MASTER LEASE AGREEMENT BETWEEN
PATRIOTS POINT DEVELOPMENT AUTHORITY
(“LANDLORD”) AND
PATRIOTS ANNEX, LLC (“TENANT”)
DATED AS OF APRIL 8, 2016

NOTICE:
THIS LEASE IS SUBJECT TO ARBITRATION PURSUANT TO THE SOUTH
CAROLINA UNIFORM ARBITRATION ACT, SECTION 15-48-10 ET SEQ. OF THE
CODE OF LAWS OF SOUTH CAROLINA, AS AMENDED FROM TIME TO TIME,
AND THE FEDERAL ARBITRATION ACT (9 U.S.C. §1, ET SEQ.), AS AMENDED
FROM TIME TO TIME.
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STATE OF SOUTH CAROLINA  )  MASTER LEASE AGREEMENT
COUNTY OF CHARLESTON   )

This MASTER LEASE AGREEMENT (herein referred to as the “Lease”), is made as of the 8th day of April, 2016 (herein the “Effective Date”) by and between PATRIOTS POINT DEVELOPMENT AUTHORITY, a public body corporate and agency of the State of South Carolina, (hereinafter referred to as “Landlord”), and PATRIOTS ANNEX, LLC, a South Carolina limited liability company, (hereinafter referred to as “Tenant”).

1. RECITALS.

1.1. Landlord holds title to and administers the use and operation of the lands and public facilities known as Patriots Point, in the Town of Mt. Pleasant, Charleston County, South Carolina, which lands include parcels subject to long-term leases to private developers and owners and which facilities include Patriots Point Naval and Maritime Museum, its historic ships, other museum artifacts, and other recreational and educational facilities for public use and enjoyment; and

1.2. Tenant desires to develop a mixed use project and related amenities and ancillary facilities at Patriots Point to provide a diversified offering of land uses to potential customers, and Landlord desires to enhance overall visitor traffic and thus revenue to the Patriots Point attractions (including the Yorktown and educational programs) and to increase the lease value of Patriots Point’s other developable and developed property to existing and potential developers of property at Patriots Point; and

1.3. Landlord is empowered by statute to lease the Premises to Tenant for the development of commercial facilities including, but not limited to, hotels, conference centers, restaurants, retail space, office space, apartments, and other uses appropriate under the terms of this Lease; and

1.4. Landlord has determined that Landlord’s long term interests are best served by leasing lands and sites to private enterprise for development purposes, and has determined that the proposal tendered by Tenant is advantageous and beneficial and in the public interest; and
1.5. Landlord and Tenant recognize that in order for Tenant to finance the
development of the Premises (defined below) and for Landlord to have sufficient
security that the Tenant Principal Member (defined below) will Control (defined
below) the Tenant having ultimate responsibility as provided herein for the
development of the Premises, (i) as of the Commencement Date the Tenant
Principal Member and/or his Family Members own at least seventy percent (70%)
of and shall Control the Tenant, (ii) such ownership and Control of Tenant shall
not be transferred except as expressly permitted under the terms of this Lease
subject to Landlord Approval as applicable, and (iii) upon the Premises being
divided into Subparcels (defined below), each such Subparcel shall either (a) be
assigned to a Subparcel Tenant (defined below) and be governed by a Subparcel
Lease (as defined in Section 6.4.3.1) between Landlord and such Subparcel
Tenant, which Subparcel Tenant shall be a Tenant Principal Member-Controlled
Affiliate or other permitted Subparcel Tenant as provided herein, or (b) be
subleased by Tenant pursuant to a Subparcel Sublease (as defined in Section
6.4.3.2); and

1.6. Landlord desires that rent for the Premises generally be the greater of Percentage
Rent or Fair Market Rent in a given Lease Year, subject to the terms more
specifically set forth herein.

1.7. Landlord and Tenant intend that the structure and approach of the mechanics of
this Lease be designed to facilitate the financing of the development of the
Premises by allowing multiple partial assignments of the Lease thereby
accomplishing the subdivision of the Premises into Subparcels and the division of
this Lease into multiple Subparcel Leases with the only material difference in
each Subparcel Lease being the Subparcel to which the Lease applies, so that the
division of this Lease into such multiple Subparcel Leases does not constitute an
amendment to this Lease or the creation of a new lease and does not require
subsequent further approval by either the Joint Bond Review Committee or the
State Fiscal Accountability Authority because by approving this Lease, the Joint
Bond Review Committee and the State Fiscal Accountability Authority will have
approved the Subparcel Lease for each of the Subparcels; and

1.8. Landlord and Tenant further recognize that the length of this Lease will
necessitate that Tenant refresh, renovate, and/or tear down and reconstruct
improvements during the Term to ensure that visitors, residents, and patrons
experience high quality facilities on the Premises and that Landlord and Tenant
will need to cooperate to ensure that such renovation and reconstruction can be
accomplished efficiently and with minimal loss of revenue; and

1.9. Landlord and Tenant further recognize that the length of this Lease will likely
necessitate that Tenant alter the uses of portions of the Premises and/or of
Subparcels during the Term due to economic and market factors and that
Landlord and Tenant will need to cooperate to ensure that the Premises are permitted for the highest and best use allowed by this Lease; and

1.10. Landlord and Tenant recognize that Landlord's interest as a landlord under this Lease is different from a landlord's interest in a traditional ground lease in that Landlord operates and will operate the Patriots Point Naval and Maritime Museum on land adjacent to the Premises. Landlord and Tenant hope that each of their customers will become the other's customer. The ability of Tenant and any applicable subtenant that is constructing improvements on the Premises to fund completion of and to fund the operation of such improvements is critical to the success of the Lease. Landlord is entering this Lease with Tenant in part because the Tenant Principal Member and Tenant have the character, reputation, knowledge, expertise, experience, and financial strength to develop and operate the improvements included in the Proposed Conceptual Master Plan, and Landlord's interests are served by Landlord having the right to conduct due diligence with respect to any prospective Transferee's and any proposed successor Tenant Principal Member's character, reputation, knowledge, experience, expertise and financial strength according to the provisions set forth herein.

NOW, THEREFORE, in consideration of the terms and conditions of the within Lease, and the promises and covenants herein contained, and further, in consideration of the sum of Five and no/100 Dollars ($5.00) and other valuable consideration paid by Tenant, the receipt and sufficiency of which are hereby acknowledged, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, upon and subject to the terms, conditions and provisions of this Lease, the Premises hereinafter described, together with all improvements, appurtenances, rights, privileges and easements benefitting, belonging or pertaining thereto, for the term and upon the conditions of this Lease as hereinafter provided.

2. BASIC LEASE PROVISIONS. Each reference in this Lease to this Section 2 or any portion hereof shall mean and refer to the following terms, the application of which shall be governed by the provisions in the remaining Sections of this Lease:

2.1. Landlord: Patriots Point Development Authority

2.2. Landlord's Mailing Address: 40 Patriots Point Road
Mt. Pleasant, South Carolina 29464

2.3. Landlord's Facsimile Number: 843-881-4232

2.4. Rent Payment Address: Attn: Chief Financial Officer
40 Patriots Point Road
Mt. Pleasant, South Carolina 29464

2.5. Tenant: Patriots Annex, LLC
2.6. Tenant’s Mailing Address: Attn: Michael R. Bennett
17 Lockwood Drive
Rice Mill Building, Suite 400
Charleston, SC 29401

2.7. Tenant’s Facsimile Number: 843-577-2061

2.8. Tenant Principal Member: Michael R. Bennett

2.9. Premises Address: Patriots Point Road

2.10. Premises Acreage: Approximately 61.75 acres

2.11. Exhibits:

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3. DEFINITIONS. Defined terms may be set forth in bold type for ease of reference and no special purpose or meaning shall be construed from this practice unless specifically stated in conjunction therewith.

3.1. “AAA Rules” has the meaning set forth in Section 23.6.

3.2. “Additional Rent” means all sums to be paid to Landlord hereunder by or on behalf of Tenant not otherwise included in Minimum Rent or Percentage Rent and has the meaning set forth in Section 9.5 and in Section 38.17.

3.3. “Adequate Assurance” has the meaning set forth in Section 22.9.5.

3.4. “Affiliate” means, with respect to any Person, any other Person directly or indirectly Controlling or Controlled by or under direct or indirect common Control with such Person.

3.5. “Ancillary Uses” has the meaning set forth in Section 6.1.2.

3.6. “Appraisal Areas” has the meaning set forth in Section 9.2.3.1.
3.7. "Approval Without Recourse" has the meaning set forth in Section 8.1.4.

3.8. "Approved Assignee" shall mean a Person for which Tenant has requested and obtained Landlord Approval as a Transferee.

3.9. "Assignment" has the meaning set forth in Section 22.10.2.1 and in Section 22.10.2.2.

3.10. "Assignment Consideration" has the meaning set forth in Section 22.10.2.3.

3.11. "Assignor" has the meaning set forth in Section 22.10.1.

3.12. "Assignee" has the meaning set forth in Section 22.10.1.

3.13. "Association" has the meaning set forth in Section 6.4.4.

3.14. "ATM Lease" has the meaning set forth in Section 6.5.12.

3.15. "Bankruptcy Sale" has the meaning set forth in Section 35.8.

3.16. "Base Period CPI" has the meaning set forth in Section 9.2.5.

3.17. "Business Days" has the meaning set forth in Section 26.2.

3.18. "CERCLA" has the meaning set forth in Section 7.6.8.1.


3.20. "Combined Improvements Cost" has the meaning set forth in Section 9.3.2.

3.21. "Commence Construction" or to have "Commenced Construction" has the meaning set forth in Section 8.2.2.2.

3.22. "Commencement of Construction" has the meaning set forth in Section 8.2.2.1.

3.23. "Common Areas" has the meaning set forth in Section 6.4.2.

3.24. "Conceptual Master Plan" has the meaning set forth in Section 6.2.1.3.

3.25. "Conditions Precedent" has the meaning set forth in Section 5.1.3.

3.26. "Conservation Easement" has the meaning set forth in Section 6.2.2.

3.27. "Constructions Plans" has the meaning set forth in Section 8.1.1.

3.28. "Continuous Operation Default" has the meaning set forth in Section 7.3.2.
3.29. "Continuous Operation Default Date" has the meaning set forth in Section 23.4.3.1.

3.30. "Continuous Operation Default Rent" has the meaning set forth in Section 23.4.3.1.

3.31. "Continuous Work" has the meaning set forth in Section 8.2.2.3.

3.32. "Control" or "Controlled" means with respect to any legal entity, the direct or indirect ownership of more than fifty percent (50%) of all the voting rights in the entity (or if the entity is not controlled by voting securities, the power under the applicable organizational documents to direct or cause the direction of management, policies and activities of such entity), regardless of whether the legal entity in question is a corporation or other legal entity.

3.33. "CPI" has the meaning set forth in Section 9.2.5.

3.34. "Current Landlord Facility Sub parcels" or a "Current Landlord Facility Sub parcel" has the meaning set forth in Section 6.5.4.

3.35. "Current Landlord Landside Activities" has the meaning set forth in Section 6.5.1.

3.36. "Current Personnel Lot" has the meaning set forth in Section 6.5.11.1.

3.37. "Current Parking Lots" has the meaning set forth in Section 6.5.11.1.

3.38. "Current Personnel Parking Landlord Facility Subparcel" has the meaning set forth in Section 6.5.4.3.

3.39. "Current Pier Landlord Facility Subparcel" has the meaning set forth in Section 6.5.4.2.

3.40. "Current Primary Landlord Facility Subparcel" has the meaning set forth in Section 6.5.4.1.

3.41. "Current Primary Landlord Facility Vacancy Deadline" has the meaning set forth in Section 6.5.7.3.

3.42. "Current Storage and Maintenance Landlord Facility Subparcel" has the meaning set forth in Section 6.5.4.4.

3.43. "Current Vietnam Landlord Facility Subparcel" has the meaning set forth in Section 6.5.4.5.

3.44. "Current Visitor Lot" has the meaning set forth in Section 6.5.11.1.
3.45. "Current Period CPI" has the meaning set forth in Section 9.2.5.
3.46. "Current Survey" has the meaning set forth in Section 4.1.
3.47. "Defaulting Party" has the meaning set forth in Section 23.4.1.1.
3.48. "Development Agreement" has the meaning set forth in Section 5.1.2.2.
3.49. "Development Agreement Act" has the meaning set forth in Section 5.1.2.2.
3.50. "Development Area" has the meaning set forth in Section 9.3.2.
3.51. "Development Plan" has the meaning set forth in Section 6.3.
3.52. "DNR" has the meaning set forth in Section 6.2.2.
3.53. "Environmental Laws" has the meaning set forth in Section 7.6.1.
3.54. "Equity Interest" means all or any part of any direct or indirect ownership interest(s) in any Person at any tier of ownership in a Person, including without limitation all or any part of any direct or indirect ownership interest(s) that directly or indirectly own(s) or hold(s) any ownership interest in a Person; with "ownership interest" including without limitation any voting or non-voting, preferred or common, stock, partnership interest, limited partnership interest, limited liability partnership interest, limited liability limited partnership interest, beneficial interest in a trust, membership interest, or other interest of an ownership nature.
3.55. "Equity Interest Transfer" has the meaning set forth in Section 22.1.2.
3.56. "Equity Interest Transferee" has the meaning set forth in Section 22.1.2.
3.57. "Estimated Monthly Minimum Rent" has the meaning set forth in Section 9.1.2.4.
3.58. "Estimated Monthly Percentage Rent" has the meaning set forth in Section 9.1.2.3.
3.59. "Existing Parcel 2 Parking Lot" has the meaning set forth in Section 6.2.2.
3.60. "FAA" has the meaning set forth in Section 23.6.
3.61. "Fair Market Rent" has the meaning set forth in Section 9.2.2.
3.62. "Family Member" means (a) any child (including adopted or stepchild), descendant (including adopted and step children of children or other descendants),
or spouse of an individual; (b) spouse of anyone in clause "a"; or (c) any trust for
the benefit of one or more natural persons described in clause "a" or "b."

3.63. "Fee Estate" has the meaning set forth in Section 30.2.1.

3.64. "Fee Mortgage" has the meaning set forth in Section 30.2.1.

3.65. "Fee Mortgagee" has the meaning set forth in Section 35.5.

3.66. "Final Decision" has the meaning set forth in Section 23.6.

3.67. "Force Majeure" has the meaning set forth in Section 38.19.

3.68. "Foreclosure Remedies" has the meaning set forth in Section 35.3.1.4.

3.69. "Form Subparcel Lease" has the meaning set forth in Section 6.4.3.1.

3.70. "Fort Sumter Agreement" has the meaning set forth in Section 6.5.13.1.

3.71. "Fort Sumter Docking Facilities" has the meaning set forth in Section 6.5.8.1.

3.72. "Government Lists" means (i) the Specially Designated Nationals and Blocked
Persons Lists maintained by OFAC, (ii) any other list of terrorists, terrorist
organizations or narcotics traffickers maintained pursuant to any of the rules and
regulations of OFAC, or (iii) any similar lists maintained by the United States
Department of State, the United States Department of Commerce or any other
governmental authority or pursuant to any Executive Order of the President of the
United States of America.

3.73. "Gross Rentals" has the meaning set forth in Section 9.3.4.

3.74. "Gross Sales" has the meaning set forth in Section 9.3.4.

3.75. "Ground Sublease" has the meaning set forth in Section 9.3.2.

3.76. "Ground Sublessee" has the meaning set forth in Section 9.3.2.

3.77. "Ground Sublessor" has the meaning set forth in Section 9.3.2.

3.78. "Hazardous Material" has the meaning set forth in Section 7.6.8.

3.79. "Imputed Operational Rent" has the meaning set forth in Section 8.6.2.

3.80. "Index Point Change" has the meaning set forth in Section 9.2.5.

3.81. "Inspection Period" has the meaning set forth in Section 4.2.
3.82. "Landlord" means PATRIOTS POINT DEVELOPMENT AUTHORITY, a public body corporate and agency of the State of South Carolina and further has the meaning set forth in Section 30.1.

3.83. "Landlord Administrator" means Landlord’s executive director and such other Persons to whom authority to act on behalf of Landlord for purposes of this Lease is delegated by Landlord’s Board from time to time.

3.84. "Landlord’s Approval" or "Landlord Approval" has the meaning set forth in Section 39.

3.85. "Landlord Artifact(s)" has the meaning set forth in Section 4.5.

3.86. "Landlord Facility Subparcels" or a "Landlord Facility Subparcel" has the meaning set forth in Section 6.5.5.

3.87. "Landlord Parking Garage" has the meaning set forth in Section 6.5.11.6.

3.88. "Landlord’s Response" has the meaning set forth in Section 35.7.5.2.

3.89. "Landlord Storage and Maintenance Facilities" has the meaning set forth in Section 6.5.10.

3.90. "Lease" means this lease as of the date of the complete execution thereof, as amended from time to time in compliance with this Lease and applicable law.

3.91. "Lease Commencement Date" has the meaning set forth in Section 5.3.1.

3.92. "Lease Termination Notice" has the meaning set forth in Section 35.10.1.

3.93. "Lease Year" has the meaning set forth in Section 5.3.3.

3.94. "Leasehold Estate" means the leasehold estate herein given to Tenant by this Lease in the Premises, all improvements to the Premises existing on the Lease Commencement Date and all improvements to the Premises after the Lease Commencement Date and prior to the end of the Term; provided, however, as between Landlord and Tenant, Tenant owns the improvements during the Term.

3.95. "Leasehold Estate Transfer" has the meaning set forth in Section 22.1.1.

3.96. "Leasehold Estate Transferee" has the meaning set forth in Section 22.1.1.

3.97. "Leasehold Mortgage" has the meaning set forth in Section 35.1.

3.98. "Leasehold Security Impairment" has the meaning set forth in Section 35.5.

3.99. "Leasing Gap" has the meaning set forth in Section 35.10.2.
3.100. "Legal Holiday" has the meaning set forth in Section 26.2.

3.101. "Lender" has the meaning set forth in Section 35.1.

3.102. "Lender's Designee" means an Affiliate of Lender.

3.103. "Lender's New Lease Option Notice" has the meaning set forth in Section 35.10.1.

3.104. "Lender Transfer Deliveries" has the meaning set forth in Section 35.4.1.

3.105. "Lender Transfer Notice" has the meaning set forth in Section 35.4.1.

3.106. "Loan" has the meaning set forth in Section 35.1.

3.107. "Loan Principal Balance" has the meaning set forth in Section 23.4.3.3.

3.108. "LWCF Agreement" has the meaning set forth in Section 6.2.2.

3.109. "LWCF Rent Adjustment Date" has the meaning set forth in Section 9.2.3.6.

3.110. "LWCF Restriction Removal Date" has the meaning set forth in Section 9.2.3.6.

3.111. "LWCF Rezoning Period" has the meaning set forth in Section 9.2.3.6.

3.112. "Master Declaration" has the meaning set forth in Section 6.4.4.

3.113. "Master Plan" has the meaning set forth in Section 6.3.

3.114. "Material" or "Materially" may connote either a non-monetary concept or a monetary concept; in the case of a non-monetary concept the meaning shall be derived from the context; and in the case of a monetary concept means in each instance an amount that exceeds the lesser of (a) ten percent (10%) of the entire value or cost, as applicable, of the whole to which a specific item may be Material, or (b) One Hundred Thousand and No/100 Dollars ($100,000.00), as adjusted by the percentage increase in CPI since the Lease Commencement Date.

3.115. "Minimum Development Requirements" has the meaning set forth in Section 8.10.1.


3.117. "Monetary Default" has the meaning set forth in Section 35.3.1.1.

3.118. "Monthly Rent" has the meaning set forth in Section 9.1.2.
3.119. "New Landlord Facilities" has the meaning set forth in Section 6.5.6.4.

3.120. "New Landlord Facility Subparcel" has the meaning set forth in Section 6.5.6.1.

3.121. "New Landlord Landside Activities" has the meaning set forth in Section 6.5.6.1.

3.122. "New Lease" has the meaning set forth in Section 35.3.1.4.

3.123. "New Lease Option Period" has the meaning set forth in Section 35.10.1.

3.124. "New Personnel Parking Landlord Facility" has the meaning set forth in Section 6.5.6.4.

3.125. "New Personnel Parking Landlord Facility Subparcel" has the meaning set forth in Section 6.5.6.2.2.

3.126. "New Pier Landlord Facility" has the meaning set forth in Section 6.5.6.4.

3.127. "New Pier Landlord Facility Subparcel" has the meaning set forth in Section 6.5.6.2.4.

3.128. "New Primary Landlord Facility" has the meaning set forth in Section 6.5.6.4.

3.129. "New Primary Landlord Facility Aggregate Cost" has the meaning set forth in Section 6.5.7.2.

3.130. "New Primary Landlord Facility Subparcel" has the meaning set forth in Section 6.5.6.2.1.

3.131. "New Primary Landlord Facility Subparcel Sublease" has the meaning set forth in Section 6.5.7.2.

3.132. "New Storage and Maintenance Landlord Facility Subparcel" has the meaning set forth in Section 6.5.6.2.3.

3.133. "New Tenant" has the meaning set forth in Section 35.10.1.

3.134. "New Vietnam Landlord Facility Subparcel" has the meaning set forth in Section 6.5.6.2.5.

3.135. "Non-Defaulting Party" has the meaning set forth in Section 23.4.1.1.

3.136. "Non-Disputed Post-Rejection Offset Amount" has the meaning set forth in Section 35.7.5.2.
3.137. “Non-Monetary Default” has the meaning set forth in Section 35.3.1.1.

3.138. “Notice Date” has the meaning set forth in Section 9.2.3.1.

3.139. “Notice of Appeal” has the meaning set forth in Section 23.6.

3.140. “Notice of Commencement” has the meaning set forth in Section 6.5.11.6.

3.141. “Notice of Tenant’s Failure to Cure” has the meaning set forth in Section 35.3.1.

3.142. “OFAC” means the U.S. Department of the Treasury’s Office of Foreign Assets Control.


3.144. “Off-Premises Credit” has the meaning set forth in Section 14.2.

3.145. “Off-Premises Payments” has the meaning set forth in Section 14.2.

3.146. “Operational Property” has the meaning set forth in Section 8.6.2.

3.147. “Operational Rent” has the meaning set forth in Section 8.6.2.

3.148. “Ordinary Course Space Leases” has the meaning set forth in Section 22.2.4.

3.149. “OSHA” has the meaning set forth in Section 32.

3.150. “Parcel 1” has the meaning set forth in Section 4.1.

3.151. “Parcel 3B” has the meaning set forth in Section 4.1.

3.152. “Patriot Act” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, as the same may be amended from time to time, and corresponding provisions of future laws.

3.153. “Patriot Act Offense” means any violation of the criminal laws of the United States of America or of any of the several states, or that would be a criminal violation if committed within the jurisdiction of the United States of America or
any of the several states, relating to terrorism or the laundering of monetary
instruments, including any offense under (a) the criminal laws against terrorism;
(b) the criminal laws against money laundering, (c) the Bank Secrecy Act, as
amended, (d) the Money Laundering Control Act of 1986, as amended, or (e) the
Patriot Act (as defined herein). "Patriot Act Offense" also includes the crimes of
conspiracy to commit, or aiding and abetting another to commit, a Patriot Act
Offense.

3.154. "Patriots Point Marks" has the meaning set forth in Section 7.4.1.2.
3.155. "PCB's" has the meaning set forth in Section 7.6.8.7.
3.156. "PD/PUD Zoning Ordinance" has the meaning set forth in Section 5.1.2.1.
3.157. "Percentage Rent" has the meaning set forth in Section 9.3.1.
3.158. "Percent Change in CPI" has the meaning set forth in Section 9.2.5.
3.159. "Permitted Equity Interest Transfer" has the meaning set forth in Section 22.3.
3.160. "Permitted Equity Interest Transferee" has the meaning set forth in Section
22.3.
3.161. "Permitted Leasehold Estate Transfer" has the meaning set forth in Section
22.2.
3.162. "Permitted Leasehold Estate Transferee" has the meaning set forth in Section
22.2.
3.163. "Permitted Occupants" has the meaning set forth in Section 22.1.1.
3.164. "Permitted Pier Landlord Facilities" has the meaning set forth in Section
6.5.8.4.
3.165. "Permitted Uses" has the meaning set forth in Section 7.1.1.
3.166. "Person" means any association, corporation, government, governmental entity,
individual, joint venture, joint-stock company, limited liability company,
partnership, limited partnership, limited liability limited partnership, limited
liability partnership, trust, unincorporated organization, or other entity of any
kind.
3.167. "Pier" means the existing pier leading from the high land of Parcel 1 to the USS
Yorktown aircraft carrier, as such pier may be expanded or replaced from time to
time as provided herein.
3.168. "Pier Boardwalk" has the meaning set forth in Section 6.5.8.2.

3.169. "PILOT Agreement" has the meaning set forth in Section 5.1.2.3.

3.170. "Post-Foreclosure Tenant" has the meaning set forth in Section 35.3.1.7.

3.171. "Post-Rejection Offset Amount" has the meaning set forth in Section 35.7.3.

3.172. "Post-Rejection Offset Notice" has the meaning set forth in Section 35.7.5.2.

3.173. "Pre-Existing Hazardous Material" has the meaning set forth in Section 7.6.2.

3.174. "Premises" has the meaning set forth in Section 4.1.

3.175. "Prohibited Person" means any Person that, when such Person first acquires an interest in the Premises or any portion thereof: (a) is a Person who has been determined by competent authority to be subject to the prohibitions contained in Presidential Executive Order No. 13224 (Sept. 23, 2001) or any other similar prohibitions contained in the rules and regulations of OFAC or in any enabling legislation or other similar Presidential Executive Orders in respect thereof, (b) has been previously convicted of any felony involving a crime or crimes of moral turpitude, or for any Patriot Act Offense, or for any violation of OFAC Laws, (c) is currently under investigation by any governmental authority for alleged criminal activity, (d) is listed on any Government Lists; or (e) is a foreign government or foreign governmental entity unless such foreign government or foreign governmental entity has been approved by Landlord.

3.176. "Proof of Financial Capability" has the meaning set forth in Section 8.3.

3.177. "Proposed Conceptual Master Plan" has the meaning set forth in Section 6.2.1.1.

3.178. "Publicly-Traded Entity" means an entity whose stock, partnership, membership, or other ownership interests have been registered with the United States Securities and Exchange Commission and are traded over-the-counter, through the National Association of Securities Dealers (or its successor) or through a nationally recognized securities exchange such as, but not limited to the New York Stock Exchange or the American Stock Exchange or any successor to either of them.

3.179. "Public Visitor Parking" has the meaning set forth in Section 6.5.11.3.

3.180. "RCRA" has the meaning set forth in Section 7.6.8.2.

3.181. "Recapture Payment" has the meaning set forth in Section 23.4.3.3.
3.182. "Rent" means Additional Rent, Minimum Rent, and Percentage Rent.

3.183. "Restricted Parcel 1" has the meaning set forth in Section 6.2.2.

3.184. "Restricted Parcel 2" has the meaning set forth in Section 6.2.2.

3.185. "Restricted Parcel Restriction Removal Date" has the meaning set forth in Section 9.2.3.5.

3.186. "Restricted Parcel Rezoning Period" has the meaning set forth in Section 9.2.3.5.

3.187. "Restricted Parcels" has the meaning set forth in Section 6.2.2.

3.188. "SCUAA" has the meaning set forth in Section 23.6.

3.189. "Southcoast" has the meaning set forth in Section 6.5.12.

3.190. "State Fiscal Accountability Authority" means (a) the South Carolina State Fiscal Accountability Authority, and (b) as and when required by law, the South Carolina Joint Bond Review Committee.

3.191. "Sublessee Improvements Cost" has the meaning set forth in Section 9.3.2.

3.192. "Subparcels" or a "Subparcel" has the meaning set forth in Section 6.4.2.

3.193. "Subparcel Lease" has the meaning set forth in Section 6.4.3.1.

3.194. "Subparcel Sublease" has the meaning set forth in Section 6.4.3.2.

3.195. "Subparcel Tenant" has the meaning set forth in Section 6.4.1.2.

3.196. "Substantial Damage" has the meaning set forth in Section 17.1.2.

3.197. "Temporary Parking Lot" has the meaning set forth in Section 6.5.11.2.

3.198. "Tenant" means Patriots Annex, LLC, a South Carolina limited liability company, its successors and assigns, and further has the meaning set forth in Section 35.3.1.3.

3.199. "Tenant Affiliate" means (i) any estate, trust, guardianship, conservatorship, custodianship or other fiduciary arrangement for the benefit of any member, shareholder, partner, officer, or principal of Tenant or the family members of any of the foregoing; (ii) any corporation, partnership, limited partnership, limited liability partnership, limited liability limited partnership, limited liability company or other business organization which Controls, is Controlled by, or is under common Control with Tenant, any member, shareholder, partner, officer, or
principal of Tenant or the family members of any of the foregoing, or one or more
of the entities described in (i) above; or (iii) any corporation, partnership, limited
partnership, limited liability partnership, limited liability limited partnership,
limited liability company or other business organization in which Tenant or any
member, shareholder, partner, officer, or principal of Tenant or the family
members of any of the foregoing, or one or more of the entities described in (i) or
(ii) above, has a financial interest of at least thirty percent (30%). Any Tenant
Principal Member-Controlled Affiliate shall be deemed a Tenant Affiliate.

3.200. "Tenant Principal Member-Controlled Affiliate" means any corporation,
partnership, limited partnership, limited liability partnership, limited liability
limited partnership, limited liability company or other business organization (i)
which is Controlled by the Tenant Principal Member, and (ii) at least ten percent
(10%) of which is owned directly or indirectly by (a) the Tenant Principal
Member, (b) the Family Members of the Tenant Principal Member, and/or (c) any
trust for the benefit of the Tenant Principal Member and/or the Family Members
of the Tenant Principal Member.

3.201. "Tenant Marks" has the meaning set forth in Section 7.4.2.1.

3.202. "Tenant Mark Licensor" has the meaning set forth in Section 7.4.2.1.

3.203. "Tenant Mark Sublicensee" has the meaning set forth in Section 7.4.2.1.

3.204. "Tenant Principal Member" is the Person who Controls Tenant and owns at
least ten percent (10%) of Tenant and initially is the Person named in Section 2.8.
Following a Permitted Leasehold Estate Transfer, Permitted Equity Interest
Transfer, or other Transfer for which Tenant has obtained Landlord Approval, the
Tenant Principal Member shall thereafter be the Person who Controls Tenant and
owns at least ten percent (10%) of Tenant following such Transfer, which Person
shall be identified in the documents consummating the Transfer.

3.205. "Tenant-Specific Default" has the meaning set forth in Section 35.3.1.2.

3.206. "Term" has the meaning set forth in Section 5.3.1.

3.207. "Term Commencement Date" has the meaning set forth in Section 5.3.1.

3.208. "Transfer(s)" has the meaning set forth in Section 22.1.3.

3.209. "Transferee(s)" has the meaning set forth in Section 22.1.3.


3.211. "Trustee" has the meaning set forth in Section 22.9.
3.212. “Vietnam Support Base” has the meaning set forth in Section 6.5.9.

4. PROPERTY LEASED

4.1. Landlord hereby leases to Tenant, and Tenant leases from Landlord, the Premises, consisting of approximately 61.75 acres of land as hereinafter described in Exhibit A attached hereto, together with existing improvements thereon as of the Lease Commencement Date and such other the improvements thereon from time to time after the Lease Commencement Date and during the Term (the “Premises”); provided, however, as between Landlord and Tenant, Tenant owns the improvements during the Term. A copy of a current draft survey of the Premises and preliminary illustration of the Current Landlord Facility Subparcels is attached hereto as Exhibit A-1 (the “Current Survey”), which draft survey will be replaced when finalized and agreed by the parties during the Inspection Period. The Premises are composed generally of the following tracts shown on the Current Survey: (i) Parcel 1, which is approximately 31.00 acres and which includes without limitation Parcel F, which is approximately 1.55 acres, and all portions of roads owned by Landlord and located on any part of Parcel 1, whether or not such lands were included in the Landlord’s original Request for Proposals with respect to the leasing of the Premises (“Parcel 1”); (ii) Parcel 2A, which is approximately 12.88 acres and is referred to herein as Restricted Parcel 1; (iii) Parcel 2B, which is approximately 7.19 acres and is referred to herein as Restricted Parcel 2; (iv) Parcel 3A, which is approximately 3.09 acres; and (v) Parcel 3B, which is approximately 8.63 acres (“Parcel 3B”), provided that Parcels 3A and 3B will be removed from the Premises hereunder, and Parcels 3A and 3B, together with Parcel G and the road between Parcel G and the northern boundary of Parcel E, will be added to the existing lease for Parcel E between Landlord and Tenant’s affiliate Ferry Wharf IV, LLC at such time as the Parcel E lease is amended and restated. The Premises shall not include for purposes of Rent or for any other purposes, except as otherwise expressly provided herein, and the acreage in the Premises is reduced by, the acreage in the Landlord Facility Subparcels, each as may be adjusted from time to time pursuant to the terms of Section 6.

4.2. Inspection Period. Beginning on the Lease Commencement Date and continuing until the date on which the conditions precedent set forth in Section 5.1.2 are satisfied or waived (the “Inspection Period”), Tenant may examine the condition of the Premises including but not limited to title matters, matters of survey, environmental matters (including without limitation Phase 1 and Phase 2 environmental assessments or investigations), zoning matters, traffic matters, geological matters, and permitting matters. Tenant may cancel this Lease (for any or no reason, including but not limited to financial matters, cost, market conditions, or impracticability of development) within the Inspection Period by written notice to Landlord, and this Lease shall be thereafter null and void and of no further force or effect. If the Inspection Period has not terminated by

Master Lease Agreement For PPDA and Patriots Annex, LLC

Execution Version April 8, 2016

THIS LEASE IS SUBJECT TO ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT, SECTION 15-48-10 ET SEQ. OF THE CODE OF LAWS OF SOUTH CAROLINA, AS AMENDED FROM TIME TO TIME, AND THE FEDERAL ARBITRATION ACT (9 U.S.C. §1, ET SEQ.), AS AMENDED FROM TIME TO TIME.
satisfaction or waiver of the applicable conditions precedent before the second (2\textsuperscript{nd}) anniversary of the Lease Commencement Date, then either Landlord or Tenant shall have the right to cancel this Lease by written notice to the other, and this Lease shall be thereafter null and void and of no further force or effect. Tenant shall have the right of access to the Premises and to areas bordering the Premises (to the extent that Landlord has the right to grant such access) for the purpose of conducting its due diligence in connection with the proposed development of the Premises, including conducting studies and tests thereon, provided that Tenant provides Landlord with proof of insurance in connection with such access and prior to coming on to the Premises or such bordering areas. To the extent damaged by Tenant or Persons acting on Tenant’s behalf, Tenant shall be responsible for restoring areas bordering the Premises. In the event that Tenant cancels this Lease prior to the expiration of the Inspection Period, Tenant shall be responsible for restoring the Premises (and, to the extent damaged by Tenant or Persons acting on Tenant’s behalf, areas bordering the Premises) to their substantially equivalent condition prior to Tenant’s due diligence, provided that Tenant shall not be responsible for any damage caused by Persons other than Tenant (or Persons acting on Tenant’s behalf). Upon request of Landlord, Tenant will provide Landlord copies of all third party studies and reports obtained by Tenant in connection with any of the foregoing that are not confidential or proprietary; provided that the parties agree that Tenant will provide Landlord copies of all third party studies and reports related to the condition of the Premises, including but not limited to environmental, soils, and traffic reports and studies.

4.3. **Parking; Drainage.** Tenant acknowledges that (a) it is undertaking the development and continuing use of the Premises and must provide for any applicable (1) drainage or retention pond on the Premises; and (2) parking on the Premises for the uses on the Premises; and (b) Landlord does not undertake to guarantee or to provide parking for Tenant, Tenant’s guests, personnel, or invitees. Any use by Tenant or Tenant’s guests, personnel, or invitees of any available Landlord parking will be at then current charges.

4.4. **Condition of Premises.**

4.4.1. **As Is.** By executing this Lease, Tenant acknowledges that it has been given opportunities to inspect the Premises and accepts the same in “AS IS” condition. To the extent that the description of the Premises contains marshlands, wetlands, and/or critical areas, Tenant’s right to use such marshlands, wetlands, and/or critical areas is subject to applicable State and Federal laws restricting the use of marshlands, wetlands, and/or critical areas.

4.4.2. **LANDLORD EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES AS TO THE PREMISES INCLUDING, BUT NOT**
LIMITED TO, ANY EXPRESS OR IMPLIED WARRANTIES OF
MERCHANTABILITY OR FITNESS FOR A PARTICULAR
PURPOSE; PROVIDED, HOWEVER, THAT THE FOREGOING
DISCLAIMER DOES NOT RELIEVE LANDLORD FROM ANY OF
ITS AGREEMENTS, REPRESENTATIONS, OBLIGATIONS OR
COVENANTS EXPRESSLY SET FORTH IN THIS LEASE.

4.5. **Landlord Artifacts.** All Landlord Artifacts (defined below) on the Premises, whether resting on and/or attached to the Premises, shall continue to be the property of Landlord after the execution of this Lease, and Tenant shall have no responsibility for maintaining such Landlord Artifacts except as otherwise expressly agreed in writing by Landlord and Tenant. However, (i) any Landlord Artifact may be removed by Landlord upon Landlord giving Tenant one hundred twenty (120) days’ prior written notice of Landlord’s intent to remove such Landlord Artifact, and (ii) any Landlord Artifact shall be removed by Landlord upon Tenant giving Landlord one hundred twenty (120) days’ prior written notice of Tenant’s desire for Landlord to remove such Landlord Artifact. Landlord and Tenant may agree for any given Landlord Artifact to remain or be relocated on the Premises. All removal of Landlord Artifacts from the Premises shall be at Landlord’s cost. “Landlord Artifact(s)” means all artifacts located on the Premises as of the execution of this Lease and includes without limitation the cannons, missiles, monuments, naval guns, and boats.

5. **CONDITIONS PRECEDENT; TERM OF LEASE**

5.1. **Conditions Precedent to Effectiveness of Lease.**

5.1.1. Landlord’s obligations pursuant to this Lease are expressly contingent upon:

5.1.1.1. Landlord’s Approval of this Lease;

5.1.1.2. Landlord and Tenant agreeing to Tenant’s Conceptual Master Plan (as hereinafter defined in Section 6);

5.1.1.3. This Lease being approved by the State Fiscal Accountability Authority.

5.1.2. Tenant’s obligations pursuant to this Lease are expressly contingent upon:

5.1.2.1. The final, unappealable rezoning of the Premises to PD/PUD by the Town of Mt. Pleasant, consistent with the Conceptual Master Plan and in form and substance reasonably acceptable to Landlord and Tenant (the “PD/PUD Zoning Ordinance”).
5.1.2.2. The approval and execution of an initial development agreement (the "Development Agreement") with the Town of Mt. Pleasant, in form and substance reasonably acceptable to Landlord and Tenant, pursuant to the South Carolina Local Government Development Agreement Act (the "Development Agreement Act"), Sections 6-31-10 et seq., South Carolina Code of Laws, 1976, as amended, which Development Agreement shall include, without limitation, provisions vesting certain property rights with respect to the Premises as provided in the Development Agreement Act.

5.1.2.3. The approval and execution of a fee-in-lieu or payment-in-lieu agreement with the County of Charleston and the Town of Mt. Pleasant, SC, in form and substance reasonably acceptable to Landlord and Tenant, with respect to future fees or payments in lieu of ad valorem taxes for the Premises and any improvements now existing or hereafter constructed thereon (the "PILOT Agreements"). The terms of the PILOT Agreements shall be the longest term available under applicable law.

5.1.3. The conditions in Section 5.1.1 and Section 5.1.2 above are collectively the "Conditions Precedent".

5.1.4. Tenant and Landlord shall use all reasonable efforts to satisfy the Conditions Precedent and shall each cooperate with the other in such efforts; provided that to the extent the obligations of Tenant under Section 5.2 and Section 5.1 conflict, the provisions of Section 5.2 shall control; provided further, that to the extent that any provision of this Lease conflicts with the provisions of Section 5.2, the provisions of Section 5.2 shall control resolution of the conflict.

5.2. Covenants and Conditions Precedent. Any item set forth in this Section 5.2 which must be completed prior to the Commencement of Construction is a condition precedent to and must be completed before Tenant (current or any assignee) is authorized to Commence Construction of any improvements on the Premises. To the extent the time frames and deadlines set forth in this Section 5.2 conflict with time frames and deadlines set forth elsewhere in this Lease, the terms of this Section 5.2 shall control.

5.2.1. Lease of Land and Construction Timing.

5.2.1.1. If this Lease is executed before the State Fiscal Accountability Authority has approved this Lease, if the State Fiscal Accountability Authority has not approved this Lease by the
second (2nd) anniversary of the date this Lease has been
executed by Landlord and Tenant, then either party to this
Lease may cancel this Lease by written notice to the other
party, and this Lease shall thereafter be null and void; provided
however this right to cancel this Lease under this Section
5.2.1.1 shall expire if the State Fiscal Accountability Authority
approves this Lease before this Lease is cancelled.

5.2.1.2. On or before the third (3rd) anniversary of the expiration of
the Inspection Period, Tenant shall have Commenced
Construction (as defined in Section 8.2.2.2) of the first phase
of improvements to be constructed on the Premises (or on any
portion of the original Premises that has been divided from the
Premises hereunder and is subject to a Subparcel Lease),
provided that such date shall be extended to the extent that
Tenant has diligently attempted and continues to diligently
attempt to obtain all approvals and permits required to
Commence Construction but is not yet reasonably able to
Commence Construction or is otherwise subject to delays
covered by the Force Majeure provisions of this Lease. If
Tenant has not Commenced Construction by the third (3rd)
anniversary of the expiration of the Inspection Period (as may
be extended as provided above), then either party to this Lease
may cancel this Lease by written notice to the other party
(unless Tenant has Commenced Construction before either
party gives such notice), and this Lease shall thereafter be null
and void.

5.3. Term.

5.3.1. The commencement date (the “Lease Commencement Date”) of this
Lease shall be the date this Lease has been executed by Tenant and
Landlord and has been approved by the State Fiscal Accountability
Authority by execution of the approval attached to this Lease. The term
(the “Term”) of this Lease shall begin on the date (the “Term
Commencement Date”) that the appropriate authority has issued the first
certificate of occupancy for improvements constructed on the Premises
(including any Subparcel), and shall end on December 31 of the
ninety-ninth (99th) full calendar year after the end of the calendar year in
which the Term began unless sooner terminated in accordance with the
terms hereof. Use of the word “Term” shall include any properly executed
extension of the Term of this Lease.

5.3.2. The Term of this Lease with regard to the Restricted Parcels (defined
below) shall begin on the date that the Conservation Easement (defined
below) restrictions no longer restrict the development of the Restricted
Parcels (or any portion thereof), and shall end on December 31 of the
ninety-ninth (99th) full calendar year after the end of the calendar year in
which the Term with regard to the Restricted Parcels began unless sooner
terminated in accordance with the terms hereof. The Term with regard to
the Restricted Parcels shall begin regardless of whether the LWCF
Agreement (defined below) restrictions continue to restrict development of
Restricted Parcel 2. All references to the Term, Term Commencement
Date, and other similar references in this Lease shall be modified as
applicable when applied to the Restricted Parcels. The construction of
parking or other limited improvements on any portion of the Restricted
Parcels prior to termination of the Conservation Easement shall not affect
the commencement of the Term with respect to the Restricted Parcels.

5.3.3. For purposes of this Lease, a “Lease Year” is a period of twelve (12) full,
consecutive calendar months commencing on January 1 and ending on
December 31 of each calendar year after the Lease Commencement Date;
provided that the first Lease Year, or Year 1, shall begin on the Lease
Commencement Date and end on December 31 of that calendar year.

6. MASTER PLAN.

6.1. Master Plan in General.

6.1.1. The Premises are to be developed pursuant to a Master Plan prepared by
and at the expense of Tenant and approved by Landlord as provided
herein.

6.1.2. The Premises only may be developed in accordance with and for the
purposes set forth in the Master Plan as it may be modified from time to
time by Tenant subject to Landlord’s Approval as provided herein.
Neither modification of the Master Plan nor Landlord’s Approval of
modification of the Master Plan requires or contemplates further
amendments of this Lease. Tenant shall make no use of the Premises or
any portion thereof which is not a Permitted Use or otherwise permitted
under this Lease, provided that minor uses that are ancillary to Permitted
Uses (“Ancillary Uses”) shall not be prohibited hereunder if approved by
Landlord in writing. Furthermore, Tenant shall make no use of the
Premises, other than minor Ancillary Uses, for which compensation to
Landlord for such use has not been agreed by Landlord and Tenant;
provided that Tenant shall pay Percentage Rent for any Ancillary Use at
the rate paid by Tenant for the most similar use for which Percentage Rent
has been agreed pursuant to this Lease until such time as Landlord and
Tenant agree to an appropriate Percentage Rent for the Ancillary Use.
6.1.3. No Master Plan is to be recorded in the Charleston County RMC Office or any other office, provided that the foregoing shall not prohibit the recording of any applicable exhibits to the Development Agreement required by law to be part of the Development Agreement.

6.1.4. Where a Master Plan permits Tenant to make an election as to the type of use for a particular portion of the Premises, the use chosen by Tenant will be subject to the applicable terms, conditions, requirements and limitations prescribed in this Lease for such use, including, but not limited to, rent, utilities, taxes, construction terms, financing, assignment and subleasing.

6.1.5. In the event this Lease is terminated by Landlord in accordance with the terms hereof, Landlord is not limited in the use of the Premises to the uses described in the Master Plan, provided that Landlord’s use of the Premises shall be subject to the Master Declaration so long as such Master Declaration remains in effect pursuant to the terms thereof.

6.2. Master Plan as of Lease Commencement Date.

6.2.1. Conceptual Master Plan Approvals and Modifications.

6.2.1.1. The Tenant has submitted a Proposed Conceptual Master Plan, attached hereto as Exhibit F (the “Proposed Conceptual Master Plan”), that has been presented to Landlord as of the Lease Commencement Date with respect to the Premises, excluding the Restricted Parcels (as defined in Section 6.2.2). Landlord and Tenant agree to work together, using the Proposed Conceptual Master Plan as an initial starting point, to finalize a Conceptual Master Plan (as defined below) during the Inspection Period because neither the proposal submitted in response to Landlord’s Request for Proposals nor the Proposed Conceptual Master Plan has been approved by Landlord; provided, however, the uses proposed in the Proposed Conceptual Master Plan that are included in the uses allowed by Section 7.1 hereof are approved. The Proposed Conceptual Master Plan includes approximate square footages per use of improvements proposed to be constructed on the Premises.

6.2.1.2. The Conceptual Master Plan will be developed by Tenant with input from Landlord’s representatives and will be subject to final Landlord Approval and written approval by Tenant.

6.2.1.3. Tenant shall submit to Landlord a proposed initial Conceptual Master Plan for all of the Premises with reasonable details with respect to (i) proposed primary structures, roadways, parking,
pedestrian access, and areas to be landscaped, (ii) anticipated uses, (iii) anticipated number of square feet of improvements by use, (iv) anticipated acreage, and (v) projections demonstrating that the uses and density in the proposed Conceptual Master Plan are anticipated to yield to Landlord at least the amount of Rent contemplated by the Proposed Conceptual Master Plan. After a proposed Conceptual Master Plan has obtained Landlord Approval and written approval by Tenant, it shall constitute the "Conceptual Master Plan." At any time and from time to time, Tenant may submit to Landlord proposed revisions, modifications or additions (whether minor, substantial or complete revisions) to the current approved Conceptual Master Plan with updates showing any modifications to the items set forth in (i) through (v) above. Landlord hereby agrees that it will respond in writing with Landlord’s Approval or stating specific objections to the proposed Conceptual Master Plan, or revisions, modifications or additions to the approved Conceptual Master Plan, within forty-five (45) days of receipt by Landlord of the proposed Conceptual Master Plan or revisions, modifications or additions to the approved Conceptual Master Plan. If Landlord’s Approval is not given, then Tenant may resubmit the proposed Conceptual Master Plan, or revisions, modifications or additions to the approved Conceptual Master Plan, and Landlord shall respond in writing to Tenant with Landlord’s Approval or specific objections within fifteen (15) days of their receipt, and the foregoing procedure with fifteen (15) day deadlines shall continue until Landlord has no further objections. Landlord’s Approval of the Conceptual Master Plan or any revisions, modifications or additions thereto shall not require amendment to this Lease. Neither Landlord’s Approval nor the disapproval of the proposed Conceptual Master Plan or any revisions, modifications or additions to the Conceptual Master Plan shall be construed to shorten, lengthen or otherwise change the time periods or deadlines for commencement or completion of the development of the Premises as a whole pursuant to Section 8.10 except as specifically agreed in writing by Landlord, provided that any delay by Landlord in responding according to the foregoing proposals (within the allotted time periods above) shall extend such time periods or deadlines. The Conceptual Master Plan must provide for access for delivery vehicles (up to and including eighteen (18) wheel trucks) and emergency vehicles, including but not limited to fire trucks, to the Pier. Landlord
will use reasonable efforts to limit routine delivery vehicle
traffic to between the hours of 5:00 A.M. and 9:00 A.M. daily;
provided that this limitation shall not prevent Landlord from
scheduling deliveries at other times. Further, at all times during
the development of the Premises, Tenant shall not impede or
allow others to impede the access of delivery vehicles or
emergency vehicles to the Pier (except pursuant to the
procedure set forth in Section 6.5.2).

6.2.1.4. Pursuant to the procedures set forth in this Section 6 to develop
and refine the Conceptual Master Plan, Tenant has the ability
to alter the development contemplated by the Proposed
Conceptual Master Plan, which flexibility Landlord recognizes
is necessary, and subject to compliance with the Permitted
Uses and other terms hereof, Landlord shall not unreasonably
withhold its approval to proposed revisions, modifications or
additions to the Conceptual Master Plan; provided, however, a
material inducement for Landlord to enter this Lease is the
development of the Premises (excluding initially the Restricted
Parcels) with uses and density designed to provide the
aggregate Rent contemplated by the Proposed Conceptual
Master Plan. Accordingly Landlord Approval of the initial
Conceptual Master Plan for the Premises (excluding the
Restricted Parcels) and proposed revisions, modifications or
additions thereto from time to time will require, at a minimum
and among other requirements, unless waived by Landlord,
uses and density designed to provide at least the aggregate Rent
contemplated by the Proposed Conceptual Master Plan, to the
extent reasonably practicable taking into consideration current
market conditions and demand at such time of consideration.

6.2.2. Tenant’s Proposed Conceptual Master Plan does not include specific plans
for (a) Restricted Parcel 1, or (b) Restricted Parcel 2. “Restricted Parcel
1” is the portion of the Premises that is subject to the Conservation
Easement but is not subject to the LWCF Agreement. “Restricted Parcel
2” is the portion of the Premises that is subject to the Conservation
Easement and the LWCF Agreement. The “Conservation Easement” is
the easement granted by Landlord in favor of the South Carolina
Department of Natural Resources (“DNR”) dated January 21, 1998, and
recorded in Book Y303 at Page 190 in the Office of the Register of Mesne
Conveyances for Charleston County. The “LWCF Agreement” is the
South Carolina Land and Water Conservation Fund Project Agreement
dated April 3, 1978, by and between Landlord and the State of South
Carolina which, along with amendments thereto, are attached as Exhibit C
to the Simultaneous Declaration and Release of Restrictive Covenants.
made June 20, 2014, by Patriots Point Development Authority and recorded in Book O414 at Page 129 on June 30, 2014, in the Office of the Register of Mesne Conveyance for Charleston County, South Carolina. Restricted Parcel 1 and Restricted Parcel 2 are referred to herein collectively as the "Restricted Parcels." Tenant shall submit to Landlord a proposed revised Conceptual Master Plan including Restricted Parcel 1 within eighteen (18) months after the Conservation Easement restrictions no longer restrict the development of Restricted Parcel 1. Tenant shall submit to Landlord a proposed revised Conceptual Master Plan including Restricted Parcel 2 within twenty-four (24) months after the Conservation Easement restrictions no longer restrict the development of Restricted Parcel 2. If the LWCF Agreement restrictions are removed from Restricted Parcel 2 after the Conservation Easement restrictions no longer restrict the development of Restricted Parcel 2, Tenant shall have twenty-four (24) months after removal of the LWCF Agreement restrictions to submit to Landlord a proposed revised Conceptual Master Plan for the initial development or redevelopment, as applicable at such time, of Restricted Parcel 2. Landlord and Tenant shall use commercially reasonable efforts (excluding Landlord’s or Tenant’s payment of consideration or commencement of any legal proceedings) to have the Conservation Easement removed prior to its expiration, and if removal cannot be accomplished, then amended to allow for parking on Restricted Parcel 1. If the Conservation Easement is removed or if the Conservation Easement is amended to allow for parking on Restricted Parcel 1, then Tenant and Landlord shall negotiate with the Town of Mt. Pleasant to attempt to arrange (i) the construction and joint use of parking on Restricted Parcel 1 by Tenant and the Town of Mt. Pleasant sufficient to provide the Town of Mt. Pleasant the use of at least the number of parking spaces currently provided by the parking lot located between the Cold War Submarine Memorial and the College of Charleston tennis courts as shown on the Current Survey (the "Existing Parcel 2 Parking Lot"), and (ii) the relocation of the Patriots Point Road right of way as shown on Exhibit A-2 attached hereto which would cross through the Existing Parcel 2 Parking Lot. In the event of such relocation of the Patriots Point Road right of way, the land designated as (a) Portion of Town R/W (Being Added to Parcel 1) 1.01 Ac., and (b) Portion of Town R/W (Being Added to Parcel 1) 0.03 Ac., on Exhibit A-2 shall, at Tenant’s option, be added to the Premises subject to this Lease.

