenditure of Phase III State Parties 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 10.03 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 Implementing Legislation, 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 State to Developer with respect to Phase III, including any improper payment or overpayment resulting from any allocation of costs and expenses to the State Parties 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 State Parties 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 State of any amount due Developer with respect to a cost allocation or reimbursement obligation under this Agreement with respect to Phase III, the State Parties 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.

Section 10.04 Other Phases.

The parties hereby acknowledge and agree that any obligations and agreements of Developer relating to financial controls, maintenance of books and accounts, access to books and accounts by the State, the Authority, the Project Comptroller, the Independent Auditor, the State Comptroller and the Auditors of Public Accounts, and their respective representatives, with respect to Phase I, Phase II or any other phase of the construction and development of the E/R/R District shall be governed by the Existing Agreement.

ARTICLE XI
INSURANCE

Section 11.01 Insurance as of Effective Date.

Developer shall obtain and maintain at its own cost and expense 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 11.01.
Section 11.02 Insurance Requirements at Takedown.

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

ARTICLE XII
DISCLAIMER AND RELEASE

Section 12.01 As-Is, Where-Is.

Developer and the University acknowledge receipt of the Site Assessments. Developer and the University specifically acknowledge that, except as expressly provided herein, the State Parties make no representation or warranty, expressed or implied, as to the E/R/R District or its fitness for use for any particular purpose, the condition thereof, or that it will be suitable for Developer’s or the University’s purposes. Developer and the University acknowledge that neither the State Parties nor any of the State Parties’ contractors, agents, attorneys or representatives has made any representations or held out any inducements to Developer or the University except as set forth in this Agreement, and the State Parties hereby specifically disclaim any representation, oral or written, other than those specifically set forth in this Agreement. Without limiting the generality of the foregoing and except as expressly provided herein, neither Developer nor the University have relied on any representations or warranties, and neither the State Parties nor any of the State Parties’ contractors, agents, attorneys or representatives has or is willing to make any representations or warranties, express or implied, other than as may be expressly set forth herein, as to: (a) the status of title to the Private Development Parcels; (b) the availability of any financing for the purchase, alteration, demolition, rehabilitation or operation of the Phase III Lot from any source, including, without limitation, any government authority or any lender; (c) the current or future use of the Phase III Lot; (d) the environmental condition of the Phase III Lot; (e) the status of the real estate market in which the Phase III Lot is located; (f) the actual or projected income or operating expenses of the Campus Project; or (g) the accuracy or completeness of the Site Assessments. Developer and the University further acknowledge and agree that, except as expressly provided herein, the Phase III Lot is to be conveyed to, and accepted by, Developer on the date of the Phase III Takedown, and, upon the date of the Fee Conveyance, by the University, in its then present condition as of such dates, “AS IS” and “WHERE IS” and with all faults, and Developer and the University hereby assume the risk that all physical characteristics, including soil, hydrologic, geologic, archaeological, environmental and other subsurface conditions may not have been revealed by the Site Assessments.

Section 12.02 Due Diligence.

Developer and the University acknowledge and agree that: (a) the Site Assessments and any other information delivered or made available to Developer and Developer’s Representatives and the University by the State Parties, or any of their agents, attorneys or representatives, have
been prepared by third parties and are not be the work product of the State Parties; (b) the State Parties have made no independent investigation or verification of, or have any knowledge of, the accuracy or completeness of, the Site Assessments or such other information; (c) Developer and the University are relying solely on their own investigations, examinations and inspections of the Phase III Lots and those of Developer’s contractors, agents, attorneys and representatives; and (d) the State Parties expressly disclaim any representations or warranties with respect to the accuracy or completeness of the Site Assessments and Developer and the University release the State Parties from any and all liability with respect to the condition of the Phase III Lot.

ARTICLE XIII
REPRESENTATIONS AND WARRANTIES

Section 13.01 Representations, Warranties and Covenants of Developer.

(a) Developer represents, warrants and covenants as follows:

(i) Developer is a corporation 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;

(ii) 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;

(iii) neither the charter nor the bylaws 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 member 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;

(iv) 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

(v) prior to the later of (i) Substantial Completion of the Campus Project or (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 Operative Agreement 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 13.02 Representations of the State Parties.

The State and the Authority respectively represent as follows:

(a) Pursuant to the Implementing Legislation, the State, acting through the Secretary, and the Authority each 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 State or the Authority, respectively. Neither the State nor the Authority is 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 State and the Authority has been duly and validly authorized by all necessary action. This Agreement is a legal, valid and binding obligation of the State and the Authority, enforceable against the State and the Authority 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 State and the Authority, nor any action or omission on the part of the State or Authority 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, (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 State or Authority 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 State or Authority neither are nor will 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.

Section 13.03 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 Parcel 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 XIV
DEFAULTS AND REMEDIES

Section 14.01 Default by Developer.

(a) The occurrence of any one or more of the following events constitutes a default by Developer under this Agreement (“Developer Default”):

(i) failure by Developer to commence construction of Phase III by the construction commencement deadline set forth in the Campus Development Agreement, subject only to Uncontrollable Circumstances and State Default and University Default;

(ii) the termination of the Campus Development Agreement by the University as a result of a default thereunder by Developer or any Developer Affiliate;

(iii) the Transfer of any interest in the Phase III Lot or the buildings and improvements thereon except as permitted by Section 8.03, or a breach of Section 13.01(a)(vi);

(iv) failure by Developer to observe or perform any other material covenant, agreement, condition or provision of this Agreement, if such failure shall continue for more than thirty (30) days after notice of such failure is given to Developer by (i) the University or (ii) the State or the Authority with the prior written consent of the University, subject to Uncontrollable Circumstances and State Default and University Default, provided, however, that Developer shall not be in default with respect to such
matters that are susceptible of cure but cannot be reasonably cured within thirty (30) days, so long as Developer has promptly commenced such cure, and diligently proceeds in a reasonable manner to complete the same thereafter;

(v) Developer or any Developer Affiliate 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 any Developer Affiliate 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 or any Developer Affiliate, and, if instituted against Developer or any Developer Affiliate, are allowed against it or are consented to by it or are not dismissed within ninety (90) days after such institution; or

(viii) an Event of Default by Developer or any Developer Affiliate, as applicable, under the Ground Lease or the Declaration.

(b) In the event that Developer wishes to avail itself of the extended cure rights provided in this Section 14.01 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 and the State Parties a written statement specifying the actions undertaken or to be undertaken to cure such default, and thereafter, upon the written request of the University and the State Parties, shall promptly provide such additional or updated information with respect to such actions as the University and the State Parties may reasonably request.

(c) Except as otherwise expressly provided in this Agreement, the obligations of the Developer under this Agreement are non-recourse to any shareholder, officer or employee of Developer.

Section 14.02 Default by State Parties.

(a) The occurrence of any one or more of the following events constitutes a default by the State Parties under this Agreement ("State Default"): 

(i) failure of either of the State Parties to observe or perform any other material covenant, agreement, condition or provision of this Agreement, if such failure shall continue for more than thirty (30) days after notice of such failure is given to the State Parties by Developer; provided, however, that a State Party shall not be in default with respect to such matters that are susceptible to cure but cannot be reasonably cured within thirty (30) days, so long as such State
Party has promptly commenced such cure, and diligently proceeds in a reasonable manner to complete the same thereafter; or

(ii) an Event of Default, beyond any applicable notice and cure period, by a State Party under any Operative Agreement.

(b) In the event that the State Parties wish to avail themselves of the extended cure rights provided in this Section 14.02 in circumstances in which cure is possible, but not within thirty (30) days of the date of notice of default, the State Parties 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 14.03 Default by the University.

(a) The occurrence of any one or more of the following events constitutes a default by the University under this Agreement ("University Default"): 

(i) failure by the University to provide any necessary financing and funding for the Campus Project and the Phase III Public Improvements, if such failure shall continue for more than thirty (30) days after notice of such failure is given to the University and the State Parties by Developer; provided, however, that the University shall not be in default with respect to such matters that are susceptible to cure but cannot be reasonably cured within thirty (30) days, so long as the University has promptly commenced such cure, and diligently proceeds in a reasonable manner to complete the same thereafter;

(ii) failure of the University to observe or perform any other material covenant, agreement, condition or provision of this Agreement, if such failure shall continue for more than thirty (30) days after notice of such failure is given to the University and the State Parties by Developer; provided, however, that the University shall not be in default with respect to such matters that are susceptible to cure but cannot be reasonably cured within thirty (30) days, so long as the University has promptly commenced such cure, and diligently proceeds in a reasonable manner to complete the same thereafter; or

(iii) an Event of Default, beyond any applicable notice and cure period, by the University under any Operative Agreement.

(b) In the event that the University wishes to avail itself of the extended cure rights provided in this Section 14.03 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 14.04 Remedies Generally.

If a Developer Default, a State Default or a University Default occurs, the parties shall be entitled to pursue their respective rights and remedies pursuant to this Agreement or any other Operative Agreement or as may otherwise be available in law or equity, but subject to Section 16.04; provided, however, the State Parties shall not pursue any of such rights and remedies against Developer as long as the University is diligently exercising Permitted University Completion Rights and the University achieves Substantial Completion of Phase III on or before the date set forth in the last sentence of Section 6.05(b).

Section 14.05 Equitable Remedies.

(a) 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 State Parties to enter into the Ground Lease and to convey their fee interest in the Phase III Lot to the University 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 Adriaen's Landing, and the E/R/R District in particular, as set forth in the Legislative Findings and in the recitals to this Agreement.

(b) In light of the foregoing circumstances, Developer agrees that the State Parties shall be entitled to specific performance, injunctive and other equitable relief for any breach of the covenants of Developer in this Agreement; provided, that the State Parties shall not exercise any of such rights or seek any such relief without the prior written consent of the University as long as the University is diligently exercising Permitted University Completion Rights and the University achieves Substantial Completion of Phase III on or before the date set forth in the last sentence of Section 6.05(b). 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 State Parties from any such breach is real, specific, immediate and irreparable.

(c) The provisions of this Section 14.05 shall not limit or otherwise affect the rights and remedies of the State Parties under the Existing Agreement with respect to Phase I or Phase II.

Section 14.06 Termination.

(a) In addition to and not in limitation of any other rights or remedies under this Agreement, including Section 6.05(b), or otherwise available in law or equity,
(i) in the event of a Material Developer Default, the University, and, subject to Section 14.04, the State Parties may terminate this Agreement effective fifteen (15) days following written notice of termination from the terminating party to Developer and the other non-terminating parties; and

(ii) in the event of a Material State Default, Developer, the University or both may terminate this Agreement effective fifteen (15) days following written notice of termination from the terminating party to the State Parties and the other non-terminating parties; and

(iii) in the event of a Material University Default, Developer, the State Parties or both may terminate this Agreement effective fifteen (15) days following written notice of termination from the terminating party to the University and the other non-terminating parties.

(b) Notwithstanding any provision of this Agreement to the contrary, the University may terminate this Agreement for any reason prior to the Phase III Takedown following written notice of termination from the University to Developer and the State Parties.

(c) For purposes of this Section 14.06,

(i) a "Material Developer Default" means a Developer Default which is: (A) described in clauses (i), (ii), (iii), (v), (vi) or (vii) of Section 14.01(a), (B) involves a material violation of Applicable Law, including the Implementing Legislation, or provisions of this Agreement included in order to ensure compliance with Applicable Law, including the Implementing Legislation, (C) described in clause (iv) or clause (viii) of Section 14.01(a) and in the reasonable judgment of the University and the State Parties otherwise materially and adversely affects the interests of the University or the State or the Authority with the result that the successful and timely completion of the Campus Project is jeopardized, or (D) described in clause (viii) of Section 14.01(a) and constitutes a "Material Tenant Default" under the Ground Lease;

(ii) a "Material State Default" means a State Default which, in the reasonable judgment of Developer and the University, materially and adversely affects the interests of Developer and the University with the result that the successful and timely completion of the Campus Project is jeopardized; provided, however, that no Material State Default may be declared until and unless Developer has received written notice from the University authorizing Developer to declare such Material State Default; and

(iii) a "Material University Default" means a University Default which permits Developer to terminate the Campus Development Agreement beyond any notice or cure period, or, after the exercise of Permitted University Completion Rights, the failure of the University to achieve Substantial Completion of Phase III on or before the date set forth in the last sentence of Section 6.05(b).

Section 14.07 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 14.07. 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 pursuant to Section 14.06(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 XIV shall be deemed to constitute (i) an assent by the State 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 Developer of any otherwise applicable statutory right of action against the State Parties.

Section 14.07 Uncontrollable Circumstances.

Notwithstanding anything in this Agreement to the contrary, the parties hereto shall be excused from their obligations hereunder to the extent and for so long as such party shall be prevented from compliance by reason of Uncontrollable Circumstances, provided notice of such inability to comply is given to the other parties to this Agreement as soon as practicable and in any event within thirty (30) days after the occurrence of the applicable Uncontrollable Circumstance.

Section 14.08 Termination of Existing Agreement.

The parties hereto acknowledge that the State Parties have the right to terminate the Existing Agreement in the event of a default by Developer thereunder with respect to the development of Phase I and Phase II. The State Parties hereby acknowledge and agree that the termination of the Existing Agreement shall not affect Developer’s and the University’s right to construct and develop Phase III as provided in this Agreement and the Campus Development Agreement unless otherwise consented to in writing by the University.
ARTICLE XV
INDEMNIFICATION

Section 15.01 Indemnification by Developer.

(a) Subject to the limitations set forth in subsection (b), below, Developer agrees to indemnify and hold harmless the State, OPM, the Secretary, the Authority, 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 or independent contractors 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 State, the Authority or 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 of the State, the Authority or the University in this Agreement, (C) the negligence or misconduct of any of the State Indemnified Parties, or (D) the misconduct of the State, the Authority or the University or any professional or consultant under contract to the State, the Authority or the University with respect to the E/R/R District.

(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 15.01 and shall provide such access to the books and records of the State, the Authority and/or 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 State, the Authority and the University but without the State’s, the Authority’s or 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 State Parties, the University and Developer as they shall reasonably agree.

**Section 15.02 Reimbursement by the Authority.**

The Authority 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 Authority to perform or observe any covenant or condition to be performed or observed by the Authority, under this Agreement, or (ii) the negligence or misconduct of the Authority, or any of their 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 E/R/R District.

**Section 15.03 Reimbursement by the University.**

The University agrees to reimburse Developer, any Developer Affiliate, and 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 E/R/R District. Notwithstanding any provision of this Section 15.03 to the contrary, following the Phase III Takedown the obligation of the University to reimburse Developer and any other Developer Reimbursed Parties shall be governed by the Campus Development Agreement.

**Section 15.04 Survival.**

The provisions of Sections 15.01, 15.02 or 15.03 shall survive the termination of this Agreement for three (3) years.
ARTICLE XVI
GENERAL PROVISIONS

Section 16.01 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 Section 16.01), (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
If to the State or the Authority:

Office of Policy and Management
Adriaen's/Rentschler Project Office
100 Columbus Boulevard
Hartford, CT 06106
Attention: Project Comptroller
Facsimile: (860) 251-8143

and

Office of Policy and Management
450 Capitol Avenue
Hartford, CT 06106
Attention: General Counsel
Facsimile: (860) 418-6487

and

Capital Region Development Authority
100 Columbus Boulevard, Suite 500
Hartford, CT 06106
Attention: Executive Director
Facsimile: (860) 527-0133

with a copy to:

Shipman & Goodwin LLP
One Constitution Plaza
Hartford, CT 06103-1919
Facsimile: (860) 251-5212

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 the State, either the Secretary or the Project Comptroller;

(ii) in the case of the Authority, either the Chairperson of the Authority or the Executive Director;

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

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

Section 16.02 [Reserved].

Section 16.03 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 State
or the University, as applicable, hereunder without the prior written consent of the State Parties and the University, and any such prohibited sale, assignment, pledge or encumbrance shall be void.

(b) Except as otherwise expressly permitted in this Agreement or the Implementing Legislation, the State Parties shall not sell, assign, pledge or encumber this Agreement or any of their respective rights hereunder without the prior written consent of Developer and the University. Notwithstanding the foregoing, the State or the Authority may at any time assign this Agreement or certain of the rights or interests of the State or the Authority herein, without the consent of Developer and the University, to the other or to any other department, agency, quasi-public agency or public corporation of the State (including for the purpose of having such assignee act as the State’s contract administrator under some or all of the provisions of this Agreement).

(c) 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 or the State Parties. 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 and the State Parties, 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 or the State Parties.

Section 16.04 Sovereign Immunity.

The parties acknowledge that the State and the University each 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 State, the Authority, the Governor, OPM, the Secretary, the University or any other party, whether taken pursuant to this Agreement or otherwise.

Section 16.05 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 16.05 is subject in all respects to the provisions of Section 16.06.
Section 16.06 Freedom of Information Act.

The State Parties and the University have advised Developer that the State, OPM, the Authority and the University are "public agencies" 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 State, OPM, the Authority or 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 State, OPM, the Authority or the University. Accordingly, it is agreed that each of the State, OPM, the Authority and the University shall be relieved from any confidentiality obligations under this Agreement, including Sections 3.07 and 16.05, or otherwise arising that would be in conflict with its obligations under the FOIA.

Section 16.07 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 16.08 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 16.09 Amendments.

No amendment or modification of this Agreement shall be effective unless in writing and signed by each of the parties hereto.

Section 16.10 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 16.11 No Partnership, Joint Venture or Agency.

Nothing contained herein or done pursuant hereto shall be deemed to create, as among Developer, the State Parties and the University, any partnership, joint venture or agency relationship.
Section 16.12 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 Existing Agreement.

Section 16.13 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, except that (without intending to create any third party beneficiary rights in favor of any group or individual) it is recognized that the State Parties are entering into this Agreement to achieve the public benefits contemplated by the Legislative Findings.

Section 16.14 Precedence.

In the case of any inconsistency between the provisions of this Agreement and the provisions of the Implementing Legislation (as in effect on the Effective Date), the provisions of the Implementing Legislation shall govern.

Section 16.15 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 16.15 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 16.16 Certain Legal Fees.

The State Parties, 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 Operative Agreements.

Section 16.17 Time of the Essence.

Time is of the essence under this Agreement.

Section 16.18 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 16.19 Tax-Exempt Bonds.
Developer acknowledges that any Phase III State Parties Funding represents the proceeds of tax-exempt bonds and that the use of Public Components or any components of the Campus Project, or portions thereof, 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 16.20 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.

[SPACE INTENTIONALLY PROVIDED – SIGNATURE PAGE NEXT FOLLOWS]
[DEVELOPER SIGNATURE PAGE]

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

HBN FRONT STREET DISTRICT, INC.

By: __________
Name: Helen Nitkin
Title: President
[AUTHORITY SIGNATURE PAGE]

In Witness Whereof, the undersigned has caused this Phase III Development Agreement to be signed by its duly authorized representative, as such and not individually, as of the day and year first written above.

CAPITAL REGION DEVELOPMENT AUTHORITY

By: [Signature]

Name: Michael Freimuth
Title: Executive Director
IN WITNESS WHEREOF, the undersigned has caused this Phase III Development Agreement to be signed by its duly authorized representative, as such and not individually, as of the day and year first written above.

STATE OF CONNECTICUT,
acting by and through
the Secretary of the
Office of Policy and Management

By: [Signature]
Name: Karen K. Buffkin
Title: Deputy Secretary of the Office of Policy and Management
IN WITNESS WHEREOF, the undersigned has caused this Phase III 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: [Signature]

Name: Susan Herbst
Title: President
SITE LEASE
(Tract 3)

Dated as of ____________, 2014

by and between

CAPITAL REGION
DEVELOPMENT AUTHORITY,
Landlord

and

FSD UNIVERSITY, LLC,
Tenant
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THIS SITE LEASE (TRACT 3) is made and entered into as of the __ day of ____________, 2014, by and between the CAPITAL REGION DEVELOPMENT AUTHORITY, formerly known as the Capital City Economic Development Authority ("Landlord"), a body corporate and public constituting a public instrumentality and political subdivision of the State of Connecticut, with an office and place of business at 100 Columbus Boulevard, Suite 500, Hartford, Connecticut 06106, and FSD UNIVERSITY, LLC, a Connecticut limited liability company ("Tenant"), with an office and place of business at c/o The HB Nitkin Group, 230 Mason Street, Greenwich, Connecticut 06830. Capitalized words and terms used herein, including in the recitals which follow, have the respective meanings assigned to such words and terms in Article II of this Lease.

RECITALS:

WHEREAS, the State is the owner of a fee interest in real property on the west side of Columbus Boulevard and on the north and south sides of Arch Street in the City of Hartford (the "E/R/R District"), and has, by leases dated as of June 30, 2004, as amended (the "State E/R/R District Leases"), notices of which leases are filed in the Hartford Land Records at Volume 5128, Pages 246, 252 and 257 (as amended by amended notices at Volume 6067, Page 244 and at Volume 5332, Page 323), leased to Landlord the E/R/R District, which includes the real property described in Article I; and

WHEREAS, Tenant's Affiliate, HBN Front Street District, Inc. ("Developer"), is the developer of the initial phase of the private development in the E/R/R District, as set forth in the Development Agreement;

WHEREAS, Landlord has leased to Developer, or its affiliate, a portion of the E/R/R District for the first two (2) phases of the private development of the E/R/R District pursuant to, (i) that Site Lease (Tract 1), dated as of November 3, 2008 (the "Tract 1 Lease"), and (ii) that Site Lease (Tract 2), dated as of December 17, 2013 (the "Tract 2 Lease"); and
WHEREAS, Landlord has agreed to lease to Tenant and Tenant has agreed to lease from Landlord, an additional portion of the E/R/R District, on the terms and conditions set forth in this Lease.

NOW THEREFORE:

For and in consideration of the covenants, agreements and other terms and conditions set forth in this Lease, and the payment by each party to the other of ten dollars ($10.00) in hand, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, do hereby agree as follows:

ARTICLE I
DEMISE AND TERM

Landlord does hereby let and demise to Tenant, and Tenant does hereby take and have from Landlord, all that certain real property situated, lying and being in the City of Hartford, County of Hartford and State of Connecticut, more fully set forth and described in Schedule A, attached hereto and made a part hereof (said real property being hereinafter referred to as “Tract 3”), together with certain appurtenant rights described on Schedule A attached hereto, on and subject to the terms of this Lease.

Tract 3 and such appurtenant rights are let and demised (i) together with, and subject to, the rights and obligations to be set forth in the Declaration, as set forth in Schedule B, recorded in the Hartford Land Records, and (ii) subject to the ELUR, and all of the agreements, liens, encumbrances, restrictions, conditions and other matters set forth in Schedule C.

TO HAVE AND TO HOLD for a term commencing as of the date hereof (the “Commencement Date”) and expiring at 11:59 a.m. on the date preceding the Tract 3 Conveyance (the “Term”), or such earlier date as this Lease may be terminated pursuant to its provisions.
Title to the Private Improvements, subject to Article X hereof, shall be and remain in Tenant until the expiration or sooner termination of the Term. Upon expiration or sooner termination of the Term, unless such termination is in connection with the Tract 3 Conveyance, title to any such Private Improvements as are then remaining on Tract 3 shall pass to, vest in and belong to Landlord (free and clear of all liens and encumbrances except those to which the Demised Premises may be subject on the Commencement Date or to which Landlord shall have consented in writing), without any action required on the part of either Landlord or Tenant and without the payment by Landlord of any consideration therefor. Upon the Tract 3 Conveyance, title to the Private Improvements shall pass to the University, as contemplated by Section 6.02 hereof. In the event of the expiration or any termination of the Term, other than in connection with a Tract 3 Conveyance, Tenant shall execute any documents that Landlord reasonably believes necessary or desirable to confirm the transfer of title to any Private Improvements as aforesaid, without cost or charge to Landlord. Notwithstanding that Tenant shall retain title to the Private Improvements, for convenience of reference, Tract 3, the appurtenant rights thereto and the Private Improvements shall hereinafter be collectively referred to as the "Demised Premises".

