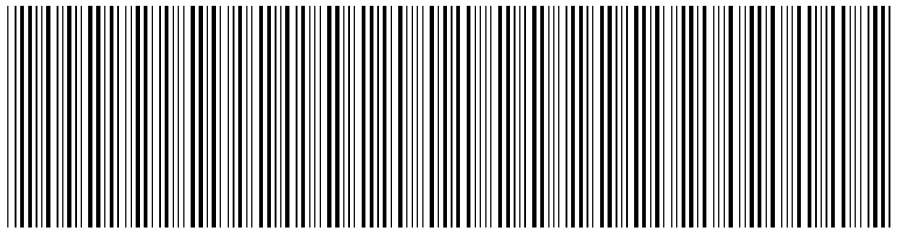


**NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER**

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2018010900546007001E2E66

RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 24

Document ID: 2018010900546007

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Document Page Count: 23

PRESENTER:

CHICAGO TITLE INSURANCE CO. (PICK-UP)
711 THIRD AVE, 5TH FLOOR
CT17-00031-NY-R (MAF)
NEW YORK, NY 10017
212-880-1200
CTINYRECORDING@CTT.COM

RETURN TO:

THE CITY OF NEW YORK / DEPT OF HPD
OFFICE OF LEGAL AFFAIRS CONTRACTS AND
REAL ESTATE DIVISION, 100 GOLD STREET - 5W5
NEW YORK, NY 10038

| Borough | Block | Lot | Unit | Address |
|-----------------------------|-------|-----|------------|-------------------|
| MANHATTAN | 346 | 175 | Entire Lot | 180 BROOME STREET |
| Property Type: OTHER | | | | |

CROSS REFERENCE DATA

CRFN _____ or DocumentID _____ or _____ Year _____ Reel _____ Page _____ or File Number _____

PARTIES

PARTY 1:

THE CITY OF NEW YORK
CITY HALL
NEW YORK, NY 10007

PARTY 2:

SITE 4 DSA OWNER LLC
1865 PALMER AVENUE, SUITE 203
LARCHMONT, NY 10538

FEES AND TAXES

Mortgage :

Mortgage Amount: \$ 0.00

Taxable Mortgage Amount: \$ 0.00

Exemption:

TAXES: County (Basic): \$ 0.00

City (Additional): \$ 0.00

Spec (Additional): \$ 0.00

TASF: \$ 0.00

MTA: \$ 0.00

NYCTA: \$ 0.00

Additional MRT: \$ 0.00

TOTAL: \$ 0.00

Recording Fee: \$ 152.00

Affidavit Fee: \$ 0.00

Filing Fee:

\$ 0.00

NYC Real Property Transfer Tax:

\$ 0.00

NYS Real Estate Transfer Tax:

\$ 0.00

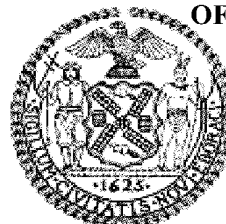
**RECORDED OR FILED IN THE OFFICE
OF THE CITY REGISTER OF THE**

CITY OF NEW YORK

Recorded/Filed 01-09-2018 16:08

City Register File No.(CRFN):

2018000010217



Annette McMill

City Register Official Signature

CT17-00031-NY

REGULATORY AGREEMENT

BETWEEN

THE CITY OF NEW YORK

AND

SITE 4 DSA OWNER LLC

PREMISES AFFECTED BY THIS INSTRUMENT:

BLOCK
346

LOT
175

ON THE TAX MAP OF THE CITY OF NEW YORK, COUNTY OF NEW YORK

RECORD AND RETURN TO:

**THE CITY OF NEW YORK
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT
OFFICE OF LEGAL AFFAIRS
CONTRACTS AND REAL ESTATE DIVISION
100 GOLD STREET -- 5-W5
NEW YORK, NEW YORK 10038**

REGULATORY AGREEMENT

THIS AGREEMENT is entered into on ^{as of} the 29th day of December, 2017, by and between THE CITY OF NEW YORK, a municipal corporation having its principal office at City Hall, New York, New York 10007 (the "City"), acting by and through its **DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**, having its principal office at 100 Gold Street, New York, New York 10038 ("HPD"), and **SITE 4 DSA OWNER LLC**, a Delaware limited liability company having an office at 1865 Palmer Avenue, Suite 203, Larchmont, New York 10538 ("Owner").

WHEREAS, Owner owns legal title to the real property described in Schedule A hereof (the "Premises"); and

WHEREAS, Owner is entering into this Agreement as a condition of the City's conveyance of the Premises to Owner on the date hereof by a certain deed of even date herewith intended to be recorded in the Office of the City Register, County of New York (the "**City Register's Office**") (the "**Deed**") pursuant to a certain land disposition agreement of even date herewith between the City and Owner intended to be recorded in the City Register's Office (the "**LDA**").

NOW THEREFORE, the parties hereto do hereby agree as follows:

1. **Certain Definitions.**

"**40% of AMI**" shall mean 80% of the income levels as modified by household size for the New York metropolitan statistical area for fifty percent (50%) of median income families (a.k.a. as "very low income families") as determined from time to time by the United States Department of Housing and Urban Development (or its successor(s), "**HUD**") under Section 3(b)(2) of the United States Housing Act of 1937 (or, if such program is terminated, under such program as was in effect immediately before such termination).

"**60% of AMI**" shall mean 120% of the income levels as modified by household size for the New York metropolitan statistical area for fifty percent (50%) of median income families (a.k.a. as "very low income families") as determined from time to time by HUD under Section 3(b)(2) of the United States Housing Act of 1937 (or, if such program is terminated, under such program as was in effect immediately before such termination).

