

FOURTH AMENDMENT TO AGREEMENT OF LEASE

THIS FOURTH AMENDMENT TO AGREEMENT OF LEASE, dated as of April 14, 2015 (this "Fourth Amendment"), between BATTERY PARK CITY AUTHORITY d/b/a HUGH L. CAREY BATTERY PARK CITY AUTHORITY, a body corporate and politic constituting a public benefit corporation, having an office at One World Financial Center, 24th Floor, New York, New York 10281 (the "Landlord") and PIER A BATTERY PARK ASSOCIATES, LLC, a Delaware limited liability company having an office at 93 Pearl Street, New York, New York 10004 (the "Tenant").

WITNESSETH

WHEREAS, the Landlord and the Tenant have entered into that certain Agreement of Lease, dated as of March 9, 2011, as amended by the First Amendment, dated as of June 1, 2011, the Second Amendment, dated as of August 1, 2013, and the Third Amendment, dated as of November 14, 2014 (as amended, and as it may hereafter be amended, the "Operating Lease"), demising the premises known as "Pier A" at 22 Battery Place in the City, County and State of New York; and

WHEREAS, the Landlord and the Tenant desire to modify certain terms of the Operating Lease; and

WHEREAS, capitalized terms used but not defined in this Fourth Amendment shall have the respective meanings ascribed to such terms in the Operating Lease.

NOW THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby covenant and agree as follows:

1. Tenant acknowledges that Landlord is owed Two Hundred Eighty Five Thousand, Two Hundred Seventy Three dollars (\$285,273) as detailed on Exhibit A, attached hereto (the "Reconciliation Payment"). Tenant further agrees that it will remit the Reconciliation Payment to Landlord concurrently with the execution of this Fourth Amendment.
2. Tenant acknowledges that the Reconciliation Payment is in satisfaction of outstanding electrical bills only as of November, 2014, and that it remains responsible for additional amounts due to Landlord for electrical service that have accrued and will continue to accrue until the electrical service is billed directly to Tenant. Tenant further acknowledges that the Reconciliation Payment is not in full satisfaction of outstanding rent due as of the date of this Fourth Amendment.
3. Tenant acknowledges and agrees that the Building's HVAC system is fully operational and further acknowledges that, with the exception of the impending replacement of the copper pre-heat coil unit for Water Source Heat Pump 3A, located in the third floor mechanical room which is to be performed by Landlord, Landlord's Work with respect to the HVAC system has been completed and accepted by Tenant. Tenant assumes responsibility as of this date for the proper maintenance and operation of all interior

elements of the HVAC system, as identified and enumerated in the Equipment Responsibility Matrix, attached hereto as Exhibit B. Landlord acknowledges and agrees that it maintains responsibility for the proper maintenance of the exterior elements of the HVAC system, as identified in the Equipment Responsibility Matrix.

4. Tenant acknowledges and agrees that, before conducting/hosting any special event(s) on the Plaza, it must submit a detailed proposal to, and obtain written approval from, Landlord for each such event. Tenant's initial proposal for use of the Plaza through November 15, 2015, for any special events shall be due to Landlord by April 15, 2015 for Landlord's review and approval, provided however that no such approval shall be granted upon less than ten (10) business days' notice. Tenant and Landlord shall execute a further agreement detailing the proposal, notice and approval provisions governing the conduct of special events on the Plaza by May 1, 2015.
5. Landlord hereby acknowledges and agrees that Tenant is opening the second floor of Pier A to the general public on or after April 15, 2015.
6. Tenant has provided a final, detailed proposal relating to the outdoor service of food and/or beverages to the general public at non-private events ("Outdoor Service"), including its proposed outdoor equipment, furnishings, furniture, and table service. Landlord shall provide written comments to such proposal by April 15, 2015. Tenant acknowledges that it may not begin Outdoor Service without Landlord's written consent to such proposal. Tenant further acknowledges that such proposal, as well as its trash removal plan, security plan, and maintenance plan, is subject to change at Landlord's reasonable request, or upon notice by Tenant to Landlord of needed amendments to any such plan based on demonstrated operational issues requiring such amendments. Whether demonstrated operational issues exist sufficient to warrant an amendment shall be determined by Landlord in its sole discretion.
7. Landlord hereby acknowledges and agrees that the visitor's center and coffee bar service at the Premises may be opened by Tenant at any time following the date of this Fourth Amendment.
8. Landlord acknowledges that Landlord has consented to the license agreement with Alliance for Downtown New York, a copy of which is attached hereto as Exhibit C.
9. The parties agree that they will negotiate the outstanding items noted in Sections 4 and 6 of this Fourth Amendment in good faith and with expediency.
10. Nothing herein shall be construed as amending any terms or conditions of the Operating Lease except as expressly provided for in this Fourth Amendment. As so amended, the Operating Lease is hereby ratified and confirmed. References in the Operating Lease to "this Lease Agreement" and words of similar import shall be construed as meaning the Operating Lease as amended by this Fourth Amendment.
11. Landlord and Tenant each represent, with respect to itself, that this Fourth Amendment has been duly authorized and that the person executing it on such party's behalf is authorized to act on behalf of and bind such party, and that upon its

execution this Amendment is the valid, legal and binding obligation of such party and is enforceable with respect to such party in accordance with its terms.