Landlord and Tenant each hereby expressly covenants and agrees that this Lease is made upon, and subject to, the foregoing and upon the following agreements, terms, covenants, conditions and restrictions.

ARTICLE II
DEFINITIONS AND INTERPRETATION

Section 2.01 Definitions.

As used in this Lease, the following terms shall have the following respective meanings:

"ADA" means the Americans with Disabilities Act, 42 U.S.C. Sections 12101 et seq.
“Additional Rent” is defined in Section 5.01(b).

“Adriaen’s Landing” means the mixed-use development proposed for the Adriaen’s Landing Site.

“Adriaen’s Landing Site” means the area of land adjacent to Interstate 91 in Hartford, Connecticut, that includes Tract 3, and that has been designated by the State as the site for Adriaen’s Landing.

“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.

“Applicable Laws” means all laws, statutes, ordinances, rules, regulations, orders and/or determinations of Governmental Authorities, including the Implementing Legislation, the State Contracting Requirements, the ADA, the FLSA, ERISA, OSHA, Environmental Laws, the State Building Code and the State Fire Safety Code, and applicable City ordinances, including those relating to zoning and public health and safety, 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 the Demised Premises and/or any activity of any Person thereon or thereat, the hiring and employment practices and the terms and conditions of employment or the authorization, execution, delivery and/or performance of this Lease, all after giving effect to the Implementing Legislation.
“Approved Plans and Specifications” means the plans and specifications for the Private Improvements and Tenant Public Improvements comprising Phase III that are listed on Schedule D hereto.

“Award” is defined in Section 22.01.

“Bankruptcy Code” is defined in Section 17.01.

“Base Rent” is defined in Section 5.01.

“Buildings” means the buildings and improvements hereafter constructed by or on behalf of Tenant on Tract 3, but not including the Tenant Public Improvements.

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

“Campus Development Agreement” means that certain Campus Development Agreement dated on or about the date hereof by and among Tenant, the State of Connecticut, acting by and through the Secretary of the Office of Policy and Management, and the University.

“City” means the City of Hartford.

“Commencement Date” is defined in Article I.

“Declaration” means the Declaration of Covenants and Agreements, dated as of November 3, 2008, and the Reciprocal Covenant Agreement, both as amended as of December 17, 2013, and as of the date hereof and which are attached as Schedule B, and each such agreement singularly where the context requires.

“Demised Premises” is defined in Article I.
“DEEP” means the Department of Energy and Environmental Protection of the State of Connecticut, and any other agency or department of the State of Connecticut that has jurisdiction over Regulated Materials at the Adriaen’s Landing Site in lieu of or in addition to the Department of Energy and Environmental Protection of the State of Connecticut.

“Development Agreement” means that Second Amended and Restated Development Agreement, dated as of June 19, 2008, by and among Developer, Landlord and the State, as amended by Amendment #1, dated December 22, 2010, and by the Second Amendment to Second Amended and Restated Development Agreement, dated as of July 17, 2013, and by the Third Amendment to Second Amended and Restated Development Agreement, dated as of ___________ , 2014, relating to the development of the E/R/R District by Developer.

“Dispute Resolution Procedures” is defined in Section 30.24.

“ELUR” means the Environmental Land Use Restriction referred to in Section 28.03.

“ELUR Note” is defined in Section 28.03.

“Environmental Conditions” means (i) circumstances with respect to soil, surface water, ground water, and/or and similar environmental media at, emanating from or migrating onto the E/R/R District that may require 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 Laws.

“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 of Connecticut 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" means the total premises leased to Landlord under the State E/R/R District Leases.

"Event of Bankruptcy" is defined in Section 17.01.

"Event of Default by Landlord" is defined in Section 18.02.

"Event of Default by Tenant" is defined in Section 18.01.

"Existing Environmental Conditions" means any Environmental Conditions at, on or under the Demised Premises (including Regulated Materials) existing on or before the Commencement Date.

"Fixtures" means all fixtures, including, without limitation, boilers; elevators; plumbing; heating, air conditioning, lighting, fire control, sprinkling, cooling, silencing, ventilating, air moving and incinerating equipment; electrical wiring and outlets; computer and
telecommunications cabling and wiring; partitions; railings; cork, rubber, linoleum, vinyl, and composition floors; wall to wall carpeting; gates; doors; vaults; paneling; moldings; built in shelving; and radiator enclosures therein contained, which are installed by or on behalf of Developer or Tenant on Tract 3.


“FOIA” is defined in Section 30.14.

“Foundation Elements” means those portions of the Private Improvements that are located in the ground, including structural supporting elements, and all drainage systems and utility connections to the Buildings (but only to the extent such drainage systems and utility connections are located within Tract 3 or are located in the area from the connection point to a Building to the street line of any public street or any private street.

“General Assembly” means the General Assembly of the State of Connecticut.


“Governmental Authorities” means all federal, state and 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 and operation of any property, facility, structure or improvement, all after giving effect to the Implementing Legislation.

“Implementing Legislation” means Chapters 588x and 588z of the General Statutes and Section 39 of Public Act 98-1 (December Special Session) as amended by Public Act 99-241, Public Act 00-140, and Public Act 08-185, and as further amended.

“Impositions” is defined in Section 12.01.

“Information” is defined in Section 7.01(a).

“Initial Notice” is defined in Section 30.24.

“Insolvency Laws” is defined in Section 17.01.

“Insurance Requirements” is defined in Section 9.01.

“Interest Rate” shall mean a rate of interest equal to the lesser of five hundred basis points over the Prime Rate or the highest rate permitted by law.

“Landlord” is defined in the first paragraph of this Lease and shall include its successors and assigns unless otherwise specifically provided herein.

“Landlord Delay” means any delay in commencing, performing or completing the Private Improvements or Developer’s fulfilling any of its obligations under the Development Agreement, the Phase III Development Agreement or the Campus Development Agreement that is caused by Landlord’s or the State’s failure to fulfill any of its contractual obligations under this Lease or the Development Agreement, the Phase III Development Agreement or the Campus Development Agreement.
“Lease” means this Lease, all recitals, exhibits, schedules and appendices hereto, and any and all supplements or amendments hereto or thereto.

“Material Developer Default” is defined in the Campus Development Agreement.

“Material Tenant Default” is defined in Section 18.04.

“New Lease” is defined in Section 10.02(f).

“New Lease Notice” is defined in Section 10.02(f).

“North Garage” is defined in the Development Agreement.

“OSHA” means the Occupational Safety and Health Act, 29 U.S.C. Sections 651 et seq.

“Permitted Encumbrances” means (i) the Permitted Mortgage, and (ii) any of the following: (A) liens for taxes, assessments or governmental charges or levies not yet delinquent, or (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 30 days from the date the same shall have become due, or (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 reputable company acceptable to Landlord and the State are deposited in escrow with an escrow agent acceptable to Landlord and the State 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 Landlord or the State created pursuant to the 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, interests, privileges or entitlements approved in writing by Landlord and the State; and (H) 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.

"Permitted Mortgage" means any mortgage financing or refinancing all or part of the Private Improvements, which runs in favor of the Permitted Mortgagee; provided that such mortgage shall be expressly subordinate to the ELUR.

"Permitted Mortgagee" means the University.

"Permitted Mortgagee’s Notice" is defined in Section 10.02.

"Permitees" means a Person and its Representatives, contractors, customers, visitors, guests, invitees, licensees, subtenants and concessionaires.

"Person" or "Persons" shall both include individuals, partnerships, firms, associations, corporations, limited liability companies or any other form of entity.

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

"Phase III Development Agreement" means that certain Phase III Development Agreement dated on or about the date hereof by and among the Landlord, the State, the University, and the Developer.

"Phase III Security Documents" has the meaning set forth in the Phase III Development Agreement.

"Prime Rate" shall mean the per annum rate of interest from time to time announced by JPMorgan Chase Bank, N.A. (or any successor thereto) as its prime rate, or, if
such rate is no longer available) as announced by such other commercial banking institution in the City of New York as Landlord shall designate.


“Private Improvements” means the Buildings, the Fixtures, and all other improvements now or hereafter existing on Tract 3. The Private Improvements do not include the Tenant Public Improvements.

“Proceeds” means (a) the amount obtained from any property insurance as a result of any damage to or destruction of the Private Improvements or (b) the amount received from any authority which has exercised the power of eminent domain to take all or any portion of the Demised Premises, in either case, less all costs, fees and expenses (including reasonable attorneys’ fees and costs of investigation) incurred in connection with determining and receiving such amounts.

“Project Documents” is defined in the Campus Development Agreement.

“Project Schedule” is the project schedule for the construction of the Private Improvements and Tenant Public Improvements that is attached as Schedule F.

“Public Infrastructure” means the streets, lighting, plazas, sidewalks, surface parking, landscaping and other public amenities as more particularly described in the Approved Plans and Specifications and/or contemplated in the Phase II Development Agreement and/or Campus Development Agreement to be completed for Phase III. Public Infrastructure is not part of the Demised Premises, except as otherwise provided on the Approved Plans and Specifications.

“Public Vías” means the portions of the development pursuant to the Tract I Lease that provide public access to and from the North Garage and the South Garage.
“RAP” means that certain Remediation Action Plan, Adriaen’s Landing, Hartford, Connecticut, prepared by Haley & Aldrich, Inc. and GZA GeoEnvironmental, Inc. File No. 91268-523 December 2000 as approved by DEEP in letter dated March 9, 2001 and as modified by letter from the Authority to DEEP dated September 26, 2003 as approved by DEEP, a copy of which has been provided to Tenant. The RAP may be modified from time to time to reflect and incorporate any changes in Applicable Laws and any new requirements therein, provided that (i) the result of the RAP completion shall permit the construction of the Private Improvements, (ii) no such change shall affect the State’s obligation with respect to the RAP, as set forth in the Development Agreement. The RAP shall not relate to any Environmental Condition other than Existing Environmental Conditions.

“RAP Elements” means those elements and systems (e.g., ventilation pipes, membranes, etc.) installed as part of the RAP Work that are required to remain permanently in place in the Demised Premises following completion of the RAP Work.

“RAP Work” means anything required to be done pursuant to the RAP with respect to the Demised Premises, including installation of the RAP Elements and the maintenance, repair and replacement of the RAP Elements.

“Reciprocal Covenant Agreement” 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, as further amended by the Second Amendment thereto, dated as of ______________, 2014, and recorded at Volume ___, Page ___ of the Hartford Land Records.

“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”, "SL - 13

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“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.

“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.

“Rent” means Base Rent and Additional Rent.

“Representatives” means, with respect to any Person, its agents, representatives, employees, directors, members, officers, officials, shareholders, partners, beneficiaries, trustees, servants, managers and agencies, as applicable.

“Restoration” is defined in Section 14.01(a).

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

“South Garage” is defined in the Development Agreement.

“State” means the State of Connecticut acting by and through the Secretary of the Office of Policy and Management.
“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 Contracting Requirements” is defined in Section 30.18.

“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 E/R/R District Leases” is defined in the Recitals to this Lease. Copies of the State E/R/R District Leases are attached as Schedule G to the Tract 1 Lease.

“State Indemnified Parties” is defined in Section 20.01.

“State Non-Disturbance and Attornment Agreement” is defined in Section 27.01.

“State Parties” is defined in the Campus Development Agreement.

“Substantial Completion” is defined in the Campus Development Agreement.

“Surrounding Sidewalks” is defined in Section 8.01.

“Tenant” is defined in the first paragraph of this Lease and includes its successors and assigns, unless otherwise specifically provided herein.

“Tenant Indemnified Party” is defined in Section 20.01.

“Tenant Public Improvements” means the Public Infrastructure to be constructed in connection with Phase III, as contemplated by the Approved Plans and Specifications.
“Tenant’s Leasehold Interests” means any and all of Tenant’s rights, title and/or interests in, to and/or under this Lease and/or the Demised Premises.

“Term” is defined in Article I.

“Tract 1 Lease” is defined in the Recitals.

“Tract 3” is defined in Article I.

“Tract 3 Conveyance” is defined in Section 6.02.

“Transfer” means to voluntarily or involuntarily sell, assign, encumber, mortgage, pledge, hypothecate, lease, license, distribute in liquidation, grant any right of way or easement or right to occupy or use, or otherwise give, grant or convey any right, title or interest in or to any property, whether real or personal, tangible or intangible. A transfer, directly or indirectly, of a controlling interest in a Person that owns or holds any right, title or interest in or to any property shall constitute a Transfer of such right, title or interest.

“Uncontrollable Circumstances” means any event which renders impossible, prevents, interrupts or delays the performance of an obligation of a party to this Lease, 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: strikes, lockouts, sit-downs, material or labor restrictions 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 (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), environmental conditions (not the result of any action or omission of such party) requiring remediation, changes in Applicable Law, and the commencement and continued

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pendency of legal proceedings not brought by the party relying on the Uncontrollable
Circumstance 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 Lease 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 Private
Improvements.

“University” means the University of Connecticut.

Section 2.02 Interpretation.

(a) References to a “Section,” “Sections,” “Article” or “Articles” herein refer
to this Lease unless otherwise stated.

(b) 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 Lease, and any table of contents or index of schedules and exhibits appended to copies
hereof, shall be solely for convenience of reference and shall not constitute a part of this Lease,
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
Lease 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 Lease 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 Lease. This rule of interpretation shall be applicable in all cases notwithstanding that in some cases specific references in this Lease render the application of this rule unnecessary.

(h) All approvals, consents, waivers, acceptances, concurrences and permissions required to be given or made by any party hereunder shall not be unreasonably withheld, delayed or conditioned by the party whose approval, consent, waiver, acceptance, concurrence or permission is required, whether or not expressly so stated, unless otherwise expressly provided herein. Wherever under this Lease "reasonableness" is the standard for the granting or denial of any approval, consent, waiver, acceptance, concurrence or permission of any party hereto, Landlord or the State shall be entitled to consider public policy, as well as business and economic considerations.

(i) All notices to be given hereunder shall be given in writing (whether or not so specified in a particular provision of this Lease) 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 Lease, it shall be done in accordance with generally accepted accounting principles consistently
applied, to the extent applicable, or in such other manner as may be mutually agreed by the parties, unless otherwise required by Applicable Laws.

(k) Unless the context clearly requires otherwise, references in this Lease to “the parties” shall refer to Landlord and Tenant.

(l) Landlord and Tenant have participated in the drafting of this Lease and any ambiguity contained in this Lease shall not be construed against Landlord, the State or Tenant solely by virtue of the fact that either Landlord or Tenant may be considered the drafter of this Lease or any particular part hereof.

(m) Each Schedule referred to in this Lease shall be considered a part of this Lease as if fully set forth herein.

ARTICLE III
AGREEMENT BY TENANT TO CONSTRUCT TRACT 3 IMPROVEMENTS

Section 3.01 Obligation to Construct and Complete.

Tenant shall proceed promptly, diligently and professionally to, or cause Developer to, construct and complete the Private Improvements and the Tenant Public Improvements, in accordance with the Approved Plans and Specifications, the Phase III Development Agreement, the Campus Development Agreement, the Development Agreement, the Project Schedule, and Applicable Law (including the Americans with Disabilities Act) subject only to Uncontrollable Circumstances and Landlord Delay. By entering into this Lease, Tenant agrees it shall be jointly and severally responsible with Developer to perform the obligations under the Phase III Development Agreement, the Campus Development Agreement, and the Development Agreement with respect to the construction of Phase III.
Section 3.02 Responsibility of State for Work.

Landlord and Tenant agree that, and subject to the terms and conditions set forth in the Development Agreement and the Campus Development Agreement, (i) the State is to carry out the RAP Work on Tract 1 and Tract 2, and (ii) UConn is to carry out the RAP Work on Tract 3.

Section 3.03 Adjustment of Tract 3 Description.

To the extent that (i) any of the Private Improvements or Tenant Public Improvements, as ultimately constructed, extend beyond Tract 3 and encroach upon other property of Landlord (the “Burdened Property”), (ii) such encroachment is caused by a specific design feature which is included in the Approved Plans and Specifications, and (iii) such feature has been constructed as designed within normal construction tolerances, Landlord hereby agrees with respect to such encroaching improvement (the “Encroaching Component”) to enjoy the benefit of, and not suffer the removal of the Encroaching Component, and to modify the legal description of Tract 3 to encompass the Encroaching Component. The intent of this Section is to address encroachments such as footings and aggregate piers, façade components, parapet and roof projections and support features and ledges that do not materially interfere with the beneficial use and enjoyment of the Burdened Property and that do not extend twelve (12) inches (four (4) feet solely with respect to underground footings) beyond the initial Tract 3 boundary line. The Tenant shall obtain and deliver to the Landlord a survey of the footings and foundations after the completion of such footings and foundations of each Building to determine the exact number and extent of any footing and foundation encroachments. Upon Substantial Completion of the Private Improvements and the Tenant Public Improvements, Tenant shall obtain an as-built survey of the Private Improvements and the Tenant Public Improvements, from which the Landlord and Tenant shall determine the exact number and extent of all encroachments, and, to the extent that each such Encroaching Component satisfies the criteria set forth in this Section or is otherwise acceptable to the Landlord, shall be memorialized in a revised Schedule A that shall be appended to this Lease by amendment.
ARTICLE IV
COVENANT OF QUIET ENJOYMENT

Section 4.01 Quiet Enjoyment.

If and so long as Tenant shall pay Rent due and payable under this Lease, including the Impositions and other charges required by this Lease, and shall perform and observe all the covenants and conditions herein contained on the part of Tenant to be performed and observed, and no Event of Default by Tenant shall have occurred and be continuing, Landlord covenants that Tenant shall lawfully and quietly hold, occupy and enjoy the Demised Premises during the Term, without hindrance or molestation, subject, however, to the terms of this Lease.

Landlord shall not voluntarily terminate any of the State E/R/R District Leases, except pursuant to a right of termination arising under the express terms of the State E/R/R District Leases due to a casualty or condemnation event, subject to Landlord’s obligations with respect to rebuilding the South Garage, North Garage and Public Infrastructure (other than the Public Vias) in the event of a casualty or condemnation, as set forth in the Development Agreement. Landlord shall not amend any of the State E/R/R District Leases in a manner adverse to Tenant in any material respect.

ARTICLE V
RENT

Section 5.01 Covenants to Pay Rent.

(a) Base Rent during the Term shall be one (1) dollar per year ("Base Rent"), payable by Tenant on the first business day of each calendar year. Tenant has paid the sum of $____ on its execution hereof, receipt of which Landlord hereby acknowledges, representing prepaid Base Rent for the Term.
(b) Tenant shall also pay or cause to be paid, without notice, abatement, deduction or set-off, as additional rent (the "Additional Rent"), all Impositions and other charges, costs and other amounts of any kind whatsoever that are required by this Lease to be paid or caused to be paid by Tenant, including, any amounts due from Tenant under the Declaration. Tenant shall pay to Landlord any Additional Rent herein reserved that is payable directly to Landlord at the office of Landlord set forth herein, or at such other place as Landlord may designate in writing, without notice or demand therefor, on the days and in the manner hereinafter prescribed. Tenant may pay the Additional Rent by check, subject to collection. Each amount which is required to be paid by Tenant to Landlord as Additional Rent which is not paid when due shall accrue interest at the Interest Rate from the date as and when it is was due until such amount, and all accrued interest, are fully paid to Landlord hereunder. Additionally, any interest which accrues with respect to any unpaid amount during any month (or part thereof) which is not paid by the end of the month, shall be added to and included as a part of the Additional Rent then due hereunder. Any amounts received by Landlord on account of any Additional Rent due hereunder shall be applied first toward the payment of any interest then due thereon, second to the amount of such Additional Rent as constitutes prior unpaid interest, and third to the balance of such Additional Rent.

ARTICLE VI
USE; FEE CONVEYANCE

Section 6.01 Use.

Tenant shall use the Demised Premises for the construction and development of the Campus Project (as defined in the Campus Development Agreement), in accordance with the terms and conditions of the Development Agreement, Phase III Development Agreement, and the Campus Development Agreement.

Section 6.02 Fee Conveyance; Termination of E/R/R/ District Lease.

Landlord acknowledges that in accordance with Sections 5.01 and 9.01 of the Phase III Development Agreement, upon Substantial Completion, the State Parties and the
Tenant shall convey their respective fee interests in the Demised Premises and the Private Improvements to the University (collectively, the “Tract 3 Conveyance”). Landlord and Tenant agree that coincident with consummation of the Tract 3 Conveyance, Landlord and Tenant shall terminate the State E/R/R District Leases with respect to Tract 3 and the Private Improvements. The form and substance of the document effectuating such termination shall be reasonably acceptable to the State Parties, Landlord, Tenant and the University.

Section 6.03 Prohibited Uses; Required Lease Provisions.

(a) Tenant covenants and agrees that it will not knowingly use or occupy, nor permit the Demised Premises to be used or occupied, for any purpose (i) other than as provided for in Section 6.01; (ii) which shall violate any certificate of occupancy or any zoning, land use, or building restriction then in force relating to any Private Improvements; (iii) in breach of the Declaration, the ELUR, the right of the State Parties and their invitees to use the Public Vias for ingress and egress to and from the North Garage and South Garage, or any private covenant, restriction, license, condition, easement or agreement covering or affecting the use of the Demised Premises set forth on Schedule C; or (iv) constituting a violation of Applicable Law. Without limiting the foregoing, Tenant shall not use or occupy any portion of the Demised Premises, nor permit any portion to be used or occupied, for (A) a facility that sells or displays any material that is obscene, pornographic or similarly sexually explicit, (B) any off-track betting, casino or other type of gambling operation or sports facility in which gambling is allowed, (C) any pawn shop, (D) any facility a primary purpose of which is the fueling, service or repair of automobiles or other machinery or equipment, and (E) any facility which sells or distributes firearms or explosive devices.

(b) Tenant further covenants and agrees that it will not knowingly suffer any act to be done or any condition to exist on the Demised Premises, or any article to be brought thereon, which may be unreasonably dangerous or noxious or which constitutes a nuisance, public or private, or which may make void or render voidable any insurance contract then in force with respect to the Demised Premises or any adjacent property, or make it impracticable to
obtain or maintain any insurance required to be maintained by Tenant under this Lease, or which causes obnoxious odors to emanate or to be dispelled from the Demised Premises.

(c) Tenant covenants and agrees that it will not cause or permit the use of the Demised Premises in any manner that causes structural damage to the parking garages in the E/R/R District or any other public or private property adjacent to the Demised Premises, except due to casualty.

ARTICLE VII
TENANT AND LANDLORD REPRESENTATIONS

Section 7.01 Premises “As Is”.

(a) Except to the extent otherwise expressly provided herein or in the Development Agreement or the Phase III Development Agreement, Tenant acknowledges and agrees that any information (“Information”) in any manner pertaining to the Demised Premises, or any part thereof, and supplied or made available by the State or Landlord or any of their Representatives, has been (or, in the case of that supplied in the future, will be) furnished to Tenant solely as a courtesy. WITHOUT LIMITING THE GENERALITY OR EFFECT OF THE FOREGOING, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN OR IN THE DEVELOPMENT AGREEMENT OR THE PHASE III DEVELOPMENT AGREEMENT, TENANT ACKNOWLEDGES AND AGREES THAT ALL INFORMATION HAS BEEN (OR, IN THE CASE OF INFORMATION SUPPLIED IN THE FUTURE, WILL BE) PROVIDED, AND THE DEMISED PREMISES ARE LEASED ON AN AS-IS-WHERE-IS BASIS AND THAT NEITHER LANDLORD NOR THE STATE HAS MADE, MAKES OR WILL MAKE ANY REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW OR OTHERWISE, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITIONS, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, AS TO THE INFORMATION OR THE DEMISED PREMISES. Tenant further acknowledges and agrees that no representations, whether written or oral, have been made by the State or Landlord or any of their Representatives regarding any tax consequences or investment potential.
of leasing the Demised Premises and constructing the Private Improvements, in order to induce Tenant to enter into this Lease or otherwise.