"**130% of AMI**" shall mean 260% of the income levels as modified by household size for the New York metropolitan statistical area for fifty percent (50%) of median income families (a.k.a. as "very low income families") as determined from time to time by HUD under Section 3(b)(2) of the United States Housing Act of 1937 (or, if such program is terminated, under such program as was in effect immediately before such termination).

"**155% of AMI**" shall mean 310% of the income levels as modified by household size for the New York metropolitan statistical area for fifty percent (50%) of median income families (a.k.a. as "very low income families") as determined from time to time by HUD under Section 3(b)(2) of the United States Housing Act of 1937 (or, if such program is terminated, under such program as was in effect immediately before such termination).

"**165% of AMI**" shall mean 330% of the income levels as modified by household size for the New York metropolitan statistical area for fifty percent (50%) of median income

families (a.k.a. as "very low income families") as determined from time to time by HUD under Section 3(b)(2) of the United States Housing Act of 1937 (or, if such program is terminated, under such program as was in effect immediately before such termination).

"Annual Income" is the anticipated total income from all sources to be received by the household head and spouse and by each additional member of the household, including all net income derived from assets, for the twelve (12) month period following the date of initial determination of income. The definitions and descriptions of income set forth in HUD regulations contained in 24 CFR 5.609 or any successor regulations shall apply for the purposes of this Agreement and shall be incorporated herein.

"AMI" shall mean the area median income for the primary metropolitan statistical area as determined by HUD from time to time for a family of four, as adjusted for family size.

"Eligible Tenant" shall mean tenants who meet the income restrictions and other requirements set forth in this Agreement.

"Occupancy Date" shall mean the date on which a temporary certificate of occupancy has been obtained for the "Residential Area" (as such term is defined in the LDA) of the Premises.

"Rent Stabilization Code" shall mean Title 26, Chapter 4 of the New York City Administrative Code (and any successor statute) and the regulations promulgated in connection therewith.

"Section 8" shall mean a federal rental subsidy pursuant to either the Section 8 Voucher Program or the Section 8 Certificate Program, or any successor programs.

"Section 8 Rent" shall mean the maximum rent permitted under Section 8.

"Section 8 Units" shall mean dwelling units occupied by tenants receiving a voucher or certificate under Section 8.

"Units" shall mean dwelling units in the Premises.

2. **Term of Restrictions.** The "**Restriction Period**" shall be the period commencing on the date hereof and shall continue uninterruptedly in perpetuity.

3. **Eligibility of Tenants.**

(A) **Eligibility.** Throughout the Restriction Period, Owner shall lease not less than

- (i) **10 Units** only to tenants whose Annual Income upon initial occupancy does not exceed **40% of AMI** (the "**40% of AMI Units**");
- (ii) **43 Units** only to tenants whose Annual Income upon initial occupancy do not exceed **60% of AMI** (the "**60% of AMI Units**");
- (iii) **33 Units** only to tenants whose Annual Income upon initial occupancy does not exceed **130% of AMI** (the "**130% of AMI Units**"); and

- (iv) **35 Units only to tenants whose Annual Income upon initial occupancy does not exceed 165% of AMI (the "165% of AMI Units")**

In meeting the aforesaid requirements, no Unit may be counted multiple times. The Units shall be evenly distributed (other than rounding) as to Unit type.

- (B) Changes in Income. Any Eligible Tenant shall be entitled to remain in occupancy and to obtain a renewal lease in accordance with the Rent Stabilization Code, notwithstanding that such tenant's Annual Income, after initial occupancy, may exceed the maximum for initial eligibility. Further, no Eligible Tenant may be evicted nor its tenancy terminated except for good cause.
- (C) Income Determinations. In order to determine whether a prospective tenant of a Unit is an Eligible Tenant, Owner shall ascertain the Annual Income of such tenant's household. Owner may consult with HPD to obtain advice and guidance with respect to income determinations. Owner must retain all records and documents relating to Owner's determination for a minimum of three years after the date the tenant commences occupancy. Owner shall provide in each lease for the termination of the lease and eviction of the tenant if the tenant falsely or fraudulently certifies income to Owner.
- (D) Proof of Compliance. Owner shall submit to HPD not later than thirty (30) days after the Occupancy Date and upon each anniversary of such date until the end of the Restriction Period (i) a certified rent roll for the Units and, at HPD's request, copies of leases for Units; and (ii) a written certification setting forth the Annual Incomes of all tenants of Units who began occupancy during the prior year, and, at HPD's request, all supporting documentation for such income determination.
- (E) Section 8. Owner shall not refuse to lease a Unit to a holder of a Section 8 (or successor program acceptable to HPD) voucher or certificate by reason of the status of the prospective tenant as such a holder.

4. **Rent Requirements.**

- (A) Registration in Accordance With Rent Stabilization Code. On or before the Occupancy Date, Owner shall register the rents for each Unit at the rents set forth in **Schedule B** annexed hereto in accordance with the Rent Stabilization Code. The rents so registered shall be deemed the initial legal regulated Rent Stabilization Code rents. Owner shall follow all procedures and guidelines of the New York State Homes & Community Renewal (or its successor agency with jurisdiction over enforcing the Rent Stabilization Code) and all relevant requirements of the Rent Stabilization Code. As hereinafter referred to in this Agreement, the "Legal Rent" shall refer to the initial legal regulated rent as adjusted pursuant to the Rent Stabilization Code.
- (B) Rents Charged. Throughout the Restriction Period, the rents for Units shall not exceed the following:
 - (i) 40% of AMI Units: the lesser of (1) the Legal Rent or (2) 30% of 40% of AMI, except that for Section 8 Units, where the initial legal regulated rent

is set at or above the Section 8 rent, the rents shall not exceed the lesser of (1) the Legal Rent, or (2) the Section 8 Rent, provided that the share of the rent payable by the tenant shall not exceed the amount required by Section 8.

