



ADDENDUM # 1

April 3, 2017

TO

**REQUEST FOR OFFERS
TO PURCHASE
FOR
THE SALE OF REAL AND PERSONAL PROPERTY**

**Fort Monmouth
Barker Circle Complex – 19.5± Acre Office/Research, Residential or
Commercial/Mixed-Use Development Site
Oceanport, New Jersey**

Issued by the
FORT MONMOUTH ECONOMIC REVITALIZATION AUTHORITY

Date Issued: March 8, 2017

Responses due by 12:00 P.M. EDT on June 2, 2017

**THIS ADDENDUM #1 is being issued to provide information regarding
Special Concessionaire Permits.**

Addendum #1
to
Barker Circle RFOTP
regarding
Special Concessionaire Permits

Pursuant to New Jersey state law and regulations, alcoholic beverages may be sold in buildings situated on land owned or under the control of FMERA or other State entities provided that the Director of the New Jersey Division of Alcoholic Beverage Control (“ABC”) issues a “Special Concessionaire Permit.” (See N.J.S.A. 33:1-42; N.J.A.C. 13:2-5.2). Special Concessionaire Permits are issued by ABC to eligible applicants on an annual basis for a fee of \$2,000 per year provided that the applicant has entered into a contract with the State entity that owns the land (i.e. FMERA) authorizing the applicant to serve alcoholic beverages to the public.

FMERA is agreeable to alcoholic beverages being served in Building 282, the Main Post Firehouse, and/or Building 275, Kaplan Hall. Potential Purchasers who plan to apply for a State Concessionaire Permit to serve alcohol in either or both of these buildings should so indicate in their Offers. FMERA will consider Offers that propose to purchase Buildings 282 and/or 275 along with the balance of the Property, but lease the ground under either or both buildings from FMERA on a long-term basis so that the underlying land remains owned by FMERA and the buildings are potentially eligible for a Special Concessionaire Permit. The selected bidder could then apply to ABC to serve alcohol under a State Concessionaire Permit, subject to the approval of the ABC. FMERA would deed the underlying land to the selected bidder upon the expiration of the ground lease term or upon such earlier date that may be specified in the ground lease. A specimen form of Ground Lease Agreement is attached as **Exhibit A** to this addendum. Proposed Purchasers who plan to apply for a State Concessionaire Permit will be responsible for ensuring that the buildings are eligible for the Permit. Bidders should note that if FMERA retains ownership of any portion of the Property and ground leases it to the selected bidder, the selected bidder will be obligated to pay workers employed to install, construct, renovate, refurbish or maintain any improvements on that portion of the Property not less than the prevailing wage rate for the particular trade in the Monmouth County area, as required by N.J.S.A. 34:11-56.26. This requirement will continue for the duration of the ground lease.

A Potential Purchaser who opts to propose a ground lease for Building 282 and/or Building 275 should offer to pay the full value it ascribes to the Property, including Building 282 and Building 275, at the closing of title, with ground lease payments to be negotiated between the parties.

EXHIBIT A to
Addendum #1 to Barker Circle Request for Offers to Purchase

FORT MONMOUTH ECONOMIC REVITALIZATION AUTHORITY
GROUND LEASE AGREEMENT

THIS **GROUND LEASE AGREEMENT** (this “Lease” or this “Agreement”) made and executed this ____ day of _____, 201_, by and between the FORT MONMOUTH ECONOMIC REVITALIZATION AUTHORITY (“Lessor” or “FMERA”), an instrumentality of the State of New Jersey, with an address at 502 Brewer Avenue, P.O. Box 267, Oceanport, New Jersey 07757, and _____ (“Lessee”), a _____ [type of entity and State of formation], with an office at _____.

WITNESSETH:

WHEREAS, on behalf of the United States Secretary of Defense, the Office of Economic Adjustment recognizes Lessor as the Local Redevelopment Authority for Fort Monmouth, located in the Boroughs of Oceanport, Eatontown and Tinton Falls, New Jersey;

WHEREAS, Lessor is the owner of the Premises (defined below) pursuant to that certain Quitclaim Deed from the Department of the Army to FMERA (the “Army Deed”) recorded on November 28, 2016 at OR 9199, Page 6736 et seq.;

WHEREAS, Lessor and Lessee have entered into a certain Purchase and Sale and Redevelopment Agreement (the “PSARA”) dated _____ whereby Lessor agreed to sell and Lessee agreed to purchase and redevelop the land and improvements (the “Property”) as described more fully therein;

WHEREAS, by Quitclaim Deed of even date herewith and pursuant to the PSARA, Lessor conveyed to Lessee: (i) the Property surrounding the Premises; and (ii) Building ____ (the “Building”) which is situated on the Premises;

WHEREAS, the Premises is the land situated beneath the Building; and

WHEREAS, Ground Lessor desires to ground lease the Premises to Lessee and Lessee desires to ground lease the Premises from Lessor pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual exchange of promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Lessee and Lessor agree as follows:

1. Demise:

A. Subject to the terms and conditions of this Agreement, Lessor hereby leases to Lessee that portion of the property situated beneath the Building referenced as portion of Block ____, Lot ____ on the Tax Map of the Borough of Oceanport, Monmouth County, New Jersey, and set forth in the description attached hereto as Exhibit "A" (the "Premises") for the sole purpose of renovating and operating a _____ (the "Facility"), as set forth in greater detail in the PSARA.

B. The demise of the Premises is and shall at all times be subject and subordinate to the terms, restrictions and covenants of the Army Deed; including, but not limited: to Section 1 – Property Covered by Notice, Description, Access Rights, and Covenants Made Pursuant to Section 120(h)(3)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. 9620(h)(3)(A)); Section 4 - Post-Transfer Discovery of Contamination and Release of Liability; and Section 6 - Notice of Historic Property and Preservation Covenant with the same force and legal effect as if those provisions of the Army Deed had been set forth herein at length.

2. Permissible Uses of the Premises: Lessee covenants that it will use the Premises solely for the renovation and operation of the Facility, unless additional or other uses are expressly approved by Lessor in advance and in writing, which approval shall be commercially reasonable and timely provided that such other uses comply with the FMERA Reuse and Redevelopment Plan, as may be amended from time to time. In connection with the foregoing uses, Lessee shall obtain all necessary licenses, permits, insurance coverages, and shall comply with all applicable laws, regulations, ordinances, and codes.

3. Condition of the Premises: Lessor shall deliver the Premises to Lessee in "as is" condition. Lessor makes no warranties or representations regarding the adequacy of the Premises for Lessee's intended use, and Lessee attests that it has not relied on any such representation or warranty.

4. Rent: Commencing on the date of the execution of this Lease and on each anniversary of said date, Lessee covenants that it shall pay rent to Lessor in the amount of _____ Dollars (\$_____) annually. All rental payments must be made at the address of Lessor, as set forth in Paragraph 38, or such other place as may be designated by Lessor.

5. Representations and Warranties of Lessor: Notwithstanding the foregoing, Lessor makes the following representations and warranties to and for the benefit of Lessee:

A. No further action or approval is required for this Agreement to be binding upon Lessor and enforceable against it in accordance with its terms.

B. Lessor has good and marketable title to the Premises, subject only to Permitted Encumbrances (as hereinafter defined).

C. Lessor has the legal right and authority to lease the Premises to Lessee without the consent of any third party.

D. At the time of the execution of this Agreement, Lessor is not in default with respect to any order, writ, injunction or decree of any court or governmental entity having jurisdiction over Lessor which could result in any material adverse change in the Premises or Lessor's ability to lease the Premises to Lessee.