(b) Tenant acknowledges, represents and warrants that Tenant is familiar with the Demised Premises and has made such independent investigations as Tenant deems necessary or appropriate concerning the Demised Premises. Except to the extent otherwise expressly provided herein or in the Development Agreement or the Phase III Development Agreement, Landlord makes no representations or warranties and specifically disclaims any representation, warranty, or guaranty, oral or written, past, present or future with respect to the physical conditions or any other aspect of the Demised Premises including the compliance of the Demised Premises with any Applicable Laws, the financial earning capacity of the operation of the Demised Premises, the nature and extent of any right-of-way, lien, encumbrance, license, reservation, condition, or otherwise, the existence of soil instability, past soil repairs, soil additions or conditions of soil fill, susceptibility to landslides, sufficiency of undershoring, sufficiency of drainage, whether the Demised Premises are located wholly or partially in a flood plain or a flood hazard boundary or similar area, the existence or non-existence of hazardous waste or materials, or substances, as defined by Applicable Law, or other toxic materials of any kind (including, without limitation, asbestos or petroleum products) or any other matter affecting the stability or integrity of the Demised Premises. Notwithstanding the foregoing, Landlord agrees that it will carry out its responsibilities under Section 28.02 of this Lease. Tenant shall have no liability for any Existing Environmental Conditions except to the extent that an Existing Environmental Condition is exacerbated as described in Section 8.02 hereof. Notwithstanding the foregoing, in the event of damage to or deterioration of any of the Private Improvements or the Tenant Public Improvements that is due to a design defect or a construction defect or is covered by insurance, including, without limitation, damage or deterioration due to faulty repair of restoration work, and such event necessitates further environmental remediation or containment of an Existing Environmental Condition, Tenant hereby agrees, at its expense, to diligently pursue any responsible third party or insurance proceeds, as the case may be, and to reimburse Landlord or the State for the cost of such further environmental remediation to the extent of any amount recovered from such responsible party or insurance proceeds. This paragraph (b) shall survive the expiration or earlier termination of this Lease.

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(c) As part of Tenant's agreement to lease the Demised Premises AS-IS-WHERE-IS, and not as a limitation on such agreement, TENANT HEREBY UNCONDITIONALLY AND IRREVOCABLY RELEASES LANDLORD AND THE STATE FROM (AND, AS BETWEEN TENANT, ON THE ONE hand, LANDLORD AND THE STATE, ON THE OTHER, WAIVES) ANY AND ALL ACTUAL OR POTENTIAL RIGHTS TENANT HAD, HAS OR MIGHT HAVE REGARDING ANY FORM OF WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND OR TYPE, RELATING TO THE DEMISED PREMISES AND/OR THE INFORMATION, INCLUDING ANY CLAIMS ARISING FROM NEGLIGENCE OR STRICT LIABILITY. SUCH WAIVER AND RELEASE IS ABSOLUTE, UNCONDITIONAL, IRREVOCABLE, COMPLETE, AND UNLIMITED IN EVERY WAY. SUCH WAIVER AND RELEASE INCLUDES, BUT IS NOT LIMITED TO, A WAIVER AND RELEASE OF ALL EXPRESS WARRANTIES, IMPLIED WARRANTIES, WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR USE, WARRANTIES OF MERCHANTABILITY, WARRANTIES OF HABITABILITY, STRICT LIABILITY RIGHTS AND CLAIMS OF EVERY KIND AND TYPE (SPECIFICALLY EXCLUDING HOWEVER CLAIMS BASED ON BREACH OF AN EXPRESS CONTRACT), INCLUDING, BUT NOT LIMITED TO, CLAIMS REGARDING DEFECTS WHICH WERE NOT OR ARE NOT DISCOVERABLE, PRODUCT LIABILITY CLAIMS, PRODUCT LIABILITY TYPE CLAIMS, AND ALL OTHER EXTANT OR LATER CREATED OR CONCEIVED CLAIMS AND RIGHTS, BUT SUCH WAIVER AND RELEASE SHALL NOT APPLY TO, NOR RELEASE LANDLORD FROM LIABILITY FOR, LANDLORD'S FAILURE TO COMPLY WITH ITS OBLIGATIONS UNDER THIS LEASE, INCLUDING UNDER SECTION 28.02 HEREOF OR RELEASE THE STATE FROM ANY LIABILITY FOR FAILURE TO COMPLY WITH ITS ENVIRONMENTAL OBLIGATIONS UNDER THE DEVELOPMENT AGREEMENT.
Section 7.02  Representations, Warranties, and Covenants of Tenant.

Tenant represents, warrants and covenants:

(i) Tenant is a solvent limited liability company, duly organized and validly existing under the laws of the State of Connecticut and formed for the limited purpose of developing, owning, leasing, managing, operating, and/or financing the Demised Premises and shall not enter into or conduct any unrelated business;

(ii) Tenant has the legal authority to enter into and carry out the transactions to which it is proposed to be a party;

(iii) Tenant 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, except after a Transfer permitted by this Lease through which Tenant divests itself of all interest in the Demised Premises;

(iv) neither the organizational documents of Tenant nor any Applicable Law in any way prohibits, limits or otherwise affects the right or power of Tenant to enter into and perform all of the terms and conditions of this Lease and the transactions contemplated hereby, and Tenant 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 partner of Tenant, is required for the proper execution, delivery and (other than Governmental Permits) performance by Tenant of this Lease or any of the transactions contemplated hereby, except for such approvals as have already been obtained; and
(v) the execution and delivery of this Lease by Tenant has been duly and validly authorized by all necessary action. This Lease is a legal, valid and binding obligation of Tenant, enforceable against Tenant in accordance with its terms.

Section 7.03 Landlord’s Authority; Good Standing; Enforceability.

Landlord represents and warrants that (a) Landlord has the legal power and authority to execute and deliver this Lease and to carry out its terms and provisions, (b) that said execution and delivery have been duly and validly authorized by all necessary action, (c) that this Lease is a legal, valid and binding obligation of Landlord, enforceable against Landlord in accordance with its terms, and does not violate any provision of any agreement to which Landlord is a party or to which Landlord is subject, and (d) the organizational documents of Landlord do not in any way prohibit, limit or otherwise affect the right or power of Landlord to enter into and perform all of the terms and conditions of this Lease and the transactions contemplated hereby, and Landlord is not a party to or bound by any material contract, agreement, indenture, trust agreement, note, obligation or other instrument which would prohibit 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, is required for the proper execution, delivery and (other than Governmental Permits) performance by Landlord of this Lease or any of the transactions contemplated hereby, except for such approvals as have already been obtained.

ARTICLE VIII
TENANT TO MAINTAIN AND REPAIR

Section 8.01 Maintenance and Repair Generally.

(a) Except as otherwise provided herein and except for the obligations of Landlord, the State or the University with respect to Existing Environmental Conditions and the RAP Elements, Tenant shall be responsible, at its own expense, for maintaining, and making all appropriate repairs and replacements to, the Demised Premises, both interior and exterior,
structural and non-structural, foreseen and unforeseen, ordinary and extraordinary, and above and below ground, including all Foundation Elements, and all utility and support systems serving the Demised Premises (provided that Tenant shall only be responsible for maintaining, repairing and replacing utility and support systems that are outside of the Demised Premises to the extent that such utility and support systems primarily serve the Demised Premises), and keep the same and all parts thereof, the appurtenances thereto, together with any and all alterations, additions and improvements therein or thereto, in first class order and condition, consistent with the standards to which first class urban facilities of comparable use in Hartford, Connecticut are customarily maintained (subject to ordinary wear and tear and casualties), and in compliance with all Applicable Laws and Insurance Requirements. Tenant shall not permit anything to be done upon the Demised Premises which would invalidate or prevent the procurement of any insurance policies which may at any time be required pursuant to the provisions of Article XIII hereof. Tenant shall not cause or permit undue accumulations of garbage, trash, rubbish or other refuse on or around the Demised Premises.

(b) Subject to the terms of the Declaration, including with respect to the allocation of costs for such maintenance, Landlord agrees that it: (i) shall maintain and keep the sidewalks and curbs adjoining the Demised Premises and the sidewalks and curbs adjoining the land leased to Developer by the Tract 1 Lease and to FSD Apartments, LLC by the Tract 2 Lease, including any vaults thereunder (herein, the “Surrounding Sidewalks”), free and clear of dirt, ice, snow, rubbish, holes, protrusions, obstructions and other defects of any kind whatsoever and (ii) shall repair and/or maintain the Surrounding Sidewalks, North Garage and South Garage and keep the same and all parts thereof, the appurtenances thereto, together with any and all alterations, additions and improvements therein or thereto, in first class order and condition, consistent with the standards to which first class urban facilities of comparable use in Hartford, Connecticut are customarily maintained (subject to ordinary wear and tear and casualties), and in compliance with all Applicable Laws and Insurance Requirements for the Term of this Lease.
Section 8.02 Repair Due to Environmental Conditions.

Tenant shall not be responsible for any costs or expenses to remediate Existing Environmental Conditions, except to the extent such Existing Environmental Conditions are exacerbated as a result of the negligence or willful misconduct of Tenant, its Affiliates or its Permittees or by the default by Tenant in performing any of the covenants or conditions of this Lease (including, without limitation, any release of Regulated Materials resulting from acts or omissions of Tenant, its Affiliates or its Permittees). Remediation costs attributable to such exacerbation of an Existing Environmental Condition shall be paid for by Tenant within thirty (30) days after receipt of a detailed invoice as Additional Rent due hereunder.

ARTICLE IX
TENANT COMPLIANCE WITH LAWS AND AGREEMENTS

Section 9.01 Tenant to Comply with Laws and Agreements Generally.

(a) Throughout the Term hereof, at Tenant’s expense, Tenant shall comply with the following in connection with its development of the Demised Premises:

(i) all Applicable Laws, but Tenant shall not by virtue of this provision be required to comply with Applicable Laws to the extent that either (A) such compliance involves remediation or monitoring of Existing Environmental Conditions (except as provided in Section 8.02), or (B) Landlord or the State have expressly undertaken responsibility for such compliance pursuant to the terms of this Lease or any other agreement;

(ii) every applicable regulation, order or requirement of the National Board of Fire Underwriters, the Connecticut Board of Fire Underwriters or other body having similar functions (the “Insurance Requirements”); whether or not such compliance

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involves interior or exterior, structural or non-structural, foreseen or unforeseen, ordinary or extraordinary repairs or changes, and whether or not such compliance be required on account of any particular use to which the Demised Premises, or any part thereof, may be put, and whether or not any such regulation, order or requirement be of a kind now within the contemplation of the parties hereto; and

(iii) the Development Agreement, the Phase III Development Agreement, the Campus Development Agreement, the Declaration, the ELUR and other agreements (if any) provided for in Schedule C to this Lease.

(b) Tenant, at Tenant’s expense, may contest the validity or application of any Applicable Laws or Insurance Requirements, and such non-compliance by Tenant during such contest, if such contest shall be promptly commenced and diligently prosecuted, shall not be deemed a breach of this Section 9.01; provided (i) such non-compliance shall neither constitute a crime nor an offense punishable by criminal fine or imprisonment, nor result in any forfeiture of title, condemnation or taking, and (ii) Tenant shall be responsible for, and shall indemnify and hold Landlord, and the State from and against any liability, loss or expense, including reasonable attorneys’ fees, that Landlord, or the State shall incur as a result of such non-compliance. Notwithstanding the immediately preceding sentence, if the cost of non-compliance would reasonably exceed $250,000, Tenant shall, upon Landlord’s request, maintain a reserve in an amount that Landlord reasonably deems necessary to cover any potential liability. This paragraph (b) shall survive the expiration or earlier termination of this Lease.

ARTICLE X
ASSIGNMENT, SUBLETTING AND MORTGAGING

Section 10.01 Transfer and Assignment Generally.
Prior to Substantial Completion of the Private Improvements and the Tenant Public Improvements, Tenant shall not Transfer Tenant’s Leasehold Interests except for (i) Permitted Encumbrances, and (ii) as otherwise expressly permitted by either (x) the terms of this Lease, or (y) the written consent of Landlord, which consent may be withheld in Landlord’s sole discretion. A Transfer of Tenant’s Leasehold Interests includes any transfer, directly or indirectly, of a controlling interest in Tenant, including any transfer of a controlling interest by merger. Tenant shall pay all reasonable attorneys’ fees incurred by Landlord in obtaining the consent of Landlord for each Transfer of Tenant’s Leasehold Interests as a precondition to such consent. Any Transfer of Tenant’s Leasehold Interests must include a Transfer of the Tenant’s right, title and interest in the Private Improvements, and any purported Transfer by Tenant of any of Tenant’s Leasehold Interests without a Transfer of all of Tenant’s Leasehold Interests shall be void. Any attempted Transfer of Tenant’s Leasehold Interests made without compliance with the requirements of this Article X shall be void.

Section 10.02 Permitted Mortgage.

Notwithstanding anything to the contrary set forth in Section 10.01, Tenant shall at all times have the right, without the necessity of securing Landlord’s permission or consent, but with prompt written notice to Landlord, to grant the Permitted Mortgage, and to assign to Permitted Mortgagee this Lease, and the rents and other rights of Tenant hereunder and thereunder, as collateral security for the debt secured by such Permitted Mortgage, and to enter into any and all extensions, modifications, amendments, replacements and refinancings of such Permitted Mortgage as Tenant shall elect, provided that (i) after any extension, modification, amendment, replacement or refinancing of a Permitted Mortgage, the mortgage instrument and the holder thereof still satisfy the requirements for a Permitted Mortgage under this Lease, and (ii) the maturity date of any such financing is prior to the end of the Term. Each Permitted Mortgagee shall have the unrestricted right to assign, sell, participate, securitize and otherwise deal with its interest in its Permitted Mortgage without Landlord’s permission or consent, provided that, after any such assignment, sale, participation, securitization or other transaction, the mortgage instrument and the holder thereof continue to satisfy the requirements for a Permitted Mortgage under this Lease. The exercise by a Permitted Mortgagee of lender’s rights

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and remedies upon default (including, without limitation, strict foreclosure, foreclosure by sale, or deed in lieu of foreclosure and any subsequent conveyance by the entity that acquires this Lease as a result of such foreclosure or deed in lieu thereof) shall not be considered a prohibited Transfer. No Permitted Mortgagee shall, as such, be deemed to be an assignee or transferee of this Lease or of the leasehold estate hereby created so as to require such Permitted Mortgagee, as such, to assume the performance of any of the terms, covenants or conditions on the part of Tenant to be performed hereunder, unless and until such Permitted Mortgagee has acquired Tenant’s rights under this Lease through the exercise of its remedies under the Permitted Mortgage. The purchaser at any sale of this Lease and of the leasehold estate hereby created in any proceedings for the foreclosure of any Permitted Mortgage, or a purchaser from any Permitted Mortgagee after foreclosure or the assignee or transferee of this Lease and of the leasehold estate hereby created under any instrument of transfer in lieu of the foreclosure of any Permitted Mortgage shall be deemed to have agreed to perform all of the terms, covenants, and conditions on the part of Tenant to be performed hereunder from and after the date of such Transfer, but only with respect to the period with respect to which such purchaser or assignee is the owner of the leasehold estate.

In connection with such Permitted Mortgage, the following shall apply:

(a) There shall be no cancellation, surrender or modification of this Lease by joint action of Landlord and Tenant, without the prior consent in writing of the Permitted Mortgagee given only in Permitted Mortgagee’s sole and absolute discretion.

(b) Landlord shall, upon serving Tenant with any notice of default, simultaneously serve a copy of such notice upon the Permitted Mortgagee. The Permitted Mortgagee shall thereupon have the same right as is given Tenant under this Lease to remedy or cause to be remedied the defaults complained of, plus the additional periods set forth in subsections (c) and (d) of this Section 10.02 to remedy or caused to be remedied such defaults; provided, however, that the Permitted Mortgagee shall never be obligated
so to do, and so long as Permitted Mortgagee has commenced the exercise of any remedy under its Permitted Mortgage and continues to diligently pursue the same mad complies with subsections (c) and (d) of this Section 10.02, this Lease shall not be terminated. Landlord shall accept such performance by or at the instigation of the Permitted Mortgagee as if the same had been done by Tenant. Tenant authorizes each Permitted Mortgagee, to take any such action as it shall elect and does hereby authorize entry upon the Demised Premises by the Permitted Mortgagee for such purpose.

(c) Landlord shall take no action to effect a termination of this Lease by reason of any default, unless, following the expiration of the period of time given Tenant to cure such default, Landlord shall notify every Permitted Mortgagee of Landlord’s intent to so terminate at least twenty (20) days in advance of the proposed effective date of such termination if such default is capable of being cured by the payment of money, and at least sixty (60) days in advance of the proposed effective date of such termination if such default is not capable of being cured by the payment of money. The provisions of subsection (d) below of this Section 10.02 shall apply if, during such twenty (20)-day or sixty (60)-day period, any Permitted Mortgagee shall: (i) notify Landlord of such Permitted Mortgagee’s desire to nullify such notice; (ii) pay or cause to be paid all Rent then due and in arrears as specified in the termination notice to such Permitted Mortgagee and that may become due during such twenty (20)-day or sixty (60)-day period; and (iii) comply, or in good faith and with reasonable diligence and continuity, commence to comply, with all non-monetary requirements of this Lease then in default and reasonably susceptible of being complied with by such Permitted Mortgagee, all subject to the provisions of (b) above.
(d) If Landlord shall elect to terminate this Lease by reason of any default of Tenant, and a Permitted Mortgagee shall have proceeded in the manner provided for by subsection (c) of this Section, the specified date for the termination of this Lease as fixed by Landlord in its termination notice shall be extended in accordance with the provisions of (b) above, provided such Permitted Mortgagee shall: (i) pay or cause to be paid the Rent under this Lease as the same becomes due, and continue its good faith efforts to perform all of Tenant’s other obligations under this Lease, excepting past non-monetary obligations then in default and not reasonably susceptible of being cured by such Permitted Mortgagee; and (ii) diligently takes steps to acquire Tenant’s interest in this Lease by foreclosure of the Permitted Mortgage or other appropriate means and prosecute the same to completion with due diligence. The time for completion by such Permitted Mortgagee of its proceedings shall continue so long as such Permitted Mortgagee diligently proceeds to complete steps to acquire Tenant’s interest in this Lease by foreclosure of the Permitted Mortgage or by other appropriate means. Nothing in this subsection (d), however, shall be construed to require a Permitted Mortgagee to continue such foreclosure proceedings after the default has been cured. If the default shall be cured and the Permitted Mortgagee shall discontinue such foreclosure proceedings, this Lease shall continue in full force and effect as if Tenant had not defaulted under this Lease. In the event Landlord believes the Permitted Mortgagee is not complying with the provisions of this subsection (d), the Landlord shall give Permitted Mortgagee written notice of the same. If Permitted Mortgagee has not performed under this subsection (d) within four (4) months after such notice, then Landlord may terminate this Lease thirty (30) days after subsequent notice of termination to Permitted Mortgagee.

(e) Nothing herein shall preclude Landlord from exercising any rights or remedies under this Lease, other than the right of termination which is to
be governed by this Section, with respect to any default by Tenant during any period of forbearance under this Section.

(f) In the event of the termination of this Lease for any reason whatsoever, including without limitation a Material Tenant Default, Landlord shall enter into a New Lease (the "New Lease") with the Permitted Mortgagee or its nominee for the remainder of the Term effective as of the date of such termination of this Lease, at the Rent and upon the covenants, agreements, terms, provisions and limitations herein contained, provided (i) such Permitted Mortgagee or its nominee makes written request upon Landlord for such New Lease within sixty (60) days after the date such Permitted Mortgagee or its nominee receives notice of such termination from Landlord; (ii) such Permitted Mortgagee pays or causes to be paid to Landlord at the time of the execution and delivery of such New Lease any and all sums which would at the time of the execution and delivery thereof be due under this Lease but for such termination, and pays or causes to be paid any and all reasonable expenses, including reasonable counsel fees, court costs and costs and disbursements incurred by Landlord in connection with any such termination, and (iii) such Permitted Mortgagee or its nominee cures any and all other continuing defaults under this Lease reasonably susceptible of being cured by such Permitted Mortgagee. If a Permitted Mortgage is only as to a portion of the Demised Premises, then the New Lease to the Permitted Mortgagee thereof shall only be as to such portion, and the Rent and other amounts payable shall be equitably allocated. Nothing herein shall require the Permitted Mortgagee to cure a default of Tenant which is not susceptible to cure by such party, e.g., the bankruptcy of Tenant. The Permitted Mortgagee or its nominee, as tenant under such New Lease, shall have the same right, title and interest in and to the Private Improvements as Tenant had under this Lease. If the Permitted Mortgagee or its nominee becomes the holder of Tenant's interest under this Lease, its liability shall extend only with respect to the
period it is the holder of Tenant’s interest under this Lease, and it shall be released of all further liability arising from and after the date of any Transfer of such Tenant’s interest that is permitted under Section 10.02(j).

After any foreclosure of any Permitted Mortgage or delivery of an instrument in lieu of foreclosure, the Permitted Mortgagee, the purchaser at a foreclosure sale or the grantee under an instrument in lieu of foreclosure may, within sixty (60) days after the date title vests in the Permitted Mortgagee, such purchaser or such grantee, as applicable, notify Landlord of such fact (the “Permitted Mortgagee’s Notice”). In such event, Landlord agrees to enter into a New Lease of the Demised Premises with the Permitted Mortgagee, such purchaser or such grantee for the remainder of the Term, effective as of the date of title vesting by virtue of any foreclosure, foreclosure sale or instrument in lieu of foreclosure, as applicable, upon the terms and conditions of this Lease, provided that the Permitted Mortgagee, such purchaser or such grantee shall comply with the requirements for a New Lease set forth in this Section 10.02, and provided further that the Permitted Mortgagee, such purchaser or such grantee shall provide such reasonably satisfactory assurances to Landlord as it may require (which requirement of assurances may be satisfied by providing Landlord a copy of a title insurance policy by a title insurance company licensed in the State of Connecticut issued to the Permitted Mortgagee, such purchaser, or such grantee, insuring that such Permitted Mortgagee, such purchaser, or such grantee has succeeded to the interest of Tenant under this Lease) that title to Tenant’s interest in the Demised Premises is vested in Permitted Mortgagee, such purchaser or such grantee (and such Permitted Mortgagee, such purchaser or such grantee shall indemnify and hold harmless Landlord with regard to any claims arising from any insufficiency of the foreclosure proceedings), and provided:

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(i) the Permitted Mortgagee, such purchaser or grantee shall pay or cause to be paid to Landlord at the time of the execution and delivery of such New Lease, any and all sums which are at the time of execution and delivery thereof due pursuant to this Lease, and, in addition thereto, all reasonable expenses, including reasonable attorneys' fees, which Landlord shall have incurred by reason of the execution and delivery of the New Lease and which have not otherwise been received by Landlord from Tenant or other party in interest under Tenant; and

(ii) the Permitted Mortgagee, such purchaser or grantee shall remedy in a commercially reasonable time any of Tenant’s defaults which are reasonably capable of being so cured by the Permitted Mortgagee, such purchaser or grantee and which are identified in writing to such Permitted Mortgagee, purchaser or grantee at the time of the entering into of such new Lease.

(g) Landlord shall, upon request, execute, acknowledge and deliver to each Permitted Mortgagee, an agreement, in form reasonably satisfactory to such Permitted Mortgagee and Landlord, between Landlord, Tenant and Permitted Mortgagee, agreeing to all of the provisions of this Article; provided that Tenant shall pay all reasonable costs of any third party retained by Landlord in connection therewith.

(h) The failure by any such Permitted Mortgagee to exercise the right under any provision of this Lease shall not be deemed a waiver of its right under any other provision hereof.

