NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER

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

2020010900527003003E640B

RECORDING AND ENDORSEMENT COVER PAGE **PAGE 1 OF 74**

Document ID: 2020010900527003 Document Date: 12-31-2019 Preparation Date: 01-10-2020
Document Type: AGREEMENT
Document Page Count: 72

PRESENTER:
KENSINGTON VANGUARD NATIONAL LAND SERVICES
39 W37TH STREET
TITLE NO.832094(S-NY-CP-KV)A
NEW YORK, NY 10018
212-532-8686

RETURN TO:
WATCHEL MISSRY LLP
885 SECOND AVENUE, 47TH FLOOR
ATTENTION: ELI D. DWECK, ESQ.
NEW YORK, NY 10017

DEPT BLDGS Job No. 121275707
Scan Code ESHS2091869

PROPERTY DATA

Borough	Block	Lot		Unit	Address
MANHATTAN	1239	52	Entire Lot		2465 BROADWAY

Property Type: OTHER Air Rights

Borough	Block	Lot		Unit	Address
MANHATTAN	1239	110	Entire Lot		2461 BROADWAY

Property Type: NON-RESIDENTIAL VACANT LAND

CROSS REFERENCE DATA

CRFN_____ *or* DocumentID_____ *or* _____ Year____ Reel____ Page____ *or* File Number_____

PARTIES

PARTY 1:
2465 BROADWAY ASSOCIATES, L.L.C.
54 W. 21ST STREET, 6TH FLOOR
NEW YORK, NY 10010

☒ Additional Parties Listed on Continuation Page

PARTY 2:
UWS AA BSD LLC
2329 NOSTRAND AVENUE, SUITE 500
BROOKLYN, NY 11210

FEES AND TAXES

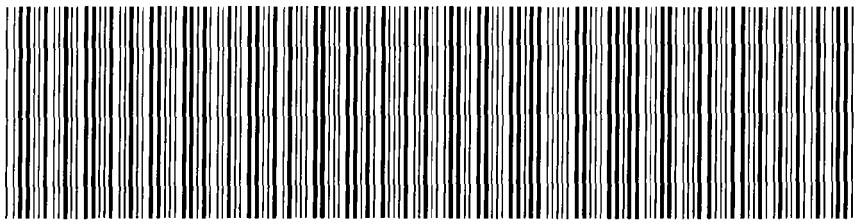
Mortgage :		
Mortgage Amount:	$	0.00
Taxable Mortgage Amount:	$	0.00
Exemption:		
TAXES: County (Basic):	$	0.00
City (Additional):	$	0.00
Spec (Additional):	$	0.00
TASF:	$	0.00
MTA:	$	0.00
NYCTA:	$	0.00
Additional MRT:	$	0.00
TOTAL:	$	0.00
Recording Fee:	$	400.00
Affidavit Fee:	$	0.00

Filing Fee:	$	250.00
NYC Real Property Transfer Tax:	$	580,986.00
NYS Real Estate Transfer Tax:	$	88,532.00

RECORDED OR FILED IN THE OFFICE OF THE CITY REGISTER OF THE CITY OF NEW YORK
Recorded/Filed 01-13-2020 10:52
City Register File No.(CRFN): **2020000013227**

City Register Official Signature

NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER



2020010900527003003C668B

RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION) **PAGE 2 OF 74**

Document ID: 2020010900527003 Document Date: 12-31-2019 Preparation Date: 01-10-2020
Document Type: AGREEMENT

PARTIES

PARTY 2:
AARE BROADWAY INVESTORS LLC
2329 NOSTRAND AVENUE, SUITE 500
BROOKLYN, NY 11210

PARTY 2:
2461 BROADWAY LLC
2329 NOSTRAND AVENUE, SUITE 500
BROOKLYN, NY 11210

PARTY 2:
A&S MM LLC
2329 NOSTRAND AVENUE, SUITE 500
BROOKLYN, NY 11210

PARTY 2:
2461 D&O LLC
2329 NOSTRAND AVENUE, SUITE 500
BROOKLYN, NY 11210

FINAL

ZONING LOT DEVELOPMENT AND EASEMENT AGREEMENT

BY AND BETWEEN

2465 BROADWAY ASSOCIATES, L.L.C.

AND

UWS AA BSD LLC, AARE BROADWAY INVESTORS LLC, A&S MM LLC, 2461 D&O LLC AND 2461 BROADWAY LLC

Dated as of December 31, 2019

NEW YORK COUNTY
BLOCK: 1239
LOTS: 110 (f/ka 110 &10) AND 52

RECORD AND RETURN TO:
WACTHEL MISSRY LLP
885 SECOND AVENUE, 47TH FLOOR
NEW YORK, NEW YORK 10017
ATTENTION: ELI D. DWECK, ESQ.

ZONING LOT DEVELOPMENT AND EASEMENT AGREEMENT

THIS ZONING LOT DEVELOPMENT AND EASEMENT AGREEMENT (this "Agreement") is made as of the 31st day of December, 2019 by and between 2465 BROADWAY ASSOCIATES, L.L.C., a New York limited liability company ("Owner"), having an address at c/o the Heller Organization, 54 West 21st Street, 6th Floor, New York, New York 10010, Attn: Mr. Scott Heller, and UWS AA BSD LLC, a Delaware limited liability company ("AA") and the owner of an undivided 34.03% tenancy-in-common interest in the Developer Premises (as defined below); AARE Broadway Investors LLC, a Delaware limited liability company ("AARE") and the owner of an undivided 34.44% tenancy in common interest in the Developer Premises; A&S MM LLC, a Delaware limited liability company ("A&S") and the owner of an undivided 5.56% tenancy-in-common interest in the Developer Premises; 2461 D&O LLC, a Delaware limited liability company ("D&O") and the owner of an undivided 5.97% tenancy-in-common interest in the Developer Premises; and 2461 Broadway LLC, a Delaware limited liability company ("2461 Broadway") and the owner of an undivided 20.00% tenancy-in-common interest in the Developer Premises (AA, AARE, A&S, D&O and 2461 Broadway, collectively, "Developer"), having an address at c/o Hampshire Properties, LLC, 2329 Nostrand Avenue, Suite 500, Brooklyn, New York 11210, Attn: Robert Rosenthal.

STATEMENT OF FACTS

Owner is the owner in fee of certain land, with the building and improvements thereon, in the County of New York, City and State of New York, generally known by the street address 2465 Broadway, New York, New York, designated as Lot 52 in Block 1239 on the Tax Map of the City of New York, County of New York (the "Tax Map") and more particularly described on Exhibit A annexed hereto (said land being herein called the "Owner Land;" said building and improvements, together with any future replacements thereof permitted in accordance with this Agreement, being herein called the "Owner Building;" and the Owner Land and the Owner Building being herein collectively called the "Owner Premises").

Developer is the owner in fee of certain land, with the buildings and improvements thereon, in the County of New York, City and State of New York, generally known by the street addresses 2461-2463 Broadway, New York, New York, designated as Lot 110 in Block 1239 on the Tax Map and more particularly described on Exhibit B annexed hereto (said land being herein called the "Developer Land;" said buildings and improvements, together with any future replacements thereof permitted in accordance with this Agreement, being herein collectively called the "Developer Building;" and the Developer Land and the Developer Building being herein collectively called the "Developer Premises").

Developer intends to (A) acquire and/or, by incorporation into the Combined Zoning Lot (as hereinafter defined), utilize Additional Parcels (as hereinafter defined), and (B) merge the Combined Zoning Lot with any Additional Parcels acquired by Developer to create an enlarged Combined Zoning Lot.

Developer intends to construct one or more new buildings, or to convey all or any portion of the Subject Floor Area Development Rights (as hereinafter defined) to another party for utilization in the construction of one or more new buildings (each, a "New Developer

Building"), upon land now or in the future acquired, owned or leased by Developer, or such other party, as the case may be, and merged into the Combined Zoning Lot (each such New Developer Building site, including the Developer Premises, a "Development Site"), with a bulk in excess of the bulk permitted to be constructed on such Development Site under the Zoning Resolution (as hereinafter defined) if such Development Site were considered as a separate and independent zoning lot.

A New Developer Building may include the Cantilevered Portion (as hereinafter defined) located over and above a portion of the Owner Premises, such Cantilevered Portion subject to the approval of any applicable Agency (as hereinafter defined).

There are Floor Area Development Rights (as hereinafter defined) appurtenant to the Owner Land that are in excess of the Retained Floor Area Development Rights (as hereinafter defined) and are available for transfer in accordance with the Zoning Resolution.

By execution of a Declaration of Zoning Lot Restrictions of even date and contemporaneously herewith (the "Declaration"), Owner and Developer have utilized the procedure available under Section 12-10 of the Zoning Resolution to combine the Owner Land with the Developer Land so as to create a new, combined zoning lot, which zoning lot may be enlarged or subdivided in accordance with this Agreement (as the same may be enlarged or subdivided, the "Combined Zoning Lot"), for the purpose of making available the Subject Floor Area Development Rights and any Floor Area Development Rights from any Additional Parcels acquired by Developer for utilization in connection with the construction of a New Developer Building.

All "parties in interest" (as defined in the Zoning Resolution) to the Combined Zoning Lot as shown on the Zoning Lot Certification of Kensington Vanguard National Land Services of N.Y., as agent for Stewart Title Insurance Company, annexed hereto as Exhibit C, have either executed the Declaration or have waived or have previously waived their right to do so, and have either executed this Agreement or subordinated or previously subordinated their respective interests in the Combined Zoning Lot to this Agreement.

The parties hereto intend to set forth certain agreements with respect to their rights and obligations in and to the Combined Zoning Lot and other matters, and intend to provide, to the maximum extent possible, for each to exercise its rights in the future without having to seek any consent, approval or other action from the other.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby conclusively acknowledged, the parties hereto covenant and agree as follows:

I. Certain Definitions. As used in this Agreement:

A. "Additional Floor Area Development Rights" means any additional Floor Area Development Rights that may become available to the Combined Zoning Lot by (1) expansion of the Combined Zoning Lot by adding Additional Parcels in accordance with this Agreement, (2) application to any Agency for, without limitation, a special permit, variance or other

discretionary action or approval, and/or (3) any other procedure or transfer allowed under the Zoning Resolution.

B. "Additional Parcels" means any property, including other parcels of land and/or other parcels of air created as fees above-a-plane, located in the County of New York, City and State of New York, in Block 1239 on the Tax Map that Developer or an affiliate of Developer elects or has elected to include in the Combined Zoning Lot, other than the Owner Premises and the Developer Premises, for any purpose whatsoever (including but not limited to the acquisition of Floor Area Development Rights appurtenant to such Additional Parcels and/or in connection with the acquisition of an ownership interest or other real property interest in such Additional Parcels), provided all such Additional Parcels shall be contiguous to the Combined Zoning Lot for a minimum of ten (10) linear feet. All references to Additional Parcels shall be deemed to refer to any one Additional Parcel or any combination of such Additional Parcels.

C. "Agency(ies)" means each or any of following entities: the New York City Department of Buildings, the New York City Department of Finance, the New York City Planning Commission ("CPC"), the New York City Department of City Planning, the New York City Board of Standards and Appeals, the New York City Department of Housing Preservation and Development, the New York City Landmarks Preservation Commission, any community board serving Manhattan, the Manhattan Borough President, any borough Board serving Manhattan, the City Council of the City of New York, and/or any other agency or political subdivision of the City of New York, and/or any state or federal agency or political subdivision, or any successor entity or entities to any of the foregoing.

D. "Applicable Law" means any law, statute, ordinance, rule, regulation, order or determination of any Agency, governmental authority or any board of fire underwriters (or other body exercising similar functions), and all applicable zoning ordinances and building codes, flood disaster laws, health laws and environmental laws and regulations.

E. "Bonus Floor Area Development Rights" means any floor area and other development rights that are or may become available to the Combined Zoning Lot which may be available for inclusion in a building constructed thereon by (1) the provision of one or more amenities or public benefits, either on or off the Combined Zoning Lot, and/or (2) one or more transfers from a zoning lot or zoning lots that are not included in the Combined Zoning Lot, including but not limited to bonus floor area generated as-of-right or by certification, authorization or special permit (including but not limited to Section 74-79 et seq. of the Zoning Resolution), in accordance with the Zoning Resolution.

F. "Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to be closed in the State of New York.

G. "Cantilever Lower Limiting Plane" means that certain horizontal plane located coincident with the boundaries of the Cantilever Easement Area beginning at an elevation of one hundred fifty three (153.00) feet above Datum Level.

H. "Datum Level" means the North American Vertical Datum of 1988 (NAVD).

I. "Department of Buildings" means the New York City Department of Buildings or any successor entity or entities.

J. "Developer Floor Area Development Rights" means the aggregate of (1) the Subject Floor Area Development Rights, (2) the Floor Area Development Rights appurtenant to the Developer Land as of the date of this Agreement, (3) any Excess Floor Area Development Rights (as hereinafter defined) previously acquired by Developer, (4) any Bonus Floor Area Development Rights, (5) any Additional Floor Area Development Rights acquired by Developer in accordance with this Agreement, and (6) any Floor Area Development Rights allocated to the Developer Premises in accordance with Section II.C.2 of this Agreement (the foregoing (1) through (6) shall be subject to adjustment in accordance with Section II.C of this Agreement).

K. "dwelling unit," "floor area," "floor area ratio," "lot coverage," "zoning lot," "parties in interest," "open space," "use" and "bulk" shall have the meanings set forth in Section 12-10 of the Zoning Resolution as the same exists on the date of this Agreement.

L. "Emergency Situation" means a situation (1) impairing or imminently likely to impair the structural support of a building on the Combined Zoning Lot or causing or imminently likely to cause bodily injury to persons or physical damage to such building or any property in, on, under, within, upon or about such building, (2) causing or imminently likely to cause substantial economic loss to Owner or Developer or exposing Owner or Developer to civil or criminal penalties, (3) causing or imminently likely to cause loss of any utility, elevator or other essential services to a building on the Combined Zoning Lot, (4) causing or imminently likely to cause material interference with ingress to or egress from a building on the Combined Zoning Lot or (5) causing or imminently likely to cause a condition at a building or parcel in the Combined Zoning Lot, which is violative of Applicable Law and/or a Violation.

M. "Excess Floor Area Development Rights" means, with reference to any parcel of land, those Floor Area Development Rights (other than Bonus Floor Area Development Rights) that are appurtenant to such parcel of land in excess of those that are utilized by the improvements located on such parcel or reserved for future use, and accordingly are available for transfer to and use on another parcel in accordance with the Zoning Resolution. Owner and Developer acknowledge and agree that, as of the date of this Agreement, the amount of Excess Floor Area Development Rights appurtenant to the Owner Premises generated by the C4-6A zoning district portion of the Owner Land is 69,165 square feet of which 200 square feet is being retained by Owner and the amount available for transfer is 68,965 square feet as shown on the Floor Area Development Rights Chart annexed hereto as Exhibit D.

N. "Floor Area Development Rights" means the rights, as determined in accordance with the Zoning Resolution, that are appurtenant to a zoning lot, to develop such zoning lot by erecting or adding thereon a structure or structures with (1) a total floor area determined by multiplying the area of the zoning lot by the basic maximum allowable floor area ratio for structures in the zoning district or districts in which such zoning lot is located, (2) any bulk, density and other development rights permitted under the Zoning Resolution, including but not limited to, to the extent applicable, the permitted number of dwelling units, the maximum "lot coverage," and the minimum amount of "open space" (each as defined in the Zoning Resolution), and (3) any Bonus Floor Area Development Rights.

O. "Lower Limiting Plane" means, with respect to the Light and Air Easement: (i) relating to the easterly portion of the Owner Premises described as the "Easterly Portion" on the legal description annexed hereto annexed hereto as Exhibit E-1 and the survey annexed hereto as Exhibit E-2, that certain horizontal plane located at an elevation of One Hundred Thirty-Five and Six One Hundredths (135.6) feet above Datum Level, and (ii) relating to the westerly portion of the Owner Premises described as the "Westerly Portion" on the legal description annexed hereto annexed hereto as Exhibit E-1 and the survey annexed hereto as Exhibit E-2, that certain horizontal plane located at an elevation of One Hundred Fifteen and Six Hundred and Sixty Seven Thousandths (115.667) feet above Datum Level.

P. "Owner Bonus Floor Area Development Rights" means the rights to any and all Bonus Floor Area Development Rights appurtenant to the Owner Premises (including but not limited to the right to utilize the lot area of the Owner Land in calculating the amount of Bonus Floor Area Development Rights available to be incorporated into a New Developer Building), or any replacements thereof.

Q. "Premises" means the Owner Premises or a Development Site, as the context may require.

R. "Retained Floor Area Development Rights" means the aggregate of (1) the Floor Area Development Rights appurtenant to the Owner Land that are utilized by the portion of the Owner Building within the C4-6A zoning district as of the date of this Agreement, which Owner and Developer acknowledge and agree comprise twenty eight thousand four hundred seventy five (28,475) square feet, (2) the lot coverage utilized by the Owner Building as of the date of this Agreement, as shown on Exhibit D hereto, (3) 200 square feet of Excess Floor Area Development Rights appurtenant to the Owner Land generated by the C4-6A zoning district portion of the Owner Land, as of the date of this Agreement, and (4) all Floor Area Development Rights generated by the portion of the Owner Premises located in a R-8 zoning district (the foregoing (1) through (4) shall be subject to adjustment in accordance with Section II.C of this Agreement.

S. "Subject Floor Area Development Rights" means the aggregate of (1) 68,965 square feet of the Excess Floor Area Development Rights appurtenant to the Owner Premises generated by the C4-6A zoning district portion of the Owner Land, and (2) the Owner's Bonus Floor Area Development Rights.

T. "Violation" means any new, or any increase in any existing, non-conforming use or non-compliance under the Zoning Resolution, any and all conditions, whether or not noted of record in violation of any present or future building code, fire code, the Zoning Resolution or any other law, ordinance, code, rule or regulation, that would (1) delay, hinder or prevent the issuance, maintenance and/or amendment of (i) a building permit or any other permit or approval required by law to alter, repair, maintain, build or rebuild any building on the Combined Zoning Lot, including, the Cantilevered Portion, and/or (ii) a certificate of occupancy for any building on the Combined Zoning Lot, or (2) delay, hinder or prevent an enlargement or a subdivision of the Combined Zoning Lot as permitted in accordance with this Agreement, including but not limited to the Alteration of the Developer Building or the construction of a New Developer Building.

U. "Zoning Resolution" means the Zoning Resolution of the City of New York, effective December 15, 1961, as amended from time to time.

II. Development Limitations.

A. Development Limitations on the Owner Premises.

1. Owner hereby grants and conveys the Subject Floor Area Development Rights to Developer for Developer's use and incorporation thereof into a New Developer Building and/or any Development Site, subject to the provisions of this Agreement. Accordingly, neither Owner nor any person or entity claiming by, under or through Owner shall have any right, title or interest in or to the Subject Floor Area Development Rights.

