
LEASE AGREEMENT

Dated as of July 29, 2022

by and between

COUNTY OF ROCKLAND INDUSTRIAL DEVELOPMENT AGENCY

and

MORGAN STANLEY SERVICES GROUP INC.

Affecting the Land generally known by the street address

1 Ramland Road, #1547, Orangeburg, New York

Town of Orangetown
in the County of Rockland,
State of New York
as more particularly described in
Exhibit A to this Lease Agreement
and which is also known as
Section 73.20 Block 1 Lot 24
on the Official Tax Map of the
Town of Orangetown
Rockland County

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LEASE AGREEMENT

This **LEASE AGREEMENT**, made and entered into as of the 29th day of July, 2022 (this “**Agreement**”), by and between the **COUNTY OF ROCKLAND INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York (the “**Agency**”), having its principal office at 254 South Main Street, Suite 401, New City, New York 10956, **party of the first part**, and **MORGAN STANLEY SERVICES GROUP INC.** a Delaware Corporation] duly registered and authorized to transact business in the State of New York, (the “**Lessee**”) having an office at 1585 Broadway, New York, NY party of the second part:

WITNESSETH:

WHEREAS, the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “**Enabling Act**”) authorizes and provides for the creation of industrial development agencies in the several counties, cities, villages and towns in the State of New York and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and furnish land, any building or other improvement, and all real and personal properties, including but not limited to machinery and equipment, deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, industrial or civic purposes, to the end that such agencies may be able to promote, develop, encourage, assist and advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act, the Agency was established by Chapter 564 of the 1980 Laws of New York, as amended (together with the Enabling Act, (the “**Act**”) for the benefit of the County of Rockland and the inhabitants thereof; and

WHEREAS, to accomplish the purposes of the Act, the Agency has entered into negotiations with the Lessee for a “project” within the meaning of the Act within the territorial boundaries of the County of Rockland and located on that certain lot, piece or parcel of land generally known as and by the street address 1 Ramland Road, #1547, Orangeburg, Town of Orangetown, County of Rockland, New York and otherwise described in **Exhibit A** attached hereto; and

WHEREAS, the Project will consist of the leasing, renovation and redevelopment of a portion of an underutilized property for data center operations and the acquisition of additional equipment, as more fully described in the application and supplemental materials, for a cost of \$86,601,176.00 (the “Project”) the Land and all buildings, structures and other improvements now or hereafter located thereon, and all fixtures and appurtenances and additions thereto and substitutions and replacements thereof, now or hereafter attached to or contained in or located on

the Land and/or the buildings and improvements located thereon or placed on any part thereof, and attached thereto, which are used or usable in connection with the present or future operation thereof or the activities at any time conducted therein and certain machinery, equipment and other tangible personal property (and all repairs, replacements, improvements and substitutions thereof or therefor, and all parts, additions and accessories incorporated therein), subject to the terms hereof, are collectively referred to herein as the “**Facility**”; and

WHEREAS, to facilitate the Project, the Agency and the Lessee have entered into negotiations to enter into a “straight lease transaction” within the meaning of the Act in which the Agency will acquire a leasehold interest in the Land and Improvements and the Agency will lease its interest in the Facility to the Lessee pursuant to this Agreement, and, in furtherance of such purposes, on February 17, 2022 the Agency adopted a resolution and an amended resolution on March 17, 2022 (collectively the “**Authorizing Resolution**”) authorizing the undertaking of the Project, the acquisition of a leasehold interest in the Facility by the Agency and the lease of the Facility by the Agency to the Lessee; and

WHEREAS, the provision by the Agency of financial assistance to the Lessee through a straight lease transaction has been determined to be necessary to renovate and equip the Facility; and if the Agency does not provide such financial assistance, the Lessee may not proceed with the Project; and

WHEREAS, simultaneously with the execution and delivery of this Agreement, the Lessee will convey, or cause there to be conveyed, to the Agency pursuant to a Head Lease Agreement, dated the date hereof (the “**Head Lease**”), a leasehold interest in and to the Land, and all rights or interests therein or appertaining thereto, together with all structures, buildings, foundations, related facilities, fixtures and other improvements existing thereon or therein as of the date thereof; and

WHEREAS, pursuant to this Agreement, the Agency will lease to the Lessee the Agency's interest in the Facility; and

NOW, THEREFORE, in consideration of the Facility and the respective representations and agreements hereinafter contained, the parties hereto agree as follows (provided that in the performance of the agreements of the Agency herein contained, any obligation it may incur for the payment of money shall not create a debt of the State of New York or of the County of Rockland, and neither the State of New York nor the County of Rockland shall be liable on any obligation so incurred, but any such obligation shall be payable solely out of the lease rentals, revenues and receipts derived from or in connection with the Facility (as hereinafter defined), including moneys received under this Agreement:

ARTICLE I
DEFINITIONS AND REPRESENTATIONS

Section 1.1 **Definitions.** The following terms shall have the following meanings in this Agreement:

Act shall mean, collectively, the New York State Industrial Development Agency Act (constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York), as amended, and Chapter 564 of the 1980 Laws of New York, as amended.

Additional Rent shall mean any additional rental payments described in Section 3.3(b) of this Agreement.

An **Affiliate** of a Person shall mean a Person which directly or indirectly through one or more intermediaries controls, or is under common control with, or is controlled by, such Person. The term “control” (including the related terms “controlled by” and “under common control with”) means (i) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and (ii) the ownership, either directly or indirectly, of at least fifty-one percent (51%) of the voting stock or other equity interest of such Person.

Agency shall mean the **County of Rockland Industrial Development Agency**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State, duly organized and existing under the laws of the State, and any body, board, authority, agency or other governmental agency or instrumentality which shall hereafter succeed to the powers, duties, obligations and functions thereof.

Agreement shall mean this Agreement and shall include any and all amendments hereof and supplements hereto hereafter made in conformity herewith.

Application shall mean the application by the Lessee to the County of Rockland Industrial Development Agency for financial assistance.

Approved Facility shall mean a data center.

Authorized Representative shall mean, (a) in the case of the Agency, the Chairperson, Vice Chairperson, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary or Executive Director of the Agency, or any other member, officer, manager or employee of the Agency who is authorized to perform specific acts or to discharge specific duties hereunder and of whom another Authorized Representative of the Agency has given written notice to the Lessee; and (b) in the case of the Lessee, [a Member, Manager or President of Lessee or any officer or employee] thereof who is authorized to perform specific acts or to discharge specific duties hereunder and of whom another Authorized Representative of the Lessee has given written notice to the Agency.

Base Rent shall mean the rental payment described in Section 3.3(a) of this Agreement.

Business Day shall mean any day which shall not be a Saturday, Sunday, legal holiday or a day on which banking institutions in the County are authorized by law or executive order to close.

Commencement Date shall mean July 29, 2022 on which date this Agreement was executed and delivered.

County shall mean the County of Rockland, New York.

Event of Default shall have the meaning specified in Section 7.1 hereof.

Exempt Property shall mean only tangible personal property conveyed to or acquired by the Agency in connection with the Project up to the Maximum Sales Tax Benefit (as evidenced in accordance with Section 2.2 hereof) for incorporation in the Facility or for use in connection with the Facility.

Facility Equipment shall mean that machinery, equipment and other tangible personal property acquired and installed pursuant to the Sales Tax Letter as part of the Project pursuant to Section 2.2 hereof, together with all repairs, replacements, improvements, substitutions and renewals thereof or therefor and all parts, additions and accessories incorporated therein or affixed thereto (but excluding Lessee's Property within the meaning of Section 4.1(c) hereof or Existing Facility Property released pursuant to Section 4.2 hereof), as more particularly described in **Exhibit B** "Description of the Facility Equipment" hereto, which is made a part of this Agreement. "Facility Equipment" shall not include (i) rolling stock, (ii) any item of personality which shall have a useful life of less than one year or which shall not constitute a tangible capital asset, (iii) plants, shrubs, trees, flowers, lawns or plants, or (iv) fine art, objects d'arte or other similar decorative items.

Facility shall mean, collectively, the Facility Realty and the Facility Equipment.

Facility Realty shall mean, collectively, the Land and the Improvements.

Fiscal Year of the Lessee shall mean a year of 365 or 366 days, as the case may be, commencing on January 1 and ending on December 31 of each calendar year, or such other fiscal year of similar length used by the Lessee for accounting purposes as to which the Lessee shall have given prior written notice thereof to the Agency at least ninety (90) days prior to the commencement thereof.

Head Lease shall mean the Head Lease referred to in the recitals to this Agreement.

Improvements shall mean all buildings, structures, foundations, related facilities, fixtures and other improvements existing on the Commencement Date or at any time made, erected or situated on the Land (including any improvements made as part of the Project pursuant to Section 2.2 hereof) and all replacements, improvements, extensions, substitutions, restorations, repairs or additions thereto.

Independent Accountant shall mean an independent certified public accountant or firm of independent certified public accountants selected by the Lessee and approved by the Agency (such approval not to be unreasonably withheld).

Land shall mean that certain Unit #1547 located on that certain lot, piece or parcel of land generally known by the street address 1 Ramland Road, Orangeburg, Town of Orangetown, County of Rockland, State of New York, all as more particularly described in **Exhibit “A”**- “Description of the Land” hereto, which is made a part hereof, together with all easements, rights and interests now or hereafter appurtenant or beneficial thereto; but excluding, however, any real property or interest therein released pursuant to Section 6.4 hereof.

Lessee shall be Morgan Stanley Services Group Inc., a Delaware Corporation duly registered and authorized to transact business in the State of New York and its permitted successors and assigns pursuant to Sections 6.1 or 9.2 hereof.

Lessee’s Property shall have the meaning specified in Section 4.1(c) hereof.

Liens shall have the meaning specified in Section 6.5(a) hereof.

Loss Event shall have the meaning specified in Section 5.1(a) hereof.

Maximum Sales Tax Benefit shall mean a maximum aggregate amount of sales and use tax exemptions conferred upon the Lessee pursuant to the Sales Tax Letter and/or this Agreement until the date which is the earliest to occur of (i) the receipt by the Lessee of \$7,252,840.00 of sales and use tax exemptions on qualified expenditures of up to \$86,601,176.00 inclusive of the \$23,880,597.00 previously authorized by a pre-closing sales tax exemption on May 18, 2022 or (ii) the completion of the “Straight-Lease” transaction.

Net Proceeds shall mean, when used with respect to any insurance proceeds or condemnation award, compensation or damages, the gross amount of any such proceeds, award, compensation or damages less all expenses (including reasonable attorneys' fees and any extraordinary expenses of the Agency, the Lessee) incurred in the collection thereof.

Opinion of Counsel shall mean a written opinion of counsel for the Lessee which shall be reasonably acceptable to the Agency.

Permitted Encumbrances shall mean:

(a) this Agreement, the Mortgage and Security Agreement with Assignment of Leases and Rents and the filed UCC-1s;

(b) liens for real estate taxes, assessments, levies and other governmental charges, the payment of which is not yet due and payable;

(c) any mechanic's, workmen's, repairmen's, materialmen's, contractors', carriers', suppliers' or vendors' Lien or right in respect thereof if payment is not yet due and payable, all if and to the extent permitted by Section 6.5 hereof;

(d) any lien, security interest, encumbrance or charge, or any conditional sale or other title retention agreement, that any vendor of Facility Equipment or any contractor hired to perform Project work may place on or with respect to the Facility or any part thereof;

(e) utility, access and other easements and rights-of-way restrictions and exceptions that an Authorized Representative of the Lessee certifies to the Agency will not materially interfere with or impair the Lessee's use and enjoyment of the Facility as herein provided;

(f) such minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on title as normally exist with respect to property similar in character to the Facility as do not, as set forth in a certificate of an Authorized Representative of the Lessee delivered to the Agency, either singly or in the aggregate, render title to the Facility unmarketable or materially impair the property affected thereby for the purpose for which it was acquired and held by the Agency hereunder or purport to impose liabilities or obligations on the Agency; and

(g) those exceptions to title to the Facility enumerated in the title insurance policy delivered pursuant to Section 2.3 hereof, a copy of which is on file at the offices of the Agency.

Person shall mean any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof or other entity.

Project shall have the meaning set forth in the recitals of this Agreement.

Project Counsel shall mean Bleakley Platt & Schmidt LLP, selected by the Agency to render legal advice to the Agency in connection with the transactions contemplated by this Agreement.

Project Documents shall mean the Head Lease, this Agreement, the Indemnification Agreement, the Indemnification Agreement Regarding Hazardous Materials, the Mortgage, Assignment of Leases and Rents, the Sales Tax Letter and all other documents executed by Lessee in connection with this transaction.

Rental Payments shall mean, collectively, Base Rent and Additional Rent.

Sales Taxes shall mean any tax(es) imposed by Article 28 of the New York Tax Law, as the same may be amended from time to time.

Sales Tax Letter shall mean the Letter of Authorization for Sales Tax Agent Authorization Letter, which the Agency shall make available to the Lessee in accordance with and substantially in the form set forth in the appendices to this Agreement.

State shall mean the State of New York.

Section 1.2 Construction. In this Agreement, unless the context otherwise requires, any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

Section 1.3 Representations and Warranties by Agency. The Agency represents and warrants that the Agency (i) is a corporate governmental agency constituting a body corporate and politic and a public benefit corporation duly organized and existing under the laws of the State, (ii) is authorized and empowered to enter into the transactions contemplated by this Agreement and any other Project Documents to which the Agency is a party and to carry out its obligations hereunder and thereunder and (iii) by proper action of its members, has duly authorized the execution and delivery of this Agreement and such other Project Documents to which the Agency is a party.

Section 1.4 Findings by Agency. The Agency, based upon the representations and warranties of the Lessee contained in this Agreement and the information contained in the application and other materials heretofore submitted by or on behalf of the Lessee to the Agency, hereby affirms its findings and determinations set forth in the Authorizing Resolution, and further finds and determines, that

- (a) the providing of financial assistance (within the meaning of the Act) through the straight-lease transaction (within the meaning of the Act) contemplated by this Agreement is necessary to induce the Lessee to proceed with the Project;
- (b) the Project is reasonably necessary to discourage the Lessee from locating a facility or plant to a location outside the State;
- (c) the Lessee but for the financial assistance provided by the Agency as contemplated by this Agreement would consider locating the related jobs outside the State; and
- (d) no funds of the Agency shall be used in connection with the transactions contemplated by this Agreement for the purpose of preventing the establishment of an industrial or manufacturing plant or for the purpose of advertising or promotional materials which depict elected or appointed government officials in either print or electronic media, nor shall any funds of the Agency be given hereunder to any group or organization which is attempting to prevent the establishment of a manufacturing plant within the State.

Section 1.5 Representations and Warranties by the Lessee. The Lessee makes and affirms the following representations and warranties:

- (a) The Lessee is a corporation duly organized in the State of Delaware and duly authorized to do business in, and in good standing under the laws of the State of New York. Lessee is not in violation of any provision of its certificate of incorporation or bylaws, has the power and authority to own its properties and assets, to carry on its businesses as now being conducted by it and to execute and deliver and perform this Agreement and each other Project Document to which it is or shall be a party.

(b) The execution, delivery and performance of this Agreement and each other Project Document to which it is or shall be a party and the consummation of the transactions herein and therein contemplated have been duly authorized by all requisite action on the part of the Lessee and will not violate any provision of law, any order of any court or agency of government, or any indenture, agreement or other instrument to which the Lessee is a party or by which it or any of its respective property is subject to or bound, or be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument or result in the imposition of any lien, charge or encumbrance of any nature whatsoever other than Permitted Encumbrances.

(c) There is no action or proceeding pending or threatened by or against the Lessee by or before any court or administrative agency that would adversely affect the ability of the Lessee to perform its obligations under this Agreement and each other Project Document to which it shall be a party and all authorizations, consents and approvals of governmental bodies or agencies required to be obtained by the Lessee as of the date hereof in connection with the execution and delivery of this Agreement and each other Project Document to which the Lessee shall be a party or in connection with the performance of the obligations of the Lessee hereunder and under each of the Project Documents have been obtained.

(d) The Facility will constitute a “project” under the Act, and the Lessee intends to operate the Facility, or cause the Facility to be operated, in accordance with this Agreement and as an Approved Facility and a qualified “project” in accordance with and as defined under the Act.

(e) The financial assistance (within the meaning of the Act) provided by the Agency to the Lessee through the straight-lease transaction (within the meaning of the Act) as contemplated by this Agreement is reasonably necessary to induce the Lessee to proceed with the Project.

(f) Subject to Sections 4.2 and 5.1 hereof, no Facility Equipment shall be located at any site other than the Facility Realty.

(g) The Project is reasonably necessary to encourage the Lessee from moving a facility or plant from a location outside the State to a location within the State.

(h) The Lessee but for the financial assistance provided by the Agency as contemplated by this Agreement would consider locating the related jobs outside the State.

(i) No funds of the Agency shall be used in connection with the transactions contemplated by this Agreement for the purpose of preventing the establishment of an industrial or manufacturing plant or for the purpose of advertising or promotional materials which depict elected or appointed government officials in either print or electronic media, nor shall any funds of the Agency be given hereunder to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State.

(j) This Agreement and the other Project Documents to which it is a party constitute the legal, valid and binding obligations of the Lessee enforceable against the Lessee in accordance with their respective terms.

(k) Lessee is in compliance, and will continue to comply, with all Federal, State and local laws or ordinances (including rules and regulations) relating to zoning, building, safety and environmental quality applicable to the Project and the operation of the Facility.

(l) Lessee represents and warrants that the moneys available to the Lessee, are sufficient to pay all costs in connection with the completion of the Project.

(m) No Person other than the Lessee or a permitted tenant is or will be in use, occupancy or possession of any portion of the Facility.

ARTICLE II CONVEYANCE TO THE AGENCY; THE PROJECT; AND TITLE INSURANCE

Section 2.1 The Head Lease. The Agency has acquired, for good and valuable consideration therefor, pursuant to the Head Lease, a leasehold interest in and to the Land, and all rights or interests therein or appertaining thereto, together with all structures, buildings, foundations, related facilities, fixtures and other improvements existing thereon or therein as of the date thereof, free and clear of all liens, claims, charges, encumbrances, security interests and servitudes other than Permitted Encumbrances.

Section 2.2 The Project. (a) The Agency hereby appoints the Lessee its true and lawful agent, and the Lessee hereby accepts such agency, for purposes of undertaking the Project, including, without limitation, (i) renovating and installing the Improvements and the Facility Equipment thereon or therein, (ii) making, executing, acknowledging and delivering any contracts, orders, receipts, writings and instructions with any other Persons (subject in each case to Section 2.4 hereof), and in general doing all things which may be requisite or proper, all for the purposes of undertaking the Project with the same powers and with the same validity and effect as the Agency could do if acting in its own behalf, (iii) paying all fees, costs and expenses incurred in the renovation, and equipping of the Facility from funds made available therefor in accordance with or as contemplated by this Agreement and (iv) asking, demanding, suing for, levying, recovering and receiving all such sums of money, debts due and other demands whatsoever which may be due, owing and payable to the Agency under the terms of any contract, order, receipt or writing in connection with the Project and to enforce the provisions of any contract, agreement, obligation, bond or other performance security entered into or obtained in connection with the Project. The Lessee unconditionally represents, warrants, covenants and agrees that they will complete the Project, or cause the Project to be completed in a first class workmanlike manner, using high grade materials, free of defects in materials and workmanship (including latent defects); provided, however, the Lessee may revise the scope of the Project, subject to the prior written consent of the Agency. In undertaking the Project, the Lessee, as agent of the Agency, shall take such action and institute such proceedings as shall be necessary to cause and require all contractors, manufacturers and suppliers to complete their agreements relating to the Project in accordance with the terms of the contracts therefor including, without limitation, the correction of any

defective work. The cost of the Project shall be financed from (i) funds of the Lessee and (ii) other funds of the Lessee to the extent such funds shall be necessary to cover costs of the Project which exceed such other sources of funds.

(b) The Lessee shall pay (i) all of the costs and expenses in connection with the preparation of any instruments of conveyance, the delivery thereof and of any instruments and documents relating thereto and the filing and recording of any such instruments of conveyance or other instruments or documents, if required, (ii) all taxes and charges payable in connection with the conveyance and transfer, or attributable to periods prior to the conveyance and transfer, to the Agency as set forth in Section 2.1 hereof, and (iii) all shipping and delivery charges and other expenses or claims incurred in connection with the Project.

(c) The Lessee unconditionally represents, warrants, covenants and agrees that it will obtain or cause to be obtained all necessary approvals from any and all governmental agencies requisite to the Project and operation of the Facility, all of which will be done in compliance with all Federal, State and local laws, ordinances and regulations applicable thereto, and with the conditions and requirements of all policies of insurance with respect to the Facility and this Agreement. Promptly upon acquisition of the Facility Realty, the Lessee will obtain or cause to be obtained all required occupancy permits, authorizations and licenses from appropriate authorities, if any be required, authorizing the occupancy, operation and use of the Facility for the purposes contemplated by this Agreement and each of the Agency and Lessee agree to execute any documents, agreements and instruments reasonably necessary to permit Lessee to obtain such permits, authorizations and licenses. Lessee shall furnish copies of same to the Agency immediately upon receipt thereof.

(d) The date of completion of the Project shall be evidenced by a certificate of an Authorized Representative of the Lessee, delivered to the Agency, stating, except for any Project costs not then due and payable or the liability for payment of which is being contested or disputed in good faith by the Lessee, (i) that the Project has been completed substantially in accordance with the plans and specifications therefor and the date of completion of the Project, (ii) that all labor, services, machinery, equipment, materials and supplies used therefor have been paid for, (iii) that all other facilities necessary in connection with the Project have been completed and all costs and expenses incurred in connection therewith have been paid, (iv) that all property constituting the Facility is subject to this Agreement and the Head Lease, subject only to Permitted Encumbrances, (v) that, in accordance with all applicable laws, regulations, ordinances and guidelines, the Facility is ready for occupancy, use and operation for its intended purposes, and (vi) the amount, if any, required in the opinion of such Authorized Representative for the payment of any remaining part of the costs of the Project.

Notwithstanding the foregoing, such certificate shall state (i) that it is given without prejudice to any rights of the Lessee against third parties which exist at the date of such certificate or which may subsequently come into being and (ii) that no Person other than the Agency may benefit therefrom. Such certificate of the Authorized Representative of the Lessee shall be accompanied by (i) either a permanent certificate of occupancy or temporary certificate of occupancy, with conditions reasonably acceptable to the Agency, and any and all permissions, approvals, licenses or consents required of governmental authorities for the occupancy, operation

and use of the Facility for the purposes contemplated by this Agreement; and (ii) a certificate of an Authorized Representative of the Lessee that all costs of the Project have been paid in full, together with releases of mechanics' liens by the general contractor and by all contractors and materialmen who supplied work, labor, services, machinery, equipment, materials or supplies in connection with the Project. Upon request by the Agency, the Lessee shall make available to the Agency copies of any bills, invoices or other evidences of costs as shall have been incurred in the effectuation of the Project.

Section 2.3 Intentionally deleted..

Section 2.4 Limitation on Sales Tax Exemption. (a) Any exemption from Sales Taxes resulting from or occasioned by the Agency's involvement with the Project shall be limited to purchases of Exempt Property effected by the Lessee as agent for the Agency, it being the intent of the parties that no operating expenses of the Lessee and no purchases of equipment or other personal property (other than Exempt Property) shall be subject to an exemption from Sales Taxes because of the Agency's involvement with the Project.

(b) The Lessee covenants and agrees that it shall include the following language (through an attached rider or otherwise) in and as part of each contract, invoice, bill or purchase order entered into by the Lessee as agent for the Agency in connection with the Project:

“This contract is being entered into by MORGAN STANLEY SERVICES GROUP INC. a Delaware Corporation {or name of Affiliate} (the “Agent”), as agent for and on behalf of the **COUNTY OF ROCKLAND INDUSTRIAL DEVELOPMENT AGENCY** (the “Agency”) in connection with a certain project of the Agency for the Agent consisting of the leasing, renovation, redevelopment, and equipping of a facility and administrative offices at 1 Ramland Road, #1547, Orangeburg, Town of Orangetown, all to be used for data center operations and administrative offices (the “Project”), such Project to be located at 1 Ramland Road, #1547, Orangeburg, for lease to the Agency, and lease-back to Morgan Stanley Services Group Inc.. The renovation and capital improvements, materials, machinery, equipment, trade fixtures, furniture, furnishings and other tangible personal property to be used for the Project which is the subject of this agreement shall be exempt from the sales and use tax levied by the State of New York and the County of Rockland if effected in accordance with the terms and conditions set forth in the attached Letter of Authorization for Sales Tax Exemption of the Agency, and the Agent hereby represents that this agreement is in compliance with the terms of the Letter of Authorization for Sales Tax Exemption. By execution or acceptance of this agreement, the vendor or contractor hereby acknowledges the terms and conditions set forth in this paragraph.”

If the Lessee shall fail to include, incorporate by reference or otherwise cause the contract, agreement, invoice, bill or purchase order to be, together with the vendor or contractor, subject to

the above applicable language in substantially the above form, such contract, invoice, bill or purchase order shall not be an undertaking on behalf of the Agency and shall not be entitled to any of the benefits able to be conferred by the Agency, and the Lessee shall not claim any sales or use tax benefits or exemptions with respect to any such contract, invoice, bill or purchase order and the Lessee shall return to the Agency any such benefits or exemptions so taken, together with interest on such amount at the rate of ten percent (10%) per annum, from the date of such taking.

(c) On the Commencement Date, the Agency shall make available to the Lessee the Sales Tax Letter. The Agency, at the sole cost and expense of the Lessee, shall also execute such other authorizations, letters and documents (and such amendments to the Sales Tax Letter) as may be reasonably necessary to permit the Lessee to obtain the intended benefits hereunder. Subject to the terms of this Agreement, it is intended that the aggregate scope of the sales and use tax benefits received by the Lessee pursuant to this Agreement and the Sales Tax Letter shall be limited in both duration and amount by the Maximum Sales Tax Benefit.

(i) The Sales Tax Letter shall be dated the Commencement Date and shall be effective for a term commencing on the Commencement Date and expiring upon the date which is the earliest to occur of (A) the termination of this Agreement, (B) three (3) years from the date hereof, (C) the termination of the Sales Tax Letter pursuant to Section 7.2 hereof or (D) such time as the aggregate amount of sales and use tax exemptions availed of by the Lessee pursuant to the Sales Tax Letter shall equal the Maximum Sales Tax Benefit (such date, the "Sales Tax Letter Expiration Date").

(ii) The authorizations set forth in the Sales Tax Letter shall automatically be suspended twenty (20) days after notice to the Lessee that the Lessee is in default beyond applicable grace periods under this Agreement unless the Lessee shall cure such an Event of Default prior to the expiration of said twenty (20) day period, or until the date on which Lessee shall cure such Event of Default.

(iii) The sales and use tax exemption to be provided pursuant to the Sales Tax Letter:

(A) shall not be available for payment of any costs other than the costs of the Project, or for any items of personalty other than those items of Facility Equipment located at the Facility Realty,

(B) shall only be utilized for items of Exempt Property which shall be purchased, completed or installed for use only by the Lessee and its Affiliates at the Facility Realty until the Maximum Sales Tax Benefit is achieved, it being the intention of the Agency and the Lessee that the sales and use tax exemption shall not be made available with respect to any item of Exempt Property unless such item is used solely by the Lessee and its Affiliates at the Facility Realty,

(C) shall not be available for any item of (i) rolling stock, or (ii) computer software unless the computer software is in the form of tangible personal property and of a type that is capable of being capitalized in accordance with generally accepted accounting

principles as a capital expenditure, and has been purchased for a mainframe computer or other data processing equipment constituting Facility Equipment, and in each case for use only at the Facility Realty by the Lessee or an Affiliate,

(D) shall not be available for any item subsequent to the conferral of the Maximum Sales Tax Benefit of aggregate sales and use tax exemptions pursuant to the Sales Tax Letter and this Agreement,

(E) shall not be available for any date subsequent to which the Sales Tax Letter shall have been suspended as provided in Section 2.4(c)(ii) hereof; provided, however, that in the event the Lessee shall thereafter cure any defaults under this Agreement, or the Agency shall thereafter waive such suspension, as applicable, the sales and use tax exemption shall again continue from the date of such cure or such waiver,

(F) shall not be available for or with respect to any tangible personal property having a useful life of less than one year, and shall be available only if purchased by the Lessee with funds received from the Lessee or any other source, (including its own funds) as agent for the Agency for use by the Lessee or any of its Affiliates at the Facility Realty,

(G) shall not be available for any cost of utilities, cleaning service or supplies,

(H) shall not be available subsequent to the termination of this Agreement, and

(I) shall only be available for those costs set forth in Exhibit A to the Sales Tax Letter.

(J) In the event that the Lessee shall utilize the sales or use tax exemption authorization provided pursuant to the Sales Tax Letter in violation of the provisions of Section 2.4(c)(iii) hereof, the Lessee shall promptly deliver notice of same to the Agency, and the Lessee shall, upon demand by the Agency, pay to the Agency a return of sales or use tax exemptions in an amount equal to all such unauthorized sales or use tax exemptions together with interest at the rate of ten percent (10%) per annum from the date and with respect to the dollar amount for which each such unauthorized sales or use tax exemption was availed of by the Lessee.

(v) The Lessee shall, on or before February 15th of each year, commencing February 15, 2023 and ending on the earlier of the termination of this Agreement and the attaining of the Maximum Sales Tax Benefit (and on February 15th following the earlier of the termination of this Agreement and the attaining of the Maximum Sales Tax Benefit),

(A) deliver to the Agency a certificate of an Authorized Representative of the Lessee certifying (i) as to each sales or use tax exemption availed of by the Lessee, the dollar amount of same and the date availed of, all as availed of by the Lessee in the immediately preceding calendar year, and the specific items of Project costs to which they shall

relate, (ii) that all such sales or use tax exemptions so availed of were in compliance with the provisions of the Sales Tax Letter and Section 2.4(c) hereof, (iii) as to the dollar amount of all sales and use tax exemptions availed of by the Lessee from the Commencement Date through the end of the calendar year period to which such certificate shall relate, and (v) as to the unused amount remaining of the Maximum Sales Tax Benefit, and

(B) deliver to the Agency, within one hundred twenty (120) days after written notice of any request by the Agency, an opinion of an Independent Accountant to the effect that such Independent Accountant has audited the certificates of the Lessee provided in paragraph (A) above for the preceding calendar year, and such certificates were properly prepared and accurately reflect the matters certified therein.

(vi) Upon request by the Agency of, and reasonable notice to the Lessee, the Lessee shall make available at reasonable times to the Agency and the Independent Accountant all such books and records of the Lessee and require all appropriate officers and employees of the Lessee to respond to reasonable inquiries by the Agency and the Independent Accountant, as shall be necessary to indicate in reasonable detail those costs to which the Lessee shall have utilized the Sales Tax Letter and the dates and amounts so utilized.

(vii) The Lessee shall obtain covenants to the Agency from each materialman, supplier, vendor or laborer to whom the Sales Tax Letter is presented by the Lessee to the effect that such materialman, supplier, vendor or laborer shall not utilize the Sales Tax Letter for any purpose other than for the Project.

(d) Prior to the Sales Tax Letter Expiration Date, the Lessee shall annually file a statement with the New York State Department of Taxation and Finance, on a form and in a manner and consistent with such regulations as is or may be prescribed by the Commissioner of the New York State Department of Taxation and Finance, of the value of all sales and use tax exemptions claimed by the Lessee or agents of the Lessee in connection with the Project and the Facility as required by Section 874(8) of the New York State General Municipal Law (as the same may be amended from time to time), including, but not limited to, consultants or subcontractors of such agents, under the authority granted pursuant to this Agreement. The Lessee shall furnish a copy of such annual statement to the Agency at the time of filing with the Department of Taxation and Finance. Should the Lessee fail to comply with the foregoing requirement, the Lessee shall immediately cease to be the agent for the Agency in connection with the Project (such agency relationship being deemed to be immediately revoked) without any further action of the parties, the Lessee shall be deemed to have automatically lost its authority as agent of the Agency to purchase and/or lease Exempt Property in the Agency's behalf, and shall desist immediately from all such activity, and shall immediately and without demand return to the Agency the Sales Tax Letter issued to the Lessee by the Agency which is in the Lessee's possession or in the possession of any agent of the Lessee. Nothing herein shall be construed as a representation by the Agency that any property acquired as part of the Project is or shall be exempt from sales taxes or use taxes under the laws of the State.

ARTICLE III
LEASE OF FACILITY AND RENTAL PROVISIONS

Section 3.1 Lease of the Facility. (a) The Agency hereby leases to the Lessee, and the Lessee hereby leases from the Agency, the Facility for and during the term herein and subject to the terms and conditions herein set forth. The Agency hereby delivers to the Lessee, and the Lessee hereby accepts, sole and exclusive possession of the Facility (it being understood by the parties hereto that delivery of possession to the Agency of the Facility as the same is renovated shall take no further act or deed by the parties hereto).

(b) The Lessee, hereby unconditionally represents, warrants, covenants and agrees that throughout the term of this Agreement (i) the Facility will be an Approved Facility and a “project” within the meaning of the Act; (ii) the Lessee will not take any action, or suffer or permit any action, if such action would cause the Facility not to be an Approved Facility or a “project” within the meaning of the Act; and (iii) the Lessee will not fail to take any action, or suffer or permit the failure to take any action, if such failure would cause the Facility not to be an Approved Facility or a “project” within the meaning of the Act. The Lessee shall not occupy, use or operate the Facility, or allow the Facility or any part thereof to be occupied, used or operated, for any unlawful purpose or in violation of any certificate of occupancy affecting the Facility or for any use which may constitute a nuisance, public or private, or make void or voidable any insurance then in force with respect thereto.

Section 3.2 Duration of Term. The term of this Agreement shall commence on the Commencement Date and shall expire on July 29, 2025 or such earlier date as this Agreement may be terminated as hereinafter provided.

Section 3.3 Rental Provisions. (a) **Base Rent.** The Lessee shall pay Base Rent to the Agency, without demand or notice, on the Commencement Date in the amount of \$1.00, which shall constitute the entire amount of Base Rent payable hereunder.

(b) **Additional Rent.** Throughout the term of this Agreement the Lessee shall pay to the Agency any additional amounts required to be paid by the Lessee to or for the account of the Agency hereunder. Any such additional amounts shall be paid as, and shall represent payment of, Additional Rent.

(c) **Missed Payments.** In the event the Lessee should fail to make or cause to be made any of the Rental Payments required under the foregoing provisions of this Section, the item or installment not so paid shall continue as an obligation of the Lessee until the amount not so paid has been paid in full, together with interest thereon from the date due at the applicable interest rate stated in this Agreement where so provided, or if not so provided, at ten percent (10%) per annum.

Section 3.4 Rental Payments Payable Absolutely Net. The obligation of the Lessee to pay Rental Payments provided for in this Agreement shall be absolutely net to the Agency without any abatement, recoupment, diminution, reduction, deduction, counterclaim, set-off or offset whatsoever, so that this Agreement shall yield, net, to the Agency, the Rental Payments

provided for herein, and all costs, expenses and charges of any kind and nature relating to the Facility, arising or becoming due and payable during or after the term of this Agreement, shall be paid by the Lessee and the Agency shall be indemnified by the Lessee for, and the Lessee shall hold the Agency harmless from, any such costs, expenses and charges.

Section 3.5 Nature of Lessee's Obligation Unconditional. The Lessee's obligations under this Agreement to pay Rental Payments shall be absolute, unconditional and general obligations, and irrespective of any defense or any rights of set-off, recoupment or counterclaim or deduction and without any rights of suspension, deferment, diminution or reduction it might otherwise have against the Agency or any other Person and the obligation of the Lessee shall arise whether or not the Project has been completed as provided in this Agreement. The Lessee will not suspend or discontinue payment of any Rental Payment due and payable hereunder or performance or observance of any covenant or agreement required on the part of the Lessee hereunder for any cause whatsoever, and the Lessee waive all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction in the Rental Payments hereunder.

Section 3.6 Assignment of Subleases. In order to secure the payment and performance of obligations of the Lessee under this Agreement, the Lessee does hereby assign, transfer and set over to the Agency all of the Lessee's right, title and interest in and to all sublease rentals, revenues and receipts therefrom, and the right to enforce all of the Lessee's rights and remedies thereunder during the existence of an Event of Default.

The Lessee agrees not to terminate, modify or amend any sublease or any of the terms thereof, or grant any concessions in connection therewith, either orally or in writing, or to accept a surrender thereof, without the prior written consent of the Agency and any attempted termination, modification or amendment of any sublease without such written consent shall be null and void.

In the exercise of the powers herein granted, no liability shall be asserted or enforced against the Agency, all such liability being hereby expressly waived and released by the Lessee. The Agency shall not be obligated to perform or discharge any obligation, duty or liability under any sublease, or under or by reason of this assignment.

ARTICLE IV

MAINTENANCE, TAXES, PAYMENTS IN LIEU OF TAXES AND INSURANCE

Section 4.1 Maintenance, Alterations and Improvements (a) During the term of this Agreement, the Lessee will keep the Facility in good and safe operating order and condition, ordinary wear and tear excepted, will occupy, use and operate the Facility in the manner for which it was intended and contemplated by this Agreement, and will make all replacements, renewals and repairs thereto (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen) necessary to ensure that the operations of the Lessee at the Facility shall not be impaired or diminished in any way. All replacements, renewals and repairs shall be equal to or better in quality, class and value to the original work and be made and installed in compliance with the requirements of all governmental bodies. The Agency shall be under no obligation to replace,

service, test, adjust, erect, maintain or effect replacements, renewals or repairs of the Facility, to effect the replacement of any inadequate, obsolete, worn-out or unsuitable parts of the Facility, or to furnish any utilities or services for the Facility and the Lessee hereby agrees to assume full responsibility therefor.

(b) The Lessee shall have the privilege of making such alterations of or additions to the Facility or any part thereof from time to time as it in its discretion may determine to be desirable for its uses and purposes, provided that

(i) as a result of such alterations or additions, the fair market value of the Facility is not materially reduced below its value immediately before such alteration or addition and the usefulness, the structural integrity or operating efficiency of the Facility is not materially impaired,

(ii) such additions or alterations are promptly and fully paid for by the Lessee in accordance with the terms of the applicable contract(s) therefor, and in order that the Facility shall at all times be free of any mortgage, lien, charge, encumbrance, security interest or claim other than Permitted Encumbrances,

(iii) such additions or alterations do not change the nature of the Facility so that it would not constitute an Approved Facility and a “project” within the meaning of the Act.

All alterations of and additions to the Facility shall constitute a part of the Facility, subject to this Agreement, and the Lessee shall deliver or cause to be delivered to the Agency appropriate documents as may be necessary to convey title and/or a leasehold interest to such property to the Agency and to subject such property to this Agreement, free and clear of all liens, charges, encumbrances, security interests or claims other than Permitted Encumbrances.

(c) The Lessee shall have the right to install or permit to be installed at the Facility machinery, equipment and other personal property at the Lessee's own cost and expense (the “**Lessee's Property**”) without conveying title to such Lessee's Property to the Agency nor subjecting such Lessee's Property to this Agreement. The Lessee's Property shall not constitute part of the Facility leased hereunder. The Agency shall not be responsible for any loss of or damage to the Lessee's Property. The Lessee shall have the right to create or permit to be created any mortgage, encumbrance, lien or charge on, or conditional sale or other title retention agreement with respect to, the Lessee's Property, without the consent of or notice to the Agency.

Section 4.2 Removal of Property of the Facility. (a) The Lessee shall have the privilege from time to time of removing from the Facility any fixture constituting part of the Facility Realty or any machinery, equipment or other property constituting part of the Facility Equipment (in either case, the “**Existing Facility Property**”) and thereby acquiring such Existing Facility Property, **provided, however**, no such removal shall be effected if (x) such removal is to another location other than the Facility Realty, (y) such removal is for a purpose contrary to the provisions of Section 2.4(c)(iii)(B) hereof or (z) such removal would change the nature of the Facility as an Approved Facility and a “project” within the meaning of the Act.

(b) The removal from the Facility of any Existing Facility Property pursuant to the provisions of Section 4.2(a) hereof shall not entitle the Lessee to any abatement or reduction in the Rental Payments payable by the Lessee under this Agreement.

(c) Within one hundred twenty (120) days after the close of each Fiscal Year of the Lessee (i) during which Fiscal Year action was taken by the Lessee pursuant to Section 4.1(b) or 4.2(a) hereof, the Lessee shall furnish to the Agency a written report of an Authorized Representative of the Lessee summarizing the action taken by the Lessee during such preceding Fiscal Year and stating that, in its opinion, such action complied with the applicable provisions of Section 4.1(b) or 4.2(a) hereof, as the case may be; or (ii) during which Fiscal Year of the Lessee no action was taken by the Lessee pursuant to Section 4.1(b) or 4.2(a) hereof, the Lessee shall furnish to the Agency a certificate of an Authorized Representative of the Lessee certifying to the fact that no such action was taken by the Lessee pursuant to such Section 4.1(b) or 4.2(a) during such preceding Fiscal Year.

Section 4.3 Taxes, Assessments and Charges. The Lessee shall pay when the same shall become due all taxes and assessments, general and specific, if any, levied and assessed upon or against the Facility, this Agreement, any estate or interest of the Agency or the Lessee in the Facility, or the Rental Payments or other amounts payable hereunder during the term of this Agreement, and all water and sewer charges, special district charges, assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen, ordinary or extraordinary, under any present or future law, and charges for public or private utilities or other charges incurred in the occupancy, use, operation, maintenance or upkeep of the Facility, all of which are herein called "**Impositions**".