6. Representations and Warranties of Lessee: Lessee represents and warrants that:

A. Lessee is a _____, and is duly formed and organized, validly existing, and in good standing under the laws of the State of _____;

B. Lessee has all requisite power and authority to execute, deliver, and perform its obligations under this Agreement;

C. The execution, delivery, and performance of this Agreement have been duly authorized by the board of directors of Lessee; and

D. All work performed by or on behalf of Lessee pursuant to this Agreement shall be performed in accordance with industry standards and practices that are applicable to the performance of such work.

7. Term: This Agreement shall commence upon the execution hereof by Lessee and Lessor and continue thereafter for a period of _____ (__) years (the "Term"), unless sooner terminated in accordance with Paragraph 24 of this Agreement.

8. Prevailing Wages: As required by N.J.S.A. 34:11-56.26, workers employed to install, construct, renovate, refurbish or maintain the Improvements (defined below) shall be paid not less than the prevailing wage rate for the particular trade in the Monmouth County area.

9. Design and Renovation of Improvements: For purposes of this Agreement, "Improvements" means all temporary and permanent structures, buildings, sidewalks, driveways, loading areas, fixtures, equipment, permanently affixed trade fixtures, and all other improvements to be constructed or installed on the Premises or in the Building. Lessee shall be solely responsible for the design and renovation of the Improvements, including but not limited to the Facility, as well as all costs and expenses associated therewith. The design and renovation of the Building shall at all times comply with the Programmatic Agreement between the United States Army and the New Jersey State Historic Preservation Office For the Closure and Disposal of Fort Monmouth, New Jersey. The renovation of the historic Building is also subject to the Historic Preservation Design Guidelines for the Fort Monmouth Historic Resources available at <http://www.fortmonmouthnj.com/developerinformation/land-use-regulations/>. Lessee shall diligently renovate, or cause the diligent renovation of, the Improvements in a good, safe, and workmanlike manner, in strict conformity with all laws, regulations, ordinances, and codes of governmental authorities having jurisdiction over the work. All permits, certificates and other authorizations shall be obtained by Lessee, at Lessee's sole cost and expense. Lessee shall obtain a final, unconditional certificate of occupancy from the appropriate governmental authority prior to occupying the Building for its permitted use hereunder.

10. Risk of Damage to Property: Lessee is solely liable and responsible for all materials, work, installations, equipment, decorations, and other items that are brought upon or installed in or on the Premises, and Lessor shall have no liability whatsoever in connection therewith.

11. Signs: Any signs posted by Lessee or its lender(s) or contractor(s) shall be in strict conformance with all applicable codes, ordinances, laws, and regulations.

12. Construction Deadlines: Lessee shall cause the renovation of the Improvements and the Facility to commence no later than _____, and shall cause the Improvements and Facility to be completed no later than _____.

13. Alcoholic Beverages: Lessor agrees to cooperate with Lessee's efforts to obtain a Special Concessionaire Permit from the New Jersey Alcoholic Beverage Commission ("ABC") to serve alcoholic beverages at the Facility provided that Lessee satisfies ABC's criteria for receiving a Special Concessionaire Permit. To that end, Lessor agrees to enter into contract(s) with Lessee authorizing Lessee to sell alcoholic beverages in the Building.

14. Ownership of Improvements and Facility: Lessee shall own the Building, the Improvements and the Facility during the entire Term of this Lease.

15. Permitted Encumbrances: The Premises are being leased, and Lessee agrees to accept the Premises, subject to the following encumbrances to the extent that they affect the Premises, which encumbrances shall be deemed to be "Permitted Encumbrances" under this Lease:

A. Zoning regulations and ordinances, building restrictions and regulations of the FMERA Land Use Regulations (N.J.A.C. 19:31-3 et seq.);

B. The Fort Monmouth Reuse and Redevelopment Plan, as may be amended by FMERA from time to time;

C. The lien of any real estate taxes, special assessments, water frontage and/or meter charges, and sewer rents not yet due and owing;

D. Any encroachments of any building or improvement, if any, upon, under or above any street or highway or any adjoining property, and any similar encroachment projecting upon, under or above the Premises;

E. The lien of any assessment which is or may become payable in annual installments, of which any installment is then a charge or a lien, provided that apportionment thereof is made on the date hereof, and any assessments or pending assessments for which a lien or liens have not yet been filed or recorded in the appropriate offices;

F. Any party walls and party wall agreements of record;

G. Any state of facts that an accurate survey would show, provided that such state of facts (except as otherwise set forth herein) does not render title uninsurable;

H. Any covenants, restrictions and easements of record;

I. The provisions, if applicable, of any wetlands, coastal wetlands or historical district statutes, ordinances, laws, rules and regulations;

J. Rights of any electric, gas, steam, telephone, cable, water and any other utility companies to lay, maintain, install and repair pipes, lines, poles, conduits, cables, boxes, and related equipment upon, under and above the Premises; and

K. The standard printed exceptions contained in any policy of title insurance issued to Lessee by the Title Company.

16. Utilities: Subject to Lessor's obligation to provide utility service to the Property, Lessee shall be solely responsible for connecting all necessary utility services to the Premises, as well as

all costs and expenses associated therewith. Lessee shall arrange for all utilities servicing the Property to be separately metered and billed to Lessee. Lessee shall pay, before any interest or penalty shall accrue thereon, all utility charges (including, but not limited to, water, sewer, gas, electricity, telephone, cable, satellite, and communication services) for services used, rendered, or consumed by Lessee during the Term of this Lease.

17. **Payments in Lieu of Taxes:** Lessee shall pay, prior to the date on which they are due, all payments in lieu of taxes, assessments and special assessments imposed on the Premises and the Improvements and any other taxes, assessments and special assessments which may be imposed by any other governmental entity with jurisdiction over the Premises and the Improvements. Such payment may be made pursuant to a Payment in Lieu of Taxes agreement with the Borough of Oceanport (“PILOT Payments”). Lessee shall be solely responsible for negotiating such Payment in Lieu of Taxes agreement.

18. **Waste:** Lessee shall not cause or permit any substantial waste, damage, disfigurement, or injury to the Premises or the Improvements during the Term of this Agreement.

19. **Return of the Premises:** **[NOTE: Either I or II below will apply; not both]**

I. Prior to the expiration or termination of this Agreement, Lessee shall remove all personal property, equipment, and trade fixtures from the Premises. On the date of the expiration or termination of this Agreement, Lessee shall surrender and deliver the Premises to Lessor in the same or better condition than existed on the date of execution of this Agreement, except that the Improvements shall also be surrendered and delivered to Lessor in an “as is” condition. Upon the expiration or termination of this Agreement, the ownership of the Improvements shall vest automatically and exclusively in Lessor, and Lessee shall have no further rights to the Improvements and shall not be entitled to any compensation therefor. The provisions of this Paragraph 12 shall survive the expiration or termination of this Lease.

OR

II. At the earlier of the expiration of this Agreement or Lessee obtaining a plenary retail liquor license issued by the Borough of Oceanport, Lessor shall convey ownership of the Premises to Lessee for One (\$1.00) Dollar.

20. **Condemnation:** If the whole of the Premises shall be taken by condemnation or other eminent domain proceedings pursuant to any law, this Agreement shall terminate as of the date that possession has been taken, and neither party shall have any further rights or liabilities hereunder. If any portion of the Premises shall be taken by condemnation or other eminent domain proceeding so as to have a material adverse effect on the operation of the Facility, or if, as a result of any such taking, Lessee’s rights of ingress and egress to and from the Premises are terminated or substantially restricted thereby, then Lessee shall have the right to terminate this Lease upon not less than thirty (30) days’ prior written notice to Lessor. In the event of such termination, the provisions of Paragraph 19 shall apply, in addition to all other rights available under this Agreement or at law or in equity.