12. This Fourth Amendment may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF the parties have caused this Fourth Amendment to be executed and delivered by their respective duly authorized officers as of the day and year first above written.

BATTERY PARK CITY AUTHORITY d/b/a
HUGH L. CAREY BATTERY PARK CITY
AUTHORITY

By: 
Name: _____
Title: Name: Shari C. Hyman
Title: President / COO

PIER A BATTERY PARK ASSOCIATES, LLC

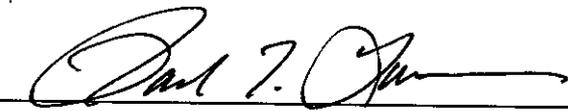
By: 
Name: _____
Title: PAUL T. LAMAS
MEMBER

EXHIBIT A

RECONCILIATION PAYMENT

Payment for Mechanical System	\$ 100,000.00
Payment Due from BPCA for Late Delivery	\$ (108,000.00)
BPCA Work Credits	\$ (55,898.00)
Security Costs	\$ 146,328.00
Electric Bills	\$ 112,967.00
Elevator Communications	\$ 1,275.00
Verizon Phone Charges	\$ 1,811.00
Genesys HVAC Remediation Work	\$ <u>86,790.00</u>
Total Due to BPCA	\$ 285,273.00

EXHIBIT B

EQUIPMENT RESPONSIBILITY MATRIX

See attached.

BPCA Pier A

Equipment Responsibility Matrix

Note: The condenser water and glycol system are the same system. It is imperative that the system is operated at the proper level without any loss in pressure or introduction of air. The system is to be maintained at 12 psig. If the building operators/maintenance personnel suspect there is a leak in the system, they are to notify BPCA personnel immediately. It is the responsibility of the building operators/maintenance personnel to maintain the proper level, glycol concentration and pressure on the system. The maintenance, inspection and integrity piping on the exterior of the building is the responsibility of BPCA. The remaining piping is the building operators/maintenance personnel responsibility.

Equipment Maintained By BPCA				
System Type	Equipment Type	Equip Desig	Location	Areas Served
Underwater Glycol/Water Array	Heat Exchanger and Piping	N/A	Hudson River	CW System

Equipment Maintained By the Building Operator and Maintenance Personnel

System Type	Equipment Type	Equip Desig	Location	Areas Served
Condenser Water System	Pump	GP-1	Attic	Condenser Water
Condenser Water System	Pump	GP-2	Attic	Condenser Water
Condenser Water System	Expansion Tank	ET-2	Attic	Condenser Water
Condenser Water System	Make-Up Tank and Pump	MUT-1	Attic	Condenser Water
Air Delivery and Distribution	Ductwork	DUCT-1st	1st floor	1st floor
Air Delivery and Distribution	Ductwork	DUCT-2nd	2nd floor	2nd floor
Air Delivery and Distribution	Ductwork	DUCT-3rd	3rd floor	3rd floor
Air Delivery and Distribution	Ductwork	DUCT-Attic	Attic	Attic
Air Delivery and Distribution	Fan	RF-1	3rd floor attic	WSHP-1
Air Delivery and Distribution	Fan	RF-2	3rd floor attic	WSHP-2
Air Delivery and Distribution	Fan	RF-3	3rd floor attic	WSHP-3
Air Delivery and Distribution	Fan	RF-4	3rd floor attic	WSHP-4
Air Delivery and Distribution	Fan	RF-5	3rd floor attic	WSHP-5
Air Delivery and Distribution	Fan	RF-1BCD	Attic	WSHP-1B, 1C, and 1D
Air Delivery and Distribution	Fan	RF-4A	Attic	WSHP-4A
Air Delivery and Distribution	Water Source Heat Pump	WSHP-1	Attic	1st Floor OB/PS
Air Delivery and Distribution	Water Source Heat Pump	WSHP-2	Attic	2nd floor - West
Air Delivery and Distribution	Water Source Heat Pump	WSHP-3	Attic	1st Floor OB/PS
Air Delivery and Distribution	Water Source Heat Pump	WSHP-4	Attic	1st Floor OB/PS
Air Delivery and Distribution	Water Source Heat Pump	WSHP-5	Attic	3rd floor HD HSE
Air Delivery and Distribution	Water Source Heat Pump	WSHP-1B	1st Floor	1st Floor OB/PS
Air Delivery and Distribution	Water Source Heat Pump	WSHP-1C	1st Floor	1st Floor OB/PS
Air Delivery and Distribution	Water Source Heat Pump	WSHP-1D	1st Floor	1st Floor OB/PS
Air Delivery and Distribution	Water Source Heat Pump	WSHP-3A	Attic	1st and 2nd Floor MVA
Air Delivery and Distribution	Water Source Heat Pump	WSHP-4A	Attic	1st Floor OB/PS
Air Delivery and Distribution	Water Source Heat Pump	WSHP-5A	2nd Floor	2nd Floor PS
Air Delivery and Distribution	Water Source Heat Pump	WSHP-6	Elevator Room 104A	Elevator Room 104A
Air Delivery and Distribution	Water Source Heat Pump	WSHP-7	Elevator Room 208A	Elevator Room 208A
Computer Room AC Units	A/C Unit	CRAC-1	Inshore building attic	IT room
Computer Room AC Units	Air Cooled Condensing Unit	ACCU-1	Head HSE attic	CRAC-1
Controls	BMS	BMS-GEN		
Domestic Water	DHW Expansion Tank	DHW-ET-1	Room 401	Domestic hot water
Domestic Water	Domestic Water Heater	WH-1	Room 401	Domestic hot water
Hot Water System	Boiler	B-1	Attic	CW and Space Heat
Hot Water System	Boiler	B-2	Attic	CW and Space Heat
Hot Water System	Expansion Tank	ET-1	Attic	Hot water
Hot Water System	Plumbing Pump	CP-1	Room 401	Hot water circulation