2. Owner hereby grants to Developer, for the benefit of any Development Site, the following easements in, over and to the Owner Premises:

a. A permanent and perpetual exclusive easement for (1) light, air and view ("Light and Air Easement") at and above the Lower Limiting Plane (the "Airspace Easement Area"), such that no buildings, structures, improvements, mechanical equipment, alterations or additions, whether following a casualty or otherwise, shall be constructed or allowed to exist on the Owner Premises that encroach into the Airspace Easement Area, except for any chimneys, vents, flues or exhausts on the Owner Building relocated by Developer in connection with the Cantilever Support Elements or as otherwise required by Applicable Law, (2) the Cantilevered Portion, and (3) any Cantilever Support Elements. Notwithstanding anything in the immediately foregoing sentence to the contrary, nothing in this Section II.A.2.a shall be deemed to prohibit or restrict the addition, placement, replacement, relocation, repair, and/or continued maintenance of any parapet, bulkhead, fence, screening, fans, elevator shaft, water tower, heating or cooling units, antenna, satellite dish, chimney, pipe, ladder, fire escape, generator and/or any mechanical equipment or telecommunications equipment and acoustic enclosures around any of the foregoing, or any projections and/or protrusions set forth on the elevation survey (the "Elevation Survey") of the Owner Building attached hereto as Exhibit F (each, a "Structure"), on or above the roof of the Owner Building or any Rebuilding (as hereinafter defined) thereof, provided, however, that all such Structures (i) do not extend above a height of One Hundred Fifty Three (153) feet above Datum Level, (ii) do not utilize any Floor Area Development Rights (other than the Retained Floor Area Development Rights) or decrease the amount of the Subject Floor Area Development Rights or any Additional Floor Area Development Rights, (iii) are permitted by the Department of Buildings as permitted obstructions to height and setback regulations under the Zoning Resolution, and (iv) comply with all Applicable Law. If requested in writing by Developer, Owner shall, within ten (10) Business Days after its receipt of such request, execute, acknowledge and deliver to Developer a form of Light and Air Easement substantially in the form annexed hereto as Exhibit G or such substantively equivalent alternative form as may be required by the Department of Buildings, and/or such other documents to effectuate the Cantilever Easement, the Window and Façade Maintenance Easement, the Waterproofing Easement and the Exhaust Easement, provided such easements do no increase or adversely affect Owner's obligations under this Agreement, together with any transfer tax returns required to be executed in connection therewith. Developer may record such form of easement in the Office of the City Register of the City of New York at its

sole cost and expense. In the event that Developer has delivered the form of Light and Air Easement to Owner for execution and delivery and Owner has not executed and delivered the same within such five (5) Business Day period, then Developer shall have the right to deliver such form in its own name, on behalf of Owner, and to execute and deliver to the Agency having jurisdiction over such form a statement stating that Developer is authorized to file such form on behalf of Owner. In the event of any inconsistency between the provisions of the Light and Air Easement and the provisions of this Section II.A.2.a, the provisions of this Section II.A.2.a shall prevail and control.

b. A permanent and perpetual exclusive easement for the installation, location, operation, cleaning, maintenance and repair and/or replacement of windows ("Windows") and/or the façade (the "Façade") in or on a New Developer Building (including but not limited to Windows and Façade located on any Cantilevered Portion), including but not limited to the temporary use and/or installation of temporary window washing equipment, scaffolding and rigging (and related operations) ("Window and Façade Maintenance Systems", all of which Window and Façade Maintenance Systems shall only be affixed to the Developer Premises and not to the Owner Premises) required for such ordinary and necessary cleaning, maintenance, repair and replacement of the Windows and/or the Façade and access by Developer and any agents and/or contractors hired or retained by Developer to the Owner Premises to maintain, repair and/or replace the Window and Façade Maintenance Systems, which access may include, if required by Applicable Law and/or the Department of Buildings, the right to install protection on the Owner Premises to protect the Owner Building and the occupants thereof during the cleaning, maintenance, repair and replacement of the Windows and/or the Façade, provided, however, that such access shall only occur after notice to Owner, shall only occur during reasonable hours, and shall not unreasonably interfere with Owner's use and occupancy of the Owner Building and, provided, further, that during any period of such access, Developer shall procure and maintain liability insurance, naming Owner as an additional insured, in the form and in the amount customarily carried in connection with such access and scope of work (the "Window and Façade Maintenance Easement");

c. A permanent and perpetual exclusive easement for the installation, operation, maintenance and repair and/or replacement of permanent waterproofing and/or water detention systems for the protection of the Owner Building and/or the New Developer Building from water infiltration (the "Waterproofing Easement"), including but not limited to waterproofing details between the Owner Building and a New Developer Building such as flashing, Emseal and/or other sealant, and gutter systems (collectively, the "Waterproofing Systems"), such Waterproofing Systems to project over a portion of the Owner Premises and, to the extent reasonably necessary, be attached to or otherwise touch the Owner Building; together with access by Developer and any agents and/or contractors hired or retained by Developer to the Owner Premises to maintain, repair and/or replace the Waterproofing Systems, provided, however, that such access shall only occur after notice to Owner, shall only occur during reasonable hours, and shall not unreasonably interfere with Owner's use and occupancy of the Owner Building and, provided, further, that during any period of such access, Developer shall procure and maintain liability insurance, naming Owner as an additional insured, in the form and in the amount customarily carried in connection with such access and scope of work. All Waterproofing Systems located on the Owner's Premises shall be subject to prior review and approval by Owner, such approval not to be unreasonably withheld, conditioned or delayed,

installed at Developer's sole cost and expense, and in accordance with good construction practices.

d. A permanent and perpetual exclusive easement (the "Cantilever Easement") for the construction, use and operation, maintenance, repair, replacement and reconstruction of portions of a New Developer Building (the "Cantilevered Portion") to be located over and above the Owner Premises and above the Cantilever Lower Limiting Plane, as more particularly described on Exhibit E-3 attached hereto (the "Cantilever Easement Area"). Developer may locate any struts, trusses, beams or other structural support elements that provide support for the Cantilevered Portion (the "Cantilever Support Elements") below the Cantilever Lower Limiting Plane and over and above the Owner Building, but in no event lower than that certain horizontal plane located at an elevation of One Hundred Forty Three and six tenths (143.6) square feet above Datum Level (such area being identified herein as the "Cantilever Encroachment Zone"). The Cantilever Easement Area shall be subject to adjustment based on normal construction procedures and the normal settlement and shifting of the Cantilevered Portion after construction thereof has been completed, provided, however, that in no event shall the Cantilevered Portion (other than the Cantilever Support Elements) be located below the Cantilever Lower Limiting Plane. The Cantilever Support Elements shall not (x) touch or rely on the Owner Building for support, (y) impede free access to any Structure on the roof of the Owner Building or any replacement thereof in the same location; or (z) have any material adverse effect on the Owner Building, except as contemplated herein. Developer shall maintain the Cantilever Support Elements at Developer's sole cost and expense in good condition in accordance with all Applicable Law. Owner hereby grants to Developer and to the Developer Parties (as hereinafter defined) a permanent and perpetual easement for access to the Cantilever Encroachment Zone as is necessary to inspect, maintain, repair and/or replace the Cantilevered Portion and the Cantilever Support Elements, provided, however, that such access shall only occur after notice to Owner, shall only occur during reasonable hours, and shall not unreasonably interfere with Owner's use and occupancy of the Owner Building and, provided, further, that during any period of such access, Developer shall procure and maintain liability insurance, naming Owner as an additional insured, in the form and in the amount customarily carried in connection with such access and scope of work. Developer shall at all times and at no cost or expense to Owner (i) maintain and operate the Cantilevered Portion in a safe manner and in compliance with all Applicable Law, (ii) insure that the Cantilevered Portion is, at all times, properly supported and shall not endanger the Owner Premises, occupants, guests and invitees thereof, and (iii) insure the Cantilevered Portion shall at all times comply with all Applicable Law. Notwithstanding anything contained in this Agreement to the contrary, prior to the commencement of construction of the Cantilevered Portion (or any rebuilding or replacement thereof), Developer shall deliver to Owner plans for such Cantilevered Portion in adequate detail to permit Owner and Owner's architect or engineer ("Owner's Consultant") to evaluate and approve (which approval shall not be unreasonably withheld, conditioned or delayed), within ten (10) Business Days after delivery of such plans, the safety of the proposed Cantilevered Portion in accordance with good engineering practices (and in the event that Owner fails to respond within such ten (10) Business Day period, such failure to respond shall be deemed Owner's approval of such plans). In the event that Owner's Consultant reasonably determines and provides and signed and sealed report stating that, considered with reference to good engineering practices, the proposed Cantilevered Portion would be unsafe, Owner's Consultant shall coordinate with Developer's engineer to arrive at such modifications of the Cantilevered Portion

that both engineers reasonably determinate are safe, in which case the plans for the Cantilevered Portion shall be modified accordingly (and, in the case of a modification of the dimensions of the Cantilever Easement Area, the parties hereto shall execute, acknowledge and deliver an amendment of this Agreement for the sole purpose of revising Exhibit E-3 hereto as necessary), the parties shall follow the procedures set forth in Section XIII (D) in regards to hiring a third-party engineer to resolve the dispute. Developer shall reimburse Owner for its reasonable and customary third-party costs and expenses incurred in connection with Owner's Consultant review of the plans for the Cantilevered Portion, except as set forth in Section XIII (D).

e. The design and construction of the Cantilevered Portion shall comply with all Applicable Law and shall be subject to the approval of the applicable Agency(ies). In the event that the Agency(ies) having jurisdiction over the approval of the Cantilevered Portion requires ownership of the airspace (or portion thereof) above the Cantilever Lower Limiting Plane be vested in the same entity that owns the Development Site, Developer shall have an option to acquire fee title to the airspace located above the Cantilever Lower Limiting Plane or the Cantilevered Portion, as determined by the Agency (the "Lot 52 Airspace"), at no additional cost to Developer, except as provided below. Upon issuance of the new tax lot number issued to the Lot 52 Airspace, the parties agree, at Developer's sole cost and expense, to execute, acknowledge, deliver and record a deed and its related transfer tax returns in the Office of the City Register which shall reference the new tax lot number issued to the Lot 52 Airspace. Developer shall be responsible for any transfer taxes due with respect to the conveyance of the Lot 52 Airspace by Owner to Developer. Either Owner or Developer may record the deed at Developer's sole cost and expense.

(i) Developer shall have the right, to (A) make applications to any Agency for such licenses, permits, approvals, certificates, rulings or amendments, or any other discretionary approval to cause the subdivision of the Owner Premises (the "Tax Lot Subdivision") to create a lower parcel located below the Cantilever Lower Limiting Plane and an airspace parcel consisting of the Cantilevered Portion located above the Cantilever Lower Limiting Plane, (collectively, the "Tax Lot Subdivision Approvals") as Developer, in its sole discretion, deems reasonably necessary or desirable or required by any Agency, provided Developer furnishes Owner with a copy of such applications at least ten (10) Business Days before the submission thereof to any Agency and obtains Owner's prior written approval thereof (electronic mail acceptable), which approval shall not be unreasonably withheld, delayed or conditioned, and (B) to take any actions reasonably necessary to effectuate the Tax Lot Subdivision, without imposing any obligations, expenses or liabilities on Owner not provided for in this Section. If Owner fails to respond to Developer within such ten (10) Business Day period, then Owner shall be deemed to have approved such applications. Owner agrees, at Developer's sole cost and expense, to cooperate with Developer, subject to the terms of this Agreement, in connection with, and to consent to, subject to the terms of this Agreement, the filing of applications for the Tax Lot Subdivision Approvals and the Tax Lot Subdivision, if required, and to execute such documents and applications, including, but not limited to, the execution of Department of Finance Form RP-602 and Department of Buildings Form PW-1 and/or such amended or successor forms issued by the Department of Buildings, and to furnish such information as may be required in connection with such applications

and the Tax Lot Subdivision, all at Developer's sole cost and expense, including allowing access onto the Owner Premises to allow for the preparation of a survey thereof.

(ii) In addition, in order to enable Developer to effectuate the Tax Lot Subdivision, Owner shall, promptly, upon request of Developer and within ten (10) Business Days after Owner's receipt of such request, pay any real estate taxes, charges or tax liens against the Owner Premises as required by the New York City Department of Finance to effectuate the completion of the Tax Lot Subdivision.

(iii) Owner shall not appear in opposition to any action brought, sought or defended by Developer before any Agency or any other municipal or other governmental department, court or agency in connection with the Tax Lot Subdivision or any other certificate, amendment, permit, approval, license or ruling that affects or may affect the ability of Developer to effectuate the Tax Lot Subdivision, provided they are consistent with this Agreement, do not adversely affect Owner's right to utilize the Owner Premises, and do not impose any limitations, obligations or restrictions on Owner or the Owner Premises not provided for in this Agreement.

f. Notwithstanding anything to the contrary contained in this Agreement, it is understood and agreed that Owner shall have no liability to Developer whatsoever in the event Owner is unable, in good faith, and provided Owner is not otherwise in material default of Owner's obligations pursuant to this Agreement, to provide access to Developer due to an Emergency Situation for exercise of the Cantilever Easement, the Window and Façade Maintenance Easement, the Waterproofing Easement, the Exhaust Easement, the Support Elements and/or any Relocation Work or any other access to the Owner Premises that the Developer is granted by this Agreement.

g. Intentionally omitted.

h. A permanent and perpetual non-exclusive easement allowing any chimney, vent, flue, exhaust or similar other equipment (collectively, "Exhaust Equipment") located on a Development Site to make, emit and discharge fumes, exhaust, air currents, water vapor and any other effects as may be inherent in the operation of such chimney, vent, flue, exhaust or other equipment (the "Exhaust Easement"), provided that in no event shall the Exhaust Easement, or any of the components thereof, have any material adverse effect on, or endanger, the Owner Premises, occupants, guests or invitees thereof. All such Exhaust Equipment shall be operated by Developer at Developer's sole cost and expense in compliance with all Applicable Law. Owner shall have the right to approve the type and location of all Exhaust Equipment prior to installation thereof, such approval not to be unreasonably withheld, conditioned or delayed, and subject to the terms of Section XIII(D).

i. Developer shall be responsible for preparing and filing any transfer tax returns, and paying any and all transfer taxes and recording fees due, and costs associated with the need to update any surveys for the Owner Premises and the Developer Premises, with respect to any and all easements and/or development rights granted by Owner to Developer pursuant to this Agreement.

j. All work associated with the exercise of the easements described in Section II(A)2 shall be performed in such commercially reasonable manner as to minimize interference with the use and enjoyment of the Owner Premises.

3. No new buildings, improvements, alterations or additions (each, an "Alteration") shall be constructed or allowed to exist on the Owner Premises, and no reconstruction, replacement, or rebuilding of any building (each, a "Rebuilding") on the Owner Premises shall be undertaken if such Alteration or Rebuilding or any portion of such Alteration or Rebuilding (a) commences prior to the earlier of (i) the issuance of a temporary certificate of occupancy allowing for the occupancy of the entire New Developer Building or (ii) sixty-four (64) months from the date hereof; (b) creates a Violation; (c) utilizes any of the Developer Floor Area Development Rights or any Floor Area Development Rights retained by, transferred to or utilized on any Additional Parcels; (d) changes the use of the Owner Building to any use prohibited by the Zoning Resolution at the time of such change; (e) requires or causes an amendment to the certificate of occupancy for the Owner Building if such amendment would decrease the amount of the Developer Floor Area Development Rights or any Additional Floor Area Development Rights retained by, transferred to or utilized on any Additional Parcels; or (f) encroaches over or extends above the Lower Limiting Plane except as otherwise permitted in this Agreement. Any Alteration or Rebuilding shall be in accordance with Exhibit D hereto, as it may be adjusted in accordance with Section II.C and Section VIII of this Agreement. Notwithstanding clause (a) of the foregoing, (x) in the event of a casualty affecting the Owner Building, Owner may undertake a Rebuilding of the Owner Building in accordance with this Agreement, including but not limited to clauses (b) through (f) of the foregoing and Exhibit D hereto, (y) Owner may perform purely interior Alterations within the Owner Building and external non-structural Alterations of the Owner Building, such as renovations to storefronts, brickwork and pointing work (collectively, "Permitted Alterations"), provided, however, that such Permitted Alterations comply with all Applicable Laws and with clauses (b) through (f) of the foregoing and Exhibit D hereto.

a. If at any time hereafter there exists any Violation on or with respect to the Owner Premises or any Additional Parcels brought into the Zoning Lot by Owner which would adversely affect the issuance of a temporary or permanent Certificate of Occupancy for the New Developer Building, prevent the issuance of a building permit to build the New Developer Building, or prevent construction or a New Developer Building or an Alteration to the Developer Building, Owner shall, at its sole cost and expense, commence a cure within thirty (30) days after receiving notice of the same from Developer or any Agency, and shall proceed diligently and continuously to make all commercially reasonable efforts to cure, remove and/or discharge of record the same as rapidly as possible or otherwise cure the Violation regardless of whether a violation is issued by an Agency and of record or compel the owner of such Additional Parcel to cure. Owner reserves the right to contest such Violation in good faith and such contest shall be deemed to be "commencement of a cure" for the purposes of this Section II.A.4.a, provided, however, that any delay caused by such contest does not have a material adverse effect on Developer.

b. In the event that Owner does not commence such cure and proceed diligently and continuously with such cure as required by Section II.A.4.a above, Developer shall have the right to cure such Violation, including, but not limited to, the right to access the

Owner's Premises to perform such work necessary to cure the Violation, including but not limited to the Relocation Work (hereinafter defined), at the expense and for the account of Owner (and, if necessary, in the name of Owner) and Owner shall execute and deliver such documents as may be required in connection therewith within five (5) Business Days of written request therefor, it being agreed that Developer shall have a license to access the Owner Premises for the purpose of effecting such cure, including but not limited to making necessary repairs or modifications to the Owner Premises to effectuate the cure; provided, however, that such access and cure (i) shall only occur after notice to Owner, except in the event of an Emergency Situation as reasonably determined by Developer; (ii) shall only occur at reasonable times, except in the event of an Emergency Situation as reasonably determined by Developer; and (iii) shall not unreasonably interfere with Owner's use and occupancy of the Owner Building; and provided, further, that during the period of such access and cure, Developer shall procure and maintain liability insurance, naming Owner as an additional insured, in the form and in the amount customarily carried in connection with the access and cure of such Violation. In the event that Developer has delivered such documents to Owner for execution and delivery and Owner has not executed and delivered the same within such five (5) Business Day period, then Developer shall have the right to deliver such documents in its own name, on behalf of Owner, and to execute and deliver to the Agency having jurisdiction over such Violation a statement stating that Developer is authorized to file such documents on behalf of Owner. In addition, Developer may, at its option, maintain any action permitted at law or in equity or by statute against Owner with respect to such Violation, including but not limited to an action for injunctive relief to compel Owner to cure such Violation.

c. If Developer is compelled or elects to expend any sum of money or do any acts which require the payment of money by reason of complying with, remedying or curing a Violation on the Owner Premises, Owner shall, upon demand and receipt of copies of paid invoices for the same, promptly reimburse Developer all such sums together with interest thereon at the prime rate of Citibank, N.A., compounded monthly, from the date of such expenditure. In the event that Citibank, N.A. is not in existence or no longer charges a so-called "prime rate", then reference shall be made to the rate then being charged by the largest banking institution in the United States (in terms of assets) to its preferred customers for short-term, unsecured borrowings. Such reimbursement shall be limited to reasonable and customary, out-of-pocket third-party costs and expenses (including but not limited to attorneys' fees and expenses and other professionals' fees and expenses) that are necessary to comply with, remedy or cure such Violations. Owner reserves the right to contest in good faith any expenditures made by Developer to cure such Violation.

