



National Association of College and University Attorneys  
Presents:

**Colleges and Universities as Commercial  
Landlords: Considerations for the Generalist**

**Webinar**

**April 19, 2023**

12:00 PM – 1:30 PM Eastern  
11:00 AM – 12:30 PM Central  
10:00 AM – 11:30 PM Mountain  
9:00 AM – 10:30 AM Pacific

**Presenters:**

**Rebecca Lacher**  
Drexel University

**Debra McNally**  
Rutgers University

**Robert P. Roesener**  
Rutgers University

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## Colleges and Universities as Commercial Landlords: Considerations for the Generalist



**Rebecca Lacher** is Associate General Counsel at Drexel University. She represents Drexel in connection with matters related to real estate, construction and commercial contracts, business services, athletics and art collections. Representative real estate matters at Drexel include: ground lease to Spark Therapeutics for 500,000 SF cell and gene manufacturing center; ground lease for third-party development of 500,000 SF life sciences research building and lease-back of 60,000 SF; sublease of Commonwealth owned Armory building to US Squash for \$40M redevelopment of 80,000 SF US Squash headquarters; lease of 590,000 SF building for research use; managing Schuylkill Yards master development including ground lease of 570,000 SF mixed-use tower and 450,000 SF lab tower; development agreement with ACC for multi-million dollar dorm expansion and renovation.

Rebecca began her legal career clerking for the Hon. J. William Ditter, Jr. of the Eastern District of Pennsylvania and started in private practice as a litigator, later focusing on higher education and then transitioning to transactional practice in real estate. Prior to joining Drexel, Rebeca was an attorney at Morgan Lewis in the Real Estate Practice Group where she focused on leasing, development, financing, acquisitions and dispositions of commercial and multi-family properties. Rebecca is a graduate of Penn Law and Brandeis University.



**Debra McNally** is Director of Real Estate Planning and Administration at Rutgers, the State University of New Jersey. For the last 20 years, Debra has served as the real estate official at Rutgers University, managing and leading the administrative affairs of the University's real estate office and participating in real estate transactions that have taken place during her tenure. Debra's extensive knowledge and experience in corporate real estate asset management, facility management, and commercial real estate transactions, acquired and honed by working in senior management positions

at Fortune 50 companies prior to joining Rutgers, has been relied upon by the University community and its leadership. During Debra's tenure, Rutgers went through an unprecedented expansion phase

that included merging with the University of Medicine and Dentistry Medical School and increasing the real estate portfolio by 9 Million Square Feet. The University's leasing activity has increased 150% during this period as well, and is presently in excess of 400 active leases with approximately 25% of the portfolio requiring action on an annual basis. Sixty percent of the active leases are associated with the University as a Landlord. Debra will be contributing her insight and perspective to the discussion focused on when the University functions as a Landlord.



**Robert P. Roesener**, Associate Vice President and Deputy General Counsel, joined Rutgers University's Office of General Counsel in July 2006. Mr. Roesener focuses on the University's transactional legal needs in the areas of real estate, capital finance, investments, construction, utilities, environmental compliance, commercial contracts and procurement contracts. Mr. Roesener also advises senior leadership on governance issues as well as the Rutgers Board of Governor's Committee on Finance and Facilities and the Joint Committee on Investments. Mr. Roesener also

manages litigation and disputes that arise from the foregoing transactional practice areas, such as construction litigation and bid protests.

Prior to joining Rutgers, Mr. Roesener worked in private practice at the New Brunswick office of Windels Marx Lane & Mittendorf, LLP where he specialized in redevelopment, land use, corporate and real estate law. He represented developers and municipal redevelopment entities in all aspects of development and redevelopment projects around New Jersey.

Mr. Roesener is active with the Higher Education Real Estate Lawyers group where he has been a conference speaker and has helped plan this group's annual conference which has been hosted by institutions from around the country. He is also involved in various civic matters and served on the New Jersey Supreme Court District VIII Ethics Committee and has been the vice chairperson of the Highland Park, NJ zoning board for many years.

Mr. Roesener received a B.S. with high honors from Cook College and a J.D. from Rutgers School of Law - Newark where he graduated with high honors and was the recipient of the Justice Henry E. Ackerson, Jr. Award for distinction in the area of legal skills. Mr. Roesener is licensed to practice in New Jersey and New York. Prior to law school, Mr. Roesener worked as an environmental scientist at the United States Environmental Protection Agency and the National Oceanic and Atmospheric Administration where he participated in several research cruises in the New Jersey/New York harbor system as well as Prince William Sound in Alaska.



Webinar

# Colleges and Universities as Commercial Landlords: Considerations for the Generalist

**Robert Roesener**, Associate Vice President and Deputy General Counsel,  
Rutgers, The State University of New Jersey

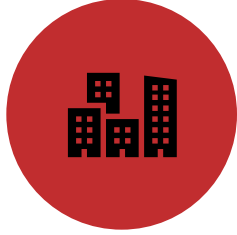
**Debra McNally**, Director, Real Estate Planning,  
Rutgers, The State University of New Jersey

**Rebecca Lacher**, Associate General Counsel, Drexel University

# Welcome & Introductions

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# Today's Agenda & Scope



**PRE-LEASE  
CONSIDERATIONS**



**COMMERCIAL V.  
RESIDENTIAL**



**LETTERS OF INTENT  
AND LEASES**



**SPECIAL CONSIDERATIONS  
FOR VERY SMALL AND VERY  
LARGE ENTITIES**



**DAY-TO-DAY  
MANAGEMENT OF  
LEASE RELATIONSHIPS**



**FINAL Q&A AND  
CLOSING REMARKS**



# Pre-Lease Considerations

 **Ground Leases V. Direct Leases**

 **A Word About Land Acquisition**

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- What do you want and why?
- Beware of unanticipated consequences!
- Who on your campus makes the decision?
- Do you go with a broker or use an RFP?





# Letters of Intent and Types of Leases

- Broker v. RFP
- Letters of Intent v. Straight to Lease



# Questions?

A photograph of a brick building with a window and a lit outdoor lamp. The lamp is glowing yellow, and the window reflects trees. The building has a classic architectural style with a decorative cornice.

# Residential

- Dormitories
- Commercial (non-dormitory) apartments
- Greek housing

# Commercial

## **Retail-Food Service**

- Restaurants
- Grocery
- Farmer's Market/Temporary Food Stands



# Commercial

## General Retail

- Bookstores
- Clothing
- Drug Stores/Convenience





# Commercial

## Cellular Leases and Roof Access

- Telecommunications infrastructure
- CCTV and Webcams
- Research equipment



# Commercial

## University Focus on Commercial Lease Provisions for:

- Continuous Operations
- Signage
- Security
- Access
- Trash/Recycling







# Commercial

- Ensure compliance with existing contracts!
  - Apparel & books contracts
  - On-campus dining vendor contracts
  - Athletic facility food & beverage contracts
- Think about flow-down provisions

# Lease Clauses

- General clauses to pay particular attention to



# Lease Clauses

Clauses to include for higher education institutions



Meetings



Reporting



Use of institutional trademarks



Institutional behavior policies (e.g. no smoking)



Parking



Prioritization of university use (scheduling, black-out dates)

# Questions?



# Special Considerations For Small, Local Businesses

- Modify standard clauses (flexible term, tenant termination right)
- Fit with existing development/retail strategy
- Lack of credit
- Tenant challenges
- Insurance challenges
- Accommodations for low-population periods
- Lease negotiations with unsophisticated parties



# Special Considerations For Major, International Corporations

- Whose paper to use?
- Relationships/communication
- Hours
- Signage/publicity/exposure
- Parking/towing
- Electric scooters & bikes
- Resistance to institutional policies and procedures that may interfere with operational independence or SOPs in delivering product or service





# Day-to-Day Management of Lease Relationships

**W**ho is the property manager?

**I**nteroperability

**P**rovision of Services



# Questions & Wrap Up

NACUA materials, PowerPoint slides and recordings available as part of this program are offered as educational materials for higher education lawyers and administrators. They are prepared by presenters and are not reviewed for legal content by NACUA. They express the legal opinions and interpretations of the authors.

Answers to legal questions often depend on specific facts, and state and local laws, as well as institutional policies and practices. The materials, PowerPoint slides and comments of the presenters should not be used as legal advice. Legal questions should be directed to institutional legal counsel.

Those wishing to re-use the materials, PowerPoint slides or recordings should contact NACUA ([nacua@nacua.org](mailto:nacua@nacua.org)) prior to any re-use.

# Materials

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1. Sample Letter of Intent, Rutgers University
2. Sample Lease Agreement, Rutgers University

INSTITUTIONAL LETTERHEAD

[DATE], 2023

[Name of Potential Tenant]

[Address]

[City] [State]

**RE: [Institution name] Proposal for Leasing Space at its [add name of building], [City], [State]**

Dear [contact name at potential tenant]:

Thank you for expressing your interest in leasing retail space at [add name of building] (Building) in [City]. I have reviewed your proposal dated [\_\_\_\_\_], and am able to offer you the following terms and conditions for a retail lease at this location:

1. **Premises:** [Add description of leased space, e.g., suite number, address, etc.], [City], [STATE], [1,712{*adjust net square footage number, example for illustrative purposes only*}] net square feet (NSF).
2. **Permitted Use:** The leased Premises shall be restricted for use as a [add description of tenant's use. E.g., "retail store providing XXX service."].
3. **Term:** {*all items below are examples for illustrative purposes, adjust as needed*}
  - (i) **Initial Lease Term** shall be ten (10) years.
  - (ii) **Lease Delivery Date** shall be the date when the Landlord completes its work in the Premises and turns it over to the Tenant to perform its leasehold improvements, if any.
    - (iii) **Lease Commencement** of lease term shall be the earlier of (a) when Tenant opens for business, or (b) 120 days after Landlord delivers space to Tenant {*this form assumes a Tenant will need to conduct some amount of fit-up work*}.
  - (iv) **Extension Options:** Tenant shall be provided two, consecutive, 5-year extension options with six months advance written notice.
4. **Minimum Basic Rent:** {*all items below are examples for illustrative purposes, adjust as needed*}
  - (i) Tenant shall pay a Minimum Basic Rent of \$26/NSF for the first two years of the Initial term and be granted free rent the first two months of the first year of the Initial Term. Accordingly, Minimum Basic Rent shall be  $\$26 \times 1712 = \$44,512/\text{year}$  payable over 12 monthly installments of \$3,709.33. Free rent total = \$7,418.66.
  - (ii) Thereafter, on the anniversary of each lease year during the Initial Lease Term, the Minimum Basic Rent shall increase by three percent (3%).
  - (iii) If Tenant exercises the Extension Options, the Minimum Basic Rent shall continue to increase annually by three percent (3%).
  - (iv) Minimum Basic Rent shall be paid on a monthly basis, in advance, based on twelve equal payments during each lease year.
  - (v) If during the term of the Lease the Tenant is in default, then the free rent shall

be reversed and be payable to Landlord.

(vi) Late fees and penalties will be assessed if payment of Minimum Basic Rent is not timely received within first ten (10) days of the month at the rate of Five Percent (5%) of the amount due, and after thirty (30) days late an additional one and one-half percent (1.5%) will be added to the unpaid amount on a monthly basis.

5. Common Area Maintenance (CAM): *{all items below are examples for illustrative purposes, adjust as needed}*

(i) Tenant shall pay CAM as Additional Rent at the rate of \$3.00/NSF, which shall be subject to annual review and trued-up, if applicable. Accordingly, the CAM charge shall be \$5,136/year payable over 12 equal monthly installments of \$428.00.

(ii) CAM shall be due and payable starting at Lease Commencement.

(iii) Landlord services under CAM, include but are not limited to, snow and ice removal, electric to the common areas, security, building insurance, trash and recycling removal and other services to the common areas of the retail portion of the Building.