6.2.3. Parcel 3B is also subject to the LWCF Agreement. If the LWCF Agreement restrictions are removed from Parcel 3B, Tenant shall have twenty-four (24) months after removal of the LWCF Agreement restrictions from Parcel 3B to submit to Landlord a proposed revised Conceptual Master Plan for the redevelopment of Parcel 3B.
6.3. **Master Plan Approvals and Modifications.** Prior to construction of any improvements on any portion of the Premises, a Master Plan for such portion of the Premises must be approved by Landlord. Tenant shall submit to Landlord a proposed Development Plan (as defined below) for the portion of the Premises that Tenant intends to develop first, which proposed Development Plan shall be the first proposed Master Plan. Following approval of the initial Master Plan for a portion of the Premises, Tenant shall submit to Landlord proposed Development Plans for the subsequent portions of the Premises that Tenant intends to develop, and each such proposed Development Plan shall be a proposed modification to the Master Plan. Each Development Plan and proposed modification or addition to the Master Plan shall include reasonable details with respect to (i) proposed primary structures and features (including but not limited to roadways, parking, pedestrian access, and parks and other areas to be landscaped) to be developed, materials, and elevations, (ii) anticipated timelines and order of development, (iii) anticipated uses, and (iv) projections demonstrating that the uses and density in the Master Plan are anticipated to yield to Landlord at least the amount of aggregate Rent for the applicable portion of the Premises contemplated by the Conceptual Master Plan, to the extent reasonably practicable taking into consideration current market conditions and demand at such time of consideration. A "Development Plan" for any portion of the Premises proposed to be developed by Tenant, whether (a) one or more Subparcels, (b) one or more Subparcels and other portions of the Premises, or (c) a portion of a Subparcel or the Premises, is a plan including all of the elements set forth in items (i) through (iv) above. A Development Plan may consist of one or more buildings or other improvements to be constructed on any portion of the Premises or on any portions of one or more Subparcels. After a proposed Master Plan or proposed modification or addition to the Master Plan is approved by Landlord, it shall constitute the "Master Plan." At any time and from time to time, Tenant may submit to Landlord proposed revisions, modifications or additions (whether minor, substantial or complete revisions) to the current approved Master Plan with updates showing any modifications to the items set forth in (i) through (iv) above. Landlord hereby agrees that it will respond in writing with Landlord Approval or stating specific objections to the proposed Master Plan, or revisions, modifications or additions to the approved Master Plan, within forty-five (45) days of receipt by Landlord of the proposed Master Plan or revisions, modifications or additions to the approved Master Plan. Landlord’s Approval shall be given to any proposed Master Plan or proposed revisions, modification or addition to the Master Plan that is not, in Landlord’s reasonable judgement, materially different from the Conceptual Master Plan. Landlord’s Approval shall not be withheld on the basis of disapproval of the architectural elements of the proposed materials or elevations to the extent that the architectural elements of the proposed materials or elevations were addressed in relevant detail in the Conceptual Master Plan. If Landlord’s Approval is not given, then Tenant may resubmit the proposed Master Plan, or revisions, modifications or additions to the

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**Master Lease Agreement For PPDA and Patriots Annex, LLC**  
Execution Version  
April 8, 2016  
THIS LEASE IS SUBJECT TO ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT, SECTION 15-48-10 ET SEQ., OF THE CODE OF LAWS OF SOUTH CAROLINA, AS AMENDED FROM TIME TO TIME, AND THE FEDERAL ARBITRATION ACT (9 U.S.C. §1, ET SEQ.), AS AMENDED FROM TIME TO TIME.
approved Master Plan, and Landlord shall respond in writing to Tenant with Landlord’s Approval or specific objections within fifteen (15) days of their receipt, and the foregoing procedure with fifteen (15) day deadlines shall continue until Landlord has no further objections. Landlord’s Approval of the proposed Master Plan or any revisions, modifications or additions thereto shall not require amendment to this Lease. Neither Landlord’s Approval nor disapproval of a proposed Master Plan or any revisions, modifications or additions to the Master Plan shall be construed to shorten, lengthen or otherwise change the time periods or deadlines for commencement or completion of phases of development of the Premises (as applicable) or the development of the Premises as a whole pursuant to Section 8.10 except as specifically agreed in writing by Landlord, provided that any delay by Landlord in responding according to the foregoing proposals (within the allotted time periods set forth herein) shall extend such time periods or deadlines. The Conceptual Master Plan shall be deemed amended by any changes thereto set forth in the approved Master Plan for the applicable portion of the Premises. The Master Plan must provide for access for delivery vehicles (up to and including eighteen (18) wheel trucks) and emergency vehicles, including but not limited to fire trucks, to the Pier. Further, at all times during the development of the Premises, Tenant shall not impede or allow others to impede the access of delivery vehicles or emergency vehicles to the Pier except pursuant to the procedure set forth in Section 6.5.2.

6.4. Subdivision and Subleasing of the Premises.

6.4.1. Subject to and pursuant to the various terms of this Lease,

6.4.1.1. The Premises may be subdivided as provided in this Lease or a Subparcel Lease;

6.4.1.2. (i) A Tenant Principal Member-Controlled Affiliate, (ii) a Tenant Affiliate approved by Landlord as provided in this Lease, or (iii) an unrelated third party approved by Landlord as provided in this Lease, will be the “Tenant” under each Subparcel Lease (for purposes of this Lease, a “Subparcel Tenant”);

6.4.1.3. Tenant may ground sublease all or part of the Premises to (i) a Tenant Principal Member-Controlled Affiliate, (ii) a Tenant Affiliate approved by Landlord as provided in this Lease, or (iii) an unrelated third party approved by Landlord as provided in this Lease pursuant to a Ground Sublease approved by Landlord as provided in this Lease.

6.4.1.4. Tenant may sublease space within a building or sublease an entire building, and any related part of the Premises or
Subparcel on which such building is located, to a Tenant Principal Member-Controlled Affiliate, a Tenant Affiliate or a third party;

6.4.2. As a part of Tenant's initially proposed, or subsequently proposed revisions to, the Conceptual Master Plan and Master Plan for the Premises, Tenant may from time to time propose a plan to divide the Premises into separate subparcels (hereinafter "Subparcels" or a "Subparcel" in the singular), on which one or more separate buildings will be constructed based upon the Master Plan. As set forth in Section 6.3, the Master Plan will govern the entire portions of the Premises for which the Master Plan has been approved, subject to its being updated and modified from time to time pursuant to the process set forth in Section 6.3. Every Subparcel will be developed pursuant to the Master Plan as approved pursuant to Section 6.3. The Master Plan for a portion of the Premises may include Common Areas which will serve parts or all of the Premises and which may be leased to, or otherwise placed under the responsibility of, the Association established under the Master Declaration. "Common Areas" means streets, sidewalks, detention ponds, open areas, parking, and similar improvements which may be used by Tenant, subtenants, sub-subtenants, and others authorized to use the Premises pursuant to this Lease.

6.4.3. Tenant may only subdivide the Premises with prior Landlord Approval, including but not limited to Landlord Approval of any subdivision plat to be recorded pursuant to the terms of this Section prior to the recordation of such plat. At any time after the approved Master Plan includes the creation of a proposed Subparcel, Tenant may request in writing from time to time that such Subparcel be subdivided from the remainder of the Premises. Landlord will not unreasonably withhold approval of a proposed subdivision that is consistent with and appropriate for the development of a portion of the Premises as reflected in the Conceptual Master Plan; provided that such limitation on Landlord’s discretion does not include approval of the Subparcel Tenant which is governed by Section 22. As a condition of considering any such subdivision proposal, Tenant must not be in default hereunder (after expiration of any applicable notice and cure period) and circumstances must not exist that would constitute Tenant being in default if not cured after expiration of any applicable notice and cure period. Landlord shall cooperate with Tenant in effecting any approved subdivision. Any preparation of a subdivision plat and recording thereof shall be at Tenant’s sole expense. Subject to any other requirements and restrictions in this Lease, including but not limited to the provisions concerning assignments or transfers, Landlord hereby agrees that upon Landlord’s Approval of a subdivision of the Premises to create one or more Subparcels and Landlord’s Approval of the Development Plan for a particular Subparcel modifying the Master Plan, either:
6.4.3.1. Landlord, Tenant and the applicable Subparcel Tenant shall, at the written request of Tenant, execute a partial assignment and assumption of this Lease assigning to such Subparcel Tenant (that is permitted or has been approved by Landlord as provided herein) this Lease with respect to a given Subparcel under the terms of a form Subparcel lease (a "Form Subparcel Lease") to be approved by Landlord and Tenant during Tenant's Inspection Period and to be attached hereto as Exhibit G. The Subparcel lease (the "Subparcel Lease") for a given Subparcel shall be the Form Subparcel Lease with the name of the Subparcel Tenant, the identification of the Subparcel and the applicable portion of the Conceptual Master Plan and Master Plan if one has been approved for the Subparcel. In such partial assignment and assumption, the Subparcel Tenant shall accept the assignment and agree to be the tenant under and be bound by such Subparcel Lease in all respects. For example but not by way of limitation, if such subdivision of the Premises results in the creation of three (3) Subparcels, Tenant and Landlord could execute as many as three (3) partial assignments, one (1) for each of the three (3) Subparcels. The portion of the Conceptual Master Plan that includes that Subparcel shall be the Conceptual Master Plan for such Subparcel Lease and the portion of the Master Plan that includes that Subparcel shall be the Master Plan for such Subparcel Lease. Each such Subparcel Lease shall not be cross-defaulted with this Lease, another Subparcel Lease, a Subparcel Sublease, or any lease for another parcel of land owned by Landlord or Tenant, such that no default under a Subparcel Lease shall constitute a default under this Lease, another Subparcel Lease, or a Subparcel Sublease, and no default under this Lease shall constitute a default under any Subparcel Lease or a Subparcel Sublease. Nothing in any Subparcel Lease shall be interpreted to require the Subparcel Tenant under that Subparcel Lease to perform any obligations under any other Subparcel Lease. No Subparcel Tenant is a third party beneficiary of or party to this Lease or any other Subparcel Lease; or

6.4.3.2. Tenant may, subject to the terms and restrictions of this Lease, enter a sublease (a "Subparcel Sublease") for such Subparcel with a Subparcel subtenant, the terms of which Subparcel Sublease shall be subject to Landlord’s Approval (which form may be used for additional Subparcel Subleases, once approved). A Subparcel Sublease may constitute a Ground Sublease as defined herein. An Ordinary Course Space Lease
shall not constitute a Subparcel Sublease. For example but not
by way of limitation, if such subdivision of the Premises results
in the creation of three (3) Subparcels, Tenant could enter as
many as three (3) Subparcel Subleases, one (1) for each of the
three (3) Subparcels. The terms of the Subparcel Sublease shall
be substantially similar to the terms of this Lease with
appropriate modifications to take into account that it is a
sublease and with such further modifications as Landlord and
Tenant may agree on a case-by-case basis. Each such
Subparcel Sublease shall not be cross-defaulted with this
Lease, another Subparcel Sublease, a Subparcel Lease, or any
lease for another parcel of land owned by Landlord or Tenant,
such that no default under a Subparcel Sublease shall constitute
a default under this Lease, another Subparcel Sublease, or a
Subparcel Lease, and no default under this Lease shall
constitute a default under any Subparcel Sublease or Subparcel
Lease. Nothing in any Subparcel Sublease shall be interpreted
to require the Subparcel subtenant under that Subparcel
Sublease to perform any obligations under any other Subparcel
Sublease. No Subparcel subtenant is a third party beneficiary of
or party to this Lease, any Subparcel Lease, or any other
Subparcel Sublease.

6.4.4. Prior to subdivision of the Premises, Tenant and Landlord shall execute
and record in the RMC Office for Charleston County an agreement in
form and substance as approved and agreed by Landlord’s Board and
Tenant during Tenant’s Inspection Period and subject to any other terms
and conditions as may be agreed by Landlord and Tenant (as executed and/amended from time to time, the “Master Declaration”) submitting the
Premises to the terms thereof, and among other things, providing for the
allocation among and payment by the Subparcel Tenants of amounts
payable for the benefit of the Premises generally and reciprocal access and
utility easements, all as set forth therein. Any obligations or rights with
respect to the Premises pursuant to the Master Declaration may be
performed, enforced, or administered by an association (the
“Association”) established for the Premises pursuant to the Master
Declaration, a horizontal property regime, or otherwise. Any obligations
or rights with respect to a Subparcel pursuant to the Master Declaration
may be performed, enforced, or administered by any subassociation
established for such Subparcel or multiple Subparcels pursuant to a
horizontal property regime or otherwise. All Subparcel Tenants shall be
parties to the Master Declaration and shall contribute to the regime or
association expenses as provided therein, but any failure to contribute
shall give rise only to the rights and remedies provided for in the Master
Declaration, subject in all cases to the lender protections provided for in the Master Declaration.

6.5. **Landlord’s Facilities.**

6.5.1. As of the Lease Commencement Date, Landlord and its licensees operate certain activities and facilities on the Premises (the “Current Landlord Landside Activities”), including but not limited to the following:

6.5.1.1. gift shop;
6.5.1.2. ticket sales office and window;
6.5.1.3. quick-service food vending / snack bar;
6.5.1.4. Fort Sumter Tours ticket sales office and window;
6.5.1.5. Fort Sumter Tours storage shed;
6.5.1.6. Fort Sumter Tours docks, ramps, and tour boat operations;
6.5.1.7. parking lot capable of parking six hundred (600) cars for visitors to Landlord’s museums, one hundred ten (110) cars for Landlord’s personnel at no charge, and twelve (12) tour buses at no charge; and covered parking and battery charging facilities for six (6) six-passenger golf carts;
6.5.1.8. photo concessions space;
6.5.1.9. storage and maintenance facilities;
6.5.1.10. restrooms;
6.5.1.11. Vietnam Support Base exhibit;
6.5.1.12. administrative offices;
6.5.1.13. Southcoast Community Bank ATM; and
6.5.1.14. access to Landlord’s Pier for delivery vehicles (up to eighteen (18) wheel trucks) and emergency vehicles (including but not limited to EMS and fire trucks).

6.5.2. Landlord and Tenant shall work together to ensure that as construction of the improvements contemplated by this Lease commences and continues, interruptions to the Current Landlord Landside Activities are coordinated with Landlord as set forth below and minimized to the extent reasonably
feasible, provided that interruptions to Fort Sumter Tours' ticket sales, tour boats, and other operations and access to Landlord's Pier for emergency vehicles (including but not limited to EMS and fire trucks) do not extend for more than forty-eight (48) hours unless otherwise approved by Landlord. Landlord shall reasonably cooperate with Tenant to attempt to coordinate any longer interruptions to Fort Sumter Tours' operations or emergency access that may be needed for construction activities provided that such periods shall be scheduled to the extent possible to have the least impact on operations of the Current Landlord Landside Activities.

6.5.3. Tenant shall:

6.5.3.1. coordinate with Landlord all interruptions to the Current Landlord Landside Activities, including but not limited to interruptions of Landlord's utilities, which shall be limited to occur between 6:00 A.M. Monday and 5:00 P.M. Friday, but which shall not occur on South Carolina or United States holidays, except as otherwise approved in writing by Landlord's Administrator; and

6.5.3.2. give Landlord at least fourteen (14) days' notice for all interruptions to the Current Landlord Landside Activities, including but not limited to interruptions of Landlord's utilities;

6.5.3.3. give Landlord at least ninety (90) days' notice prior to (i) ceasing operation of the Vietnam Support Base in connection with relocating the Vietnam Support Base pursuant to Section 6.5.9, or (ii) interruption of Landlord's use of and operations on the Current Storage and Maintenance Landlord Facility Subparcel in connection with relocating such operations to the New Storage and Maintenance Landlord Facility Subparcel; and

6.5.3.4. alter the proposed timeframe for any interruption(s) to the Current Landlord Landside Activities, including but not limited to interruptions of Landlord's utilities, to reschedule the proposed interruptions in the event Landlord responds in a reasonably timely manner to Tenant's notice of interruption informing Tenant that Landlord has previously scheduled activities during the proposed time of interruption; provided that in all events Landlord shall have no less than two (2) full Business Days from actual receipt of Tenant's written notice of interruption to respond.
6.5.4. As of the Lease Commencement Date, the Current Landlord Landside Activities are conducted on multiple areas (the “Current Landlord Facility Subparcels”) as follows:

6.5.4.1. The Current Primary Landlord Facility Subparcel as shown on Exhibit A (the “Current Primary Landlord Facility Subparcel”);

6.5.4.2. The Current Pier Landlord Facility Subparcel as shown on Exhibit A (the “Current Pier Landlord Facility Subparcel”);

6.5.4.3. The Current Personnel Parking Landlord Facility Subparcel as shown on Exhibit A (the “Current Personnel Parking Landlord Facility Subparcel”);

6.5.4.4. The Current Storage and Maintenance Landlord Facility Subparcel as shown on Exhibit A (the “Current Storage and Maintenance Landlord Facility Subparcel”); and

6.5.4.5. The Current Vietnam Landlord Facility Subparcel as shown on Exhibit A (the “Current Vietnam Landlord Facility Subparcel”).

6.5.5. The Current Landlord Facility Subparcels may be modified or replaced from time to time with the New Landlord Facility Subparcels as provided herein. The Current Landlord Facility Subparcels as modified or replaced from time to time with the New Landlord Facility Subparcels shall collectively be referred to as the “Landlord Facility Subparcels.” The Landlord Facility Subparcels do not constitute part of the Premises, except as otherwise expressly provided herein, and Tenant shall not be responsible for paying Rent for the Landlord Facility Subparcels. No portions of the Current Landlord Facility Subparcels shall be included in any calculations of Fair Market Rent or Minimum Rent until such time as such portions of the Current Landlord Facility Subparcels become part of the Premises as provided below. Any portion of a New Landlord Facility Subparcel that is not within a Current Landlord Facility Subparcel shall constitute part of the Premises and shall be included in any calculations of Fair Market Rent or Minimum Rent only until such time as a certificate of occupancy (or other evidence of completion, as applicable) has been obtained for the improvements on such New Landlord Facility Subparcel intended for relocation of Current Landlord Landside Activities or the related Current Landlord Facility Subparcel becomes part of the Premises upon removal of all Current Landlord Landside Activities therefrom as provided below, provided that except as otherwise provided in
Section 6.5.7, the New Primary Landlord Facility Subparcel and the New Pier Landlord Facility Subparcel shall at no time constitute part of the Premises or be included in any calculations of Fair Market Rent or Minimum Rent. No Landlord Facility Subparcels shall be required to pay any regime or similar fees applicable to other parts of the Premises so long as Landlord, at its sole expense, maintains all landscaping and any common areas within the Landlord Facility Subparcel in a safe, clean, sanitary and orderly condition. Upon removal and relocation of the Current Landlord Landside Activities currently operated on all or a portion of a particular Current Landlord Facility Subparcel to a New Landlord Facility Subparcel, the entire or applicable portion of the Current Landlord Landside Activities shall become part of the Premises hereunder.

6.5.6. New Landlord Landside Activities.

6.5.6.1. The Conceptual Master Plan must include the designation of one or more Subparcels (the “New Landlord Facility Subparcel(s)”) containing land sufficient for the following Landlord activities and the improvements in which to house them (collectively, the “New Landlord Landside Activities”) and such other Landlord activities as identified in this Section 6.5:

6.5.6.1.1. gift shop;
6.5.6.1.2. ticket sales office and window;
6.5.6.1.3. quick-service food vending / snack bar;
6.5.6.1.4. Fort Sumter Tours Ticket office and sales window (minimum of six hundred (600) square feet);
6.5.6.1.5. Fort Sumter Tours storage shed (minimum of two hundred fifty (250) square feet) with privacy fence;
6.5.6.1.6. Fort Sumter Tours docks, ramps, and tour boat operations;
6.5.6.1.7. facilities to accommodate and support increasing the width of the existing Pier by 100%;
6.5.6.1.8. photo concessions;
6.5.6.1.9. storage and maintenance facilities;
6.5.6.1.10. landside museum space for the hosting of traveling exhibits;

6.5.6.1.11. Landlord's administrative offices;

6.5.6.1.12. Vietnam Support Base exhibit;

6.5.6.1.13. restrooms for visitors to Landlord's museums;

6.5.6.1.14. parking lot for at least one hundred twenty (120) cars for Landlord's personnel and covered parking and battery charging facilities for ten (10) eight-passenger golf carts;

6.5.6.1.15. Southcoast Community Bank ATM;

6.5.6.1.16. access to Landlord's Pier for delivery vehicles (up to eighteen (18) wheel trucks) and emergency vehicles (including but not limited to EMS and fire trucks).

6.5.6.1.17. From and after the date that Tenant commences operations of the first improvements (other than parking) on the Premises, the New Landlord Landside Activities shall not include any helicopter or other aerial tours that are based on or fly over any part of the Premises or the Landlord Facility Subparcels, nor shall Landlord permit loud noises emanating from the Landlord Facility Subparcels that would unreasonably interfere with Tenant's use of the Premises, provided that the foregoing shall in no way prohibit (i) special events such as fireworks displays or the like, (ii) noise (such as but not limited to music in compliance with Mt. Pleasant noise ordinance) from functions held in Landlord facilities, or (iii) periodic brief scheduled shows, exhibitions, or reenactments.

6.5.6.2. Landlord and Tenant shall agree to the size, shape, and location of the New Landlord Facility Subparcels as part of the approval of the Conceptual Master Plan.

6.5.6.2.1. The New Primary Landlord Facility Subparcel (defined below) will be located near the entrance to Landlord's Pier so as to create a natural flow between the New Primary Landlord Facility
6.5.6.2.2. Another New Landlord Facility Subparcel shall consist of sufficient land (which shall be approximately one and two-tenths (1.2) acres unless otherwise agreed by Landlord) for parking one hundred twenty (120) cars and covered parking and battery charging facilities for ten (10) eight-passenger golf carts for use by Landlord's personnel and shall be located as agreed by Landlord and Tenant in any reasonable location within Parcel 1 or within Restricted Parcel 1 (if permitted under the Conservation Easement or after no longer restricted by the Conservation Easement) or Restricted Parcel 2 (if permitted under the Conservation Easement and LWCF Agreement or after no longer restricted by the Conservation Easement or the LWCF Agreement) (the "New Personnel Parking Landlord Facility Subparcel") and may be relocated by Tenant from time to time at Tenant's sole cost in connection with the development of the Premises.

6.5.6.2.3. Another New Landlord Facility Subparcel which shall be the storage and maintenance facilities consisting of approximately 25,000 square feet of land may be located as agreed by Landlord and Tenant in any reasonable location within the Premises (the "New Storage and Maintenance Landlord Facility Subparcel").
6.5.6.2.4. Another New Landlord Facility Subparcel consisting of approximately 10,000 square feet of land shall be located adjacent to the Pier, shall include the land, wetlands, marsh, docks, boat slips, and ramps leased to Fort Sumter Tours, Inc. as they exist as of the Lease Commencement Date and as maintained and replaced in the future, may include the Fort Sumter Tours ticket office, sales window, and storage shed with a privacy fence, and shall also include sufficient shoreline for Landlord to double the width of its current Pier in approximately its current location (the “New Pier Landlord Facility Subparcel”).

6.5.6.2.5. Another New Landlord Facility Subparcel consisting of approximately one and three-tenths (1.3) acres of land shall be located as agreed by Landlord and Tenant and shall be for the relocation of Landlord’s Vietnam Support Base exhibit pursuant to Section 6.5.4 (the “New Vietnam Landlord Facility Subparcel”).

6.5.6.3. Landlord shall be responsible for the construction of all New Landlord Facilities and any other improvements for the New Landlord Landside Activities except as otherwise expressly provided herein.

6.5.6.4. The “New Landlord Facilities” shall include the improvements to house the New Landlord Landside Activities, which improvements shall include the following: (a) the primary Landlord facility and ancillary improvements (including but not limited to up to twelve (12) parking spaces) to be located on the New Primary Landlord Facility Subparcel (the “New Primary Landlord Facility”), (b) a parking lot located on the New Personnel Parking Landlord Facility Subparcel with the capacity to park at least one hundred twenty (120) cars and covered parking and battery charging facilities for ten (10) eight-passenger golf carts for Landlord’s personnel (the “New Personnel Parking Landlord Facility”); and (c) any Landlord facility to be located on the New Pier Landlord Facility Subparcel as provided herein (the “New Pier Landlord Facility”).

6.5.6.5. Except for any New Landlord Facilities to be constructed by Tenant as expressly provided herein, Landlord shall design and
construct the New Landlord Facilities in compliance with the South Carolina Procurement Code and the regulations promulgated thereunder. All plans for New Landlord Facilities shall be reviewed with Tenant to receive Tenant’s input into the design and aesthetics of the New Landlord Facilities, and the New Landlord Facilities shall be reasonably consistent with the quality and design of the overall development of the Premises. The New Landlord Facilities shall be constructed pursuant to a construction schedule coordinated by Landlord and Tenant. Tenant shall reasonably cooperate with Landlord in the development of the Premises such that, subject to Section 6.5.2, Tenant’s development of the Premises does not unreasonably interfere with Landlord’s operations or development of the New Landlord Facilities.

6.5.7. **New Primary Landlord Facility.**

6.5.7.1. Landlord shall have the right to (a) design and construct the improvements to be constructed on the New Landlord Facility Subparcel, (b) contract with any developer to design and construct the improvements to be constructed on the New Landlord Facility Subparcel, or (c) elect to have Tenant design and construct the improvements to be constructed on the New Landlord Facility Subparcel as set forth in Section 6.5.7.2.

6.5.7.2. By written notice from Landlord to Tenant within five (5) years of the Lease Commencement Date, Landlord may elect to have Tenant design and build the New Primary Landlord Facility and lease the New Primary Landlord Facility to Landlord, in which case Tenant shall design and construct the New Primary Landlord Facility pursuant to a design and construction schedule, plans and specifications to be agreed upon by Landlord and Tenant. Landlord’s current best estimate of its long-term needs for the New Primary Landlord Facility include: (i) a four-story building of between 40,000 and 50,000 rentable square feet to be constructed in two roughly equal phases, with the first phase and second phase to each have a footprint of approximately 5,000 square feet with a 1,000 square foot open area between the phases, and the first phase along with the piling and foundation for the second phase to be constructed at the same time; and (ii) twelve (12) parking spaces. Tenant acknowledges that any facilities to be designed, constructed, and leased to Landlord shall be subject to the requirements of the State Procurement Code and the Office of the State Engineer to the extent required under applicable law.
Landlord and Tenant shall work together to coordinate and streamline the design and construction process. If the New Primary Landlord Facility is to be constructed by Tenant, the New Primary Landlord Facility Subparcel shall be leased to a Tenant Principal Member-Controlled Affiliate pursuant to a Subparcel Lease, and such Tenant Principal Member-Controlled Affiliate shall sublease the New Primary Landlord Facility Subparcel with all improvements thereon to Landlord pursuant to the terms of a sublease (the “New Primary Landlord Facility Subparcel Sublease”) according to the terms provided herein and other terms to be agreed by Landlord and Tenant. The term of the New Primary Landlord Facility Subparcel Sublease shall commence and Landlord shall commence to pay rent to Tenant pursuant to the New Primary Landlord Facility Subparcel Sublease thirty (30) days after the issuance of certificates of occupancy for all the improvements that constitute part of the New Primary Landlord Facility (or only the first phase thereof if constructed in more than one phase). If the aggregate direct out-of-pocket cost of construction of the New Primary Landlord Facility and any other improvements constructed by Tenant on the New Primary Landlord Facility Subparcel (including all architectural fees, engineering fees, site preparation, piling, permits and permitting, materials, labor, contractor fees, landscaping, payment and performance bonds, loan costs, legal fees, and accounting fees, environmental compliance requirements, a development fee equal to 5% of the aggregate direct out-of-pocket construction costs excluding the development fee, and all other related costs to which the parties agree) (collectively, the “New Primary Landlord Facility Aggregate Cost”) is $150.00 per square foot, then the annual rent to be paid by Landlord for the New Primary Landlord Facility Subparcel shall be a base rent of $20.00 per square foot on a triple net basis. If the New Primary Landlord Facility Aggregate Cost is more or less than $150.00 per square foot, then the base rent to be paid by Landlord will be increased or decreased by the same percentage by which construction costs are greater than or are less than $150.00 per square foot. Landlord’s election to have Tenant design and construct the New Primary Landlord Facility shall be subject to approval and agreement by Landlord and Tenant on the design, schedule, costs, New Primary Landlord Facility Subparcel Sublease, adequate credit support or setoff rights with respect to the rent to be paid by Landlord under the New Landlord Facility Subparcel Sublease,
and satisfaction of all permitting, zoning, and other conditions for the project. In no event shall Tenant be required to pay Rent on the New Primary Landlord Facility Subparcel, except for Percentage Rent to the extent that Tenant receives Gross Sales or Gross Rentals with respect to the New Primary Landlord Facility Subparcel that is not a payment under the New Primary Landlord Facility Subparcel Sublease. If Tenant constructs the New Primary Landlord Facility and subleases the New Primary Landlord Facility to Landlord, then Landlord shall have an option to acquire the New Primary Landlord Facility subject to approval by the State Fiscal Accountability Authority. The option price for the New Primary Landlord Facility shall be One Hundred Twenty Percent (120%) of the New Primary Landlord Facility Aggregate Cost. At the closing of Landlord’s purchase of the New Primary Landlord Facility, (i) the New Primary Landlord Facility Subparcel Sublease and the Subparcel Lease for the New Primary Landlord Facility Subparcel shall terminate, (ii) the New Primary Landlord Facility Subparcel shall be removed from the Premises and shall not be included in any calculations of Rent, and (iii) Tenant shall not be responsible for paying Rent thereon.

Within sixty (60) days after issuance of certificates of occupancy (or other evidence of completion, as applicable) for the New Primary Landlord Facility, Landlord shall vacate the improvements (including without limitation the current gift shop, snack bar and ticket office building) located on the portions of the Current Primary Landlord Facility Subparcel that are not part of the New Primary Landlord Facility Subparcel or the New Pier Landlord Facility Subparcel and shall give Tenant notice thereof. On the date that Landlord gives Tenant notice that Landlord has vacated all of the improvements located on the portions of the Current Primary Landlord Facility Subparcel that are not part of the New Primary Landlord Facility Subparcel or the New Pier Landlord Facility Subparcel, the Current Primary Landlord Facility Subparcel shall be added to the Premises and shall be included in calculations of Fair Market Rent and Minimum Rent, and Tenant shall pay Rent thereon, except that the portions of the Current Primary Landlord Facility Subparcel that are included in the New Primary Landlord Facility Subparcel or the New Pier Landlord Facility Subparcel shall not be added to the Premises, shall not be included in calculations of Fair Market Rent and Minimum Rent, and Tenant shall not pay Rent thereon. Except as otherwise provided below, if Landlord has
not vacated all of the improvements on the Current Primary Landlord Facility Subparcel (except for those improvements on the New Pier Landlord Facility Subparcel) as of the Current Primary Landlord Facility Vacancy Deadline (defined below), then, subject to the limitations of Section 6.5.2, Landlord shall reasonably and promptly cooperate with Tenant in the relocation of the applicable Current Landlord Landside Activities from the Current Primary Landlord Facility Subparcel (except for those Current Landlord Landside Activities on the New Pier Landlord Facility Subparcel) into temporary facilities (which shall not include trailers visible from the Premises at any time after completion of the first phase of improvements constructed by Tenant on the Premises unless expressly agreed by Tenant) at Landlord’s cost such that Landlord’s operations do not unreasonably interfere with Tenant’s development of the Premises. However, if Landlord’s failure to vacate the improvements on the Current Primary Landlord Facility Subparcel (except for the improvements on the New Pier Landlord Facility Subparcel) by the Current Primary Landlord Facility Vacancy Deadline is the result of Tenant not having completed or obtained certificates of occupancy (or other evidence of completion allowing occupancy and use of the improvements, as applicable) for the New Primary Landlord Facilities that Tenant is responsible for constructing, then Landlord shall have no obligation to move such Current Landlord Landside Activities to temporary facilities; provided that Landlord shall be required to move such Current Landlord Landside Activities to temporary facilities if (i) Landlord and Tenant have not entered into final agreements for the design and construction of the New Primary Landlord Facility by Tenant pursuant to Section 6.5.7 within one (1) year of the Lease Commencement Date or (ii) Landlord is otherwise responsible for the delay in completion thereof. Once such Current Landlord Landside Activities have been relocated into temporary facilities, the Current Primary Landlord Facility Subparcel (excluding any portions thereof that are part of a New Primary Landlord Facility Subparcel or the New Pier Landlord Facility Subparcel) shall be added to the Premises and shall be included in calculations of Fair Market Rent and Minimum Rent, and Tenant shall be responsible for paying Rent thereon. So long as any Current Landlord Landside Activities are located in temporary facilities within the Premises, Fair Market Rent and Minimum Rent shall be reduced pro-rata by the acreage occupied by (or the
development of which is otherwise hindered by) such temporary facilities. If such temporary facilities are located on any other Current Landlord Facility Subparcel or New Landlord Facility Subparcel that is not part of the Premises, then the existence of such temporary facilities shall not affect Rent. “Current Primary Landlord Facility Vacancy Deadline” is the date that is three (3) months following Commencement of Construction for the first phase of improvements to be constructed by Tenant on the Premises, provided that (i) such date shall be no sooner than three (3) years following the Lease Commencement Date, (ii) Tenant shall deliver notice to Landlord at least twelve (12) months in advance of the anticipated date for Commencement of Construction, and (iii) Tenant shall update such construction schedule by notice to Landlord not less often than quarterly. Upon vacating any improvements on the Current Primary Landlord Facility Subparcel, Landlord shall promptly give Tenant notice thereof. After the date that Landlord gives Tenant notice that Landlord has vacated any improvements on the Current Primary Landlord Facility Subparcel, Tenant shall have the right and option to demolish such improvements subject to Tenant obtaining all necessary permits from applicable governmental authorities.

6.5.8. New Pier Landlord Facility.

6.5.8.1. Landlord shall use commercially reasonable efforts to have Fort Sumter Tours, Inc. relocate Ft. Sumter Tours, Inc.’s facilities (other than the Fort Sumter Docking Facilities) to a location within the New Landlord Facility Subparcels other than the New Pier Landlord Facility Subparcel. The “Fort Sumter Docking Facilities” shall mean the docking facilities (including without limitation docks, roofed pier entrance, pilings, and dolphins) used by Fort Sumter Tours, Inc. as of the Lease Commencement Date.

6.5.8.2. The western boundary of the Current Pier Landlord Facility Subparcel as shown on Exhibit A-1 is approximately the line that is perpendicular to the eastern end of the Pier so that (i) the Pier, and (ii) the Fort Sumter Docking Facilities are the Permitted Pier Landlord Facilities in the Current Pier Landlord Facility Subparcel. The Current Pier Landlord Facility Subparcel will be included within the New Pier Landlord Facility Subparcel, so no portion of the Current Pier Landlord Facility Subparcel will be included in the Premises. The New
Pier Landlord Facility Subparcel will consist of (i) the Current
Pier Landlord Facility Subparcel, and (ii) the portion of the
boardwalk (the "Pier Boardwalk") currently planned to be
constructed adjacent to the Current Pier Landlord Facility
Subparcel, and shall extend to the Current Vietnam Support
Base Facility Subparcel as to be determined by Landlord and
Tenant and set forth in the Conceptual Master Plan.

6.5.8.3. In connection with construction of the Pier Boardwalk, Tenant
shall have the right to demolish and remove any improvements
located on the New Pier Landlord Facility Subparcel other than
those located on the Current Pier Landlord Facility Subparcel.
In connection with such demolition and construction of the Pier
Boardwalk, Landlord temporarily shall relocate (on the Pier or
otherwise) any Current Landlord Landside Activities
conducted on the New Pier Landlord Facility Subparcel other
than those located on the Current Pier Landlord Facility
Subparcel.

6.5.8.4. No new structures shall be erected above ground on the New
Pier Landlord Facility Subparcel other than the following (the
"Permitted Pier Landlord Facilities"): (i) the Pier as it exists on the Lease Commencement Date and as it may be
doubled in size, otherwise improved, replaced, and maintained,
(ii) railings and reasonable entrance signs and ticket checking
and security facilities at the entrance to the Pier, (iii) the Fort
Sumter Dock Facilities, as improved (to update or meet
applicable legal requirements), replaced, or maintained, (iv)
Fort Sumter Tours, Inc. facilities to the extent it has and
exercises the right to maintain existing and/or construct new
facilities within the New Pier Landlord Facility Subparcel
under the Fort Sumter Agreement as of the date hereof,
provided that any new facilities shall be subject to the design
process provided herein (except to the extent that Fort Sumter
Tours, Inc. is not required to obtain Landlord's design approval
under the Fort Sumter Agreement), and (v) Landlord's photo
concession facilities, which may be situated on the Pier
Boardwalk.

6.5.8.5. After the date that Landlord gives Tenant notice that Landlord
has vacated the improvements on the Current Primary Landlord
Facility Subparcel, Tenant shall have the right and option to
demolish existing improvements on the Current Primary
Landlord Facility Subparcel and, subject to Landlord Approval,
install any portions of the Pier Boardwalk on the New Pier
Landlord Facility Subparcel, which Pier Boardwalk shall be consistent with the surrounding portions of (i) the Premises, (ii) the New Primary Landlord Facility Subparcel, and (iii) the New Pier Landlord Facility Subparcel, and renovate ground level landscaped or hardscaped areas of any portion of the New Pier Landlord Facility Subparcel that do not have above ground improvements. Any waterfront portion of Parcel 1 that is either part of the Premises or part of the New Landlord Facility Subparcels, including any boardwalk or similar waterfront area, shall be reasonably consistent with the quality and design of the overall development of the Premises and compatible with the adjacent waterfront areas, and Landlord and Tenant shall reasonably cooperate with respect to the plans therefor. The Conceptual Master Plan shall include access constructed of appropriate materials to the entrance of the Pier with sufficient room to allow eighteen-wheel tractor trailer trucks, Mt. Pleasant Fire Department hook-and-ladder trucks, and other emergency vehicles to turn on to and off of the Pier.

6.5.9. **Vietnam Support Base.** As of the Lease Commencement Date, Landlord operates a Vietnam Support Base exhibit (the “Vietnam Support Base”) on the Current Vietnam Landlord Facility Subparcel. The Conceptual Master Plan must account for the relocation of the Vietnam Support Base on the New Vietnam Landlord Facility Subparcel and Tenant shall pay all costs associated with such relocation. Landlord and Tenant shall work together to ensure that the Vietnam Support Base is not closed to the public for longer than ninety (90) days during such relocation. As of the date that the new Vietnam Support Base on the New Vietnam Landlord Facility Subparcel opens to the public, (i) Landlord shall vacate the Current Vietnam Landlord Facility Subparcel and the Current Vietnam Landlord Facility Subparcel shall be added to the Premises and shall be included in calculations of Fair Market Rent and Minimum Rent, and Tenant shall be responsible for paying Rent thereon, and (ii) the New Vietnam Landlord Facility Subparcel shall be removed from the Premises and shall not be included in any calculations of Fair Market Rent or Minimum Rent, and Tenant shall not be responsible for paying Rent thereon.

6.5.10. **Storage and Maintenance Facilities.** As of the Lease Commencement Date, Landlord maintains and operates storage and maintenance facilities (the “Landlord Storage and Maintenance Facilities”) consisting of a maintenance shed of approximately 5,000 square feet and a “laydown yard” of approximately 20,000 square feet on the Current Landlord Storage and Maintenance Landlord Facility Subparcel. The Conceptual Master Plan must account for the relocation of the Landlord Storage and
Maintenance Facilities on the New Storage and Maintenance Landlord Facility Subparcel and Tenant shall pay all costs associated with such relocation. Tenant shall complete the relocation of the Landlord Storage and Maintenance Facilities with thirty (30) days of commencing such relocation. During such relocation, Landlord and Tenant shall work together to ensure minimal interruption to Landlord’s operations. As of the date that the Landlord Storage and Maintenance Facilities have been relocated to the New Storage and Maintenance Landlord Facility Subparcel and are ready for Landlord’s use, (i) Landlord shall vacate the Current Storage and Maintenance Landlord Facility Subparcel and the Current Storage and Maintenance Landlord Facility Subparcel shall be added to the Premises and shall be included in calculations of Fair Market Rent and Minimum Rent, and Tenant shall be responsible for paying Rent thereon, and (ii) the New Storage and Maintenance Landlord Facility Subparcel shall be removed from the Premises and shall not be included in any calculations of Fair Market Rent or Minimum Rent, and Tenant shall not be responsible for paying Rent thereon. (c) The storage and maintenance Landlord facility located on the New Storage and Maintenance Landlord Facility Subparcel.

6.5.11. Parking.

6.5.11.1. The Current Landlord Landside Activities include but are not limited to one hundred ten (110) parking spaces for Landlord’s personnel at no charge, covered parking and battery charging facilities for six (6) six-passenger golf carts and parking for up to twelve (12) tour buses at no charge on the Current Personnel Parking Landlord Facility Subparcel (the “Current Personnel Lot”), and six hundred (600) parking spaces for visitors to Landlord’s museums (the “Current Visitor Lot”) (the Current Personnel Lot and the Current Visitor Lot are collectively the “Current Parking Lots”). The provisions of this Section 6.5.11. are intended to continue to provide Landlord with ample parking during and after the development of the Premises. As long as all or part of the Current Visitor Lot is being used by Landlord for parking for its visitors or other invitees or licensees, such portions of the Current Visitor Lot being used by Landlord shall not be included in the Premises and shall not be included in calculations of Minimum Rent. At such time as portions of the Current Visitor Lot are either (i) no longer used by Landlord for parking for its visitors, personnel, or other invitees or licensees or (ii) incorporated into the Temporary Parking Lot (as defined below), such portions shall become part of the Premises.
6.5.11.2. At such time as Tenant's development of the Premises precludes Landlord's use of more than twenty percent (20%) of the Current Visitor Lot, (i) Tenant shall have developed a surface parking lot (which may include portions of the existing Current Visitor Lot) within Parcel 1 of the Premises at one or more locations approximately as shown on the Conceptual Master Plan or otherwise agreed to by Landlord and Tenant (collectively, the "Temporary Parking Lot") with parking capacity for not less than 600 cars and not less than 12 tour buses, and (ii) Rent under this Lease for the Temporary Parking Lot shall be in the amount of fifty percent (50%) of the gross revenue received by Tenant or a Tenant Affiliate (or by any sublessees or subtenants or concessionaires as a result of any sublease, franchise, or other similar agreements) from charging for parking in the Temporary Parking Lot until such time as Tenant or any Tenant Affiliate has been fully reimbursed for all actual and documented out-of-pocket costs of constructing the Temporary Parking Lot, and thereafter Rent under this Lease for the Temporary Parking Lot shall be in the amount of sixty-six and sixty-seven hundredths (66.67%) of the gross revenue received by Tenant or a Tenant Affiliate (or by any sublessees or subtenants or concessionaires as a result of any sublease, franchise, or other similar agreements) from charging for parking in the Temporary Parking Lot. Parking, whether surface or garage, that is shown on the Conceptual Master Plan as remaining upon completion of the development contemplated under the Conceptual Master Plan shall constitute Public Visitor Parking for purposes of Section 6.5.11.3 below and shall not be deemed part of the Temporary Parking Lot.

6.5.11.3. Upon written notice to Landlord, Tenant may remove all (or portions, from time to time) of the Temporary Parking Lot, provided that Tenant must have available at such time at least the equivalent number of spaces for public visitor parking ("Public Visitor Parking") elsewhere on the Premises (surface or garage) as the number of spaces removed from the Temporary Parking Lot, and provided that (with the exception of tour bus parking) such Public Visitor Parking spaces are located within Parcel 1 of the Premises as shown on Exhibit A-1 or A-2, as applicable. Tour buses that are bringing visitors to Landlord's museums and other facilities shall not be charged for parking. For purposes hereof, any unreserved parking spaces located on Parcel 1 as shown on Exhibit A-1 or A-2, as applicable, shall constitute Public Visitor Parking, including
without limitation any shared parking that is permitted under applicable zoning and which is available during applicable hours to visitors to Landlord's museums or the general public. Tenant shall install signage directing visitors to Landlord’s museums and to the appropriate parking areas. Notwithstanding any other provision of this Lease, in addition to the parking on the New Personnel Parking Landlord Facility Subparcel, Tenant’s development of the Premises shall provide sufficient parking to accommodate at least (i) seven hundred (700) automobiles on Parcel 1 for the visitors to Landlord’s museums and other facilities, (ii) twelve (12) buses on the Premises, and (iii) parking for the employees and customers of the Permitted Uses on the Premises. Upon removal of any portion of the Temporary Parking Lot, Rent for such portion of the Temporary Parking Lot shall no longer be governed by this Section 6.5.11 but shall be determined pursuant to the remainder of this Lease.

6.5.11.4. Tenant shall not demolish or otherwise prevent Landlord’s use of any of the Current Personnel Lot until the date that Tenant has constructed the New Personnel Parking Landlord Facility on the New Personnel Parking Landlord Facility Subparcel and the New Personnel Parking Landlord Facility is ready for use, provided that the Current Personnel Lot may be temporarily reconfigured or relocated by Tenant prior to completion of the New Personnel Parking Landlord Facility so long as the number of parking spaces in the Current Personnel Lot are maintained. As of the date that the New Personnel Parking Landlord Facility on the New Personnel Parking Landlord Facility Subparcel is ready for use, the New Personnel Parking Landlord Facility Subparcel shall be removed from the Premises and shall not be included in calculations of Fair Market Rent or Minimum Rent. Within thirty (30) days of the date that the New Personnel Parking Landlord Facility is ready for use, Landlord shall vacate the Current Personnel Parking Landlord Facility Subparcel and shall give Tenant notice that Landlord has vacated the Current Personnel Parking Landlord Facility Subparcel. As of the date of such notice, the Current Personnel Parking Landlord Facility Subparcel (excluding any portions of the Current Personnel Parking Landlord Facility Subparcel as are included in a New Landlord Facility Subparcel) shall be added to the Premises, shall be included in calculations of Fair Market Rent and Minimum Rent, and Tenant shall pay Rent thereon. Tenant shall reasonably cooperate with Landlord in Tenant’s development of the
Premises such that Tenant’s development of the Premises does not unreasonably interfere with Landlord’s personnel parking.
At any times that parking in the New Personnel Parking Landlord Facility is not being used by Landlord’s personnel, Tenant may utilize such parking so long as Tenant does not interfere in any way with use of such parking by Landlord’s personnel; provided that the foregoing shall not apply to any Landlord Parking Garage.

6.5.11.5. Notwithstanding any other term of this Lease, after the Current Personnel Parking Landlord Facility Subparcel has been added to the Premises pursuant to Section 6.5.11.4, Tenant shall have the right to relocate the New Personnel Parking Landlord Facilities and the New Personnel Parking Landlord Facility Subparcel within Parcel 1 or Restricted Parcel 1 (or elsewhere as agreed to by Landlord and Tenant) from time to time.

6.5.11.6. At any time or from time to time after the Current Personnel Parking Landlord Facility Subparcel has been added to the Premises pursuant to Section 6.5.11.4, but in any event not earlier than twenty (20) years following the Lease Commencement Date, Landlord may give Tenant notice that Landlord intends to build and will build a parking garage and related improvements (the “Landlord Parking Garage”) and/or any other improvements on the New Personnel Parking Landlord Facility Subparcel, provided that such Landlord Parking Garage or other improvements shall be primarily for the use and benefit of Landlord, its personnel and visitors to Landlord’s museum facilities and other exhibits. Following receipt of such notice that Landlord intends to build and will build a Landlord Parking Garage and/or any other improvements, subject to Sections 6.5.11.6.1 and 6.5.11.6.2 below, if Landlord has not previously constructed a Landlord Parking Garage or other Material improvements (in addition to surface parking) on the New Personnel Parking Landlord Facility Subparcel, Tenant shall have ninety (90) days to give Landlord notice of (i) Tenant’s intention to relocate the New Personnel Parking Landlord Facility Subparcel pursuant to the terms of this Section 6.5.11, and (ii) the location to which Tenant intends to relocate the New Personnel Parking Landlord Facility Subparcel. Such proposed new location for the New Personnel Parking Landlord Facility Subparcel shall be no less suitable (including but not limited to physical characteristics, zoning, and other legal limitations) for construction of a Landlord Parking Garage and/or other improvements than the
existing New Personnel Parking Landlord Facility Subparcel. Landlord shall thereafter proceed with development of a
Landlord Parking Garage and/or other improvements on the relocated New Personnel Parking Landlord Facility Subparcel.
Not less than sixty (60) days before the first day of the month during which Landlord plans to break ground on such Landlord Parking Garage and/or other improvements, Landlord shall give Tenant notice ("Notice of Commencement") of the date on which Landlord plans to break ground on such Landlord Parking Garage and/or other improvements, and as of the first day of the month during which Landlord plans to break ground on such Landlord Parking Garage and/or other improvements, the relocated New Personnel Parking Landlord Facility Subparcel shall be removed from the Premises and shall not be included in any calculations of Fair Market Rent or Minimum Rent, and Tenant shall not be responsible for paying Rent thereon. Within thirty (30) days of the date that such Landlord Parking Garage and/or other improvements, as applicable, are ready for use, but in any event not later than thirty (30) months following the date of Notice of Commencement (as may be extended by Force Majeure events) unless otherwise agreed by Landlord and Tenant, Landlord shall vacate the prior New Personnel Parking Landlord Facility Subparcel and shall give Tenant notice that Landlord has vacated such prior New Personnel Parking Landlord Facility Subparcel. As of the date of such notice, the prior New Personnel Parking Landlord Facility Subparcel shall be added to the Premises, shall be included in calculations of Fair Market Rent and Minimum Rent, and Tenant shall pay Rent thereon. Tenant shall reasonably cooperate with Landlord in the development of the Premises such that, subject to Section 6.5.2, Tenant’s development of the Premises does not unreasonably interfere with Landlord’s operations or development of such Landlord Parking Garage and/or other improvements.

6.5.11.6.1. Landlord’s notice of intent to build a Landlord Parking Garage or other improvements shall specify whether Landlord intends to build a Landlord Parking Garage, and if so, whether primarily for visitors to Landlord’s museum facilities and other exhibits rather than (A) parking primarily for Landlord’s personnel, or (B) parking to support other improvements that Landlord has constructed on the New Personnel Parking Landlord Facility Subparcel. If Landlord’s notice to Tenant specifies
that Landlord intends to build a Landlord Parking Garage primarily for such visitors, then (i) in such notice Landlord shall set forth the capacity of the proposed Landlord Parking Garage, (ii) Tenant shall have ninety (90) days from the date of such notice from Landlord to deliver written notice to Landlord that Tenant will construct a parking garage on the Premises or expand an existing parking garage on the Premises to provide at least as many parking spaces as specified in Landlord's notice to Tenant, and (iii) if Tenant delivers written notice to Landlord that Tenant will construct a parking garage on the Premises or expand an existing parking garage on the Premises, then Tenant shall commence construction of such additional parking garage or expansion of an existing parking garage within eighteen (18) months of such notice from Landlord to Tenant. If Tenant does not deliver such written notice within the ninety (90) day period set forth above or fails to commence construction within such eighteen (18) month period (subject to extension for Force Majeure), then Landlord shall have the right to proceed with planning and constructing such Landlord Parking Garage; provided, however, if Landlord does not commence construction of such Landlord Parking Garage within forty-eight (48) months (subject to extension for Force Majeure) of the expiration of the ninety (90) day or eighteen (18) month, as applicable, period set forth above, then Landlord's obligation to give Tenant notice and Tenant's right to construct an additional parking garage or expand an existing parking garage set forth in the previous sentence shall be renewed. To the extent that a portion of the New Personnel Parking Landlord Facility Subparcel is made available for public parking, Landlord shall not charge for public visiting an hourly or daily rate for parking in the Landlord Parking Garage that is less than ninety percent (90%) times the lesser of (i) the lowest hourly or daily rate (as applicable) charged by Charleston County for parking on the Charleston peninsula, or (ii) the lowest hourly or daily rate (as applicable) charged by the City of Charleston for parking on the Charleston peninsula,
or (iii) the lowest hourly or daily rate (as applicable) charged for parking on the Premises.

6.5.11.6.2. If Landlord notifies Tenant that Landlord intends to build improvements other than a Landlord Parking Garage on the New Personnel Parking Landlord Facility Subparcel, then Landlord and Tenant shall first meet and attempt in good faith to determine whether such improvements or uses could be accommodated in other locations within the Premises consistent with other existing or planned uses thereof upon such terms as the parties may agree, prior to Tenant electing whether to relocate the New Personnel Parking Landlord Facility Subparcel as provided above.

6.5.11.7. Notwithstanding any other term of this Lease, except with Landlord Approval, Tenant shall not charge for public visiting an hourly or daily rate for parking on the Premises that exceeds the greater of (i) one hundred ten percent (110%) times the highest hourly or daily rate (as applicable) charged by Charleston County for parking on the Charleston peninsula, or (ii) one hundred ten percent (110%) times the highest hourly or daily rate (as applicable) charged by the City of Charleston for parking on the Charleston peninsula, or (iii) the fair market hourly or daily rate (as applicable) charged by private owners for parking in similar parking facilities on the Charleston peninsula, as agreed by the parties, or failing which, as determined by appraisal, provided that the foregoing shall in no way limit the amount that Tenant or a subtenant may charge for longer term parking (including without limitation monthly parking or parking as part of sublease) or may charge hotel guests for parking.

6.5.12. **ATM.** Landlord is Lessor under a lease agreement (the "ATM Lease") with Southcoast Community Bank ("Southcoast") under which Southcoast as Tenant leases space within the Premises for the operation of an ATM. Landlord will continue the ATM Lease and thereafter may enter another agreement with either Southcoast or another bank on any Landlord Facility Subparcel to accommodate Southcoast’s or its successor’s ATM.

6.5.13. **Fort Sumter Tours.**

6.5.13.1. Landlord is Licensor and Fort Sumter Tours, Inc. is Licensee under an Agreement ("Fort Sumter Agreement") dated May
18, 1983, a copy of which is attached hereto as Exhibit E. The land, wetlands, marsh, docks, boat slips, ramps, and other facilities leased to Fort Sumter Tours, Inc. pursuant to the Fort Sumter Agreement are located within the Current Pier Landlord Facility Subparcel. Beginning on the Lease Commencement Date and continuing through the expiration or earlier termination of this Lease, Landlord shall have the right to continue to lease or license to Fort Sumter Tours, Inc. or any other successor concessionaire the land, wetlands, marsh, docks, boat slips, ramps, and other facilities as shown on the Current Survey and leased to Fort Sumter Tours, Inc. as they exist as of the Lease Commencement Date and as maintained and replaced in the future, including without limitation the right to lease or license such land, wetlands, marsh, docks, boat slips, ramps, and other facilities to a concessionaire of Landlord’s choosing after the expiration or earlier termination of the Fort Sumter Agreement. Tenant recognizes and agrees that pursuant to the terms of the Fort Sumter Agreement, at the expiration or earlier termination of the Fort Sumter Agreement, all such docks, boat slips, ramps, and other facilities become the property of Landlord and will not be part of the Premises.

Landlord and Tenant shall cooperate to ensure (i) that Landlord is able to fully comply with the terms and conditions of the Fort Sumter Agreement, and (ii) that Tenant does not violate or interfere with the terms of the Fort Sumter Agreement.

Pursuant to the terms of the Fort Sumter Agreement, Fort Sumter Tours, Inc. operates tour boats that travel between the docks that Fort Sumter Tours, Inc. leases from Landlord and various locations in the Charleston Harbor, including without limitation Fort Sumter. The tour boats’ route moving from the docks that Fort Sumter Tours, Inc. leases from Landlord out to Charleston Harbor passes west along the north side of Landlord’s Pier, then turns north along the starboard side of the Yorktown, then turns west around the bow of the Yorktown, and finally moves into the Charleston Harbor south along the port side of the Yorktown. The tour boats use the same route in reverse when they return to Patriots Point. This route is dredged and maintained pursuant to the terms of the Fort Sumter Agreement. This Lease does not give Tenant the right to, and Tenant shall not, build any improvement or take any action that impedes the navigability of this route, including without limitation the building of marinas or docks that impeded the navigability of this route.
6.5.13.3. Pursuant and subject to the Fort Sumter Agreement, Fort Sumter Tours, Inc. is granted (i) the exclusive right to operate sightseeing tour boats from the Patriots Point Naval and Maritime Museum, and (ii) a right of first refusal to provide boat transportation to and from Patriots Point and the peninsular City of Charleston, if and when it is determined that such service is needed and economically justified. Notwithstanding any other term of this Lease, including but not limited to Section 7.1, Tenant shall not, and shall not allow any other Person to, use the Premises in any way or conduct any activity on or from the Premises that violates the rights of Fort Sumter Tours, Inc. referenced in the previous sentence. Subject to the foregoing, upon request of Tenant, Landlord and Tenant shall work together to explore opportunities for boat transportation service to and from Patriots Point, which may include utilization of Landlord’s Pier, all subject to Landlord Approval and the rights of Fort Sumter Tours, Inc. under the Fort Sumter Agreement.

6.5.14. Tenant and Landlord hereby agree to grant each other all easements over and through the Premises and the improvements thereon that are necessary and convenient for conducting the Current Landside Landlord Activities and the New Landlord Landside Activities and for constructing and maintaining the improvements in which the Current Landlord Landside Activities are housed and in which the New Landlord Landside Activities will be housed.