Equipment Maintained By the Building Operator and Maintenance Personnel

System Type	Equipment Type	Equip Desig	Location	Areas Served
Perimeter Radiation	Perimeter Radiation	PR-A	1st floor perimeter	1st floor perimeter
Perimeter Radiation	Pump	HWP-3	Attic	2nd Floor Radiation
Perimeter Radiation	Pump	HWP-3A	Attic	2nd Floor Radiation
Piping	Piping	PIPING-1st	1st floor	1st floor
Piping	Piping	PIPING-2nd	2nd floor	2nd floor
Piping	Piping	PIPING-3rd	3rd floor	3rd floor
Piping	Piping	PIPING-Attic	Attic	Attic
Pre-heat Hot Water	Heat Exchangers	HX-1	Attic	Condenser water system
Pre-heat Hot Water	Pump	HWP-2	Attic	Heat pump loop
Pre-heat Hot Water	Pump	HWP-2A	Attic	Heat pump loop
Pre-heat Hot Water	Glycol Feed Equipment	GF-1	Attic MER	Condenser Water Loop
Radiant Heating	Pump	HWP-1	Attic	Radiation
Radiant Heating	Pump	HWP-1A	Attic	Radiation
Radiant Heating	Radiant Ceiling Panel	RCP-1	See Plans	See Plans
Radiant Heating	Radiant Ceiling Panel	RCP-2	See Plans	See Plans
Radiant Heating	Radiant Floor Manifold	M-1	See Plans	See Plans
Radiant Heating	Radiant Floor Manifold	M-2	See Plans	See Plans
Radiant Heating	Radiant Floor Manifold	M-3	See Plans	See Plans
Radiant Heating	Radiant Floor Manifold	M-4	See Plans	See Plans
Radiant Heating	Radiant Floor Manifold	M-5	See Plans	See Plans
Radiant Heating	Radiant Floor Manifold	M-6	See Plans	See Plans
Radiant Heating	Radiant Floor Manifold	M-7	See Plans	See Plans
Sewage System	Plumbing Pump	EP-1	Elevator pit	Elevator sump pump
Sewage System	Plumbing Pump	SE-1	Sewage room	Sewage ejector
Supply and Exhaust Fans	Fan	TX-1	Inshore building attic	Restrooms
Supply and Exhaust Fans	Fan	GX-1	Inshore building attic	Rooms 102 & 104
Supply and Exhaust Fans	Fan	EF-1	Pier shed attic	West elevator shaft
Supply and Exhaust Fans	Fan	EF-2	Pier shed attic	West elevator MER
Supply and Exhaust Fans	Fan	EF-3	Inshore building attic	East elevator shaft
Supply and Exhaust Fans	Fan	EF-4	Inshore building attic	East elevator MER
Supply and Exhaust Fans	Fan	TF-1	2nd Floor Electrical Room	2nd Floor Electrical Room
Terminal Heating	Cabinet Unit Heater	CUH-1	1st floor-HD HSE	Hallway 101
Terminal Heating	Cabinet Unit Heater	CUH-2	1st floor- HD HSE	Stair 1 & 4
Terminal Heating	Cabinet Unit Heater	CUH-3	1st floor- HD HSE	Stair 2 & 3
Terminal Heating	Unit Heater	UH-1	1st floor head HSE	Mech/Plumb RM 102
Terminal Heating	Unit Heater	UH-2	1st floor head HSE	Recycling RM 104

EXHIBIT C

LICENSE AGREEMENT WITH ALLIANCE FOR DOWNTOWN NEW YORK

See attached.

LICENSE AGREEMENT

LICENSE AGREEMENT (the "Agreement"), made as of the 17th day of March, 2015, between PIER A BATTERY PARK ASSOCIATES, LLC, a Delaware limited liability company, with an address at c/o HPH, 93 Pearl Street, New York, New York 10004 ("Licensor") and ALLIANCE FOR DOWNTOWN NEW YORK, INC., a New York not-for-profit corporation, with an address 120 Broadway, Suite 3340, New York, New York 10271 ("Licensee").