- A. Right to Award: In the event that either the whole or any part of the Premises is taken by condemnation or eminent domain proceedings, Lessee shall be entitled, at its sole cost and expense, to apply for and prosecute any claim for such taking. Lessee and Lessor shall cooperate with each other to the fullest extent in any such proceedings. If an award is granted as the result of such proceedings, the award shall be distributed in the following manner: (1) an award for the present value, as of the date of the condemnation award, of Lessor's future ownership interest of the land and Improvements after the expiration of the Term of this Agreement shall be paid and awarded to, and be the property of, Lessor; (2) an award for the present value, as of the date of the condemnation award, of the aggregate amount of all rent payments to be made over the remaining balance of the Term hereof, shall be paid and awarded to, and be the property of, Lessor; and (3) the balance of the award shall be paid and awarded to, and be the property of, Lessee, and shall include, but not be limited to, the value of the Improvements, including, but not limited to, any fixtures, equipment, trade fixtures and personal property so taken, any award for relocation costs payable as a result of such taking, and any award for other costs and expenses incurred by Lessee in connection with such taking, including, but not limited to, attorneys' fees and expenses. Items (1) and (2) of the foregoing calculations shall be (i) discounted to present value, using an annual rate of return that is equal to the rate of the United States Treasury Bill, as published in The Wall Street Journal, for the period corresponding to then-remaining Term of this Agreement; and (ii) based upon a valuation that is made by a qualified real estate appraiser to be mutually agreed upon by Lessor and Lessee, and no payments shall be made hereunder unless and until both Lessor and Lessee are satisfied with such calculations and valuation.

21. Net Ground Lease: The parties acknowledge and agree that this Agreement is a net ground lease and that all costs of tenancy, including, but not limited to, environmental remediation, site preparation, construction, utilities, maintenance, repairs, operation, and security, shall be paid by Lessee and not by Lessor. Such costs shall be in addition to all other payments required by this Agreement.

22. Right to Mortgage Leasehold Interest: Upon the prior written approval of Lessor, which shall not be unreasonably withheld or delayed, Lessee shall have the right to mortgage Lessee's leasehold interest in the Premises and Improvements through one or more leasehold mortgages. Lessor agrees to cooperate with Lessee in connection with Lessee's efforts to obtain such financing, and Lessor agrees to make such reasonable changes to this Agreement as may be requested by any holder of a leasehold mortgage (each a "Leasehold Mortgagee"), at Lessee's sole cost and expense, provided that such requested changes do not materially decrease Lessee's obligations or increase Lessor's obligations hereunder, or otherwise have an adverse effect on Lessor.

A. Provision of Mortgage Agreement to Lessor: Lessee must deliver an executed copy of each leasehold mortgage to Lessor within ten (10) days of execution thereof.

B. Additional Rights Available to Leasehold Mortgagee: Upon the submission of a written request to receive notices under this Agreement, the Leasehold Mortgagee shall have the following additional rights:

a. Notices: Lessor shall send all notices under this Agreement to Lessee and the Leasehold Mortgagee at the same time. All notices to the Leasehold Mortgagee will be deemed given when mailed by certified mail, return receipt requested. No notice given by Lessor to Lessee shall be binding upon the Leasehold Mortgagee unless a copy of the notice was also given to the Leasehold Mortgagee pursuant to this Paragraph 22. The Leasehold Mortgagee may change the address to which notices are sent through the procedure set forth in Paragraph 38.

b. Assignment of Leasehold Mortgage: If the Leasehold Mortgagee assigns the leasehold mortgage, it must provide written notice to Lessor within thirty (30) days of the date of assignment. Said notice must include the name and address of the assignee. Lessor shall not be bound to recognize any assignment of the leasehold mortgage until it receives such written notice, and thereafter, the assignee shall be deemed to be the Leasehold Mortgagee.

c. Consent to Cancellation, Surrender, or Modification: No action or agreement hereafter taken or entered into by Lessee or Lessor to cancel, surrender or modify this Agreement, except in accordance with the express terms hereof, shall be binding upon the Leasehold Mortgagee or affect the lien of such leasehold mortgage, without the prior, written, commercially reasonable consent of such Leasehold Mortgagee.

d. Right to Substitute Performance: Subject to the terms of Paragraph 22(B)(f) below, the Leasehold Mortgagee shall have the right to perform any term, covenant or condition of this Agreement on behalf of Lessee and shall have the right to remedy any default by Lessee hereunder. Lessor shall accept performance by the Leasehold Mortgagee with the same force and effect as if furnished by Lessee; provided, however, that the Leasehold Mortgagee shall not be subrogated to the rights of Lessor. On behalf of Lessee, the Leasehold Mortgagee shall have the right to enforce all claims and rights to the payment of money arising in connection with any rejection or breach of this Lease by Lessor, including, without limitation, all rights to recover damages arising out of such breach or rejection.

e. Delegation of Rights: Lessee may delegate to the Leasehold Mortgagee the authority to exercise any or all of Lessee's rights hereunder. No such delegation shall be binding upon Lessor unless and until Lessor is provided with a copy of the executed written instrument effecting such delegation; provided, however, that performance by the Leasehold Mortgagee shall be deemed to be performance by Lessee hereunder, even absent such written delegation. Lessor shall be entitled to rely on any notice of delegation that Lessor receives from the Leasehold Mortgagee and shall have no liability to Lessee on account of such reliance.

f. Grace Period for Curing Default without Taking Possession of Premises: If Lessee defaults in the performance of its obligations under this Agreement and said default can be cured by the Leasehold Mortgagee without taking possession of the Premises, Lessor agrees not to terminate Lessee's leasehold estate until:

- (i) In the case of a monetary default, twenty (20) business days after Lessor has the right to terminate this Agreement; and
- (ii) In the case of a non-monetary default, forty five (45) business days after Lessor has the right to terminate this Agreement.

g. Grace Period for Taking Possession of Premises: If Lessee defaults in the performance of its obligations under this Agreement and said default cannot be cured by the Leasehold Mortgagee without taking possession of the Premises or if such default is of such a nature that it is not susceptible of being cured by the Leasehold Mortgagee, then Lessor shall not terminate Lessee's leasehold estate so long as:

(i) In the case of a default which cannot be cured without taking possession of the Premises, the Leasehold Mortgagee diligently proceeds to take possession of the Premises and, upon obtaining such possession, diligently proceeds to cure the default;

(ii) In the case of a default which is not susceptible of being cured by the Leasehold Mortgagee, the Leasehold Mortgagee institutes foreclosure proceedings with respect to the leasehold estate and Improvements and diligently prosecutes the foreclosure to completion (unless the Leasehold Mortgagee acquires Lessee's leasehold estate, either in its own name or through a nominee, by assignment in lieu of foreclosure); and

(iii) The Leasehold Mortgagee shall not be required to continue to proceed to obtain possession, or to continue in possession of the Premises, or to continue to prosecute foreclosure proceedings, if the default is cured. Nothing herein shall preclude Lessor from exercising any of its rights or remedies with respect to any other default by Lessee during any period of such forbearance, but in such event the Leasehold Mortgagee shall have all of the rights and protections hereinabove provided for.