(i) The right of a Permitted Mortgagee to foreclose a Permitted Mortgage and to sell or assign the Tenant’s interest in this Lease in accordance with the
terms hereof is expressly recognized and such sale or assignment shall never be deemed a violation of any provision of this Lease.

(j) In the event of (i) a foreclosure of a Permitted Mortgage, (ii) delivery of an instrument in lieu of foreclosure of a Permitted Mortgage, or (iii) a termination of this Lease and the execution of a New Lease pursuant to Section 10.02(f) hereof, a Permitted Mortgagee may, notwithstanding the terms of Section 10.01 hereof, Transfer the interest of Tenant under this Lease or under a New Lease from time to time to a party which is reasonably acceptable to Landlord, provided that said party shall assume and agree to pay and perform all obligations of Tenant hereunder that accrue on and after the date of the Transfer and that the Permitted Mortgagee or such transferee shall pay all reasonable attorneys' fees incurred by Landlord in obtaining the consent of Landlord for each such transfer as a precondition to such consent. Such Permitted Mortgagee shall promptly notify Landlord of any such proposed Transfer, including information in reasonable detail bearing on the experience of the proposed transferee. Landlord shall also be entitled to request and receive from such Permitted Mortgagee such supplementary information regarding the experience of the proposed transferee as may be reasonable in the circumstances, provided request for such supplementary information is made within fifteen (15) days of the date notice of such proposed Transfer is given by such Permitted Mortgagee to Landlord. If, in the reasonable judgment of Landlord, such proposed transferee is not acceptable, Landlord shall so notify such Permitted Mortgagee (stating the basis for such judgment) prior to the later of (i) thirty (30) days following the date of notice by such Permitted Mortgagee to Landlord of such proposed Transfer, and (ii) fifteen (15) days following receipt by Landlord of any supplementary information requested by Landlord pursuant to the preceding sentence. If such notice is not given by Landlord to such Permitted Mortgagee within the time provided, Landlord shall be deemed SL - 39

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to have approved the transferee for purposes of this subsection (j).
Nothing contained in or done pursuant to this subsection (j) shall release
the named Tenant from any of its obligations under this Lease, and, for
purposes of Section 10.04, a Transfer permitted by this subsection (j) shall
not, as it relates to the continuing liability of the named Tenant, be deemed
to have been approved by Landlord. In the event such transferee is
properly rejected by Landlord, the provisions of this Section shall continue
as though no transferee had been proposed by Permitted Mortgagee until
an acceptable transferee has been identified, and this Lease shall continue
in full force and effect.

(k) A standard mortgagee clause naming each Permitted Mortgagee may be
added to any and all insurance policies required to be carried by Tenant
hereunder.

(l) Tenant shall give each Permitted Mortgagee prompt notice of any
arbitration or legal proceedings between Landlord and Tenant involving
obligations under this Lease. Each Permitted Mortgagee shall have the
right to intervene in any such proceedings and be made a party to such
proceedings, and the parties hereto do hereby consent to such intervention.
If any Permitted Mortgagee shall not elect to intervene or become a party
to any such proceedings, Tenant shall give the Permitted Mortgagee notice
of, and a copy of any award or decision made in any such proceedings,
which shall be binding on the Permitted Mortgagee not intervening after
receipt of notice of arbitration.

Section 10.03 Continuing Liability.

No Transfer not approved in accordance with the provisions of Sections 6.02 or
10.01, no Permitted Mortgage and no indulgence granted by Landlord to any assignee or
sublessee shall in any way impair the continuing primary liability (which after an assignment not
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so approved shall be joint and several with the assignee) of Tenant hereunder. Except as provided in the prior sentence and in the next sentence, in the event that Tenant Transfers this Lease in accordance with the provisions of Section 10.01, then Tenant shall be released from all liabilities and obligations under this Lease that accrue on and after the date of the Transfer. In the event of any Transfer to an Affiliate of Tenant, the liabilities and obligations of Tenant shall not be released, but shall continue in full force and effect.

Section 10.04 Consent not Continuing.

Any consent by Landlord to any Transfer shall be held to apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver of the duty of Tenant (or the successors or assigns of Tenant) to obtain from Landlord consent to any other or subsequent Transfer where such consent is required under this Lease.

Section 10.05 Covenants to Run with the Demised Premises.

Any Person who, within the restrictions of this Article, shall become vested of part or all of the leasehold estate of Tenant hereunder, shall be bound by and liable upon all covenants and provisions contained in this Lease on the part of Tenant to be performed (except as otherwise expressly provided in this Article X), regardless of the nature of covenants ordinarily running with the land.
ARTICLE XI
INSPECTION OF THE DEMISED PREMISES

Upon reasonable prior written notice to Tenant, Tenant shall take any and all such action as may be reasonably required to permit Landlord, or Landlord’s agents or representatives, to enter the Demised Premises at all reasonable times for the purpose of inspecting or determining Tenant’s compliance with the Lease. Tenant shall also permit Landlord and its agents and representatives to enter the Demised Premises at any time for the purpose of performing any work therein that may be necessary by reason of Tenant’s default (after notice and the expiration of any cure periods) under this Lease, but the provisions contained in this Article are not intended to create or increase any obligations on Landlord’s part hereunder. Tenant shall have the right to have its representative present during all inspection and repairs, and all entries shall be conducted in a reasonable manner and at reasonable times. Landlord shall have the right to examine records of Tenant relating to the operation of the Demised Premises and the maintenance, repair and replacement of the Demised Premises (to the extent relevant to Tenant’s obligations under this Lease or the Declaration) at such times as Landlord may reasonably desire, and Landlord shall have the right to receive and be provided with copies of all fire safety inspection reports and all final plans and specifications relating to the Private Improvements.

ARTICLE XII
PAYMENT OF TAXES AND OTHER CHARGES BY TENANT

Section 12.01 Payment by Tenant.

(a) Tenant shall pay and discharge, or cause to be paid and discharged, as Additional Rent hereunder, all taxes, including real estate taxes, personal property taxes, and taxes on rents, leases, occupancy or sales, payments in lieu of taxes, including all payments to the Authority pursuant to the Private Development Parcel Legislation, water charges, sewer rents, general or special assessments and installments thereof, utility charges (including but not
limited to telephone, electricity, gas, water, chilled water, steam and refuse removal), excises, insurance premiums, license and permit fees, and all other duties, charges, or payments, ordinary or extraordinary, foreseen or unforeseen, general or special, of any kind or nature whatsoever, as shall during the Term be imposed, assessed, levied, or become a charge or lien upon the Demised Premises, or any part thereof, or any right appurtenant thereto, or the rents, issues and profits arising out of the Demised Premises, all after giving effect to any agreement with the Landlord providing Tenant with relief from the payments in lieu of taxes owing pursuant to the Private Development Parcel Legislation (hereinafter collectively referred to as “Impositions” and individually as an “Imposition”). Tenant, however, may take the benefit of the provisions of any statute or ordinance permitting any such Imposition to be paid over a period of time, provided such payment over a period of time does not extend beyond the Term. Impositions shall not include any taxes on any portion of the E/R/R/R District or any improvements thereon, other than the Demised Premises.

(b) Tenant shall also pay and discharge, when due, all taxes, assessments, governmental charges or levies, or claims for labor, supplies, rent and other obligations made against it or its property, except liabilities being contested in good faith.

(c) The Impositions for the calendar year or tax year, as the case may be, in which this Lease shall commence and terminate, shall be apportioned so that Tenant shall pay or cause to be paid only those portions thereof which correspond to the portions of said years as are within the Term. Such apportionment shall be computed with all reasonable diligence after, and as of, the Commencement Date and date of the termination of the Term. Immediately upon the conclusion of such apportionment Tenant shall pay to Landlord any balance which may thereby be determined to be owing to Landlord. Should such apportionment result in a net balance owing from Landlord to Tenant, Landlord may give Tenant a credit for such amount against the amount of any Additional Rent which Tenant owes to Landlord, or if Tenant owes no Additional Rent, Landlord shall pay Tenant the net balance owing to Tenant within twenty (20) days after the determination of such apportionment.
(d) In any case where a tax may be levied, assessed or imposed upon the Additional Rent reserved hereunder in lieu of or as a substitute, in whole or in part, for taxes levied, assessed or imposed by any Governmental Authority upon the Demised Premises or any part thereof, Tenant shall pay the same, the intention of this paragraph being that Tenant shall pay all taxes arising out of the operation of or imposed in connection with the Demised Premises, without regard to how such tax is described, interpreted, construed or characterized by any Governmental Authority or court (calculated, however, as if the Demised Premises were the only property owned by Landlord), provided that Impositions shall not be construed to include income taxes assessed against Landlord, franchise, estate, succession, inheritance or transfer taxes or any tax or charge in replacement or substitution of the foregoing or of a similar character.

Section 12.02 Contest; Assessment.

Whenever necessary or desirable Tenant may contest any Imposition, in good faith, by appropriate proceedings, at Tenant’s own expense, in the name of Landlord, Tenant, or both, and may defer payment thereof to the extent permissible under Applicable Laws, provided that (i) such contest is being pursued diligently and in good faith, (ii) the State’s and Landlord’s fee and/or leasehold interests in any part of the E/R/R District are not jeopardized, (iii) such contest is not made on the basis of governmental or sovereign immunity, and, (iv) if the amount being contested exceeds $250,000, and if requested by Landlord or required by any Permitted Mortgagee, then funds, reasonably sufficient to enable prompt payment of any such contested Imposition at such time as the contest proceedings are completed, are deposited and held, in trust, by the Permitted Mortgagee, if required by a Permitted Mortgagee. If it shall so desire, Tenant may endeavor, at its sole cost and expense, to obtain a lowering of the assessed valuation of the Demised Premises for the purpose of reducing taxes thereon, including contesting, using the Dispute Resolution Procedures, the amount of any payment in lieu of taxes required by Landlord pursuant to the Private Development District Legislation.
Section 12.03 Preparation of Declarations, Statements and Reports.

As between the parties hereto, Tenant alone shall have the duty of attending to, making or filing any declaration, statement or report which may be provided or required by law as the basis of or in connection with the determination, equalization, reduction or payment of any and every Imposition which is to be borne or paid or which may become payable by Tenant under the provisions of this Article, and Landlord shall not be or become responsible to Tenant therefor, nor for the contents of any such declaration, statement or report; provided, however, that Landlord shall at all times, at Tenant’s cost and expense, cooperate with Tenant in the preparation of any such declaration, statement or report and supply Tenant with such information in Landlord’s possession as shall be reasonably required to make any such declaration, statement or report.

ARTICLE XIII

INSURANCE

Section 13.01 Insurance Requirements.

(a) Unless (i) as otherwise provided in this Article or (ii) alternative equivalent arrangements for such insurance coverages are approved by Landlord in writing, Tenant shall, at its own expense, and as Additional Rent hereunder, keep the Private Improvements insured throughout the Term against all loss or damage by risks included in the coverages which, as of the Commencement Date, are known as Special Form (including earthquake coverage, if available at commercial reasonable rates), with demolition rider, and such other insurable perils as Landlord may from time to time specify and which are customarily insured against by owners of comparable buildings, including comprehensive boiler and machinery insurance covering all boilers and machinery (including heating and cooling systems, elevators, mechanical systems and generators), all in amounts at least equal to the full replacement cost thereof, without deduction for depreciation. If the parties cannot agree on what is customarily insured against by owners of comparable buildings, then such matter shall be resolved pursuant to the Dispute Resolution Procedures, and, during the pendency of such

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Dispute Resolution Procedures, Tenant shall maintain insurance with the same coverages and at least at the policy amounts as were in effect immediately prior to such dispute. Notwithstanding anything herein contained to the contrary, Tenant shall at all times provide agreed amount property coverage with a waiver of co-insurance. In the event of any change in co-insurance requirements applicable to the Demised Premises by statute or by an insurance service organization recognized by the State of Connecticut, or any similar body, the policies furnished by Tenant shall comply with such changes. With respect to any construction, repair or alteration work carried out on the Demised Premises pursuant to this Lease, Tenant shall provide for the following minimum coverages and limits of liability with respect to the Demised Premises: “Builder’s Risk” insurance in an amount sufficient to cover the full insurable value of the work on the Demised Premises and insuring against risks included in the coverages which, as of the Commencement Date, are known as Special Form perils. Special Form perils will include, but not be limited to, “All Risk” physical loss or damage arising from fire, collapse, transit, earthquake (if available at commercial reasonable rates), theft, vandalism and malicious mischief. Permitted Mortgagee will be named as loss payee on any insurance required by this Section 13.01(a).

(b) Tenant, at Tenant’s expense, and as Additional Rent hereunder, shall also obtain the following insurance:

(i) Commercial general liability insurance with respect to the Demised Premises of not less than $1,000,000 per occurrence, and $2,000,000 in the aggregate. Coverage shall include premises and operations, independent contractors, 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 Demised Premises or the general aggregate limit shall be twice the occurrence limit.

(ii) Comprehensive automobile liability insurance, including the ownership, maintenance and operations of any automotive
equipment, owned, hired or non-owned, in an amount not less than one million dollars ($1,000,000) combined single limit.

(iii) Workers’ compensation and employer’s liability insurance for statutory coverage of Tenant’s employees in compliance with the compensation laws of the State of Connecticut. Coverage shall include Employer’s Liability with minimum limits of $500,000 each accident, $500,000 Disease-Policy limit, $500,000 each employee.

(iv) Umbrella Liability insurance (following form over all of the coverages required in subparagraphs (i) through (iii) above, other than workers’ compensation insurance) with limits for bodily injury, property damage and personal injury of $25,000,000 with an aggregate of $25,000,000.

(v) Flood insurance, if Tract 3 is or should become located in a HUD designated Flood Hazard Area Zone A or V or comparable designations requiring flood insurance.

(vi) Insurance covering the Demised Premises in such amount as will be required for the demolition of all or any portion of the Private Improvements included in the Demised Premises which have been damaged or destroyed by an insured event and which are not repaired or restored by Tenant, in such amount as Landlord shall reasonably require. “Demolition” for this purpose includes all costs and expenses of razing the Private Improvements, carting of debris from the Demised Premises, filling holes and excavations, clearing the site and leaving the site in a clean, safe and level condition.
(vii) On reasonable demand of Landlord from time to time, such other forms, types and amounts of insurance, or adjustments to existing coverage, as at such time are appropriate, customary and generally required for first-class facilities of comparable uses in Connecticut, operated by or on behalf of responsible and reasonable owners, due regard being given to the height and type of the Private Improvements, their construction, use and occupancy. If the parties disagree as to such matter, it shall be resolved pursuant to the Dispute Resolution Procedures.

(c) To the extent available, all insurance carried by Tenant under Section 13.01(b)(i), (ii), (iv), (vi), and (vii) hereof shall name Landlord, the State, any Permitted Mortgagee (who shall have priority as to any property casualty loss proceeds), Developer, The Innovest Group, Inc. d/b/a The HB Nitkin Group, and Tenant as their interests may appear (with Landlord, Permitted Mortgagee, and the State named as additional insureds with respect to (i), (ii), (iv), and (vii)), but this provision shall not relieve Landlord and Tenant of their respective obligations under Article XIV hereof. Any insurance policy provided pursuant to this Article shall provide that it is primary insurance, and not excess over or contributory with any other insurance, and shall effectively prohibit cancellation or non-renewal or reinstatement of a terrorism exclusion without thirty (30) days’ written prior notice (subject to a limitation of ten (10) days’ written prior notice of cancellation due to non-payment of premium) to Landlord, Permitted Mortgagee and the State and all insurance policies shall be so endorsed. Deductibles or self-insured retention amounts with respect to any of the coverages required by this Article shall not exceed customary amounts required by ground lessors from comparable owners of comparable buildings.

(d) The liability insurance required to be carried by Tenant hereunder shall also cover claims or damages arising on account of any injury to persons or damage to property in the parking garages located in the E/R/R District or any other facilities that Tenant has the right to use pursuant to the Declaration or any other agreement relating to the use by Tenant of the E/R/R District.
(e) All liability insurance policies referred to in this Article shall provide that any losses thereunder shall be adjusted with Tenant, Landlord, Permitted Mortgagee and the State and that loss thereunder shall be payable to Landlord, the State, Permitted Mortgagee and Tenant as their interests may appear. Neither Landlord nor Tenant shall unreasonably withhold or delay its endorsement to any insurance check payable hereunder.

(f) Tenant shall procure policies for such insurance as set forth herein, and shall deliver or cause to be delivered to Landlord certificates that evidence such policies, with evidence of payment of the premiums thereon, and shall procure renewals thereof from time to time at least thirty (30) days before the expiration of any similar policy then existing. In default of such delivery, and after ten (10) days' written notice from Landlord without cure of such default, Landlord may procure any such insurance for such periods as Landlord shall reasonably elect, and Tenant shall, within thirty (30) days of Landlord's written demand, reimburse Landlord for all reasonable, competitively priced outlays for such insurance (or Tenant's proportionate share if Landlord obtains a blanket insurance policy for its and Tenant's operations), together with interest thereon at the Interest Rate. All insurance required by this Lease shall be from companies with an A.M. Best's Rating of no less than A-, VII (or comparable rating if such rating is no longer used by A.M. Best) and licensed and authorized to do business in the State of Connecticut, and shall contain such provisions as Landlord and the Permitted Mortgagee may require consistent with the provisions of this Lease, provided that the Permitted Mortgagee may require additional or other provisions so long as the same do not diminish or adversely affect the rights and protections of Landlord hereunder.

(g) Except as otherwise provided to the contrary in this Article, any insurance required by this Lease may be obtained by means of any combination of primary and umbrella coverages and by endorsement and/or rider to a separate or blanket policy and/or under a blanket policy in lieu of a separate policy or policies, provided that Tenant shall deliver a certificate of insurance of any said separate or blanket policies and/or endorsements and/or riders evidencing to Landlord that the same complies in all respects with the provisions of this Lease, and that the coverages thereunder and the protection afforded Landlord, and the State thereunder are at least
equal to the coverages and protection which would be provided under a separate policy or policies procured solely for the Demised Premises.

(h) The insurances required in this Article may be carried on either an “occurrence” or a “claims made” basis, providing, however, that, should any insurance be carried on a “claims made” basis, the Tenant also shall be obligated to procure an extended reporting period thereto or a subsequent “claims made” policy with the same retroactive date as the prior “claims made” policy, as necessary to protect Tenant, and Landlord from any claims, actions or causes of action which first accrue during the Term.

(i) Tenant shall neither do nor allow its Permittees to do anything whereby any of the insurance required by the provisions of this Article shall or may be invalidated in whole or in part.

(j) Landlord, at Landlord’s expense, shall also obtain commercial general liability insurance with respect to those portions of the E/R/R District not part of the Demised Premises or the premises leased to Developer or its affiliate under the Tract I Lease and to FSD Apartments, LLC under the Tract II Lease, with limits of not less than combined bodily injury, personal injury and property damage limits of a minimum of $2,000,000.00 and umbrella liability insurance with limits for bodily injury, property damage and personal injury of $25,000,000.00 with an aggregate of $25,000,000.00. Such insurance shall name Tenant and the Permitted Mortgagee as additional insureds. Coverage shall include premises and operations, independent contractors, products and completed operations, contractual liability, and broad form property damage coverage. Landlord shall also maintain or cause to be maintained property insurance in commercially reasonable amounts on the parking garages in the E/R/R District.

(k) Nothing in this Article shall relieve Landlord and Tenant of their respective obligations under Article XIV hereof. Additionally, it is agreed between the parties hereunto that the amounts of insurance in this Lease do not, in any way, limit the liability of the Tenant to the Landlord, the State or any other State Indemnified Parties by virtue of Tenant’s

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promise to indemnify and hold harmless all of the same. In the event that any claim results in a settlement or judgment in an amount in excess of the net amount of any insurance proceeds paid to any State Indemnified Parties under any insurance carried by the Tenant, the Tenant shall be liable to the Landlord and/or such other State Indemnified Parties, as applicable, for the difference, plus all fees and expenses incurred in collecting the same, all at Tenant's sole cost and expense.

Section 13.02 Subrogation.

Notwithstanding anything herein contained to the contrary, Landlord, Developer and Tenant do each hereby release the others and the State from any and all liability for any loss or damage to their respective interests caused by fire or any other casualty which is insured against by the policies required hereunder to the extent of insurance proceeds actually recovered, or if either party failed to carry the insurance required hereunder, such party hereby releases the others from the limits and coverages it would have received if such party was carrying the insurance required pursuant to this Lease. All such waivers are made without regard to any deductible provision in any policy or any self-insured retention amounts. This limited mutual release is given notwithstanding that such fire or other casualty shall have resulted from the act, omission or negligence of Landlord, the State, or Tenant or their respective agents, employees, licensees, subtenants, customers, guests, invitees, contractors or Permittees. Landlord and Tenant agree to cause their respective insurance policies to permit the foregoing waiver of the right of recovery, for loss occurring to the properties covered by such policies and whereby any right of subrogation is also waived. Each party will, upon request, deliver to the other a certificate evidencing such waiver of subrogation by the insurer. The provisions of this paragraph, however, shall not be operative during any period of time when such "waiver of subrogation" feature is not available for a commercially reasonable premium from insurance companies licensed to do business in the State of Connecticut.
ARTICLE XIV

FIRE OR OTHER CASUALTY

Section 14.01 Obligation to Restore.

(a) Subject to the terms of the Campus Development Agreement, if some or all of the Private Improvements (including in the course of construction thereof) are damaged or destroyed by fire or other casualty, Tenant shall give immediate notice thereof to Landlord, and Tenant, in accordance with Section 14.02, shall commence the restoration, repair, reconstruction and rebuilding of such Private Improvements (the “Restoration”) at Tenant’s sole cost and expense, and shall, in a commercially reasonably manner and in a commercially reasonable time frame, thereafter restore the Private Improvements in accordance with the Campus Development Agreement.

Section 14.02 Insurance Proceeds.

The Proceeds of all property insurance provided for in Section 13.01 shall be paid to the Permitted Mortgagee and, to the extent permitted by the Permitted Mortgage and the Phase III Security Documents, disbursed by the Permitted Mortgagee to Tenant for the Restoration in accordance with the provisions of this Article XIV. The Proceeds of all property insurance paid for any loss which shall occur during the Term shall (unless, and then only to the extent, not permitted under the Phase III Security Documents and the other loan documents of a Permitted Mortgagee) be applied in accordance with the terms of the Phase III Development Agreement and the Campus Development Agreement.

Section 14.03 No Abatement of Rent Upon Election to Restore.

Neither destruction of nor damage to the Demised Premises or any part thereof by fire or any other occurrence (irrespective of whether such destruction or damage may occur before, on or after the date of the commencement of the Term), nor the prohibition of or
interference with Tenant’s use of the Demised Premises as a result thereof, nor any eviction by
paramount title resulting from Tenant’s acts or omissions, nor any other cause whether similar or
dissimilar to the foregoing, shall permit Tenant to surrender this Lease or shall relieve Tenant
from its liability to pay the full Rent or from any of its other obligations under this Lease, and
Tenant waives any rights now or hereafter conferred upon it by statute or otherwise to surrender
this Lease or the Demised Premises or any part thereof, or to any suspension, diminution,
abatement or reduction of the Rent on account thereof.

ARTICLE XV
RESERVED
ARTICLE XVI
EITHER PARTY MAY CURE DEFAULTS

Section 16.01 Landlord Right to Cure.