WITNESSETH:

WHEREAS, The City of New York (the "City") is the landlord of that certain three-story, 38,725 square foot building located at the southwestern tip of Lower Manhattan known as Pier A ("Pier A"), together with the promenade which surrounds the building on three (3) sides (the "Promenade"), and an upland plaza (the "Plaza") immediately adjacent to the building (collectively, the "Pier A Property"), which it has leased to the Battery Park City Authority d/b/a Hugh L. Carey Battery Park City Authority ("BPCA"), a New York State agency with its principal place of business at 200 Liberty Street, New York, NY 10281 pursuant to a lease agreement (the "City Lease"); and

WHEREAS, BPCA has entered into an Agreement of Lease sublease with Licensor, dated as of March 9, 2011, as amended by First Amendment to Agreement of Lease, dated as of June 1, 2011, and as further amended by Second Amendment to Agreement of Lease, dated as of August 1, 2013 (as the same may be hereafter amended from time to time, the "BPCA Lease"), allowing Pier A Associates to build, operate, manage and maintain various food establishments at Pier A and to build, operate manage and maintain a visitor's center in a portion of the space located within the Plaza area; and

WHEREAS, Licensee desires to license and utilize a portion of the space located within the visitor center (the "Visitor's Center") on the ground floor at the eastern end of Pier A and consisting of a desk, counters and other improvements as described herein to be constructed and designated by Licensor (the "Licensed Space"); and

WHEREAS, Licensor is agreeable to granting to Licensee a license to use the Licensed Space for such purpose, on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and for other good and valuable consideration, the mutual receipt and legal sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

1. Grant of License. Licensor does hereby grant to Licensee a temporary license to access and use the Licensed Space, at no cost, for the operation and management of a public visitor's center at the Pier A Property by the Alliance for Downtown New York, Inc., subject to the terms and conditions of this Agreement, and no other purpose. Licensee acknowledges and agrees that the balance of the Visitor's Center not licensed to Licensee hereunder may be used by Licensor for the sale of coffee, drinks, food, merchandise, or any other purpose, or may be licensed to third parties, such as New York Water Taxi, in either case on such terms and conditions as Licensor may desire or grant to such third parties from time to time in Licensor's

sole and absolute discretion. Licensee agrees to cooperate and coordinate its use of the Licensed Space with Licensor and any other licensee of the Visitor's Center and at all times use the Licensed Space in a manner so as not to unreasonably interfere with Licensor's or other licensees use of the Visitor's Center. Licensor shall use reasonable efforts to ensure that other licensees of the Visitor's Center do not unreasonably interfere with Licensee's use of the Licensed Space.

2. **Term.** The term of this Agreement shall commence on the date Licensor delivers possession of the Licensed Space to Licensee (the "**Commencement Date**") and shall expire on the earlier to occur of the expiration or termination of the BPCA Lease (the "**Expiration Date**"), unless sooner terminated in accordance with the terms hereof or pursuant to law. The term of this Agreement may be renewed or extended upon mutual agreement of Licensor and Licensee.

3. **Early Termination.** Licensor or Licensee shall have the right to terminate this Agreement on not less than thirty (30) days prior written notice to the other party for any reason or no reason.

4. **Permitted Use; Use by Licensor.**

(a) Licensee shall have access to the Licensed Space, subject to closure of the Plaza or other limitations imposed by Licensor, seven (7) days per week, three hundred sixty-five (365) days per year. Licensee shall be responsible for staffing the Visitor's Center and anticipates operating it with at least one (1) person daily, including weekends, for not less than eight (8) hours daily; **provided, however** that the Visitor's Center shall not be required to be open on Thanksgiving Day, Christmas Day and New Year's Day or other days that Licensee is unavoidably not able to provide service, including inclement weather. Licensee shall use the Licensed Space solely for the purpose of operating and maintaining a public information/visitor's center. All displays in connection therewith shall be in good taste and shall be in a style and manner consistent with the appearance and character of the Pier A operation maintained by Licensor. Licensor may prohibit the display of items that it deems, in its reasonable discretion, to be (i) in violation of the BPCA Lease, (ii) in bad taste, or (iii) inconsistent with the appearance and character of the Pier A operation maintained by Licensor.

(b) Notwithstanding the provisions of Section 4(a), Licensor shall have the right to use or license the Licensed Space for other uses during any period that Licensee is not operating within the Licensed Space. Licensee shall provide Licensor with a schedule of Licensee's expected hours of operation (which may be updated from time to time) and Licensor may rely on the then current schedule in making arrangement to use or otherwise license the Licensed Space outside of Licensee's scheduled hours of operation. Licensee shall not be required to remove any of Licensee's materials or equipment during any period that the Licensed Space is used by Licensor.

5. **Construction; Initial Fit Out.** Licensor shall be responsible, at Licensor's sole cost and expense, for construction of the Visitor's Center pursuant to plans and specifications prepared by Licensor in its sole and absolute discretion. Licensor shall also be responsible for providing, at its own expense, and for use by the Licensee, counters and a desk within the Visitor's Center, as well as an internet service interconnection point, a telephone line, a telephone extension within the Pier A telephone system, and a desktop telephone unit. Licensee

shall provide at its own expense the following office equipment and furnishings as needed for its operations within the Visitors Center: (w) a computer with monitor, a wall mounted monitor provided by Licensee (but attached to the wall by Licensor), tablet computers, a printer/copier/scanner/fax machine, (x) office furnishings including chairs and/or stools, and collateral holders for Lower Manhattan brochures, guides and map, which will be distributed at the Visitors Center, (y) miscellaneous office supplies; and (z) equipment needed to provide WiFi service or connect to internet service. Licensor shall provide Licensee with password access to the Licensor's WiFi portal at no cost to Licensee, but shall have no obligation to provide WiFi service to Licensee.