h. Bankruptcy: If the Leasehold Mortgagee, or its nominee, or a purchaser at a foreclosure sale, acquires title to Lessee's leasehold estate hereunder and cures all existing defaults of Lessee within a period of ninety (90) days after taking such title, and if the Leasehold Mortgagee, or purchaser, shall not itself be subject to any bankruptcy or other proceedings which would entitle Lessor to terminate this Lease, then Lessor shall not have the right to terminate this Lease by reason of the existence of bankruptcy or other proceedings relating to any prior holder of Lessee's leasehold estate hereunder.

i. New Lease: In the event that Lessor terminates this Agreement, the Leasehold Mortgagee or, if there are multiple Leasehold Mortgagees, the Leasehold Mortgagee holding the highest priority lien, shall have thirty (30) days to request, in writing, that Lessor enter into a new lease agreement ("New Lease") for the Premises subject to the terms set forth below. If the Leasehold Mortgagee exercises its right to enter into a New Lease, Lessor shall have no obligation to do anything, other than to execute the New Lease as herein provided, to assure the Leasehold Mortgagee good title to the leasehold estate.

j. Terms of the New Lease: The New Lease shall be solely comprised of the terms, covenants, and conditions of this Agreement, except as they may be superseded by the following sub-paragraphs:

(i) The New Lease shall require the Leasehold Mortgagee to reimburse Lessor for any and all monies reasonably expended by Lessor to preserve or protect the Premises or the Improvements (including, without limitation, the payment of PILOT Payments, taxes, assessments and special assessments), to the extent not paid by Lessee;

(ii) The New Lease shall be deemed to commence, and the rent and all other obligations of the Leasehold Mortgagee under the New Lease shall accrue, as of the date of the termination of this Agreement;

(iii) The term of the New Lease shall continue for the period which would have constituted the remainder of the Term of this Agreement had this Agreement not been terminated; and

(iv) The New Lease and this covenant shall be superior to all rights, liens and interests intervening between the date of this Lease and the granting of the New Lease, and shall be free of any and all rights of Lessee hereunder; provided, Lessor shall have no liability or responsibility for any intervening rights, liens, encumbrances or claims created by or relating to Lessee.

k. Required Payments for Execution of the New Lease by Lessor: The Leasehold Mortgagee shall, simultaneously with the delivery of the New Lease, pay to Lessor the following:

(i) Any and all monies reasonably expended by Lessor to preserve or protect the Premises or the Improvements (including, without limitation, the payment of PILOT Payments, taxes, assessments and special assessments), to the extent not paid by Lessee ; and

(ii) All rent and other sums of money due under the New Lease for the period from the date of commencement of the term to the date of delivery of the New Lease; and

(iii) All costs and expenses, including reasonable attorneys' fees, court costs and litigation expenses, incurred by Lessor in connection with the termination of this Agreement, recovery of possession of the Premises, putting the Premises in good condition and repair, and the preparation, negotiation, execution and delivery of the New Lease.

l. Multiple Leasehold Mortgagees: If, in any instance, more than one Leasehold Mortgagee exercises its right to obtain a New Lease pursuant to this Paragraph 15, then only the Leasehold Mortgagee holding the lien of highest priority shall be entitled to the New Lease free and clear of the rights of all other lienors.

m. Failure to Execute New Lease: If the Leasehold Mortgagee or a Leasehold Mortgagee holding the lien of highest priority exercises its right to obtain a New Lease pursuant to this Paragraph 15, but fails to execute the New Lease when tendered by Lessor, said Leasehold Mortgagee shall have no further rights to a New Lease.

n. No Merger: As long as any leasehold mortgage is in existence, unless all Leasehold Mortgagees shall otherwise expressly consent in writing, fee title to the Premises and the leasehold estate of Lessee therein shall not merge, but shall remain separate and distinct, notwithstanding the acquisition of the fee title or leasehold estate by Lessor, Lessee or a third party.

23. Default by Lessee: The following shall constitute events of default under this Agreement (each an "Event of Default"):

A. Failure to pay rent, utilities, taxes or PILOT Payments, subject to Paragraph 17 hereof, on or before the date that such payment is due, with said failure continuing for a period of forty five (45) consecutive days after such due date;

B. Failure to renovate and operate the Facility for the purposes and in the manner required by this Agreement, with such failure continuing for a period of forty five (45) days after Lessee receives written notice from Lessor; provided, that the continuation of the failure for forty five (45) days or longer after receipt of the notice shall not constitute an Event of Default if such failure cannot reasonably be cured within that period and Lessee commences such cure within the forty five (45) day period and diligently and continuously prosecutes the cure of such failure to completion; or

C. Failure to timely perform any other material obligation under this Agreement, with such failure continuing for a period of sixty (60) days after Lessee receives written notice from Lessor; provided, that the continuation of the failure for sixty (60) days or longer after receipt of the notice shall not constitute an Event of Default if such failure cannot reasonably be cured within that sixty (60) day period, and Lessee commences such cure within the sixty (60) day period and diligently and continuously prosecutes the cure of such failure to completion.

24. Remedies for Lessee's Default: Upon the happening of an Event of Default by Lessee, as defined in Paragraph 23, and subject to the requirements of Paragraph 22, Lessor shall have the right to terminate this Agreement upon written notice to Lessee and to pursue all other remedies available at law or in equity. In the event that Lessor terminates this Agreement, all rights and interest of Lessee in the Premises and the Improvements shall cease and expire in the same manner and with the same force and effect as if the date specified in such notice of default was the date originally specified herein for the expiration of this Agreement. In the event of such termination, Lessee shall pay to Lessor an amount equal to all rent, utilities, taxes and PILOT Payments which are due and payable as of and through the date of such termination.

25. Default by Lessor: If Lessor defaults in the performance of any of its obligations under this Agreement and such default continues for a period of more than thirty (30) days after receipt of written notice from Lessee specifying such default, or if such default is of a nature as to require more than thirty (30) days for remedy and Lessor fails to commence procedures to cure the default within the thirty (30) day period and diligently and continuously prosecutes the cure of such failure to completion, then Lessee may, in addition to any other remedy available at law or in equity, upon fifteen (15) days' prior written notice, pay and incur any costs and expenses that are necessary to perform the obligation of Lessor specified in such notice and then charge Lessor for same. If Lessor fails to reimburse the aforesaid costs and expenses within thirty (30) days after receipt of the invoice, then Lessee may offset the amount against the next payment of rent. Upon any event of default by Lessor which constitutes an emergency, Lessee may prosecute the cure thereof without prior notice, and Lessor shall likewise reimburse Lessee for the costs and expenses paid and incurred by Lessee in connection therewith; if Lessor fails to reimburse the aforesaid costs and expenses within thirty (30) days after receipt of the invoice, then Lessee may offset the amount against the next payment of rent.

26. Construction Liens: Lessee shall use commercially reasonable efforts not to permit any construction lien or notice of unpaid balance to be filed against the interest of Lessor or Lessee in the Premises, the Facility or the Improvements, by reason of any work, labor, services, or materials supplied to or for the benefit of Lessee, the Premises, or any part thereof, and Lessee agrees to defend, indemnify and save harmless Lessor from and against any such lien. If any such construction lien or notice of unpaid balance shall be filed at any time, Lessee shall cause

the same to be discharged within thirty (30) days; provided, however, if Lessee shall promptly bond the entire amount of such lien with a responsible surety company, Lessee may contest the amount or validity, in whole or in part, of any such lien by appropriate proceedings, diligently prosecuted, and such contest shall defer, for its duration, Lessee's duty hereunder to discharge the same. Upon request by Lessee, Lessor shall, at no cost to Lessor, execute and deliver any and all documents and take any and all actions as shall be reasonably necessary or proper to permit Lessee to bring such proceedings in Lessee's name or on Lessor's behalf to facilitate the conduct of such proceedings by Lessee. Lessee covenants to defend and save harmless Lessor from and against any and all liability for the payment of any cost or expense in connection with any such proceedings.