7. TENANT’S RIGHTS AND OBLIGATIONS

7.1. Use.

7.1.1. Subject to the Master Plan as set forth in Section 6, Tenant shall use and occupy the Premises for the construction, operation and maintenance of one or more of the following (collectively, together with any additional uses that may be approved in writing by Landlord from time to time, the “Permitted Uses”):

7.1.1.1. Conference center;

7.1.1.2. Hotel including, but not limited to, additional rooms, banquet/conference space, dining facilities, spa, fitness facilities, pools, and hotel amenities;

7.1.1.3. Retail;
7.1.1.4. Restaurant and entertainment uses;

7.1.1.5. Parking;

7.1.1.6. Office (including, but not limited to, medical offices);

7.1.1.7. Rental residential apartments that are part of a mixed use building, including but not limited to above retail, part of a hotel, or above or on the exterior of parking garages provided that such parking garages are not for the exclusive use of the residential rental apartments, or that are otherwise authorized by Landlord Approval;

7.1.1.8. Civic, educational, religious, recreational, institutional and cultural uses and activities;

7.1.1.9. Entertainment and event venues;

7.1.1.10. Marina and boating facilities, such as boat launch or dock;

7.1.1.11. Ambulatory care clinics;

7.1.1.12. Public access facilities and amenities;

7.1.1.13. Agricultural sales, produce stand, or seafood stand, including without limitation farmers market;

7.1.1.14. Sweetgrass basket stand;

7.1.1.15. Government facilities;

7.1.1.16. Utilities;

7.1.1.17. Open space and pedestrian trails;

7.1.1.18. Animal care services;

7.1.1.19. Artisan workshop or studio;

7.1.1.20. Personal and business support services;

7.1.1.21. Transportation uses; and

7.1.1.22. Uses related or incidental to any of the foregoing.

7.1.2. Tenant shall not develop, lease or sell condominium units (residential, commercial, or otherwise), vacation time share units, or other similar
fractional real estate interests as tenants in common or otherwise, without prior Landlord Approval. This prohibition shall be included in the Memorandum of Lease to be recorded in the Office of the Register of Mesne Conveyance in Charleston County, South Carolina, which shall be in a form approved by Landlord and Tenant.

7.1.3. The operation and maintenance of all of the improvements on the Premises shall be conducted in a manner consistent, with respect to service, staffing, design appearance, promotion and marketing, with the standards of high quality public accommodations and meeting Grade A standards as set by the South Carolina Department of Health and Environmental Control (or its successors) for the licensing of food-handling, sanitation and accommodation facilities; and design and appearance shall be consistent with the Master Plan (and any modifications or additions to the Master Plan with Landlord Approval) and applicable legal requirements including but not limited to the requirements of the Town of Mount Pleasant's applicable zoning and architectural review ordinances and regulations, as such Master Plan may be hereafter amended and/or supplemented with Landlord's Approval.

7.1.4. Landlord expressly acknowledges and agrees that alcoholic beverages may be sold, stored, given away, and used on the Premises, subject to applicable laws; provided, however, prior to the sale, storage, use or giving away of alcoholic beverages on or from the Premises by Tenant or any other person, Tenant, at Tenant's own expense, shall obtain a policy or policies of insurance issued by an acceptable insurance company and in a form and amount customary for properties of similar size and nature and reasonably acceptable to Landlord, saving harmless and protecting Landlord and the Premises against any and all damages, claims, liens, judgments, expenses and costs arising under any present or future law, statute or ordinance of the State of South Carolina or other governmental authority having jurisdiction of the Premises, by reason of any such storage, sale, use or giving away of alcoholic beverages on or from the Premises.

7.2. Conditions of Use.

7.2.1. Tenant shall use the Premises and all improvements constructed and maintained thereon solely for the uses permitted under this Lease, and for no other use or purpose except by and with prior Landlord Approval in its sole discretion. Tenant shall not use or (to the extent within Tenant's control) permit any other person to use the Premises, or any part thereof, in violation of this Lease, or to unreasonably disturb the use or occupation of neighboring property in violation of law, or to constitute a nuisance in violation of law. Tenant shall not operate or allow any sublessee to operate
one or more (i) strip clubs, "topless" bars or restaurants, or any other substantially similar establishments, (ii) sexually oriented or "adult" retail stores, (iii) establishments involved in or facilitating gambling, including without limitation off-track betting locations, or (iv) tattoo parlors, on the Premises. Tenant shall, at all times after the Lease Commencement Date and during the Term, at its sole cost and expense, use its good faith commercially reasonable efforts to conform to, and cause all persons using or occupying any part of the Premises to comply with, all public laws, ordinances and regulations from time to time applicable thereto and to all operations thereon. Tenant expressly acknowledges and agrees that its good faith commercially reasonable efforts as described above shall include taking prompt and diligent action (including, but not limited to, legal action, if appropriate under the circumstances) against any subtenant, concessionaire or other third party for violation of the foregoing requirements. So long as Tenant is in compliance with the previous sentence, any Lease violations caused by third parties shall not constitute Lease violations by Tenant as long as Tenant commences and continues commercially reasonable efforts to remedy such Lease violations within ten (10) Business Days of receipt of notice from Landlord.

7.2.2. Tenant acknowledges that Landlord is an agency of the State of South Carolina and that the Premises are owned by Landlord. Tenant also acknowledges that Landlord's title to the Premises and its interest in this Lease cannot and shall not be subordinated to any other person or entity whomsoever and that the Leasehold Estate or any portion thereof may not be mortgaged, pledged or encumbered except as hereinafter provided in Section 35 of this Lease.

7.2.3. Tenant and its subtenants, concessionaires and all other parties using the Premises or any portion thereof shall assure that all accommodations, facilities, and services are provided to the public without discrimination on account of race, color, national origin, sex, age or physical handicap; and shall not discriminate on any of those grounds in its employment and hiring practices. Tenant shall require any person or entity employed by Tenant to perform any function, work, or service on and about the Premises (and improvements thereon) not to discriminate against any person on any of those grounds in the performance of such functions, work or service.

7.2.4. Tenant expressly acknowledges that the Premises and the entire Patriots Point development have important environmental and ecological significance. Tenant further acknowledges Landlord's goal of balancing environmental and ecological protection with economic and development opportunities. Tenant expressly acknowledges this concern and, to the extent required pursuant to applicable laws, rules and regulations, agrees
7.3. Permits and Operations.

7.3.1. After the initial completion of construction of the contemplated improvements, Tenant shall obtain and maintain all public permits and licenses that from time to time shall be required under applicable laws for the conduct of Tenant’s operations and maintenance of the improvements on the Premises.

7.3.2. Tenant shall continuously carry on and conduct operations (it being understood, however, that certain businesses and activities are seasonal in nature and therefore may be closed or operate for fewer days or hours during certain periods of the year) on the portions of the Premises on which building improvements have been constructed and maintain the Premises and any improvements thereon subject however, to (i) matters of damage, destruction, or condemnation; (ii) closings from time to time not to exceed three (3) months in cases of restocking, twelve (12) months for remodeling or minor renovations, and not to exceed twenty-four (24) months in cases of renovations or redevelopment of more than fifty percent (50%) of the value of the improvements being renovated or redeveloped (or such longer period not to exceed thirty-six (36) months if consistent with best construction practices and subject to Landlord Approval, not to be unreasonably withheld); (iii) ordinary course vacancies of leased space; and (iv) matters of Force Majeure (as hereinafter defined); provided, however, as to any subtenant, concessionaire or other third party using any portion of the Premises, Tenant will be in compliance with its obligations hereunder provided that in good faith Tenant uses commercially reasonable efforts to require all such parties to continuously carry on and conduct operations on their respective portions of the Premises and any improvements thereon subject however to the foregoing items in (i) through (iv) above. If Tenant, subject to the foregoing items in (i) through (iv) above, fails to continuously conduct said operations as herein provided, or to use its good faith, commercially reasonable efforts to enforce the terms hereof against any subtenant, concessionaire or other third party using a portion of the Premises, as herein provided (a “Continuous Operation Default”), any such failure shall constitute a breach of the covenants and conditions of this Lease and, subject to the notice and cure provisions contained in this Lease (including without limitation Section 23.4), shall constitute grounds for termination of this Lease with regard to the Subparcel within which such subtenant, concessionaire, or other third party is conducting operations. Tenant expressly acknowledges and agrees that its good faith commercially reasonable efforts as described above shall include, within
ten (10) Business Days of receipt of notice from Landlord of violation of the foregoing requirement to continuously carry on and conduct operations, taking prompt and diligent action (including, but not limited to, legal action if reasonably appropriate under the circumstances) against any subtenant, concessionaire or other third party for such violation. If the Master Plan or a modification or addition to the Master Plan with Landlord Approval allows or provides for Tenant to remove improvements to create open space within the Premises, Tenant may remove such improvements to create open space within the Premises from time to time. If Tenant desires to demolish material income-producing improvements on a portion of the Premises, Tenant shall submit to Landlord a proposed modification to the Conceptual Master Plan and to the Master Plan to make the desired changes.

7.3. Tenant may employ or contract with management and other personnel to manage and operate the improvements and facilities on the Premises or any part of the Premises. Should Tenant enter into a management or operating contract with a third party for management or operation of all or portions of the Premises (other than an assignment or sublease), Tenant shall promptly provide to Landlord’s counsel upon request a copy of any such contract and any amendments to such contracts, provided that such information shall remain subject to confidentiality obligations set forth in such agreements and further shall be maintained as confidential to the extent permitted by applicable law, including but not limited to the extent permitted by South Carolina’s Freedom of Information Act, and not used or disclosed other than for purposes under this Lease, and certain confidential terms thereof may be redacted by Tenant prior to providing such copies to Landlord’s counsel, provided that Tenant shall make available unredacted copies for review by Landlord’s counsel at the Mount Pleasant or Charleston offices of Tenant or Tenant’s counsel.

7.3.4. Landlord shall cooperate as Tenant reasonably requests from time to time to enable Tenant to apply for and maintain all required permits and approvals for Tenant’s development, operation, and maintenance of the Premises in accordance with this Lease.

7.4. Advertising and Promotion.

7.4.1. Tenant.

7.4.1.1. Subject to the terms of this Section 7.4.1, Tenant shall, at its expense, create its own advertising and promotions for the Premises and for any of the Permitted Uses, as set forth in Section 7.1.
7.4.1.2. Landlord hereby grants Tenant a limited, non-exclusive, non-transferable, sublicensable (any Person to whom Tenant sublicenses its rights under this Section 7.4.1 is a “Tenant Mark Sublicensee”) license to use and display the Landlord trademarks, service marks, logos, trade names and other identification marks and references to Patriots Point and/or the facilities and businesses located at Patriots Point which are owned by Landlord set forth on Exhibit B, attached hereto and incorporated herein (as such Exhibit may be updated or amended by Landlord in writing from time to time to add such other logos, trademarks, service marks, trade names and other identification marks and references to Patriots Point and/or the facilities and businesses located at Patriots Point which are owned by Landlord) (collectively, the “Patriots Point Marks”) solely for the purpose of advertising, promoting, or marketing Tenant’s goods, services or activities, and the goods, services or activities of any authorized subtenants, in connection with any Permitted Uses of the Premises; provided that: (i) Tenant shall not create, use, apply to register or maintain a registration for, and shall prohibit any Tenant Mark Sublicensee from creating, using, applying to register or maintaining a registration for, a unitary composite mark involving one or more Patriots Point Marks without prior Landlord Approval, except as expressly permitted for the purposes set forth herein; (ii) Tenant shall display, and shall require all Tenant Mark Sublicensees to display, symbols and notices clearly and sufficiently indicating the trademark status and ownership by Landlord of the Patriots Point Marks in accordance with applicable trademark law and customary practice; and (iii) Tenant shall comply, and shall require all Tenant Mark Sublicensees to comply, with all written guidelines provided by Landlord to Tenant from time to time relating to use of the Patriots Point Marks, provided that such guidelines shall not unreasonably restrict Tenant and Tenant Mark Sublicensees from utilizing the Patriots Point Marks as contemplated hereunder. The Patriots Point Marks shall at all times remain the exclusive property of Landlord, and Tenant agrees that all goodwill and rights of any kind accruing to Tenant’s use of the Patriots Point Marks will inure to the benefit, and be on behalf, of Landlord. Tenant shall and hereby does assign, all such goodwill and rights to Landlord and agrees to assign to Landlord any goodwill and rights that Tenant accrues in the Patriots Point Marks from time to time in the future. Tenant shall require all Tenant Mark Sublicensees to
assign all such goodwill and rights to Landlord and to agree to assign to Landlord any goodwill and rights that any such Tenant Mark Sublicensee accrues in the Patriots Point Marks from time to time in the future. Tenant acknowledges that Tenant’s utilization of the Patriots Point Marks will not create in Tenant, nor will Tenant represent Tenant has, any right, title, or interest in or to such Patriots Point Marks other than the licenses expressly granted herein. Tenant shall require all Tenant Mark Sublicenses to acknowledge that any Tenant Mark Subliceses’ utilization of the Patriots Point Marks will not create in such Tenant Mark Sublicensee, nor will any Tenant Mark Sublicensee represent that such Tenant Mark Sublicesees has, any right, title, or interest in or to such Patriots Point Marks other than the sublicenses granted by Tenant to such Tenant Mark Sublicensee pursuant to and subject to this Section 7.4.1. Tenant shall not contest or impair, and shall prohibit any Tenant Mark Sublicensee from contesting or impairing, the trademark or other rights of Landlord in the Patriots Point Marks. Tenant agrees to supply Landlord, and shall require all Tenant Mark Subliceses to supply Landlord, with a reasonable number of samples of any materials requested by Landlord that have been publicly disseminated by Tenant or by any Tenant Mark Sublicensee and that utilize the Patriots Point Marks.

7.4.1.3. Tenant acknowledges that the Patriots Point Marks are proprietary property of Landlord and that use of the Patriots Point Marks is subject to the approval rights set forth in this Section 7.4.1.3. Landlord reserves the right to approve in advance, as provided below, any advertising, promotional, and marketing materials containing any of the Patriots Point Marks and references to facilities and business located at Patriots Point owned by Landlord, provided that such approval process shall not unreasonably restrict Tenant and Tenant Mark Subliceeses from utilizing the Patriots Point Marks as contemplated hereunder. If at any time or from time to time, Landlord reasonably determines that Tenant’s advertising, promotional, or marketing materials have been harmful to Landlord’s reputation or have continued to contain inaccurate information concerning Landlord after Landlord has given Tenant written notice of the harmful advertising, promotional, or marketing materials or the inaccurate information, and if Landlord gives Tenant notice that Landlord intends to exercise this right of approval, then any such advertising, promotional, or marketing materials Tenant intends to use after Tenant’s...
receipt of such notice shall be approved or disapproved by Landlord in writing within ten (10) Business Days after submission, and if Landlord fails to give Tenant written notice of such disapproval within said ten (10) Business Day period, then such advertising, promotional, or marketing materials shall be deemed approved; provided that if Landlord disapproves any such advertising, promotional, or marketing materials containing any of the Patriots Point Marks and references to facilities and business located at Patriots Point owned by Landlord, then Landlord shall set forth in writing the elements of its disapproval and Tenant shall not use such disapproved advertising, promotional, and/or marketing materials.

7.4.1.4. Notwithstanding the foregoing, Tenant expressly acknowledges and agrees that the above-described license by Landlord to use the Patriots Point Marks is expressly limited to advertising, promoting, or marketing Tenant’s goods, services or activities, and the goods, services or activities of any authorized subtenants, in connection with any Permitted Uses of the Premises, such as brochures, and television, radio and/or print or digital advertisements, but not in connection with or in any way connected to the production, use, or sale of any product such as articles of clothing, gift items, commemorative items, or other tangible items, without prior Landlord Approval which may be withheld in Landlord’s sole discretion.

7.4.2. **Landlord.**

7.4.2.1. Tenant hereby grants Landlord and shall require all Persons subleasing (at any level of sublease) a portion of the Premises for other than office or residential uses (along with Tenant, the “Tenant Mark Licensors”) to grant to Landlord, a limited, non-exclusive, non-transferable, sublicensable (any Person to whom Landlord sublicenses its rights under this Section 7.4.2 is a “Landlord Mark Sublicensee”) license to use and display the Tenant Mark Licensors’ trademarks, service marks, logos, trade names and other identification marks and references to the Tenant Mark Licensors and/or the facilities and businesses located on the Premises which are owned by any of the Tenant Mark Licensors set forth on Exhibit C, attached hereto and incorporated herein (as such Exhibit may be updated or amended by Tenant in writing from time to time to add such other logos, trademarks, service marks, trade names and other identification marks and references to the Tenant Mark
Licensors and/or the facilities and businesses located on the Premises which are owned by the Tenant Mark Licensors (collectively, the "Tenant Marks") solely for the purpose of advertising, promoting, or marketing Landlord’s goods, services or activities in connection with Landlord’s activities on or in connection with Patriots Point; provided that: (i) Landlord shall not create, use, apply to register or maintain a registration for, and shall prohibit any Landlord Mark Sublicensee from creating, using, applying to register or maintaining a registration for, a unitary composite mark involving one or more Tenant Marks without prior approval from the owners of the applicable Tenant Marks; (ii) Landlord shall display, and shall require all Landlord Mark Sublicensees to display, symbols and notices clearly and sufficiently indicating the trademark status and ownership by the Tenant Mark Licensors of the Tenant Marks in accordance with applicable trademark law and customary practice; and (iii) Landlord shall comply, and shall require all Landlord Mark Sublicensees to comply, with all written guidelines provided by the applicable Tenant Mark Licensors to Landlord from time to time relating to use of the Tenant Marks, provided that such guidelines shall not unreasonably restrict Landlord and Landlord Mark Sublicensees from utilizing the Tenant Marks as contemplated hereunder. The Tenant Marks shall at all times remain the exclusive property of the applicable Tenant Mark Licensors, and Landlord agrees that all goodwill and rights of any kind accruing to Landlord’s use of the Tenant Marks will inure to the benefit, and be on behalf, of the applicable Tenant Mark Licensors. Landlord shall and hereby does assign, all such goodwill and rights to the applicable Tenant Mark Licensors and agrees to assign to the applicable Tenant Mark Licensors any goodwill and rights that Landlord accrues in the Tenant Marks from time to time in the future. Landlord shall require all Landlord Mark Sublicensees to assign all such goodwill and rights to the applicable Tenant Mark Licensors and to agree to assign to the applicable Tenant Mark Licensors any goodwill and rights that any such Landlord Mark Sublicensee accrues in the Tenant Marks from time to time in the future. Landlord acknowledges that Landlord’s utilization of the Tenant Marks will not create in Landlord, nor will Landlord represent Landlord has, any right, title, or interest in or to such Tenant Marks other than the licenses expressly granted herein. Landlord shall require all Landlord Mark Sublicensees to acknowledge that any Landlord Mark
7.4.2.2. Landlord acknowledges that the Tenant Marks are proprietary property of the applicable Tenant Mark Licensors and that use of the Tenant Marks is subject to the approval rights set forth in this Section 7.4.2.2. Tenant reserves the right to approve in advance, as provided below, any advertising, promotional, and marketing materials containing any of the Tenant Marks and references to facilities and business located on the Premises and owned by the applicable Tenant Mark Licensors, provided that such approval process shall not unreasonably restrict Landlord and Landlord Mark Sublicensees from utilizing the Tenant Marks as contemplated hereunder. If at any time or from time to time, the applicable Tenant Mark Licensors reasonably determine that Landlord’s advertising, promotional, or marketing materials have been harmful to the applicable Tenant Mark Licensors’ reputation or have continued to contain inaccurate information concerning the applicable Tenant Mark Licensors after Tenant has given Landlord written notice of the harmful advertising, promotional, or marketing materials or the inaccurate information, and if Tenant gives Landlord notice that Tenant intends to exercise this right of approval, then any such advertising, promotional, or marketing materials Landlord intends to use after Landlord’s receipt of such notice shall be approved or disapproved by Tenant in writing within ten (10) Business Days after submission, and if Tenant fails to give Landlord written notice of such disapproval within said ten (10) Business Day period, then such advertising, promotional, or marketing materials shall be deemed approved; provided that if Tenant disapproves any...
such advertising, promotional, or marketing materials containing any of the applicable Tenant Marks and references to facilities and business located on the Premises owned by such Tenant Mark Licensors, then Tenant shall set forth in writing the elements of Tenant's disapproval and Landlord shall not use such disapproved advertising, promotional, and/or marketing materials.

7.4.2.3. Notwithstanding the foregoing, Landlord expressly acknowledges and agrees that the above-described license by the Tenant Mark Licensors to use the Tenant Marks is expressly limited to advertising, promoting, or marketing Landlord's goods, services or activities in connection with Landlord's activities on or in connection with Patriots Point, such as brochures, and television, radio and/or print or digital advertisements, but not in connection with or in any way connected to the production, use, or sale of any product such as articles of clothing, gift items, commemorative items, or other tangible items, without prior approval of the applicable Tenant Mark Licensors which may be withheld in the applicable Tenant Mark Licensors' sole discretion.

7.5. Right to Contest Laws.

7.5.1. Tenant shall have the right to contest, by appropriate proceedings diligently conducted in good faith, without liability, cost or expense to Landlord, the validity or application of any law, ordinance, order, rule, regulation or requirement affecting Tenant's interest in the Premises or operations thereon. If compliance with any such law, ordinance, order, rule, regulation or requirement legally may be delayed pending the prosecution of any such proceeding without the occurrence of any lien (unless released by bond or otherwise), charge or liability of any kind against the Premises or Tenant's interest therein and without subjecting Landlord to any liability, civil or criminal, for failure so to comply therewith, Tenant may delay compliance therewith until the final determination of such proceeding. Even if such lien, charge or civil liability would be incurred by reason of any such delay, Tenant may, with prior Landlord Approval, contest as aforesaid and delay as aforesaid, provided that such contest or delay does not subject Landlord to criminal liability, damages or expense and provided that Tenant:

7.5.1.1. Furnishes Landlord with security satisfactory to Landlord against any loss or injury by reason of such contest or delay that Landlord expects to exceed Ten Thousand and No/100 Dollars ($10,000.00); and
7.5.1.2. Prosecutes the contest with due diligence.

7.5.2. Landlord shall not be required to join in any proceedings referred to in this Section unless (i) the provisions of any applicable law, rule or regulations at the time in effect shall require that such proceedings be brought by and/or in the name of Landlord, and (ii) Landlord chooses to so participate in its sole discretion, in which event Landlord shall join in the proceedings or permit the same to be brought in its name, in either case only if Tenant shall pay all expenses in connection therewith including but not limited to paying Landlord’s actual legal fees and expenses.


7.6.1. Tenant and the Premises will remain in compliance with all applicable laws, ordinances, and regulations (including consent decrees and administrative orders) relating to public health and safety and protection of the environment, including those statutes, laws, regulations, and ordinances identified in this Section 7.6, all as amended and modified from time to time (collectively “Environmental Laws”) which apply by virtue of Tenant’s use, occupancy and/or possession of the Premises and/or the improvements to the Premises to be constructed by Tenant. Neither Tenant nor Landlord shall cause or permit the Premises or any portion thereof to be used to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce, or process Hazardous Material (as defined herein) in any manner which violates applicable law.

7.6.2. Tenant will not permit to occur any release, generation, manufacture, storage, treatment, transportation, or disposal of Hazardous Material on, in, under, or from the Premises in any manner which violates applicable law. Tenant will promptly notify Landlord in writing if Tenant has or acquires notice or knowledge that any Hazardous Material has been or is threatened to be released, discharged, disposed of, transported, or stored on, in, under, or from the Premises in any manner which violates applicable law. If any Hazardous Material is found on the Premises in any manner, including but not limited to by virtue of Tenant’s use, occupancy or possession of the Premises or the improvements to be constructed by Tenant, which violates applicable law, then Tenant, at its own cost and expense, immediately will take such action as is necessary to prevent or stop the release, discharge, or spread thereof and remove the Hazardous Material to the complete satisfaction of Landlord and the appropriate governmental authorities; provided, however, (i) Tenant shall not be responsible or otherwise liable hereunder for any such Hazardous Material that was on, in, under, or from the Premises at the time of Tenant’s taking possession of the Premises hereunder (“Pre-existing Hazardous Material”), nor shall Tenant have any responsibility or obligation...
hereunder to take action in response to the same, and (ii) if the presence of
such Hazardous Material on, in, under, or from the Premises is the result
of the acts or omissions of Landlord, its agents or contractors, then
Landlord shall take such action as is necessary to prevent or stop the
release, discharge, or spread thereof and remove the Hazardous Material
as required by the appropriate governmental authorities; provided,
however, Landlord shall not be obligated hereunder to take any such
action with regard to (a) Pre-existing Hazardous Material that was on or in
the Premises at the time of Landlord’s acquisition of the Premises, or (b)
Hazardous Material that was placed on the Premises by anyone other than
Landlord, its agents or contractors. Tenant reserves the right to seek
contributions from any other party, excluding Landlord, Landlord’s board
members, officers, employees, agents, servants, and attorneys for
responses and remedial action taken by Tenant for which the other party is
liable, responsible or caused, in whole or in part. The foregoing shall not
limit Tenant’s responsibilities to cause the removal, at Tenant’s cost, of
existing improvements (including without limitation any Hazardous
Materials constituting part of such existing improvements) from portions
of the Premises to the extent required in connection with redevelopment of
such areas under this Lease, provided that removal of such existing
improvements shall not alter the foregoing terms of this paragraph.

Tenant immediately will notify Landlord and provide copies upon receipt
of all written complaints, actions, claims, citations, demands, inquiries,
reports, or notices asserting the presence of Hazardous Materials on, in,
under or from the Premises in violation of Environmental Laws. Tenant
will promptly cure and have dismissed with prejudice any of those actions
and proceedings caused by the acts or omissions of Tenant or its agents or
contractors and not relating to Pre-existing Hazardous Materials to the
reasonable satisfaction of Landlord within ninety (90) days of the date of
filing of any such action or proceeding, or such longer period as set forth
below. Tenant will keep the Premises free of any lien imposed pursuant to
any Environmental Laws caused by the acts or omissions of Tenant or its
agents or contractors and not relating to Pre-existing Hazardous Materials.

Upon filing of any such lien, Tenant shall have the same dismissed or
released within ninety (90) days of the date of filing of such lien;
provided, however, in the event Tenant cannot reasonably comply with
either ninety (90) day time period set forth in this Section for reasons
beyond the reasonable control of Tenant, including the procedures
required by Environmental Laws, Tenant will not be in default hereunder
provided it has commenced the necessary compliance action (or steps or
procedures required to commence the compliance action) within the ninety
(90) day period, proceeds in good faith thereafter with due diligence and
without unreasonable interruption in Tenant’s diligent efforts until such
matters are cured and during such cure period complies with all orders of
any governmental agency having jurisdiction thereof.

7.6.4. Landlord will have the right (but not any obligation) on notice to Tenant
and in cooperation with Tenant so as to minimize interference with
Tenant’s operations, to conduct environmental audits of the Premises, and
Tenant will cooperate in the conduct of those audits. The audits will be
conducted by a consultant of Landlord’s choice at Landlord’s expense, but
if a Material violation of any of the warranties, representations, or
covenants contained in this Section 7.6 by Tenant, its agents, licensees, or
invitees is discovered, then the fees and expenses of such consultant for
the environmental audit will be borne by Tenant and will be paid as
Additional Rent under this Lease on demand by Landlord.
Notwithstanding the foregoing, if the environmental audit discovers
Hazardous Material placed on, in or under the Premises by Landlord, its
agents or contractors, then Landlord shall be responsible for ensuring that
all legal requirements are met using commercially reasonable procedures
and processes to avoid materially interfering with Tenant’s use, access or
parking for the Premises pursuant to the terms of this Lease. Additionally,
Landlord shall permit a consultant of Tenant’s choice to inspect and
confirm the actions taken by Landlord with regard to any such
environmental audit or Hazardous Material.

7.6.5. If Tenant fails to comply with any of the foregoing warranties,
representations, and covenants and such failure continues for a period of
thirty (30) days after written notice thereof from Landlord or, in the event
Tenant is unable to comply with any of the foregoing within the thirty (30)
day period for reasons beyond its reasonable control and Tenant fails to
commence the necessary acts of compliance within said thirty (30) day
period and/or to proceed thereafter in good faith with due diligence
without unreasonable interruption in Tenant’s diligent efforts until such
matters are cured or fails to comply with all orders of any governmental
agency having jurisdiction thereof, subject to Tenant’s right to challenge
through lawful means any such order, Landlord may cause the removal (or
other action as required by Environmental Laws) of any Hazardous
Material from the Premises. The costs of Hazardous Material removal and
any other action (including transportation and storage costs) which are the
obligation of Tenant hereunder will, unless previously paid by Tenant, be
Additional Rent under this Lease, whether or not a court or governmental
agency has ordered the cleanup, and those costs will become due and
payable on demand by Landlord. Tenant will give Landlord, its agents,
and employees access to the Premises to remove or otherwise clean up any
Hazardous Material. Landlord, however, has no affirmative obligation to
remove or otherwise clean up any Hazardous Material unless the
Hazardous Material was released, generated, manufactured, stored,
treated, transported or disposed of by Landlord, its agents or contractors. This Lease will not be construed as creating any such clean up obligation on Landlord or Tenant except as specifically stated herein.

7.6.6. **Indemnification.**

7.6.6.1. Tenant shall protect, defend, indemnify, reimburse, and save and hold harmless Landlord and Landlord's board members, affiliates, directors, officers, employees, volunteers, attorneys, and agents from and against any and all liabilities, costs, damages (including consequential damages claimed by third parties against such indemnitees), losses, obligations, lawsuits, claims, fines or penalties, and expenses (including reasonable attorneys', consultants' and experts' fees and expenses) accruing to or incurred by Landlord (including without limitation any final judgments, awards, or penalties) to the extent resulting from:

7.6.6.1.1. any Hazardous Material on, in, under or affecting all or any portion of the Premises in a manner which violates applicable law unless said Hazardous Material is a Pre-existing Hazardous Material or was placed on, in or under the Premises by Landlord, its agents or contractors;

7.6.6.1.2. any misrepresentation, inaccuracy, or breach of any warranty, covenant or agreement of Tenant contained or referred to in this Section;

7.6.6.1.3. any violation or claim of violation by Tenant or its agents, licensees or invitees of any environmental law; or

7.6.6.1.4. the imposition of any lien for the recovery of any costs for environmental cleanup or other response costs relating to the release or threatened release of Hazardous Material on, in or under the Premises in violation of any Environmental Law, unless said Hazardous Material is a is a Pre-existing Hazardous Material or was the result of the acts or omissions of Landlord, its agents or contractors.

7.6.6.2. At its own cost and expense, Tenant shall defend (with attorneys reasonably acceptable to Landlord and at Tenant's sole cost) any lawsuits and administrative actions resulting
from the above-described events or occurrences for which Tenant indemnifies Landlord and Landlord's board members, affiliates, directors, officers, employees, volunteers, attorneys, and agents as provided in Section 7.6.6.1.

7.6.7. The foregoing indemnification provisions are the obligation of Tenant and will survive termination or expiration of this Lease. To the extent that Landlord is strictly liable under CERCLA (as defined below) or any state equivalent or any similar federal or state law, regulation or ordinance now existing or enacted after the Lease Commencement Date, Tenant's obligations to Landlord under the foregoing indemnity provision shall nevertheless still apply without regard to Landlord's strict liability thereunder provided Tenant is still responsible pursuant to the terms of this Lease.

7.6.8. For purposes of this Lease, "Hazardous Material" means the following, except and to the extent as permitted under Environmental Laws:

7.6.8.1. "hazardous substances" or "toxic substances" as those terms are defined by the Comprehensive Environmental Response, Compensation, and Liability Act (herein "CERCLA"), 42 U.S.C. 9601, et seq., or the Hazardous Materials Transportation Act, 49 U.S.C. 1802, both as amended to this date and as amended after this date;

7.6.8.2. "hazardous wastes," as that term is defined by the Resource Conservation and Recovery Act (herein "RCRA"), 42 U.S.C. 6902, et seq., as amended to this date and as amended after this date;

7.6.8.3. any pollutant, contaminant, or hazardous, dangerous, or toxic chemical, material, or substance within the meaning of any other applicable federal, state, or local law, regulation, ordinance, or requirement (including consent decrees and administrative orders) relating to or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste substance or material, all as amended to this date or as amended after this date;

7.6.8.4. crude oil or any fraction of it that is liquid at standard conditions of temperature and pressure (59 degrees Fahrenheit and 14.7 pounds per square inch absolute);
any radioactive material, including any source, special nuclear,
or by-product material as defined at 42 U.S.C. §2011, et. seq.,
as amended to this date or as amended after this date;

asbestos in any form or condition; and

polychlorinated biphenyls (herein "PCB's") or substances or
compounds containing PCB's.

IMPROVEMENTS


8.1.1. After Landlord has approved Tenant's Master Plan or any modification
thereof, but prior to commencing any construction, repair or renovation of
any improvements on the Premises or any Subparcel (other than (i)
renovations that only affect the interior of any improvements, which shall
not require Landlord Approval, or (ii) repairs, alterations or replacements
of existing improvements that do not require subsequent Landlord
Approval as provided in Section 8.1.3 below), Tenant shall submit six (6)
complete sets of the following documents (such documents are the
"Construction Plans") to Landlord:

8.1.1.1. A proposed site plan showing the proposed location of the
improvements on the Premises;

8.1.1.2. A set of elevations of all proposed buildings and
improvements, including all roads and utilities, including
scaled, schematic drawings; provided that Tenant shall also
provide Landlord one (1) set of detailed building plans and
 specifications of all proposed buildings and improvements
which detailed building plans and specifications shall not be
part of the documents included in the definition of
"Construction Plans";

8.1.1.3. Tenant’s proposed subdivision of the Parcel into Subparcels as
described in Section 6.4.2, if so desired by Tenant;

8.1.1.4. Proposed project construction and completion schedule;

8.1.1.5. Description of proposed use(s) on the Premises or portion
thereof;

8.1.1.6. Proof of Financial Capability, as required by Section 8.3; and
8.1.2. Landlord hereby agrees that Landlord will respond to and approve Construction Plans within forty-five (45) days of their receipt by Landlord; provided, however, if Landlord has objections or required changes to the Construction Plans solely in order to comply with the Master Plan and this Lease, Landlord will provide Tenant with written notice thereof within forty-five (45) days of their receipt. If not approved by Landlord, Tenant may resubmit the Construction Plans with such changes as required in order to comply with the Master Plan and this Lease, and Tenant shall promptly provide any additional information, documents and/or instruments requested by Landlord to enable Landlord to respond to and approve the Construction Plans. All such additional information, documents, and/or instruments submitted by Tenant shall become part of the Construction Plans. Landlord shall respond in writing to Tenant with Landlord’s approval or objections or required changes to the modified Construction Plans within fifteen (15) days of their receipt, and the foregoing procedure with fifteen (15) day deadlines shall continue until Landlord has no further objections or required changes. If the Construction Plans are approved, such approval shall be placed by Landlord upon the Construction Plans, four (4) sets of which shall be retained by it, with the remaining sets (all with Landlord's approval) being returned to Tenant. No improvements (including but not limited to display signs) may be erected on the Premises unless and until Construction Plans covering such proposed improvements shall have been first submitted to and approved by Landlord in the manner provided above and by such other governmental authorities to the extent legally required; provided, however, that changes or additions to the surface or faceplate of existing signage to reflect changes in names, logos, trademarks or other identifying items shall not require approval. The Landlord Administrator shall be and is hereby authorized, empowered and directed, with the assistance and advice of counsel, and without further approvals of Landlord’s Board or otherwise, to negotiate, execute, acknowledge and deliver approvals of Construction Plans as provided in this Lease. Landlord acknowledges that its failure to respond to proposed Construction Plans within the required time periods may lead to construction delays and substantial costs to Tenant. If Landlord fails to comply with such time period set forth above or in Section 8.1.5 below, Tenant may seek an immediate order of an Arbitrator compelling compliance without filing for arbitration in court. Upon written request from Tenant for arbitration, attorneys for Landlord and Tenant shall select a single Arbitrator within two (2) business days, failing which Tenant may request the American Arbitration Association to immediately appoint a qualified Arbitrator who shall serve for purposes of
this dispute only. Landlord and Tenant shall promptly provide any
relevant information to the Arbitrator, and the Arbitrator shall issue a
decision based on such information within five (5) business days of
appointment, with or without a hearing as determined in the discretion of
the Arbitrator. The Arbitrator may allow ex-parte communications in the
Arbitrator's discretion. Otherwise all provisions of Section 23.6 shall
apply. If Landlord responds to the request for approval prior to the
Arbitrator's issuance of a decision, then the arbitration proceeding shall
immediately terminate, except for claims for reimbursement of attorneys'
and arbitrator's fees and costs related thereto which shall continue.

8.1.3. When the construction of any building or other improvement on the
Premises is undertaken, the same shall be prosecuted with reasonable
diligence to completion, and shall comply with all applicable laws,
ordinances, and regulations applicable thereto and shall be constructed and
completed at the sole cost and expense of Tenant and without any cost,
expense or liability of Landlord whatsoever. Notwithstanding the
limitations set forth in this Section 8.1, Tenant may repair, replace, alter or
reconstruct any improvement on, being constructed on, or to be
constructed on the Premises for which Construction Plans were previously
approved by Landlord without obtaining further approval of Landlord, but
only if such repair, replacement, alteration or reconstruction is
substantially similar to the improvement previously so approved.

8.1.4. Notwithstanding the foregoing, the scope of the review and approval
required by this Section 8.1 is limited to Landlord determining that the
Construction Plans meet the requirements of the Master Plan and this
Lease. Landlord's approval shall be Approval Without Recourse.
"Approval Without Recourse" means that Landlord has approved the
matter being approved (1) without recourse to Landlord and without
technical review of or responsibility for the legal standards that would be
applied by trained and/or licensed professionals (such as but not limited to
architects or engineers) technically able to evaluate compliance with
applicable laws, rules, regulations or practices, and (2) from the limited
standpoint of conformity to the Master Plan as approved by Landlord.
Nevertheless, Tenant may rely upon any Approval Without Recourse
solely to evidence that Landlord has approved the matter in question
within the limitations set forth in this Section 8.1.4.

8.1.5. Conceptual and preliminary plans for the construction of improvements on
the Premises may be submitted by Tenant prior to the Construction Plans.
The Construction Plans will not be disapproved by Landlord if they
conform in all material respects to, or are a logical extension of,
conceptual and preliminary construction plans that have been approved by
the Landlord Administrator. Tenant may not materially or substantially
modify the approved Construction Plans without prior approval by the Landlord Administrator; provided, however, that Tenant may modify or amend the construction plans so long as such modifications or amendments do not materially or substantially modify or amend the approved Construction Plans. Landlord Administrator shall respond in writing to a written request for modification of approved Construction Plans within fourteen (14) days of receipt of the request.

8.1.6. The form, terms and provisions of the Approval Without Recourse requested under or required of Landlord by this Section 8.1 from time to time shall be approved for and executed on behalf of Landlord by its Landlord Administrator. Accordingly, the Landlord Administrator shall be and is hereby authorized, empowered and directed, with the assistance and advice of counsel, and without further approvals of Landlord's Board or otherwise, to negotiate, execute, acknowledge and deliver Approvals Without Recourse requested under or required of Landlord by this Section 8.1 from time to time in the name and on behalf of Landlord, and thereupon to cause the same to be delivered. Subject to the limitations of Section 8.1.4, those Approvals Without Recourse shall bind Landlord, and Tenant may rely on them.

8.1.7. Any construction plans affecting the vehicular access to the Pier as shown on the Conceptual Master Plan must provide for access for delivery vehicles (up to and including eighteen (18) wheel trucks) and emergency vehicles, including but not limited to fire trucks, to and on the Pier, all in accordance with applicable laws. Further, at all times during the development of the Premises, except as provided in Section 6.5.2, Tenant shall not impede or (to the extent within Tenant's control) allow others to impede the access of delivery vehicles and emergency vehicles to and on the Pier.

8.1.8. In connection with any proposed Construction Plans and simultaneously with any Construction Plans, Tenant will also provide to Landlord Tenant's good-faith pro forma budget (including projected revenues) for each proposed use on the Premises or a Subparcel, as applicable, and projected amounts of Percentage Rent to be paid by Tenant for the Premises or portion thereof, provided that such information shall be maintained as confidential to the extent permitted by applicable law, including but not limited to the extent permitted by South Carolina's Freedom of Information Act, and not used or disclosed other than for purposes under this Lease.

8.2. Capital Improvements, Time of Completion.
8.2.1. All improvements on the Premises shall be constructed in a good and workmanlike manner in accordance with the Master Plan and this Lease, including compliance with applicable building codes, zoning and other laws, and substantially in accordance with the Construction Plans approved by Landlord pursuant to Section 8.1.

8.2.2. Tenant must Commence Construction (as defined below) of one or more of the improvements to be constructed on the Premises by the third (3rd) anniversary of the expiration of the Inspection Period, provided that such date shall be extended to the extent that Tenant has diligently attempted and continues to diligently attempt to obtain all approvals and permits required to Commence Construction but is not yet reasonably able to Commence Construction or is otherwise subject to delays covered by the Force Majeure provisions of this Lease.

8.2.2.1. For purposes of this Section 8.2, the term “Commencement of Construction” means the date on which the last to occur of the following occurs:

8.2.2.1.1. Tenant or any permitted subtenant has executed one or more enforceable contracts with a general contractor or construction manager to construct improvements for uses permitted under this Lease; and

8.2.2.1.2. Tenant or any permitted subtenant has given written notice to commence work under such contract and the general contractor or construction manager begins Continuous Work on the Premises.

8.2.2.2. For Tenant to “Commence Construction” or to have “Commenced Construction,” both of the following must have occurred:

8.2.2.2.1. Tenant or any permitted subtenant has executed one or more enforceable contracts with a general contractor or construction manager to construct the improvements for uses permitted under this Lease; and

8.2.2.2.2. Tenant or any permitted subtenant has given written notice to commence work under such contract and the general contractor or construction manager begins Continuous Work on the Premises.
8.2.2.3. The term "Continuous Work" means a period of sixty (60) substantially continuous days of construction work commencing with digging and/or piling the foundation of the improvements to be constructed. The sixty (60) day period shall not include weekends, legal holidays or days which the general contractor or its subcontractors are prevented from working due to causes beyond the general contractor's or the subcontractor's reasonable control. If, as of the deadline for Tenant to have Commenced Construction pursuant to Section 8.2.2, the sixty (60) day period has begun but not concluded, so it is impossible to determine whether in fact the sixty (60) day requirement has been met, "Continuous Work" shall be deemed to exist and be underway so long as work has continued to date as required above and continues for the required sixty (60) days even if such sixty (60) days are not completed until after the deadline for Tenant to have Commenced Construction.

8.2.2.4. The improvements required to be constructed on the Premises (excluding the Restricted Parcels) in order to comply with the Minimum Development Requirements set forth in Section 8.10 shall be substantially completed and operational within one hundred eighty (180) calendar months of the Lease Commencement Date, provided that such date shall be extended to the extent of delays covered by the Force Majeure and mortgagee protection provisions of this Lease, and provided that any failure to achieve substantial completion or operations by such date shall be subject to the terms of Section 8.6 below.

8.2.3. After Tenant has Commenced Construction of the improvements to be constructed on the Premises, Tenant shall pursue completion thereof with due diligence so as to complete the same as soon as reasonably practical, but no later than allowed pursuant to this Section 8.2 and Section 8.6, as applicable.

8.2.4. With regard to Restricted Parcel 1, the schedule and deadlines for development set forth in this Section 8 (including but not limited to the Default on Construction provisions of Section 8.6) shall apply to Restricted Parcel 1, except that the date on which the Conservation Easement restrictions no longer restrict development of Restricted Parcel 1 shall be used in lieu of the Lease Commencement Date, and with regard to Commencing Construction, the later of the date on which the Conservation Easement restrictions no longer restrict development of Restricted Parcel 1 or the date (not later than eighteen (18) months
following the date on which the Conservation Easement restrictions no longer restrict development of Restricted Parcel 1) of obtaining zoning approval from the Town of Mount Pleasant reflecting such termination or expiration of the Conservation Easement shall be used in lieu of the expiration of the Inspection Period. With regard to Restricted Parcel 2, the schedule and deadlines for development set forth in Section 8 (including but not limited to the Default on Construction provisions of Section 8.6) shall apply to Restricted Parcel 2, except that the date on which the Conservation Easement restrictions no longer restrict development of Restricted Parcel 2 shall be used in lieu of the Lease Commencement Date, and with regard to Commencing Construction, the later of the date on which the Conservation Easement restrictions no longer restrict development of Restricted Parcel 2 or the date (not later than eighteen (18) months following the date on which the Conservation Easement restrictions no longer restrict development of Restricted Parcel 2) of obtaining zoning approval from the Town of Mount Pleasant reflecting such termination or expiration of the Conservation Easement shall be used in lieu of the expiration of the Inspection Period, provided if the LWCF Agreement restrictions are subsequently removed from part or all of Restricted Parcel 2 after the Conservation Easement restrictions no longer restrict development, the date on which the LWCF Agreement restrictions no longer restrict development of Restricted Parcel 2 shall be used in lieu of the Lease Commencement Date, and with regard to Commencing Construction, the later of the date on which the LWCF Agreement restrictions no longer restrict development of Restricted Parcel 2 or the date (not later than eighteen (18) months following the date on which the LWCF Agreement restrictions no longer restrict development of Restricted Parcel 2) of obtaining zoning approval from the Town of Mount Pleasant reflecting such termination or expiration of the LWCF Agreement shall be used in lieu of the expiration of the Inspection Period.

8.2.5. With regard to Parcel 3B, the schedule and deadlines for development set forth in this Section 8 (including but not limited to the Default on Construction provisions of Section 8.6) shall apply to Parcel 3B, provided, however, if the LWCF Agreement restrictions are removed from part or all of Parcel 3B, then the date on which the LWCF Agreement restrictions no longer restrict development of Parcel 3B shall be used in lieu of the Lease Commencement Date, and with regard to Commencing Construction, the later of the date on which the LWCF Agreement restrictions no longer restrict development of Parcel 3B or the date (not later than eighteen (18) months following the date on which the LWCF Agreement restrictions no longer restrict development of Parcel 3B) of obtaining zoning approval from the Town of Mount Pleasant reflecting such termination or expiration of the LWCF Agreement shall be used in lieu of the expiration of the Inspection Period.
8.3. **Proof of Financial Capability.**

At least forty-five (45) days prior to the commencement of any construction on the Premises or a Subparcel, Tenant shall furnish Landlord, in writing, Proof of Financial Capability with respect to the entire costs of construction of the improvements whose construction is to be commenced. “Proof of Financial Capability” means:

8.3.1.1. a true copy of a bona fide commitment letter from a lender (capable of providing the financing set forth in the commitment) accepted by Tenant or other proper proof of a good and sufficient construction loan or permanent loan or other necessary financial commitments from a Lender (as defined in Section 35.1 hereof), in an amount sufficient, when added to the equity of Tenant, to assure construction of any specific improvements on the Premises in accordance with the terms of this Lease; or

8.3.1.2. proof satisfactory to Landlord in Landlord’s reasonable discretion of directly committed financial resources in an amount sufficient, when added to the equity of Tenant, to assure construction of any specific improvements on the Premises in accordance with the terms of this Lease and commencement of operations thereof.

8.4. **Payment and Performance Bonds.** Tenant also shall furnish, prior to the commencement of any construction on the Premises, customary payment and performance bonds of the general contractor’s obligations under the construction contract or other securities or guarantees (provided that, if acceptable to Lender, Tenant may furnish payment and performance bonds for all Material subcontractors in lieu of furnishing payment and performance bonds for the general contractor) reasonably acceptable to Landlord which in the reasonable opinion of Landlord are sufficient to assure completion of construction and payment of all construction costs for the improvements to be constructed. Landlord expressly acknowledges and agrees that if the payment and performance bonds provided to the Lenders meet the foregoing qualifications and provided Landlord is also a beneficiary thereunder, Tenant shall not be required to provide a separate payment or performance bond solely for Landlord, and Landlord’s interest therein shall be junior and subordinate to the interest of the Lenders (as hereinafter defined) therein. In the event that the applicable Lender providing construction financing does not require payment and performance bonds, then Landlord shall consider in good faith whether Landlord will also waive such requirement.
8.5. **Construction Contracts.** Tenant also shall furnish, prior to the commencement of any construction on the Premises (other than ordinary course repairs or minor alterations for amounts less than One Hundred Thousand and No/100 Dollars ($100,000) as adjusted by the percentage increase in CPI since the Lease Commencement Date), a true and accurate copy of all contracts between Tenant and Tenant's general contractor, and a true and accurate copy of all contracts between Tenant and Tenant's construction manager (if applicable), and other Material contractors providing services or materials for the construction of the improvements to be constructed on the Premises, and, on an ongoing basis, furnish true and accurate copies of any amendments, extensions or other modifications of the same, provided that such information shall be maintained as confidential to the extent permitted by applicable law, including but not limited to the extent permitted by South Carolina's Freedom of Information Act, and not used or disclosed other than for purposes under this Lease.

8.6. **Default on Construction.**

8.6.1. If Tenant shall fail to substantially complete the construction and begin operation of all of the improvements and facilities required to be constructed on the entire Premises (other than the Restricted Parcels) in order to comply with the Minimum Development Requirements set forth in Section 8.10 by the fifteenth (15th) anniversary of the Lease Commencement Date (or, with respect to the Restricted Parcels, as provided in Section 8.2.4), then any failure to comply with the Minimum Development Requirements shall not constitute a material failure of consideration hereunder and shall not give Landlord the right to terminate this Lease or exercise any other remedies for default as a result of failure to comply with the Minimum Development Requirements, but Tenant shall commence to pay the portion of Minimum Rent attributable to any undeveloped portions of the Premises (other than the Restricted Parcels) and any portions of the Premises (other than the Restricted Parcels) under construction but not substantially completed and operational (calculated by multiplying the Minimum Rent for the Premises (other than the Restricted Parcels) by a fraction the numerator of which shall be the Percentage Rent contemplated under the Conceptual Master Plan to be generated from the portions of the Minimum Development Requirements for the Premises (other than the Restricted Parcels) that are not substantially completed and operational and the denominator of which shall be the aggregate Percentage Rent contemplated under the Conceptual Master Plan to be generated from all of the Minimum Development Requirements for the Premises (other than the Restricted Parcels)) regardless of whether Percentage Rent for the Premises exceeds Minimum Rent for the Premises. This obligation shall continue until the Minimum Development Requirements for the Premises (other than the Restricted Parcels) have been satisfied. With respect to the Restricted Parcels, the
foregoing provisions of this Section 8.6.1 shall apply separately as provided in Section 8.2.4. With respect to Parcel 3B, if the LWCF Agreement restrictions are removed and no longer restrict the development thereof, the foregoing provisions of this Section 8.6.1 shall apply separately as provided in Section 8.2.5.

8.6.2. If Tenant shall fail to substantially complete the construction and begin operation of all of the improvements and facilities required to be constructed on the entire Premises (other than the Restricted Parcels) in order to comply with the Minimum Development Requirements set forth in Section 8.10 by the twentieth (20th) anniversary of the Lease Commencement Date (or, with respect to the Restricted Parcels, as provided in Section 8.2.4), then any failure to comply with the Minimum Development Requirements shall not constitute a material failure of consideration hereunder and shall not give Landlord the right to terminate this Lease or exercise any other remedies for default as a result of failure to comply with the Minimum Development Requirements, but Tenant shall commence, and continue until such time as the Minimum Development Requirements have been satisfied, to pay Rent on any undeveloped portions of the Premises (other than the Restricted Parcels) and on any portions of the Premises (other than the Restricted Parcels) under construction but not substantially completed and operational in an amount each Lease Year calculated as the difference between (i) Imputed Operational Rent (defined below) less (ii) the Operational Rent (defined below). The “Imputed Operational Rent” is the Operational Rent multiplied by a fraction the numerator of which shall be the aggregate Percentage Rent contemplated under the Conceptual Master Plan to be generated from all of the Minimum Development Requirements for the Premises together with any other Operational Property (defined below) and the denominator of which shall be the Percentage Rent contemplated under the Conceptual Master Plan to be generated from the portions of the Minimum Development Requirements for all of the Operational Property. The “Operational Rent” is the aggregate Rent for the applicable Lease Year on the substantially completed and operational portions of the Premises together with the Rent for the applicable Lease Year on any substantially completed and operational portions of any Subparcels subject to Subparcel Leases (other than the Restricted Parcels) (collectively, the “Operational Property”). Tenant’s obligation to pay such Rent shall apply regardless of whether the Percentage Rent paid by Tenant with respect to the remainder of the Premises exceeds Minimum Rent. This obligation shall continue until the Minimum Development Requirements for the Premises (other than the Restricted Parcels) have been satisfied. With respect to the Restricted Parcels, the foregoing provisions of this Section 8.6.2 shall apply separately as provided in Section 8.2.4. With respect to Parcel 3B, if the LWCF Agreement restrictions are removed and
no longer restrict the development thereof, the foregoing provisions of this
Section 8.6.2 shall apply separately as provided in Section 8.2.5.

8.6.3. If Tenant shall fail to substantially complete the construction and begin
operation of all of the improvements and facilities required to be
constructed on the entire Premises (other than the Restricted Parcels) in
order to comply with the Minimum Development Requirements set forth
in Section 8.10 by the twenty-first (21st) anniversary of the Lease
Commencement Date (or, with respect to the Restricted Parcels, as
provided in Section 8.2.4), then any failure to comply with the Minimum
Development Requirements shall constitute a material failure of
consideration hereunder with respect to those portions of the Premises
(other than the Restricted Parcels) that are not substantially complete and
operational, and upon the expiration of twelve (12) months from Landlord
giving Tenant written notice of such failure to comply with the Minimum
Development Requirements, if Tenant has not cured such failure to
comply with the Minimum Development Requirements, then Landlord
shall have the right to terminate this Lease with regard to only those
portions of the Premises (other than the Restricted Parcels) that are not
substantially complete and operational (subject to Lender rights as
provided herein). With respect to the Restricted Parcels, the foregoing
provisions of this Section 8.6.3 shall apply separately as provided in
Section 8.2.4. With respect to Parcel 3B, if the LWCF Agreement
restrictions are removed and no longer restrict the development thereof,
the foregoing provisions of this Section 8.6.3 shall apply separately as
provided in Section 8.2.5.

8.6.4. During the twelve (12) months between the twentieth (20th) and twenty-
first (21st) anniversaries of the Lease Commencement Date, Tenant shall
have the right to give Landlord notice that Tenant will cancel the Lease
effective the date that is twelve (12) months following the date of such
notice with respect to the portions of the Premises (other than the
Restricted Parcels) that are not substantially completed and operational on
the date of such notice, provided that from the date of such notice until the
effective date of the cancellation, the Rent with respect to such portions of
the Premises that are not substantially completed and operational shall be
governed by Section 8.6.1 and not by Section 8.6.2. With respect to the
Restricted Parcels, the foregoing provisions of this Section 8.6.4 shall
apply separately as provided in Section 8.2.4. With respect to Parcel 3B, if
the LWCF Agreement restrictions are removed and no longer restrict the
development thereof, the foregoing provisions of this Section 8.6.4 shall
apply separately as provided in Section 8.2.5.

8.6.5. Notwithstanding the foregoing, the dates hereinabove specified for
completion of any improvements or facilities shall be extended for so long

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Master Lease Agreement For PPDA and Patriots Annex, LLC

Execution Version
April 8, 2016

THIS LEASE IS SUBJECT TO ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT, SECTION 15-48-10 ET SEQ. OF THE CODE OF LAWS OF SOUTH CAROLINA, AS AMENDED FROM TIME TO TIME, AND THE FEDERAL ARBITRATION ACT (9 U.S.C. §1, ET SEQ.), AS AMENDED FROM TIME TO TIME.
as Tenant shall be prevented from commencing and/or completing the
same by reasons of Force Majeure.

8.7. **Future Construction.** No construction on the Premises for any particular type of
improvement herein shall commence until Tenant has delivered Proof of Financial
Capability, as required by Section 8.3, and approved by Landlord to the extent
Section 8.3 requires, unless the parties agree in writing otherwise.

8.8. **Expansions or Additions.** The capital improvements and facilities in the Master
Plan are understood and agreed as minimum facilities to meet present public
needs at Patriots Point, and Tenant may expand and add to these facilities as
market need and demand require and as permitted by further agreed-upon
additions, alterations or amendments to the Master Plan with Landlord Approval.