6. **Services.** Licensor shall, at Licensor's sole cost and expense, provide basic cleaning, vacuuming, garbage removal, maintenance services, electric heating and air conditioning to the Visitor's Center for normal use during such hours and in such reasonable quantities as Licensor shall determine ("Basic Services"); provided, however, Licensee shall be responsible, at Licensee's sole cost and expense, (i) to deposit any trash generated by Licensee in trash receptacles within the Visitor's Center designated by Licensor, and (ii) for sponge-cleaning the counters in the Licensed Space on a daily basis.

7. **End of Term.** Upon any termination of this Agreement, whether by lapse of time or otherwise, or upon any revocation of Licensee's license herein granted (such termination or revocation, the "Termination"), Licensee shall immediately cease all use of the Licensed Space and all services furnished hereunder. For each and every month or portion thereof beyond the first ten (10) days following any Termination that Licensee continues use of the Licensed Space or any of the services furnished hereunder after the Termination, without the express written consent of Licensor, Licensee shall pay Licensor an amount equal to the fair market rental value of the Licensed Space for each month or portion thereof that Licensee continues such use. Licensee further agrees to indemnify and save Licensor harmless from and against all claims, incidental and consequential damages, liabilities, costs and expenses (including, without limitation, attorneys' fee and disbursements) resulting from delay by Licensee in discontinuing its use of the Licensed Space or in enforcing Licensor's rights to cause such continued use to be terminated.

8. **Additional Covenants.** Licensee covenants and warrants:

(a) at Licensee's sole cost and expense and except as expressly provided in this Agreement, to keep the surface areas of desks and counters used by Licensee clean and to not cause any physical damage to the Licensed Space or the furnishings therein (other than reasonable wear and tear), and to quit, surrender and deliver up the Licensed Space and other related areas to Licensor upon the Termination of this Agreement in as good and proper order and condition as at the commencement of the term hereof, reasonable wear and tear excepted (and the provisions of this clause (a) shall survive the expiration or earlier termination of this Agreement);

(b) at Licensee's sole cost and expense, to comply promptly with (i) all present and future laws, orders, ordinances, rules, regulations and requirements of, and to keep (or promptly compensate Licensor for its keeping) in full force and effect all permits and licenses required pursuant to, all federal, state, municipal and local governments and their departments,

agencies, commissions, and offices or any other governmental body (including BPCA) exercising jurisdiction over the Licensed Space or the Visitor's Center, and (ii) all orders, rules, regulations and requirements of any public or private entity setting rates and requirements related to fire insurance; provided that such compliance is required by reason of Licensee's specific use of the Licensed Space;

(c) not to use the Licensed Space for any immoral or illegal use or any use which will, in Licensor's reasonable opinion, impair the character of Licensor or of the Premises;

(d) not to make any alterations or other changes to the Visitor's Center or the Licensed Space without Licensor's prior written consent; and

(e) not to damage or deface the furnishings, walls, floors or ceilings, or make holes for the hanging of pictures, or make or suffer to be made any waste, obstruction or unlawful, improper or offensive use of the Licensed Space or cause damage to any part of the Visitor's Center or Licensor's property or disturb the quiet enjoyment of any other licensee, or occupant of the Visitor's Center.

9. **Repairs and Insurance.** (a) Licensor will have the right, at any time and from time to time, to enter the Licensed Space for purposes of inspection, to make such repairs and to make alterations as Licensor reasonably deems necessary. The cost of any such repair resulting from Licensee's damage to the Licensed Space, or the desk and cabinetry therein, reasonable wear and tear excepted, shall be reimbursed by Licensee to Licensor upon demand.

(b) At all times during the term of this Agreement, Licensee shall maintain, at its sole cost and expense, for the mutual benefit of Licensor, BPCA, the City, New York City Economic Development Corporation ("NYCEDC"), Apple Development Corp. ("EDC's Agent"), and Licensee, the insurance coverages required to be maintained by Licensor as Tenant under the BPCA Lease. A copy of the relevant pages from the BPCA Lease containing such insurance coverage requirements is attached hereto as Exhibit A. All such policies of insurance shall name Licensor, BPCA, the City, NYCEDC and EDC's Agent as additional insured, and provide that Licensor shall receive at least thirty (30) days prior written notice of any modification, reduction or cancellation thereof. Upon the execution of this Agreement, and as may be reasonably requested from time to time, Licensee shall furnish Licensor with a certificate of insurance evidencing the coverages described herein. Licensee acknowledges that it is Licensee's responsibility to maintain insurance to cover all risks at Licensee's sole cost and expense.

10. **Indemnity.** (a) Licensor and its respective members, agents and employees shall not, to the fullest extent permitted by law, be liable for any damage or claim with respect to any injury to person or damage to, or loss or destruction of any property of Licensee, its employees, authorized persons or invitees due to any act, omission or occurrence in or about the Visitor's Center or the Plaza, except if such injury, damage or destruction is the result of Licensor's negligence or willful misconduct. Licensee waives all right of recovery against such entities or individuals for any such damage or claim.