(iv) Any CAM due and owing Landlord based on annual review and trued-up shall be paid by Tenant as Additional Rent based on Tenant's pro-rata occupancy of the total common area of the retail portion of the Building. Tenant's Pro-Rata Share, is estimated to be 6.75% ( $1712/25352 = 6.75$ ).

6. Taxes and Impositions: *{all items below are examples for illustrative purposes, adjust as needed}* Tenant shall pay to Landlord, as Additional Rent on a monthly basis, starting at Lease Commencement, estimated Taxes and Impositions, which shall be subject to reconciliation on an annual basis once actual tax and imposition bills are received by the Municipality. Tenant shall pay its pro-rata share of any tax or imposition escalation if the municipality does not assess taxes and impositions on Tenant's separate leased premises from the taxable portion of the Building.

7. Utilities: *{all items below are examples for illustrative purposes, adjust as needed}* Tenant shall be responsible for all Utilities delivered to the Leased Premises and associated expenses commencing from the Lease Delivery Date.

8. Security Deposit: *{all items below are examples for illustrative purposes, adjust as needed}* Shall be equivalent to three (3) months' rent, which shall be paid to Landlord at time of Lease execution. For the avoidance of doubt, the Security Deposit of \$11,128.00 shall be due at lease signing.

9. Letter of Credit or Personal Guaranty: *{all items below are examples for illustrative purposes, adjust as needed}* Tenant shall be required to provide Landlord with either a Bank Letter of Credit or Personal Guaranty equivalent to six (6) months Minimum Basic Rent at Lease execution.

10. Tenant Insurance: *{all items below are examples for illustrative purposes, adjust as needed}* Tenant shall provide Landlord with a Certificate of Insurance prior to Lease Delivery Date naming Landlord as an additional insured on a primary and non-contributory basis, with minimum coverages established by Landlord.

INSTITUTIONAL LETTERHEAD

11. Holdover Penalty: {all items below are examples for illustrative purposes, adjust as needed} If Tenant does not timely vacate the Premises at the end of its Lease Term, for each month Tenant remains in occupancy beyond the Lease Term Tenant shall pay to Landlord Minimum Basic Rent at the rate of two hundred percent (200%) of the then monthly Minimum Basic Rent.

12. Landlord's Work: {all items below are examples for illustrative purposes, adjust as needed} Landlord agrees to deliver Tenant a vanilla box with bathroom and access to tie into all utilities required for its Permitted Use.

13. Tenant's Work: {all items below are examples for illustrative purposes, adjust as needed}

(i) Upon Lease Delivery Date, Tenant shall commence performing any of its leasehold improvements, which shall be subject to review and approval by Landlord, and commence upon the issuance of any permits, licenses, or other governmental requirements. Tenant shall have 120 days from Lease Delivery Date to complete its leasehold improvements. Lease Commencement shall begin the earlier of when Tenant opens for business or at the conclusion of the 120-day period for Tenant's Work.

(ii) Tenant shall provide architectural and/or construction documents to Landlord in advance of Lease Delivery Date for its review and approval, depicting all leasehold improvements it shall undertake for the installation of any fixtures, furniture and equipment it requires for its Permitted Use, and any lighting fixtures, bathroom redesign, and flooring.

14. Compliance: {all items below are examples for illustrative purposes, adjust as needed} Tenant shall be obligated to be compliant with Landlord's Beverage Agreement or other exclusivity contracts, shall follow [Landlord Institution] Code of Conduct, and shall abide by Landlord's Rules and Regulations as promulgated for the retail portion of the Building.

If you are in agreement with this proposal for leasing the retail premises at the Building, kindly indicate your consent to the terms and conditions in this offer by signing and returning the document to me. This is a non-binding offer, subject to the entering of a formal written lease agreement.

Thank you for your time and consideration, I look forward to your reply.

Very truly yours,

[Name and address of institutional representative]

Agreed and Consented to by  
[Name of Potential Tenant]

{Add appropriate signature block}

## LEASE AGREEMENT

This **Lease Agreement**, made \_\_\_\_\_ (the "**Effective Date**"), between **RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY**, an instrumentality of the State of New Jersey, having an address at 33 Knightsbridge Road, 3<sup>rd</sup> Floor East, Piscataway, New Jersey 08854, Attn: Real Estate ("**Landlord**" or "**Rutgers**"), and \_\_\_\_\_, a corporation of the State of \_\_\_\_\_, having an address at \_\_\_\_\_ and trading as \_\_\_\_\_ ("**Tenant**").

### RECITALS

**WHEREAS**, Landlord is the owner of the building located on Landlord's \_\_\_\_\_ {*add campus name*} Campus at \_\_\_\_\_ {*address*}, in \_\_\_\_\_ {*city*}, New Jersey, situated upon Block \_\_\_\_, Lot(s) \_\_\_\_, and known as "\_\_\_\_\_" (the "**Building**"), which contains certain [ground level] retail space, the "**Retail Area**", available for lease; and

**WHEREAS**, Tenant desires to lease from Landlord the retail space designed as Retail Unit \_\_\_\_ (the "**Premises**") in the Retail Area, and Landlord is willing to lease the Premises upon the terms and conditions set forth herein;

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions herein contained, Landlord and Tenant hereby agree as follows:

#### **Section 1. Premises; Term; Delivery; Commencement**

(a) Landlord hereby leases to Tenant, and Tenant hereby rents from Landlord, Retail Unit \_\_\_\_\_, located in the Retail Area of the Building, which contains \_\_\_\_\_ square feet, and has a street address of \_\_\_\_\_, [City], New Jersey, and as more particularly shown in **Schedule A** attached, and made a part hereof, for a **Term** of \_\_\_\_\_ (\_\_) years (with the first month of the first year of the term to include any partial calendar month at the inception of the Term, as well as the first full calendar month of the Term) commencing on the earlier to occur of (a) the date Tenant first opens the Premises to the public for business or (b) one hundred twenty (120) days after Delivery (as defined below) (the "**Commencement Date**"), to be used and occupied only and for no other purpose than \_\_\_\_\_ {*add description of Tenant's business use*} upon the terms and conditions as more particularly set forth in this Lease. Notwithstanding the foregoing, and without expanding Tenant's permitted use as defined above, Tenant acknowledges that certain restrictions affect the use of the Premises and Tenant covenants and agrees not to use the Premises so as to violate any of the restrictions on **Schedule F** and shall indemnify, defend and save Landlord harmless from and against all claims, damages and losses if Tenant violates any such restrictions. A site plan of the Building, Retail Area, and Premises is attached as **Schedule A-1**.

(b) If Tenant shall be permitted to enter the Premises for any purpose prior to commencement of the term, Tenant shall thereupon be responsible for compliance with all its obligations under this Lease except that Tenant shall not be required to pay Base Rent (as defined below) until the Commencement Date. "**Delivery**" shall be deemed to have occurred when Landlord shall have achieved



Substantial Completion (as defined below) of certain work to be performed by Landlord ("**Landlord's Work**") so as to deliver what is typically called a "vanilla shell", all as set forth in greater detail in the work letter made a part hereof as the attached **Schedule B**. "**Substantial Completion**" shall mean completion of Landlord's Work other than incomplete work in what are typically deemed "punch list" items that do not affect Tenant's ability to undertake its work in the Premises. Within twenty (20) days after the later to occur of the execution of this Lease or the date Landlord delivers to Tenant the drawing(s) showing the proposed footprint, column layout, utility locations, door openings, signage locations and interior clear dimensions of the Premises, Tenant shall provide Landlord with a layout plan and detailed plans and specifications for Tenant's work, which will be subject to the written approval of Landlord, not to be unreasonably withheld, it being understood that all other work to prepare the Premises for Tenant's conduct of business shall be performed by Tenant at Tenant's expense, in accordance with the standards hereinafter set forth with respect to alterations made by Tenant.

(c) The Lease does not include dedicated parking. Tenant shall be responsible to arrange for adequate parking for its employees.

**Section 2. Rent**

(a) **Base Rent: General Provisions** Beginning on the Commencement Date, Tenant shall pay to Landlord, as base rent (the "**Base Rent**") in equal monthly installments during the term hereof, the following annual amounts:

<u>Year</u>	Annual	<u>Monthly</u>
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

All such monthly installments of Base Rent shall be due and payable to Landlord in advance on the first day of each calendar month at the following address: **Rutgers, the State University of New Jersey, 33 Knightsbridge Road, 3<sup>rd</sup> Floor East, Piscataway, New Jersey 08854 Attn: IP&O Business Services – Economic Development**, or as may otherwise hereinafter be specified by notice from Landlord to Tenant. All other amounts due from Tenant under this Lease constitute "**Additional Rent**" and are sometimes, together with the Base Rent, collectively called "**Rent**". All Rent under this Lease shall be payable without setoff or deduction. The Rent for any partial calendar month shall be prorated and shall be due and payable at the beginning of such partial month. **The Base Rent for the first full calendar month of the term is due upon execution hereof.** It is the intention of the parties that the Rent payable to Landlord shall be "**triple net**," this is, that Landlord shall have no expense attributable to the operation or maintenance of the Premises except as may

otherwise be set forth in this Lease and except payment of its own debt or mortgage costs.

(b) **Common Area Maintenance (CAM)/Insurance Payment** (i) Commencing on the date of Delivery and thereafter for the remainder of the Term, Tenant shall pay to Landlord, as Additional Rent, in equal monthly installments in advance on the first day of each calendar month during the Term hereof, **\$3.00/square feet** for CAM/Insurance Payment, as its contribution towards the expenses of operating, insuring, maintaining, repairing and replacing the Building and common areas and facilities in the Building or Retail Area. The CAM/Insurance shall be reviewed each calendar year and for any calendar year that the actual CAM/Insurance Payment exceeds the total CAM collected, then Tenant shall pay its Pro Rata Share (as hereinafter defined) of the shortfall amount within thirty (30) days of receipt of Landlord's invoice for such Pro Rata Share.

(ii) For purposes of this Lease, Tenant's "**Pro Rata Share**" shall be equivalent to the rentable square footage of the Premises (\_\_\_\_\_) divided by the square footage of the Retail Area (\_\_\_\_\_), which equates to \_\_\_\_\_%.

(c) **Utilities** Tenant shall pay when due, as Additional Rent, all the fees or charges for electricity and/or other utilities used by Tenant at the Premises, as separately metered. As of the Commencement Date all utilities are separately metered, however if that should change during the Term then Tenant shall be responsible for its Pro Rata Share of utilities as reasonably determined by Landlord, it being understood that such obligation shall commence at the earlier of Delivery or Tenant's taking occupancy of the Premises for any purpose. Tenant shall provide evidence that the meter bill has been transitioned to its entity at time of Delivery.

(d) **Payment of Taxes** (i) If the City of \_\_\_\_\_ ("**City**") assessed Real Property Taxes (defined below) against the Premises (directly and separately from other spaces in the Building), then Tenant shall pay the actual amount of Real Property Taxes assessed against for the Premises plus Tenant's Pro Rata Share of any Real Property Taxes assessed against the common areas of the Retail Area, if any, as Additional Rent, commencing upon the Commencement Date (collectively "**Tenant's Taxes**").

(ii) If the Real Property Taxes applicable to the Premises have not been determined by the City at any point during the Term, then Tenant's Taxes shall be based on the amount of the Real Property Taxes for the immediately preceding tax year that are allocated to the Premises as determined by Landlord by applying the Tax Formula (defined below), provided however, that any change of Tenant's Taxes that arises because of the City's assessment of Real Property Taxes against the Premises (in lieu of the Tax Formula-derived amount) shall be subject to immediate adjustment at the time the Real Property Taxes applicable to the Premises is determined by the City. Tenant shall pay the amount required as a result of such adjustment within ten (10) days following Tenant's receipt of a bill therefor.

(iii) Tenant shall pay Tenant's Taxes as follows: on the first day of each month during the Term, Tenant shall pay to Landlord, in advance, an amount obtained by dividing Tenant's Taxes by twelve (12).