- (ii) 60% of AMI Units: the lesser of (1) the Legal Rent or (2) 30% of 60% of AMI, except that for Section 8 Units where the initial legal regulated rent is set at or above the Section 8 rent, the rents shall not exceed the lesser of (1) the Legal Rent or (2) the Section 8 Rent, provided that the share of the rent payable by the tenant provided that the share of the rent payable by the tenant shall not exceed the amount required by Section 8.
 - (iii) 130% of AMI Units: the lesser of (1) the Legal Rent or (2) 30% of 110% of AMI except that for Section 8 Units where the initial legal regulated rent is set at or above the Section 8 rent, the rents shall not exceed the lesser of (1) the Legal Rent or (2) the Section 8 Rent, provided that the share of the rent payable by the tenant provided that the share of the rent payable by the tenant shall not exceed the amount required by Section 8.
 - (iv) 165% of AMI Units: the lesser of (1) the Legal Rent or (2) 30% of 155% of AMI, except that for Section 8 Units where the initial legal regulated rent is set at or above the Section 8 rent, the rents shall not exceed the lesser of (1) the Legal Rent or (2) the Section 8 Rent, provided that the share of the rent payable by the tenant provided that the share of the rent payable by the tenant shall not exceed the amount required by Section 8.
- (C) No Rent Stabilization Exemptions. Owner shall not utilize any exemption or exclusion from any requirement of the Rent Stabilization Code to which Owner might otherwise be or become entitled with respect to one or more Units, including, but not limited to, any exemption or exclusion from the rent limits, renewal lease requirements, registration requirements, or other provisions of the Rent Stabilization Code due to (i) the vacancy of a Unit where the rent exceeds a prescribed maximum amount, (ii) the fact that tenant income and/or rent exceed prescribed maximum amounts, (iii) the nature of the tenant, or (iv) any other factor.
- (D) Primary Occupancy. A Unit may only be occupied as a primary residence, as defined in Rent Stabilization, by natural persons or families pursuant to a one or two year lease who have met the applicable income requirements for Eligible Tenants at the time of such tenants' initial occupancy of such Unit. Owner shall only offer a vacant unit for occupancy by persons or families intending to occupy such Unit as their primary residence pursuant to a one or two year lease and shall not cause or permit the sublease or assignment of any dwelling unit for transient occupancy, for occupancy by any household that is not income eligible, or to any corporation or other entity.
- (E) Non-Complying Tenants. If a tenant shall be or become a Non-Complying Tenant (as hereinafter defined), Owner may immediately increase the rent payable by such tenant to the maximum amount permitted to be charged by law.

"Non-Complying Tenant" means a tenant (a) who fails, for more than thirty (30) days after a written request by Owner, to submit Annual Income information required by Owner or to apply for available Section 8 (or another form of rental assistance acceptable to HPD) or (b) who submits false information to Owner or (c) whose Section 8 (or another form of rental assistance acceptable to HPD) is denied or discontinued for more than thirty (30) days by reason of the act or omission of such tenant.

- (F) **Lease Terms.** Unless otherwise approved by HPD, Owner shall lease each Unit for a term of at least one year for an amount equal to the then applicable rent payable in twelve equal monthly installments. The rent payable under each lease shall not be adjusted during the term thereof unless (i) a Section 8 Unit shall cease to be a Section 8 Unit, (ii) a Unit which is not a Section 8 Unit shall become a Section 8 Unit or (iii) in the case of a Unit occupied by a Non-Complying Tenant. Owner shall annex to all leases any riders required by the City or New York State Homes and Community Renewal (with any successor agency, "HCR") advising tenants of their rights under the Rent Stabilization Code and this Agreement and providing for the termination of any lease and eviction of any tenant who falsely or fraudulently certifies income to Owner.

- (G) **Contractual Rent Regulation.**

- (a) **Definitions.**

"Destabilization" shall mean any set of facts that causes Rent Stabilization to no longer apply to the Units subject to this Agreement, whether by expiration, legislative repeal, judicial invalidation, or any other reason.

"Contractual Rent Regulation" shall mean the following after Destabilization:

- (i) Owner shall be required to offer renewal leases on the same terms and conditions as had been required by Rent Stabilization at the time of Destabilization (subject however to the provisions in subparagraphs (ii) and (iii) below), as if the Unit was still subject to and not excluded or exempted from any provision of Rent Stabilization, including, but not limited to, any exemption or exclusion regarding rent limits, renewal lease requirements, or any other provision due to (a) the vacancy of a Unit where the rent exceeds a prescribed maximum amount, (b) the fact that tenant income and/or Unit rent exceed prescribed maximum amounts, (c) the nature of the tenant, or (d) any other factor.
- (ii) The **"Legal Rent,"** as such term is used in this Agreement, shall be limited by percentage increases calculated based on a method or index established by HPD for determining the maximum increase to Legal Rent upon lease renewal or vacancy. Such method or index shall be based on inflation or on factors substantially equivalent to the factors considered in calculating such increases under Rent Stabilization at the time of

Destabilization, and shall incorporate a method for determining and implementing increases to Legal Rent by reason of major capital improvements performed by Owner, to the extent that such increases, if any, are not prohibited hereunder. HPD will publish such methodology in the City Record and will provide a copy of the methodology to Owner upon request.

- (iii) Wherever this Agreement limits increases in rent by increases as permitted by Rent Stabilization (or language of similar import), such increases shall be limited by the percentage increases established by HPD as described in subparagraph (ii) above.