(b) Without limitation of any other provision hereof, each party hereto hereby agrees to indemnify, defend and hold harmless the other, and such other party's partners, officers, directors, employees, shareholders, agents and representatives from and against any liability to third parties arising out of, in the case of Licensee as an indemnifying party, Licensee's use and occupancy of the Licensed Space by its agents, employees and contractors or any negligent act or omission or willful misconduct of Licensee or Licensee's officers, directors, employees, shareholders, partners, agents, representatives, or contractors with respect to the Licensed Space, and, in the case of Licensor as an indemnifying party, any negligent act or omission or willful misconduct of Licensor or Licensor's officers, directors, employees, shareholders, members, partners, agents, representatives, or contractors. Subject to the foregoing, Licensee assumes all risk of loss with respect to all personal property of Licensee, its agents, employees and contractors, within or about the Visitor's Center.

(c) If the Visitor's Center is made unusable, in whole or in part, by fire or other casualty, as determined by Licensor, Licensor may, at its option, terminate the Agreement upon notice to Licensee, effective upon such casualty.

11. **Default.** (a) Licensee shall be deemed to be in default under this Agreement if Licensee defaults in the prompt and full performance of any other provision of this Agreement and any such default continues in excess of ten (10) business days after written notice by Licensor.

(b) If Licensee is in default hereunder beyond all applicable notice and cure periods (if any), Licensor shall have the option, without any additional notice or demand whatsoever and without limitation to Licensor in the exercise of any other remedy at law or in equity, to terminate this Agreement and the license granted hereunder. Thereafter, Licensor may enter into the Licensed Space or such other space occupied by Licensee, and, following ten (10) days prior written notice to Licensee during which period Licensee shall be provided access to the Licensed Space for the purpose of removing its materials and equipment, dispose of the any materials or equipment remaining in the Licensed Space.

(c) Licensee shall pay all costs and expenses, including reasonable attorneys' fees, expended or incurred by Licensor in connection with the enforcement of this Agreement, the collection of any sums due hereunder, any action for declaratory relief in any way related to this Agreement or the protection or preservation of any rights of Licensor hereunder.

12. **Rules and Regulations.** Licensee shall comply with all Rules and Regulations of Licensor, as provided on Schedule 1 attached hereto, and with all of the terms and conditions of the City Lease and the BPCA Lease, all as the same may be modified from time to time, and any additional schedules that may be attached hereto or thereto are expressly made a part of this Agreement.

13. **No Equipment.** Licensee shall not be permitted to install any machinery, equipment or other property in or upon the Licensed Space, nor may Licensee alter, add to or modify any equipment located in or around the Licensed Space, without the prior written approval of Licensor in each instance not to be unreasonably withheld or delayed.

14. **Notices.** Any and all notices which are or may be required to be given pursuant to the terms of this Agreement shall be (i) addressed to the individuals signing this Agreement (or their successors) for the parties at their addresses set forth in the preamble to this Agreement or such other address as may be provided by either of the Parties by written notice to the other party, (ii) in writing and (iii) shall be delivered by hand or by nationally recognized overnight courier to the parties at the respective addresses first set forth above with a copy of any such notice to Licensee's General Counsel. All notices given hereunder shall be deemed given when actually received or when delivery is refused.

15. **No Waiver.** The failure of either party to insist in any one or more instances upon the strict performance of any one or more of the agreements, terms, covenants, conditions or obligations of this Agreement, or to exercise any right, remedy or election herein contained, shall not be construed as a waiver or relinquishment for the future performance of same or of the right to exercise such election.

16. **No Assignment.** Licensee shall have no right to transfer (whether by operation of law or otherwise), assign, mortgage, pledge or in any manner encumber its interest in this Agreement or to sublicense the whole or any part of the Licensed Space or to permit any other person or entity to occupy the Licensed Space or use Licensor's support services, for any purpose whatsoever, without the express prior written consent in each instance of Licensor which may be withheld or denied in Licensor's sole discretion. The granting of such consent by Licensor to any of the foregoing shall not release or relieve Licensee from obtaining the further consent of Licensor to any further transfer, assignment, mortgage, pledge, encumbrance or sublicense or permission for another to use the Licensed Space. No consent by Licensor shall release or relieve Licensee from any obligations on its part to be performed hereunder.

17. **No Liability For Failure to Provide Services.** Licensor shall not be liable to Licensee for any loss, damage or expense which Licensee may sustain or incur if either the quantity, quality or character of the Basic Services is changed or is no longer available for Licensee's requirements or is changed in order to permit repairs, alterations or improvements to be made to the Basic Services.

18. **BPCA Consent.** Notwithstanding anything to the contrary contained in this Agreement, the effectiveness of this Agreement shall be subject to obtaining the consent of the BPCA under the BPCA Lease.

19. **No Amendments.** This Agreement may not be changed, modified, supplemented or terminated orally, nor may any obligations hereunder be waived, except by an instrument executed by the parties hereto.

20. **No Lease or Joint Venture.** This Agreement shall not be deemed a lease, partnership agreement, joint venture or any other interest in real property. This Agreement shall not be construed in any manner so as to give Licensee the rights of a lessee or tenant of Licensor in the Licensed Space. This Agreement merely creates a revocable license to use the Licensed Space in accordance with the express terms hereof without diminution of the legal possession or control thereof by Licensor and shall be revocable at the option of Licensor upon the destruction

of the Visitor's Center or the material breach of Licensee of any term or condition set forth herein.

21. **Subordination.** This Agreement is subject and subordinate to Licensor's rights, and those of the City under the City Lease, BPCA under the BPCA Lease, any mortgagee of Licensor, to and in respect of the Visitor's Center or of the premises comprising the Licensed Space.

22. **No Prior Agreements.** All understandings and agreements heretofore had between the parties relating to this License are merged in this Agreement which alone fully and completely expresses their agreement, and that the same is entered into after full investigation, neither party relying upon any statement, representation or warranty not embodied in this Agreement, made by the other. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors, heirs, personal representatives and assigns.

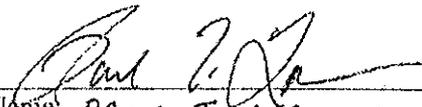
23. **Waiver of Jury Trials.** Licensor and Licensee hereby waive trial by jury in any action, proceeding or counterclaim brought by the parties hereto against the other on any matters regarding this License, the relationship of licensor and licensee, Licensee's use of the Licensed Space, or the enforcement of any remedy under any statute.

24. **Jurisdiction; Venue.** The laws of the State of New York shall govern this Agreement. Licensee hereby irrevocably submits to the jurisdiction of any New York State or Federal Court sitting in New York County over any suit, action or proceeding arising out of or relating to this Agreement. Licensor may, at its sole discretion, elect the State of New York, New York County, or the United States of America, Federal District Court having jurisdiction over New York County, as the venue of any such suit, action or proceeding. Licensee hereby irrevocably waives, to the fullest extent permitted by law, any objection it may now or hereafter have to such venue as being an inconvenient forum.

IN WITNESS WHEREOF, Licensor and Licensee have executed this Agreement as of the day and year first above written.

LICENSOR:

PIER A BATTERY PARK ASSOCIATES, LLC

By: 
Name: PAUL T. LAMAS
Title: MEMBER

LICENSEE:

ALLIANCE FOR DOWNTOWN NEW YORK,
INC.

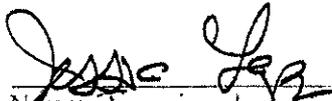
By: 
Name: Jessica Lappin
Title: President

EXHIBIT A

Insurance Requirements

- (A) Licensee shall secure and keep in full force and effect the following insurance coverages;
- (1) Commercial general liability insurance in an amount to be approved by the City, BPCA, and Licensor prior to the commencement of Licensee business operations, but in no event less than ten million dollars (\$10,000,000) in the aggregate. Such insurance shall be written on an occurrence basis with respect to the Licensed Space and all operations related thereto, with deductibles of not more than \$25,000 per loss, protecting against liability for bodily injury, death, property damage, and personal injury. Such insurance shall contain no exclusions beyond those provided in Form ISO CG 0001 unless specifically approved in each instance by the City, BPCA, and Licensor, which approval will not be unreasonably withheld or delayed.
 - (2) Automobile Liability for a combined single limit per occurrence for bodily injury and property damage of not less than one million dollars (\$1,000,000).
 - (3) Statutory Worker's Compensation and Employer's Liability Insurance.
 - (4) Such other insurance in such amounts as from time to time reasonably may be required by the City, BPCA against such other insurable hazards as at the time are commonly insured against in the case of premises similarly situated to the Licensed Space or business operations of a size, nature and character similar to the size, nature and character of the business operations being conducted by Licensee at the Licensed Space.
- (B) With regard to the insurance policies referenced in subsections (A) and (B), above,
- (1) Said insurance policies shall be procured from companies licensed or authorized to do business in the State of New York that have a rating in the latest edition of "Bests Key Rating Guide" of "A:VII" or better or another comparable rating reasonably acceptable to the City, BPCA, and Licensor considering market conditions.
 - (2) All references to forms and coverages shall be those used by the Insurance Services Office of New York or equivalent forms satisfactory to the City, BPCA, Licensor, and Licensee in all material respects.
 - (3) Certificates of insurance evidencing the issuance of all such insurance, describing the coverage and guaranteeing thirty (30) days' prior notice to Licensor and BPCA prior to Licensee taking possession of the Licensed Space by the insurance company of cancellation or non-renewal, shall have been delivered to Licensor and BPCA prior to Licensee taking possession of the Licensed Space. In the case of any policies replacing or renewing any policies expiring during the Term, said certificates shall be delivered, not later than thirty (30) days before the expiration dates of any expiring policies.
 - (4) The certificates of insurance shall be issued by the insurance company and shall bear the original signature of an officer or duly authorized agent having the authority to issue the

certificate. The insurance company issuing the insurance shall also deliver to Licensor and BPCA prior to Licensee taking possession of the Licensed Space, together with the certificates, proof reasonably satisfactory to Licensor and BPCA prior to Licensee taking possession of the Licensed Space that the premiums for at least the first year of the term of each policy (or installment payments to the insurance carrier then required to have been paid on account of such premiums) have been paid. Upon request, Tenant shall deliver a copy of each entire original policy, or other evidence satisfactory to Licensor and BPCA prior to Licensee taking possession of the Licensed Space of the validity and accuracy of said certificate, immediately after the date each such policy is available, but no later than four (4) months after the date each such policy takes effect.

(5) Licensee shall not violate or permit to be violated any of the conditions, provisions, or requirements of any insurance policy required by this Exhibit, and Licensee shall perform, satisfy and comply with or cause to be performed, satisfied and complied with all conditions, provisions and requirements of all such insurance policies.

(6) Each policy of insurance required to be carried pursuant to the provisions of this Article shall contain (i) a provision that no act or omission of Licensee shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained by Licensor, BPCA, the City, EDC's Agent, and/or the NYCEDC, other than those acts which are committed by Licensor, BPCA, the City, EDC's Agent and/or the NYCEDC, respectively, (ii) a written waiver of the right to subrogation with respect to all of the named insureds and additional insureds, including Licensor, BPCA, the City, EDC's Agent and the NYCEDC, (iii) a clause designating Licensor, BPCA, the City, EDC's Agent and the NYCEDC as loss payee or additional insured, as their interests may appear (other than for the Workers Compensation and Employers Liability policies), and (iv) an agreement by the insurer that such policy shall not be cancelled, modified, or denied renewal without at least thirty (30) days' prior written notice to Licensor, BPCA, the City, EDC's Agent and the NYCEDC, specifically covering, without limitation, cancellation or non-renewal for non-payment of premium.

SCHEDULE 1

Rules and Regulations

1. Licensee's employees will conduct themselves in a businesslike manner; the noise level will be kept to a level so as not to interfere with or annoy other occupants. Licensee will abide by Licensor's directives regarding visitors, security, and other such matters common to all occupants.
2. Licensee will not affix anything to the windows (if any), walls (if any) or any other part of the Licensed Space or make alterations or additions to the Licensed Space without Licensor's prior written consent except that such consent shall not be unreasonably withheld if Licensee's request is necessary for the conduct of its operations. All advertisement or identifying signs shall be subject to the prior written approval of Licensor, not to be unreasonably withheld.
3. Licensees shall not, without Licensor's prior written consent, store or operate in the Licensed Space or Visitor's Center any computer (other than a personal computer) or any other large business machine, reproduction equipment, heating equipment, stove, radio, stereo equipment, heating equipment or other mechanical amplification equipment, vending or coin operated machine, refrigerator or coffee equipment, or conduct a mechanical business therein, do any cooking therein, or use or allow to be used in the Visitor's Center, oil burning fluids, gasoline, kerosene for heating, warming or lighting. No article deemed hazardous on account of fire or any explosives shall be brought into the Visitor's Center. No offensive noises, gases, odors or liquids will be permitted.
4. The electrical current shall be used for ordinary lighting purposes only and for other purposes incidental to Licensee's ordinary activities (such as, for example, for powering personal computer and laser printer equipment). If Licensee requires any special installation or wiring for electrical use, telephone equipment or otherwise, such wiring shall be done at Licensee's expense by the personnel designated by Licensor.
5. Licensee will not use the Licensed Space for manufacturing or storage of merchandise except as such storage may be incidental to general office purposes. Licensee will not occupy or permit any portion of Licensed Space to be occupied or used for the manufacture, sale, gift or use of liquor, narcotics, tobacco or weapons in any form. Licensee will not use the Licensed Space for lodging or sleeping or for any immoral or illegal purposes. Smoking is prohibited in the Licensed Space.
6. Licensee shall, before leaving the Licensed Space unattended for an extended period of time, securely shut off all lights (unless the Visitor's Center is still in use by Licensor or its other licensees) and other electrical apparatus related to its operations. Any damage resulting from failure to do so shall be paid by Licensee. All property belonging to Licensee or any employee, agent or invitee of Licensee shall be at the risk of such person only and Licensor shall not be liable for damages thereto or for theft or misappropriation thereof.

7. Except as provided in the annexed Agreement, canvassing, soliciting and peddling in the Visitor's Center are prohibited and Licensee shall not solicit other occupants of the Visitor's Center for any business or other purpose, without Licensor's prior written approval.
8. If Licensee does not remove any property belonging to Licensee from the Visitor's Center by ten (10) days after the end of the term, at the option of Licensor, Licensee shall be conclusively presumed to have conveyed such property to Licensor under this Agreement without further payment or credit by Licensor to Licensee and Licensor may retain, sell or remove the same and Licensee shall pay Licensor all costs thereof.
9. The license granted hereunder is for Licensee's use of the Licensed Space only. Licensee acknowledges that other persons and businesses have licensed space in the Visitor's Center, and that Licensor itself conducts a business in the Visitor's Center. Licensee shall not use or otherwise enter into any portions of the Visitor's Center other than the Licensed Space, public areas and public facilities. Similarly, Licensee shall not appropriate or otherwise use any information from or about Licensor or any other licensee of which Licensee comes into possession during the term of this Agreement, without Licensor's prior written consent. All such information shall be deemed proprietary and confidential. Any violation of the covenants contained in this subsection shall constitute a substantial and material default by Licensee hereunder and shall entitle Licensor to immediately terminate this Agreement and revoke Licensee's rights to use the Licensed Space. Upon notice from Licensor of any such violation, the Term shall be deemed to have immediately expired without further notice and Licensee shall immediately remove Licensee's property and belongings from Visitor's Center.
10. Licensor shall have no responsibility to Licensee for the violation or non-performance by any other licensees of any Rules and Regulations but shall use reasonable efforts to uniformly enforce all Rules and Regulations.