(iv) Application of the Tax Formula applies when Real Property Taxes applicable to the Premises have not been determined by the City at any point during the Term. The "**Tax Formula**" is (y)

that portion of the Real Property Taxes assessed against the land on which the Retail Area is located which the gross Floor Area of the Premises bears to the gross leasable Floor Area of all premises available for lease to tenants for which a shell certificate of occupancy has been issued within the Retail Area; plus (z) that portion of the Real Property Taxes assessed against those improvements within the Retail Area which are part of the common areas which the gross Floor Area or the Premises bears to the gross leasable Floor Area of all premises available for lease to tenant for which a shell certificate of occupancy has issued within the Retail Area.

(v) The term “**Real Property Taxes**” shall include all taxes, assessments, Environmental Surcharges (as defined below), if any, and all governmental charges levied upon or with respect to the real property and improvements (or any future tax levied in lieu of or in addition to Real Property Taxes) within the Retail Area, and any tax or excise on rents or any other tax, however described, levied against Landlord on account of the Base Rent and Additional Rent reserved hereunder or on the business of renting space in the Retail Area or any other tax, or such other costs and fees incurred by Landlord in contesting all taxes and/or negotiating with any public authorities with respect thereto; provided, however, that the term “Real Property Taxes” shall not include any franchise, estate inheritance, succession, capital levy, net income or excess profits taxes imposed upon Landlord.

(vi) The term “**Environmental Surcharge**” shall mean and include any and all expenses, taxes, charges or penalties imposed by the Federal Department of Energy, Federal Environmental Protection Agency, the Federal Clean Air Act or any regulations promulgated thereunder, or any other local, state or federal governmental agency or entity now or hereafter vested with the power to impose taxes, assessments or other types of surcharges as a result of the presence of hazardous materials upon or about the Premises, the Retail Area including the common areas or as a means of controlling or abating environmental pollution or the use of energy in regard to the use, operation or occupancy of the Retail Area.

(e) **Hold-Over** If Tenant fails to surrender the Premises in good condition at the end of the Term, such holding over shall not be deemed to extend or renew the Term and, in addition to such other remedies as Landlord may have, Tenant shall be deemed a tenant-at sufferance and shall be required to pay **twice** the monthly Base Rent payable during the last month of the Term.

(f) **Trash/Refuse** Tenant shall be solely responsible for all trash removal from the Premises and placement into appropriate trash receptacles. Landlord shall designate specific locations for the storage of any trash or refuse generated from the Premises and shall arrange for its removal from the Retail Area. Tenant shall be billed for this service by Landlord as an Additional Rent expense.

(g) **Sidewalks** Tenant shall keep sidewalks and other areas adjacent to the Premises free and clear of any waste product or recycling emanating from the Premises and shall immediately notify Landlord of any hazardous condition requiring maintenance or repair. Tenant shall not use sidewalks and other areas adjacent to the Premise for displays, wares or signs of any kind.

### **Section 3. Leasing "As Is"; Maintenance and Surrender of Premises**

(a) **Tenant's obligation** Tenant has examined the Premises and has entered this Lease without any representation on the part of Landlord as to the condition of the Premises, which are leased "as is" except for Landlord's Work as set forth above. Tenant shall during the Term keep the

Premises and every part thereof in first-class order, condition and repair, including, without limiting the generality of the foregoing, all plumbing, heating, air conditioning, ventilating, electrical and lighting facilities and equipment within the Premises, fixtures, interior walls and interior surface of exterior walls, ceilings, windows, doors, exterior doors, plate glass, showcases, floors and the floor slab, entrances and vestibules located within the Premises. Tenant shall paint the interior walls and interior surface of exterior walls as often as may be required to keep the Premises neat and attractive. If Tenant fails to perform its obligations under this Section, Landlord may at its option, after five (5) days' written notice to Tenant, enter upon the Premises and put the same in good order, condition and repair and the cost thereof shall become due and payable as Additional Rent by Tenant to Landlord upon demand. On the last day of the Term hereof, or on any sooner termination, Tenant shall surrender the Premises to Landlord in the same condition as when received, ordinary wear and tear and damage by fire, the elements or any other cause beyond the control of Tenant excepted.

(b) **Landlord's Obligation** Landlord shall, during the Term keep in good order, condition and repair the Building and Retail Area, the Building foundations, exterior walls (excluding the interior surface of exterior walls and excluding all windows, doors, plate glass and showcases), downspouts, gutters and roof provided, however, that Landlord shall have no obligation to effect any repair until a reasonable time after the receipt by Landlord of written notice of the need for said repair. If the need for any such repair is as a result of the acts or omissions of Tenant, its agents, servants, contractor or invitees, Tenant shall reimburse Landlord for the cost thereof within ten (10) days following Tenant's receipt of an invoice for such work to the extent not covered by Landlord's insurance. If said costs were not as the result of acts described in the preceding sentence then said costs shall be common area costs and allocated in accordance with Tenant's Pro Rata Share. Tenant agrees that it will promptly notify Landlord of the need for any such repair. Tenant waives the provisions of any law permitting Tenant to make repairs at Landlord's expense. Notwithstanding anything to the contrary in this Lease, there is reserved to Landlord the use of the exterior walls and roof and the right to install, maintain, use, repair and replace pipes, ducts, conduits and wires through the Premises in locations which will not materially interfere with Tenant's use thereof.

**Section 4. Alterations** No alterations, additions or improvements shall be made, and no air conditioning, cooling, heating or sprinkler systems, television or radio antennas, or heavy equipment, apparatus or fixtures shall be installed in or attached to the Premises or the exterior of the Premises or Building without the prior written consent of Landlord. Unless Landlord otherwise specifies to Tenant, all such alterations, additions, improvements, fixtures and systems, when made, installed in or attached to the Premises, shall belong to and become the property of Landlord and shall be surrendered in reasonable condition with the Premises upon the expiration or sooner termination of this lease. If Landlord elects to have any alterations, additions, improvements, fixtures and systems removed, Tenant shall, at its sole cost and expense, remove, repair and restore the Premises. This requirement shall survive the expiration or sooner termination of the Lease. As to any work that Tenant may perform at the Premises, including its initial work to prepare the Premises for Tenant's opening for business, Tenant shall procure any necessary building permits and complete the work in a good and workmanlike manner, in compliance with all applicable laws, ordinances, rules and regulations of any duly constituted governmental authority and of the New Jersey Fire Insurance Rating Organization, or similar bodies having jurisdiction, and of any insurance companies which have issued or shall issue policies of insurance covering the Premises or its contents (collectively, "**Legal Requirements**"), which are expressly deemed to include, without limitation, requirements of any governmental authority relating to preservation of

historic structures), and in accordance with plans and specifications first approved by Landlord. Tenant shall obtain any applicable certificate of occupancy and provide same to Landlord.

**Section 5. Signage** Tenant shall, at its cost, erect a sign above its storefront, and (if required by Landlord) an awning with respect to the Premises, and shall maintain same in good condition and repair and replace same as needed. Tenant shall not place or allow to be placed any signs upon, in or about the Premises, except of a design and structure and in or at such places as may theretofore be consented to by Landlord in writing, which consent shall not be unreasonably withheld. In case Landlord or Landlord's agents, employees or representatives shall deem it necessary to remove any such signs in order to paint or make any repairs, alterations or improvements in or upon the Building, the signs may be so removed but shall be replaced at Landlord's expense when the alterations or improvements shall have been completed. Any signs permitted by Landlord shall at all times conform with Legal Requirements and the then-applicable sign criteria for retail tenants in the Building, the current version of which is attached as **Schedule C**.

**Section 6. Compliance with Law**

(a) **Legal Requirements** Tenant shall comply with all Legal Requirements applicable to the Premises and the use thereof, and shall obtain any required certificate of occupancy.

(b) **Incentives Programs** Tenant hereby acknowledges that Landlord may apply for and/or participate in one or more incentives programs offered, from time to time, by governmental or taxing authorities (collectively, "**Incentives Programs**") with respect to the overall Retail Area (or portions thereof), and/or the construction of Landlord's Work, Tenant's Work and future alterations thereto. To the extent required by or in support of such Incentive Programs, Tenant agrees that: (i) all contracts for any construction work performed by Tenant will comply with applicable LEED, affirmative action, prevailing wage and other wage, hour, labor and employment requirements (presently set forth at [www.NJEDA.COM/AFFIRMATrVEACTION](http://www.NJEDA.COM/AFFIRMATrVEACTION)); (ii) at Landlord's request, Tenant shall execute and deliver a waiver of sales tax confidentiality and any other documents reasonably required by any Incentives Program in order to waive the confidentiality of sales taxes payable in connection with Tenant's business at the Premises, so that such sales tax information (and confirmation of the payment of sales taxes) may be released by the State of New Jersey Division of Taxation to Landlord or its lender, and (iii) at Landlord's request, Tenant shall provide such other information as is reasonably required by or in support of any Incentives Program, including but not limited to data regarding jobs creation, sales data and levels, names, addresses, taxpayer identification numbers, and the racial/ethnic composition of Tenant's employees in the Premises and Tenant's contractors and subcontractors performing work in the Premises and information concerning changes in business ownership and any other information that may be required or requested by any agency, division or instrumentality of the City, County of \_\_\_\_\_ or the State of New Jersey. Tenant shall not be entitled to any benefits from the Incentives Programs.

**Section 7. Insurance and Indemnification**

(a) **Tenant Insurance Obligations** Throughout the Term of this Lease, Tenant shall obtain and maintain, at its sole cost and expense, and keep in full force for the benefit of Tenant and

Landlord, and designating Landlord as an additional insured on a primary and non-contributory basis the following minimum insurance: (i) commercial general liability insurance against any and all liability or claims of liability arising out of, occasioned by or resulting from any accident or otherwise in or about the Premises, on a CG 00 01 form or its equivalent, for injuries to any person or persons, for limits of not less than Five Million Dollars (\$5,000,000.00) combined single limit for any one accident or occurrence; (ii) commercial auto liability to include owned (if any), non-owned, and hired automobiles with limits of not less than \$1,000,000 combined single limit per accident for bodily injury and property damage and such other coverage as required by the law; (iii) workers compensation insurance covering all of Tenant's employees for Workers' Compensation as required by law, in statutory amounts, and Employer's liability coverage of \$1,000,000 for each accident, each employee and per policy; (iv) umbrella liability to be excess and follow-form over the Commercial General Liability, Automobile Liability, and Employer's Liability Insurance, written on an "occurrence" form with limits of liability of \$5,000,000 per occurrence, and per location; (v) property insurance provided under a Special Form or "All Risks" policy, including, but not limited to, coverage for windstorm, hail, earthquake, flood, and water damage, including fire sprinkler damage, in an amount of the full replacement cost value of Tenant's improvements and betterments (and alterations), personal property, trade fixtures, furnishings, equipment and inventory (together "**Tenant's Property**"), including equipment breakdown coverage and plate glass coverage, and shall include an agreed amount endorsement waiving any coinsurance limitation; and (vi) business income coverage with limits not less than an amount necessary to cover continuing expenses including Rent and extra expenses for at least one (1) year and covering risk of loss insured under subparagraph (v) above, and including Landlord as a loss payee as its interests may appear; each of which amount shall be subject to increase by notice from Landlord to Tenant if Landlord reasonably determines that any higher amount generally prevails for uses of the type involved in the New York City/northern New Jersey metropolitan area. The policy(ies) of insurance shall be of a company(ies) authorized to do business in New Jersey carrying a Best's rating (or its then equivalent) of no less than A-VIII and shall be delivered to Landlord, together with evidence of the payment of the premiums therefor, not less than fifteen (15) days prior to the Commencement Date or the date when Tenant shall enter into possession, whichever occurs sooner, except that Tenant shall provide Landlord with proof of Worker's Compensation coverage prior to the date that Tenant hires full time employees to conduct business from the Premises. At least thirty (30) days prior to the expiration or termination date of any policy, Tenant shall deliver a renewal or replacement policy with proof of the payment of the premium. Tenant is also required to provide proof of this insurance during the period of time between Delivery Date and Commencement Date, and all of its contractors, subcontractors, employees, agents, workers, etc. shall be required to provide evidence of this insurance and name Rutgers as an additional insured, prior to the commencement of any work being performed in the Premises.