- (b) If during the Restriction Period only certain Units of the Premises undergo Destabilization, then for the remainder of the Restriction Period, all the Units that have undergone Destabilization shall be subject to Contractual Rent Regulation, while all the remaining Units that have not undergone Destabilization shall continue to be subject to Rent Stabilization.

5. **Minimum Household Size.** The minimum number of occupants for each Unit shall be as follows:

| Unit Size | Minimum Number of Persons |
|-----------|---------------------------|
| 0BR | 1 |
| 1BR | 1 |
| 2BR | 2 |
| 3BR | 4 |
| 4BR | 6 |

6. **Tenant Selection Procedures.** Owner shall comply with the Tenant Selection Procedures annexed hereto.
7. **Units Subject To Several Restrictions.** If a Unit is subject to income or rent restrictions imposed by a lender or other governmental entity, or by HPD under another regulatory or similar agreement, the more restrictive provision shall control.
8. **Condominiums; Cooperatives.** Notwithstanding anything to the contrary set forth herein, Owner may convert the Premises to a condominium ownership regime pursuant to Article 9-B of the Real Property Law of the State of New York (the "**Condominium Act**"), as follows:

Prior to "Completion of Construction" (as such term is defined in the LDA), Owner shall prepare a condominium declaration and by-laws (collectively, the "**Condominium Documents**") for the "Project", as such term is defined in the LDA, on the Premises in form and substance acceptable to HPD, pursuant to the Condominium Act. Owner shall make application to the Attorney General of the State of New York for issuance of a no-action letter allowing it to record the Condominium Documents and to submit the Premises to condominium ownership (the "**Condominium**") without filing of an offering plan or otherwise complying with Section 352-e of the General Business Law of the State of New York. The Condominium Documents shall be recorded no later than the "Completion of Construction", as such term is defined in the LDA. The Condominium

Documents are intended to establish seven (7) condominium units (together with their respective ancillary space and limited and/or common elements appurtenant thereto, the "**Condominium Units**"), consisting of (a) three residential rental Condominium Units, of which (i) one Condominium Unit shall comprise 142 Dwelling Units, together with ancillary space and common elements appurtenant thereto, of which 141 Dwelling Units shall be leased without rent, tenant income or other tenant eligibility restrictions, and one Dwelling Unit shall be reserved as a rent-free superintendent's Dwelling Unit (the "**Resi 3 Unit**"); (ii) one Condominium Unit comprising 68 Dwelling Units, together with ancillary space and common elements appurtenant thereto, to be leased to tenants whose incomes do not exceed the limits set forth herein for the 130% of AMI Units and the 165% of AMI Units, and otherwise in accordance with this Agreement (the "**Resi 2 Unit**"); (iii) one Condominium Unit comprising 53 Dwelling Units, together with ancillary space and common elements appurtenant thereto, to be leased to tenants whose incomes do not exceed the limits set forth herein for the 40% of AMI Units and the 60% of AMI Units, and otherwise in accordance with this Agreement (the "**Resi Unit 1**"; the Resi 2 Unit and the Resi 1 Unit, collectively, the "**Restricted Condominium Units**"), (b) one Condominium Unit comprising the 138,152 GSF of the Office Area (the "**Office Condominium Unit**"), (c) one Condominium Unit comprising the below-grade commercial "**Market Line**", ancillary space and common elements appurtenant thereto (the "**Market Line Condominium Unit**"), and (d) two (2) at-grade commercial retail Condominium Units (collectively, the "**Retail Condominium Units**"). The Condominium shall comprise all the improvements constructed on the Land, in accordance with the LDA.

Upon the formation of the Condominium, (i) fee title to each of the Resi 3 Unit, the Resi 2 Unit and the Resi 1 Unit shall be conveyed to **Site 4 DSA Residential LLC**, (ii) fee title to the Market Line Condominium Unit shall be conveyed to **Site 4 DSA Market LLC**, (iii) fee title to each of the Retail Condominium Unit 1 and to the Retail Condominium Unit 2 shall be conveyed to **Site 4 DSA Retail LLC** and (v) Owner shall retain the fee ownership of the Office Condominium Unit. Except for the formation of the Condominium described above, Owner shall not further convert the Premises to cooperative or condominium ownership without the prior written consent of HPD in each instance. Any further conversion consented to by HPD shall only be made pursuant to a non-eviction plan, as defined by Section 352-eeee of the General Business Law of the State of New York, as may be amended.

This Agreement shall be released from the Resi 3 Unit, the Office Condominium Unit, the Market Line Unit and the Retail Condominium Units by a recordable instrument acceptable to HPD and to be recorded in the City Register's Office at the sole cost and expense of Owner (or the Owner of the Resi 1 Unit and the Resi 2 Unit, as applicable), but only upon the happening of all the following: (a) recording of the Condominium Documents against the Premises in the City Register's Office, thereby establishing the Condominium, (b) in the case of the Residential Area, the Residential Area must be at least 60% complete, with HPD to have received the following from Owner prior to the recording of the Condominium Documents: (i) Certification by the Residential Area architect on an AIA requisition form or other AIA form acceptable to HPD that the Residential Area is 60% complete, together with (ii) the trade cost breakdown showing Project funding at 60% of hard costs for the Residential Area, and (c) in the case of the "Commercial Area" (as such term is defined in the LDA), delivery to HPD of (i) Certification by the Commercial Area architect on an AIA requisition form or other AIA form acceptable to HPD that the Commercial Area is 100% complete (except for tenant

improvements, if any), (ii) the trade cost breakdown showing Project funding at no less than 100% of hard costs for the Commercial Area (except for tenant improvements, if any), and (iii) an architect's certificate of substantial completion of the Commercial Area, issued by the architect for the Project (a "**Certificate of Substantial Completion**") and approved by HPD in form and substance as evidence of completion of the Commercial Area substantially in accordance with the "Approved Plans" (as such term is defined in the LDA), and (c) Owner's uninterrupted compliance with all the terms and conditions set forth herein and in any other agreement between Owner and HPD, as determined by HPD. At such time as this Agreement is released from the Condominium Units specified in this Section 8, this Agreement shall encumber the Resi 2 Unit and the Resi 1 Unit only; and if necessary as determined by HPD, an amendment of this Agreement shall be recorded against the Resi 2 Unit and the Resi 1 Unit, and if necessary such amendment or other instrument(s) recorded against the released Condominium Units, and thenceforth the "Project" and "Premises" shall be deemed to be the Resi 2 Unit and the Resi 1 Unit.