Section 4.4 Insurance. (a) At all times throughout the term of this Agreement, including without limitation during any period of construction or reconstruction of the Facility, the Lessee shall maintain or cause to be maintained insurance, with insurance companies licensed to do business in the State, against such risks, loss, damage and liability (including liability to third parties) and for such amounts as are customarily insured against by other enterprises of like size and type as that of the Lessee, including, without limitation:

(i) During any period of construction, renovation, improvement or reconstruction of the Facility to the extent not covered by the public liability insurance referred to below, Owners & Contractors Protective Liability insurance for the benefit of the Lessee and the Agency in a minimum amount of \$2,000,000.00 aggregate coverage for personal injury and property damage;

(ii) (A) Property damage insurance and (B) during any period of construction, renovation, improvement or reconstruction of the Facility, Builders' All Risk insurance or its equivalent, whether by endorsement or otherwise, written on one hundred percent (100%) builders' risk completed value, non-reporting form including coverage therein for completion and/or premises occupancy, all of which insurance shall in each case include coverage for removal of debris, insuring the tenant improvements, machinery, equipment, fixtures and other property constituting a part of the Facility against physical loss or damage to the Facility by fire, lightning, vandalism, malicious mischief and other casualties, with standard extended coverage

endorsement covering perils of windstorm, hail, explosion, aircraft, vehicles and smoke (except as limited in the standard form of extended coverage endorsement at the time in use in the State) at all times in an amount such that the proceeds of such insurance shall be sufficient to prevent the Lessee and the Agency from becoming a co-insurer of any loss under the insurance policies but in any event in amounts equal to not less than eight percent (80%) of the actual replacement value of the Facility as determined by a qualified insurance appraiser or insurer (selected by the Lessee and approved by the Agency) not less often than once every year, at the expense of the Lessee; any such insurance may provide that the insurer is not liable to the extent of the first \$10,000.00 with the result that the Lessee is its own insurer to the extent of \$10,000.00 of such risks it being understood that from and after the date hereof, such amount may be increased provided that such amount shall in no event exceed deductible amounts customarily included in policies of financially sound and reputable insurers with entities of established reputations engaged in the same or similar businesses as Lessee;

(iii) Public liability insurance in accordance with customary insurance practices for similar operations with respect to the Facility and the business thereby conducted in a minimum amount of \$2,000,000.00, which insurance (A) will also provide coverage of the Lessee's obligations of indemnity under Section 6.2 hereof (other than the liability pursuant to Section 6.2(a)(i) and (v) hereof, and with respect to Section 6.2(c) hereof, only to the extent such insurance is reasonably available), (B) may be effected under overall blanket or excess coverage policies of the Lessee or any Affiliate, **provided, however**, that at least \$500,000.00 is effected by a comprehensive liability insurance policy, and (C) as of the date hereof, shall not contain any provisions for a deductible amount greater than \$10,000.00 per occurrence, it being understood that from and after the date hereof, such amount may be increased, **provided** that such amount shall in no event exceed deductible amounts customarily included in policies of financially sound and reputable insurers with entities of established reputations engaged in the same or similar businesses as Lessee;

(iv) RESERVED

(v) Workers' compensation insurance, disability benefits insurance and such other forms of insurance which the Lessee or the Agency is required by law to provide; and

(vi) Such other insurance in such amounts and against such insurable hazards as the Agency from time to time may reasonably require as set forth in a written notice from an Authorized Representative of the Agency submitted to an Authorized Representative of the Lessee.

(b) All insurance required by Section 4.4(a) above shall be procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write such insurance in the State.

(c) Each of the policies or binders evidencing the insurance required above to be obtained shall:

(i) designate (except in the case of workers' compensation insurance) the Agency as an additional insured as its interests may appear with respect to Public/General Liability Policy and as a loss payee with respect to the Builder's Risk insurance or its equivalent;

(ii) provide that there shall be no recourse against the Agency for the payment of premiums or commissions or (if such policies or binders provide for the payment thereof) additional premiums or assessments;

(iii) provide that in respect of the interest of the Agency in such policies, the insurance shall not be invalidated by any action or inaction of the Lessee or any other Person and shall insure the Agency regardless of, and any losses shall be payable notwithstanding, any such action or inaction;

(iv) provide that such insurance shall be primary insurance without any right of contribution from any other insurance carried by the Agency to the extent that such other insurance provides the Agency with contingent and/or excess liability insurance with respect to its interest in the Facility;

(v) provide that if the insurers cancel such insurance for any reason whatsoever, including the insured's failure to pay any accrued premium, or the same is allowed to lapse or expire, or there be any reduction in amount, or any material change is made in the coverage, such cancellation, lapse, expiration, reduction or change shall not be effective as to the Agency until at least thirty (30) days after receipt by the Agency of written notice by such insurers of such cancellation, lapse, expiration, reduction or change;

(vi) waive any right of subrogation of the insurers thereunder against any Person insured under such policy, and waive any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any Person insured under such policy; and

(vii) contain such other terms and provisions as any owner or operator of facilities similar to the Facility would, in the prudent management of its properties, require to be contained in policies, binders or interim insurance contracts with respect to facilities similar to the Facility owned or operated by it.

(d) The Net Proceeds of any insurance received with respect to any loss or damage to the property of the Facility shall be applied in accordance with Section 5.1 of this Agreement.

(e) As a condition to the execution and delivery of this Agreement by the Agency, the Lessee, at or prior to the Commencement Date, shall deliver or cause to be delivered to the Agency duplicate copies of the insurance policies and binders or certificates evidencing compliance with the insurance requirements of this Section 4.4. At least ten (10) Days prior to the expiration of any such policy, the Lessee shall furnish the Agency with evidence that such policy has been renewed or replaced or is no longer required by this Agreement.

(f) The Lessee, at its own cost and expense, shall make all proofs of loss and take all other steps necessary or reasonably requested by the Agency to collect from insurers for any loss covered by any insurance required to be obtained by this Section 4.4, and shall cause any sublessee, contractor or other insuring party under this Section 4.4 to take similar action with respect to such party's insurance required hereunder. The Lessee shall not do any act, or suffer or permit any act to be done, whereby any insurance required by this Section 4.4 would or might be suspended or impaired.

(g) **THE AGENCY DOES NOT IN ANY WAY REPRESENT THAT THE INSURANCE SPECIFIED HEREIN, WHETHER IN SCOPE OF COVERAGE OR LIMITS OF COVERAGE, IS ADEQUATE OR SUFFICIENT TO PROTECT THE OPERATION OF THE FACILITY OR THE BUSINESS, OPERATIONS OR FINANCIAL CONDITION OF THE LESSEE.**

Section 4.5 Compliance with Law. The Lessee agrees that it will, throughout the term of this Agreement and at its sole cost and expense, promptly observe and comply with all Federal, State and local statutes, codes, laws, acts, ordinances, orders, judgments, decrees, rules, regulations and authorizations, whether foreseen or unforeseen, ordinary or extraordinary, which shall now or at any time hereafter be binding upon or applicable to the Lessee, the Facility, any occupant, user or operator of the Facility or any portion thereof (including, without limitation, those relating to zoning, land use, building codes, environmental protection, air, water and land pollution, toxic wastes, hazardous wastes, solid wastes, wetlands, health, safety, equal opportunity, minimum wages, employment practices, and the Agency's Labor Policy, a copy of which is annexed hereto as **Appendix A**) (the "**Legal Requirements**"), and will observe and comply with all conditions, requirements, and schedules necessary to preserve and extend all rights, licenses, permits (including, without limitation, zoning variances, special exception and non-conforming uses), privileges, franchises and concessions. The Lessee will not, without the prior written consent of the Agency (which consent shall not be unreasonably withheld or delayed), initiate, join in or consent to any private restrictive covenant, zoning ordinance or other public or private restrictions limiting or defining the uses that may be made of the Facility or any part thereof. The Lessee shall indemnify and hold harmless the Indemnified Parties (as defined in Section 6.2 hereof) from and against all loss, cost, liability and expense (a) in any manner arising out of or related to any violation of or failure by the Lessee (or any other Person occupying, operating or using the Facility or any part thereof) to comply with any Legal Requirement, or (b) imposed upon the Lessee or any of the Indemnified Parties by any Legal Requirement; in case any action or proceeding is brought against any of the Indemnified Parties in respect of any Legal Requirement, the Lessee shall upon notice from any of the Indemnified Parties defend such action or proceeding by counsel reasonably satisfactory to the Indemnified Party.

The Lessee may contest in good faith the validity, existence or applicability of any of the foregoing if (i) such contest shall not result in the Facility or any part thereof or interest therein being in any danger of being sold, forfeited or lost, (ii) such contest shall not result in the Lessee or the Agency being in any danger of any civil or any criminal liability for failure to comply therewith, and (iii) the Lessee shall have furnished such security, if any, as may be reasonably requested by the Agency for failure to comply therewith.

ARTICLE V
DAMAGE, DESTRUCTION AND CONDEMNATION

Section 5.1 Damage, Destruction and Condemnation. (a) In the event that at any time during the term of this Agreement the whole or part of the Facility shall be damaged or destroyed, or taken or condemned by a competent authority for any public use or purpose, or by agreement among the Agency, the Lessee and those authorized to exercise such right, or if the temporary use of the Facility shall be so taken by condemnation or agreement (a “**Loss Event**”)

(i) the Agency shall have no obligation to rebuild, replace, repair or restore the Facility,

(ii) the Net Proceeds, to be used for restoration of the Facility, shall be provided to Lessee in accordance with this Lease,

(iii) there shall be no abatement, postponement or reduction in the Rental Payments payable by the Lessee under this Agreement or any other Project Document to which it is a party, and

(iv) the Lessee will give written notice of such Loss Event within five (5) business days to the Agency, generally describing the nature and extent thereof.

(b) In the event a Loss Event shall occur, and only to the extent Lessee is capable after the completion of any repair or restoration work completed by its underlying landlord, the Lessee shall

(i) at its own cost and expense (except to the extent paid from the Net Proceeds as provided below) promptly and diligently rebuild, replace, repair or restore the Facility to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent value, operating efficiency and function and the Lessee shall not by reason of payment of any such excess costs be entitled to any reimbursement from the Agency, nor shall the Rental Payments payable by the Lessee under this Agreement or any other Project Document to which it is a party be abated, postponed or reduced, or

As soon as practicable but no later than ninety (90) days after the occurrence of the Loss Event, the Lessee shall advise the Agency in writing of the action to be taken by the Lessee under this Section 5.1(b).

(c) All rebuilding, replacements, repairs or restorations of the Facility in respect of or occasioned by a Loss Event shall

(i) automatically be deemed a part of the Facility and shall be subject to this Agreement,

(ii) be effected only if the Lessee shall deliver to the Agency an Opinion of Counsel acceptable to the Agency to the effect that such rebuilding, replacement, repair or

restoration shall not change the nature of the Facility as an Approved Facility and a qualified “project” as defined in the Act,

(iii) be effected only if the Lessee shall deliver to the Agency a labor and materials payment bond, or other security, satisfactory to the Agency, and

(iv) be effected with due diligence in a good and workmanlike manner, in compliance with all applicable legal requirements and be promptly and fully paid for by the Lessee in accordance with the terms of the applicable contract(s) therefor.

(d) The date of completion of the rebuilding, replacement, repair or restoration of the Facility after the occurrence of a Loss Event shall be evidenced to the Agency by a certificate of an Authorized Representative of the Lessee stating (i) the date of such completion, (ii) that all labor, services, machinery, equipment, materials and supplies used therefor and all costs and expenses in connection therewith have been paid for, (iii) that the Facility has been rebuilt, replaced, repaired or restored to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent value, operating efficiency and function, (iv) that the Agency has good and valid title to all personal property constituting part of the Facility and all property of the Facility is subject to this Agreement, subject to Permitted Encumbrances, and (v) that the restored Facility is ready for occupancy, use and operation for its intended purposes. Notwithstanding the foregoing, such certificate shall state (x) that it is given without prejudice to any rights of the Lessee against third parties which exist at the date of such certificate or which may subsequently come into being, (y) that it is given only for the purposes of this Section and (z) that no Person other than the Agency may benefit therefrom. Such certificate shall be accompanied by (i) a certificate of occupancy, if required, and any and all permissions, licenses or consents required of governmental authorities for the occupancy, operation and use of the Facility for the purposes contemplated by this Agreement; and (ii) a search prepared by a title company, or other evidence satisfactory to the Agency, indicating that there has not been filed with respect to the Facility any mechanic's, materialmen's or any other lien in connection with the rebuilding, replacement, repair and restoration of the Facility and that there exists no encumbrances on or affecting the Facility or any part thereof other than Permitted Encumbrances or those encumbrances consented to by the Agency.

(e) Notwithstanding anything contained herein to the contrary, if all or substantially all of the Facility shall be taken or condemned, or if the taking or condemnation renders the Facility unsuitable for use by the Lessee as contemplated hereby, the Lessee may exercise its option to terminate this Agreement as provided in Section 8.1 hereof.

(f) The Lessee shall be entitled to any insurance proceeds or condemnation award, compensation or damages attributable to the Lessee's Property.

(g) The Lessee hereby waives the provisions of Section 227 of the New York Real Property Law or any law of like import now or hereafter in effect.

ARTICLE VI
PARTICULAR COVENANTS

Section 6.1 Restrictions on Lessee. The Lessee covenants and agrees that at all times during the term of this Agreement, it will (i) maintain its corporate existence, (ii) continue to be subject to service of process in the State of New York and qualified to do business in, the State of New York, and (iii) not liquidate, wind-up or dissolve or otherwise dispose of all or substantially all of its property, business or assets remaining after the Commencement Date.

The Lessee further covenants that any corporation or entity succeeding to the rights of the Lessee under this Agreement shall be and continue to be duly qualified to do business in the State.

Section 6.2 Indemnity. (a) The Lessee shall at all times protect and hold the Agency and any director, member, officer, employee, servant or agent thereof and persons under the Agency's control or supervision (collectively, the "**Indemnified Parties**" and each an "**Indemnified Party**") harmless of, from and against any and all claims (whether in tort, contract or otherwise), demands, expenses and liabilities for losses, damage, injury and liability of every kind and nature and however caused, and taxes (of any kind and by whomsoever imposed), other than, with respect to each Indemnified Party, disputes associated with the obligations of the parties under this Agreement, or losses arising from the gross negligence or willful misconduct of such Indemnified Party, arising upon or at the Facility or resulting from, arising out of, or in any way connected with (i) the financing of the costs of the Facility and the participation of the Agency in the transactions contemplated by this Agreement and the other Project Documents, (ii) the planning, design, acquisition, site preparation, construction, renovation, equipping, installation or completion of the Project or any part thereof or the effecting of any work done in or about the Facility, (iii) any defects (whether latent or patent) in the Facility, (iv) the maintenance, repair, replacement, restoration, rebuilding, upkeep, use, occupancy, ownership, leasing, subletting or operation of the Facility or any portion thereof, or (v) the execution and delivery by the Indemnified Party or the Lessee of, or performance by the Indemnified Party or the Lessee, as the case may be, of, any of its obligations under, this Agreement or any other Project Document or any other document or instrument delivered in connection herewith or therewith or the enforcement of any of their terms hereof or thereof or the transactions contemplated hereby or thereby. The Indemnified Parties, jointly or severally, shall not be liable for any damage or injury to the person or property of the Lessee or their respective managers, members, partners, employees, agents or servants or persons under the control or supervision of the Lessee or any other Person who may be at the Facility, due to any act or negligence of any Person other than, with respect to any Indemnified Party, the gross negligence or willful misconduct of such Indemnified Party.

(b) Lessee releases the Indemnified Parties from, and agrees that the Indemnified Parties shall not be liable for and the Lessee agrees to indemnify and hold the Indemnified Parties harmless against any expense, loss, damage, injury or liability incurred because of any lawsuit commenced as a result of action taken by any Indemnified Party with respect to any of the matters set forth in subdivision (i) through (v) of Section 6.2(a) hereof or at the direction of the Lessee with respect to any of such matters above referred to. Each Indemnified Party, as the case may be, shall promptly notify the Lessee in writing of any claim or action brought against such Indemnified Party in which indemnity may be sought against the Lessee pursuant to

this Section 6.2; such notice shall be given in sufficient time to allow the Lessee to defend or participate in such claim or action, but the failure to give such notice in sufficient time shall not constitute a defense hereunder nor in any way impair the obligations of the Lessee under this Section 6.2.

(c) To effectuate the purposes of this Section 6.2, the Lessee will provide for and insure, in the public liability policies required in Section 4.4 hereof, not only its own liability in respect of the matters therein mentioned but also the liability pursuant to this Section 6.2 (other than the liability pursuant to Section 6.2(a)(i) and (v) hereof). Anything to the contrary in this Agreement notwithstanding, the covenants of the Lessee contained in this Section 6.2 shall remain in full force and effect after the termination of this Agreement until the later of (i) the expiration of the period stated in the applicable statute of limitations during which a claim or cause of action may be brought and (ii) payment in full or the satisfaction of such claim or cause of action and of all expenses and charges incurred by the Agency relating to the enforcement of the provisions herein specified.

(d) For the purposes of this Section 6.2, the Lessee shall not be deemed an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

Section 6.3 Compensation and Expenses of the Agency. The Lessee shall pay the fees, costs and expenses of the Agency together with any reasonable and necessary fees and disbursements incurred by the Agency's Project Counsel and the Agency's general counsel in performing services for the Agency in connection with this Agreement or any other Project Document.

The Lessee further agrees to pay, as an annual administrative servicing fee to the Agency, the amount of \$500.00 payable upon the Commencement Date and on every January 1 thereafter until the termination of this Agreement.

Section 6.4 Retention of Title to Facility; Grant of Easements; Release of Facility Realty. (a) The Agency shall not sell, assign, encumber (other than for Permitted Encumbrances), convey or otherwise dispose of the Facility or any part thereof or interest therein during the term of this Agreement, except as set forth in Sections 4.2, 5.1 and 7.2 hereof, without the prior written consent of the Lessee and any purported disposition without such consent shall be void.

Notwithstanding the foregoing paragraph, the Agency will, at the written request of an Authorized Representative of the Lessee, so long as there exists no Event of Default hereunder, grant such rights of way or easements over, across, or under, the Facility Realty, or grant such permits or licenses in respect to the use thereof, free from the leasehold estate of this Agreement, as shall be necessary or convenient for the operation or use of the Facility, provided that such leases, rights of way, easements, permits or licenses shall not adversely affect the use or operation of the Facility. The Agency agrees, at the sole cost and expense of the Lessee, to execute and deliver any and all instruments necessary or appropriate to confirm and grant any such right of way or easement or any such permit or license and to release the same from the leasehold estate of this Agreement.

(b) No conveyance or release affected under the provisions of this Section 6.4 shall entitle the Lessee to any abatement or diminution of the Rental Payments payable under Section 3.3 hereof required to be made by the Lessee under this Agreement or any other Project Document to which it shall be a party.

Section 6.5 Discharge of Liens. (a) If any lien, encumbrance or charge is filed or asserted (including, without limitation, any lien for the performance of any labor or services or the furnishing of materials), or any judgment, decree, order, levy or process of any court or governmental body is entered, made or issued or any claim (such liens, encumbrances, charges, judgments, decrees, orders, levies, processes and claims being herein collectively called “**Liens**”), whether or not valid, is made against the Facility or any part thereof or the interest therein of the Agency or the Lessee or against any of the Rental Payments payable under this Agreement or the interest of the Agency or the Lessee under this Agreement, other than Liens for Impositions (as defined in Section 4.3 hereof) not yet payable, Permitted Encumbrances, or Liens being contested as permitted by Section 6.5(b) hereof, the Lessee forthwith upon receipt of notice of the filing, assertion, entry or issuance of such Lien (regardless of the source of such notice) shall give written notice thereof to the Agency and the Lessee and take all action (including the payment of money and/or the securing of a bond) at its own cost and expense as may be necessary or appropriate to obtain the discharge in full thereof and to remove or nullify the basis therefor within one hundred twenty (120) days of filing. Nothing contained in this Agreement shall be construed as constituting the express or implied consent to or permission of the Agency for the performance of any labor or services or the furnishing of any materials that would give rise to any Lien against the Agency's interest in the Facility.

(b) The Lessee may at its sole expense contest (after prior written notice to the Agency), by appropriate action conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Lien, if (1) such proceeding shall suspend the execution or enforcement of such Lien against the Facility or any part thereof or interest therein, or in this Agreement, of the Agency or the Lessee or against any of the Rental Payments payable under this Agreement, (2) neither the Facility nor any part thereof or interest therein would be in any danger of being sold, forfeited or lost, (3) neither the Lessee nor the Agency would be in any danger of any civil or any criminal liability, for failure to comply therewith, and (4) the Lessee shall have furnished such security, if any, as may be required in such proceedings or as may be reasonably requested by the Agency.

Section 6.6 No Warranty of Condition or Suitability. THE AGENCY HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, FITNESS, DESIGN, OPERATION OR WORKMANSHIP OF ANY PART OF THE FACILITY, ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OR CAPACITY OF THE MATERIALS IN THE FACILITY, OR THE SUITABILITY OF THE FACILITY FOR THE PURPOSES OR NEEDS OF THE LESSEE OR ANY SUBLESSEE OR THE EXTENT TO WHICH FUNDS AVAILABLE TO THE LESSEE WILL BE SUFFICIENT TO PAY THE COST OF COMPLETION OF THE PROJECT. LESSEE ACKNOWLEDGES THAT THE AGENCY IS NOT THE MANUFACTURER OF THE FACILITY EQUIPMENT NOR THE MANUFACTURER'S AGENT NOR A

DEALER THEREIN. THE LESSEE IS SATISFIED THAT THE FACILITY IS SUITABLE AND FIT FOR PURPOSES OF THE LESSEE. THE AGENCY SHALL NOT BE LIABLE IN ANY MANNER WHATSOEVER TO THE LESSEE OR ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED, DIRECTLY OR INDIRECTLY, BY THE PROPERTY OF THE FACILITY OR THE USE OR MAINTENANCE THEREOF OR THE FAILURE OF OPERATION THEREOF, OR THE REPAIR, SERVICE OR ADJUSTMENT THEREOF, OR BY ANY DELAY OR FAILURE TO PROVIDE ANY SUCH MAINTENANCE, REPAIRS, SERVICE OR ADJUSTMENT, OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE THEREOF OR FOR ANY LOSS OF BUSINESS HOWSOEVER CAUSED.

Section 6.7 Financial Statements; No-Default Certificates. The Lessee agrees to furnish to the Agency, as soon as available and in any event within one hundred twenty (120) days after the close of each fiscal year of the Lessee, a copy of the most recent fiscal year annual reviewed and certified financial statements of Lessee and its subsidiaries (including balance sheets as at the end of such most recent fiscal year and the related statements of income, earnings, retained earnings and changes in financial position) for such fiscal year, prepared in accordance with generally accepted accounting principles and practices.

Section 6.8 Employment Information, Opportunities and Guidelines. (a) Annually, by October 1 of each year until the termination of this Agreement, the Lessee shall submit to the Agency an employment report relating to the period commencing July 1 of the previous year and ending June 30 of the year of the obligation of the filing of such report, in the form required by the Agency and/or the State, certified as to accuracy by the chief financial or accounting officer of the Lessee.

(b) The Lessee shall ensure that all employees and applicants for employment by the Lessee or its Affiliates with regard to the Facility are afforded equal employment opportunities without discrimination and shall comply New York General Municipal Law §858-b. Except as is otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of the Project shall be listed with the New York State Department of Labor Community Services Division, and with the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. No. 97-300) in which the Facility Realty is located. Except as is otherwise provided by collective bargaining contracts or agreements, the Lessee agrees, where practicable, to first consider, and cause each of its Affiliates at the Facility to first consider, persons eligible to participate in the Federal Job Training Partnership (P.L. No. 97-300) programs who shall be referred by administrative entities of service delivery areas created pursuant to such act or by the Community Services Division of the New York State Department of Labor for such new employment opportunities.

(c) The Lessee hereby authorizes any private or governmental entity, including but not limited to the New York State Department of Labor (“**DOL**”), to release to the Agency and/or the County of Rockland Economic Development Corporation (“**EDC**”), and/or to the successors and assigns of either (collectively, the “**Information Recipients**”), any and all employment information under its control and pertinent to the Lessee and the employees of the Lessee to enable the Agency and/or EDC to comply with its reporting requirements required by

any and all applicable laws, rules or regulations. In addition, upon the Agency's request, the Lessee shall provide to the Agency any employment information in the possession of the Lessee which is pertinent to the Lessee and the employees of the Lessee to enable the Agency and/or EDC to comply with its reporting requirements required by any and all applicable laws, rules or regulations. Information released or provided to Information Recipients by DOL, or by any other governmental entity, or by any private entity, or by the Lessee, or any information previously released as provided by all or any of the foregoing parties (collectively, “**Employment Information**”) may be disclosed by the Information Recipients in connection with the administration of the programs of the Agency, and/or EDC, and/or the successors and assigns of either, and/or the County of Rockland, and/or as may be necessary to comply with law; and, without limiting the foregoing, the Employment Information may be included in (x) reports prepared by the Information Recipients pursuant to applicable laws, rules or regulations, (y) other reports required of the Agency, and (z) any other reports required by law. This authorization shall remain in effect throughout the term of this Agreement.

(d) Nothing in this Section shall be construed to require the Lessee to violate any existing collective bargaining agreement with respect to hiring new employees.

(e) The Lessee shall comply with New York State Labor Law Article 8, Section 220 et seq. regarding prevailing wages during the term of this Lease and shall ensure that not less than the prevailing rate of wages as determined by the New York Department of Labor shall be paid to all laborers, workers and mechanics performing work on, at or for the Project. All contracts and contractor’s bonds if required, shall include a provision to guarantee the faithful performance of New York State Labor Law Article 8, Section 220 et seq. regarding prevailing wages.

Section 6.9 Further Assurances. The Lessee shall do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such further acts, instruments, conveyances, transfers and assurances, including Uniform Commercial Code financing statements, if applicable, at the sole cost and expense of the Lessee, as the Agency deems necessary or advisable for the implementation, effectuation, correction, confirmation or perfection of this Agreement and any rights of the Agency hereunder.

Section 6.10 Recording and Filing. A memorandum of this Agreement shall be recorded by the Lessee in the appropriate office of the Clerk of the County of Rockland, or in such other office as may at the time be provided by law as the proper place for the recordation thereof.

Section 6.11 Further Encumbrances. The Lessee shall not create, permit or suffer to exist any mortgage, encumbrance, lien, security interest, claim or charge against the Facility or any part thereof, or the interest of the Lessee in the Facility or this Agreement, except for Permitted Encumbrances.

ARTICLE VII
EVENTS OF DEFAULT; REMEDIES

Section 7.1 Events of Default. Any one or more of the following events shall constitute an “Event of Default” hereunder:

(a) Failure of the Lessee to pay any amount (including Rental Payment, fee or charge) within fifteen (15) days of the due date thereof;

(b) Failure of the Lessee to observe and perform any covenant, condition or agreement on its part to be performed under this Agreement and (i) continuance of such failure for a period of thirty (30) days after receipt by the Lessee of written notice specifying the nature of such default from the Agency, or (ii) if by reason of the nature of such default the same can be remedied, but not within the said thirty (30) days, the Lessee fails to proceed within (thirty) 30 days after receipt of said notice to cure the same or fails to continue with reasonable diligence its efforts to cure the same;

(c) The Lessee shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, liquidator, custodian or trustee of itself or of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts generally become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vi) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under the Federal Bankruptcy Code, (vii) take any action for the purpose of effecting any of the foregoing, or (viii) be adjudicated a bankrupt or insolvent by any court;

(d) A proceeding or case shall be commenced, without the application or consent of the Lessee, in any court of competent jurisdiction, seeking, (i) liquidation, reorganization, dissolution, winding-up or composition or adjustment of debts, (ii) the appointment of a trustee, receiver, liquidator, custodian or the like of the Lessee or of all or any substantial part of their respective assets, or (iii) similar relief under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of sixty (60) days; or any order for relief against the Lessee shall be entered in an involuntary case under the Federal Bankruptcy Code; the terms “dissolution” or “liquidation” of the Lessee as used above shall not be construed to prohibit any action otherwise permitted by Section 6.1 hereof;

(e) Any representation or warranty made (i) by the Lessee in the application and related materials submitted to the Agency for approval of the Project or the transactions contemplated by this Agreement, or (ii) by the Lessee herein or by the Lessee in any other Project Document, or (iii) in any report, certificate, financial statement or other instrument furnished pursuant hereto or any of the foregoing, shall prove to be false, misleading or incorrect in any material respect as of the date made;

- (f) The commencement of proceedings to foreclose the lien of any mortgage or lien on the Facility Realty;
- (g) Any loss by the Agency of its leasehold rights to the Facility Realty;
- (h) The Lessee shall have transferred all or substantially all of its employees located at the Facility to a location outside of the County;
- (i) The failure of the Lessee to: (i) meet the job predictions set forth in the Application; (ii) comply with the Agency's Labor Policy (Appendix A attached); (iii) provide required reports to the State or the Agency; or (iv) comply with the terms of the Sales Tax Letter, if any;
- (j) The Lessee shall have sold, leased, transferred or otherwise disposed of all or substantially all of the Facility Equipment; or
- (k) The Lessee shall have vacated all or part of the Facility at any time during the Lease Term.

Section 7.2 Remedies on Default. Whenever any Event of Default referred to in Section 7.1 hereof shall have occurred and be continuing, the Agency may take any one or more of the following remedial steps:

- (a) The Agency may terminate this Agreement (with the effect that the term of this Agreement shall be deemed to have expired on such date of termination as if such date were the original expiration date of this Agreement) in which case this Agreement and all of the estate, right, title and interest herein granted or vested in the Lessee shall cease and terminate, and convey all of the Agency's right, title and interest in the Facility to the Lessee, which the Agency may accomplish by executing, at the sole cost and expense of the Lessee, a termination of the Head Lease therefor as required by law, and a bill of sale, and the Lessee hereby waives delivery and acceptance of such termination of Head Lease and bill of sale as a condition to its validity, and appoints the Agency its true and lawful agent and attorney-in-fact (which appointment shall be deemed to be an agency coupled with an interest) with full power of substitution to file on its behalf all affidavits, questionnaires and other documentation necessary to accomplish the recording of such termination of Head Lease or a memorandum thereof, provided however, that if the Lender obtains a Judgment of Foreclosure, this Agreement shall terminate upon the Agency's receipt of notice of same ; or
- (b) The Agency may bring an action for damages, injunction or specific performance;
- (c) The Agency may suspend or terminate the Sale Tax Letter or require the Lessee to surrender the Sales Tax Letter to the Agency for cancellation;

(d) The Agency may take whatever action at law or in equity as may appear necessary or desirable to collect the Rental Payments then due, or to enforce performance or observance of any obligations, agreements or covenants of the Lessee under this Agreement.

No action taken pursuant to this Section 7.2 (including termination of this Agreement pursuant to this Section 7.2 or by operation of law or otherwise) shall, except as expressly provided herein, relieve the Lessee from its obligations hereunder, and under Sections 6.2, 8.5, 9.12 and 9.14 hereof all of which shall survive any such action.

Section 7.3 Remedies Cumulative. The rights and remedies of the Agency under this Agreement shall be cumulative and shall not exclude any other rights and remedies of the Agency allowed by law with respect to any default under this Agreement. Failure by the Agency to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon default by the Lessee hereunder shall not be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce by mandatory injunction, specific performance or other appropriate legal remedy a strict compliance by the Lessee with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such default by the Lessee be continued or repeated.

Section 7.4 No Additional Waiver Implied by One Waiver. In the event any covenant or agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver shall be binding unless it is in writing and signed by the party making such waiver. No course of dealing between the Agency and the Lessee or any delay or omission on the part of the Agency in exercising any rights hereunder or under any other Project Document shall operate as a waiver.

Section 7.5 Effect on Discontinuance of Proceedings. In case any proceeding taken by the Agency under this Agreement or under any other Project Document on account of any Event of Default hereunder or thereunder shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Agency, then, and in every such case, the Agency shall be restored to its former position and rights hereunder and thereunder, and all rights, remedies, powers and duties of the Agency shall continue as in effect prior to the commencement of such proceedings.

Section 7.6 Agreement to Pay Attorneys' Fees and Expenses. In the event the Lessee should default under any of the provisions of this Agreement and the Agency should employ attorneys or incur other reasonable and necessary expenses for the collection of the Rental Payments payable hereunder or the enforcement of performance or observance of any obligation or agreement on the part of the Lessee herein contained, the Lessee agrees that it will on demand therefor pay to the Agency the reasonable fees and disbursements of such attorneys and such other expenses so incurred.

ARTICLE VIII
OPTIONS TO PURCHASE THE FACILITY; RECAPTURE OF BENEFITS

Section 8.1 Option to Purchase Facility and to Terminate Agreement.

(a) The Lessee shall have the option to purchase the Agency's interest in the Facility and to terminate this Agreement on any date during the term hereof by paying, or causing to be paid, all Rental Payments due hereunder. The Lessee shall exercise such option by delivering to the Agency a written notice of an Authorized Representative of the Lessee to an Authorized Representative of the Agency stating that the Lessee has elected to exercise its option under this Section 8.1(a) and the date on which such purchase and termination is to be made. In addition, the Lessee shall purchase the Agency's interest in the Facility on the scheduled expiration date of this Agreement by paying on such date any and all Rental Payments then due hereunder.

(b) The Lessee, in purchasing the Agency's interest in the Facility and terminating this Agreement pursuant to Section 8.1(a) hereof, shall pay to the Agency, as the purchase price, in legal tender, an amount equal to all Rental Payments due hereunder, plus one dollar (\$1.00).

(c) Except to the extent permitted under Section 3.2 hereof, the Lessee shall not, at any time, assign or transfer its option to purchase the Agency's interest in the Facility as contained in this Section 8.1 separate and apart from a permitted assignment of this Agreement pursuant to the terms of Section 9.2 hereof without the prior written consent of the Agency.

Section 8.2 Conveyance on Exercise of Option to Purchase. At the closing of any purchase of the Agency's interest in the Facility pursuant to Section 8.1 hereof, the Agency will, upon payment of the purchase price, deliver or cause to be delivered to the Lessee (i) a termination of the Head Lease, and all other necessary documents conveying to the Lessee all of the Agency's right and interest in and to the Facility and terminating this Agreement; and (ii) all necessary documents releasing and conveying to the Lessee all of the Agency's rights and interests in and to any rights of action (other than as against the Lessee or any insurer of the insurance policies under Section 4.4(a)(iii) hereof), or any insurance proceeds (other than liability insurance proceeds for the benefit of the Agency) or condemnation awards, with respect to the Facility or any portion thereof.

Upon conveyance of the Agency's interest in the Facility pursuant to this Section 8.2, this Agreement and all obligations of the Lessee hereunder shall be terminated and under Sections 6.2, 8.5, 9.12 and 9.14 hereof shall survive such termination.

Section 8.3 [Reserved].

Section 8.4 [Reserved].

Section 8.5 Recapture of Agency Benefits. It is understood and agreed by the parties to this Agreement that the Agency is entering into this Agreement in order to provide financial assistance to the Lessee for the Project and to accomplish the public purposes of the Act. In

consideration therefor, the Lessee hereby agrees that if there shall occur a Recapture Event (as defined below) at any time during the term of this Agreement the Lessee shall pay to the Agency as a return of public benefits conferred by the Agency the following amounts:

(a) one hundred percent (100%) of the Benefits (as defined below) if the Recapture Event occurs within the first year after the Commencement Date;

(b) seventy five percent (75%) of the Benefits if the Recapture Event occurs during the 2nd year after the Commencement Date; and

(c) fifty percent (50%) of the Benefits if the Recapture Event occurs during the 3rd year or thereafter after the Commencement Date.

The term “**Benefits**” shall mean, collectively:

all miscellaneous benefits derived from the Agency's participation in the straight-lease transaction contemplated by this Agreement, including, but not limited to, any exemption from any applicable mortgage recording tax, transfer tax, sales or use tax and filing and recording fees.

The term “**Recapture Event**” shall mean any of the following events:

(a) The Lessee shall have liquidated its operations and/or assets at the Facility (absent a showing of extreme hardship as determined by the Agency in its reasonable discretion);

(b) The Lessee shall have ceased all or substantially all of its operations at the Facility (whether by relocation to another facility, or otherwise, or whether to another location either within, or outside of the County);

(c) The Lessee shall have transferred all or substantially all of its employees to a location outside of the County;

(d) The Lessee shall have effected a substantial change in the scope and nature of the operations at the Facility as determined by the Agency in its reasonable discretion;

(e) The Lessee shall have subleased all or any portion of the Facility in violation of the limitations imposed by Section 9.2 hereof, without the prior written consent of the Agency;

(f) The Lessee shall have sold, leased, transferred or otherwise disposed of all or substantially all of its interest in the Facility, except (i) in connection with a transfer or other disposition to any corporation or other entity into or with which the Lessee may be merged or

consolidated or to any corporation or other entity which shall be an affiliate, subsidiary, parent or successor of the Lessee or (ii) as permitted under Section 9.2 hereof; or

(g) An Event of Default shall have occurred pursuant to the provisions of Section 7.1.

Notwithstanding the foregoing, a Recapture Event shall not be deemed to have occurred if the Recapture Event shall have arisen as a direct, immediate result of (i) a taking or condemnation by governmental authority of all or substantially all of the Facility, or (ii) the inability at law of the Lessee to rebuild, repair, restore or replace the Facility after the occurrence of a Loss Event to substantially its condition prior to such Loss Event, which inability shall have arisen in good faith through no fault on the part of the Lessee or any Affiliate.

(a) The Lessee covenants and agrees to furnish the Agency with written notification upon any Recapture Event or disposition of the Facility or any portion thereof during the term of this Agreement, which notification shall set forth the terms of such Recapture Event and/or disposition.

(b) The Agency, in its sole discretion, may waive all or any portion of any payment owing by the Lessee under this Section 8.5.

(c) The Lessee covenants and agrees to furnish the Agency with written notification upon any such disposition of the Facility or any portion thereof made within ten (10) years of its completion, which notification shall set forth the terms of such sale.

(d) The provisions of this Section 8.5 shall survive the termination of this Agreement for any reason whatsoever, notwithstanding any provision of this Agreement to the contrary.

Section 8.6 Agency Termination Fee. In the event a Recapture of Benefits event shall occur under Section 8.5, the Lessee shall pay to the Agency a sum equal to one percent (1%) of the Benefits Recaptured as a result of the early termination of this Agreement.

ARTICLE IX MISCELLANEOUS

Section 9.1 Force Majeure. In case by reason of *force majeure* the Agency or the Lessee shall be rendered unable wholly or in part to carry out its obligations under this Agreement, then except as otherwise expressly provided in this Agreement, if such party shall give notice and full particulars of such *force majeure* in writing to the other party within a reasonable time after occurrence of the event or cause relied on, the obligations of the party giving such notice (other than the obligations of the Lessee to make the Rental Payments required under the terms hereof, or to comply with Sections 4.4 or 6.2 hereof), so far as they are affected by such *force majeure*, shall be suspended during the continuance of the inability then claimed, which shall include a reasonable time for the removal of the effect thereof, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "*force*

majeure”, as employed herein, shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States or of the State or any civil or military authority, insurrections, riots, epidemics, pandemics (including governmental restrictions limited working hours at the Facility), landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrest, restraining of government and people, civil disturbances, explosions, partial or entire failure of utilities, shortages of labor, material, supplies or transportation, or any other similar or different cause not reasonably within the control of the party claiming such inability. It is understood and agreed that the requirements that any *force majeure* shall be reasonably beyond the control of the party and shall be remedied with all reasonable dispatch shall be deemed to be satisfied in the event of a strike or other industrial disturbance even though existing or impending strikes or other industrial disturbances could have been settled by the party claiming a *force majeure* hereunder by acceding to the demands of the opposing person or persons.

The Lessee shall promptly notify the Agency upon the occurrence of each *force majeure*, describing such *force majeure* and its effects in reasonable detail. The Lessee shall also promptly notify the Agency upon the termination of each such *force majeure*. The information set forth in any such notice shall not be binding upon the Agency, and the Agency shall be entitled to dispute the existence of any *force majeure* and any of the contentions contained in any such notice received from the Lessee.

Section 9.2 Assignment or Sublease. (a) Lessee shall not at any time except as permitted by clause (f) of this Section 9.2, (i) assign or transfer this Agreement, or (ii) sublet the whole or any part of the Facility without the prior written consent of the Agency, and provided that

(i) the Lessee shall deliver to the Agency an Opinion of Counsel acceptable to the Agency to the effect that the assignment or sublease shall not cause the Facility to cease being an Approved Facility and a “project” under the Act;

(ii) the Lessee shall remain primarily liable to the Agency for the payment of all Rental Payments hereunder and for the full performance of all of the terms, covenants and conditions of this Agreement and of any other Project Document to which it shall be a party;

(iii) any assignee or transferee of the Lessee in whole of the Facility shall have assumed in writing (and shall have executed and delivered to the Agency an instrument in form for recording) and have agreed to keep and perform all of the terms of this Agreement on the part of the Lessee to be kept and performed, shall be jointly and severally liable with the Lessee, for the performance thereof, shall be subject to service of process in the State, and, if a corporation, shall be qualified to do business in the State;

(iv) any assignee, transferee or sublessee shall utilize the Facility as an Approved Facility and a qualified “project” within the meaning of the Act;

(v) such assignment, transfer or sublease shall not violate any provision of this Agreement or any other Project Document;

(vi) with respect to any subletting in part, the term of each such sublease does not exceed the term of this Agreement, and no more than an aggregate of twenty percent (20%) of the Facility Realty would be subleased by the Lessee;

(vii) in the Opinion of Counsel, such assignment, transfer or sublease shall not legally impair in any respect the obligations of the Lessee for the payment of all Rental Payments nor for the full performance of all of the terms, covenants and conditions of this Agreement which Lessee is obligated to perform or of any other Project Document to which the Lessee shall be a party;

(viii) such sublease shall in no way diminish or impair the Lessee's obligation to carry the insurance required under Section 4.4 of this Agreement and the Lessee shall furnish written evidence satisfactory to the Agency that such insurance coverage shall in no manner be limited by reason of such assignment, transfer or sublease; and

(ix) each such sublease contains such other provisions as the Agency may reasonably require.

The Lessee shall furnish or cause to be furnished to the Agency a copy of any such assignment, transfer or sublease in substantially final form at least ten (10) days prior to the date of execution thereof and the parties hereto agree that such assignment, transfer or sublease shall not be effective until the Agency has granted its consent to same in accordance with the provisions of this Section 9.2.

(b) Any consent by the Agency to any act of assignment, transfer or sublease shall be held to apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver of the duty of the Lessee or the successors or assigns of the Lessee to obtain from the Agency consent to any other or subsequent assignment, transfer or sublease, or as modifying or limiting the rights of the Agency under the foregoing covenant by the Lessee.