8.9. **Removal.** All improvements to the Premises made by Tenant, as provided for in
this Lease and in the Master Plan, and all subsequent non-removable additions
thereto and alterations therein and replacements thereof, shall become and remain
a part of the Premises, subject to the use and occupancy by Tenant hereunder and
all permitted subtenants, licensees, and others occupying or using the Premises
thereunder. None of said improvements, additions, or alterations shall be
encumbered, transferred, removed or materially altered except as otherwise
provided in this Lease. Except as hereinafter provided in this Section, Tenant
shall be the owner of (a) all improvements paid for, financed, constructed by
Tenant upon the Premises, as those improvements may be altered, expanded or
improved from time to time, and (b) all trade fixtures, furnishings, inventories,
supplies, and other personal property located on the Premises and paid for by
Tenant. Tenant shall retain all rights to depreciation, deductions, and tax credits
arising from its ownership of same. Upon the expiration of the Term hereof or
any earlier termination of this Lease, all of the improvements shall become the
property of Landlord without the payment of any further consideration; subject,
however, to Tenant’s right to remove from the Premises trade fixtures and
movable personal property as hereinafter provided in Section 25.1.

8.10. **Minimum Development Requirements.**

8.10.1. The aggregate improvements to be constructed on or made to the entire
Premises must include at least the square footages and/or other applicable
unit of measurement such as hotel guest rooms as agreed by Landlord and
Tenant (collectively, “Units”) per use (including without limitation all of
the common areas, roadways, parking, pedestrian access, and parks and
other areas to be landscaped within the Premises) set forth in Tenant’s
Proposed Conceptual Master Plan attached hereto as Exhibit F (the
“Minimum Development Requirements”), as may be modified by the
Conceptual Master Plan or the Master Plan or any modifications to either
the Conceptual Master Plan or the Master Plan proposed by Tenant and
approved by Landlord from time to time pursuant to Section 6.2 and Section 6.3. The Minimum Development Requirements shall allow for limited (up to 10%) reductions in Units of certain uses with equivalent increases in Units of other uses so long as such changes are designed to provide at least the aggregate Rent contemplated by the Proposed Conceptual Master Plan, to the extent reasonably practicable taking into consideration current market conditions and demand at such time of consideration. Any improvements constructed on the Premises for which a certificate of occupancy is obtained shall be deemed to apply to satisfaction of the Minimum Development Requirements notwithstanding any subsequent casualty, condemnation, or other event or circumstance limiting the operation thereof. The Minimum Development Requirements initially shall not include Restricted Parcel 1 and Restricted Parcel 2, each of which shall have a separate schedule for Minimum Development Requirements as set forth in Section 8.10.2. Upon subdivision of a Subparcel that is subjected to a Subparcel Lease and removed from the Premises hereunder, the applicable portion of the Minimum Development Requirements for such Subparcel as identified in the Conceptual Master Plan at such time shall be allocated to such Subparcel and designated in such Subparcel Lease.

8.10.2. Once the Conservation Easement restrictions no longer restrict development of Restricted Parcel 1, Tenant shall begin development of Restricted Parcel 1 pursuant to the schedule and deadlines for development set forth in Sections 8.2 and 8.6. Once the Conservation Easement restrictions no longer restrict development of Restricted Parcel 2, Tenant shall begin development of Restricted Parcel 2 pursuant to the schedule and deadlines for development set forth in Sections 8.2 and 8.6 taking into consideration the restrictions in the LWCF Agreement; and if the LWCF Agreement restrictions subsequently are removed and no longer restrict development of Restricted Parcel 2, then Tenant shall begin redevelopment of Restricted Parcel 2 pursuant to the schedule and deadlines for development set forth in Sections 8.2 and 8.6. The square footages per use required on the Restricted Parcels shall be as set forth in the Conceptual Master Plan as modified (from time to time) to take into account development of the Restricted Parcels pursuant to Section 6.2.

8.10.3. If the LWCF Agreement restrictions are removed and no longer restrict development of Parcel 3B, then Tenant shall begin redevelopment of Parcel 3B pursuant to the schedule and deadlines for development set forth in Sections 8.2 and 8.6. The square footages per use required on Parcel 3B shall be as set forth in the Conceptual Master Plan as modified (from time to time) to take into account redevelopment of Parcel 3B pursuant to Section 6.2.
8.10.4. Upon execution of a Subparcel Lease, the square footages per use of improvements required to be constructed on such Subparcel set forth in the Conceptual Master Plan for such Subparcel attached to the respective Subparcel Lease shall be subtracted from the Minimum Development Requirements hereunder.

9. **RENT.**

9.1. **General:**

9.1.1. Subject to Sections 8.6.1 through 8.6.3 regarding modification of the Rent due from Tenant to Landlord in the event improvements are not substantially complete and operational by the deadlines set forth in those Sections, each Lease Year, Tenant shall be responsible for and pay to Landlord:

9.1.1.1. without deduction, set off, prior notice or demand, the greater of

9.1.1.1.1. Percentage Rent, or

9.1.1.1.2. Minimum Rent; and

9.1.1.2. any other required amounts set forth in this Lease.

9.1.2. On the first day of every calendar month commencing upon the earlier of (i) one (1) year after the last day of the Inspection Period, or (ii) the third (3rd) anniversary of the Lease Commencement Date, Tenant shall pay to Landlord the Monthly Rent (defined below). The "Monthly Rent" to be paid each month during a given Lease Year is calculated as follows:

9.1.2.1. If the Estimated Monthly Percentage Rent (defined below) is greater than the Estimated Monthly Minimum Rent (defined below), then the Monthly Rent is the Estimated Monthly Percentage Rent.

9.1.2.2. If the Estimated Monthly Minimum Rent is greater than the Estimated Monthly Percentage Rent, then the Monthly Rent is the Estimated Monthly Minimum Rent.

9.1.2.3. The "Estimated Monthly Percentage Rent" is one-twelfth (1/12th) of sixty percent (60%) of the Percentage Rent calculated for the previous Lease Year for the Premises.
9.1.2.4. The "Estimated Monthly Minimum Rent" is one-twelfth (1/12th) of the Minimum Rent for the Premises for the current Lease Year.

9.1.3. Monthly Rent is payable in advance without deduction, set-off, prior notice or demand, on the first day of each and every calendar month commencing upon the earlier of (i) one (1) year after the last day of the Inspection Period, or (ii) the third (3rd) anniversary of the Lease Commencement Date, even if the conditions set forth in Section 5.1.2 have not been satisfied. All Rent payments shall be made to Landlord at 40 Patriots Point Road, Mt. Pleasant, SC 29464 Attn: Chief Financial Officer, or at such other place as Landlord may designate in writing to Tenant or by wire or other electronic transfer as agreed by Landlord and Tenant from time to time. If the first anniversary of the last day of the Inspection Period is a day other than the first day of the month, Monthly Rent payable for such month shall be prorated and paid with the first regular monthly installment of Monthly Rent due on the first day of the month following the month in which the first anniversary of the last day of the Inspection Period occurs.

9.1.4. On or before January 31 of each calendar year following the end of the second Lease Year, Tenant shall deliver to Landlord unaudited reports of Percentage Rent for the immediately prior Lease Year. If the aggregate Rent for the prior Lease Year is greater than the sum of the Monthly Rent payments paid by Tenant to Landlord during the prior Lease Year, then Tenant shall pay to Landlord the excess of such aggregate Rent over the sum of the Monthly Rent payments paid by Tenant to Landlord during the prior Lease Year. Before the end of the prior Lease Year, Tenant may, at its option, estimate the Percentage Rent, make the applicable payment based on the estimate, and make appropriate adjustments based on actual numbers prior to January 31 as provided herein. All payments shall be subject to adjustment upon receipt by Landlord of final audited reports pursuant to Section 11.2 below. Any shortfall in Rent payments for a Lease Year shall be paid to Landlord by April 30 of the following calendar year. Any excess Rent payments shall be credited towards the next Rent payments due; provided, that if there is excess Rent paid for the last Lease Year of the Term, then Landlord shall promptly refund the excess to Tenant.


9.2.1. The term "Minimum Rent" means:
9.2.1.1. for the first Lease Year and a portion of the second Lease Year until the first anniversary of the Lease Commencement Date, no Minimum Rent is payable;

9.2.1.2. for the twelve month period commencing on the first anniversary of the Lease Commencement Date, the Fair Market Rent multiplied by 0.10;

9.2.1.3. for the twelve month period commencing on the second anniversary of the Lease Commencement Date, the Fair Market Rent multiplied by 0.20;

9.2.1.4. for the twelve month period commencing on the third anniversary of the Lease Commencement Date, the Fair Market Rent multiplied by 0.30;

9.2.1.5. for the twelve month period commencing on the fourth anniversary of the Lease Commencement Date, the Fair Market Rent multiplied by 0.40;

9.2.1.6. for the twelve month period commencing on the fifth anniversary of the Lease Commencement Date, the Fair Market Rent multiplied by 0.50;

9.2.1.7. for the twelve month period commencing on the sixth anniversary of the Lease Commencement Date, the Fair Market Rent multiplied by 0.60;

9.2.1.8. for the twelve month period commencing on the seventh anniversary of the Lease Commencement Date, the Fair Market Rent multiplied by 0.70;

9.2.1.9. for the twelve month period commencing on the eighth anniversary of the Lease Commencement Date, the Fair Market Rent multiplied by 0.80; and

9.2.1.10. for the twelve month period commencing on the ninth anniversary of the Lease Commencement Date, the Fair Market Rent multiplied by 0.90; and

9.2.1.11. for the remainder of the Lease Year commencing on the tenth anniversary of the Lease Commencement Date and each subsequent Lease Year, the Fair Market Rent.

9.2.2. The term “Fair Market Rent” means for the first Lease Year the sum of the amounts determined pursuant to the procedure set forth in Section

Master Lease Agreement For PPDA and Patriots Annex, LLC
Execution Version April 8, 2016
THIS LEASE IS SUBJECT TO ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT, SECTION 15-48-10 ET SEQ. OF THE CODE OF LAWS OF SOUTH CAROLINA, AS AMENDED FROM TIME TO TIME, AND THE FEDERAL ARBITRATION ACT (9 U.S.C. §1, ET SEQ.), AS AMENDED FROM TIME TO TIME.
9.2.3 for each of the parcels identified in Section 4.1 (excluding the Landlord Facility Subparcels), and for the second Lease Year and each subsequent Lease Year, the Fair Market Rent for the first Lease Year increased by the Percent Change in CPI (defined below), subject to Section 9.2.6; provided, if Fair Market Rent is redetermined (at any time or from time to time) by the procedure set forth in Section 9.2.3 and Section 9.2.4, Fair Market Rent for the Lease Year after the Lease Year in which such redetermination was implemented and for each subsequent Lease Year is the Fair Market Rent for the Lease Year in which the redetermination was implemented increased by the Percent Change in CPI, subject to Section 9.2.6. Fair Market Rent for the Premises shall be adjusted effective upon any additions to or subtractions from the Premises as provided in this Lease, taking into account the Fair Market Rent assigned to the applicable portion of the Premises within different Appraisal Areas. The same amount of Fair Market Rent that is allocated to any Subparcel removed from the Premises under this Lease and subjected to a Subparcel Lease shall likewise be subtracted from the Fair Market Rent of the remaining Premises under this Lease.

9.2.3. Determination of Fair Market Rent.

9.2.3.1. Procedure. The Fair Market Rent for the first (1st) Lease Year (as set forth in Section 5.3) shall be as determined by the appraisal process set forth herein. Within twenty (20) days of the date (the “Notice Date”) of Landlord providing written notice to Tenant of the commencement of the appraisal process, Landlord shall appoint an appraiser, and Tenant shall appoint an appraiser. No later than seventy (70) days after the Notice Date, and without consulting each other in any manner, the two appraisers shall complete full appraisal reports setting forth the fair market rent for the Premises for the first (1st) Lease Year, which appraisal reports shall include a breakdown of fair market rent for each of the designated appraisal areas identified on Exhibit A-1 to be agreed upon by Landlord and Tenant and attached hereto during the Inspection Period (“Appraisal Areas”). If the fair market rent for an Appraisal Area set forth in one of the reports is higher than the fair market rent set forth in the other report, and if the excess of one over the other is less than five percent (5%) of the lower of the two fair market rents determined by the reports, then the Fair Market Rent for the applicable Appraisal Area shall be the average of the two fair market rents determined by the reports. If the excess for any Appraisal Area is more than five percent (5%) of the lower of the two fair market rents determined by the reports, then no later than ninety (90) days after the Notice
Date, the two appraisers shall appoint a third appraiser for such Appraisal Area. If the two (2) appraisers cannot, within such ninety (90) day period following the Notice Date, agree on the appointment of a third appraiser, then Landlord shall obtain a copy of the list of the Members of the South Carolina Chapter of the Appraisal Institute who perform appraisals in Charleston County, South Carolina and shall in the presence of the two appraisers randomly draw the name of one such appraiser who shall be the third appraiser. The fair market rent for such Appraisal Area contained in the written report of the third appraiser shall constitute the Fair Market Rent for such Appraisal Area; provided, however, that if the fair market rent contained in the appraisal report of the third appraiser is less than the lower of the first two (2) appraisals, the lower of the first two (2) appraisals shall constitute the Fair Market Rent for such Appraisal Area, and if the fair market rent contained in the appraisal report of the third appraiser is greater than the higher of the first two (2) appraisals, the higher of the first two (2) appraisals shall constitute the Fair Market Rent for such Appraisal Area. Any party hereto appointing an appraiser shall furnish the other parties hereto with written notice of the name, address and telephone number of such appraiser. If any party fails to appoint an appraiser within the time required herein (and does not cure that failure within five (5) Business Days after written notice), or if either Landlord’s or Tenant’s appraiser fails to provide a report within the time required herein (and does not cure that failure within five (5) Business Days after written notice), then the Fair Market Rent determined by the appraiser appointed by the other party who provides a report within the time required herein, as applicable, shall be conclusive and binding upon Landlord and Tenant, their personal representatives, legal representatives, heirs, successors, and assigns. Notwithstanding the foregoing procedure, Landlord may obtain an appraisal to determine the Fair Market Rent for the first (1st) Lease Year and provide the appraisal to Tenant, and if both Tenant and Landlord agree in writing to the Fair Market Rent in the appraisal, then the Fair Market Rent so determined shall be the Fair Market Rent for the first (1st) Lease Year; provided if Tenant does not agree to the Fair Market Rent as determined by this appraisal, Landlord may but is not required to elect to have this appraisal be Landlord’s appraisal for purposes of the appraisal process set forth at the beginning of this Section 9.2.3.1 which appraisal
process shall commence within twenty (20) days of the Notice Date.

9.2.3.2. **Assumptions and Information.** Any appraiser making any appraisal pursuant to this section shall assume an all-cash rent with respect to each of the parcels identified in Section 4.1 as being part of the unimproved Premises (that is, a "raw land lease") given the use restrictions set forth in this Lease (including without limitation the limitations on residential use provided herein) or in applicable zoning regulations (including without limitation any height limitations). In determining fair market rent, none of the appraisers shall consider the effect on the business prospects of Tenant of the financial strength of Tenant. All appraisers appointed shall be provided with official written instructions approved by Landlord and Tenant reflecting the provisions of this Section 9.2.3 and a package of information that includes the following: (i) a plat of the Premises identifying the Appraisal Areas, (ii) a copy of this Lease with all Exhibits, (iii) all studies conducted by third parties regarding the Premises, and (iv) all other information that Landlord or Tenant believes is reasonably necessary to make such appraisal. Tenant, Landlord, and all appraisers shall be provided all information that is provided to one or more of the appraisers and shall be copied on all written communications including one or more of the appraisers.

9.2.3.3. **Qualifications.** All appraisers must be Members of the Appraisal Institute and must have at least five (5) years' experience valuing commercial real estate.

9.2.3.4. **Appraisal Costs.** The fees and other costs of each of the first two (2) appraisers shall be borne by the party appointing each such appraiser, with the fees and other costs of the third appraiser being shared equally by the two (2) parties.

9.2.3.5. **Restricted Parcels Fair Market Rent.** Tenant shall begin paying Minimum Rent for each Restricted Parcel on the earlier of (i) one (1) year after the end of the Restricted Parcel Rezoning Period, or (ii) the beginning of the fourth (4th) year after the Restricted Parcel Restriction Removal Date. For each Restricted Parcel, the "Restricted Parcel Rezoning Period" commences on the Restricted Parcel Restriction Removal Date and ends on the date of receipt of final, unappealable rezoning of such Restricted Parcel to PD/PUD by the Town of Mt. Pleasant, consistent with the Conceptual Master Plan for such
Restricted Parcel and in form and substance reasonably acceptable to Landlord and Tenant. The "Restricted Parcel Restriction Removal Date" shall mean, with respect to a Restricted Parcel, the date that the Conservation Easement restrictions no longer restrict the development of such property. From and after the Restricted Parcel Restriction Removal Date, Rent for such Restricted Parcel shall be determined pursuant to the terms of this Section 9 (including without limitation determining Minimum Rent for the applicable property pursuant to Section 9.2.1) using the Restricted Parcel Rezoning Period in lieu of the Inspection Period and using the Restricted Parcel Restriction Removal Date in lieu of the Lease Commencement Date.

9.2.3.6. LWCF Agreement Parcels Fair Market Rent. Subject to Section 9.2.3.5 with respect to any portion of the Premises that remains subject to the Conservation Easement, the Fair Market Rent for any portion of the Premises that is subject to the LWCF Agreement restrictions shall be determined as provided in this Section 9.2.3 taking into account the limited permitted uses of such property under the LWCF Agreement and limited Permitted Uses under this Lease and the ability of Tenant to generate Gross Sales or Gross Rentals using such property, and such determination of Fair Market Rent shall not be increased until the LWCF Restriction Removal Date. The "LWCF Restriction Removal Date" shall mean, with respect to a portion of the Premises that is subject to the LWCF Agreement, the date that the LWCF Agreement restrictions no longer restrict the development of such property. With regard to a portion of the Premises the development of which is no longer restricted by the LWCF Agreement, Tenant shall continue to pay Rent for such property as if the LWCF Agreement continued to restrict development of the property until the date ("LWCF Rent Adjustment Date") that is the earlier of (i) one (1) year after the end of the LWCF Rezoning Period, or (ii) the beginning of fourth (4th) year after the LWCF Restriction Removal Date. For each portion of the Premises that is subject to the LWCF Agreement, the "LWCF Rezoning Period" commences on the LWCF Restriction Removal Date and ends on the date of receipt of final, unappealable rezoning of such portion of the Premises to PD/PUD by the Town of Mt. Pleasant, consistent with the Conceptual Master Plan for such portion of the Premises and in form and substance reasonably acceptable to Landlord and Tenant. As of the LWCF Rent Adjustment Date, Rent for such portion of the Premises shall
be the greater of (i) the Rent being paid on such portion of the Premises prior to the LWCF Restriction Removal Date, or (ii) the Rent determined pursuant to the terms of this Section 9 for the property after the LWCF Restriction Removal Date (including without limitation determining Minimum Rent for the applicable property pursuant to Section 9.2.1) using the LWCF Rezoning Period in lieu of the Inspection Period and using the LWCF Restriction Removal Date in lieu of the Lease Commencement Date.

9.2.3.7. Determination Conclusive. The Fair Market Rent as determined herein shall be conclusive and binding on the parties, their personal representatives, legal representatives, heirs, successors and assigns.

9.2.4. Redetermination of Fair Market Rent.

9.2.4.1. After the date on which the Conservation Easement restrictions no longer restrict the development of Restricted Parcel 1, either Landlord or Tenant may deliver to the other party such party's election to redetermine Fair Market Rent for Restricted Parcel 1. If either Landlord or Tenant elects to redetermine Fair Market Rent for Restricted Parcel 1, then Landlord and Tenant shall redetermine Fair Market Rent for Restricted Parcel 1 using the appraisal process set forth in Section 9.2.3. The redetermined Fair Market Rent for Restricted Parcel 1 shall be implemented as of the first day of the Lease Year following the Lease Year during which the Fair Market Rent was redetermined pursuant to this Section, but in any event shall be subject to Section 9.2.3.5. The Fair Market Rent may only be redetermined one time pursuant to this Section 9.2.4.1.

9.2.4.2. After the date on which the Conservation Easement restrictions no longer restrict the development of Restricted Parcel 2, either Landlord or Tenant may deliver to the other party such party's election to redetermine Fair Market Rent for Restricted Parcel 2. If either Landlord or Tenant elects to redetermine Fair Market Rent for Restricted Parcel 2, then Landlord and Tenant shall redetermine Fair Market Rent for Restricted Parcel 2 using the appraisal process set forth in Section 9.2.3, including without limitation Section 9.2.3.6 to the extent such property remains subject to the LWCF Agreement restrictions. The redetermined Fair Market Rent for Restricted Parcel 2 shall be implemented as of the first day of the Lease Year following the Lease Year during which the Fair Market Rent...
was redetermined pursuant to this Section, but in any event
shall be subject to Section 9.2.3.5. The Fair Market Rent may
only be redetermined one time pursuant to this Section 9.2.4.2.

9.2.4.3. After the date on which both the Conservation Easement
restrictions and the LWCF Agreement restrictions no longer
restrict the development of Restricted Parcel 2, either Landlord
or Tenant may deliver to the other party such party’s election
to redetermine Fair Market Rent for Restricted Parcel 2. If
either Landlord or Tenant elects to redetermine Fair Market
Rent for Restricted Parcel 2, then Landlord and Tenant shall
redetermine Fair Market Rent for Restricted Parcel 2 using the
appraisal process set forth in Section 9.2.3. The redetermined
Fair Market Rent for Restricted Parcel 2 shall be implemented
as of the first day of the Lease Year following the Lease Year
during which the Fair Market Rent was redetermined pursuant
to this Section, but in any event shall be subject to Section
9.2.3.5 and Section 9.2.3.6. The Fair Market Rent may only be
redetermined one time pursuant to this Section 9.2.4.3.

9.2.4.4. After the date on which the LWCF Agreement restrictions no
longer restrict the development of Parcel 3B, either Landlord or
Tenant may deliver to the other party such party’s election to
redetermine Fair Market Rent for Parcel 3B. If either Landlord
or Tenant elects to redetermine Fair Market Rent for Parcel 3B,
then Landlord and Tenant shall redetermine Fair Market Rent
for Parcel 3B using the appraisal process set forth in Section 9.2.3. The redetermined Fair Market Rent for
Parcel 3B shall be implemented as of the first day of the Lease
Year following the Lease Year during which the Fair Market
Rent was redetermined pursuant to this Section, but in any
event shall be subject to Section 9.2.3.6. The Fair Market Rent
may only be redetermined one time pursuant to this
Section 9.2.4.4.

9.2.4.5. During the forty-ninth (49th) Lease Year but at least one
hundred twenty (120) days before the end of the forty-ninth
(49th) Lease Year, either Landlord or Tenant may deliver to the
other party such party’s election to redetermine Fair Market
Rent. If either Landlord or Tenant elects to redetermine Fair
Market Rent, then Landlord and Tenant shall redetermine Fair
Market Rent using the appraisal process set forth in Section
9.2.3. The redetermined Fair Market Rent shall be
implemented as of the first day of the fiftieth (50th) Lease Year.
9.2.5. **CPI.** "CPI" means the Consumer Price Index for All Urban Consumers (CPI-U) for the U. S. City Average for All Items, 1982-84 = 100, unadjusted for seasonal impact published by the Bureau of Labor Statistics of the U. S. Department of Labor; or if such index shall not then be in use, by the index most nearly comparable thereto. The percent change (increase or decrease) in the CPI ("Percent Change in CPI") shall be determined by determining the difference (herein the "Index Point Change") between the Current Period CPI and the Base Period CPI, dividing the Index Point Change by the Base Period CPI and converting the result into a percentage by multiplying it by 100. The "Current Period CPI" is the CPI measured for the period ending as closely as possible to the last day of the Lease Year prior to the current adjustment in rent. The "Base Period CPI" is the CPI measured for the period ending as closely as possible to the last day of the most recent Lease Year in which Fair Market Rent was determined by the appraisal process set forth in Section 9.2.3.

9.2.6. **Minimum Rent Shall Not Decrease.** In no event shall the Minimum Rent decrease in any Lease Year from the prior Lease Year, subject to the redeterminations provided for in Section 9.2.4.

9.3. **Percentage Rent.**

9.3.1. **General.** The term "Percentage Rent" means the following sums based on the type of use as outlined below received by Tenant or a Tenant Affiliate (but not by any subtenant, concessionaire, agent, licensee, or other third party, except in the case of a Ground Sublease as set forth below or as otherwise expressly provided herein):

9.3.1.1. **Admissions.** Five percent (5.0%) of all Gross Sales derived by Tenant or a Tenant Affiliate from admissions to all attractions, events and functions for which an amount is charged for admission or attendance (which charge may be labeled where appropriate, at the option of the party holding such event, as a "Patriots Point Development Authority Fee"); plus

9.3.1.2. **Membership.** Five percent (5.0%) of all Gross Sales derived by Tenant or Tenant Affiliate from fees to be a member of any membership organization (such as but not limited to a membership yacht club or other social club) operating in connection with the Premises; plus

9.3.1.3. **Hotel or Accommodations.** Three and one-half percent (3.5%) of all Gross Sales derived by Tenant or a Tenant Affiliate from...
the rental of hotel rooms, guest rooms, suites, cottages, and any other living or sleeping accommodations; plus

9.3.1.4. *Hotel Food & Beverage and Conference.* Five percent (5.0%) of all Gross Sales derived by Tenant or a Tenant Affiliate from the sale in hotels of all food and beverage and conferences and other ancillary goods or services incidental to the operation of the hotel, including amounts received for banquet or similar service fees, rents or license fees from sublessees or subtenants or concessionaires as a result of any sublease, franchise, or other similar agreement; plus

9.3.1.5. *Performance Venue Food & Beverage.* Five percent (5.0%) of all Gross Sales derived by Tenant or a Tenant Affiliate from the sale in a performance venue (which may or may not include an amphitheater and may or may not be an event with a performance) of all food and beverages, including rents or license fees from sublessees or subtenants or concessionaires as a result of any sublease, franchise, or other similar agreement; plus

9.3.1.6. *Restaurants and Bars.* Three and one-half percent (3.5%) of all Gross Sales derived by Tenant or a Tenant Affiliate from the operation of restaurants and bars (excluding restaurants and bars in hotels) including, but not limited to, food, non-alcoholic beverages, beer, wine, and liquor and other alcoholic beverages, banquets, merchandise and rentals; or, for any restaurant use or bar use operated by a subtenant other than Tenant or a Tenant Affiliate, Twelve and One-Half Percent (12.5%) of all Gross Rentals derived by Tenant or a Tenant Affiliate from such restaurant space or bar space attributable to subtenant base rent and subtenant percentage rent, and amounts received by Tenant or a Tenant Affiliate as rents or license fees from sublessees or subtenants or concessionaires as a result of any sublease, franchise, or other similar agreements in connection therewith; plus

9.3.1.7. *Marina Dock Facilities.* Five percent (5.0%) of the Gross Sales and Gross Rentals derived by Tenant or a Tenant Affiliate from the operation of any marina facilities on or adjacent to the Premises, including the lease or rental of slips and dock facilities plus any amounts received by Tenant as rents or license fees from subleases or subtenants or concessionaires as a result of any sublease, franchise, or other similar agreement; plus
9.3.1.8. **Retail Space.** Twelve and one-half percent (12.5%) of all Gross Rentals derived by Tenant or a Tenant Affiliate from retail space attributable to subtenant base rent and subtenant percentage rent, and amounts received by Tenant or a Tenant Affiliate as rents or license fees from sublessees or subtenants or concessionaires as a result of any sublease, franchise, or other similar agreements of retail space. If retail space is being used by Tenant or a Tenant Affiliate, then Tenant shall pay to Landlord the greater of (i) twelve and one-half percent (12.5%) of the fair market rental for such space (with such fair market rental to be agreed to by Landlord and Tenant, and if Landlord and Tenant cannot agree then pursuant to the appraisal process set forth in Section 9.2.3), which in no event shall be less than the rent charged by Tenant or a Tenant Affiliate to others for use of comparable rental space, or (ii) the amount calculated pursuant to the first sentence of this Section 9.3.1.8.; plus

9.3.1.9. **Office Space.** Seven percent (7.0%) of all Gross Rentals derived by Tenant or a Tenant Affiliate from leasing office space, including amounts received by Tenant or a Tenant Affiliate as rents or license fees from sublessees or subtenants or concessionaires as a result of any sublease, franchise, or other similar agreements. If office space is being used by Tenant or a Tenant Affiliate, then Tenant shall pay to Landlord the greater of (i) seven percent (7.0%) of the fair market rental for such space (with such fair market rental to be agreed to by Landlord and Tenant, and if Landlord and Tenant cannot agree then pursuant to the process set forth in Section 9.2.3), which in no event shall be less than the rent charged by Tenant or a Tenant Affiliate to others for use of comparable rental space, or (ii) the amount calculated pursuant to the previous sentence; plus

9.3.1.10. **Apartments.** Eight percent (8.0%) of all Gross Sales and Gross Rentals derived by Tenant or a Tenant Affiliate from leasing residential apartments, including amounts received by Tenant or a Tenant Affiliate as rents or license fees from sublessees or subtenants or concessionaires as a result of any sublease, franchise, or other similar agreements for rental apartments. If an apartment is being used by personnel of Tenant or a Tenant Affiliate (other than personnel using such apartment primarily in connection with the operation of improvements located on the Premises and related business activities), then Tenant shall pay to Landlord the greater of (i) eight percent (8.0%) of the fair market rental for such apartment (with such fair market rental to be agreed to by Landlord and Tenant, and if Landlord and Tenant cannot agree then pursuant to the appraisal process set forth in Section 9.2.3), which in no event shall be less than the rent charged by Tenant or a Tenant Affiliate to others for use of comparable rental space, or (ii) the amount calculated pursuant to the previous sentence; plus
rental to be agreed to by Landlord and Tenant, and if Landlord
and Tenant cannot agree then pursuant to the process set forth
in Section 9.2.3), which in no event shall be less than the rent
charged by Tenant or a Tenant Affiliate to others for use of a
comparable apartment, or (ii) the amount calculated pursuant to
the previous sentence; plus

9.3.1.11. Parking. Ten percent (10.0%) of all Gross Sales and Gross
Rentals from leasing parking spaces derived by Tenant or a
Tenant Affiliate and amounts received by Tenant or a Tenant
Affiliate as rents or license fees from any sublessees or
subtenants or concessionaires as a result of any sublease,
franchise, or other similar agreements affecting parking spaces.
If parking is being used by personnel of Tenant or a Tenant
Affiliate (other than personnel using such parking primarily in
connection with the operation of improvements located on the
Premises and related business activities), then Tenant shall pay
to Landlord the greater of (i) ten percent (10.0%) of the fair
market rental for such parking (with such fair market rental to
be agreed to by Landlord and Tenant, and if Landlord and
Tenant cannot agree then pursuant to the process set forth in
Section 9.2.3), which in no event shall be less than the rent
charged by Tenant or a Tenant Affiliate to others for use of
comparable parking, or (ii) the amount calculated pursuant to
the previous sentence; plus

9.3.1.12. Event Rentals. Five percent (5.0%) of all Gross Sales and
Gross Rentals derived by Tenant or a Tenant Affiliate from
leasing space for events, including (1) all amounts received
from vendors such as caterers and bar services and (2) amounts
received by Tenant or a Tenant Affiliate as rents or license fees
from sublessees or subtenants or concessionaires as a result of
any sublease, franchise, or other similar agreements. If space
is being used by Tenant or a Tenant Affiliate, then Tenant shall
pay to Landlord the greater of (i) Five percent (5.0%) of the
fair market rental for such space (with such fair market rental
to be agreed to by Landlord and Tenant, and if Landlord and
Tenant cannot agree then pursuant to the process set forth in
Section 9.2.3), which in no event shall be less than the rent
charged by Tenant or a Tenant Affiliate to others for use of
comparable rental space, or (ii) the amount calculated pursuant
to the previous sentence; plus

9.3.1.13. Example. As an example of the calculation of Rent for a Lease
Year commencing after the tenth (10th) anniversary of the
Lease Commencement Date, if the actual Gross Sales and Gross Rentals received by Tenant (and not by any subtenant, concessionaire, agent, licensee or third party) from the Premises for such Lease Year are as follows:

<table>
<thead>
<tr>
<th>Type</th>
<th>Actual Amount of Gross Sales and Gross Rentals for the Lease Year</th>
<th>Applicable Percentage</th>
<th>Percentage Rent for the Lease Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Admissions</td>
<td>$500,000</td>
<td>5.0%</td>
<td>$25,000</td>
</tr>
<tr>
<td>Membership</td>
<td>$100,000</td>
<td>5.0%</td>
<td>$5,000</td>
</tr>
<tr>
<td>Hotel Room Revenue</td>
<td>$20,000,000</td>
<td>3.5%</td>
<td>$700,000</td>
</tr>
<tr>
<td>Amphitheater Food &amp; Beverage</td>
<td>$50,000</td>
<td>5.0%</td>
<td>$2,500</td>
</tr>
<tr>
<td>Hotel Food &amp; Beverage and Conferences</td>
<td>$3,000,000</td>
<td>5.0%</td>
<td>$150,000</td>
</tr>
<tr>
<td>Restaurants</td>
<td>$7,075,000</td>
<td>3.5%</td>
<td>$247,625</td>
</tr>
<tr>
<td>Marina &amp; Dock Facilities</td>
<td>$175,000</td>
<td>5.0%</td>
<td>$8,750</td>
</tr>
<tr>
<td>Office</td>
<td>$9,500,000</td>
<td>7.0%</td>
<td>$665,000</td>
</tr>
<tr>
<td>Retail</td>
<td>$1,750,000</td>
<td>12.5%</td>
<td>$218,750</td>
</tr>
<tr>
<td>Apartments</td>
<td>$2,000,000</td>
<td>8.0%</td>
<td>$160,000</td>
</tr>
<tr>
<td>Parking</td>
<td>$1,500,000</td>
<td>10.0%</td>
<td>$150,000</td>
</tr>
<tr>
<td>Event Rentals</td>
<td>$300,000</td>
<td>5.0%</td>
<td>$15,000</td>
</tr>
<tr>
<td>Total Percentage Rent</td>
<td>$45,450,000</td>
<td></td>
<td>$2,347,625</td>
</tr>
</tbody>
</table>

Assuming by way of example and not by way of limitation that Minimum Rent for such Lease Year is $1,200,000, and that the sum of Monthly Rent for such Lease Year is $1,500,000, then Rent for such Lease Year would be calculated as follows:

- $2,347,625 Percentage Rent
- $1,500,000 Less sum of Monthly Rent paid by Tenant during the Lease Year
- $847,625 Rent due after Credit for sum of Monthly Rent

9.3.1.14. Other Uses. Landlord and Tenant expressly acknowledge and agree that if Tenant or a Tenant Affiliate proposes a use or develops a stream of income from utilization of the Premises which does not fall within one of the foregoing categories and is not otherwise excluded from Gross Sales or Gross Rentals that are subject to Percentage Rent hereunder, Landlord and Tenant will negotiate in good faith an appropriate percentage (which shall not be less than three and one half percent (3.5%),
provided however that if the new use is substantially similar to any of the uses set forth in Section 9.3.1.1 through Section 9.3.1.12, then the percentage used for the substantially similar use shall provide a strong indication of the appropriate percentage to be used to calculate Rent due in connection with such use. Landlord and Tenant further acknowledge and agree that for purposes of determining the type of use of each space within the Premises, the primary use of the particular space shall control. For example, use of a minor portion of a retail store for office space associated with the retail store shall not constitute an office space use for purposes of determining the Percentage Rent rate applicable to that particular space.

9.3.1.15. **Promotional Rentals.** Landlord and Tenant expressly acknowledge and agree that if Tenant or a Tenant Affiliate proposes a use on the Premises which Tenant believes (and is able to substantiate to Landlord’s satisfaction) would significantly increase the number of visitors to the Premises and therefore benefit aggregate Rent for the Premises but which Tenant also believes (and is able to substantiate to Landlord’s satisfaction) would require a discounted rental from the foregoing categories in order to secure the applicable user, Landlord and Tenant will negotiate in good faith an appropriate percentage to be used to calculate Rent due in connection with such use based on market rents for such type of use in similar circumstances within the United States; provided that such good faith negotiation involves (i) full disclosure by Tenant to Landlord of all financial information that Landlord believes is relevant to the determination of the appropriate Rent and (ii) demonstrable sharing of the financial burden associated with any such discount at levels satisfactory to both Landlord and Tenant.

9.3.1.16. **No Duplicate Rental.** Any Gross Sales or Gross Rentals that are included in the descriptions of more than one category of Sections 9.3.1.1 through 9.3.1.15 shall only be subject to a single calculation and payment of Percentage Rent.

9.3.2. **Ground Subleases.** If, pursuant to the terms of this Lease and subject to the restrictions in this Lease, all or part of the Premises consisting in whole or in part of Development Area (defined below), is subleased to a Tenant Affiliate or a third party, then (i) such sublease is a “Ground Sublease,” (ii) the sublessor under the Ground Sublease is the “Ground Sublessor,” (iii) the lessee under the Ground Sublease is the “Ground Sublessee,” and (iv) the Ground Sublessee (whether a Tenant Affiliate or
a third party) shall be considered a Tenant Affiliate for all purposes under
this Lease with respect to the Development Area including but not limited
to calculation of the Percentage Rent due to Landlord pursuant to the uses
on the Development Area covered by the Ground Sublease being
calculated pursuant to this Section 9.3 using the Gross Sales and Gross
Rentals received by the Ground Sublessee as if such Ground Sublessee
were a Tenant Affiliate and not using the Gross Sales and Gross Rentals
received by the Ground Sublessor pursuant to the Ground Sublease. In the
event that a Ground Sublease includes but is not entirely comprised of
Development Area, the Percentage Rent for the Development Area shall
be calculated based on the Gross Sales and Gross Rentals received by the
Ground Sublessee as if such Ground Sublessee were a Tenant Affiliate as
provided in this Section 9.3.2, and the Percentage Rent for the remainder
of the premises subject to the Ground Sublease shall be calculated based
on the Gross Sales and Gross Rentals received by the Ground Sublessor.
The inclusion of any of the following land within a sublease shall not be
deemed to constitute Development Area, notwithstanding that further
development of such land may be contemplated under the Conceptual
Master Plan, unless and until such land meets the criteria for Development
Area set forth in the definition below: (i) parking spaces, parking lots, or
parking facilities, (ii) land, landscaped areas, driveways, courtyards,
pedestrian areas, and/or minimally improved areas surrounding a
substantially completed building leased to a third party in connection with
such third party’s sublease of such substantially completed building or
portion thereof, or (iii) entirely or partially outdoor space for events;
provided, however, in the event the Conceptual Master Plan for a portion
of the Premises that is subject to a sublease is modified to provide for the
construction of improvements on a portion of the Premises that is (prior to
such modification of the Conceptual Master Plan) not Development Area,
if such portion of the Premises then meets the definition of a Development
Area, it shall become Development Area. Each Ground Sublease shall be
in a form that is subject to Landlord Approval (which form may be used
for additional Ground Subleases, once approved) to ensure that such
Ground Sublease is substantially similar to the terms of this Lease to the
extent applicable, including but not limited to requiring the Ground
Sublessee to comply with all reporting and records requirements of this
Lease concerning Gross Sales, Gross Rentals, and/or Percentage Rent,
including but not limited to Section 11, and subjecting the Ground
Sublessee to (i) all inspection rights of Landlord under this Lease
concerning such reports and records, and (ii) all penalties under this Lease
for the inaccuracy of such reports or records, including but not limited to
those contained in Section 9.3.3, with appropriate modifications to take
into account that it is a sublease. At the written request of Tenant,
Landlord shall review a proposed sublease, and Tenant and Landlord shall
confirm in writing to each other whether or not the proposed sublease constitutes a Ground Sublease as defined herein at such time for purposes of providing certainty to the parties with respect to such determination, provided that in the case of a sublease that is determined not to be a Ground Sublease, all or part of the land covered by such sublease may become Development Area at some point in the future, and such sublease will then become a Ground Sublease. “Development Area” means any land (whether an entire Subparcel, a substantially unimproved portion of a Subparcel, or an improved portion of a Subparcel which is subsequently redeveloped) upon which the sublessee, pursuant to a Development Plan, is expressly intended under the sublease to construct improvements or does construct improvements, and the Sublessee Improvements Cost exceeds ten percent (10%) of the Combined Improvements Cost. The “Sublessee Improvements Cost” is the cost of the improvements constructed or to be constructed by the sublessee. The “Combined Improvements Cost” is the sum of (x) the Sublessee Improvements Cost, (y) the cost of any additional improvements to be constructed on such land (other than the Sublessee Improvements Cost), and (z) the cost of existing improvements on such land on the date of execution of the sublease (or with respect to existing improvements not constructed within the prior two (2) years, the total replacement cost thereof). Neither (A) customary tenant upfit and similar improvements constructed by a subtenant nor (B) maintenance of improvements or restoration of damaged improvements by a subtenant shall be included in either the Sublessee Improvements Cost or the Combined Improvements Cost.

9.3.2.1. Set forth below in Sections 9.3.2.2 through 9.3.2.4 are some examples intended to give perspective on the mechanics of Section 9.3.2 above. These examples do not alter, expand, or limit the terms of this Lease, and if and to the extent any element of any example is inconsistent with the other language of this Lease, the other language of this Lease shall control. The analysis set forth in the examples below assumes that the Tenant subdivides a Subparcel that remains part of the Premises and subleases such Subparcel to a subtenant. The analysis would essentially be the same if the Subparcel were removed from the Premises and leased to an assignee pursuant to a Subparcel Lease, because the assignee would then be the Tenant under the Subparcel Lease for the Subparcel.

9.3.2.2. Example 1. Assume Tenant subdivides a vacant 3 acre Subparcel and subleases the Subparcel to a subtenant, and that the sublease contemplates the subtenant constructing and authorizes the subtenant to construct an office building and parking lot, which sublease constitutes a Ground Sublease
hereunder. Assume that the rent due from the subtenant (as Ground Sublessee) to Tenant (as Ground Sublessor) under the Ground Sublease is 110% of the Rent attributable to such Subparcel due from Tenant to Landlord hereunder. The Ground Sublessee and Tenant comply with all the requirements of this Lease (including without limitation modifying the Conceptual Master Plan, preparing a Development Plan, and obtaining Landlord Approval of both) and the Ground Sublessee constructs a 100,000 rentable square foot office building along with landscaping on 1 acre at a cost of $150 per rentable square foot for a total cost of $15,000,000, and a parking lot with landscaping on the other 2 acres at a cost of $2,000,000. Because the Ground Sublessee is expressly intended under the sublease to construct improvements on the Subparcel, and because the Sublessee Improvements Cost will be 100% of the Combined Improvements Cost, the Subparcel is a Development Area and the sublease is a Ground Sublease. Because the sublease is a Ground Sublease, the Ground Sublessee is considered a Tenant Affiliate for all purposes under this Lease with respect to the Development Area. The Ground Sublessee rents the office building to multiple third-party unrelated subtenants for an aggregate annual rental amount of $3,000,000. The Ground Sublessee rents out the parking lot to the various third-party unrelated subtenants in the office building for an additional $180,000 per year. Because the Ground Sublessee is considered a Tenant Affiliate, the Percentage Rent due from Tenant to Landlord under this Lease is calculated based on the Gross Rentals received by the Ground Sublessee for the office building and the parking lot. Therefore, the Percentage Rent due from Tenant to Landlord under this Lease is $228,000 [(for the office building, 7% * $3,000,000 = $210,000) + (for the parking lot, 10% * $180,000 = $18,000)]. The rent due from the Ground Sublessee to Tenant under the Ground Sublease is 110% of $228,000, which is $250,800, and Tenant is not required to pay Percentage Rent to Landlord on the additional $22,800 received by Tenant from Ground Sublessee.

Example 2. Assume Tenant subdivides a 3 acre Subparcel and constructs a 100,000 rentable square foot office building along with landscaping on 1 acre at cost of $150 per rentable square foot for a total cost of $15,000,000 and a parking lot with landscaping on the other 2 acres at a cost of $2,000,000. Assume further that Tenant subleases the entire Subparcel with all improvements on a “wholesale basis” to a third-party...
unrelated subtenant for $2,000,000 per year (or $20.00 per square foot) for the office building and $180,000 ($720 per year per space for 250 ground level parking spaces) for the parking with annual rent increases at CPI. Assume further that Minimum Rent is $35,000 per acre, or $105,000 for the Subparcel, on the date of execution of the sublease. Under this example, Landlord would receive Percentage Rent of $158,000

\[ (7\% \times 2,000,000 = 140,000) + 10\% \times 180,000 = 18,000 \]

because it exceeds the Minimum Rent of $105,000. The Percentage Rent in this example does not change regardless of what rents the subtenant may receive from subsubleasing all or portions of the office building and parking spaces to others. Nor does the Percentage Rent in this example change because of any future development rights that the subtenant may have under the sublease as described in Scenario 2 below, unless and until the subtenant develops improvements on the Subparcel as described in Scenario 2 below.

9.3.2.3.1. Scenario 1. Assume that under the sublease Tenant retains the right to develop an additional 100,000 rentable square foot office building and a 500 space parking garage on the 3 acre Subparcel with the subtenant having the right to lease the additional office building for $2,000,000 per year ($20.00 per rentable square foot adjusted by CPI from the date of the execution of the sublease) and to lease the parking garage for $480,000 ($960 per year per space for 500 garage spaces adjusted by CPI from the date of execution of the sublease). Assume Tenant decides to build the second office building and parking garage. Tenant revises the Conceptual Master Plan for the Subparcel, submits it to Landlord for approval, and obtains Landlord Approval. Tenant prepares a Development Plan for the new office building and garage and submits it to Landlord for approval and obtains Landlord Approval. Tenant otherwise complies with the requirements of the Lease necessary to build the new office building and garage. Tenant then builds and rents the new office building and garage to the subtenant commencing 5 years after the execution of the sublease. CPI provides a total 10% increase in rent from the execution of the sublease so that the rent on the old building is $2,200,000, the rent on the new building is $2,200,000, and the rent on the

Master Lease Agreement For PPDA and Patriots Annex, LLC

THIS LEASE IS SUBJECT TO ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT, SECTION 15-48-10 ET SEQ. OF THE CODE OF LAWS OF SOUTH CAROLINA, AS AMENDED FROM TIME TO TIME, AND THE FEDERAL ARBITRATION ACT (9 U.S.C. §1, ET SEQ.), AS AMENDED FROM TIME TO TIME
parking garage is $528,000. Percentage Rent payable to Landlord would be $360,800 [(7% * $2,200,000 = $154,000) + (10% * $528,000 = $52,800)]. In this scenario, the sublease to the third-party unrelated subtenant is not a Ground Sublease. Tenant pays Percentage Rent on all of the Gross Rentals received by the Tenant from the subtenant.

9.3.2.3.2. Scenario 2. Assume that under the sublease the subtenant has the right to further develop an additional office building and a parking garage on the 2 acre parking area portion of the Subparcel, and provides that in the event the subtenant further develops the Subparcel and causes the sublease to become a Ground Sublease, the subtenant (as Ground Sublessee) will pay Tenant (as Ground Sublessor) 110% of the Percentage Rent due from Tenant to Landlord as a result of the Gross Rentals that Ground Sublessee receives from renting out the additional office building and parking garage developed by the Ground Sublessee on the Subparcel. Assume the Ground Sublessee decides to build the second office building at a cost of $165 per square foot for a total cost of $16,500,000 and parking garage at a cost of $20,000 per space for a total cost of $10,000,000. The Ground Sublessee works with Tenant to revise the Conceptual Master Plan for the Subparcel, submit it to Landlord for approval, and obtain Landlord Approval. The Ground Sublessee works with Tenant to prepare a Development Plan for the new office building and garage, submit it to Landlord for approval, and obtain Landlord Approval. Tenant and the Ground Sublessee otherwise comply with the requirements of the Lease necessary for Ground Sublessee to build the new office building and garage. Ground Sublessee then builds the new office building and garage 5 years after the execution of the sublease and rents the new office building and garage to third-party unrelated subsubtenants. CPI provides a total 10% increase from the execution of the sublease so that the rent Ground Sublessee is paying to Tenant on the old office building is $2,200,000. Subtenant has rented out the old office building to
multiple third-party unrelated subsubtenants for $3,300,000. Subtenant has rented out the new office building to multiple third-party unrelated subsubtenants for $3,300,000. The subtenant has rented out the garage to the various third-party unrelated subsubtenants in both the old office building and the new office building for a total of $792,000 ($1,584 per space per year \* 500 spaces). Assume that the replacement cost of the old office building at the time that subtenant constructs the new office building and parking garage is $16,500,000. **Ground Sublease Conversion Analysis:** As a result of (i) the Ground Sublessee redeveloping the land on which the parking lot (previously constructed by Tenant) was located, (ii) the Ground Sublessee actually constructing the new office building and garage, and (iii) the cost of the new office building and garage being more than 10% of the combined cost of the new office building, garage, and the replacement cost of the old office building (see below), now (x) the land where the new office building and parking garage are located is Development Area, (y) the sublease of the 3 acre subparcel from Tenant to subtenant becomes a Ground Sublease, and (z) the subtenant as a Ground Sublessee is considered a Tenant Affiliate for all purposes under this Lease with respect to the Development Area. The Sublessee Improvements Cost is $26,500,000 [(for the new office building, $16,500,000) + (for the parking garage, $10,000,000)]. The total replacement cost of the existing improvements (the old office building) is $16,500,000. The Combined Improvements Cost is $43,000,000 [(for the new office building, $16,500,000) + (for the parking garage, $10,000,000) + (for replacement cost of the old office building, $16,500,000)]. The Sublessee Improvements Cost is 61.6% of the Combined Improvements Cost ($26,500,000 \div 43,000,000 = 61.6\%$), which is greater than 10%. **Ground Sublease Rent Analysis:** The aggregate rent payable by Ground Sublessee to Tenant is the sum of (i) the rent payable to Tenant by the Ground Sublessee for the old building, plus (ii) 110% of
Percentage Rent due from Tenant to Landlord (calculated below) as a result of the rent that the Ground Sublessee is receiving from the third-party unrelated subtenants for the new building, plus (iii) 110% of the Percentage Rent due from Tenant to Landlord (calculated below) as a result of the rent that the Ground Sublessee is receiving from the third-party unrelated subtenants for the parking garage. Therefore, the rent payable by Ground Sublessee to Tenant is $2,549,932 [(for the old office building, $2,200,000) + (for the new office building, 110% * 7% * $3,300,00 = $254,100) + (for the garage, 110% * 10% * $792,000 = $95,832)]. The Percentage Rent payable from Tenant to Landlord is based on (i) the $2,200,000 rent that Tenant is receiving from the Ground Sublessee for the old office building (which is not Development Area), (ii) the $3,300,000 rent that the Ground Sublessee is receiving from the third-party unrelated subtenants for the new office building (which is Development Area), and (iii) the $792,000 rent that the Ground Sublessee is receiving from the third-party unrelated subtenants for the parking garage (which also is Development Area). Therefore, the Percentage Rent payable from Tenant to Landlord would be $464,200 [(for the old office building, 7% * $2,200,000 = $154,000) + (for the new office building, 7% * $3,300,00 = $231,000) + (for the garage, 10% * $792,000 = $79,200)].

Example 3. Assume Tenant subdivides a vacant 3 acre Subparcel and subleases the Subparcel to a major corporation subtenant for use as the subtenant’s corporate headquarters offices, and that the sublease contemplates the subtenant constructing and authorizes the subtenant to construct an office building and parking lot, which sublease constitutes a Ground Sublease hereunder. Assume the subtenant (as Ground Sublessee) will pay Tenant (as Ground Sublessor) 120% of the Rent attributable to such Subparcel due from Tenant to Landlord hereunder. The Ground Sublessee and Tenant comply with all the requirements of this Lease (including without limitation modifying the Conceptual Master Plan, preparing a Development Plan, and obtaining Landlord Approval of both) and the subtenant constructs a 100,000 rentable square foot...
office building along with landscaping on 1 acre at a cost of $150 per rentable square foot for a total cost of $15,000,000 and a parking lot with landscaping on the other 2 acres at a cost of $2,000,000. Because the subtenant is expressly intended under the sublease to construct improvements on the Subparcel, and because the Sublessee Improvements Cost will be 100% of the Combined Improvements Cost, the Subparcel is a Development Area and the sublease is a Ground Sublease. Because it is a Ground Sublease, the Ground Sublessee is considered a Tenant Affiliate for all purposes under this Lease. Assume further that the Ground Sublessee occupies one half of the office building and parking lot for its own use and rents the other half of the office building and parking spaces to multiple third-party unrelated subsubtenants for an aggregate annual rental amount of $1,500,000 for the office space plus an additional $90,000 for the parking spaces. Assume the fair market rent for the half of the office building occupied by Ground Sublessee is $1,500,000 per year and the fair market rent for the parking lot is $90,000 per year. Because the Ground Sublessee is considered a Tenant Affiliate, the Percentage Rent due from Tenant to Landlord under this Lease is calculated based on the Gross Rentals received by the Ground Sublessee for the portion of the office building and the parking lot subsubleased to unrelated third-party subsubtenants and the fair market rental for the portion of the office building and the parking lot occupied by the Ground Sublessee. Therefore, the Percentage Rent due from Tenant to Landlord under this Lease would be $228,000 [(for the office building, 7% * Gross Rentals of $1,500,000 + 7% * fair market rent of $1,500,000 = $210,000) + (for the parking lot, 10% * Gross Rentals of $90,000 + 10% * fair market rent of $90,000 = $18,000)]. The rent due from the Ground Sublessee to Tenant under the Ground Sublease would be 120% of $228,000, which is $273,600, and Tenant is not required to pay Percentage Rent to Landlord on the additional $45,600 received by Tenant from Ground Sublessee.

9.3.3. Understatements; Nonreporting. If Landlord’s inspection of Tenant’s or any Tenant Affiliate’s books and records pursuant to Section 11.1 or otherwise discloses that Tenant’s certified operating report understated Gross Sales and/or Gross Rentals resulting in an error of three percent (3.0%) or more in Rent, Tenant shall pay for the cost of such inspection. Tenant’s failure (i) to have a certified operating report or statement of Gross Sales and Gross Rentals delivered to Landlord at the times and in the manner provided herein, and (ii) to cure such failure within the
applicable cure period provided herein, shall be an event of default hereunder.