4. The owners of any Additional Parcels brought into the Combined Zoning Lot by Developer may have reserved or retained certain Floor Area Development Rights appurtenant to or transferred to their parcels in agreements to which Owner is not a party, and Owner shall not (a) utilize, or attempt to utilize, all or any portion of any such reserved or retained Floor Area Development Rights, or (b) make any application to the Department of Buildings to utilize all or any portion of any such reserved or retained Floor Area Development Rights, unless the same are purchased by or transferred to Owner pursuant to an agreement between the owner of an Additional Parcel and Owner. The owners of any Additional Parcels shall be deemed to be third-party beneficiaries of this Section II.A.4, and may enforce the provisions contained herein, provided, however, that such owners shall have no right to enter the

Owner Premises. Developer acknowledges that any enlargement of the Combined Zoning Lot shall be subject to the limitations set forth in Section VIII.A of this Agreement.

B. Development Limitations on the Developer Premises.

1. No Alterations shall be constructed or allowed to exist on a Development Site, and no Rebuilding of the Developer Building and/or a New Developer Building, as the case may be, whether following a casualty or otherwise, shall be undertaken, if such Alteration or Rebuilding or any portion of such Alteration or Rebuilding (a) creates a Violation, (b) utilizes any of the Retained Floor Area Development Rights or any Floor Area Development Rights retained by, transferred to or utilized on any Additional Parcels, (c) changes the use of a New Developer Building to any use prohibited by the Zoning Resolution at the time of such change, or (d) requires or causes an amendment to the certificate of occupancy for a New Developer Building if such amendment would decrease the amount of the Retained Floor Area Development Rights or Additional Floor Area Development Rights retained by, transferred to or utilized on any Additional Parcels.

2. Developer shall not create or permit to exist a Violation with respect to a Development Site.

a. If at any time hereafter there exists any Violation on or with respect to a Development Site, which would adversely affect the issuance of a permanent Certificate of Occupancy for the Owner Premises, prevent the issuance of a building permit to perform an Alteration on the Owner Premises, or prevent construction of an Alteration on the Owner Premises, Developer shall, at its sole cost and expense, commence a cure within thirty (30) days after receiving notice of the same from Owner or any Agency and shall proceed diligently and continuously to make all commercially reasonable efforts to cure, remove and/or discharge of record the same as rapidly as possible. Developer reserves the right to contest such Violation in good faith and such contest shall be deemed to be "commencement of a cure" for the purposes of this Section II.B.2.a provided, however, that any delay caused by such contest does not have a material adverse effect on Owner.

b. In the event that Developer does not commence such cure and proceed diligently and continuously with such cure as required by Section II.B.2.a above, Owner shall have the right to cure such Violation at the expense and for the account of Developer (and if necessary, in the name of Developer) and Developer shall execute and deliver such documents as may be required in connection therewith within five (5) Business Days of written request therefor, it being agreed that Owner shall have a license to access the Development Site for the purpose of effecting such cure; provided, however, that such access and cure (i) shall only occur after notice to Developer, except in the event of an Emergency Situation as reasonably determined by Owner; (ii) shall only occur at reasonable times, except in the event of an Emergency Situation as reasonably determined by Owner; and (iii) shall not unreasonably interfere with Developer's use and occupancy of any Developer Building; and provided, further, that during the period of such access and cure, Owner shall procure and maintain liability insurance, naming Developer (and any mortgagee of the Development Site of record in the Office of the City Register of the City of New York) as an additional insured, in the form and in the amount customarily carried in connection with the access and cure of such Violation. In the

event that Owner has delivered such documents to Developer for execution and delivery and Developer has not executed and delivered the same within such five (5) Business Day period, then Owner shall have the right to deliver such documents in its own name, on behalf of Developer, and to execute and deliver to the Agency having jurisdiction over such Violation a statement stating that Owner is authorized to file such documents on behalf of Developer. In addition, Owner may, at its option, maintain any action permitted at law or in equity or by statute against Developer with respect to such Violation, including but not limited to an action for injunctive relief to compel Developer to cure such Violation.

c. If Owner is compelled or elects to expend any sum of money or do any acts which require the payment of money by reason of complying with, remedying or curing a Violation on a Development Site, Developer shall, upon demand and receipt of copies of paid invoices for the same, promptly reimburse Owner all such sums together with interest thereon at the prime rate of Citibank, N.A., compounded monthly, from the date of such expenditure. In the event that Citibank, N.A. is not in existence or no longer charges a so-called "prime rate", then reference shall be made to the rate then being charged by the largest banking institution in the United States (in terms of assets) to its preferred customers for short-term, unsecured borrowings. Such reimbursement shall be limited to reasonable and customary, out-of-pocket third-party costs and expenses (including but not limited to attorneys' fees and expenses and other professionals' fees and expenses) that are necessary to comply with, remedy or cure such Violations. Developer reserves the right to contest in good faith any expenditures made by Owner to cure such Violation.

C. Development Limitations on All Premises.

1. If a validly enacted amendment of the Zoning Resolution decreases the amount of Floor Area Development Rights appurtenant to the Combined Zoning Lot or any portion thereof (said amendment being herein called a "Downzoning"), the allocation of Floor Area Development Rights shall be as follows:

a. If, following a Downzoning, only one of the buildings on the Combined Zoning Lot suffers a casualty, then, unless otherwise permitted to be restored to its former bulk in accordance with the provisions of the Zoning Resolution governing non-complying buildings, any Rebuilding of such building shall be limited to an amount of Floor Area Development Rights available to the parcel on which such building was located at the time of such casualty (considered as if such parcel were a separate zoning lot) that would not decrease the amount of or otherwise adversely affect the Floor Area Development Rights incorporated into or allocated pursuant to this Agreement to the other buildings on the Combined Zoning Lot which did not suffer any casualty.

b. If, following a Downzoning, all of the buildings on the Combined Zoning Lot suffer a casualty, then, unless otherwise permitted to be restored to their respective former bulk in accordance with the provisions of the Zoning Resolution governing non-complying buildings, any Rebuilding of an affected building shall be limited to its pro rata share of the Floor Area Development Rights available in accordance with Exhibit D hereto, to the extent permitted by the applicable provisions of the Zoning Resolution. In the event that the Combined Zoning Lot has been enlarged or subdivided in accordance with this Agreement prior

to such Downzoning and Exhibit D does not represent the totality of the Floor Area Development Rights available on the Combined Zoning Lot, Owner's pro rata share of the Floor Area Development Rights shall be determined by the ratio of the Retained Floor Area Development Rights to the total Floor Area Development Rights available on the Combined Zoning Lot prior to the Downzoning and Developer's pro rata share shall be determined by the ratio of the Developer Floor Area Development Rights (as adjusted to subtract or add any Floor Area Development Rights available to Developer on the Combined Zoning Lot as the result of any enlargement or subdivision) to the total Floor Area Development Rights available on the Combined Zoning Lot prior to the Downzoning.

c. If, following a Downzoning, more than one but less than all of the buildings on the Combined Zoning Lot suffer a casualty, then, unless otherwise permitted to be restored to such buildings' former bulk in accordance with the provisions of the Zoning Resolution governing non-complying buildings, any Rebuilding of an affected building shall be limited to its pro rata share of total Floor Area Development Rights available as of the date of this Agreement to all of the premises on the Combined Zoning Lot affected by the casualty, after taking into account (in accordance with Exhibit D hereto) the Floor Area Development Rights appurtenant to any buildings remaining on the Combined Zoning Lot following such casualty, as the same may have been enlarged or subdivided. In the event that the Combined Zoning Lot has been enlarged or subdivided prior to such Downzoning in accordance with this Agreement and Exhibit D hereto does not represent the totality of the Floor Area Development Rights available to the affected premises on the Combined Zoning Lot, Owner's pro rata share of the Floor Area Development Rights shall be determined by the ratio of the Retained Floor Area Development Rights to the total Floor Area Development Rights available to all of the premises on the Combined Zoning Lot affected by the casualty prior to the Downzoning, after taking into account the Floor Area Development Rights appurtenant to any buildings remaining on the Combined Zoning Lot following such casualty; and Developer's pro rata share shall be determined by the ratio of the Developer Floor Area Development Rights (as adjusted to add or subtract any Floor Area Development Rights available to Developer on the Combined Zoning Lot as the result of any enlargement or subdivision) to the total Floor Area Development Rights available to all of the premises on the Combined Zoning Lot affected by the casualty prior to the Downzoning, after taking into account the Floor Area Development Rights appurtenant to any buildings remaining on the Combined Zoning Lot following such casualty.

2. If a validly enacted amendment of the Zoning Resolution increases the amount of Floor Area Development Rights appurtenant to the Combined Zoning Lot or any portion thereof (an "Upzoning"), then Developer shall be entitled to any increased Floor Area Development Rights resulting from such Upzoning. In the event that the Combined Zoning Lot includes any Additional Parcels, Developer shall also be entitled to the increased Floor Area Development Rights resulting from such Upzoning to which it is entitled pursuant to agreements with the owners of such Additional Parcels.

3. Except as otherwise provided in this Agreement, Owner shall retain all rights in and to the Retained Floor Area Development Rights, and Developer shall retain all rights in and to the Developer Floor Area Development Rights.

III. Utilization of Floor Area Development Rights; Cooperation. Subject to the provisions of this Agreement, Developer or any party developing a New Developer Building may incorporate into any New Developer Building, or any Alteration or Rebuilding thereof, all or any portion of the Developer Floor Area Development Rights, and otherwise utilize such Developer Floor Area Development Rights to develop a Development Site and/or any Additional Parcels brought into the Combined Zoning Lot by Developer, and, subject to the provisions of this Agreement, Owner may incorporate into the Owner Building, or any Alteration or Rebuilding thereof, all or any portion of the Retained Floor Area Development Rights, and otherwise utilize such Retained Floor Area Development Rights to develop the Owner Premises, and, in furtherance thereof:

A. Owner and Developer shall reasonably cooperate with a party seeking cooperation under this Section III (the "Requesting Party"), at the Requesting Party's sole cost and expense (including but not limited to the payment of the other party's reasonable and customary, out-of-pocket third-party attorneys' fees and expenses and other professionals' fees and expenses), in connection with the development and/or any Alteration or Rebuilding of the Owner Building or any New Developer Building, as the case may be, the utilization of all or any portion of the Retained Floor Area Development Rights, and/or the utilization or transfer of all or any portion of the Developer Floor Area Development Rights, as the case may be, all in accordance with this Agreement, including but not limited to the execution, acknowledgement, delivery, filing, recording, prosecution by the Requesting Party, and/or the processing by any Agency having jurisdiction of any applications, certifications, consents, documents, statements or other instruments (collectively, the "Cooperation Documents"), for or in connection with any (1) ministerial permits or certificates or any other ministerial approvals, or any modifications or amendments thereof, (2) discretionary permits, certificates, authorizations, variances and/or any other discretionary approvals, or any modifications or amendments thereof, provided, however, that Owner shall not be permitted to file any application for a discretionary approval until the earlier of (i) the issuance of a temporary certificate of occupancy allowing for the occupancy of the entire New Developer Building or (ii) sixty-four (64) months from the date hereof, (3) any applications or actions made by the Requesting Party subsequent to a Downzoning to increase the Floor Area Development Rights appurtenant to the Combined Zoning Lot to the amount available as of the date of this Agreement or to modify or rescind any limitations or restrictions on development more restrictive than those in effect as of the date of this Agreement, (4) enlargement or subdivision of the Combined Zoning Lot in accordance with this Agreement, and/or (5) any applications or actions made in connection with the submission of the Requesting Party's Premises to a condominium, cooperative, "cond-op" or similar form of ownership regime (the foregoing (1) through (5) collectively, "Applications"). Notwithstanding clause (2) of the foregoing, Owner shall be permitted to file Applications specifically for food trucks, special events and similar Applications, consistent with the same terms and restrictions for Alterations and Permitted Alterations as set forth in Section II.A.3, so long as same do not adversely affect Developer or the New Developer Building. The non-requesting parties shall execute, acknowledge (as appropriate) and deliver to the Requesting Party, or cause to be executed, acknowledged (as appropriate) and delivered to the Requesting Party, any Cooperation Documents within ten (10) Business Days after receiving a written request from the Requesting Party for the same. In the event that the other party has not executed, acknowledged (as appropriate) and delivered a requested Cooperation Document (or caused to be executed, acknowledged (as appropriate) and delivered the same) within such ten (10) Business Days period, then the Requesting Party shall have the right to (i) execute the Cooperation Document

and make the related Application in its own name, on behalf of the other party, and/or (ii) execute and deliver to any Agency reviewing such Application a statement that the Requesting Party is authorized to file such Application on behalf of the other party. In the event of Cooperation Documents relating to (4) above, the requesting party shall pay the other parties reasonable review and attorney fees.

B. Owner shall, if required by Applicable Law or Department of Buildings protocol, as a condition to any permit, certificate of occupancy or Applications in connection with a New Developer Building, file and diligently prosecute an application to amend the certificate of occupancy for the Owner Building so as to indicate the existence of the Combined Zoning Lot, provided, however, that (1) the application for such amendment shall be prepared by Developer at Developer's sole cost and expense and delivered to Owner for Owner's execution, and (2) Developer shall pay any permit or application fees imposed on the application. In the event that Developer has delivered such application to Owner, and Owner has not executed, acknowledged (as appropriate) and delivered such application within ten (10) Business Days of receipt thereof, then Developer shall have the right (but not the obligation) to make such application in its own name, on behalf of Owner and to execute and deliver to the Agency reviewing such application a statement stating that Developer is authorized to file such application on behalf of Owner. Notwithstanding anything in the foregoing to the contrary, in the event that there is no certificate of occupancy for the Owner Building, Owner shall have no obligations under this Section III.B, except that Owner, if requested by Developer, shall cooperate with Developer, at Developer's sole cost and expense, to place a notation in the Department of Buildings file for the Owner Premises reflecting the existence of the Combined Zoning Lot.

C. Except as otherwise provided in this Agreement, the Declaration or any other document or instrument executed or to be executed between Owner and Developer in connection with the transactions described in this Agreement, this Agreement shall not be construed to restrict the operation of the Owner Premises or any Development Site in any manner as permitted thereon by law.

D. Owner shall not at any time voluntarily appear, or cause anyone to appear on its behalf, in opposition to any action, application or hearing brought, sought or defended before any Agency by Developer or any party developing a New Developer Building for the use or transfer of the Developer Floor Area Development Rights, and/or the incorporation of the same into any New Developer Building or any Alteration or Rebuilding thereof. Notwithstanding anything in the immediately foregoing sentence to the contrary, Owner may oppose any action, application or hearing brought, sought or defended before any Agency that is inconsistent with terms of this Agreement.

E. Developer shall not at any time voluntarily appear, or cause anyone to appear on its behalf, in opposition to any action, application or hearing brought, sought or defended before any Agency by Owner for the use of the Retained Floor Area Development Rights and/or the incorporation of the same into the Owner Building or any Alteration or Rebuilding thereof. Notwithstanding anything in the immediately foregoing sentence to the contrary, Developer may oppose any action, application or hearing brought, sought or defended before any Agency that is inconsistent with terms of this Agreement.

IV. Representations.

A. Representations of Owner. Owner represents and warrants to, and covenants with, Developer that (1) it is seized of the Owner Premises in fee simple and has the right to enter into the Declaration and this Agreement, (2) it is the only "party in interest" with respect to the Owner Premises that has not waived its right to execute the Declaration and has not subordinated its interest in the Owner Premises to this Agreement, (3) except for the rights of those "parties in interest" who have executed the Declaration or waived their respective rights to do so and who have subordinated their respective interests in the Owner Premises to this Agreement, Owner has not previously sold, leased, transferred, conveyed, or encumbered the Subject Floor Area Development Rights or any of the easements granted under this Agreement in any manner whatsoever, (4) the execution, delivery and performance of the Declaration and this Agreement by it does not violate the provisions of any mortgage or any other agreement or instrument to which it is a party or by which it is bound, and (5) it shall execute or procure any further assurances reasonably required by Developer of its right to enter into the Declaration and this Agreement.

B. Representations of Developer. Developer represents and warrants to, and covenants with, Owner that (1) it is seized of the Developer Premises in fee simple and has the right to enter into the Declaration and this Agreement, (2) it is the only "party in interest" with respect to the Developer Premises that has not waived its right to execute the Declaration and has not subordinated its interest in the Developer Premises to this Agreement, (3) the execution, delivery and performance of the Declaration and this Agreement by Developer does not violate the provisions of any mortgage or any other agreement or instrument to which it is a party or by which it is bound, and (4) it shall execute or procure any further assurances reasonably required by Owner of its right to enter into the Declaration and this Agreement.

V. Floor Area Notice. Notice is given that this Agreement benefits the Development Site(s) and restricts the Owner Premises by limiting the Floor Area Development Rights that are appurtenant to the Owner Premises to the floor area, the number of dwelling units and the lot coverage shown on Exhibit D hereto (subject to adjustment in accordance with Section II.C of this Agreement). Nothing in this Agreement grants to any party the right or easement of access upon or over the land of any other party, or the right to perform any Alteration or Rebuilding upon the land of any other party, except as specifically provided in this Agreement.

VI. Separate Building Plans.

A. The parties agree that all applications for any building, alteration, demolition or any other permits or certificates of occupancy from the Department of Buildings for any building on the Combined Zoning Lot shall be separate and independent from those for any other building on the Combined Zoning Lot and shall be filed with the Department of Buildings so as to obtain separate "new building" and "alteration" numbers, as appropriate, to the extent permitted by applicable law.