9. **Management.**

(A) **General.**

- (i) Owner shall manage and operate the Premises in accordance with generally acceptable management practices in New York City.
- (ii) On or before the Occupancy Date, Owner shall enter into one or more management contract(s), each with a third party management entity, which contract and management entity shall both be subject to HPD approval. Such contract shall have a term of not less than three (3) years. The aggregate management fee shall not exceed 6% of net rent collection, including rent from rental subsidies, if any. Any new or replacement management entity shall be subject to HPD approval.
- (iii) Owner shall be in default of this Paragraph 9(A) if HPD gives provides written notice to Owner of such violation and Owner has failed to cure such violation within ninety (90) days of such notice.

- (B) **Maintenance of Premises.** Owner shall maintain and operate the Premises in a proper, safe, sanitary and healthful condition in compliance with all applicable legal requirements, and to make all necessary repairs and replacements, including curing all housing and building code violations in the time period prescribed by law.

- (C) **Municipal Charges.** Owner shall pay all municipal charges in a timely manner, including taxes, assessments (and installments of any assessments that are payable in installments), water rates, sewer rents, and other charges, including without limitation, vault charges and fees for the use of vaults, chutes, and similar areas adjoining the Premises, now or hereafter levied or assessed against the Premises prior to the date upon which any fine, penalty, interest or cost may be added thereto or imposed by law for the nonpayment thereof. Upon HPD request, Owner shall provide HPD with evidence of payment of such charges.

- (D) **Insurance.**

- (i) Owner shall keep the buildings, improvements and all other property on the Premises insured by procuring general liability and building policies providing sufficient coverage issued by an insurance company licensed in the State of New York against fire, vandalism, malicious mischief, collapse, flood (if in a federally designated flood area), earthquakes and other risks customarily insured against under extended coverage policies in the City of New York. Owner shall provide HPD on an annual basis with copies of insurance certificates in form satisfactory to HPD evidencing compliance with such requirements.
 - (ii) Owner shall maintain Commercial General Liability insurance in the amount of at least One Million Dollars (\$1,000,000) per occurrence. In the event such insurance contains an aggregate limit, the aggregate shall apply on a per-location basis applicable to the Premises and such per-location aggregate shall be at least Two Million Dollars (\$2,000,000). This insurance shall protect the insureds from claims for property damage and/or bodily injury, including death, that may arise from any of the operations under this Agreement. Coverage shall be at least as broad as that provided by the most recently issued Insurance Services Office ("ISO") Form CG 0001, shall contain no exclusions other than as required by law or as approved by the Commissioner, and shall be "occurrence" based rather than "claims-made." Policies providing such insurance may not include any endorsements excluding coverage relating to the emission of asbestos, lead, mold, or pollutants. Such Commercial General Liability insurance shall name the City of New York, together with its officials and employees, as an Additional Insured with coverage at least as broad as the most recent edition of ISO Form CG 2026.
- (E) Building Reserve. Owner shall establish a Building Reserve Fund ("**Reserve**") for the Units in the Resi Unit 2 and the Resi Unit 1 into which Owner shall deposit each month, commencing on the first day of the first month following the Occupancy Date, an amount equal to two hundred fifty dollars (\$250) per unit per year for all dwelling units in the Resi Unit 2 and the Resi Unit 1. Monies in the Reserve shall be kept segregated from other monies of the Owner and may be drawn on and used to pay for the cost of capital improvements and/or for extraordinary increases in building maintenance and operating expenses beyond the control of the Owner. HPD must approve any withdrawal from the Reserve. Owner shall also establish a similar building reserve fund into which Owner shall deposit each month, commencing on the first day of the first month following the Occupancy Date, an amount equal to two hundred fifty dollars (\$250) per dwelling unit per year for all dwelling units in the Resi Unit 3, which fund is required by Wells Fargo Bank, National Association pursuant to its loan documents executed in connection with the construction of the Project on the Premises. Such fund shall be funded, maintained, and withdrawn from in accordance with such loan documents.
- (F) Service and Maintenance Contracts. Owner shall only enter into service and maintenance contracts with qualified vendors at commercially reasonable and customary fees.

- (G) Renting Vacant Units. Owner shall use all commercially reasonable efforts to re-rent vacated units as soon as possible, and shall notify the HPD Assistant Commissioner of the Division of Asset Management or its successor if any units remain vacant for six (6) months.
- (H) Building Registration. Owner shall register the Premises with HPD pursuant to Article 2 of Subchapter 4 of the New York City Housing Maintenance Code.

10. **Books, Records and Certifications**

- (A) Maintenance of Books and Records. Owner shall keep and maintain full and accurate books and records regarding maintenance, operation and management of the Premises and comply with customary financial and other reporting requirements, and shall permit HPD to review, examine and audit such books and records at all reasonable hours upon reasonable prior notice. Owner shall submit to HPD such reports and information as HPD may require. Said books and records shall be retained by Owner for a minimum of six (6) years. Upon ten (10) days' written notice from HPD, Owner, including any of its members, officers, directors, employees or agents, shall submit under oath, to an oral examination by authorized representative(s) of HPD concerning any or all matters relating to the Premises and shall produce for examination, review and/or audit by HPD all or such books and records, including, without limitation, journals, ledgers, accounts, check books, canceled vouchers, contracts, correspondence, stock book and minute book, as such notice may specify. Such notice shall specify the time and place of examination.
- (B) Audited Financial Reports. Owner shall submit to HPD annually, no later than 90 days of Owner's fiscal year for the Project, in such forms as shall be approved by HPD, (i) a copy of the audited annual financial report which shall include a statement of the income and expenses of the Premises, a balance sheet, a statement of cash flows, and accompanying notes and schedules; (ii) a certified rent roll; and (iii) proof of insurance.
- (C) Budget. Owner shall submit to HPD annually, commencing on the first anniversary date of this Agreement and on each anniversary date thereafter, a budget for the following year showing anticipated income and expenses for the Premises.
- (D) Additional Submissions. Owner shall submit to HPD in a timely manner such additional reports and information requested by HPD, including, but not limited to, bank statements, tenant income records for all existing tenants and all tenants who vacated within the previous three (3) years, rent collection reports, vacancy information, management expense reports, receipts evidencing proof of payments, portfolio information, and organizational charts.

11. **Right To Inspect.** HPD and its officers, employees, agents or inspectors shall have the right to enter and inspect the Premises at all reasonable times without prior notice.

12. **Prohibition Against Conveyances, Leasing, and Loans**

- (a) Owner shall not, without the prior written approval of HPD, (i) further encumber the Premises with any lien imposed in connection with any other financing, or (ii) permit

the Premises or any part thereof or any interest therein to be sold, transferred or conveyed to any other person or entity, or (iii) sell, transfer or convey the Premises or any part thereof or any interest therein, which shall include, but not be limited to, (x) where Owner is a business corporation (i) the sale or transfer of more than forty-nine percent (49%) of the outstanding shares of the corporation, or (ii) the dilution of present stockholding or corporate control by issuance of new or treasury stock or by conversion of any non-voting stock or other securities to voting stock, or (y) where Owner is a partnership, the withdrawal (except by death), resignation or retirement, of any general partner, or the appointment of any new, or other, or substitute general partner(s) (provided that the foregoing shall not apply to limited partners), or (z) where Owner is a limited liability company, the withdrawal (except by death), resignation or retirement, of any member other than a passive investor member, or the appointment of any new, or other, or substitute member or members other than passive investor members. Notwithstanding anything to the contrary set forth in this Section 12(a), Owner may effectuate the transfers that are permitted under Section 306.B of the LDA without such transfers being deemed defaults hereunder.

- (b) Owner shall not, without the prior written consent of HPD:
 - (i) lease or license all or substantially all of the Premises to any single party or
 - (ii) prior to the release of this Agreement as set forth in Section 8 hereof, lease any commercial unit in the Premises to any affiliate, subsidiary or principal of Owner, or lease any commercial unit in the Premises for less than the prevailing market rent for the neighborhood where the Premises are located, unless otherwise permitted under the LDA.
- (c) Owner shall not, without the prior written consent of HPD, use any of the operating income or reserves for the Premises to make loans for any purpose (whether secured or unsecured or whether repayable or forgivable) to any affiliate, subsidiary or principal of Owner or to any third party.

13. **Amendments.** Except as otherwise set forth herein, this Agreement may only be amended by HPD and Owner by an instrument executed by both parties in recordable form.

14. **Enforcement**

- (a) In the event of a breach of any of the covenants and agreements contained herein, the City shall have the right to one or more of the following following expiration of any applicable notice and cure periods:
 - (i) Institute and prosecute any proceeding for an injunction or for specific performance of Owner's obligations hereunder.
 - (ii) Extend the term of this Agreement by the period of such noncompliance upon the recording an appropriate document, executed solely by the City, against the Premises. The period of noncompliance shall be presumed to be the period running from the date of this Agreement to the date that HPD notifies the Owner of such noncompliance, which presumption may be rebutted by Owner.

(iii) Upon a violation of Paragraph 9(E) or any reserve requirement established by any other agreement or document between HPD and Owner with respect to the Premises, HPD may require Owner to establish the Reserve in a bank account governed by a deposit agreement with the bank which restricts withdrawals therefrom without an authorized signatory of HPD approving such withdrawal. Provided, however, that the foregoing provision shall not apply during any period where Owner has established and maintains any building reserve fund in accordance with the requirements of any institutional lender.

(b) In the event of a threatened breach of any of the covenants and agreements contained herein, the City shall have the right to the remedy described in 14(a)(i) above.

HPD, in its sole and absolute discretion, in writing, (i) may give Owner a period of up to thirty (30) days to cure the violation, provided the violation can be cured without affecting the rights of any bona fide tenants who have executed leases with Owner, or (ii) may waive any of the provisions of this paragraph. No such waiver shall be effective unless it is in writing. Further, no delay or waiver in enforcing the provisions hereof as to any violation shall impair, damage or waive the right of the City to enforce this Agreement in the event of a continuation or repetition of such breach or violation or any similar breach or violation hereof at any later time.