(c) If the Facility or any part thereof is sublet or occupied by any Person other than the Lessee (or any permitted sublessee or permitted sub-sublessee), the Agency, in the event of the Lessee's default in the payment of Rental Payments hereunder may, and is hereby empowered to, collect Rental Payments from the sublessee or occupant during the continuance of any such default. In case of such event, the Agency may apply the net amount received by it to the Rental Payments herein provided, and no such collection shall be deemed a waiver of the covenant herein against assignment, transfer or sublease of this Agreement, or constitute the acceptance of the undertenant or occupant as tenant, or a release of the Lessee from the further performance of the covenants herein contained on the part of the Lessee.

(d) Lessee covenants and agrees that it shall not, without the prior written consent of the Agency, amend, modify, terminate or assign, or suffer any amendment, modification, termination or assignment of any sublease entered into in accordance with this Section.

(e) The limitations in this Section 9.2 on assignment or transfer of this Agreement and subletting in whole or in part of the Facility shall have equal application to any sub-subletting in whole or in part of the Facility.

(f) Notwithstanding anything to the contrary contained herein, the parties hereto agree that the provisions of this Section 9.2 shall not apply to the subleases.

(g) Promptly after receipt from the Agency of any subtenant survey and questionnaire pertaining to the Facility, the Lessee shall complete and execute such survey and questionnaire and return the same to the Agency.

Section 9.3 Amendments. This Agreement may be amended by a written instrument executed and delivered by the parties hereto.

Section 9.4 Notices. All notices, certificates or other communications hereunder shall be sufficient if sent (a) by registered or certified United States mail, postage prepaid, (b) by a nationally recognized overnight delivery service, charges prepaid or (c) by hand delivery, addressed, as follows:

If to the Agency, to the Chairperson, County of Rockland Industrial Development Agency, 254 South Main Street, Suite 401, New City, New York 10956 with a copy to the Executive Director of the Agency at the same address, with an additional copy to Bleakley Platt & Schmidt LLP, One Blue Hill Plaza, 3rd Floor, Pearl River, New York 109654, Attention: Rudolph O. Zodda, Esq.

If to Lessee, to Morgan Stanley Services Group Inc., Attention: Geoff Boulter, with a copy to Cuddy & Feder LLP, 445 Hamiltom Avenue, 14th Floor, White Plains, NY 10601 Attention: Joseph P. Carlucci, Esq and Richard J. Sandor, Esq.

The Agency and the Lessee may, by like notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice, certificate or other communication hereunder shall, except as may expressly be provided herein, be deemed to have been delivered or given (i) three (3) Business Days following posting if transmitted by mail, (ii) one (1) Business Day following sending if transmitted by a nationally recognized overnight delivery service, or (iii) upon delivery if given by hand delivery, with refusal by an Authorized Representative of the intended recipient party to accept delivery of a notice given as prescribed above to constitute delivery hereunder. Notices may also be given in compliance with this Agreement by telecopy, provided that the recipient party consents to the use of telecopy transmissions for giving of notices hereunder and receipt of any such telecopy transmission is confirmed by the transmitting party.

Section 9.5 Prior Agreements Superseded. This Agreement, together with the Head Lease, and other Project Documents shall completely and fully supersede all other prior understandings or agreements, both written and oral, between the Agency, and the Lessee relating to the Facility.

Section 9.6 Severability. If any clause, provision or section of this Agreement be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or section shall not affect any of the remaining provisions hereof.

Section 9.7 Inspection of Facility. The Lessee will permit the Agency, or its duly authorized agent, at all reasonable times and upon reasonable notice, to enter the Facility but solely for the purpose of (y) assuring that the Lessee is operating the Facility, or is causing the Facility to be operated, as an Approved Facility and a qualified “project” within the meaning of the Act consistent with the purposes set forth in the recitals to this Agreement and with the public purposes of the Agency, and (z) determining whether the Facility and/or the use thereof is in violation of any environmental law, and not for any purpose of assuring the proper maintenance or repair of the Facility as such latter obligation is and shall remain solely the obligation of the Lessee.

Section 9.8 Effective Date; Counterparts. This Agreement shall become effective upon its delivery on the Commencement Date. It may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9.9 Binding Effect. This Agreement shall inure to the benefit of, and shall be binding upon, the Agency and the Lessee and their respective successors and assigns.

Section 9.10 Third Party Beneficiaries. It is the intention of the parties hereto that nothing contained herein is intended to be for, or to inure to, the benefit of any Person other than the parties hereto.

Section 9.11 Law Governing. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD OR GIVING EFFECT TO THE PRINCIPLES OF CONFLICTS OF LAWS THEREOF.

Section 9.12 Waiver of Trial by Jury. The parties do hereby expressly waive all rights to trial by jury on any cause of action directly or indirectly involving the terms, covenants or conditions of this Agreement or the Facility or any matters whatsoever arising out of or in any way connected with this Agreement.

The provision of this Agreement relating to waiver of a jury trial and the right of re-entry or re-possession shall survive the termination or expiration of this Agreement.

Section 9.13 Non-Discrimination. (a) At all times during the maintenance and operation of the Facility, the Lessee shall not discriminate against any employee or applicant for employment because of race, color, creed, age, sex or national origin. The Lessee shall use its best efforts to ensure that employees and applicants for employment with the Lessee or any subtenant of the Facility are treated without regard to their race, color, creed, age, sex or national origin. As used herein, the term “treated” shall mean and include, without limitation, the following: recruited, whether by advertising or other means; compensated, whether in the form of rates of pay or other

forms of compensation; selected for training, including apprenticeship; promoted; upgraded; downgraded; demoted; transferred; laid off; and terminated.

(b) The Lessee shall, in all solicitations or advertisements for employees placed by or on behalf of the Lessee, state that all qualified applicants will be considered for employment without regard to race, color, creed or national origin, age or sex.

(c) The Lessee shall furnish to the Agency all information required by the Agency pursuant to this Section and will cooperate with the Agency for the purposes of investigation to ascertain compliance with this Section.

(d) The Agency and the Lessee shall, from time to time, mutually agree upon goals for the employment, training, or employment and training of members of minority groups in connection with performing work with respect to the Facility.

Section 9.14 Recourse under This Agreement. All covenants, stipulations, promises, agreements and obligations of the Agency contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency, and not of any member, director, officer, employee or agent of the Agency in such person's individual capacity, and no recourse shall be had for any reason whatsoever hereunder against any member, director, officer, employee or agent of the Agency or any natural person executing this Agreement on behalf of the Agency. In addition, in the performance of the agreements of the Agency herein contained, any obligation the Agency may incur for the payment of money shall not create a debt of the State or the County and neither the State nor the County shall be liable on any obligation so incurred, by any such obligation shall be payable solely out of amounts payable to the Agency by the Lessee hereunder.

Section 9.15 Date of Agreement for Reference Purposes Only. The date of this Agreement shall be for reference purposes only and shall not be construed to imply that this Agreement was executed on the date first above written. This Agreement was executed and delivered as of July 29, 2022.

(Signature Page to Follow)

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written in their respective names and by their duly authorized representatives.

**COUNTY OF ROCKLAND
INDUSTRIAL DEVELOPMENT
AGENCY**

WITNESS:



Name: Brian J. Quinn
Title: Agency Counsel

By:



Name: Steven H. Porath
Title: Executive Director

STATE OF NEW YORK)
) ss.:
COUNTY OF ROCKLAND)

On the 27th day of July in the year 2022 before me, the undersigned, a notary public in and for said state, personally appeared **STEVEN PORATH** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

RUDOLPH O. ZODDA III
Notary Public, State of New York
No. 02ZO5087989
Qualified in Rockland County
Commission Expires Nov. 10, 2025

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written in their respective names and by their duly authorized representatives.

WITNESS:

MORGAN STANLEY SERVICES GROUP INC.



Name:

Title:

By:

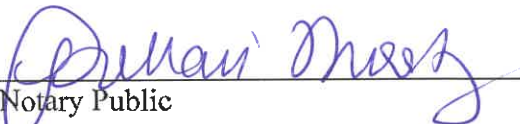


Name: Jeff Shoener

Title: Authorized Signatory

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

On the 28 day of July in the year 2022 before me, the undersigned, a notary public in and for said state, personally appeared, **JEFF SHOENER** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

Pallavi Moorthy
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01MO6363155
Qualified in Westchester County
Commission Expires August 14, 2025

[Signature Page – Lease Agreement]

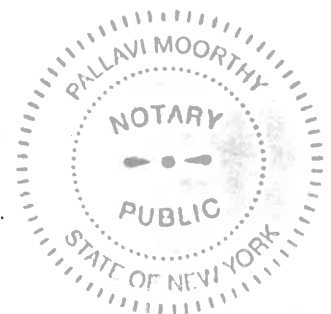


EXHIBIT A

DESCRIPTION OF THE LAND

(See Attached)

DATA CENTER LEASE AGREEMENT

By and Between

1547 CSR - ORANGEBURG, LLC

as Landlord,

and

MORGAN STANLEY SERVICES GROUP INC.

as Tenant

dated as of May __, 2022

1 Ramland Road
Orangeburg, New York 10962

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**SCHEDULE 1
CERTAIN DEFINED TERMS**

“**Actual Metered Cost**” shall have the meaning given to such term in Section 8.2(a) of the Lease.

“**Additional Rent**” shall have the meaning given to such term in Section 4.2 of the Lease.

“**Affiliate**” with respect to any party shall mean and refer to any partnership, limited liability company, corporation or other entity which, directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such party.

“**Alterations**” shall mean and refer to any alteration, modification or improvement made to the Tenant Space from and after the Commencement Date, whether by addition or deletion, including without limitation, the Tenant Improvements and shall expressly exclude any Landlord’s Work.

“**Bankruptcy Action**” shall have the meaning given to such term in Section 13.1(c) of the Lease.

“**Base Rent**” shall have the meaning given to such term in Item 12 of the Basic Lease Terms.

“**Building**” shall mean and refer to the building identified in Item 6 of the Basic Lease Terms.

“**Building Meet-Me Room**” shall have the meaning given to such term in Section 8.7(b) of the Lease.

“**Building Telecommunications Room**” shall have the meaning given to such term in Section 8.7(b) of the Lease.

“**Claims**” with respect to any party shall mean and refer to all costs, expenses, damages, liabilities, claims, fines, penalties, interest, judgments, and losses of any kind (including, without limitation, all lost profits and other consequential damages, reasonable attorneys’ fees, consultants’ fees and costs incurred or suffered by or asserted against such party).

“**Commencement Date**” shall have the meaning given to such term in Item 9 of the Basic Lease Terms.

“**Commencement Date Notice**” shall have the meaning given to such term in Section 2.2(b) of the Lease.

“**Common Areas**” shall mean and refer to that part of the Land designated by Landlord from time to time for the common use of all tenants and occupants of the Building, including among other things, public lobbies, entrances, halls, stairs, elevators, public toilets, parking areas and other public portions of the Building.

“**Common Office Chemicals**” shall mean and refer to normal quantities of office supplies or products (such as copier fluids or cleaning supplies) customarily used in the conduct of general business office activities.

“**Confidential Information**” shall have the meaning given to such term in Section 38 of the Lease.

“**Control**” shall mean and refer to (i) possessing, directly or indirectly, the power to direct or cause the direction of the management, policies or operations of an entity, whether through ownership of voting securities, by contract or otherwise (ii) the ownership of, or the power to vote, twenty percent (20%) or more of the voting rights attributable to the controlled entity and/or the power to elect a majority of the controlled entity’s board of directors.

“Creditworthy” means (i) any entity with a minimum credit rating (or its equivalent) of the following from at least two of the following rating agencies: Standard and Poor’s: A; Moody’s: A1 and Fitch: AA-, or (ii) for an entity that does not have a long-term debt rating, any entity with a net worth of at least [REDACTED] at the time of the Transfer.

“Critical Power” shall have the meaning given to such term in Item 8 of the Basic Lease Terms.

“Data Center Standard” shall mean a data center meeting the criteria of an Uptime Institute, Tier 3 (N+1) multi-tenant data center.

“Delivery Date” shall have the meaning given to such term in Section 2.2(b) of the Lease.

“Effective Date” shall have the meaning given to such term in Item 9 of the Basic Lease Terms.

“Environmental Law” shall mean and refer to the Comprehensive Environmental Response Compensation and Liability Act, 42 USC Section 9601 et seq., the Resource Conservation and Recovery Act, 42 USC Section 9601 et seq., and any law of like import, and any now or hereafter existing statute, law, rule, regulation or ordinance designating any substance as a hazardous material or substance or relating to, or imposing liability or standards of conduct concerning, public health and safety or the environment.

“Environmental Losses” shall have the meaning given to such term in Section 6.2 of the Lease.

“Event of Default” shall have the meaning given to such term in Section 13.1 of the Lease.

“Extension Term” shall have the meaning given to such term in Item 11 of the Basic Lease Terms.

“Facility Electrical Usage” shall have the meaning given to such term in Section 8.2(a) of the Lease.

“Facility Total Electricity Cost” shall have the meaning given to such term in Section 8.2(a) of the Lease.

“Fair Market Extension Rent” means the then prevailing market rate for comparable space in comparable buildings in the vicinity of the Building in connection with a comparable extension transaction, and will reflect all monetary and non-monetary concessions being granted to tenants for comparable transactions, including brokerage commissions, improvements performed by landlords and tenant improvement allowances, moving allowances, and rent concessions. Fair Market Extension Rent will take into account all relevant factors, including, without limitation, the quality, size, utility, and location of the applicable portion of the Tenant Space for which an Extension Option is exercised, the length of the Extension Term, any tenant improvement allowance or similar concession associated with the extension, and the credit of Tenant, but will be calculated without taking into account any improvements, equipment or fixtures installed by Tenant. To qualify as a “comparable extension transaction”, a deal transaction be either (and the only transactions that may be considered in determining the Fair Market Extension Rent are either) (i) transactions resulting from an arm’s length negotiation (i.e., not from the application of fixed rate renewals, or renewal provisions containing a cap on the determination of fair market rent or renewal provisions providing for “greater of rent” or similar lease clauses resulting in renewal rent exceeding what would otherwise be the prevailing market rate for such space) where the tenant was competently represented and not under duress, or (ii) binding settlement of a fair market value dispute pursuant to dispute resolution provisions in the applicable lease.

“Financial Statements” shall have the meaning given to such term in Section 19 of the Lease.

“Force Majeure” means causes beyond a party’s reasonable control, including, without limitation, war,

natural catastrophe, including, strikes, walkouts or other labor disturbance not caused by Landlord, order of any government, court or regulatory body having jurisdiction (including, without limitation, stay at home orders and orders to quarantine, in connection with any viral outbreak, pandemic or epidemic), blockade, embargo, riot, civil disorder, or any similar cause beyond the reasonable control of the party who is obligated to render performance (but excluding financial inability to perform).

“Governmental Authority” shall mean and refer to any of the United States of America, the State, the City, the County, any political subdivision thereof and any agency, department, commission, board, bureau or instrumentality of any of the foregoing, now existing or hereafter created, having jurisdiction over the Land, the Building or any portion thereof or the vaults, curbs, sidewalks, streets and areas adjacent thereto.

“Handle” or **“Handling”** shall mean and refer to shall mean and refer to any installation, handling, generation, storage, treatment, use, disposal, discharge, release, manufacture, refinement, abatement, removal, or transportation of Hazardous Materials.

“Hazardous Materials” shall mean and refer to: (a) any material or substance: (i) which is defined or becomes defined as a “hazardous substance,” “hazardous waste,” “infectious waste,” “chemical mixture or substance,” or “air pollutant” under Environmental Laws; (ii) containing petroleum, crude oil or any fraction thereof; (iii) containing PCBs; (iv) containing ACM; (v) which is radioactive; (vi) which is infectious; or (b) any other material or substance displaying toxic, reactive, ignitable, explosive or corrosive characteristics, and is defined, or becomes defined, as such by any Environmental Law.

“Initial Term” shall have the meaning given to such term in Item 10 of the Basic Lease Terms.

“Interest Rate” shall mean the lower of (i) twelve percent (12%) per annum (or 1% per month), or (ii) the highest interest rate allowable by law.

“Land” shall mean and refer to the land identified in Item 5 of the Basic Lease Terms.

“Landlord” shall mean and refer to the party identified in Item 1 of the Basic Lease Terms.

“Landlord Parties” shall mean and refer to Landlord and its Affiliates, and each of their respective successors and assigns, and their respective directors, officers, shareholders, members, managers, employees, agents, lenders and partners.

“Landlord’s Work” shall have the meaning given to such term in Item 15 of the Basic Lease Terms.

“Lease Year” shall have the meaning given to such term in Item 9 of the Basic Lease Terms.

“Legal Requirements” means all present and future laws, rules, orders, ordinances, regulations, statutes, requirements, codes, executive orders, rules of common law, and any judicial interpretations thereof, of all Governmental Authorities affecting or applicable to, with respect to Tenant’s compliance obligations, Tenant’s use of and operation in the Tenant Space or the Building or Land or the maintenance, use or occupation thereof, or, with respect to Landlord’s compliance obligations, to Landlord’s operation and maintenance of the Common Areas or other areas of the Building outside the Premises, including, without limitation, all Environmental Laws.

“Lender” shall have the meaning given to such term in Section 31 of the Lease.

“Material Issues” shall have the meaning given to such term in Section 2.2(a)(iii) of the Lease.

“**Meet-Me Room Operators**” shall have the meaning given to such term in Section 8.7(b) of the Lease.

“**Monthly Rent**” shall have the meaning given to such term in Section 4.3 of the Lease.

“**Mortgage**” shall have the meaning given to such term in Section 32 of the Lease.

“**Mortgagee**” shall have the meaning given to such term in Section 32 of the Lease.

“**Outside Target Delivery Date**” shall have the meaning given to such term in Section 2.2(c) of the Lease.

“**PDU**” shall mean and refer to an electrical power distribution unit that steps down the building distribution voltage to the 120/208V level

“**Rules and Regulations**” shall mean and refer to the Rules and Regulations of the Building in effect as of the date hereof, are set forth in Exhibit D hereto.

“**PUE**” shall have the meaning given to such term in Section 8.2(a) of the Lease.

“**PUE Cap**” shall have the meaning given to such term in Section 8.2(d) of the Lease.

“**PUE Cap Conditions**” shall have the meaning given to such term in Section 8.2(d) of the Lease.

“**Rent**” shall mean and refer to Base Rent, Additional Rent and all other sums due and owing under this Lease (not including the Security Deposit or money paid for Landlord’s Work).

“**ROFR Power**” shall have the meaning given to such term in Item 20 of the Basic Lease Terms.

“**ROFR Space**” shall have the meaning given to such term in Item 20 of the Basic Lease Terms.

“**Superior Landlord**” shall have the meaning given to such term in Section 32 of the Lease.

“**Superior Lease**” shall have the meaning given to such term in Section 32 of the Lease.

“**Taking**” shall have the meaning given to such term in Section 12.2 of the Lease.

“**Target Delivery Date**” shall have the meaning given to such term in Item 9 of the Basic Lease Terms.

“**Taxes**” shall have the meaning given to such term in Section 4.2(a) of the Lease.

“**Tenant**” shall mean and refer to the party identified in Item 3 of the Basic Lease Terms.

“**Tenant’s Cost**” shall have the meaning given to such term in Section 8.2(a) of the Lease.

“**Tenant’s Critical Load**” shall have the meaning given to such term in Item 8 of the Basic Lease Terms.

“**Tenant Delay**” shall have the meaning given to such term in Section 2.4 of the Lease.

“**Tenant’s Electrical Usage**” shall have the meaning given to such term in Section 8.2(a) of the Lease.

“**Tenant Equipment**” (sometimes alternatively referred to as “**Equipment**”) shall mean and refer to IT equipment, computer hardware, cabinets, interconnections, connections, wiring, connecting lines, cabling and structured cabling, peripheral, and other tangible equipment, furniture, fixtures and other personal

property that Tenant owns, places, installs or otherwise locates in the Tenant Space or Building from time to time subject to the terms of this Lease (including, without limitation, Section 7.1).

“Tenant Improvements” shall mean and refer to cabling, furniture, trade fixtures and the like.

“Tenant Parties” shall mean and refer to Tenant, its Affiliates, and each of their respective successors and assigns, and their respective agents, employees, officers, directors, partners, representatives, contractors, licensees, subtenants, or invitees.

“Tenant Space” shall have the meaning given to such term in Item 7 of the Basic Lease Terms.

“Term” shall have the meaning given to such term in Section 2.1 of the Lease.

“UPS” shall mean and refer to an uninterrupted power supply system utilizing batteries to maintain power availability during upstream power supply interruptions.

DATA CENTER LEASE AGREEMENT

This Data Center Lease Agreement (this "Lease") is entered into as of the Effective Date specified in Item 9 of the Basic Lease Terms, by and between Landlord and Tenant:

RECITALS

A. Landlord is the owner of the Land. The Land is improved with, among other things, the Building.

B. Tenant desires to lease from Landlord, and Landlord desires to lease to Tenant, (i) certain Premises, (ii) certain Pathway, (iii) certain Ancillary Space, and (iv) certain Rooftop Equipment Space (as such terms are defined herein).

C. Unless otherwise specifically indicated to the contrary, all initially capitalized terms contained in this Lease shall have the meanings set forth on Schedule 1 above.

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth, Landlord and Tenant agree as follows:

BASIC LEASE TERMS

1. <u>Landlord:</u>	1547 CSR - Orangeburg, LLC, a Delaware limited liability company
2. <u>Landlord's Address for Notices and for Payment of Rent:</u>	<p><u>For Notices:</u></p> <p>1547 CSR - Orangeburg, LLC</p> <p>[REDACTED]</p> <p><u>With a copy to:</u></p> <p>Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.</p> <p>[REDACTED]</p> <p><u>With an additional copy to:</u></p> <p>Harrison Street Real Estate, LLC</p> <p>[REDACTED]</p>

	<p><u>For Payment of Rent:</u></p> <p><u>ACH/Wire Transfers:</u></p> <p><u>Beneficiary Bank</u></p> <p>[REDACTED]</p> <p><u>Check Payments:</u></p> <p>[REDACTED]</p> <p><u>Contact Information:</u></p> <p>[REDACTED]</p>
<p>3. <u>Tenant:</u></p>	<p>Morgan Stanley Services Group Inc., a Delaware corporation</p> <p><u>Tenant Address for Notices:</u></p> <p>Morgan Stanley Services Group Inc.</p> <p>[REDACTED]</p> <p>With a copy to:</p> <p>Morgan Stanley Legal and Compliance Division</p> <p>[REDACTED]</p>

	<p><u>Tenant Address for Invoice of Rent and Notices:</u></p> <p>CBRE, Inc. – Portfolio Services ████████████████████████████████████████████████████████████████████████████████ ████████████████████████████████████████████████████████████████████████████████ ████████████████████████████████████████████████████████████████████████████████ ████████████████████████████████████████████████████████████████████████████████</p>
4. <u>Intentionally Omitted</u>	Intentionally Omitted
5. <u>Land:</u>	<p>The land, as more particularly described in <u>Exhibit A-1</u>, and located at:</p> <p>1 Ramland Road Orangeburg, New York 10962</p>
6. <u>Building:</u>	That certain building located on the Land.
7. <u>Tenant Space:</u>	<p>The “Tenant Space” shall consist of the Premises described in <u>Item 7(a)</u>, below, the Pathway described in <u>Item 7(b)</u>, below, the Ancillary Space(s) described in <u>Item 7(c)</u>, and the Rooftop Equipment Space described in <u>Item 7(d)</u>:</p> <p>(a) <u>Premises:</u> That portion of the Building as depicted on <u>Exhibit A-2</u>, consisting of approximately nine thousand four hundred fifty nine (9,459) feet.</p> <p>(b) <u>Pathway:</u> As described on <u>Exhibit A-3</u>.</p> <p>(c) <u>Ancillary Spaces:</u></p> <p>i. “Office Space” consisting of two (2) spaces comprised of in the aggregate approximately two thousand three hundred forty (2,340) square feet, as depicted on <u>Exhibit A-4</u>.</p> <p>ii. “Storage Space” consisting of six (6) spaces comprised of in the aggregate approximately five thousand nine hundred twenty one (5,921) square feet, as depicted on <u>Exhibit A-5</u>.</p> <p>(d) <u>Rooftop Equipment Space:</u> The area or areas on the roof of the Building depicted on <u>Exhibit A-6</u> (the “Rooftop Equipment Space Area”) for installation and maintenance of the Tenant’s Rooftop Equipment (as defined in <u>Section 45</u>), in accordance with <u>Section 45</u>.</p> <p><u>Office Space:</u></p> <p>The Office Space shall be delivered by Landlord with Landlord’s Work with</p>

	<p>respect to the Office Space Substantially Complete by the Target Delivery Date.</p> <p><u>Storage Space:</u></p> <p>The Storage Space shall be delivered by Landlord with Landlord's Work with respect to the Storage Space Substantially Complete by the Target Delivery Date.</p>
8. <u>Basic Capacity:</u>	<p>The Premises will be supplied with useable, critical UPS power (the "Critical Power") in an amount equal to [REDACTED] ("Tenant's Critical Load"), metered at the line side of the PDUs serving the Premises.</p>
9. <u>Effective Date, Commencement Date:</u>	<p>The effective date of this Lease (the "Effective Date") shall be the latest of the parties' respective dates of execution of this Lease, as set forth on the signature page of this Lease.</p> <p>The Term of the Lease shall commence on the date that Landlord delivers the Tenant Space to Tenant in the Delivery Condition (the "Commencement Date"). The parties anticipate that the Tenant Space shall be delivered in the required condition within sixty (60) days following the Effective Date (the "Target Delivery Date", and the date of actual delivery, the "Delivery Date"). The Commencement Date is anticipated to be July 1, 2022. Promptly following the Commencement Date, Landlord and Tenant shall execute a Commencement Date Declaration in the form attached as Exhibit H to memorialize the Commencement Date of the Lease.</p>
10. <u>Term:</u>	<p>The initial term of the Lease (the "Initial Term") shall be for a period of ninety (90) Lease Months, commencing on the Commencement Date and expiring on the last day of the ninetieth (90th) Lease Month thereafter (the "Expiration Date"), unless the Term shall be extended, renewed or terminated earlier in accordance with the provisions hereof.</p> <p>As used herein, "Lease Year" shall mean either (a) if the Rent Commencement Date does not occur on the first day of a calendar month, each period of twelve (12) consecutive calendar months commencing on the first day of the month immediately following the month in which the Rent Commencement Date occurs, and on each anniversary of such date, provided that the first Lease Year shall also include the period from the Rent Commencement Date to the first day of the calendar month immediately following the Rent Commencement Date; or (b) if the Rent Commencement Date occurs on the first day of a calendar month, each period of twelve (12) consecutive calendar months commencing on the Rent Commencement Date and on each anniversary of such date; whichever is applicable.</p> <p>As used herein, "Lease Month" shall mean and refer to any full calendar month of the Term. If the Commencement Date occurs on a date that is not the first day of a calendar month, then the first Lease Month shall include</p>

	the remainder of the month in which the Commencement Date occurs and the next full calendar month.
11. <u>Extension Options:</u>	Tenant shall have the right to extend the Term, subject to the terms of <u>Section 2.3</u> below.
12. <u>Rent Commencement Date and Base Rent:</u>	<p>“Rent Commencement Date” shall mean the day immediately following the day on which the [REDACTED] expires.</p> <p>100% Rent Abatement Period” means the period commencing [REDACTED] as such period may be extended as provided in Section 2.2(c) hereof.</p> <p>“Base Rent” shall mean collectively the Premises Base Rent, the Office Space Rent, and the Storage Space Base Rent. Base Rent shall be payable as follows:</p> <p><u>Premises:</u></p> <p>Commencing on the Rent Commencement Date, Monthly Base Rent for the Premises (“Premises Base Rent”) shall be [REDACTED], which rate shall escalate by [REDACTED] at the start of the second (2nd) Lease Year and at the start of each Lease Year thereafter, provided that:</p> <ul style="list-style-type: none"> i) Premises Base Rent during [REDACTED] of the Initial Term [REDACTED] (meaning, for avoidance of doubt, that Premises Base Rent due during such Lease Months shall be determined based [REDACTED] Power); ii) Premises Base Rent during [REDACTED] of the Initial Term [REDACTED] (meaning, for avoidance of doubt, that Premises Base Rent due during such Lease Months shall be determined [REDACTED] Critical Power); and iii) Beginning in Lease [REDACTED] and continuing throughout the remainder of the Initial Term, Premises Base Rent shall be determined [REDACTED] <p>Notwithstanding the foregoing, [REDACTED] of Tenant’s Critical Power shall be available for Tenant’s use from and after the Delivery Date.</p> <p><u>Office Space:</u></p> <p>Commencing on the Rent Commencement Date, Monthly Base Rent for the Office Space (“Office Space Base Rent”) shall [REDACTED] per square foot in the Office Space, which [REDACTED] at the start of the second (2nd) Lease Year and at the start of each Lease Year thereafter, provided that:</p>

	<p>(i) Office Space Base Rent during [REDACTED] of the Initial Term [REDACTED] (meaning, for avoidance of doubt, that Office Space Base Rent due during such Lease Months [REDACTED] per square foot in the Office Space);</p> <p>(ii) Office Space Base Rent during [REDACTED] of the Initial Term [REDACTED] (meaning, for avoidance of doubt, that Office Space Base Rent due during such Lease Months [REDACTED] per square foot in the Office Space); and</p> <p>(iii) Beginning in [REDACTED] and continuing throughout the remainder of the Initial Term, except as otherwise provided herein, [REDACTED] applicable Office Space Base Rent shall be due.</p> <p><u>Storage Space:</u></p> <p>Commencing on the Rent Commencement Date, Monthly Base Rent for the Storage Space (“Storage Space Base Rent”) shall [REDACTED] square foot in the Storage Space, which rate shall escalate by [REDACTED] at the start of the second (2nd) Lease Year and at the start of each Lease Year thereafter, provided that:</p> <p>(i) Storage Space Base Rent during [REDACTED] of the Initial Term [REDACTED] (meaning, for avoidance of doubt, that Storage Space Base Rent due during such Lease Months [REDACTED] per square foot in the Storage Space);</p> <p>(ii) Storage Space Base Rent during [REDACTED] of the Initial Term [REDACTED] (meaning, for avoidance of doubt, that Storage Space Base Rent due during such Lease Months [REDACTED] per square foot in the Storage Space); and</p> <p>(iii) Beginning in [REDACTED] and continuing throughout the remainder of the Initial Term, except as otherwise provided herein, [REDACTED] applicable Storage Space Base Rent shall be due.</p> <p>A schedule of Premises Base Rent, Office Space Base Rent and Storage Space Base Rent is attached hereto as <u>Exhibit B</u>.</p> <p>Monthly Base Rent shall be due and payable in advance on the first day of each month throughout the Term, without invoice, notice or demand except as otherwise provided herein.</p>
<p>13. <u>Permitted Use.</u></p>	<p>Tenant shall use and occupy the Tenant Space only for computer data center purposes consistent with a raised floor environment, including, without limitation, the installation, placement, assembly, maintenance, repair, replacement, and operation of computer, switch, transmission and/or</p>

	communications equipment and fiber and other communication connections, for general office and storage use (with respect to the Office Space or Storage Space, respectively), and for other lawful uses ancillary thereto, and for no other purpose.
14. <u>Security Deposit:</u>	None.
15. <u>Landlord's Work:</u>	The work described on <u>Exhibit C</u> attached hereto shall be referred to as " <u>Landlord's Work</u> ".
16. <u>Parking:</u>	Tenant shall have the right, at no additional charge, to park in up to [REDACTED] parking spaces in the parking areas designated as Common Areas by Landlord (allocated as indicated on the parking plan attached hereto and made a part hereof as <u>Exhibit A-7</u>) from time to time on a first-come, first-served basis.
17. <u>Maximum Structural Load:</u>	150 pounds of live load per square foot.
18. <u>Service Levels:</u>	Landlord and Tenant agree to the " <u>Service Level Agreement</u> " (" <u>SLA</u> ") attached to the Lease as <u>Exhibit E</u> .
19. <u>Brokers:</u>	Landlord: None. Tenant: Jones Lang LaSalle, whose commission will be payable by Landlord pursuant to a separate commission agreement.
20. <u>Right of First Refusal</u>	Tenant shall have a right of first refusal with respect to any available data center hall space in the same Building as the Premises containing [REDACTED] the " <u>ROFR Space</u> "), as further set forth in <u>Section 39</u> of the Lease.
21. <u>Expansion Option</u>	Tenant shall have an expansion option with respect to the ROFR Space and ROFR Power, as further set forth in <u>Section 40</u> of the Lease.
22. <u>Exhibits</u>	Attached hereto are the following exhibits, all of which constitute a part of this Lease: Exhibit A-1: Legal Description of Land Exhibit A-2: Premises Exhibit A-3: Pathways Exhibit A-4: Office Space Exhibit A-5: Storage Space Exhibit A-6: Rooftop Equipment Space Area Exhibit A-7: Parking Plan Exhibit A-8: Temporary Office/Storage Space Exhibit B: Base Rent Schedule Exhibit C: Landlord's Work Exhibit D: Rules and Regulations Exhibit E: Service Level Agreement

	Exhibit F: Janitorial Specifications for Office Areas Exhibit G: Approved Tenant Contractors Exhibit G-1: Prohibited Tenant Contractors Exhibit H: Commencement Date Declaration Exhibit I: Preventative Maintenance Schedule Exhibit J: Plans and Specifications for Tenant Improvements Exhibit K: New York Law Provisions Exhibit L: Form of Existing Lender SNDA

This Lease shall consist of the foregoing Basic Lease Terms, the provisions of the Lease Terms and Conditions, below, **Schedule 1** above, and **Exhibit A** through **Exhibit L**, inclusive, all of which are incorporated herein by this reference as of the Effective Date. In the event of any conflict between the provisions of the Basic Lease Terms and the provisions of the Lease Terms and Conditions, the Basic Lease Terms shall control.

[Remainder of page intentionally left blank]

Lease Terms and Conditions

These Lease Terms and Conditions together with the preceding Basic Lease Terms (the “**Basic Lease Terms**”), Schedule 1 and Exhibit A through Exhibit L, and any other schedule or exhibit attached hereto and when taken together, comprise the “**Lease**” between the Landlord and Tenant.

1. Grant of Lease.

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Tenant Space, for the Term, subject to and upon the terms and conditions of this Lease. Tenant’s lease of the Tenant Space shall include the right of Tenant and its employees, representatives, contractors, agents and invitees to use from time to time, in common with other tenants and subject to the provisions of this Lease, the Common Areas.

2. Term; Delivery of Possession

2.1 Term; Rent Commencement Date. The term of this Lease shall be the Initial Term, as the Initial Term may be extended by any Extension Term(s) for which Tenant has properly exercised an option hereunder (the “**Term**”), unless this Lease is sooner terminated in accordance with Section 14.1 below or the Service Level Agreement. Notwithstanding the foregoing, if Landlord’s Work is not completed and the Tenant Space is delivered to Tenant in Delivery Condition on or before the Target Delivery Date for reasons other than Tenant Delay, then the Commencement Date shall be deemed to have been extended on a day-for-day basis for each day of such delay and Tenant’s obligation to pay Rent shall be deemed to have been suspended until the occurrence of the Commencement Date, as so extended. Tenant shall not owe any Base Rent or Additional Rent until the Rent Commencement Date (as the same is deemed to have been extended hereunder), but shall be obligated to pay “Tenant’s Utility Payment” and “Tenant’s Office and Storage Utility Payment” (as such terms are defined in Sections 8.2 and 8.3, respectively) from and after the Commencement Date. Tenant shall pay Rent from and after the Commencement Date, except as otherwise provided herein.

2.2 Delivery Delay; Delivery Condition. Subject to Section 2.1 above and Section 2.2(c) below, if Landlord shall fail to deliver to Tenant possession of the Tenant Space on the Target Delivery Date for any reason, Landlord shall not be deemed in default hereunder or subject to any liability, loss or damage resulting therefrom, nor shall such failure affect the validity of this Lease or the obligations of Tenant hereunder; provided, however, that if Landlord has not tendered delivery of possession of the Tenant Space to Tenant on or before the Target Delivery Date, then Tenant shall be entitled to a rent credit for any Rent that Tenant has previously paid with respect to the period prior to the Commencement Date as extended pursuant to Section 2.1, if any.

(a) As used herein, the Tenant Space shall be deemed to be in the “**Delivery Condition**” upon fulfillment of each of the following conditions:

(i) Landlord shall have delivered possession of the applicable portion of the Tenant Space to Tenant, with the Landlord's Work described on Exhibit C having been Substantially Complete. For purposes of this Lease, "**Substantial Completion**", "**Substantially Completed**" or "**Substantially Complete**" mean that the Landlord Work has been completed (or would have been completed but for any Tenant Delay) in substantial accordance with the provisions of Exhibit C, excepting therefrom minor details of construction or mechanical adjustment which are not completed and do not materially interfere with the occupancy of the Tenant Space by Tenant (any such uncompleted work referred to herein as "**Punch List Items**"), and there are no deficiency in Landlord's Work or the Tenant Space such that Tenant does not have access to the Tenant's Critical Load of the Premises or that otherwise materially impairs Tenant's ability to occupy or use the Premises as contemplated hereunder, subject to the performance of any Tenant Improvements ("**Material Issues**"). The Tenant Space shall not be deemed to be in Delivery Condition until resolution of all existing Material Issues identified in a timely Tenant notice have been resolved to the reasonable satisfaction of Tenant;

(ii) a temporary or permanent certificate of occupancy has been issued for the Tenant Space (which need not cover any Tenant Improvements); and

(b) Landlord shall deliver written notice to Tenant (the "**Anticipated Commencement Notice**") at least ten (10) days prior to the date Landlord anticipates the Commencement Date will occur. The parties will schedule a walk-through at a mutually agreeable time, and following such walk-through, Tenant shall deliver a written notice (the "**Walk-Through Notice**") to Landlord, which notice shall either (a) confirm Tenant's agreement that the Landlord Work is Substantially Complete and specify in reasonable detail any Punch List Items yet to be completed, or (b) dispute the occurrence of Substantial Completion of the Landlord Work and specify in reasonable detail all actions required to be taken and work required to be performed in order to achieve Substantial Completion of the Landlord Work. Within five (5) business days after the Walk-Through Notice is given by Tenant to Landlord, Landlord shall give written notice to Tenant either (i) confirming Landlord's agreement with the Walk-Through Notice, or (ii) disputing all or a portion of the Walk-Through Notice. The parties shall work together in good faith to determine the date on which the Landlord Work has been Substantially Completed and compile the list of Punch List Items and any dispute with respect thereto shall be finally determined by the architect or engineer, as appropriate, for such Landlord Work. Landlord shall promptly repair or otherwise attend to any Punch-List Items, and shall complete such repairs within forty five (45) days after the Commencement Date.

(c) If the Delivery Date has not occurred with respect to any portion of the Tenant Space on or before the date that is thirty (30) days after the Target Delivery Date, as such Target Delivery Date is extended for each day of Tenant Delay or Force Majeure (the "**Outside Target Delivery Date**"), (i) for each day that the Delivery Date for such portion of the Tenant Space does not occur following the Outside Target Delivery Date, [REDACTED] (with respect to all Base Rent for the portion of the Tenant Space not delivered) shall be extended by [REDACTED] until the earlier to occur of (x) the Delivery Date or (y) or the thirtieth (30th) day following the Outside Target Delivery Date (the "**Second Outside Target Delivery Date**"); (ii) for each day that the Delivery Date does not occur following the Second Outside Target Delivery Date, [REDACTED] (with respect to all Base Rent for the portion of the Tenant Space not delivered) shall be extended by [REDACTED] of delay until the earlier to occur of (x) the Delivery Date or (y) the sixtieth (60th) day following the Outside Target Delivery Date (the "**Third Outside Target Delivery Date**"); (iii) for each day that the Delivery Date does not occur following the Third Outside Target Delivery Date, the [REDACTED] (with respect to all Base Rent for the portion of the Tenant Space not delivered) shall be extended by [REDACTED] of delay until the Delivery Date. Additionally, if the Delivery Date has not occurred with respect to any portion of the Tenant Space by the date that is one hundred eighty (180) days following the Target Delivery Date, then Tenant shall have the right to terminate this Lease by providing written notice thereof to Landlord at any time prior to the Delivery

Date. If Tenant terminates the Lease pursuant to this Section 2.2(c), then Tenant shall receive (i) a refund of any and all amounts previously paid by Tenant to Landlord pursuant to this Lease, as well as (ii) reimbursement for all of Tenant's reasonable and actual costs and expenses incurred in connection with this Lease, including, without limitation, engineering and architect fees, building plans, permitting, and lease negotiation costs and expenses, such which costs and expenses may include, without limitation, engineering and architect fees, building plans, permitting, and lease negotiation costs and expenses, with such amounts to be paid to Tenant within thirty (30) days following Landlord's receipt of Tenant's invoice therefor, such invoice to be accompanied by documentation reasonably sufficient to evidence such costs and expenses. The penalties provided in this Section 2.2(c) shall be Tenant's sole and exclusive remedy for any failure by Landlord to cause the Delivery Date to occur on or before the Target Delivery Date.

(d) Within ten (10) business days after either party's request, which request may be given only after the occurrence of the Commencement Date, the receiving party shall execute and deliver to the requesting party a completed certificate (the "**Commencement Date Certificate**") in a form attached hereto as Exhibit H, confirming the Commencement Date and the Rent Commencement Date. Failure of the parties to execute such Commencement Date Certificate shall not defer the Commencement Date or otherwise invalidate this Lease.

2.3 Extension Options.

(a) Tenant shall have the right to extend the Term of this Lease (an "**Extension Option**") for one or more renewal terms (each, an "**Extension Term**"), subject to the following conditions:

(i) Tenant shall exercise the Extension Option with respect to an Extension Term pursuant to a written notice (a "Extension Notice") given to Landlord at least six (6) months, but not more than eighteen (18) months, before the then-current expiration date of the Term;

(ii) each Extension Term shall be for a period not shorter than twelve (12) months and shall always be in twelve (12) month increments;

(iii) in no event shall the Term of the Lease be extended beyond the fifth (5th) anniversary of the initial Expiration Date under the Lease, such that the total length of all Extension Terms shall not exceed five (5) years in the aggregate; and

(iv) on the date Tenant exercises the Extension Option for an Extension Term and at the commencement of such Extension Term, (i) the Lease has not been terminated; and (ii) no Event of Default then exists (other than any de minimis non-monetary Event of Default).