B. Each party shall, upon written request from the other party, deliver to the other party copies of all zoning analyses, zoning drawings and/or zoning calculations submitted to any Agency in connection with any applications or approvals related to the envelope of a building on

the Combined Zoning Lot and/or the use of the Subject Floor Area Development Rights or the Retained Floor Area Development Rights, as the case may be, no later than ten (10) days after receipt of such request. Any zoning analyses, zoning drawings and/or zoning calculations provided by the non-requesting party to the requesting party pursuant to the provisions of this Section VI.B shall be provided solely for informational purposes to assist the recipient of such materials in determining the compliance of the other party with the provisions of this Agreement, and the consent of the other party shall not be required, unless otherwise required by this Agreement.

C. Owner and Developer anticipate that they may each be filing plans for new buildings or Alterations to or Rebuildings of their respective buildings, obtaining approvals of such plans, building or making alterations thereunder and seeking certificates of occupancy for their respective new or altered buildings at the same time. If the Department of Buildings or any other Agency with jurisdiction over the approval or construction of either building shall refuse to issue any approval, including any temporary or permanent certificate of occupancy on account of the pendency of any application for an approval filed by the other party, then both parties agree to cooperate in good faith to the fullest extent commercially and reasonably possible to assist the party experiencing the delay in obtaining its approval. Such cooperation may include, without limitation, providing information, conforming zoning calculations for the two buildings (and providing the prepared zoning analysis), harmonizing survey information, attending joint meetings at the Department of Buildings or any other involved Agency, instructing their architects and other professionals to cooperate with the architect and professionals of the other party and otherwise providing constructive assistance, without charge, to the other party to reduce or eliminate such delay. Nothing contained in this paragraph shall require any party to forfeit the use of any Floor Area Development Rights allocated to such party under this Agreement, or to redesign its building.

VII. Separate Tax Lots. The parties acknowledge that the Owner Land and the Developer Land shall be treated for real property tax purposes as separate and independent tax lots, and that the Subject Floor Area Development Rights, the Lot 52 Airspace (if any), and the Cantilevered Portion (if any) shall be treated for real estate tax purposes as the property of Developer. Developer shall, at its sole cost and expense, take such actions as may reasonably be required to (A) designate or maintain a Development Site as one or more tax lots separate from the Owner Premises, and (B) exclude the Subject Floor Area Development Rights from the calculation of the assessed value of, and/or taxes due with respect to the Owner Premises. Owner and Developer agree not to object to or otherwise oppose the separate tax lot status described in this Section or the separate nature of the tax assessments resulting therefrom, and neither party shall be precluded from contesting tax assessments on its own Premises. Developer and Owner agree to cooperate with the other in connection with any application, filings or proceedings related to the assessed valuation of the Owner Premises and/or a Development Site that may be filed or instituted by the owner of such Premises in furtherance of the provisions of this Section.

VIII. Additional Parcels.

A. Owner hereby consents to, and all present and future "parties in interest" to the Owner Premises and the Developer Premises and any Development Site are hereby deemed to have consented to, waived objection to, and subordinated their respective interests in the

Combined Zoning Lot to, (1) the merger of one or more Additional Parcels with the Combined Zoning Lot, (2) any and all future enlargements to any zoning lot that includes the Owner Land, (3) the transfer, utilization or redistribution by Developer of all or any portion of the Developer Floor Area Development Rights to, from or on such Additional Parcels or any other property, (4) any sale or transfer by Developer of all or any portion of the Developer Floor Area Development Rights and (5) any and all instruments and agreements, including but not limited to any declarations of zoning lot restrictions or zoning lot development agreements, entered into in connection with the foregoing, provided, however, that such mergers, enlargements, transfers, instruments or agreements do not (a) create a non-compliance by Owner with any requirement of the Zoning Resolution, (b) transfer the Retained Floor Area Development Rights, (c) prevent Owner from using the Owner Premises as it is currently being used on the date hereof, as permitted by this Agreement or by Applicable Law, and (d) modify Owner's rights or obligations under this Agreement.

B. Without limiting the validity and the effectiveness of the foregoing paragraph A, this Section VIII constitutes a waiver by Owner and all present and future "parties in interest" to the Owner Premises and the Developer Premises and any Development Site of their respective right to execute, and a subordination of their respective interests in the Combined Zoning Lot to (1) any declarations of zoning lot restrictions or similar instruments required by the Zoning Resolution and/or any Agency to create or enlarge any zoning lot that includes the Owner Land, and any zoning lot development agreements or similar instruments executed in connection with such creation or enlargement, and (2) any and all amendments to or replacements of any such declarations of zoning lot restrictions, such zoning lot development agreement and/or this Agreement, whether or not such parties sign such instruments, provided, however, that all of the same are consistent with this Agreement.

C. Notwithstanding and without limiting the validity and effectiveness of the foregoing paragraph A and paragraph B, (1) Owner shall, if requested by Developer, within fifteen (15) days after such request, execute, acknowledge (as appropriate) and deliver, and make commercially reasonable efforts to cause any and all "parties in interest" to the Owner Premises to execute acknowledge and deliver, all such instruments and agreements as Developer may request for the purposes of enlarging the Combined Zoning Lot to include one or more Additional Parcels in accordance with this Agreement, and (2) provided that Owner, Developer, and the owners of any Additional Parcels included in the Combined Zoning Lot have executed such amended or replacement Declaration, and amendment to, or replacement of, this Agreement, each present and future "party in interest" in the Combined Zoning Lot, by waiving execution of the Declaration, by subordinating its interest in the Combined Zoning Lot to this Agreement and/or by taking its interest in the Combined Zoning Lot subject to the Declaration and this Agreement, shall be deemed automatically and without any further action on its part to have consented to and waived its right to execute any amended or replacement Declaration and to have subordinated its interest in the Combined Zoning Lot to any amendment or replacement of this Agreement, regardless of whether such "party in interest" executes such amended or replacement Declaration or a waiver of its right to execute the same, or executes such amendment or replacement of this Agreement or a subordination of its interest in the Combined Zoning Lot to any of the foregoing. Notwithstanding and without in any way limiting the validity and effectiveness of the foregoing obligations, Owner shall make commercially reasonable efforts to cause any "party in interest" to the Owner Premises to execute all

instruments and agreements required to confirm the enlargement of the Combined Zoning Lot in accordance with this Agreement.

D. Developer shall be entitled to utilize any Additional Parcels, and any associated Floor Area Development Rights acquired by Developer in accordance with this Section VIII, and the lot area and Floor Area Development Rights allocated to the Developer Land shown on Exhibit D hereto shall be deemed to be modified accordingly. Owner has no right to utilize any such Additional Parcels or any associated Floor Area Development Rights acquired by Developer.

E. In the event of (1) the transfer, utilization or redistribution by Developer of any portion of the Developer Floor Area Development Rights to or on any Additional Parcels (the "Receiving Parcel"), or (2) any sale or transfer by Developer of all or any portion of the Developer Floor Area Development Rights, Owner shall, within ten (10) Business Days of a request therefor by Developer or its affiliate, execute, acknowledge and deliver an amendment to this Agreement (the "Amendment") and a zoning lot development agreement with the owner of the Receiving Parcel (the "Additional ZLDA", which Additional ZLDA shall be substantially in the same form as this Agreement), together with any and all transfer tax returns required to be executed in connection therewith (the Amendment, the Additional ZLDA, and such tax returns, collectively the "ZLDA Documents"), provided, however, that all of the same do not and cannot reasonably be expected to, cause Owner to incur additional obligations or result in an increase of Owner's obligations under this Agreement, do not create a non-compliance by the Owner Premises under the Zoning Resolution, and do not materially adversely affect Owner's rights to utilize the Retained Floor Area Development Rights and the Owner Premises in accordance with this Agreement. All future owners of and "parties in interest" to the Owner Premises are hereby deemed to have expressly consented to the provisions of this Section VIII.E, including but not limited to all provisions of the ZLDA Documents. Developer or its affiliate shall record the ZLDA Documents at its sole cost and expense and shall pay any and all transfer taxes due by reason of recording of the Amendment and/or the Additional ZLDA. Each present and future "party in interest" to the Owner Premises and the Developer Premises and any Development Site, by waiving execution of the Declaration, by subordinating its interest in the Combined Zoning Lot to this Agreement, or by taking its interest in the Owner Premises or the Developer Premises or any Development Site subject to the provisions of this Agreement, shall be deemed automatically and without any further action on its part to have consented to and waived its right to execute the Amendment and the Additional ZLDA, regardless of whether such "party in interest" executes such Amendment or Additional ZLDA or a waiver of its right to execute the same or executes such Amendment or Additional ZLDA or a subordination of its interest in the Combined Zoning Lot thereto. Notwithstanding and without in any way limiting the validity and effectiveness of the foregoing obligations, Owner shall make commercially reasonable efforts to cause any "party in interest" to the Owner Premises to subordinate its interest in the Combined Zoning Lot to the Amendment and to the Additional ZLDA.

F. Developer shall reimburse Owner for its reasonable and customary, out-of-pocket third-party costs and expenses (including but not limited to attorneys' fees and expenses and other professionals' fees and expenses, not to exceed Five Thousand Dollars ($5,000) per occasion) incurred in connection with the review, execution, acknowledgement and delivery of any instruments required in connection with this Section VIII.

G. Notwithstanding the foregoing, on the earlier of (i) sixty-four (64) months from the date hereof or (ii) after the issuance of a temporary certificate of occupancy for the New Developer Building, Owner may, without the consent of Developer, enlarge the Combined Zoning Lot to include one or more Additional Parcels that Owner elects to include in the Combined Zoning Lot and to transfer any of its Retained Floor Area Development rights to another parcel provided that any such enlargement and/or transfer do not (i) create a non-compliance by Developer with any requirement of the Zoning Resolution, (b) transfer any of the Developer Floor Area Development Rights, (c) prevent Developer from using the Developer Premises as it is currently being used on the date hereof, as permitted by this Agreement or by Applicable Law, and (d) modify Developer's rights or obligations under this Agreement. Developer shall, within fifteen (15) days after a written request by Owner, cause the execution, acknowledgment and delivery by Developer and all parties in interest to the Developer Premises of such instruments, documents, consents, subordinations and waivers required to give effect to such enlargement and/or transfer, provided that Owner shall pay any reasonable out-of-pocket fees and expenses incurred by Developer (including but limited to, attorney's and other professionals' fees and expenses, not to exceed Five Thousand Dollars ($5,000) per occasion) in connection with the review, execution, acknowledgment and delivery of the foregoing described instruments, documents, subordinations, consents and waivers for the purpose of determining that such enlargement and/or transfer would not adversely affect any of Developer's rights under this Agreement. In the event of (1) the transfer, utilization or redistribution by Owner of any portion of the Owner Floor Area Development Rights to or on any Receiving Parcel, or (2) any sale or transfer by Owner of all or any portion of the Owner Floor Area Development Rights, Developer shall, within ten (10) Business Days of a request therefor by Owner or its affiliate, execute, acknowledge and deliver an Amendment and an Additional ZLDA, (which Additional ZLDA shall be substantially in the same form as this Agreement), together with any and all ZLDA Documents, provided, however, that all of the same do not and cannot reasonably be expected to, cause Developer to incur additional obligations or result in an increase of Developer's obligations under this Agreement, do not create a non-compliance by the Developer Premises under the Zoning Resolution, and do not materially adversely affect Developer's rights to utilize the Developer Floor Area Development Rights and the Developer Premises in accordance with this Agreement.

IX. Zoning Lot Subdivision. Developer may subdivide the Combined Zoning Lot to the extent permitted by the Zoning Resolution and other applicable law, subject to the provisions of this Agreement, without any compensation or consideration to Owner.

A. Owner hereby consents to, and all present and future "parties in interest" to the Owner Premises and the Developer Premises and any Development Site are hereby deemed to have consented to and waived objection to, and subordinated their respective interests in the Combined Zoning Lot to, one or more subdivisions of the Combined Zoning Lot, provided, that, such subdivisions do not (1) create a non-compliance by Owner with any requirement of the Zoning Resolution, (2) decrease the Retained Floor Area Development Rights or diminish Owner's rights to utilize the Retained Floor Area Development Rights, (3) adversely affect Owner's use of the Owner Premises, as permitted under this Agreement or by Applicable Law, or (4) modify the Owner's rights or obligations under this Agreement.

B. Without limiting the validity and the effectiveness of the foregoing paragraph A, this Section IX constitutes a waiver by Owner and all present and future "parties in interest" to

the Owner Premises and the Developer Premises and any Development Site of their respective rights to execute, and a subordination of their respective interests in the Combined Zoning Lot to (1) any declarations of zoning lot restrictions or similar instruments required by the Zoning Resolution and/or any Agency to subdivide any zoning lot which includes the Owner Land, and any zoning lot development agreements or similar instruments executed in connection with such subdivision, and (2) any and all amendments to or replacements of any such declarations of zoning lot restrictions, such zoning lot development agreement and/or this Agreement, whether or not such parties sign such amendments or replacements, provided, however, that all of the same are consistent with this Agreement.

C. Notwithstanding and without limiting the validity and effectiveness of the foregoing paragraph A and paragraph B, (1) Owner shall, if requested by Developer, within fifteen (15) days after such request, execute, acknowledge (as appropriate) and deliver, and make commercially reasonable efforts to cause any and all "parties in interest" to the Owner Premises to execute or cause the execution, acknowledgement and delivery of all such instruments and agreements as Developer may request for the purposes of subdividing the Combined Zoning Lot in accordance with this Agreement, and (2) provided that Owner, Developer, and any owner of any Additional Parcel included in the Combined Zoning Lot have executed such amended or replacement Declaration, and amendment to, or replacement of, this Agreement, each present and future "party in interest" in the Combined Zoning Lot, by waiving execution of the Declaration, by subordinating its interest in the Combined Zoning Lot to this Agreement and/or by taking its interest in the Combined Zoning Lot subject to the Declaration and this Agreement, shall be deemed automatically and without any further action on its part to have consented to and waived its right to execute any amended or replacement Declaration and to have subordinated its interest in the Combined Zoning Lot to any amendment or replacement of this Agreement, regardless of whether such "party in interest" executes such amended or replacement Declaration or a waiver of its right to execute the same, or executes such amendment or replacement of this Agreement or a subordination of its interest in the Combined Zoning Lot thereto. Notwithstanding and without in any way limiting the validity and effectiveness of the foregoing obligations, Owner shall make commercially reasonable efforts to cause any "party in interest" to the Owner Premises to execute all documents and instruments required to confirm the subdivision of the Combined Zoning Lot in accordance with this Agreement.

D. Developer shall reimburse Owner for its reasonable and customary, out-of-pocket third-party costs and expenses (including but not limited to attorneys' fees and expenses and other professionals' fees and expenses, not to exceed Five Thousand Dollars ($5,000) per occasion), incurred in connection with the review, execution, acknowledgement and delivery of any instruments required in connection with this Section IX.

E. Owner shall not enter into any agreement, declaration or other instrument effecting, or purporting to effect, any subdivision of the Combined Zoning Lot, without the prior written consent of Developer, which consent may be withheld in Developer's sole and absolute discretion.

X. Future Transfers. The parties executing this Agreement agree that any party who shall acquire any interest whatsoever in the Combined Zoning Lot, whether from a party hereto or its legal representatives, successors or assigns, shall be bound by and subordinate to this Agreement,

and any future amendments, modifications or restatements of this Agreement made in accordance with this Agreement, whether entered into before or after the date on which such party acquired its interest in the Combined Zoning Lot, without having executed such future modifications, to the same extent that it would have been had it been a signatory to this Agreement or any such future amendments, modifications or restatements of this Agreement.

XI. Owners of Additional Parcels.

A. Developer shall use commercially reasonable efforts to provide in any zoning lot development agreement executed after the date of this Agreement in connection with Developer's enlargement of the Combined Zoning Lot (each, a "Future ZLDA") that (1) the owners of any Additional Parcels executing such Future ZLDA shall not be entitled to utilize any of the Retained Floor Area Development Rights or to create any Violation on or with respect to such Additional Parcels, and (2) Owner shall be a third-party beneficiary of such covenants. Notwithstanding anything in this Section XI.A to the contrary, Owner shall not have any license to enter on to any Additional Parcels to effectuate a cure of any Violation unless such right is provided for in the Future ZLDA encumbering such Additional Parcels. Developer acknowledges and agrees that Developer has no right, title or interest in and to the Retained Floor Area Development Rights.

B. The owners of any Additional Parcels that are included in the Combined Zoning Lot by Developer in accordance with this Agreement shall be deemed to be a third-party beneficiary of the development limitations set forth in Section II of this Agreement with respect to the Owner Premises and shall be entitled to enforce such limitations against Owner, provided, however, that such Future ZLDA contains a provision granting substantially similar third-party beneficiary rights to Owner. Notwithstanding anything in the immediately foregoing sentence to the contrary, the owners of any Additional Parcels shall not have any license to enter on to the Owner Premises to effectuate a cure of any Violation or otherwise enforce such owners' rights under this Section XI.

XII. Estoppel Certificates. Whenever requested by a party hereto (but not more than two times in each calendar year) upon at least twenty (20) Business Days prior written notice, the other party, at the requesting party's sole cost and expense, shall deliver to the requesting party a written statement setting forth (A) whether, to the knowledge of such other party, this Agreement is in full force and effect, (B) the extent to which, to the knowledge of such other party, this Agreement has been assigned, modified or amended by any instrument, whether or not of record (and if it has, to the knowledge of such other party, then stating the nature thereof or, upon request, attaching a copy of such instrument excluding any privileged, proprietary or confidential information to the non-requesting party, as reasonably determined by the non-requesting party), (C) whether such other party has served any written notice of default under this Agreement, which default, to the knowledge of such other party, remains uncured, (D) that, to the knowledge of such other party, there exists no state of facts that, with the giving of notice, the passage of time, or both, would constitute a default by the requesting party under this Agreement, and (E) that the written statement provided in accordance with this Section may be relied upon by the requesting party, a bona fide purchaser for value and/or the requesting party's mortgagee. Such certificate shall in no event subject the party delivering it to any liability whatsoever (except for

fraud), notwithstanding the negligent or inadvertent failure of such party to disclose correct or relevant information.