If Tenant shall default in the performance of any covenant herein or in any other
agreement affecting the Demised Premises on Tenant’s part to be performed and Tenant shall not
cure the same within the applicable cure period, or in the event such default is susceptible to cure
but not within the applicable cure period, should Tenant fail to commence to cure said default
within the applicable cure period and thereafter diligently pursue cure to completion, then, in
addition to all other remedies specifically provided for in this Lease, Landlord shall have the
right, but not the obligation, after thirty (30) days’ notice to Tenant and thirty (30) days’ notice to
the Permitted Mortgagee given after the expiration of such period of notice to Tenant (or on such
lesser notice, if any, as may be reasonable under the circumstances if Tenant’s default, in the
opinion of Landlord, endangers the condition of the Demised Premises or the health or safety of
any Person), to perform the same for the account and at the expense of Tenant and such expense
together with interest at the Interest Rate shall constitute Additional Rent required to be paid
under this Lease. Landlord’s action hereunder shall not be deemed a waiver or a cure of
Tenant’s default. The provisions of this Section shall survive the termination of this Lease.
Section 16.02 Tenant Right to Cure.

If Landlord shall default in the performance of any covenant or other agreement herein on Landlord’s part to be performed, or if Landlord shall default in the performance of any of its obligations under the State E/R/R District Lease (other than obligations Tenant has assumed pursuant to this Lease), which default adversely affects Tenant’s rights or interests in the Demised Premises, and, in either event, Landlord shall not cure the same within the applicable cure period, or in the event such default is susceptible to cure but not within the applicable cure period, should Landlord fail to commence to cure said default within the applicable cure period and thereafter diligently pursue cure to completion, then, in addition to all other remedies specifically provided for in this Lease, Tenant and Permitted Mortgagee shall have the right, but not the obligation, after thirty (30) days’ notice to Landlord (or on such lesser notice, if any, as may be reasonable under the circumstances if Landlord’s default, in the opinion of Tenant, endangers the condition of the Demised Premises or health or safety) to perform the same for the account and at the expense of Landlord, together with interest at the Interest Rate. Tenant’s action hereunder shall not be deemed a waiver or a cure of Landlord’s default. The provisions of this Section shall survive the termination of this Lease.

ARTICLE XVII
BANKRUPTCY

Section 17.01 Event of Bankruptcy.

For purposes of this Lease, any of the following shall be deemed an “Event of Bankruptcy” of Tenant:

(a) if a receiver or custodian is appointed for all or a substantial portion of Tenant’s property or assets other than a receiver appointed by, upon the application of, or on behalf of a Permitted Mortgagee in connection with the foreclosure of the Permitted Mortgage (other than at the request of

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Landlord or its Affiliates), which appointment is not dismissed within one hundred eighty (180) days; or

(b) if Tenant files a voluntary petition under Title 11 of the United States Code, 11 U.S.C. Section 101 et seq. (the “Bankruptcy Code”) or under the insolvency laws of any state having jurisdiction over Tenant (the “Insolvency Laws”); or

(c) if there is an involuntary petition filed against Tenant as the subject debtor under the Bankruptcy Code or any Insolvency Laws (other than a petition filed by Landlord or its Affiliates as petitioning creditors), which is not dismissed within one hundred eighty (180) days of filing, or which results in the issuance of an order for relief against Tenant; or

(d) if Tenant makes or consents to an assignment of its assets, in whole or in part, for the benefit of creditors, or a common law composition of creditors.

Section 17.02 Landlord’s Right to Terminate.

(a) Upon the occurrence of an Event of Bankruptcy, and to the extent permitted by then applicable law, Landlord, at its option and in its sole discretion, may terminate this Lease by written notice to Tenant (subject, however, to applicable provisions of the Bankruptcy Code or any Insolvency Laws during the pendency of any action thereunder involving Tenant as the subject debtor). If this Lease is terminated pursuant to this Article, Landlord may recover possession by process of law or in any other lawful manner, subject to applicable provisions of the Bankruptcy Code and other applicable Insolvency Laws. Furthermore, if this Lease terminates pursuant to this Article, Landlord shall have all rights and remedies against Tenant otherwise provided in this Lease. Notwithstanding the foregoing or anything else in this Article XVII to the contrary, nothing in this Article XVII shall limit the
Permitted Mortgagee’s rights under the terms of this Lease or any agreement between the Permitted Mortgagee and the Landlord.

(b) If Tenant becomes the subject debtor in a case pending under the Bankruptcy Code, Landlord’s right to terminate this Lease under this Article shall be subject to the applicable rights (if any) of Tenant or a trustee in bankruptcy for Tenant to assume or assign this Lease as then provided for in the Bankruptcy Code subject in all respects to the rights of a Permitted Mortgagee under this Lease.

(c) If this Lease is rejected in connection with a bankruptcy proceeding by Tenant or a trustee in bankruptcy for Tenant, such rejection shall be deemed a Transfer by Tenant to the Permitted Mortgagee or its designee of all of Tenant’s right, title and interest under this Lease, and this Lease shall not terminate and the Permitted Mortgagee shall have all the rights of Tenant under this Lease as if such bankruptcy proceeding had not occurred, unless the Permitted Mortgagee shall reject such deemed Transfer by notice in writing to Landlord within thirty (30) days following rejection of the Lease by Tenant or Tenant’s trustee in bankruptcy. If any court of competent jurisdiction shall determine that this Lease shall have been terminated notwithstanding the terms of the preceding sentence as a result of rejection by Tenant or the trustee in connection with any such proceeding, the rights of the Permitted Mortgagee or its designee to a New Lease from Landlord pursuant to this Lease shall not be affected thereby.

Section 17.03 Insolvency of the Landlord.

(c) (a) If Landlord or a trustee or receiver for Landlord rejects this Lease in a proceeding under the Insolvency Laws whereby the Landlord is the subject debtor, then: (i) Landlord and Tenant acknowledge that the Permitted Mortgagee’s collateral includes all rights of Tenant under section 365(h) of the Bankruptcy Code; (ii) Tenant shall not have the right to elect to treat this Lease as terminated except with the Permitted Mortgagee’s consent (any such treatment without the Permitted Mortgagee’s consent shall be null, void and of no force and effect. The Permitted Mortgagee shall have the right, to the exclusion of the Tenant, to make any election and exercise any rights of Tenant under section 365(h)(1) of the Bankruptcy Code.); (iii) if Tenant treats this Lease

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as terminated without the consent of the Permitted Mortgagee, then (notwithstanding any
purported election by Tenant to the contrary made without the Permitted Mortgagee’s
consent) Tenant shall be deemed to have elected to continue this Lease pursuant to
section 365(h)(1)(A)(ii); and, (iv) the lien of any Permitted Mortgage shall extend to
Tenant’s continuing possessory and other rights under section 365(h) of the Bankruptcy
Code in the Demised Premises and this Lease following any rejection, with the same
priority as such lien would have enjoyed against this Lease had such rejection not taken
place.

(d) So long as there is Permitted Mortgage in effect, in no event may Landlord
or its trustee in a proceeding under the Insolvency Laws affecting Landlord sell the
Demised Premises free and clear of this Lease. In no event may Tenant be compelled to
accept a monetary payment in place of its leasehold interest in the Demised Premises.

ARTICLE XVIII
DEFAULTS

Section 18.01 Events of Default by Tenant.

For purposes of this Lease, any of the following shall be deemed a default on the
part of Tenant, and an “Event of Default by Tenant” when not cured following proper notice
within the applicable grace period provided for in Section 18.03(a):

(a) An Event of Bankruptcy as defined in Article XVII;

(b) Non-payment of Rent or any part thereof, including non-payment of
Impositions, of other charges required by this Lease to be paid by Tenant,
or under the Declaration, subject to Tenant’s rights to contest Impositions
and other charges as provided in such documents;

(c) A failure to perform any other covenant or condition of this Lease or the
Declaration on the part of Tenant to be performed, or a material breach of

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a representation or warranty by Tenant hereunder. Any notice given pursuant to Section 18.03(a) that relates to this Section 18.01(c) and refers to a failure to perform work shall specify the work required to be done to prevent the occurrence of a default.

Section 18.02 Events of Default by Landlord.

For purposes of this Lease, the following shall be deemed a default on the part of Landlord, and an “Event of Default by Landlord” when not cured within the applicable grace period provided for in Section 18.03(b):

(a) A failure to perform any covenant or condition of this Lease on the part of Landlord to be performed, including compliance with its obligations under the Declaration or a material breach of a representation or warranty by Landlord hereunder. Any notice given pursuant to Section 18.03(b) that relates to this Section 18.02(a) and refers to a failure to perform work shall specify the work required to prevent the occurrence of a default; and

(b) A State Default under the Development Agreement or the Phase III Development Agreement.

Section 18.03 Notice of Default and Cure Periods.

(a) Upon the occurrence of any event under Section 18.01, Landlord shall give notice to Tenant and any Permitted Mortgagee specifying such default and giving Tenant or Permitted Mortgagee (subject to the provisions of Section 10.02 with respect to the Permitted Mortgagee) the right to cure such default in accordance with the following time limitations: in the event of any default under Section 18.01(a), there shall be no cure period and such event shall be an immediate Event of Default; in the event of any default under Section 18.01(b) hereof, such cure must be effected within fifteen (15) days of notice thereof; in the event of any default under Section 18.01(c) hereof, such cure must be effected within thirty (30) days of
notice thereof, provided that, if such default is susceptible of cure but not within thirty (30) days and Tenant or Permitted Mortgagee shall commence such performance within such thirty (30) day period and shall diligently pursue such performance, then Tenant and Permitted Mortgagee shall have a reasonable period of time to complete such performance. A Permitted Mortgagee shall be entitled to the additional cure periods allowed under Sections 10.02 of this Lease.

(b) Upon the occurrence of any default under Section 18.02(a) hereof, Tenant shall give notice to Landlord specifying such default and giving Landlord the right to cure such default within thirty (30) days after notice thereof, provided, however, that if such default is susceptible of cure and Landlord shall commence such performance within such thirty (30) day period and shall diligently pursue such performance, then Landlord shall have a reasonable period of time to complete such performance. Upon the occurrence of any event of default under Section 18.02(b), Landlord shall have such period to cure such default as is provided for such default in the Development Agreement, the Phase III Development Agreement or the Campus Development Agreement (if any).

**Section 18.04 Landlord’s Rights.**

(a) Following the occurrence of an Event of Default by Tenant and a failure by Tenant or any Permitted Mortgagee to cure said default pursuant to, and in accordance with, their respective rights of cure under Section 18.03, including Permitted Mortgagee’s rights under Section 10.02, Landlord, at its sole election, shall be entitled to exercise its rights under any and all provisions of this Lease and/or (except as otherwise expressly provided in this Lease) as are otherwise legally available to it. Notwithstanding the immediately preceding sentence, Landlord may, but only if such Event of Default is a Material Tenant Default, terminate this Lease at any time by delivery of ten (10) days’ notice in writing to Tenant and any Permitted Mortgagee, electing to terminate this Lease, and in such event the term of this Lease shall expire by limitation at the expiration of said last mentioned ten (10) days’ notice as fully and completely as if said date were the date herein originally fixed for the expiration of the term hereby granted and Tenant or Permitted Mortgagee, if it is then in possession of the Demised Premises, shall thereupon quit and peaceably surrender the Demised Premises to Landlord, without any payment.
therefor by Landlord, and Landlord, upon the expiration of said last mentioned ten (10) days’ notice, or at any time thereafter, may reenter the Demised Premises, without notice, and remove persons and property therefrom, by any suitable action or proceeding at law, and may have, hold and enjoy the Demised Premises, including the buildings and improvements thereon and appurtenances thereto. Any such termination of this Lease by Landlord shall be without prejudice to any remedy Landlord may otherwise have for any prior breach of covenant or condition of this Lease. For purposes hereof, a “Material Tenant Default” means an Event of Default by Tenant which either (i) is described in subsection (b) of Section 18.01, if the result of the non-payment could be a forfeiture of Landlord’s fee or leasehold interest in Tract 3, or the total amount of such non-payment exceeds $250,000 in the aggregate; or (ii) is described in subsection (c) of Section 18.01, if such Event of Default by Tenant (A) involves a material breach of Tenant’s obligations in Article III with respect to the design, construction or completion of the Private Improvements or Tenant Public Improvements, (B) involves a material breach of the provisions of Article VI relating to permitted or prohibited uses, or (C) involves a prohibited Transfer of this Lease or any of Tenant’s Leasehold Interests under Article X, provided that if Tenant, within ninety (90) days after written notice from Landlord of a prohibited Transfer, reverses such Transfer, then no Material Tenant Default shall be deemed to have existed as a result thereof. If Landlord intends that an Event of Default by Tenant be treated as a Material Tenant Default for purposes of this Section 18.04(a), the notice of default given by Landlord to Tenant and any Permitted Mortgagee pursuant to Section 18.03(a) shall specify that the continuation of such default beyond the applicable grace period will constitute a “Material Tenant Default” for purposes of this Lease. The termination provisions of this Section 18.04 are in addition to Landlord’s termination rights under Section 17.02, which shall govern in the Event of Bankruptcy.

(b) Nothing herein shall in any manner limit Permitted Mortgagee’s right to foreclose on Tenant’s interest in the Lease so long as a default exists under the Permitted Mortgage and this Lease has not been terminated by Landlord as a result of Tenant’s and Permitted Mortgagee’s failure to cure a default.
(c) Upon the occurrence of an Event of Default by Tenant hereunder and the failure of Tenant or a Permitted Mortgagee to cure the same within applicable periods, Tenant shall, promptly after Landlord's request, deliver to Landlord copies of all contracts and agreements pertaining to the operation of the Demised Premises that Tenant possesses.

(d) Landlord shall be entitled to recover from Tenant as Additional Rent its reasonable attorneys’ fees in enforcing its rights and remedies hereunder upon an Event of Default by Tenant.

Section 18.05 Tenant’s Rights.

Following the occurrence of an Event of Default by Landlord, in addition to other rights provided herein, Tenant shall have all rights and remedies available at law or in equity; provided that Tenant shall not have the right to terminate this Lease.

ARTICLE XIX
CERTAIN FURTHER COVENANTS; DAMAGES

Section 19.01 Further Covenants.

In addition to, and not in derogation of, any other remedies expressly provided to Landlord under this Lease in the event of a default by Tenant, Tenant covenants and agrees, any other covenant in this Lease to the contrary notwithstanding, that at the termination of this Lease the Demised Premises shall be in the same condition as the condition in which Tenant has agreed to surrender the Demised Premises to Landlord at the expiration of the Term hereof pursuant to Article XXIX hereof.

Section 19.02 Recovery of Costs.

To the extent Landlord incurs actual, out-of-pocket costs (including reasonable attorneys’ fees) in enforcing Landlord’s rights under this Lease or in curing any default by Tenant.
Tenant in the performance of Tenant's obligations under this Lease, Tenant shall pay such costs to Landlord within thirty (30) days of Landlord's demand, and such costs shall accrue interest at the Interest Rate.

Section 19.03 Consequential Damages.

In no event shall either Landlord or Tenant be entitled to indirect, special or consequential damages or any other damages in excess of compensatory damages for the other's breach or default under this Lease.

ARTICLE XX
INDEMNIFICATION

Section 20.01 Indemnification Provisions.

(a) Tenant hereby acknowledges that, subject to the rights of others contained in this Lease, in the Development Agreement, the Phase III Development Agreement, the Campus Development Agreement, or in the Declaration, Tenant is and shall be in exclusive control and possession of the Demised Premises throughout the Term. Tenant shall not do or permit any act or condition upon the Demised Premises which may reasonably subject Landlord to any liability by reason of any illegal business or conduct upon the Demised Premises, or by reason of any violation of any Applicable Laws or Insurance Requirements.

(b) Tenant shall indemnify, defend and hold harmless Landlord, the State and their respective Representatives (each a "State Indemnified Party") from and against any and all liability, fines, suits, claims, demands, judgments, actions, or losses, penalties, damages, costs and expenses of any kind or nature, including, without limitation, reasonable attorneys' fees, due to or arising out of or in connection with (i) any default by Tenant in the observation or performance of any covenant, condition or agreement, on the part of Tenant to be fulfilled, kept, observed and performed under the terms of this Lease, or the material untruth or inaccuracy of any representation or warranty of Tenant; (ii) any damage or injury to property or persons,
including, without limitation, death resulting at any time therefrom, caused by or resulting from Tenant’s, Tenant’s Affiliate’s or Tenant’s Permittees’ use and occupancy of the Demised Premises, or their conduct of business thereon or thereof, or which Tenant may otherwise permit or suffer to be made of or at the Demised Premises, or otherwise occurring in the Demised Premises, and (iii) the design, construction, operation, maintenance, management, control, repair, replacement or restoration of the Demised Premises, or any part thereof. Notwithstanding the foregoing, no State Indemnified Party shall be entitled to indemnification hereunder for loss or liability to the extent caused by a State Indemnified Party’s own gross negligence or misconduct.

Further, notwithstanding the foregoing, Tenant shall have no liability for any Existing Environmental Conditions, whether known or unknown, except as expressly provided in Section 8.02. Tenant shall conduct any defense pursuant to its obligations under this Section 20.01(b) at its sole cost and expense with counsel of its choosing which is reasonably satisfactory to Landlord. If Tenant is required to defend any action or proceeding pursuant to this Section 20.01(b), to which action or proceeding Landlord or the State desires to be made a party, Landlord and/or the State shall be entitled to appear, defend, or otherwise take part in the matter involved, at its (or their) election and sole cost, by counsel of its (or their) own choosing, provided any such action does not limit or make void any liability or any insurer hereunder with respect to the claim or matter in question. Tenant’s liability under this Section 20.01(b) to any State Indemnified Party shall be reduced by the net insurance proceeds actually received by such State Indemnified Party, from any insurance maintained by Tenant or Landlord on the risks in question (or that Landlord is required to maintain under the terms of this Lease). In connection with any claim subject to indemnification under this Section 20.01(b), the State Indemnified Party shall cooperate, at Tenant’s expense, with respect to the defense and/or settlement of any claim as to which an indemnity is provided by this Section. Notwithstanding that Tenant 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 Tenant, but without the consent of Tenant; provided, however, that if such action is taken without the consent of Tenant, then indemnification obligations in respect of such claim shall thereby be nullified. Any such action may be settled, compromised, or paid by Tenant, after notice to and consultation with the Landlord but without the Landlord’s consent, so long as such settlement or compromise does not cause any State Indemnified Party to incur, nor create any material risk that any State
respect to the defense and/or settlement of any claim as to which an indemnity is provided by this Section. Notwithstanding that Tenant is actively conducting such defense or contest, any such action may be settled, compromised, or paid by any Tenant Indemnified Party, after notice to and consultation with Landlord but without consent of Landlord; provided, however, that if such action is taken without the consent of Landlord, then indemnification obligations in respect of such claim shall thereby be nullified. Any such action may be settled, compromised, or paid by Landlord, after notice to and consultation with Tenant but without the Tenant’s consent, so long as such settlement or compromise does not cause any Tenant Indemnified Party to incur any present or future cost, expense, obligation or liability of any kind or nature with respect to such action. The Tenant Indemnified Parties shall also cooperate with Landlord in its pursuit of any indemnity under which any Tenant Indemnified Party is entitled to indemnification from any architect, construction manager, engineer, consultant, contractor or sub-contractor.

(d) The indemnifications hereunder shall apply notwithstanding any insurance furnished by Tenant or Landlord to the other pursuant hereto or otherwise.

(e) The provisions of this Article shall survive the expiration or any termination of this Lease.

ARTICLE XXI
MECHANIC’S LIENS

Section 21.01 Notice of Non Liability and Non Consent.

(a) Notice is hereby given that neither Landlord, nor the State shall be liable for any labor or materials furnished or to be furnished to Tenant upon credit, and that no mechanic’s or other lien for any such labor or materials shall attach to or affect the reversion or other estate or interest of Landlord or the State in and to the Demised Premises. Whenever and as often as any mechanic’s lien shall be filed against the Demised Premises, based upon any act or interest of Tenant, any Affiliate of Tenant or of anyone claiming through Tenant, Tenant shall take such action by bonding, deposit or paying any sum of money required to discharge any such
lien if at any time the Demised Premises or any part thereof shall be in danger of being foreclosed, forfeited or lost. In such event, and provided Tenant has not so acted for sixty (60) days after notice from Landlord to Tenant (or such lesser period, if necessary to prevent foreclosure of such lien), Landlord may pay the amount of such mechanic’s lien or financing statement or agreement of like import or discharge the same by deposit, and the amount so paid or deposited shall be deemed Additional Rent reserved under this Lease, and shall be payable forthwith from the date of such advance, and with the same remedies to Landlord as in case of default in the payment of Additional Rent as herein provided. Tenant shall provide in all agreements executed by the general contractor, all subcontractors and all others who will furnish plans, labor or materials in connection with the work, that any mechanic’s or materialmen’s lien which may arise from such persons furnishing labor or materials with respect to any such work shall apply only to Tenant’s leasehold interest hereunder and shall in no event apply to Landlord’s interest in the Demised Premises or Landlord’s reversionary or other interest under this Lease or to any interest of the State in the Demised Premises.

(b) Nothing in this Lease shall be deemed or construed in any way as constituting the consent or request of Landlord, expressed or implied, by inference or otherwise, to any contractor, subcontractor, laborer, or materialmen for the performance of any labor or the furnishing of any materials for any specific improvement, alteration or repair of or to any improvements on the Demised Premises or any part thereof. Landlord shall have the right at all reasonable times to post and keep posted on the Demised Premises such notices of non-responsibility as Landlord may deem necessary for the protection of Landlord, and the State, and the Demised Premises from liens arising therefrom.

ARTICLE XXII
CONDEMNATION

Section 22.01 Condemnation Generally.

Landlord and Tenant shall each give the other prompt notice of the actual or threatened commencement of any proceedings under eminent domain affecting all or any part of

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June 3, 2014

Exhibit A
Tract 3 and/or Demised Premises, or change in the grade of any street abutting Tract 3, and will deliver to the other promptly copies of any and all papers served in connection with any such proceedings. Subject to the provisions of Section 22.03 and 22.04, Landlord, the State, the Permitted Mortgagee, Tenant and any person or entity having an interest in the Demised Premises shall have the right to seek, in its own name and at its own expense, any compensation and award (the “Award”) in any such eminent domain proceeding in accordance with the following respective values of their interests immediately prior to the taking, without priority:

(a) Tenant’s interest in the Demised Premises as provided in this Lease (including the rights of any Permitted Mortgagee) on the one hand; and

(b) to Landlord’s, and the State’s collective interests in the Demised Premises, on the other hand.

Section 22.02 Total or Partial Taking Resulting in Termination of Lease.

If at any time during the Term (a) the entire Demised Premises shall be taken by virtue of eminent domain, or for any public or quasi-public use, or (b) any part of the Demised Premises, or any access right of Tenant to the Demised Premises, or any of Tenant’s rights to parking in the garages on the E/R/R District shall be so taken and the Private Improvements not so taken cannot in Tenant’s reasonable judgment be repaired, restored, reconstructed or otherwise operated in a manner which will be a suitable and practical improvement from a utilitarian and income-producing standpoint, within the scope of the uses permitted in Article VI hereof and the parking related thereto, then, in either such event, this Lease shall terminate. In the event of a disagreement between the parties as to whether termination is permitted under this Section 22.02, such dispute shall be resolved pursuant to the Dispute Resolution Procedures. In the event of a condemnation of the nature of that described in (b) of this Section, Tenant may, not later than six (6) months after the date of the taking, by notice to Landlord, seek to terminate this Lease.
Section 22.03 Partial Takings Not Resulting in Termination of Lease.

In the event that only a part of the Demised Premises are taken by virtue of eminent domain or any public or quasi-public use, and the part of the Demised Premises not so taken can be repaired, restored or reconstructed using only the Proceeds, so as to constitute a complete, self-contained architectural unit which will be a suitable and practical improvement from a utilitarian and income-producing standpoint in the reasonable judgment of Tenant, within the scope of the uses permitted in Article VI hereof and the parking related thereto, then this Lease shall terminate only as to the part of the Demised Premises so taken, as of the date of vesting of title to such part, and shall continue unaffected, except as hereinafter provided, with respect to the part of the Demised Premises not so taken.

Section 22.04 Restoration.