(b) Each Extension Term shall be upon all of the terms and conditions set forth in the Lease, except as provided below.

(i) If Tenant elects to extend the Term for a period of twenty four (24) months or less, Base Rent for the applicable portion of the Tenant Space for which the Extension Option is exercised during the first year of the Extension Term shall be equal to [REDACTED] for the applicable portion of the Tenant Space for which the Extension Option is exercised in effect in the last month of the Term immediately prior to the commencement of the Extension Term, and Base Rent for the applicable portion of the Tenant Space for which the Extension Option is exercised shall increase [REDACTED] annually thereafter on the first anniversary of the commencement of the Extension Term.

(ii) If Tenant elects to extend the Term for a period of thirty-six (36) months or more, Base

Rent for the applicable portion of the Tenant Space for which the Extension Option is exercised during the Extension Term shall be equal to the lesser of (i) [REDACTED] of Fair Market Extension Rent (which shall be determined as provided below) for the applicable portion of the Tenant Space for which the Extension Option is exercised; and (ii) [REDACTED] for the applicable portion of the Tenant Space for which the Extension Option is exercised in effect in the last month of the Term immediately prior to the commencement of the Extension Term.

(c) Fair Market Extension Rent shall be determined as follows:

(i) Within fifteen (15) days after Landlord's receipt of Tenant's Extension Notice, Landlord shall provide written notice to Tenant (the "**Extension Pricing Notice**") setting forth Landlord's proposed determination of the Fair Market Extension Rent for the Extension Term;

(ii) During the 30-day period commencing on the date Tenant receives Landlord's Extension Pricing Notice, Landlord and Tenant shall work together in good faith to agree upon the Fair Market Extension Rent for the Extension Term, which 30-day period may be extended by the mutual agreement of Landlord and Tenant (such period, as the same may be extended, the "**Extension Negotiation Period**"). If Landlord and Tenant are able to reach an agreement during the Extension Negotiation Period on the Fair Market Extension Rent for the Extension Term, Landlord and Tenant shall execute a mutually acceptable amendment to the Lease to memorialize the mutually agreed to Fair Market Extension Rent for the Extension Term.

(iii) If Landlord and Tenant are unable to come to agreement on the Fair Market Extension Rent for the Extension Term during the Extension Negotiation Period, Landlord and Tenant will, within ten (10) business days following the end of the Extension Negotiation Period, each select a licensed real estate broker with at least ten (10) years' of experience in leasing data center space comparable to that in the Building in the market in which the Building is located (a "**Designated Broker**"). If either Landlord or Tenant fails to appoint a Designated Broker within the ten (10) business day period referred to above, the Designated Broker appointed by the other party shall be the sole Designated Broker for the purposes hereof, provided such other party shall have sent a five (5) business day reminder notice to the party which failed to name a Designated Broker referring to this Section, stating in bold and upper case type in the reminder notice that "**THE DESIGNATED BROKER SELECTED BY THE UNDERSIGNED SHALL ALONE HAVE THE AUTHORITY TO DETERMINE THE FAIR MARKET EXTENSION RENT FOR THE EXTENSION TERM UNLESS YOU APPOINT A DESIGNATED BROKER WITHIN FIVE (5) BUSINESS DAYS AFTER THIS NOTICE,**" and the party receiving such notice fails to name a Designated Broker within such five (5) business day period. The two Designated Brokers will exchange their Fair Market Extension Rent determinations within 10 days after selection (each, a "**FMV Determination**" and collectively, the "**FMV Determinations**"), and if the lower FMV Determination is not less than 95% of the higher Determination, the average of the two FMV Determinations will be deemed the Fair Market Extension Rent. If the lower FMV Determination is less than 95% of the higher FMV Determination, the Designated Brokers will select a similarly qualified third Designated Broker (such third Designated Broker, the "**Arbitrator**"). If the two Designated Brokers cannot agree on an Arbitrator within ten (10) business days of the exchange of determinations, then either Landlord or Tenant can apply to the American Arbitration Association in Rockland County, New York, for the appointment of the Arbitrator. Once the Arbitrator has been selected as provided for above, then, as soon thereafter as practicable but in any case within twenty one (21) days, the Arbitrator shall make his determination of which of the two (2) FMV Determinations most closely reflects the Fair Market Extension Rent and such FMV Determination shall be considered the Fair Market Extension Rent for the Extension Term for the applicable portion of the Tenant Space for which the Extension Option is exercised. If the Arbitrator believes that expert advice would materially assist him, he may retain one (1) or more qualified

persons to provide such expert advice. The parties shall share equally in the costs of the Arbitrator and of any experts retained by the Arbitrator, except to the extent otherwise provided below. Any fees of any Designated Broker, counsel or experts engaged directly by Landlord or Tenant, however, shall be borne by the party retaining such Designated Broker, counsel or expert. Following the appointment of the Arbitrator and pending the Arbitrator's determination of the Fair Market Extension Rent, neither party shall have any ex parte communications with the Arbitrator. Once Fair Market Extension Rent is determined in accordance with this Section 2.3(c), Tenant shall thereafter have a period of ninety (90) days from the date the Fair Market Extension Rent is determined in accordance with this Section 2.3(c) (which 90-day period may be extended by the mutual agreement of Landlord and Tenant) (such period, as the same may be extended, the "Election Period") within which to either:

(1) Accept the determination of Fair Market Extension Rent as provided in this Section 2.3(c), in which event Landlord and Tenant shall execute a mutually acceptable amendment to the Lease to memorialize the Fair Market Extension Rent for the Extension Term; or

(2) Reject the determination of Fair Market Extension Rent as provided in this Section 2.3(c) and instead elect to extend the Term of the Lease for a period of twenty four (24) months or less in accordance with Section 2.3(b)(i).

(3) Reject the determination of Fair Market Extension Rent as provided in this Section 2.3(c) and instead allow the Lease to expire by its terms at the end of the Initial Term.

Tenant shall make its election by providing written notice to Landlord within the Election Period. In the event Tenant elects to pursue option (2) or option (3), Tenant shall reimburse to Landlord Landlord's share of the costs of the Arbitrator and of any experts retained by the Arbitrator.

(iv) If for any reason the Fair Market Extension Rent for the Extension Term for the applicable portion of the Tenant Space for which the Extension Option is exercised is not established prior to the commencement of the Extension Term, then Tenant shall continue to pay annual rental at the prior rate subject to adjustment by payment to the party entitled within thirty (30) days from the date on which the Fair Market Extension Rent is established.

(d) Notwithstanding anything contained herein to the contrary, in the event that Tenant elects to extend the Term for a period of thirty-six (36) months or more, Tenant shall have the option to renew the Term for either (i) the entire Premises or (ii) a partial portion of the Premises provided such portion does not constitute less than [REDACTED] of Tenant's Critical Load, in accordance with the terms of this Section 2.3 and Tenant returns the portion of the Premises it is returning in the condition required at the end of the Term. For avoidance of doubt, it is understood and agreed that in the event that Tenant elects to extend the Term for a period of twenty-four (24) months or less, the Extension Option shall be exercised with respect to the entire Premises.

(e) Notwithstanding anything contained herein to the contrary, for each Extension Option, Tenant may shall have the option to renew the Term for all, a portion of, or none of the then leased Ancillary Space in accordance with the terms of this Section 2.3, provided that any portion of the Ancillary Space for which Tenant elects not to exercise an Extension Option shall be comprised of entire, discrete demised space(s).

2.4 Tenant Early Access. Tenant shall, at least sixty (60) days prior to the Target Delivery Date (such period, the "Early Access Period"), have access to the Tenant Space for the purpose of installing Tenant Improvements. Tenant's employees, agents and contractors shall coordinate with Landlord and its contractors to minimize interference. Landlord and Tenant each agree to use commercially reasonable efforts to ensure that each party's respective contractors shall not delay or otherwise inhibit the work being

performed by or on behalf of the other party. The Target Delivery Date shall be extended by one day for each day (or portion thereof) of actual delay in completion of Landlord's Work caused by Tenant, its employees, agents and contractors ("**Tenant Delay**"). If Landlord believes a Tenant Delay has occurred or is occurring, Landlord shall send written notice to Tenant advising Tenant that its actions or inactions constitute a Tenant Delay, and specifying in reasonable detail the nature of the action or inaction, within two (2) Business Days of Landlord obtaining actual knowledge of such Tenant Delay. The duration of the Tenant Delay shall be deemed to run from the date Tenant receives such notice until Tenant cures such Tenant Delay. Any dispute regarding whether or not a Tenant Delay has occurred may be submitted by either party to "Expedited Arbitration", in accordance with Section 2.4(b). Tenant's early access shall be subject to all the conditions of this Lease, provided that Tenant's obligation to pay Base Rent shall not commence until the Rent Commencement Date (subject to Section 2.1 and 2.2 above). To the extent that any Tenant Equipment for the Premises is shipped to the Building prior to the Early Access Period, Landlord shall provide storage space for such Tenant Equipment and temporary office space therein in a secured location at the Building at no charge during the period of such temporary occupancy of the temporary office and storage space. To that end Landlord has already made space, containing approximately 10,000 square feet, as described in Exhibit A-8 (the "**Temporary Office/Storage Space**"), available to Tenant, for use by Tenant for temporary storage and offices until September 30, 2022, with respect to the office portion of the Temporary Office/Storage Space, and through December 31, 2022, with respect to the temporary storage portion of the Temporary Office/Storage Space. Use of the Temporary Office/Storage Space by Tenant shall be at Tenant's risk during the period of such usage and Tenant shall be required to maintain the same insurance that is required in Section 11.1 hereof covering the Tenant Equipment and employees in the Temporary Office/Storage Space during the period in which the Temporary Office/Storage Space is utilized by Tenant. [If either party disputes whether or not a Tenant Delay has occurred or its duration, such party may submit such dispute to an arbitration in Rockland County, New York, under the Expedited Procedures provisions of the Commercial Arbitration Rules of the American Arbitration Association (the "**AAA**"), or any successor organization (an "**Expedited Arbitration**"); provided, however, that with respect to any such arbitration (currently Rules E-1 through E-10), (a) the list of arbitrators referred to in Rule E-4 shall be returned to the AAA within five (5) days from the date of mailing, (b) the parties shall notify the AAA by telephone, within five (5) days of any objections to the arbitrator appointed and will have no right to object if the arbitrator so appointed was on the list submitted by the AAA and was not objected to in accordance with Rule E-4(c); (c) the notice of hearing referred to in Rule E-7 shall be five (5) days in advance of the hearing, (d) the hearing shall be held within seven (7) business days after the appointment of the arbitrator, (e) the arbitrator's sole determinations shall be whether a Tenant Delay has occurred and its duration, (f) the decision and award of the arbitrator shall be final and conclusive on the parties and (g) judgment may be had on the decision and award of the arbitrator in any court of competent jurisdiction. The unsuccessful party shall be responsible to reimburse the successful party in the arbitration for the reasonable attorneys' fees incurred by the successful party to the arbitration and for the reasonable fees and expenses of the arbitration.] **[THIS LANGUAGE REMAINS UNDER MS REVIEW]**

2.5 Integrated Systems Test. At Tenant's request and at Landlord's cost, as a condition to the Commencement Date, Landlord will conduct a new Integrated System Test ("**IST**") if the last IST conducted previously by the Landlord was greater than twenty-four (24) calendar months before the hand-over date to Tenant to start their construction. Tenant will have the right to review the IST testing documents from the previous IST to determine if a new IST is required. If a new IST is required, then Tenant has the right to review testing documentation, verify external conditions and at its sole discretion can witness the test via internal or third party personnel.

3. Condition of Premises.

3.1 AS-IS CONDITION. Subject to Landlord's maintenance and repair obligations set forth herein and Landlord's obligations under the Service Level Agreement, the Tenant Space and related

services are provided on an “AS IS” basis (except for Landlord’s Work as described in Exhibit C), and, except as for any other express warranties provided in this Lease, Landlord makes no other representation or warranty that the space or such services are suitable or fit for Tenant’s intended purpose and subject to the foregoing and Landlord’s obligation to complete the Landlord’s Work, Tenant shall accept the Tenant Space on the Delivery Date in their as-is, where-is condition, except as expressly set forth in this Lease. Subject to the warranty set forth hereinabove, including without limitation, Landlord’s obligation to complete the Landlord’s Work and deliver the Tenant Space in Delivery Condition, and subject to the provisions below in this Section 3.1 regarding notice delivered by Tenant upon delivery of the Tenant Space, Landlord shall have no obligation to make any alterations, install any furniture, fixture or equipment, including, without limitation, Equipment or otherwise prepare the Premises for use by Tenant other than the work specifically set forth on Exhibit C as the Landlord’s Work. Tenant acknowledges that (a) Tenant has made such investigations as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its use of the Tenant Space, (b) neither Landlord, Landlord’s agents, nor any broker has made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease, and (c) Landlord is under no obligation to perform any work or provide any materials to prepare the Tenant Space or the Building for Tenant except for any Landlord’s Work. WITHOUT LIMITING THE FOREGOING, LANDLORD MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXCEPT THOSE EXPRESSLY STATED HEREIN.

4. Rent, Billing and Payment, Security Deposit.

4.1 Base Rent. Commencing on the Commencement Date (as such date may be extended pursuant to Section 2.1, as applicable) and continuing throughout the Term, Tenant shall pay to Landlord the Base Rent for the Tenant Space in the amount set forth in the Basic Lease Terms. All such Base Rent shall be paid to Landlord in monthly installments in advance on the first (1st) day of each and every month throughout the Term of this Lease without invoice or notice; provided, however, that if the Term of this Lease does not commence on the first (1st) day of a calendar month, the Base Rent [REDACTED] on the basis of the thirty (30) day month. Notwithstanding the foregoing, Tenant shall pay to Landlord the Base Rent for the first full/partial calendar month of the Term on the Commencement Date.

4.2 Additional Rent. In addition to paying the Base Rent, Tenant shall pay the amounts set forth in Section 8.2 and elsewhere in this Lease (collectively, “**Additional Rent**”).

4.3 Payments Generally. Base Rent and Additional Rent owed under Section 4.2 (collectively, “**Monthly Rent**”) shall be payable to Landlord on the Commencement Date (subject to extension pursuant to Section 2.1 and Section 2.2), and on the first (1st) day of each calendar month of the Term thereafter, without any prior notice or demand therefor in lawful money of the United States without any abatement, offset or deduction whatsoever (except as specifically provided otherwise herein or in the Service Level Agreement). Any other Rent payments due hereunder, including electricity, shall be payable to Landlord within thirty (30) days of Tenant’s receipt of invoice for such other Rent payments. Rent shall (a) be payable to Landlord via ACH, wire transfer, or by check sent to the address of Landlord specified in the Basic Lease Terms (or to such other person or to such other place as Landlord may from time to time designate in writing to Tenant), and (b) be independent of Landlord’s obligations under this Lease. No receipt of money by Landlord from Tenant after the termination of this Lease, the service of any notice, the commencement of any suit, or a final judgment for possession shall reinstate, continue or extend the Term or affect any such notice, demand, suit or judgment. No partial payment by Tenant shall be deemed to be other than on account of the full amount otherwise due, nor shall any endorsement or statement on any

check or any letter accompanying any check or payment be deemed an accord and satisfaction, and Landlord shall be entitled to accept such payment without compromise or prejudice to any of the rights of Landlord hereunder or under any Legal Requirements.

4.4 Personal Property Taxes. Tenant shall be liable for and shall pay directly to the taxing authority prior to delinquency, all governmental fees, taxes, tariffs and other charges levied directly or indirectly against any Tenant Equipment. If Tenant fails to make the payments required under this Section 4.4, Landlord may elect to make such payment on behalf of Tenant, in which case Tenant shall pay such amounts to Landlord as Additional Rent within thirty (30) days of receipt of invoice from Landlord.

5. Rules and Regulations.

Tenant agrees that it will abide by, and cause its employee's, agents or others within its control to abide by all Rules and Regulations. Landlord reserves the right, from time to time, to adopt additional, reasonable, nondiscriminatory Rules and Regulations and to reasonably amend the Rules and Regulations then in effect; provided, however, that no changes to the Rules and Regulations will increase Tenant's monetary obligations under this Lease or unreasonably interfere with Tenant's access to or beneficial use of the Tenant Space for the Permitted Use. Such additions and amendments shall be generally applicable to similarly situated tenants and shall become effective as to Tenant upon reasonable advance written notification by Landlord allowing adequate time for Tenant to comply. Landlord shall not be liable to Tenant for violation of the Rules and Regulations by any other tenant or occupant of the Project, its employees, agents, visitors or tenants except as provided herein. Landlord agrees to enforce the Rules and Regulations in a non-discriminatory manner, and further agrees that, if (i) another tenant in the Building violates the Rules and Regulations, and (ii) such other tenant's violation of the Rules and Regulations has a material and adverse effect on Tenant's occupancy of the Tenant Space for the conduct of its business, then Tenant shall have the right to require Landlord, by giving written notice thereof to Landlord, to use commercially reasonable efforts to cause such other tenant to comply with the Rules and Regulations. If there shall be any conflicts between the provisions of this Lease and the Rules and Regulations, the provisions of this Lease shall prevail.

6. Use; Hazardous Materials; Compliance with Laws; Inspection.

6.1 Use. Tenant shall use and occupy the Tenant Space only for the Permitted Use. Tenant shall not use or keep in the Tenant Space any Hazardous Materials other than Common Office Chemicals (subject to Section 6.2 below).

6.2 Hazardous Materials.

Tenant shall not Handle or permit the Handling of any Hazardous Materials in, on, or about the Tenant Space, the Building or the Land by Tenant or any Tenant Party, except that Tenant shall be permitted to use Common Office Chemicals, provided that the Handling of such Common Office Chemicals shall comply at all times with all Legal Requirements. Notwithstanding anything to the contrary contained herein, in no event shall Tenant permit any usage of Hazardous Materials in a manner that may cause the Tenant Space, the Building or the Land to be contaminated by any Hazardous Materials or in violation of any Legal Requirements. Tenant shall immediately advise Landlord in writing upon becoming aware of (a) any and all enforcement, cleanup, remedial, removal, or other governmental or regulatory actions instituted, completed, or threatened pursuant to any Legal Requirements concerning Hazardous Materials Handled by Tenant or any Tenant Party; and (b) all claims made or threatened by any third party against Tenant, Landlord, the Tenant Space, the Building or the Land relating to damage, contribution, cost recovery, compensation, loss, or injury resulting from any Hazardous Materials on or about the Tenant Space resulting from Hazardous Materials Handled by Tenant or any Tenant Party. Without Landlord's

prior written consent, Tenant shall not take any remedial action or enter into any agreements or settlements in response to the presence of any Hazardous Material Handled by Tenant or any Tenant Party in, on, or about the Tenant Space, the Building or the Land. Tenant agrees to indemnify, defend, protect and hold harmless Landlord and the Landlord Parties from all Claims, arising from or in any way related to (i) any Handling of Hazardous Materials by any Tenant Party or Tenant's breach of its obligations hereunder, or (ii) any removal, cleanup, or restoration work and materials necessary to return the Building or any other property of whatever nature located on the Building to their condition existing prior to the Handling of Hazardous Materials in, on or about the Tenant Space by any Tenant Party, including, without limitation, damages for personal or bodily injury, property damage, encumbrances, liens, costs and expenses of investigations, monitoring, clean up, removal or remediation of Hazardous Materials, defense costs of any Claims, good faith settlements, reasonable attorneys' and consultants' fees and costs, and losses attributable to the diminution of value (collectively, "**Environmental Losses**"), whether or not such Environmental Losses are contingent or otherwise, matured or unmatured, foreseeable or unforeseeable. Tenant's obligations under this Section 6.2 shall survive the expiration or earlier termination of this Lease.

(b) Landlord hereby represents and warrants that, to the best of Landlord's knowledge, the Tenant Space does not contain mold or any other Hazardous Materials at levels or in conditions in violation of applicable Environmental Laws. Landlord shall reaffirm this representation in writing as of the Commencement Date. Landlord agrees to indemnify, defend, protect and hold harmless Tenant and the Tenant Parties against any and all Environmental Losses incurred by Tenant or Tenant Parties in connection with the Handling of Hazardous Materials in the Tenant Space, the Building, or at, on or about the Land by Landlord or Landlord Parties or by any party other than Tenant or Tenant Parties. Landlord shall be responsible for the remediation of Landlord's or any Landlord Party's release or spill of Hazardous Materials in the Building or on the Land in accordance with applicable Environmental Laws at Landlord's sole cost and expense. In the event that Landlord is notified or otherwise becomes aware of the presence at the Building or the Land of Hazardous Materials at levels or in conditions that are in violation of Environmental Laws, then Landlord shall assess such condition and conduct, or cause the responsible party to conduct, the necessary remedial action to bring the same into compliance with Environmental Laws. Landlord and Tenant agree that (as between Landlord and Tenant) such remedial action shall be at Landlord's sole cost and expense, except for the extent to which the need for such remedial action is attributable to the negligence or willful misconduct of Tenant or any other Tenant Party, in which case the cost of such remedial action shall be paid by Tenant to Landlord within thirty (30) days after Tenant's receipt of Landlord's invoice therefor.

6.3 Compliance with Legal Requirements.

(a) **Tenant's Compliance with Legal Requirements.** Subject to Landlord's obligations under Section 6.3(c) below, Tenant, at its sole expense, shall comply with all Legal Requirements applicable to the Tenant Space or the use and occupancy thereof by Tenant; provided, however, that Tenant shall not be required to make or perform any structural repairs or Alterations to the Tenant Space in order to comply with the forgoing unless such compliance is made necessary due to (i) Tenant's specific manner of use of the Tenant Space; (ii) Tenant's uncured default under this Lease beyond the expiration of any applicable notice and cure period hereunder; or (iii) Alterations to the Tenant Space made by Tenant. Tenant shall not do or permit to be done any act or thing upon the Tenant Space which will invalidate or be in conflict with Landlord's insurance policies, provided that Landlord notifies Tenant of any breach of this requirement and Tenant is allowed a ten (10) business day cure period. If, as a result of Tenant's acts or omissions, the insurance rates for the Building shall be increased, then Tenant shall reimburse Landlord for the amount of any such increase actually caused by Tenant's acts or omission within thirty (30) days of receipt of an invoice thereof from Landlord.

(b) Governmental Approvals. Tenant shall have the sole responsibility to secure any and all governmental approvals relating to Tenant's occupancy and use of the Tenant Space other than permits required in connection with any Landlord's Work. Tenant shall (i) secure such approvals prior to the Commencement Date, (ii) provide Landlord evidence thereof in form and substance reasonably approved by Landlord, and (iii) except the extent of the negligence or willful misconduct of Landlord or the Landlord Parties or Landlord's breach of its obligations under this Lease, indemnify, defend and hold Landlord harmless from any costs and fees incurred in connection with obtaining such approvals, and from any fines or penalties imposed by a Governmental Authority arising from Tenant's non-conformance with Legal Requirements (other than building permits required in connection with any Landlord Work).

(c) Landlord's Compliance with Legal Requirements Landlord hereby represents and warrants that, to the best of Landlord's knowledge, neither the Building nor the Tenant Space are in violation of any Legal Requirements. Landlord, at Landlord's sole cost and expense, shall be responsible for the compliance with all Legal Requirements relating to (i) the common systems serving the Building, (ii) the Common Areas, (iii) the Tenant Space, and (iv) the roof, foundations, exterior walls and structural supports for the Building, provided that compliance with such Legal Requirements is not otherwise the responsibility of Tenant under this Lease.

(d) Access and Inspection. Landlord and Landlord's lender and consultants, and each of their respective officers, agents, employees, members or managers and their respective lenders, agents and consultants, shall have the right, but not the obligation, to enter into the Tenant Space at any reasonable time and upon reasonable prior written notice (except in the case of an emergency in which case no prior notice is required provided that Landlord shall provide Tenant written notice following such emergency entry, as soon as is reasonably practicable, notifying Tenant of the nature of such entry) to inspect the Tenant Space or to perform maintenance or make such alterations, repairs, improvements or additions to the Tenant Space as Landlord may reasonably deem necessary. Except as otherwise provided under this Lease, all such activities shall be without abatement of Rent or liability to Tenant. Tenant shall be permitted to have an authorized representative accompany Landlord on any such entry, and Landlord shall use reasonable efforts to postpone Landlord's access until Tenant has caused an authorized representative to be available. Landlord shall use commercially reasonable efforts to ensure that the performance of any such work of repairs or alterations shall not unreasonably interfere with Tenant's use of the Tenant Space (or any portion thereof) for Tenant's business purposes (provided that such efforts shall not require Landlord to limit the performance of any such work to weekends or the evening unless (x) such work is likely to materially impact Tenant's use of or access to the Tenant Space if performed during normal business hours or the failure to perform such work outside of normal business hours would pose an imminent threat to the health or safety of any occupant of the Tenant Space, in which case Landlord shall pay any additional costs associated with performing such work outside of normal business hours; or (y) Tenant otherwise requests that such work be performed outside of normal business hours, in which case Tenant pays any and all incremental costs associated with the performance of such obligations outside of normal business hours).

(e) Tenant's Access. Subject to Landlord's reasonable security protocols for entering the Building (e.g., badging requirements and/or badge exchange program), and the Rules and Regulations, Tenant shall have access to the Tenant Space during the Term on a twenty-four (24) hours per day, seven (7) days per week basis, and may use third party services and vendors to access and use the Tenant Space for purposes of maintaining and operating Tenant's equipment.

7. Alterations, Maintenance.

7.1 Limitations on Alterations. Other than the Tenant Improvements, Tenant shall not make any Alterations to the Tenant Space without Landlord's prior written consent, which consent shall not be

unreasonably withheld, conditioned, or delayed; provided, however, that (i) Landlord may withhold consent in its sole and absolute discretion to any Alteration that (x) materially and adversely affects the Building's structure or (y) materially and adversely affects the Building systems (a "**Material Alteration**"); and (ii) Tenant may make any Minor Alterations (as herein defined) without the prior written consent of Landlord. "**Minor Alterations**" means the following, only within the Tenant Space: (i) modification, installation, repair, maintenance, and/or removal of computer and other IT equipment, and network patching and/or infrastructure cabling; (ii) modification, installation, repair, maintenance, and/or removal of furniture, (iii) modification, installation, repair, maintenance, and/or removal of racks and/or cabinets by Tenant (including any anchoring and leveling of Tenant's cabinets and racks or removal of anchored cabinets and racks), (iv) replacement of light bulbs and other similar consumables in the Tenant Space and (v) modification, installation, repair, maintenance, and/or removal of branch circuitry. Landlord agrees to exercise commercially reasonable efforts to respond to any request by Tenant for approval of Alterations for which approval is required hereunder within ten (10) business days after delivery of Tenant's written request; Landlord's response shall be in writing and, if Landlord withholds its consent to any Alterations, Landlord shall specify in reasonable detail in Landlord's notice of disapproval, the basis for such disapproval. If Landlord fails to respond to any request by Tenant for approval of Alterations for which approval is required hereunder within such ten (10) business days period, Tenant shall have the right to send a second notice stating in upper case bold letters stating that "**UNLESS YOU APPROVE OR WITHHOLD YOUR CONSENT TO THE ENCLOSED REQUEST FOR CONSENT TO THE PERFORMANCE OF ALTERATIONS WITHIN FIVE (5) BUSINESS DAYS AFTER THIS NOTICE SUCH CONSENT SHALL BE DEEMED GIVEN,**" and if Landlord fails to respond within five (5) business days of receipt of such second notice, Tenant's proposed Alterations shall be deemed approved. Notwithstanding anything to the contrary set forth herein, Landlord hereby approves Tenant's plans and specifications listed on Exhibit J attached hereto.

7.2 Maintenance. (a) During the Term of this Lease, Tenant shall, at Tenant's sole cost and expense, maintain the interior, non-structural portions of the Tenant Space (including the interior walls and ceilings of the Tenant Space) and the Tenant Equipment therein in a clean, safe and good order and condition, ordinary wear and tear and casualty damage excepted. Tenant shall use industry standard practices with respect to the installation, maintenance and removal of the Tenant Equipment. Tenant shall maintain the Tenant Space free and clear of trash and debris. If Tenant fails to perform its covenants of maintenance and repair hereunder, and such failure continues for a period of ten (10) business days following Tenant's receipt of notice from Landlord, Landlord may, but shall not be obligated to, upon reasonable notice to Tenant (except in the case of emergencies, in which case no notice shall be required) perform all reasonably necessary or appropriate maintenance and repair, and any amounts expended by Landlord in connection therewith shall be reimbursed by Tenant to Landlord as Additional Rent within thirty (30) days after Tenant's receipt of Landlord's demand and invoice therefor. Landlord shall have no obligation to repair and/or maintain the Tenant Space, except as expressly set forth below. Tenant waives all rights to make repairs at the expense of Landlord as provided by any Legal Requirement now or hereafter in effect. It is specifically understood and agreed that, except as specifically set forth in this Lease (including the provisions of this Lease relating to the Landlord's Work), Landlord has no obligation and has made no promises to alter, remodel, improve, repair, decorate or paint the Tenant Space or any part thereof, and that no representations respecting the condition of the Tenant Space or the Building have been made by Landlord to Tenant. Notwithstanding anything contained herein to the contrary, unless caused by the negligent or willful acts of Tenant or any Tenant Parties, in which case Landlord shall perform such maintenance, repairs and replacements and Tenant shall reimburse Landlord for Landlord's actual and reasonable costs incurred in connection with same, Tenant shall not be responsible for any maintenance, repairs and replacements to the or the structural elements of the Building including the foundations, footings, exterior wall assemblies including weather walls, interior and exterior load bearing walls, floor slab, roof, roof deck and structural columns, all of which shall be Landlord's obligation, which Landlord

shall perform in a manner consistent with similarly situated data centers and otherwise in accordance with Landlord's program for preventative maintenance (the "**Preventative Maintenance Program**"), the details and schedule for which are set forth in Exhibit I attached hereto and made a part hereof.

(b) Except as otherwise provided herein, Landlord will maintain and keep in good repair, consistent with the standard customarily used in comparable data centers, the Common Areas, the PDUs serving the Tenant Space, the Building systems within the Tenant Space and those serving the Tenant Space, fire suppression systems, and the structural elements of the Building including the foundations, footings, exterior wall assemblies including weather walls, interior and exterior load bearing walls, floor slab, roof, roof deck and structural column, and Landlord shall repair latent defects related to any of the foregoing. Landlord shall make all repairs with due diligence and due care in a good and workmanlike manner and in compliance with all Legal Requirements, and in making such repairs shall comply with the terms of Section 6.3(d) of this Lease.

7.3 Liens. Tenant shall keep the Tenant Space, the Building and the Land free from any liens arising out of work performed at the Tenant Space by or on behalf of Tenant or acts or omissions of Tenant and shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Tenant at or for use on or in the Tenant Space; provided, however, that Tenant shall have the right to contest in good faith any such claims, so long as Tenant does so diligently, by appropriate proceedings, without prejudice to Landlord, and after delivery to Landlord of a bond, cash deposit or other security reasonably satisfactory to Landlord (and any Lender) to protect Landlord's (and any Lender's) interest in the property and to satisfy any amounts that may become due in the event that Tenant's contest is unsuccessful. Landlord shall have the right to post and keep posted on the Tenant Space any notices which it deems necessary for protection from such liens. If any such liens are filed, unless Tenant has undertaken a permitted contest that satisfies all of the requirements set forth above within thirty (30) days of Tenant receiving notice of such lien, Landlord may, upon ten (10) business days' written notice to Tenant, without waiving its rights based on such breach by Tenant and without releasing Tenant from any obligations hereunder, pay and satisfy the same and in such event the sums so paid by Landlord shall be due and payable by Tenant within thirty (30) days of receipt of an invoice thereof. Except to the extent of the negligence or willful misconduct of Landlord or any Landlord Parties, Tenant agrees to indemnify, defend and hold Landlord Parties harmless from and against any Claims for mechanics', materialmen's or other liens in connection with any Alterations, repairs or any work performed, materials furnished or obligations incurred by or for Tenant.

7.4 Third-Party Service Providers. All contractors and third-party service providers retained by Tenant to perform services at the Premises must be approved by Landlord, such approval not to be unreasonably delayed, conditioned, or withheld. All of the contractors and third-party service providers set forth on Exhibit G hereto are hereby approved by Landlord. Landlord may provide Tenant with a list of contractors and providers that are not acceptable to it from time to time. As of the Effective Date, the list of contractors who are not acceptable to Landlord is set forth on Exhibit G-1 hereto.

8. Electricity, Electrical Charges, Security, Other Operating Provisions.

8.1 Provision of Electricity. Following completion of the Tenant Improvements, if any, Landlord, subject to the provisions of this Section 8 and the Service Level Agreement, shall make available to Tenant, AC electric capacity at a level not less than the Tenant's Critical Load for the Premises stated in the Basic Lease Terms. Landlord shall not be liable or responsible to Tenant or any other party in any regard for any failures of Landlord's efforts as stated herein, except as set forth in this Section 8 and in the Service Level Agreement.

(a) Notwithstanding the foregoing provisions of Section 8.1 or anything to the

contrary set forth in this Lease, Landlord and Tenant acknowledge that on the Commencement Date 400 kW of power will be delivered to the Premises on a temporary basis to Tenant's RDC4 space. Tenant will be responsible for terminating such power to the PDU for delivery to the floor of the Premises via Tenant's temporary breaker panel and whips. Thereafter, on or before [REDACTED] power will be cut over to PDUs with Tenant's requested 250 amp breakers. Upon such cut over in power, Tenant will be responsible for terminating power to the PDUs for distribution to Tenant's busway. 1.2 mW of power will be made available by the Landlord by this date and Tenant will be responsible for removing all power connectivity from the temporary PDUs by [REDACTED]

(b) In addition to the provisions of Section 8.1(a), on or prior to [REDACTED] Landlord may request a maintenance window with Tenant to replace the PDUs in place to deliver the 1.2 MW of power to RDC4. This work will be coordinated with Tenant and will be done without impact to Tenant's uptime, provided that power is engaged redundantly at the PDU level. The cost of the replacement of the PDUs and re-termination to Tenant's busway will be at Landlord's cost.

8.2 Electricity Charges and Usage.

Tenant shall pay for electricity service to the Premises on the following basis:

(a) **Charges.** With respect to the metered electricity consumption of the Premises and its dedicated electrical room, Tenant shall pay as "**Tenant's Utility Payment**" the Actual Metered Cost, as reasonably determined by Landlord. Tenant's "**Actual Metered Cost**" shall be equal to the product of (i) Tenant's Electrical Usage, multiplied by (ii) Tenant's Cost, multiplied by (iii) the PUE, where:

"**Tenant's Electrical Usage**" means the amount measured in kWh at the input of the PDUs serving the Premises;

"**Tenant's Cost**" means the amount derived by dividing the sum of all electrical utility bills (including all sales and other taxes and impositions imposed on Landlord's purchase of electricity by any Governmental Authority) for electrical service to the Building (the "**Facility Total Electricity Cost**") by the total Building kWh ("**Facility Electrical Usage**"); and

"**PUE**" means the amount determined by Landlord by dividing the total Facility Electrical Usage by the total annual Tenant Electrical Usage for all tenants in the Building.

(b) **Usage.** Tenant shall be solely responsible, at Tenant's sole cost and expense, using an electrical contractor reasonably approved by Landlord, for the installation of all power circuits and rack grounding to the base Building grounding grid system required in order to deliver Tenant's Critical Load downstream of the PDUs and to distribute it in the Premises. Upon Landlord's approval of Tenant's request for the installation of electrical services to the Premises, Tenant's designated electrical contractor reasonably approved by Landlord shall perform the connection to the Building's electrical system at Tenant's sole cost and expense. Tenant covenants that Tenant's electrical consumption at the Premises shall not at any time exceed the capacity of any of the electrical facilities (including, without limitation, power distribution units and remote power panels) and installations in or otherwise serving or being used in the Premises (it being understood that Tenant's Critical Load does not exceed such capacity) and Tenant shall, upon the submission by Landlord to Tenant of written notice, promptly cease the use of any of Tenant's electrical equipment which Landlord believes in its reasonable business judgment will cause Tenant to exceed such capacity. Any additional feeders, risers, electrical facilities and other such installations required for electric service to the Premises will require approval by Landlord, such approval not to be unreasonably withheld, conditioned, or delayed, and an amendment to this Lease executed by both parties

hereto, provided, however, that Landlord shall not be required to provide Tenant with power in excess of Tenant's Critical Load, except in connection with Article 39 and Article 40. If not already installed as of the Effective Date, Landlord shall install, at its sole cost and expenses, meters to measure Tenant's power consumption at the line side of the PDUs serving the Premises.

(c) Interruption of Services.

(i) **Service Level Failure.** Failure to achieve any Service Level Objectives shall not constitute a breach of this Lease by Landlord. In the event that there is a Service Level Failure (as defined in Exhibit E) during an Eligibility Period (as defined in Exhibit E), Tenant shall be entitled to receive the applicable Service Level Credits (as defined in Exhibit E). Service Level Failures do not include a failure by Landlord to meet the Service Level Objectives (as defined in Exhibit E): (a) to the extent caused solely by the action or failure to act by Tenant, or a Tenant Party; (b) to the extent due solely to failure of equipment provided by Tenant; (c) to the extent caused by Tenant not providing Landlord with access to all areas necessary for Landlord to be able to correct or to prevent the Service Level Failure; (d) which is part of a planned service interruption for maintenance in accordance with the Landlord's Preventative Maintenance Schedule; (e) due to a Force Majeure Event, casualty or condemnation; (f) for which Tenant is entitled to a Service Level Credit for (i) a separate but contemporaneous Service Level Failure, or (ii) a Service Level Failure for which a repair is attempted but which Service Level Failure reoccurs within the same Eligibility Period as the original Service Level Failure; (g) affecting other portions of the Project other than the Premises; (h) resulting from Tenant's breach of the Lease or a Tenant Default or any event which, with the passage of time, would constitute a Tenant Default; (i) as to a power Service Level Failure, if Tenant fails to take advantage of the redundant electrical design of the Data Center Premises (e.g. Tenant "single-cords" its equipment in a scenario where "dual-cording" of Tenant Equipment is available), and there occurs a power Service Level Failure, which could have been avoided if Tenant had, in fact, taken proper advantage of such electrical redundancies, then such interruption will not be deemed to be an Service Level Failure; or (j) due to any event or circumstance expressly noted in Note 1 listed in Exhibit E. No interruption or malfunction of any electrical or other service (including, without limitation, heating, ventilation and air conditioning to the Premises (or to any other portion of the Project) shall, in any event, relieve from any of Tenant's obligations under this Lease (including the obligation to pay Base Rent, Additional Rent, or other charges) or grant Tenant any right of setoff or recoupment (except to the extent that Tenant is entitled to Service Level Credits), or provide Tenant with any right to terminate this Lease, except as expressly provided in this Lease.

(ii) **Notice of Service Level Failure.** Tenant shall provide a notice of any Service Level Failure discovered by Tenant to Landlord in accordance with Section 35 of the Lease and via email or via telephone to Landlord's 24 hour response line, as soon as practicable after discovery. Landlord shall provide a notice of any Service Level Failure discovered by Landlord to Tenant electronically, via email, to the Tenant-designated contact, as soon as practicable after discovery. A Service Level Failure begins and ends as described in Exhibit E.

(iii) **Notice of Claim of Service Level Credits** Landlord will monitor its compliance with the Service Level Objectives and will provide a report to Tenant at the end of any calendar month during which a Service Level Failure occurs detailing such Service Level Failure(s). In the event of a Service Level Failure in a particular month which is reported by Landlord to Tenant, Tenant shall be entitled to a Service Level Credit, to be calculated and credited in accordance with Section 8(c)(iv) hereof without any need for Tenant to claim such Service Level Credit. In addition, if Tenant becomes aware of a Service Level Failure that has not been reported by Landlord, Tenant shall provide notice to Landlord of a claim for Service Level Credits in connection therewith within twenty (20) days following the occurrence of such unreported Service Level Failure for which such Service Level Credits are claimed, together with

reasonable supporting evidence of such Service Level Failure to the extent such evidence is not under Landlord's control. Such notice shall be given in accordance with Section 35 of the Lease by email. In the event Tenant's notice of a Service Level Credit claim is not timely given, Tenant's right to such Service Level Credit shall lapse.

(iv) **Calculation of Service Level Credits.** The maximum credit relative to any Eligibility Period regardless of the number or length of interruptions in such Eligibility Period shall not exceed one Service Level Credit per Eligibility Period. For example, if such interruption occurs for 53 minutes during an Eligibility Period, service is restored but such Service Level Failure occurs again within the same Eligibility Period, the Service Level Credit for such Eligibility Period shall be one Service Level Credit. If such Service Failure occurs during one Eligibility Period and then continues into another Eligibility Period, the credit shall be equal to two Service Level Credits. In the event there remain unapplied Service Level Credits at the end of the Term, Landlord shall remit to Tenant in a lump sum the amount of such balance.

(v) **Chronic Service Level Failure.**

1. If there occurs during any twelve (12) month period during the Term, (a) three (3) or more Service Level Failures with respect to the "Power" Service set forth on Exhibit E, (b) four (4) or more Service Level Failures with respect to the "HVAC – Temperature" Service set forth on Exhibit E or the "HVAC – Humidity" Service set forth on Exhibit E, or (c) five (5) Service Level Failures relating to any combination of the "Power" Service, the "HVAC – Temperature" Service and the "HVAC – Humidity" Service, then Tenant shall have the option, at its sole discretion, to elect to require Landlord to engage a mutually acceptable, licensed and reputable third party with experience auditing comparable data centers in the geographical location in which the Land is located to audit Landlord's operation of the Building to ensure it operates in accordance with the Data Center Standard and upon receipt of audit Landlord agrees to adopt its findings to improve the operations of the Building and its infrastructure, up to the load side of the PDUs serving the Premises. In the event that Landlord fails to implement such findings within ninety (90) days of such audit ("**Correction Date**"), then Tenant will receive a credit against the Base Rent payable hereunder [REDACTED] of the per diem Base Rent then payable hereunder for each day from and after the Correction Date until such failure is remedied. If Landlord fails to implement such findings within one hundred eighty (180) days following such audit, then Tenant shall have the right to terminate this Lease, without any penalty or termination fee or any other liability, by providing written notice thereof to Landlord prior to such failure having been cured. Notwithstanding anything herein to the contrary, Landlord shall always retain the exclusive right to operate, repair, replace, and maintain the Building infrastructure up to the load side of PDUs serving the Premises. Notwithstanding anything contained herein to the contrary, Landlord shall be responsible for ensuring that the Building operates at all times in accordance with the Data Center Standard.