XIII. Preconstruction Survey and Construction Protection License.

A. Developer shall, at its sole cost and expense, perform a preconstruction survey that will photograph, record, assess and/or survey the then-existing condition of the Owner Premises prior to commencing the demolition of the Developer Building, and again prior to the construction of a New Developer Building or any Alterations or Rebuildings thereof if more than six (6) months after the completion of the demolition. Upon at least five (5) Business Days' written notice therefor, Owner hereby grants to Developer, and to its construction managers, contractors, subcontractors, engineers, consultants, workmen, employees, agents and/or representatives (collectively, the "Developer Parties"), a license on, to, into, over and/or under all portions of the Owner Premises as is necessary to perform the preconstruction survey. The performance of the preconstruction survey shall be scheduled in consultation with Owner and occur during normal business hours and the Developer Parties performing the preconstruction survey shall have in full force and effect liability insurance coverage on commercially reasonable terms and in commercially reasonable amounts. Prior to the performance of the preconstruction survey, a scope will be provided in advance for Owner's reasonable review and approval. Owner, or any representative designated by Owner, may attend (and shall attend, if requested by Developer) the pre-construction survey, at Developer's sole reasonable cost and expense. Owner shall reasonably cooperate with Developer in the performance of the preconstruction survey and shall provide Developer with any existing documents or materials in Owner's possession, if any, related to the structural integrity of the Owner Building. Developer shall promptly deliver to Owner, for Owner's information, a copy of the pre-construction survey, and any updates thereto, with any supporting reports, photographs, and/or other recordings. This survey is required by Applicable Law. The Developer Parties must keep the survey confidential and are expressly forbidden from sharing any information from such preconstruction survey with any third party, without prior notice to the Owner, except with: (i) any Agency, as required by such Agency or Applicable Law; (ii) amongst the Developer Parties; or (iii) to Developer's or Developer's Parties risk managers, accountants or attorneys as reasonably required. Developer will indemnify Owner for damages sustained from Developer's performance of the preconstruction survey, unless such damages are caused by the negligence or willful acts of Owner or Owner's employees, tenants, guests, invitees and/or agents.

B. In addition to the easements and access related to such easements set forth in Section IIA, Owner hereby grants to Developer and to the Developer Parties a license on, to, into, over and/or under all portions of the Owner Premises as is necessary to provide for construction protection of the Owner Premises and of facilitating the safe and timely demolition of the Developer Building and construction of and necessary support of the New Developer Building(s) and any Alterations or Rebuildings thereof or corrective work thereon (the "Construction Protection License"), including but not limited to, to the extent required by Applicable Law and/or good construction practice, the right to install, attach, maintain, monitor, inspect, repair and/or remove: (1) construction fencing on the Owner Premises, provided, however, that Developer shall use commercially reasonable efforts to minimize the impact of such fencing on the visibility of the ground floor of the Owner Building from the street and sidewalk; (2) foundation and building supports for the Owner Premises and the walls of the

Owner Building, for the New Developer Building(s) and for any party walls between the Owner Premises and the Developer Building or the New Developer Building(s), including but not limited to, wall ties, tiebacks, anchors, straps, shoring, sheeting, bracing, underpinning and/or other forms of temporary or permanent support and support of excavation on, to, into and/or under the Owner Premises (collectively, the "Support Elements"); (3) sheds, bridges, netting or other protective covering over the roof, façade, windows and other portions of the Owner Premises, provided, however, that Developer shall use commercially reasonable efforts to minimize the impact of such installations on the visibility of the ground floor of the Owner Building from the street and sidewalk; (4) seismograph vibration monitors, crack monitoring gauges and/or elevation and lateral position control points at the Owner Premises; (5) scaffolding on and over the Owner Premises, provided, however, that Owner and Developer shall reasonably cooperate with respect to the configuration of scaffolding so as to minimize, to the extent commercially reasonable, the impact of such scaffolding on the use, egress and occupancy of the Owner Building, and provided, further, that Developer shall allocate a reasonable amount of space on any such scaffolding for the installation of legally compliant signage for the ground floor tenant of the Owner Building, at no cost or expense to Owner (and shall pay the reasonable costs and expenses related to the production and installation of such signage); provided, further, that Developer shall use commercially reasonable efforts to minimize the impact of such scaffolding on the visibility of the ground floor of the Owner Building from the street and sidewalk; and/or (6) any Waterproofing Systems and/or temporary or permanent weatherproofing equipment, gutters, flashing, caulking, Emseal, expansion joints, sealant or similar materials to any exposed walls, foundations, seismic gap or other portions of the Owner Building. Notwithstanding anything in the immediately foregoing sentence to the contrary, any Waterproofing Systems, Support Elements and/or Relocation Work (described below) required by Applicable Law and/or good construction practice to be installed, attached and/or maintained indefinitely or permanently shall not be subject to removal by any party and Owner hereby grants to Developer and the Developer Parties, for the benefit of each Development Site, a permanent and perpetual and exclusive easement, and a right of access, on, to, into, over and/or under all portions of the Owner Premises as is necessary to monitor, inspect, repair and/or replace the Waterproofing Systems, Support Elements and/or Relocation Work. The plans for any work to be performed and/or measures to be undertaken by Developer at Developer's cost to insure construction protection of the Owner Premises during demolition and construction including, without limitation, any work or modifications to the cellar of the Owner's Premises relating to the shared foundation of the southern wall pursuant to this Section XIII.B shall be subject to Owner's prior review and approval in accordance with Section XIII.D below. Notwithstanding anything contained herein to the contrary, it is acknowledged and agreed that the Developer has the right to place a sidewalk shed and/or construction fence on the public sidewalk in front of the Owner Premises without the consent or permission of the Owner but Developer agrees to make reasonable concessions as stated herein in regards to the Owner's ground floor tenant. In the event of an Emergency Situation affecting the safety or occupants of the Developer Premises or the Owner Premises, the general public or the structural stability of the Developer Premises or Owner Premises and if after notice to Developer, Developer fails to take such necessary action to address the emergent conditions within a reasonable time given the circumstances, the Owner shall be permitted, but shall not be required, to perform repair work to the Waterproofing Systems, Support Elements and/or Relocation Work. In such case, Owner shall have an easement to the Developer Premises, only to the extent necessary to address such

condition to repair the Waterproofing Systems, Support Elements and/or Relocation Work and Developer shall indemnify the Owner in connection therewith in accordance with Section XXXVI.

C. The Construction Protection License shall include the right of Developer to permanently relocate, extend and/or offset any chimneys, vents, flues and exhausts on the Owner Building, to the extent required by Applicable Law, all at Developer's sole cost and expense, or, to the extent such chimneys, vents, flues and exhausts are currently located on Developer's Premises (i.e., over the boundary line between Owner Land and Developer Land "Encroachments")), at the Owner's sole cost and expense (in either case, the "Relocation Work"). The plans for any Relocation Work to be performed pursuant to this Section XIII.C shall be subject to Owner's prior review and approval in accordance with Section XIII.D below. Notwithstanding anything to the contrary contained in this Agreement, Developer shall be solely responsible to pay for any Relocation Work or any other work whatsoever (including, without limitation, any work relating to Encroachments) which is required to comply with Applicable Law in the event of any pre-existing non-compliant conditions existing on Owner's Building as of the date hereof that are grandfathered in, or increase in the degree of any non-compliance existing on Owner's Building as of the date hereof by reason of Developer's New Building. The foregoing shall be in addition to and not in limitation of any of Developer's obligations pursuant to this Agreement. For the avoidance of doubt, the Developer shall not be required to resolve any issues of non-compliance regarding any chimneys, vents, flues and exhausts, which are not grandfathered, the resolution of such non-compliance to be the responsibility of the Owner prior to the Relocation Work. In the event the Owner does not address such issues of non-compliance prior to the Relocation Work, the Developer shall be permitted to resolve such issues and Owner shall indemnify the Developer in connection therewith accordance with Section XXXVI.

D. At least ten (10) Business Days prior to the exercise of any of the rights granted under the Construction Protection License, Developer shall provide Owner with a copy of a site safety plan and/or any plans or details for any portion of the construction work to be conducted on the Owner Premises (the "Plans"), which Plans shall be signed and sealed (if applicable) by a licensed architect or engineer retained by Developer (the "Developer Consultant"), and shall be delivered in electronic format (or paper format, if electronic format is not practicable). Owner's Consultant shall review the Plans and either approve or reasonably disapprove the Plans within ten (10) Business Days after Owner's receipt of the Plans and issue a signed and sealed report stating such objections. In the event of any change in field conditions that necessitates a material change in the Plans that affects the Owner Premises, Developer shall promptly submit modified Plans to Owner for Owner's Consultant's review pursuant to this Section XIII.D. If Owner and/or the Owner Consultant reasonably disapproves of the Plans or any portion thereof, Owner shall provide Developer with a notice of disapproval including a signed and sealed report from Owner's Consultant stating the basis for such disapproval and/or modifications to the Plans (collectively, the "Plan Comments"), provided, however, that if Owner and/or the Owner Consultant fails to deliver the Plan Comments within such ten (10) Business Day period, then the Plans shall be deemed approved by Owner and the Owner Consultant. Developer may proceed with the work set forth in the Plans if Developer incorporates all of the Plan Comments into the Plans. If the Developer Consultant disagrees with the Plan Comments, the Owner Consultant and the Developer Consultant shall meet and attempt to resolve the disagreement in good faith within fifteen (15) calendar days of Developer notifying Owner that the Developer Consultant

disagrees with the Plan Comments. In the event that the Owner Consultant and the Developer Consultant are unable to resolve any disagreement within such 15-calendar day period, the Owner Consultant and the Developer Consultant shall select and submit the disagreement to a third, independent engineering company having not less than ten (10) years relevant experience[1] in New York City construction projects similar in scope to the work being proposed to resolve the disagreement as soon as reasonably practicable. If the independent engineer determines that some or all of the Plan Comments in dispute are reasonable, Developer shall pay the costs of the independent engineering company, however, if the independent engineering company determines that all of the Plan Comments in dispute are not reasonable, then Owner shall pay the costs of the independent engineering company. Nothing in this Section XIII.D shall be deemed to limit a party's rights and remedies available under this Agreement. Developer shall be responsible for the costs related to the implementation of any modifications to the Plans made as a result of the incorporation of any Plan Comments pursuant to this Section XIII.D and Developer shall reimburse Owner for its reasonable, out-of-pocket third party costs and expenses with respect to the Owner Consultant's review of the Plans (and any other plans subject to review pursuant to this Section XIII.D) and preparation and resolution of any Plan Comments upon receipt of paid invoices for the same, except in the event the independent engineer determines that the Plan Comments were not reasonable.

E. As a component of the Construction Protection License, Owner hereby grants to Developer and to the Developer Parties a license for temporary projections and/or intrusions extending from a Development Site and/or the street into the air space over the Owner Premises to facilitate the demolition of the Developer Building, the construction of the New Developer Building(s) and the exercise of any of the rights granted under the Construction Protection License. Such projections may include cranes or similar equipment as permitted by Applicable Law.

F. As a component of the Construction Protection License, Owner hereby grants to Developer and to the Developer Parties a license on, to, into, over and/or under all portions of the Owner Premises as is necessary to perform investigations, inspections, test pits and/or probes (collectively, the "Probes") of the Owner Premises if required by the Developer Consultant to determine the feasibility, progress or details of any work in connection with the construction of the New Developer Building(s), provided that such Probes do not materially interfere with the normal operation of the Owner Premises. Developer shall implement protective measures before undertaking any Probes, shall protect all test pits or probe openings during such work, and shall repair and restore the Owner Premises to its pre-existing condition following restoration of the Probes. Developer shall indemnify Owner for all costs and expenses incurred by Owner including, without limitation, reasonable attorney fees and disbursements incurred by Owner by reason of a breach of Developer's obligations under this paragraph. The work plan for the Probes shall be subject to Owner's review and approval in accordance with Section XIII.D of this Agreement.

---

[1]Consider deciding on three firms at closing. If not agreed, the above language will stay as is.

G. The exercise of any of the rights granted under the Construction Protection License by Developer, and the Developer Parties hired or retained by Developer, shall (1) be at Developer's sole cost and expense, (2) at all times comply with all Applicable Laws, (3) be in accordance with good construction practice and in a manner customary for improvements of such type and so as not to impose an excessive load on the Owner Premises, (4) provide for adequate security with respect to the Owner Premises, and (5) not unreasonably interfere with ingress and egress to the Owner Premises. Developer shall not store any materials or equipment anywhere on the Owner Premises or any scaffolding attached to the Owner Premises. Developer shall, at its sole cost and expense, promptly repair any damage to the Owner Building arising as a result of Developer's use of the Construction Protection License or the construction of a New Developer Building. Developer shall use commercially reasonable efforts to minimize the impact of its exercise of the Construction Protection License or the visibility of the ground floor of the Owner Building from the street or sidewalk.

H. Developer shall not perform any construction work from the roof of the Owner Building, provided, however, that Developer and the Developer Parties hired or retained by Developer shall be permitted to access the roof of the Owner Building only to the extent necessary during the construction of the Cantilevered Portion and/or to complete the façade of the New Developer Building. Any such access shall be scheduled in consultation with Owner during normal business hours (except in the event of an Emergency Situation) and that Developer Parties hired or retained by Developer that are granted such access shall have in full force and effect liability insurance coverage on commercially reasonable terms and in commercially reasonable amounts.

I. Owner shall reasonably cooperate with Developer and the Developer Parties in connection with the exercise of any of the rights granted under the Construction Protection License. Owner shall, within ten (10) Business Days of written request therefor, execute, acknowledge and deliver any and all forms, letters or approvals reasonably requested by Developer evidencing Owner's grant of the Construction Protection License, provided, however, that such forms, letters or approvals do not require Owner to incur any liability or expense not otherwise provided for in this Agreement.

J. This Section XIII covers the access to the Owner Premises that is currently anticipated. The parties shall reasonably and in good faith, and for no additional consideration, negotiate an amendment to this Section XIII covering other access, the need for which may arise during the course of the demolition of the Developer Building, construction of the New Developer Building(s) and any Alterations or Rebuildings thereof or corrective work thereon, and/or due to changes in Applicable Law and/or protocol or policy of the Department of Buildings, provided they are not material changes to the access contemplated herein and further provided Owner incurs no cost or expense thereby.

K. If requested by Developer (request by electronic mail acceptable), Owner shall, within ten (10) Business Days after its receipt of such request, execute and deliver to Developer the letter annexed hereto as Exhibit H, or such substantively equivalent alternative form as may be required by the Department of Buildings, consenting to the closure of the parking lane located in front of the Owner Premises for as required for the parking, loading and unloading of construction vehicles during the demolition of the Developer Building and construction of the

New Developer Building(s). In the event that Developer has delivered such letter to Owner for execution and delivery and Owner has not executed and delivered the same within such ten (10) Business Day period, then Developer shall have the right to deliver such letter in its own name, on behalf of Owner, and to execute and deliver to the Agency having jurisdiction over such letter a statement stating that Developer is authorized to file such documents on behalf of Owner. Developer shall make the parking lane available during periods of inactivity. Developer shall use commercially reasonable efforts to minimize the impact of the closure of the parking lane on the visibility of the ground floor of the Owner Building from the street and sidewalk. Developer shall, at its sole cost and expense, promptly repair any damage to the parking lane or the sidewalks located in front of the Owner Premises resulting from Developer's use of the parking lane.

L. In the event Owner's Building encroaches beyond the lot lines of Owner's Premises, Owner shall not be required to remove any such encroachment and such encroachment may remain so long as the Owner's Building shall stand. For the avoidance of doubt, the preceding sentence refers to portion of the structure of the Owner's Building itself not attachments, protrusions, mechanical equipment or other removable encroachments. Subject to the foregoing, Developer may construct a New Developer Building to any lot lines of the Owner Land contiguous to the Developer Land (or contiguous to any Additional Parcels acquired by Developer for the construction of a New Developer Building), as such lot lines exist on the date of this Agreement, and may maintain a New Developer Building and any Rebuildings or Alterations thereof at such lot lines, provided, however, that the foregoing shall not be deemed to prohibit or restrict: (i) the construction and maintenance of the Cantilevered Portion beyond such lot lines, to the extent permitted by the Cantilever Easement; (ii) intentionally omitted; (iii) the construction and maintenance of the Waterproofing Systems beyond such lot lines, to the extent permitted by and described in Section II.A.2b; the Cantilever Easement; (iv) the construction and maintenance of the Exhaust Equipment beyond such lot lines, to the extent permitted by the Exhaust Easement; (v) the construction and maintenance of the Window and Façade Maintenance Easement beyond such lot lines, to the extent permitted by the Window and Façade Maintenance Easement provided, further, the New Developer Building shall not touch Owner's Building, except as permitted for the Waterproofing Systems, the Support Elements and/or the Relocation Work and Developer shall not use Owner's Building for structural support. To the extent that there are any lot line windows or other openings on the Owner Building that are required to be sealed by Applicable Law to permit a New Developer Building, and the Cantilevered Portion thereof, to be constructed at such tax lot lines, Developer shall provide written notice to Owner of the same, and Owner shall cause, at its sole cost and expense, such lot line windows or other openings to be sealed in compliance with all Applicable Law. The lot line window closures shall be performed in a manner and at a time such that the work will not impact any work on the Development Site. Owner shall execute and deliver such documents as may be required in connection therewith within ten (10) Business Days of written request therefor. In the event that Developer has delivered such documents to Owner for execution and delivery and Owner has not executed and delivered the same within such ten (10) Business Day period, then Developer shall have the right to deliver such documents in its own name, on behalf of Owner and to execute and deliver to the Agency having jurisdiction over such matter a statement stating that Developer is authorized to file such documents on behalf of Owner. In the event the Owner does not seal the lot line windows or other openings on the Owner Building that are required to be sealed by Applicable Law to permit a New Developer Building, and the Cantilevered Portion

thereof, to be constructed at such tax lot lines, Developer shall have the option, but not the obligation, to undertake such work and Owner shall indemnify Developer in connection therewith, in accordance with Section XXXVI. In such case of Developer performing the aforesaid work, Owner hereby grants to Developer, a license to access the Owner Premises as is reasonably necessary for the purpose of sealing the lot line windows, at Owner' sole cost and expense. Such access shall only occur after notice to Owner; except in the event of an Emergency Situation as reasonably determined by Developer; shall occur at reasonable hours; and shall not unreasonably interfere with Owner's use and occupancy of the Owner Building, except that the Developer may close lot line windows on the Owner Premises which are required to be closed pursuant to Applicable Law, regardless of the impact to legality or non-conforming use of the Owner Premises and/or the creation of a Violation by such closure. Owner shall reasonably cooperate with Developer with respect to Developer's sealing of the lot line windows.

M. In the event it is determined by the appropriate Agency that fire protection is required on the Owner Premises by reason of the New Developer Building, the Cantilevered Portion and/or the window placement in the New Developer Building (the "Fire Protection Determination"), Developer shall deliver a copy of the Fire Protection Determination to Owner within ten (10) Business Days of Developer's receipt of same, and Developer shall, at its sole cost and expense, remedy any condition or non-conformity at Owner Premises that is required to provide the required fire protection for the Owner Building, including but not limited to the installation of fire protection and/or a sprinkler system for the Owner Building (the "Fire Protection") and shall have access to the Owner Building to perform such work. Notwithstanding the foregoing, Owner shall not be required to materially modify any feature of Owner's Building or change the use or occupancy of Owner's Building in order to accommodate the design of the Fire Protection or to enable compliance with the Fire Protection Determination. Owner shall deliver to Developer copies of all contracts, drawings, agreements, permits, licenses and other documents in connection with the Fire Protection within ten (10) Business Days of Owner's receipt of same. Owner shall execute, assign and deliver, as applicable, all such documents as may be required in connection therewith (including all contracts, drawings, permits, approvals, licenses and other documents in connection with the Fire Protection) within five (5) Business Days of written request therefor, it being agreed that Developer shall have a license to access the Owner Premises for the purpose of installing the Fire Protection; provided, however, that such access shall only occur after notice to Owner; except in the event of an Emergency Situation as reasonably determined by Developer; shall only occur at reasonable hours; and shall not unreasonably interfere with Owner's use and occupancy of the Owner Building. Owner shall cooperate with Developer with respect to the installation of the Fire Protection. The work plan for the Fire Protection shall be subject to Owner's review and approval in accordance with Section XIII.D of this Agreement. Any work performed in connection with the Fire Protection shall be in compliance with all Applicable Law. Developer does not have the right to install fire escape on Owner's Building. Owner shall not be required to permit a secondary means in egress into Owner's Building to accommodate Developer's fire protection requirements for Developer's New Building.