(b) **Tenant Indemnity** Tenant shall defend, hold harmless, and indemnify Landlord, and its members, directors, officers, shareholders, trustees, governors, lenders, affiliates, employees and agents (together the "**Landlord Parties**") against any liability, loss, damages, payments, expenses, fines, penalties, costs, third-party claims, demands and actions (sometimes in this Lease collectively referred to as "**Liability**", it being understood that Liability shall include attorneys' fees and costs in defense against any claim, demand or action and shall include, without limitation, losses or damage to property or injuries to persons and any other type of loss or damage) incurred by or asserted against Landlord Parties arising out of or resulting from (i) the negligence or willful misconduct of Tenant or Tenant's agents, employees, contractors, customers or invitees (sometimes in this Lease being

collectively called "**Agents**"), (ii) Tenant's failure to comply with any of its obligations under this Lease, or (iii) Tenant's violations of any federal, state, or local laws or regulations. Notwithstanding the foregoing, Tenant shall not be obligated to defend, hold harmless, or indemnify Landlord for any Liability resulting from the gross negligence or willful misconduct of Landlord, its agents, employees, or contractors. This subparagraph (b) shall survive expiration or earlier termination of this Agreement.

(c) **Landlord Obligations** Landlord shall obtain or provide and keep in full force a commercial general liability insurance for limits of not less than Two Million Dollars (\$2,000,000.00) combined single limit for any one accident or occurrence. Landlord shall also procure and maintain in force throughout the Term of this Lease (i) "special form" (formerly known as "all risks") property insurance insuring those items constructed or installed by or on behalf of Landlord, other than Tenant's work (collectively, the "**Landlord's Improvements**") within the Premises against loss or damage (except loss or damage by earthquake, war or nuclear incident) and including but not limited to endorsements covering losses sustained by reason of fire, lightning, windstorm, cyclone, tornado, hail, explosion, riot, riot attending a strike, civil commotion, vandalism, malicious mischief, aircraft, vehicle, smoke damage and sprinkler leakage. The property insurance policy, and all endorsements thereto, shall be in an amount at least equal to the full replacement cost of the Landlord Improvements to the Premises but excluding foundations, Tenant's Property, and property of other tenants.

(d) **Waiver and Subrogation** Notwithstanding anything in this Lease to the contrary, Landlord and Tenant hereby waive and release each other, and their respective directors, officers, members, shareholders, partners, agents and employees, of and from any and all rights of recovery, claim, action or cause of action against each other for any property loss or damage that may occur to the Premises, the Building, or the Retail Area, any improvements thereto or any of the contents thereof, regardless of cause or origin, other than the gross negligence or willful misconduct of Landlord or Tenant or their agents, officers and employees. Because this subsection will preclude the assignment of any claim mentioned in it by way of subrogation or otherwise to any property insurance company or any other person, each party to this Lease agrees immediately to give to each property insurance company which has issued to it policies of insurance covering risk of direct physical loss or loss of income written notice of the terms of the mutual waivers contained in this subsection, and to have the insurance policies properly endorsed, if necessary, to prevent the invalidation of the insurance coverages by reason of the mutual waiver contained in this subsection. Landlord and Tenant acknowledge that the waivers and releases set forth in this subsection are intended to result in any loss or damage which is covered or coverable by insurance being borne by the insurance carrier of Landlord or Tenant, as the case may be, or by the party having the insurable interest if such loss is not covered by insurance and this Lease required such party to maintain insurance to cover such loss. Landlord and Tenant agree that such waivers and releases were freely bargained for and willingly and voluntarily agreed to by Landlord and Tenant and do not constitute a violation of public policy.

**Section 8. Assignment** Except for Permitted Transfers, Tenant shall not, without the prior written consent of Landlord (which consent shall be permitted to be granted or withheld in Landlord's sole and absolute discretion), assign or mortgage this Lease, or sublet the Premises or any part thereof. Consent to any assignment or subletting shall not be deemed consent to any other or further assignment or subletting. Notwithstanding the foregoing, Tenant shall have the right, with ten

(10) days' prior notice to Landlord but without Landlord's consent, without charge, and without Landlord having any recapture right, to assign this Lease or sublet all or any portion of the Premises: (i) to any entity owned 50% or more by Tenant or any of Tenant's owners or affiliates; (ii) in connection with the sale of all or substantially all of Tenant's assets; or (iii) to Tenant's franchisor or an affiliate of Tenant's franchisor (each of the foregoing, a "**Permitted Transfer**"). If the Lease is assigned in connection with a Permitted Transfer, and Landlord receives a new personal guaranty from a guarantor with a net worth of not less than the net worth of Tenant measured as of the Commencement Date of this Lease, then Tenant and any than existing guarantor of this Lease shall be released from all further payments of Rent and for the performance of all terms, covenants and conditions herein undertaken by Tenant. Any other assignment or subletting of this Lease shall require Landlord's prior consent, which may be withheld in Landlord's sole discretion.

## **Section 9. Conditions of Use**

(a) **General Provisions** Tenant shall not (i) occupy or use the Premises, or permit the Premises to be occupied or used, for any purposes other than as herein limited or for any purpose deemed unlawful, disreputable or extra hazardous, or (ii) use the Premises or conduct its business or otherwise act or fail to act in such fashion so as to involve noxious, excessive or inappropriate noise, vibrations, odors, fumes or other effects as would affect any other tenant(s) or user(s) of the Building or Retail Area, or so as to cause or constitute any public or private nuisance or interfere with the quiet enjoyment of any other tenant or user. Not in limitation of the generality of the above, Tenant expressly agrees as follows: to exterminate the Premises as required so as to keep the Premises free of rodents and other vermin; that no music shall be permitted that may be heard outside of the Premises (unless previously agreed to); and that insulation on the ceiling and walls shall be sufficient so as not to disrupt other users or tenants, it being more particularly agreed that the walls shall have an STC rating of at least 50 and the floors/ceilings assemblies a IIC rating of at least 50.

(b) **Food Use** If Tenant's business is a restaurant or other use involving the on-premises preparation of food, Tenant's means of disposal of refuse, disposal of grease, and venting of odors must be satisfactory to Landlord and in accordance with Legal Requirements and the applicable requirements on **Schedule E**. Not in limitation of the generality of the foregoing, Tenant shall provide to Landlord, prior to commencement of the conduct of business at the Premises, evidence of Tenant having a contract and/or a specific treatment facility, reasonably acceptable to Landlord, with respect to the disposition of grease (such contract and/or treatment facility being referred to below collectively or individually as a "**Grease Treatment Procedure**"). In any event, the Grease Treatment Procedure shall at all times be sufficient to meet all Legal Requirements as well as to meet any applicable governmental regulations and guidelines controlling or directed toward the quality or quantity of effluent content in sewer lines. During the Term, Tenant shall provide to Landlord, upon Landlord's reasonable request from time to time, evidence of Tenant's maintenance in effect of an acceptable Grease Treatment Procedure that meets the then Legal Requirements and governmental regulations and guidelines.

(c) **Insurance Costs Increase** If by reason of the use to which the Premises are put by Tenant or the character or manner in which Tenant's business is carried on, the insurance rates for fire and other hazards for the Building or Property shall be increased, Tenant shall pay to Landlord, upon demand as Additional Rent, the amounts by which the premiums for such insurance are increased.



(d) **Covenant to Open and Operate** Tenant covenants to initially open the Premises for business to the public no later than the Commencement Date and thereafter shall, at all times during the term, continuously conduct and operate the Premises seven (7) days per week, for at least sixty (60) hours per week, as a \_\_\_\_\_ {insert description of use} under the trade name “ \_\_\_\_\_ ”, and for no other use or purpose or under no other trade name without Landlord's consent. Tenant acknowledges that if it fails to continuously operate its business in the Premises in accordance with the terms of this Lease or vacates the Premises prior to the end of the term, Landlord will suffer damages in an amount which are not readily ascertainable, and that in such event, Landlord shall have the right, in addition to all other remedies, to collect as liquidated damages and not as a penalty, in addition to all other charges due hereunder, one hundred percent (100%) of the per diem Base Rent for each whole or partial day Tenant fails to so operate.

(e) **Use Restrictions** In no event shall Tenant's use of the Premises or Retail Area consist of any of the following prohibited activities or businesses unless approved in writing by Landlord: dance club or hall, discotheque; nightclub, cabaret, or other similar type of operation, any church, synagogue or other religious facility, any gasoline or service station, motor vehicle service or repair business (including lubrication and/or service center), or body and fender shop, any facility for the sale, lease or rental of automobiles, trucks, motorcycles, recreational vehicles, boats or other vehicles, any motor vehicle or boat storage facility, any car wash facility, any manufacturing facility or industrial or manufacturing uses, any "Urgent Care" clinic / "Minute Clinic" or similar health care clinics open to the general public, any dry cleaner, any retail operation in which more than twenty (20%) percent of the sales area of such operation is used for the display and/or sale of clothing or goods commonly referred to as close outs, manufacturer's overruns, or excess inventory or manufacturer's seconds or imperfect merchandise, any "second hand" store, used clothing or thrift store (provided, however, that boutique consignment shops are permitted uses and shall be deemed "carved out" from this list of restricted uses), pawn shop, salvation army type store, "surplus" store or liquidation outlet, any deep discount retailer (such as, without limitation, "dollar" stores), any mortuary or funeral parlor, any coin operated laundry, any bookstore, and medical clinic, any marijuana dispensary (whether medical or recreational marijuana, even though sale of same is legal in the State of New Jersey), the sale, leasing or display of pornographic materials or drug paraphernalia or establishment engaged in the business of selling, exhibiting or delivering pornographic or obscene materials (provided, however, that any bookstore or retail operation that is affiliated with Rutgers University that may sell such material for educational purposes associated with Rutgers University's academic mission are permitted uses and shall be deemed "carved out" from this list of restricted uses), massage parlor or other similar type of operation, any so-called "head" shop, any tattoo or piercing parlor or similar type usage, any off-track betting parlor, any junk yard or flea market, any recycling facility or stockyard, any facility for the slaughtering of animals, billboards or digital advertising signage (collectively, the "**Use Restrictions**"). Tenant's use of the Premises or Retail Area in any manner that violates the foregoing Use Restrictions shall constitute a material default or event of default by Tenant under this Lease giving rise to a right of Lease termination by Landlord.

(f) **Compliance with Rutgers Beverage Agreement or Other Exclusivity Agreements** Tenant hereby acknowledges that Rutgers currently has a campus-wide exclusive beverage arrangement with the Coca-Cola Company and/or bottlers licensed by it. Tenant is expected to exclusively purchase and sell only Coca-Cola products pursuant to the contract. The current list of beverage categories, beverages and pricing (the "**Approved Beverages**"), is attached hereto as

**Schedule G.** An excerpt from the contract containing permitted exceptions to the Approved Beverages is attached hereto as **Schedule H.** Rutgers or Coca-Cola shall promptly notify Tenant if the list of Approved Beverages changes at any time and will send Tenant an updated Approved Beverage list; thereafter, Tenant shall comply with any changes to the Approved Beverages sold at the Premises as soon as reasonably practicable. Any beverages Tenant desires to sell that are not included in the Approved Beverages list must be reviewed and approved by Rutgers prior to being offered for sale. If Rutgers extends or modifies the Coca-Cola Agreement, or enters into another exclusive beverage arrangement generally applicable to Rutgers campuses then Tenant agrees to be subject to such new or replacement agreement/arrangement and acknowledges that any such agreement/arrangement will apply to Tenant's operation, unless specifically excluded. Coca-Cola will make a representative available to work with Tenant to discuss in more detail how the exclusive agreement works and the options and products that Coca-Cola offers. Tenant is encouraged to reach out to Coca-Cola's campus representative for Rutgers, \_\_\_\_\_, Email: \_\_\_\_\_.