2. Commencing with the third (3rd) Chronic Qualifying Interruption of Landlord's Services (as defined below) during the Term, and for each Chronic Qualifying Interruption of Landlord's Services occurring thereafter during the Term, instead of those Service Level Credits provided for on Exhibit E, Tenant shall be entitled to an abatement of Base Rent equal to one month of the then-current Base Rent for such Chronic Qualifying Interruption of Landlord's Services. As used herein, a "**Chronic Qualifying Interruption of Landlord's Services**" means either (i) a Service Level Failure is caused by both paired electricity feeds A and B failing simultaneously as determined at the line side of the PDUs in the Premises and, as a result of such failure, Tenant is prevented from using (and actually does not use) such Premises, or any portion thereof, in the ordinary course of Tenant's business operations (which for avoidance of doubt, and for purposes of this Lease, means the permitted operation of Tenant's business in the affected portion of the Premises are adversely impacted), or (ii) Tenant's IT hardware within the

Premises shuts down due to internal high thermal overload protections as a direct result of a Service Level Failure caused by Landlord's HVAC systems and Computer Room Air Handlers (CRAHs) failing to supply sufficient airflow and temperature to the Premises. Landlord's liability for a Chronic Qualifying Interruption of Landlord's Services under (i) above is conditioned upon Tenant's use of an AB redundant electrical design of the Premises (e.g. Tenant "single-cords" its equipment in a scenario where "dual-cording" of Tenant's equipment is available) and if there occurs a power failure which could have been avoided if Tenant had, in fact, taken proper advantage of such electrical redundancies, then there shall not be a Chronic Qualifying Interruption of Landlord's Services for such power failure. Tenant shall be responsible for Premises airflow tile supply air, ceiling return air grilles, aisle containment, and overall Data Center Premises airflow management. A Chronic Qualifying Interruption of Landlord's Services pursuant to clause (ii) above shall not occur due to the failure of Tenant to properly manage the airflow provided from Landlord's HVAC equipment within the Premises.

3. In the event that five (5) or more Chronic Qualifying Interruption of Landlord's Services occur during the Term, Tenant shall have the right to terminate the Lease upon not less than thirty (30) days' prior written notice to Landlord, which notice shall be delivered by Tenant to Landlord, if at all, within ninety (90) days after the occurrence of the most recently occurring Chronic Qualifying Interruption of Landlord's Services. Upon the effective date of such termination of the Lease, neither Landlord nor Tenant shall have any further rights, remedies or obligations as against each other under, or pursuant to the Lease, other than those rights, remedies or obligations that accrued prior to the effective date of any such termination to the extent, as provided in the Lease or otherwise by the intent of such terms, such rights, remedies or obligations are to survive any termination or expiration of the Lease.

(d) Payment. All charges under this Section 8.2, Section 8.3 and Section 8.7 shall be payable as Additional Rent. Tenant shall pay the cost of all utilities (e.g., electricity, chilled water) serving, provided to and/or used in or for the Premises by paying Tenant's Utility Payment each month (or portion thereof) after the Commencement Date until the expiration of the Term. Landlord shall invoice Tenant's Utility Payment in arrears using Tenant's Electrical Usage and the actual monthly PUE for such month, and Tenant shall pay such amount within thirty (30) days from the date of Tenant's receipt of the invoice. The amounts collected by Landlord pursuant to this Section 8.2 during each calendar year (or portion thereof) during the Term shall be reconciled at the end of such calendar year based on the actual, annualized PUE for such year; provided, however, that if the actual, annual PUE is above 1.5 (the "**PUE Cap**"), the PUE shall not be increased above 1.5 for purposes of reconciling Tenant's Actual Metered Cost for the prior year. Within ninety (90) days after the end of each calendar year, Landlord shall provide to Tenant a written reconciliation statement (the "**PUE Reconciliation Statement**") showing the actual, annualized PUE for the preceding year. To the extent Tenant has overpaid Tenant's Utility Payment for a particular year based on the actual, annualized PUE for such year, such overpayment shall be credited against the monthly Base Rent due from Tenant for the month immediately following the month in which the PUE Reconciliation Statement is delivered to Tenant. To the extent Tenant has underpaid Tenant's Utility Payment for a particular year based on the actual, annualized PUE for such year, Tenant shall pay the amount of such underpayment to Landlord within thirty (30) days following Tenant's receipt of the PUE Reconciliation Statement.

A revenue-grade meter acceptable to Tenant has been installed by Landlord. Tenant shall pay, as Additional Rent, the amount of any taxes or other impositions imposed by any Governmental Authority related to the electricity used or consumed by Tenant in connection with the Premises, including Tenant's costs of cooling.

8.3 Office and Storage Space Power. Tenant shall pay for all electricity provided to and/or used in or with respect to the Office Space and Storage Space (the "**Office and Storage Space Power**

Payment). Landlord shall install, at Landlord's cost, one or more submeters measuring electric power delivered to and/or consumed in the Office Space and Storage Space, and Landlord shall bill Tenant monthly for the Office and Storage Space Power Payment. Tenant shall pay the Office and Storage Space Power Payment to Landlord, as Additional Rent, within thirty (30) days of Tenant's receipt of an Office and Storage Space Power Payment invoice. Notwithstanding the foregoing, Landlord shall have the right to reasonably estimate the amount of the monthly Office and Storage Space Power Payment for each twelve (12) month period during the Term, based on the charges for power to such space for the past two years, any increases in the costs of electrical consumption, any reduction in the Office Space and/or Storage Space and, as set forth in this Lease, based on an electrical survey, if conducted by a third party electrical consultant and other relevant factors. In such event, the monthly Office and Storage Space Power Payment shall equal one-twelfth (1/12th) of the amount reasonably estimated by Landlord to reimburse it for the Office and Storage Space Power Payment which would be due for the subsequent twelve (12) months and shall be payable by Tenant to Landlord on the first day of each month, in advance, at the same time as Tenant pays Base Rent. Landlord shall have the right to re-estimate the amount of such monthly Office and Storage Space Power Payment, not more than two times each year, upon not less than forty-five (45) days' notice to Tenant, if Landlord reasonably determines the monthly Office and Storage Space Power Payment will be insufficient and will be at least 5% less than the amount required to reimburse Landlord for the Office and Storage Space Power Payment; and, in such instance, will provide Tenant with Landlord's calculation that was the basis for such re-estimation. Within sixty (60) days after the end of each 12-month period during the Term, Landlord shall submit to Tenant a statement in reasonable detail stating the actual amount of Tenant's Office and Storage Space Power Payment based on the submeters measuring electrical consumption to the Office Space and Storage Space and if the amount shown on such statement is more or less than the amount paid for such 12-month period, Tenant shall pay to Landlord the deficiency, or Landlord shall refund to Tenant the excess, within forty-five (45) days after submission of such statement of the amount of the actual Office and Storage Space Power Payment that should have been paid during such 12-month period. Any such year-end statement shall be accompanied by reasonable back-up documentation, including copies of the applicable electric bills from the utility provider. With respect to each Office and Storage Space Power Payment, Landlord shall attempt to obtain, and Tenant shall receive the benefit of, any discounts or rebates which might be offered on account of the electricity purchased, the promptness of payment for same, or otherwise. The rights and obligations in this Section 8.3 shall survive the expiration or earlier termination of this Lease.

8.4 Environmental Controls. Landlord shall use provide heating, ventilation and air conditioning ("HVAC") to the Tenant Space twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year, through use of the Building standard HVAC system serving the Premises, as provided in the Service Level Agreement; provided, however, that any failure to provide HVAC shall be governed by the terms of the Service Level Agreement and shall not be deemed to be a breach of this Lease except to the extent expressly provided in the Service Level Agreement. Landlord shall not be liable or responsible to Tenant or any other party in any regard for any failures of Landlord's efforts as stated herein, except as specifically set forth in the Service Level Agreement.

8.5 Security.

(a) Building Security. Landlord, or at Landlord's election an independent contractor on behalf of Landlord, shall provide security services with respect to access to the Building twenty-four (24) hours a day, seven (7) days a week. Tenant shall provide Landlord with a Building Access List, as defined in the Rules and Regulations, naming individuals to whom Tenant has authorized Landlord to grant access to the Building. Landlord shall provide 24x7 on-site security and the Building will be equipped with base building motion detection cameras, providing coverage for all common areas and exterior entrances to the Building. The video logs for such cameras will be retained for a minimum of ninety-three (93) days.

Notwithstanding the foregoing, Tenant acknowledges and agrees that neither Landlord's agreement to provide such security services nor Landlord's actual provision of the same pursuant to this Lease shall directly or indirectly create any liability (and Tenant hereby waives any claim based on any such liability) on the part of any Landlord Party to any Tenant Party, any persons visiting the Building, or any other person or entity with respect to any loss by theft, injury or loss of life, or any other damage suffered or incurred in connection with any entry into the Project or any other breach of security with respect to the Building except to the extent resulting due to the negligence or willful misconduct or Landlord breach of its obligations under this Lease. Landlord will maintain all logs and reports related to security and access for the Building and Premises for at least one (1) year, and will make such logs and reports available to Tenant upon request.

(b) Tenant Space Security. Landlord shall use commercially reasonable efforts to limit access to the Tenant Space to: (i) individuals on the Building Access List from time to time, and (ii) Landlord's employees, agents or representatives in the event of an emergency or in connection with Landlord's exercise of its rights and/or performance of its obligations hereunder. Notwithstanding the foregoing, Tenant understands and acknowledges that (i) the Building is a multi-tenant Building, (ii) other tenants will have employees and contractors within the Building, and (iii) Landlord cannot guarantee or warrant that it can deny the employees or contractors of other tenants' access to the Premises. Tenant acknowledges the previously described limitations inherent in a multi-tenant building and understands that Landlord recommends to Tenant that Tenant install its own security access equipment to fully secure the Tenant Equipment and/or the Tenant Space. Tenant shall be permitted, at its cost, to install its own access control equipment and/or video surveillance equipment for the Tenant Space, provided that any video surveillance equipment installed by Tenant shall only be permitted to monitor the entrances to the Tenant Space and shall not be permitted to monitor any other areas of the Building. Landlord shall cooperate with Tenant in connection with Tenant's installation of such security system.

8.6 Fire Detection and Suppression. Landlord shall use commercially reasonable efforts to maintain a heat and smoke detection system in the Building and a double interlock pre-action system in the Premises. Tenant acknowledges that it has reviewed and approved the smoke detection and fire suppression systems in the Building prior to the date hereof.

8.7 Network Connectivity and Telecommunications Room/Meet Me Room. Landlord shall not be obligated to provide any telecommunications network services or managed services to Tenant under this Lease, except to the extent specifically provided herein.

(a) Connectivity to the Internet shall be established, negotiated and paid for by the Tenant (i) directly with the network carriers, (ii) through Landlord's designated agent, or (ii) through one or more network provisioning firms within the Building, at the discretion of the Tenant. Any expense of network connectivity between the Building Telecommunications Room and/or Building Meet Me Room (each, as defined below) and the Premises shall be an expense of the Tenant or its vendors.

(b) Landlord shall provide certain telecommunications racks, A/C and/or D/C power and an air-conditioned environment in a secured space for the installation and demarcation of all telecommunications carriers in the Building, which space shall be known as the "**Building Telecommunications Room**". Landlord and/or its designated agent will control the access of all telecommunications carriers entering the Building through two (2) diverse main points of entry and require any and all telecommunication carriers to terminate in the Building Telecommunications Room. Landlord may designate space in the Building where network services and cross-connects are provided, and such space is referred to herein as the "**Building Meet-Me Room**". The providers of network services and cross-connects in the Building Meet-Me Room are referred to herein as "**Meet-Me Room Operators**". Landlord may designate a preferred Meet-Me Room Operator for the Building Meet-Me Room.

(c) Landlord will make available to its tenants and other occupants at the Building, including Tenant, access to all telecommunication network carriers that have permitted access to the Building via and at location(s) determined by Landlord; provided, however, that each tenant, including Tenant, is solely responsible for obtaining service arrangements for itself directly with each such carrier or Meet-Me Room Operator. Landlord owns and has sole and exclusive rights to the conduit infrastructure entering the Building and connecting each of the tenants' premises (including the Premises) and other areas located throughout the Building to the Building Telecommunications Room and Building Meet-Me Room. Landlord has the sole right to determine, in its sole discretion, which telecommunication network providers will be permitted access to the Building; provided, however, that Tenant may request that Landlord permit access to a network provider which request shall not be unreasonably withheld or delayed. All telecommunication network providers will be required to enter into an agreement with the Landlord for space within the Building Telecommunications Room and use of Landlord's conduit infrastructure (on Landlord's standard form agreement).

(d) Landlord grants to Tenant the exclusive use of space on the demarcation rack ("MMR Rack") in Building Meet-Me Room at market rates. Tenant shall be responsible for the power circuits and the cost of electricity supplying any equipment in the MMR Rack at the cost charged by Landlord from time to time. The MMR Rack numbers are as follows: MMR01.A03 and MMR02.A03.

(e) Except as otherwise provided herein, all cabling and patch panels are to be installed at the sole expense of the Tenant between the MMR Rack and the Premises and shall be performed in accordance with Section 7 of this Lease. All cabling, patch panels and alterations permitted pursuant to this Lease shall be performed by Tenant with contractors reasonably acceptable to Landlord (which consent shall not be unreasonably withheld, conditioned, or delayed), at Tenant's sole cost and expense and in accordance with plans reasonably approved by Landlord in accordance with this Lease. All electrical installations, if required, shall be performed by an electrical contractor reasonably approved by Landlord, at Tenant's sole cost and expense and in accordance with Section 7.4. All work by Tenant shall be made in compliance with this Lease, all Legal Requirements and the Rules and Regulations. Prior to installing any Equipment or cabling in the designated conduit and/or MMR Rack, Tenant shall submit detailed plans and specifications of the planned Equipment and cabling through which such is to be installed to Landlord, for Landlord's approval, which approval shall not be unreasonably withheld or delayed. Landlord shall respond to Tenant's proposed plans within five (5) business days after receipt with either approval or the changes required for Landlord's approval in accordance with this Lease.

(f) All cabling and patch panels installed by Tenant shall become the sole and exclusive property of Landlord at the expiration or earlier termination of this Lease, and Tenant shall have the exclusive right to access and use such cabling and patch panels during the term of the Lease. Landlord shall not be permitted to access or use such cabling and patch panels during the term of the Lease without Tenant's prior written consent. At the expiration or termination of the Lease, such cabling and patch panels may remain in the Building.

8.8 BMS Monitoring. Landlord shall provide Tenant with access to Landlord's data center infrastructure management system for monitoring power, temperature and humidity in each Datacenter (the "**BMS**") for Tenant to access information thereon. Landlord shall monitor the Building's mechanical and electrical infrastructure delivering the Critical Power to the Premises, including the Building's fire alarm system, sub-floor leak detection in the Premises and the Building's chiller/pump plant, fuel pressure and internal fuel tank leak protection, PDU input and output, electrical power usage and trend analysis, power quality and trend usage at the utility, and utility metering for the Premises. Additionally, Tenant, at its sole discretion and at its sole cost and expense, may install sensors and related equipment in the Premises to

enable Tenant to monitor remotely the temperature and humidity levels in the Premises. Such sensors and related equipment shall be independent of Landlord's systems.

8.8 Preventative Maintenance. Landlord's preventative maintenance schedule for the Building is attached hereto as Exhibit I. Preventative maintenance shall include thermal scanning on all main electrical gear, UPS and PDUs at least annually. At Tenant's request and at Tenant's cost, Landlord will also perform thermal scanning of Tenant's busway and/or tap boxes. Landlord will maintain all logs and reports related to its preventative maintenance activities for at least one (1) year, and will make such logs and reports available to Tenant upon request. Tenant shall have the right to request that Landlord delay scheduled preventative maintenance on Building infrastructure dedicated to the Tenant Space for a period of up to ten (10) days, provided that Landlord shall be relieved from all liability with respect to a failure to meet a service level set forth in Exhibit E, to the extent the delay in maintenance causes such failure. In addition, Landlord shall perform, or have performed, general cleaning and janitorial services with respect to the Office Space and Common Areas of the Building in accordance with Exhibit F.

8.8 Other Services. Landlord shall provide delivery receiving and notice services for Tenant deliveries 24x7. Tenant shall have access to and use of the Building's docks during normal business hours (from 8:00 a.m. to 5:00 p.m., excluding weekends and holidays) on a first come, first served basis. Upon twenty-four (24) hours' notice to Landlord, Tenant shall be allowed to utilize the Building's docks outside of normal business hours. The Building will be equipped with trash dumpsters for Tenant's use in common with other tenants of the Building, on a 24x7 basis.

9. Intentionally Omitted.

10. Equipment; Surrender.

10.1 During Term. Any removal by Tenant of any Tenant Equipment during the Term shall be performed in compliance with any applicable requirements set forth in this Lease and the Rules and Regulations.

10.2 Upon Termination. Subject to Section 10.3 below, upon the expiration or earlier termination of this Lease, Tenant shall quit and surrender possession of the Tenant Space to Landlord in good order and clean condition, reasonable wear and tear and casualty damage excepted, and Tenant shall promptly remove all Tenant Equipment from the Tenant Space and from the Building in accordance with the Rules and Regulations, and repair any damage caused by such removal. If Tenant fails to do so prior to such expiration or termination, and such failure continues for a period of thirty (30) days after such expiration or earlier termination, Landlord may treat the Tenant Equipment as abandoned and either charge Tenant for the reasonable removal and/or storage costs or dispose of the Tenant Equipment in any manner that Landlord shall reasonably elect and retain the proceeds thereof.

10.3 Holdover. If Tenant remains in possession of all or any portion of the Tenant Space after the expiration of the Term of this Lease (or any earlier termination of this Lease or the termination of Tenant's right to possess the Tenant Space), without the execution by Landlord and Tenant of a new lease or an extension of the Term of this Lease, then Tenant shall be deemed to be occupying such portion of the Tenant Space as a tenant-at-sufferance, upon all of the terms contained herein, except as to term and Base Rent. During any such holdover period, Tenant shall pay to Landlord (a) monthly Base Rent in an amount equal to (i) [REDACTED] of the Base Rent for such portion of the Tenant Space payable by Tenant to Landlord during the last month of the Term of this Lease (calculated on a per diem basis) with respect to the first sixty (60) days of such holdover; and (ii) [REDACTED] of the Base Rent for such portion of the Tenant Space payable by Tenant to Landlord during the last month

of the Term of this Lease (calculated on a per diem basis) thereafter, plus (b) [REDACTED]) of the elements of Additional Rent payable by Tenant to Landlord during the last month of the Term of this Lease. The monthly rent payable for such holdover period shall in no event be construed as a penalty for such retention of possession, nor shall such monthly rent be considered to be any form of Consequential Damages related to such retention of possession. Neither any provision hereof nor any acceptance by Landlord of any rent after any such expiration or earlier termination shall be deemed a consent to any holdover hereunder or result in a renewal of this Lease or an extension of the Term, or any waiver of any of Landlord's rights or remedies with respect to such holdover. As such, and notwithstanding any provision to the contrary contained herein, Landlord expressly reserves the right to require Tenant to surrender possession of the Tenant Space upon the expiration of the Term of this Lease or upon the earlier termination hereof or at any time during any holdover and the right to assert any remedy at law or in equity to evict Tenant and collect damages in connection with any such holdover. If Tenant holds over for more than ninety (90) days after the expiration of the Term of this Lease (or any earlier termination of this Lease or the termination of Tenant's right to possess the Tenant Space) (the "**Holdover Indemnity Period**"), Tenant shall indemnify, defend (with counsel reasonably satisfactory to Landlord), protect and hold Landlord harmless from and against any and all claims, demands, actions, losses, damages, obligations, costs and expenses, including, without limitation, reasonable attorneys' fees incurred or suffered by Landlord by reason of Tenant's failure to surrender the Tenant Space on the expiration or earlier termination of this Lease in accordance with the provisions of this Lease, including, without limitation, the loss of prospective tenants.

11. Insurance; Indemnity.

11.1 Tenant Insurance. Tenant shall, at Tenant's expense, procure and maintain throughout the Term of this Lease a policy or policies of insurance with at least the following coverage:

(a) Worker's Compensation Insurance covering any and all statutory liability of Tenant and Employer's Liability Insurance, including coverage for occupational injury, illness and disease, with minimum limits per accident and per disease (employee and policy) of One Million Dollars (\$1,000,000.00).

(b) Commercial General Liability Insurance, including Products and Completed Operations Liability, Personal and Advertising Injury, Fire Legal Liability and Contractual Liability, and Broad Form Property Damage Liability coverages, on an occurrence basis, with a minimum per occurrence limit of One Million Dollars (\$1,000,000.00) and a minimum annual aggregate limit of Two Million Dollars (\$2,000,000.00).

(c) Commercial Automotive Liability Insurance covering use of all owned, non-owned and hired automobiles used in Tenant's business for bodily injury, property damage, uninsured motorist and underinsured motorist liability with a minimum combined single limit per accident of One Million Dollars (\$1,000,000.00).

(d) Excess or Umbrella Liability Insurance with a minimum limit of Ten Million Dollars (\$10,000,000.00) in excess of the insurance coverage described in Sections (a), (b), and (c) above.

(e) Property Insurance, including Business Income and Extra Expense coverage, for all risks of physical loss of or damage to (i) Tenant Equipment, (ii) leasehold improvements to the Premises (or, as permitted by Landlord as an Alteration, to the Project) installed by Tenant, or (iii) business personal property or other property that is in the possession, care, custody or control of Tenant. Such insurance with respect to real and personal property shall be on a 100% replacement cost basis. Without limiting the scope

of coverage required under the first sentence of this subparagraph, such insurance shall provide protection against the types of perils that are covered under the Causes of Loss – Special Form/All Risk of Direct Physical Loss (or its equivalent) subject to standard exclusions, and shall include, without limitation, coverage for the perils of Earth Movement, Ordinance or Law (clauses A, B & C), Flood, Sewer Backup, Utility Services, Equipment Breakdown (including mechanical breakdown and electrical arcing), Debris Removal, and electronic data processing equipment, software and media covering 100% of the full replacement cost thereof. Tenant shall maintain or cause its third-party contractors to maintain Builders Risk property insurance during any periods of construction or Alterations.

(f) [To the extent such is not provided as part of Tenant's Property Insurance, business interruption insurance for business income and extra expense coverage with limits of at least one hundred percent (100%) of Tenant's Base Rent for a twelve (12) month period.] **[THIS REQUIREMENT REMAINS UNDER REVIEW BY MS INSURANCE RISK]**

Tenant's property insurance policy with respect to the Tenant Space shall be endorsed so as to include a waiver of subrogation in accordance with and to the full extent of Tenant's waiver of claims with respect to the Landlord Parties, as set forth in Section 11.2 of this Lease.

All insurance required of Tenant under this Lease shall be issued by insurers with a "General Policyholders Rating" of at least A-, VIII, as set forth in "Best's Insurance Guide." Such insurers shall be authorized to do business in the State in which the Building is located. Tenant's commercial general liability policy shall be written to apply to all bodily injury (including death) and property damage losses, and shall include blanket contractual liability, broad form property damage, independent contractor's coverage, cross liability and severance of interest clauses.

The amounts of insurance required above may be satisfied by Tenant purchasing primary coverage in the amounts specified or by Tenant buying a separate excess umbrella liability policy together with lower limit primary underlying coverage. The structure of the coverage is at Tenant's option, so long as the total amount of insurance meets the Landlord's requirements

The commercial general liability policies procured by Tenant hereunder shall name Landlord, the Landlord Parties designated by Landlord, any manager and any lenders designated by Landlord in writing as additional insureds. Prior to occupying the Tenant Space, and prior to the expiration of each such policy, Tenant shall submit to Landlord certificates of insurance evidencing such policies (and the applicable renewals thereof) being in effect. Tenant shall use commercially reasonable efforts to provide at least thirty (30) days' written notice to Landlord prior to any cancellation or material modification of such policy. If Tenant does not deliver to Landlord a certificate or other proof of renewal or coverage from an insurance carrier by the expiration dates of each expiring policy, Landlord may obtain such insurance on behalf of Tenant, and Tenant shall, on the first business day of the next month that is thirty (30) days after Tenant's receipt of Landlord's demand therefor, pay to Landlord an amount equal to the cost of such insurance policies.

11.2 Tenant Waiver. Tenant hereby waives its rights against the Landlord Parties with respect to any claims or damages or losses for damage to any Tenant Equipment or personal property, which are caused by or result from (a) risks insured against under any property insurance policies which are required to be obtained and maintained by Tenant under this Lease, and were, in fact, carried by Tenant at the time of such claim, damage, loss or injury, or (b) risks which would have been covered under any property insurance required to be obtained and maintained by Tenant under this Lease had such insurance been obtained and maintained as required, **including all such claims, damages and losses, which are caused**

by or result from the simple negligence of any member of the Landlord Parties, but excluding all such claims, damages and losses, to the extent caused by or resulting from the gross negligence or willful misconduct of any member of the Landlord Parties. The foregoing waivers shall be in addition to, and not a limitation of, any other waivers or releases contained in this Lease.

11.3 Landlord Insurance. Landlord shall, at Landlord's expense, procure and maintain throughout the Term of this Lease a policy or policies of insurance with at least the following coverage:

(a) Worker's Compensation Insurance covering any and all statutory liability of Landlord and Employer's Liability Insurance, including coverage for occupational injury, illness and disease, with minimum limits per accident and per disease (employee and policy) of One Million Dollars (\$1,000,000.00).

(b) Commercial General Liability Insurance, with a minimum per occurrence limit of One Million Dollars (\$1,000,000.00) and a minimum annual aggregate limit of Two Million Dollars (\$2,000,000.00).

(c) Commercial Automotive Liability Insurance covering use of all owned, non-owned and hired automobiles used in Landlord's business for bodily injury, property damage, uninsured motorist and underinsured motorist liability with a minimum combined single limit per accident of One Million Dollars (\$1,000,000.00).

(d) Excess or Umbrella Liability Insurance with a minimum limit of Ten Million Dollars (\$10,000,000.00) in excess of the insurance coverage described in Sections (a), (b), and (c) above.

(e) Special Form - Causes of Loss Property Insurance (or its equivalent) covering 100% of the full replacement cost of the Building (including, without limitation, the Building infrastructure and systems), and Landlord's personal property installed therein.

All insurance required of Landlord under this Lease shall be issued by insurers with a "General Policyholders Rating" of at least A-, VIII, as set forth in "Best's Insurance Guide." Such insurers shall be authorized to do business in the State in which the And is located. Landlord's commercial general liability policy shall be written to apply to all bodily injury (including death) and property damage losses, and shall include blanket contractual liability, broad form property damage, independent contractor's coverage, cross liability and severance of interest clauses.

All of Landlord's property insurance policies shall be endorsed so as to include a waiver of subrogation in accordance with and to the full extent of Landlord's waiver of claims with respect to the Tenant Parties, as set forth in Section 11.4 of the Lease. For the avoidance of doubt, however, Landlord and Tenant acknowledge and agree that, in no event, shall Landlord be obligated to carry any insurance covering any of Tenant's Equipment or personal property, or any Alteration to the Tenant Space made by or on behalf of Tenant. Landlord shall require its insurers to endeavor to provide Tenant with not less than thirty (30) days' written notice prior to any cancellation or non-renewal and non-replacement of the policies. Landlord's obligation to maintain insurance coverage shall be in addition to, and not in substitution for, Landlord's other obligations hereunder and Landlord's liability to Tenant for any breach of an obligation under this Lease which is subject to insurance hereunder shall not be limited to the amount of coverage required hereunder except as otherwise provided in this Lease.

11.4 Landlord Waiver. Landlord hereby waives its rights against the Tenant Parties with

respect to any claims or damages or losses for damage to the Building, the Land and/or Landlord's equipment and fixtures, which are caused by or result from (a) risks insured against under any insurance policies which are required to be obtained and maintained by Landlord under this Lease and that were, in fact, carried by Landlord at the time of such claim, damage, loss or injury, or (b) risks which would have been covered under any insurance required to be obtained and maintained by Landlord under this Lease had such insurance been obtained and maintained as required, **including all such claims, damages and losses, which are caused by or result from the simple negligence of any member of the Tenant Parties, but excluding all such claims, damages and losses, to the extent caused by or resulting from the gross negligence or willful misconduct of any member of the Tenant Parties.** The foregoing waivers shall be in addition to, and not a limitation of, any other waivers or releases contained in this Lease.

11.5 Indemnity. (a) **By Tenant.** To the maximum extent permitted by Legal Requirements, and subject to Section 11.4, Tenant hereby agrees to indemnify, defend, and hold harmless Landlord and the Landlord Parties from and against (and to reimburse Landlord and the Landlord Parties for) any and all Claims arising in connection with any third-party claims arising from:

- (i) any injuries or property damage occurring within the Tenant Space,
- (ii) a Tenant Event of Default,
- (iii) the negligence or willful misconduct of Tenant or any other Tenant Party with respect to the Tenant Space, the Building or the Land.

The foregoing notwithstanding, Tenant shall not be required to indemnify Landlord or any Landlord Party to the extent that the relevant Claims were caused by the negligence or willful misconduct of any Landlord Party.

In the event that any action or proceeding is brought against Landlord or any Landlord Party by reason of any indemnified Claim, Tenant, upon notice from Landlord, shall defend such action or proceeding at Tenant's cost and expense. Tenant agrees that no settlement offer shall be offered or accepted by Tenant in connection with any such indemnification and/or defense without Landlord's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. This indemnity provision and Tenant's obligations under this Section 11.5(a) shall survive the expiration or termination of this Lease as to any matters arising prior to such expiration or termination or prior to Tenant's vacation of the Tenant Space and the Building. Notwithstanding any provision to the contrary contained in this Section 11.5(a), nothing contained in this Section 11.5(a) shall be interpreted or used in any way to affect, limit, reduce or abrogate any insurance coverage provided by any insurer to either Tenant or Landlord.

(b) **By Landlord.** To the maximum extent permitted by Legal Requirements, and subject to Section 11.2, Landlord hereby agrees to indemnify, defend, and hold harmless Tenant and the Tenant Parties from and against (and to reimburse Tenant and the Tenant Parties for) any and all Claims arising in connection with any third-party claims arising from:

- (i) any injuries or property damage occurring in the Common Areas, or
- (ii) the negligence or willful misconduct of Landlord or any Landlord Party with respect to the Tenant Space, the Building or the Land,

(iii) Landlord's breach of its obligations under this Lease,

The foregoing notwithstanding, Landlord shall not be required to indemnify Tenant or any Tenant Party to the extent that the relevant Claims were caused by the negligence or willful misconduct of any Tenant Party.

In the event that any action or proceeding is brought against Tenant or any Tenant Party by reason of any indemnified Claim, Landlord, upon notice from Tenant, shall defend such action or proceeding at Landlord's cost and expense. Landlord agrees that no settlement offer shall be offered or accepted by Landlord in connection with any such indemnification and/or defense without Tenant's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. This indemnity provision and Landlord's obligations under this Section 11.5(b) shall survive the expiration or termination of this Lease as to any matters arising prior to such expiration or termination or prior to Tenant's vacation of the Tenant Space and the Building. Notwithstanding any provision to the contrary contained in this Section 11.5(b), nothing contained in this Section 11.5(b) shall be interpreted or used in any way to affect, limit, reduce or abrogate any insurance coverage provided by any insurer to either Tenant or Landlord.

11.6 No Consequential Damages. Notwithstanding any other provision of this Lease, except as provided below, neither Landlord Parties nor Tenant Parties shall be liable to the other party for any indirect, special, consequential, exemplary or punitive damages (including but not limited to damages for lost profits, lost revenues or the cost of purchasing replacement services) arising out of the performance or failure to perform Landlord's or Tenant's obligations under this Lease, as applicable, however caused, on any theory of liability, whether in an action in contract, strict liability, tort or otherwise, and whether or not the party has been advised of the possibility of such damage; provided, however, that the foregoing shall not apply to (i) either party's liability for (a) gross negligence or willful misconduct; (b) a party's indemnification obligations hereunder; or (c) a party's confidentiality obligations hereunder; or (ii) Tenant's liability for Tenant's failure to quit and surrender the Tenant Space to Landlord on or before the expiration of the Term of this Lease (or any earlier termination of this Lease) where such failure continues beyond the Holdover Indemnity Period set forth in Section 10.3.

12. Casualty and Condemnation.

12.1 Casualty. (a) Subject to Section 12.1(b) below, if all or any part of the Tenant Space or any material portion of the balance of the Building is damaged by fire or other casualty, then within ninety (90) days following the date of any such damage, Landlord shall notify Tenant of Landlord's good faith estimate of the time required to repair such damage in the manner described herein (the "**Damage Repair Estimate**"). If the damage can, as indicated by the Damage Repair Estimate, be repaired within two hundred twenty five (225) days of the date the damage occurred (subject to the availability of sufficient insurance proceeds), then Landlord shall repair the damage and this Lease shall remain in full force and effect. If the repairs cannot, as indicated by the Damage Repair Estimate, be made within the 225-day period or if the repairs can be repaired within the 225-day period but the insurance proceeds received are insufficient to pay in full the amount of the cost of such repair or restoration (provided that Landlord is in compliance with the insurance requirements set forth in this Lease and that Landlord's failure to receive sufficient proceeds does not result from any act or omission on the part of Landlord, it being understood and agreed that if the failure to receive sufficient proceedings is due to Landlord not being in compliance with the insurance requirements set forth in this Lease and/or as a result any act or omission on the part of Landlord, then the amount of insurance proceeds "received" for purposes of this sentence shall be deemed to be the amount of insurance proceeds Landlord would have received if Landlord had been compliance with the insurance requirements set forth in this Lease and/or but for such act or omission), Landlord at its option exercised by written notice to Tenant within the 225-day period, shall either (a) repair the

damage, in which event this Lease shall continue in full force and effect, or (b) terminate this Lease as of the date specified by Landlord in the notice, which date shall be not less than thirty (30) days nor more than sixty (60) days after the date such notice is given, and this Lease shall terminate on the date specified in the notice; provided, however, that if Landlord delivers written notice of its termination of the Lease to Tenant based on insufficiency of insurance proceeds, then Tenant shall have the right to continue this Lease in full force and effect by delivering written notice to Landlord of its intent to pay the difference between the total cost required to repair or reconstruct the damage and the insurance proceeds made available to Landlord for such purposes, and upon Landlord's receipt of such amount from Tenant, Landlord shall commence the repair or reconstruction of the Building in accordance with the above and this Lease shall continue in full force and effect.

If as a result of the casualty, all or any portion of the Tenant Space is unfit for use by Tenant in the ordinary conduct of Tenant's business (including, without limitation, that Landlord is unable to provide any (or all) of the service levels set forth on Exhibit E, or the Building Meet Me Room or Building Telecommunications Room was damaged in a material way, such that carrier interconnections are not feasible therein prior to the restoration of same), then Tenant shall have the right, at its election, to terminate this Lease if the time stated in the Damage Repair Estimate shall be in excess of two hundred twenty five (225) days following the casualty, and Tenant terminates this Lease with written notice thereof to Landlord within thirty (30) days following delivery of the Damage Repair Estimate. In addition, if neither Landlord nor Tenant has terminated this Lease and Landlord fails to restore any such damage or destruction by the later of (1) two hundred twenty five (225) days after the occurrence of such casualty or (2) thirty (30) days after the estimated time for repair set forth in the Damage Repair Estimate, then Tenant shall have the right, at its election, to terminate this Lease on at least sixty (60) days' notice to Landlord given after the later of such dates and prior to the substantial completion of such restoration.

If this Lease is terminated pursuant to this Section 12.1, (i) all Base Rent and Additional Rent payable hereunder shall be abated in accordance with Section 12.1(b) during the period prior to the effective date of such termination, and (ii) neither Landlord nor Tenant shall have any further rights, remedies or obligations as against each other under, or pursuant to this Lease, other than those rights, remedies or obligations that accrued prior to the effective date of any such termination to the extent, as provided in this Lease or otherwise by the intent of such terms, such rights, remedies or obligations are to survive any termination or expiration of this Lease.

(b) If the fire or other casualty damages the Tenant Space or the Common Areas necessary for Tenant's use and occupancy of the Tenant Space, Tenant ceases to use any portion of the Tenant Space as a result of such damage, and the damage does not result from the negligence or willful misconduct of Tenant or any other Tenant Party, then during the period the Tenant Space or portion thereof are rendered unusable by such damage and repair, Tenant's Base Rent and Additional Rent shall be proportionately reduced based upon the extent to which the damage and repair prevents Tenant from conducting, and Tenant does not conduct, its business at the Tenant Space. Without limitation of Landlord's obligations under Section 11.3, Landlord shall not be obligated to repair or replace any of Tenant's Equipment, movable furniture, equipment, trade fixtures, and other personal property, nor any Alterations installed in the Premises by Tenant, and no damage to any of the foregoing shall entitle Tenant to any abatement, and Tenant shall, at Tenant's sole cost and expense, repair and replace such items.

12.2 **Condemnation.**

(a) If all of the Tenant Space is taken by any public or quasi-public authority under the power of eminent domain, or any agreement in lieu thereof (a "**Taking**"), this Lease shall terminate as to the Tenant Space taken effective as of the date of the Taking. If only a material portion of the Tenant

Space is taken or if a material portion of the Building is taken, (i) Landlord may terminate this Lease as to the remainder of the Tenant Space upon written notice to Tenant within ninety (90) days after the Taking, and (ii) if the Taking materially and adversely affects Tenant's ability to utilize the remainder of the Tenant Space for the uses permitted hereunder as intended by the parties, then Tenant may terminate this Lease as to the remainder of the Tenant Space upon written notice to Landlord given within ninety (90) days after the taking. In the event the Lease is not terminated, Landlord shall repair and reconstruct the remaining portion of the Tenant Space to substantially the same condition in which they existed immediately prior to such Taking. For the avoidance of doubt, however, such repair and reconstruction obligations shall not be deemed to include any obligation on the part of Landlord with regard to any of Tenant's Personal Property. Landlord shall be entitled to all compensation, damages, income, rent awards and interest thereon whatsoever which may be paid or made in connection with any taking and Tenant shall have no claim against Landlord or any Governmental Authority for the value of any unexpired term of this Lease or of any of the improvements or Alterations in the Tenant Space; provided, however, that the foregoing shall not prohibit Tenant from prosecuting a separate claim against the taking authority for an amount separately designated for Tenant's relocation expenses or the interruption of or damage to Tenant's business or as compensation for Tenant's personal property, trade fixtures, Alterations or other improvements paid for by Tenant so long as any award to Tenant will not reduce the award to Landlord.

(b) In the event of a partial Taking of the Tenant Space which does not result in a termination of this Lease, the Base Rent and Additional Rent hereunder shall be equitably reduced. If all or any material part of the Building other than the Tenant Space is taken, Landlord may terminate this Lease upon written notice to Tenant given within ninety (90) days after the date of Taking.

(c) Notwithstanding the foregoing, if all or any portion of the Tenant Space is taken for a period of time of six (6) months or less ending prior to the end of the Term of this Lease, this Lease shall remain in full force and effect and Tenant shall continue to pay all Rent and to perform all of its obligations under this Lease; provided, however, that Tenant shall be entitled to all compensation, damages, income, rent awards and interest thereon that is paid or made in connection with such temporary taking of the Tenant Space (or portion thereof), except that any such compensation in excess of the Rent or other amounts payable to Landlord hereunder shall be promptly paid over to Landlord as received; provided, however, that if the taking materially and adversely affects Tenant's ability to utilize the remainder of the Tenant Space for the uses permitted hereunder as intended by the parties, then Tenant may terminate this Lease as to the remainder of the Tenant Space upon written notice to Landlord within thirty (30) days after the Taking.

(d) If this Lease is not terminated by reason of a Taking, Landlord shall, to the extent of its net severance damages in the Taking matter, cause the Tenant Space to be restored to substantially similar condition as existed prior to the applicable Taking with substantially similar Tenant's Critical Load, subject to Tenant's obligation to restore its improvements, Alterations and Tenant's Improvements.

13. Events of Default.

13.1 Breach by Tenant. Each of the following shall be an "Event of Default" under this Lease:

(a) Any failure or refusal by Tenant to timely pay any Rent or any other payments or charges required to be paid hereunder, or any portion thereof, within ten (10) days following Tenant's receipt of written notice that the same is past due;

(b) (i) the making by Tenant of any general assignment or general arrangement for the

benefit of creditor; (ii) Tenant's commencement of any case, proceeding or other action under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, conservatorship or relief of debtors, seeking to have an order for relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent or Tenant's admitting in writing its inability to pay its debts as they become due (collectively, a "**Bankruptcy Action**"); (iii) Tenant becoming the subject of any Bankruptcy Action which is not dismissed within ninety (90) days of its filing or entry; or (iv) Tenant failing to maintain its legal existence (if Tenant is a corporation, partnership or other entity), provided that if such dissolution or failure to maintain its legal existence occurs because of Tenant's failure to file a required filing to any applicable governmental authority, then such failure shall not constitute an Event of Default until thirty (30) days after such dissolution or failure

(c) Tenant's breach of any other provision of this Lease (except those breaches described in clauses (a) and (b) of this Section 13.1), if not cured within thirty (30) days after receipt of written notice of such breach, provided, however, that if any such breach is not susceptible to cure within thirty (30) days and Tenant commences cure within such thirty (30) day period, there shall be no Event of Default so long as Tenant continues to diligently prosecute such cure to completion.

The parties hereto acknowledge and agree that all of the notice periods provided in this **Section 15.1** are in lieu of, and not in addition to, the notice requirements of any Laws.

13.2 Breach by Landlord. Except as expressly set forth in the Service Level Agreement, Landlord shall not be deemed in breach of this Lease unless Landlord fails within a reasonable time to perform an obligation required to be performed by Landlord and such failure is not cured within thirty (30) days after receipt by Landlord of written notice specifying the obligation of Landlord that has not been performed; provided, however, that if any such breach is not susceptible to cure within thirty (30) days and Landlord commences cure within such thirty (30) day period, the cure period shall be extended so long as Landlord continues to diligently prosecute such cure to completion. Notwithstanding the forgoing, in the event Landlord's failure to perform an obligation of Landlord to be performed under this Lease results in an emergency situation, which materially adversely affects Tenant's use of the Premises for the Permitted Use (a "**Critical Default**"), Landlord shall commence to cure such default within twenty-four (24) hours following receipt of written notice from Tenant of such default, and shall diligently pursue the cure thereof to completion. In the event that Landlord fails to do so, Tenant may, but shall not be obligated to, without notice to or demand upon Landlord in the event of an emergency, make the payment Landlord has failed to make or perform or otherwise cause compliance with the provision of this Lease that is the subject of Landlord's failure. Tenant may take such action without releasing Landlord from any obligations under this Lease and without waiving or releasing any right or remedy of Tenant under this Lease, at law or in equity with respect to the matter in question. Landlord shall pay to Tenant, within thirty (30) days after receipt of Tenant's invoice therefor, all costs incurred by Tenant in connection with the remedying such failure.

14. Remedies/Termination.

14.1 Landlord's Remedies.

(a) **General.** Upon the occurrence of an Event of Default, Landlord shall be entitled to restrict Tenant's access to the Premises and/or to exercise any other remedies available to it under this Lease. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

(b) **Landlord's Right to Terminate Upon Tenant Default.** In the event of any Event

of Default by Tenant, Landlord shall have the right to terminate this Lease and recover possession of the Premises by giving five (5) days' written notice to Tenant of Landlord's election to terminate this Lease, in which event Landlord shall be entitled to recover from Tenant (i) the worth at the time of award of any unpaid Rent which had been earned at the time of such termination; plus (ii) the worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss Tenant proves could have been reasonably avoided; plus (iii) the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; plus (iv) any other amount necessary to compensate Landlord for all the detriment arising from Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to, the cost of recovering possession of the Tenant Space, expenses of releasing, including necessary renovation and alteration of the Building and the Tenant Space, reasonable attorneys' fees, any real estate commissions actually paid by Landlord and the unamortized value of any free rent or other economic concessions provided by Landlord (provided such costs shall not include costs customarily paid by a new tenant or costs customarily paid by Landlord or amortized as a part of the new tenant's rental in a market transaction at the time of reletting nor costs which are otherwise paid or reimbursed to Landlord by a third party); and (v) at Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by Legal Requirements. As used in clauses (i) and (ii), above, "worth at the time of award" shall be computed by allowing interest at the then highest lawful contract rate of interest. As used in clauses (ii) and (iii), above, "worth at the time of award" shall be computed by discounting such amount by the Prime Rate published by the Wall Street Journal plus four percent (4%). The remedy under clauses (ii) and (iii) above shall take into consideration, among other things, the fair market rental value of the Premises for the remainder of the Term and the period of time reasonably required to relet the Premises and Landlord's right to recover the amounts described in subsection (ii) and subsection (ii) shall be available only if Landlord has terminated the Lease. As used herein, "**Prime Rate**" shall mean prime rate as published in the Wall Street Journal on the date of determination. For the purposes of Section, the amount of Additional Rent which would have been payable by Tenant for each calendar year, as therein provided, ending after such termination of the Lease, shall be deemed to be an amount equal to the amount of such Additional Rent payable by Tenant for the calendar year ending immediately preceding such termination of the Lease. A suit or suits for the recovery of such damages, or any installments thereof, may be brought by Landlord, from time to time, at Landlord's election, and nothing contained herein shall be deemed to require Landlord to postpone suit until the date when the term of the Lease would have expired if it had not been terminated under the provisions of this Section, or under any provision of law, or had Landlord not re-entered the Tenant Space and replaced Tenant. In the event of the termination of the Lease under this Section on account of an Event of Default by Tenant, Landlord shall be entitled to retain all monies, if any, paid by Tenant to Landlord, whether as advance Rent, security deposit or otherwise, but such monies shall be credited by Landlord against any Base Rent, Additional Rent or any other charge due from Tenant at the time of such termination or, at Landlord's option, against any damages payable by Tenant under this Section or pursuant to law. Nothing contained in this Section shall be construed as limiting or precluding the recovery by Landlord against Tenant of any payments or damages to which, in addition to the damages particularly provided above, Landlord may lawfully be entitled by reason of any default hereunder on the part of Tenant.

(c) Landlord's Right To Continue Lease Upon Tenant Default. In the case of an Event of Default, if Landlord does not elect to terminate this Lease as provided in Section 14.1(b) above, Landlord may from time to time, without terminating this Lease, enforce all of its rights and remedies under this Lease. Without limiting the foregoing, Landlord shall have the right to continue this Lease in effect after Tenant's Event of Default and recover Rent as it becomes due. To the fullest

extent permitted by law, the proceeds of any reletting shall be applied first to pay to Landlord all costs and expenses of such reletting (including without limitation, reasonable costs and expenses of retaking or repossessing the Tenant Space, securing new tenants, and improvements and alterations in connection with any reletting); second, to the payment of Rent due and unpaid hereunder; and the residue, if any, shall be held by Landlord and applied in payment of other or future obligations of Tenant to Landlord as the same may become due and payable, and Tenant shall not be entitled to receive any portion of such revenue. No re-entry or taking of possession of the Tenant Space by Landlord pursuant to this Section 14.1(c) shall be construed as an election to terminate this Lease unless a written notice of such election shall be given to Tenant or unless the termination thereof be decreed by a court of competent jurisdiction. Notwithstanding any reletting without termination by Landlord, Landlord may, at any time after such reletting, elect to terminate this Lease for any such Event of Default.

(d) During the continuance of an Event of Default, in addition to Landlord's rights to terminate this Lease, Landlord may enter the Tenant Space without terminating this Lease and remove all Tenant's personal property, Alterations and trade fixtures from the Tenant Space and store them at Tenant's risk and expense. If Landlord removes such property from the Tenant Space and stores it at Tenant's risk and expense, and if Tenant fails to pay the cost of such removal and storage after written demand therefor and/or to pay any Rent then due, then after the property has been stored for a period of thirty (30) days or more Landlord may sell such property at public or private sale, in the manner and at such times and places as Landlord deems commercially reasonable following reasonable notice to Tenant of the time and place of such sale. The proceeds of any such sale shall be applied first to the payment of the expenses for removal and storage of the property, the preparation for and the conducting of such sale, and for attorneys' fees and other legal expenses incurred by Landlord in connection therewith, and the balance shall be applied as provided in Section 14.1(c) above.

14.2 Late Charges. Tenant hereby acknowledges that late payment by Tenant of Rent will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Landlord by any Lender. Accordingly, if any Rent shall not be received by Landlord within five (5) business days after such amount shall be due, then, upon written notice to Tenant, Tenant shall pay to Landlord a late charge for each such occurrence equal [REDACTED] of each such overdue amount, provided that (i) Tenant shall be entitled to two five (5) business day notice and cure periods during any twelve (12) month period before any late charges are applied, and (ii) with respect to the payment of amounts other than Monthly Rent, (A) Tenant's cure period shall be thirty (30) days. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of such late payment. Acceptance of such late charge by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder.

14.3 Interest. Any monetary payment due Landlord hereunder, other than late charges, not received by Landlord when due shall bear interest at the Interest Rate from the date due until paid in full. Interest is payable in addition to the potential late charge provided for in Section 14.2.

14.4 New York Law Provisions. Attached hereto as Exhibit K are New York law provisions that will govern, in addition to the rights and remedies contained in this Lease

14.5 Injunctive Relief. In the event of a breach or threatened breach on the part of Tenant with respect to any of the covenants, agreements, terms, provisions or conditions on the part of or on behalf of Tenant to be kept, observed or performed, Landlord shall also have the right to obtain injunctive relief. In

the event of a breach or threatened breach on the part of Landlord with respect to any of the covenants, agreements, terms, provisions or conditions on the part of or on behalf of Landlord to be kept, observed or performed, Tenant shall also have the right to obtain injunctive relief.

15. Assignment and Subleasing.

15.1 Tenant's Assignment or Subleasing. Except as expressly set forth herein to the contrary, Tenant shall not assign, mortgage, pledge, encumber or otherwise transfer this Lease, in whole or in part, nor sublease or permit use or occupancy by any party other than Tenant (each, a "**Transfer**") of all or any part of the Tenant Space, without obtaining in each instance the prior written consent of Landlord, which shall not be unreasonably withheld, conditioned, or delayed, provided that the parties agree that it shall be reasonable for Landlord to withhold consent if, at the time Tenant requests consent to a Transfer, an Event of Default has occurred and is then continuing. No Transfer (whether voluntary, involuntary or by operation of law) shall be valid or effective without Landlord's prior written consent. If Landlord approves of a Transfer hereunder and this Lease contains any renewal options, expansion options, rights of first refusal, rights of first negotiation or any other rights or options pertaining to additional space in the Building, such rights and/or options shall not run to the subtenant or assignee, it being agreed by the parties hereto that any such rights and options are personal to the Tenant originally named herein and any Permitted Transferee and may not be transferred except in connection with a Permitted Transfer. In the event Landlord does not consent to a Transfer by Tenant, Landlord shall provide Tenant with a reasonably detailed written explanation as to the reasons for withholding such consent. If Landlord's consent is required in connection with a Transfer, Landlord shall, within ten (10) business days after receipt of Tenant's request for consent either (i) grant consent, (ii) reasonably deny consent, or (iii) if applicable, exercise Landlord's recapture right provided under Section 15.3.

15.2 Permitted Transfers. Without Landlord's consent and without being subject to Landlord's rights under Section 15.3 or Section 15.5 hereof, Tenant may assign this Lease (whether by operation of law or otherwise) or may sublet all or any part of the Tenant Space at any time to (i) a any parent, subsidiary, affiliate, division, or entity controlling, controlled by, or under common control with Tenant, (ii) any successor in interest to Tenant as a result of any merger, consolidation, reorganization, or government action, (iii) a purchaser of all or substantially all or a material portion of the business, stock, assets, or other ownership interests that include the portion of Tenant's business operating within the Tenant Space (provided such business, stock, assets, or other ownership interests include at least five other leases or owned data center sites, with "data center sites" meaning for such purpose data center premises with a capacity of 500 kilowatts or greater) (each such Transfer, a "**Permitted Transfer**" and each such transferee, a "**Permitted Transferee**"); provided, however, that in case of such an assignment, as a condition to Landlord being bound by any such assignment, the assignee enters into and delivers to Landlord a written agreement providing that the assignee will abide by and assume all of the terms and conditions of this Lease for the term of any assignment. Written notice of such Permitted Transfer shall be given to Landlord prior to the effectiveness of the same (unless Tenant is prohibited by Legal Requirements or the terms of the applicable transaction document from doing so, in which case Tenant must notify Landlord within ten (10) business days following the effective date of such Permitted Transfer), and such written agreement shall be delivered to Landlord within ten (10) business days following the effective date of such Permitted Transfer.

15.3 Landlord's Recapture Rights. At any time within ten (10) business days after Landlord's receipt of a request from Tenant for Landlord's consent to a Transfer of all or substantially all of the Tenant Space for all or substantially all of the balance of the Term, Landlord shall have the

right (but no obligation), exercisable by written notice to Tenant, to elect to cancel and terminate this Lease. If Landlord has failed to exercise such recapture right within ten (10) business days after Landlord's receipt of a request from Tenant. Landlord shall be deemed to have elected not to exercise its recapture right hereunder. If Landlord exercises its right to recapture, Tenant shall have a period of fifteen (15) days to give notice to Landlord that it elects to rescind its request for a Transfer and, in such event, there shall be no Transfer or recapture and the Lease shall continue as if the request had not occurred. In the event Landlord exercises its recapture right under this Section 15.3, Tenant shall be released of any obligations accruing under this Lease from and after the effective date of the termination.

15.4 No Release; Subsequent Transfers. Except as otherwise provided herein, no Transfer will release Tenant from Tenant's obligations under this Lease or alter the primary liability of Tenant to pay the Rent and to perform all other obligations to be performed by Tenant hereunder unless otherwise agreed to by Landlord in writing. Notwithstanding the foregoing, in the event of an assignment of this Lease by Tenant to an assignee that is Creditworthy, Tenant shall be released of any further obligations under the Lease. In no event shall the acceptance of any payment by Landlord from any other person be deemed to be a waiver by Landlord of any provision hereof. Consent by Landlord to one Transfer will not be deemed consent to any subsequent Transfer. The consent by Landlord to an assignment or subletting hereunder shall not relieve Tenant or any assignee or subtenant from obtaining Landlord's express prior written consent to any other or further assignment or subletting. In the event of breach by any transferee of Tenant or any successor of Tenant in the performance of any of the terms hereof, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against such transferee or successor. The voluntary or other surrender of this Lease by Tenant or a mutual termination of this Lease shall not work as a merger and shall, at the option of Landlord, either (i) terminate all and any existing agreements effecting a Transfer, or (ii) operate as an assignment to Landlord of Tenant's interest under any or all such agreements. If Landlord does elect that such surrender or cancellation operate as an assignment of such subleases or subtenancies, Landlord shall in no way be liable for any previous act or omission by Tenant under the subleases or for the return of any deposit(s) under the subleases that have not been actually delivered to Landlord, nor shall Landlord be bound by any sublease modification(s) executed without Landlord's consent or for any advance rental payment by the subtenant in excess of one month's rent.

15.5 Terms of Sublease. In the event of each and every subletting of all or any part of the Premises that is consented to or permitted under this Lease, the following provisions shall apply:

(a) No subletting shall be for a term ending later than one (1) day prior to the Expiration Date of this Lease.

(b) The sublease agreement shall not violate any of the provisions of this Lease, and shall provide that it is and shall be subject and subordinate to this Lease and to all matters to which this Lease is or shall be subordinate.

(c) The sublease agreement and all of the subtenant's rights thereunder shall be expressly made subject to all of the obligations of Tenant under this Lease, and to the further condition and restriction that the sublease shall not be assigned, encumbered or otherwise transferred, or the subleased premises further sublet by the subtenant in whole or in part, or any part thereof suffered or permitted by the subtenant to be used or occupied by others, without the prior written consent of Landlord (which consent may be granted, withheld or conditioned in Landlord's sole and absolute discretion) in each instance.

(d) If Landlord shall consent to a proposed subletting of all or any portion of the Demised Premises, then either the sublease agreement or the written instrument of consent, which shall also be executed and acknowledged by Tenant and the subtenant, shall contain a provision substantially similar to

the following:

“The sublandlord [*i.e.*, Tenant under this Lease] and the subtenant hereby agree that, if the subtenant shall be in default of any obligation of the subtenant under the sublease, which default also constitutes a default by the sublandlord under the overlease [*i.e.*, this Lease], then the overlandlord [*i.e.*, Landlord under this Lease] shall be permitted to avail itself of all of the rights and remedies available to the sublandlord in connection therewith. Without limiting the generality of the foregoing, the overlandlord shall be permitted (by assignment of a cause of action or otherwise) to institute an action or proceeding against the subtenant in the name of the sublandlord in order to enforce the sublandlord’s rights under the sublease, and shall also be permitted to take all ancillary actions (*e.g.*, serve default notices and demands) in the name of the sublandlord as the overlandlord shall reasonably determine to be necessary. The sublandlord agrees to cooperate with the overlandlord, and to execute such documents as shall be reasonably necessary, in connection with the implementation of the foregoing rights of the overlandlord. The sublandlord and the subtenant expressly acknowledge and agree that the exercise by the overlandlord of any of the foregoing rights and remedies: (i) shall not constitute an election of remedies, (ii) shall not in any way impair the overlandlord’s entitlement to pursue other rights and remedies directly against the sublandlord, and (iii) shall not establish any privity of relationship between the overlandlord and the subtenant, or in any way create a landlord/tenant relationship between the overlandlord and the subtenant.”

15.6 Effect of Transfer. Landlord agrees, upon request by Tenant, (a) to amend the notice address for Tenant to add the transferee, and (b) to deliver to Tenant or its successor concurrently with the delivery thereof to such transferee, copies of any notices of default delivered pursuant to the terms of this Lease.

15.7 Landlord’s Assignment. If Landlord conveys its interest in the Building or the Tenant Space or the Building, Landlord shall provide Tenant with written notice of such conveyance and Landlord shall be automatically relieved from all liability as respects the further performance of its covenants or obligations hereunder after the effective date of such conveyance, provided that Landlord’s successor-in-interest shall have assumed Landlord’s obligations under this Lease, including without limitation, the Landlord’s obligations under the Service Level Agreement.

15.8 Landlord’s Designation. Landlord may elect in its sole discretion to designate a party (including any entity, affiliate or individual) to act as its assignee, tenant, management company or operating company with respect to the Building and/or Tenant Space. Such designee described herein shall have all the rights or duties designated to it by Landlord including the right to receive any and all rental payments or other amounts, if any, due Landlord under this Lease or any other such rights to facilitate financial or other objectives of Landlord. Upon reasonable notice to Tenant by Landlord, Tenant agrees to accept and promptly execute all documentation reasonably requested by Landlord in order to facilitate any of the terms of this Section 15.7.

16. Notice.

Any notice which may or shall be given under the provisions of this Lease shall be in writing and may be delivered by (a) hand delivery or personal service or (b) a reputable overnight courier service which provides evidence of delivery, at the address for each party set forth in the Basic Lease Terms, or at such other addresses as either party may have theretofore specified by written notice delivered in accordance

herewith. Such address may be changed from time to time by either party by giving notice as provided herein. Notice shall be deemed given, (i) if delivered by hand or personal service, when delivered or (ii) if sent by a reputable overnight courier service, on the business day immediately following the business day on which it was sent.

17. Brokers.

Each party hereto represents to the other that it has not engaged, dealt with or been represented by any broker in connection with this Lease other than the brokers specified in the Basic Lease Terms. Each of Landlord and Tenant shall each indemnify, defend (with legal counsel reasonably acceptable to the other), protect and hold harmless the other party from and against all Claims related to any Claim made by any other person or entity for any commission or other compensation in connection with the execution of this Lease or the leasing of the Premises to Tenant if based on an allegation that claimant dealt through the indemnifying party. The provisions of this Section 17 shall survive the termination of this Lease.

18. Advertising.

Neither party may use the name, trade name, logo or trademark of the other party hereto without the prior written consent of an authorized representative of the other party in each instance. Notwithstanding the foregoing, Tenant consents to the disclosure and use of Tenant's name and status as a Tenant in the Building to any of its employees, vendors, contractors and service providers that have a reasonable need to know such information to assist Landlord in providing the services required under this Lease.

19. Financial Information.

Within twenty (20) business days after Landlord's written request therefor, Tenant shall cause to be delivered to Landlord: (a) Tenant's Financial Statements for the most recent fiscal year (but Tenant shall not be obligated to deliver such Financial Statements more than once per year, and Landlord hereby acknowledges and agrees that the "most recent fiscal year" will be the immediately preceding fiscal year only to the extent that Landlord's request is made on the date that is more than one hundred twenty (120) days after the end of such immediately preceding fiscal year, otherwise, the "most recent fiscal year" shall mean the fiscal year that is two fiscal years preceding the date of Landlord's request). Landlord hereby agrees to maintain all such financial information as proprietary and confidential and agrees not to disclose Tenant's financial information to any third party. Notwithstanding the foregoing, Landlord may disclose such confidential information to its financial advisors, lenders, accountants, attorneys, partners and any bona fide prospective lenders or purchasers who need to know such information for the purpose of advising Landlord in connection with the Lease, or with respect to a bona fide loan or sale pertaining to the Building, provided that (i) the person receiving the confidential information (A) is not a competitor of Tenant and (B) agrees not to disclose the confidential information to a competitor of Tenant, and (ii) such person receiving the confidential information is bound by confidentiality and non-disclosure restrictions that are no less stringent than the terms set forth in this Lease. Notwithstanding the foregoing, (1) this Section 19 shall not apply with regard to Tenant's Financial Statements if Tenant or Tenant's parent company is a publicly traded entity that is traded on a nationally recognized stock exchange and such entity's Financial Statements are available online at no cost to Landlord. "**Financial Statements**" shall mean and refer to current annual financial statements of Tenant, prepared in Tenant's ordinary course of business and in accordance with GAAP.

20. Rights Reserved by Landlord.

Notwithstanding anything in this Lease to the contrary (but subject to the terms of Section

6.3(d) and the Service Level Agreement, to the extent applicable), Landlord reserves the following rights exercisable without notice and without being deemed an eviction or disturbance of Tenant's use or possession of the Premises or giving rise to any claim for set-off or abatement of Rent except as otherwise provided herein: (a) to change the name of the Building or to change the name or street address of the Building provided that (i) in no event may Landlord change the name of the Building or address of the Building to in any way identify (x) any competitor of Tenant; or (y) without Tenant's consent, Tenant or any Affiliates of Tenant; and(ii) in connection with any such change, within thirty (30) days of receipt of Tenant's request therefor, Landlord shall reimburse Tenant for the reasonable cost of replacing stationery and business cards as a result of Landlord's voluntary change in the Building name or street address; (b) to install, affix and maintain all signs on the exterior and/or interior of the Building provided any signage identifying Tenant shall be subject to Tenant's prior written approval; (c) to display the Tenant Space to mortgagees, prospective mortgagees, prospective purchasers and ground Landlords, and, during the last one hundred eight (180) days of the Term only (provided Tenant has not exercised its next ensuing Extension Option), prospective tenants at reasonable hours, provided that Landlord shall provide reasonable written notice to Tenant prior to displaying the Tenant Space and shall use commercially reasonable efforts not to materially interfere with the operation of Tenant's business operations in or access to the Tenant Space; (d) to improve, alter, modify, remove or change the arrangement of entrances, doors, corridors, elevators, Common Areas, premises and/or stairs in the Building as Landlord reasonably deems desirable; (e) to install, operate and maintain systems which monitor, by closed circuit television or otherwise, all persons entering on the Building or any portion thereof; (f) to install and maintain pipes, ducts, conduits, wires and structural elements located in the Tenant Space and which serve other parts or other tenants or occupants of the Building (provided same are located above the ceiling, below the floors, or behind the walls only); (g) to retain at all times master keys or pass keys to the Tenant Space; (h) to perform, or cause to permit to be performed, at any time and from time to time, construction in the Common Areas and facilities or other leased areas in the Building; and (i) to reduce, increase, enclose or otherwise change at any time and from time to time the size, number, location, lay-out and nature of the Common Areas and facilities and other tenancies and premises in the Building and to create additional rentable areas through use or enclosure of Common Areas.

Notwithstanding anything to the contrary set forth above or elsewhere in this Lease, Landlord may not make any changes to the Common Area that materially or unreasonably interfere with Tenant's use and enjoyment of or access to the Tenant Space, cause any interruptions of Landlord services) or impact the size or configuration of the Tenant Space. Landlord may temporarily close any part of the Common Area for such periods of time as may be reasonably necessary to make repairs or alterations; provided, however, (a) such temporary closure shall not cause any interruptions of Landlord services, (b) at all times Tenant shall have access to the Tenant Space via some portion of the Common Area, and (c) Landlord shall always make available public restrooms for use by Tenant and Tenant Parties throughout the Term of this Lease

21. Force Majeure

Except for monetary obligations (including, without limitation, the payment of Base Rent and Additional Rent), neither Landlord nor Tenant shall be responsible for failure to act in accordance with the terms of this Lease if such failure is due to a Force Majeure. A party whose performance is delayed by Force Majeure must use commercially reasonable efforts to minimize any such delay. The foregoing notwithstanding, in the event of a Force Majeure in the nature of the "failure or disruption of utility services" with respect to which there is not an accompanying casualty to the Building, Landlord shall (notwithstanding the occurrence of such Force Majeure event) remain obligated, at Landlord's cost, to meet those service levels set forth in the Service Level Agreement even though the electrical power related to such service levels would come from its generators.

22. Governing Law.

This Lease shall be governed by and construed under the laws of the state in which the Building is located (the “State”). Landlord and Tenant each hereby irrevocably and unconditionally submit to personal jurisdiction in the State over any suit, action or proceeding arising out of this Lease, and each party hereby waives any right to object to personal jurisdiction within the State. To the extent permitted by Legal Requirements, Landlord and Tenant each hereby waives any right to a trial by jury for any claim arising under this Lease.

23. Successors.

This Lease shall inure to the benefit of and be binding on the parties, and their heirs, successors, assigns and legal representatives, but nothing contained in this Section 23 shall be construed to permit an assignment or other transfer except as provided in Section 15.

24. Severability.

If any provision of this Lease or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Lease and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

25. Limitations on Liability.

The term “Landlord,” as used in this Lease, shall mean only the owner or owners of the Building at the time in question. Notwithstanding any other provision of this Lease, the liability of Landlord for its obligations under this Lease is limited solely to Landlord’s interest in the Building as the same may from time to time be encumbered (and all rents, income, proceeds, and profits derived therefrom, including, casualty and condemnation proceeds), and no personal liability shall at any time be asserted or enforceable against any other assets of Landlord or against the constituent shareholders, partners, members, managers or other owners of Landlord, or the directors, investors, officers, employees and agents of Landlord or such constituent shareholder, partner, member, manager or other owner, on account of any of Landlord’s obligations or actions under this Lease. In addition, in the event of any conveyance of title to the Building, then the grantor or transferor shall be relieved of all liability with respect to Landlord’s obligations to be performed under this Lease to the extent arising after the date of such conveyance, and the grantee or transferee shall be deemed to have assumed such obligations. Wherever in this Lease Tenant (a) releases Landlord from any claim or liability; (b) waives or limits any right of Tenant to assert any claim against Landlord or to seek recourse against any property of Landlord; or (c) agrees to indemnify Landlord against any matters, the relevant release, waiver, limitation or indemnity shall run in favor of and apply to Landlord, the constituent shareholders, partners, members, managers or other owners of Landlord and their agents and advisors, and the directors, investors, officers, employees and agents of Landlord and each such constituent shareholder, partner, member or other owner.

26. Time of Essence.

Time is of the essence with respect to the performance of all obligations to be performed or observed by the parties under this Lease. Unless otherwise specifically indicated to the contrary, the word “days” as used in this Lease shall mean and refer to calendar days.

27. Waivers.

No provisions of this Lease shall be deemed waived by a party to this Lease unless such waiver is in a writing signed by such party. The waiver by either party of any breach of any provision of this Lease shall not be deemed a waiver of any subsequent breach of the same or any other provision of this Lease. No delay or omission in the exercise of any right or remedy under this Lease upon any default shall impair such right or remedy or be construed as a waiver. Landlord's acceptance of any payments of rent due under this Lease shall not be deemed a waiver of any default by Tenant under this Lease (including Tenant's recurrent failure to timely pay rent) other than Tenant's nonpayment of the accepted sums, and no endorsement or statement on any check or accompanying any check or payment shall be deemed an accord and satisfaction. A party's consent to or approval of any act by the other party shall not be deemed to waive or render unnecessary the consenting party's consent to or approval of any subsequent act.

28. Covenants and Conditions; Construction of Lease.

All provisions of this Lease to be observed or performed by Tenant are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the parties, but rather according to its fair meaning as a whole, as if both parties had prepared it.

29. Authority.

If Tenant is a corporation, partnership, trust, association or other entity, Tenant and each person executing this Lease on behalf of Tenant, hereby covenants and warrants that (a) Tenant is duly incorporated or otherwise established or formed and validly existing under the laws of its state of incorporation, establishment or formation, (b) Tenant has and is duly qualified to do business in the state in which the Premises is located, (c) Tenant has full corporate, partnership, trust, association or other appropriate power and authority to enter into this Lease and to perform all Tenant's obligations hereunder, and (d) each person (and all of the persons if more than one signs) signing this Lease on behalf of Tenant is duly and validly authorized to do so. If Landlord is a corporation, partnership, trust, association or other entity, Landlord hereby covenants and warrants that (a) Landlord is duly incorporated or otherwise established or formed and validly existing under the laws of its state of incorporation, establishment or formation, (b) Landlord has and is duly qualified to do business in the state in which the Land is located, (c) Landlord has full corporate, partnership, trust, association or other appropriate power and authority to enter into this Lease and to perform all Landlord's obligations hereunder, and (d) each person (and all of the persons if more than one signs) signing this Lease on behalf of Landlord is duly and validly authorized to do so.

30. Survival.

Sections 6.2 (Hazardous Materials), 6.3 (Compliance with Legal Requirements), 7.5 (Liens), 10 (Equipment Surrender), 11.3 (Indemnity), 11.4 (Liability with respect to the Premises; Limitations on Consequential Damages), 17 (Brokers), 25 (Limitations on Liability), 33 (Attorneys' Fees), and 38 (Confidentiality) shall survive the expiration or earlier termination of the Lease, along with any other clauses or provisions that expressly or by their substance demand for survival.

31. Amendment.

The Lease may be changed only by a written agreement signed by both parties. As long as they do not materially decrease Tenant's rights or materially increase Tenant's obligations under this Lease, material decrease Landlord's obligations under this Lease, or otherwise materially affect Tenant's ability to operate for the Permitted Use hereunder, Tenant agrees to make such reasonable non-monetary

modifications to this Lease as may be reasonably required by a lender in connection with the obtaining of financing or refinancing of the Building (“**Lender**”), provided that in such event, Landlord shall reimburse Tenant for Tenant’s actual and reasonable costs and expenses (including, without limitation, attorneys’ fees) incurred in connection with any such request for modifications pursuant to this Section 31. Notwithstanding the foregoing, Landlord shall not be entitled to request changes or amendments to this Lease from any Lender holding the Mortgage in effect as of the Effective Date.

32. Subordination; Estoppel Certificates.

This Lease will be subordinate to the lien of any deed of trust, mortgage or other instrument that secures a monetary lien and encumbers the fee interest in the Land or Building (each a “**Mortgage**”) or any leasehold interest in the Land or Building superior to this Lease (a “**Superior Lease**”), provided that a subordination, attornment and non-disturbance agreement (an “**SNDA**”), in a form approved by Tenant in Tenant’s reasonable discretion, is executed and delivered to Tenant by the lien holder (each a “**Mortgagee**”) or underlying lessor (each a “**Superior Landlord**”), in form suitable for recording. Landlord will ensure that Mortgagees and Superior Landlords are required to protect the terms of this Lease and any other confidential information of Tenant on terms consistent with the Section 38 of this Lease. Attached hereto as Exhibit L is the form of SNDA from the existing Lender that Tenant has approved and has agreed to execute.

In relation to a sale, assignment, transfer, mortgage, or similar transaction, Tenant or Landlord shall at any time, but no more than twice per calendar year, upon not less than twenty (20) days’ prior written notice from the other party, execute, acknowledge, and deliver to the specified third party a statement in writing (a) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease as so modified is in full force and effect), and the date to which the Base Rent is paid more than thirty (30) days in advance, if any, (b) acknowledging that there are not, to such party’s knowledge, any uncured defaults on the part of the other party hereto (or, specifying such defaults, if any, are claimed), and (c) certifying such other factual information regarding this Lease as is reasonably requested.

33. Attorneys’ Fees.

If either party commences an action or arbitration against the other party arising out of or concerning this Lease, the prevailing party in such litigation or arbitration shall be entitled to reasonable attorneys’ fees and costs in addition to such relief as may be awarded.

34. No Joint Venture.

Nothing in this Lease creates a partnership or joint venture between Landlord and Tenant. Except as expressly provided by the terms of this Lease, nothing in this Lease shall be construed to limit Landlord’s right to maintain and operate the Building and the Tenant Space in its sole discretion.

35. Notices.

Except as otherwise provided herein, all notices required or permitted by this Lease shall be in writing and shall be personally delivered, or sent by FedEx or another nationally recognized overnight courier service, with postage prepaid, and shall be deemed sufficiently given only if served in a manner set forth herein, to the addresses set forth in the Basic Lease Terms. Either party may by written notice to the other specify a different address for notice purposes and either party shall be permitted to add such party or parties at such addresses as either party shall from time to time hereafter designate by notice to the other party. Notices delivered by FedEx or other nationally recognized overnight courier service shall be deemed

given upon receipt of the same from FedEx or such other nationally recognized overnight courier service with a signature of receipt and tracking number required. A copy of all notices required or permitted to be given to any party hereunder shall be concurrently transmitted to such party or parties at such addresses as such party shall from time to time hereafter designate by written notice to the other party in accordance with the terms hereof.

36. Entire Agreement.

This Lease, consisting of the Basic Lease Terms, the Terms and Conditions, and the Exhibits attached hereto, which are incorporated herein by reference, contains the entire agreement between the parties regarding the subject matter hereof, and there are no verbal or other agreements which modify or affect this Lease. The Lease supersedes all prior discussions and agreements made by or on behalf of Landlord and Tenant regarding the subject matter hereof. Neither Landlord nor Landlord's agents have made any representations or warranties with respect to the Tenant Space, the Building, or this Lease except as expressly set forth herein, including without limitation any representations or warranties as to the suitability or fitness of the Tenant Space for the conduct of Tenant's business or for any other purpose, nor has Landlord or its agents agreed to undertake any alterations or construct any improvements to the Tenant Space except those, if any, expressly provided in this Lease, and no rights, easements or licenses shall be acquired by Tenant by implication or otherwise unless expressly set forth herein. Neither this Lease nor any memorandum hereof shall be recorded by Tenant.

37. Quiet Possession.

Subject to the other terms and conditions of this Lease, including, without limitation, Landlord's rights and remedies in connection with a Tenant Event of Default, Tenant shall have quiet possession of the Tenant Space for the entire Term hereof subject to all of the provisions of this Lease.

38. Confidentiality.

Tenant and Landlord each hereby agree to maintain the confidentiality of any Confidential Information (as hereinafter defined) and to exercise commercially reasonable efforts (but in no event less than a reasonable standard of care) in a manner consistent with the steps taken to protect its own Confidential Information (but in no event less than a reasonable standard of care); and not to disclose such Confidential Information to any person or entity other than receiving party's employees, officers, directors, attorneys, accountants, lenders, and investors who have a need to know such Confidential Information (all who shall be subject to similar obligations to maintain the confidentiality of such Confidential Information), or as required by law, regulation or stock exchange rule or pursuant to a subpoena, court order or other legal proceeding. In the event that any Confidential Information of a party is the subject of any legal or regulatory requirement of disclosure, the receiving party shall promptly notify the disclosing party of such requirement (if legally permitted to do so), and shall reasonably cooperate (at no out-of-pocket cost) with any efforts by the disclosing party to secure a protective order or other judicial or administrative remedy. As used herein, "**Confidential Information**" shall mean material non-public information regarding this Lease, the economic terms hereof and any information contained herein or otherwise provided by either party hereto to the other in connection with this Lease, concerning such initial party's finances or the identity of the direct or indirect beneficial owners of such party, or network deployment information, product designs and plans, and architecture and configuration of the parties' respective servers and network, source code, and any other information shared between the parties during the Term which the recipient reasonably should know is deemed confidential by the disclosing party in light of the substance or circumstances of disclosure thereof; provided, however, that, other than any personal information and the terms and conditions of this Lease, in no event shall "Confidential Information" be deemed to include information that: (i) is in the public domain at the time of disclosure; (ii) was in the possession of or demonstrably known by the

receiving party prior to its receipt from the disclosing party without restriction on its use or disclosure; (iii) is independently developed by the receiving party without use of, reference to or reliance on the disclosing party's Confidential Information; or (iv) becomes known by the receiving party from a source other than the disclosing party without breach of this Agreement and is not subject to an obligation of confidentiality.

39. Right of First Refusal.

Tenant shall have a right of first refusal (the "**ROFR Right**") to lease any ROFR Space that is offered to Tenant pursuant to the following terms and conditions:

(a) In the event that Landlord receives a bona-fide third party offer (a "**Bona-Fide Offer**") to lease space that would qualify as ROFR Space (the "**Offer Space**"), which Landlord is willing to accept, then prior to accepting such Bona-Fide Offer, Landlord shall deliver written notice thereof to Tenant (the "**ROFR Notice**"), together with a summary of the business terms of such Bona Fide-Offer, and the date that Landlord reasonably expects such Offer Space to be available for occupancy. Tenant shall have the right to lease all, but not less than all, of the Offer Space identified in the ROFR Notice on the terms set forth in the ROFR Notice, except that the lease of the Offer Space shall be for the remainder of the Term (including any exercised Extension Terms), by delivering written notice of such election to Landlord (the "**ROFR Election Notice**") within thirty (30) days after Landlord gives the ROFR Notice to Tenant (the "**ROFR Election Period**"). In the case that the third party proposes to lease the Offer Space for a term length that is different from the remainder of the Term for the Premises, the business terms pursuant to which Tenant shall be required to lease the Offer Space shall be equitably adjusted (i.e., [REDACTED] etc.).

(b) If Tenant timely delivers its ROFR Election Notice to Landlord, then Landlord shall deliver and lease to Tenant, and Tenant shall accept and lease from Landlord, the Offer Space, effective as of the date Landlord delivers such Offer Space to Tenant in substantially the same condition, and supported by substantially the same base building infrastructure, as the original Premises (the "**ROFR Delivery Date**"). The term of Tenant's lease of such Offer Space shall be coterminous with this Lease, and Tenant's lease of such Offer Space shall be subject to all of the terms and conditions of this Lease, including, but not limited to, the payment of Additional Rent, except to the extent contrary terms are set forth in the ROFR Notice (other than the length of lease term). Base Rent for such Offer Space shall be as set forth in the ROFR Notice, provided that to the extent the Term extends beyond the term specified in the ROFR Notice, then Base Rent for such Offer Space shall increase during such extended period at the same percentage rate of increase and on the same dates as provided herein with respect to the Premises. Landlord shall use commercially reasonable efforts to cause the ROFR Delivery Date to occur on the later of (i) the date that is set forth in the Bona Fide Offer or (ii) one hundred twenty days from the date of Landlord's receipt of Landlord's receipt of the ROFR Election Notice (the "**Target ROFR Delivery Date**"); provided, however, that in no event shall the ROFR Delivery Date occur sooner than then Target ROFR Delivery Date. Promptly following Landlord's receipt of Tenant's Election Notice, Landlord and Tenant shall execute an amendment to this Lease reflecting the addition of the Offer Space to the Premises, and setting forth (i) the location of such Offer Space; (ii) the amount of Premises Base Rent for the Premises as increased pursuant to the ROFR Notice; and (iii) such other provisions as Landlord and Tenant may reasonably require. The same late delivery remedies as apply with respect Landlord's failure to timely deliver the Tenant Space shall apply with respect to the failure of the ROFR Delivery Date to occur on the Target ROFR Delivery Date, provided that the credits applicable to late delivery of the Offer Space shall be credits against only the portion of Base Rent attributable to the Offer Space, and not to Base Rent under the Lease as a whole. Additionally, in the event Landlord fails to deliver the ROFR Space in the condition required hereunder by the date that is one hundred eighty (180) days after the Target ROFR Delivery Date, Tenant may, by written

notice to Landlord, rescind its Election Notice. Landlord shall, promptly upon written request from Tenant, keep Tenant apprised of when the Offer Space is anticipated to be available. Upon delivery of the Offer Space, the same walk-through and punch-list procedures applicable to the Tenant Space shall apply with respect to the Offer Space.

(c) If Tenant fails to provide Landlord an Election Notice within the ROFR Election Period, then Tenant shall be deemed to have elected not to exercise its right to lease the Offer Space, and the ROFR Right, shall terminate and expire and Tenant shall have no further right to lease the Offer Space or any portion thereof; provided however, in the event that Landlord either (i) does not enter into a lease for the Offer Space identified in a ROFR Notice within six (6) months after Landlord delivers such ROFR Notice to Tenant; or (ii) would lease the Offer Space on terms which would result in a net effective rental rate (“NERR”) which is less than ninety five percent (95%) of the implicit NERR based on the terms of the original ROFR Notice provided to Tenant, then the ROFR Right shall be reinstated with respect to such Offer Space and Landlord shall again be obligated follow the procedures set forth above with respect thereto.

(d) If Tenant exercises a ROFR Right for an Offer Space and this Lease is modified to include the Offer Space, Tenant shall have no further ROFR Right and Landlord shall have no further obligation to offer any other space to Tenant before leasing it to other parties.

(e) Landlord represents to Tenant that, as of the Effective Date, no existing third party customer at the Building has a contractual right superior to Tenant’s ROFR Right with regard to ROFR Space except Cablevision which has a right of first refusal with respect to the last 1.1 MW of power in the Building.

40. Expansion Option.

Provided: (a) the Lease is in full force and effect and no Event of Default has occurred and is then continuing at the time Tenant sends an Expansion Notice, and (b) Landlord has not given a ROFR Notice to Tenant, then during the period commencing on the Rent Commencement Date and ending on the date that is eighteen (18) months following the Rent Commencement Date (the “**Expansion Period**”), Tenant may elect to lease any then available portion of the ROFR Space upon the same terms, conditions and provisions applicable to the Premises, except as otherwise provided herein, by providing written notice to Landlord (an “**Expansion Notice**”), specifying in its notice the portion of the ROFR Space it wishes to lease (such portion, the “**Expansion Space**”). If Tenant delivers an Expansion Notice, then Landlord shall deliver and lease to Tenant, and Tenant shall accept and lease from Landlord, the Expansion Space, effective as of the date Landlord delivers such Expansion Space and Power to Tenant in substantially the same condition, and supported by substantially the same base building infrastructure, as the original Premises (the “**Expansion Delivery Date**”). Landlord shall use commercially reasonable efforts to cause the Expansion Delivery Date to occur within one hundred twenty (120) days from the date of Landlord’s receipt of Tenant’s Expansion Notice (the “**Target Expansion Delivery Date**”); provided, however, that in no event shall the ROFR Delivery Date occur sooner than then Target Expansion Delivery Date. The same late delivery remedies as apply with respect Landlord’s failure to deliver the Tenant Space by the Target Delivery Date shall apply with respect to the failure of the Expansion Delivery Date to occur by the Target Expansion Delivery Date. Additionally, in the event Landlord fails to deliver the Expansion Space in the condition required hereunder by the date that is one hundred eighty (180) days after the Target Expansion Delivery Date, may, by written notice to Landlord, rescind its Expansion Notice. Landlord shall, promptly upon written request from Tenant, keep Tenant apprised of when the Expansion Space is anticipated to be available. Upon delivery of the Expansion Space, the same walk-through and punch-list procedures

applicable to the Tenant Space shall apply with respect to the Expansion Space, provided that the credits applicable to late delivery of the Expansion Space shall be credits against only the portion of Base Rent attributable to the Expansion Space, and not to Base Rent under the Lease as a whole. Promptly following Landlord's receipt of the Expansion Notice, Landlord and Tenant shall amend the Lease (such amendment to the Lease, the "**Expansion Amendment**") to reflect the addition of the Expansion Space, and to increase Tenant's Premises Base Rent to reflect the addition of the Expansion Space, which shall be added to the Lease from and after the Expansion Delivery Date at Tenant's then current Premises Base Rent rate (per kW) and shall escalate thereafter in accordance with the terms of the Lease, subject to [REDACTED] with respect to the Expansion Space based upon the remaining Term of this Lease. For avoidance of doubt, it is understood and agreed that Tenant shall not owe Base Rent with respect to the Expansion Space until the Expansion Space Delivery Date. The lease term with respect to the Expansion Space shall be coterminous with the then remaining portion of the Term.

41. Sustainability.

In support of Tenant's sustainability efforts, subject to availability and the confidentiality protections in Section 38, Landlord agrees to cooperate with Tenant in its sustainability efforts, which cooperation shall include, without limitation, the following: (i) providing access to the Building's emissions annual performance data, (ii) providing access to energy, water and waste performance data as request by Tenant (but no more frequently than quarterly), and (iii) permitting Tenant to meter/submeter the Premises' electricity and water usage (if such is not already separately metered or sub-metered). Landlord monitors electricity via the Building's BMS and water usage by monthly utility reporting. At Tenant's request, made no more frequently than once per calendar quarter, Landlord will provide monthly electricity and water usage data to Tenant. In addition, Tenant seeks to align its green lease goals with Landlord and encourages Landlord to contact Tenant with opportunities to collaborate efforts and/or potentially share costs of sustainability projects. If Landlord has a proposal for a project to upgrade the energy and water conservation equipment and systems or otherwise improve the environmental performance of the Building/and or the Premises, the Landlord should contact Tenant's green leasing team at [REDACTED]

42. Compliance.

(a) Landlord shall provide Tenant, at least annually, with a copy of the report of an internal or third-party audit to be conducted in relation to Landlord and each of its subcontractors (such report, the "**Audit Report**"), at least annually, testing the architecture, systems, procedures, internal controls and compliance of Landlord and each of its subcontractors with applicable Legal Requirements and the Tenant's security standards. Such Audit Report shall take the form of: (i) a Statement on Standards for Attestation Engagements (SSAE) No. 16, System and Organization Controls (SOC1 or SOC2), Type II Report; (ii) a Statement on Standards for Attestation Engagements (SSAE) No. 18, System and Organization Controls (SOC1), Type II Report; (iii) an International Standard on Assurance Engagements (ISAE) No. 3402, Assurance Report on Controls at a Service Organization, Type II Report; or (iv) an International Organization for Standardization (ISO) 27001, Certificate with Statement of Applicability; or any replacement of any of the foregoing. All such Audit Report (plus, if requested by Tenant or any regulator having regulatory authority over Tenant (A "**Regulator**"), associated working papers) shall be provided within a reasonable time of the relevant audit being completed. Additionally, Tenant and/or any Regulator may require Landlord and/or any of its subcontractors to expand the scope of such Audit Report or complete security or other questionnaires or provide other information and Landlord shall, and shall procure that each of its subcontractors shall, promptly, fully and accurately respond and provide the requested information.

(b) Landlord shall, and shall procure that each of its subcontractors shall, throughout the Term and for 12 months thereafter: (i) allow Tenant to conduct (either itself or through a third party) an on-

site audit of: (x) Landlord's and/or any of its subcontractors' architecture, systems and procedures (including security measures) used, and records kept, in connection with its provision of any Services (including the right to take copies of such records); and (y) Landlord's and/or any of its subcontractors' compliance with the provisions of this Lease; and (ii) provide access to Landlord personnel and all reasonable cooperation in connection with any such audit. Landlord further agrees, and shall procure that any of its subcontractors agrees, to allow any Regulator (either itself or through a third party) to exercise the same rights to audit (and be given the same access and cooperation) as set out above. Any audit shall be conducted during normal business hours and upon at least 48 hours' notice, unless a Regulator requires shorter notice or in the case of investigations of reasonable suspicion of fraud or business irregularities of a potentially criminal nature, or relating to Tenant's data protection requirements.

(c) If, following any audit, Tenant notifies Landlord that Landlord or any of its subcontractors is non-compliant with any provisions of this Lease, Landlord shall, or shall procure that any of its subcontractors shall, promptly make all necessary changes to ensure compliance. If Landlord or any of its subcontractors is unable promptly to remedy such non-compliance within sixty (60) days after receipt of notice from Tenant (the "**Remedy Date**"), then Tenant will receive a credit against the Base Rent payable [REDACTED] of the per diem Base Rent then payable hereunder for each day from and after the Remedy Date until the earlier to occur of (A) the date that is thirty (30) days after the Remedy Date ("**Outside Remedy Date**"), or (B) the date Landlord (or Landlord's subcontractors, as applicable) remedies such noncompliance, and (2) if Landlord or Landlord's subcontractors have not cured the noncompliance identified by the Outside Remedy Date, then Tenant will receive a credit against the Base Rent payable hereunder [REDACTED] of the per diem Base Rent then payable hereunder for each day thereafter until Landlord (or Landlord's subcontractors, as applicable) remedies such noncompliance. If Landlord or Landlord's subcontractors have not cured the noncompliance by the date that is one hundred eight (180) days after the Remedy Date, then Tenant shall have the right to terminate this Lease, without any penalty or termination fee or any other liability, by providing written notice thereof to Landlord prior to such noncompliance having been cured, which termination shall be effective as of a date no later than one hundred twenty (120) days following such written termination notice to Landlord.

43. Facilities Technician.

At all times (i.e., twenty-four (24) hours per day, seven (7) days per week) during the Term of the Lease, Landlord agrees to maintain one (1) qualified critical facilities technician at the Building, whose duties include the implementation and coordination of all mechanical and electrical operations, maintenance, communications, and energy management for a critical facilities environment, on duty.

44. Portability.

In the event that Tenant desires to contractually relocate its Critical Power and Tenant Space from the Building to a Portfolio Property (as defined below, the parties agree to follow the procedures described in below.

(a) The term "**Port**" (also "**Porting**") is a verb, which means "space and power at one location is contractually 'moved' from one location to another". A "Porting" is effected by the parties (or their applicable affiliates) (a) terminating the right to the Ported space and power at the source location and (b) granting rights related to Ported space and power at the destination location.

(b) This Section 44 only provides Tenant the procedural framework by virtue of which Tenant can request a Porting of all or a portion of its Critical Load under the Lease leased by Tenant as of the date of such request (subject to the terms of this Section 44) together with the associated Tenant Space

(the Critical Power and Tenant Space that is the subject of a particular Porting Request (defined below) is referred to herein as the then-current “**Porting Commit**”), from the Building to another building that is at least 51% owned and controlled by Landlord (such other Building is referred to herein as a “**Portfolio Property**”).

(c) Nothing in this Section 44 grants Tenant an absolute right to Port any Porting Commit to another Portfolio Property. Rather, each Porting Request shall be subject to Landlord’s determination, in its reasonable discretion, acting in good faith, as to whether the Target Portfolio Property (defined below) will have available space and power to accommodate the Porting Commit on the Target Porting Date (defined below).

(d) In order to request a Porting of the Porting Commit, Tenant must provide Landlord a valid written request (a “**Porting Request**”; the date upon which the Porting Request is received by Landlord is the “**PR Receipt Date**”), which (at a minimum) must include:

(i) A description of the amount of Critical Power and Tenant Space that Tenant desires to port,

(ii) the date upon which Tenant desires for the Port to be completed (the “**Target Porting Date**”; which shall be no earlier than 180 days after the PR Receipt Date (the “**Earliest Porting Date**”)), and

(iii) the Portfolio Property to which Tenant desires to Port (the “**Target Portfolio Property**”).

(e) Once Landlord receives a valid Porting Request, Landlord, together with the owner of the Target Portfolio Property (the “**Target Owner**”), will undertake to determine whether the Target Portfolio Property will have sufficient available datacenter space with sufficient power capacity to accommodate the Porting Commit within six (6) months prior to or after the Target Porting Date (the “**Target Porting Date Window**”) (such a determination is referred to as a determination as to “**Porting Availability**” at the Target Portfolio Property). For the sake of illustration and not limitation, among the factors that may be considered in (and may figure into) Landlord’s and Target Owner’s determination of “Porting Availability” are the following:

(i) If there is space and power in the Target Portfolio Property that could otherwise be considered available, which is scheduled to be under contract to one or more third parties for the duration of the Target Porting Date Window, Landlord or the Target Owner would be reasonable in determining that such space and power is not available for the Porting.

(ii) If there is space and power in the Target Portfolio Property that could otherwise be considered available, which is, at that time, under negotiations with one or more third parties, Landlord or the Target Owner would be reasonable in determining that such space and power is not available for the Porting even though such space is not (at that point) currently under contract.

(iii) If there is space and power in the Target Portfolio Property that could otherwise be considered available, which is, for the duration of the Target Porting Date Window, under contract with (or is otherwise restricted by) one or more third parties whether by virtue of existing tenancy rights, rights of first offer, expansion rights or otherwise, Landlord or the Target Owner would be reasonable in determining that such space and power is not available for the Porting.

(iv) The Target Owner shall have reasonable discretion as to what area(s) to offer at the Target Portfolio Property (i.e., Target Owner may be able to offer Tenant one or more whole dedicated datacenter suites to accommodate the Porting Commit; or Target Owner may be able to offer Tenant one or more areas within a shared datacenter suite (or suites) to accommodate the Porting Commit.

(f) Landlord will notify Tenant as soon as is reasonably practical under the circumstances, but in no event later than sixty (60) days after Landlord's receipt of a Porting Request, as to whether the Target Portfolio Property has the necessary Porting Availability. Such notification will contain (i) the mix of space and power that the Target Owner is offering (the "**Target PP Offered Space**") at the Target Portfolio Property; (ii) the economics being offered for the Target PP Offered Space; (iii) the area of the Tenant Space that Landlord desires to recapture as part of the Porting (the "**Porting Surrender Space**"); and (iv) the date on which the Target PP Offered Space shall be available for delivery to Tenant, which date shall be within the Target Porting Date Window (the "**Target PP Offered Space Delivery Date**"), which space shall be determined in Target Owner's sole but reasonable discretion and which shall be one (1) contiguous space. An affirmative notification from Landlord is referred to as an "**Porting Availability Notification**".

(g) Tenant acknowledges that different Portfolio Properties reside in different markets and have varying cost bases. Tenant also acknowledges that the Port should not be used as a mechanism for reducing Tenant's overall contractual commit. The result of which is that the economics of the Porting Commit, which will be reflected in Landlord's Porting Availability Notification, will be the greater of (i) Landlord's or Target Owner's reasonable determination of the per kW market rate of the Porting Commit at the Target Portfolio Property taking all factors into consideration (including, potentially, the stranding of power that may occur at the Building as a result of the Porting); and (ii) an amount consistent with the per kW economics that apply to the Porting Commit under this Lease, provided that in no event will the total contract value ("**TCV**") of the Target Portfolio Property Document (defined below) be less than the remaining TCV of this Lease as of the date PR Receipt Date. Also, if, in Landlord's or Target Owner's reasonable determination, the Porting Commit could not be reasonably accommodated at the Target Portfolio Property without stranding power and space, Target Owner would be reasonable in offering a greater amount of space and power with economic terms that account for the greater amounts of space and power. Any disputes with respect to the economics of the Porting Commit under clause (ii) above shall be subject to resolution pursuant to an appraisal procedure applied to the Target Portfolio Property in a manner generally consistent with that appraisal process set forth in Section 2.3 of the Lease.

(h) If Tenant receives a Porting Availability Notification to its Porting Request, Tenant shall have sixty (60) days (the "**Porting Acceptance Period**") after receipt of the Porting Availability Notification to accept the offer of the Target PP Offered Space and accept Landlord's designation of the area within the Premises that will be surrendered by written notice of the same to Landlord (the "**Porting Acceptance Notice**"). If Landlord does not receive the Porting Acceptance Notice within the Porting Acceptance Period (or if the parties do not timely enter into the Target Portfolio Property Document (defined below)), (i) the offer of the Target PP Offered Space on the applicable economics shall be deemed to have been rejected by Tenant, (ii) Landlord (or the applicable Target Owner) shall be permitted to lease or license or otherwise encumber such space and power at the Target Portfolio Property to any party or parties at any rates without restriction.

(i) Once Landlord receives the Porting Acceptance Notice within the Porting Acceptance Period, Landlord shall cause Target Owner to provide a new lease or license to Tenant with regard to the offered space and power (each, a "**Target Portfolio Property Document**") on terms substantially similar to this Lease (modified, as reasonably necessary under the circumstances, including revisions based on the legal requirements of the location in which the Target Portfolio Property is located).

(j) The commencement date (the “**Ported Commencement Date**”) of the term for the Target Portfolio Property Document will be a mutually agreed date to occur no later than the 180th calendar day after Landlord’s receipt of the Porting Acceptance Notice; and such term related to the Target PP Offered Space will be no less than sixty (60) full calendar months.

(k) Contemporaneously with the execution of the Target Portfolio Property Document, Landlord and Tenant shall enter into an amendment to this Lease (the “**Porting Surrender Amendment**”) to terminate this Lease as it relates to the Porting Commit. Tenant shall select the date upon which to surrender the Porting Commit, which date (the “**Porting Surrender Date**”) shall be no later than the Ported Commencement Date. On or before the Porting Surrender Date, Tenant shall have completed its vacation, restoration and surrender of the Porting Surrender Space in a manner consistent with the requirements of the Lease for the expiration or earlier termination of the Term. Should Tenant fail to timely complete its surrender of the Porting Surrender Space on or before the Porting Surrender Date, Tenant shall be deemed to be in holdover of the Porting Surrender Space, as applicable, pursuant to the terms of the Lease.

(l) All costs associated with the Porting (whether such costs are associated with the Building or the Target Portfolio Property) shall be paid by Tenant, including legal fees related to the Porting (whether incurred by Landlord or by the landlord of the Target Portfolio Property) and including the costs incurred by Landlord to reconfigure the Tenant Space due to the reduction of power and space that Tenant has under contract in the Tenant Space as a result of the Porting.

45. Rooftop Equipment Space Area.

(a) Except as provided in this Section 45, Landlord shall not place, or permit the placement by any other party, of any equipment or structure, nor shall Landlord conduct, or permit the conducting by any third party, of any activity, on any portion of the area or areas of the roof of the Building which is identified on Exhibit A-6 hereto (the “**Rooftop Equipment Space Area**”), except in connection with the maintenance and repair of the roof.

(b) Landlord hereby grants to Tenant during the Term the non-exclusive right to install, maintain and operate, at Tenant’s sole cost and expense, GPS and network timing equipment and television satellite antenna (Direct TV) with such characteristics and dimensions as are approved in writing by Landlord, such approval not to be unreasonably withheld, conditioned or delayed except in the event of a Rooftop Restriction (as defined below), and related cable, wiring, connecting lines, conduit, installations and equipment as necessary to connect such antenna to Tenant’s allied machinery and equipment in the Building (all of the foregoing, collectively, the “**Rooftop Equipment**”), in the Rooftop Equipment Space Area. Notwithstanding anything herein to the contrary, Tenant’s right to install, maintain and operate the Rooftop Equipment is subject to the Rooftop Equipment, and the location thereof, (i) not adversely affecting in any material manner the structure of the Building, the roof of the Building, the warranty for the roof of the Building or the safety of the Building; (ii) not adversely affecting in any material manner the electrical, mechanical or any other system of the Building or the functioning thereof; (iii) not adversely interfering with the operation of the Building or the provision of services or utilities to other current or future tenants and occupants of the Building; and (iv) not violating the Rules and Regulations (collectively, the “**Rooftop Restrictions**”), and any of the foregoing shall be deemed to be a reasonable basis for Landlord to withhold approval of the installation of Rooftop Equipment or require the removal of Rooftop Equipment. No additional rental shall be payable with respect to the rooftop rights granted Tenant under this Section.

(c) Tenant shall install, maintain and operate the Rooftop Equipment in compliance with (a) all present and future applicable Legal Requirements with respect to the Rooftop Equipment and the Building, including, without limitation, the rules and regulations of the Federal Communications Commission and

the Federal Aviation Administration and any other governmental and quasi-governmental authorities having jurisdiction with respect to the Building or Tenant's installation, maintenance and/or operation of the Rooftop Equipment, (b) the Rules and Regulations, (c) the conditions of any bond or warranty maintained by Landlord on the roof, and (d) all other terms of this Lease.

(e) Prior to installation of the Rooftop Equipment and any modifications or changes thereto, Tenant shall submit to Landlord in writing all plans for Landlord's approval, and may only commence the installation after having obtained Landlord's written approval, which shall not be unreasonably withheld, conditioned, or delayed except in the case of the Rooftop Restrictions. The size, weight, style, type, materials, exact location, method of installation and other matters related to the Rooftop Equipment shall be subject to the prior written approval of Landlord, which shall not be unreasonably withheld, conditioned, or delayed except in the case of the Rooftop Restrictions. Landlord, at its election and its sole cost and expense, may supervise any roof work.

(f) Landlord shall provide to Tenant reasonable access to the roof of the Building and affected areas of the base Building for the installation, maintenance and operation of the Rooftop Equipment. Access to the roof of the Building or other areas of the Building will be available by requesting access according to the terms of the Lease and the Rules and Regulations. All access to the roof of the Building or other areas of the Building shall be subject to the continuing control of, and reasonable security and safety procedures established by, Landlord.

(g) Tenant shall be responsible to Landlord for any damage to the roof caused by the installation or maintenance of the Rooftop Equipment on the Rooftop Equipment Area and for the reasonable and actual out of pocket costs of the supervision of Landlord's roofing contractor with respect to any installation.

(h) At the expiration or earlier termination of this Lease or termination of Tenant's right to possess the Premises, Tenant shall remove all Rooftop Equipment from the Building and roof and repair any damage caused by such removal at Tenant's sole cost and expense. If Tenant fails to remove the Rooftop Equipment, or any portion thereof, within thirty (30) days after the expiration or earlier termination of the Term or the termination of Tenant's right to possess the Premises, Landlord shall have the right, but not the obligation, to elect (i) to remove the Rooftop Equipment at Tenant's cost and expense; or (ii) to treat the Rooftop Equipment as abandoned by Tenant.

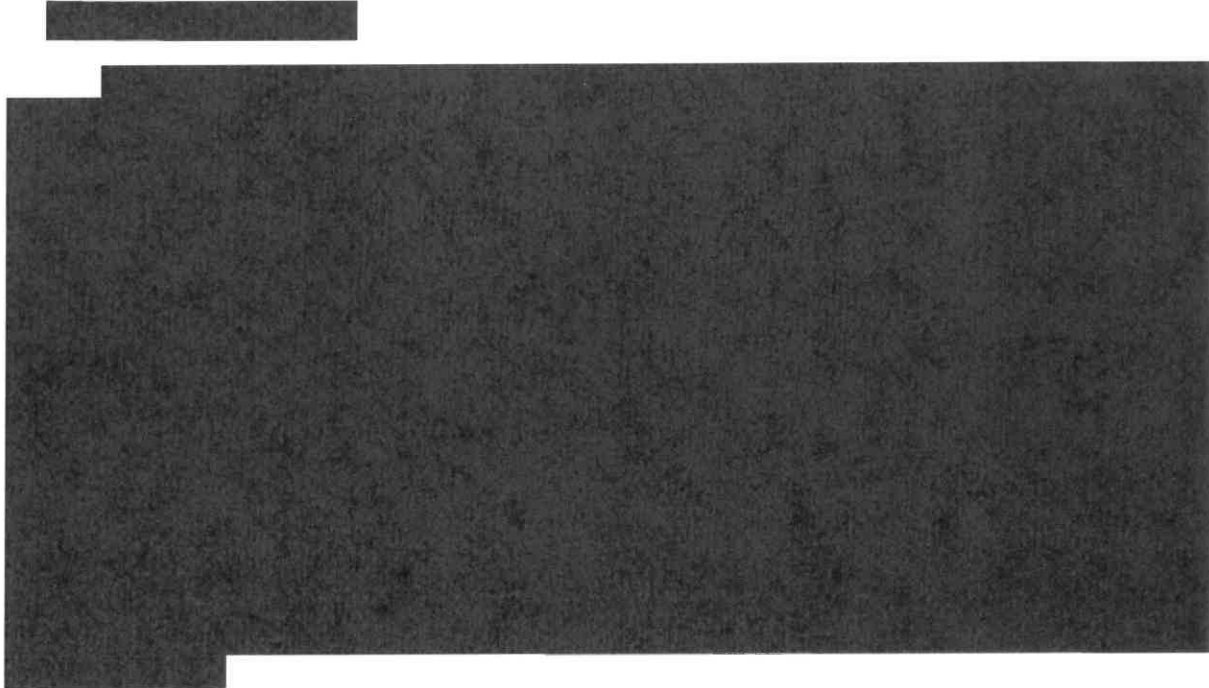
46. IDA Incentives.

The parties acknowledge that Tenant is seeking incentives directly from the Rockland County Industrial Development Agency, and Landlord agrees to provide Tenant with any reasonable cooperation required in connection with such efforts.

47. OFAC Compliance.

Tenant is currently (a) in compliance with and shall at all times during the Term of this Lease remain in compliance with the regulations of the Office of Foreign Assets Control ("OFAC") of the U.S. Department of Treasury and any statute, executive order, or regulation relating thereto (collectively, the "OFAC Rules"), (b) not listed on, and shall not during the term of this Lease be listed on, the Specially Designated Nationals and Blocked Persons List maintained by OFAC and/or on any other similar list maintained by OFAC or other governmental authority pursuant to any authorizing statute, executive order, or regulation, and (c) not a person or entity with whom a U.S. person is prohibited from conducting business under the OFAC Rules.

Landlord is currently (a) in compliance with and shall at all times during the Term of this Lease remain in compliance with the regulations of OFAC and the OFAC Rules, (b) not listed on, and shall not during the term of this Lease be listed on, the Specially Designated Nationals and Blocked Persons List maintained by OFAC and/or on any other similar list maintained by OFAC or other governmental authority pursuant to any authorizing statute, executive order, or regulation, and (c) not a person or entity with whom a U.S. person is prohibited from conducting business under the OFAC Rules.



49. REIT Representations.

In the event Landlord or any Landlord Party or any of its direct or indirect members or partners or any successor to any of the above needs to qualify as a real estate investment trust Tenant agrees to cooperate in good faith with Landlord to ensure that the Rent qualifies as “rents from real property,” within the meaning of Section 856(d) of the Internal Revenue Code and/or any similar or successor provisions thereto.

50. Counterparts; Execution.

This Lease may be executed in separate counterparts or using counterpart signature pages, each of which shall be an original and all of which shall be deemed to be one and the same instrument. Each of the parties also agree that the delivery of an executed copy of this Lease by facsimile, email or via another method of exchanging electronic signatures (e.g. DocuSign, Adobe Sign, etc.) shall be legal and binding and shall have the same full force and effect as if an original executed copy of this Lease had been delivered, and neither party will have the right to object to the manner (i.e., electronic signatures, fax, or scanned images of signature pages) in which this Lease was executed as a defense to the enforcement of this Lease.

[remainder of page intentionally left blank; signature pages follows]

IN WITNESS WHEREOF, the parties hereto have duly executed this Lease to be effective as of the Effective Date.

LANDLORD:

1547 CSR - ORANGEBURG LLC,
a Delaware limited liability company

By: _____

Name:

Title:

Date:

TENANT:

MORGAN STANLEY SERVICES GROUP INC.,
a Delaware corporation

By: _____

Name:

Title:

Date:

Exhibit A-1
Legal Description of Land

[LL TO PROVIDE]

**Exhibit A-2
Premises**

[TO BE ATTACHED]

Exhibit A-3 Pathways

1. Landlord to provide the following:

- Landlord has one MMR (MMR1) constructed with all necessary carrier equipment connected to both POEs.
- Landlord to provide and construct a second MMR (MMR2) with all required carrier equipment connecting to one POE to create a diverse MMR configuration.
- Eight (8) 4" dedicated EMT conduit in total – split into four equal diverse A/B routes:
- Route A: Two (2) 4" EMT conduit from MMR1 to the premises with junction boxes (for both pipes) with appropriate access for cable pulling and 3 cell MaxCell pulled through the full length of each conduit.
- Route B: Two (2) 4" EMT conduit from MMR1 to the premises with junction boxes (for both pipes) with appropriate access for cable pulling and 3 cell MaxCell pulled through the full length of each conduit.
- Route C: Two (2) 4" EMT conduit from MMR2 to the premises with junction boxes (for both pipes) with appropriate access for cable pulling and 3 cell MaxCell pulled through the full length of each conduit.
- Route D: Two (2) 4" EMT conduit from MMR2 to the premises with junction boxes (for both pipes) with appropriate access for cable pulling and 3 cell MaxCell pulled through the full length of each conduit.
- Two x 2" Dedicated containment EMT conduit from Premises to proposed Office Space with pull tape installed.
- Two x 2" Dedicated containment EMT conduit from Premises to each of the proposed Storage Spaces with pull tape installed. Storage Spaces will be able to share these conduits if the Storage Space (and/or Office Space) are located in the same general area.
- Two x 2" Dedicated containment conduit from Premises to the Roof Equipment Space Area with pull tape installed.

The Pathways are depicted on the following page:

**Exhibit A-4
Office Space**

[TO BE ATTACHED]

**Exhibit A-5
Storage Space**

[TO BE ATTACHED]

**Exhibit A-6
Rooftop Equipment Space Area**

[TO BE ATTACHED]

**Exhibit A-7
Parking Plan**

[TO BE ATTACHED]

Exhibit A-8
Temporary Office/Storage Space

[TO BE ATTACHED]

Exhibit B

Base Rent Schedule

[TO BE ATTACHED]

Exhibit C
Landlord's Work

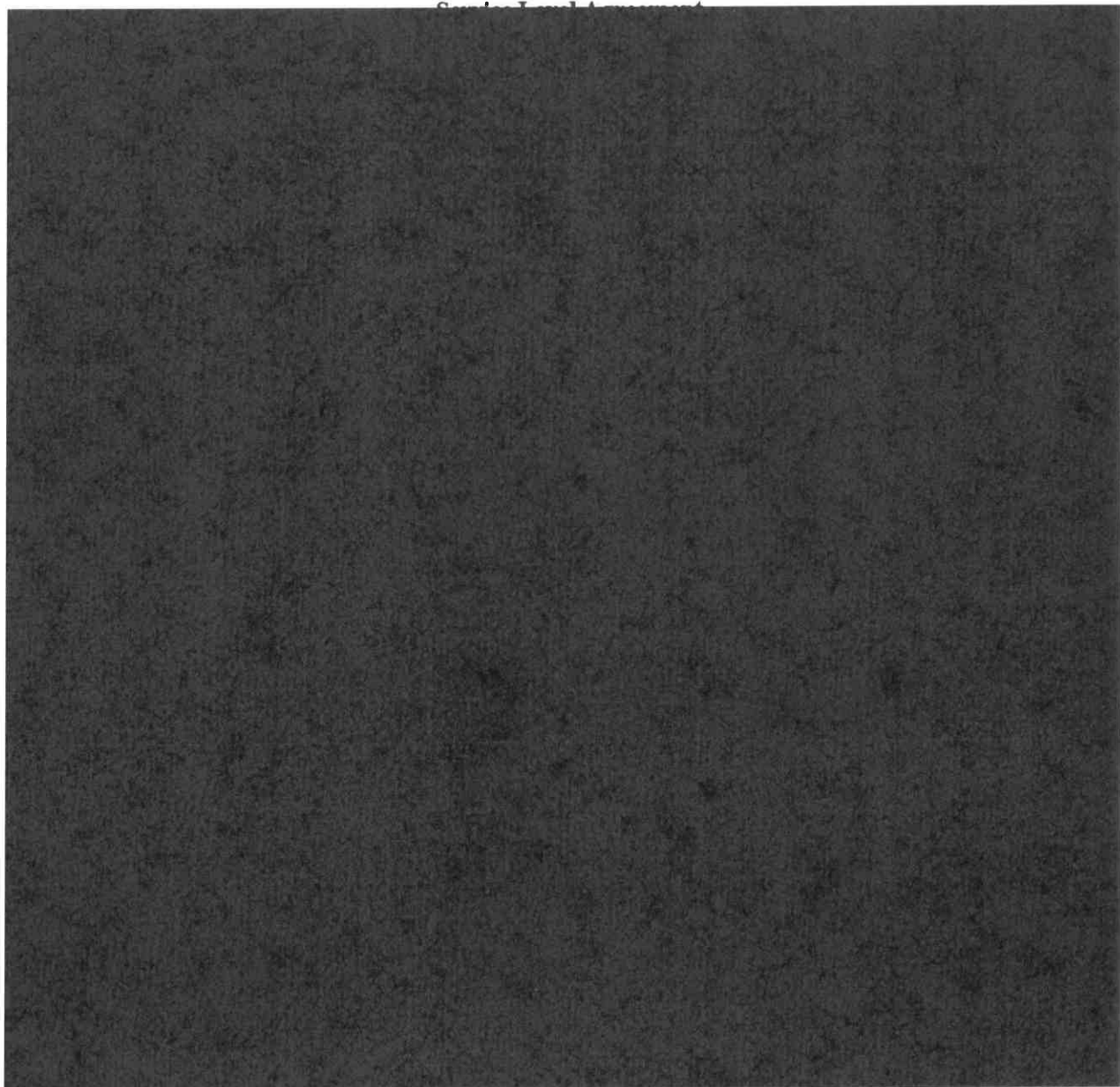
[TO BE ATTACHED]

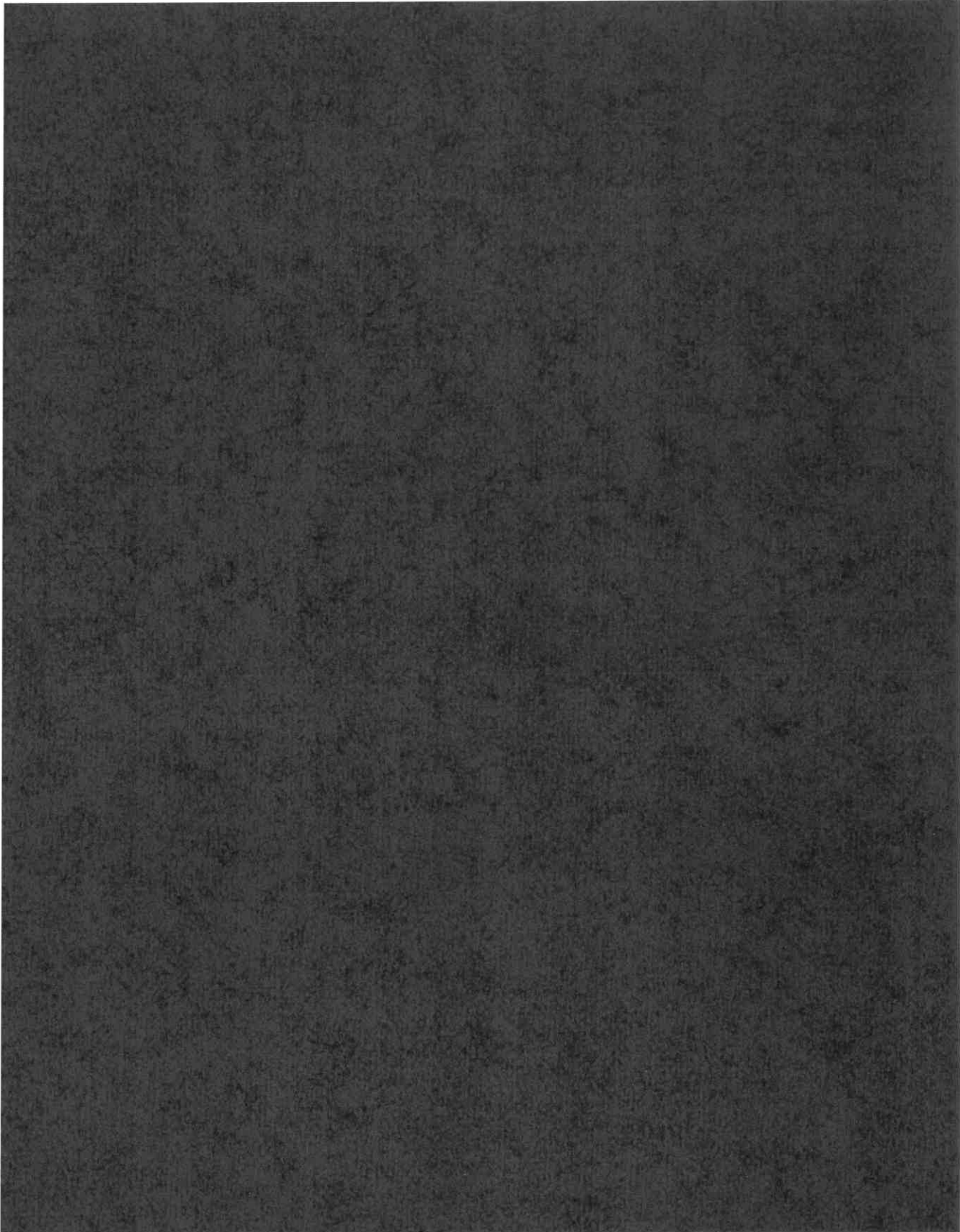
Exhibit D
Rules and Regulations

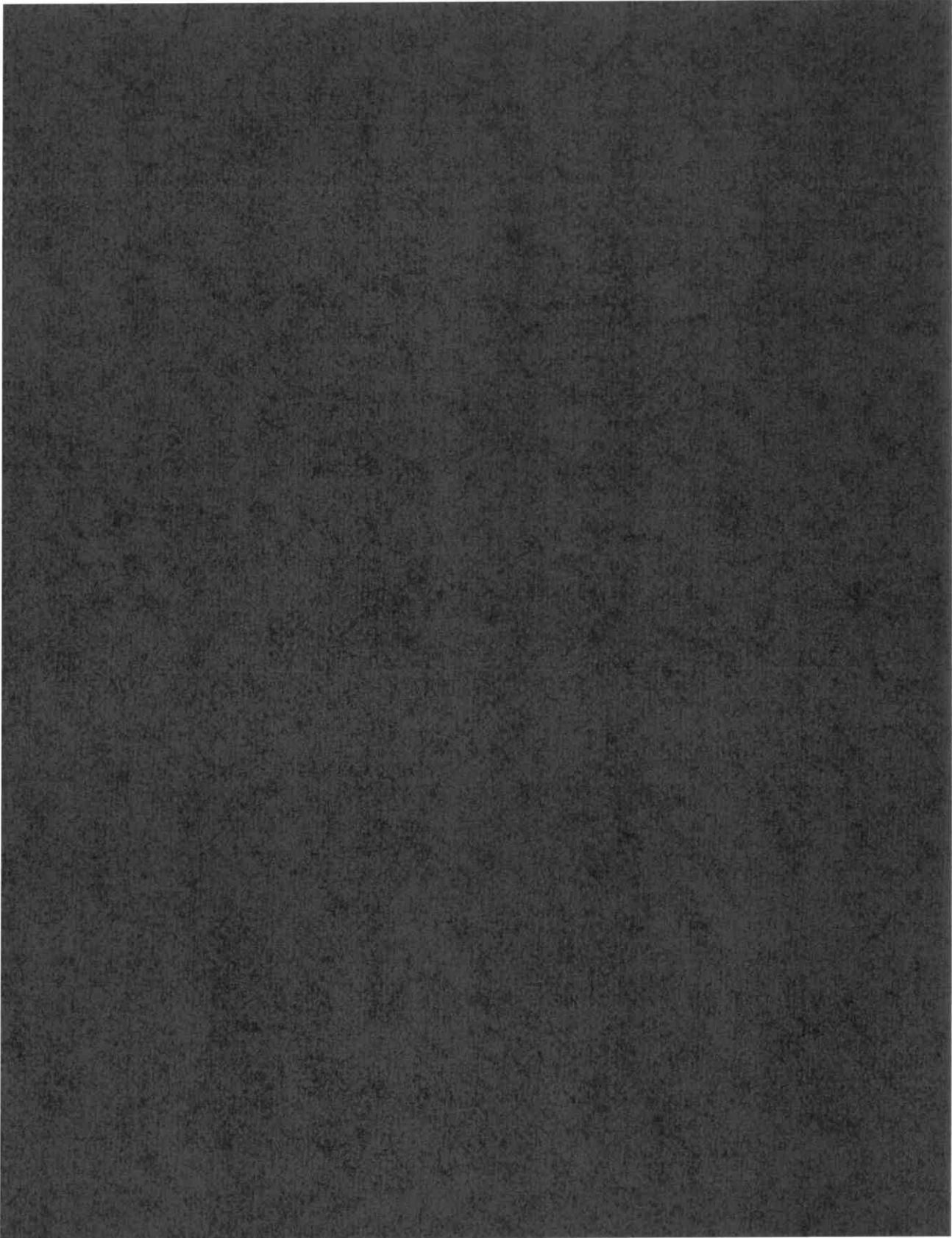
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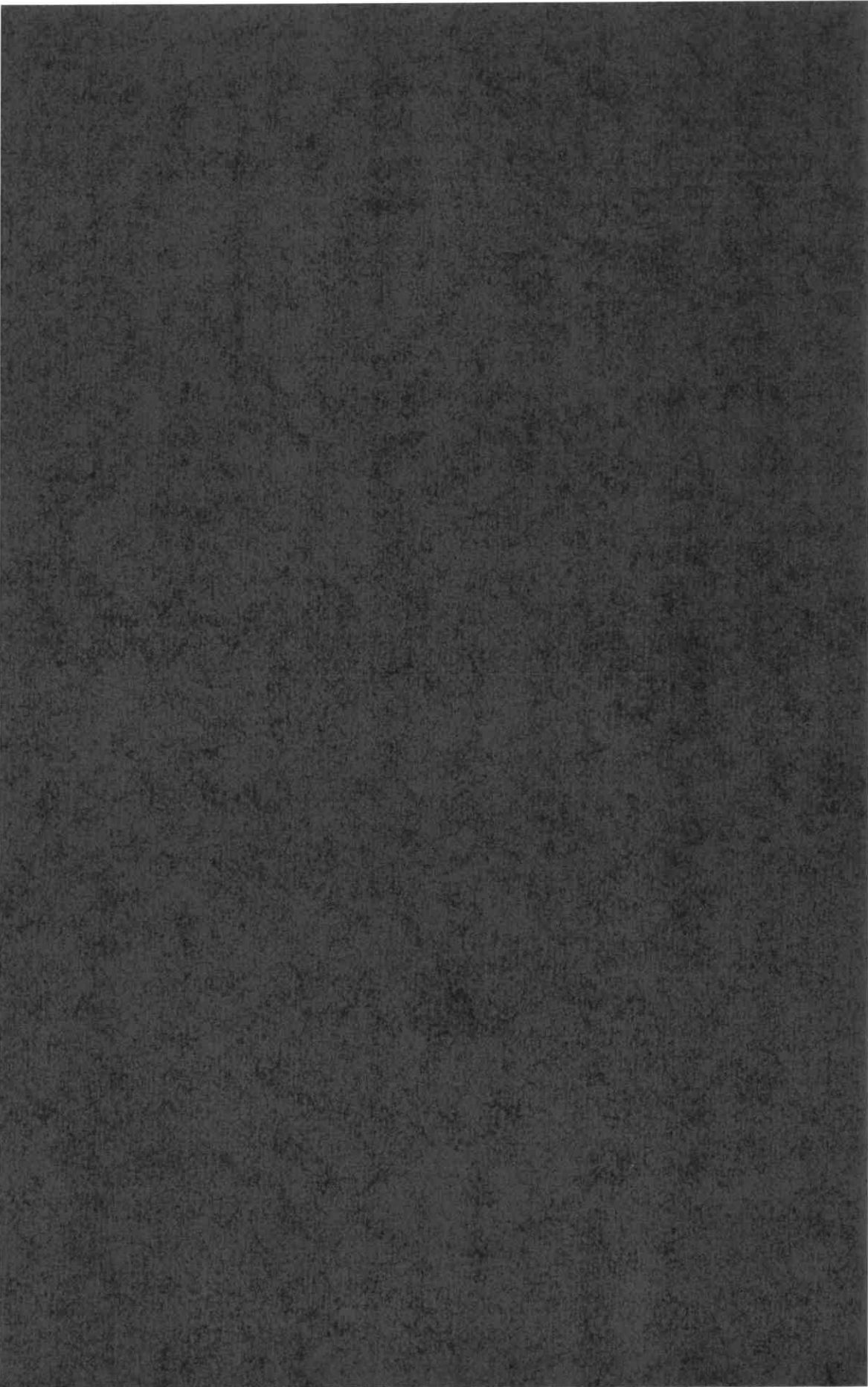
Exhibit E