N. Developer shall include Owner as an additional insured on Developer's and/or Developer's general contractor's and/or construction manager's commercial general liability and excess liability policies for the demolition and construction of the New Developer Building(s) and for any Alterations or Rebuildings thereof or corrective work thereon which requires the use

of the Construction Protection License or other access or easements permitted by the Agreement. Developer's general liability and excess liability policies referenced in this Section XIII.N shall be primary and non-contributory to any insurance policies maintained by Owner as an additional insured. During the initial construction of a New Developer Building, Developer shall maintain or cause its contractors to obtain and maintain general liability insurance and follow form excess liability insurance having a limit of not less than (i) what is commercially reasonable considering the New Developer Building and the particular stage of the construction; (ii) the amount of coverage required by Applicable Law; or (iii) the amount of coverage required by the holder of a mortgage loan on the Developer Land, such coverage to include occurrence bodily injury, broad form property damage, operations hazard, independent contractor's coverage, contractual liability and products and completed operations liability, and other customary risks inherent in such work, which policies shall name Owner (and any fee or leasehold mortgagee of the Owner Premises of which Owner has provided Developer with notice of) on such policies as additional insureds. Developer shall provide Owner with a standard form of certificate of insurance or other reasonable evidence demonstrating compliance with the foregoing insurance requirements prior to commencing the construction of a New Developer Building.

O. Developer or Developer's general contractor and/or construction manager shall maintain at all times during construction and provide proof to Owner of all risk completed value builders risk insurance and including extra expense coverage.

1. During the installation of the Cantilever, the Developer and/or its general contractor, construction manager and/or the contractor principally responsible for the construction of the Cantilever, at no cost or expense to Owner, shall provide and keep in full force and effect liability insurance coverage, in an amount not less than Twenty Five Million and 00/100 Dollars ($25,000,000.00), against the risk of physical damage to Owner Premises and bodily injury and death from such work and maintain such insurance at all times when work is actually in progress. The foregoing insurance shall name Owner as additional insured (as its interest may appear). Upon request from Owner, Developer shall deliver certificate(s) of such insurance to Owner, which certificate(s) shall also provide that such policies shall not be cancelled or terminated until at least twenty (20) days after notifying Owner of such cancellation or termination. Such insurance required by the Section XII.O.1 shall include completed operations for no less than three (3) years.

P. If any mechanic's lien shall be filed against either party's Premises as a result of any labor, services or materials supplied or furnished to the other party in connection with either (1) any work by the other party within the Combined Zoning Lot (including but not limited to any construction or any Alterations or Rebuildings on the Owner Premises or a Development Site), and/or (2) the other party's cure of a Violation in accordance with this Agreement, then the other party shall (at the other party's sole cost and expense) discharge or cause to be discharged any mechanic's lien by bonding or otherwise within ten (10) Business Days after the other party receives written notice of such mechanic's lien from Owner or Developer, as the case may be, or is otherwise notified in writing of such mechanic's lien. Notwithstanding the foregoing, if the discharge of any such mechanic's lien by the other party is reasonably anticipated to take more than ten (10) Business Days, then such ten (10) Business Day period shall be extended as is

reasonably necessary to cause the discharge of any such mechanic's lien, provided, however, that if such mechanic's lien has not been discharged or removed after thirty (30) calendar days, then Owner or Developer, as the case may be, shall, upon written notice to the other party, have the right to do so, at the sole, but reasonable, cost and expense of the other party.

Q. In the event that Owner undertakes any Alteration or Rebuilding of the Owner Premises in accordance with this Agreement, and Owner requests that Developer provide Owner with a temporary license for construction related activities during the performance of such Alteration or Rebuilding, Developer shall grant Owner a temporary construction license on substantially the same terms and conditions as set forth in Section XIII (as applicable) as required by law or as reasonably required to protect any New Developer Building, for a term commensurate with Owner's performance of such Alteration or Remodeling, provided that such license and access does not interfere with the rights of the Developer hereunder.

XIV. Rights of Entry. Except as otherwise provided in this Agreement, the initial exercise of any right of entry in accordance with any of the licenses or easements granted under this Agreement shall be upon at least five (5) Business Days' notice to the other party (notice by email acceptable), except in an Emergency Situation, in which event the party seeking access shall endeavor to notify the other party of the action taken or proposed to be taken, as the case may be, to cure the Emergency Situation. Notwithstanding anything in the immediately foregoing sentence to the contrary, once notice has been given and work has begun with respect to any task or component of the Construction Protection License, use of the Construction Protection License shall continue from day to day in the ordinary course with respect to such task or component during any hours in which such work is permitted pursuant to applicable law, rule or regulation (including any variances thereto) until the task or component is completed.

XV. Binding Effect. All of the grants, interests, easements, covenants, agreements and conditions in this Agreement:

A. shall run with the lands, buildings and other improvements affected thereby;

B. shall inure to the benefit of and be binding upon every party now or hereafter having any right, title or interest therein or any part thereof (including but not limited to any mortgagee of such party which may become a "mortgagee-in-possession" or a purchaser who acquires title to the Owner Premises or a Development Site through a foreclosure proceeding or a "deed in lieu of foreclosure") and the heirs, distributees, successors and assigns of any such party so long as they respectively have any interest in any of the Owner Premises or a Development Site, as the case may be;

C. shall, to the extent rights under this Agreement are assigned to the holder of any mortgage encumbering any of the properties affected by this Agreement or any interest therein, be enforceable by any such assignee after a default, past any applicable grace or notice period, in the provisions of such mortgage; and

D. shall be binding upon each and every current and future "party in interest" in and to the Combined Zoning Lot.

XVI. Effect of Breach. No breach of this Agreement or any agreement ancillary hereto shall (A) have any effect on the treatment of the Combined Zoning Lot as one zoning lot for purposes of the Zoning Resolution, and the Combined Zoning Lot shall be treated as one zoning lot unless and until it is subdivided in accordance with this Agreement, or (B) defeat or render invalid the lien of any mortgage made for value which encumbers either the Owner Premises or a Development Site.

XVII. Remedies. Except as otherwise provided for in this Agreement, in the event of any breach or threatened breach of this Agreement by any party hereto, the other party shall only have the right to injunctive relief and specific performance (including but not limited to any reimbursement of costs in accordance with Sections II.A.4.c and II.B.2.c of this Agreement) and under no circumstances shall any party be liable for damages of any type, whether direct, consequential, foreseen or unforeseen.

XVIII. Limitation of Liability. No liability under this Agreement shall be enforced by any action or proceeding wherein damages or any money judgment or any deficiency judgement establishing any personal obligation or liability shall be sought, collected or otherwise obtained against any of the past, present or future principals, partners, officers, directors, trustees, employees, members and/or shareholders (whether any of the foregoing are disclosed or undisclosed) of a party to this Agreement, but shall rather be limited to and enforceable solely against, and each party shall look solely to, the other party's interest in the Combined Zoning Lot (including but not limited to rental, insurance, condemnation and sale proceeds attributable to such party's Premises) and no other assets of such party.

XIX. Lien Law. This Agreement is subject to Section 13 of the Lien Law of the State of New York, and any consideration paid in connection with this Agreement shall be received as a trust fund to be applied first for the purpose of paying the cost of the applicable improvement before using any part thereof for any other purpose.

XX. Notices. Except as otherwise provided in this Agreement, any and all notices, elections, demands, requests, communications and responses thereto permitted or required to be given under this Agreement (each, a "Notice") shall be in writing, signed by the party giving the same or by its attorneys, and shall be deemed to have been properly given and effective upon being: (a) personally delivered, (b) delivered to a nationally recognized express transportation company (e.g. FedEx or its competitors) for overnight or earlier delivery with delivery confirmation service, or (c) mailed as overnight United States Priority Mail Express (formerly known as United States Express Mail) with signature confirmation of receipt service, to the other party at the address set forth below (or at such other address in the continental United States as such other party may designate by a Notice specifically designated as a notification of change of address and given in accordance with this Section); provided, however, that the time period under this Agreement in which a response to any Notice must be given (if any) shall commence on the date of receipt thereof by such other party. Personal delivery to a party, or to any officer, partner, agent or employee of such party, at said address shall constitute receipt. Rejection or other refusal to accept a Notice properly given in accordance with this Section, or the inability to deliver a Notice because of a change of address of which no notice has been received, shall also constitute receipt. Any Notice shall be addressed as follows:

If to Owner:

c/o The Heller Organization
54 West 21st Street, 6th Floor
New York, New York 10010
Attention: Mr. Scott Heller

With a copy to:

Cooperman Lester Miller Carus LLP
1129 Northern Boulevard, Suite 402
Manhasset, New York 11030
Attention: David S. Lester, Esq.

If to Developer:

c/o Hampshire Properties, LLC
2329 Nostrand Avenue, Suite 350
Brooklyn, New York 11210
Attention: Robert Rosenthal

With a copy to:

Wachtel Missry LLP
885 Second Avenue, 47th floor
New York, New York 10017
Attention: Eli D. Dweck, Esq.

Any Notice given by Owner shall, in the event the Development Site is encumbered by a mortgage, also be sent to the mortgagee thereunder (the "Mortgagee") in the same manner as provided for in this Section, provided, however, that Owner has been given Notice stating that the Development Site is encumbered by a mortgage and such Notice shall include the address for notices to such Mortgagee. In the event that any Notice shall be given by Owner of a Violation, a Mortgagee of the Development Site shall have the same rights to remedy or cure such Violation as Owner or Developer. Such remedy or cure performed by a Mortgagee shall be performed in accordance with the provisions of Section II hereof governing Violation cure rights.

XXI. Integration; No Oral Agreements. Except as otherwise provided in this Agreement, this Agreement contains all the promises, agreements, conditions, understandings, inducements, warranties and representations between parties relative to the matters stated herein, and there are no oral promises, agreements, conditions, understandings, inducements, warranties or representations, expressed or implied, between the parties other than as set forth herein. This Agreement may not be modified or amended except by a written agreement executed by all of the parties hereto, nor may any obligation or condition in this Agreement be waived, except by a written instrument to such effect executed by the party to be charged.

XXII. Further Assurances. Owner and Developer agree to execute, acknowledge (as appropriate) and deliver such confirmatory and supplementary instruments, certificates and/or documents, and/or take such further actions, all consistent with the transaction contemplated by this Agreement and all at the sole cost and expense of the party requesting such further assurances, as may reasonably be necessary to confirm, carry out or effectuate this Agreement.

XXIII. Recording. This Agreement shall be recorded in the Office of the City Register of the City of New York against all affected tax lots.

XXIV. Governing Law. This Agreement and its performance, termination or enforcement, and the parties' relationship in connection therewith, together with any related claims whether sounding in contract, tort or otherwise, shall be governed, construed and interpreted in all respects in accordance with the internal laws of the State of New York without giving effect to the State of New York's principles of conflicts of law.

XXV. Non-Merger. The licenses, easements and the Subject Floor Area Development Rights granted to Developer in this Agreement shall not be destroyed or terminated by the application of the doctrine of merger in the event that the ownership of or any other interest in the Owner Premises or any Development Site (or any portions thereof) is or becomes vested in the same entity or entities.

XXVI. Non-Waiver of Performance. Any failure by a party to this Agreement (collectively and/or individually referred to as the "non-waiving party") to insist upon the strict performance by the other party of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions of this Agreement, and the non-waiving party, notwithstanding such failure, shall have the right thereafter to insist upon the strict performance by the other party of any and all of the provisions of this Agreement to be performed by the other party.

XXVII. Waiver of Trial by Jury. Each party to this Agreement irrevocably and unconditionally waives any and all right to trial by jury in any action or proceeding arising out of or relating to this Agreement, any of the documents executed in connection herewith, and/or the properties affected by this Agreement (or any claims, defenses, rights of set-off or other actions pertaining to any of the foregoing).

XXVIII. Condominium or Cooperative Ownership. In the event that a Development Site or the Owner Premises is submitted to a condominium, cooperative, "cond-op" or similar form of ownership regime, then the rights and obligations of Developer or Owner (as the case may be) under this Agreement, including but not limited to the right to make or consent to modifications or amendments of this Agreement and obligations to execute documents under this Agreement (collectively, the "Consent Rights"), shall be vested in either: (a) the sponsor of such ownership regime, to the extent a "sponsor" entity is defined in the Governing Documents (as hereinafter defined), or if no "sponsor" entity is defined, the "declarant" of such Governing Documents (in either case, the "Sponsor"), or (b) another entity or individual to the extent specified in the Governing Documents (the "Rights Holder") for so long as the Governing Documents are in effect, unless the Governing Documents expressly provide for a period of time that the Consent Rights shall be vested, and in either case, any reference to Developer or the owner of a Development Site or to Owner, as applicable, in this Agreement shall be deemed to be the

Sponsor or the Rights Holder, as applicable. If the Governing Documents expressly provide for a specified period of time as aforesaid, then at the conclusion of such specified period of time, the Consent Rights shall be vested in the board or association charged with operating such ownership regime (the "Board"), and any reference to Developer or the owner of a Development Site or to Owner, as applicable, in this Agreement shall be deemed to be to the Board. The Sponsor, the Rights Holder or the Board, as the case may be, shall serve as the attorney-in-fact, coupled with an interest, for each individual unit owner, shareholder, board or other "party in interest" in the ownership regime for the purposes of this Agreement, and any provision of this Agreement then applicable to Developer or the owner of a Development Site or to Owner, as applicable, may only be enforced by the Sponsor, the Rights Holder or the Board, as applicable, and not by any individual unit owner, shareholder, board or other "party in interest" in the ownership regime (other than the Rights Holder or the Board, if applicable). The governing documents for the ownership regime (as the same may be amended, modified or restated, the "Governing Documents") shall be subject to the provisions of this Agreement (as the same may be amended, modified or restated), shall include a reference to this Agreement and shall expressly provide for such power of attorney. Neither the Sponsor, the Rights Holder nor the Board shall promulgate, pass or implement any rules, regulations or by-laws that are inconsistent with the provisions of this Agreement.

XXIX. Saving Clause. If any right or option granted pursuant to this Agreement would be deemed invalid or unenforceable as being in violation of any interpretation of the Rule Against Perpetuities or any law relating to the vesting of an interest in, or the suspension of the power of alienation of, property, then such right or option shall be deemed exercisable only during the period which shall end twenty one (21) years after the date of the last survivor of the descendants now living of Franklin Delano Roosevelt, the former president of the United States; Henry Ford, the automobile manufacturer; or John D. Rockefeller, the founder of the Standard Oil Company.

XXX. Calculation of Time Periods. Except as otherwise provided in this Agreement, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run shall not be included and the last day of the period of time so computed shall be included, unless such last day is not a Business Day, in which event the period of time will run until the end of the next day that is a Business Day. Except as otherwise provided in this Agreement, the last day of any period of time described herein will be deemed to end at 6:00 p.m. Eastern Standard Time.

XXXI. Joint and Several Liability. Developer acknowledges and agrees that the obligations, liabilities, covenants, agreements and duties of Developer herein shall be the joint and several obligations of each of AA, AARE, A&S, D&O and 2461 Broadway under this Agreement.

XXXII. Construction. This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared primarily by counsel for one of the parties, as both Owner and Developer have contributed substantially and materially to the preparation of this Agreement.

XXXIII. Headings and Exhibits. The section headings in this Agreement are inserted for convenience only and shall not affect the construction of this Agreement. All exhibits to this Agreement are hereby incorporated by reference.

XXXIV. Grammatical Usage, etc. In construing this Agreement, all pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the person or persons may require, and plural terms shall be substituted for singular and singular for plural in any place in which the context so requires. The terms "herein," "hereof," or "hereunder" or similar terms used in this Agreement refer to this entire Agreement and not to the particular provision in which the term is used unless a contrary intent is expressly set forth. Except where expressly provided otherwise in this Agreement, the terms "including" or "include" or similar terms used in this Agreement shall be construed as if followed by the phrase "without limitation."

XXXV. Severability. If any term or provision of this Agreement or the application thereof to any party or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to any party or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law. The parties shall use all reasonable efforts to replace the illegal, void or unenforceable provision by a valid and enforceable provision the effect of which is the closest possible to the intended effect of the illegal, void or unenforceable provision.

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

XXXVII. Indemnification. Each party hereto agrees to the fullest extent permitted by law, to indemnify, protect, hold harmless and defend the other, together with their respective officers, partners, agents, employees, members, managers, mortgagees, tenants, invitees, successors and assigns, from and against any and all claims, demands, liabilities, losses, costs, obligations, injuries, penalties, causes of action, damages, and expenses, including, without limitation, reasonable attorneys' fees, charges and disbursements through all appeals (including, without limitation, reasonable attorneys' fees and disbursements in the enforcement of this indemnity) asserted against or suffered by said party resulting from or in any way arising out of or in connection with the Alteration or Rebuilding of a building on the respective parties premises, including but not limited to, in the case of the Developer, the Construction Protection License, or in any way in connection with the construction of the New Developer Building, any and all easements described in this Agreement including, without limitation, the Window and Facade Maintenance Systems, the Cantilever Easement, the Exhaust Easement, the Waterproofing Systems, the Construction Protection License, the Support Elements and/or the Relocation Work and for economic loss and/or loss of use only to the extent that such economic loss or loss of use is the result of property damage caused by any of the foregoing or Alteration or Rebuilding of any building by the other party. A party shall not be liable pursuant to the foregoing indemnity which is due to the willful acts or negligence of the other party or the other party's employees, guests, invitees and/or agents.

XXXVII. Recitals. The recitals (Statement of facts) at the beginning of this Agreement shall be deemed a part hereof and incorporated fully herein.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Agreement as of the date first above written.