## **Section 10. Behavior Expectations**

(a) **Rutgers Values** Rutgers University is committed to the values of diversity and engaging with our local communities and drawing connections to the global environment for the improvement of the economic and social well-being of society as a whole. Rutgers sees itself as a place that drives innovation and social mobility and through education, research, and public service and strives to be an example for bettering our democratic citizenry and improving our campus, local, state, and global institutions and environments. Rutgers University - Newark has, since 1997, been ranked the most diverse national university in the United States by U.S. News & World Report - which is an enormous source of pride for Rutgers. Because of Rutgers' strong interest in advancing these values, Rutgers expects third party tenants who operate in spaces owned or controlled by Rutgers to reflect an atmosphere consistent with Rutgers' values.

(b) **No Discrimination or Harassment** Tenant agrees to uphold and abide by Rutgers' policy prohibiting discrimination and harassment which means, among other things, that Tenant and its employees, must not discriminate against any individual on the basis of race, religion, color, national origin, ancestry, age, sex, sexual orientation, pregnancy, gender identity and expression, disability, genetic information, atypical hereditary cellular or blood trait, marital status, civil union status, domestic partnership status, military service, veteran status, and any other category protected by law. Rutgers' policy prohibiting discrimination and harassment can be found as **policy 60.1.12 at <https://policies.rutgers.edu/view-policies/table-contents>**. Tenant shall also ensure that its employees are aware of this provision and agree to abide by it.

(c) **No Sexual Harassment. Sexual Violence and Related Misconduct** Rutgers is committed to fostering an environment that is safe, secure and free from sexual and gender-based discrimination and harassment, sexual violence, dating and domestic violence, stalking and other related misconduct. Accordingly, and similar to subsection (b) above, Tenant agrees to uphold and abide by Rutgers' policy prohibiting sexual harassment, sexual violence, relationship violence, stalking, and related misconduct. This policy prohibits a broad range of behaviors focused on sex and/or gender that may or may not be sexual in nature and can be found as **policy 60.1.28 at <https://policies.rutgers.edu/view-policies/table-contents>**. Tenant shall also ensure that its

employees are aware of this provision and agree to abide by it.

(d) **Code of Conduct** Tenant shall also endeavor to maintain a welcoming and friendly atmosphere recognizing that the experience that Tenant's customers, invitees, guests, etc. have while in Tenant's Premises reflects on Tenant, and, indirectly, reflects on Rutgers. Rutgers has adopted a code of student conduct which governs the behavior of Rutgers students (the "**Code of Conduct**"). The Code of Conduct can be found as **policy 10.2.11 at <https://policies.rutgers.edu/view-policies/table-contents>**. Rutgers expects Tenant and its employees to be familiar with this Code of Conduct. Tenant agrees that the applicable provisions of Section VII of the Code of Conduct (i.e., Rules and Regulations governing behavior applicable to this context) apply to Tenant and Tenant's employees at any time Tenant and Tenant's employees are on Tenant's premises.

(e) **Mandatory Training** In the event Rutgers receives complaints from students, Rutgers employees or members of the public entitled to use Tenant's premises, or, in the absence of a complaint, Rutgers observes that Tenant or its employees is not honoring this Behavior Expectations provision, Rutgers reserves the right, among other remedies, to require Tenant, or some or all of Tenant's employees, at Tenant's cost, to attend an acceptable bias training course or seminar. In this event, any bias training courses or seminars offered by Rutgers shall be considered acceptable. If Tenant elects not to take a class or seminar offered by Rutgers, Tenant shall provide Rutgers with a description of the bias training course or seminar including a bio about the presenter for Rutgers decision whether the course or seminar is acceptable.

(f) **Acknowledgement** Tenants agrees to adhere to this Behavior Expectation provision and acknowledges that failure to do so shall be considered a non-monetary breach of this Lease.

## **Section 11. Compliance with Environmental Laws**

(a) Tenant shall, at Tenant's own expense, promptly comply with each and every federal, state, county and municipal environmental law, ordinance, rule, regulation, order, directive and requirement, now or hereafter existing ("**Environmental Laws**"), applicable to the Premises, Tenant, Tenant's operations at the Premises, or all of them, including, by way of example and not limitation, the Industrial Site Recovery Act, *N.J.S.A. 13:1k-6 et seq.*, and the regulations promulgated thereunder and any amending and successor legislation and regulations ("**ISRA**").

(b) At no expense to Landlord, Tenant shall promptly provide all information and sign all documents requested by Landlord with respect to compliance with Environmental Laws. Tenant shall permit Landlord and its representatives' access to the Premises, from time to time, to conduct an environmental assessment, investigation and sampling all at Tenant's own expense.

(c) Should any assessment, investigation or sampling reveal the existence of any spill, discharge or placement of contaminants in, on, under, or about, or migrating from or onto the Premises, or the Building or Retail Area, as a result of the action or omission of Tenant or a Tenant Representative (defined below), then, in addition to being in default under this Lease and Landlord having all rights available to Landlord under this Lease and by law by reason of such default. Tenant shall, at Tenant's own expense, in accordance with Environmental Laws, undertake all action required by Landlord and any governmental authority, including, without limitation, promptly obtaining and delivering to Landlord an unconditional No Further Action Letter. For purposes of this Section the term "**Tenant's Representative**"

shall mean any shareholder, officer, director, member, partner, employee, agent, licensee, assignee, sublessee or invitee of Tenant, or any third party other than Landlord, or another Tenant of the Building, or a shareholder, officer, director, member, partner, employee, agent, licensee, assignee, sublessee or invitee of such other Tenant. In no event shall any of Tenant's remedial action involve engineering or institutional controls, a groundwater classification exception area or well restriction area, and Tenant's remedial action shall meet the most stringent published or unpublished remediation standards for soil, surface water, groundwater and drinking water. Promptly upon completion of all required investigatory and remedial activities, Tenant shall, at Tenant's own expense, to Landlord's satisfaction, restore the affected areas of the Premises, Retail Area, or the Building, as the case may be, from any damage or condition caused by the investigatory or remedial work.

(d) Upon Landlord's request, contemporaneously with the signing and delivery of the Lease, and thereafter upon renewal of the lease, if at all, Tenant shall complete, execute and deliver to Landlord an environmental questionnaire in form and substance satisfactory to Landlord.

(e) For purposes of this Section, the term "**Environmental Documents**" shall mean all environmental documentation concerning the Building or Retail Area, of which the Premises is a part, or its environs, in the possession or under the control of Tenant, including, without limitation, plans, reports, correspondence and submissions. During the term of this Lease and subsequently, promptly upon receipt by Tenant or Tenant's Representatives, Tenant shall deliver to Landlord all Environmental Documents concerning or generated by or on behalf of Tenant, whether currently or hereafter existing. In addition, Tenant shall promptly notify Landlord of any environmental condition of which Tenant has knowledge, which may exist in, on, under, or about or may be migrating from or onto the Building or Retail Area.

(f) Notwithstanding anything to the contrary set forth in this Lease, in the event, pursuant to this Lease, Tenant is required to undertake any sampling, assessment, investigation or remediation with respect to the Premises, Retail Area or the Building, as the case may be then at Landlord's discretion, Landlord shall have the right, upon notice to Tenant, from time to time, to perform such activities at Tenant's expense, and all sums incurred by Landlord shall be paid by Tenant, as Additional Rent, upon demand.

(g) To the fullest extent permitted by law, Tenant shall indemnify, defend and hold harmless Landlord, Landlord's governors, trustees, officers, directors, shareholders, employees and personal or legal representatives from and against any and all claims, liabilities, losses, damages, penalties and costs, foreseen or unforeseen, including, without limitation, counsel, engineering and other professional or expert fees, which an indemnified party may incur resulting directly or indirectly, wholly or partly from Tenant's actions or omissions with regard to Tenant's obligations under this Section.

(h) This Section shall survive the expiration or earlier termination of this lease. Tenant's failure to abide by the terms of this Section shall be restrainable or enforceable, as the case may be, by injunction.

(i) The obligations imposed upon Tenant herein are not intended to limit, but to expand upon, the obligation imposed upon Tenant under this Section. As used in this Section, the term "**Contaminants**" shall include, without limitation, any regulated substance, toxic substance, hazardous substance, hazardous waste, pollution pollutant, contaminant, petroleum, asbestos or polychlorinated biphenyls, as

defined or referred to in any Environmental Laws. Where a law or regulation defines any of these terms more broadly than another, the broader definition shall apply.

**Section 12. Subordination; Estoppel Certificate** This Lease is hereby made subordinate to any debt instrument or mortgage(s) that may hereafter be placed upon the Premises. The recording of such mortgage(s) shall have preference and precedence and be superior and prior in lien to this lease, irrespective of the date of recording, and Tenant shall promptly execute any instruments, without charge to Landlord, that may be deemed necessary or desirable to further confirm or effect the subordination of this Lease to any such mortgage(s). Tenant shall also execute and deliver to Landlord, within ten (10) days of demand and without charge to Landlord, an estoppel certificate (i.e., a certificate of factual statements concerning this Lease and the then status thereof upon which Landlord and Landlord's designees shall be entitled to rely), in form and substance as Landlord may reasonably require for financing or sale purposes.

**Section 13. Condemnation** If all or any part of the Property shall be taken under eminent domain or condemnation proceedings, or if suit or other action shall be instituted for the taking or condemnation thereof, or if in lieu of any formal condemnation proceedings or actions, Landlord shall grant an option to purchase or shall sell or convey the Premises or any portion thereof to a governmental or other public authority seeking to take the property (any of the above being called below a "**Taking**"), then this Lease, at the option of Landlord, shall terminate, and the term hereof shall end as of such date as Landlord shall fix by notice in writing; and Tenant shall have no claim or right to claim or be entitled to any portion of any amount which may be awarded as damages or paid as the result of the Taking, and all rights of Tenant to damages, if any, are hereby assigned to Landlord. Tenant agrees to execute and deliver any instruments as may be deemed necessary or required to expedite any Taking. Tenant agrees to vacate the Premises, remove all its personal property, and surrender possession thereof to Landlord or to such other party designated by Landlord in the above- stated notice.

**Section 14. Casualty** In case of fire or other casualty by the elements or otherwise (in any event called below a "**Casualty**"), Tenant shall give immediate notice to Landlord. If the Premises shall be partially damaged by Casualty, Landlord shall repair the same as promptly as reasonably possible, but Tenant's obligation to pay the rent shall not cease. If the Premises shall have been so extensively damaged as to render them un-tenantable, then the rent shall cease until such time as Landlord shall make the Premises tenantable. However, if, in the reasonable opinion of Landlord, the Premises shall have been so extensively damaged as to require a rebuilding thereof, then, at Landlord's option, the rent shall be paid up to the time of such destruction and then this Lease shall terminate. In no event, however, shall the provisions of this clause apply if the Casualty shall be the result of the carelessness, negligence or improper conduct of Tenant or Tenant's Agents. In such case, Tenant's liability for the payment of the rent and the performance of all the terms hereof to be performed by Tenant shall continue and Tenant shall be liable to Landlord for the damage and loss suffered by Landlord.

**Section 15. Access** Tenant agrees that Landlord and Landlord's agents, employees or other representatives, shall have the right to enter the Premises at business hours or at any time in case of an emergency, for the purpose of inspecting the same or making such repairs or alterations therein as may be necessary for the safety and preservation thereof, or for servicing other parts of the Building

or Retail Area. This clause shall not be deemed to be a covenant by Landlord or be construed to create an obligation on the part of Landlord to make such examination, repairs or alterations. Tenant shall permit Landlord and Landlord's agents, employees or other representatives to show the Premises to persons wishing to rent or purchase the same, and Tenant agrees that for the six (6) months preceding the expiration of the Term, Landlord or Landlord's agents, employees or other representatives shall have the right to place notices on the front of the Premises offering the Premises for rent or for sale; and Tenant hereby agrees to permit such notices to remain thereon without interference.