Sample Term Agreement







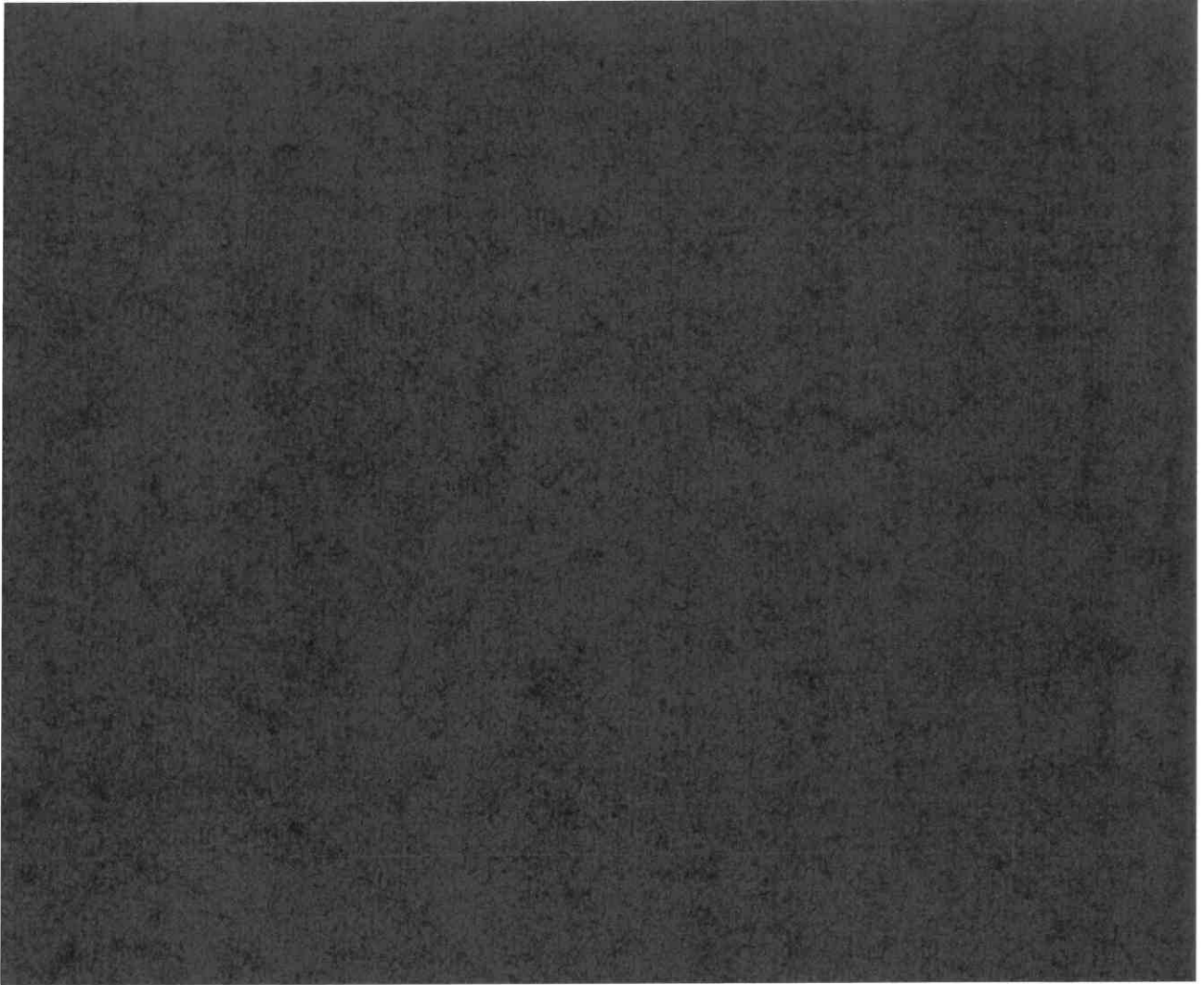


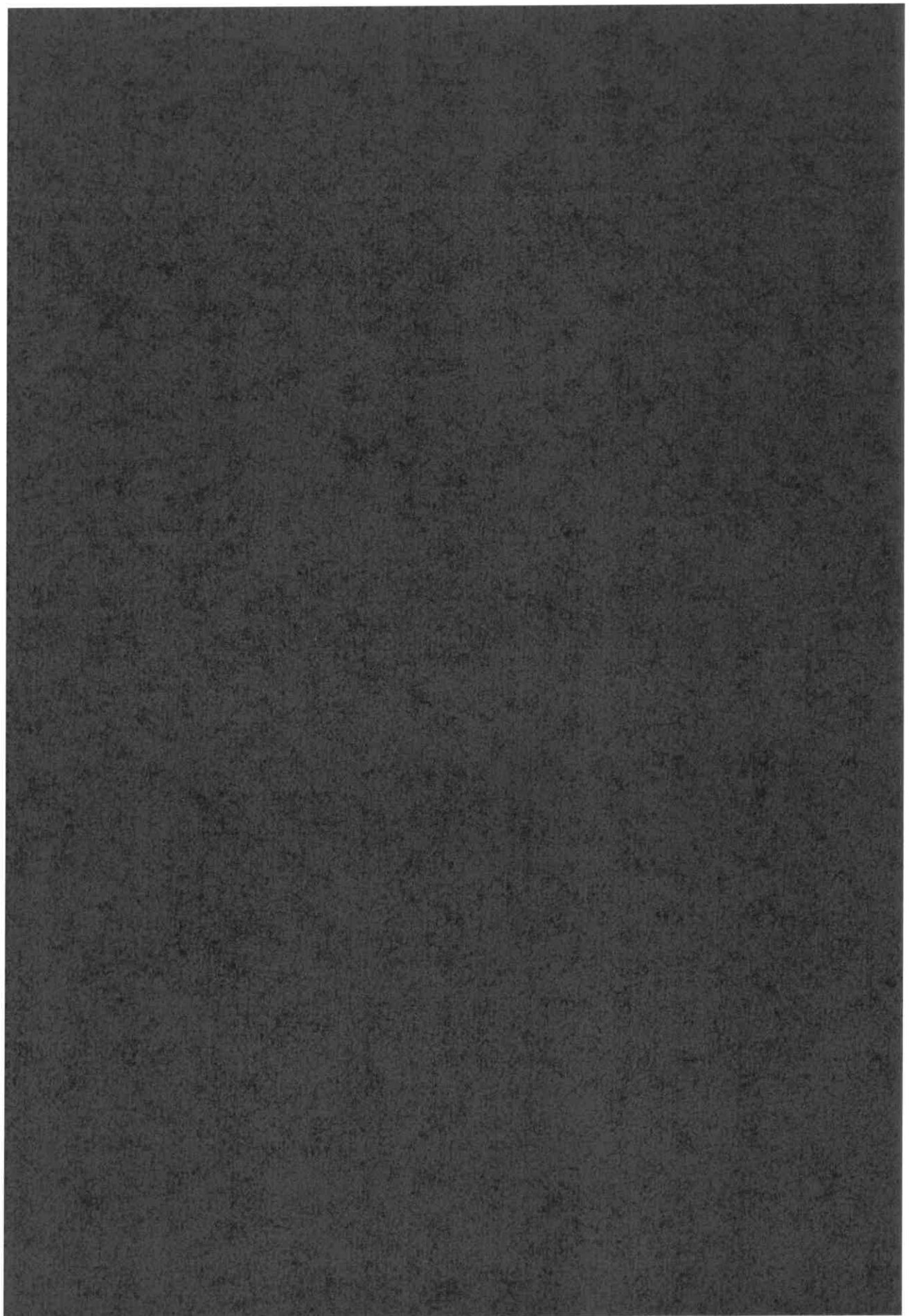
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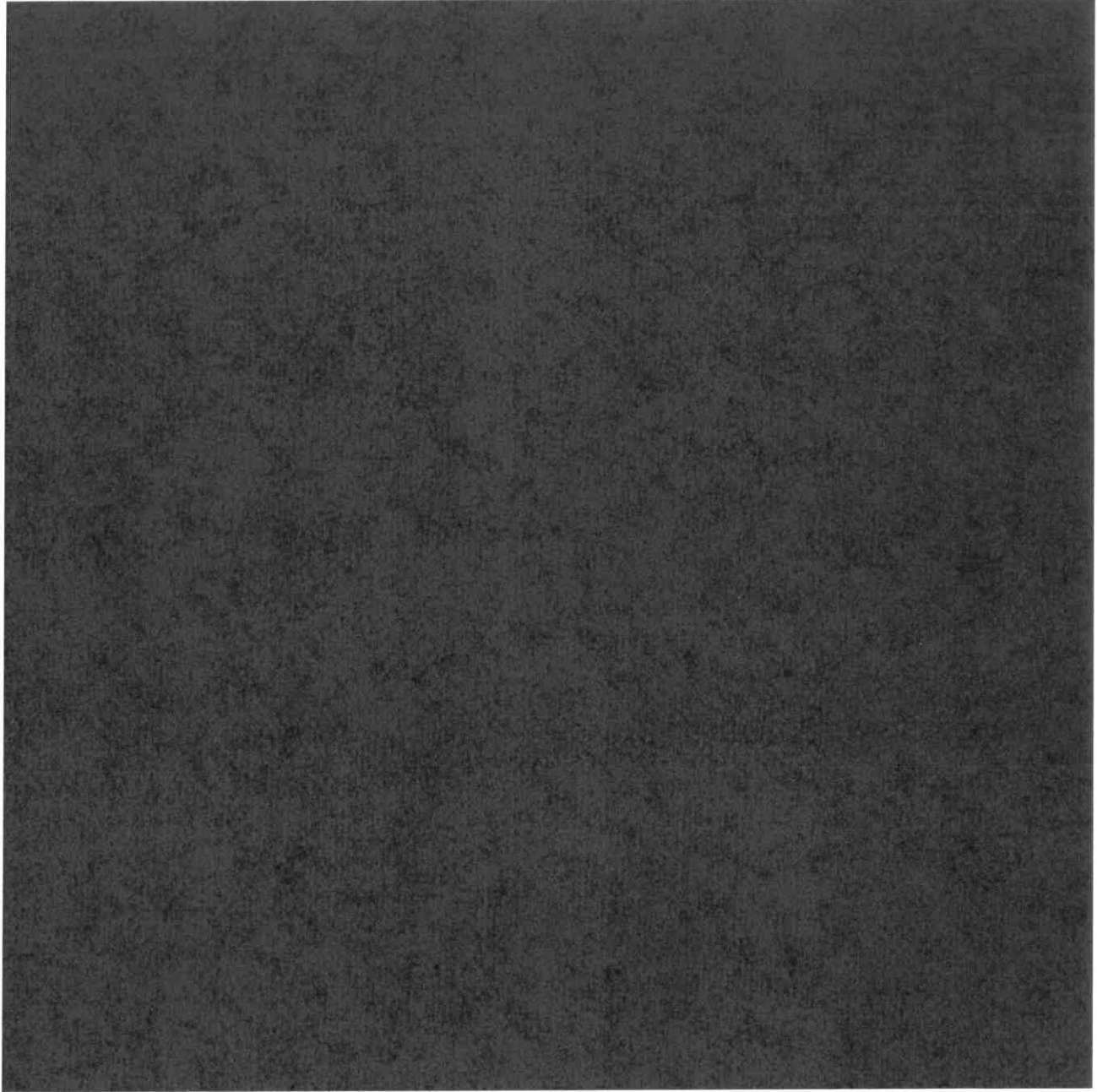
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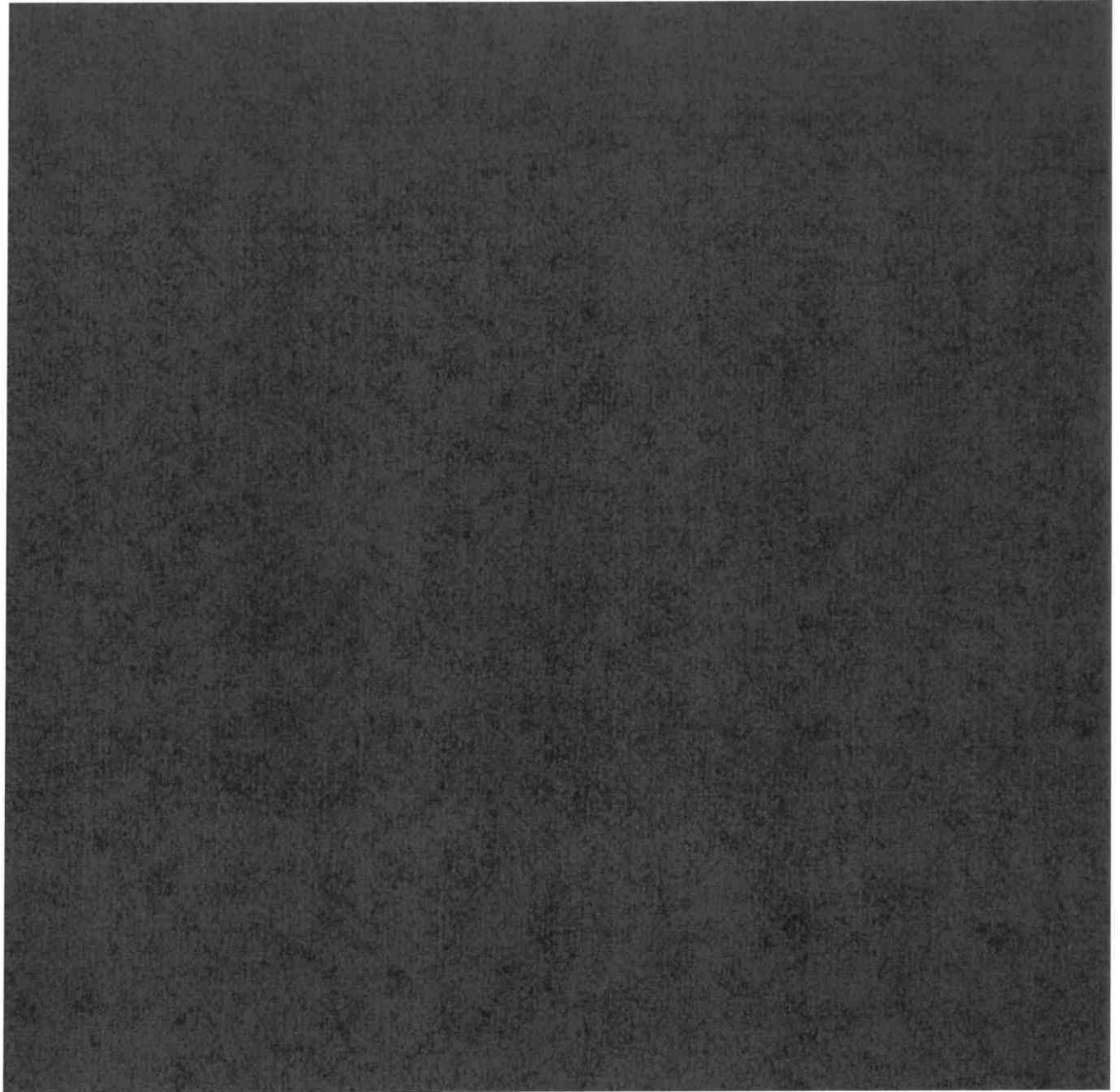
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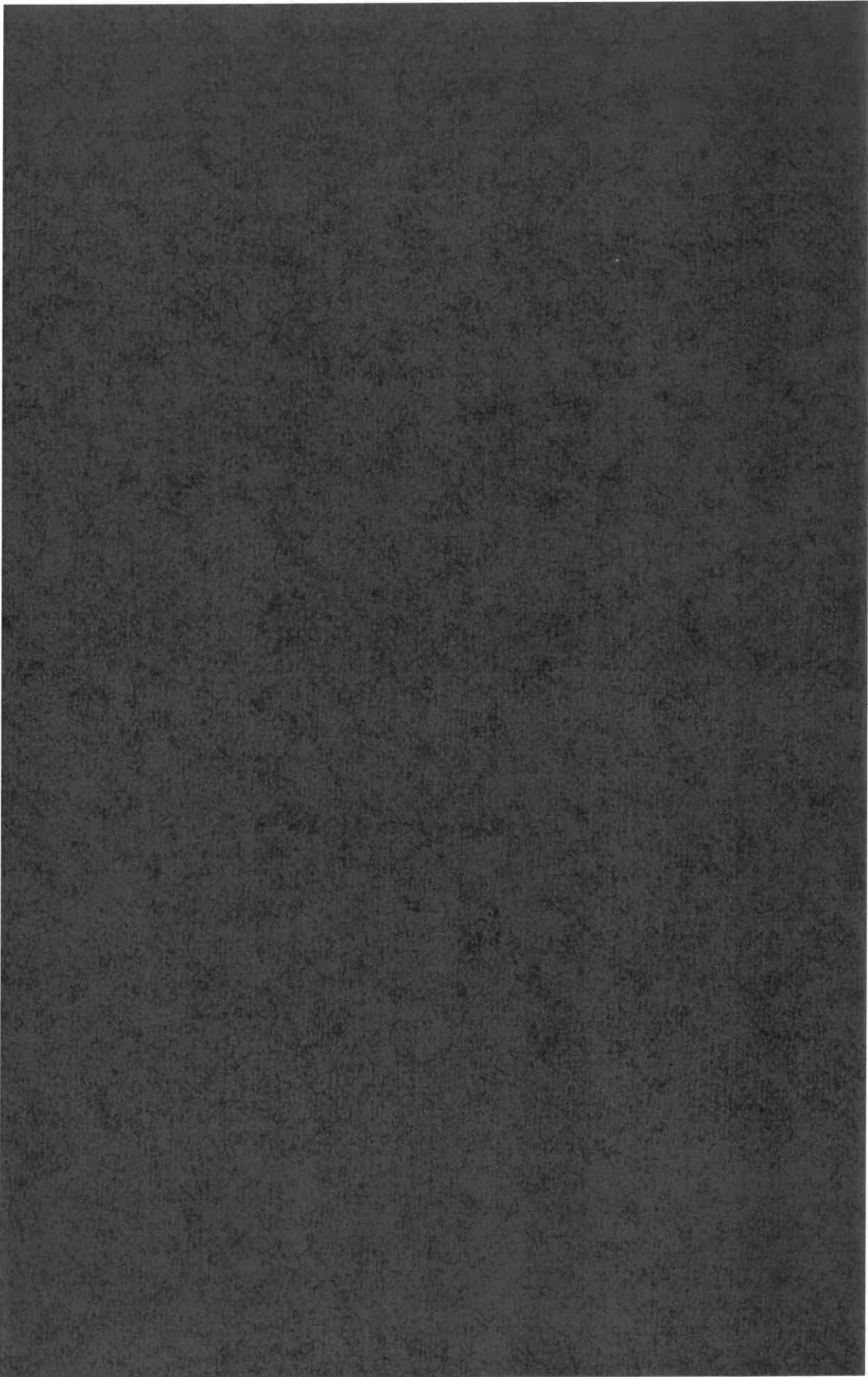
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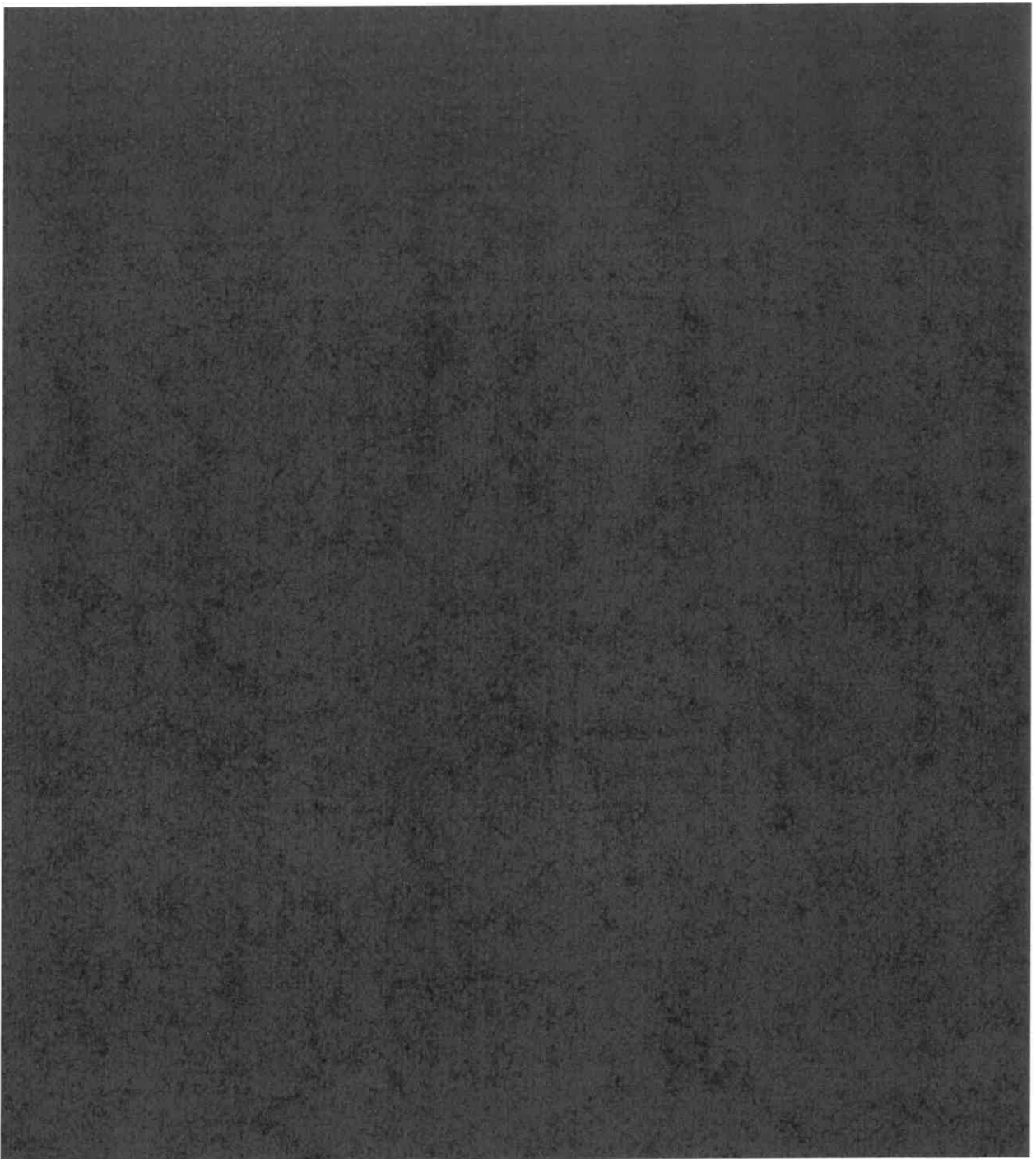


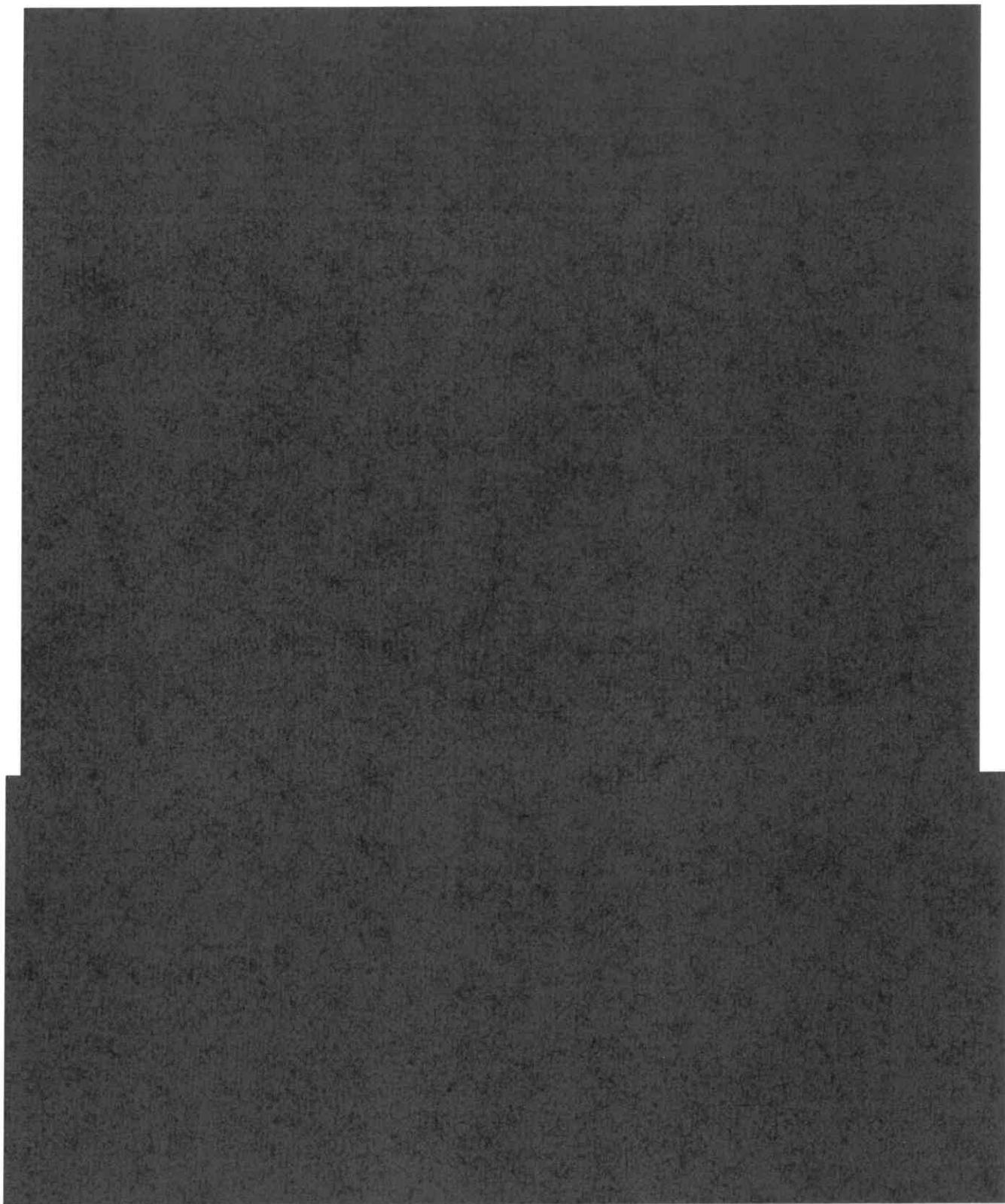
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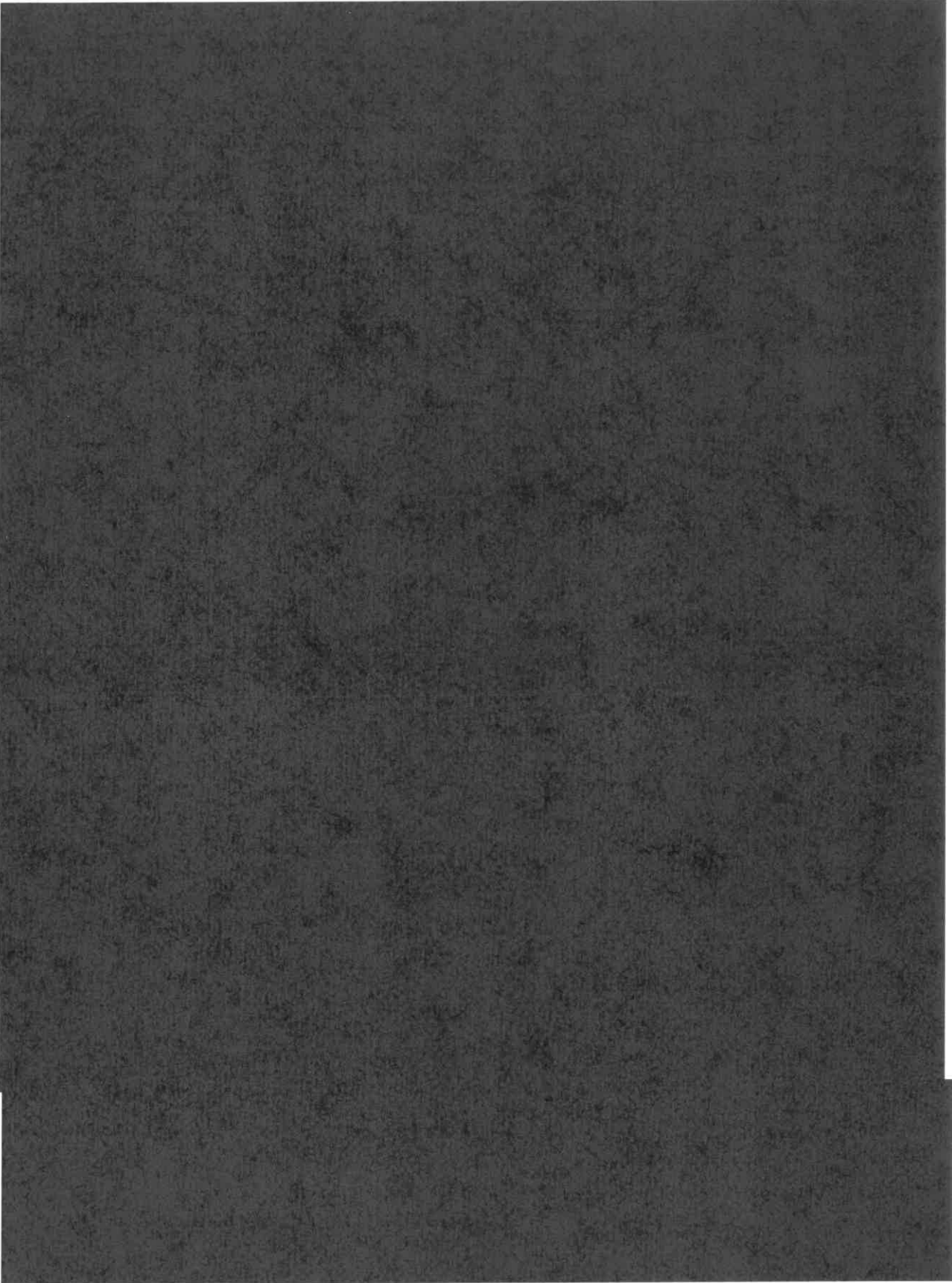
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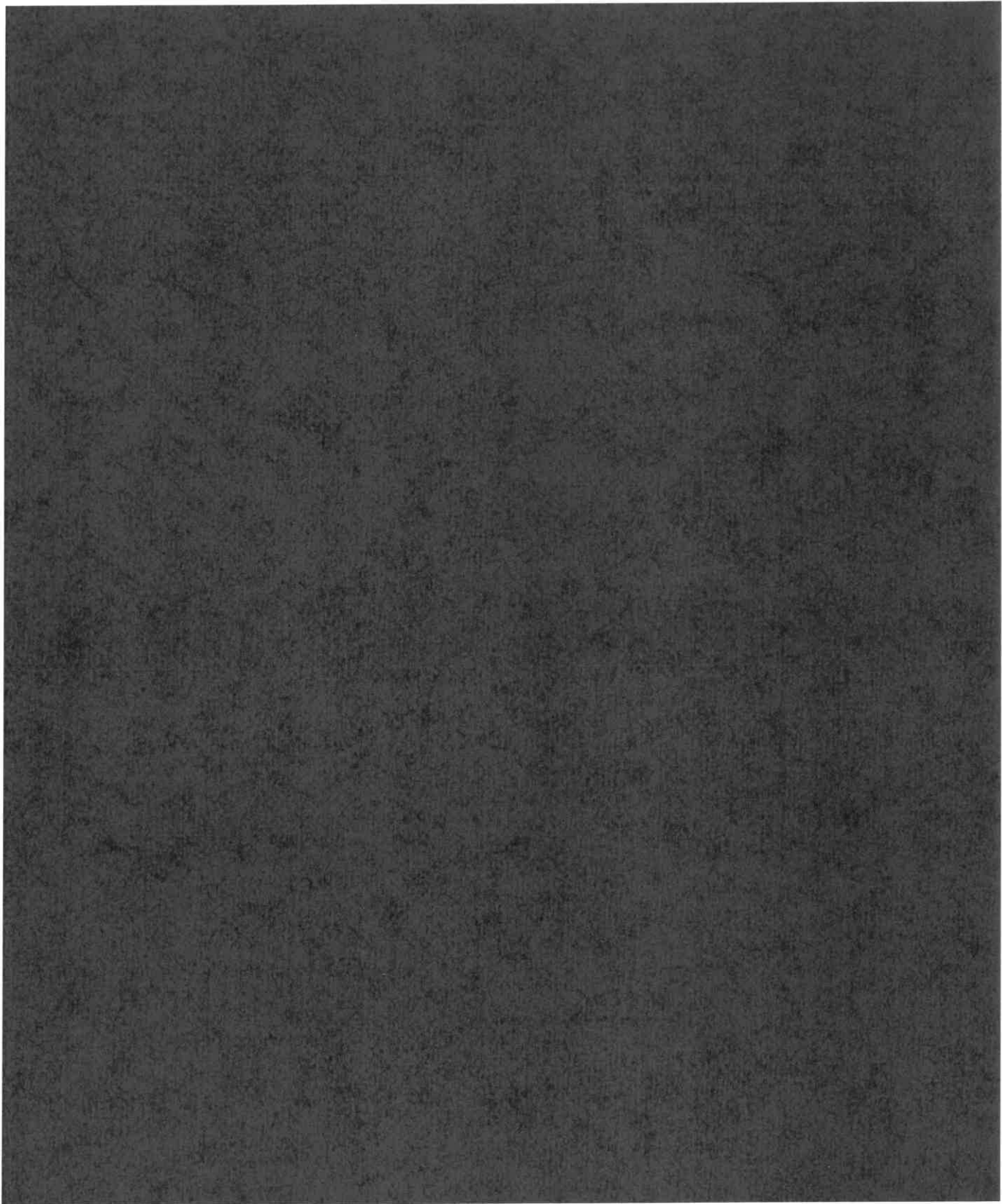
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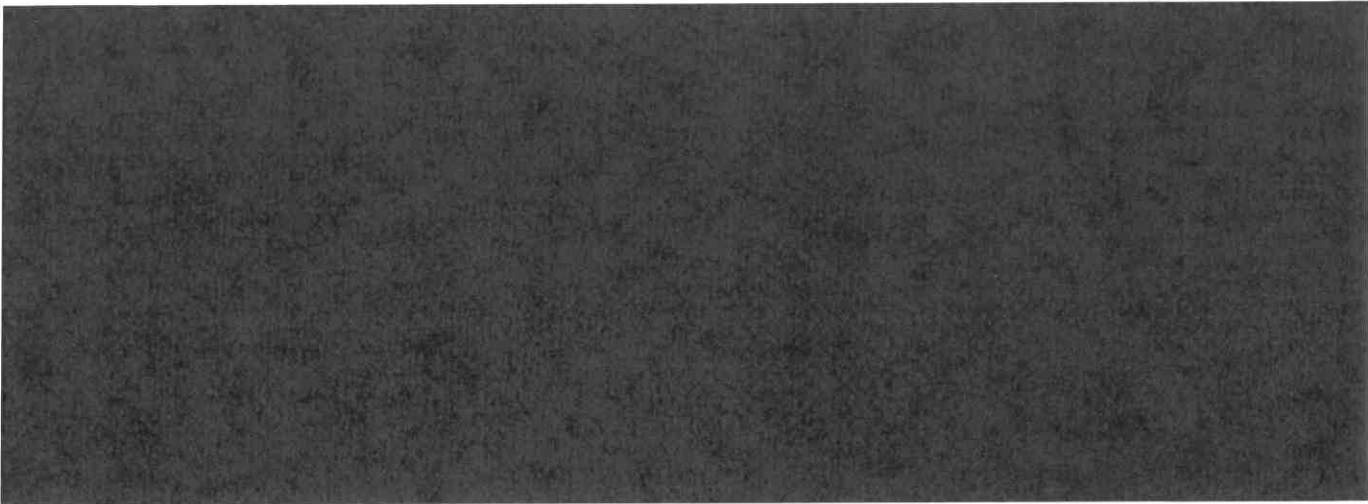
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1 NTD: Landlord to provide this information.

Exhibit F

Janitorial Specifications for Office Area

[TO BE ATTACHED]

Exhibit G
Approved Tenant Contractors

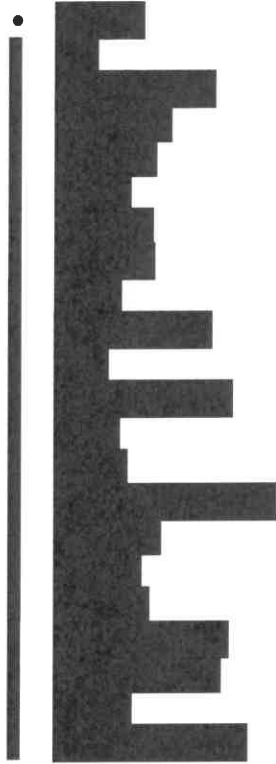


Exhibit G-1

Prohibited Tenant Contractors

None

Exhibit H
Commencement Date Declaration

1547 CSR - ORANGEBURG, LLC (“Landlord”) and MORGAN STANLEY SERVICES GROUP INC. (“Tenant”) do each hereby agree and certify to the other that the “Commencement Date” under the Lease Agreement between Landlord and Tenant, dated as of _____, 2022 (the “Lease”) is _____, 20____, and that the Initial Term of the Lease shall expire on _____, 20__ unless earlier terminated in accordance with the terms of the Lease.

IN WITNESS WHEREOF, Landlord and Tenant have each executed this Commencement Date Declaration this ___ day of _____, 20__.

LANDLORD:

1547 CSR - ORANGEBURG, LLC

By: _____

Name:

Title:

Date:

TENANT:

MORGAN STANLEY SERVICES GROUP INC.

By: _____

Name:

Title:

Date:

Exhibit I
Preventative Maintenance Schedule

[TO BE ATTACHED]

Exhibit J
Plans and Specifications for Tenant Improvements

[TO BE ATTACHED]

EXHIBIT K

New York State Law Provisions

1. **Section 223-a of the Real Property Law of the State of New York.** Supplementing the provisions of Article 2 of the Lease, the parties hereto agree that Article 2 of the Lease constitutes an express provision as to the time at which Landlord shall cause the commencement date to occur, and except as otherwise provided in the Lease, Tenant hereby waives any rights to rescind the Lease which Tenant might otherwise have pursuant to Section 223-a of the Real Property Law of the State of New York, or pursuant to any other law of like import now or hereafter in force.

2. **Express Agreement Governing Damage or Destruction of the Building or the Datacenter.** Supplementing the provisions of Section 12.1 of the Lease, the parties hereby agree that, the Lease shall be considered an express agreement governing any case of damage to or destruction of the Building or any part thereof by fire or other casualty, and Section 227 of the Real Property Law of the State of New York (providing for such a contingency in the absence of express agreement), and any other law of like import now or hereafter in force, shall have no application in such case.

3. **No Violation of Section 202 of the Labor Law.** Supplementing the provisions of Section 7.2(a) of the Lease, Tenant shall not clean, or permit, suffer or allow to be cleaned, any windows in the Tenant Space from the outside in violation of Section 202 of the Labor Law or any other applicable laws.

4. **Tenant's Section 2201 Waiver.** Tenant expressly waives, for itself and for any person claiming by, through or under Tenant, any rights which Tenant or any such persons may have under the provisions of Section 2201 of the New York Civil Practice Law and Rules, and of any successor law of like import then in force, in connection with any summary holdover proceedings which Landlord may institute to enforce the provisions of Article 13 of the Lease.

5. **Consent to Jurisdiction.** Supplementing the provisions of Article 22 of the Lease, Landlord and Tenant hereby expressly consent to the jurisdiction of the New York State courts of competent jurisdiction in Rockland County with respect to any action or proceeding between Landlord and Tenant with respect to the Lease or any rights or obligations of either party pursuant to the Lease, and Landlord and Tenant each agrees that venue shall lie in Rockland County. Landlord and Tenant further waive any and all rights to commence any such action or proceeding against the other before any other court.

EXHIBIT L

Form of Existing Lender SNDA

[TO BE ATTACHED]

EXHIBIT B

DESCRIPTION OF THE FACILITY EQUIPMENT

(See Attached)

EXHIBIT B

DESCRIPTION OF THE FACILITY EQUIPMENT

(A) (1) All buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land (collectively, the "Buildings"), (2) all right, title and interest of Lessee, of whatever character (whether as owner, chattel lessee or otherwise, whether vested or contingent and whether now owned or hereafter acquired), in and to all building materials, supplies and other property now or hereafter stored at or delivered to the Land or any other location for installation in or on the Land or any of the Buildings, and all fixtures, fittings, machinery, appliances, equipment, apparatus, furnishings and personal property of every nature whatsoever (other than inventory) now or hereafter located in or on, or attached to, and used or intended to be used in connection with the Land, any of the Buildings or any business or other operations now or hereafter conducted in or on the Land or any of the Buildings or in connection with any construction or other work now or hereafter conducted in or on the Land or any of the Buildings including all substitutions and replacements therefor, all accessions and additions thereto, all of which now owned or hereafter acquired by the Lessee including, but not limited to all equipment employed in the operation of the Lessee's business and all proceeds and insurance as to the foregoing.

APPENDIX A

LABOR POLICY

County of Rockland Industrial Development Agency

Declaration of Motivation

For the employment of local trades people

During the construction phase of IDA-benefited projects

The County of Rockland Industrial Development Agency (IDA), formed pursuant to the New York State Industrial Development Act (the "Act"), was created for the purpose of promoting employment opportunities for, and the general prosperity and economic welfare of Rockland County residents. The IDA is authorized by the Act to enter into agreements making benefits available to qualified applicants in order to facilitate the location or the expansion of their businesses or facilities in Rockland County. When the IDA approves a project, these benefits are made available to the applicant.

Construction jobs, although limited in time duration, are vital to the overall employment opportunities in Rockland County. The IDA believes that companies benefiting from its programs should encourage the employment of local contractors and professionals during the construction phase of projects. In this way the IDA can generate significant benefits to advance the County's general prosperity. It is, therefore, the policy of the IDA that firms benefiting from its programs be encouraged to promote employment opportunities in Rockland County during all project phases, including the construction phase.

In the event the project exceeds the thresholds for a "covered project" as that term is defined in section 224-a of the Labor Law of the State of New York the IDA requires companies benefiting from its programs to pay prevailing wages, in and during the project construction phase and to make effort to employ local contractors and professionals. Alternatively, an applicant can enter into a Project Labor Agreement ("PLA") provided the PLA is approved by the affected unions and contractors and is satisfactory to the IDA.

Upon receipt of IDA benefits, all applicants will be required, upon demand, to provide to the IDA's Executive Director the following information:

1. Contact information of the applicant contact person who will be responsible and accountable for providing information about the bidding for and awarding of future construction contracts relative to the application and project.
2. Description of the nature of construction jobs created by the project, including, in as much detail as possible, the number, type and duration of construction positions.
3. A *Construction Completion Report* listing the names and business locations of prime contractors, subcontractors and vendors who have been engaged in the construction phase of the project and confirmation that prevailing wages have been paid.

The IDA reserves the right to modify and/or rescind benefits granted to any company under its *Uniform Tax Exemption Policy* for the failure to comply with any of the provisions contained herein.

Approved/Effective: November 30, 2004; Amended June 11, 2013; Amended March 29, 2018

Article 18-A, 858-b. Equal employment opportunities

1. Each agency shall ensure that all employees and applicants for employment are afforded equal employment opportunity without discrimination.
2. Except as is otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of projects of the agency shall be listed with the New York State department of labor community services division, and with the administrative entity of the service delivery area created by the federal job training partnership act (P.L. No. 97-300) in which the project is located. Except as is otherwise provided by collective bargaining contracts or agreements, sponsors of the project shall agree, where practicable, to first consider persons eligible to participate in the federal job training partnership (P.L. No. 97-300) programs who shall be referred by administrative entities of service delivery areas created pursuant to such act or by the community services division of the department of labor for such new employment opportunities.

(added 1993, c. 356, 9)

Note: The administrative entity in Rockland County is Tomorrow's Workplace.