

successor or assign, only for such period as it shall have leasehold title to, or an interest in or possession or occupancy of the Property or any part thereof.

B. **Compliance with Laws.** The Lessee agrees that it will not use or occupy the Property or any part thereof, or cause or authorize the Property, or any part thereof to be used or occupied, for any purposes other than lawful purposes, or in any manner which would violate any applicable Governmental Requirements. The Lessee's construction, use and operation of the Property shall be in compliance with Governmental Requirements throughout the Term. As used herein, "Governmental Requirements" means all generally applicable laws, rules, regulations, orders and ordinances of any and all entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, State, county, municipal, or otherwise) whether now or hereafter in existence, having jurisdiction over the Site; subject to Lessee's right to contest the same or the applicability thereof to the Project.

C. **Lessee Responsible for Maintenance, Repair and Replacement.** Except as otherwise provided herein, from and after the Lease Term Commencement Date, the Lessee shall at its own expense, keep and maintain, or cause to be kept and maintained, the Site and all buildings and improvements constructed thereon in good order and condition, ordinary wear and tear excepted, and in compliance with Governmental Requirements, and make all necessary repairs and replacements thereto, foreseen or unforeseen, ordinary or extraordinary. The Lessee shall not commit any act of waste upon or in respect of the Site and shall take reasonable steps to prevent others from doing so. In the event the Lessee fails to so maintain the Site and the buildings and improvements thereon in accordance with this section, and such failure shall be determined by the City to result in an Emergency Condition (as defined below), the City may (but shall not be required to), with or without prior notice to the Lessee, perform any maintenance, repairs and replacements deemed reasonably necessary or appropriate by the City to abate such Emergency Condition, and the Lessee agrees to reimburse the City, as additional rent, for the reasonable cost thereof promptly upon demand. The Lessee shall be responsible for all construction, operation, maintenance, repair and management of the Project. The Lessee shall keep the Site or cause the Site to be kept clean, neat and orderly at all times and shall provide at its own expense complete and proper arrangements for the sanitary handling of all trash, garbage and other refuse resulting from operations on the Site. As used herein, "Emergency Condition" means a condition dangerous to human health or safety or presenting a risk of material damage to property.

The Lessee shall promptly repair, rebuild, restore and replace all damage to the Property and, unless otherwise agreed in writing by the City, the Lessee shall promptly use all proceeds, of property insurance received relating to claims with respect to the Property to repair, rebuild restore or replace all damage to the Property or to personal property located at the Site.

The Lessee shall be responsible for maintaining the security of the Site. The Lessee shall make no material changes in or additions to the completed Project without obtaining the City's advance approval of the revised Project Plans evidencing any such material change or addition.

D. **Environmental Covenants.** The Lessee covenants and agrees that it shall use and operate the Property in compliance with all applicable Environmental Laws (as defined in Section 10B hereof) and permits issued pursuant thereto and that it:

(i) shall not intentionally release or permit the release of Hazardous Materials (as defined in Section 10B hereof) in, on, under or from the Property in violation of Environmental Laws;

(ii) shall not intentionally introduce Hazardous Materials in, on, or under the Property, except those that are both (a) in compliance with all applicable Environmental Laws and with permits issued pursuant thereto, if and to the extent required and (b) (1) in amounts not in excess of that reasonably necessary to operate on the Property and (2) fully disclosed to and approved by the City in writing; provided, however, that Lessee shall not be required to disclose to the City for approval in accordance with this clause (b) ordinary office and janitorial supplies (such as copier toner, liquid paper, glue, ink, paint, fluorescent light bulbs and common office cleaning and maintenance products), in quantities not in excess of those used in the usual conduct of business in similar premises, provided, however, that at all times such materials shall be stored, handled, used and disposed of in compliance with all applicable Environmental Laws;

(iii) shall not permit any other occupants of the Property to violate any applicable Environmental Law;

(iv) shall immediately notify the City in writing after it has become aware of (a) any presence or release or threatened release of Hazardous Materials in, on, under, from or migrating towards the Property; (b) any non-compliance with any Environmental Laws related in any way to the Property; (c) any required or proposed remediation of environmental conditions relating to the Property; and (d) any written or oral notice or other communication of which the Lessee becomes aware from any source whatsoever (including but not limited to a governmental authority) relating in any way to Hazardous Materials;

(v) shall promptly take or cause to be taken all corrective action required to remove any Hazardous Materials introduced to the Property during the **Term** term of this Lease by it or any of its agents, employees, contractors, vendors, licensees, or permittees of the Lessee, in compliance with Environmental Laws, such action to include enforcement by the Lessee of any and all of its rights or obligations and those of its agents, employees, contractors, vendors, licensees or permittees, under applicable law or contract;

(vi) shall not be responsible for correcting any violations of Environmental Laws resulting from any acts of any party that is not its agent, employee, contractor, vendor, licensee, or permittee; provided, however that it shall enforce against any such other party any and all of its rights or obligations and those of its agents, employees, contractors, vendors, licensees or permittees, under applicable law or contract with respect to any such violations of Environmental Laws; and

(vii) shall not be responsible for correcting any violations of Environmental Laws resulting from any acts of the other party or any other party or those existing on the Site prior to the commencement of its possession or control of the Site, except to the extent that Lessee or any agent, employee, contractor, vendor, licensee, or permittee of Lessee shall exacerbate or contribute to such conditions.

Section 4. Taxes; Payments in Lieu of Taxes; Other Charges.

A. **Taxes and Other Charges.** The Lessee shall be obligated to pay or cause payment of any and all taxes, payments in lieu of taxes (including Service Payments), assessments, whether general or special, and governmental charges, water, sewer and other utility fees, rents, rates and similar charges, and all license or permit fees, and any other costs which become due and payable with respect to the Property on and after the Lease Term Commencement Date. The Lessee shall make or shall cause the making of such payments directly to the billing authority, or, shall reimburse the City within thirty (30) days after billing from the City, in the event such direct payments are infeasible, or in the event City has advanced the payment of any such taxes, payments in lieu of taxes, special assessments, utility fees or other charges. All amounts billed to Lessee shall bear interest from the date due until paid at a rate equal to eight percent (8%) per annum.

B. Payments in Lieu of Taxes.

1. For the period that all or part of the “Improvements” with respect to the Property (“Improvements” shall have the meaning in this Section as defined in Ohio Revised Code Section 5709.40) are exempt from real property taxation (sometimes herein the “Exemption Period”) pursuant to the Act, and pursuant to the TIF Ordinance and any additional ordinances amending or supplementing the TIF Ordinance heretofore or hereafter adopted relating to the Property, the Lessee, for itself, to the extent of the Property it hereafter owns, and any successors in interest to the Property, or any part thereof or interest therein, hereby agrees to make Service Payments with respect to the exempted portion of the Improvements pursuant to and in accordance with the requirements of the Act, and pursuant to the TIF Ordinance and any amendments or supplements thereto. Such Service Payments shall be made semiannually to the Portage County Treasurer (or to his designated agent for collection of the Service Payments) on or before the date on which real property taxes would otherwise be due and payable for the Improvements. Each semiannual Service Payment shall be in the same amount as the real property taxes that would have been charged and payable against the exempted portion of the Improvements had an exemption from taxation not been granted. The combined amount of Service Payments and real property taxes paid with respect to each tax parcel of the Property shall not exceed the amount of the real property taxes that would have been charged and payable with respect to that parcel had an exemption from real property taxation not been granted. Any late Service Payments shall bear interest and shall be subject to penalties at the same rate and in the same amount and payable at the same time as delinquent taxes.

2. If requested by the City, the Lessee shall cooperate with the filing of all necessary applications and supporting documents required of them to obtain the exemption from real property taxation for the Improvements authorized by the Act and the TIF Ordinance as soon as possible following execution of this Agreement to enable Portage County to collect Service Payments thereunder and disburse such payments to the City. The Lessee further agrees to timely pay all property taxes and assessments on the Property necessary to permit the County Auditor to submit the exemption application for approval by the State Department of Taxation. If requested by the City, the Lessee shall prepare and file the notice with the County Recorder described in Revised Code Section 5709.911(C) promptly upon approval by the Tax Commissioner of any exemption related to the TIF Ordinance. The Lessee hereby authorizes the City, at the City’s discretion, to prepare and file such required exemption applications and, upon request of the City, shall sign the State form power of attorney related to that filing.

3. The obligations of the Lessee (and its successors in interest) to make the aforesaid Service Payments shall be absolute and unconditional, and shall not be terminated for any cause, and the Lessee agrees that there shall be no right to suspend or set off such Service Payments for any cause, including without limitation failure to complete the ~~Private Improvements~~ **Project** under this Agreement, any acts or circumstances that may constitute failure of consideration, destruction of or damage to those ~~Private Improvements~~ **Project**, commercial frustration of purpose, any change in the tax or other laws or administrative rulings of or by or under authority of the State, or any failure of the City to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Lease.

4. It is intended and agreed, and shall be provided in a Declaration of Restrictions to be filed by the City, in the form attached as **Exhibit H** hereto (the “Declaration of Restrictions”), that the covenants provided for in this Section shall be covenants running with the land and that they shall, in any event and without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity, for the benefit and in favor of and enforceable by the City, against the Lessee and its successors in interest, to all of the Property or any part thereof or interest therein, including, without limitation, any grantee in a conveyance of Property or any part thereof through judicial process, whether or not this Lease remains in effect or whether or not such provision is included by the Lessee in any succeeding sublease, assignment or deed by the Lessee to its successors in interest to the Property. It is further intended and agreed that these agreements and covenants to make Service Payments shall remain in effect for the full period of exemption permitted in accordance with the requirements of the Act and the City’s TIF Ordinance and any other ordinances enacted pursuant thereto.