9.3.4. **Definition of Gross Sales and Gross Rentals.** As used in this Lease the term “Gross Sales” shall mean the total amount, in dollars, other than Gross Rentals (defined below), actually received by Tenant or a Tenant Affiliate (but not by its third party subtenants, licensees, concessionaires and/or other parties operating on or from the Premises, except a Ground Sublessee in connection with a Ground Sublease), in cash or other immediately available funds from all applicable operations, including, but not limited to, sales of goods or services, room rentals and accommodations, rentals or license fees from sublessees, subtenants, licensees, or concessionaires as a result of any sublease, franchise, license, or similar agreement, and proceeds of any other activity conducted by Tenant or a Tenant Affiliate (but not by its third party subtenants, licensees, concessionaires and other parties operating on or from the Premises, except a Ground Sublessee in connection with a Ground Sublease) on the Premises, plus the value of the consideration other than cash or other immediately available funds actually received by Tenant or a Tenant Affiliate, plus all amounts actually collected on credit by Tenant or a Tenant Affiliate from its operations on or from the Premises which Tenant or a Tenant Affiliate shall use its commercially reasonable good faith and diligent efforts to collect, including instituting a legal action to collect the same, if appropriate. Notwithstanding anything to the contrary herein, the following shall not be included in and shall be deducted from Gross Sales: (a) any amount received and/or paid out for any federal, state or local sales, use, admission, retail, or excise tax or fee collected from customers but not for (i) income or property taxes or payments in lieu thereof, (ii) solid waste disposal or other user fees, or (iii) similar taxes or fees; (b) the amount of refunds or credits to customers for services or merchandise returned or exchanged but only to the extent the sales price of the services or merchandise returned or exchanged was previously included in Gross Sales; (c) the amounts received for returns of merchandise to the manufacturer or supplier; (d) gratuities; (e) proceeds from the sale or other disposition of capital assets or fixtures, furnishings or equipment and of other items not part of stock in trade and not in the ordinary course of the applicable business; (f) proceeds of loans; (g) proceeds of insurance, other than from any “business interruption,” “business income,” “use and occupancy” or other loss of income insurance; (h) condemnation awards allocable to Tenant under the terms of this Lease other than for lost income if separate from the award for lost improvements and leasehold estate; (i) service fees of recognized credit card companies for credit card sales; (j) interest received or accrued with respect to the funds in any reserve account or operating account; (k) monies that are collected for events for charities to the extent that the
amounts collected are paid to the charitable sponsors or not-for-profit organizations; (l) funds received by a Tenant Affiliate (including without limitation for hotel management or other property management fees or other payments for goods or services provided by such Tenant Affiliate in connection with the operation or development of the Premises) to the extent such funds have been included in Tenant’s Gross Sales or Gross Rentals; (m) revenue of Tenant Affiliates using office space or retail space within the Premises for office use or retail use, respectively to the extent such revenue is not derived from other uses conducted within the Premises, in which case Percentage Rent for such office space or retail space is calculated pursuant to Section 9.3.1.8 and Section 9.3.1.9 rather than based on the revenue of such Tenant Affiliate; (n) construction or development fees received by a Tenant Affiliate in connection with the construction of improvements on the Premises; (o) proceeds of a Transfer, provided that such Transfer shall be subject to a Transfer Fee to the extent provided herein; (p) any rebates, tax credits or other credits, direct payments or other incentives of any kind given by any governmental authority or otherwise authorized by applicable laws; (q) assessments or fees received by the Association pursuant to the Master Declaration to the extent such assessments or fees are for the payment or reimbursement of actual expenses for maintenance, insurance, utilities, taxes (or payments in lieu thereof), or similar out-of-pocket expenses related to any areas for which the Association is responsible; and (r) any receipts, sales or rentals by any third party subtenant, concessionaire or other person or entity whatsoever from or on the Premises except a Ground Sublessee in connection with a Ground Sublease, to the extent that the same are not received by Tenant or a Tenant Affiliate. For the purposes hereof, “Gross Rentals” means all rental revenues from leasing of real property within the Premises actually received by Tenant or a Tenant Affiliate (but not by third party subtenants, concessionaires and/or other parties, except a Ground Sublessee in connection with a Ground Sublease) whether paid by cash or other immediately available funds, exchange of services or goods, or otherwise, in which case the rental shall be the fair market value of the other assets or services or other consideration received in lieu of rent, including but not limited to rentals or license fees from sublessees, subtenants, licensees, or concessionaires as a result of any sublease, franchise, license, or other similar agreement, excluding any payments made to Tenant or a Tenant Affiliate specifically itemized and made for payment or reimbursement of actual property taxes (or payments in lieu thereof), actual insurance, actual common area maintenance charges, or actual utilities. Subject to Section 17.3 below, with respect to a subtenant, concessionaire, or other third party who has a lease for a portion of the Premises but is no longer paying rent to Tenant or a Tenant Affiliate in contravention of the lease between such party and Tenant or a Tenant...
Affiliate, the rent or other sums owing but not paid by such party pursuant to such lease shall not be included in Tenant’s calculations of Gross Rentals; provided, however, any sums recovered from such party shall be included in Tenant’s calculation of Gross Rentals for the quarter in which it is received, to the extent, if any, such sums have not been previously included by Tenant in its calculations of Gross Rentals. As provided in Section 9.3.2, payments received by a Ground Sublessor from a Ground Sublessee with respect to any Development Area under a Ground Sublease shall not be included in Gross Sales or Gross Rentals for purposes of calculating Percentage Rent; provided, however, nothing contained in this sentence shall reduce the Gross Sales or Gross Rentals of the Ground Sublessor with respect to any portion of the premises under a Ground Sublease that is not a Development Area for purposes of calculating Percentage Rent due to Landlord.

9.3.5. In any event that Tenant or a Tenant Affiliate rents facilities or space in the Premises to Tenant or a Tenant Affiliate, Percentage Rent for such use shall be calculated using the greater of (i) the fair market rental for such facilities or space (with such fair market rental to be agreed to by Landlord and Tenant, and if Landlord and Tenant cannot agree then pursuant to the process set forth in Section 9.2.3), which in no event shall be less than the lowest rent charged by Tenant or a Tenant Affiliate to others for use of comparable facilities or space within the Premises, or (ii) the actual amount received by the Tenant or Tenant Affiliate for such use of such facilities or space.

9.4. Late Charges. If (i) Landlord does not receive an installment of Monthly Rent by the tenth (10th) day of the month in which the installment is due, or (ii) Tenant shall fail to pay any other sum due Landlord pursuant to the terms of this Lease within ten (10) Business Days of receipt of notice that the same is due, then Tenant shall pay Landlord as Additional Rent a late charge equal to the greater of either (a) the sum of One Hundred and No/100 dollars ($100.00), (b) five percent (5%) of the unpaid amount that is due, or (c) interest as provided in Section 31 on the unpaid balance, accruing from the date on which such payment was due Landlord until the date the same is paid in full. The foregoing provisions for late charges shall be in addition to Landlord’s other rights and remedies pursuant to this Lease or at law or in equity and shall not be construed as a penalty or as liquidated damages, or as limiting Landlord’s remedies in any manner.

9.5. Additional Rent. In addition to the Rent referred to in Sections 9.2, 9.3, and 9.4 above, all sums required by this Lease (herein sometimes referred to as “Additional Rent”) to be paid to Landlord by Tenant shall also constitute “Rent”.

Master Lease Agreement For PPDA and Patriots Annex, LLC
Execution Version April 8, 2016
THIS LEASE IS SUBJECT TO ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT, SECTION 15-48-10 ET SEQ. OF THE CODE OF LAWS OF SOUTH CAROLINA, AS AMENDED FROM TIME TO TIME, AND THE FEDERAL ARBITRATION ACT (9 U.S.C. §1, ET SEQ.), AS AMENDED FROM TIME TO TIME.
9.6. **Manner of Payment.** All Rent shall be paid by Tenant to Landlord, as provided in this Section, in such coin or currency of the United States as at the time of payment is legal tender for the payment of public and private debts.

10. **SUBLEASES AND INFORMATION.** Tenant shall provide to Landlord annually, or at such other times upon request (not to exceed three times in any calendar year), copies of subleases or of similar agreements pertaining to portions of the Premises.

11. **RECORDS REQUIRED.**

11.1. At all times during the Term, Tenant shall keep and maintain and shall cause all Tenant Affiliates to keep and maintain accurate and complete books of account of all Gross Rentals and Gross Sales derived from all business and operations conducted by Tenant and by Tenant Affiliates (as applicable) on or in connection with the Premises as hereinabove provided. All of the books shall be kept and maintained on a cash receipts basis and shall accurately divide Gross Sales and Gross Rentals into the applicable categories described in Section 9.3. Tenant shall furnish Landlord, at the time that each Percentage Rent payment is due hereunder, a written statement showing the total amount of Gross Sales and Gross Rentals received by Tenant and by Tenant Affiliates from the Premises, the amounts of each category or type, and the sources of the Gross Rentals (by name of the applicable subtenant, agent, licensee or concessionaire) and Gross Sales derived by Tenant and by Tenant Affiliates during the preceding accounting period, regardless of whether or not any Percentage Rent is payable hereunder. To the extent that Percentage Rent depends on the receipts of any subtenant, agent, licensee or concessionaire that is not a Tenant Principal Member-Controlled Affiliate, Tenant shall have no liability, and Landlord shall have no rights or remedies, because of any inaccuracy in any information Tenant received from any subtenant, agent, licensee or concessionaire that is not a Tenant Principal Member-Controlled Affiliate about its gross receipts. Landlord, through its authorized agents, shall have the right at any reasonable time or times to examine Tenant’s books of account, for the purposes of verifying the accuracy of any such statements and the correctness of the amount of Percentage Rent paid by Tenant to Landlord hereunder. Tenant shall cause Landlord to have the right, through its authorized agents, to at any reasonable time or times to examine any Tenant Affiliate’s books of account, for the purposes of verifying the accuracy of any such statements and the correctness of the amount of Percentage Rent paid by Tenant to Landlord hereunder. Tenant shall append to the written statements of Gross Rentals and Gross Sales copies of Tenant’s and all Tenant Affiliates’ sales and use tax reports to the South Carolina Department of Revenue and Taxation for each quarter.

11.2. Within ninety (90) days of the close of each Lease Year during the Term, Tenant shall deliver to Landlord audits of Tenant’s and all Tenant Affiliates’ Gross Rentals and Gross Sales asserted by Tenant to be the basis for paying Rent to
Landlord. The audits shall be conducted by one or more reputable independent
certified public accountants doing business in South Carolina and shall be
performed in accordance with objective and commercially reasonable audit
procedures consistent with auditor professional standards.

12. PERMITS, ZONING AND LAND ACQUISITION. In the event any zoning approvals
or variances are needed to construct any of the improvements on the Premises, Tenant shall
undertake to obtain the necessary approvals and variances. To the extent the consent and/or
cooperation of Landlord is necessary to obtain any such zoning approval or variance, Landlord
shall so consent and/or cooperate, free of any expense to Landlord, provided the applicable
zoning approval or variance is related to improvements or development on the Premises which
has been approved by Landlord in accordance with this Lease. All costs incurred by Tenant in
obtaining the approvals or variances shall be paid by Tenant.

13. TAXES.

13.1. Tenant’s Obligation to Pay and Discharge Taxes; Fee in Lieu of Taxes. In
addition to the Rent hereinafore provided, Tenant shall pay and discharge all
taxes, general and special assessments, water rents, sewer rents, and other charges
and fees invoked or levied by a governmental agency or authority of every
description which shall be levied upon or assessed against the Premises and all
interests therein and all improvements and other property thereon, whether
belonging to Landlord or Tenant, or to which either of them shall become liable in
relation thereto. Tenant expressly acknowledges and agrees that it will be
required to pay a payment or a fee in lieu of ad valorem real estate taxes on the
improvements now and hereafter located on the Premises to the Town of Mt. Pleasant and Charleston County pursuant to one or more separate agreements
between Tenant and the Town of Mt. Pleasant and/or Charleston County.
Landlord shall cooperate with Tenant in arranging for the payment or fee in lieu
of taxes agreement with the Town of Mt. Pleasant and Charleston County.

13.2. Tenant also shall reimburse Landlord upon demand for any and all taxes payable
by Landlord (other than income taxes) whether or not now customary or within
the contemplation of Landlord and Tenant:

13.2.1. upon, measured by or reasonably attributable to the cost or value of
Tenant’s, a subtenant’s, Tenant Affiliate’s, concessionaire’s, agent’s,
licensee’s, or other third party’s merchandise, equipment, furniture,
fixtures and other personal property located in the Premises or by the cost
or value of any leasehold improvements made in or to the Premises by or
for Tenant, a subtenant, Tenant Affiliate, concessionaire, agent, licensee,
or other third party, except where reimbursement of Landlord for such
taxes is provided for by such party’s lease, sublease, license or similar
agreement;
13.2.2. upon or measured by Rent, including, without limitation, any gross excise
tax (other than customary income tax) levied by the federal government or
any other governmental body with respect to the receipt of Rent;

13.2.3. upon or with respect to the possession, leasing, operation, management,
maintenance, alteration, repair, use or occupancy by Tenant, a subtenant,
Tenant Affiliate, concessionaire, agent, licensee, or other third party, of
the Premises or any portion of the Premises, except where reimbursement
of Landlord for such taxes is provided for by such party’s lease, sublease,
license or similar agreement; and

13.2.4. upon this transaction or any document to which Tenant, a subtenant,
Tenant Affiliate, concessionaire, agent, licensee, or other third party is a
party creating or transferring an interest or an estate in the Premises,
except where reimbursement of Landlord for such taxes is provided for by
Tenant’s, subtenant’s, Tenant Affiliate’s, concessionaire’s, agent’s,
licensee’s, or other third party’s sublease or other applicable document or
instrument.

13.2.5. With regard to Sections 13.2.1 through 13.2.4, if it is not lawful for
Tenant, a subtenant, Tenant Affiliate, concessionaire, agent, licensee, or other
third party to reimburse Landlord, then the Rent payable to Landlord
under this Lease will be revised to yield to Landlord the same net rental
after the imposition of any such tax upon Landlord as would have been
payable to Landlord prior to the imposition of any such tax.

13.3. Tenant will pay promptly and will require Tenant Affiliates, subtenants,
concessionaires, agents, licensees, and other third parties to pay promptly when
due all sales, merchandise or personal property taxes on such Person’s sales and
personal property located on the Premises and any other taxes payable by Tenant,
a subtenant, Tenant Affiliate, concessionaire, agent, licensee, or other third party,
the non-payment of which might give rise to a lien on the Premises or such
Person’s interest in the Premises. Tenant will pay and will require subtenants,
Tenant Affiliates, concessionaires, agents, licensees, or other third parties to pay
all installments of said taxes, assessments and other charges that shall become due
and payable prior to the delinquency date thereof. Tenant hereby agrees to protect
and hold harmless Landlord and the Premises and all improvements in, on or
about the same, from all liability for any and all such taxes, assessments and
charges, together with any interest, penalties or other sums thereby imposed, and
from any sale or other proceeding to enforce payment thereof. To the extent
permitted by law, Tenant shall cause all taxes, assessments and other charges
levied upon or imposed upon any personal property situated on or about the
Premises to be levied or assessed separately from the parcel of land included in
the Premises and not as a lien thereon. Taxes and assessments for the last year of
the Term shall be prorated as of the date of expiration or termination, as the case
may be. Tenant shall pay and shall require subtenants, Tenant Affiliates, concessionaires, agents, licensees, and other third parties to pay their prorata share of such taxes within thirty (30) days of written demand from Landlord.

13.4. **Legal Proceedings.**

13.4.1. Tenant shall have the right to contest or review all such taxes, assessments, or charges by legal proceedings, or in such other manner as it may deem suitable which, if commenced, Tenant or its designees shall conduct promptly at its own cost and expense, and free of any expense to Landlord; and, if necessary, with the cooperation of Landlord. If such action is required to be brought in Landlord's name, then Landlord shall execute all documents necessary to accomplish the foregoing and Tenant shall reimburse Landlord for all expenses incurred including but not limited to actual legal fees. Notwithstanding the foregoing, Tenant shall promptly pay all such taxes if at any time the Premises or any part thereof shall then be immediately subject to forfeiture or if Landlord shall be subject to any civil or criminal liability arising out of the non-payment thereof.

13.4.2. The legal proceedings hereinabove referred to shall include appropriate certiorari proceedings and appeals from orders therein and appeals from any judgments, decrees or orders. In the event of any reduction, cancellation or discharge, Tenant shall pay the amount finally levied or assessed against the Premises or adjudicated to be due and payable on any such contested taxes.

13.4.3. Landlord covenants and agrees that if there shall be any refunds or rebates on account of the taxes paid by Tenant under the provisions of this Lease, such refund or rebate shall belong to Tenant. Landlord further covenants and agrees at the written request of Tenant at any time, and from time to time, but without cost to Landlord, to make application (if legally required) or to join in Tenant’s application (if legally required) for separate tax assessments for such portions of the Premises as Tenant shall at any time, and from time to time, designate. Landlord hereby agrees upon request of Tenant to execute such instruments and to give Tenant such assistance (without cost to Landlord) in connection with such application as shall be required by Tenant; provided that Tenant shall reimburse Landlord for all expenses incurred by Landlord in connection therewith including but not limited to actual legal fees.

14. **UTILITIES, ROADS AND EASEMENTS.**

14.1. **Utilities.**
14.1.1. Tenant shall, at its own cost and expense, cause to be installed in and on the Premises all facilities necessary to supply all water, sewer, gas, electricity, telephone and other like utility services required for Tenant’s operations hereunder, including but not limited to (i) any new, additional, upgraded or replacement utility systems to be jointly used by Landlord and Tenant on or under the Premises, and (ii) any new, additional, upgraded or replacement utility facilities that Tenant installs, or causes or consents to be installed for Tenant’s sole use on the Premises. Tenant shall protect Landlord and the Premises from liability for the charges described in the previous sentence.

14.1.2. All of the existing utilities installed at the Premises are incorporated herein by reference and are demised to Tenant by this Lease; provided, however, the foregoing is limited to Landlord’s rights in such utilities; provided further, however, the foregoing is subject to any and all easements of record. Landlord agrees that Tenant shall have the right from time to time to relocate and/or replace or cause to be relocated and/or replaced water, sewer, electric, and other utility lines and equipment; provided, however, that Tenant shall, subject to minimal interruptions in service (which shall be limited as provided in Section 6.5.3), maintain Landlord’s and Landlord’s other tenants’ connections with and service through such utility lines and equipment. All permanent utilities shall be underground, excluding limited above-ground installations such as but not limited to transformer boxes, meters, and pump stations.

14.1.3. Landlord and Tenant agree to have all charges for use of electricity, water, sewer, gas, telephone, and any other utilities separately metered and charged to Landlord, Tenant, or any third party users.

14.2. Roads, Signage, and Parking Facilities; Credit for Off-Premises Public Improvements. Tenant shall, at its own cost and expense, cause to be installed and constructed in and on the Premises all roads, signage, and parking facilities necessary to service the Premises. This installation and construction is to be completed in conformance with all applicable state and local laws and regulations and the Master Plan. If Tenant has provided Landlord written notice that Tenant will be required make Off-Premises Payments (as defined below) and Landlord has an opportunity to fully participate in negotiating the Off-Premises Payments with the applicable governmental authority, then Tenant shall receive a credit towards Rent hereunder (the “Off-Premises Credit”) in an amount equal to fifteen percent (15%) multiplied by the Off-Premises Payments. The “Off-Premises Payments” shall mean the aggregate amount, if any, of required payments made by Tenant (not including transportation impact fees paid to the Town of Mount Pleasant) for costs of improvements to publicly owned roads and drainage or other facilities that are not within the Premises but that are required by applicable governmental authorities for development of the Premises, less (x) any
14.3. Easements.

14.3.1. Landlord and Tenant hereby grant to each other at no cost a non-exclusive easement for rights of ingress, egress, water, sewer, utilities and movement of persons, goods, and services over and under all roads, parking lots, streets, walkways, piers, docks and ways now or hereafter constructed or maintained, as the same may be relocated from time to time, on the Premises or appurtenant thereto, including easements for installation and maintenance of utilities.

14.3.2. To the extent needed, Landlord hereby grants Tenant, its permitted subtenants, assignees, concessionaires, licensees, and invitees, a non-exclusive ingress-egress easement across the existing roads providing access to and from the Premises and the closest public right-of-way, Patriots Point Road; provided however, Landlord reserves the right to relocate and/or reconfigure these roads from time to time and/or dedicate the roads for public use provided that the access to and from the Premises and Patriots Point Road is not obstructed.

14.3.3. Landlord and Tenant agree that the foregoing easement rights shall be included in the Short Form or Memorandum of Lease to be executed by Landlord and Tenant pursuant to Section 38.3 and recorded in the R.M.C. Office for Charleston County, South Carolina.

14.3.4. Landlord, Tenant, or any utility provider may require that the locations of and rights and obligations in connection with any easements be formalized and confirmed in recorded documents. Landlord and Tenant shall cooperate with each other and with the utility providers to prepare, execute, and record the appropriate documents and instruments.

14.3.5. Tenant acknowledges that all easements granted to utility providers must be subject to written instruments approved by Landlord and by the State Fiscal Accountability Authority.
15. **REPAIRS AND UPKEEP.**

15.1. **No Landlord Obligation.** Landlord shall not be required or obligated to make any changes, alterations, additions, improvements or repairs in, or on the Premises, or any part thereof or the parking lots or roadways shown on the Master Plan, except as required by law or by the terms of this or any other written agreement executed by Landlord and Tenant.

15.2. **Tenant's Obligation.** Tenant shall, at its sole cost and expense, (subject to Section 15.3 below) keep and maintain the Premises, roads and parking lots shown on the Master Plan, utilities and all improvements thereon and all facilities appurtenant thereto, including landscaping, in good order and repair and safe condition, and the whole of the Premises in a safe, clean, sanitary and orderly condition. Tenant shall make repairs and renovations necessary to maintain the facilities operated on the Premises in high quality condition. Tenant shall make any and all additions to or alterations or repairs in and about the Premises and the improvements thereon which may be required by any public laws, ordinances and regulations from time to time applicable to the Premises, subject to Tenant’s right to contest such laws, ordinances and regulations and their applicability as set forth herein. Further, in the event that any structure or tree on the Premises falls or is at high risk of falling across any boundary of the Premises onto another property, regardless of whether such boundary is between the Premises and other land owned by Landlord or between the Premises and land owned by a third party, and regardless of whether such tree or structure is still attached to the Premises or has moved completely over such boundary so that no part of such tree or structure remains on the Premises, Tenant is responsible for and shall pay all costs and expenses in connection with removing the same. Tenant shall indemnify and save harmless Landlord and Landlord’s board members, officers, employees, volunteers, agents, and attorneys against all actions, claims and damages by reason of Tenant’s failure to comply with and perform the provisions of this paragraph.

15.3. **Roads - Allocation.** The cost of the maintenance of the road(s) within the Premises and connecting the Premises to the closest public right-of-way shall be the responsibility of Tenant unless and until the road(s) are transferred to and accepted as a public road(s) by the Town of Mt. Pleasant or the State of South Carolina, in which case Tenant shall have no obligation under this Lease to maintain or pay for the maintenance of the road(s).

16. **INSURANCE.**

16.1. **Policy Form and Evidence of Coverage.** All policies of insurance provided for herein shall be written as primary policies (without “contribution” or “solely in excess of coverage carried by Landlord” provisions, but with reasonable deductibles to be paid by Tenant) with responsible and solvent insurance companies.
companies authorized to do business in the State of South Carolina. Prior to the
Lease Commencement Date, Tenant shall supply Landlord (and at all times
thereafter and during the Term of this Lease keep on file with Landlord) a true
and correct copy of all such policies or a certificate of insurance accurately
reflecting the coverage required hereby, together with satisfactory evidence
showing that all premiums thereon have been paid; and thereafter, as additional
premiums become due, Tenant shall supply Landlord with satisfactory evidence
that the premiums have been paid. Notwithstanding anything to the contrary
contained within this provision, Tenant’s obligations to carry insurance as
provided herein may be brought within the coverage of a so-called “blanket”
policy or policies of insurance carried and maintained by Tenant, so long as such
policy or policies of insurance carried and maintained by Tenant segregate the
amount of coverage applicable to the Premises. In the event that Tenant fails to
cause to be procured, maintained, paid for and kept in force any insurance
required by this Lease, or fails to carry insurance required by law or governmental
regulation, Landlord may, but without obligation to do so, at any time or from
time to time, after at least three (3) Business Days’ written notice to Tenant of its
intention to do so, procure such insurance and pay the premiums therefor, in
which event Tenant shall repay Landlord all sums so paid by Landlord, together
with interest thereon as provided in Section 31 below and any costs or expenses
incurred by Landlord in connection therewith, within ten (10) Business Days
following Landlord’s written demand to Tenant for such payment.

16.2. Types and Limits of Coverage. Tenant, at no cost or expense to Landlord, shall,
from the Lease Commencement Date and continuing through the Term, cause to
be procured, maintained, paid for and kept in full force and effect, with Landlord
named as an additional insureds:

16.2.1. Comprehensive general liability and property damage insurance with
respect to the Premises and the operations of, or on behalf of, Tenant in,
on or about the Premises, including, but not limited to, owned and non-
owned automobile (vehicle) liability personal injury, blanket contractual,
owner’s protective broad form property damage, coverage for Tenant’s
indemnification obligations arising out of this Lease, workers’
compensation insurance as required under applicable laws, and
product/completed operations liability coverage including liquor liability
coverage and coverage for liability arising out of consumption of food
and/or alcoholic beverages on or obtained at the Premises if food and/or
alcoholic beverages are sold from the Premises, for not less than Twenty
Million Dollars ($20,000,000.00) combined single limit per occurrence for
bodily injury, death, and property damage liability including broad notice
of loss form; provided, however, that the foregoing required amount of
insurance coverage shall be increased every five (5) years in proportion to
the percentage increase in CPI since the Lease Commencement Date
(provided that the required amount of insurance coverage shall never
decrease) and then rounded up to the nearest Ten Thousand Dollar ($10,000) increment or to the next higher increment of coverage written by Tenant’s insurance carrier. This requirement for a minimum amount of insurance coverage is not a representation, warranty, or covenant by Landlord that the amount is adequate to cover Tenant’s potential liability. Tenant is responsible for carrying insurance in amounts necessary to cover Tenant’s reasonably estimated liability hereunder.

16.2.2. With respect to all substantial construction required or permitted to be made by Tenant hereunder, contingent liability and builder’s all-risk insurance, in commercially reasonable amounts approved by Landlord taking into account the scope and nature of the construction;

16.2.3. On or before the date any facilities on the Premises are operational, business interruption or loss of rents insurance, whichever is applicable, in an amount equal to the greater of (i) Percentage Rent or (ii) Minimum Rent, due from Tenant for the previous Lease Year; and

16.2.4. On or before commencement of construction of any building or other improvement on the Premises, insurance against all risk, including earthquake and flood, fire, vandalism, malicious mischief and such other additional perils as now are or hereafter may be included in a standard fire, extended coverage and special extended coverage endorsement from time to time in general use in Charleston County, South Carolina, insuring Tenant’s leasehold improvements, merchandise, trade fixtures, furnishings, equipment and other items and personal property of Tenant located on or in the Premises, in an amount equal to not less than one hundred percent (100%) of the actual replacement cost thereof.

16.3. Specific Provisions. Each policy evidencing insurance required to be carried pursuant to this Section shall contain the following provisions and/or clauses:

16.3.1. A cross-liability clause stating that Tenant, Landlord, and each other additional insured is covered by such policy as if each was an individual insured;

16.3.2. A provision that such policy and the coverage evidenced thereby shall be primary and that any coverage carried by Landlord shall be excess insurance and non-contributing with respect to any policies carried by Tenant;

16.3.3. A provision including Landlord, Landlord’s board members, officers, employees, agents, servants, and attorneys, and any other parties-in-interest designated by Landlord as additional insureds, unless the policy already by its terms includes those persons by category;
16.3.4. A waiver by the insurer of any right to subrogation against Landlord, its board members, officers, employees, agents, and attorneys which arises or might arise by reason of any payment under such policy or by reason of any act or omission of Landlord, its board members, officers, employees, agents, and/or attorneys;

16.3.5. A severability clause;

16.3.6. To the extent reasonably obtainable a provision that the insurer will not cancel or make a material modification of the coverage provided by such policy without first giving Landlord thirty (30) days prior written notice;

16.3.7. To the extent reasonably obtainable, a provision to the effect that any amounts payable by virtue of loss of rentals or business interruption shall be computed and stated separately in any settlement entered into by the insurer under the policy involved.

16.4. **Lenders' Interest in Insurance Proceeds.** Notwithstanding anything to the contrary herein, the foregoing rights of Tenant and Landlord to any such insurance proceeds are subject and subordinate to the rights of the Lenders (if applicable) to such insurance proceeds; provided, however, nothing contained in this Section 16 shall (i) after Tenant's obligations to provide insurance as required herein, (ii) alter Tenant's obligations to pay Rent to Landlord, (iii) alter Landlord's right to receive Rent, or (iv) in any manner subordinate such obligation to provide insurance or to pay Rent or right to receive Rent to the rights of any Lender.

17. **CASUALTY; RESTORATION.**

17.1. **Tenant's Duty to Restore.**

17.1.1. If during the Term hereof any of the buildings, structures or improvements erected on the Premises including the retail space, or utilities or landscaping, or any part thereof, shall be damaged or destroyed by fire or other casualty, Tenant shall, at its cost and expense, adjust any insurance claims and promptly repair or restore the same according to the original plans thereof or to such modified plans as shall be previously approved in writing by Landlord or otherwise permitted by this Lease without the need for Landlord Approval. Any such repair or restoration work shall be commenced within one hundred twenty (120) days after the damage or loss occurs (or thirty (30) days after completion of insurance adjustment, if later) and shall be completed with due diligence but not longer than twenty-four (24) months after such work is commenced. Any such work shall otherwise be completed in accordance with the requirements of this Lease; provided, however, that the foregoing dates specified for the
commencement and completion of repair or restoration shall be extended
for so long as Tenant shall be prevented from commencing and/or
completing the same, as the case may be by reasons of Force Majeure
including, but not limited to, delays directly related to processing or
settling the insurance claims related thereto, provided that Tenant
promptly files any such claim and thereafter pursues the same with due
diligence without unnecessary delay. From time to time and
contemporaneously with sending and receiving correspondence,
documents, instruments, and other materials, Tenant shall provide
Landlord copies of all Material correspondence, documents, instruments,
and other materials substantiating the foregoing reasons preventing Tenant
from commencing and/or completing repairs or restorations of the damage
or destruction.

17.1.2. Landlord expressly acknowledges that in the event of Substantial Damage
(as herein defined) of a building, structure or improvement erected on the
Premises, Tenant may need to obtain new subtenants or other space users,
a new lender and/or initiate the process of preparing plans and
specifications with respect to new buildings, which must be approved by
Landlord to the extent required by the process in Section 8. For purposes
hereof “Substantial Damage” shall be defined as either damage or
destruction of forty percent (40%) or more of the useable square feet in a
building, structure or improvement or damage or destruction to a building,
structure or improvement to the extent that the cost of repairing or
rebuilding the same is forty percent (40%) or more of the cost of
constructing the applicable building, structure, or improvement
immediately prior to the casualty causing the Substantial Damage.
Notwithstanding the foregoing, in the event of Substantial Damage to a
building, structure, or improvement erected on the Premises, Tenant shall
not be required to commence such repair or restoration work as to the
building(s) or improvements substantially damaged or destroyed within
the above referenced one hundred twenty (120) day period nor shall
Tenant be required to complete such repair or restoration work within the
above referenced twenty-four (24) month period, but Tenant agrees to
commence such repair or restoration work as soon as reasonably possible
but no later than twenty-four (24) months from the date of such substantial
damage or destruction, and thereafter proceed with due diligence to
complete such repair or reconstruction as soon as reasonably possible, but
no later than forty-eight (48) months from the date of such damage or
destruction; provided further, however, that the foregoing dates specified
in this paragraph for the commencement and completion of repair or
restoration may be extended at the written request of Tenant for so long as
 Tenant shall be prevented from commencing and/or completing the same,
as the case may be, for reasons of Force Majeure including, but not limited
to, delays directly related to processing or settling the insurance claims
related thereto, provided that Tenant has promptly filed any such claim and thereafter pursued the same with due diligence without unnecessary delay and continues to do so and provides Landlord with an acceptable deadline for commencing and completing such restoration work. From time to time and contemporaneously with sending and receiving correspondence, documents, instruments, and other materials, Tenant shall provide Landlord copies of all Material correspondence, documents, instruments, and other materials substantiating the foregoing reasons preventing Tenant from commencing and/or completing repairs or restorations of the damage or destruction.

17.1.3. All insurance proceeds for such damage or destruction not otherwise paid to the Lenders for purposes other than repairing or restoring the damaged building(s) or improvements despite Tenant’s good faith efforts to satisfy the Lenders’ conditions for making the funds available to repair or restore the damaged building(s) or improvements shall be deposited with an escrow agent (pursuant to an escrow agreement agreed to by Landlord, Tenant, and such escrow agent, which may be the Lender) agreed to by Landlord and Tenant and applied to the cost of such repairs or restoration as such repairs and restoration are being completed, and if the insurance proceeds available for restoration shall be insufficient for said purposes, Tenant shall make up the deficiency out of its own funds. If such insurance proceeds are in excess of the cost of such repairs and restoration, then, after such repairs and restoration are complete, and after Landlord has received all Rent due and payable to Landlord (whether from Tenant, from business interruption insurance, or from such excess), such excess shall be paid to and may be retained by Tenant.

17.1.4. Should Tenant fail or refuse to make the repairs or restoration as hereinabove provided, or if the Lenders (as hereinafter defined), if any, after sixty (60) days written notice by Landlord, following Tenant’s failure to do so, shall fail or refuse to undertake and complete such work on behalf of Tenant, then in either of said events such failure or refusal shall constitute a default under the covenants and conditions hereof (after expiration of any applicable notice and cure period) and shall entitle Landlord to terminate this Lease, and within ten (10) Business Days after Landlord’s termination of this Lease, Tenant shall surrender to Landlord possession of the Premises and the escrow agent shall upon written demand by Landlord, and without further authorization by Tenant, pay to Landlord the balance of the insurance proceeds as liquidated damages for Landlord to compensate Landlord for the loss of the buildings and/or other improvements.

17.2. **End of Term Casualties.** Notwithstanding anything to the contrary contained in the preceding paragraph of this Section, if during the last ten (10) years of the
Term hereof, any of the buildings or improvements on the Premises shall be damaged by fire or other casualty, and if the cost of repairing or restoring the same shall exceed the insurance proceeds collectable by Tenant (and not otherwise paid to the Lenders for purposes other than repairing or restoring the damaged building(s) or improvements despite Tenant’s good faith efforts to satisfy the Lenders’ conditions for making the funds available to repair or restore the damaged building(s) or improvements) for such damage by more than twenty-five (25%) percent, then Tenant shall have the option, to be exercised within thirty (30) days after such insurance proceeds are paid to escrow agent as provided in Section 17.1.3:

17.2.1. To repair or restore each of the buildings or improvements as hereinabove provided within the time period specified in Section 17.1; or

17.2.2. To terminate this Lease by written notice thereof to Landlord, which option to terminate shall be conditioned as follows:

17.2.2.1. Tenant shall, at its expense within ninety (90) days after the insurance proceeds are collected but no more than one (1) year after the date of the damage, tear down and remove all damaged buildings or improvements then remaining on the Premises and the debris resulting from such fire or other casualty and otherwise clean up and restore the Premises, as far as practicable, to its original condition, free and clear of liens as provided in Section 18 hereof, and after (i) the completion of the cleaning up and restoration, (ii) the statutory period for filing liens after the completion of the work of cleanup and restoration has expired and no liens have been filed or remain unsatisfied, and (iii) Tenant has furnished to Landlord a certificate of a qualified attorney at law practicing in Charleston County, South Carolina, certifying that no liens have been filed or remain unsatisfied of record against the Premises, escrow agent shall pay to Tenant the portion of the insurance proceeds collected and paid to escrow agent attributable to the cleanup and restoration actually completed by Tenant as set forth earlier in this Section 17.2.2.1, and escrow agent shall retain the unexpended balance of the insurance proceeds; provided that with Landlord’s consent escrow agent shall apply insurance proceeds to pay the cost of cleanup and restoration as those costs are incurred; and

17.2.2.2. within ten (10) Business Days after the completion of the cleaning and restoration, Tenant shall surrender to Landlord possession of the Premises, cleaned up and restored as aforesaid, and the escrow agent shall upon written demand by
Landlord, and without further authorization by Tenant, pay to Landlord (i) any Rent hereunder accruing to the date of such surrender, (ii) Tenant's pro-rata share of all unpaid taxes and assessments that then shall have become a lien upon the Premises, and (iii) the balance of the insurance proceeds as liquidated damages for Landlord to compensate Landlord for the loss of the buildings and/or other improvements; and

17.2.2.3. thereupon, but not before, this Lease shall terminate.

17.3. No Rent Abatement. Notwithstanding the foregoing provisions regarding repair and/or reconstruction, Tenant expressly acknowledges and agrees that Rent shall not be abated as a result thereof. However, and notwithstanding anything to the contrary in this Lease, the calculations of Percentage Rent shall exclude any leases(s) under which the rent payable by the user of said space is abated as a result of damage or destruction of a building, unless the rent is actually paid by loss of rents or business interruption insurance or otherwise.

17.4. Furnishings. In the event of any casualty hereinabove mentioned in this Section, if any of the furniture, furnishings, fixtures or equipment in said buildings or structures must be repaired or restored by Tenant as hereinabove provided, then Tenant shall, at its expense and with due diligence, repair or replace, or cause to be repaired or replaced, said personal property therein.

17.5. Lenders' Interest in Insurance Proceeds. Notwithstanding anything to the contrary herein, the foregoing rights of Landlord and/or Tenant to any such insurance proceeds are subject and subordinate to the rights of the Lenders (if applicable) to said insurance proceeds; provided, however, nothing contained in this Section 17 shall alter Tenant's obligation to pay Rent to Landlord or Landlord's right to receive Rent, or in any manner subordinate such obligation to pay Rent or right to receive Rent to the rights of any Lender.

18. LIENS AND CLAIMS.

18.1. Tenant's Obligation to Cure. Tenant shall not suffer or permit to be enforced against the Premises, or any improvements thereon, any mechanics', materialmen's, contractors' or sub-contractors' liens arising from, or any claim for damages growing out of, the construction, repair, restoration, or replacement of any improvement as herein provided, or any other claims or demand howsoever the same may arise. Subject to the right of Tenant to contest such liens pursuant to Section 18.2, Tenant shall cause the removal of all such liens from the Premises or improvements thereon (by bond or otherwise) or pay or cause to be paid all of such liens, claims or demands before any action is brought to enforce the same against the Premises and to keep Landlord and the Premises

Master Lease Agreement for PPDA and Patriots Annex, LLC

Execution Version
April 8, 2016

THIS LEASE IS SUBJECT TO ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT: SECTION 15-48-10 ET SEQ. OF THE CODE OF LAWS OF SOUTH CAROLINA, AS AMENDED FROM TIME TO TIME, AND THE FEDERAL ARBITRATION ACT (9 U.S.C. §1 ET SEQ.), AS AMENDED FROM TIME TO TIME.
free and harmless from all liability for any and all such liens, claims and demands, together with all costs and expenses in connection therewith.

18.2. **Right to Contest.** Notwithstanding anything to the contrary hereinabove contained in this Section or in **Section 19**, if Tenant shall in good faith contest the validity or amount of any lien, claim or demand asserted with respect to the Premises, including, without limitation, any taxes or assessments levied against them, Tenant shall, at its expense, defend itself and Landlord against the same and shall pay and satisfy any adverse judgment that may be rendered thereon before the enforcement thereof against Landlord or the Premises. If the amount of any such lien, claim or demand is in excess of Ten Thousand and No/100 Dollars ($10,000.00), then Tenant shall furnish to Landlord either a surety bond satisfactory to Landlord in an amount equal to such contested lien, claim or demand indemnifying Landlord and Landlord’s board members, officers, employees, volunteers, agents, and attorneys against liability for the same, or other security approved by Landlord, which may be in the form of a title insurance endorsement insuring Landlord against loss due to any such lien, claim or demand.

18.3. **Notices of Construction; Right of Landlord to Assume Contracts.** Before the commencement of any work or construction of any building, structure or other improvement on the Premises, or of any substantial repairs, alterations, additions, replacements or restorations in and about the Premises as herein provided, Tenant shall give to Landlord written notice thereof, specifying the nature and location of the intended work and the expected date of commencement thereof. In the event Tenant fails to complete timely construction of any or all improvements on the Premises as provided in this Lease, and if Landlord elects to complete same on its own account, Landlord shall, subject to the rights of any Lender, have the right (but shall not be obligated) to assume, in Tenant’s place and stead all contracts made by Tenant with third parties to perform such construction, and in such case all expenditures of Landlord related thereto shall be reimbursed to Landlord by Tenant as Additional Rent. All construction contracts made by Tenant with third parties shall contain a provision that the same may, subject to the rights of any Lender, be assigned to Landlord at Landlord’s option and assumed at Landlord’s option in the event of default by Tenant pursuant to this Lease. Landlord reserves the right at any time and from time to time to post and maintain on the Premises such notices as may be necessary to protect Landlord against liability for all such liens and claims.

19. **NON-LIABILITY AND INDEMNIFICATION.**

19.1. **Landlord’s.**

19.1.1. Other than Landlord’s obligations expressly set forth herein or in a signed written agreement of Landlord, Landlord shall not be liable for any loss,
damage or injury of any kind or character to any person or property arising from: (1) any use of the Premises or any part thereof; or (2) Tenant’s removal of debris and unsightly materials from parcels adjacent to the Premises; or (3) caused by any defect in any building, structure or other improvement thereon or in any equipment or other facility therein; or (4) caused by or arising from any act or omission of Tenant, or of any of Tenant’s subtenants, agents, employees, servants, licensees or invitees, or by or from any accident on the Premises or any fire or other casualty thereon; or (5) occasioned by the failure of Tenant to maintain the Premises in safe condition; or (6) arising from any other cause, act or thing whatsoever, except (i) to the extent Landlord would be liable therefor without giving consideration to the terms of this Section 19.1.1, and (ii) to the extent caused by Landlord’s intentional wrongful, negligent, or grossly negligent actions or omissions. Tenant, as a material part of the consideration of this Lease, hereby waives on its behalf all such claims and demands against Landlord.

19.1.2. Tenant will

(i) defend (with attorneys reasonably acceptable to Landlord and at Tenant’s sole cost) Landlord, its board members, officers, agents, employees, and attorneys from and against, any and all demands, claims, causes of action, fines, penalties, damages (including punitive and consequential damages claimed by third parties against such indemnitees), losses, liabilities, judgments, and expenses (including, without limitation, attorney’s fees and court costs), to the extent incurred in connection with or arising from the following items set forth in Sections 19.1.2.1 through Section 19.1.2.7; and

(ii) indemnify and hold Landlord, its board members, officers, agents, employees, and attorneys harmless from and against, any and all demands, claims, causes of action, fines, penalties, damages (including punitive and consequential damages claimed by third parties against such indemnitees), losses, liabilities, judgments, and expenses (including, without limitation, attorney’s fees and court costs), to the extent incurred in connection with or arising from the following items set forth in Section 19.1.2.1 through Section 19.1.2.7,

in each case except to the extent caused by Landlord’s intentionally wrongful, negligent, or grossly negligent actions or omissions:

19.1.2.1. The use or occupancy of the Premises by Tenant or any person claiming under Tenant;
19.1.2.2. Construction, maintenance and operation of any improvement on the Premises (other than any such activities conducted on the Premises by Landlord or the contractors, agents, or employees of Landlord); 

19.1.2.3. Any activity, work, or thing, done or permitted or suffered by Tenant in or about the Premises; 

19.1.2.4. Any acts under Tenant or the contractors, agents, employees, invitees, or visitors of Tenant or any such person; 

19.1.2.5. Any breach, violation, or nonperformance by Tenant, any person claiming under Tenant or the employees, agents, contractors, invitees, or visitors of Tenant, or any such person of any term, covenant, or provision of this Lease or any law, ordinance, or governmental requirement of any kind; or 

19.1.2.6. Any injury or damage to the person, property, or business of Tenant, its employees, agents, contractors, invitees, licensees, visitors, or any other person entering upon the Premises. 

19.1.2.7. Any loss, damage or injury of any kind or character to any person or property arising from Tenant's access to any property owned by Landlord or the conducting of tests and/or studies thereon, regardless of whether such access, tests, or studies were authorized by Section 4.2. 

19.2. Waiver and Release. 

19.2.1. Tenant waives and releases all claims against Landlord, its board members, officers, employees, agents, and attorneys with respect to all matters for which Landlord has disclaimed liability pursuant to the provisions of this Lease. In addition, Tenant agrees that Landlord, its board members, officers, agents, employees, and attorneys will not be liable for any loss, injury, death, or damage (including punitive and consequential damages) to persons, property, or Tenant's business occasioned by theft; act of God; public enemy; injunction; riot; strike; insurrection; war; court order; requisition; order of governmental body or authority; fire; explosion; falling objects; steam, water, rain or snow; leak or flow of water, rain or snow, from the Premises, or into the Premises or from the roof, street, subsurface or from any other place, or by dampness, or from the breakage, leakage, obstructions, or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning, or lighting fixtures of any building; or from construction, repair, or alteration of the Premises or from any acts or omissions of any visitor of the Premises; or
from any cause whatsoever, except (i) to the extent Landlord, its board members, officers, agents, employees, and/or attorneys would be liable therefor without giving consideration to the terms of this Section 19.2.1, and (ii) to the extent caused by Landlord’s intentionally wrongful, negligent, or grossly negligent acts or omissions.

19.2.2. Tenant agrees that by signing this Lease, Tenant waives for itself and its successors all rights, if any, to roads contained within any property of Landlord not leased by Tenant, except for any easements or other rights expressly agreed herein or otherwise expressly granted by the applicable parties.

19.2.3. All contracts, assignments, and subleases entered into by Tenant regarding the Premises (other than Loan Documents as provided under Section 35 hereof) shall include substantially the following language or other language satisfactory to Landlord: “The Patriots Point Development Authority and its board members, officers, employees, agents, and attorneys, have no obligations hereunder,” provided that Ground Subleases may also contain the following immediately thereafter: “provided that the foregoing shall in no way be construed to affect the rights of a Lender as expressly set forth herein.”

19.2.4. Notwithstanding anything else in this Lease, Tenant acknowledges and agrees that it cannot, under any circumstances, pursue a claim for monetary damages against Landlord except as set forth in the Tort Claims Act (S.C. Code Section 15-78-10 et. seq.). Tenant may bring an action for arbitration pursuant to Section 23.6 to seek nonmonetary equitable relief (in the form of a declaratory judgment or otherwise) to enforce the terms of this Lease, but the Tort Claims Act provides Tenant’s sole remedy for monetary damages.

20. LANDLORD’S FEES. In all cases in which Tenant (i) is required or permitted to request Landlord’s assistance, (ii) is required or permitted to obtain Landlord’s Approval, (iii) is required or permitted to ask Landlord to take action or refrain from taking action, or (iv) otherwise asks Landlord for Landlord’s assistance or Landlord’s Approval or asks Landlord to take action or refrain from taking action, Landlord shall have the right in connection therewith to the services of Landlord’s counsel, and Tenant shall pay to Landlord as Additional Rent an amount equal to the hourly charges at such counsel’s normal hourly rates and expenses incurred by Landlord for such services as Landlord deems necessary or appropriate under the circumstances within ten (10) Business Days of presentment by Landlord to Tenant of a written statement signed by an officer of Landlord of the amount so incurred and a one paragraph narrative summary description of the services provided.

21. LANDLORD PAYING CLAIMS. Subject to the provisions of Section 18.2 hereof, in the event Tenant shall fail to pay timely and discharge or cause to be paid and discharged when
due and payable as herein provided any tax, assessment, insurance expense, lien or other claim, charge or demand which Tenant has agreed to pay or cause to be paid under the covenants and conditions of this Lease, and if Tenant, after thirty (30) (or such shorter notice period if the failure to pay sooner will have detrimental consequences) days’ written notice from Landlord to do so, shall fail to pay timely and discharge the same or to post security for the discharge thereof adequate to assure that Landlord shall suffer no loss or damage as a result of such nonpayment, then Landlord may, at its option, pay any such tax, assessment, insurance expense, lien, claim, charge or demand, or settle or discharge any action therefor, or judgment thereon. In such event, all costs, expenses and other sums incurred or paid by Landlord in connection with any of the foregoing shall be paid by Tenant to Landlord upon demand, together with interest thereon at the rate of interest specified in Section 31 herein, per annum, accruing from and after the date or dates paid by Landlord until paid by Tenant, and, subject to the provisions of Section 18.2, any default in such repayment shall constitute a breach of the covenants and conditions of this Lease.

22. ASSIGNMENTS, SUBLETTING, AND MORTGAGES.

22.1. Prohibition.

22.1.1. Except for Permitted Leasehold Estate Transfers, as defined herein, and except as otherwise expressly provided in this Lease or otherwise permitted by the terms of the Master Plan for the Premises approved by Landlord pursuant to Section 6 herein (in which events further Landlord Approval shall not be necessary) and subject to the rights of the Lenders pursuant to Section 35 (if applicable), neither Tenant nor any trustee, receiver or other successor to Tenant shall, either voluntarily, involuntarily or by operation of law, do any of the following, each of which is a "Leasehold Estate Transfer," without prior Landlord Approval, in each instance (except as may be otherwise expressly set forth herein) in Landlord’s sole discretion: (A) assign, sublease, sell, exchange, deliver, dispose of, give, mortgage, pledge, hypothecate or otherwise encumber or transfer all or any part of the Leasehold Estate, or (B) permit the Premises or any portion thereof or improvements thereon to be occupied or used by anyone other than Permitted Occupants. For purposes hereof, the term “Leasehold Estate Transferee” shall mean any Person receiving a Leasehold Estate Transfer. “Permitted Occupants” means Tenant, Tenant’s assignees (subject to Landlord Approval unless expressly not required by this Lease), subtenants, licensees, concessionaires, invitees, property managers, contractors, customers, guests, or employees. No mortgage, pledge, or encumbrance of any kind shall be given by Tenant on all or any part of the Premises or improvements thereon, except as provided in Section 35 hereof or otherwise expressly provided herein.

22.1.2. Except for Permitted Equity Interest Transfers, as defined herein, and except as otherwise expressly provided in this Lease or otherwise permitted by the terms of the Master Plan for the Premises approved by
Landlord pursuant to Section 6 herein (in which events further Landlord Approval shall not be necessary) and subject to the rights of the Lenders pursuant to Section 35 (if applicable), neither Tenant nor any trustee, receiver or other successor to Tenant, nor any owner of an Equity Interest (as defined in Section 3.54) in Tenant or any trustee, receiver or other successor to an owner of an Equity Interest in Tenant, shall, either voluntarily, involuntarily or by operation of law, do any of the following, each of which is an "Equity Interest Transfer," without prior Landlord Approval, in each instance (except as may be otherwise expressly set forth herein) in Landlord's sole discretion: assign, sell, exchange, deliver, dispose of, give, mortgage, pledge, hypothecate or otherwise encumber or transfer an Equity Interest in Tenant. For purposes hereof, the term "Equity Interest Transferee" shall mean any Person receiving an Equity Interest Transfer. No mortgage, pledge, or encumbrance of any kind shall be given by Tenant on any Equity Interest in Tenant except as provided in Section 35 hereof or otherwise expressly provided herein. Notwithstanding any other term of this Lease, any Equity Interest Transfer (regardless of whether or not such Equity Interest Transfer would otherwise be a Permitted Equity Interest Transfer) that transfers Control of Tenant is only valid if the Equity Interest Transferee owns at least ten percent (10%) of Tenant after such Equity Interest Transfer is complete. Any Equity Interest Transfer that transfers Control of Tenant to an Equity Interest Transferee that does not own at least ten percent (10%) of Tenant after such Equity Interest Transfer is complete is void ab initio.

22.1.3. Leasehold Estate Transfers and Equity Interest Transfers are collectively "Transfers." Leasehold Estate Transferees and Equity Interest Transferees are collectively "Transferees."

22.2. Permitted Leasehold Estate Transfers. Provided that (a) there is no uncured monetary or other Material default by Tenant under this Lease, (b) the Leasehold Estate Transferee is not a Prohibited Person, and (c) Tenant or the Leasehold Estate Transferee provides Landlord with copies of all documents related to such Leasehold Estate Transfer within thirty (30) days following such Leasehold Estate Transfer, then, notwithstanding anything contained herein to the contrary, the following Leasehold Estate Transfers by Tenant (or any trustee, receiver, or other successor to Tenant) shall be permitted without prior Landlord Approval (each, a "Permitted Leasehold Estate Transfer" and each Leasehold Estate Transferee permitted under this Section, a "Permitted Leasehold Estate Transferee"):  

22.2.1. Subleases (including without limitation Ground Subleases and Subparcel Subleases) to (a) any Tenant Principal Member-Controlled Affiliate, (b) any entity Controlled by and majority owned by an Approved Assignee, or (c) any entity Controlled by and majority owned by a Tenant Principal Member-Controlled Affiliate and one or more Approved Assignees;
22.2.2. Assignments of Subparcel Leases to (a) any Tenant Principal Member-Controlled Affiliate, (b) any entity Controlled by and wholly owned by an Approved Assignee, or (c) any entity Controlled by and wholly owned by a Tenant Principal Member-Controlled Affiliate and one or more Approved Assignees;

22.2.3. Leasehold Estate Transfers made in connection with a Loan (or enforcement thereof by a Lender) made in accordance with the provisions of Section 35;

22.2.4. The renting, leasing, subleasing or sub-subleasing of hotel rooms, apartments, retail space, restaurant space, meeting space, banquet space, entertainment space, office space or other improved space, including without limitation the renting, leasing, subleasing, or sub-subleasing of an entire building, together with any associated parking or open areas, but excluding any renting, leasing, subleasing, or sub-subleasing that would constitute a Ground Sublease pursuant to Section 9.3.2, for any Permitted Uses (as defined herein) on or within the Premises and any buildings and improvements located thereon in the ordinary course of business (collectively, "Ordinary Course Space Leases"); and

22.2.5. The assignment of any Ordinary Course Space Leases.

22.3. **Permitted Equity Interest Transfers.** Provided that (a) there is no uncured monetary or other Material default by Tenant under this Lease, (b) the Equity Interest Transferee is not a Prohibited Person, (c) if the Equity Interest Transfer results in the Equity Interest Transferee having Control of Tenant, then after the Equity Interest Transfer the Equity Interest Transferee owns, directly or indirectly, at least ten percent (10%) of Tenant, and (d) Tenant or the Equity Interest Transferee provides Landlord with copies of all documents related to such Equity Interest Transfer within thirty (30) days following such Equity Interest Transfer, then, notwithstanding anything contained herein to the contrary, the following Transfers by the owners of Equity Interests in Tenant (or any trustee, receiver, or other successor to the owners of Equity Interests in Tenant) shall be permitted without prior Landlord Approval (each, a "Permitted Equity Interest Transfer" and each Equity Interest Transferee permitted under this Section, a "Permitted Equity Interest Transferee"):  

22.3.1. Equity Interest Transfers to (a) any Tenant Principal Member-Controlled Affiliate, (b) any entity Controlled by and wholly owned by an Approved Assignee, or (c) any entity Controlled by and wholly owned by a Tenant Principal Member-Controlled Affiliate and one or more Approved Assignees;
22.3.2. Equity Interest Transfers to any Family Member of the transferor or to an entity wholly owned and Controlled by the transferor or transferor's Family Members;

22.3.3. Equity Interest Transfers (including, without limitation, the pledge or collateral assignment of any Equity Interest) made in connection with a Loan (or enforcement thereof by a Lender) made in accordance with the provisions of Section 35;

22.3.4. Equity Interest Transfers that are a pledge or collateral assignment of an Equity Interest to secure a loan (or enforcement thereof) from a Lender;

22.3.5. Equity Interest Transfers by intestacy, devise, descent, distribution or operation of law following the death of a natural Person, so long as Tenant continues to qualify as a Tenant Principal Member-Controlled Affiliate following such Equity Interest Transfer;

22.3.6. Transfers of stock, partnership, membership, or other ownership interests of any Publicly-Traded Entity to the extent Tenant, any successor Tenant, or the owner (directly or indirectly) of any Equity Interest in Tenant or any successor Tenant is a Publicly-Traded Entity; and

22.3.7. Transfers of minority Equity Interests in Tenant so long as Tenant continues to qualify as a Tenant Principal Member-Controlled Affiliate following such Equity Interest Transfer.

22.4. **Required Information.** In connection with requesting Landlord's Approval of a Transfer that is not a Permitted Leasehold Estate Transfer or a Permitted Equity Interest Transfer, Tenant shall submit in writing to Landlord:

22.4.1. The name of the proposed Transferee;

22.4.2. The nature of the proposed Transfer;

22.4.3. A copy of all of the proposed documents and instruments, or a comprehensive term sheet or letter of intent with full documents and instruments to be subsequently submitted after initial approval by Landlord but prior to closing of the Transfer, pursuant to which the proposed Transfer will be consummated; and

22.4.4. Such other information as Landlord may reasonably request concerning the proposed Transferee including but not limited to, as applicable relative to the proposed Transferee, (i) a balance sheet of the proposed Transferee (other than a mortgagee) as of the end of its most recent fiscal year (which balance sheet shall be certified by an independent certified public accountant or if not available, by the chief financial officer of the
proposed Transferee), (ii) if such fiscal year ended more than ninety (90) days prior to the request for Landlord’s Approval, then also a balance sheet as of the end of the most recent quarter (which balance sheet shall be certified by an independent certified public accountant or if not available, by the chief financial officer of the proposed Transferee), (iii) a statement of income or profit and loss of the proposed Transferee for each of the two (2) fiscal years preceding the request for Landlord’s Approval (which financial statement shall be certified by an independent certified public accountant or if not available, by the chief financial officer of the proposed Transferee), (iv) copies of signed state and federal income tax returns for the prior two (2) fiscal years, (v) a written statement in reasonable detail as to the operating experience of the proposed Transferee, and (vi) three (3) business references, two (2) of whom must be creditors and one of whom must be a bank with whom the proposed Transferee has been doing business for at least two (2) years.

22.5. Landlord’s Approval.

22.5.1. Except with regard to Permitted Leasehold Estate Transfers and Permitted Equity Interest Transfers, within forty-five (45) days after Landlord’s receipt of all of the information specified in Section 22.4 above requesting Landlord’s Approval of a Transfer from time to time, Landlord shall by written notice to Tenant elect to:

22.5.1.1. Approve the Transfer upon the terms and to the proposed Transferee;

22.5.1.2. Condition such Landlord Approval upon the assumption by such Transferee of all applicable obligations hereunder and such other conditions as Landlord may impose, provided that such conditions shall not include any of the following:

22.5.1.2.1. any payment by the transferor or Transferee to Landlord or its designee (irrespective of whether such payment is characterized as a share of gain or profits, a transfer fee or otherwise) except for the Transfer Fee, if any, required pursuant to Section 22.10,

22.5.1.2.2. any adjustment of the Minimum Rent or Percentage Rent payable hereunder; or

22.5.1.2.3. any other substantive change in the rights or obligations of Tenant under this Lease;
22.5.1.2.4. provided, however, if the proposed Transferee is requiring a Material change in the terms of this Lease, then the foregoing prohibitions shall not restrict Landlord as set forth in this Section 22.5.1.2; or

22.5.1.3. Refuse to give Landlord Approval, provided that Landlord shall not unreasonably withhold, condition, or delay its approval. The parties acknowledge that as a governmental agency, Landlord may consider reputation, the public nature of the Premises, and policy matters in responding to Tenant’s request for approval of a proposed Transfer.

22.5.2. If Landlord gives Landlord Approval to such Transfer, then Tenant may thereafter enter into the Transfer pursuant to the documents and instruments previously receiving Landlord Approval pursuant to Section 22.5 above or other terms not Materially less favorable to Tenant (considered as a whole); provided, however, that any Material changes to such documents or instruments shall be subject to Landlord’s Approval as provided in this Section.

22.5.3. Landlord acknowledges that its failure to respond to a request for approval of a Transfer within the required time periods may lead to substantial loss to Tenant. If Landlord fails to comply with such time period set forth above, Tenant may seek an immediate order of an Arbitrator compelling compliance without filing for arbitration in court. Upon written request from Tenant for arbitration, attorneys for Landlord and Tenant shall select a single Arbitrator within two (2) business days, failing which Tenant may request the American Arbitration Association to immediately appoint a qualified Arbitrator who shall serve for purposes of this dispute only. Landlord and Tenant shall promptly provide any relevant information to the Arbitrator, and the Arbitrator shall issue a decision based on such information within five (5) business days of appointment, with or without a hearing as determined in the discretion of the Arbitrator. The Arbitrator may allow ex-parte communications in the Arbitrator’s discretion. Otherwise all provisions of Section 23.6 shall apply. If Landlord responds to the request for approval prior to the Arbitrator’s issuance of a decision, then the arbitration proceeding shall immediately terminate, except for claims for reimbursement of attorneys’ and arbitrator’s fees and costs related thereto which shall continue.

22.5.4. If requested by Tenant, upon review of all applicable information requested by Landlord, Landlord may in its discretion elect to grant Landlord Approval of an Approved Assignee with respect to potential future Transfers in addition to or in lieu of any specific proposed Transfer.
22.6. **Invalidity.** No Transfer, whether voluntary or involuntary, by operation of law, under legal process or proceedings, or otherwise, other than as permitted by this Section 22, shall be valid or effective without prior Landlord Approval. Should Tenant attempt to make or suffer to be made any such Transfer, except as aforesaid, such attempted Transfer shall be void ab initio. Should Landlord give Landlord Approval to any such Transfer, such Landlord Approval shall not constitute a waiver of any of the restrictions of this Section 22, and the same shall apply to each successive Transfer under this Lease, if any.

22.7. **Tenant’s Liability.** Unless otherwise agreed in writing by Landlord and Tenant, Landlord’s Approval of a sublease shall not relieve Tenant of its Rent payment or other obligations to be performed by Tenant hereunder, but to the extent any assignment of this Lease is approved by Landlord, Landlord shall look solely to such assignee for payment of all Rent and the performance of all obligations hereunder arising from and after the effective date of such assignment; provided that Tenant shall not be relieved of its Rent payment or other obligations under this Lease arising prior to the effective date of such assignment. The acceptance by Landlord of any payment due hereunder from any other person shall not be deemed to be a waiver by Landlord of any provision of this Lease or to be Landlord Approval of any assignment or subletting.

22.8. **Additional Obligation of Subtenant or Assignee.** Subject to the provisions of Section 35, any assignee of all or any portion of the Leasehold Estate pursuant to this Lease, as a condition to the assignment, must agree in writing to assume the applicable obligations of Tenant under this Lease, including any applicable obligations with respect to any construction of improvements and maintenance thereof in accordance with the Master Plan and any plan or operation approved by Landlord.

22.9. **Bankruptcy Code Transfer.** If a petition is filed by or against Tenant (which term shall be deemed for all purposes to refer after an assignment to the assignee and not to the assignor) under any chapter of the United States Bankruptcy Code 11 U.S.C. Section 101, et. seq. (the “Code”) and the trustee or debtor-in-possession in such proceeding (in either case referred to as the “Trustee”) elects to assume this Lease for the purpose of assigning it or otherwise, the assumption or assignment, or both, may be made only if the Trustee satisfies all of the terms and conditions hereinafter set forth, which Landlord and Tenant both hereby acknowledge to be commercially reasonable. To the extent permitted by applicable law, any rejection of this Lease by Tenant or the Trustee shall not be effective without the written consent of all Lenders of record. In the event this Lease is rejected in compliance with the previous sentence, (i) Landlord shall that day immediately be entitled to possession of the Premises without further obligation to Tenant or the Trustee, (ii) to the extent provided by the Code, Tenant shall be relieved of its obligations under this Lease, (iii) Landlord shall assume the obligations of the Tenant under subleases from the
22.9.1. The Trustee has cured or has provided to Landlord Adequate Assurance (as defined in this subparagraph) that:

22.9.1.1. The Trustee will cure all monetary defaults under this Lease within twenty (20) days from the date of the assumption; and

22.9.1.2. The Trustee will cure all non-monetary defaults under this Lease within thirty (30) days from the date of the assumption or in the case of a non-monetary default which cannot be cured within thirty (30) days due to reasons beyond the reasonable control of the Trustee, that the Trustee will commence such cure within the thirty (30) day period and proceed in good faith thereafter with due diligence and without unreasonable interruption in the Trustee’s diligent efforts to pursue the cure thereafter.

22.9.2. The Trustee has compensated Landlord, or has provided to Landlord Adequate Assurance, as herein defined, that within twenty (20) days from the date of the assumption, Landlord will be compensated for any pecuniary loss it incurred arising from the default of Tenant or the Trustee.

22.9.3. The Trustee has provided Landlord with Adequate Assurance of the future performance of each of Tenant’s obligations under this Lease; provided, however, that the Trustee also will deposit with Landlord, as security for the timely payment of Rent, an amount equal to three times the sum of (1) the greater of one month’s Fair Market Rent or one month’s Percentage Rent, and (2) other monetary charges accruing under this Lease.
22.9.4. Landlord has reasonably determined that the assumption of this Lease will not:

22.9.4.1. Breach any provision in any other lease, mortgage, financing agreement or other agreement by which Landlord is bound relating to the Premises that would have a material adverse effect on the Premises or the Landlord; or

22.9.4.2. Materially impair, in Landlord's reasonable judgment, the image, reputation and profitability of the Premises.

22.9.5. For purposes of this section, "Adequate Assurance" means that:

22.9.5.1. The Trustee has, and will continue to have, sufficient assets to assure Landlord that the Trustee will have sufficient funds to fulfill Tenant's obligations under this Lease and to keep the Premises properly staffed with sufficient employees to conduct a fully operational, actively promoted business in the Premises; and

22.9.5.2. An order will have been entered segregating sufficient cash payable to Landlord and/or a valid and perfected first lien and security interest will have been granted on the property of the estate that is acceptable for value and kind to Landlord, to secure to Landlord the obligation of the Trustee to cure the monetary or non-monetary defaults under this Lease within the time periods set forth above.

22.9.5.3. If the Trustee has assumed this Lease under the terms set forth above and elects to assign Tenant's interest under this Lease or the estate created by that interest to another person, that interest or estate may be assigned only if Landlord acknowledges in writing that the intended assignee has provided Adequate Assurance of future performance of all of the terms, covenants and conditions of this Lease to be performed by Tenant by satisfying the following conditions:

22.9.5.3.1. The assignee has submitted a current income statement, balance sheet (to the extent reasonably possible which is audited by a certified public accountant) and its most recent tax return, that shows a net worth and working capital in amounts determined by Landlord, in its reasonable discretion, to be sufficient or to assure the future
performance by the assignee of Tenant’s obligations under this Lease.

22.9.5.3.2. If requested by Landlord, the assignee will obtain guarantees, in form and substance reasonably satisfactory to Landlord, from one or more persons who satisfy Landlord’s requirements of creditworthiness.

22.9.5.3.3. Landlord has obtained all consents or waivers from any third party required under any lease, mortgage, financing agreement or other agreement by which Landlord is bound to permit the assignment.

22.9.5.3.4. When, pursuant to the Code, the Trustee is obligated to pay reasonable use and occupancy charges for the use of all or a portion of the Premises, the charges will be no less than the greater of Minimum Rent or Percentage Rent and other monetary obligations of Tenant included herein as Rent.

22.9.5.3.5. That there will be no breach of any provisions of this Lease including, but not limited to, provisions in regard to permitted use, exclusivity, non-competition requirements or any other requirements in this Lease or any other agreement binding Landlord or Tenant.

22.9.5.3.6. That the assumption, transfer or assignment of this Lease will not financially disrupt or breach any other tenant lease or disrupt the normal operation of the Premises.

22.10. Transfer Fee.

22.10.1. **The Transfer Fee.** Notwithstanding anything in Section 22 of this Lease to the contrary, from time to time at the closing of and simultaneously with each Assignment (as defined in Section 22.10.2 of this Lease) by any Person (herein “Assignor”), whether direct or indirect, voluntarily or involuntarily or by operation of law (including, without limitation, the laws of bankruptcy or insolvency), to an assignee (herein “Assignee”) whether an individual, firm, corporation, limited liability company, limited liability limited partnership, limited partnership, limited liability partnership, partnership, unincorporated organization or
government, or any agency or political subdivision thereof, the Assignee and Assignor shall be jointly and severally obligated to pay and shall pay to Landlord (in the aggregate (allocated between Assignee and Assignor as they may agree; provided, however, that such allocation shall not affect the joint and several obligation of the Assignor and Assignee to Landlord)) a transfer fee (herein “Transfer Fee”) equal to one percent (1%) of the Assignment Consideration (as defined below). The total Transfer Fee due as a result of an Assignment (defined below) described in Section 22.10.2 below shall be due simultaneously with the Assignment.

22.10.2. Assignment.

22.10.2.1. Except as provided in Section 22.10.2.2 below, “Assignment” means:

22.10.2.1.1. a Leasehold Estate Transfer,

22.10.2.1.2. any merger, consolidation or liquidation of Tenant,

22.10.2.1.3. an Equity Interest Transfer, or

22.10.2.1.4. permission for the Premises or any portion thereof or improvements thereon to be occupied or used by anyone other than Permitted Occupants.

22.10.2.2. Notwithstanding the foregoing Section 22.10.2.1, “Assignment” does not include any of the following:

22.10.2.2.1. a pledge, mortgage, hypothecation, or other encumbrance of the Leasehold Estate or any portion thereof or an Equity Interest in Tenant that is granted to any Person other than a Lender:

22.10.2.2.1.1. unless and until such Person, whether before or after the default, has the right to vote or direct the vote of the pledged or encumbered interest, participate through such pledged interest directly or indirectly in the management of Tenant, or Control directly or indirectly the voting or management rights of the pledged interest, or
22.10.2.2.1.2. unless the pledge or encumbrance to such Person is effectively a disguised transfer of the interest that is pledged or encumbered as evidenced by predominant characteristics of ownership including, but not limited to the interest pledged to such Person securing an obligation which exceeds eighty percent (80%) of the value of the pledged interest which has no recourse for payment or performance against any Person or property other than the pledged interest and/or an entity with no significant assets; or

22.10.2.2.2. Any Permitted Equity Interest Transfer; or

22.10.2.2.3. Any Permitted Leasehold Estate Transfer.

22.10.2.3. The term "Assignment Consideration" means the total present value of all cash, notes or other debt, securities and other property paid (and the principal balance of indebtedness directly or indirectly assumed) by or on behalf of an Assignee to an Assignor in connection with an Assignment (or the allocable portion thereof in the case of an Assignment that is a transfer of interests in Tenant and Tenant owns other assets in addition to the Leasehold Estate). The value of any such securities (whether debt or equity) or other property shall be determined as follows: (1) the value of securities that are freely tradable in an established public market will be determined on the basis of the last market closing prior to the consummation of the Assignment; (2) the value of any notes or other debt shall be the principal amount thereof; and (3) the value of securities that are not freely tradable or have no established public market or of property other than securities, shall be the fair value (without discounts for control, marketability, liquidity or otherwise) thereof. "Assignment Consideration" shall also be deemed to include any amounts received by Assignor from the Assignee (or any person or entity that Controls, is Controlled by or is under common Control with the Assignee) relating to non-compete, non-disclosure, confidentiality, consulting, employment, or similar agreements to the extent that such agreements are part of the consideration for the Assignment. If Landlord and Tenant are unable to agree upon the amount of the Assignment Consideration,
Tenant shall pay Landlord the undisputed portion of the Transfer Fee at the time of Assignment, pay the disputed portion of the Transfer Fee into escrow with an attorney acceptable to Landlord and Tenant, and seek a final determination of the Assignment Consideration in an arbitration, with any additional amount or refund to be paid promptly thereafter.

22.10.2.4. Notwithstanding anything to the contrary in this Section 22.10, no Transfer Fee shall be due or payable in connection with a transfer or transaction that is not an Assignment.

23. BREACH; DEFAULT.

23.1. Breach of Lease - Construction of Improvements. Should Tenant fail to Commence Construction as required by Section 8.2.2, or should Tenant fail to complete the construction of all of the buildings, improvements and infrastructure within the time requirements set forth in Section 8 such that Landlord is entitled to terminate this Lease with respect to a portion or all of the Premises as expressly provided in Section 8, Landlord may, at its option, exercise such right to terminate this Lease with respect to a portion or all of the Premises, as applicable under Section 8, by giving Tenant written notice thereof and thereupon the rights of Tenant in and to the applicable portion of the Premises and all improvements thereon shall cease and end, and Landlord may, without further notice or demand, but pursuant to legal process, re-enter and take possession of the Premises and all improvements thereon and oust Tenant and all persons claiming under Tenant therefrom, and Tenant and all such persons shall quit and surrender possession of the Premises and all improvements thereon to Landlord. Notwithstanding the foregoing or anything to the contrary herein, Tenant’s default on this Lease shall not constitute a default on any Subparcel Lease or any Subparcel Sublease; and a Subparcel Tenant’s default on a Subparcel Lease shall not constitute a default on this Lease, any other Subparcel Lease, or any Subparcel Sublease.

23.2. Other Defaults and Breaches.

23.2.1. Any one or more of the following shall constitute an event of default by Tenant pursuant to this Lease, subject however to Section 23.4 and the rights of Lenders under this Lease:

23.2.1.1. Failure by Tenant to pay or cause to be paid any tax, fee in lieu of tax, assessment, insurance premium, lien, claim, charge or demand herein provided to be paid or caused to be paid by Tenant at the time and in the manner herein provided; or
23.2.1.2. Failure to pay any installment of Rent or any other sum when due as herein provided; or

23.2.1.3. Failure by Tenant to commence and thereafter to continuously conduct its operations on the Premises within the times and in the manner as required by the terms of this Lease; or

23.2.1.4. Failure to use, maintain and operate the Premises as required by the terms of this Lease;

23.2.1.5. Tenant’s attempt to make or suffer to be made any Transfer except as permitted in this Lease;

23.2.1.6. The sale or other Transfer of Tenant’s rights under this Lease by or under a court order or legal process; or

23.2.1.7. The adjudgment of Tenant as insolvent or bankrupt.

23.2.2. Subject to the rights of Lenders as set forth herein, if any such default or breach shall continue uncured beyond the applicable cure period set forth in Section 23.4, then and in any such event, Landlord may, at its option, terminate this Lease with respect to the Premises by giving Tenant written notice thereof and thereupon the rights of Tenant in and to the Premises and all improvements thereon shall cease and end, and Landlord may, without further notice or demand, but pursuant to legal process, re-enter and take possession of the Premises and all improvements thereon and oust Tenant and all persons claiming under Tenant therefrom, and Tenant and all such persons shall quit and surrender possession of the Premises and all improvements thereon to Landlord. In the event Landlord retakes possession of the Premises as set forth herein, Landlord shall have no duty to mitigate its damages by reletting the Premises.

23.3. Termination of Lease. In the event of termination of this Lease by default and re-entry or dispossession by Landlord by appropriate proceedings:

23.3.1. The Rent with respect to the Premises shall become immediately due and be paid up to the time of such termination, re-entry, or dispossession;

23.3.2. Landlord may relet the Premises or any part or parts thereof, either in the name of Landlord or otherwise, for a term or terms which may, at Landlord’s option, be less than or exceed the period which would otherwise have constituted the balance of the Term of this Lease and may grant concessions including reduced rent to the substitute tenant or tenants; and
23.3.3. Tenant also shall pay Landlord as liquidated damages for the failure of Tenant to observe and perform Tenant's covenants herein contained any deficiency between the Rent hereby reserved and/or covenanted to be paid and the net amount, if any, of the rents collected on account of the lease or leases of the Premises for each month of the period which would otherwise have constituted the balance of the Term of this Lease. In computing such liquidated damages, there shall be added to the deficiency such expenses as Landlord may incur in connection with reletting, including but not limited to brokerage fees, attorney's fees, and cost of preparation of the Premises for reletting. Such liquidated damages shall be paid in quarterly installments by Tenant on the Monthly Rent payment dates specified in this Lease and any suit brought to collect the amount of the deficiency for any quarter shall not prejudice in any way the rights of Landlord to collect the deficiency for any subsequent quarter by a similar proceeding. Landlord, at Landlord's option, may make such alterations, repairs, replacements and/or decorations in the Premises as Landlord considers advisable and necessary for the purpose of reletting the Premises. In the event of any default by Tenant hereunder resulting in the termination of this Lease by Landlord as aforesaid, Landlord shall have no duty to mitigate its damages by reletting the Premises.

23.4. Notice and Opportunity to Cure.

23.4.1. Notwithstanding any term or provision of this Lease to the contrary except where Landlord is terminating this Lease pursuant to Section 23.1, neither Landlord nor Tenant shall be deemed in default under or in breach of any term or provision of this Lease and neither party will be entitled to exercise any rights or remedies against the other party due to any purported breach under any term or provision of this Lease or under any law or at equity unless and until:

23.4.1.1. The party claiming that such default has occurred (herein the "Non-Defaulting Party") has given the party purportedly in default (herein the "Defaulting Party") written notice of any purported violation of or failure to perform under any term or provision of this Lease, which notice shall state in reasonable detail the nature of such violation or failure, and

23.4.1.2. Either:

23.4.1.2.1. In the case of non-payment of Rent or other sums hereunder by Tenant, the Defaulting Party has failed to cure such violation or failure within twenty (20) days following the Defaulting Party's receipt of such notice, (notwithstanding the foregoing, if
Tenant fails to pay any installment of Rent or any other sum when due as herein provided more than two (2) times in any twelve (12) month period, and Landlord sends Tenant notice to cure as provided in this Section, then for failures to pay any installment of Rent or any other sum when due as herein provided, the cure period shall be reduced to five (5) Business Days for subsequent failures to pay any installment of Rent or any other sum when due as herein provided, or

23.4.1.2.2. In all other cases except pursuant to Section 23.1, the Defaulting Party has failed to cure such violation or failure within thirty (30) days following the Defaulting Party’s receipt of such notice (unless a section of this Lease provides for a different period of time in which case the different period shall apply); provided, however that in the case of a non-monetary violation or non-monetary failure which reasonably cannot be cured within thirty (30) days following the Defaulting Party’s receipt of such notice, the Defaulting Party shall not be deemed in default or breach hereof, and the Non-Defaulting Party shall not be entitled to exercise any rights or remedies so long as the Defaulting Party commences necessary curative action within such thirty (30) day period and thereafer proceeds in good faith with due diligence and without unreasonable interruption in the Defaulting Party’s diligent efforts toward the effectuation of such cure. Landlord and Tenant expressly acknowledge that there are certain violations of the terms of this Lease that may be governed by regulatory agencies such as environmental matters and further, with respect to such violations, preparatory work and regulatory agency approval may be required prior to physical commencement of the cure thereof. With respect to such matters, Landlord and Tenant shall be deemed to have commenced to cure any such violation as long as such party is proceeding with the steps reasonably necessary to obtain regulatory approval of the proposed action and otherwise complies with any temporary or final orders issued by the regulatory agency even if the actual physical
23.4.2. Landlord further acknowledges that Tenant anticipates subleasing portions of the Premises to third parties and acknowledges portions of the Premises may be under the possession and control of persons or entities other than Tenant. With respect to any portion of the Premises subleased to or under the management or control of a person or entity other than Tenant, Tenant shall not be in breach of its obligations hereunder for any violation of this Lease by such third parties as long as Tenant in good faith is using its commercially reasonable efforts to cause the subtenant, manager or other person or entity to comply with the terms of this Lease.

23.4.3. Continuous Operation Default.

23.4.3.1. Notwithstanding anything to the contrary set forth herein, Landlord shall not have the right to terminate this Lease in its entirety or with respect to any portion of the Premises immediately upon the occurrence of a Continuous Operation Default that is not cured within the applicable required cure period if Tenant or any Lender elects to commence paying Continuous Operation Default Rent as follows: Commencing on the date of default hereunder as a result of Tenant or any Lender failing to cure a Continuous Operation Default within the applicable required cure period (the “Continuous Operation Default Date”) and continuing until such default is cured, Rent for the applicable portion of the Premises shall be one hundred percent (100%) of the average Rent for such portion of the Premises for the two (2) Lease Years immediately prior to the Lease Year in which Tenant fails to continuously conduct operations as provided in Section 7.3.2 (“Continuous Operation Default Rent”). The Continuous Operation Default Rent shall increase each Lease Year by the percentage increase in CPI; provided that the Continuous Operation Default Rent shall never decrease. In addition to such Rent obligations, Tenant shall be required to continue to comply with its obligations hereunder to maintain the Premises in a safe, clean, sanitary and orderly condition. If (i) neither Tenant nor any Lender elects to commence paying Continuous Operation Default Rent, or (ii) Tenant or any Lender elects to pay Continuous Operation Default Rent, and subsequently Tenant and all Lenders elect to cease paying Continuous Operation Default Rent, then Landlord shall have the right to terminate this Lease for failure to pay Rent as provided in Section 23.2.2, and Landlord shall have no obligation to pay a
Recapture Payment or any other amount to any Lender or Tenant as a result of such termination of the Lease. While a Continuous Operations Default is ongoing, Landlord, Tenant, and any Lenders shall use reasonable commercial efforts to cooperate in connection with identifying a new tenant and attempting to agree upon the terms of an assignment of the Leasehold Estate to such new tenant, provided that any such agreement shall be subject to each party’s sole discretion. Landlord shall not deliver notice of termination of this Lease and entering into a new lease of the Premises with a new tenant as provided below without first having identified and provided contact information for the prospective new tenant to Tenant and the Lender holding the first priority Leasehold Mortgage (if any) and allowed at least thirty (30) days for such parties to attempt to negotiate an agreement for assignment of the Lease. If Tenant or any Lender has been continuously paying Continuous Operation Default Rent as required herein and the Continuous Operation Default is not cured within forty-eight (48) months following the Continuous Operation Default Date, then at any time thereafter so long as such Continuous Operation Default remains uncured and Tenant or any Lender or its assignee has not Commenced Construction of the renovation or redevelopment of the Premises as contemplated under Section 7.3.2, Landlord shall have the right by notice to Tenant and Lender to terminate this Lease as provided herein subject to the Recapture Payment provided for in this Section 23.4.3 (and not subject to any further cure periods as provided in Section 23.4.1 or otherwise).

23.4.3.2. Except as otherwise provided in this Section 23.4.3, upon Landlord giving notice to Tenant and Lender of Landlord’s election to terminate this Lease as a result of a Continuous Operation Default that is not cured within the required time period under this Section 23.4.3, Landlord shall elect in such notice either to (i) terminate the Lease, or (ii) simultaneously terminate the Lease and enter into a new lease with a new tenant for the Premises. If Landlord simply terminates the Lease as provided in clause (i) in the prior sentence, then Landlord shall be required to pay to the Lender holding the first priority Leasehold Mortgage (if any) a recapture payment in an amount (the “Recapture Payment”) equal to the Loan Principal Balance. If Landlord simultaneously terminates the Lease and enters into a new lease with a new tenant for the Premises, then in connection with the execution of the new lease for the Premises, Landlord shall cause the new tenant to
agree to pay to the Lender holding the first priority Leasehold Mortgage (if any) the Recapture Payment. The "Loan Principal Balance" means the current principal balance of the Loan secured by the first priority Leasehold Mortgage together with any unpaid interest and other amounts owing under such Loan, including without limitation any yield maintenance or defeasance premium, but excluding any other late charges, default interest, default premium, or other similar default-related payment. Whether Landlord simply terminates the Lease or simultaneously terminates the Lease and enters into a new lease with a new tenant for the Premises, Landlord shall have the right to set off against or be paid out of the Recapture Payment all unpaid amounts payable to Landlord under this Lease, including but not limited to real property taxes (or payments in lieu thereof) or insurance premiums that Landlord has paid due to the failure of Tenant or any Lender to pay such amounts as required hereunder. The Recapture Payment shall be paid upon the effective date of the termination of this Lease, which effective date shall be no more than one hundred eighty (180) days following Landlord's delivery of notice of termination. At least ten (10) days prior to the scheduled termination of the Lease, Landlord shall provide written notice to Tenant and Lender of the date on which the Lease is scheduled to be terminated and coordinate with Lender payment of the Recapture Payment (less the amounts set off against the Recapture Payment or payable to Landlord out of the Recapture Payment as provided in this Section). Provided that the notice referred to in the previous sentence has been given to Tenant and Lender, Landlord shall have the right to execute and file a Notice of Termination of Lease terminating the Lease on the public records at such time as (i) the amount of the Recapture Payment (less the amounts set off against the Recapture Payment payable to Landlord out of the Recapture Payment as provided in this Section) has been agreed in writing by Landlord and the Lender and paid into escrow with a licensed title insurance company or a lawyer licensed to practice law in the State of South Carolina reasonably acceptable to the Lender, and (ii) written notice from such title insurance company or lawyer has been delivered to Lender confirming that the Recapture Payment (less the amounts set off against the Recapture Payment or payable to Landlord out of the Recapture Payment as provided in this Section) has been received by such title insurance company or lawyer and will be delivered to Lender by wire
transfer or cashier’s check upon receipt (by the person having

custody of the Recapture Payment) from Lender of wiring

instructions or other delivery instructions. After Landlord
delivers the notice of termination of the Lease to Lender,
Lender shall not have the right to cure the Continuous
Operation Default unless and until such termination notice is
withdrawn as provided below. The Lease and the first priority
Leasehold Mortgage shall remain in full force and effect and
unaltered unless and until (i) the Recapture Payment (less the
amounts set off against the Recapture Payment or payable to
Landlord out of the Recapture Payment as provided in this
Section) is paid, and (ii) the Lease is terminated pursuant to the
terms of this Section. If (i) the Recapture Payment (less the
amounts set off against the Recapture Payment or payable to
Landlord out of the Recapture Payment as provided in this
Section) has not been paid, and (ii) the Lease has not been
terminated on or before the expiration of the one hundred
eighty (180) days, then beginning on the one hundred eighty-
first (181st) day following the notice of termination, no further
Rent shall accrue under this Lease, and any reasonable
expenses (or the pro-rata portion thereof applicable to such
period of up to sixty (60) days) incurred by Tenant or any
Lender for insuring the Premises and improvements thereon,
paying property taxes or assessments (or payments in lieu
thereof), or maintaining the Premises and improvements
thereon shall be added to the Recapture Payment, and the
termination of the Lease and payment of the Recapture
Payment shall be promptly completed within sixty (60) days.
Alternatively, at any time after having given the termination
notice, Landlord may elect to withdraw the termination notice
by written notice to Tenant and any Lenders, whereupon
Tenant and Lenders as applicable shall receive a credit against
Rent for all Continuous Operation Default Rent and all
reasonable expenses (or the pro-rata portion thereof applicable
to the period from the date Landlord gave the notice of
termination until the date Landlord withdraws the notice of
termination) incurred by Tenant or any Lender for insuring the
Premises and improvements thereon, paying property taxes or
assessments (or payments in lieu thereof), or maintaining the
Premises and improvements thereon, for the period from the
date of the notice of termination until the date of withdrawal,
and Landlord shall not be permitted to deliver a new
termination notice under this Section 23.4.3 for a period of
twelve (12) months following the date of withdrawal of the
prior termination notice. Landlord shall be deemed to have withdrawn the termination notice if the Lease has not been terminated and the Recapture Payment paid within sixty (60) days following the expiration of the one hundred eighty (180) days from the date of the termination notice.

23.4.3.3. Notwithstanding anything to the contrary herein, so long as (a) any event or circumstance resulting in a Continuous Operation Default that would entitle Landlord to terminate the Leasehold Estate under this Section 23.4.3 also constitutes a breach under the applicable corresponding sublease of the Premises or Leasehold Mortgage encumbering the Leasehold Estate; and (b) Tenant is diligently exercising its rights and remedies as sublandlord under such sublease (or any Lender is diligently exercising its rights and remedies under such Leasehold Mortgage and under applicable law, including endeavoring to exercise its Foreclosure Remedies) for such breach, or is prevented from exercising such rights and remedies because of a bankruptcy proceeding affecting Tenant or the applicable subtenant or otherwise preventing a foreclosure sale, all termination rights under this Section 23.4.3 shall be suspended. Upon completion of the exercise of such remedies, Tenant or Lender or the new holder of the Leasehold Estate, as applicable, shall be required to cure the Continuous Operation Default within the time periods for restocking, renovation or redevelopment of the Premises as contemplated under Section 7.3.2, subject to extension for matters of Force Majeure, and provided that such time periods shall be extended so long as such party is diligently proceeding with curing such Continuous Operation Default, and Rent shall be calculated as provided in Section 9 of this Lease, rather than Continuous Operation Default Rent, during such cure period.

23.4.3.4. This Section 23.4.3 shall in all events be subject to the rights of a Lender pursuant to Section 35 hereof. Without limitation of the foregoing, a Lender’s period to cure a Continuous Operation Default shall continue so long as Lender is diligently pursuing its Foreclosure Remedies.

23.5. No Cross-Default with Subleases. Notwithstanding any term or provision of this Lease to the contrary, any breach of this Lease shall not constitute a breach of any sublease except as set forth in such sublease and Landlord shall not terminate any lease other than this Lease as a result of a breach of this Lease. Notwithstanding any term or provision of this Lease to the contrary, except as set forth in such subleases, any breach of a sublease shall not constitute a breach of this Lease or
any other sublease and Landlord shall not terminate any sublease as a result of
such breach of this Lease or another sublease.

23.6  **Arbitration.** The provisions of this paragraph supersedes all conflicting default
provisions and remedies in this Lease other than any eviction proceedings
initiated by Landlord for the non-payment of Rent in accordance with the terms of
this Lease, which may be initiated in a court of law, and the limitations on
recourse provided in **Section 24.6.** At Landlord’s or Tenant’s written election,
any disagreement between the parties hereto with respect to the interpretation or
application of this Lease, or the obligations of the parties hereunder, with the
exception of claims under the Torts Claims Act, shall be governed by the Federal
Arbitration Act (the “FAA”). The provisions of the South Carolina Uniform
Arbitration Act (the “SCUAA”) shall apply to the extent not preempted by the
FAA and except to the extent otherwise agreed herein. The arbitration shall be
conducted in accordance with the Commercial Arbitration Rules of the American
Arbitration Association (the “AAA Rules”); provided that the substantive
provisions of this Lease shall preempt the AAA Rules and the SCUAA to the
extent in conflict, and the AAA Rules shall preempt the SCUAA to the extent in
conflict; further provided that if the AAA Rules, the SCUAA and the substantive
provisions of this Lease are silent on a procedure or rule, the Arbitrator shall have
the power to impose such rules and procedures as the Arbitrator believes to be in
the interests of fairly resolving the disputes between the parties. A party electing
to commence arbitration shall do so by filing a summons and complaint in the
proper South Carolina State court of competent jurisdiction in Charleston County,
South Carolina asserting all claims then known to that party on which arbitration
is permitted to be demanded, and simultaneously therewith shall file a motion to
submit all claims not falling under the Torts Claims Act to binding arbitration to
be conducted in accordance with the rules set forth in this **Section 23.6.** If, within
fourteen (14) days after the court grants the motion to submit claims to arbitration,
the parties agree in writing to one arbitrator (who shall be an attorney with at least
ten (10) years’ experience in commercial transactions), then such person shall be
the Arbitrator. If the Arbitrator has not been so determined, then within twenty­
one (21) days after the court grants the motion to submit claims to arbitration,
each party shall name to be an arbitrator an attorney with at least ten (10) years’
experience in commercial transactions. Within twenty-eight (28) days after the
court grants the motion to submit claims to arbitration, the two named arbitrators
shall name to be a third arbitrator an attorney with at least ten (10) years’
experience in commercial transactions. If the parties agree in writing within
seven (7) Business Days thereafter to the third person being the sole arbitrator,
then the third person shall be the Arbitrator; otherwise, the three arbitrators shall
be the Arbitrators and shall act by majority decision. Any disputes regarding the
method by which the arbitration should be conducted shall be resolved only by
the Arbitrator(s). The parties agree to the joinder of any necessary or
indispensable party to the Arbitration including but not limited to any subtenant.
No bond shall be required. No party or anyone acting on his or its behalf shall
have any ex-parte communications of substance relating to the proceedings with
the Arbitrator(s). The place of arbitration shall be Charleston, South Carolina or
such other place as the Arbitrator(s) shall determine in the interests of justice or
cost savings. The Arbitrator(s) may conduct telephone conferences upon at least
five (5) Business Days’ notice to all parties. This notice may be waived by the
parties. South Carolina substantive law shall apply. South Carolina rules of
evidence will apply as determined by the Arbitrator(s). No formal rules of civil
procedure will apply; provided, however, the discovery rules set forth in the South
Carolina Rules of Civil Procedure shall apply at the discretion of the Arbitrator(s).
The presumption is for limited discovery subject to the Arbitrators’ discretion.
Depositions and written discovery shall be discouraged and generally not allowed;
provided, however, if a witness is not available and the witnesses’ testimony is
demonstrated to the Arbitrator(s) to be material, the Arbitrator(s) may allow the
deposition of the witness to be used at the hearing in lieu of testimony. Any
disputes regarding procedures, the method by which the arbitration shall be
conducted or the arbitrability of issues shall be resolved only by the Arbitrator(s).
At least seven (7) Business Days prior to the Hearing, each party shall provide to
the Arbitrator(s), with a copy to each of the other parties, the following: (1) An
exhibit list of the party’s exhibits, with the author and date and a copy of each
exhibit such party intends to submit as evidence in the final hearing. (2) A list of
witnesses such Party intends to call for testimony at the hearing and a summary of
each witness’ testimony. Any witness’ testimony to be provided by affidavit shall
be provided at this time. The other parties shall have the right to call the affiant as
a witness without further notice to the parties. (3) A pre-hearing Memorandum of
no more than fifty (50) typed double-spaced pages of a statement of facts and the
party’s position with respect to the issues. Objections to witnesses and/or exhibits
shall be delivered to the Arbitrator(s) and to the other parties at least five (5)
Business Days prior to the final hearing. The Arbitrators(s) shall rule on the
objections prior to commencement of the final hearing. All parties shall have the
right to attend and participate in any hearings. The final hearing in any matter
shall take place on the earlier of a date to be agreed upon by the parties or on a
date set by decision of the Arbitrator(s) which is no later than the 75th day
following the date the court granted the motion to submit claims to arbitration.
Each party shall have thirty (30) minutes to make an opening statement. Parties
shall present their claims and matters in the order determined by the Arbitrator(s).
The Arbitrator(s) shall have the right to limit the amount of time for the
presentation of evidence and testimony, the amount of time for cross examination
of witnesses, and the amount of time to make a closing statement. The
Arbitrator(s) shall have the right to ask questions of the parties and any witnesses.
The Arbitrator(s) shall have the right to vary this procedure as the Arbitrator(s)
deem appropriate and no party to this Lease shall have the right to contest the
Arbitrator(s)’ decision to do so. The Arbitrator(s) will issue a final written
decision (the “Final Decision”) by 5:00 pm on the twentieth (20th) Business Day
following the final hearing. The Arbitrators’ Final Decision will be final and
binding on the parties without appeal or collateral proceedings except as provided in this Lease. Judgment upon the award rendered by the Arbitrator may be entered in any court having jurisdiction thereof. If within fourteen (14) days after the Final Decision is delivered either Party desires to appeal the Final Decision to a panel of three (3) arbitrators, then that Party shall serve a notice of appeal ("Notice of Appeal") on the other Party setting forth the issues being raised on appeal. Within twenty-one (21) days after the Notice of Appeal is delivered, each party shall name to be an arbitrator an attorney with at least ten (10) years' experience in commercial transactions. Within twenty-eight (28) days after the Notice of Appeal is delivered, the two named arbitrators shall name to be a third arbitrator an attorney with at least ten (10) years' experience in commercial transactions. The three arbitrators shall be the Arbitrators to hear the appeal and shall act by majority decision. None of the Arbitrator(s) from the original arbitration are eligible to be Arbitrators of the appeal. The Arbitrators may decide the appeal on written materials presented by the Parties; however, the Arbitrators may, but need not, allow oral presentations. Otherwise, the Arbitrators shall determine the procedure for the appeal. Judgment upon the award rendered by the Arbitrators at the conclusion of any appeal may be entered in any court having jurisdiction thereof. The arbitration costs and expenses shall be borne by the parties as determined by the Arbitrator(s). Each party shall pay such party's own legal fees. Any party shall be entitled to both a temporary restraining order and temporary and permanent injunctions to prevent a breach or contemplated breach of all or any part of this Lease. THIS PROVISION IS A MATERIAL INDUCEMENT TO THE PARTIES TO ACCEPT THIS LEASE.

23.7. Lenders' Rights. The provisions of this Section 23 are subject to the rights of the Lenders as set forth in Section 35 hereof (if applicable).

24. REMEDIES.

24.1. Rights; Remedies. Any termination of this Lease as herein provided shall not relieve Tenant from the payment of any sum or sums that shall then be due and payable to Landlord hereunder or any claim for damages then or theretofore accruing against Tenant hereunder, and any such termination shall not prevent Landlord from enforcing the payment of any such sum or sums or claim for damages by any remedy provided by law, or prevent Landlord from recovering damages from Tenant for any default hereunder. All rights, options and remedies of Landlord contained in this Lease shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and Landlord shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law, whether or not stated in this Lease. In the event that any action shall be instituted by Landlord for the enforcement of any of its rights or remedies in or under this Lease, Tenant agrees to pay all costs, including actual attorneys' fees, incurred therein by Landlord, whether or not such action is prosecuted to judgment.
24.2. **Waiver.** No waiver by either party of a breach of any of the covenants, conditions or restrictions of this Lease shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition or restriction herein contained.

24.3. **Certain Damages.**

24.3.1. If Landlord does not elect to terminate this Lease in its entirety pursuant to Section 23, but on the contrary elects to take possession, Tenant will pay to Landlord:

24.3.1.1. Rent and other sums as provided in this Lease which would be payable under this Lease if such repossession had not occurred, less

24.3.1.2. The net proceeds, if any, of any reletting of the Premises after deducting all Landlord’s expenses in connection with such reletting, including, without limitation, all repossession costs, brokerage commissions, attorneys’ fees, expenses of employees, alteration and repair costs and expenses of preparation for such reletting. If, in connection with any reletting, the new lease term extends beyond the existing Term, or the Premises covered by such new lease includes other premises not part of the Premises, a fair apportionment of the rent received from such reletting and the expenses incurred in connection with such reletting as provided in this Section will be made in determining the net proceeds from such reletting, and any rent concessions will be equally apportioned over the term of the new lease.

24.3.2. Tenant will pay such Rent and other sums to Landlord monthly on each day on which the Rent would have been payable under this Lease if possession had not been retaken, and Landlord will be entitled to receive such Rent and other sums from Tenant on each such day.

24.4. **Continuing Liability After Termination.** If this Lease is terminated as the result of a default hereunder, Tenant will remain liable to Landlord for damages in an amount equal to Rent and other amounts which would have been owing by Tenant for the balance of the Term had this Lease not been terminated less the net proceeds, if any, of any reletting of the Premises by Landlord subsequent to such termination, after deducting all Landlord’s expenses in connection with such reletting, including, but without limitation, the expenses enumerated in Section 24.3.1.2. Landlord will be entitled to collect such damages from Tenant on each day on which Rent and other amounts would have been payable under
this Lease if this Lease had not been terminated, and Landlord will be entitled to receive such Rent and other amounts from Tenant on each such day.

24.5. **Cumulative Remedies.** Any suit or suits for the recovery of the amounts and damages set forth in this Section 24 may be brought by Landlord, from time to time, at Landlord's election, and nothing in this Lease will be deemed to require Landlord to await the date upon which this Lease or the Term would have expired had there occurred no event of default. Each right and remedy provided for in this Lease is cumulative and is in addition to every other right or remedy provided for in this Lease now or after the Lease Commencement Date existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Landlord of any one or more of the rights or remedies provided for in this Lease now or after the Lease Commencement Date existing at law or in equity or by statute or otherwise will not preclude the simultaneous or later exercise by Landlord of any or all other rights or remedies provided for in this Lease now or after the Lease Commencement Date existing at law or in equity or by statute or otherwise.

24.6. **Limitation on Recourse to Landlord.** Notwithstanding anything else in this Lease, Tenant acknowledges and agrees that it cannot, under any circumstances, pursue a claim for monetary damages against (i) Landlord except as set forth in the Tort Claims Act, or (ii) Landlord's board members, officers, employees, agents, or attorneys under any circumstances. Tenant may bring an action for arbitration pursuant to Section 23.6 to seek nonmonetary equitable relief (in the form of a declaratory judgment or otherwise) to enforce or interpret the terms of this Lease, but the Tort Claims Act provides Tenant's sole remedy for monetary damages. Tenant acknowledges that Landlord's board members, officers, employees, agents, and attorneys are not parties to this Lease.

24.7. **Lenders' Remedies.** The provisions of this Section 24 are subject to the rights of Lenders as specifically set forth in Section 35 hereof.

24.8. **Limitation on Recourse to Tenant.** Notwithstanding anything else in this Lease, Landlord acknowledges and agrees that it cannot, under any circumstances, pursue a claim for monetary damages of any kind under this Lease against any of Tenant's members, principals, shareholders, managers, partners, owners, employees, officers, board members, agents or attorneys under any circumstances. Landlord acknowledges that Tenant's members, principals, partners, owners, employees, officers, board members, agents and attorneys are not parties to this Lease.

25. **REMOVAL.**

25.1. **Property.** Upon the expiration of the Term or any earlier termination thereof, Tenant shall surrender to Landlord possession of the Premises and, except as
otherwise provided in this Lease, all improvements constructed and installed thereon. Provided that Tenant is not then in default hereunder (after expiration of any applicable notice and cure period), or as necessary to comply with any franchise agreement or any management agreement with a Person who is not Tenant or a Tenant Affiliate, Tenant may remove or cause to be removed from the Premises all movable furniture, furnishings, equipment and trade fixtures installed in the buildings and structures on the Premises. Any of said property that is not removed from the Premises within ninety (90) days after written notice from Landlord (which notice Landlord may give only after the expiration or termination of this Lease) shall thereafter automatically become the property of Landlord without the payment of any further consideration therefor.

25.2. Quitclaim. Upon the expiration of the Term or any sooner termination of this Lease, Tenant agrees to execute, acknowledge and deliver to Landlord a proper instrument in writing releasing and quitclaiming to Landlord all right, title and interest of Tenant in and to the Premises and the improvements thereon including, but not limited to, an instrument terminating any Short Form Lease or Memorandum of this Lease of record as to the Premises. Tenant hereby irrevocably appoints Landlord, and any of its respective officers, as Tenant’s attorney-in-fact with full power to prepare and execute any documents, instruments and agreements, including, but not limited to, the quitclaim deed referenced above, releases, and other documents and/or instruments as may be appropriate to release and quitclaim to Landlord all right, title and interest of Tenant in and to the Premises and the improvements thereon and to release and terminate any Short Form Lease or Memorandum of this Lease of record as to the Premises.

26. NOTICES.

26.1. Generally. All notices, demands, and communications required or permitted in connection with this Lease, shall be in writing and signed by the party (or its agent) serving the same and shall be deemed to have been given (A) when delivered to the intended party in person or by electronic transmission by facsimile, electronic mail or otherwise with acknowledgment of receipt, or (B) at 5:00 P.M. on the Business Day after the date delivered to any nationally recognized private mail or courier service (e.g. FedEx, Airborne or such similar service), postage paid or guaranteed and sent for next day delivery, or (C) on the date of receipt or the date of refusal of delivery after deposited in the United States Mail, return receipt requested, with postage prepaid, and addressed to each party with copies as indicated as follows or by notice to the other party in compliance with this Lease:
26.1.1. If intended for Landlord,

26.1.1.1. at its business address: Patriots Point Development Authority,
40 Patriots Point Road, Mt. Pleasant, South Carolina 29464,
Attention: R. Mac Burdette, Executive Director, Facsimile
843-881-4232, e-mail mburdette@patriotspoint.org,

26.1.1.2. with a copy to Landlord’s counsel, as of the date of the
execution of this Lease, William E. Craver, III, Post Office
Box 1016 (29402), 171 Church Street, Suite 120A, Charleston,
SC 29401, facsimile 843-577-0811, e-mail
wcraver@craverlawfirm.com, and if Landlord does not have

counsel at the time any such notice, demand, or communication
is given, then to the Attorney General of South Carolina, P.O.
Box 11544, Columbia, South Carolina 29211, and

26.1.2. If intended for Tenant,

26.1.2.1. Attention: Michael R. Bennett, Bennett Hospitality, 17
Lockwood Drive, Suite 400, Charleston, South Carolina 29401;

26.1.2.2. With a copy to Tenant’s Counsel, as of the date of the
execution of this Lease, W. Foster Gaillard and James M.
Wilson, Womble Carlyle Sandridge & Rice LLP, 5 Exchange
Street, Charleston, SC 29401, Facsimile 843-723-7398, e-mail
fgaillard@wcsr.com and jmwilson@wcsr.com, or

26.1.3. At such other address of a party hereto and to such other persons as a party
may hereafter designate in writing.

26.2. Time Computation. In computing any period of time prescribed or allowed in
this Lease, the day of the delivery of notices, the act, event, or default from which
the designated period of time begins to run shall not be included. The last day of
the period so computed shall be included, unless it is a Saturday, a Sunday, or a
Legal Holiday, with “Legal Holiday” meaning any day appointed as a holiday by
the State of South Carolina. When the period of time is described as “Business
Days,” intermediate Saturdays, Sundays, and legal holidays shall be excluded in the
computation.

27. EMINENT DOMAIN.

27.1. Permanent Taking.

27.1.1. If at any time after the Lease Commencement Date or during the Term, the
Premises, or any part thereof, is permanently taken by public authority
under the laws of eminent domain, then in every such case the Leasehold
Estate, with respect to the part thereof taken, shall forthwith cease and terminate. Unless all of the Premises shall be so taken or either of the parties hereto shall exercise the option to terminate this Lease hereinafter provided in this Section 27, this Lease shall continue in full force and effect as to the remainder of the Premises and Tenant shall forthwith reconstruct or repair the structures taken or injured or substitute other structures therefor upon the remainder of said Premises, in accordance with and in every respect subject to all of the requirements of this Lease. The compensation and damages received by Tenant pursuant to Section 27.1.3 for such taking shall be applied to the cost of such reconstruction or repairs, and if the compensation or damages received by Tenant as aforesaid shall be insufficient for said purposes, then Tenant shall make up the deficiency out of its own funds, and the amount of the Fair Market Rent provided in Section 9 shall be reduced from the date of the taking in the proportion of the area of the Premises taken to the total area in the Premises prior to the taking.

27.1.2. Notwithstanding the foregoing to the contrary, in the event so much of the Premises or the improvements thereon are taken so as to render, in Tenant’s reasonable judgment, the balance of the Premises or improvements thereon unsuitable for the construction or operation of the improvements thereon or any substitute improvements which might be constructed thereon, then this Lease shall terminate thirty (30) days after written notice thereof by Tenant to Landlord, which notice shall be provided within six (6) months from the completion of the taking.

27.1.3. To the extent allowed by applicable law, Tenant shall be entitled to such compensation or damages as shall be awarded for the taking of or injury to Tenant’s interests in any of the buildings and appurtenant improvements constructed or installed in and upon the Premises, the taking or any injury to the furniture, fixtures and equipment located on the Premises, loss of good will, loss of lease value, severance damages and damages attributable to a change of grade, moving expenses and, if this Lease has not terminated as aforesaid, awards attributable to the need to restore the remaining Premises to the condition required by this Lease. Subject to the rights of Lenders under their loan documents and subject to Section 35, Tenant shall have the right to assert and settle all claims on account of any condemnation or taking of the Leasehold Estate or any portion thereof. Landlord shall retain the right to assert and settle all claims on account of any condemnation of its interests in the Premises including but not limited to Landlord’s rights to receive Rent and Additional Rent under this Lease.

27.2. Temporary Taking. If there is a partial or total taking of the Premises for temporary use or occupancy, then this Lease shall not terminate by reason thereof, and Tenant’s obligation to pay Rent shall continue as provided in Section 9.
hereof. Except to the extent that Tenant may be prevented from doing so pursuant to the terms of the order of the condemning authority, Tenant shall perform and observe all of the other terms, covenants, conditions and obligations hereof upon the part of Tenant to be performed and observed, as though such taking had not occurred. In the event of such taking, subject to making the payments required by this Lease to Landlord and giving security therefor, Tenant shall be entitled to receive the entire amount of any award made in connection with such taking unless such period of temporary use or occupancy shall extend beyond the expiration of the Term, in which case, the award shall be duly apportioned between the Term and the period following the expiration thereof and Landlord shall be entitled to the portion of the award attributable to the period following the expiration thereof.

27.3. **Lenders' Rights.** Notwithstanding anything to the contrary herein, Landlord and Tenant acknowledge that to the extent the compensation and damages payable to Tenant with respect to the Leasehold Estate or any portion thereof exceed the cost of reconstruction or repairs, as provided in Section 27.1.1, Lenders (if applicable) shall be entitled to any such excess compensation and damages payable with respect to the Leasehold Estate or any portion thereof to the extent provided in the documents between Tenant and Lenders.
28. HOLDING OVER; NO RIGHT TO RENEW; NEGOTIATION OF POSSIBLE EXTENSION OR RENEWAL. This Lease shall terminate and become null and void without further notice upon the expiration of the Term and any holding over by Tenant after the expiration of said Term shall not constitute a renewal hereof or give Tenant any rights hereunder or in or to the Premises, except as otherwise herein provided. Tenant expressly acknowledges and agrees that this Lease cannot be renewed, extended or in any manner modified except as herein provided or except by a writing signed by both parties hereto. If any such holdover is without Landlord’s Approval, monthly Rent for such holdover period shall be one and one-half (1 1/2) times the Rent for the last month of the Term. After the fiftieth (50th) Lease Year, and thereafter during any extended or renewal term at such time as forty-nine (49) years remain on the term of this Lease (including any extension or renewal rights), Landlord and Tenant shall negotiate in good faith for an extension or renewal of the Term of this Lease upon such terms as the parties may agree; provided that any such extension or renewal will be subject to applicable South Carolina law and approvals.

29. CONSTRUCTION AND EFFECT. Except as otherwise specifically provided in this Lease, time is of the essence in connection with this Lease. Each and all of the covenants, conditions and restrictions hereof shall inure to the benefit of and shall be binding upon the successors in interest of Landlord, and subject to the restrictions of Section 35 and as otherwise provided herein, the Lender(s), assignees, transferees, subtenants, licensees and other successors in interest of Tenant.

30. TRANSFER BY LANDLORD.

30.1. Transfers. Tenant expressly acknowledges and agrees that Landlord may transfer its title to the Premises and/or assign this Lease to a third party without the consent of Tenant provided any such transfer of title and/or assignment of this Lease is subject to the terms of this Lease and provided further, the assignee or grantee (as the case may be) automatically shall be deemed to have assumed the obligations of Landlord contained in this Lease thereafter to be performed. Any such grantee or assignee (as the case may be) shall execute a document pursuant to which it expressly acknowledges its assumption of the obligations of Landlord contained in this Lease thereafter to be performed. The term “Landlord” as used in this Lease, so far as covenants or obligations on the part of Landlord are concerned, shall mean and include only the fee simple title holder and owner of the Premises at the time in question, and in the event of any transfer or transfers of the title to the Premises to any person or party other than the State of South Carolina or another agency thereof, Landlord (and in the case of any subsequent transfers or conveyances, the then grantor), shall be automatically freed and relieved, from and after the date of such transfer and conveyance, of all covenants or obligations on the part of Landlord contained in this Lease thereafter to be performed. Such successor assignee or grantee (as the case may be) shall be bound by all of the covenants and obligations of the part of Landlord contained in this Lease for the remainder of the full Term hereof, unless such transfer of title and ownership shall result from exercise of the power of eminent domain, in
which event the provisions of Section 27 hereof shall control. Upon any such assignment, the assignee Landlord shall become fully responsible for all sums previously deposited with or held by the assignor Landlord, whether or not the assignee received those sums.

30.2. **Encumbrances by Landlord.**

30.2.1. No mortgage, pledge or encumbrance of any kind shall be given by Landlord ("Fee Mortgage") on Landlord’s fee simple ownership in all or any part of the Premises (the "Fee Estate") unless it is specifically subject and subordinate to this Lease (as amended from time to time) and to existing or future subleases (as amended from time to time).

30.2.2. In the event Landlord gives a Fee Mortgage to any Fee Mortgagee, Tenant agrees to execute an instrument in writing satisfactory to the Fee Mortgagee whereby Tenant agrees to attorn to such Fee Mortgagee and agrees to recognize such Fee Mortgagee as Landlord under this Lease in the event such Fee Mortgagee forecloses its interest in the Premises or otherwise acquires fee simple title to the Premises; provided, however, that Tenant’s obligations under this Section shall be conditioned upon such Fee Mortgagee entering into a written agreement with Tenant, reasonably satisfactory to Tenant, whereby such Fee Mortgagee:

30.2.2.1. Recognizes the rights of Tenant hereunder;

30.2.2.2. In the event such Fee Mortgagee forecloses its interest in the Premises or otherwise acquires fee simple title to the Premises, agrees to be bound by and to perform the obligations and covenants of Landlord hereunder, and assumes responsibility for all sums previously deposited with or held by the assignor Landlord; and

30.2.2.3. Agrees not to disturb (i) the possession by Tenant of, and (ii) the operations and activities of Tenant on, the Premises, subject to the terms of this Lease.

30.2.3. If any Fee Mortgagee requires any modification of this Lease or of any Non-Disturbance Agreement or other document to be provided under this Lease, or if any modification is necessary or appropriate to comply with rating agency requirements, then Tenant shall, at Landlord’s or any Fee Mortgagee’s request, consider executing and delivering to Landlord, instruments in recordable form effecting that modification as that Fee Mortgagee or rating agency requires, provided that the modification does not modify Rent, the Term, or any security required under this Lease, and does not otherwise, in Tenant’s sole discretion, adversely affect Tenant’s...
rights, increase Tenant's or any Lender's obligations, or decrease Landlord's obligations under this Lease; provided, however, that any modification or amendment of this Lease is subject to the approval of the State Fiscal Accountability Authority and/or any other State governing body charged with such review and approval.

30.3. **Attornment.** In the event Landlord sells, conveys, or otherwise transfers its interest in the Premises to any person or party including but not limited to the State of South Carolina or another agency thereof, Tenant shall attorn to, and covenants and agrees to execute an instrument in writing satisfactory to the new owner whereby Tenant attorns to such successor in interest and recognizes such successor as Landlord under this Lease; provided, however, that Tenant's obligations under this Section shall be conditioned upon such new owner entering into a written agreement with Tenant, reasonably satisfactory to Tenant, whereby such new owner:

30.3.1. Recognizes the rights of Tenant hereunder;

30.3.2. Agrees to be bound by and to perform the obligations and covenants of Landlord hereunder, and assumes responsibility for all sums previously deposited with or held by the assignor Landlord; and

30.3.3. Agrees not to disturb the possession of Tenant of, and the operations and activities of Tenant on, the Premises, subject to the terms of this Lease.

31. **INTEREST ON LATE PAYMENTS.** Any installment of Rent accruing under the provisions of this Lease or any other payment which shall not be paid when due to Landlord shall bear simple interest at the rate of twelve percent (12%) per annum to accrue from and after the due date thereof until paid; provided, however, if after the third (3rd) Lease Year the statutory legal rate for judgments in South Carolina is ten percent (10%) or greater on the first day of a Lease Year, the foregoing rate of interest for that Lease Year shall be equal to the judgment rate plus three percent (3.0%).

32. **SAFETY AND HEALTH.** Tenant shall comply with all applicable laws and regulations promulgated by all relevant governmental authorities, including, but not limited to the requirements of the Americans With Disabilities Act, Occupational Safety and Health Act of 1970, U.S.C. Section 661, et seq., and any analogous legislation in South Carolina (collectively "OSHA") to the extent that OSHA applies to the Premises and any activities thereon. Without limiting the generality of the foregoing, Tenant shall maintain all working areas, all machinery, structures, electrical facilities and the like upon the Premises in the condition that fully complies with the requirements of OSHA as applicable to Tenant's use of the Premises. Tenant shall indemnify and hold harmless Landlord and Landlord's board member, officers, employees, volunteers, agent, and attorneys from any liability, claims or damages arising as a result of a breach of the covenants of this Section and from all costs, expenses and charges arising therefrom, including, without limitation, attorneys' fees and court costs incurred by Landlord and

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Master Lease Agreement For PPDA and Patriots Annex, LLC

THIS LEASE IS SUBJECT TO ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT, SECTION 15-48-10 ET SEQ. OF THE CODE OF LAWS OF SOUTH CAROLINA, AS AMENDED FROM TIME TO TIME, AND THE FEDERAL ARBITRATION ACT (9 U.S.C. §I, ET SEQ.), AS AMENDED FROM TIME TO TIME.
Landlord’s board members, officers, employees, volunteers, agents, and attorneys in connection therewith, which indemnity shall survive the expiration or termination of this Lease.

33. **STATEMENT OF LANDLORD.**

33.1. **Contents and Effect.**

33.1.1. Landlord shall, at any time and from time to time, upon not less than twenty (20) days prior written notice to Landlord, execute, acknowledge and deliver to Tenant a statement in writing certifying that this Lease is unmodified and in full force and effect (or, if there has been any modification thereof, that the same is in full force and effect as modified and stating the modification or modifications) and that Tenant is not in default, except as specified in such statement, in regard to any of its covenants or obligations under this Lease, and further setting forth the amount and dates to which all sums payable as Rent hereunder have been paid in advance, if any, and such other statements relating to delivery and acceptance of the Premises or this Lease as the Lenders or proposed assignee may reasonably require. Landlord represents and warrants that any such statement delivered pursuant to this Section will be accurate and binding upon Landlord and may be relied upon by any such person, its heirs, successors and assigns.

33.1.2. In addition to the foregoing, Landlord shall, at any time and from time to time, upon not less than twenty (20) days prior written notice to Landlord, execute, acknowledge and deliver a Non-Disturbance Agreement (in a form and content satisfactory to Landlord and the Lenders) for the benefit of a subtenant of Tenant who is leasing more than five thousand (5,000) square feet of leasable area, which shall contain, among other customary provisions, a statement that the applicable subtenant shall attorn to Landlord in the event this Lease is terminated.

34. **MINERAL AND WATER RIGHTS.**

34.1. Landlord reserves and excepts from all the Premises leased hereunder unto itself, its successors and assigns, together with the exclusive right to grant and transfer all or a portion of the same, any and all oil, oil rights, petroleum, mineral rights, natural gas rights, and other hydrocarbon substances by whatsoever name known, geothermal resources, and all products derived from any of the foregoing, that may be within or under the Premises; provided, Landlord, its successors and assigns shall conduct no drilling, mining, extraction, exploring, removal or prospecting on the Premises during the Term of this Lease.

34.2. Landlord hereby grants to Tenant non-exclusive riparian and littoral rights (to the extent Landlord has the same) to use of all public waters and marshlands,
wetlands, and critical areas on, adjacent to, or flowing over or upon the Premises, including without limitation for any docks, marinas, or any other waterfront activities, provided that such uses shall (i) with respect to the portion of the Premises identified as Parcel 1 (as shown on Exhibit A-1 or A-2, as applicable) exclude docks and marinas other than boardwalks and limited docks for water transportation services subject to Landlord Approval, (ii) be subject to Section 4.4.1, and (iii) with respect to the portion of the Premises identified as Parcel 1, be subject to Landlord’s and Landlord’s current and future lessees’ and licensees’ uses of areas that are currently occupied by Landlord’s Pier (as it may be expanded as provided in Section 6.5.6.1.7) and Fort Sumter Tours, Inc. (including but not limited to the current and future arrangements with Fort Sumter Tours, Inc. and its successors or replacements as set forth in Section 6.5.13, with respect to such areas) as may be modified, renewed, extended, and/or replaced from time to time. This right to use shall not include the right to dig or maintain wells or pump, draw, or dam any water, or for any similar purpose, unless agreed to in writing by Landlord.

35. ENCUMBRANCES BY TENANT.

35.1. Definitions. As used in this Lease, “Lender” shall mean any (i) bank; (ii) savings and loan association; (iii) insurance company; (iv) trustees of a pension trust, (v) institutional lender with assets over $100,000,000, or (vi) any other person or entity approved by Landlord in writing, which makes a loan (a “Loan”) to Tenant secured, in whole or in part, by any deed of trust, mortgage, assignment of rents and leases, or other security instrument (any of those, a “Leasehold Mortgage”) imposing a lien on any portion of the Leasehold Estate, the proceeds of which loan are advanced for the construction of improvements on the Premises or any portion thereof, or a permanent loan (initial or refinancing, including a refinancing that increases the amount of principal indebtedness or reduces the amount of equity). For purposes hereof, a Loan shall include, but not be limited to, loans to Tenant for the cost of acquiring its interest under this Lease or the improvements constructed on the Premises, or any portion thereof, and including, but not limited to, such so-called “soft costs” as loan interest, taxes, assessments, attorneys’ fees, architects’ and engineers’ fees, development and marketing costs paid to third party vendors not affiliated with Tenant, reasonable developers’ fees, cost reimbursements, and management fees even if payable to Tenant Affiliates, broker’s commissions, insurance premiums, amounts payable to or on behalf of Landlord pursuant to the terms of this Lease, a Lender’s fees and interim and permanent financing including, without limitation, origination, discount, takeout and standby fees with respect to permanent financing, legal and accounting fees, premiums for bonds, contingencies and the like.

35.2. Conditions to Encumbrance. Notwithstanding anything to the contrary in this Lease, if requested by Tenant in writing, Landlord shall give Landlord’s Approval...
of one or more assignments or hypothecations of this Lease under any such Leasehold Mortgage for the benefit of a Lender upon and subject to the following covenants and conditions:

35.2.1. Each Leasehold Mortgage and all rights acquired thereunder shall be subject to each and all of the covenants, conditions, restrictions and provisions set forth in this Lease and to all rights and interests of Landlord hereunder with respect to such Premises, except as otherwise provided in this Lease. In order to obtain such Landlord Approval, Landlord must receive from Tenant and the Lender an express agreement in writing, satisfactory to Landlord, that the Lender, upon assuming the role of Tenant under this Lease, will be bound by and subject to all such provisions of this Lease, as to Tenant and the Lender and their respective successors and assigns (but in the case of a Lender acting as Tenant, that agreement shall apply only if that Lender acquires Tenant’s interest in this Lease, and shall automatically terminate when that Lender assigns or abandons this Lease).

35.2.2. After the execution of any Leasehold Mortgage by Tenant, Tenant shall furnish to Landlord’s attorneys a complete copy of the Leasehold Mortgage document(s), and all other instruments and documents evidencing or securing the indebtedness secured thereby, including but not limited to promissory notes and all other loan documents, together with the name and address of the holder(s) thereof; provided that such information shall be maintained as confidential to the extent permitted by applicable law, including but not limited to the extent permitted by South Carolina’s Freedom of Information Act, and not used or disclosed other than for purposes under this Lease, and certain confidential terms thereof may be redacted by Tenant prior to providing such copies to Landlord’s attorneys, provided that Tenant shall make available unredacted copies for review by Landlord’s attorneys at the Mount Pleasant or Charleston offices of Tenant or Tenant’s attorneys. At Landlord’s request from time to time, Landlord’s attorneys shall make available for Landlord’s review at Landlord’s attorneys’ offices, Landlord’s attorneys’ copy of such documents and instruments.

35.2.3. No such Leasehold Mortgage shall be valid or effective unless and until Landlord shall execute and acknowledge its Landlord Approval thereof, which Landlord Approval shall be limited to verification that the terms thereof are not inconsistent with the terms hereof, and until such Leasehold Mortgage, with Landlord’s Approval endorsed thereon, is recorded in the Office of the Register of Mesne Conveyances or other appropriate office of Charleston County, South Carolina. Landlord shall cooperate with any loan closing by Tenant, so that Landlord will provide the signature and acknowledgment required by this paragraph.
simultaneously with, and as part of, the closing of Tenant’s loan. Upon request of Tenant, Landlord shall execute and deliver a customary consent and estoppel for the benefit of Lender in form and substance reasonably acceptable to Lender and to Landlord, which may be recorded in the Office of the Register of Mesne Conveyances for Charleston County in lieu of attaching Landlord’s Approval to the Leasehold Mortgage. Such consent and estoppel shall include confirmation of Landlord’s Approval of any draw provisions as required under Section 35.2.5.

35.2.4. Notwithstanding anything else in this Lease, Tenant may only mortgage, pledge, or otherwise encumber the Leasehold Estate or any portion thereof. No Leasehold Mortgage or other encumbrances permitted by this Section 35 shall constitute a lien or encumbrance on Landlord’s Fee Estate. Each Leasehold Mortgage or other encumbrance permitted by this Section 35 shall encumber only the leasehold interest of Tenant and Tenant’s interest in any improvements thereon.

35.2.5. Notwithstanding anything else in this Section 35 to the contrary, each loan secured by a Leasehold Mortgage for Material construction, repair, or renovation of improvements on the Premises must contain and require a procedure under which portions of the loan funds are disbursed from time to time based on work completed on such construction, repair, or renovation as certified, to the extent required by the applicable lender, by licensed architects and/or engineers or other applicable inspectors, provided that the foregoing shall in no way be construed to prohibit disbursements prior to completion of the relevant work for design, engineering, legal and other soft costs or for the purchase of construction materials or personal property or deposits for the same. If requested by Tenant or Lender, Landlord shall review the relevant loan documents and confirm to Lender that such loan documents comply with this Section 35.2.5.

35.3. Lender Rights on Default.

35.3.1. Landlord agrees to provide notice to all Lenders of any material default under this Lease by Tenant, including, without limitation, any default based upon which Landlord wishes to or may exercise a right of termination, claim for damages, or any other remedy available to Landlord; provided, however, that any failure by Landlord to provide such notice to any Lender shall not constitute a waiver of Landlord’s rights or remedies hereunder with respect to such default, but Tenant’s applicable cure period pursuant to the terms of this Lease shall not commence until such notice of default has been given to both Tenant and Lenders in compliance with Section 26. In the event Tenant fails to cure such default within the applicable cure period pursuant to the terms of this Lease,
Landlord shall give further written notice to all Lenders that such default has not been cured by Tenant within the required period of time (the “Notice of Tenant’s Failure to Cure”). All such notices to Lenders shall be given in accordance with Section 26.1. Tenant shall provide Landlord the Lender’s name, address, facsimile number, electronic mail address, telephone number, and authorized contact for receipt of notices from Landlord and shall be responsible for promptly updating any changes to such information. Upon receipt of the Notice of Tenant’s Failure to Cure, each Lender shall have the following rights:

35.3.1.1. If the default is a failure to pay any Rent, or other sums of money due hereunder (herein a “Monetary Default”), the Lender shall have thirty (30) days after the date of receipt of the Notice of Tenant’s Failure to Cure in which to cure such payment default. If the default is not a Monetary Default (herein a “Non-Monetary Default”), the Lender shall have thirty (30) days after the date of receipt of the Notice of Tenant’s Failure to Cure in which to cure such Non-Monetary Default, or, if such Non-Monetary Default reasonably cannot be cured within such thirty (30) day period, the Lender shall commence in good faith to cure such Non-Monetary Default within said thirty (30) day period and thereafter diligently and without unreasonable interruption in Lender’s diligent efforts pursue such cure to completion as soon as reasonably possible.

35.3.1.2. Except with respect to a Monetary Default, in the event the Lender is precluded from curing Tenant’s Non-Monetary Default in accordance with Section 35.3.1.1 above for any reason not within the Lender’s reasonable control, including without limitation lack of access by Lender to the Premises or the pendency of any bankruptcy or other judicial or administrative proceeding of any nature which materially inhibits the Lender’s ability to effect a cure of the Non-Monetary Default despite the Lender’s prompt, good faith efforts to cure the Non-Monetary Default, the Lender’s period to cure the Non-Monetary Default provided in Section 35.3.1.1 above shall not commence until (i) the Lender acquires possession and control of the Premises by applicable judicial or administrative order (unless stayed by appeal) or otherwise, (ii) the cure thereof is commenced pursuant to court order by a properly appointed receiver or trustee, or (iii) the subsequent date on which the cure thereof can be commenced without court action or approval. In the event the Lender is unable to cure a Non-Monetary Default under this Lease because it does not have possession of the Premises or for any other reason not...
within the Lender’s reasonable control (for example, the Non-Monetary Default is personal to Tenant (a “Tenant-Specific Default”), such as Tenant’s failure to provide financial information), the Lenders’ cure period shall continue as reasonably necessary to permit Lender to commence foreclosure or other proceeding with reasonable promptness and thereafter diligently pursue such proceeding to completion and if reasonably appropriate, to apply promptly for the appointment of a receiver or any other remedy to expedite the Lender’s ability to cure, provided that the Lender shall use prompt, good faith efforts to require a receiver or trustee to commence a cure of any such unsecured Non-Monetary Default under this Lease (to the extent reasonably capable of cure by the receiver or trustee). Also, the Lender shall not be required to discharge or extinguish any statutory or other lien filed against Tenant and/or Tenant’s interest in the Premises such as a judgment, mechanics lien, federal or state lien which is junior or subordinate to the lien of the Lender’s leasehold mortgage, as long as the Lender makes such lien claimant a party to its foreclosure action and thereafter pursues the completion of its foreclosure action with due diligence.

35.3.1.3. At the Lender’s option, any default cure may be deemed a cure on behalf of Tenant in which event Tenant’s rights under this Lease shall continue in effect.

35.3.1.4. In the event the Lender is unable to cure a Non-Monetary Default under this Lease because it does not have possession of the Premises, the Lender’s cure period shall continue so long as the Lender shall with reasonable promptness commence and thereafter diligently pursue to completion all appropriate steps and proceedings for judicial foreclosure and exercise of the power of sale under and pursuant to the Leasehold Mortgage in the manner provided by law, or obtain from Tenant an assignment of this Lease in lieu of foreclosure (collectively the “Foreclosure Remedies”); and, upon the Lender taking title pursuant to such Foreclosure Remedies, this Lease shall continue in full force and effect and shall continue unless and until replaced by a New Lease (defined below). A “New Lease” means a lease of the Premises for the balance of the Term of this Lease and on the same terms as this Lease between Landlord and Lender, Lender’s Designee, or Lender’s assignee (as Tenant) actually entered, or under applicable circumstances deemed to have been entered into, on the date required; provided, however, Landlord and Lender, Lender’s
Designee, or Lender's assignee, as applicable, subsequently may agree to modify the terms of the New Lease.

35.3.1.5. Subject to the foregoing provisions, as a condition to the continuation of the Lender's cure period for a Non-Monetary Default, the Lender shall cure such Non-Monetary Default within the applicable time period (including any extensions of time) provided herein and shall keep and perform all of the covenants, conditions and provisions of this Lease required to be kept and performed by Tenant until such time as the Leasehold Estate shall be sold upon exercise of any of the Foreclosure Remedies and the obligations of Tenant hereunder are expressly assumed by the transferee in writing by the transferee executing and delivering to Landlord a written assumption of Tenant's rights and obligations pursuant to this Lease, in a form approved by Landlord and Lender in Lender's reasonable discretion; provided, however, if applicable law prohibits the Lender from requiring the successful bidder at the foreclosure or other public sale of Tenant's leasehold interest to execute, as a condition of sale, such a written assumption of Tenant's obligations, the party who purchases the Leasehold Estate at such foreclosure or other public sale nevertheless automatically shall be deemed to have assumed all rights and obligations of Tenant pursuant to this Lease. Any existing uncured Monetary Default or Non-Monetary Default shall be cured by the transferee in accordance with the terms of this Lease. Should Lender be precluded by the bankruptcy laws of the United States or by process or issue of any court having jurisdiction in connection with any bankruptcy or insolvency proceeding involving Tenant or a subtenant or for any other reason not within the Lender's reasonable control from commencing the steps and proceedings for any such Foreclosure Remedies during the thirty (30) day period set forth in Section 35.3.1.1 for commencing the cure of a Non-Monetary Default, then Landlord shall appropriately extend said periods for the pursuing of such Foreclosure Remedies, provided that the Lender is diligently and in good faith exercising all reasonable efforts to obtain an appropriate release from any court order or restraint with respect to such proceeding involving Tenant or subtenant, and further provided that upon such release, the Lender shall in good faith promptly cause to have commenced and to diligently pursue to completion all steps and proceedings for consummation of such Foreclosure Remedies.
35.3.1.6. Notwithstanding anything herein to the contrary, no extensions of Lender’s period to cure any default shall permanently waive or permanently reduce any obligations to pay Rent and Additional Rent (including without limitation late fees and interest) to Landlord pursuant to this Lease.

35.3.1.7. If the Leasehold Estate shall be transferred by exercise of any of such Foreclosure Remedies, the transferee or transferees (“Post-Foreclosure Tenant”) thereof shall thereupon and thereby assume in writing the performance of, and be bound by each and all of the covenants, conditions, restrictions, obligations and provisions herein provided to be kept and performed by Tenant during the period such Post-Foreclosure Tenant shall hold title to the Leasehold Estate.

35.3.2. Notwithstanding the foregoing provisions, if any such Lender shall fail or refuse at any time to comply with any and all of the applicable provisions of this Section 35, and shall have failed to remedy such noncompliance within the applicable time period provided in this Section 35, then and thereupon Landlord shall be released from any covenant not to terminate this Lease with respect to such Lender.

35.3.3. Landlord agrees that, subject to Section 35.3.2, its rights against Tenant upon Tenant’s default as provided in this Lease, including, without limitation, Landlord’s rights in a bankruptcy proceeding as set forth in Section 22.9 are subject to the Lenders’ rights under this Section 35.

35.3.4. In addition to being for the benefit of and being enforceable by Tenant and Landlord, the foregoing provisions of this Section 35.3 are for the benefit of and are to be enforceable by any Lender.

35.3.5. In the event of any conflict between the provisions of this Lease and any provision of any Leasehold Mortgage, the provisions of this Lease shall control, except as otherwise expressly set forth herein or agreed in writing by Landlord.

35.4. Transfer to or by Lender.

35.4.1. Prior Landlord Approval shall not be required for transfer of the Leasehold Estate to a purchaser at a foreclosure sale. Prior Landlord Approval shall not be required for a transfer of the Leasehold Estate to a Lender’s or Lender’s Designee’s immediate transferee should such Lender or Lender’s Designee (as defined in Section 3.102) be the successful bidder at the foreclosure sale, or should such Lender or such Lender’s Designee receive the Leasehold Estate by assignment in lieu of foreclosure.
or by other assignment of the Lease as provided herein, provided that such Lender forthwith gives notice (herein the "Lender Transfer Notice") to Landlord in writing of any such transfer setting forth (a) the name and address of the transferee, and (b) the effective date of such transfer. In addition, simultaneously with the Lender Transfer Notice, Lender shall deliver to Landlord the following (herein the "Lender Transfer Deliveries"): (x) the express written agreement of the transferee assuming and agreeing to perform all of the Tenant obligations under this Lease, including but not limited to curing all uncured Monetary and Non-Monetary Defaults (except for Tenant-Specific Defaults), (y) a copy of the document by which such transfer was made, and (z) a written certification by such transferee that the transferee complies with the following requirements: (i) such transferee is not a Prohibited Person; (ii) such transferee has available at least an amount of working capital sufficient to operate the Premises based on the working capital needs during the most recent twelve (12) months of operations of the Premises; and (iii) such transferee, or a management company engaged by such transferee to operate or manage, as applicable, the Premises, has at least three (3) years’ experience operating a business of a substantially similar complexity to (but not necessarily including all of the components of) the business on the Premises; provided that with respect to item (iii) for example but not by way of limitation, a hedge fund with more than three (3) years’ experience owning and operating multiple businesses of similar size and complexity to the businesses operated on the Premises would meet this requirement.

Any subsequent transfer of the Leasehold Estate shall be subject to the requirements of this Lease relating thereto.

35.4.2. Subject to the other requirements of and except as specifically set forth in this Lease, a Lender shall have no personal liability for performance of any obligation under this Lease as Tenant unless and until such Lender becomes the owner or holder of Tenant’s interest hereunder as the result of the exercise of its Foreclosure Remedies or the assignment of the Leasehold Estate in lieu of foreclosure, and such Lender shall nevertheless be released from all obligations and liabilities as Tenant under this Lease arising from and after the date this Lease is transferred to a transferee pursuant to this Section 35 or abandoned. However, the foregoing shall not release such Lender from any obligation or liability of such Lender as Tenant hereunder which occurred or arises out of the period of time (and accruing with respect to the period of time) prior to the effective date of any such transfer or abandonment during which such Lender was the owner and holder of Tenant’s interest hereunder. Landlord shall have the right to terminate this Lease for such Lender’s nonperformance as provided in Section 23.
35.5. **Leasehold Security Impairments.** Any Leasehold Security Impairment (defined below) made without a Lender’s consent shall, at the option of that Lender: (x) be null, void, and of no force or effect; and (y) not bind Tenant, that Lender, any Post-Foreclosure Tenant, or any New Tenant (defined below). A “**Leasehold Security Impairment**” means Tenant’s: (a) amending, canceling, modifying, restating, surrendering, or terminating this Lease; (b) consenting, or failing to diligently object, to a Bankruptcy Sale of all or any portion of the Premises in a foreclosure proceeding affecting Landlord; (c) determining that a condemnation or casualty has occurred that would or could cause this Lease to terminate; (d) exercising any right to treat this Lease as terminated under 11 U.S.C. § 365(h)(1)(A)(i) or any comparable bankruptcy law; (e) subordinating this Lease or any interest in the Leasehold Estate to any other estate or interest in the Fee Estate; or (f) waiving any Lease term(s). Any Leasehold Security Impairment shall not be effective without written agreement of Landlord, Tenant, and all Lenders and mortgagees holding any Fee Mortgages (“**Fee Mortgagees**”).

35.6. **Section 363 Sales.** In the event of a bankruptcy proceeding involving Landlord, no termination of this Lease arising from Tenant’s failure to object to any sale by Landlord, or a trustee in bankruptcy for Landlord, of Landlord’s interests in the Premises free and clear of this Lease under 11 U.S.C. § 363(f)(2) shall be valid or of any force or effect, except with the prior written consent of all Lender(s). Provided that Tenant has given Landlord notice of such assignment, Tenant’s assignment (exclusively or nonexclusively) to any Lender(s) of Tenant’s rights to so object shall not require Landlord Approval, and Landlord shall recognize and honor any such assignment.

35.7. **Landlord’s Rejection of Lease.** If Landlord (as debtor in possession) or a trustee in bankruptcy for Landlord rejects this Lease in any bankruptcy proceeding affecting Landlord, then:

35.7.1. **Assignment.** Landlord and Tenant acknowledge (but Landlord does not represent or warrant) that to the extent provided in any Leasehold Mortgage: (a) Lender’s collateral includes Tenant’s rights under 11 U.S.C. § 365(h); and (b) all of those rights can be and have been validly and effectively assigned to Lender.

35.7.2. **Tenant’s Election.** Tenant elects not to treat this Lease as terminated under 11 U.S.C. § 365(h). Tenant has no right, power, or authority to change that election, or to elect to treat this Lease as terminated, except with written consent of all Lenders. If Tenant purports, without the written consent of all Lenders, to elect to treat this Lease as terminated, then that purported election and termination shall be null, void, and of no force or effect. Each Lender has the right, to the exclusion of Tenant, to make any election not to treat this Lease as terminated, and to exercise any rights of Tenant to assert claims against Landlord under 11 U.S.C. § 365(h)(1).
Provided that a Lender receives written notice of Landlord's bankruptcy proceeding simultaneously with written notice to Tenant, that Lender's rights under the preceding sentence must be exercised, if at all, subject to those time limits and requirements as would apply to Tenant, but, to the extent those time limits lawfully can be altered by agreement, as against Lender those time periods shall be extended by thirty (30) days.

35.7.3. **Continuation of Lease.** If Tenant, without Lender’s written consent, purports to treat this Lease as terminated, then (notwithstanding Tenant’s purported election) Tenant shall be deemed to have elected to continue this Lease under 11 U.S.C. § 365(h)(1)(A)(ii). Notwithstanding any such election by Tenant: (a) this Lease shall not terminate and shall continue in full force and effect with no change to its terms or conditions, including those on Rent, Non-Disturbance Agreements, and Lender protections under this Lease; and (b) Tenant and its successors (including Lenders, any New Tenant, and any Post-Foreclosure Tenant) shall be entitled to offset against Rent the Post-Rejection Offset Amount, subject to the terms of this Lease and subject to Landlord’s right to contest the existence and/or amount of any purported Post-Rejection Offset Amount. "Post-Rejection Offset Amount" means, after rejection of this Lease in a bankruptcy proceeding affecting Landlord, the amount of any offset that Tenant may claim under 11 U.S.C. § 365(h)(1)(B) or any successor statute.

35.7.4. **Continuation of Leasehold Mortgages.** The lien of any Leasehold Mortgage that existed before rejection of this Lease shall extend to Tenant’s continuing possessory and other rights under 11 U.S.C. § 365(h) in the Premises and this Lease after that rejection, with the same priority as that lien would have enjoyed under the Leasehold Estate had that rejection not taken place.

35.7.5. **Post Rejection Offset Amounts.**

35.7.5.1. If Tenant desires to reduce any Rent by any Post-Rejection Offset Amount, then such Post-Rejection Offset Amount shall be determined using the procedure set forth in this Section 35.7.5, and after any Post-Rejection Offset Amount (in whole or in part) has been finally determined, such Post-Rejection Offset Amount shall be credited against payments of Rent as such payments become due until such Post-Rejection Offset Amount has been exhausted.

35.7.5.2. If Tenant desires to assert a claim for a Post-Rejection Offset Amount, then Tenant shall deliver to Landlord a written notice ("Post-Rejection Offset Notice") stating: (a) the Post-
Rejection Offset Amount; (b) the reason for it; and (c) an itemization in reasonable detail of Tenant's damages for which Tenant asserts it has a claim under 11 U.S.C. § 365(h)(1)(B) or any successor statute. No Post-Rejection Offset Notice shall be effective unless Tenant's most senior Lender joins in that notice. Landlord shall be deemed to have rejected any Post-Rejection Offset Amount unless Landlord accepts the Post-Rejection Offset Amount in writing. Unless Landlord accepts the Post-Rejection Offset Amount in writing, within forty-five (45) days after Tenant's delivery of the Post-Rejection Offset Notice, Landlord shall give a written response ("Landlord's Response") to Tenant and each Lender stating: (1) Landlord disputes the Post-Rejection Offset Amount; (2) the basis for that dispute; and (3) the Post-Rejection Offset Amount, if any, that Landlord would accept (the "Non-Disputed Post-Rejection Offset Amount"). The Non-Disputed Post-Rejection Offset Amount shall be credited against payments of Rent as such payments become due after the date of Landlord's Response until such Non-Disputed Post-Rejection Offset Amount is exhausted. If Tenant or a Lender desires to pursue a claim for any Post-Rejection Offset Amount in excess of the Non-Disputed Post-Rejection Offset Amount (if any), then Tenant, or such Lender on behalf of Tenant, may commence a proceeding in the United States Bankruptcy Court in which Landlord's case under the Bankruptcy Code is then pending, or if that case has been closed, then in arbitration pursuant to this Lease, to determine the proper Post-Rejection Offset Amount. Each of Landlord and Tenant simultaneously shall give each Lender copies of all pleadings, motions, and other papers it files in any such action. Lender shall have the right to intervene in that action and, at Lender's option, the right to control that action to the exclusion of Tenant. If, as of the date thirty (30) days after the court or the arbitrator enters a final and nonappealable order or judgment declaring that Tenant must pay Landlord any amount previously offset, Tenant has not paid that amount to Landlord, then Landlord shall have all the rights and remedies available to it under this Lease or otherwise at law regarding a Monetary Default, subject in each case to Tenant's and Lenders' cure rights under this Lease.

35.8. Landlord's Bankruptcy Sale. In the event of a proposed sale of the Premises or any interest therein in any bankruptcy proceeding affecting Landlord or the Fee Estate (a "Bankruptcy Sale"): (a) Landlord shall notify each Lender (of which Landlord has received notice) of any proposed Bankruptcy Sale, and shall give each such Lender copies of all pleadings, motions, and notices relating to that
proposed Bankruptcy Sale; (b) Tenant irrevocably objects to and does not consent to any Bankruptcy Sale; (c) Tenant’s consent to, or acquiescence in any Bankruptcy Sale is not effective without each Lender’s written consent; (d) to the extent provided by applicable law, each Lender shall have standing to object to any Bankruptcy Sale; and (e) Landlord acknowledges that, to the extent applicable law provides such a right to Landlord, Landlord waives the right to require Tenant or any Lender to accept a money payment in lieu of Tenant’s interest in this Lease.

35.9. Tenant’s Rejection of Lease.

35.9.1. If Tenant (as debtor in possession) or a trustee in bankruptcy, or any other similar officer or representative for Tenant, rejects this Lease in any bankruptcy proceeding, then that rejection shall be deemed Tenant’s assignment of this Lease and the Leasehold Estate to a Post-Foreclosure Tenant (to be designated by Tenant’s most senior Lender within a reasonable period after request), in the nature of an assignment in lieu of foreclosure, subject to all Leasehold Mortgages. Such Post-Foreclosure Tenant must comply with all obligations under Section 35.3 of this Lease to cure Monetary Defaults and to cure Non-Monetary Defaults, to the extent applicable, including without limitation the obligation to pay any past-due Rent within ten (10) Business Days of the rejection of this Lease pursuant to this Section 35.9 and thereafter the obligation to pay Rent as it becomes due. Further, Lender shall provide the Lender Transfer Notice and the Lender Transfer Deliverables as such terms are defined in Section 35.4. Any subsequent transfer of the Leasehold Estate shall be subject to the requirements of this Lease relating thereto. That deemed assignment shall not terminate this Lease, but after that assignment the assignor’s liability under this Lease shall not exceed the liability, if any, that would have existed if the assignor had rejected this Lease. To the extent allowed by applicable law, each Lender shall continue to have all the rights of a Lender as if the bankruptcy proceeding had not occurred, unless a particular Lender disapproves that deemed assignment by written notice to Landlord within thirty (30) days after that Lender received notice of rejection of this Lease in bankruptcy proceedings.

35.9.2. If any court determines that this Lease terminated notwithstanding the deemed assignment, unless each Lender elects in writing to abandon the Lease as of the date of such judicial determination, which election shall take place within thirty (30) days of such judicial determination, then the effective date of that judicial determination shall constitute the effective date of the termination of the Term and the commencement date of a New Lease for the balance of the Term with the Lender, the Lender’s Designee, or the Lender’s third-party assignee, at Lender’s election, being the tenant under the New Lease. Lender, the Lender’s Designee, or the Lender’s
third-party assignee, as applicable, must comply with all obligations under
Section 35.10 to cure all uncured Monetary Defaults and to cure all
uncured Non-Monetary Defaults, to the extent applicable, including
without limitation the obligation to pay any past-due Rent within ten (10)
Business Days of such judicial determination and thereafter the obligation
to pay Rent as it becomes due. Further, Lender shall provide the Lender
Transfer Notice and the Lender Transfer Deliverables as such terms are
defined in Section 35.4. Any subsequent transfer of the Leasehold Estate
shall be subject to the requirements of this Lease relating thereto.

35.10. New Lease.

35.10.1. If this Lease terminates or is rejected for any reason (except with
Lender’s written consent or because of a casualty or condemnation,
subject to the provisions of this Lease on Leasehold Security
Impairments), even if Lender failed to timely exercise its cure rights for a
default, then Landlord shall give Lender written notice stating this Lease
has terminated, and describing defaults known to Landlord (a “Lease
Termination Notice”). Lender shall have sixty (60) days (the “New
Lease Option Period”) from receipt of the Lease Termination Notice to
give written notice (the “Lender’s New Lease Option Notice”) to
Landlord that Lender, Lender’s Designee, or Lender’s third-party
assignee, at Lender’s election, shall be the tenant (the “New Tenant”)
under a New Lease. Further, if the New Tenant is a third-party assignee,
Lender shall provide the Lender Transfer Notice and the Lender Transfer
Deliverables as such terms are defined in Section 35.4. Neither Lender nor
the Lender’s third-party assignee shall be required to pay to Landlord the
Transfer Fee required by Section 22.10.1. Any subsequent transfer of the
Leasehold Estate shall be subject to the requirements of this Lease,
including but not limited to the payment of Transfer Fees. The New Lease
will be effective and commence on the date Lender gives the Lender’s
New Lease Option Notice. TIME IS OF THE ESSENCE AS TO ANY
NEW LEASE OPTION PERIOD. As a condition to entering into a New
Lease, New Tenant shall: (a) cure all uncured Monetary and Non-
Monetary Defaults (excluding Tenant-Specific Defaults) of which
Landlord has given notice to the Lender that requested a New Lease,
provided that all such defaults must be cured within thirty (30) days of
delivery of Lender’s New Lease Option Notice unless any such defaults
reasonably cannot be cured within thirty (30) days, in which case New
Tenant shall commence within such thirty (30) day period to cure such
defaults which reasonably cannot be cured within thirty (30) days and
diligently continue such efforts to cure such defaults until they are cured;
(b) reimburse Landlord’s actual and reasonable costs to terminate this
Lease, recover the Premises, and enter into the New Lease including but
not limited to actual attorney’s fees; and (c) replenish any security deposit
this Lease otherwise requires. No Lender shall have any right to require Landlord to enter into a New Lease unless that Lender gave the Lender’s New Lease Option Notice to Landlord to that effect in the New Lease Option Period. If a court order prevents Landlord from entering into a New Lease after Lender timely delivers Lender’s New Lease Option Notice, then Landlord and New Tenant shall enter a New Lease promptly after the court order ends.

35.10.2. If Lender timely requests a New Lease in conformity with this Lease, then from the date this Lease terminates until the date the New Lease commences (that period, the “Leasing Gap”), Landlord shall not:
(a) cease continuous operation of the Premises; (b) terminate sublease(s) except upon default; (c) amend or modify subleases without Lender’s consent; (d) encumber the Leasehold Estate; or (e) lease all or any part of the Premises except to New Tenant or in a manner substantially consistent with Tenant’s subleasing program before this Lease terminated (but in no event shall Landlord enter into any sublease or renewal thereof with a term, including all renewals, greater than twelve (12) months, or any Ground Sublease, in each case without Lender’s consent). Within fifteen (15) days of the commencement date of the New Lease, Landlord shall transfer to New Tenant (i) all subleases (including any security deposits Landlord actually held under such subleases), (ii) service contracts, (iii) Premises operations, (iv) condemnation awards, to the extent that Tenant and/or Lender would have been entitled thereto under the terms of this Lease if this Lease had not terminated, when and as received by Landlord or a Fee Mortgagee, and (v) net proceeds (after Landlord’s actual costs, including costs of adjustment and collection) of property insurance, to the extent that Tenant and/or Lender would have been entitled thereto under the terms of this Lease if this Lease had not terminated, when and as received by Landlord or a Fee Mortgagee, including proceeds of Tenant’s business interruption insurance in excess of Rent. Landlord shall cause every Fee Mortgagee to subordinate to the New Lease to the extent this Lease requires Fee Mortgagees to subordinate to this Lease. The standard of care and indemnification provisions set forth in Section 19 shall survive termination of this Lease and apply to Landlord’s actions managing the Premises and the improvements thereon during the Leasing Gap.

35.11. Loans for Less than the Entire Premises. Tenant may obtain financing which is secured by a lien on only the portion of the Leasehold Estate included in a Subparcel or by a security interest in any or all of Tenant’s personal property.

35.12. Subordination to Lender’s Interest. Landlord hereby agrees to subordinate to a Lender’s security interest permitted hereunder: (l) any claim Landlord may now or hereafter have with respect to any personal property, movable furniture, furnishings, equipment, removable goods, and trade fixtures of Tenant, but not
any buildings or other similar improvements to the Premises which are or will
become the property of Landlord hereunder; and (2) any claim that Landlord may
now or hereafter have for a Landlord’s lien, distress for rent, security interest or
similar claim against any such personal property, movable furniture, furnishings,
equipment, removable goods, or trade fixtures of Tenant. Notwithstanding
Landlord’s foregoing agreement to subordinate to a Lender’s permitted security
interest therein, such subordination shall not otherwise constitute a waiver of
Landlord’s lien on any of the above described items.

35.13. Certain Proceedings. If Landlord or Tenant initiates any arbitration or any legal
or other dispute resolution or valuation proceeding or procedure of any kind
between Landlord and Tenant regarding this Lease or the Premises, then the
parties simultaneously shall notify in writing each Lender. The senior Lender may
participate in those proceedings on Tenant’s behalf, or exercise any or all of
Tenant’s rights in those proceedings, in each case (at Lender’s option, subject to
Lender’s loan documents) to the exclusion of Tenant. No settlement shall be
effective without Lenders’ written consent, unless Landlord or Tenant
simultaneously pays the settlement and the claimant releases any claim against
Lenders against whom claims were asserted.

35.14. Separate Agreement. Landlord shall reasonably promptly on Tenant’s request
execute, acknowledge and deliver to Tenant and any Lender an agreement
prepared at Tenant’s expense and in form reasonably satisfactory to Lender and
Landlord confirming all or any provisions of this Lease.

35.15. Future Modifications. If any Lender requires any modification of this Lease or
of any Non-Disturbance Agreement or other document to be provided under this
Lease, or if any modification is necessary or appropriate to comply with rating
agency requirements, then Landlord shall, at Tenant’s or any Lender’s request,
reasonably consider executing and delivering to Tenant instruments in recordable
form effecting that modification as that Lender or rating agency requires,
provided that the modification does not modify Rent, the Term, or any security
required under this Lease, and does not otherwise materially adversely affect
Landlord’s rights, materially increase Landlord’s or any Fee Mortgagee’s
obligations, or materially decrease Tenant’s obligations under this Lease;
provided, however, that to the extent required by applicable law, any modification
or amendment of this Lease is subject to the approval of the State Fiscal
Accountability Authority and/or any other State governing body charged with
such review and approval.

35.16. Miscellaneous. Notwithstanding anything to the contrary in this Lease, a Lender
may: (a) exercise its rights through an affiliate, assignee, designee, nominee,
subsidiary, or other Person, acting in its own name or in Lender’s name, and
anyone acting under this clause “a” shall automatically have the same protections,
rights, and limitations of liability as Lender; (b) refrain from curing any default, in
which case Landlord may exercise all its rights and remedies for the default if no
Lender cures that default; (c) abandon that cure at any time, in which case
Landlord may exercise all its rights or remedies for the default if all Lenders have
abandoned that cure; or (d) withhold Lender consent for any reason or no reason,
except where this Lease states otherwise. Lender consent must be written. To the
extent any Lender’s rights under this Lease apply after this Lease terminates (for
example, the right to a New Lease), they shall survive that termination, but no
rights shall continue after the scheduled expiration of the Term of this Lease. As
between Tenant and any Lender, to the extent that a Leasehold Mortgage (or any
document it secures) limits a Lender’s rights that would otherwise exist under this
Lease, then limitations in the Leasehold Mortgage govern.

35.17. **Ground Sublease.** Upon the request of Tenant at the time of entering into a
Subparcel Lease with respect to a Subparcel that Tenant intends to have subleased
pursuant to a Ground Sublease, the Subparcel Lease shall include reasonable and
customary provisions to allow a Ground Sublessee of the applicable Subparcel
and the Ground Sublessee’s lender holding a subleasehold mortgage on the
Ground Sublessee’s subleasehold estate to have the rights of a Lender under this
Section 35 directly with respect to Landlord notwithstanding any failure by the
Tenant under such Subparcel Lease to perform or promptly cure any breach under
the Subparcel Lease.

36. **OTHER FACILITIES.**

36.1. Landlord, its agents, successors and assigns, do not represent or assure that there
will not be other facilities in the immediate vicinity of the Premises in which
Landlord may be involved whether as a principal or as a landlord having some or
all of the uses permitted to Tenant hereunder. Landlord, by itself or through other
tenants and/or licensees, now and in the future may operate and maintain rental
accommodations and entertainment, banquet, and other facilities in ships and
museum buildings, and operate and maintain all types of facilities having some or
all of the uses permitted to Tenant hereunder. Nothing contained in this Lease
shall be construed to give Tenant any exclusive right to such operations in the
Patriots Point complex which includes all real property owned by Landlord.

36.2. In the event Landlord shall make a public offer for lease or license of further land
or facilities at Patriots Point, Tenant shall be eligible to bid thereon in accordance
with applicable law.

37. **ADDITIONAL LAND; FIRST RIGHT OF REFUSAL.** Subject to any restriction
imposed by applicable law, if additional land owned by Landlord that is not available for lease as
of the Lease Commencement Date becomes available for lease during the Term, then Landlord
and Tenant will attempt to agree to the terms under which such land could be leased to Tenant;
provided (i) that any such new lease agreement or amendment to this Lease will be subject to
approval by the State Fiscal Accountability Authority, and (ii) the premises subject to such new lease agreement or to be added by amendment to this Lease would be a separate tract and would not be aggregated with the Premises with the effect that, for example and not by way of limitation, the separate tract would have its own Conceptual Master Plan and Master Plan and would not be aggregated with the Premises for purposes of meeting Minimum Rent requirements; provided further that if Landlord and Tenant fail to agree to such terms, the provisions of Section 36.2 shall apply.

38. **GENERAL CONDITIONS**

38.1. **Governing Law.** This Lease and the performance hereof shall be governed, interpreted, construed and regulated by the laws of the State of South Carolina.

38.2. **Partial Invalidity.** If any term, covenant, condition or provision of this Lease or the application thereof to any person or circumstance shall, at any time or to any extent, be held invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each separate term, covenant, condition and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law. The term, covenant, condition or provision held to be invalid or unenforceable shall be replaced by a term, covenant, condition or provision which as nearly as reasonably practicable accomplishes the purpose of the former term, covenant, condition or provision.

38.3. **Short Form or Memorandum of Lease.**

38.3.1. The parties shall at any time, at the request of either one, promptly execute duplicate originals of an instrument, in recordable form, which will constitute a Short Form or Memorandum of Lease, setting forth a description of the Premises, the Term, and any other material provisions thereof, except for those provisions setting forth the Rent to be paid by Tenant to Landlord, as either party may reasonably request. A plat or map of the Premises shall be appended to such Short Form Lease or Memorandum of Lease at Tenant's cost. The Short Form Lease or Memorandum of Lease shall include a provision notifying any contractor or subcontractor of Tenant or any subtenant that Landlord's Fee Estate shall not be subject to any mechanic's or materialman's lien.

38.3.2. Notwithstanding the foregoing, only in the event that Tenant is unable to obtain title insurance from a South Carolina licensed title insurance company as to the Premises for the benefit of a Lender due to the fact that a title insurance company will not insure Tenant's leasehold rights hereunder based on a Short Form Lease or Memorandum of Lease, this Lease will be executed in recordable form and recorded in its entirety. To the extent possible, consistent with obtaining title insurance, any economic...
or business terms of this Lease (as agreed by Tenant and Landlord) shall be redacted if this Lease must be recorded as a whole.

38.4. **Interpretation.** Subject to Section 22, the terms “Landlord” and “Tenant” whenever used herein shall mean only the owner at the time of Landlord’s or Tenant’s interest herein, and upon any sale or assignment of the interest of either Landlord or Tenant herein, their respective successors in interest and/or assigns shall, during the term of their ownership of their respective estates herein, be deemed to be Landlord or Tenant, as the case may be.

38.5. **Entire Agreement.** No oral statement or prior written matter shall have any force or effect. Tenant agrees that it is not relying on any representations or agreements other than those contained in this Lease.

38.6. **Parties.** Except as herein otherwise expressly provided, the covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of Landlord and Tenant and their respective successors, administrators and permitted assigns.

38.7. **Use of Terms.** As used in this Lease: (i) “including” shall mean “including without limiting the generality of the foregoing;” and (ii) “herein,” “hereof,” “hereunder,” and words of similar import refer to this Lease as a whole. Use of the word “Term” shall include any properly exercised extension of the Term of this Lease.

38.8. **Financial Statements and Tax Returns.** In addition to other requirements set forth in this Lease for Tenant to provide to Landlord financial information and tax returns, Tenant agrees to furnish and agrees to cause all Tenant Affiliates to furnish to Landlord, annually and from time to time upon written request, unaudited reports covering Tenant’s and each Tenant Affiliate’s operations and financial condition certified by such party’s chief financial officer. Such reports shall be prepared in accordance with generally accepted accounting principles. If Tenant or any Tenant Affiliate produces audited financial statements, such party shall provide copies of them to Landlord within ten (10) Business Days of such party’s receipt thereof. Tenant agrees to furnish to Landlord financial statements, prepared in accordance with generally accepted accounting principles of Tenant’s operations and financial position within thirty (30) days after the end of each quarter. If a material adverse change in Tenant’s financial condition occurs, then Tenant shall immediately provide Landlord with updated financial reports to reflect such change. Such reports and statements shall be in a form, substance and detail satisfactory to Landlord. Tenant shall provide and shall cause all Tenant Affiliates to provide such pages of their annual United States income tax returns as are necessary to establish Gross Sales and Gross Rentals. All such information shall be maintained as confidential to the extent permitted by applicable law, including but not limited to the extent permitted by South Carolina’s Freedom of
Information Act, and not used or disclosed other than for purposes under this Lease. This paragraph shall only apply to Tenant Affiliates that receive Gross Sales or Gross Rentals with respect to the Premises.

38.9. No Third-Party Beneficiary. Notwithstanding anything to the contrary contained herein, the parties hereto hereby expressly acknowledge and agree that the terms and provisions set forth in this Lease are intended to inure solely to the benefit of the parties hereto and their respective successors and permitted assigns. It is the express intent of the parties hereto that no other person or entity shall be entitled, or shall be deemed to have any right, to rely on any term or provision herein contained to any extent or for any purpose whatsoever, nor shall any other person or entity have any right of action of any kind thereon or be deemed to be a third-party beneficiary hereunder.

38.10. Landlord - Tenant Relationship. Nothing contained in this Lease shall be deemed or construed to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between Landlord and Tenant, it being expressly understood and agreed that neither the computation of Rent nor any other provision contained in this Lease nor any act or acts of the parties hereto shall be deemed to create any relationship between Landlord and Tenant other than the relationship of landlord and tenant.

38.11. No Merger. If the Leasehold Estate or any portion thereof and the Fee Estate are ever commonly held, they shall remain separate and distinct estates (and not merge) without consent of all Lenders, all Fee Mortgagees, and Landlord.

38.12. No Waiver. The waiver by Landlord of any agreement, condition or provision contained in this Lease will not be deemed to be a waiver of any subsequent breach of the same or any other agreement, condition or provision contained in this Lease, nor will any custom or practice which may grow up between the parties in the administration of the terms of this Lease be construed to waive or to lessen the right of Landlord to insist upon the performance by Tenant in strict accordance with the terms of this Lease. The subsequent acceptance of Rent by Landlord will not be deemed to be a waiver of any preceding breach by Tenant of any agreement, condition or provision of this Lease other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent.

38.13. Amendments or Modifications of Lease. This Lease may only be amended or modified by a written instrument properly executed by both parties to this Lease (and their Lenders) and approved by the State Fiscal Accountability Authority.

38.14. Caption, Titles and Numbering. The captions and titles appearing within this Lease are for reference only and shall not be considered a part of this Lease or in any way to modify, amend or affect the provisions thereof. The contents of this
Lease are referred to by Sections and references in this Lease to the foregoing shall be deemed to be references to the Sections.

38.15. **Grammatical Changes.** The proper grammatical changes shall be understood and apply where necessary to designate the plural rather than the singular and the masculine or feminine gender.

38.16. **Interpretation Presumption.** Landlord and Tenant expressly agree that in the event of a dispute concerning the interpretation of this Lease, each party hereby waives the doctrine that an ambiguity should be interpreted against the party who drafted the document. The recitals to this Lease are intended as an introduction and summary rather than specific obligations of the parties hereunder.

38.17. **Additional Rent.** Tenant expressly acknowledges and agrees that any sum payable to Landlord hereunder other than Minimum Rent or Percentage Rent including, but not limited to, any late charges or reimbursement for fees expended by Landlord shall be considered “Additional Rent”.

38.18. **Title.** Tenant shall conduct its own title search to verify Landlord’s title to the Premises and the status of any liens or encumbrances thereon. Any assistance, documents, instruments or other materials provided to Tenant by Landlord or Landlord’s counsel shall be for information only and shall not create any guaranty, representation or obligation by Landlord or Landlord’s counsel.

38.19. **Force Majeure.** Neither Landlord nor Tenant will have liability to the other, nor will either have any right to declare a default hereunder or terminate this Lease because of the other’s failure to perform any of its obligations in this Lease (other than the non-payment of Rent or other sums of money due Landlord hereunder) if the failure is due to reasons beyond the party’s reasonable control, including, without limitation, strikes or other labor difficulties, inability to obtain necessary governmental permits and approvals (including building permits or certificates of occupancy), war; riot; civil insurrection; acts of God; and governmental preemption in connection with a national emergency, which for purposes of this Lease shall be defined as reasons of “Force Majeure.” If a party fails to perform its obligations by reasons of Force Majeure, then the period for such party’s performance will be extended day for day for the duration of the foregoing cause of such party’s failure, provided notwithstanding such events, such party has in good faith, with due diligence, attempted to perform said obligations and continues to so do until completion thereof as soon as reasonably possible.

38.20. **Authority.**

38.20.1. Tenant hereby represents and warrants to Landlord that it has full authority to enter into this Lease and perform its obligations hereunder and further that the person executing this Lease on its behalf is duly
authorized to execute the same and bind Tenant to the terms thereof. At
the written request of Landlord, Tenant hereby agrees to provide
Landlord with a certified copy of its articles of organization and any
amendments thereto, a resolution of its directors and/or members
authorizing the execution of this Lease and/or other appropriate
documentation of Tenant's existence and authority to enter into this
Lease, and a list containing the names and mailing addresses of its
members and officers certified by its chief executive officer and
secretary.

38.20.2. Within thirty (30) days of the date of this Lease, Tenant shall also provide
Landlord with a legal opinion from its legal counsel as to its authority to
enter into this Lease and its existence and good standing under the law of
the state of its organization and to the extent applicable South Carolina
law, which shall include the following:

38.20.2.1. Tenant is a duly organized and validly existing entity pursuant
to the laws of the state of its organization, is duly authorized
and qualified to do business in the State of South Carolina, and
has the full power, authority, and legal right to enter into and
perform its obligations under this Lease;

38.20.2.2. The execution and delivery by Tenant of this Lease has been
duly authorized by all necessary action on the part of Tenant;

38.20.2.3. This Lease has been duly executed and delivered on behalf of
Tenant by its representatives thereunto duly authorized; and

38.20.2.4. This Lease constitutes a legal, valid and binding instrument of
Tenant.

38.20.3. Within thirty (30) days of the date of this Lease, Landlord shall provide
Tenant with a copy of a resolution of Landlord's Board authorizing the
execution of this Lease which copy shall be authenticated by the Board's
Chairman and Secretary.

38.20.4. Landlord shall present to the State Fiscal Accountability Authority for its
consideration and approval the Lease executed by Tenant and Landlord
and the resolution of Landlord's Board authorizing the execution of this
Lease.

38.21. Counterparts; Copies as Originals; Execution by Electronic Transmission. It
is the parties' intent and the parties direct, with regard to this document, any
amendment of this document, and any notice, document or instrument executed
pursuant to or in connection with this document, (A) that a copy of the document,
signed and delivered by hand, US mail or transmitted electronically by facsimile, telecopier, e-mail, or otherwise shall be treated for all purposes as an original document; (B) that the copied signature of a party or of a witness shall be considered an original signature, and the copy of the document delivered or transmitted shall be considered to have the same binding legal effect as an original signature on an original document; and (C) that no person may raise the fact that any signature was a copy or transmitted through the use of electronic transmission (by facsimile, telecopier, e-mail or otherwise) as a defense to the enforcement of the document. Further, the document may be executed in any number of counterparts which together shall constitute the agreement of the parties. It shall not be necessary that the signatures of all of the parties appear on each counterpart hereof. All counterparts hereof shall collectively constitute a single document. A party’s properly executed signature page is sufficient as the party’s counterpart of the document.