OWNER:

2465 BROADWAY ASSOCIATES, L.L.C.

By: _____
Name: Christopher J. Durso
Title: General Manager

[SIGNATURE PAGE TO ZONING LOT DEVELOPMENT AGREEMENT; SIGNATURE PAGE CONTINUES ON FOLLOWING PAGE]

DEVELOPER:

UWS AA BSD LLC,
a Delaware limited liability company

By:_____
Name: Ron Vaksin
Title: Authorized Signatory

AARE BROADWAY INVESTORS LLC,
a Delaware limited liability company

By:_____
Name: Ron Vaksin
Title: Authorized Signatory

A&S MM LLC,
a Delaware limited liability company

By:_____
Name: Ron Vaksin
Title: Authorized Signatory

2461 D&O LLC,
a Delaware limited liability company

By:_____
Name: Ron Vaksin
Title: Authorized Signatory

2461 BROADWAY LLC,
a Delaware limited liability company

By: See attached
Name: Robert Rosenthal
Title: Authorized Signatory

[SIGNATURE PAGE TO ZONING LOT DEVELOPMENT AGREEMENT]

DEVELOPER:

UWS AA BSD LLC,
a Delaware limited liability company

By:_____
Name: Ron Vaksin
Title: Authorized Signatory

AARE BROADWAY INVESTORS LLC,
a Delaware limited liability company

By:_____
Name: Ron Vaksin
Title: Authorized Signatory

A&S MM LLC,
a Delaware limited liability company

By:_____
Name: Ron Vaksin
Title: Authorized Signatory

2461 D&O LLC,
a Delaware limited liability company

By:_____
Name: Ron Vaksin
Title: Authorized Signatory

2461 BROADWAY LLC,
a Delaware limited liability company

By:_____
Name: Robert Rosenthal
Title: Authorized Signatory

[SIGNATURE PAGE TO ZONING LOT DEVELOPMENT AGREEMENT]

STATE OF New York)
) ss.:
COUNTY OF New York)

On the 19 day of December, 20__ before me, the undersigned, a Notary Public in and for said State, personally appeared Ron Vaksin, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

BENJAMIN Y. MOVTADY
NOTARY PUBLIC-STATE OF NEW YORK
No. 02MO6269163
Qualified in Nassau County
Commission Expires 9/19/2020

STATE OF _____)
) ss.:
COUNTY OF _____)

On the ____ day of _____, 20__ before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

STATE OF NEW JERSEY)
) ss.:
COUNTY OF BERGEN)

On the 20th day of DECEMBER, 2019 before me, the undersigned, a Notary Public in and for said State, personally appeared CHRISTOPHER J. DURSO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

Anna Lombardo

Notary Public

ANNA LOMBARDO
ID# 2196023
NOTARY PUBLIC
STATE OF NEW JERSEY
My Commission Expires Feb 2, 2022

STATE OF _____)
) ss.:
COUNTY OF _____)

On the ____ day of _____, 20__ before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

_____

Notary Public

STATE OF _____)
) ss.:
COUNTY OF _____)

On the ____ day of _____, 20__ before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

_____

Notary Public

STATE OF New York)
) ss.:
COUNTY OF New York)

On the 23 day of December 2019 before me, the undersigned, a Notary Public in and for said State, personally appeared Robert Rosenthal, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

SULEIKA CANAVERAL
NOTARY PUBLIC STATE OF NEW YORK
QUEENS COUNTY
LIC. #01CA6208665
COMM. EXP. 7/6/2021

12/23/19

Notary Public

SCHEDULE OF EXHIBITS

TO ZONING LOT DEVELOPMENT AND EASEMENT AGREEMENT

Exhibit A	Metes and Bounds Description of the Owner Land
Exhibit B	Metes and Bounds Description of the Developer Land
Exhibit C	Form of Zoning Lot Certification
Exhibit D	Floor Area Development Rights Chart
Exhibit E-1	Metes and Bounds Description of the Airspace Easement Area
Exhibit E-2	Diagram of Airspace Easement Area
Exhibit E-3	Metes and Bounds Description of the Cantilever Easement Area
Exhibit F	Elevation Survey
Exhibit G	Form of New York City Department of Buildings Light and Air Easement
Exhibit H	Parking Lane Letter

ZLDA EXHIBIT A

Metes and Bounds Description of the Owner Land

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the Westerly side of Broadway, distant fifty (50) feet Southerly from the corner formed by the intersection of the Southerly side of 92nd Street and the said Westerly side of Broadway;

Running thence Westerly, parallel with 92nd Street, one hundred (100) feet;

Thence Southerly parallel with Broadway, fifty (50) feet, eight and one-half (8-1/2) inches to the center line of the block;

Thence Westerly along said center line of the block, fifty (50) feet;

Thence Southerly, again parallel with Broadway, fifty-two (52) feet, nine and one-quarter (9-1/4) inches;

Thence Easterly on a line forming an angle on its Northerly side with the last mentioned course of 93 degrees, 51 minutes, 20 seconds, twenty-five (25) feet and three-quarters (3/4) of an inch to a point on said line;

Thence continuing still Easterly on a line forming an angle on its Northerly side with the last mentioned course of 179 degrees, 54 minutes and 30 seconds, twenty-five (25) feet, and three-quarters (3/4) of an inch to a point on a line parallel with the Westerly side of Broadway and distant one hundred (100) feet Westerly there from;

Thence Northerly on a line parallel with Broadway and forming on its Westerly side an angle of 86 degrees, 14 minutes and 10 seconds with the last mentioned course, twelve (12) feet, six and one-quarter (6-1/4) inches;

Thence Easterly on a line which intersects the Westerly side of Broadway at a point distant fifty (50) feet, three and one-quarter (3-1/4) inches northerly as measured along said Westerly side of Broadway from the comer formed by the intersection of the said Westerly side of Broadway and the Northerly side of West 91st Street, one hundred (100) feet, two and three-quarter (2-3/4) inches to its intersection with the said Westerly side of Broadway;

Thence Northerly along the said Westerly side of Broadway, one hundred one (101) feet, one and three- quarter (3/4) inches to the point or place of BEGINNING.

ZLDA EXHIBIT B

Metes and Bounds Description of the Developer Land

All that certain plot piece or parcel of land situate lying and being in the Borough of Manhattan, County, City and State of New York being bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of West 91st Street with the westerly side of Broadway;

RUNNING THENCE northerly along the westerly side of Broadway 50 feet 3 1/4 inches;

THENCE westerly along a line forming an angle of 93 degrees 54 minutes 30 seconds on its southerly side with the westerly side of Broadway a distance of 100 feet 2 3/4 inches;

THENCE southerly parallel with the westerly side of Broadway a distance of 57 feet 1 1/4 inches to the northerly side of West 91st Street;

THENCE easterly along the northerly side of West 91st Street 100 feet to the aforementioned corner, the point or place of Beginning.

ZLDA EXHIBIT C

(Zoning Lot Certification attached on next page)

832094

N.B.#
or
ALT.#

EXHIBIT II

CERTIFICATION PURSUANT TO ZONING LOT
SUBDIVISION D OF SECTION 12-10
OF THE ZONING RESOLUTION OF DECEMBER 15, 1961
OF THE CITY OF NEW YORK- AS AMENDED
EFFECTIVE AUGUST 18, 1977

Kensington Vanguard National Land Services of N.Y., as agent for Stewart Title Insurance Company, a title insurance company authorized to do business in the State of New York and having its principal office at 39 West 3ih Street, New York, New York, 10018, hereby certifies that as to the land hereafter described being a tract of land, either unsubdivided or consisting of two or more lots of record, contiguous for a minimum of ten linear feet, located within a single block, that all the parties in interest constituting a party as defined in Section 12-10, subdivision (d) of the Zoning Resolution of the City of New York, effective December 15, 1961, are the following:

Name & Address	Interest	Declaration or Waiver
UWS AA BSD LLC f/k/a Shuster Broadway LLC c/o Naveh Shuster Co Ltd 3 Hayetzira Street Ramat Gan, Israel 52521	Co-Fee Owner, as Tenant in Common, Lot 110	Declaration simultaneously herewith
AARE Broadway Investors LLC c/o Adam America Real Estate 850 Third Avenue, Suite 13D New York, NY 10022	Co-Fee Owner, as Tenant in Common, Lot 110	Declaration simultaneously herewith
2461 Broadway LLC c/o Hampshire Properties LLC 2329 Nostrand Avenue, Suite 500 Brooklyn, NY 11210	Co-Fee Owner, as Tenant in Common, Lot 110	Declaration simultaneously herewith

A&SMMLLC c/o Adam America Real Estate 850 Third Avenue, Suite 130 New York, NY 10022	Co-Fee Owner, as Tenant in Common, Lot 110	Declaration simultaneously herewith
2461 O&O LLC c/o Adam America Real Estate 850 Third Avenue, Suite 13D New York, NY 10022	Co-Fee Owner, as Tenant in Common, Lot 110	Declaration simultaneously herewith
MSD PCOF Partners X, LLC and MSD RCOF Partners II, LLC c/o MSD Partners, L.P. 645 Fifth Avenue, 21st Floor, New York, NY 10022	Mortgage Holders, Lot 110	Waiver simultaneously herewith
2465 Broadway Associates L.L.C. 265 Cedar Lane Teaneck, NJ 07666	Fee Owner, Lot 52	Declaration simultaneously herewith
Equinox 92nd Street, Inc. 895 Broadway New York, NY 10003	Tenant & Right of First Refusal, Lot 52	Waiver simultaneously herewith

The subject tract of land with respect to which the foregoing parties are the parties in interest as aforesaid is known as Tax Lot Number(s) 110 & 52 in Block No. 1239, as shown on the Tax Map of the City of New York for the Borough of Manhattan and more particularly described as follows:

See Schedule A attached

SCHEDULE A
DESCRIPTION

Lot 52

ALL that certain plot, piece or parcel of land, situate lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the westerly side of Broadway, distant fifty (50) feet southerly from the corner formed by the intersection of the southerly side of 92nd Street and the said westerly side of Broadway;

RUNNING THENCE westerly, parallel with 92nd Street, one hundred (100) feet;

THENCE southerly, parallel with Broadway, fifty (50) feet, eight and one-half (8-1/2) inches to the center line of the block;

THENCE westerly, along said center line of the block, fifty (50) feet;

THENCE southerly, again parallel with Broadway, fifty-two (52) feet, nine and one-quarter (9-1/4) inches;

THENCE easterly on a line forming an angle on its northerly side with the last mentioned course of 93 degrees 51 minutes 20 seconds, twenty-five (25) feet and three-quarters (3/4) of an inch to a point on said line;

THENCE continuing, still easterly on a line forming an angle on its northerly side with the last mentioned course of 179 degrees 54 minutes and 30 seconds, twenty-five (25) feet and three-quarters (3/4) of an inch to a point on a line parallel with the westerly side of Broadway and distant one hundred (100) feet westerly therefrom;

THENCE northerly on a line parallel with Broadway and forming on its westerly side, an angle of 86 degrees 14 minutes and 10 seconds with the last mentioned course, twelve (12) feet, six and one-quarter (6-1/4) inches;

THENCE easterly on a line which intersects the westerly side of Broadway at a point distant fifty (50) feet, three and one-quarter (3-1/4) inches northerly as measured along said westerly side of Broadway from the corner formed by the intersection of the said westerly side of Broadway and the northerly side of West 91st Street, one hundred (100) feet, two and three-quarter (2-3/4) inches to its intersection with the said westerly side of Broadway;

THENCE northerly, along the said westerly side of Broadway, one hundred one (101) feet, one and three-quarter (3/4) inches to the point or place of BEGINNING.

Lot 110

All that certain plot, piece or parcel of land situate, lying and being in the Borough of Manhattan, County, City and State of New York, being bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of West 91st Street with the westerly side of Broadway;

RUNNING THENCE northerly, along the westerly side of Broadway, 50 feet 3-1/4 inches;

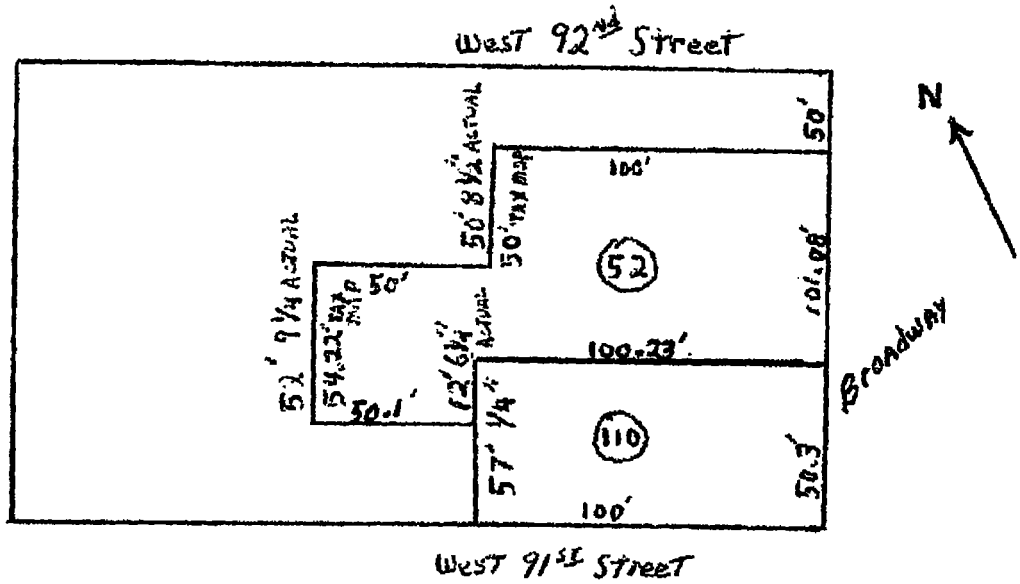
THENCE westerly along a line forming an angle of 93 degrees 54 minutes 30 seconds on its southerly side with the westerly side of Broadway, a distance of 100 feet 2-3/4 inches;

THENCE southerly, parallel with the westerly side of Broadway, a distance of 57 feet 1-1/4 inches to the northerly side of West 91st Street;

THENCE easterly, along the northerly side of West 91st Street, 100 feet to the aforementioned corner, the point or place of Beginning.

That the said premises are known as and by the street address: 2461-2463 & 2465 Broadway, New York, NY, as shown on the following diagram:

Block 1239



NOTE: A Zoning Lot may or may not coincide with a lot as shown on the Official Tax Map of the City of New York or on any recorded subdivision plot or deed. A Zoning Lot may be subdivided into two or more zoning lots provided all the resulting zoning lots and all the buildings thereon shall comply with the applicable provisions of the zoning lot resolution.

THIS CERTIFICATE IS MADE FOR AND ACCEPTED BY THE APPLICANT UPON THE EXPRESS UNDERSTANDING THAT LIABILITY HEREINUNDER IS LIMITED TO THE FEES ACTUALLY PAID HEREUNDER.

IN WITNESS WHERE OF THIS CERTIFICATION IS MADE AS OF THE 31st DAY OF DECEMBER, 2019

Kensington Vanguard National Land Services of N.Y.

By:_____
Laura Carsten, Manager

State of New York)
) ss.:
County of New York)

On the day of January in the year 2020 before me, the undersigned, personally appeared Laura Carsten personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

ZLDA EXHIBIT D

Allocation of Floor Area Development Rights[2]

A. Floor Area Schedule

	Development Site (sf)	Owner Land (sf)[3]	TOTAL (sf)
1. Lot Area	5,368.4	9,764	15,132.4
2. Total Floor Area Development Rights Generated by Lot Area	53,684	97,640	151,324
3. Retained Floor Area Development Rights	53,684	28,675	N/A
4. Excess Floor Area Development Rights	N/A	68,965	N/A
5. Allocation of Floor Area Development Rights After Transfer	122,649	28,675	151,324
6. Pro Rata (%) Allocation of Floor Area Development Rights After Transfer	81.05%	18.95%	100%

B. Maximum Number of Dwelling Units or Rooming Units Permitted on the Owner Land: **zero**

[2] Excluding Bonus Floor Area Development Rights that may be available to the Combined Zoning Lot on the date of this Agreement. This Exhibit D shall be deemed modified to reflect any change in the amount of Floor Area Development Rights in the Combined Zoning Lot at any time, whether such change is the result of the utilization of Bonus Floor Area Development Rights, the acquisition of Additional Floor Area Development Rights, or the enlargement or subdivision of the Combined Zoning Lot, each in accordance with this Agreement, or any Upzoning or Downzoning of the Combined Zoning Lot in accordance with this Agreement.

[3] Includes only the portion of the Owner Land within 100 feet of Broadway (i.e. within the C4-6A zoning district) and does not include the potion of the Owner Land beyond 100 feet of Broadway (i.e. within the R8 zoning district). The Owner shall retain all Floor Area Development Rights appurtenant to the portion of Owner Land within the R8 zoning district.

ZLDA EXHIBIT E-1

Metes and Bounds Description of the Airspace Easement Area

Easterly Portion

ALL that volume of space, situate, lying and being in the Borough of Manhattan, County of New York, City and State of New York, from and above 135.6 feet above Datum Level within the boundaries of the portion of Owner Land described below:

LEGAL DESCRIPTION "A" – EASTERLY PORTION

BEGINNING AT A POINT 50'-3 ¼" NORTH OF THE CORNER FORMED BY THE NORTHERLY SIDE OF WEST 91ST STREET AND THE WESTERLY SIDE OF BROADWAY; THENCE CONTINUING NORTH ALONG SAID WESTERLY SIDE OF BROADWAY, 101'-0 ¾"; THENCE WESTERLY PARALLEL WITH WEST 91ST STREET, 100'-0"; THENCE SOUTHERLY PARALLEL WITH BROADWAY, 94'-2 ¾"; THENCE EASTERLY WITH AN INTERIOR ANGLE OF 93°54'30", 100'-2 ¾" TO THE POINT OF BEGINNING.