**Section 16. Abandonment** Any equipment, fixtures, goods or other property of Tenant not removed by Tenant upon the termination of this Lease, or upon any quitting, vacating or abandonment of the Premises by Tenant, or upon Tenant's dispossession, shall be considered as abandoned and Landlord shall have the right, without any notice to Tenant, to sell or otherwise dispose of the same, at the expense of Tenant, and shall not be accountable to Tenant for any part of the proceeds of such sale, if any.

**Section 17. Default**

(a) **General Provisions** Any of the following shall constitute a "default" under this Lease: (i) if Tenant fails to pay any item of Rent; provided, however, that with respect to the first such failure in any calendar year, no default shall be deemed to have occurred unless such failure continues for five (5) days after Landlord's notice thereof to Tenant; (ii) if during the Term the Premises or any part thereof shall be or become abandoned or deserted, vacated or vacant for a period of thirty (30) days (unless due to events of force majeure, including casualty damage); or (iii) if Tenant fails to perform any covenants or obligations under this Lease not otherwise described in this Section 17, and does not cure such failure within thirty (30) days after notice thereof from Landlord, but if the failure is of such a nature that it cannot be completely remedied within said thirty (30) days, then same shall not constitute a default so long as Tenant begins to cure such failure within said 30-day period and thereafter diligently prosecutes such cure to completion; however, in no event shall Landlord be obligated to deliver any such notice to Tenant or afford Tenant any cure period with respect to more than one (1) such failure by Tenant in any calendar year with respect to the same or similar obligation hereunder, it being agreed that upon the second (2nd) such failure by Tenant within said calendar year, a default shall be deemed to have occurred, irrespective of notice and cure periods.

(b) **Remedies** If there should occur any default by Tenant as aforesaid, or should Tenant be dispossessed by summary proceedings or otherwise, Landlord, in addition to any other remedies herein contained or as may be permitted by law, may lawfully re-enter and again possess the Premises; and Landlord may (but shall not be obligated to), as agent for Tenant or otherwise, re-let the Premises and receive the rents therefor and apply the same, first, to the payment of such expenses, reasonable attorneys' fees, brokerage fees, and costs as Landlord may have incurred in re-entering and repossessing the Premises and in making such repairs and alterations as may be necessary, and, second, to the payment of the rent due hereunder. Tenant shall remain liable for such Rent as may be in arrears and also the Rent as may accrue subsequent to the re-entry by Landlord, to the extent of the difference between the Rent reserved hereunder and the Rent, if any, received by Landlord during the remainder of the unexpired term, after deducting the above-stated expenses, fees and costs; such amounts to be paid as such deficiencies arise and are ascertained each month. Any duty which Landlord may have to mitigate

damages shall be deemed satisfied by listing the Premises for rental with a broker.

(c) **Late Charge** In addition to all other rights or remedies of Landlord hereunder, Landlord shall be entitled to receive from Tenant (i), in the event of any payment of Rent or Additional Rent being made more than Ten (10) days after the due date, a late fee of twelve percent (12%) of the amount of such rent, plus (ii), in the event of any payment of rent being made more than thirty (30) days after the due date, interest of one percent (1%) per month on the amount of such Rent until paid; Tenant agreeing and acknowledging that the above late fee and interest charge are based on reasonable estimates of Landlord's administrative costs in handling, and other damages or costs as a result of, delinquent payments.

(d) **Self-Help** If Tenant shall commit an event of default, Landlord may but shall not be obligated to cure such default on behalf of Tenant, in which event Tenant shall reimburse Landlord for all sums paid to effect such cure, together with interest at the rate of eighteen percent (18%) per annum and reasonable attorneys' fees. To collect such reimbursement, Landlord shall have all the remedies available to Landlord for a default in the payment of Rent.

(e) **Lien** Upon any default by Tenant under this Lease, Landlord shall have a lien and security interest on all personal property of Tenant, in addition to statutory liens of Landlord now or hereafter in effect.

#### **Section 18. Limitation on Liability**

(a) **General Provisions** Landlord shall not be liable for any damage or injury which may be sustained by Tenant or any other person as a result of the failure, breakage, leakage or obstruction of the water, plumbing, steam, sewer, waste or soil pipes, roof, drains, leaders, gutters, valleys, downspouts or the like or of the electrical, gas, power, conveyor, refrigeration, sprinkler, air conditioning or heating systems, elevators or hoisting equipment; or by reason of the elements; or resulting from the carelessness, negligence or improper conduct on the part of any other tenant or any other tenant's Agents; or attributable to any interference with, interruption of or failure, beyond the control of Landlord, of any services to be furnished or supplied by Landlord.

(b) **No Consequential Damages** In no event shall Landlord incur, in connection with or arising out of this Lease, damages for loss of profits or of business, loss of economic advantage, or consequential damages of any nature.

(c) **Limitation on Recourse** Tenant agrees that the liability of Landlord shall be limited to Landlord's interest in the Premises, and Tenant agrees that it will neither seek nor enforce any course of action against any asset of Landlord other than the Premises, or against any of Landlord's governors, trustees, officers, employees, or other principals, or any of their assets.

**Section 19. Delays Beyond Reasonable Control** This Lease and the obligation of Tenant to pay Rent hereunder and to comply with the covenants and conditions hereof shall not be affected or impaired because of Landlord's inability to supply any service or material called for herein, by reason of any rule, order, regulation or preemption by any governmental entity or authority, or for any delay which may arise by reason of negotiations for the adjustment of any Casualty loss or because of

strikes or other labor trouble or for any cause beyond the reasonable control of Landlord.

**Section 20. Quiet Enjoyment** Landlord acknowledges that Landlord is the owner of the Premises as of the Effective Date. Landlord has the right and authority to enter into this Lease, and agrees that Tenant, on paying the Rent and performing the conditions and covenants herein contained, shall have quiet enjoyment of the Premises for the Term, subject to the terms and conditions of this Lease.

**Section 21. Liens** Tenant shall not suffer or permit any mechanic's liens to be filed against the Premises by reason of work, labor, services or materials supplied or claimed to have been supplied to Tenant or anyone holding the Premises or any part thereof through or under Tenant, and nothing in this Lease contained shall be deemed or construed in any way as constituting the consent or request of Landlord, express or implied, to any contractor, subcontractor, laborer or material man for the performance of any labor or the furnishing of any materials for any specific improvements, alteration or repair of or to the Premises or any part thereof, nor as giving Tenant any right, power of authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any mechanic's lien against the Premises. In the event that any mechanic's liens are filed against Tenant's leasehold interest in the Premises, Tenant shall within five (5) days of receipt of Notice of said filing pay and discharge same, but if Tenant desires to contest any such lien against its leasehold interest, it may do so upon depositing with Landlord a surety bond conditioned upon the satisfaction of any such lien when reduced to final judgment.

**Section 22. Security Deposit** Tenant shall deposit with Landlord a sum, at all times, equal to three (3) months' Basic Rent, as security for the payment of the Rent and the performance by Tenant of its obligations hereunder, which security shall be payable by Tenant upon the execution of this Lease, as follows: \_\_\_\_\_ Dollars (\$\_\_\_\_\_) upon Tenant's execution of this Lease. Such sum shall be returned to Tenant, without interest, after the expiration of the Term, provided that Tenant has fully performed its obligations. During the Term, Landlord may, if it so elects, have recourse to the security, to make good any default by Tenant, in which event Tenant shall, on demand, promptly restore the security to its original amount. Landlord shall transfer the security, for the benefit of Tenant, to any subsequent owner or holder of the title to the Premises, in which case the assignee shall become liable for the repayment thereof as herein provided, and the assignor shall be deemed to be released by Tenant from all liability to return the security.

**Section 23. Brokerage** The parties hereto represent and warrant that all negotiations relative to this Lease have been carried on by them directly, each with the other or with each other's counsel, without the intervention of any person or firm as broker, finder or otherwise, and each agrees to indemnify the other from and against any Liability resulting from a breach of the provisions of this paragraph.

**Section 24. Renewal Option** (i) Tenant shall have the option to renew the Term of this Lease for \_\_\_\_\_ (\_\_\_\_) separate and distinct renewal terms of \_\_\_\_\_ (\_\_\_\_) years each (collectively, the "**Renewal Term**"), provided that at the time of the exercise of either such option the Tenant shall not then be in default beyond any applicable cure period under this Lease and shall have given Landlord at least six (6) months' advance notice of the exercise of the option, time being of the essence for such notice. Such renewal term(s) shall be on all of the same terms, covenants and conditions of this Lease, except that Base Rent shall increase by \_\_\_\_\_ percent (\_\_\_\_%) on the first day of the Renewal Term and shall continue to increase throughout the Renewal Term by an additional \_\_\_\_\_ percent (\_\_\_\_%), on



each yearly anniversary of the first day of the Renewal Term, and further excepting those items that by their very nature would no longer be applicable (such as, for example, Landlord's Work and any Tenant Allowance). The word Term as used in this Lease shall include the applicable Renewal Term unless there is express indication that the word is being used only for the initial Term. Tenant's right to renew the Lease shall automatically terminate if the Lease or Tenant's right to possession of the Premises is terminated. Except as set forth herein, the Lease and all the covenants, agreements, terms, provisions and conditions thereof shall remain in effect during the Renewal Term.

## **Section 25. Miscellaneous**

(a) **Severability** The terms, conditions, covenants and provisions of this Lease shall be deemed to be severable. If any clause or provision herein contained shall be adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, it shall not affect the validity of any other clause or provision herein, but such other clauses or provisions shall remain in full force and effect.

(b) **Notices** All notices required under the terms of this Lease shall be given and shall be complete by mailing such notices by certified or registered mail, return receipt requested, or by nationally recognized overnight delivery service with tracking capacity (such as but not limited to Federal Express) to the address of the parties as shown below, or to such other address as may be designated in writing, which notice of change of address shall be given in the same manner.

**IF TO LANDLORD:** Rutgers, the State University of New Jersey, 33 Knightsbridge Road, 3<sup>rd</sup> Floor East, Piscataway, NJ 08854 Attn: Real Estate, together with email notice at [real.estate@ipo.rutgers.edu](mailto:real.estate@ipo.rutgers.edu),  
**WITH A COPY TO:** Rutgers, the State University of New Jersey, 33 Knightsbridge Road, 3<sup>rd</sup> Floor West, Piscataway, NJ 08854 Attn: IP&O Economic Development, together with email notice at [economicdevelopment@ipo.rutgers.edu](mailto:economicdevelopment@ipo.rutgers.edu).

### **IF TO TENANT:**

(c) **Entire Contract** This Lease contains the entire contract between the parties hereto. No additions, modifications, renewals or extensions hereof shall be binding unless reduced to writing and signed by Landlord and Tenant.

(d) **Rules and Regulations** Landlord shall have the right to promulgate from time to time reasonable rules and regulations applicable to all tenants of the Retail Area similarly situated, which rules and regulations shall be deemed obligations of Tenant under this Lease.

(e) **Binding Effect** All the terms, covenants and conditions contained in this Lease shall inure to the benefit of and bind the parties hereto, and their respective heirs, executors, administrators, personal or legal representatives, successors and assigns.

(f) **Joint and Several Liability** If there shall at any time be more than one person or entity with liability under this Lease, including all parties comprising Tenant currently and any assignor(s) and assignee(s) of Tenant's interest, the liability of all such persons and/or entities shall be primary,

joint and several.

(g) **Financial Statements** Upon request of Landlord from time to time, Tenant shall provide to Landlord such financial statements (including disclosure of Gross Sales) as Landlord may reasonably require.

(h) **Requests for Documents** If in connection with this Lease the Tenant shall require or request that Landlord, Landlord's lender, or another third party execute or consent to any documents, such as but not limited to instruments of assignment or sublease, quiet enjoyment, leasehold financing or lien waiver, Tenant shall pay to Landlord a fee in the amount of Seven Hundred Fifty and 00/100 Dollars (\$750.00) to cover its handling charges for each such request prior to Landlord's consideration of the same.