5. Consistent with Revised Code Section 5709.91, the covenant to pay Service Payments shall have the same lien priority as property taxes.

C. **Other Property Tax Exemption Programs.** The Lessee acknowledges and agrees that during and with respect to the Exemption Period, other than pursuant to the TIF Ordinance, it shall not file an application for or otherwise request a real property tax exemption for the Property, including under the City’s community reinvestment area tax abatement program, and that the City’s TIF Ordinance shall provide that the Property is not eligible for a community reinvestment area tax exemption during the Exemption Period. The Lessee further acknowledges and agrees that with the City’s reasonable cooperation, as necessary, it shall take all actions permitted under Section 5709.87 of the Ohio Revised Code, as amended from time to time, to ensure that a voluntary action program (VAP) property tax exemption under that Section is not imposed on any of the Property.

D. **Access to the Property; Maintaining Records and Rights to Inspect.** The Lessee agrees that any duly authorized representative of the City shall, at all reasonable times, subject to reasonable safety and security regulations and so as to not unreasonably interfere with operation and use of the Property, have the right to enter and inspect the Site. Such right to enter and inspect under this Section does not include access to the interior of the buildings, other than as permitted by law. Reasonable notice of any such entry shall be given to the Lessee. The Lessee and other user of the Property shall have the right to have a representative in attendance at any such inspection.

Section 5. Quiet Enjoyment.

The City represents that it is the owner in fee simple of the Site, subject to the encumbrances identified in Section 1(c) of this Lease, and hereby covenants that the Lessee, on paying the rent and performing all and singular the covenants and conditions of this Lease on its part to be performed, shall and may peaceably and quietly have, hold and enjoy the Site for the term of this Lease ~~Term~~ and for the uses aforesaid, and for the term of any renewal or renewals hereof, subject to the exceptions set forth in this Lease, free from molestation, eviction or destruction by the City, or by any other person or persons lawfully claiming the same by, through or under the City, and that the City has good right to make this Lease for the full term of the Lease

Term hereby granted, including the period for which the Lessee has the right to effect a renewal hereof.

Section 6. Public Improvements.

Subject to and conditioned upon [(a) the City or PARTA owning or acquiring by negotiation (but not by eminent domain) the real property interests necessary therefor,] and (b) the issuance of the necessary City financing therefor, the City agrees to carry out the public street and parking improvements described in **Exhibit C** hereto so long as the Public Improvements are not estimated to cost more than \$10,500,000, which amount includes demolition, engineering and related soft costs, but excludes costs related to Alley 4, land acquisition and issuing debt.

The City agrees to use good faith efforts to authorize and issue City Bonds or other obligations required to finance such public improvements, and to issue such financing within the times required to allow the City to complete the Public Improvements by the date the Project is completed or as soon as possible thereafter, it being understood and agreed that (i) if the surface parking lot that is part of the Public Improvements (the “Surface Parking Lot”) is used as a staging area for construction of the Public Improvements or of the Project, it may not be completed until as soon as possible following completion of such construction, and (ii) the PARTA multi-modal parking facility is currently scheduled to be completed several months following the date the Project is scheduled to be completed.

To best manage the parking needs of office employees and the patrons of Downtown retail businesses, the City agrees that for a period of fifteen (15) years following the completion of construction of the Surface Parking Lot, it shall manage the Surface Parking Lot so that the entire lot is available for parking of office employees working at the Project Monday through Friday from 7:00 a.m. through 6:00 p.m., without charge to the employees, and, thereafter, is available for parking for other Downtown users. The City shall make parking passes available to individual office employees on a periodic basis, which will be automatically renewable as long as the employee continues to work at the Project. Those passes may be issued in bulk to a representative of the employees based on a list of individual employees who will be parking at the Surface Parking Lot.

Section 7. Prohibition Against Transfer of Leasehold Interest and Assignment of Lease.

Except only with respect to an assignment of leases and rents as security for the purposes of obtaining financing necessary (i) to enable the Lessee to perform its obligations with respect to leasing and constructing the Project under this Lease, (ii) to construct additional improvements or “build out” for future tenant use, (iii) to obtain permanent financing for such purposes, and (iv) for any other purpose expressly permitted by this Lease, the Lessee represents and agrees for itself and its successors and assigns, the Lessee will not make or create or permit to be made or created any total or partial sale, assignment or sublease (except for lease of space to tenants), or transfer in any other form with respect to the Property, the Project or this Lease, without the prior written approval of the City, which approval shall not be unreasonably withheld, delayed or conditioned, provided that such transaction for which the City approval is sought must be after the earlier of (a) three years following the completion of construction of the Project, as determined in Section 2B and 2D