15. **Investigations.** Owner is bound by the provisions of the Investigation Clause Addendum attached hereto and made a part hereof.
16. **Binding Nature of Restrictions.** This Agreement shall be recorded against the Premises in the City Register's Office. The restrictions set forth in this Agreement shall run with the land and bind Owner, Owner's successors, assigns, heirs, grantees, and lessees. All references to "Owner" in this Agreement shall include Owner's successors, assigns, heirs, grantees, or lessees.
17. **Notices.** All notices shall be delivered by certified or registered mail, return receipt requested, to the respective parties hereto, at the addresses at first above written, unless such addresses are otherwise modified in writing by the addressee.
18. **Expiration.** Except as otherwise provided herein, in the event that this Agreement is terminated, this Agreement shall be of no further force and effect; provided, however, that HPD shall retain all of its rights and remedies to enforce this Agreement with respect to any default or violation which occurred prior to such termination.
19. **Severability.** If any term or provision of this Agreement is found to be void, voidable, or otherwise unenforceable, such term or provision shall be deemed severed from this Agreement and shall have no further force or effect, and the remaining terms and provisions shall thereafter continue in full force and effect to accomplish the intent and purpose of this Agreement to the fullest extent possible.
20. **Devotion of Premises to Residential Use.** Prior to the release of this Agreement from the Resi 3 Unit, the Office Condominium Unit, the Market Line Unit and the Retail Condominium Units as set forth in Section 8 hereof, the Premises shall be devoted to

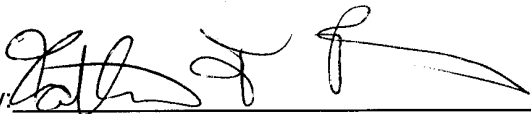
the uses permitted by the LDA. After the release of this Agreement from the Resi 3 Unit, the Office Condominium Unit, the Market Line Unit and the Retail Condominium Units, the Premises shall be devoted solely to residential use.

[NO FURTHER TEXT ON THIS PAGE; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, HPD and Owner have duly executed this Agreement the day and year first above written

THE CITY OF NEW YORK

By: Department of Housing Preservation and Development

By: 
Nathan Simms, Assistant Commissioner

SITE 4 DSA OWNER LLC

By: Site 4 DSA Commercial Managers LLC, its Manager

By: DSA Phase 2 Holdings LLC, its Manager

By: DSA Phase 2 LLC, its managing member

By: L&M DSA Phase 2 LLC, its Designated Member

By: _____
Name: Lisa Gomez
Title: Authorized Signatory

APPROVED AS TO FORM
BY STANDARD TYPE OF CLASS
UNTIL December 31, 2017

By: /s/ Howard Friedman
(Acting) Corporation Counsel

IN WITNESS WHEREOF, HPD and Owner have duly executed this Agreement the day and year first above written

THE CITY OF NEW YORK

By: Department of Housing Preservation and Development

By: _____
Nathan Simms, Assistant Commissioner

SITE 4 DSA OWNER LLC

By: **Site 4 DSA Commercial Managers LLC, its Manager**

By: **DSA Phase 2 Holdings LLC, its Manager**

By: **DSA Phase 2 LLC, its managing member**

By: **L&M DSA Phase 2 LLC, its Designated Member**

By: _____
Name: Lisa Gomez
Title: Authorized Signatory

APPROVED AS TO FORM
BY STANDARD TYPE OF CLASS
UNTIL December 31, 2017

By: /s/ Howard Friedman
(Acting) Corporation Counsel

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

On the _____ day of December, in the year 2017 before me, the undersigned, a Notary Public in and for said State, personally appeared **Nathan Simms**, personally known to me or prove to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

NOTARY PUBLIC
BENJAMIN STEINER
NOTARY PUBLIC, STATE OF NEW YORK
NO. 02ST6043316
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES JUNE 12, 2018

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

On the 28th day of December, in the year 2017 before me, the undersigned, a Notary Public in and for said State, personally appeared **Lisa Gomez**, personally known to me or prove to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

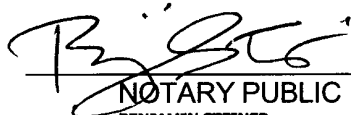


Notary Public

KARALEE MAZZAFERRO
Notary Public, State of New York
Qualified in Saratoga County
No. 01MA5059284
Commission Expires April 22, 2018

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

On the 20th day of December, in the year 2017 before me, the undersigned, a Notary Public in and for said State, personally appeared **Nathan Simms**, personally known to me or prove to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



NOTARY PUBLIC
BENJAMIN STEINER
NOTARY PUBLIC, STATE OF NEW YORK
NO. 02ST6043316
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES JUNE 12, 2018

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

On the _____ day of December, in the year 2017 before me, the undersigned, a Notary Public in and for said State, personally appeared **Lisa Gomez**, personally known to me or prove to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

SCHEDULE A

The Premises

All that certain plot, piece and parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of Manhattan, County, City and State of New York, designated on the Tax Map of the City of New York as the Tax Map was on **December 20, 2017** as to:

| | |
|---------------------|-------------------|
| <u>Block</u> | <u>Lot</u> |
| 346 | 175 |

County: **New York**

SCHEDULE B

40% of AMI Units

| | <u>Number of Units</u> | <u>Initial Legal Rents</u> | <u>Initial Preferential Rents</u> |
|--------------|------------------------|----------------------------|-----------------------------------|
| Studio | 3 | \$ 613 (40% of AMI) | \$ 562 (37% of AMI) |
| 1 Bedroom | 3 | \$ 659 (40% of AMI) | \$ 605 (37% of AMI) |
| 2 Bedroom | 3 | \$ 801 (40% of AMI) | \$ 736 (37% of AMI) |
| 3 Bedroom | 1 | \$ 917 (40% of AMI) | \$ 843 (37% of AMI) |
| TOTAL | 10 | | |

60% of AMI Units

| | <u>Number of Units</u> | <u>Initial Legal Rents</u> | <u>Initial Preferential Rents</u> |
|--------------|------------------------|----------------------------|-----------------------------------|
| Studio | 15 | \$ 947 (60% of AMI) | \$ 896 (57% of AMI) |
| 1 Bedroom | 12 | \$ 1,017 (60% of AMI) | \$ 963 (57% of AMI) |
| 2 Bedroom | 14 | \$ 1,230 (60% of AMI) | \$ 1,166 (57% of AMI) |
| 3 Bedroom | 2 | \$ 1,413 (60% of AMI) | \$ 1,339 (57% of AMI) |
| TOTAL | 43 | | |

130% of AMI Units

| | <u>Number of Units</u> | <u>Initial Legal Rents</u> | <u>Initial Preferential Rents</u> |
|--------------|------------------------|----------------------------|-----------------------------------|
| Studio | 10 | \$1,520 (110% of AMI) | \$1,520 (110% of AMI) |
| 1 Bedroom | 10 | \$1,912 (110% of AMI) | \$1,912 (110% of AMI) |
| 2 Bedroom | 12 | \$2,304 (110% of AMI) | \$2,304 (110% of AMI) |
| 3 Bedroom | 1 | \$2,654 (110% of AMI) | \$2,654 (110% of AMI) |
| TOTAL | 33 | | |

165% of AMI Units

| | <u>Number of Units</u> | <u>Initial Legal Rents</u> | <u>Initial Preferential Rents</u> |
|--------------|------------------------|----------------------------|-----------------------------------|
| Studio | 12 | \$2,165 (155% of AMI) | \$2,165 (155% of AMI) |
| 1 Bedroom | 12 | \$2,717 (155% of AMI) | \$2,717 (155% of AMI) |
| 2 Bedroom | 10 | \$3,270 (155% of AMI) | \$3,270 (155% of AMI) |
| 3 Bedroom | 1 | \$3,770 (155% of AMI) | \$3,770 (155% of AMI) |
| TOTAL | 35 | | |

Section 8 Units at initial rent-up:

At the initial rent-up of the Project, Owner shall determine the Units, if any, that will be occupied by Section 8 tenants. Owner shall obtain the prior written approval of HPD regarding the Legal Rent that shall be applicable to each Section 8 Unit at initial rent-up. The parties shall amend this Agreement at the initial rent-up of the Project to document the Rent Schedule as completed.

| <u>Size</u> | <u>No. of Units</u> | <u>Homeless Referral Legal Rent (initial rent-up)</u> | <u>Non-Homeless Referral Legal Rent (initial rent-up)</u> |
|---------------|---------------------|---|---|
| Studio | TBD | \$1,352 (100% FMR) | \$1,216 (90% FMR) |
| One Bedroom | TBD | \$1,419 (100% FMR) | \$1,277 (90% FMR) |
| Two Bedroom | TBD | \$1,637 (100% FMR) | \$1,473 (90% FMR) |
| Three Bedroom | TBD | \$2,102 (100% FMR) | \$1,891 (90% FMR) |

Specific Section 8 Unit as of initial rent-up: TBD

This distribution may be adjusted at initial rent-up with the prior written consent of HPD.

SCHEDULE E

INVESTIGATION CLAUSE

- (a) The parties to this Agreement agree to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State of New York (State) or City of New York (City) governmental agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contracts, lease, permit, or license that is the subject of the investigation, audit or inquiry.
- (b) If any person who has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witness and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract, or license entered into with the City, the State or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the laws of the State of New York, or;
- (c) If any person refuses to testify for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witness and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then;
- (d) The commissioner or agency head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license shall convene a hearing upon not less than five (5) days written notice to the parties involved to determine if any penalties should attach for the failure of a person to testify.
- (e) If any non-governmental party to the hearing requests an adjournment, the commissioner or agency head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit, or license pending the final determination pursuant to paragraph (g) below without the City incurring any penalty or damages for delay or otherwise.
- (f) The penalties which may attach after a final determination by the commissioner or agency head may include but shall not exceed:
 - (1) The disqualification for a period not to exceed five (5) years from the date of an adverse determination for any person, or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City; and /or
 - (2) The cancellation or termination of any and all such existing City contracts, leases, permit, or licenses that the refusal to testify concerns and that have not been assigned as permitted under this agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or

termination; moneys lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.

(g) The commissioner or agency head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in paragraphs (1) and (2) below. He or she may also consider, if relevant and appropriate, the criteria established in paragraphs (3) and (4) below in addition to any other information which may be relevant and appropriate:

- (1) The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.
- (2) The relationship of the person who refuses to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.
- (3) The nexus of the testimony sought to the subject entity and its contracts, leases, permits or licenses with the City.
- (4) The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under (f) above, provided that the party or entity has given actual notice to the commissioner or agency head upon the acquisition of the interest, or at the hearing called for in (d) above gives notice and proves that such interest was previously acquired. Under either circumstance the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

(h)

- (1) The term "license" or "permit" as used herein shall be defined as a license, permit, franchise or concession not granted as a matter of right.
- (2) The term "person" as used herein shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.
- (3) The term "entity" as used herein shall be defined as any firm, partnership, corporation, association, or person that receives moneys, benefits, licenses, leases, or permits from or through the city or otherwise transacts business with the City.
- (4) The term "member" as used herein shall be defined as any person in association with another person or entity as a partner, officer, principal or employee.

(i) In addition to and notwithstanding any other provisions of this Agreement the Commissioner or agency head may in his or her sole discretion terminate this Agreement upon not less than three (3) days written notice in the event the contractor fails to promptly report in writing to the Commissioner of Investigation of the City of New York any solicitation of money, goods, requests for future employment or other benefit or thing of value, by or on behalf of any employee of the City or other person, firm, corporation or entity for any purpose which may be related to the procurement or obtaining of this Agreement by the Contractor, or affecting the performance of this Agreement.