Unless this Lease is terminated under Section 22.02 hereof, the Proceeds, to the extent necessary and to the extent permitted by any or the Permitted Mortgagee, shall be applied for the Restoration of the part of the Private Improvements not so taken in accordance with the terms of the Phase III Development Agreement and the Campus Development Agreement. Any Restoration pursuant to this Section shall follow the procedures provided for Restoration in accordance with the provisions of Article XIV with respect to Restoration following a casualty.

Section 22.05 Benefit Assessments.

Nothing contained in this Article shall be deemed or construed to modify the provisions of Article XII hereof, or to impose on Landlord any liability for payment of benefit assessments.
Section 22.06 Temporary Takings.

In the event of any taking for the temporary use of the whole or any part of the Demised Premises, the Term shall not be reduced or affected in any way and Tenant, subject to the prior rights of Permitted Mortgagee, shall be entitled to the entire Award.

Section 22.07 Additional Takings.

In case of a second or any other additional taking or takings from time to time, the provisions hereinabove contained shall apply to each taking.

ARTICLE XXIII
RECORDING; FURTHER INSTRUMENTS

Section 23.01 Recording.

A Notice of Lease that complies with Section 47-19 of the General Statutes shall be executed by Landlord and Tenant at the time that this Lease is executed, and shall be filed for record on the Hartford Land Records. At any future time, and as often as may be reasonably necessary, upon Landlord’s or Tenant’s request, the other shall execute such further documents reasonably required to confirm the requesting party’s interest hereunder.

ARTICLE XXIV
ALTERATIONS AND ADDITIONS

Section 24.01 Insurance Coverage Relating to Alterations and Additions.

During the course of any construction, alterations or additions to the Demised Premises made pursuant to this Article, Tenant shall maintain insurance coverages required by Article XIII, insuring Landlord, and the State.

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Section 24.02 Special Construction Requirements.

(a) Any structural alterations or additions to, or demolition of, the Private Improvements in accordance with this Article, shall be: (i) effected with due diligence, in a good and workmanlike manner and in compliance with Applicable Laws and all provisions of any insurance policy governing or applicable to the Demised Premises and all requirements of the issuers thereof, (ii) of a quality that is not inferior to the existing improvements, (iii) promptly and fully paid for, or caused to be paid for, by Tenant, provided, however, that Tenant shall have the right to contest the same in good faith; (iv) made under the supervision of a qualified architect, engineer or other appropriate professional; (v) in compliance with the terms of this Lease; and (vi) fully completed.

ARTICLE XXV
PERMISSIVE REMOVAL OF TENANT'S PROPERTY

Section 25.01 Permissive Removal of Personal Property.

Movable personal property and movable trade fixtures put in at the expense of Tenant may be removed by Tenant at or before the expiration or sooner termination of this Lease, provided that Tenant shall comply with Tenant’s obligations under Section 8.01 in connection with any such removal.

ARTICLE XXVI
NET LEASE

Section 26.01 Net Lease.

This Lease shall be deemed and construed to be a “net lease,” and Tenant shall pay the Base Rent and Additional Rent, free from any charges, assessments, impositions, expenses, deductions, abatement or set-off of any and every kind or nature whatsoever except as specifically provided herein.
ARTICLE XXVII
NON-DISTURBANCE AND ATTORNMENT AGREEMENTS

Section 27.01 State Non-Disturbance and Attornment Agreement.

Upon the execution of this Lease, the State and Tenant have entered into a non-disturbance and attornment agreement (the “State Non-Disturbance and Attornment Agreement”), a copy of which is attached hereto as Schedule G and will be recorded in the Hartford Land Records immediately after the Notice of this Lease. In no event shall the State be bound by any provision of this Lease which would constitute a waiver of its sovereign immunity.

ARTICLE XXVIII
ENVIRONMENTAL COMPLIANCE

Section 28.01 Tenant Compliance.

Tenant shall, at Tenant’s own cost and expense, comply with all applicable Environmental Laws with respect to Tenant’s design, development, and construction of the Private Improvements and Tenant Public Improvements, and equipping, occupancy, use, maintenance, operation and ownership of the Demised Premises (including effecting any repairs, restoration, and/or alterations to the same), except that Tenant shall have no responsibility under this Section 28.01 with respect to (i) any non-compliance to the extent directly caused by actions of the Landlord, or the State, and (ii) any RAP Work. Tenant shall indemnify, defend and hold the State, Landlord, and their respective Representatives and Affiliates, harmless from and against any and all loss, cost, expense, damages, penalties, fines, actions, petitions, orders, claims or demands made, brought or instituted by any and all private parties and/or any and all Governmental Authorities, together with any and all expenses, including, without limitation, reasonable attorney’s fees, consultant and court costs, losses, demands, liabilities and/or penalties assessed against or incurred by any of them, arising out of or in any way connected with the use, storage, release, emission, disposal, leaching or migration of Regulated Materials anywhere in or from the
Demised Premises, and pay, satisfy and discharge any final judgments, liens, orders or decrees from a court or administrative body of competent jurisdiction which may be recovered from or filed against the State, Landlord, or their respective Representatives or Affiliates. Tenant shall not cause or permit Tenant’s Permittees to cause the Demised Premises to become an “establishment” as defined in Section 22a-134 et seq. of the General Statutes. Tenant shall not be liable for any Existing Environmental Conditions, including Regulated Materials that were present at, in, on or about the Demised Premises prior to the Commencement Date, except to the extent that the Existing Environmental Condition is exacerbated by the negligent acts or willful misconduct of Tenant or its Permittees or by a breach of Tenant’s obligations under this Lease. Tenant shall promptly notify Landlord if Tenant becomes aware of any material violation of Environmental Laws on the Demised Premises, or if Tenant becomes aware of any Environmental Condition on the Demised Premises which poses a threat to the health or safety of humans. Within ten (10) days of so becoming aware, Tenant shall engage at Tenant’s expense the services of an environmental consultant to provide an environmental assessment of such Environmental Condition at the Demised Premises. If Landlord, or the State elects to retain its own environmental consultant, Tenant shall not be obligated to retain its own environmental consultant, but Tenant shall provide reasonable access to the Demised Premises for such consultant of Landlord, or the State to perform an environmental assessment of such Environmental Condition at the Demised Premises, and Tenant shall pay the costs of such assessment. During the Term of this Lease, Tenant shall remediate to the extent required by applicable Environmental Laws, at its sole cost and expense, any release of Regulated Materials at, in, on or from the Demised Premises caused by Tenant or its Permittees (but not Existing Environmental Conditions, including any Regulated Materials that were present at, in, on or about the Demised Premises prior to the Commencement Date unless the condition to be remediated is an exacerbation of an Existing Environmental Condition as described in Section 8.02 of this Lease). In connection with any claim subject to indemnification under this Section 28.01, the indemnified party shall cooperate fully (at Tenant’s expense) with respect to the defense and/or settlement of any claim as to which an indemnity is provided by this Section. The provisions of this Section shall survive the expiration or earlier termination of this Lease.

Tenant shall maintain or cause to be maintained the integrity of all storage tanks and drums that Tenant or its Permittees install on the Demised Premises in compliance with SL - 72
Applicable Laws. Tenant shall follow an operation and maintenance program with respect to all such storage tanks and drums, which program shall be in compliance with all Applicable Laws, if any.

Section 28.02 Landlord Responsibilities.

Landlord acknowledges that Tenant shall not be responsible in any way with respect to Existing Environmental Conditions, except to the extent expressly provided in Section 8.02 hereof. In the event that, as a result of the entering into of this Lease or as a condition of any Transfer of this Lease by Tenant that is permitted or consented to by Landlord under Article X hereof, any applicable Environmental Law requires the filing of any certification with any Governmental Authorities with respect to Existing Environmental Conditions, Tenant shall not be responsible for filing any such certification, paying any fees therefor or otherwise accepting responsibility for such Existing Environmental Conditions, and shall not be required to be the “certifying party” (as that term is understood under any applicable Environmental Laws) under any such certification, except to the extent relating to the exacerbation of Existing Environmental Conditions by Tenant, as described in Section 8.02. In the event that the State fails to file such certificate and pay any filing fees, Landlord shall file such certificate as the certifying party and pay such fees.

Section 28.03 Environmental Land Use Restriction.

This Lease shall, without the necessity of any additional subordination document being executed by Tenant or its successors and assigns, be subject to the Environmental Land Use Restriction (the “ELUR”) referred to in the Environmental Land Use Restriction Note (the “ELUR Note”) that is attached to the Tract I Lease as Schedule K to this Lease only on such terms as are provided in the ELUR Note or with such varying or additional terms permitted under the ELUR Note; and, notwithstanding the foregoing, Tenant covenants and agrees to execute and deliver, upon demand by Landlord, in the form reasonably requested by Landlord and within thirty (30) business days of such demand, any additional documents required by the ELUR Law (as defined
in the ELUR Note) or reasonably necessary to evidence that this Lease is subject and subordinate to the ELUR.

ARTICLE XXIX
END OF TERM

Section 29.01 End of Term Provisions.

Landlord and Tenant agree that coincident with consummation of the Tract 3 Conveyance, Landlord and Tenant shall terminate this Lease. The form and substance of the document effectuating such termination shall be reasonably acceptable to the State Parties, Landlord, Tenant and the University.

ARTICLE XXX
GENERAL PROVISIONS

Section 30.01 Notices.

(a) Except as otherwise provided in this Lease, 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 Lease, shall be in writing and shall be deemed delivered (a) 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 Section), (b) delivery or failure to accept delivery if sent by Federal Express or another nationally recognized air-freight or commercial delivery service for next day delivery, or (c) upon delivery or failure to accept delivery if sent by 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.
If to Tenant:

c/o 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: Director of Development
Facsimile: (203) 861-9005

and

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

with copies to:

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:

and

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

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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

If to Landlord:

Capital Region Development Authority
100 Columbus Boulevard, Suite 500
Hartford, CT 06106
Attention: Executive Director
Facsimile: (860) 527-0133

with copies to:

Office of Policy and Management
450 Capitol Avenue
Hartford, CT 06106
Attention: General Counsel
Facsimile: (860) 418-6487

and

Shipman & Goodwin LLP
One Constitution Plaza
Hartford, CT 06103-1919
Facsimile: (860) 251-5212

(b) Each party shall have the right to change the place or person or persons to which notices, requests, demands, and communications hereunder shall be sent or delivered by delivering a notice to the other parties.
Section 30.02 No Merger.

This Lease shall be an encumbrance prior to the lien of any mortgage or deed of trust now or hereafter secured by the Demised Premises or any part thereof. So long as any Permitted Mortgage is in existence, unless the Permitted Mortgagee shall otherwise expressly consent in writing, the Landlord's interest in the Demised Premises and the leasehold estate of Tenant created by this Lease shall not merge but shall remain separate and distinct, notwithstanding the acquisition of said interest and said leasehold estate by Landlord or Tenant or by a third party, by purchase or otherwise.

Section 30.03 Waiver of Redemption.

Tenant, for itself and for all persons claiming through or under it, hereby expressly waives any and all rights to any new trial in any action of ejectment under any provision of law, after re-entry thereupon, or upon any part thereof, by Landlord, or after the entry of any final judgment in ejectment.

Section 30.04 No Waiver.

The receipt of the Rent or any other sum by Landlord, with knowledge of any breach of this Lease by Tenant or of any default on the part of Tenant in the observance or performance of any of the conditions or covenants of this Lease, shall not be deemed to be a waiver by Landlord of any provision of this Lease. No failure on the part of Landlord or Tenant to enforce any covenant or provision herein contained, nor any waiver of any right hereunder by the other, shall discharge or invalidate such covenant or provision or affect the right of Landlord to enforce the same in the event of any subsequent default. The receipt by Landlord of any Rent or any other sum of money or any other consideration hereunder paid by Tenant after the termination in any manner of the Term or after the giving by Landlord of any notice hereunder to effect such termination, shall not reinstate, continue or extend the Term, or destroy or in any manner impair the efficacy of any such notice of termination as may have been given hereunder by Landlord to Tenant prior to the receipt of any such sum of money or other consideration,
unless so agreed to in writing and signed by Landlord. Neither acceptance of the keys nor any other act or thing done or not done by Landlord or any agent or employee during the Term shall be deemed to be an acceptance of a surrender of the Demised Premises, excepting only an agreement in writing signed by Landlord accepting or agreeing to accept such surrender. No default shall be deemed waived by either party unless such waiver is in writing and designated as such and signed by such party, and such waiver shall not be a continuing waiver but shall apply only to the instance of default for which it is granted.

Section 30.05 Rights Cumulative.

The rights and remedies conferred upon either party hereby are in addition to any rights or remedies to which either party may be entitled at law or in equity; provided that Landlord and Tenant shall not have the right to terminate this Lease as a result of an Event of Default by the other except as specifically set forth in Sections 18.04 and 18.05, respectively.

Section 30.06 Successors.

This Lease shall, except as otherwise provided herein, be binding upon and inure to the benefit of the successors and permitted assigns of the respective parties to this Lease. Any governmental entity succeeding by statute to the rights and obligations of Landlord with respect to the Demised Premises, including the rights and obligations of Landlord under this Lease, shall be the successor to Landlord under this Lease without the necessity of any instrument of succession or other action, provided that Tenant receives written notice of such succession.
Section 30.07 Severability.

If any term, provision or condition contained in this Lease shall, to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such term, provision or condition to Persons or circumstances (other than those in respect of which it is invalid or unenforceable) shall not be affected thereby, and each term, provision and condition of this Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 30.08 Governing Law.

This Lease shall be governed by and construed in accordance with the internal laws of the State of Connecticut.

Section 30.09 Time of Essence.

Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Lease.

Section 30.10 Not a Public Dedication.

Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Demised Premises to the general public or for the general public, it being the intention of the parties hereto that this Lease shall be strictly limited to and for the purposes herein expressed. Tenant shall take such actions as are reasonably necessary to prevent the public from having any legitimate claim to the Demised Premises.

Section 30.11 Estoppel Certificate.

Each of the parties, at the request of the other party or of any Permitted Mortgagee and within fifteen (15) days of such request, shall furnish to such party or to any Permitted Mortgagee or to any permitted assignee of this Lease, a statement that this Lease is in

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full force and effect; that it has not been assigned, modified or amended in any way (or if it has, then stating the nature thereof); that there are no known breaches thereof (or if there are, describing the same with particularity); and such other factual statements as shall be reasonably requested. Statements may be relied upon by the party to whom addressed. If either party fails to provide such statement within said fifteen (15) day period, the other party shall be deemed to have been granted a power of attorney by the requested party, coupled with an interest, for the purpose of completing and signing such certificate on behalf of such requested party.

Section 30.12 Limitation of Liability.

The liability of Landlord hereunder is limited to its interest in the Demised Premises, and Tenant shall not seek recourse against any other assets of Landlord.

Section 30.13 Runs with the Tract 3.

The covenants, easements and agreements set forth in this Lease shall run with Tract 3 and be binding upon Tract 3 and shall be for the benefit of the parties hereto and their respective successors, administrators, and assigns.

Section 30.14 Freedom of Information Act.

The Landlord has advised Tenant that the State and the Landlord are “public agencies” 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 Tenant and its affairs received or maintained by the State or the Landlord 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 another 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 State or the Landlord. Accordingly, it is agreed that the Landlord and the State shall be relieved from any confidentiality obligations that would be in conflict with its obligations under the FOIA.

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Section 30.15 Waiver of Jury Trial.

Each of the parties hereto 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 Lease to the extent permitted by law.

Section 30.16 No Partnership, Joint Venture or Agency.

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

Section 30.17 No Third Party Beneficiaries.

This Lease is for the exclusive benefit of the parties hereto and no rights of third party beneficiaries are created hereby, except for the rights of any Permitted Mortgagee, and the State, expressly set forth herein.

Section 30.18 State Contracting Requirements.

With respect to the performance of its obligations under this Lease, Tenant agrees to comply with all applicable additional contracting requirements of the State set forth in attached Schedule E (the “State Contracting Requirements”). For purposes of Schedule E, each of Tenant shall be deemed a “Contractor”, and this Lease shall be deemed the “contract”. Without limiting the generality of the foregoing, if, pursuant to Applicable Law, any of the State Contracting Requirements are no longer legally required, or are relaxed or lessened, then for purposes of this Lease, the State Contracting Requirements shall be automatically deemed modified accordingly.
Section 30.19 Tax-Exempt Bonding.

Tenant acknowledges that a portion of the costs of the garages within the E/R/R District have been financed with the proceeds of tax-exempt bonds, and Landlord and Tenant agree that nothing contained in or done pursuant to this Lease is intended to result in a private business use of such garages which would, under the Code or applicable Internal Revenue Service’s procedures or regulations, including Treas. Reg. §§ 1.141-3, adversely affect the tax-exempt status of such bonds; provided that Tenant is not making any representation or warranty as to the tax-exempt status of such bonds or the effects of this Lease thereon. All provisions of this Lease shall be interpreted so as to give effect to such intent of the parties, and, in the event that nationally recognized bond counsel to Landlord at any time determines that an amendment to this Lease is necessary in order to avoid a determination of private business use resulting in a loss of tax-exempt status of such bonds, Landlord and Tenant agree promptly to negotiate in good faith and enter into such amendment, provided, however, that no material benefits and burdens of the parties hereunder shall be adversely affected thereby.

Section 30.20 No Recourse Against State or Directors, Etc. of Landlord; Limitation of Landlord and State Obligations to Lawfully Available Funding.

It is expressly understood and agreed that the Representatives of Landlord are acting in a representative capacity and not for their own benefit and that Tenant shall have no recourse or claim under this Lease against any such person individually in any circumstances. It is expressly understood that the Representatives of Tenant are acting in a representative capacity and not for their own benefit and that Landlord shall have no recourse or claim under this Lease against any such person individually in any circumstances. Tenant acknowledges that Landlord is not a department, institution or agency of the State and that Tenant shall have no recourse or claim against the State with respect to the obligations or undertakings of Landlord under this Lease. Tenant further acknowledges that the funding available to Landlord for purposes of these respective obligations and undertakings under this Lease is that provided pursuant to the Implementing Legislation and as otherwise may be lawfully available to Landlord for such
purposes and that the State is under no obligation to appropriate or otherwise make available any additional funds for such purposes.

Section 30.21 Amendments.

The parties hereto agree that the provisions of this Lease may be modified or amended, in whole or in part, only by a declaration in writing, executed and acknowledged by the parties and with the consent of any Permitted Mortgagee (to the extent still outstanding).

Section 30.22 Counterparts.

This Lease 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.

Section 30.23 No Derogation of State Police Powers.

Nothing in this Lease shall be in derogation of the valid exercise of the police powers of the State of Connecticut.

Section 30.24 Dispute Resolution Procedures.

(a) The procedures set forth in Section 14.07 of the Phase III Development Agreement for resolution of disputes shall apply to any disputes under this Lease, except that disputes which Sections 12.02, 13.01(a), 13.01(b)(vii), 14.01, 14.02 or 22.02 specifically provide shall be subject to the Dispute Resolution Procedures shall be subject to the procedures described in Section 30.24(b) (the "Dispute Resolution Procedures").

(b) (i) The parties shall attempt to resolve any such disputes promptly by negotiation. Any party may give the other party written notice (the "Initial Notice") of any such dispute not resolved in the normal course of business, specifically referring to this Section. The receiving party shall promptly submit to the other a written response. The Initial Notice and the

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response shall each include a statement of the party’s position and a summary of arguments supporting that position. If requested by one party, the parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, for a period of not less than sixty (60) days, to attempt in good faith to resolve the dispute. 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, if applicable, FOIA.

(ii) Any dispute subject to the Dispute Resolution Procedures that has not been resolved by negotiation within a period of sixty (60) days may be submitted by any party for binding arbitration in accordance with the CPR Institute for Dispute Resolution Rules for Non-Administered Arbitration in effect on the date of this Lease by a sole arbitrator, provided, however, that in the event of any conflict between said Rules and this Lease, the provisions of this Lease shall be controlling.

(iii) The parties shall first confer on the selection of a sole arbitrator, as provided in Rule 5.3 of the CPR Rules for Non-Administered Arbitration (or any successor provision). If the parties are unable to agree on the selection of a sole arbitrator, the parties shall, within twenty (20) days, each select a party-appointed arbitrator. The two (2) party-appointed arbitrators shall confer and within twenty (20) days of their appointment, agree upon a sole, independent arbitrator. No arbitrator selected hereunder need be listed on any CPR panel or arbitrators.

(iv) The place of arbitration shall be Hartford, Connecticut. The arbitration proceeding shall commence within thirty (30) days of the selection of the arbitrator or arbitrators, and the arbitrator or arbitrators shall be instructed to conclude the proceeding, subject to extensions of time that may be mutually agreed upon by the parties, within thirty (30) days of its commencement, but their failure to complete the proceeding within said time period shall not void the proceeding. The arbitrator(s) shall render a written decision within thirty (30) days after the conclusion of the proceeding. The arbitrator(s) shall be required to state in the decision both the factual basis and the reasoning upon which the decision is based. It is the intention of the parties hereto that any such arbitration be concluded as quickly as possible, and in furtherance of that goal, the parties agree that any available expedited procedures shall apply thereto.
(v) The parties shall be bound by the decision rendered in the arbitration, and either party may enforce any such decision in the Superior Court of the State of Connecticut for the Judicial District of Hartford.

(vi) In no event shall the State be subject in any circumstance to the Dispute Resolution Procedures. Should the State succeed Landlord as landlord under this Lease, the Dispute Resolutions Procedures shall no longer be applicable.

[remainder of page intentionally left blank]
IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first above written.

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<thead>
<tr>
<th>WITNESSED by:</th>
<th>Landlord,</th>
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<tr>
<td>As to Landlord:</td>
<td>CAPITAL REGION DEVELOPMENT AUTHORITY</td>
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<td>Michael Freimuth</td>
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<td>Its Executive Director</td>
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<tr>
<th>As to Tenant:</th>
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<td>FSD UNIVERSITY, LLC</td>
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STATE OF CONNECTICUT) ) ss.
COUNTY OF HARTFORD )

Before me, the undersigned officer, personally appeared on this ___ day of __________, 2014, Michael Freimuth, who acknowledged himself to be the Executive Director of Capital Region Development Authority and that he, as such Executive Director being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of said Authority as his free act and deed as such Executive Director and as the free act and deed of said Authority.

Commissioner of Superior Court
Notary Public
My Commission Expires:
Affix Seal

STATE OF CONNECTICUT) ) ss.
COUNTY OF HARTFORD )

Before me, the undersigned officer, personally appeared on this ___ day of __________, 2014, ____________________________, who acknowledged himself/herself to be the ___________________ of FSD University, LLC, a Connecticut limited liability company, and that he/she, as such ___________________ being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of said limited liability company as his/her free act and deed as such ___________________ and as the free act and deed of said limited liability company.

Commissioner of Superior Court
Notary Public
My Commission Expires:
Affix Seal

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Exhibit A
SCHEDULE A

Description of Tract 3
SCHEDULE B

Declaration
SCHEDULE C

Encumbrances on Tract 3
SCHEDULE D

Approved Plans and Specifications

The Plans (as defined in the Phase III Development Agreement)
SCHEDULE E

STATE CONTRACTING REQUIREMENTS

For purposes of this Schedule E, the term “State” shall mean Landlord and the State individually and collectively as appropriate.

1. State’s Rights of Inspection and Audit; Maintenance of Records

(a) All services performed by and material supplied by the Contractor under this Contract shall be subject to the inspection and approval of the State at all times, and the Contractor shall furnish all information concerning such material and services as may be requested by the State.

(b) The Contractor shall maintain, and shall require each of its subcontractors to maintain, accurate and complete records, books of account and other documents that delineate the nature and extent of the State’s, Contractor’s, and, in the case of each subcontractor, the applicable subcontractor’s, performance hereunder. The Contractor shall maintain all of its records (whether stored in electronic or other form) that in any way pertain or relate to this Agreement and/or the actual or alleged performance and/or lack of performance by any party hereunder (individually and collectively, “Records”) at the Contractor’s address provided on the first page of the body of this Agreement or such other location as is approved in writing in advance by the State.

(c) The Contractor agrees to make all of its Records available for inspection and/or examination by the State and its Representatives (herein defined as the State’s authorized agents, representatives, officers and employees) during reasonable hours. The State and its Representatives also shall have the right, at reasonable hours, to inspect and examine all of the part(s) of the Contractor’s and its subcontractors’ plant(s) and/or place(s) of business which, in any way, are related to, or involved in, the performance of this Agreement and/or any contract (including, but not limited to, any subcontract) hereunder to ensure compliance with the same. Except in the case of suspected fraud or other abuse or in the event of an emergency, the State will give the Contractor at least twenty-four (24) hours notice of any intended inspections or examinations.

(d) At the State’s request, the Contractor shall provide the State and its Representatives with hard copies of or electronic media containing any data or information in the possession or control of the Contractor which pertains to the State’s business or this Agreement, at no cost to the State.

(e) The Contractor agrees that it will keep and preserve or cause to be kept and preserved all of its Records until three (3) years after the latter of (i) final payment under this Agreement, or (ii) the expiration or earlier termination of this Agreement, as the same may be supplemented, extended and/or renewed, and any holdover period, as applicable.

(f) The Contractor also agrees that it will require each subcontractor to maintain all of its Records until three (3) years after the expiration or earlier termination of its contract or other agreement, as the same may be supplemented, renewed and/or extended.

(g) If any litigation, claim or audit is started before the expiration of said three (3) year periods, such records shall be (and shall be required to be) retained until all litigation, claims or audit findings have been resolved.
(h) 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 State, in accordance with the provisions of Connecticut General Statutes § 7-396a.

(i) The Contractor shall incorporate this Section including this subsection (i) verbatim into any contract or other agreement it enters into with any subcontractor.

2. Promotion

Except as otherwise expressly provided in the Contract, or specifically authorized in writing by the State on a case by case basis, Contractor shall have no right to use, and shall not use, the name of the State of Connecticut, the Capital City Economic Development Authority or their respective officials, agencies, or employees or the seal of the State of Connecticut or its agencies:

(i) in any advertising, publicity, promotion; or
(ii) to express or to imply any endorsement of Contractor's products or services; or
(iii) in any other manner (whether or not similar to uses prohibited by subparagraphs (i) and (ii) above), except only to manufacture and deliver in accordance with this Contract such items as are hereby contracted for by the State.

In no event may the Contractor use the State Seal in any way without the express written consent of the Secretary of State.

3. Confidentiality

All data provided to Contractor by the State or developed internally by Contractor with regard to the State will be treated as proprietary to the State and confidential unless the State agrees in writing to the contrary. Contractor agrees to forever hold in confidence all files, records, documents, or other information as designated, whether prepared by the State or others, which may come into Contractor's possession during the term of this Contract, except where disclosure of such information by Contractor is required by other governmental authority to ensure compliance with laws, rules, or regulations, and such disclosure will be limited to that actually so required. Where such disclosure is required, Contractor will provide advance notice to the State of the need for the disclosure.

4. Freedom of Information Act

The State is a "public agency" for purposes of the Connecticut Freedom of Information Act ("FOIA"). Accordingly, this Contract and any correspondence, documents or other information delivered to the State in connection therewith will be considered public records and will be subject to disclosure under FOIA. Under General Statutes §1-210(b), FOIA includes exemptions for "trade secrets" and "commercial or financial information given in confidence, not required by statute", but only the particular information falling within one of these exemptions can be withheld by the State if the State receives a FOIA request that encompasses such information. In particular, Contractor should be aware that:

(i) the State has no obligation to notify the Contractor of any FOIA request received by the State;
(ii) the State may disclose materials claimed to be exempt if in its judgment such materials do not appear to fall within a statutory exemption;
(iii) the State may in its discretion notify Contractor of FOIA requests and/or of complaints made to the Freedom of Information Commission concerning items for which an exemption has been claimed, but the State has no obligation to initiate, prosecute or defend any legal proceeding or to seek to secure any protective order or other relief to prevent disclosure of any information pursuant to an FOIA request.
(iv) Contractor will have the burden of establishing the availability of any FOIA exemption in any such legal proceeding; and
(v) in no event shall the State or any of its officers, directors, or employees have any liability for the disclosure of documents or information in the State's possession where the State, or such officer, director, or employee, in good faith believes the disclosure to be required under FOIA or other law.

5. Subpoenas

In the event the Contractor's records are subpoenaed pursuant to Connecticut General Statutes § 36a-43, the Contractor shall, within twenty-four (24) hours of service of the subpoena, notify the person designated for the State in Section 4 of this Agreement of such subpoena. Within thirty-six (36) hours of service, the Contractor shall send a written notice of the subpoena together with a copy of the same to the person designated for the State in Section 4 of this Agreement.

6. Americans with Disabilities Act

This clause applies to those Contractors which are or will become responsible for compliance with the terms of the Americans with Disabilities Act of 1990 during the term of the Contract. Contractor represents that it is familiar with the terms of this Act and that it is and will remain, and that all services rendered by it under the Contract will be provided, in compliance with the law. Failure of the Contractor to satisfy this standard either now or during the term of the Contract as it may be amended will render the Contract voidable at the option of the State upon notice to the Contractor. Contractor warrants that it will hold the State harmless from any liability which may be imposed upon the State as a result of any failure of the Contractor to be in compliance with this Act.

7. Non-Discrimination Covenants

(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 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 Connecticut General Statutes § 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Connecticut General Statutes § 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 they 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 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.

8. Documentation Supporting Non-Discrimination Covenants

Pursuant to Connecticut General Statutes §§ 4a-60(a)(1) and 4a-60a(a)(1), every contractor is required to provide the State with a non-discrimination certificate for all State contracts regardless of type, term cost or value. The appropriate form must be submitted to the awarding State agency prior to contract execution. Copies of "nondiscrimination certification" forms that will satisfy the statutory requirements may be found on the web site of the Office of Policy and Management at www.ct.gov/opm. The applicable certification form must be signed by an authorized signatory of the Contractor (or, in the case of an individual contractor, by the individual).
9. Executive Orders

(a) This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971 concerning labor employment practices, and, as such, this Contract may be canceled, terminated or suspended by the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Three or any State or federal law concerning nondiscrimination, notwithstanding that the Labor Commissioner is not a party to this Contract. The parties to this Contract, as part of the consideration hereof, agree that said Executive Order No. Three is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to contract performance in regard to nondiscrimination until the Contract is completed or terminated prior to completion.

(b) The Contractor agrees, as part consideration hereof, that this Contract is subject to the Guidelines and Rules issued by the State Labor Commissioner to implement Executive Order No. Three, and that it will not discriminate in its employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner.

(c) This Contract is subject to the provisions of Executive Order No. Seventeen of Governor Thomas J. Meskill promulgated February 15, 1973, concerning the listing of employment openings and, as such, this Contract may be canceled, terminated or suspended by the contracting agency or the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Seventeen, notwithstanding that the Labor Commissioner may not be party to this Contract. The parties to this Contract, as part of the consideration hereof, agree that Executive Order No. Seventeen is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the contracting agency and the State Labor Commissioner shall have joint and several continuing jurisdiction in respect to contract performance in regard to listing all employment openings with the Connecticut State Employment Service.

(d) This Contract is subject to the provisions of Executive Order No. 16 of Governor John G. Rowland promulgated August 4, 1999 concerning violence in the workplace and, as such, the Contract may be canceled, terminated or suspended by the State for violation of or noncompliance with said Executive Order No. 16. The parties to this Contract, as part of the consideration hereof, agree that said Executive Order No. 16 is incorporated herein by reference and made a part hereof. The parties agree to abide by such Executive Order.

(e) Pursuant to Governor M. Jodi Rell’s Executive Order No. 7C, paragraph 10, promulgated July 13, 2006, concerning contracting reforms, Contractor shall comply with the certification requirements of Connecticut General Statutes §§ 4-250 and 4-252, and Governor M. Jodi Rell’s Executive Order No 1, for all personal service agreement contracts with a value of $50,000 or more in a calendar or fiscal year by executing and filing the respective certifications with OPM. The Contract may also be subject to 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. If Executive Orders 7C and 14 are applicable, they are deemed to be incorporated into and are made a part of the Contract as if they had been fully set forth.

10. Disclosure of Consulting Agreements

Pursuant to Connecticut General Statutes § 4a-81, the chief official of the Contractor, for all contracts with a value to the State of fifty thousand dollars or more in any calendar or fiscal year, shall attest in an affidavit as to whether any consulting agreement has been entered into in connection with such contract. Such affidavit shall be required if any duties of the consultant included communications concerning business of such State agency, whether or not direct contact with a State agency, State or public official or State employee was expected or made. As used herein “consulting agreement”
means any written or oral agreement to retain the services, for a fee, of a consultant for the purposes of (A) providing counsel to a contractor, vendor, consultant or other entity seeking to conduct, or conducting, business with the State, (B) contacting, whether in writing or orally, any executive, judicial, or administrative office of the State, including any department, institution, bureau, board, commission, authority, official or employee for the purpose of solicitation, dispute resolution, introduction, requests for information or (C) any other similar activity related to such contract. Consulting agreement does not include any agreements entered into with a consultant who is registered under the provisions of Chapter 10 of the general statutes as of the date such affidavit is submitted in accordance with the provisions of Connecticut General Statutes § 4a-81.

11. Gift and Campaign Contribution Certifications

If this Contract has a value of $50,000 or more in any calendar or fiscal year and is for (a) a project for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or public work, (b) services, including, but not limited to, consulting and professional services, (c) the acquisition or disposition of any real or personal property, (d) goods and services, including, but not limited to, the procurement of services under a purchase of services agreement (POS) or personal services agreement (PSA), (e) transaction involving information technology, (f) a lease, (g) a licensing agreement or other arrangement, or (h) any governmental functions that relate to any of the foregoing, the Contract shall not become effective until the requirements of Executive Orders 1 and & 7C of Governor M. Jodi Rell and § 4-252 of the Connecticut General Statutes, as amended, have been satisfied, including the delivery of the certification of the Contractor with respect to gifts and lawful campaign contributions and other matters required thereunder, which form of certificate is available on the Web site of the Office of Policy and Management at www.ct.gov/opm. If this is a multi-year Contract, then, so long as the Contract remains in effect, the Contractor shall provide the State with an annual update of the aforesaid certification on each anniversary of the effective date of such Contract.

12. Termination For Cause

Pursuant to paragraph 6(a) of Executive Order No. 7C of Governor M. Jodi Rell, Contractor acknowledges and agrees that the State may terminate this Contract for cause. For purposes of this provision, the term “for cause” means: (1) a violation of the State ethics laws (Chapter 10 of the Connecticut General Statutes) or Connecticut General Statutes § 4a-100, or (2) wanton or reckless disregard of any State contracting and procurement process by any person substantially involved in such contract or State contracting agency.

13. Contractor Certification

The Contractor certifies that the Contractor has not been convicted of bribery or attempting to bribe an officer or employee of the State, nor has the Contractor made an admission of guilt of such conduct which is a matter of record.

14. Retaliation Prohibition

Pursuant to Connecticut General Statutes § 4-61dd, a large state contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of the contract, if an officer, employee or appointing authority of a large state contractor takes or threatens to take any personnel action against any employee of the large state contractor in retaliation for such employee’s disclosure of information to any employee of the contracting State or quasi-public agency or the Auditors of Public Accounts or the Attorney General under the provisions of Connecticut General Statutes § 4-61dd(a). Each violation shall be a separate and distinct offense and in the case of a continuing violation each calendar day's continuance of the violation shall be deemed
to be a separate and distinct offense. Each large state contractor shall post a notice of the provisions of this section relating to large state contractors in a conspicuous place which is readily available for viewing by the employees of the contractor. As used in Connecticut General Statutes § 4-61dd, a "large state contract" means a contract between an entity and a state or quasi-public agency having a value of five million dollars or more and (2) "large state contractor" means an entity that has entered into a large state contract with a state or quasi-public agency.
15. Compliance with State Ethics Laws

(a) Contractor acknowledges that by doing business with or seeking to do business with the State it is subject to certain provisions of the Code of Ethics for Public Officials of the State of Connecticut (the "Code of Ethics") applicable to current or prospective state contractors. Contractor acknowledges receipt and review of the "Guide to the Code of Ethics for Current or Potential State Contractors" as currently posted on the Web site of the Office of State Ethics www.ct.gov/ethics and agrees to comply with all provisions of the Code of Ethics applicable to Contractor as a current or potential state contractor.

(b) Pursuant to Connecticut General Statutes § 1-101qq and Public Act 10-01, the authorized signatory to this Contract also expressly acknowledges that the Contractor has received the following State Elections Enforcement Commission’s notice advising state contractors of State campaign contribution and solicitation prohibitions (hereinafter, the ‘Summary”), and that said signatory and the Contractor’s other key employees have been provided with, read and understand the Summary and agree to comply with the provisions of the State’s ethics laws. Further, the Contractor shall incorporate and include the Summary in all contracts with any subcontractor or consultant working or assisting the Contractor under this Contract whenever any work or assistance being provided by any subcontractor or consultant hereunder properly may be considered as being provided pursuant to a "large state construction or procurement contract" as defined in § 1-101mm(3) of the Connecticut General Statutes. The Contractor shall require in said contracts that the key employees of any subcontractor or consultant affirm that they have read and understand the Summary and agree to comply with the provisions of the State's ethics laws. Contractor shall supply such affirmations to the State promptly.

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

This notice is provided under the authority of Connecticut General Statutes 9-612(g)(2), as amended by P.A. 10-01, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined below):

Campaign Contribution and Solicitation Ban

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;

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 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 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.

**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 $2000 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 $2000 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 $5000 in fines, or both.

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

In the case of a prospective state contractor, 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 will 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.

Additional information may be found on the website of the State Elections Enforcement Commission, www.ct.gov/seec. Click on the link to "Lobbyist/ Contractor Limitations."

**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 or 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 or 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 per cent 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.
SCHEDULE F

Project Schedule

The project schedule set forth on Schedule 6.05 of the Phase III Development Agreement
SCHEDULE G

State Non-Disturbance and Attornment Agreement
EXHIBIT B
SURVEY

(Exhibit Appears on Next Page)
SCHEDULE 3.03
STATE CONTRACTING REQUIREMENTS

For purposes of this Schedule, "State" shall mean the Authority and the State individually and collectively, as appropriate, and "Contractor" shall mean Developer.

1. **State's Rights of Inspection and Audit; Maintenance of Records**
   
   (a) All services performed by and material supplied by the Contractor under this Contract shall be subject to the inspection and approval of the State at all times, and the Contractor shall furnish all information concerning such material and services as may be requested by the State.
   
   (b) The Contractor shall maintain, and shall require each of its subcontractors to maintain, accurate and complete records, books of account and other documents that delineate the nature and extent of the State's, Contractor's, and, in the case of each subcontractor, the applicable subcontractor's, performance hereunder. The Contractor shall maintain all of its records (whether stored in electronic or other form) that in any way pertain or relate to this Agreement and/or the actual or alleged performance and/or lack of performance by any party hereunder (individually and collectively, "Records") at the Contractor's address provided on the first page of the body of this Agreement or such other location as is approved in writing in advance by the State.
   
   (c) The Contractor agrees to make all of its Records available for inspection and/or examination by the State and its Representatives (herein defined as the State's authorized agents, representatives, officers and employees) during reasonable hours. The State and its Representatives also shall have the right, at reasonable hours, to inspect and examine all of the part(s) of the Contractor's and its subcontractors' plant(s) and/or place(s) of business which, in any way, are related to, or involved in, the performance of this Agreement and/or any contract (including, but not limited to, any subcontract) hereunder to ensure compliance with the same. Except in the case of suspected fraud or other abuse or in the event of an emergency, the State will give the Contractor at least twenty-four (24) hours notice of any intended inspections or examinations.
   
   (d) At the State's request, the Contractor shall provide the State and its Representatives with hard copies of or electronic media containing any data or information in the possession or control of the Contractor which pertains to the State's business or this Agreement, at no cost to the State.
   
   (e) The Contractor agrees that it will keep and preserve or cause to be kept and preserved all of its Records until three (3) years after the latter of (i) final payment under this Agreement, or (ii) the expiration or earlier termination of this Agreement, as the same may be supplemented, extended and/or renewed, and any holdover period, as applicable.
   
   (f) The Contractor also agrees that it will require each subcontractor to maintain all of its Records until three (3) years after the expiration or earlier termination of its contract or other agreement, as the same may be supplemented, renewed and/or extended.
   
   (g) If any litigation, claim or audit is started before the expiration of said three (3) year periods, such records shall be (and shall be required to be) retained until all litigation, claims or audit findings have been resolved.
(h) 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 State, in accordance with the provisions of Connecticut General Statutes § 7-396a.

(i) The Contractor shall incorporate this Section including this subsection (i) verbatim into any contract or other agreement it enters into with any subcontractor.

2. Promotion

Except as otherwise expressly provided in the Contract, or specifically authorized in writing by the State on a case by case basis, Contractor shall have no right to use, and shall not use, the name of the State of Connecticut, the Capital City Economic Development Authority or their respective officials, agencies, or employees or the seal of the State of Connecticut or its agencies:

(i) in any advertising, publicity, promotion; or
(ii) to express or to imply any endorsement of Contractor's products or services; or
(iii) in any other manner (whether or not similar to uses prohibited by subparagraphs (i) and (ii) above), except only to manufacture and deliver in accordance with this Contract such items as are hereby contracted for by the State.

In no event may the Contractor use the State Seal in any way without the express written consent of the Secretary of State.

3. Confidentiality

All data provided to Contractor by the State or developed internally by Contractor with regard to the State will be treated as proprietary to the State and confidential unless the State agrees in writing to the contrary. Contractor agrees to forever hold in confidence all files, records, documents, or other information as designated, whether prepared by the State or others, which may come into Contractor's possession during the term of this Contract, except where disclosure of such information by Contractor is required by other governmental authority to ensure compliance with laws, rules, or regulations, and such disclosure will be limited to that actually so required. Where such disclosure is required, Contractor will provide advance notice to the State of the need for the disclosure.

4. Freedom of Information Act

The State is a "public agency" for purposes of the Connecticut Freedom of Information Act ("FOIA"). Accordingly, this Contract and any correspondence, documents or other information delivered to the State in connection therewith will be considered public records and will be subject to disclosure under FOIA. Under General Statutes §1-210(b), FOIA includes exemptions for "trade secrets" and "commercial or financial information given in confidence, not required by statute", but only the particular information falling within one of these exemptions can be withheld by the State if the State receives a FOIA request that encompasses such information. In particular, Contractor should be aware that:

(i) the State has no obligation to notify the Contractor of any FOIA request received by the State;
(ii) the State may disclose materials claimed to be exempt if in its judgment such materials do not appear to fall within a statutory exemption;
(iii) the State may in its discretion notify Contractor of FOIA requests and/or of complaints made to the Freedom of Information Commission concerning items for which an exemption has
been claimed, but the State has no obligation to initiate, prosecute or defend any legal proceeding or to seek to secure any protective order or other relief to prevent disclosure of

any information pursuant to an FOIA request;

(iv) Contractor will have the burden of establishing the availability of any FOIA exemption in any such legal proceeding; and

(v) in no event shall the State or any of its officers, directors, or employees have any liability for the disclosure of documents or information in the State's possession where the State, or such officer, director, or employee, in good faith believes the disclosure to be required under FOIA or other law.

5. Subpoenas

In the event the Contractor's records are subpoenaed pursuant to Connecticut General Statutes § 36a-43, the Contractor shall, within twenty-four (24) hours of service of the subpoena, notify the person designated for the State in Section 4 of this Agreement of such subpoena. Within thirty-six (36) hours of service, the Contractor shall send a written notice of the subpoena together with a copy of the same to the person designated for the State in Section 4 of this Agreement.

6. Americans with Disabilities Act

This clause applies to those Contractors which are or will become responsible for compliance with the terms of the Americans with Disabilities Act of 1990 during the term of the Contract. Contractor represents that it is familiar with the terms of this Act and that it is and will remain, and that all services rendered by it under the Contract will be provided, in compliance with the law. Failure of the Contractor to satisfy this standard either now or during the term of the Contract as it may be amended will render the Contract voidable at the option of the State upon notice to the Contractor. Contractor warrants that it will hold the State harmless from any liability which may be imposed upon the State as a result of any failure of the Contractor to be in compliance with this Act.

7. Non-Discrimination Covenants

(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 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

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Schedule 5.01(b)(iii)(A)
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 Connecticut General Statutes § 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Connecticut General Statutes§ 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-68b and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-59, 46a-68b 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 they 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 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.

8. **Documentation Supporting Non-Discrimination Covenants**

Pursuant to Connecticut General Statutes §§ 4a-60(a)(1) and 4a-60a(a)(1), every contractor is required to provide the State with a non-discrimination certificate for all State contracts regardless of type, term cost or value. The appropriate form must be submitted to the awarding State agency prior to contract execution. Copies of "nondiscrimination certification" forms that will satisfy the statutory requirements may be found on the web site of the Office of Policy and Management at www.ct.gov/opm. The applicable certification form must be signed by an authorized signatory of the Contractor (or, in the case of an individual contractor, by the individual).

9. **Executive Orders**

(a) This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971 concerning labor employment practices, and, as such, this Contract may be canceled, terminated or suspended by the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Three or any State or federal law concerning nondiscrimination, notwithstanding that the Labor Commissioner is not a party to this Contract. The parties to this Contract, as part of the consideration hereof, agree that said Executive Order No. Three is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to contract performance in regard to nondiscrimination until the Contract is completed or terminated prior to completion.

(b) The Contractor agrees, as part consideration hereof, that this Contract is subject to the Guidelines and Rules issued by the State Labor Commissioner to implement Executive Order No. Three, and that it will not discriminate in its employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner.

(c) This Contract is subject to the provisions of Executive Order No. Seventeen of Governor Thomas J. Meskill promulgated February 15, 1973, concerning the listing of employment openings and, as such, this Contract may be canceled, terminated or suspended by the contracting agency or the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Seventeen, notwithstanding that the Labor Commissioner may not be party to this Contract. The parties to this Contract, as part of the consideration hereof, agree that Executive Order No. Seventeen is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the contracting agency and the State Labor Commissioner shall have joint and several continuing jurisdiction in respect to Contract performance in regard to listing all employment openings with the Connecticut State Employment Service.

(d) This Contract is subject to the provisions of Executive Order No. 16 of Governor John G. Rowland promulgated August 4, 1999 concerning violence in the workplace and, as such, the Contract may be canceled, terminated or suspended by the State for violation of or noncompliance with said Executive Order No. 16. The parties to this Contract, as part of the consideration hereof, agree that said Executive Order No. 16 is incorporated herein by
reference and made a part hereof. The parties agree to abide by such Executive Order.

(e) Pursuant to Governor M. Jodi Rell's Executive Order No. 7C, paragraph 10, promulgated July 13, 2006, concerning contracting reforms, Contractor shall comply with the certification requirements of Connecticut General Statutes §§ 4-250 and 4-252, and Governor M. Jodi Rell's Executive Order No. 1, for all personal service agreement contracts with a value of $50,000 or more in a calendar or fiscal year by executing and filing the respective certifications with OPM. The Contract may also be subject to 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. If Executive Orders 7C and 14 are applicable, they are deemed to be incorporated into and are made a part of the Contract as if they had been fully set forth.