27. Legal Compliance: Lessee shall comply with all laws, statutes, rules, regulations, ordinances, and codes that govern its use and the operation of the Premises.

28. Not A Joint Venture: Nothing herein contained shall be construed as creating or constituting Lessor and Lessee as co-partners or joint venturers, nor shall anything herein contained be construed in any manner so as to make Lessor or Lessee liable for any debts, defaults, obligations or losses of the other.

29. Indemnification: Lessee agrees to defend, indemnify, protect, save and hold harmless Lessor, its officers, commissioners, directors, members, agents, servants, attorneys, and employees from and against any and all suits, claims, demands and damages, of whatsoever kind or nature, arising from, out of, or in connection with the performance of this Agreement, including, but not limited to, expenditures for and costs of investigations, hiring of expert witnesses, court costs, counsel fees, settlements, judgments or otherwise. Lessee will further defend, indemnify and save Lessor harmless from and against any and all claims against Lessor arising during the Term of this Agreement from any breach or default by Lessee in the performance of any covenant or obligation under this Agreement. The provisions of this Paragraph 29 shall survive the expiration or earlier termination of this Lease.

30. Environmental Matters:

A. Compliance with Environmental Laws: From and after the commencement of this Lease, Lessee shall comply with all applicable Environmental Laws with respect to Lessee's possession, use and occupancy of the Premises. "Environmental Laws" shall mean the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 98-489, 100 Stat. 1613, 1986); the Resource Conservation and Recovery Act, 42 U.S.C. Section 6801 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601; the Clean Water Act, 33 U.S.C. Section 407 et seq.; the Clean Air Act, 42 U.S.C. Section 7901 et seq.; the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11, et seq.; the New Jersey Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq. ("ISRA"); and any and all other present or future federal, state or local laws, statutes, ordinances, regulations, executive orders or orders of local code officials in any way related to the protection of human health, safety or the environment, and applicable to the Premises or any activities conducted thereon by Lessee.

B. Indemnification: Lessee shall indemnify, defend, save, and hold harmless Lessor of, from and against any and all liability, damage, costs and expenses, including, but not limited

to, attorneys' fees and expenses and court costs, incurred by Lessor and arising during the Term of this Lease relating to the environmental condition of the Premises.

C. Environmental Protection Provisions: The Lessee shall neither transfer the Premises, sublease the Premises, nor grant any interest in connection with the Premises without including the Environmental Protection Provisions set forth in Exhibit "B," attached hereto and made a part hereof, and shall require that said provisions be included in all subsequent deeds, easements, transfers or subleases in, of, on, or to the Premises or any portion thereof.

D. Survival: The provisions of this Paragraph 30 shall survive expiration or earlier termination of this Lease.

31. Insurance: To the extent offered by insurance companies authorized to do business in the State of New Jersey, Lessee shall provide evidence of insurance of the prescribed types and minimum amounts set forth below. Unless otherwise specifically noted below, all required insurance policies shall be maintained in full force and effect until the expiration or termination of this Agreement. Each policy shall contain the provision that there will be ten (10) days' prior written notice given to Lessor in the event of any cancellation of, or material change in, the policy. The words "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the insurance company, its agents or representatives" shall be deleted from the certificate form's cancellation provisions. The failure of FMERA to demand such certificate or other evidence of full compliance with the insurance requirements set forth in this Lease or the failure of FMERA to identify a deficiency in the evidence of insurance that is provided hereunder shall not be construed as a waiver of Lessee's obligation to maintain such insurance. If Lessee fails to maintain the insurance as required in this Lease, FMERA shall have the right, but not the obligation, to purchase said insurance at Lessee's cost and expense, after the delivery of five (5) days' advance written notice to Lessee and Lessee's failure to so acquire such insurance. By requiring the insurance herein, FMERA does not represent that the coverage and limits will necessarily be adequate to protect Lessee, and such coverage and limits shall not be deemed to be a limitation on Lessee's liability under the indemnities granted to FMERA in this Lease.

A. Certificates and Policies: Prior to commencing any activities or services under this Agreement, Lessee shall furnish Lessor with insurance certificates evidencing that the required coverages are in effect. Lessee may be required, at a later date and upon specific written request by Lessor, to furnish certified copies of any or all insurance policies. Lessor shall not be liable for the payment of any premiums, deductibles, claims or co-insurance under the foregoing.

B. Insurance Companies: The insurance companies indicated in the certificates shall be authorized to do business in the State of New Jersey, shall have a current A.M. Best rating of no less than A-, VI, and shall be acceptable to Lessor. Neither the approval by Lessor, nor the failure to disapprove, the insurance certificates furnished by Lessee shall release Lessee of and from full responsibility for all liabilities and obligations under this Lease.

C. Minimum Insurance Coverage Amounts: The minimum requirements of insurance to be carried by Lessee shall be as follows:

a. Workers' Compensation and Employers Liability Insurance:

(i) Coverage A, Workers' Compensation - Statutory benefits as required by the Workers' Compensation Laws of the State of New Jersey, and reference to such compliance to be made on all certificates of insurance.

b. Commercial General Liability Insurance:

(i) Commercial General Liability Insurance in an amount not less than Three Million Dollars (\$3,000,000.00) each occurrence, or the equivalent, as respects Bodily and Personal Injury and Property Damage in any one occurrence, and Five Million Dollars (\$5,000,000.00) in the aggregate.

c. Builder's Risk Insurance:

(i) Lessee shall purchase and maintain, throughout the period of renovation of the Improvements and until a certificate of occupancy is issued, a Builder's Risk Policy, covering the interests of Lessor, Lessee, and Lessee's contractors, as their interests may appear, which shall insure against physical loss or damage to all property incorporated or to be incorporated in the Improvements, including temporary buildings used for the storage of property to be incorporated into the Improvements. Such insurance shall be in an amount equal to the value of the Improvements on a replacement cost basis. Such insurance shall also cover all property to be incorporated into the Improvements which is stored off-site or in transit.

d. Property Insurance:

(i) Immediately upon the execution and delivery of the certificate of occupancy for the Facility, and thereafter during the entire Term of this Lease, Lessee agrees to provide, without cost or expense to Lessor, property insurance in an amount equal to one hundred percent (100%) of the full replacement cost of the Improvements and providing for protection against the perils insured under the ISO special causes of loss form CP 10 30 00 (or a substitute form providing for equivalent terms and conditions), including flood and earthquake, with a deductible amount of not more than Twenty Five Thousand Dollars (\$25,000.00). All of the policies required by this subparagraph shall name Lessor as loss payee as its interest may appear. Any co-insurance requirements in such policy shall be eliminated through the attachment of an agreed-amount endorsement, the activation of an agreed-value option, or as is otherwise appropriate under the particular policy form.

e. Excess Liability Insurance:

(i) Excess Liability Insurance in an amount not less than Five Million Dollars (\$5,000,000.00).

f. Dram Shop Liquor Liability Insurance:

(i) If alcoholic beverages will be served or sold at the Building, Lessee shall obtain and maintain a commercially reasonable amount 'Dram Shop' liquor liability insurance coverage.

D. Additional Insured Provision: The insurance policies identified above shall include an endorsement naming Lessor as an additional insured on all such policies, including Excess or Umbrella Liability Policies, if applicable.

E. Primary and Non-Contributory Insurance: The insurance policies identified in Paragraphs 31(C)(a) through 31(C)(c) shall include an endorsement stating that the coverage afforded to the Additional Insured will be primary to any other coverage available to such Additional Insured. Additionally, the coverage specified in this Agreement will be non-contributory on the part of Lessor and, as such, Lessor shall not be liable for the payment of any premiums, deductibles, claims or co-insurance under the foregoing.

F. Certificates of Insurance: Certificates of insurance shall be provided to Lessor in accordance with this Paragraph 31. Lessor reserves the right to require Lessee to furnish certified copies of the original policies of all insurance required under this Agreement at any time upon ten (10) business days' prior written notice to Lessee. All certificates of insurance shall indicate, in the special items section, that the insurance policies outlined in this Paragraph 31 will contain the following endorsements, if applicable: (1) an Additional Insured Endorsement, and (2) a Primary Insurance Endorsement.

G. Mutual Waiver of Subrogation: Both Lessor and Lessee waive any and all rights of recovery, claim, action, or cause of action, against the other, their agents, officers, directors, members and employees, for any injury, loss or damage that may occur in or to the Premises and/or the Improvements or the contents thereof, by reason of fire, the elements or any other cause which could be insured against under the terms of a standard fire and extended coverage insurance policy or commercial umbrella liability insurance policy, regardless of cause or origin. Lessee shall cause any policies of insurance maintained by it hereunder, or required to be maintained by it hereunder, to contain a waiver by the insurers of any rights of subrogation against Lessor. In the event that there is an extra premium for such waiver, Lessee shall bear the cost thereof.

32. Quiet Enjoyment: Lessor covenants and agrees that Lessee, upon paying the rent and performing and observing all of the material covenants, conditions and agreements hereof, shall and may peaceably hold and enjoy the Premises during the Term of this Agreement.

33. Attornment: If Lessor's interest in the Premises is assigned or conveyed by Lessor, whether voluntarily or by operation of law or legislative act, then Lessee shall attorn to the transferee of, or successor to, Lessor's interest in the Premises and recognize such transferee or successor as its landlord under this Agreement. Lessee waives the protection of any statute or rule of law that gives or purports to give Lessee any right to terminate this Agreement or to surrender possession of the Premises upon the transfer of Lessor's interest.

34. Estoppel Certificates: Lessor and Lessee agree, from time to time, upon not less than fifteen (15) days' prior written notice from the other, to execute, acknowledge and deliver to the other a statement, in writing, certifying the following:

A. That this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease is in full force and effect as modified, and stating the modifications);

B. Whether or not there are then existing any off sets or defenses against the enforcement of any of the terms, covenants or conditions hereof upon the part of Lessor or Lessee to be performed (and, if so, specifying the same);

C. The dates to which the rent has been paid in advance, if any; and

D. Any other matters that may be requested by the other or a mortgagee or prospective purchaser, it being intended that any such statement that is delivered pursuant to this Paragraph 34 may be relied upon by any prospective purchaser or Leasehold Mortgagee of the Premises.

35. Force Majeure: Whenever a period of time is herein prescribed for the taking of any action, Lessor or Lessee, as the case may be, shall not be liable or responsible for any delays that are a result of governmental action or lack thereof, shortages or unavailability of materials and/or supplies, labor disputes, strikes, slow downs, job actions, picketing, secondary boycotts, fire or other casualty, acts of God, requests of any governmental agencies or authorities, court or administrative orders or regulations, acts of declared or undeclared war, public disorder, riot, or civil commotion.

36. Assignment and Subletting: Except to a Leasehold Mortgagee pursuant to Paragraph 22 hereof, Lessee (and any subsequent Permitted Assignee) shall not, prior to completion of renovation of the Facility and the Improvements, (1) assign this Agreement, or sublet the Premises, or any interest herein or therein, in whole or in part, or (2) transfer, sell, convey or assign any right, title or interest in and to any of the Improvements or the Facility, without the prior written consent of Lessor in each instance, which consent may be granted or withheld in the sole and absolute discretion of Lessor. After the completion of renovation of the Facility and the Improvements, Lessee (and any subsequent Permitted Assignee) shall be permitted to assign this Agreement or any interest herein or to sublet the Premises, in whole or in part, to any assignee/subtenant that is first approved, in writing, by Lessor, which approval shall be commercially reasonable.

37. Application of Laws and Regulations: By entering into this Agreement, Lessor does not consent, either expressly or impliedly, to the jurisdiction or application of any laws, regulations, procedures, or requirements of any governmental, quasi-governmental or other political entity which would otherwise not be applicable to Lessor. This Agreement shall be governed by, and interpreted under, the laws of the State of New Jersey.

38. Notices: Any notice, election, payment, or other communication (hereafter in this Paragraph 38 referred to as "Notices") which Lessor or Lessee shall desire or be required to give pursuant to the provisions of this Agreement must be in writing and shall be sent to the addresses or facsimile numbers set forth below by (a) registered or certified mail, return receipt requested, (b) national overnight courier service, or (c) facsimile transmission. The giving of such Notice shall be deemed complete and effective on the third (3rd) business day after the same is deposited in a United States Post Office with postage charges prepaid with respect to Notice given by part (a) of this Paragraph 38; the next business day after depositing same with a national overnight courier with respect to Notice given by part (b) of this Paragraph 38; and the day sent by facsimile transmission (as evidenced by fax machine confirmation of receipt) with respect to Notice given by part (c) of this Paragraph 38. Any party or Leasehold Mortgagee may designate or change the address to which Notices are to be sent to it by Notice to the other party pursuant to the procedure set forth in this Paragraph 38. The addresses for Notice to each party shall be as follows (or to such other address as such party may theretofore have designated by Notice pursuant to this Paragraph 38).

If to Lessee:

Attn: _____

With a copy to:

Attn: _____

If to Lessor:

Fort Monmouth Economic Revitalization Authority
502 Brewer Avenue
P.O. Box 267
Oceanport, New Jersey 07757
Attn: Executive Director

With a copy to:

New Jersey Division of Law
Hughes Justice Complex
25 Market Street
P.O. Box 106
Trenton, New Jersey 08625-0106
Attn: Pension and Financial Transactions Section

39. Amendment: This Agreement may not be amended except upon the written consent of both Lessor and Lessee.

40. Incident Reporting: All accidents or injuries to persons, or any damage to property, occurring as a result of Lessee's use of the Premises pursuant to this Agreement must be reported promptly to FMERA's Executive Director or to another authorized representative of FMERA.

41. Waiver: The failure of either party to insist on the strict performance by the other party of any covenant, term or condition of this Agreement or the failure of any party to exercise any right or remedy under this Agreement shall not constitute a waiver by such party of such performance, right or remedy. The acceptance of rent by Lessor shall not constitute a waiver of any default, breach or failure to perform the covenants, terms and conditions of this Agreement. All waivers, alterations or modifications of any covenants, terms or conditions of this Agreement must be in writing and signed by both parties to be valid. A valid waiver shall be strictly

construed and shall have no effect on the remainder of this Agreement. A waiver by any party of a breach or default by the other party of any provision of this Agreement shall not be deemed to be a waiver of future compliance therewith, and such provisions shall remain in full force and effect.

42. Captions: All headings preceding the text of the several sections and paragraphs hereof are inserted solely for the convenience and reference of the parties and shall not constitute a part of this Agreement, nor shall they affect the meaning or interpretation thereof.

43. Severability: If any provision of this Agreement shall be invalid or unenforceable, in whole or in part, then such provision and this Agreement shall be deemed and construed to be modified or restricted to the extent, and in the manner, that is necessary to render such provision valid and enforceable, or shall be deemed excised from this Agreement, as the case may require.

44. Modification: Unless otherwise authorized by this Agreement, all modifications must be in writing and signed by both parties to be valid.

45. Entire Agreement: This Agreement and the documents referred to herein set forth all of the promises, agreements, conditions, and understandings between Lessor and Lessee relating to the Premises, and there is no promise, agreement, condition, or understanding, either oral or written, between them other than as is herein set forth.

46. Political Campaign Contributions:

46.1. For the purpose of this Section 46, the following shall be defined as follows:

(a) "Contribution" means a contribution reportable as a recipient under "The New Jersey Campaign Contributions and Expenditures Reporting Act" P.L. 1973, c. 83 (C.10:44A-1 et seq.), and implementing regulations set forth at N.J.A.C. 19:25-7 and N.J.A.C. 19:25-10.1 et seq., a contribution made to a legislative leadership committee, a contribution made to a municipal political party committee or a contribution made to a candidate committee or election fund of any candidate for or holder of the office of Lieutenant Governor. Currently, contributions in excess of \$300 during a reporting period are deemed "reportable" under these laws.

(b) "Business Entity" means: a for-profit entity as follows:

A. in the case of a corporation: the corporation, any officer of the corporation, and any person or business entity that owns or controls 10% or more of the stock of corporation;

B. in the case of a general partnership: the partnership and any partner;

C. in the case of a limited partnership: the limited partnership and any partner;

D. in the case of a professional corporation: the professional corporation and any shareholder or officer;

E. in the case of a limited liability company: the limited liability company and any member;

F. in the case of a limited liability partnership: the limited liability partnership and any partner;

G. in the case of a sole proprietorship: the proprietor; and

H. in the case of any other form of entity organized under the laws of this State or other state or foreign jurisdiction: the entity and any principal, officer, or partner thereof;

(ii) any subsidiary directly or indirectly controlled by the business entity;

(iii) any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and

(iv) with respect to an individual who is included within the definition of business entity, the individual's spouse or civil union partner, and any child residing with the individual, provided, however, that, P.L. 2005, c. 51 shall not apply to a contribution made by such spouse, civil union partner, or child to a candidate for whom the contributor is entitled to vote or to a political party committee within whose jurisdiction the contributor resides unless such contribution is in violation of section 9 of P.L. 2005, c. 51 (C.19:44A-20.1 et seq.) ("Chapter 51").

(c) PL 2005, c. 51 – means Public Law 2005, chapter 51 (C. 19:44A-20.13 through C. 19:44A-20.25, inclusive) as expanded by Executive Order 117 (Gov. Corzine, September 24, 2008).

46.2 The terms, restrictions, requirements and prohibitions set forth in P.L. 2005, c. 51 are incorporated into this Agreement by reference as material terms of this Agreement with the same force and effect as if P.L. 2005, c. 51 were stated herein its entirety. Compliance with P.L. 2005, c. 51 by Lessee shall be a material term of this Agreement.

46.3 Lessee hereby certifies to the Lessor that commencing on and after October 15, 2004, Lessee (and each of its principals, subsidiaries and political organizations included within the definition of Business Entity) has not solicited or made any Contribution of money, pledge of Contribution, including in-kind Contributions, that would bar a contract agreement between Lessee and the Lessor pursuant to P.L. 2005, c. 51. Lessee hereby further certifies to the Lessor that any and all certifications and disclosures delivered to the Lessor by Lessee (and each of its principals, subsidiaries and political organizations included within the definition of Business Entity) are accurate, complete and reliable. The certifications made herein are intended to and shall be a material term of this Agreement and if the Treasurer of the State of New Jersey determines that any Contribution has been made in violation of P.L. 2005, c. 51, the Lessor shall have the right to declare this Agreement to be in default.

46.4 Lessee hereby covenants that Lessee (and each of its principals, subsidiaries and political organizations included within the definition of Business Entity) shall not knowingly solicit or make any Contributions of money, or pledge of a Contribution, including in-kind Contributions, to a candidate committee or election fund of any candidate or holder of the public office of Governor of New Jersey or to any New Jersey state or county political party committee prior to the expiration or earlier termination of this Agreement. The provisions of this Paragraph 46.4 are intended to and shall be a material term of this Agreement and if the Treasurer of the

State of New Jersey determines that any Contribution has been made by Lessee (and each of its principals, subsidiaries and political organizations included within the definition of Business Entity) in violation of P.L. 2005, c. 51, the Lessor shall have the right to declare this Agreement to be in default.

46.5 In addition to any other Event of Default specified in this Agreement, the Lessor shall have the right to declare an event of default under this Agreement if: (i) Lessee (or any of its principals, subsidiaries and political organizations included within the definition of Business Entity) makes or solicits a Contribution in violation of P.L. 2005, c. 51, (ii) Lessee (or any of its principals, subsidiaries and political organizations included within the definition of Business Entity) knowingly conceals or misrepresents a Contribution given or received; (iii) Lessee (or any of its principals, subsidiaries and political organizations included within the definition of Business Entity) makes or solicits Contributions through intermediaries for the purpose of concealing or misrepresenting the source of the Contribution; (iv) Lessee (or any of its principals, subsidiaries and political organizations included within the definition of Business Entity) makes or solicits any Contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor, or to any State or county party committee; (v) Lessee (or any of its principals, subsidiaries and political organizations included within the definition of Business Entity) engages or employs a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any Contribution, which if made or solicited by Lessee (or any of its principals, subsidiaries and political organizations included within the definition of Business Entity) directly would violate the restrictions of P.L. 2005, c. 51; (vi) Lessee (or any of its principals, subsidiaries and political organizations included within the definition of Business Entity) funds Contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) Lessee (or any of its principals, subsidiaries and political organizations included within the definition of Business Entity) engages in any exchange of Contributions to circumvent the intent of P.L. 2005, c. 51; (viii) Lessee (or any of its principals, subsidiaries and political organizations included within the definition of Business Entity) directly or indirectly through or by any other person or means, does any act which would violate the restrictions of P.L. 2005, c. 51; or (ix) any material misrepresentation exists in any Political Campaign Contribution Certification and Disclosure which was delivered by Lessee to the Lessor in connection with this Agreement.

47. Counterparts: This Agreement may be executed in any number of counterparts, each of which shall be an original, and all of which, when taken together, shall constitute one and the same document. The transmission by facsimile of an executed counterpart of this Lease shall be deemed to constitute due and sufficient delivery of such counterpart.

48. Broker's Commission: Lessee and Lessee each represent and warrant to the other that it has had no dealings with any broker, salesperson or agent in connection with the lease of the Premise, except for Lessor's broker, Cushman & Wakefield ("Seller's Broker"). Lessor shall be solely responsible for the payment of all fees and commissions due to Seller's Broker. Each party agrees to pay and settle any claims of brokers or agents for fees or commissions arising out of this transaction attributable to a breach by such party of its representations under this Section 48.

The provisions of this Paragraph 48 shall survive the expiration or termination of this Agreement.

49. Successors and Assigns: This Agreement shall bind and inure to the benefit of Lessor and Lessee and their respective successors and assigns.

50. Memorandum of Lease: Upon the execution and delivery of this Lease, Lessee and Lessor shall execute and record against the Premise a memorandum of lease in the form attached hereto as Exhibit "C".