(i) **No Waiver** The various rights, remedies, options and elections of Landlord expressed herein are cumulative, and the failure of Landlord to enforce strict performance by Tenant of the conditions and covenants of this Lease or to exercise any election or option or to resort or have recourse to any remedy herein conferred or the acceptance by Landlord of any installment of rent after any breach by Tenant, in any one or more instances, shall not be construed or deemed to be a waiver or a relinquishment for the future by Landlord of any such conditions and covenants, options, elections or remedies, but the same shall continue in full force and effect.

(j) **Confirmation of Term** After the Commencement and expiration dates of the Term can be determined pursuant to **Section 1**, the parties shall, at the request of either party, execute an agreement confirming same.

(k) **Guaranty** The obligations of Tenant under this Lease shall be guaranteed by \_\_\_\_\_ (the "**Guarantor**"), pursuant to the Guaranty attached hereto as **Schedule D**, which shall be **executed by the Guarantor and delivered to Landlord simultaneously with Tenant's execution of this Lease**. In the event Tenant fails to deliver the Guaranty executed by the Guarantor immediately upon Tenant's execution of the Lease, then Landlord shall have the absolute right to terminate this Lease upon written notice to Tenant.

(l) **Counterparts** This Lease may be executed in two or more counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute the agreement when a duly authorized representative of each party has signed a counterpart. The parties intend to sign and deliver this Lease by electronic transmission. Each party agrees that the delivery of this Lease by electronic transmission shall have the same force and effect as delivery of original signatures and that each party may use such electronic signatures as evidence of the execution and delivery of this Lease by all parties to the same extent that an original signature could be used.

(m) **Attorney fees** In the event of any litigation between the parties relating to this Lease, the Premises or Building, the prevailing party shall be entitled to recover its attorneys' fees and costs as part of the judgment or settlement therein.

(n) **Governing Law** The laws of the State of New Jersey shall govern the validity, construction, performance and enforcement of this Lease. Should either party institute legal action

to enforce any obligation contained herein, it is agreed that the proper venue of such suit or action shall be the county and judicial district in which the Building is located.

(o) **Force Majeure** Any time limits required to be met by either party hereunder, whether specifically made subject to Force Majeure or not, except those related to the payment of Rent, or Additional Rent, shall, unless specifically stated to the contrary elsewhere in the Lease, be automatically extended by the number of days by which any performance called for is delayed due to Force Majeure. “**Force Majeure**” shall mean and include those situations beyond a party’s control, including by way of example and not by way of limitation, acts of God; accidents; repairs; strikes; shortages of labor, supplies or materials; inclement weather; or, where applicable, the passage of time while waiting for an adjustment of insurance proceeds.

(p) **Tenant's Work** Tenant agrees that promptly following Delivery it shall, at its sole cost, diligently perform all work necessary to complete the Premises and open for business to the public within 120 days thereafter (collectively, "**Tenant's Work**"). Tenant's Work shall be performed in strict accordance with the provisions of this Lease, including but not limited to **Section 5** hereof. Prior to Tenant's opening for business, Tenant shall obtain and deliver to Landlord a validly issued Certificate of Occupancy for the Premises (if a temporary Certificate of Occupancy, Tenant shall remain obligated to diligently pursue and deliver to Landlord a permanent and unconditional Certificate of Occupancy as soon thereafter as possible).

**[SIGNATURE PAGE TO FOLLOW]**

**IN WITNESS WHEREOF, LANDLORD AND TENANT** have executed this Lease as of the date set forth above.

**TENANT:**

[insert entity name here]

By: \_\_\_\_\_

Name:

Title:

Date:

**LANDLORD: RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY**

By: \_\_\_\_\_

Name:

Title:

Date:

**SCHEDULE A**

(Floorplan/Diagram of Premises)

*{ add image and page break }*

**SCHEDULE A-1**

(Site Plan of Building)

*{ add image and page break }*

**SCHEDULE B**

(Landlord's Work)

*{ add description and page break }*

**SCHEDULE C**

(Sign Criteria)

*{ add description and image, as applicable and page break }*

**SCHEDULE D**

(Guaranty Agreement)

**TENANT'S GUARANTY**

The undersigned hereby irrevocably guarantees to Landlord hereunder, on a primary, absolute, and unconditional basis, the prompt payment by Tenant of (i) all Rents and Additional Rents due under the foregoing Lease, (ii) to pay on demand any and all expenses (including, without limitation, reasonable counsel fees and disbursements) incurred by Landlord in enforcing any rights under this Guaranty or under this Lease; and (iii) the performance by Tenant of all terms, covenants and conditions on the part of Tenant to be performed under the foregoing Lease (all of the above including the Rents being called the "**Guaranteed Obligations**"). This Guaranty will extend to every extension, renewal or modification of the foregoing Lease, and no delay on the part of Landlord in exercising any right under the foregoing Lease, either against Tenant or against the undersigned, will operate as a waiver of any rights of Landlord under the foregoing Lease or under this Guaranty. This Guaranty is an absolute and unconditional guaranty of payment (and not of collection). Without limiting the generality of the foregoing, Landlord shall not be required to resort to any Security Deposit it may be holding under the Lease or make any demand on the Tenant under the Lease and/or any other party, or otherwise pursue or exhaust its remedies against Tenant or any other party, before, simultaneously with, or after enforcing its rights and remedies hereunder against Guarantor.

The Guarantor has provided the following to Landlord: (1) social security card; (2) Driver's License; (3) Bank Statement; (4) Credit Report for the purposes of copying and retaining with the executed Tenant Guaranty.

Notwithstanding the foregoing, the Guaranty shall not exceed the monetary equivalent of the sum of Rents due from Tenant, for up to a \_\_\_\_\_ (\_\_\_\_) month period, such sum being calculated by beginning with the Rents due on the date of the default of Tenant with respect to such Guaranteed Obligations. The validity of this Guaranty shall not be affected by any bankruptcy or similar State or other proceedings affecting Landlord or Tenant. If suit or action is brought in connection with the enforcement of this Guaranty, the undersigned will pay reasonable attorneys' fees and all court costs incurred by Landlord.

Name of Guarantor: \_\_\_\_\_  
Social Security Number of Guarantor: \_\_\_\_\_  
Drivers' License Info of Guarantor: \_\_\_\_\_  
Address of Guarantor: \_\_\_\_\_

\_\_\_\_\_  
[signature of Guarantor]  
Date Signed:

## SCHEDULE E

(Grease/Odor Special Requirements)

### **RESTAURANT RIDER**

In addition to Tenant's repair and maintenance obligations set forth elsewhere in this Lease, Tenant shall at all times during the term comply with the following performance specifications:

#### **Grease Traps**

(a) **Installation** There are no common grease traps. Grease traps shall be provided and installed by Tenant to conform to location and capacity as determined by Tenant's architect/engineer and shall connect to all sinks and drains (including floor drains) within the Premises (except for toilet fixtures and drains), subject to Landlord's reasonable approval.

(b) **Maintenance**

(i) Tenant shall have all grease interceptors, whether surface or flush mounted, cleaned every two (2) weeks. Cleaning shall consist of removing cover and physically removing grease. Use of degreasing agents to clean traps shall not be permitted.

(ii) Cleaning service records shall be maintained by the Tenant on-site and shall be subject to inspection by Landlord at any time.

(iii) Any and all costs incurred by Landlord to unclog sanitary lines, building sewers or city sewers, due to grease blockage caused by Tenant, shall be reimbursed in full to Landlord by Tenant.

(iv) Tenant shall keep the drains, wastepipes, and sewer connections with the Premises' main sewers, on or appurtenant to the Premises in good repair and free from obstructions.

#### **Kitchen Hoods**

(a) **Installation**

(i) Kitchen hoods with adequate exhaust capabilities shall be provided by Tenant above for all ovens, ranges, fryers, dishwashers, and other equipment for the removal of all grease or moisture laden vapors and cooking or objectionable odors. Underwriters Laboratories approved grease extracting hoods with water wash-down cycle are suggested.

(ii) All hoods and installation shall comply with NFPA requirements and all other applicable Legal Requirements.

(iii) All exhaust fans shall be mounted as required by local code officials or as designated by Landlord.



(iv) Tenant shall provide adequate protection for roofing material at exhaust fan locations. The cost to repair any damages to roof caused by grease or other materials exhausted shall be borne solely by Tenant.

(v) All hoods shall be provided with ANSUL (or equal) fire protection systems.

(vi) All roofing and roof related work shall be performed, at Tenant's sole cost, by Landlord's roofing contractor.

(vii) Tenant shall install all necessary duct and insulation required by Landlord or by applicable Legal Requirements within the base building shaft from the hood to the exhaust fan.

(b) **Maintenance**

(i) Hood grease filters shall be cleaned weekly.

(ii) Interior of all hoods shall be steam cleaned monthly and exhaust ducts cleaned quarterly. Access door shall be provided for duct cleaning per code.

(iii) Exhaust fans, curbs and roof surfaces shall be cleaned quarterly. All repairs to roof shall be coordinated with Landlord and subject to any applicable roof warranty conditions.

(iv) Cleaning service records shall be maintained by Tenant on-site and shall be subject to inspection by Landlord at any time.

**Trash Room** Tenant shall provide within the Premises a trash storage room. The trash room shall be adequate to store a minimum of two days' accumulation, with air conditioned ventilation of a minimum 70 degrees and 2 cfm per square foot, and a hose bib and floor drain. Grease traps shall be located within the trash storage room.

**Special Exhaust Systems**

(a) Food or other odors must be exhausted to the atmosphere through a Tenant-furnished and installed up-blast exhaust fan in accordance with the approval of Landlord and applicable Legal Requirements. The fan unit shall be modified by the addition of a venturi type duct adapter to assure a minimum discharge velocity of 2000 F.P.M. The exhaust fan shall have a drainage area at the bottom of the unit equipped with a residue trough equipped to be cleaned periodically by Tenant. The location of the exhaust fan shall be as directed by Landlord. An additional duct extension of the fan discharge may be required. Exhaust duct and fan locations shall be submitted to Landlord for prior approval.

(b) Tenant shall clean its filter and duct systems regularly to avoid grease damage. Tenant shall submit cleaning reports to Landlord on a regular basis.

(c) Tenant shall provide an electrical interlock to allow the kitchen exhaust fan to run in accordance with the approval of Landlord and applicable Legal Requirements.

(d) Makeup air for exhaust systems from kitchen, food preparation area, dining area and cafeteria area shall be accomplished by Tenant-furnished and installed makeup air systems.

**Food Preparation Extinguishment Systems - Special Requirements** There shall be an automatic extinguishing system that shall include the following features: (i) protection of the hood and duct; (ii) surface protection for deep fat fryer, griddle, broiler and range; (iii) automatic devices for shutting down fuel or power supply to the appliances (and these devices must be of the manual reset type); (iv) a simple means to manually activate the fire extinguishing equipment within a path of ingress or egress. This means of manual activation shall be mechanical (not electrical) and must be clearly identified. The extinguishing system shall be installed and inspected in accordance with the approval of Landlord and applicable Legal Requirements. The systems vendor shall submit plans and other pertinent information on the proposed system to Landlord for prior review and approval.

**Pest Extermination - Special Requirements**

Tenant shall contract on an annual basis with a qualified licensed extermination company reasonably acceptable to Landlord for the routine treatment of the Premises (on intervals as are required by applicable Legal Requirements, or as are necessary in the event of infestation) in keeping with usual and customary extermination procedures and techniques applied in the restaurant and hospitality industry in the metropolitan New York area. Tenant shall submit extermination reports to Landlord on a regular basis.