10. Disclosure of Consulting Agreements

Pursuant to Connecticut General Statutes § 4a-81, the chief official of the Contractor, for all contracts with a value to the State of fifty thousand dollars or more in any calendar or fiscal year, shall attest in an affidavit as to whether any consulting agreement has been entered into in connection with such contract. Such affidavit shall be required if any duties of the consultant included communications concerning business of such State agency, whether or not direct contact with a State agency, State or public official or State employee was expected or made. As used herein "consulting agreement" means any written or oral agreement to retain the services, for a fee, of a consultant for the purposes of (A) providing counsel to a contractor, vendor, consultant or other entity seeking to conduct, or conducting, business with the State, (B) contacting, whether in writing or orally, any executive, judicial, or administrative office of the State, including any department, institution, bureau, board, commission, authority, official or employee for the purpose of solicitation, dispute resolution, introduction, requests for information or (C) any other similar activity related to such contract. Consulting agreement does not include any agreements entered into with a consultant who is registered under the provisions of Chapter 10 of the general statutes as of the date such affidavit is submitted in accordance with the provisions of Connecticut General Statutes§ 4a-81.

11. Gift and Campaign Contribution Certifications

If this Contract has a value of $50,000 or more in any calendar or fiscal year and is for (a) a project for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or public work, (b) services, including, but not limited to, consulting and professional services, (c) the acquisition or disposition of any real or personal property, (d) goods and services, including, but not limited to, the procurement of services under a purchase of services agreement (POS) or personal services agreement (PSA), (e) transaction involving information technology, (f) a lease, (g) a licensing agreement or other arrangement, or (h) any governmental functions that relate to any of the foregoing, the Contract shall not become effective until the requirements of Executive Orders 1 and 7C of Governor M. Jodi Rell and § 4-252 of the Connecticut General Statutes, as amended, have been satisfied, including the delivery of the certification of the Contractor with respect to gifts and lawful campaign contributions and other matters required thereunder, which form of certificate is available on the Web site of the Office of Policy and Management at www.ct.gov/opm. If this is a multi-year Contract, then, so long as the Contract remains in effect, the Contractor shall provide the State with an annual up-date of the aforesaid certification on each anniversary of the effective date of such Contract.

683401v.13
June 3, 2014

Schedule 3.03
12. Termination For Cause

Pursuant to paragraph 6(a) of Executive Order No. 7C of Governor M. Jodi Rell, Contractor acknowledges and agrees that the State may terminate this Contract for cause. For purposes of this provision, the term "for cause" means: (1) a violation of the State ethics laws (Chapter 10 of the Connecticut General Statutes) or Connecticut General Statutes§ 4a-100, or (2) wanton or reckless disregard of any State contracting and procurement process by any person substantially involved in such contract or State contracting agency.

13. Contractor Certification

The Contractor certifies that the Contractor has not been convicted of bribery or attempting to bribe an officer or employee of the State, nor has the Contractor made an admission of guilt of such conduct which is a matter of record.

14. Retaliation Prohibition

Pursuant to Connecticut General Statutes§ 4-61dd, a large state contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of the contract, if an officer, employee or appointing authority of a large state contractor takes or threatens to take any personnel action against any employee of the large state contractor in retaliation for such employee's disclosure of information to any employee of the contracting State or quasi-public agency or the Auditors of Public Accounts or the Attorney General under the provisions of Connecticut General Statutes§ 4-61dd(a). Each violation shall be a separate and distinct offense and in the case of a continuing violation each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. Each large state contractor shall post a notice of the provisions of this section relating to large state contractors in a conspicuous place which is readily available for viewing by the employees of the contractor. As used in Connecticut General Statutes § 4-61dd, a "large state contract" means a contract between an entity and a state or quasi-public agency having a value of five million dollars or more and (2) "large state contractor" means an entity that has entered into a large state contract with a state or quasi-public agency.

15. Compliance with State Ethics Laws

(a) Contractor acknowledges that by doing business with or seeking to do business with the State it is subject to certain provisions of the Code of Ethics for Public Officials of the State of Connecticut (the "Code of Ethics") applicable to current or prospective state contractors. Contractor acknowledges receipt and review of the "Guide to the Code of Ethics for Current or Potential State Contractors" as currently posted on the Web site of the Office of State Ethics www.ct.gov/ethics and agrees to comply with all provisions of the Code of Ethics applicable to Contractor as a current or potential state contractor.

(b) Pursuant to Connecticut General Statutes§ 1-101qq and Public Act 10-01, the authorized signatory to this Contract also expressly acknowledges that the Contractor has received the following State Elections Enforcement Commission's notice advising state contractors of State campaign contribution and solicitation prohibitions (hereinafter, the "Summary"), and that said signatory and the Contractor's other key employees have been provided with, read and understand the Summary and agree to comply with the provisions of the State's ethics laws. Further, the Contractor shall incorporate and include the Summary in all contracts with any subcontractor or consultant working or assisting the Contractor under this Contract whenever any work or assistance being provided by any subcontractor or consultant hereunder properly
may be considered as being provided pursuant to a "large state construction or procurement contract" as defined in § 1-101mm(3) of the Connecticut General Statutes. The Contractor shall require in said contracts that the key employees of any subcontractor or consultant affirm that they have read and understand the Summary and agree to comply with the provisions of the State's ethics laws. Contractor shall supply such affirmations to the State promptly.

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

This notice is provided under the authority of Connecticut General Statutes 9-612(g)(2), as amended by P.A. 10-01, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined below):

Campaign Contribution and Solicitation Ban

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;

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 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 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.

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 $2000 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 $2000 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 $5000 in fines, or both.

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

In the case of a prospective state contractor, 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 will 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.

Additional information may be found on the website of the State Elections Enforcement Commission, www.ct.gov/seec. Click on the link to "Lobbyist! Contractor Limitations."

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 or 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 or 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 per cent 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.
SCHEDULE 5.01(b)(iii)(A)
BENCHMARK ENROLLMENT CALCULATION

(Schedule Appears on Next Page)
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<thead>
<tr>
<th>Enrollment as of Fall 10th Day Census</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
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<tbody>
<tr>
<td>Total Undergraduate Enrollment</td>
<td>1,430</td>
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<td>1,409</td>
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<td><strong>Rolling 3-Year Average Undergraduate Fall</strong></td>
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<td>1,433</td>
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<tr>
<td>Graduate Enrollment</td>
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<td>Hartford Graduate Learning Center (Includes MBA, EMBA, MS Acct., MS-Business Analytics &amp; Project Mgmt., MS-Financial Risk Management Non-Degree Business)</td>
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<td>735</td>
<td>810</td>
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<td>School of Education</td>
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<td>45</td>
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<tr>
<td>College of Liberal Arts &amp; Sciences (degree and non-degree)</td>
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<td>88</td>
<td>110</td>
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<tr>
<td>Social Work (including non-degree STEP)</td>
<td>530</td>
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<td>547</td>
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<td>Graduate Non-Degree</td>
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<td>4</td>
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<td><strong>Total Graduate Enrollment</strong></td>
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<td><strong>Rolling 3-Year Average Graduate Fall</strong></td>
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<td>1,447</td>
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<td><strong>TOTAL FALL Undergraduate and Graduate</strong></td>
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<td>2,877</td>
<td>2,925</td>
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<td><strong>Rolling 3-Year Average Fall Undergraduate &amp; Graduate</strong></td>
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<td></td>
<td>2,880</td>
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<td><strong>80 % of Rolling 3-Year Average</strong></td>
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<td>2,304</td>
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SCHEDULE 5.01(b)(iii)(D)
DEPICTION OF HARTFORD DISTRICT MAP
(Schedule Appears on Next Page)
SCHEDULE 5.02
SITE ASSESSMENTS


The RAP

Hartford Times Building Final Abatement Completion Letter and Report EnviroScience Consultants, Inc. February 14, 2003
<table>
<thead>
<tr>
<th>Activity</th>
<th>Target Completion Date</th>
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<tbody>
<tr>
<td><strong>Design:</strong></td>
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<tr>
<td>Concept Design</td>
<td>Included with Agreement</td>
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<tr>
<td>Schematic Design</td>
<td>by September 30, 2014</td>
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<tr>
<td>Design Development</td>
<td>by March 31, 2015</td>
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<tr>
<td>Construction Documents</td>
<td>by August 31, 2015</td>
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<tr>
<td><strong>Construction:</strong></td>
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<tr>
<td>Construction Commencement</td>
<td>by December 31, 2015</td>
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<tr>
<td>Building Structure</td>
<td>by September 30, 2016</td>
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<tr>
<td>Substantial Completion</td>
<td>by August 31, 2017</td>
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SCHEDULE 6.06
PHASE III CONCEPT PLAN

The Phase III Concept Plan is the set of documents entitled “Concept Plan Submission” for the University of Connecticut, Downtown Hartford Campus, Hartford, CT as prepared by Robert A.M. Stern Architects for H.B. Nitkin Group and dated May 9, 2014, inclusive of the following drawings:

- Lower Level Floor Plan
- First Floor Plan
- Second Floor Plan and Second Floor Mezzanine Plan
- Third Floor Plan
- Fourth Floor Plan
- Fifth Floor Plan
- Sixth Floor Plan
- Roof Plan
- Section A-A and Section B-B
- West Elevation and South Elevation
- North Elevation and East Elevation
- Front Street: View Facing Southeast and View Facing Southwest

Model Views: View Facing Northeast, View Facing Northwest, View Facing Southeast and View Facing Southwest
SCHEDULE 7.01
PARKING MOU
Memorandum of Understanding
TERMS OF PROPOSED PARKING LEASE
BETWEEN THE UNIVERSITY OF CONNECTICUT
AND
THE CAPITAL REGION DEVELOPMENT AUTHORITY

BACKGROUND: The University of Connecticut has selected the former Hartford Times property and the adjoining vacant parcels for the relocation of its Greater Hartford Campus (the “Campus”) and as identified more specifically in the Phase III Development Agreement between the parties. The development and operation of the Campus will rely on the existing Adriaen’s Landing parking facilities to meet the needs of its staff, faculty, and students.

The parking facilities will be required to serve an initial projected enrollment and employment of 2,500 persons. It is anticipated that 900 parking spaces will accommodate the initial expected peak demand. The Tenant anticipates constructing parking spaces for approximately 50 vehicles within the Campus building. The remaining 850 non-Campus parking spaces will be composed of 250 faculty/staff and 600 students.

The Landlord operates four garages known as the Adriaen’s Landing Parking Facilities composed of the Convention Center Garage (the “CTCC Garage”), the Science Center Garage (the “CSC Garage”), the Front Street North Garage (the “North Garage”), and the Front Street South Garage (the “South Garage”) with a collective parking capacity of 3725 spaces. These Parking Facilities serve the existing operations of the Connecticut Convention Center, the Marriott Hotel, the Front Street entertainment, retail and residential district, and the Connecticut Science Center as well as nearby commercial properties through long-term parking leases. Subject to Conflict Dates referenced below, the Parking Facilities have sufficient capacity to accommodate the Tenant’s parking needs.

PREMISES: Adriaen’s Landing Parking Facilities

683401v.13
June 3, 2014

Schedule 7.01
LANDLORD: Capital Region Development Authority

TENANT: University of Connecticut

LEASE RIGHTS: The nonexclusive right to park up to eight hundred fifty (850) automobiles at any given time between the hours 6:00 AM and 10:00 PM within the CTCC Garage, CSC Garage, and South Garage as indicated herein. Monthly and semester term parkers shall have transponders or other access control devises to enter or exit the garage at will during these hours. Landlord shall have no obligation to provide parking on weekends or after hours, however spaces for users with transponders or other access control devices can be utilized during these same times, but only if available, at no additional cost to Tenant.

LEASE TERM: Initial term is fifty (50) years, commencing August, 2017; Tenant has four (4) ten-year extension options exercisable upon 12 months’ prior notice to Landlord.

FEE SCHEDULE: Staff/Faculty (and Institutes associated with UConn) - $45 per space per month, adjusted to a proportional amount equal to the increase of the market rate charged to the general public for the monthly use of a parking space at the Adriaen’s Landing Parking Facilities or as otherwise negotiated and agreed to between the parties.

Full Time Student - $45 per space per month (or billed by semester at the University’s option), adjusted to a proportional amount equal to the increase of the market rate charged to the general public for monthly use of a parking space at the Adriaen’s Landing Parking Facilities or as otherwise negotiated and agreed to between the parties.

Part Time Student - Registered students shall have the option to utilize the Premises for parking at a rate equal to 50% of the published daily rate with a maximum of Six Dollars ($6) per day.

AUTOMOBILES: “Automobiles” means compact and regular sized passenger automobiles, sport utility vehicles, minivans, pick-up trucks, and motorcycles.

ADMINISTRATION: Tenant will assign and charge fees for parking for faculty and staff in accordance with University policy. Landlord, via its parking manager, will invoice Tenant on a monthly basis in accordance with the fee schedule for the actual number of spaces utilized by faculty/staff.

Landlord or its agent shall contract directly with the students on a semester term basis (fall, spring and summer). Tenant shall not be liable for any payment
or non-payment for student parking use; however they shall assist Landlord or its agent in the contracting process and marketing of spaces.

**ALLOCATION:**

Staff, Faculty, and Student spaces will be assigned by Tenant; Landlord will allocate student parking to the CTCC Garage and CSC Garage. Landlord will prioritize staff and faculty spaces within the CTCC Garage by restricting student and other contract parking within the CTCC Garage to the tower garage. Landlord shall provide an area with approximately 200 spaces that is located on the P2 level of the CTCC Garage for the use of Tenant for faculty/staff/Institute parking. Landlord will monitor the parking in the designated area to make sure other contract parkers do not utilize the parking spaces, however Tenant acknowledges that such spaces may be available to hotel and convention center transient parkers from time-to-time on a first-come-first-park basis. Landlord agrees to work collaboratively with the Tenant and establish a reasonable plan to minimize the disruption caused by transient parkers on the P2 Level of the CTCC Garage. Additionally, Tenant will make these spaces available to Landlord on the Conflict Dates and all weekends. Any signage and/or identification of Tenant's parking areas and spaces shall be subject to Landlord's approval.

**INITIAL ALLOCATION:**

The 850 parking spaces, which will be needed at any given time, will be allocated as follows: (1) **full-time staff and faculty (and Institutions associated with UConn)** - 250 spaces requiring 6:00 AM to 10:00 PM, Monday to Friday availability; availability that is expected to peak on Tuesdays and Thursday from 4:00 PM to 6:00 PM; (2) **students** - 600 transient spaces requiring Monday through Friday availability. Landlord recognizes that the 600 transient spaces represents the maximum number of student parkers at any single time, however many more than 600 transponders or other access control devices will be issued at any one time and on a daily, monthly and semester basis. Landlord and Tenant will meet annually to review and adjust the initial allocation to reflect changes in demand and availability.

**CONFLICT DATES:**

There are dates throughout the operating year when events at the Convention Center and/or the Science Center may demand parking at the Parking Facilities full capacity. Landlord and Tenant will work cooperatively to identify such dates on an annual schedule and will develop a system to provide alternative parking, and transportation if necessary, for Tenant’s needs for such identified dates and times.

**SOUTH GARAGE:**

This facility became operational in 2013 and is reserved for transient parking in accordance with the existing Front Street Development Agreement. Upon the completion and lease-up of Phases I, II, and III of the Front Street Entertainment/Retail/Residential district, the parties will review the existing
allocation and consider the possibility of transferring a limited number of staff and/or faculty to the South Garage, as availability permits. In the event a limited number of Tenant parkers are transferred to the South Garage, CRDA, based upon the additional parking demand created by the lease-up of Phase IV of the Front Street project, may return such Tenant parkers to the P2 level of the CTCC Garage. In all other ways, the transferred parkers would retain their rights to utilize the Adrian’s Landing Parking Facilities as outlined in this MOU. The University will receive a right of first refusal for all available spaces in the South Garage after the retail lease-up is complete.

**Traffic Management:** Tenant may impact and mitigate trip generation through its scheduling of classes and Campus activities. The Parties will work cooperatively with the City of Hartford and with the Connecticut Department of Transportation to enhance the safety and efficiency of all modes of travel and systems, including the traffic signalization system, into and around the Campus area. The Parties will work to assign and allocate parking spaces to mitigate the use of the local streets by allocating parking to orient outbound traffic to most appropriate highway ramps. Tenant will encourage the use of public and alternative transit options, including the free DASH shuttle service and student transit passes and discounts.

**Security:** The Parties will coordinate the use of University, CRDA and City of Hartford security personnel and resources to maximize their effectiveness and reduce redundancies. Additionally, the parties will explore the feasibility of linking the parking facilities’ existing “blue light” and security camera system to the Campus security office.

**Other Terms:** The parties recognize that several factors will need to be addressed as the operational, parking and transportation demands of the Campus evolve. The parties agree to work cooperatively and amiably to meet these needs.

Signatures on next page
The terms and conditions herein are agreed and accepted as of this 3rd day of June, 2014

CAPITOL REGION DEVELOPMENT AUTHORITY

By ________________________________

Name: Michael Freimuth
Title: Executive Director
Duly authorized
The terms and conditions herein are agreed and accepted as of this 3rd day of June, 2014

UNIVERSITY OF CONNECTICUT

By ____________________________

Name: Susan Herbst
Title: President
Duly authorized

Schedule 7.01
SCHEDULE 11.01
INSURANCE REQUIREMENTS

The Developer shall maintain or cause to be maintained the following coverages:

I. Commercial General Liability
   Each contractor shall maintain, and supply a Certificate of Insurance showing evidence that it has, Commercial General Liability coverage as follows:
   - $2,000,000 General Aggregate
   - $2,000,000 Products — Completed Operations Aggregate
   - $1,000,000 Personal Injury Liability
   - $1,000,000 Each Occurrence (combined single limit for bodily injury and property damage.)

   The certificate must have the CG 2010 (11/85) endorsement attached naming the following as additional insureds: The Innovest Group, Inc. d/b/a The HB Nitkin Group; HBN Front Street District, Inc.; FSD University, LLC; FSD Apartments, LLC; The State of Connecticut; The University of Connecticut; Capital Region Development Authority; Waterford Development LLC; Waterford Group LLC; The City of Hartford; Phoenix Life Insurance Company; The Travelers Indemnity Company; and Arch Street North LLC, their officers, officials, employees, partners, directors, members, shareholders, agents, subsidiaries, associated and affiliated companies, successors and/or assigns, as they now exist or may hereafter be acquired or formed, and any corporation or other business organization which any of the named insureds owns, operates or controls, including the interest as successor to any corporation or other business organization acquired, merged or transformed into any of the foregoing, and any trust, foundation, funds and welfare plans of any kind and other interests as now or hereafter related to the insureds but not specifically named.

   Deductibles shall be as customary for such contractors and projects.

   The Additional insured Endorsement must be attached to the certificate and state that this Insurance is primary to any other insurance. Endorsements that limit or exclude coverage will need to be attached to the certificate. Each contractor shall maintain Products/Completed Operations coverage for a period of three (3) years following the completion of the project.

II. Automobile Liability
   Each contractor shall maintain, and supply a Certificate of Insurance showing that is has, commercial automobile liability coverage as follows:
   - $1,000,000 Each Occurrence (combined single limit for bodily injury and property damage) for any auto owned of leased by the subcontractor, and
   - For non-owned autos, hired and non-owned auto liability coverage needs to be included at the same limits as listed above (i.e. $1MM Combined Single Limit for Bodily Injury & Property Damage).
III. Umbrella or Excess liability (Unless coverage includes $10,000,000 general liability per occurrence.)

Each contractor shall maintain, and supply a Certificate of Insurance showing evidence that is has, umbrella or excess liability coverage that extends over the underlying Commercial General Liability, Automobile Liability & Employers Liability policies for:
- $10,000,000 Each Occurrence
- $10,000,000 Aggregate

Coverage shall be no less broad than the underlying coverage.

IV. Workers Compensation and Employers Liability

Each contractor shall maintain, and supply a Certificate of insurance showing that it has, workers compensation and employers liability coverage as follow:
- $1,000,000 Each Accident (bodily injury by accident)
- $1,000,000 Disease - Policy limit (bodily injury be disease)
- $1,000,000 Disease - Each Employee (bodily injury by disease)

Deductibles shall be as customary for such contractors and projects.

V. Professional Liability

If a contractor is a licensed architect, engineer or designer; provides architecture, engineering or design services or retains same, it shall maintain, and supply a Certificate of Insurance showing it has, errors and omissions coverage in an amount not less than $2,000,000 per occurrence. Each Policy must be kept in effect for a period of four (4) years after substantial completion. If claims made coverage, the retro date must be before the date of the contract or the beginning of the contract work.
Deductibles shall be as customary for such contractors and projects.

Rating

The insurer for coverages provided per paragraphs I, II, III, IV and V above shall have a minimum A.M. Best’s rating of A (X) and must be admitted to write insurance in the State of Connecticut.

Cancellation Clause

Each certificate of insurance shall have the phrases “Endeavor to” and “but failure to mail such notice shall...or representative” crossed out. Written Notice should be no less than 10 days. The Developer, the State (OPM), The University of Connecticut (UConn), Capital Region Development Authority (CRDA) must be notified by Certified Mail, Return Receipt Requested of any cancellations (including for non-payment), non-renewals & any material changes in coverage under these policies.
Certificates Should Be Sent to:

The HB Nitkin Group
230 Mason Street
Greenwich, CT 06830
Attention: Peter J. Christian
Phone 203/861-9000 Fax 203/861-9005

Copies of certificates should be provided to:

Office of Policy and Management
Adriaen’s Landing/Rentschler Field Project Office
100 Columbus Boulevard, Suite 501
Hartford CT 06103-2819
Attn: Kim Hart
Phone 860/251-8141 Fax 860/251-8143

The University of Connecticut
Planning Architectural & Engineering Services
31 Ledoyt Road U-3038
Attention: Laura A. Cruickshank, AIA, University Master Planner and Chief Architect
Phone 860/486-2086 Fax 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
Phone: 860/486-5796 Fax 860/486-4369

Other Requirements

The Insurances required hereunder may be carried on either an “occurrence” or a “claims made” basis, providing, however, that, should any insurance be carried on a “claims made” basis, the contractor also shall be obligated to procure an extended reporting period thereto or a subsequent “claims made” policy with the same retroactive date as the prior “claims made” policy, as necessary to protect the named insured and all additional Insureds from any claims, actions or causes of action which first accrue during the initial policy period.

Any insurance required to be obtained by contractor may be obtained by means of any combination of primary and umbrella coverages and by an endorsement and/or a rider to a separate or blanket policy and/or under a blanket policy in lieu of a separate policy or policies,
provided that the contractor shall deliver a certificate of insurance of any said separate or blanket policies and/or endorsements and/or riders evidencing to the Developer, OPM, CRDA and UConn that the same complies in all respects with the provisions of these Minimum Insurance Requirements, and that the coverages thereunder and the protection afforded the named and additional insureds thereunder are at least equal to the coverages and protection which would be provided under a separate policy or policies procured solely for the subject project. The certificates of such policy or policies evidencing such coverages shall be delivered to OPM, CRDA and UConn, in the case of Developer, prior to Developer’s commencing any Preliminary Site Work and to the Developer, OPM, CRDA and UConn, in the case of each contract, upon its award, and at least thirty (30) days prior to the expiration of each such policy thereafter.

Each contractor shall agree that it will not carry any insurance insuring the named insured or any other person or entity against the risks for which Insurance Is required to be maintained pursuant to these Minimum Insurance Requirements unless the named insured and all additional insureds identified above each are named as an additional insured or a loss payee, as applicable, thereunder and the Insurance and insurance carriers otherwise comply with the terms of these provisions.

As used in this Schedule 11.01, the term, “contractor” means and refers to each person or entity (a) with which the Developer has or hereafter enter into any contract in connection with the design, development and/or construction of any Private or Public Components in connection with the Phase III Lot prior to the Takedown of the Phase III Lot, (b) any subcontractor that any of such persons or entities hires or otherwise engages to perform any work in connection with the foregoing, and (c) should the Developer (either by itself and through any other person or entity) begin or otherwise perform any Preliminary Site Work or other actual construction activities with respect to the Phase III Lot before the Phase III Takedown of that the Phase.