39. LANDLORD APPROVAL. “Landlord’s Approval” or “Landlord Approval” means, so long as Patriots Point Development Authority is Landlord, a written document signed by the authorized representative(s) of the Patriots Point Development Authority’s board after approval of the matters set forth in such written document by Patriots Point Development Authority’s board at a duly called meeting. A resolution of Landlord’s board duly adopted at a validly called meeting of Landlord’s board certified by any two officers of Landlord’s board shall be conclusive evidence of Landlord Approval of the matters addressed in the resolution. This Lease specifies circumstances where the Landlord Administrator is authorized to provide Landlord approval, which Landlord Administrator approval must be in writing signed by the Landlord Administrator. In any circumstance in this Lease in which Landlord’s or Tenant’s discretion is governed by a reasonableness standard, the reasonableness standard shall be met so long as such substantial evidence supports the decision as an ordinary reasonable person could accept as an adequate objective rational basis under a lease to support the conclusion reached by Landlord or Tenant, as applicable, even if a different conclusion could have been reached by another reasonable person.

40. WAIVER OF JURY TRIAL.

40.1. TENANT AND LANDLORD WAIVE TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS LEASE OR ANY OTHER DOCUMENT OR INSTRUMENT. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY TENANT AND LANDLORD, AND TENANT AND LANDLORD HEREBY REPRESENT THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY PERSON OR ENTITY TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS LEASE.
40.2. Tenant and landlord are each hereby authorized to file a copy of this section in any proceeding as conclusive evidence of this waiver of jury trial.

40.3. Each party further represents and warrants that it has been represented in the negotiating and signing of this lease and in the making of this waiver by independent legal counsel selected of its own free will, or has had the opportunity to be represented by independent legal counsel selected of its own free will, and that it has had the opportunity to discuss this waiver with such counsel.

41. LIMITATION ON LIABILITY; WAIVER OF DAMAGES.

41.1. Each of the parties hereto agrees that in any judicial, mediation or arbitration proceeding or any claim or controversy between or among them that may arise out of or be in any way connected with this lease, or any other agreement or document between or among them or the obligations evidenced hereby or related hereto, in no event shall any party have a remedy of, or be liable to the other for punitive or exemplary damages or any consequential, indirect, incidental, special, or similar damages, including lost profits, except as otherwise expressly provided herein.

41.2. Each of the parties hereto expressly waives any right or claim to punitive or exemplary damages or any consequential, indirect, incidental, special, or similar damages, including lost profits, except as otherwise expressly provided herein, they may have or which may arise in the future in connection with any such proceeding, claim or controversy, whether the same is resolved by arbitration, mediation, judicially or otherwise.

42. Notwithstanding anything in this lease to the contrary, any term, condition, or provision of this lease that requires landlord to indemnify anyone is void. Every sublease shall contain the previous sentence of this Section 42, provided, however, that “Patriots Point Development Authority” shall be substituted for “Landlord” and “sublease” shall be substituted for “lease.”

In witness whereof, the parties hereto have set their hands and seals as of the date and year first above written.
THIS LEASE IS SUBJECT TO ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT, SECTION 15-48-10 ET SEQ. OF THE CODE OF LAWS OF SOUTH CAROLINA, AS AMENDED FROM TIME TO TIME, AND THE FEDERAL ARBITRATION ACT (9 U.S.C. §1, ET SEQ.), AS AMENDED FROM TIME TO TIME.
SIGNATURE PAGE

WITNESSES AS TO TENANT:

FOR TENANT:

PATRIOTS ANNEX, LLC, a South Carolina limited liability company,

By: Patriots Annex Management, Inc., a South Carolina corporation, its Manager

By: [Signature]

Michael R. Bennett, President

Sign Name: [Signature]
Print Name: [Print Name]
Dated: [April 11, 2016]

Sign Name: [Signature]
Print Name: [Print Name]

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

ACKNOWLEDGMENT

I, Stephanie Brown, Notary Public for the State of South Carolina, do hereby certify that Michael R. Bennett, as President of Patriots Annex Management, Inc., as Manager of PATRIOTS ANNEX, LLC, a South Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of such entity.

SWORN and subscribed to before me this 11th day of April, 2016.

Notary Public for South Carolina

My commission expires December 16, 2026 (AL)
WITNESSES AS TO LANDLORD:

Sign Name: WE Craven m
Print Name: WE Craven III
Sign Name: WAY
Print Name: Philip Vagone

STATE OF SOUTH CAROLINA )
COUNTY OF CHARLESTON )

I, WE Craven m, Notary Public for the State of South Carolina, do hereby certify that Ray E Chandler as Chairman of PATRIOTS POINT DEVELOPMENT AUTHORITY, a public body corporate and agency of the State of South Carolina, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of such entity.

SWORN and subscribed to before me this 15 day of April, 2016.

Notary Public for South Carolina
My commission expires 6.13.21 (SEAL)

ACKNOWLEDGMENT

FOR LANDLORD:

PATRIOTS POINT DEVELOPMENT AUTHORITY, a body corporate under the laws of the State of South Carolina

By: Ray E Chandler, Chairman

Dated: April 15, 2016

Master Lease Agreement For PPDA and Patriots Annex, LLC
Page 188

Execution Version April 8, 2016

THIS LEASE IS SUBJECT TO ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT, SECTION 15-48-10 ET SEQ. OF THE CODE OF LAWS OF SOUTH CAROLINA, AS AMENDED FROM TIME TO TIME, AND THE FEDERAL ARBITRATION ACT (9 U.S.C. §1, ET SEQ.), AS AMENDED FROM TIME TO TIME.
SIGNATURE PAGE

WITNESSES AS TO LANDLORD: FOR LANDLORD:

PATRIOTS POINT DEVELOPMENT AUTHORITY, a body corporate under the laws of the State of South Carolina

By: [Signature]

Robert M. Burdette, Secretary

Dated: April 15, 2016

Sign Name: W.E. Craver
Print Name: W.E. Craver

Sign Name: [Signature]
Print Name: Philip Wagone

STATE OF SOUTH CAROLINA )
COUNTY OF CHARLESTON )

I, W.E. Craver, Notary Public for the State of South Carolina, do hereby certify that Robert M. Burdette as Secretary of PATRIOTS POINT DEVELOPMENT AUTHORITY, a public body corporate and agency of the State of South Carolina, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of such entity.

SWORN and subscribed to before me this 15th day of April, 2016.

W.E. Craver

Notary Public for South Carolina

My commission expires 6.13.21 (SEAL)

William E. Craver, III
NOTARY PUBLIC
State of South Carolina
My Commission Expires June 13, 2021
SIGNATURE PAGE
FOR CONSENT BY:

The South Carolina Division of General Services
State Fiscal Accountability Authority

This Lease is approved in accordance with the South Carolina Code of Laws §1-11-56 and the South Carolina Code of Regulations §19-447.1000 by the South Carolina State Fiscal Accountability Authority, Division of General Services, this ___ day of _____________, 20__. This Lease was approved by the South Carolina State Fiscal Accountability Authority at its __________________, 20__ meeting.

By: ______________________________
Signature of authorized person

______________________________
Print name and title of person signing

STATE OF SOUTH CAROLINA )
COUNTY OF CHARLESTON )

I, _______________________________, Notary Public for the State of South Carolina, do hereby certify that _______________________________ of the South Carolina State Fiscal Accountability Authority personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of such entity.

SWORN and subscribed to before me this ___ day of _____________, 20__.

Notary Public for __________________
My commission expires __________ (SEAL)
**List of Exhibits**

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Exhibit A

Description of the Premises

(To be attached after the final plat of the Premises has been approved by Landlord and Tenant.)
Exhibit A-1

Current Survey
Preliminary Parcel Illustration
Page 1 of 3

**BOUNDARY SURVEY**

**OF PARCEL 1, PARCEL 2 & PARCEL 3**

**PATRIOTS POINT**

**TO BE LEASED TO BENNETT HOSPITALITY**

TOWN OF MT. PLEASANT
CHARLESTON COUNTY
SOUTH CAROLINA

PREPARED FOR:
PATRIOTS POINT
DEVELOPMENT AUTHORITY

---

**LEGEND:**
- Iron Pipe Set

---

**CHARLESTON HARBOR**
Exhibit A-2

Survey Post Road Relocation
Exhibit B

Patriots Point Marks

Landlord’s Marks include the following and any others to which Landlord agrees in the future:

Patriots Point

Patriots Point Development Authority

Patriots Point Naval and Maritime Museum

Patriots Point – Home of the USS Yorktown

Patriots Point Naval and Maritime Museum – Home of the USS Yorktown

Patriots Point – Walk in the Steps of Heroes

Patriots Point Development Authority – Walk in the Steps of Heroes

Patriots Point Naval and Maritime Museum – Walk in the Steps of Heroes

Patriots Point – Home of the USS Yorktown – Walk in the Steps of Heroes

Patriots Point Naval and Maritime Museum – Home of the USS Yorktown – Walk in the Steps of Heroes
Exhibit C

Patriots Annex, LLC Marks

Tenant’s Marks will include the following and any others to which Tenant agrees in the future:
Exhibit D

ATM Lease
THIS LEASE IS SUBJECT TO ARBITRATION PURSUANT TO SECTION 15-48-10 ET SEQ. OF THE SOUTH CAROLINA CODE

LEASE AGREEMENT

Between

PATRIOTS POINT DEVELOPMENT AUTHORITY,
a body politic and corporate
under the Laws of the State of South Carolina

And

SOUTHCOST COMMUNITY BANK,
a South Carolina banking corporation
THIS LEASE AGREEMENT ("Lease") is made and entered into as of the Effective Date (defined herein), by and between Patriots Point Development Authority, a body politic and corporate under the Laws of the State of South Carolina ("Lessor"), and Southcoast Community Bank, a South Carolina banking corporation ("Lessee"). The Effective Date is the first day of the month following the date that the South Carolina Division of General Services, Budget and Control Board consents to Lessor entering into this Lease.

RECITALS

A. Lessor, a body politic and corporate under the Laws of the State of South Carolina, owns certain property located in Mt. Pleasant, South Carolina, known as Patriots Point.

B. Lessor desires to lease a certain portion of Patriots Point ("Leased Space"), more particularly described on Exhibit A attached hereto and incorporated by reference, to Lessee for the purpose of erecting, operating and maintaining a self-contained structure, including without limitation a kiosk with canopy and ATM machine, which allows customers to electronically conduct banking business by making withdrawals and deposits by utilizing electronic codes (collectively "ATM"). There will be no employees physically present at the ATM on a regular basis, other than to provide maintenance.

C. Lessor and Lessee desire to enter into this written instrument in order to set forth their respective rights and responsibilities with respect to the Leased Space.
NOW, THEREFORE, in consideration of the above recitals, the terms and conditions hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Creation of Lease.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor the Leased Space described on Exhibit A. Lessee shall use and occupy the Leased Space in accordance with the terms and conditions of this Lease.

2. **Acceptance of Leased Space.** The commencement of the use of the Leased Space by Lessee shall conclusively constitute an agreement by Lessee that Lessee has inspected the Leased Space and accepts the same in its “AS IS” condition.

3. **Term.** The term of this Lease shall commence on the Effective Date and shall continue thereafter for a period of five (5) years, unless sooner terminated as provided herein. Lessee shall have the right to extend the term of the Lease for one (1) additional five (5) year period by delivering written notice of such intent to Lessor at least One Hundred Twenty (120) days prior to the expiration of the initial term; provided, however, that Lessee is not in default beyond any applicable cure period. Lessor and Lessee agree to review the revenue produced by the ATM on a semi-annual basis. This Lease may be terminated by either party upon 120 days written notice if such party reasonably is not satisfied with the financial benefits of this Lease.

4. **Use.** The use of the Leased Space by Lessee shall be solely as an ATM banking center. Lessee agrees to keep the Leased Space and ATM in a clean, safe and sanitary condition in compliance with all laws, regulations, and ordinances, and agrees that it will not allow any nuisance to be maintained on the Leased Space. Lessee shall not do or permit anything to be done in or about the Leased Space which will in any way obstruct or interfere with the rights of Lessor or other tenants or invitees of Lessor, nor use or allow the Leased Space to be used for any objectionable purpose or in any manner inconsistent with a first-class operation. Lessee shall operate the ATM responsibly and prudently and in a manner to reasonably maximize revenue from the ATM. Lessee shall establish transaction fees for use of the ATM that are customary in the Charleston area.
5. **Rent.** Lessee shall pay to Lessor throughout the term rent equal to fifty percent (50%) of the Net Revenue (defined herein) generated by the ATM. Net Revenue means all revenue generated by the ATM less (i) the amortized cost of the ATM equipment and installation thereof, and (ii) expenses directly related to operation of the ATM. Attached hereto is Exhibit B, which sets forth the estimated cost of capital expenditures and monthly expenses. Exhibit B may be modified from time to time as agreed to in writing by both parties. Rent shall be calculated by Lessee on a quarterly basis. Payments due to Lessor shall be made no later than ten (10) days following the end of each quarter, together with an accounting of all ATM fees and expenses. In no event shall a quarterly rent payment be less than thirty dollars ($30.00). Lessee agrees that Lessor has the right to inspect the records of Lessee relating to the ATM upon reasonable notice.

6. **Taxes.** Lessee agrees to pay all taxes, if any, and assessments and user fees, if any, rendered by any authority during the term of this Lease and allocated to the Leased Space and/or the ATM. In the event any such taxes are paid by Lessor for Lessee, Lessee shall reimburse Lessor within fifteen (15) days of receipt of notice of Lessor’s payment.

7. **Utilities, Services and Access.** Lessor agrees to provide electrical service to the ATM at the expense of Lessee. Lessee shall also pay any monthly or other fees for utility services that are thereafter rendered. Subject to the provisions hereof and Lessor’s rules and regulations, for the purpose of servicing the Leased Space, Lessor hereby grants to Lessee, its agents, employees and contractors, the right and privilege of access, ingress and egress to the Leased Space and to public areas and public facilities of Patriots Point.

8. **Encumbrances, Assignments, Sublets and Liens.** Lessee shall not assign, transfer, mortgage, pledge, hypothecate or encumber this Lease, or any interest therein, and shall not sublet the Leased Space, or any part thereof, or any right or privilege pertinent thereto, without the prior written consent of Lessor, which consent shall be at the sole discretion of Lessor and may be withheld for any reason or no reason. Lessee shall keep the Leased Space free from any liens arising out of any work performed, materials furnished, or obligations incurred by Lessee. Lessee shall indemnify, hold harmless, and defend Lessor from any liens
and encumbrances arising out of any work performed or materials furnished by or at the direction of Lessee. Such indemnity shall include, without limitation, all attorneys' fees and costs incurred by Lessor due to the filing of such mechanic's lien or notice thereof. In the event that Lessee, within thirty (30) days following the imposition of any such lien, shall not cause such lien to be released of record by payment or posting of a proper bond, in addition to all other remedies provided herein and by law, Lessor shall have the right (but not the obligation) to cause the same to be released by posting a sufficient bond to have the lien released and Lessee shall indemnify Lessor against the costs of obtaining such bond.

9. **Alterations/Improvements.** The initial design of the ATM and signage are subject to the review and written approval of Lessor. All improvements shall be of first class quality and shall be made at Lessee's sole expense. No alterations, additions or improvements to the Leased Space or the ATM, including without limitation signage, shall take place without the prior written consent of Lessor, which consent may be given or withheld at Lessor's sole discretion.

10. **Risk of Loss.** All personal property, merchandise, signage, fixtures and equipment placed or moved in the Leased Space above described shall be at the risk of Lessee or the owners thereof, and Lessor shall not be liable to Lessee for any damage, loss or theft of said personal property, merchandise, fixtures or equipment.

11. **Right of Entry.** Lessor may enter upon the Leased Space at reasonable times to inspect the Leased Space. Lessor shall coordinate any such inspections with Lessee so as to minimize the inconvenience to Lessee, and Lessor shall not exercise its right of entry in a manner or at a time which interferes with or disrupts Lessee's use of the Leased Space.

12. **Statutes and Regulations.** Lessee shall promptly execute and comply with all statutes, ordinances, rules, orders, regulations and requirements of the federal, state, county and city governments and of any and all their departments and bureaus applicable to the Leased Space and/or the ATM at Lessee's own cost and expense.
13. **Interruption of Services.** Under no circumstances shall Lessor be liable to Lessee for any damages, whether direct, consequential or otherwise, for any failure or interruption of any utility or building service at or upon the Leased Space. Lessor shall not be liable for injury to Lessee's business or for any loss of income therefrom or for damage to the goods, wares or other property of Lessee caused by any such failure or interruption.

14. **Maintenance of Leased Space and ATM.** Lessor agrees to keep and maintain in good repair and free from any rubbish the area surrounding the Leased Space, including access to the Leased Space. Lessee shall provide a ten (10) day written notice of any needed maintenance, and Lessor shall have a reasonable time thereafter to remedy any existing problems related to this provision. Lessee shall be fully responsible for the maintenance, repair, restoration and upkeep of the Leased Space and the ATM and any signage relating thereto. Lessee shall maintain the ATM in good order and repair. All repairs made by Lessee shall be of first class quality in both materials and workmanship, and shall be made in conformity with the rules, regulations and ordinances as prescribed from time to time by governmental authorities having jurisdiction over the Leased Space or the ATM.

15. **Insurance Required.** Lessee shall keep in force at its expense as long as this Lease remains in effect and during such other time as Lessee occupies the Leased Space or any part thereof the following insurance in companies and form acceptable to Lessor and with evidence that all premiums have been paid: (a) public liability insurance with respect to the Leased Space with limits of One Million and no/100 ($1,000,000.00) Dollars on account of bodily injuries to or death of one person, and Two Million and no/100 ($2,000,000.00) Dollars on account of bodily injuries to or death of more than one person as the result of any one accident or disaster; and (b) property damage insurance with minimum limits of Fifty Thousand and no/100 ($50,000.00) Dollars. Such insurance shall insure Lessee, Lessor and Lessor's agents against any liability arising out of the ownership, use, occupancy, alteration or maintenance of the Leased Space, the ATM and all areas appurtenant thereto. The limit of said insurance shall not, however, limit the liability of Lessee hereunder. Lessee shall obtain a
standard waiver of subrogation endorsement with respect to Lessor under such policies. No policy shall be cancelable or subject to reduction of coverage except after thirty (30) days written notice to Lessor and Lessee respectively. If Lessee shall not comply with the covenants made in this Section, Lessor may cause insurance as aforesaid to be issued, and in such event Lessee agrees to pay, as additional rent, the premium for such insurance upon Lessor's demand. Lessee also shall obtain and maintain casualty insurance in an amount sufficient to ensure replacement of the ATM.

16. **Indemnification.** Lessee covenants that it and all of its agents, servants, employees and independent contractors will use due care and diligence in all of its and their activities and operations on the Leased Space. Lessee shall indemnify, defend and save Lessor and Lessor's agents, administrators and employees harmless from any and all claims, damages, costs and expenses, including reasonable attorneys' fees, whether due to damage to the Leased Space, including the ATM, claims for injuries to persons or property, or otherwise, arising from the occupancy or use by Lessee of the Leased Space or in any way arising out of or connected with Lessee's activities in the Leased Space. Lessee acknowledges that this Lease is made upon the express condition that Lessor shall be free from all liabilities and claims for damages and/or suits for or by reason of any injury or injuries to any person or persons or property of any kind whatsoever, whether the person or property of Lessee, its agents, invitees, employees, or third persons, from any cause or causes, whatsoever, while in or upon said Leased Space or any part thereof during the term and so long as Lessee remains in possession of the Leased Space or occasioned by any occupancy or use of the Leased Space or any activity carried on by Lessee in connection therewith.

17. **Defaults and Remedies.**

17.1 **Default by Lessee.** The occurrence of any of the following events shall constitute a default hereunder by Lessee:

A. The abandonment of the Leased Space by Lessee. Abandonment is defined to include, but is not limited to, any absence of Lessee or its representatives from the
Leased Space, or Lessee’s failure to operate the ATM, for a period of at least thirty (30) consecutive days.

B. The failure by Lessee to make, when due, any payment of rent required to be made by Lessee hereunder where such failure shall continue for a period of ten (10) business days after such payment is due.

C. The failure by Lessee to observe, perform or comply with any of the covenants, conditions or provisions of this Lease where such failure shall continue for a period of at least thirty (30) days after written notice thereof by Lessor to Lessee.

17.2 Default by Lessor. The failure of Lessor to observe, perform or comply with any of the covenants, conditions or provisions of this Lease where such failure shall continue for a period of at least thirty (30) days after written notice thereof by Lessee to Lessor shall constitute a default hereunder by Lessor.

17.3 Remedies. In the event of a default by either party as specified in either Section 17.1 or Section 17.2 above, in addition to any other remedies available to the non-defaulting at law or in equity, the non-defaulting party shall have the right to immediately terminate this Lease.

18. Surrender of Leased Space. Upon the expiration or the earlier termination of this Lease, Lessee shall surrender possession of the Leased Space to Lessor, and shall remove the ATM equipment and signage from the Leased Space. Lessee shall restore the Leased Space to its original condition, and shall repair any damage caused by the removal of the ATM and other improvements.

19. Bankruptcy/Insolvency. It is agreed between the parties hereto: If Lessee shall be adjudicated as bankrupt or an insolvent or take the benefit of any federal reorganization or proceeding or make a general assignment or take the benefit of any insolvency law, or if Lessee’s leasehold interest under this Lease shall be sold under any execution or process of law, or if a trustee in bankruptcy or a receiver be appointed or elected or had for the Lessee (where under
federal or state laws), or if said Leased Space shall be abandoned or deserted, or if Lessee shall fail to perform any of the covenants of this Lease or the term thereof be transferred or passed to or devolve upon any person, firm, officer or corporation other than Lessee, then and in any such events this Lease and term of this Lease, at Lessor's option, shall expire and end seven (7) days after Lessor gives Lessee written notice (in the manner herein provided) of such act, condition or default and Lessee hereby agrees immediately to then quit and surrender the Leased Space to Lessor; but this shall not impair or affect Lessor's right to maintain summary proceedings for the recovery of the possession of the Leased Space in all cases provided by law. If the term of this Lease shall be terminated, Lessor may immediately or at any time thereafter re-enter or repossess the Leased Space and remove all persons and property therefrom without being liable for trespass or damages.

20. **Environmental Matters.** Lessee represents, warrants and covenants to Lessor throughout the term as follows: Lessee is and agrees to remain in compliance with all applicable federal, state and local laws relating to protection of the public health, welfare, and the environment ("Environmental Laws") with respect to the Leased Space. Lessee shall not cause the escape, disposal or release of any biologically or chemically active or other hazardous substances or materials on or about the Leased Space. In all events, Lessee shall indemnify Lessor, in the manner elsewhere provided in this Lease, from any Environmental Contamination (as defined herein) on or about the Leased Space caused by Lessee during the term of this Lease. Environmental Contamination shall mean any contamination that constitutes the violation of or liability under any federal, state or local laws.

21. **Americans With Disabilities Act.** Any other provision of this Lease notwithstanding, the parties hereby agree that the Leased Space and ATM may be subject to the
The parties further agree and acknowledge that it shall be the sole responsibility of Lessee to comply with any and all provisions of the ADA with respect to the Leased Space and ATM. Lessee further agrees to indemnify and hold Lessor and Lessor's agents and employees harmless against any claims which may arise out of Lessee's failure to comply with the ADA in the Leased Space. Such indemnification shall include, but not be limited to, reasonable attorneys' fees, court costs and judgments as a result of said claims.

22. **Non-Discrimination.** Lessee covenants and agrees that in construction of the ATM, no person shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination on the basis of race, color, creed, political ideas, sex, age, or physical or mental disabilities.

23. **Recordation.** This Lease shall not be recorded.

24. **Entire Agreement and Amendments.** This Lease and the exhibits attached hereto constitute the entire contract between the parties hereto and supersedes all prior understanding, if any. No amendment to this Lease shall be binding unless the same shall be in writing and signed by both parties.

25. **Time is of the Essence.** It is understood and agreed between the parties hereto that Time Is Of The Essence of all the terms and provisions of this Lease.

26. **Notices.** All notices which either party is required or may desire to give to the other shall be in writing, and shall be deemed to have been duly given on the date of delivery if delivered in person to the party named below, or three (3) business days after mailing if by certified or registered mail, return receipt requested, postage and postal charges prepaid, addressed as follows:
Lessor: Patriots Point Development Authority
40 Patriots Point Road
Mt. Pleasant, South Carolina 29464
Attn: Executive Director

With copy to: William E. Craver, III, Esquire
Craver & Webb, PA
171 Church Street, Suite 120
Charleston, SC 29401

Lessee: Southcoast Community Bank
P.O. Box 1561
Mt. Pleasant, South Carolina 29464
Attn: Paul Hollen, Executive Vice President

With copy to: Samuel H. Altman, Esquire
Derfner, Altman & Wilborn, LLC
P.O. Box 600
Charleston, SC 29402-0600

or to such other address(es) or person(s) as may be designated by Lessor or Lessee from time to time in accordance with this Section 26.

27. Relationship. In the performance of this Lease, Lessor and Lessee are acting only as lessor and lessee, respectively, and not as partners, joint venturers or employer-employee, respectively.

28. Waiver. No waiver of any condition or covenant of this Lease by Lessor or Lessee shall be deemed to have been made unless expressed in writing and signed by such party. No waiver of any provision of this Lease by either party shall be deemed to imply or constitute a further waiver by such party of such provision or of any other condition or covenant of this Lease. The rights and remedies created by this Lease are cumulative and the use of one remedy shall not be taken to exclude or waive the right to use of another.

29. Arbitration. All claims or controversies arising from or relating to this Lease or the performance or nonperformance by either party of any obligation arising hereunder that
cannot be resolved by the parties in good faith within thirty (30) days through non-binding mediation, which shall be compulsory, shall be resolved by binding, confidential arbitration by a single arbitrator (an attorney familiar with commercial transactions) chosen by them or, in the alternative, appointed by the Chief Judge of the Ninth Judicial Circuit pursuant to Section 15-48-10 of the South Carolina Code of Laws of 1976, as amended. The South Carolina Uniform Arbitration Act (the “SCUAA”) shall apply except to the extent otherwise agreed herein. In the event of a conflict between the substantive provisions of this Lease and the SCUAA, the substantive provisions of this Lease shall preempt the SCUAA; provided that if the SCUAA and the substantive provisions of this Lease are silent on a procedure or rule, the arbitrator shall have the power to impose such rules and procedures as he believes to be in the interests of fairly resolving the dispute(s) between the parties. South Carolina rules of evidence shall apply as determined by the arbitrator. The parties agree that as part of the arbitration process each may use the discovery process provided for under Rules 26 - 36 of the South Carolina Rules of Civil Procedure. Any disputes regarding procedures or the method by which the arbitration shall be conducted shall be resolved only by the arbitrator. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The prevailing party in the arbitration concerning this Lease shall be entitled to recover attorneys' fees and costs from the non-prevailing party as determined by the arbitrator. All questions of arbitrability (including, without limitation, questions of arbitrability that normally would be for the court to decide) shall be decided by the arbitrator. In the event that a party is successfully able to maintain an action in a court of law contrary to these arbitration provisions, THE PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY LAWSUIT.
ARISING OUT OF OR RELATING TO THIS LEASE OR THE SUBJECT MATTER HEREOF.

30. **Successors and Assigns.** This Lease shall be binding on the heirs, successors and permitted assigns of the parties hereto.

31. **Governing Law.** This Lease shall be governed by South Carolina law.

[Separate signature pages are attached hereto.]

[The remainder of this page is intentionally left blank.]
WITNESSES AS TO LESSEE:

FOR LESSEE:

SOUTHCOAST COMMUNITY BANK,
a State of South Carolina banking corporation

By: ________________

Its: EXECUTIVE VICE PRESIDENT

STATE OF SOUTH CAROLINA )
COUNTY OF CHARLESTON )

Notary Public for the State of South Carolina,do hereby certify that ________________, as Southcoast Community Bank, a State of South Carolina banking corporation, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of such entity.

SWORN AND SUBSCRIBED to before me, this ___ day of ___________, 2003.

(SEAL)
Notary Public for South Carolina
My Commission Expires: ___________
WITNESSES AS TO LESSOR:  

FOR LESSOR:  

PATRIOTS POINT DEVELOPMENT  
AUTHORITY, a body politic and corporate under  
the laws of the State of South Carolina  

By:  
Jack A. Meetze, Chairman  

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON  

ACKNOWLEDGMENT  

I, Katherine E. McKillip, Notary Public for the State of South Carolina, do  
hereby certify that Jack A. Meetze, as Chairman of PATRIOTS POINT DEVELOPMENT  
AUTHORITY, a body politic and corporate under the laws of the State of South Carolina,  
personally appeared before me this day and acknowledged the due execution of the  
foregoing instrument on behalf of such entity.  

SWORN and subscribed to before me this 15th day of November, 2003.  

(SEAL)  
Katherine E. McKillip  
Notary Public for South Carolina  
My Commission Expires: 4/15/13
WITNESSES AS TO LESSOR:

FOR LESSOR:

PATRIOTS POINT DEVELOPMENT AUTHORITY, a body politic and corporate under the laws of the State of South Carolina

By: David P. Burnette, Secretary

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON  

ACKNOWLEDGMENT

Katherine E. McKillop, Notary Public for the State of South Carolina, do hereby certify that David P. Burnette, as Secretary of PATRIOTS POINT DEVELOPMENT AUTHORITY, a body politic and corporate under the laws of the State of South Carolina, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of such entity.

SWORN and subscribed to before me this 4th day of November, 2003.

Katherine E. McKillop (SEAL)
Notary Public for South Carolina
My Commission Expires: 4/18/13
The South Carolina Division of General Services, Budget and Control Board hereby consents to Lessor entering into this Lease Agreement.

By: ________________________

Print Name: MICHAEL T. STEWART

Title: LEASE PROGRAM MANAGER

Date: _______ 2003

STATE OF SOUTH CAROLINA )

COU NY OF RICHLAND )

ACKNOWLEDGMENT

I,___________________________, Notary Public for the State of South Carolina, do hereby certify that _____________________, as ____________________ (office) of The South Carolina Division of General Services, Budget and Control Board, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of such entity.

SWORN and subscribed to before me this ___ day of _____________, 2003.

__________________________
Notary Public for South Carolina

My Commission Expires: ____________
Lease Agreement

Patriots Point Authority and Southcoast Community Bank

Exhibit B

The following is the list of all currently known fixed costs:

- Fujitsu Model 3845 Full Color capable ATM Machine $31,910.00
- Concepts Unlimited' X 5" ATM Kiosk with Canopy $19,690.00
- Installation (Estimated) $5,800.00
- Total Acquisition & Installation Costs $57,100.00

The following is the list of the currently known monthly expenses:

- 64 KBPS Frame Relay circuit Patriots Point to Southcoast data center $275.00
- MPS network telecom charge per ATM $100.00
- Property Taxes & Insurance $125.00
- Total monthly expenses $500.00

Total monthly costs to recouped prior to revenue sharing:

- Fixed cost $57,100.00 amortized over 120 months $475.83
- Monthly expenses $500.06
- Total $975.83

Southcoast will provide a monthly report to the Authority on the per transaction costs that are deducted by MPS/Fifth Third
FIRST AMENDMENT TO
TO LEASE AGREEMENT

THIS FIRST AMENDMENT, is made as of the Executed Date (which is the date on which the South Carolina Budget and Control Board, Division of General Services, executes this Lease Amendment as set forth on the signature page) (the "Amendment") by and between: PATRIOTS POINT DEVELOPMENT AUTHORITY (the "Lessor") and the SOUTHCOST COMMUNITY BANK (the "Lessee"), an agency, institution, department (including any division or bureau thereof) or political subdivision of the State of South Carolina.

WITNESSETH;

WHEREAS, Lessor and Lessee entered into that certain Lease Agreement (the "Lease") dated February 1, 2004, covering certain real property (the "Leased Space") described in the Lease; and

WHEREAS, Lessor and Lessee desire to amend the Lease as set forth below;

NOW THEREFORE, for and in consideration of, the promises and covenants herein contained, the recitals above, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee hereby agree as follows:

1. Delete Paragraph 3 in its entirety and inset the following paragraph in lieu thereof:

   3. Term. The term of this lease shall commence February 1, 2014 and shall continue thereafter for a period of five (5) years, unless sooner terminated as provided herein. Lessee shall have the right to extend the term of the Lease for one (1) additional five (5) year term by delivery written notice of such intent to Lessor at least One Hundred Twenty (120) days prior to the expiration of the then current term; provided, however, that Lessee is not in default beyond any applicable cure period. Lessor and Lessee agree to review the revenue produced by the ATM on a semi-annual basis. This Lease may be terminated by either party upon 120 days written notice if such party is not satisfied with the financial benefits of this Lease.

2. Delete the seventh sentence of Paragraph 5 and inset the following sentence in lieu thereof:

   In no event shall a quarterly rent payment be less than Sixty and 00/100 ($60.00).

3. Delete Paragraph 26 in its entirety and insert the following paragraph in lieu thereof:

   26. Notices. If at any time after the execution of this Lease it shall become necessary or convenient for one of the parties hereto to serve any notice, demand or communication, such notice shall be in writing signed by the party serving the same and shall be deemed to have been delivered (A) when delivered to the intended party personally, (B) when actually received by the intended person, (C) at 5:00 PM on the business day after the date delivered to any nationally recognized private mail or courier service (Federal Express, Airborne or such similar service), postage paid and sent for next day delivery (D) on the date deposited in the registered or certified United States mail, return receipt requested, postage prepaid and addressed as follows:

      Lessor: Patriots Point Development Authority
      40 Patriots Point Road
      Mt. Pleasant, South Carolina 29464
Copy to: William E. Craver, III, Esquire
Craver Law Firm, PA
171 Church Street, Suite 120A
Charleston, South Carolina 29401

Lessee: Southcoast Community Bank
P.O. Box 1561
MT. Pleasant, South Carolina 29464
Attn: Paul Hollen, Executive Vice President

Copy to: Samuel H. Altman, Esquire
Derfner, Altman & Wilborn, LLC
P.O. Box 600
Charleston, South Carolina 29202-0600

4. If any provisions of this First Amendment conflict with any provisions contained in the Lease, then provisions of this First Amendment shall govern and control.

5. Except as expressly provided for in this First Amendment, all other viable and applicable provisions of the Lease shall remain unchanged and continue in full force and effect throughout the term of the Lease.

6. All capitalized terms used herein shall have the meaning more particularly set forth in the Lease unless otherwise expressly defined in this First Amendment.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the day and year indicated under their signature.

WITNESS:

LESSEE:
SOUTHCOAST COMMUNITY BANK,
a South Carolina banking corporation

(signature for tenant)
William Z. Sembrook, E.V.P. - C.O.O
(printed name and title of signatory)
2/18/2014
Date

WITNESS:

LESSEE:
PATRIOTS POINT DEVELOPMENT AUTHORITY,
a body politic and corporate under the laws of the State of South Carolina

By:
Executive Director
2-18-2014
Date

Copy to:
Lessee:
Craver Law Firm, PA
171 Church Street, Suite 120A
Charleston, South Carolina 29401

Lessee:
Southcoast Community Bank
P.O. Box 1561
MT. Pleasant, South Carolina 29464
Attn: Paul Hollen, Executive Vice President

Copy to:
Samuel H. Altman, Esquire
Derfner, Altman & Wilborn, LLC
P.O. Box 600
Charleston, South Carolina 29202-0600

4. If any provisions of this First Amendment conflict with any provisions contained in the Lease, then provisions of this First Amendment shall govern and control.

5. Except as expressly provided for in this First Amendment, all other viable and applicable provisions of the Lease shall remain unchanged and continue in full force and effect throughout the term of the Lease.

6. All capitalized terms used herein shall have the meaning more particularly set forth in the Lease unless otherwise expressly defined in this First Amendment.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the day and year indicated under their signature.

WITNESS:

LESSEE:
SOUTHCOAST COMMUNITY BANK,
a South Carolina banking corporation

(signature for tenant)
William Z. Sembrook, E.V.P. - C.O.O
(printed name and title of signatory)
2/18/2014
Date

WITNESS:

LESSEE:
PATRIOTS POINT DEVELOPMENT AUTHORITY,
a body politic and corporate under the laws of the State of South Carolina

By:
Executive Director
2-18-2014
Date
This Lease is approved in accordance with the South Carolina Code of Regulations §19-447.1000 by the South Carolina Budget and Control Board, Division of General Services, Real Property Services, this 24th day of February, 2014.

Scott Capell, CPM®
Program Manager
Exhibit E

Fort Sumter Agreement
The Agreement of the parties dated May 18, 1983 is hereby modified, to read as follows:

This superseding Agreement, made and entered into, by and between PATRIOTS POINT DEVELOPMENT AUTHORITY, a statutory agency of the State of South Carolina, whose address is P. O. Box 986, Mt. Pleasant, South Carolina 29464 (hereinafter referred to as "Licensor") and FORT SUMTER TOURS, INC., a South Carolina corporation, whose address is P. O. Box 59, Charleston, South Carolina 29402 (hereinafter referred to as "Licensee").

WITNESSETH:

That in consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

1. That the terms of the within agreement shall be initially a period of five (5) years, commencing on the 1st day of Feb., 1986, with Licensee being granted ten (10) options to renew and extend said agreement for additional periods of five (5) years each, upon the terms and conditions hereinafter set forth.
2. That Licensee is granted permission to moor, maintain and operate from one to three (1-3) sightseeing tour boats at a location near the landward side of the main pier providing ingress and egress to the Naval Museum at Patriots Point, all as approved by Licensor. Licensee is also granted permission to operate therefrom regularly scheduled tours to and from Fort Sumter National Monument, to conduct nighttime cruises around Charleston Harbor, and to otherwise engage in any lawful enterprise involving the use of such tour boats. Notice of all special tours shall be given to Licensor at least twenty-four (24) hours in advance, and shall be modified as necessary to accommodate special events and ship visits scheduled by Licensor. Reasonable advance notice shall be given to Licensee of any such special events.

3. It is understood that considerable dredging in the area shall be necessary to provide an adequate channel from Charleston Harbor around the bow of the Yorktown and then parallel and adjacent to the north side of the main pier to the operations area. It is understood that other marine interest, excluding sightseeing tour boats, will jointly make use of said area, but Licensor pledges that unreasonable interruption with Licensee's activities will be prevented. The extent of dredging shall be reasonably adequate to accommodate Licensee's vessels at
mean low water for the area and shall be accomplished by and at the expense of Licensor as soon as same is practicable. Licensor, at its expense, also agrees to perform maintenance dredging, subject to permit approval, as needed to maintain an adequate depth to accommodate vessels with a five and one-half (5½') foot draft. Should Licensor fail to maintain a satisfactory navigable channel for such vessels at all times, then such condition shall be grounds for terminating said agreement by Licensee, and triggering the pro-rata reimbursement provision set forth in paragraph number (4) below. Notwithstanding the above, it is recognized that permits from one or more governmental agencies is a prerequisite for any dredging operation. Consequently, in the event Licensor exercises good faith in applying for and supporting all applications for dredging permits, but same is nevertheless denied or materially altered, Licensor, under such circumstances, shall not be required to reimburse Licensee as hereinafter provided. Provided however, Licensee, at its discretion, may apply in its name for dredging permits for its entire area of operation at Patriots Point, which permits shall be supported by Patriots Point Authority. The cost of such dredging, however, shall continue to be the responsibility of Licensor. Should Licensor be unable to secure sufficient funding for maintenance dredging of Licensee's area of operation,
then Licensee, in its discretion, may, at its expense, provide whatever dredging Licensee needs and deduct the cost thereof from rent due or to become due hereunder until such time as Licensee has fully recouped such expenditure.

4. Licensee, at its expense, shall, subject to approval of Licensor, design, construct and maintain a suitable and adequate pier and needed amenities for the exclusive use of Licensee in the operations area. Such facility shall be the property of Licensee throughout the term of this agreement and any extensions or renewals thereof. The actual cost of such docking facilities shall be established by documentation and agreed upon, in writing, between the parties. Should this agreement be terminated by any action of Licensor, exclusive of default by Licensee, prior to twelve (12) years duration, then Licensor shall reimburse Licensee pro-rata for the depreciated cost of such improvements. At no time shall Licensee be charged a fee or rent for use of said pier. Prior to completion of said dock, Licensee's vessels shall operate from some other location at Patriots Point as agreed upon by the parties.

5. Licensee, at its expense, is granted the right to build on or near said dock an appropriate service building to take care of the administrative and other needs of
Licensee, which building shall be in design and location approved by Licensor, and containing not more than six hundred (600) square feet, which building shall remain property of Licensee and may be removed by same upon termination of this agreement. Licensee is granted the right to install and maintain ice-making machines, sufficient for the needs of Licensee's operation upon its pier. The cost of utility installations and services used by Licensee, including the cost of installing electric and water meters, shall be the responsibility of Licensee.

6. Licensee, its employees, customers and suppliers, are granted the right of reasonable use of its restrooms and parking lot in the vicinity of Licensee's operation, for the parking of automobiles, buses, campers and other vehicles, but it is understood that no specific or reserved parking spaces will be designated or assigned exclusively for Licensee's purpose.

7. Licensor will, at its expense, provide sufficient lighting for the area assigned Licensee, during after-dark operating hours. Licensee will install lighting for its boats and facilities as needed, with prior approval of Licensor. Licensor will continue to maintain security on its premises, including the dock
area assigned to Licensee. However, if extra security guards are required for nighttime or after-hours tours conducted by Licensee, it shall reimburse Licensor for the cost of such extra security guards.

8. In further consideration of the monetary consideration to be paid by Licensee to Licensor, the latter agrees to sell all tickets to attractions at Patriots Point Naval Museum and Licensee's attractions, except nighttime operations, for a location at the landside entrance to the main pier at Patriots Point. Licensor, utilizing the procedure agreed upon by the parties, shall collect for the account of Licensee such admission fees and other funds as are due to Licensee for tickets and other sales of Licensee's goods and services, if any, and forthwith remit same to Licensee or deposit same in a bank account as designated by Licensee.

9. In consideration hereof, Licensee agrees to pay Licensor, during the first five (5) years of operations hereunder, the sum of Two Thousand, Five Hundred ($2,500.00) Dollars per annum for each vessel operating on a regular schedule from Patriots Point, and the sum of Three Thousand, Five Hundred ($3,500.00) Dollars thereafter. "Regular schedule" as used herein, shall mean any vessel usually employed and moored at Patriots Point, for the purpose of conducting tours or charters.
which commence and terminate at Patriots Point. In addition to the above, the sum of Two (2%) per cent of gross receipts as compensation for selling Licensee's tickets, etc., and also, as additional rent, the sum of One and one-half (1½%) per cent of gross receipts. Gross receipts, as used herein, are defined as the sum of all ticket sales and charter fees, realized as a direct result of vessels regularly operating from Patriots Point. The minimum amount paid by Licensee, excluding percentage fees, shall be adjusted, up or down, every three (3) years to reflect inflation by an amount equal to Fifty (50%) per cent of the charge in the Consumer Price Index, as published by the U. S. Department of Labor, or its replacement index. For this purpose, the base date shall be January 1, 1986. Rent the first year shall be pro-rated.

10. Licensee is granted the exclusive right to operate sightseeing tour boats from Patriots Point Naval Museum, but not the proposed marina. Additionally, it is granted the right of first refusal to provide boat transportation to and from Patriots Point and the peninsular City of Charleston, if and when it is determined that such service is needed and economically justified.

11. The parties hereto agree that the within agreement will promote mutual benefits and each agrees to make
decisions, conduct their operations and formulate policy, in a manner reasonably designed to promote the welfare of the other and, where practical, to conduct joint advertising and other business promotions. Licensee is granted the right to use the name of Patriots Point and its copyrighted and trademarked logos in advertising and promotional materials, but only with the prior approval, as to taste and style, of Licensor in each instance. Licensee is also authorized to erect signs concerning its business at locations on Licensor's premises, and in form and design, all as approved by Licensor.

12. Licensee, at its expense, shall maintain fire and extended coverage property insurance on its properties, and property damage and personal injury liability insurance as required by Licensor for all of Licensee's operations on and about the premises of Licensor, and Licensor shall be responsible to maintain like insurance for its operations in at least the amounts presently maintained by it. The insurance policies of each party shall name the other as additional insureds to protect each as to the liability of the other.

13. Licensee shall be responsible for paying any and all licenses, permits, and taxes, including property taxes,
required by any governmental agency for or related to its operations.

14. At the end of the term of this agreement, or any extensions hereof, permanent improvements installed on the premises by Licensee shall become the property of Licensor. Licensee may, however, remove any and all personal property and equipment owned or installed by it that may be removed without damage to the premises and improvements thereon. Provided further, that if the premises and improvements thereof are destroyed in whole or in part by act of God, war, riot, insurrection, natural disaster, or any other cause beyond the control of the parties, or the premises are condemned or taken over by any governmental agency authorized by law to acquire the premises, then this agreement or any extension hereof shall terminate, and the parties shall be entitled to recover only their proportionate shares of any compensation and/or insurance covering such loss to or use of the premises. Neither party shall be liable to the other for any loss or damage to the premises and improvements, except as caused by the negligence or failure to perform this agreement by the other party.

15. This agreement or any extension hereof may be terminated only as required by law, or for failure of
either party to perform. In event of termination for failure to perform, the offending party, as a prerequisite, shall be given notice in writing of the other's intention to terminate, and shall be allowed 120 days after receipt of such notice to cure and correct the failure.

16. In the event an irreconcilable conflict develops between the parties, concerning any matter relevant to this agreement same shall be settled by submitting, for complete resolution, all issues of fact and law, to the Senior Resident Judge of the Court of Common Pleas for the Ninth Judicial Circuit of South Carolina, sitting without a jury. "Senior Judge" shall be the Resident Judge with the longest tenure in such office. The ruling of such Judge shall be reduced to writing and binding on the parties. Excepting the above, all other rules of substantive and procedural law existing in the State of South Carolina shall apply.

17. This agreement is the entire agreement of the parties, superseding any prior oral or written representations and shall be amended or modified only in writing signed by both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers, and affixed their
seals this 15th day of Oct., 1985.

PATRIOTS POINT DEVELOPMENT AUTHORITY

By

CHARLES P. HYATT
Chairman

SEAL

ATTEST:

SECRETARY

FORT SUMTER TOURS, INC.

By

GEORGE E. CAMPSEY, JR.
President

SEAL

ATTEST:

SECRETARY
WHEREAS, PATRIOTS POINT DEVELOPMENT AUTHORITY, a statutory agency of the State of South Carolina, (hereinafter referred to as "Licensor"), and FORT SUMTER TOURS, INC., (hereinafter referred to as "Licensee") entered into an Agreement dated October 15, 1985 (hereinafter referred to as the "Agreement"), superseding a prior Agreement dated May 18, 1983; and

WHEREAS, the Licensor and Licensee are desirous of amending the Agreement dated October 15, 1985;

NOW, KNOW ALL MEN BY THESE PRESENTS, that the parties hereto, for and in consideration of the Agreements and undertakings herein expressed, hereby agree to amend their Agreement dated October 15, 1985 as follows, with the effective date of such amendment being the date this Addendum is executed:

I. Paragraph 5 of the Agreement is deleted in its entirety and replaced with the following:

"Licensor grants to Licensee the right to build an appropriate service shed of not more than Two Hundred Fifty (250) square feet in reasonable proximity to Licensee's pier for the storage of parts and supplies utilized in the operation of Licensee's boats. Licensee shall integrate into the design and construction of such service shed a privacy fence that encircles Licensor's contiguous trash receptacle in an aesthetically pleasing way. Design and construction of the above referenced service shed and privacy fence shall be at Licensee's expense, and shall be subject to approval of Licensor as to location and design, which approval shall not be unreasonably withheld. Immediately after completion of the shed and privacy fence, title to the shed but not the real estate upon which the shed sits shall vest with Licensee, and title to the privacy fence shall vest with Licensor. Thereafter Licensee shall be responsible for repairs and maintenance of the shed, and Licensor shall be
responsible for repairs and maintenance of the privacy fence. Upon termination of the Agreement the service shed shall convey to Licensor, and the privacy fence shall remain the property of Licensor. Licensee is granted the right to install and maintain ice-making machines sufficient for the needs of Licensee's operation upon its pier. The cost of utility installations and services used by Licensee, including the cost of installing electric and water meters, shall be the responsibility of Licensee."

2. Paragraph 8 of the Agreement is deleted in its entirety and replaced with the following:

"Licensor and Licensee agree that it is in their mutual best interests for each to sell their own tickets and covenant to work toward that end expeditiously and in good faith. Licensor therefore grants to Licensee authority to sell all tickets for tours and services offered by Licensee commencing on the earliest possible date mutually agreeable to both Licensor and Licensee. Likewise, Licensee relieves Licensor of any obligation to sell Licensee's tickets as of the date upon which Licensee commences selling its own tickets. Subject to the approval of Licensor as to location and design, the parties agrees to participate with one another in the creation of signs that will promote the interests of both parties and inform the public of tours and services offered at Patriots Point. To facilitate Licensee's requirements to administer business, service tour agents and sell tickets, Licensor leases to Licensee approximately four hundred twenty-five (425) square feet of office space in the Kossler Pavilion, which office space is depicted in the attached Exhibit A and incorporated herein by reference (hereinafter referred to as "Office Space"). Such Office Space encompasses and is not in addition to the one hundred eighty (180) square feet of space in the Kossler Pavilion leased by Licensee as of the date of this Addendum. Said lease of Office Space shall remain in force and effect as long as the Agreement is in force, and all utilities under said lease except telephone service shall be provided by Licensor at its expense. If during the term of the Agreement Licensor relocates its ticket sales area to another facility that in the opinion of Licensee is not in reasonable proximity to
Licensee's pier, Licensee may at its option and expense, and subject to Licensor's approval as to location and design, build an appropriate ticket and administrative office building of not more than six hundred (600) square feet on or near its pier. Upon termination of the Agreement such building shall remain the property of Licensee and may be removed by the same; however, upon such removal Licensee shall restore the building site to approximately its pre-construction condition. If during the term of the Agreement Licensor relocates its ticket sales area to another facility that in the opinion of Licensee is in reasonable proximity to Licensee's pier, Licensee shall have the option of leasing up to six hundred (600) square feet in such facility under the same terms, conditions and per square foot rental rate as applies to the Office Space referred to herein."

3. Paragraph 9 of the Agreement is deleted in its entirety and replaced with the following:

"In consideration hereof, Licensee agrees to pay Licensor a minimum amount of Three Thousand Five Hundred Dollars ($3,500.00) per annum for each vessel operating on a regular schedule from Patriots Point. 'Regular schedule' as used herein shall mean any vessel usually employed and moored at Patriots Point for the purpose of conducting tours or charters that commence and terminate at Patriots Point. As consideration for the lease of the Office Space described herein, Licensee agrees to pay to Licensor a minimum amount of Eleven Dollars ($11.00) per square foot per annum, payable quarterly in advance. The above referenced minimum amounts paid by Licensee for each vessel and for the Office Space, excluding percentage fees, shall be adjusted up or down every three (3) years to reflect inflation by an amount equal to Fifty Percent (50%) of the change in the Consumer Price Index, as published by the U.S. Department of Labor, or its replacement index (hereinafter referred to as the "CPI Adjustment"). For the purpose of the CPI Adjustment applied to the minimum amount paid for vessels operated hereunder, the base date shall be January 1, 1986. For the purpose of the CPI Adjustment applied to the minimum amount paid for the lease of the Office Space hereunder, the base date shall be December 1, 1988. In addition to the
above, Licensee shall pay to Licensor a percentage fee equal to One and One-Half Percent (1.5%) of Gross Receipts. Gross Receipts as used herein are defined as the sum of all ticket sales and charter fees realized by Licensee as a direct result of vessels regularly operating from Patriots Point. Licensee's obligation to pay Licensor the sum of Two Percent (2%) of Gross Receipts as compensation for selling Licensee's tickets, which obligation existed prior to the execution of this Addendum, will terminate effective upon the commencement of separate ticket sales by Licensor and Licensee. Licensee's obligation to pay consideration for the Office Space shall not accrue until the first day of the month immediately following the month in which Licensee takes possession of the entire Four Hundred Twenty-Five (425) square feet of such Office Space. Licensee's lease of One Hundred Eighty (180) square feet of space in the Kossler Pavilion that is in effect as of the date of this Addendum will remain in effect through the last day of the month during which Licensee takes possession of the entire Four Hundred Twenty-Five (425) square feet of Office Space leased hereunder. If customer satisfaction dictates that combination ticket sales should be reinstated, Licensee shall undertake such sales on behalf of Licensor and Licensee at a mutually agreed upon ticket price and at no cost to Licensor. However, should Licensee undertake combination ticket sales, Licensor shall supply at its expense a fidelity bond insuring Licensor against theft and mishandling of its funds by Licensee and its employees. The level of coverage of such fidelity bond shall be mutually agreed upon by both parties, but in no case shall such bond provide coverage of less than Twenty-Five Thousand Dollars ($25,000.00).

4. The following sentence is added at the end of Paragraph 7 of the Agreement, all other provisions of that Paragraph remaining the same:

"Licensor shall not be considered an insurer as to security matters and Licensor shall have no liability to Licensee as a result of any security-related problems except in the event of gross negligence on the part of the Licensor, its agents or employees."
IN WITNESS WHEREOF, the parties have executed this Addendum to the Agreement dated October 15, 1985 by their duly authorized officers, and affixed their seals this 1st day of June, 1994.

Patriots Point Development Authority
By:
Its: Chief Executive Officer

Seal
Attest: Judith C. McClinton

Fort Sumter Tours, Inc.
By: George E. Reymond III
Its: Vice President

Seal
Attest: Judith C. McClinton
THIS SECOND AMENDMENT is made as of the ___ day of April, 1998 (the "Amendment") by and between PATRIOTS POINT DEVELOPMENT AUTHORITY, a public body corporate and agency of the State of South Carolina (the "Authority"), and FORT SUMTER TOURS, INC., a South Carolina corporation ("Fort Sumter Tours").

WITNESSETH

WHEREAS, the Authority and Fort Sumter Tours entered into a contractual agreement (the "Agreement") dated October 15, 1985 and allowing Fort Sumter Tours to operate sightseeing tour boats at Patriots Point in accordance with terms thereunder;

WHEREAS, the parties amended the Agreement by Addendum To Agreement (the "Addendum") dated June 1, 1994;

WHEREAS, for purposes of this Amendment and the Agreement, the Authority is the "Licensor" and Fort Sumter Tours is the "Licensee."

WHEREAS, in April 1998, Licensee has undertaken and completed dredging pursuant to the terms of Paragraph No. 3 of the Agreement.

WHEREAS, the Authority and Fort Sumter Tours desire to further amend the Agreement as set forth hereinbelow.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein and other good and valuable consideration paid by Licensee, the receipt of which is hereby acknowledged, the Authority and Fort Sumter Tours agree as follows:

1. Paragraph No. 3 of the Agreement is amended by adding the following:

"Provided that the contracts and cost relating to the dredging shall be approved in writing by the Licensor prior to Licensee commencing said dredging. The dredging costs to be deducted from rent payments to the Licensor shall not include any interest fees or other fees incurred by Licensee to finance said dredging, unless specifically allowed in writing by the Licensor."

2. The Agreement is further amended by adding the following

PPDA Original Red
language as Paragraph No. 18:

"In the event that Licensee terminates the Agreement, except for cause as set forth in the Agreement, or is in default under the terms of the Agreement, any and all dredging costs subject to deduction from rent payments shall be waived by Licensee and shall not be owed in any manner by the Licensor.

3. Except as expressly changed, amended or modified hereby, the Agreement and Addendum remain unmodified and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the date and year first above written.

FORT SUMTER TOURS, INC.

By: ________________________________
   Its: ________________________________
   Attest: ________________________________

PATRIOTS POINT DEVELOPMENT AUTHORITY

By: ________________________________
   Its: ________________________________
   Attest: ________________________________
Exhibit F

Proposed Conceptual Master Plan

See attached.

Note: One of the hotels may be relocated to the area shown on the Proposed Conceptual Master Plan as an amphitheater.
# Patriots Point Revenue Summary

## Development Components

<table>
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<th>Gross Revenue</th>
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<tr>
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*Note: All figures are in 2014 Dollars.*