## **SCHEDULE F**

(Special Restrictions)

*{add description and page break. These may be based on promises/exclusives made to other tenants in the Retail Area. For example, if Landlord leased to one Mexican Restaurant, that Tenant may negotiate the prohibition of other Mexican Restaurants in the Retail Area }*

# SCHEDULE G

(Rutgers Exclusive Beverage List)



## COCA-COLA PRODUCT LIST



12oz (24) & Fridge Packs (cans)	One Liter (12) Bottles	20oz (24) bottles
Coca-Cola Classic Coke Zero <b>Caffeine Free Coke Zero</b> Diet Coke Caffeine Free Diet Coke Diet Coke with Lime Sprite Sprite Zero Barq's Root Beer/Di Cherry Coke Cherry Zero Dr Pepper Diet Dr Pepper Dr Pepper 10 Dr Pepper Cherry Dr Pepper Diet Cherry Caffeine Free DrP Fresca Fresca Peach Fresca Black Cherry Minute Maid Lemonade Minute Maid Pink Lemonade Minute Maid Orangeade Minute Maid Fruit Punch FUZE Tea with Lemon FUZE Diet Lemon Mello Yello Seagram's Ginger Ale Seagram's Ginger Diet Seagram's Sparkling Seltzer Tab Vanilla Coke Vanilla Coke Zero Fanta Orange Fanta Orange Zero Fanta Grape Fanta Pineapple Fanta Strawberry Fanta Cherry Fanta Mango DABANI Sparkling Lem, Lime, Black Cherry <b>7.5 oz cans (24/case) Only 90 cals!</b> Classic Coke Zero Diet Coke Sprite Dr P & Di Dr Seagram's Ginger Ale Fanta Orange <b>mini cans</b> CHILL ZERO SPRITE DR P FANTA SURGE	Coca-Cola Classic Coke Zero Diet Coke Sprite Dr Pepper FUZE Iced Tea FUZE Half & Half FUZE Straw Lemonade FUZE Berry Punch Seagrams Ginger,Club,Tonic <b>2 Liter (8/cx) CONTOUR Bottles</b> Coca-Cola Classic Coke Zero Caffeine Free Coke Zero Caffeine Free Classic Caffeine Free Diet Coke Sprite & Sprite Zero Barq's Root Beer Fanta Orange Fanta Grape Fanta Mango Dr Pepper Cherry Dr Pepper/ Diet Dr P FUZE Iced Tea Fresca Cherry Coke Cherry Coke Zero Minute Maid Lemonade & Pink Lem Minute Maid Fruit Punch Seagram's Ginger Ale Seagram's Ginger Ale Diet <b>Coca-Cola Life (24) NEW!!!!</b> Sweetened with Stevia and Pure Cane Sugar! <b>illy 100% Arabica Coffee</b> DABANI Sparkling Lem, Lime, Black Cherry Classic Coke Zero Diet Coke Sprite Dr P & Di Dr Seagram's Ginger Ale Fanta Orange <b>355 ml Imported Glass Bottles</b> MexiCoke Sprite De Mexico Fanta De Mexico Fanta Strawberry Fanta Pineapple Fanta Grape <b>8.5 oz Aluminum Bottles</b> Ultra Zero Ultra Blue Ultra Red Ultra Sunrise Ultra Citron Ultra Black unleaded super anti dry gravity Xtra Strength-12 oz	Coca-Cola Classic Coke Zero Diet Coke Coca-Cola Life Caffeine Free Diet Coke Sprite Romix Sprite Sprite Zero Vanilla Coke Cherry Coke Cherry Coke Zero Dr Pepper Diet Dr Pepper Dr Pepper Cherry Diet Dr Pepper Cherry <b>Fanta Mango</b> Fanta Grape Fanta Orange Fanta Orange Zero Fanta Strawberry <b>Fanta Berry -New!</b> Minute Maid Lemonade Minute Maid Pink Lemonade Minute Maid Fruit Punch Seagram's Ginger Ale Seagram's Sparkling Seltzer Mello Yello Barq's Root Beer Fresca <b>16 oz Glass Bottle (24)</b> Seagram's Ginger Ale Seagram's Club Soda Seagram's Tonic <b>Seagram's</b> <b>NOS</b> NOS Energy Drink- 16 oz. (24) & 22 oz. NOS Original NOS Zero NOS Citrus NOS Citrus Zero NOS Grape NOS Cherry <b>8 oz Glass Bottles</b> Full Throttle Min Order 15 ex. Deliveries-C.O.D. 1-800-647-2653



# COCA-COLA PRODUCT LIST

**Dasani Water- Mineral Enhanced!**

Dasani Water  
Lemon  
Strawberry

12oz 24pk  
500ml 24pk  
20oz 24pk  
1 Liter 12pk

Dasani Drops (6 bottles per cs)  
smartwater-vapor distilled w/ electrolytes

20 oz  
700ml sports cap  
1 liter  
1.5 liter

available in sparkling, now!

**POWERADE-advanced electrolyte system**

orange-12,20,32  
grape-12,20,32  
fruit punch-12,20,32  
mountain blast-12,20,32  
strawberry lemonade 20,32  
lemon lime-20,32  
lemonade-32  
melon-32  
white cherry-32  
tropical mango-32  
watermelon strawberry-32  
twisted blackberry-32

**just a kid from powerade.com**

**POWERADE Zero**

mixed berry zero-12,20,32  
fruit punch zero-20,32  
grape zero-20,32  
lemon lime zero-32  
orange zero-32  
strawberry zero-32

**YUPGRADE YOUR MILKI**

14 oz. PROTEIN

12 oz. **DASANI Sparkling Water** (24)

**Dasani Sparkling 12 oz.**  
\*Lemon \*Berry \*Lime  
\*Rasp Lem \*Black Cherry \*Pineapple

**Gold Peak Tea-18.5 oz (12/cs)**

**Tum-E Yummies-10.1 oz**

orange, fruitabulous, sour-sational, aartific, raspberry

berry blue, green, apple

10 oz Minute Maid 24/case

OJ, AJ  
Fruit Punch  
Mixed Berry  
Grape

15.2 oz Minute Maid 24/case

Trop Berry Fruit Straw  
Blend Blend Punch Passion

15.2 oz Minute Maid 24/case

OJ AJ Cran Cran Pink  
Rasp Grape Grapefruit

**POWERADE ZERO DROPS-3oz**

Mixed Berry  
Fruit Punch

Makes 24 svgs

**POWERADE on the GO!**

Aloe Gloe 15.2oz (12) Organic Water

**Minute Maid Sparkling 16.9 (24)**

Mixed Berry  
Fizzy Lemonade  
Fruit Punch  
Tropical Citrus

**Core Power- 11.5 oz. (12)**

Chocolate Light-20 g Protein  
Strawberry Banana Light- 20 g Protein  
Chocolate- 26 g Protein  
Vanilla- 26 g Protein  
Banana- 26 g Protein

ASK ABOUT ELITE!

**ZICO Coconut Water-14 oz.(12)**

ZICO Natural Coconut Water  
ZICO Chocolate Coconut Water  
ZICO Pineapple Coconut Water  
ZICO Watermelon Coconut Water

vitaminwater- 20oz-(24/cs) yum!

try Vital-1 & Refresh

**vitaminwater zero-20oz- (24/cs) Zero Calo- Naturally Sweetened!**

zero XXX  
zero Power C  
zero Essential  
zero Squeezed  
zero Revive  
zero Focus  
zero Energy  
zero Refresh  
zero Vital-T

Acai-Blueberry-Pomegranate  
Dragonfruit  
Orange Orange  
Lemonade  
Fruit Punch  
Kiwi Strawberry  
Tropical Citrus  
Tropical Mango  
Lemon Iced Tea

**HONEST**

Honest Organic Teas 16.9 oz. (24)

Honest Unsweet Tea  
Honest Peach Tea  
Honest Raspberry Tea  
Honest Orange Mango Tea  
Honest Honey Green Tea  
Honest Pomegranate Blue Tea  
Honest Half and Half  
Honest Cranberry Lemon Tea

**PEACE TEA- (12) - 23 oz Cans**

Razzle Berry  
Green Tea  
Caddy Shack  
Pink Lemonade  
Texas Sweet  
Sweet Lemon  
Sno Berry

**FUZE 20oz(24)**

Sweet Lem  
Sweet Tea  
Diet Tea  
Straw Red Tea  
Orange Mango Tea  
Berry Punch

## **SCHEDULE H**

(Permitted Exceptions to Exclusive Beverages)

*{add description, an example follows}*

Unbranded Fresh Milk; Unbranded Fresh Brewed Coffee; Unbranded hot tea freshly brewed on premise; Unbranded milkshakes and smoothies made on the premises from fresh ingredients; Unbranded freshly squeezed orange juice; Unbranded unfiltered water provided directly from the public water supply for immediate consumption (such as from a public water fountain.)

*{Provision should comply with Landlord Exclusive Beverage Contract (if applicable)}*



**Colleges and Universities as Commercial Landlords:  
Considerations for the Generalist**

April 19, 2023

If you are an attorney applying for Continuing Legal Education credits (CLEs), you must sign this attendance record to verify your attendance. Please complete and return this form no later than Friday, April 21 to the CLE Credit Submission Portal ([www.nacua.org/submitCLE](http://www.nacua.org/submitCLE)).

**\*Total CLE Credits = 90 minutes**

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**Organization**

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**PRINTED Name**

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**SIGNATURE**

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**State & Bar Number (If Applying for CLE)**



## Colleges and Universities as Commercial Landlords: Considerations for the Generalist

April 19, 2023

- **Attorneys from MD, MA, MI, SD, or DC:** These jurisdictions do not have CLE requirements and therefore require no report of attendance or filing.
- **Attorneys from AK, AZ, CA, CO, CT, DE, HI, IN, IA, KY, MN, MO, MT, NH, NJ, NY, VT, WI, or WY:** Do not return this form to NACUA. Please keep this form for your records to submit directly to your state CLE commission or in case your state bar audits you for CLE compliance. Please also remember to sign the attendance record.
- **Attorneys from all other states:** Please complete and return this form no later than Friday, April 21 to the CLE Credit Submission Portal ([www.nacua.org/submitCLE](http://www.nacua.org/submitCLE)). Please also remember to sign the attendance record.

NACUA certifies that this program has been presumptively approved and conforms to the standards prescribed by the rules and regulations of the State Bars of AK, AZ, AR, CA, CT, DE, HI, NV, NH, NJ, NM, PA, RI, VT, WV and WY. NACUA will apply for CLE credits from the following states: AL, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MN, MS, MO, MT, NE, NC, ND, OH, OK, OR, SC, TN, TX, UT, VA, WA and WI.

The New York Approved Jurisdiction policy may apply to this program. New York attorneys may apply CLE credit from one of the approved jurisdiction states towards their NY CLE requirement. For more information and to review the policy, please visit [www.nycourts.gov/attorneys/cle/approvedjurisdictions.shtml](http://www.nycourts.gov/attorneys/cle/approvedjurisdictions.shtml).

**Note: Restrictions vary state by state and not all states will accredit this webinar.**

Upon receipt of this certificate of attendance and your attendance record, NACUA will process the credits through the applicable state if approved.

### Certification

**NACUA will apply for a total of 90 minutes. By signing below, I certify that I attended the above activity and request \_\_\_\_\_ minutes of CLE credits.**

\_\_\_\_\_  
Name

\_\_\_\_\_  
State & Bar Number

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Signature

Authorized By:



Amanda McLean

Meetings and Events Coordinator

**Colleges and Universities as Commercial Landlords:  
Considerations for the Generalist**

April 19, 2023

**FOR KANSAS, NEW YORK, OHIO AND PENNSYLVANIA ATTORNEYS ONLY**

\*This is a supplementary document to keep track of the verification codes for each program. Please complete and return this form no later than Friday, April 21 to the CLE Credit Submission Portal ([www.nacua.org/submitCLE](http://www.nacua.org/submitCLE)).

Date / Time	Session Title	Verification Code 1	Verification Code 2
4/19/2023 12:00 PM ET	Colleges and Universities as Commercial Landlords: Considerations for the Generalist		