IN WITNESS WHEREOF, and intending to be bound hereby, the parties hereto have caused this Ground Lease Agreement to be duly executed, effective as of the day and year first above written.

LESSOR:
FORT MONMOUTH ECONOMIC REVITALIZATION AUTHORITY

By: _____

LESSEE:

By: _____

EXHIBIT "A"

DESCRIPTION OF PREMISES

EXHIBIT "B"

ENVIRONMENTAL PROTECTION PROVISIONS

1. NOTICE OF PRESENCE OF ASBESTOS AND COVENANT – WARNING!

A. The LESSEE is warned that the Premises contain friable and non-friable asbestos or asbestos-containing material (hereinafter referred to as "ACM"). Unprotected or unregulated exposures to asbestos in product manufacturing, shipyard, and building construction workplaces have been associated with asbestos-related diseases. Both the U.S. Occupational Safety and Health Administration (OSHA) and the U.S. Environmental Protection Agency (EPA) regulate asbestos because of the potential hazards associated with exposure to airborne asbestos fibers. Both OSHA and EPA have determined that such exposure increases the risk of asbestos-related diseases, which include certain cancers and which can result in disability or death.

B. The LESSEE acknowledges that it has been invited, urged and cautioned to inspect the Premises prior to accepting the conveyance herein. More particularly, the LESSEE acknowledges that it has been invited, urged and cautioned to inspect the Premises as to its asbestos and ACM content and condition and any hazardous or environmental conditions relating thereto. Notwithstanding the foregoing notice, the LESSEE shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Premises including, without limitation, any asbestos and ACM hazards or concerns.

C. Any description of the Premises or other information relating to the condition of the Premises provided by the LESSOR to the LESSEE is based on the best information available to the LESSOR from the Department of the Army and is believed to be correct, but an error or omission, including, but not limited to, the omission of any information available to the Department of the Army and/or any other Federal agency, shall not constitute grounds or reason for any claim by the LESSEE against the LESSOR, including, without limitation, any claim for allowance, refund, or deduction from the rent.

D. The LESSOR assumes no liability for damages for personal injury, illness, disability, or death, to the LESSEE, or to the LESSEE's successors, assigns, employees, invitees, or any other person subject to LESSEE's control or direction, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Premises that is the subject of this Agreement, whether the LESSEE, its successors or assigns has or have properly warned or failed properly to warn the individual(s) injured.

E. Building 275 and Building 282 have been determined to contain friable asbestos. The LESSEE covenants and agrees to undertake any and all asbestos remediation or abatement in said buildings that may be required under applicable law or regulation at no expense to the

LESSOR. The LESSOR has agreed to lease the said buildings to the LESSEE prior to remediation or abatement of asbestos and/or ACM hazards in reliance upon the LESSEE's express representation and covenant to perform the required asbestos abatement or remediation of the said buildings. The LESSEE further covenants and agrees that, in its use and occupancy of the Premises, it will comply with all Federal, State, and local laws and regulations relating to asbestos and ACM and to be responsible for any future remediation or abatement of asbestos and/or ACM, including asbestos and/or ACM in or on buried pipelines, found to be necessary under applicable laws or regulations.

2. NOTICE OF THE PRESENCE OF LEAD-BASED PAINT AND COVENANT LIMITING THE USE OF THE PREMISES FOR RESIDENTIAL PURPOSES

A. Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

B. The LESSEE is hereby informed and does acknowledge that all buildings, residential and other real property improvements, located on the Premises, which were constructed or rehabilitated prior to 1978, are known or presumed to contain lead-based paint.

C. The LESSEE hereby acknowledges that it has conducted or has had the opportunity to conduct the risk assessment or inspection required by 24 C.F.R. § 35.90(a) with regard to the Premises. The LESSEE shall be deemed to have relied solely on its own judgment in assessing the condition of the Premises with regard to lead-based paint and any lead-based paint hazards.

D. The LESSEE for itself, its successors and assigns hereby covenants and agrees that it shall not permit the occupancy or use of any buildings or structures on the Premises as a residential dwelling, as defined under 24 C.F.R. § 35.86, without complying with all applicable laws and regulations pertaining to lead-based paint and lead-based paint hazards. Prior to permitting the occupancy of any building or structure on the Premises where its use subsequent to the conveyance herein is intended for residential habitation, the LESSEE specifically agrees to perform, at its sole expense, the Department of the Army's abatement responsibilities under title X of the Housing and Community Development Act of 1992 (Residential Lead-Based Paint Hazard Reduction Act of 1992), as amended.

3. NOTICE OF PRESENCE OF PESTICIDES AND COVENANT

A. The LESSEE is hereby notified and acknowledges that registered pesticides have been applied to the Premises and may continue to be present thereon. The LESSOR and LESSEE

know of no use of any registered pesticide in a manner (1) inconsistent with its labeling or with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. § 136, et seq.) and other applicable laws and regulations, or (2) not in accordance with its intended purpose.

EXHIBIT "C"

MEMORANDUM OF LEASE

Prepared by:

THIS MEMORANDUM (this "Memorandum") is made this ____ of _____, 201_, between the FORT MONMOUTH ECONOMIC REVITALIZATION AUTHORITY ("Lessor"), an instrumentality of the State of New Jersey, and _____ ("Lessee"), a _____, with an office at _____, to reflect certain terms and conditions of that certain Ground Lease Agreement, dated _____, 201_, by and between Lessor and Lessee (the "Lease").

LEASED PROPERTY: That portion of the real property described in Exhibit "A" attached hereto and made a part hereof, known and designated on the official tax map of the Borough of Oceanport, County of Monmouth, State of New Jersey as a portion of Block __, Lot __, and more fully depicted on Exhibit "A" attached hereto and incorporated herein (the "Premises").

LEASE DATE: _____, 201_

TERM COMMENCEMENT DATE: _____, 201_

TERM EXPIRATION DATE: Unless sooner terminated as provided in the Lease, _____ (__) years after the Commencement Date.

All of the terms and conditions of the Lease are incorporated herein by reference as though set forth fully herein. All capitalized terms not specifically defined herein shall have the meaning set forth in the Lease. In the event of any conflict between the terms hereof and the terms of the Lease, the Lease shall control, govern and prevail. Nothing contained herein is intended to modify or alter the terms, conditions or provisions of the Lease.

IN WITNESS WHEREOF, Lessor and Lessee have duly executed this Memorandum of Lease as of the date first above written.

LANDLORD:

ATTEST:
FORT MONMOUTH ECONOMIC REVITALIZATION AUTHORITY

_____ By: _____
Name:
Title:

TENANT:

ATTEST:

_____ By: _____
Name:
Title:

State of New Jersey :

: SS

County of _____ :

BE IT REMEMBERED, that on this _____ day of _____, 201_, before me, the undersigned, personally appeared _____, who I am satisfied is the _____ of the Fort Monmouth Economic Revitalization Authority, an instrumentality of the State of New Jersey, the party whose name is subscribed to the within Memorandum of Lease, and as such officer, he did acknowledge that he signed, sealed and delivered the same as such officer and as the voluntary act and deed of such entity for the uses and purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 201_.

Notary Public

My commission expires:

State of _____ :

: SS.

County of _____ :

BE IT REMEMBERED, that on this _____ day of _____, 201_, before me, the undersigned, personally appeared _____, who I am satisfied is the _____ of _____, a _____, the party whose name is subscribed to the within Memorandum of Lease, and as such officer, he did acknowledge that he signed, sealed and delivered the same as such officer and as the voluntary act and deed of such entity for the uses and purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 201_.

Notary Public

My commission expires