Westerly Portion

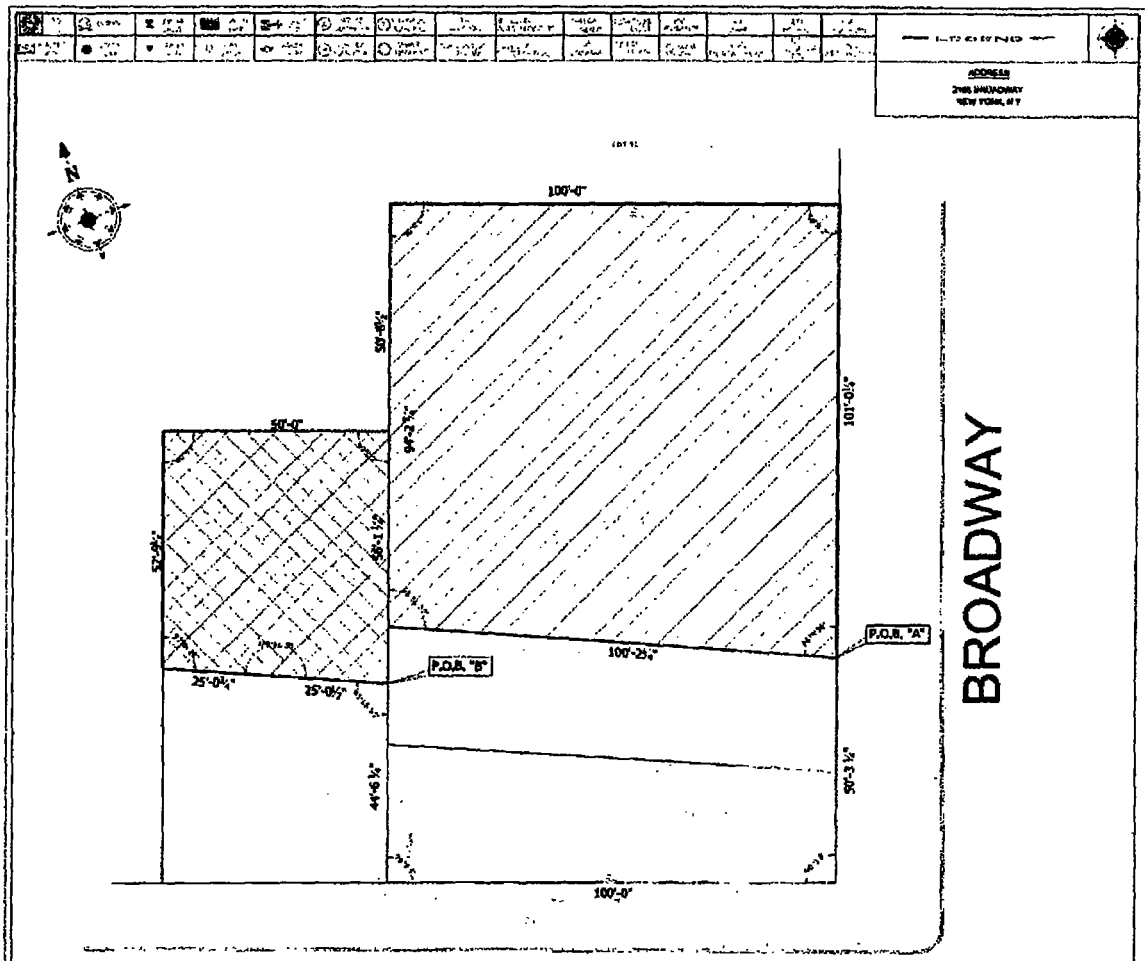
ALL that volume of space, situate, lying and being in the Borough of Manhattan, County of New York, City and State of New York, from and above 115.667 feet above Datum Level within the boundaries of the portion of Owner Land described below:

LEGAL DESCRIPTION "B" - WESTERLY PORTION

BEGINNING AT A POINT THAT IS WEST, 100'-0" AND NORTH 44'-6 ¼" FROM THE INTERSECTION FORMED BY THE NORTH SIDE OF WEST 91ST STREET AND THE WESTERLY SIDE OF BROADWAY; THENCE CONTINUING NORTH 56'-1 ¼"; THENCE WEST PARALLEL TO WEST 91ST STREET, 50'-0"; THENCE SOUTH PARALLEL TO BROADWAY, 52'-9 ¼"; THENCE EAST WITH AN INTERIOR ANGLE OF 93°51'20", 25'-0 ¾" TO A POINT; THENCE CONTINUING EASTERLY WITH AN INTERIOR ANGLE OF 179°54'30", 25'-0 ½" TO THE POINT OF BEGINNING.

ZLDA EXHIBIT E-2

(Survey of Airspace Easement Area attached on the following page)



WEST 91ST STREET

LEGAL DESCRIPTION "A" EASTERLY PORTION

BEGINNING AT A POINT 50'-0 3/4" NORTH OF THE CORNER FORMED BY THE NORTHERLY SIDE OF WEST 91ST STREET AND THE WESTERLY SIDE OF BROADWAY; THENCE CONTINUING NORTH ALONG SAID WESTERLY SIDE OF BROADWAY, 101'-0 3/4"; THENCE WESTERLY PARALLEL WITH WEST 91ST STREET, 100'-0"; THENCE SOUTHERLY PARALLEL WITH BROADWAY, 94'-2 3/4"; THENCE EASTERLY WITH AN INTERIOR ANGLE OF 93°54'30", 100'-2 3/4" TO THE POINT OF BEGINNING.

LEGAL DESCRIPTION "B" WESTERLY PORTION

BEGINNING AT A POINT THAT IS WEST, 100'-0" AND NORTH 44'-6 3/4" FROM THE INTERSECTION FORMED BY THE NORTH SIDE OF WEST 91ST STREET AND THE WESTERLY SIDE OF BROADWAY; THENCE CONTINUING NORTH 58'-1 3/4"; THENCE WEST PARALLEL TO WEST 91ST STREET, 50'-0";THENCE SOUTH PARALLEL TO BROADWAY, 52'-9 3/4"; THENCE EAST WITH AN INTERIOR ANGLE OF 93°51'20", 25'-0 3/4" TO A POINT; THENCE CONTINUING EASTERLY WITH AN INTERIOR ANGLE OF 179°54'30", 25'-0 3/4" TO THE POINT OF BEGINNING.

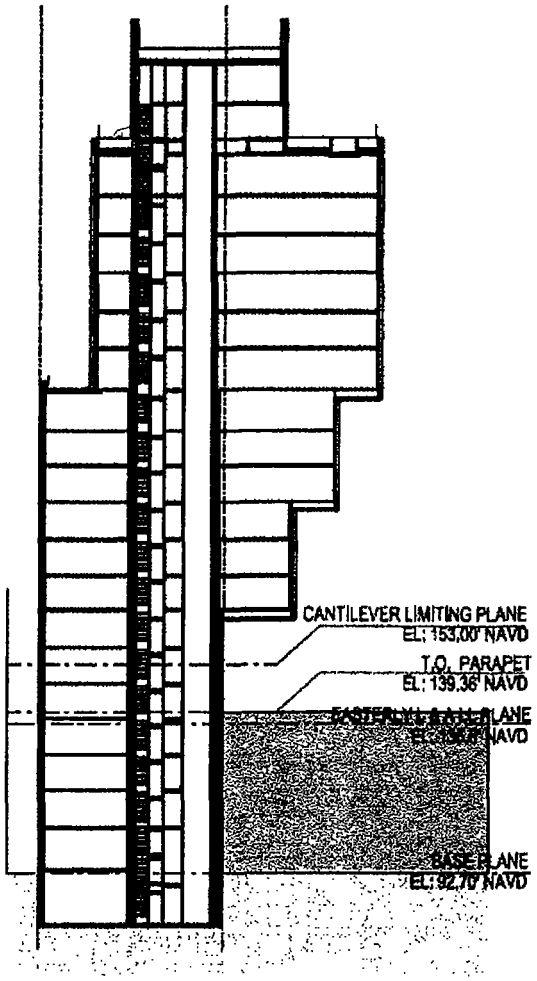
DATE	DESCRIPTION
OCTOBER 19, 2018	LEGAL DESCRIPTIONS

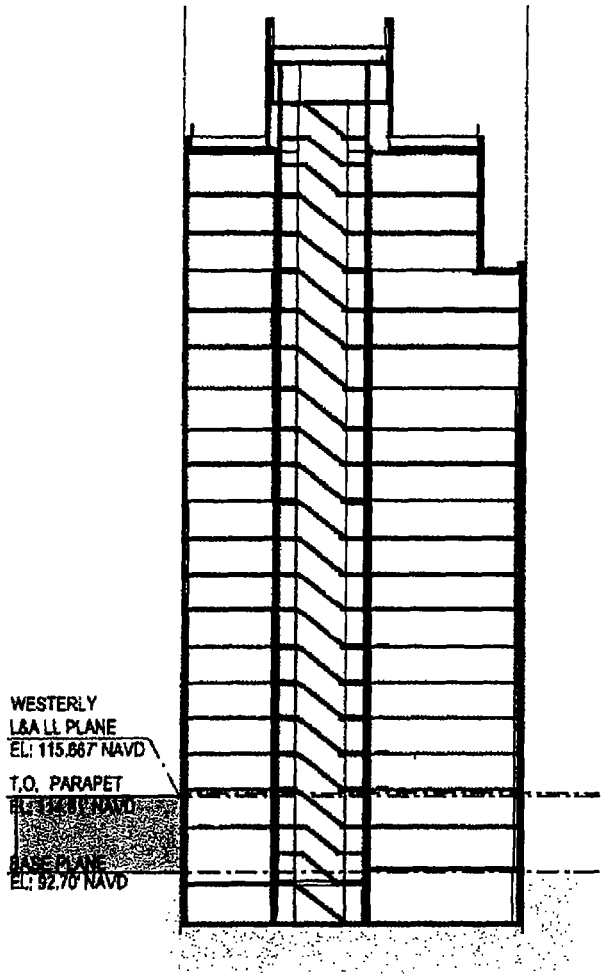
BLOCK 1239
LOT 10 52,110
SECTION 4
COUNTY ..... NEW YORK
DWG BY ..... A.G.
CHKD BY ..... J.A.

NOTE:
Unauthorized alterations or additions to this survey is a violation of section 7209 of the New York State education law. Copies of this survey map not bearing the land surveyor's inked seal or embossed seal shall not be considered to be a valid true copy. Certifications or certifications indicated hereon shall run only to the person for whom the survey is prepared and on his behalf to the title company, governmental agency and lending institution listed hereon, and to the assignees of the lending institution. Certifications are not transferable to additional institutions or subsequent owners.

1) All elevations refer to North American Vertical Datum of 1988 (NAVD 88 Datum)

EMPIRE STATE LAYOUT, INC.


CANTILEVER LIMITING PLANE
EL: 153.00' NAVD
T.O. PARAPET
EL: 139.36' NAVD
BASE PLANE
EL: 92.70' NAVD


WESTERLY
L&A LL PLANE
EL: 115.867' NAVD
T.O. PARAPET
EL: 92.70' NAVD

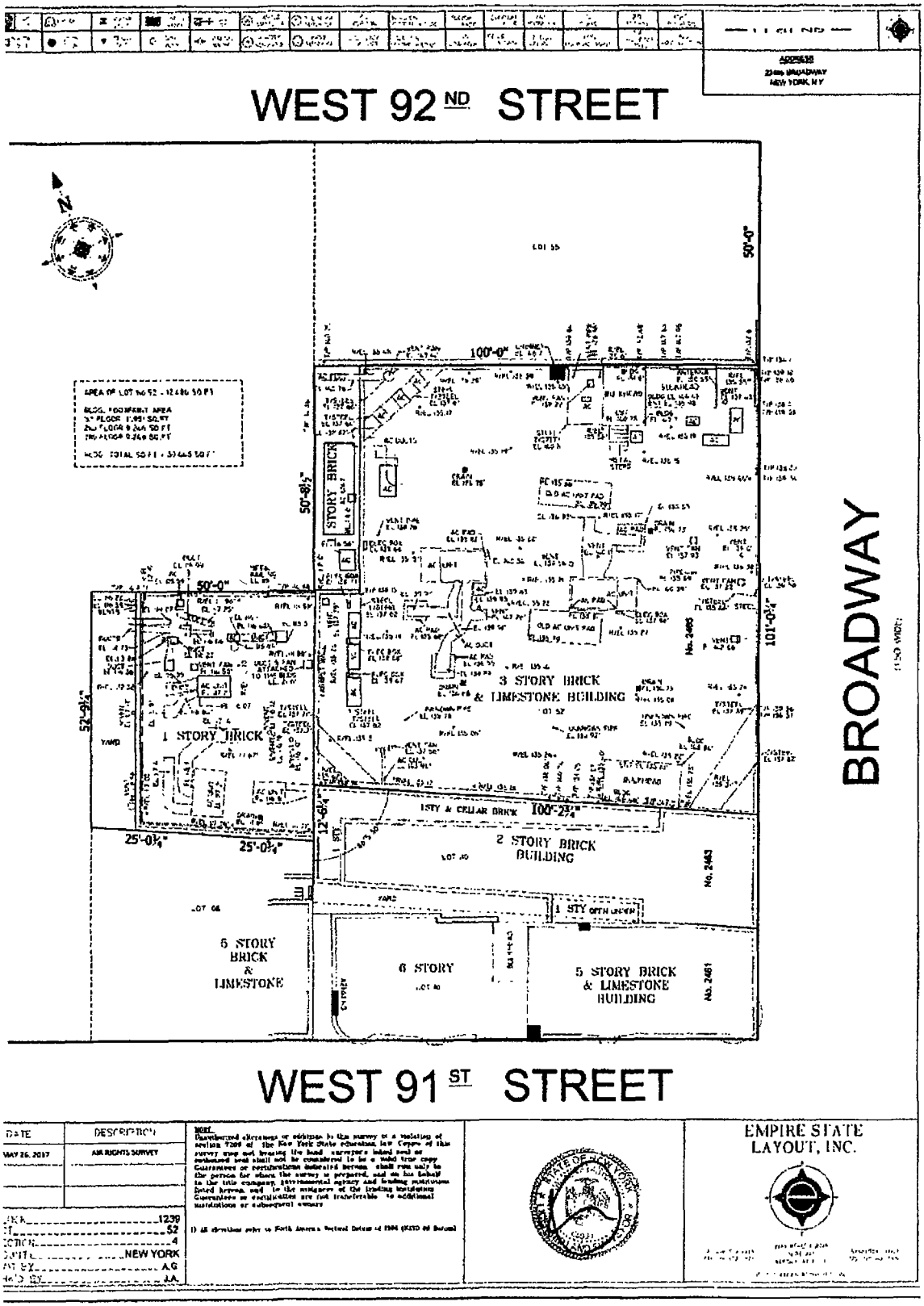
ZLDA EXHIBIT E-3

Metes and Bounds Description of the Cantilevered Easement Area

ALL that volume of space, situate, lying and being in the Borough of Manhattan, County of New York, City and State of New York, from and above the Cantilever Lower Limiting Plane, which is located 153 feet above Datum Level within the boundaries of the Owner Land described in Exhibit A of this Agreement.

ZLDA EXHIBIT F

(Elevation Survey attached on the following page)



080310-011/00150358-13

ZLDA EXHIBIT G[4]

Form of DOB Light and Air Easement

LIGHT AND AIR EASEMENT AGREEMENT[5]

THIS LIGHT AND AIR EASEMENT AGREEMENT (this "Easement Agreement") made as of this _____ day of December, 2019, between _____, hereinafter referred to as the "Grantor," having an office/residing at _____ and _____, hereinafter referred to as the "Grantee," having an office/residing at _____.

WHEREAS, the Grantor is the fee owner of certain land located in the City and State of New York, Borough of _____, designated as Block _____ Lot _____ on the Tax Map of the City of New York, hereinafter referred to as Parcel A and more particularly described by a metes and bounds description set forth in Schedule A annexed hereto and by this reference made a part hereof;

WHEREAS, the Grantee is the fee owner of certain land located in the City and State of New York, Borough of _____, designated as Block _____ Lot _____ on the Tax Map of the City of New York, hereinafter referred to as Parcel B and more particularly described by a metes and bounds description set forth in Schedule B annexed hereto and by this reference made a part hereof;

WHEREAS, there [is an existing] [will be constructed] a ____-story building erected on Parcel B;

WHEREAS, Grantee has requested the New York City Department of Buildings (the "Department of Buildings") to act upon Application No. _____ (the "Application") to [construct a new building] [to alter floors _____ to _____] for [residential] use on Parcel B; and

WHEREAS, the Department of Buildings may approve the Application upon the condition, *inter alia*, that Grantor create an easement for light and air for the benefit of the present and future owners of Parcel B in order to comply with the applicable provisions of

---

[4] **Internal note:** This form is based on Buildings Bulletin 2015-008; always check to ensure that this form is the latest promulgated by the Department of Buildings.

[5] REVISE TO INCORPORATE PERMITTED PROTRUSIONS BY OWNER INTO AIRSPACE PURSUANT TO SECTION II A 2a. of ZLDA.

Sections 27-732 and 27-746 of the 1968 Building Code or Sections BC1203.4 and BC 1205.2 of the 2008 or 2014 Building Code, as applicable.[6]

NOW, THEREFORE, good and valuable consideration having been paid, the Grantor for her/himself/itself, and her/his/its heirs, legal representatives, successors and assigns hereby makes the following grant to Grantee, and her/his/its heirs, legal representatives, successors, and assigns and to any future owner of Parcel B:

1. The right to unrestricted light and air over Parcel A commencing at a height of _____ (___) feet above the North American Vertical Datum of 1988, as set forth in Schedule C annexed hereto and by this reference made a part hereof, such that any construction on Parcel A shall never infringe upon the light and air provided to Parcel B.

2. This Easement Agreement may not be modified, amended or terminated without the prior written consent of the Department of Buildings.

3. The covenants set forth in this Easement Agreement shall run with the land and be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

4. Failure to comply with the terms of this Easement Agreement may result in the revocation of a building permit or certificate of occupancy.

5. This Easement Agreement shall be recorded at the city register's (county clerk's) office against all affected parcels of land and the cross-reference number and title of the Easement Agreement shall be recorded on each temporary and permanent certificate of occupancy hereafter issued to buildings located on the affected parcels and in any deed for the conveyance thereof.

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

[SIGNATURE PAGE FOLLOWS]

[6] This Easement Agreement may be entered into as a means of compliance with the 1968, 2008 or 2014 Building Codes by permitting such codes' light and air requirements to be satisfied on an adjacent tax lot. However, this Easement Agreement cannot be used to permit the required light and air to be satisfied on an adjacent zoning lot in lieu of compliance with the New York City Zoning Resolution or Section 30 of the New York State Multiple Dwelling Law.

IN WITNESS WHEREOF, the parties hereto have made and executed this Easement Agreement as of the date hereinabove written.

GRANTOR

By: _____
Name:
Title:

GRANTEE

By: _____
Name:
Title:

STATE OF _____)
) ss.:
COUNTY OF _____)

On the _____ day of _____, 20__ before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

_____

Notary Public

STATE OF _____)
) ss.:
COUNTY OF _____)

On the _____ day of _____, 20__ before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

_____

Notary Public

SCHEDULE A

Metes and Bounds Description of Parcel A

SCHEDULE B

Metes and Bounds Description of Parcel B

ZLDA EXHIBIT H

Form of Parking Lane Letter

[Owner Letterhead]

_____, 20__

NYC Department of Buildings
NYC Department of Transportation

Re: Construction of _____, [New York], New York
(Block __, Lot __), Manhattan (the "Subject Premises")

To Whom It May Concern:

[Owner], the owner and operator of _____, [New York], New York, hereby authorizes [Developer], its successors and assigns, and their contractors and agents, to utilize the parking lane and traffic lane in front of our property of the same address [insert time frame], for the construction of a building at the Subject Premises. We understand that the parking lane will be up to [eleven (11)] feet in width and that the use of the parking lane at this location will be from _____ 20__ until the completion of the building.

If you require any additional information, please contact me at _____.

Sincerely,

_____
Name:
Title: