UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-Q

☒ QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended September 30, 2017

OR

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Commission File Number 1-36389

GRUBHUB INC.

(Exact name of registrant as specified in its charter)

Delaware	**46-2908664**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
111 W. Washington Street, Suite 2100 Chicago, Illinois	**60602**
(Address of principal executive offices)	**(Zip code)**

(877) 585-7878
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Sections 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large Accelerated filer	☒	Accelerated filer	☐
Non-Accelerated filer	☐ (Do not check if a smaller reporting company)	Smaller reporting company	☐

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

As of November 3, 2017, 86,694,544 shares of common stock were outstanding.

GRUBHUB INC.

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Item 1. Condensed Consolidated Financial Statements

GRUBHUB INC.

CONDENSED CONSOLIDATED BALANCE SHEETS
(in thousands, except share data)
(UNAUDITED)

	September 30, 2017	December 31, 2016
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	$ 265,958	$ 239,528
Short term investments	65,650	84,091
Accounts receivable, less allowances for doubtful accounts	73,745	60,550
Prepaid expenses and other current assets	9,430	12,168
Total current assets	414,783	396,337
PROPERTY AND EQUIPMENT:		
Property and equipment, net of depreciation and amortization	62,225	46,555
OTHER ASSETS:		
Other assets	4,130	4,530
Goodwill	454,557	436,455
Acquired intangible assets, net of amortization	360,549	313,630
Total other assets	819,236	754,615
TOTAL ASSETS	$ 1,296,244	$ 1,197,507
LIABILITIES AND STOCKHOLDERS' EQUITY		
CURRENT LIABILITIES:		
Restaurant food liability	$ 89,021	$ 83,349
Accounts payable	11,869	7,590
Accrued payroll	9,223	7,338
Taxes payable	244	865
Other accruals	23,211	11,348
Total current liabilities	133,568	110,490
LONG TERM LIABILITIES:		
Deferred taxes, non-current	103,210	108,022
Other accruals	6,511	6,876
Total long term liabilities	109,721	114,898
Commitments and contingencies		
STOCKHOLDERS' EQUITY:		
Preferred Stock, $0.0001 par value. Authorized: 25,000,000 shares as of September 30, 2017 and December 31, 2016; issued and outstanding: no shares as of September 30, 2017 and December 31, 2016.	—	—
Common stock, $0.0001 par value. Authorized: 500,000,000 shares at September 30, 2017 and December 31, 2016; issued and outstanding: 86,558,223 and 85,692,333 shares as of September 30, 2017 and December 31, 2016, respectively	9	9
Accumulated other comprehensive loss	(1,329)	(2,078)
Additional paid-in capital	837,711	805,731
Retained earnings	216,564	168,457
Total Stockholders' Equity	$ 1,052,955	$ 972,119
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	$ 1,296,244	$ 1,197,507

(See Notes to Condensed Consolidated Financial Statements (unaudited))

GRUBHUB INC.

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except per share data)
(UNAUDITED)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
Revenues	$ 163,059	$ 123,461	$ 477,987	$ 355,874
Costs and expenses:				
Operations and support	65,352	44,346	187,795	120,029
Sales and marketing	35,138	26,499	105,346	80,687
Technology (exclusive of amortization)	14,292	11,006	41,560	31,765
General and administrative	18,244	11,754	45,719	37,501
Depreciation and amortization	12,613	9,089	33,067	25,282
Total costs and expenses	145,639	102,694	413,487	295,264
Income before provision for income taxes	17,420	20,767	64,500	60,610
Provision for income taxes	4,432	7,585	19,043	24,690
Net income attributable to common stockholders	$ 12,988	$ 13,182	$ 45,457	$ 35,920
Net income per share attributable to common stockholders:				
Basic	$ 0.15	$ 0.15	$ 0.53	$ 0.42
Diluted	$ 0.15	$ 0.15	$ 0.52	$ 0.42
Weighted-average shares used to compute net income per share attributable to common stockholders:				
Basic	86,449	85,217	86,162	84,889
Diluted	88,543	86,424	87,788	85,957

GRUBHUB INC.

CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(in thousands)
(UNAUDITED)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
Net income	$ 12,988	$ 13,182	$ 45,457	$ 35,920
OTHER COMPREHENSIVE INCOME (LOSS)				
Foreign currency translation adjustments	299	(245)	749	(1,037)
COMPREHENSIVE INCOME	$ 13,287	$ 12,937	$ 46,206	$ 34,883

(See Notes to Condensed Consolidated Financial Statements (unaudited))

GRUBHUB INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)
(UNAUDITED)

	Nine Months Ended September 30,	
	2017	2016
CASH FLOWS FROM OPERATING ACTIVITIES		
Net income	$ 45,457	$ 35,920
Adjustments to reconcile net income to net cash from operating activities:		
Depreciation	7,949	5,567
Provision for doubtful accounts	338	719
Deferred taxes	(2,162)	(1,908)
Amortization of intangible assets	25,118	19,715
Stock-based compensation	23,913	17,755
Deferred rent	130	980
Investment premium amortization	(624)	(406)
Other	150	114
Change in assets and liabilities, net of the effects of business acquisitions:		
Accounts receivable	(12,108)	(22,299)
Prepaid expenses and other assets	2,790	(2,874)
Restaurant food liability	4,591	11,361
Accounts payable	2,965	(4,592)
Accrued payroll	1,575	582
Other accruals	6,351	1,799
Net cash provided by operating activities	106,433	62,433
CASH FLOWS FROM INVESTING ACTIVITIES		
Purchases of investments	(145,667)	(187,456)
Proceeds from maturity of investments	164,733	210,567
Capitalized website and development costs	(15,281)	(8,859)
Purchases of property and equipment	(12,549)	(17,083)
Acquisitions of businesses, net of cash acquired	(51,859)	(65,849)
Acquisition of other intangible assets	(25,147)	(250)
Other cash flows from investing activities	589	(540)
Net cash used in investing activities	(85,181)	(69,470)
CASH FLOWS FROM FINANCING ACTIVITIES		
Repurchases of common stock	—	(14,774)
Proceeds from exercise of stock options	12,505	11,814
Excess tax benefits related to stock-based compensation	—	22,114
Taxes paid related to net settlement of stock-based compensation awards	(7,696)	(1,205)
Payments for debt issuance costs	(285)	(1,477)
Net cash provided by financing activities	4,524	16,472
Net change in cash and cash equivalents	25,776	9,435
Effect of exchange rates on cash	654	(890)
Cash and cash equivalents at beginning of year	239,528	169,293
Cash and cash equivalents at end of the period	$ 265,958	$ 177,838
SUPPLEMENTAL DISCLOSURE OF NON CASH ITEMS		
Cash paid for income taxes	$ 16,340	$ 5,757
Capitalized property, equipment and website and development costs in accounts payable at period end	1,048	5,911
Net working capital adjustment receivable	887	—

(See Notes to Condensed Consolidated Financial Statements (unaudited))

1. Organization

Grubhub Inc., a Delaware corporation, and its wholly-owned subsidiaries (collectively referred to as the "Company") provide an online and mobile platform for restaurant pick-up and delivery orders. Diners enter their delivery address or use geo-location within the mobile applications and the Company displays the menus and other relevant information for restaurants in its network. Orders may be placed directly online, via mobile applications or over the phone at no cost to the diner. The Company charges the restaurant a per order commission that is largely fee based. In certain markets, the Company also provides delivery services to restaurants on its platform that do not have their own delivery operations.

2. Significant Accounting Policies

Basis of Presentation

The accompanying unaudited condensed consolidated interim financial statements include the accounts of Grubhub Inc. and have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP") for interim financial information and in accordance with the rules and regulations of the United States Securities and Exchange Commission (the "SEC"). Accordingly, they do not include all of the information and footnotes required by GAAP for complete financial statements. These unaudited condensed consolidated interim financial statements include all wholly-owned subsidiaries and reflect all normal and recurring adjustments, as well as any other than normal adjustments, that are, in the opinion of management, necessary for a fair presentation of the results for the interim periods and should be read in conjunction with the consolidated financial statements and accompanying notes included in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2016 filed with the SEC on February 28, 2017 (the "2016 Form 10-K"). All significant intercompany transactions have been eliminated in consolidation. Operating results for the three and nine months ended September 30, 2017 are not necessarily indicative of the results that may be expected for the fiscal year ending December 31, 2017.

Use of Estimates

The preparation of condensed consolidated financial statements in accordance with GAAP requires management to make certain estimates, judgments and assumptions that affect the reported amounts of assets and liabilities and the related disclosures at the date of the financial statements, as well as the reported amounts of revenue and expenses during the periods presented. Estimates include revenue recognition, the allowance for doubtful accounts, website and internal-use software development costs, goodwill, depreciable lives of property and equipment, recoverability of intangible assets with definite lives and other long-lived assets, stock-based compensation and income taxes. Actual results could differ from these estimates.

Changes in Accounting Principle

See " *Recently Issued Accounting Pronouncements* " below for a description of accounting principle changes adopted during the nine months ended September 30, 2017 related to goodwill, business combinations and stock-based compensation. There have been no other material changes to the Company's significant accounting policies described in the 2016 Form 10-K.

Recently Issued Accounting Pronouncements

In May 2017, the Financial Accounting Standards Board (the "FASB") issued Accounting Standards Update No. 2017 -09, "Compensation-Stock Compensation (Topic 718): Scope of Modification Accounting" ("ASU 2017-09"). ASU 2017-09 provides clarification on when modification accounting should be used for changes to the terms or conditions of a share-based payment award. This ASU does not change the accounting for modifications but clarifies that modification accounting guidance should only be applied if there is a change to the value, vesting conditions, or award classification and would not be required if the changes are considered non-substantive. ASU 2017-09 will be effective for the Company beginning in the first quarter of 2018 on a prospective basis and early adoption is permitted. The adoption of ASU 2017-09 is not expected to have a material impact on the Company's consolidated financial position, results of operations or cash flows.

In January 2017, the FASB issued Accounting Standards Update No. 2017-04, "Intangibles – Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment" ("ASU 2017-04"). ASU 2017-04 eliminates Step 2 from the goodwill impairment test, which measures a goodwill impairment loss by comparing the implied fair value of a reporting unit's goodwill with its carrying amount. Under the amendment, an entity should recognize an impairment charge for the amount by which the reporting unit's carrying

amount exceeds its fair value, not to exceed the carrying amount of goodwill. T he Company elected to early adopt ASU 2017-04 beginning in the f irst quarter of 2017 and will apply the standard prospectively. The Company performed its annual goodwill impairment test as of September 30 th and found no indic ators of impairment, therefore no goodwill impairment charge was recognized . The adoption of ASU 2017-04 may reduce the cost and complexity of evaluating goodwill for impairment, but has not had , and is not expected to have, a material impact on the Company's consolidated financial posi tion, results of operations or cash flows.

In January 2017, the FASB issued Accounting Standards Update No. 2017-01, "Business Combinations (Topic 805): Clarifying the Definition of a Business" ("ASU 2017-01"). ASU 2017-01 provides that when substantially all the fair value of the assets acquired is concentrated in a single identifiable asset or a group of similar identifiable assets, the set is not a business. The Company elected to adopt ASU 2017-01 early; therefore, ASU 2017-01 is effective for transactions beginning in the first quarter of 2017 on a prospective basis. The Company evaluated current year transactions under the guidance set forth by ASU 2017-01. See Note 3, *Acquisitions* , and Note 5, *Goodwill and Acquired Intangible Assets* , for details of the Company's business combinations and other acquired assets during the nine months ended September 30, 2017. The adoption of ASU 2017-01 did not have, and is not expected to have, a material impact on the Company's consolidated financial position, results of operations or cash flows.

In August 2016, the FASB issued Accounting Standards Update No. 2016-15, "Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments" ("ASU 2016-15"). ASU 2016-15 adds or clarifies guidance on the classification of certain cash receipts and payments in the statement of cash flows with the intent of reducing diversity in practice related to eight types of cash flows including, among others, debt prepayment or debt extinguishment costs, contingent consideration payments made after a business combination, and separately identifiable cash flows and application of the predominance principle. In addition, in November 2016, the FASB issued Accounting Standards Update No. 2016-18, "Statement of Cash Flows (Topic 230): Restricted Cash" ("ASU 2016-18"). ASU 2016-18 requires companies to include amounts generally described as restricted cash and restricted cash equivalents in cash and cash equivalents when reconciling beginning-of-period and end-of-period total amounts shown on the statement of cash flow . ASU 2016-15 and ASU 2016-18 are effective for the Company beginning in first quarter of 2018 and early adoption is permitted. The amendments should be applied using a retrospective transition method to each period presented. The adoption of ASU 2016-15 and ASU 2016-18 may impact the Company's disclosures but is otherwise not expected to have a material impact on its consolidated financial position, results of operations or cash flows.

In June 2016, the FASB issued Accounting Standards Update No. 2016-13, "Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments" ("ASU 2016-13"). ASU 2016-13 introduces a new forward-looking approach, based on expected losses, to estimate credit losses on certain types of financial instruments, including trade receivables and held-to-maturity debt securities, which will require entities to incorporate considerations of historical information, current information and reasonable and supportable forecasts. This ASU also expands disclosure requirements. ASU 2016-13 is effective for the Company beginning the first quarter of 2020 and early adoption is permitted. The guidance will be applied using the modified-retrospective approach. The adoption of ASU 2016-13 is not expected to have a material impact on the Company's consolidated financial position, results of operations or cash flows.

In March 2016, the FASB issued Accounting Standards Update No. 2016-09, "Compensation—Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting" ("ASU 2016-09"), which simplifies several aspects of the accounting for share-based payment transactions . Under ASU 2016-09, excess tax benefits and tax deficiencies are recognized as income tax expense or benefit in the income statement. ASU 2016-09 also provides entities with the option to elect an accounting policy to continue to estimate forfeitures of stock-based awards over the service period (current GAAP) or account for forfeitures when they occur . Under ASU 2016-09, previously unrecognized excess tax benefits should be recognized using a modified retrospective transition. In addition, amendments requiring recognition of excess tax benefits and tax deficiencies in the income statement, as well as changes in the computation of weighted-average diluted shares outstanding, should be applied prospectively. ASU 2016-09 is effective for and was adopted by the Company beginning in the first quarter of 2017 and the impact of the adoption resulted in the following :

- During the three and nine months ended September 30, 2017, the Company recognized excess tax benefits from stock-based compensation of $2.2 million and $5.7 million, respectively, within provision for income taxes on the condensed consolidated statements of operations and within net income on the condensed consolidated statements of cash flows. Prior to adoption, the tax effect of stock-based awards would have been recognized in additional paid-in capital on the condensed consolidated balance sheets and separately stated in financing activities in the condensed consolidated statements of cash flows (adopted prospectively).
- The Company has elected to continue to estimate forfeitures of stock-based awards over the service period.
- The Company recorded a cumulative-effect adjustment for previously unrecognized excess tax benefits of $2.7 million to opening retained earnings on the condensed consolidated balance sheets as of January 1, 2017.

- The excess tax b enefits from the assumed proceeds available to repurchase shares were excluded in the computation of diluted earnings per share for the three and nine months ended September 30, 2017 (adopted prospectively).

In February 2016, the FASB issued Accounting Standards Update No. 2016-02, "Leases (Topic 842)" ("ASU 2016-02"). Under ASU 2016-02, a lessee will recognize in the statement of financial position a liability to make lease payments and a right-of-use asset for all leases (with the exception of short-term leases) at the commencement date. The recognition, measurement, and presentation of expenses and cash flows arising from a lease under ASU 2016-02 will not significantly change from current GAAP. ASU 2016-02 is effective beginning in the first quarter of 2019 with early adoption permitted. The Company will be required to recognize and measure leases at the beginning of the earliest period presented using a modified retrospective approach. The Company is currently evaluating the impact of adoption of ASU 2016-02 on its consolidated financial statements and anticipates that it will result in a significant increase in its long-term assets and liabilities but will have no material impact to its results of operations and cash flows.

In May 2014, the FASB issued Accounting Standards Update No. 2014-09, "Revenue from Contracts with Customers (Topic 606)" ("ASU 2014-09") , which supersedes the revenue recognition requirements in Topic 605, Revenue Recognition, including most industry-specific requirements. ASU 2014-09 establishes a five-step revenue recognition process in which an entity will recognize revenue when it transfers promised goods or services to customers in an amount that reflects the consideration to which the company expects to be entitled in exchange for those goods or services. ASU 2014-09 also requires enhanced disclosures regarding the nature, amount, timing and uncertainty of revenues and cash flows from contracts with customers. In August 2015, the FASB issued Accounting Standards Update No. 2015-14, "Revenue from Contracts with Customers (Topic 606): Deferral of the Effective Date", which defers the effective date of ASU 2014-09 by one year. In March 2016, the FASB issued Accounting Standards Update No. 2016-08, "Revenue from Contracts with Customers (Topic 606): Principal versus Agent Considerations (Reporting Revenue Gross versus Net)" ("ASU 2016-08"), which clarifies the implementation guidance on principal versus agent considerations in the new revenue recognition standard. ASU 2016-08 clarifies how an entity should identify the unit of accounting (i.e. the specified good or service) for the principal versus agent evaluation and how it should apply the control principle to certain types of arrangements. In April 2016, the FASB issued Accounting Standards Update No. 2016-10, "Revenue from Contracts with Customers (Topic 606): Identifying Performance Obligations and Licensing" ("ASU 2016-10") , which clarifies the implementation guidance on identifying performance obligations and licensing. ASU 2016-10 reduces the cost and complexity of identifying promised goods or services and improves the guidance for determining whether promises are separately identifiable. In May 2016, the FASB issued Accounting Standards Update No. 2016-12, " Revenue from Contracts with Customers (Topic 606): Narrow-Scope Improvements and Practical Expedients" ("ASU 2016-12"), which amends the guidance in the new revenue standard on collectability, non-cash consideration, presentation of sales tax, and transition. In December 2016, the FASB issued Account Standards Update No. 2016-20, "Technical Corrections and Improvements to Topic 606, Revenue from Contracts with Customers" ("ASU 2016-20"), which contains additional technical corrections and improvements to the revenue standard but doesn't change any of the principles in the new revenue guidance. ASU 2014-09, ASU 2016-08, ASU 2016-10, ASU 2016-12 and ASU 2016-20 will be effective for the Company in the first quarter of 2018. The Company currently anticipates applying the modified retrospective approach when adopting these ASUs . Based on the Company's initial assessment, the adoption of these ASUs is expected to have an immaterial impact on the timing of recognition of certain revenues and result in the deferral of certain incremental costs of obtaining a contract. Management does not expect the impact the adoption of these ASUs to have a material impact on the Company's consolidated financial position, results of operations or cash flows or its business processes, systems and controls.

3. Acquisitions

2017 Acquisition

On August 23, 2017, the Company acquired substantially all of the assets and certain expressly specified liabilities of A&D Network Solutions, Inc. and Dashed, Inc. (collectively, "Foodler"). The purchase price for Foodler was $51.0 million in cash, net of a net working capital adjustment receivable of $0.9 million and cash acquired of $0.1 million. Foodler is an independent online food-ordering company with an established diner base in the Northeast United States. The acquisition has expanded the breadth and depth of the Company's network of restaurant partners, active diners and delivery networks.

The results of operations of Foodler have been included in the Company's financial statements since August 23, 2017, but did not have a material impact on the Company's condensed consolidated results of operations for the three and nine months ended September 30, 2017.

The excess of the consideration transferred in the acquisition over the net amounts assigned to the fair value of the assets was recorded as goodwill, which represents the value of increasing the breadth and depth of the Company's network of restaurants and diners as well as expanded restaurant delivery services. The goodwill related to this acquisition of $18.1 million is expected to be deductible for income tax purposes.

The assets acquired and liabilities assumed of Foodler were recorded at their estimated fair values as of the closing date of August 23, 2017. The following table summarizes the preliminary purchase price allocation acquisition-date fair values of the assets and liabilities acquired in connection with the Foodler acquisition:

		(in thousands)
Cash and cash equivalents	$	86
Accounts receivable		307
Restaurant relationships		35,217
Diner acquisition		1,354
Developed technology		1,955
Goodwill		18,102
Trademarks		74
Accounts payable and accrued expenses		(6,037)
Total purchase price plus cash acquired		51,058
Net working capital adjustment receivable		887
Cash acquired		(86)
Net cash paid	$	51,859

2016 Acquisition

On May 5, 2016, the Company acquired all of the issued and outstanding stock of KMLee Investments Inc. and LABite.com, Inc. (collectively, "LABite"). The purchase price for LABite was $65.8 million in cash, net of cash acquired of $2.6 million. LABite provides online and mobile food ordering and delivery services for restaurants in numerous western and southwestern cities of the United States. The acquisition has expanded the Company's restaurant, diner and delivery networks.

The results of operations of LABite have been included in the Company's financial statements since May 5, 2016.

The excess of the consideration transferred in the acquisition over the net amounts assigned to the fair value of the assets acquired was recorded as goodwill, which represents the opportunity to expand restaurant delivery services and enhance the breadth and depth of the Company's restaurant networks. Of the $40.2 million of goodwill related to the acquisition, $5.0 million is expected to be deductible for income tax purposes.

The assets acquired and liabilities assumed of LABite were recorded at their estimated fair values as of the closing date of May 5, 2016. The following table summarizes the final purchase price allocation acquisition-date fair values of the assets and liab ilities acquired in connection with the LABite acquisition:

	(in thousands)
Cash and cash equivalents	$ 2,566
Accounts receivable	2,320
Prepaid expenses and other assets	68
Restaurant relationships	46,513
Property and equipment	257
Developed technology	1,731
Goodwill	40,235
Trademarks	440
Accounts payable and accrued expenses	(6,303)
Net deferred tax liability	(19,412)
Total purchase price plus cash acquired	68,415
Cash acquired	(2,566)
Net cash paid	$ 65,849

Additional Information

The estimated fair values of the intangible assets acquired were determined based on a combination of the income, cost, and market approaches to measure the fair value of the restaurant relationships, diner acquisition, developed technology and trademarks. The fair value of the trademarks was measured based on the relief from royalty method. The cost approach, specifically the cost to recreate method, was used to value the developed technology and diner acquisition. The income approach, specifically the multi-period excess earnings method, was used to value the restaurant relationships. These fair value measurements were based on significant inputs not observable in the market and thus represent Level 3 measurements within the fair value hierarchy.

The Company incurred certain expenses directly and indirectly related to acquisitions which were recognized in general and administrative expenses within the condensed consolidated statements of operations for the three months ended September 30, 2017 and 2016 of $1.7 million and $0.2 million, respectively, and for the nine months ended September 30, 2017 and 2016 of $3.6 million and $1.7 million, respectively.

Pro Forma

The pro forma effects of the Foodler acquisition would not have been material to the Company's results of operations and are therefore not presented. The following unaudited pro forma information presents a summary of the operating results of the Company for the three and nine months ended September 30, 2016 as if the LABite acquisition had occurred as of January 1 of the year prior to acquisition:

	Three Months Ended September 30, 2016	Nine Months Ended September 30, 2016
	(in thousands, except per share data)	
Revenues	$ 123,461	$ 364,834
Net income	13,334	34,897
Net income per share attributable to common shareholders:		
Basic	$ 0.16	$ 0.41
Diluted	$ 0.15	$ 0.41

The pro forma adjustments reflect the amortization that would have been recognized for LABite intangible assets, elimination of transaction costs incurred and pro forma tax adjustments for the three and nine months ended September 30, 2016 as follows:

	Three Months Ended September 30, 2016	Nine Months Ended September 30, 2016
	(in thousands)	
Depreciation and amortization	$ —	$ 1,364
Transaction costs	(255)	(1,729)
Income tax expense	104	151

The unaudited pro forma revenues and net income are not intended to represent or be indicative of the Company's condensed consolidated results of operations or financial condition that would have been reported had the acquisition been completed as of the beginning of the periods presented and should not be taken as indicative of the Company's future consolidated results of operations or financial condition.

4. Marketable Securities

The amortized cost, unrealized gains and losses and estimated fair value of the Company's held-to-maturity marketable securities as of September 30, 2017 and December 31, 2016 were as follows:

	September 30, 2017			
	Amortized Cost	Unrealized Gains	Unrealized Losses	Estimated Fair Value
	(in thousands)			
Cash and cash equivalents				
Commercial paper	$ 7,999	$ —	$ (22)	$ 7,977
Short term investments				
Commercial paper	54,275	—	(187)	54,088
Corporate bonds	11,375	1	—	11,376
Total	$ 73,649	$ 1	$ (209)	$ 73,441

	December 31, 2016			
	Amortized Cost	Unrealized Gains	Unrealized Losses	Estimated Fair Value
	(in thousands)			
Cash and cash equivalents				
Commercial paper	$ 59,175	$ 2	$ (28)	$ 59,149
Corporate bonds	5,000	1	—	5,001
U.S. government agency bonds	5,500	—	—	5,500
Short term investments				
Commercial paper	73,002	—	(214)	72,788
Corporate bonds	11,089	4	(5)	11,088
Total	$ 153,766	$ 7	$ (247)	$ 153,526

All of the Company's marketable securities were classified as held-to-maturity investments and have maturities within one year of September 30, 2017. Approximately $80 million of the Company's marketable securities matured during the nine months ended September 30, 2017, which was invested in money market funds as of September 30, 2017. See Note 13, *Fair Value Measurement* , for additional details.

The gross unrealized losses, estimated fair value and length of time the individual marketable securities were in a continuous loss position for those marketable securities in an unrealized loss position as of September 30, 2017 and December 31, 2016 were as follows:

	September 30, 2017					
	Less Than 12 Months		12 Months or Greater		Total	
	Estimated Fair Value	Unrealized Loss	Estimated Fair Value	Unrealized Loss	Estimated Fair Value	Unrealized Loss
	(in thousands)					
Commercial paper	$ 62,065	$ (209)	$ —	$ —	$ 62,065	$ (209)
Total	$ 62,065	$ (209)	$ —	$ —	$ 62,065	$ (209)

	December 31, 2016					
	Less Than 12 Months		12 Months or Greater		Total	
	Estimated Fair Value	Unrealized Loss	Estimated Fair Value	Unrealized Loss	Estimated Fair Value	Unrealized Loss
	(in thousands)					
Commercial paper	$ 130,938	$ (242)	$ —	$ —	$ 130,938	$ (242)
Corporate bonds	6,556	(5)	—	—	6,556	(5)
Total	$ 137,494	$ (247)	$ —	$ —	$ 137,494	$ (247)

The Company recognized interest income in general and administrative expenses within the condensed consolidated statements of operations during the three months ended September 30, 2017 and 2016 of $0.5 million and $0.4 million, respectively, and for the nine months ended September 30, 2017 and 2016 of $1.5 million and $0.9 million, respectively. During the three and nine months ended September 30, 2017 and 2016, the Company did not recognize any other-than-temporary impairment losses related to its marketable securities.

The Company's marketable securities are classified within Level 2 of the fair value hierarchy (see Note 13, *Fair Value Measurement,* for further details).

5. Goodwill and Acquired Intangible Assets

The components of acquired intangible assets as of September 30, 2017 and December 31, 2016 were as follows:

	September 30, 2017			December 31, 2016		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Value	Gross Carrying Amount	Accumulated Amortization	Net Carrying Value
	(in thousands)					
Restaurant relationships	$ 331,348	$ (70,530)	$ 260,818	$ 279,651	$ (57,765)	$ 221,886
Developed technology	7,919	(6,726)	1,193	10,640	(9,575)	1,065
Diner acquisition	5,021	(64)	4,957	—	—	—
Trademarks	74	(48)	26	969	(582)	387
Other	7,770	(3,891)	3,879	3,350	(2,734)	616
Total amortizable intangible assets	352,132	(81,259)	270,873	294,610	(70,656)	223,954
Indefinite-lived trademarks	89,676	—	89,676	89,676	—	89,676
Total acquired intangible assets	$ 441,808	$ (81,259)	$ 360,549	$ 384,286	$ (70,656)	$ 313,630

The gross carrying amount and accumulated amortization of the Company's developed technology, trademark and other intangible assets as of September 30, 2017 were adjusted by $6.2 million for certain fully amortized assets that were no longer in use.

Amortization expense for acquired intangible assets was $6.4 million and $5.4 million for the three months ended September 30, 2017 and 2016, respectively, and $16.8 million and $16.1 million for the nine months ended September 30, 2017 and 2016, respectively.

Changes in the carrying a mount of goodwill during the nine months ended September 30, 2017 were as follows:

	Goodwill	Accumulated Impairment Losses	Net Book Value
	(in thousands)		
Balance as of December 31, 2016	436,455	—	436,455
Acquisitions	18,102	—	18,102
Balance as of September 30, 2017	$ 454,557	$ —	$ 454,557

In January 2017, the Company entered into an agreement with Zoomer Inc. ("Zoomer") whereby Zoomer waived non-solicitation provisions allowing the Company to engage the services of certain former Zoomer employees and consultants.

In July of 2017, the Company announced that it had entered into a definitive agreement to acquire certain assets of OrderUp, Inc. ("OrderUp"), a wholly-owned subsidiary of Groupon, Inc. OrderUp provides online and mobile food ordering for restaurants across the United States.

During the nine months ended September 30, 2017, the Company recorded additions to acquired intangible assets of $63.7 million as a result of the acquisition of Foodler, the acquisition of certain assets of OrderUp and payments made to Zoomer. The components of the acquired intangible assets added during the nine months ended September 30, 2017 were as follows:

	Nine Months Ended September 30, 2017	
	Amount	Weighted-Average Amortization Period
	(in thousands)	(years)
Restaurant relationships	$ 51,697	19.4
Diner acquisition	5,021	5.0
Developed technology	1,955	0.2
Trademarks	74	0.2
Other	5,000	2.8
Total	$ 63,747	

Estimated future amortization expense of acquired intangible assets as of September 30, 2017 was as follows:

	(in thousands)
The remainder of 2017	$ 6,355
2018	22,539
2019	20,421
2020	18,652
2021	18,652
Thereafter	184,254
Total	$ 270,873

6. Property and Equipment

The components of the Company's property and equipment as of September 30, 2017 and December 31, 2016 were as follows:

	September 30, 2017	December 31, 2016
	(in thousands)	
Computer equipment	$ 25,446	$ 17,548
Furniture and fixtures	5,950	4,842
Developed software	44,934	26,460
Purchased software and digital assets	2,436	1,360
Leasehold improvements	21,414	19,038
Property and equipment	100,180	69,248
Accumulated amortization and depreciation	(37,955)	(22,693)
Property and equipment, net	$ 62,225	$ 46,555

The Company recorded depreciation and amortization expense for property and equipment other than developed software of $2.9 million and $2.3 million for the three months ended September 30, 2017 and 2016 , respectively and $8.0 million and $5.6 million for the nine months ended September 30, 2017 and 2016, respectively.

The Company capitalized developed software costs of $6.8 million and $4.1 million for the three months ended September 30, 2017 and 2016, respectively, and $18.9 million and $10.8 million for the nine months ended September 30, 2017 and 2016, respectively. Amortization expense for developed software costs, recognized in depreciation and amortization in the condensed consolidated statements of operations, for the three months ended September 30, 2017 and 2016 was $3.3 million and $1.4 million, respectively, and $8.3 million and $3.6 million for the nine months ended September 30, 2017 and 2016, respectively.

7. Commitments and Contingencies

Legal

In August 2011, Ameranth, Inc. ("Ameranth") filed a patent infringement action against a number of defendants, including Grubhub Holdings Inc., in the U.S. District Court for the Southern District of California (the "Court"), Case No. 3:11-cv-1810 ("'1810 action").

In March 2012, Ameranth initiated eight additional actions for infringement of a related patent, U.S. Patent No. 8,146,077 ("'077 patent"), in the same forum, including separate actions against Grubhub Holdings Inc., Case No. 3:12-cv-739 ("'739 action"), and Seamless North America, LLC, Case No. 3:12-cv-737 ("'737 action"). In August 2012, the Court severed the claims against Grubhub Holdings Inc. and Seamless North America, LLC in the '1810 action and consolidated them with the '739 action and the '737 action, respectively. Later, the Court consolidated these separate cases against Grubhub Holdings Inc. and Seamless North America, LLC, along with the approximately 40 other cases Ameranth filed in the same district, with the original '1810 action. In their answers, Grubhub Holdings Inc. and Seamless North America, LLC denied infringement and interposed various defenses, including non-infringement, invalidity, unenforceability and inequitable conduct.

No trial date has been set for this case. The consolidated district court case was stayed until January 2017, when Ameranth's motion to lift the stay and proceed on only the '077 patent was granted. The Company believes this case lacks merit and that it has strong defenses to all of the infringement claims. The Company intends to defend the suit vigorously. However, the Company is unable to predict the likelihood of success of Ameranth's infringement claims and is unable to predict the likelihood of success of its counterclaims. The Company has not recorded an accrual related to this lawsuit as of September 30, 2017, as it does not believe a material loss is probable. It is a reasonable possibility that a loss may be incurred; however, the possible range of loss is not estimable given the status of the case and the uncertainty as to whether the claims at issue are with or without merit, will be settled out of court, or will be determined in the Company's favor, whether the Company may be required to expend significant management time and financial resources on the defense of such claims, and whether the Company will be able to recover any losses under its insurance policies.

In addition to the matter described above, from time to time, the Company is involved in various other legal proceedings arising from the normal course of business activities, including labor and employment claims, some of which relate to the alleged misclassification of independent contractors. In September 2015, a claim was brought in the United States District Court for the Northern District of California under the Private Attorneys General Act by an individual plaintiff on behalf of himself and seeking to represent other drivers and the State of California. The claim seeks monetary penalties and injunctive relief for alleged violations of the California Labor Code based on the alleged misclassification of drivers as independent contractors. A bench trial was held in September to address the individual plaintiff's claims for which the Court has not yet issued a ruling. The Company does not believe any of these claims will have a material impact on its consolidated financial statements. However, there is no assurance that any claim will not be combined into a collective or class action.

Indemnification

In connection with the merger of Seamless North America, LLC, Seamless Holdings Corporation and Grubhub Holdings Inc. in August 2013, the Company agreed to indemnify Aramark Holdings Corporation for negative income tax consequences associated with the October 2012 spin-off of Seamless Holdings Corporation that were the result of certain actions taken by the Company through October 29, 2014, in certain instances subject to a $15.0 million limitation. Management is not aware of any actions that would impact the indemnification obligation.

8. Debt

On April 29, 2016, the Company entered into a secured revolving credit facility (the "Previous Credit Agreement"), which provided for aggregate revolving loans up to $185.0 million, subject to an increase of up to an additional $30 million under certain conditions. The Previous Credit Agreement was due to expire on April 28, 2021. There were no borrowings outstanding under the Previous Credit Agreement as of September 30, 2017. The Company refinanced the Previous Credit Agreement on October 10, 2017, see Note 14, *Subsequent Events* , for additional details.

During the three and nine months ended September 30, 2017, the Company recognized interest expense of $0.2 million and $0.6 million, respectively, in general and administrative expenses within the condensed consolidated statements of operations.

9. Stock-Based Compensation

The Company has granted stock options, restricted stock units and restricted stock awards under its incentive plans. The Company recognizes compensation expense based on estimated grant date fair values for all stock-based awards issued to employees and directors, including stock options, restricted stock awards and restricted stock units.

Stock-based Compensation Expense

The total stock-based compensation expense related to all stock-based awards was $8.5 million and $5.4 million during the three months ended September 30, 2017 and 2016, respectively, and $23.9 million and $17.8 million during the nine months ended September 30, 2017 and 2016. As of September 30, 2017, $97.3 million of total unrecognized stock-based compensation expense is expected to be recognized over a weighted-average period of 3.0 years.

Excess tax benefits reflect the total realized value of the Company's tax deductions from individual stock option exercise transactions and the vesting of restricted stock awards and restricted stock units in excess of the deferred tax assets that were previously recorded. During the nine months ended September 30, 2017, the Company recognized excess tax benefits from stock-based compensation of $5.7 million within provision for income taxes on the condensed consolidated statements of operations and within cash flows from operating activities on the condensed consolidated statements of cash flows. During the nine months ended September 30, 2016, the Company reported excess tax benefits as a decrease in cash flows from operations and an increase in cash flows from financing activities of $22.1 million. The change in presentation of excess tax benefits during the nine months ended September 30, 2017 is a result of the adoption of ASU 2016-09. See Note 2, *Significant Accounting Policies,* for additional information related to the impact of the adoption of ASU 2016-09.

The Company capitalized $1.2 million and $0.6 million during the three months ended September 30, 2017 and 2016, respectively, and $3.3 million and $1.4 million during the nine months ended September 30, 2017 and 2016, respectively, of stock-based compensation expense as website and software development costs .

Stock Options

The Company granted 618,899 and 131,816 stock options during the nine months ended September 30, 2017 and 2016, respectively. The fair value of each stock option award was estimated based on the assumptions below as of the grant date using the Black-Scholes-Merton option pricing model. Expected volatilities are based on a combination of the historical and implied volatilities of comparable publicly-traded companies and the historical volatility of the Company's own common stock due to its limited trading history as there was no active external or internal market for the Company's common stock prior to the Company's initial public offering in April 2014. The Company uses historical data to estimate option exercises and employee terminations within the valuation model. Separate groups of employees that have similar historical exercise behavior are considered separately for valuation purposes. The Company transitioned from using a simplified method for calculating the expected term of its options as it has obtained sufficient historical information to derive a reasonable estimate, therefore, beginning in the first quarter of 2017 the expected term calculation for option awards considers a combination of the Company's historical and estimated future exercise behavior. The risk-free rate for the period within the contractual life of the option is based on the U.S. Treasury yield curve in effect at the time of grant. The assumptions used to determine the fair value of the stock options granted during the nine months ended September 30, 2017 and 2016 were as follows:

	Nine Months Ended September 30,	
	2017	2016
Weighted-average fair value options granted	$ 15.19	$ 10.74
Average risk-free interest rate	1.65%	1.41%
Expected stock price volatilities	48.7%	50.3%
Dividend yield	None	None
Expected stock option life (years) (a)	4.00	5.78

(a) During the nine months ended September 30, 2017, the expected term calculation for option awards was based on the Company's historical exercise experience and estimated future exercise behavior. During the nine months ended September 30, 2016, the expected term of option awards was estimated using a simplified method due to the limited period of time stock-based awards had been exercisable.

Stock option awards as of December 31, 2016 and September 30, 2017, and changes during the nine months ended September 30, 2017 , were as follows :

	Options	Weighted-Average Exercise Price	Aggregate Intrinsic Value (thousands)	Weighted-Average Exercise Term (years)
Outstanding at December 31, 2016	2,992,724	$ 22.43	$ 46,608	7.68
Granted	618,899	38.49		
Forfeited	(114,758)	31.71		
Exercised	(570,688)	21.91		
Outstanding at September 30, 2017	2,926,177	25.56	79,305	7.51
Vested and expected to vest at September 30, 2017	2,785,938	25.56	75,185	7.51
Exercisable at September 30, 2017	1,273,725	$ 18.76	$ 43,178	6.51

The aggregate intrinsic value in the table above represents the total pre-tax intrinsic value (the difference between the fair value of the common stock and the exercise price, multiplied by the number of in-the-money options) that would have been received by the option holders had all option holders exercised their in-the-money options on each date. This amount will change in future periods based on the fair value of the Company's stock and the number of options outstanding. The aggregate intrinsic value of stock options exercised during the three months ended September 30, 2017 and 2016 was $5.6 million and $13.8 million, respectively, and $13.7 million and $26.9 million during the nine months ended September 30, 2017 and 2016 respectively.

The Company recorded compensation expense for stock options of $3.0 million and $2.5 million for the three months ended September 30, 2017 and 2016 , respectively, and $8.9 million and $9.5 million for the nine months ended September 30, 2017 and 2016, respectively. As of September 30, 2017, total unrecognized compensation cost, adjusted for estimated forfeitures, related to non-vested stock options was $19.4 million and is expected to be recognized over a weighted-average period of 2.4 years.

Restricted Stock Units and Restricted Stock Awards

Non-vested restricted stock units as of December 31, 2016 and September 30, 2017 , and changes during the nine months ended September 30, 2017 were as follows:

	Restricted Stock Units	
	Shares	Weighted-Average Grant Date Fair Value
Outstanding at December 31, 2016	1,516,354	$ 28.46
Granted	1,708,780	38.90
Forfeited	(243,453)	33.03
Vested	(480,880)	27.16
Outstanding at September 30, 2017	2,500,801	$ 35.40

C ompensation expense related to restricted stock units was $5.5 million and $2.9 million during the three months ended September 30, 2017 and 2016 , respectively, and $15.0 million and $6.6 million during the nine months ended September 30, 2017 and 2016 , respectively . The aggregate fair value as of the vest date of restricted stock units that vested during the three months ended September 30, 2017 and 2016 was $5.7 million and $0.7 million, respectively, and $19.9 million and $1.5 million during the nine months ended September 30, 2017 and 2016, respectively. As of September 30, 2017 , $77.9 million of total unrecognized compensation cost, adjusted for estimated forfeitures, related to 1,618,711 non-vested restricted stock units expected to vest with weighted-average grant date fair values of $35.40 is expected to be recognized over a weighted-average period of 3.2 years. The fair value of these awards was determined based on the Company's stock price at the grant date and assumes no expected dividend payments through the vesting period.

Compensation expense recognized related to restricted stock awards was $1.7 million during the nine months ended September 30, 2016 . There were no non-vested restricted stock awards or related expense during the three months ended September 30, 2016 . The aggregate fair value as of the vest date of restricted stock awards that vested during the nine months ended September 30, 2016 was $1.7 million. As of September 30, 2017 , there were no remaining non-vested restricted stock awards or related unrecognized compensation cost.

10. Income Taxes

In June of 2017 , the New York City Department of Finance completed a routine examination of Seamless Holdings Corporation for General Corporation Tax for the short tax period from October 17, 2012 through August 8, 2013 and proposed no changes. The Company does not expect any additional tax liabilities, penalties and/or interest as a result of the audit.

11. Stockholders' Equity

As of September 30, 2017 and December 31, 2016 , the Company was authorized to issue two classes of stock: common stock and preferred stock.

Common Stock

Each holder of common stock has one vote per share of common stock held on all matters that are submitted for stockholder vote. At September 30, 2017 and December 31, 2016, there were 500,000,000 shares of common stock authorized. At September 30, 2017 and December 31, 2016, there were 86,558,223 and 85,692,333 shares issued and outstanding, respectively. The Company did not hold any shares as treasury shares as of September 30, 2017 or December 31, 2016.

On January 22, 2016, the Company's Board of Directors approved a program that authorizes the repurchase of up to $100 million of the Company's common stock exclusive of any fees, commissions or other expenses relating to such repurchases through open market purchases or privately negotiated transactions at the prevailing market price at the time of purchase. The repurchase program was announced on January 25, 2016. The repurchased stock may be retired or held as authorized but unissued treasury shares. The repurchase authorizations do not obligate the Company to acquire any particular amount of common stock or adopt any particular method of repurchase and may be modified, suspended or terminated at any time at management's discretion. Repurchased and retired shares will result in an immediate reduction of the outstanding shares used to calculate the weighted-average common shares outstanding for basic and diluted net income per share at the time of the transaction. During the nine months ended September 30, 2017, the Company did not repurchase any shares of its common stock.

Preferred Stock

The Company was authorized to issue 25,000,000 shares of preferred stock. There were no issued or outstanding shares of preferred stock as of September 30, 2017 or December 31, 2016 .

The Company's equity as of December 31, 2016 and September 30, 2017 , and changes during the nine months ended September 30, 2017 , were as follows:

	(in thousands)
Balance at December 31, 2016	$ 972,119
Net income	45,457
Cumulative effect of change in accounting principle (a)	2,650
Currency translation	749
Stock-based compensation	27,171
Shares repurchased and retired to satisfy tax withholding upon vesting	(7,696)
Stock option exercises, net of withholdings and other	12,505
Balance at September 30, 2017	$ 1,052,955

(a) See Note 2, *Significant Accounting Policies,* for additional details related to the impact of the adoption of ASU 2016-09 during the nine months ended September 30, 2017.

12. Earnings Per Share Attributable to Common Stockholders

Basic earnings per share is computed by dividing net income attributable to common stockholders by the weighted-average number of common shares outstanding during the period without consideration for common stock equivalents. Diluted net income per share attributable to common stockholders is computed by dividing net income by the weighted-average number of common shares outstanding during the period and potentially dilutive common stock equivalents, including stock options, restricted stock units and restricted stock awards, except in cases where the effect of the common stock equivalent would be antidilutive. Potential common stock equivalents consist of common stock issuable upon exercise of stock options and vesting of restricted stock units and restricted stock awards using the treasury stock method. The calculation of weighted-average dilutive shares outstanding for the nine months ended September 30, 2017 was impacted by the adoption of ASU 2016-09. See Note 2, *Significant Accounting Policies* , for additional details.

The following tables present the calculation of basic and diluted net income per share attributable to common stockholders for the three and nine months ended September 30, 2017 and 2016 :

	Three Months Ended September 30, 2017			Three Months Ended September 30, 2016		
	Income (Numerator)	Shares (Denominator)	Per Share Amount	Income (Numerator)	Shares (Denominator)	Per Share Amount
	(in thousands, except per share data)					
Basic EPS						
Net income attributable to common stockholders	$ 12,988	86,449	$ 0.15	$ 13,182	85,217	$ 0.15
Effect of Dilutive Securities						
Stock options	—	1,105		—	776	
Restricted stock units	—	989		—	431	
Diluted EPS						
Net income attributable to common stockholders	$ 12,988	88,543	$ 0.15	$ 13,182	86,424	$ 0.15

	Nine Months Ended September 30, 2017			Nine Months Ended September 30, 2016		
	Income (Numerator)	Shares (Denominator)	Per Share Amount	Income (Numerator)	Shares (Denominator)	Per Share Amount
	(in thousands, except per share data)					
Basic EPS						
Net income attributable to common stockholders	$ 45,457	86,162	$ 0.53	$ 35,920	84,889	$ 0.42
Effect of Dilutive Securities						
Stock options	—	951		—	837	
Restricted stock units and restricted stock awards	—	675		—	231	
Diluted EPS						
Net income attributable to common stockholders	$ 45,457	87,788	$ 0.52	$ 35,920	85,957	$ 0.42

During the nine months ended September 30, 2016, the Company repurchased and retired 724,473 shares of its common stock at a weighted-average share price of $20.37, or an aggregate of $14.8 million. The repurchases resulted in a reduction of the outstanding shares used to calculate the weighted-average common shares outstanding for basic and diluted net earnings per share from the dates of the repurchases. See Note 11, *Stockholders' Equity,* for additional details.

The number of shares of common stock underlying stock-based awards excluded from the calculation of diluted net income per share attributable to common stockholders because their effect would have been antidilutive for the three and nine months ended September 30, 2017 and 2016 were as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
Anti-dilutive shares underlying stock-based awards:				
Stock options	685,671	916,154	685,671	916,154
Restricted stock units	84,358	178,551	84,358	178,551

13. Fair Value Measurement

Certain assets and liabilities are required to be recorded at fair value on a recurring basis. Accounting standards define fair value as the price that would be received to sell an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market in an orderly transaction between market participants on the measurement date. The standards also establish a fair value hierarchy, which requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value.

The accounting guidance for fair value measurements prioritizes valuation methodologies based on the reliability of the inputs in the following three-tier value hierarchy:

Level 1 Quoted prices in active markets for identical assets or liabilities.

Level 2 Assets and liabilities valued based on observable market data for similar instruments, such as quoted prices for similar assets or liabilities.

Level 3 Unobservable inputs that are supported by little or no market activity; instruments valued based on the best available data, some of which is internally developed, and considers risk premiums that a market participant would require.

The Company applied the following methods and assumptions in estimating its fair value measurements: the Company's commercial paper, investments in corporate and U.S. government agency bonds and certain money market funds are classified as Level 2 within the fair value hierarchy because they are valued using inputs other than quoted prices in active markets that are observable directly or indirectly. Accounts receivable, restaurant food liability and accounts payable approximate fair value due to their generally short-term maturities.

The following table presents the balances of assets measured at fair value on a recurring basis as of September 30, 2017 and December 31, 2016 :

	September 30, 2017	December 31, 2016
	Level 2	Level 2
	(in thousands)	
Money market funds	$ 82,959	$ 1,723
Commercial paper	62,065	131,937
Corporate bonds	11,376	16,089
U.S. government agency bonds	—	5,500
Total	$ 156,400	$ 155,249

In addition to assets and liabilities that are recorded at fair value on a recurring basis, the Company is required to record certain assets and liabilities at fair value on a nonrecurring basis, generally as a result of acquisitions. See Note 3, *Acquisitions* , for further discussion of the fair value of assets and liabilities associated with acquisitions.

14. Subsequent Events

Credit Agreement

On October 10, 2017, the Company entered into a credit agreement which provides, among other things, for aggregate revolving loans up to $225 million and term loans in an aggregate principal amount of $125 million (the "Credit Agreement"). In addition, the Company may incur up to $150 million of incremental revolving loans or incremental revolving term loans pursuant to the terms and conditions of the Credit Agreement. The credit facility will be available to the Company until October 9, 2022. The Credit Agreement replaced the Company's $185.0 million Previous Credit Agreement.

Under the Credit Agreement, borrowings bear interest, at the Company's option, based on LIBOR or an alternate a base rate plus a margin. In the case of LIBOR loans the margin ranges between 1.25% and 2.00% and, in the case of alternate base rate loans, between 0.25% and 1.0%, in each case, based upon the Company's consolidated leverage ratio (as defined in the Credit Agreement). The Company is also required to pay a commitment fee on the undrawn portion available under the revolving loan facility of between 0.20% and 0.30% per annum, based upon the Company's consolidated leverage ratio.

The obligations under the Credit Agreement and the guarantees are secured by a lien on substantially all of the tangible and intangible property of the Company and the domestic subsidiaries that are guarantors, and by a pledge of all of the equity interests of the Company's domestic subsidiaries, subject to certain exceptions set forth in the Credit Agreement.

As of the filing of this Quarterly Report on Form 10-Q, outstanding borrowings under the Credit Agreement were $200 million, including $125.0 million of term loans and $75.0 million of revolving loans. The Company utilized the term loans to finance a portion of the purchase price and transaction costs in connection with the acquisition of Eat24, LLC ("Eat24"). Additional capacity on the Credit Agreement may be used for general corporate purposes, including funding working capital and future acquisitions.

The Credit Agreement contains customary covenants that, among other things, require the Company to satisfy certain financial covenants and may restrict the Company's ability to incur additional debt, pay dividends and make distributions, make certain investments and acquisitions, create liens, transfer and sell material assets and merge or consolidate.

The Company incurred loan origination fees at closing of the Credit Agreement and other expenses related to the financing of the facility of $2.0 million, which, in addition to the $0.8 million remaining balance of loan origination costs under the Previous Credit Agreement, will be deferred in other assets on the condensed consolidated balance sheets and amortized over the term of the facility.

Acquisition of Eat24

On October 10, 2017, the Company completed its previously announced acquisition of all of the issued and outstanding equity interests of Eat24, a wholly owned subsidiary of Yelp Inc., for approximately $280.4 million in cash. Of such amount, $28.8 million will be held in escrow for an 18-month period after closing to secure the Company's indemnification rights under the purchase agreement. Eat24 provides online and mobile food ordering and delivery services for restaurants across the United States. The acquisition will expand the breadth and depth of the Company's national network of restaurant partners and active diners.

The Company granted RSU awards to acquired Eat24 employees in replacement of their unvested equity awards as of the closing date. Approximately $0.3 million of the fair value of the replacement RSU awards granted to acquired Eat24 employees was attributable to the pre-combination services of the Eat24 awardees and was included in the $280.4 million purchase price. This amount will be reflected within goodwill in the purchase price allocation. Post-combination expense of approximately $4.1 million is expected to be recognized related to the replacement awards over the remaining post-combination service period.

The assets acquired and liabilities assumed of Eat24 will be recorded at their estimated fair values as of the closing date of October 10, 2017. The excess of the consideration transferred in the acquisition over the net amounts assigned to the fair value of the assets will be recorded as goodwill, which r epresents the value of increasing the breadth and depth of the Company's network of restaurants and diners. The Company is still in the process of finalizing the purchase price allocation.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following should be read in conjunction with the condensed consolidated financial statements and the notes thereto included elsewhere in this Quarterly Report on Form 10-Q and with the audited consolidated financial statements included in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2016 ("2016 Form 10-K") filed with the United States Securities and Exchange Commission (the "SEC") on February 28, 2017. In addition to historical condensed consolidated financial information, the following discussion contains forward-looking statements that reflect the Company's plans, estimates, and beliefs. Actual results could differ materially from those discussed in the forward-looking statements. Factors that could cause or contribute to these differences include those discussed below and elsewhere in this Quarterly Report on Form 10-Q, including those set forth in "Cautionary Statement Regarding Forward-Looking Statements" below.

Company Overview

Grubhub Inc. and its wholly-owned subsidiaries (collectively referred to as the "Company," "Grubhub," "we," "us," and "our") is the leading online and mobile platform for restaurant pick-up and delivery orders, which the Company refers to as takeout. The Company connects more than 75,000 local restaurants with hungry diners in more than 1,300 cities across the United States and is focused on transforming the takeout experience. In certain markets, the Company also provides delivery services to restaurants on its platform that do not have their own delivery operations. As of September 30, 2017, the Company was providing delivery services in approximately 80 markets across the country. For restaurants, Grubhub generates higher margin takeout orders at full menu prices. The Grubhub platform empowers diners with a "direct line" into the kitchen, avoiding the inefficiencies, inaccuracies and frustrations associated with paper menus and phone orders. The Company has a powerful two-sided network that creates additional value for both restaurants and diners as it grows . The Company charges restaurants a per-order commission that is primarily percentage-based. Most of the restaurants on the Company's platform can choose their level of commission rate, at or above the base rate. A restaurant can choose to pay a higher rate, which affects its prominence and exposure to diners on the platform . Additionally, restaurants that use the Company's delivery services pay an additional commission on the transaction for the use of those services.

Acquisitions of Business and Other Intangible Assets

On October 10, 2017, the Company acquired all of the issued and outstanding equity interests of Eat24, LLC ("Eat24"), a provider of online and mobile food-ordering and delivery services for restaurants across the United States. See Note 14, *Subsequent Events* , for additional details.

On September 14, 2017, the Company acquired certain assets of OrderUp, Inc. ("OrderUp"), an online and mobile food-ordering and delivery company . See Note 5, *Goodwill and Acquired Intangible Assets* , for additional details.

On August 23, 2017, the Company acquired substantially all of the assets and certain expressly specified liabilities of A&D Network Solutions, Inc. and Dashed, Inc. (collectively, "Foodler"), a food-ordering company headquartered in Boston. See Note 3, *Acquisitions* , for additional details.

On May 5, 2016, the Company acquired all of the issued and outstanding capital stock of KMLee Investments Inc. and LABite.com, Inc. (collectively, "LABite"), a restaurant delivery service. For a description of the Company's acquisition of LABite, see Note 3, *Acquisitions* .

Key Business Metrics

Within this Management's Discussion and Analysis of Results of Operations, the Company discusses key business metrics, including Active Diners, Daily Average Grubs and Gross Food Sales. The Company's key business metrics are defined as follows:

- ***Active Diners*** . The number of unique diner accounts from which an order has been placed in the past twelve months through the Company's platform. Some diners could have more than one account if they were to set up multiple accounts using a different e-mail address for each account. As a result, it is possible that the Active Diner metric may count certain diners more than once during any given period.
- ***Daily Average Grubs*** . The number of revenue generating orders placed on the Company's platform divided by the number of days for a given period.
- ***Gross Food Sales.*** The total value of food, beverages, taxes, prepaid gratuities, and any delivery fees processed through the Company's platform. The Company includes all revenue generating orders placed on its platform in this metric; however, revenues are only recognized for the Company's commissions from the transaction, which are a percentage of the total Gross Food Sales for such transaction.

The Company's key business metrics were as follows for the periods presented:

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2017	2016	% Change	2017	2016	% Change
Active Diners	9,806,000	7,685,000	28%	9,806,000	7,685,000	28%
Daily Average Grubs	304,500	267,500	14%	314,200	268,800	17%
Gross Food Sales (in millions)	$ 867.3	$ 735.0	18%	$ 2,645.1	$ 2,180.4	21%

The Company experienced significant growth across all of its key business metrics, Active Diners, Daily Average Grubs and Gross Food Sales, during the three and nine months ended September 30, 2017 as compared to the same periods in the prior year. Growth in all metrics was primarily attributable to increased product and brand awareness by diners largely as a result of marketing efforts and word-of-mouth referrals, better restaurant choices for diners in our markets, technology and product improvements, as well as, to a lesser extent, an increase from the inclusion of results from the acquisitions of LABite, Foodler and OrderUp.

Results of Operations

Three Months Ended September 30, 2017 and 2016

The following table sets forth the Company's results of operations for the three months ended September 30, 2017 as compared to the same period in the prior year presented in dollars and as a percentage of revenues:

	Three Months Ended September 30,					
	2017		2016			
	Amount	% of revenue	Amount	% of revenue	$ Change	% Change
	(in thousands, except percentages)					
Revenues	$ 163,059	100%	$ 123,461	100%	$ 39,598	32%
Costs and expenses:						
Operations and support	65,352	40%	44,346	36%	21,006	47%
Sales and marketing	35,138	22%	26,499	21%	8,639	33%
Technology (exclusive of amortization)	14,292	9%	11,006	9%	3,286	30%
General and administrative	18,244	11%	11,754	10%	6,490	55%
Depreciation and amortization	12,613	8%	9,089	7%	3,524	39%
Total costs and expenses (a)	145,639	89%	102,694	83%	42,945	42%
Income before provision for income taxes	17,420	11%	20,767	17%	(3,347)	(16%)
Provision for income taxes	4,432	3%	7,585	6%	(3,153)	(42%)
Net income attributable to common stockholders	$ 12,988	8%	$ 13,182	11%	$ (194)	(1%)
NON-GAAP FINANCIAL MEASURES:						
Adjusted EBITDA (b)	$ 43,047	26%	$ 35,466	29%	$ 7,581	21%

(a) Totals of percentage of revenues may not foot due to rounding.

(b) For an explanation of Adjusted EBITDA as a measure of the Company's operating performance and a reconciliation to net earnings, see " *Non-GAAP Financial Measure—Adjusted EBITDA.* "

Revenues

Revenues increased by $39.6 million, or 32%, for the three months ended September 30, 2017 compared to the same period in 2016. The increase was primarily related to growth in Active Diners, which increased from 7.7 million to 9.8 million at the end of each period, driving an increase in Daily Average Grubs to 304,500 during the three months ended September 30, 2017 from 267,500 Daily Average Grubs during the same peri od in 2016. The growth in Active Diners and Daily Average Grubs was due primarily to increased product and brand awareness largely as a result of marketing efforts and word-of-mouth referrals, better restaurant choices for diners in our markets, and technology and product improvements to drive more orders. In addition, revenue increased during the three months ended September 30, 2017 compared to the same period in 2016 due to an increase in the Company's average commission rates, which was driven by higher commission rates on delivery orders and an average increase in non-delivery commission rates, as well as a higher average order size.

Operations and Support

Operations and support expense increased by $21.0 million, or 47%, for the three months ended September 30, 2017 compared to the same period in 2016 . This increase was primarily attributable to expenses to support the 18% growth in Gross Food Sales and the related orders including expenses related to delivering orders, payment processing costs and customer service and operations personnel costs to support higher order volume. Delivery expenses increased 95% during the three months ended September 30, 2017 compared to the prior year due to organic growth of the Company's delivery orders and growth of the delivery network in general.

Sales and Marketing

Sales and marketing expense increased by $8.6 million, or 33%, for the three months ended September 30, 2017 compared to the same period in 2016 . The increase was primarily attributable to an increase of $6.3 million in the Company's advertising campaigns across various media channels, as well as a 22% growth in our sales and marketing teams and related commissions and bonuses, salaries, payroll taxes, stock-based compensation and benefits expense.

Technology (exclusive of amortization)

Technology expense increased by $3.3 million, or 30%, for the three months ended September 30, 2017 compared to the same period in 2016 . The increase was primarily attributable to 38% growth in the Company's technology team, including stock-based compensation expense, salaries, payroll taxes, and benefits to support the growth and development of our platform .

General and Administrative

General and administrative expense increased by $6.5 million, or 55%, for the three months ended September 30, 2017 compared to the same period in 2016 . The increase was primarily attributable to acquisition-related expenses, legal fees, an increase in stock-based compensation expense, as well as a number of miscellaneous expenses required to support growth in the business.

Depreciation and Amortization

Depreciation and amortization expense increased by $3.5 million, or 39%, for the three months ended September 30, 2017 compared to the same period in 2016 . The increase was primarily attributable to higher depreciation and amortization expense related to an increase in capital spending on internally developed software, the amortization of acquired Foodler and OrderUp intangible assets, and an increase in capital spending on leasehold improvements and restaurant facing technology to support the growth of the business. The increase was partially offset by a decrease in amortization expense related to acquired developed technology and trademark intangible assets that became fully amortized in the first quarter of 2017.

Provision for Income Taxes

Income tax expense decreased by $3.2 million for the three months ended September 30, 2017 compared to the same period in 2016 . The decrease was primarily due to the decrease in the effective income tax rate from 37% to 25% during the respective periods as well as lower income before provision for income taxes due to the factors described above. The current period effective tax rate was affected by the Company's adoption of ASU No. 2016-09 , "Compensation – Stock Compensation (Topic 718), Improvements to Employee Share-Based Payment Accounting" ("ASU 2016-09"), during the first quarter of 2017. During the three months ended September 30, 2017, the Company recognized a discrete excess tax benefit from stock-based compensation of $2.2 million within provision for income taxes in the condensed consolidated statements of operations. The Company anticipates the potential for increased periodic volatility in future effective tax rates based on the continued application of the ASU 2016-09 . See Note 2, *Significant Accounting Policies* , for additional details. The Company has provided income tax expense for the periods presented based on the expected annual effective tax rate as adjusted to reflect the tax impact of items discrete to the fiscal period .

Nine Months Ended September 30, 2017 and 2016

The following table sets forth the Company's results of operations for the nine months ended September 30, 2017 as compared to the same period in the prior year presented in dollars and as a percentage of revenues:

	Nine Months Ended September 30,					
	2017		2016			
	Amount	% of revenue	Amount	% of revenue	$ Change	% Change
	(in thousands, except percentages)					
Revenues	$ 477,987	100%	$ 355,874	100%	$ 122,113	34%
Costs and expenses:						
Operations and support	187,795	39%	120,029	34%	67,766	56%
Sales and marketing	105,346	22%	80,687	23%	24,659	31%
Technology (exclusive of amortization)	41,560	9%	31,765	9%	9,795	31%
General and administrative	45,719	10%	37,501	11%	8,218	22%
Depreciation and amortization	33,067	7%	25,282	7%	7,785	31%
Total costs and expenses (a)	413,487	87%	295,264	83%	118,223	40%
Income before provision for income taxes	64,500	13%	60,610	17%	3,890	6%
Provision for income taxes	19,043	4%	24,690	7%	(5,647)	(23%)
Net income attributable to common stockholders	$ 45,457	10%	$ 35,920	10%	$ 9,537	27%
NON-GAAP FINANCIAL MEASURES:						
Adjusted EBITDA (b)	$ 127,923	27%	$ 105,436	30%	$ 22,487	21%

(a) Totals of percentage of revenues may not foot due to rounding.

(a) For an explanation of Adjusted EBITDA as a measure of the Company's operating performance and a reconciliation to net earnings, see " *Non-GAAP Financial Measure—Adjusted EBITDA.* "

Revenues

Revenues increased by $122.1 million, or 34%, for the nine months ended September 30, 2017 compared to the same period in 2016. The increase was primarily related to growth in Active Diners, which increased from 7.7 million to 9.8 million at the end of each period, driving an increase in Daily Average Grubs to 314,200 during the nine months ended September 30, 2017 from 268,800 Daily Average Grubs during the same peri od in 2016. The growth in Active Diners and Daily Average Grubs was due primarily to increased product and brand awareness largely as a result of marketing efforts and word-of-mouth referrals, better restaurant choices for diners in our markets, and technology and product improvements to drive more orders. In addition, revenue increased during the nine months ended September 30, 2017 compared to the same period in 2016 due to an increase in the Company's average commission rates which was driven by higher commission rates on delivery orders and an increase in non-delivery commission rates, the inclusion of results from the Company's acquisition of LABite (see Note 3, *Acquisitions*) and a higher average order size.

Operations and Support

Operations and support expense increased by $67.8 million, or 56%, for the nine months ended September 30, 2017 compared to the same period in 2016. This increase was primarily attributable to expenses to support the 21% growth in Gross Food Sales and the related orders including expenses related to delivering orders, customer service and operations personnel costs to support higher order volume, payment processing costs, and the inclusion of results from the acquisition of LABite. Delivery expenses increased 128% during the nine months ended September 30, 2017 compared to the prior year due to organic growth of the Company's delivery orders and growth of the delivery network in general.

Sales and Marketing

Sales and marketing expense increased by $24.7 million, or 31%, for the nine months ended September 30, 2017 compared to the same period in 2016. The increase was primarily attributable to an increase of $18.1 million in the Company's advertising campaigns across various media channels during the nine months ended September 30, 2017 . The increase in sales and marketing expense was also due to the 22% growth in the Company's sales and marketing teams and related commissions, salaries, benefits, payroll taxes, and stock-based compensation expense.

Technology (exclusive of amortization)

Technology expense increased by $9.8 million, or 31%, for the nine months ended September 30, 2017 compared to the same period in 2016. The increase was primarily attributable to 36% growth in the Company's technology team, including salaries, benefits, stock-based compensation expense, payroll taxes, and bonuses to support the growth and development of our platform.

General and Administrative

General and administrative expense increased by $8.2 million, or 22%, for the nine months ended September 30, 2017 compared to the same period in 2016. The increase was primarily attributable to acquisition-related expenses for recent transactions, legal fees, higher stock-based and other compensation expense, as well as increases in a number of miscellaneous expenses required to support growth in the business.

Depreciation and Amortization

Depreciation and amortization expense increased by $7.8 million, or 31%, for the nine months ended September 30, 2017 compared to the same period in 2016. The increase was primarily attributable to the higher depreciation and amortization expense related to an increase in capital spending on internally developed software, the amortization of recently acquired intangible assets and depreciation expense related to the additions of leasehold improvements, restaurant facing technology, furniture and office equipment to support the growth of the business. The increase was partially offset by a decrease in amortization expense related to acquired developed technology and trademark intangible assets that became fully amortized in the first quarter of 2017.

Provision for Income Taxes

Income tax expense decreased by $5.6 million for the nine months ended September 30, 2017 compared to the same period in 2016. The decrease was primarily due to the decrease in the effective income tax rate from 41% to 30% during the respective periods, partially offset by the increase in income before provision for income taxes due to the factors described above. The current period effective tax rate was affected by the Company's adoption of ASU No. 2016-09 , "Compensation – Stock Compensation (Topic 718), Improvements to Employee Share-Based Payment Accounting" ("ASU 2016-09"), during the first quarter of 2017, and, to a lesser extent, the reversal of a valuation allowance and the impact of certain state-only credits during the nine months ended September 30, 2017. During the nine months ended September 30, 2017, the Company recognized a discrete excess tax benefit from stock-based compensation of $5.7 million within provision for income taxes in the condensed consolidated statements of operations. The Company anticipates the potential for increased periodic volatility in future effective tax rates based on the continued application of the ASU 2016-09 . See Note 2, *Significant Accounting Policies* , for additional details. The Company has provided income tax expense for the periods presented based on the expected annual effective tax rate as adjusted to reflect the tax impact of items discrete to the fiscal period .

Non-GAAP Financial Measure - Adjusted EBITDA

Adjusted EBITDA is a financial measure that is not calculated in accordance with GAAP. The Company defines Adjusted EBITDA as net income adjusted to exclude acquisition, restructuring and certain legal costs, income taxes, depreciation and amortization and stock-based compensation expense. A reconciliation of Adjusted EBITDA to net income, the most directly comparable financial measure calculated and presented in accordance with GAAP, is provided below. Adjusted EBITDA should not be considered as an alternative to net income or any other measure of financial performance calculated and presented in accordance with GAAP. The Company's Adjusted EBITDA may not be comparable to similarly titled measures of other organizations because other organizations may not calculate Adjusted EBITDA in the same manner.

The Company included Adjusted EBITDA in this Quarterly Report on Form 10-Q because it is an important measure upon which management assesses the Company's operating performance. The Company uses Adjusted EBITDA as a key performance measure because management believes it facilitates operating performance comparisons from period to period by excluding potential differences primarily caused by variations in capital structures, tax positions, the impact of acquisitions and restructuring, the impact of depreciation and amortization expense on the Company's fixed assets and the impact of stock-based compensation expense. Because Adjusted EBITDA facilitates internal comparisons of the Company's historical operating performance on a more consistent basis, the Company also uses Adjusted EBITDA for business planning purposes and in evaluating business opportunities and determining incentive compensation for certain employees. In addition, management believes Adjusted EBITDA and similar measures are widely used by investors, securities analysts, ratings agencies and other parties in evaluating companies in the industry as a measure of financial performance and debt-service capabilities.

The Company's use of Adjusted EBITDA has limitations as an analytical tool, and you should not consider it in isolation or a s a substitute for analysis of the Company's results as reported under GAAP. Some of these limitations are:

- Adjusted EBITDA does not reflect the Company's cash expenditures for capital equipment or other contractual commitments.
- Although depreciation and amortization are non-cash charges, the assets being depreciated and amortized may have to be replaced in the future, and Adjusted EBITDA does not reflect capital expenditure requirements for such replacements.
- Adjusted EBITDA does not reflect changes in, or cash requirements for, the Company's working capital needs.
- Other companies, including companies in the same industry, may calculate Adjusted EBITDA differently, which reduces its usefulness as a comparative measure.

In evaluating Adjusted EBITDA, you should be aware that in the future the Company will incur expenses similar to some of the adjustments in this presentation. The presentation of Adjusted EBITDA should not be construed as indicating that the Company's future results will be unaffected by these expenses or by any unusual or non-recurring items. When evaluating the Company's performance, you should consider Adjusted EBITDA alongside other financial performance measures, including net income and other GAAP results.

The following table sets forth Adjusted EBITDA and a reconciliation to net income for each of the periods presented below:

	Three Months Ended September 30, 2017		Nine Months Ended September 30,	
	2017	2016	2017	2016
	(in thousands)			
Net income	$ 12,988	$ 13,182	$ 45,457	$ 35,920
Income taxes	4,432	7,585	19,043	24,690
Depreciation and amortization	12,613	9,089	33,067	25,282
EBITDA	30,033	29,856	97,567	85,892
Acquisition, restructuring and legal costs (a)	4,539	261	6,443	1,789
Stock-based compensation	8,475	5,349	23,913	17,755
Adjusted EBITDA	$ 43,047	$ 35,466	$ 127,923	$ 105,436

(a) Acquisition and restructuring costs include transaction and integration-related costs, such as legal and accounting costs, associated with the acquisitions and restructuring initiatives. Legal costs included above are not expected to be recurring (see Note 7, *Commitments and Contingencies* , for additional details).

LIQUIDITY AND CAPITAL RESOURCES

As of September 30, 2017, the Company had cash and cash equivalents of $266.0 million consisting of cash, money market funds and commercial paper with original maturities of three months or less and short term investments of $65.7 million consisting of commercial paper and U.S. and non-U.S.-issued corporate debt securities with original maturities greater than three months, but less than one year. The Company generates a significant amount of cash flows from operations and has access to a secured revolving credit facility as necessary.

Amounts deposited with third-party financial institutions exceed Federal Deposit Insurance Corporation and Securities Investor Protection insurance limits, as applicable. These cash, cash equivalents and short term investments balances could be affected if the underlying financial institutions fail or if there are other adverse conditions in the financial markets. The Company has not experienced any loss or lack of access to its invested cash, cash equivalents or short term investments; however, such access could be adversely impacted by conditions in the financial markets in the future.

Management believes that the Company's existing cash, cash equivalents, short term investments and available credit facility will be sufficient to meet its working capital requirements for at least the next twelve months. However, the Company's liquidity assumptions may prove to be incorrect, and the Company could utilize its available financial resources sooner than currently expected. The Company's future capital requirements and the adequacy of available funds will depend on many factors, including those set forth in " *Cautionary Statement Regarding Forward-Looking Statements"* below. If the Company is unable to obtain needed additional funds, it will have to reduce operating costs, which could impair the Company's growth prospects and could otherwise negatively impact its business.

For most orders, diners use a credit card to pay for their meal when the order is placed. For these transactions, the Company collects the total amount of the diner's order net of pa yment processing fees from the payment processor and remits the net proceeds to the restaurant less commission. Outstanding credit card receivables are generally settled with the payment processors within two to four business days. The Company generally ac cumulates funds and remits the net proceeds to the restaurants on at least a monthly basis. Restaurants have different contractual arrangements regarding payment frequency. They may be paid bi-weekly, weekly, monthly or, in some cases, more frequently when requested by the restaurant. The Company generally holds accumulated funds prior to remittance to the restaurants in a non-interest bearing operating bank account that is used to fund daily operations, including the liability to the restaurants. However, the Company is not restricted from earning investment income on these funds under its restaurant contract terms and has made short-term investments of proceeds in excess of the restaurant liability as described above.

Seasonal fluctuations in the Company's business may also affect the timing of cash flows. In metropolitan markets, the Company generally experiences a relative increase in diner activity from September to April and a relative decrease in diner activity from May to August. In addition, the Company benefits from increased order volume in its campus markets when school is in session and experiences a decrease in order volume when school is not in session, during summer breaks and other vacation periods. Diner activity can also be impacted by colder or more inclement weather, which typically increases order volume, and warmer or sunny weather, which typically decreases order volume. These changes in diner activity and order volume have a direct impact on operating cash flows. While management expects this seasonal cash flow pattern to continue, changes in the Company's business model could affect the timing or seasonal nature of its cash flows.

On January 22, 2016, the Company's Board of Directors approved a program that authorizes the repurchase of up to $100 million of the Company's common stock exclusive of any fees, commissions or other expenses relating to such repurchases through open market purchases or privately negotiated transactions at the prevailing market price at the time of purchase. The repurchase program was announced on January 25, 2016. The repurchased stock may be retired or held as authorized but unissued treasury shares. The repurchase authorizations do not obligate the Company to acquire any particular amount of common stock or adopt any particular method of repurchase and may be modified, suspended or terminated at any time at management's discretion. Repurchased and retired shares will result in an immediate reduction of the outstanding shares used to calculate the weighted-average common shares outstanding for basic and diluted net income per share at the time of the transaction. During the nine months ended September 30, 2017, the Company did not repurchase any of its common stock. During the nine months ended September 30, 2016, the Company repurchased and retired 724,473 shares of our common stock at a weighted-average share price of $20.37, or an aggregate of $14.8 million.

On October 10, 2017, the Company entered into a new credit agreement which provides, among other things, for aggregate revolving loans up to $225 million and term loans in an aggregate principal amount of $125 million (the "Credit Agreement"). In addition, the Company may incur up to $150 million of incremental revolving loans or incremental revolving term loans pursuant to the terms and conditions of the Credit Agreement. The credit facility under the Credit Agreement will be available to the Company until October 9, 2022. The Credit Agreement replaced the Company's $185.0 million credit facility, which was due to expire on April 28, 2021 (the "Previous Credit Agreement"). See Note 14, *Subsequent Events* , for additional details.

There were no borrowings outstanding under the Previous Credit Agreement as of September 30, 2017. As of the filing of this Quarterly Report on Form 10-Q, outstanding borrowings under the Credit Agreement were $200 million, including $125.0 million of term loans and $75.0 million of revolving loans. The Company utilized a portion of the term loans to finance the purchase price and transaction costs in connection with the acquisition of Eat24. As of the filing of this Quarterly Report on Form 10-Q, the undrawn portion of the revolving loan of $150.0 million was available to the Company. Additional capacity on t he Credit Agreement may be used for general corporate purposes, including funding working capital and future acquisitions.

The Credit Agreement contains customary covenants that, among other things, require the Company to satisfy certain financial covenants and may restrict the Company's ability to incur additional debt, pay dividends and make distributions, make certain investments and acquisitions, create liens, transfer and sell material assets and merge or consolidate. Non-compliance with one or more of the covenants and restrictions could result in any amounts outstanding under the Credit Agreement becoming immediately due and payable and in the termination of the commitments. The Company was in compliance with the covenants of the Previous Credit Agreement as of September 30, 2017. The Company expects to remain in compliance for the foreseeable future.

The following table sets forth certain cash flow information for the periods presented:

	Nine Months Ended September 30,	
	2017	2016
	(in thousands)	
Net cash provided by operating activities	$ 106,433	$ 62,433
Net cash used in investing activities	(85,181)	(69,470)
Net cash provided by financing activities	4,524	16,472

Cash Flows Provided by Operating Activities

For the nine months ended September 30, 2017, net cash provided by operating activities was $106.4 million compared to $62.4 million for the same period in 2016. The increase in cash flows from operations was driven primarily by changes in the Company's operating assets and liabilities, increases of $12.3 million in non-cash expenses and an increase of $9.5 million of net income. The increase in non-cash expenses primarily related to an increase in depreciation and amortization of $7.8 million and an increase of $6.2 million related to stock-based compensation. During the nine months ended September 30, 2017 and 2016, significant changes in the Company's operating assets and liabilities, net of the effects of business acquisitions, resulted from the following:

- an increase in accounts receivable of $12.1 million for the nine months ended September 30, 2017 compared to an increase of $22.3 million for the nine months ended September 30, 2016 primarily due to the timing of processor payments to the Company at quarter-end, partially offset by a decrease in the Company's tax refund receivable for the nine months ended September 30, 2017 ;
- an increase in accounts payable of $3.0 million for the nine months ended September 30, 2017 compared to a decrease of $4.6 million for the nine months ended September 30, 2016 primarily due to the timing of payments;
- an increase in the restaurant food liability of $4.6 million for the nine months ended September 30, 2017 compared to an increase of $11.4 million for the nine months ended September 30, 2016 due to growth in the business as well as the timing of payments to our restaurant partners;
- a decrease in prepaid expenses of $2.8 million for the nine months ended September 30, 2017 primarily related to a decrease in prepaid technology services compared to an increase of $2.9 million for the nine months ended September 30, 2016; and
- an increase in accrued expenses of $7.9 million during the nine months ended September 30, 2017, primarily related to an increase in accrued advertising costs, compared to an increase of $2.4 million during the nine months ended September 30, 2016.

Cash Flows Used in Investing Activities

The Company's investing activities during the periods presented consisted primarily of purchases of and proceeds from maturities of short-term investments, acquisitions of businesses and certain assets of businesses, website and internal-use software development and the purchase of property and equipment to support the growth of the business.

For the nine months ended September 30, 2017, net cash used in investing activities was $85.2 million compared to $69.5 million for the same period in the prior year. The increase in net cash used in investing activities during the nine months ended September 30, 2017 was primarily the result of an increase in acquisitions of businesses and certain assets of businesses of $10.9 million.

Cash Flows Provided by Financing Activities

The Company's financing activities during the periods presented consisted primarily of excess tax benefits related to stock-based compensation, repurchases of common stock, proceeds from the exercises of stock options, and taxes paid related to net settlement of stock-based compensation awards.

For the nine months ended September 30, 2017, net cash provided by financing activities was $4.5 million compared to $16.5 million for the nine months ended September 30, 2016 . The decrease in net cash provided by financing activities during the nine months ended September 30, 2017 as compared to the same period in the prior year primarily resulted from the change in how excess tax benefits related to stock-based compensation are presented on the statement of cash flows due to the adoption of ASU 2016-09 in the first quarter of 2017. During the nine months ended September 30, 2016, excess tax benefits of $22.1 million were presented within financing activities on the statement of cash flows, whereas excess tax benefits of $5.7 million were recognized within net income during the nine months ended September 30, 2017 (see Note 2, *Significant Accounting Policies* , for additional details). The

decrease in net cash provided financing ac tivities was also due to an increase in taxes paid related to net share settlement of stock-based compensation awards of $6.5 million, partially offset by a decrease in repurchases of the Company's common stock of $14.8 million.

Acquisitions of Businesses and Other Intangible Assets

On October 10, 2017, the Company acquired all of the issued and outstanding equity interests of Eat24 for $280.4 million in cash. See Note 14, *Subsequent Events* , for additional details.

On September 14, 2017, the Company acquired certain specified assets of OrderUp for $20.1 million in cash, including capitalized acquisition-related expenses of $0.1 million. The purchase price included a $1.5 million holdback amount for satisfaction of any indemnification, which was recorded in prepaid expenses and other current assets offset by a corresponding other accrued liability on the condensed consolidated balance sheets as of September 30, 2017.

On August 23, 2017, the Company acquired substantially all of the assets and certain expressly specified liabilities of Foodler for $51.0 million in cash, net of a net working capital adjustment receivable of $0.9 million and net of cash acquired of $0.1 million.

On May 5, 2016, the Company acquired LABite for $65.8 million in cash, net of cash acquired of $2.6 million.

Quantitative and Qualitative Disclosures about Market Risk

The Company is exposed to certain market risks in the ordinary course of business. These risks primarily consist of interest rate fluctuations, inflation rate risk and other market related risks as follows:

Interest Rate Risk

The Company did not have any long-term borrowings under its Previous Credit Agreement as of September 30, 2017, however as of the filing of this Quarterly Report on Form 10-Q, outstanding borrowings under the Credit Agreement were $200 million, including $125.0 million of term loans and $75.0 million of revolving loans. The Company will be exposed to interest rate risk on its outstanding borrowings. Under the Credit Agreement, the loans bear interest, at the Company's option, based on LIBOR or an alternate base rate, plus a margin, which in the case of LIBOR loans is between 1.25% and 2.00% and in the case of alternate base rate loans is between 0.25% and 1.00%, and in each case, is based upon the Company's consolidated total net leverage ratio (as defined in the Credit Agreement). The Company does not use interest rate derivative instruments to manage exposure to interest rate changes.

The Company invests its excess cash primarily in money market accounts, commercial paper and U.S. and non-U.S.-issued corporate debt securities. The Company intends to hold its investments to maturity. The Company's current investment strategy seeks first to preserve principal, second to provide liquidity for its operating and capital needs and third to maximize yield without putting principal at risk. The Company does not enter into investments for trading or speculative purposes.

The Company's investments are exposed to market risk due to the fluctuation of prevailing interest rates that may reduce the yield on its investments or their fair value. The Company assesses market risk utilizing a sensitivity analysis that measures the potential change in fair values, interest income and cash flows. As the Company's investment portfolio is short-term in nature, management does not believe an immediate 100 basis point increase in interest rates would have a material effect on the fair value of the Company's portfolio, and therefore does not expect the Company's results of operations or cash flows to be materially affected to any degree by a sudden change in market interest rates. In the unlikely event that the Company would need to sell its investments prior to their maturity, any unrealized gains and losses arising from the difference between the amortized cost and the fair value of the investments at that time would be recognized in the condensed consolidated statements of operations. See Note 4, *Marketable Securities,* to the accompanying Notes to the Condensed Consolidated Financial Statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q for additional details.

Inflation Risk

Management does not believe that inflation has had a material effect on the Company's business, results of operations or financial condition.

Risks Related to Market Conditions

The Company performs its annual goodwill impairment test as of September 30, or more frequently if an event occurs or circumstances change that would more likely than not reduce the fair value of the Company below its carrying value. Such indicators may include the following, among others: a significant decline in expected future cash flows, a sustained, significant decline in the

Company's stock price and market capitalization , a significant adverse change in legal factors or in the business climate, unanticipated competition, the testing for recoverability of a significant asset group and slower growth rates. Any adverse chan ge in these factors could have a significant impact on the recoverability of the Company's goodwill and could have a material impact on the consolidated financial statements. Goodwill represents the excess of the purchase price of an acquired business over the fair value of the net assets acquired. As of September 30, 2017 , the Company had $454.6 million in goodwill.

The annual goodwill impairment test consists of comparing the carrying value of the Company's reporting unit against the fair value. The Company is considered one reporting unit. If the carrying value exceeds the fair value, the Company recognizes an impairment charge for the amount by which the carrying value exceeds the fair value.

Management determined the fair value of the Company by using a market-based approach that utilized the market capitalization of the Company, as adjusted for factors such as a control premium. After consideration of the Company's market capitalization, management determined that it was more likely than not that the fair value of the Company exceeded its carrying amount and further analysis was not necessary. Nevertheless, significant changes in global economic and market conditions could result in changes to expectations of future financial results and key valuation assumptions. Such changes could result in revisions of management's estimates of our fair value and could result in a material impairment of goodwill.

OTHER INFORMATION

Off-Balance Sheet Arrangements

The Company did not have any off-balance sheet arrangements as of September 30, 2017.

Contractual Obligations

As of the date of the filing of this Quarterly Report on Form 10-Q, the Company's total contractual obligations have increased from those disclosed in the Company's 2016 Form 10-K due to its borrowings under the Credit Agreement (see Note 14, *Subsequent Events* , for additional details) and the expansion of office space to support the growth in the business. Our commitments under the Credit Agreement and future minimum payments under non-cancelable operating leases for office facilities were as follows:

	Payments Due by Period Beginning on September 30, 2017						
	Less than 1 year	1 to 2 years	2 to 3 years	3 to 4 years	4 to 5 years	More than 5 Years	Total
	(in thousands)						
Terms loan and borrowings under the Credit Agreement	$ 2,344	$ 5,469	$ 6,250	$ 6,250	$ 8,594	$ 171,093	$ 200,000
Interest due on debt (a)	4,545	4,888	4,735	4,579	4,401	380	23,528
Operating lease obligations (b)	5,631	7,982	8,644	9,593	9,674	66,885	108,409
Total	$ 12,520	$ 18,339	$ 19,629	$ 20,422	$ 22,669	$ 238,358	$ 331,937

(a) Interest due on debt includes scheduled interest payments at current interest rates.

(b) The contractual commitment amounts under operating leases in the table above are associated with agreements that are enforceable and legally binding. Obligations under contracts that we can cancel without a significant penalty are not included in the table above. The table above does not reflect our option to exercise early termination rights or the payment of related early termination fees.

There were no other material changes to the Company's commitments under contractual obligations as compared to the contractual obligations disclosed in the 2016 Form 10-K.

Contingencies

For a discussion of certain litigation involving the Company, see Note 7, *Commitments and Contingencies,* to the accompanying Notes to the Condensed Consolidated Financial Statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

New Accounting Pronouncements and Pending Accounting Standards

See Note 2, *Significant Accounting Policies* , to the accompanying Notes to the Condensed Consolidated Financial Statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q for pending standards and their estimated effect on the Company's consolidated financial statements and accounting standards adopted during the nine months ended September 30, 2017.

Critical Accounting Policies and Estimates

The condensed consolidated financial statements are prepared in accordance with GAAP. The preparation of these condensed consolidated financial statements requires the Company to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue, costs and expenses, and related disclosures. These estimates form the basis for judgments management makes about the carrying values of the Company's assets and liabilities, which are not readily apparent from other sources. The Company bases its estimates and judgments on historical experience and on various other assumptions that management believes are reasonable under the circumstances. On an ongoing basis, the Company evaluates its estimates and assumptions. Actual results may differ from these estimates under different assumptions or conditions.

The Company believes that the assumptions and estimates associated with revenue recognition, website and software development costs, recoverability of intangible assets with definite lives and other long-lived assets, stock-based compensation, goodwill and income taxes have the greatest potential impact on the condensed consolidated financial statements. Therefore, these are considered to be the Company's critical accounting policies and estimates.

Other than the changes disclosed in Note 2 *, Significant Accounting Policies* , in the accompanying Notes to the Condensed Consolidated Financial Statements included in Part I, Item I of this Quarterly Report on Form 10-Q, there have been no material changes to the Company's critical accounting policies and estimates as compared to the critical accounting policies and estimates described in in the 2016 Form 10-K.

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

In this section and elsewhere in this Quarterly Report on Form 10-Q, we discuss and analyze the results of operations and financial condition of the Company. In addition to historical information about the Company, we also make statements relating to the future called "forward-looking statements," which are provided under the "safe harbor" of the U.S. Private Securities Litigation Act of 1995. Forward-looking statements involve substantial risks, known or unknown, and uncertainties that may cause actual results to differ materially from future results or outcomes expressed or implied by such forward-looking statements. Forward-looking statements generally relate to future events or our future financial or operating performance. In some cases, you can identify forward-looking statements because they contain words such as "anticipates," "believes," "contemplates," "continue," "could," "estimates," "expects," "intends," "may," "plans," "potential," "predicts," "projects," "should," "target" or "will" or the negative of these words or other similar terms or expressions that concern the Company's expectations, strategy, plans or intentions.

We cannot guarantee that any forward-looking statement will be realized. These forward-looking statements are subject to a number of risks, uncertainties and assumptions, including the following important factors, in addition to those discussed elsewhere in this Quarterly Report on Form 10-Q, in Part I, Item 1A, *Risk Factors* , of the 2016 Form 10-K and Part II, Item 1A, *Risk Factors* , in subsequent quarterly reports, that could affect the future results of the Company and could cause those results or other outcomes to differ materially from those expressed or implied in the Company's forward-looking statements:

- our ability to accurately forecast revenue and appropriately plan expenses ;
- our ability to effectively assimilate, integrate and maintain acquired businesses;
- our ability to attract and retain restaurants to use the Company's platform in a cost effective manner;
- our ability to maintain, protect and enhance our brand in an effort to increase the number of and retain existing diners and their level of engagement using the Company's websites and mobile applications;
- our ability to strengthen the Company's two-sided network;
- the impact of interruptions or disruptions to our service on our business, reputation or brand;
- our ability to choose and effectively manage third-party service providers;
- the seasonality of our business, including the effect of academic calendars on college campuses and seasonal patterns in restaurant dining;
- our ability to generate positive cash flow and achieve and maintain profitability;
- our ability to maintain an adequate rate of growth and effectively manage that growth;
- the impact of worldwide economic conditions, including the resulting effect on diner spending on takeout;
- the exposure to potential liability and expenses for legal claims and harm to our business;
- our ability to defend the classification of members of our delivery network as independent contractors;

- our ability to keep pace with technology changes in the takeout industr y;
- our ability to grow the usage of the Company's mobile applications and monetize this usage;
- our ability to properly use, protect and maintain the security of personal information and data provided by diners;
- the impact of payment processor costs and procedures;
- our ability to successfully compete with the traditional takeout ordering process and the effects of increased competition on our business;
- our ability to innovate and provide a superior experience for restaurants and diners;
- our ability to successfully expand in existing markets and into new markets;
- our ability to attract and retain qualified employees and key personnel;
- our ability to grow our restaurant delivery services in an effective and cost efficient manner;
- the impact of weather and the effects of natural or man-made catastrophic events on the Company's business;
- our ability to maintain, protect and enhance the Company's intellectual property;
- our ability to obtain capital to support business growth;
- our ability to comply with the operating and financial covenants of our secured, revolving credit facility; and
- our ability to comply with modified or new legislation and governmental regulations affecting our business.

While forward-looking statements are our best prediction at the time they are made, you should not rely on them. Forward-looking statements speak only as of the date of this document or the date of any document that may be incorporated by reference into this document.

Consequently, you should consider forward-looking statements only as the Company's current plans, estimates and beliefs. The Company does not undertake and specifically declines any obligation to publicly update or revise forward-looking statements, including those set forth in this Quarterly Report on Form 10-Q, to reflect any new events, information, events or any change in conditions or circumstances unless required by law. You are advised, however, to consult any further disclosures we make on related subjects in our Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and Annual Reports on Form 10-K and our other filings with the SEC.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

See Part I, Item 2, *Management's Discussion and Analysis of Financial Condition and Results of Operations - Liquidity and Capital Resource – Quantitative and Qualitative Disclosures About Market Risk,* of this Quarterly Report on Form 10-Q.

Item 4. Controls and Procedures

Disclosure controls and procedures.

As required by Rule 13a-15(b) and Rule 15d-15(e) of the Exchange Act, the Company's management, including the Chief Executive Officer and Chief Financial Officer, is responsible for establishing and maintaining effective disclosure controls and procedures, as defined under Rules 13a-15(e) and 15d-15(e) of the Exchange Act. As of September 30, 2017 , an evaluation was performed under the supervision and with the participation of management, including the Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of the Company's disclosure controls and procedures. Based on that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that disclosure controls and procedures as of September 30, 2017 were effective in ensuring information required to be disclosed in the Company's SEC reports was recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms, and that such information was accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

Changes in internal control over financial reporting.

There have not been any changes in the Company's internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) that occurred during the quarter ended September 30, 2017 that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

PART II— OTHER INFORMATION

Item 1. Legal Proceedings

For a description of the Company's material pending legal proceedings, see Note 7, *Commitments and Contingencies* , to the accompanying Notes to Condensed Consolidated Financial Statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

Item 1A. Risk Factors

There have been no material changes to the risk factors affecting our business, financial condition or future results from those set forth in Part I, Item 1A (Risk Factors) in the 2016 Form 10-K. However, you should carefully consider the factors discussed in the 2016 Form 10-K and in this Quarterly Report on Form 10-Q, which could materially affect our business, financial condition or future results. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition and/or operating results.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

Unregistered Sales of Equity Securities

There were no sales of unregistered equity securities during the three months ended September 30, 2017.

Issuer Purchases of Equity Securities

On January 22, 2016, the Board of Directors of the Company approved a program (the "Repurchase Program") that authorizes the repurchase of up to $100 million of the Company's common stock exclusive of any fees, commissions or other expenses relating to such repurchases through open market purchases or privately negotiated transactions at the prevailing market price at the time of purchase. The Repurchase Program was announced on January 25, 2016. The repurchased stock may be retired or held as authorized but unissued treasury shares. The repurchase authorizations do not obligate the Company to acquire any particular amount of common stock or adopt any particular method of repurchase and may be modified, suspended or terminated at any time at the Company's discretion. Repurchased and retired shares will result in an immediate reduction of the outstanding shares used to calculate the weighted-average common shares outstanding for basic and diluted net income per share at the time of the transaction.

During the three months ended September 30, 2017, the Company did not repurchase any of its common stock.

Item 3. Defaults Upon Senior Securities

Not applicable

Item 4. Mine Safety Disclosures

Not applicable

Item 5. Other Information

Amendment of a Material Definitive Agreement

Chicago Lease

The Company, through its wholly-owned subsidiary Grubhub Holdings Inc., is party to a lease agreement, dated as of March 23, 2012, for the Company's headquarters, located at 111 W. Washington Street, Chicago, Illinois 60602 (the " *Burnham Center Building* "), with Burnham Center – 111 West Washington, LLC (the " *Burnham Center Landlord* ") (as such lease agreement was amended on December 11, 2013, October 5, 2015 and May 6, 2016 (collectively, the " *Existing Lease* ")), pursuant to which the Company leases 128,477 square feet of space from Landlord (the " *Existing Premises* ").

On October 16, 2017, the Company entered into an amendment to the Existing Lease (the " *Fourth Amendment* "). The term of the Existing Lease, as amended by Fourth Amendment, is extended through March 31, 2028 (the " *Expiration Date*). The Fourth Amendment, among other things, increases the size of the Company's headquarters in the Burnham Center Building by 17,608 square feet (" *Fourth Amendment Expansion Space* ") by November 1, 2017.

Pursuant to the Fourth Amendment, t he Company is liable for its pro rata share of Burnham Center Building exp enses and real estate taxes. Annual base rent for the Existing Premises and the *Fourth Amendment Expansion Space* , after taking into account the impact of rent abatements and the exte nded Expiration Date , is approximately as follows :

Year(s)	Annual Base Rent ($)
1 (beginning 10/1/2017)	2,184,200
2	3,344,400
3	3,417,400
4	3,490,400
5	3,563,500
6-10 (collectively)	23,412,300

In addition, the Burnham Center Landlord will contribute up to $1,541,784 toward the cost of initial tenant improvements, furniture, fixtures and equipment incurred by the Company to be used in the Expansion Premises.

The foregoing description of the Company's lease arrangements is qualified in its entirety by the full text of the Existing Lease and the First, Second, Third and Fourth Amendments thereto, copies of which are filed hereto and are incorporated herein by reference as Exhibits 10.4, 10.5, 10.6 and 10. 7

Other Real Property Lease Information

New York Lease

The Company, through its wholly-owned subsidiary Grubhub Holdings Inc., as successor-in-interest to Seamless North America, LLC. (f/k/a SeamlessWeb Professional Solutions, LLC), is party to a lease agreement, dated as of May 11, 2011, for the Company's New York offices located at 1065 Avenue of the Americas, a/k/a 5 Bryant Park, New York, New York 10018 (the " *Bryant Park Building* "), with TrizecHahn 1065 Avenue of the Americas Property Owner LLC (the " *Landlord* ") (as such lease agreement was amended on July 26, 2013 (the " *Lease* ")), pursuant to which the Company leases 26,681 square feet of space from the Landlord (the " *Original Premises* ").

On September 27, 2017, the Company entered into an amendment to the Lease (the " *Third Amendment* "). The Lease, as amended by the Third Amendment, expires approximately 134 months from on or about August 1, 2018 (the " *Term* "), with an option to renew for an additional five-year period at the Market Rent (as such term is defined in the Lease). The Third Amendment, among other things, increases the size of the Company's headquarters in the Bryant Park Building by 31,914 square feet (" *12 th Floor Premises* ") by January 1, 2018 and by an additional 20,624 square feet (" *13 th Floor Premises* " and, together with the 12 th Floor Premises, the " *Expansion Premises* ") on or about August 1, 2018.

Pursuant to the Third Amendment, the Company is liable for its pro rata share of the Bryant Park Building expenses and real estate taxes. Annual base rent for the Original Premises and the Expansion Premises, after taking into account the impact of rent abatements, is approximately as follows:

Year(s)	Annual Base Rent ($)
1 (beginning 10/1/2017)	781,600
2	3,405,400
3	4,857,800
4	5,847,800
5	5,847,800
6-12 (collectively)	43,156,500

In addition, the Landlord will contribute up to $8,391,230 toward the cost of initial tenant improvements incurred by the Company in the Expansion Premises.

The foregoing description of the Company's lease arrangements is qualified in its entirety by the full text of the Lease and the First, Second and Third Amendments thereto, copies of which are filed hereto and are incorporated herein by reference as Exhibits 10.8, 10.9, 10.10 and 10.11.

I tem 6: Exhibits

Exhibit No.	Description	Incorporated by Reference				Filed Herewith
		Form	File No.	Exhibit	Filing Date	
10.1	Unit Purchase Agreement, dated as of August 3, 2017, by and among Grubhub Inc., Grubhub Holdings, Inc., a wholly owned subsidiary of Grubhub Inc., Yelp Inc. and Eat24, LLC, a wholly-owned subsidiary of Yelp Inc.	10-Q	001-36389	10.1	August 8, 2017	
10.2	Amendment No. 1 to the Unit Purchase Agreement, dated as of October 10, 2017, by and among Grubhub Inc., Grubhub Holdings, Inc., a wholly owned subsidiary of Grubhub Inc., Yelp Inc. and Eat24, LLC, a wholly-owned subsidiary of Yelp Inc.					X
10.3	Credit Agreement, dated as of October 10, 2017, by and among Grubhub Holdings Inc., Citibank, N.A., BMO Capital Markets Corp. and Merrill Lynch, Pierce Fenner & Smith Incorporated, as joint lead arrangers and joint bookrunners, the other lenders party thereto, and Citibank N.A. as administrative agent.	8-K	001-36389	10.1	October 11, 2017	
10.4	Office Building Lease, dated as of March 23, 2012, by and between 111 West Washington, LLC and Grubhub Holdings Inc. (f/k/a Grubhub, Inc.)	8-K	001-36389	10.1	October 9, 2015	
10.5	First Amendment to Lease, dated December 11, 2013, by and between Burnham Center – 111 West Washington, LLC and Grubhub Holdings Inc. (f/k/a Grubhub, Inc.)	8-K	001-36389	10.1	October 9, 2015	
10.6	Second Amendment to Lease, dated as of October 5, 2015, by and between Burnham Center – 111 West Washington, LLC and Grubhub Holdings Inc. (f/k/a Grubhub, Inc.)	8-K	001-36389	10.1	October 9, 2015	
10.7	Third Amendment to Lease, dated as of October 5, 2015, by and between Burnham Center – 111 West Washington, LLC and Grubhub Holdings Inc.					X
10.8	Fourth Amendment to Lease, dated as of October 16, 2017, by and between Burnham Center – 111 West Washington, LLC and Grubhub Holdings Inc.					X
10.9	Office Building Lease, dated as of May 19, 2011, by and between TrizecHahn 1065 Avenue of the Americas Property Owner LLC and Grubhub Holdings Inc., as successor-in-interest to Seamless North America, LLC (f/k/a SeamlessWeb Professional Solutions, LLC)					X
10.10	First Amendment to Lease, dated as of July 26, 2013, by and between TrizecHahn 1065 Avenue of the Americas Property Owner LLC and Grubhub Holdings Inc., as successor-in-interest to Seamless North America, LLC (f/k/a SeamlessWeb Professional Solutions, LLC)					X
10.11	Second Amendment to Lease, dated as of July 26, 2013, by and between TrizecHahn 1065 Avenue of the Americas Property Owner LLC and Grubhub Holdings Inc., as successor-in-interest to and Seamless North America, LLC (f/k/a SeamlessWeb Professional Solutions, LLC)					X
10.12	Third Amendment to Lease, dated as of September 27, 2017, by and between TrizecHahn 1065 Avenue of the Americas Property Owner LLC and Grubhub Holdings Inc. as successor-in-interest to Seamless North America, LLC					X

Exhibit No.	Description	Incorporated by Reference				Filed Herewith
		Form	File No.	Exhibit	Filing Date	
31.1	Certification of Matthew Maloney, Chief Executive Officer, pursuant to Rule 13a-14(a)/15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
31.2	Certification of Adam DeWitt, Chief Financial Officer, pursuant to Rule 13a-14(a)/15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
32.1	Certification of Matthew Maloney, Chief Executive Officer, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.					X
32.2	Certification of Adam DeWitt, Chief Financial Officer, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.					X
101.INS	XBRL Instance Document.					X
101.SCH	XBRL Taxonomy Extension Schema Document.					X
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document.					X
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document.					X
101.LAB	XBRL Taxonomy Extension Labels Linkbase Document.					X
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document.					X

S IGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Company has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

GRUBHUB INC.

By: /s/ MATTHEW MALONEY

Matthew Maloney
Chief Executive Officer and Director
(Principal Executive Officer)

By: /s/ ADAM DEWITT

Adam DeWitt
Chief Financial Officer and Treasurer
(Principal Financial Officer and Principal Accounting Officer)

Date: November 8, 2017

AMENDMENT NO. 1

TO THE

UNIT PURCHASE AGREEMENT

This AMENDMENT NO. 1 (the " Amendment ") to the Seller Disclosure Schedules to that certain Unit Purchase Agreement dated as of August 3, 2017, by and among (a) Yelp Inc. a Delaware corporation (" Seller "), (b) Eat24, LLC, a Delaware limited liability company (" Company "), (c) GrubHub Inc., a Delaware corporation (" Parent "), and (d) GrubHub Holdings Inc., a Delaware corporation (" Purchaser "), is entered into on October 10, 2017. The Company, Seller, Parent and Purchaser are sometimes individually referred to herein as a " Party " and collectively as the " Parties ".

W I T N E S S E T H :

WHEREAS, pursuant to the Unit Purchase Agreement, the Parties will enter into the transactions contemplated by the Unit Purchase Agreement, on the terms and subject to the conditions set forth therein;

WHEREAS, Section 5.04 of the Unit Purchase Agreement provides that the form of Asset Transfer Agreement shall not be amended without the prior written consent of Purchaser and Section 11.04 of the Unit Purchase Agreement provides that the Unit Purchase Agreement may be amended only by a written instrument signed by the Parties; and

WHEREAS, the Parties desire to amend the Seller Disclosure Schedules to the Unit Purchase Agreement and amend the form of schedules appended to the Asset Transfer Agreement as provided in this Amendment.

AGREEMENT :

NOW, THEREFORE, in consideration of the mutual agreements herein set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Defined Terms . Capitalized terms used herein, unless otherwise defined herein, shall have the meanings ascribed to them in the Unit Purchase Agreement.

2. Amendment to the Unit Purchase Agreement . The Parties acknowledge and agree that the following Sections of the Seller Disclosure Schedules are hereby amended and replaced in their entirety effective as of the date hereof by the corresponding Sections of the Seller Disclosure Schedule attached hereto (collectively, the " Replacement Disclosure Schedules "):

- Section 3.02 of the Seller Disclosure Schedules
- Section 7.08(c) of the Seller Disclosure Schedules

3. Amendment to the Form of Schedules Appended to the Asset Transfer Agreement. The Parties acknowledge and agree that the form of schedules appended to the Asset Transfer Agreement is hereby amended and replaced in its entirety effective as of the date hereof by the schedules attached hereto.

4. Amendment to the Form of Transition Services Agreement. The Parties acknowledge and agree that the form of the Transition Services Agreement is hereby amended and replaced in its entirety effective as of the date hereof by the form of Transition Services Agreement attached hereto.

5. Effect of Amendment. Except as expressly set forth herein, this Amendment to the Seller Disclosure Schedules to the Unit Purchase Agreement, to the Form of Schedules Appended to the Asset Transfer Agreement and to the Form of the Transition Services Agreement shall not be deemed to amend, and shall not be deemed to waive any provision of, the Unit Purchase Agreement or the Seller Disclosure Schedules, and the Unit Purchase Agreement and the Seller Disclosure Schedules will remain in full force and effect. In the event of any inconsistency or conflict between the Unit Purchase Agreement and this Amendment, the terms, conditions and provisions of this Amendment shall govern and control.

6. Entire Agreement. This Amendment and the Unit Purchase Agreement, including the Exhibits, Schedules and other documents referred to therein which form a part thereof, contain the entire understanding of the parties hereto with respect to the subject matter contained herein and therein. From and after the execution of a counterpart hereof by the parties hereto, any reference to the Unit Purchase Agreement shall be deemed to be a reference to the Unit Purchase Agreement as amended hereby.

7. Governing Law. This Amendment and any disputes hereunder shall be governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of Delaware.

8. Counterparts. This Amendment may be executed in any number of counterparts and any party hereto may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. Any signature page delivered by a facsimile machine shall be binding to the same extent as an original signature page with regard to any agreement subject to the terms hereof or any amendment thereto.

[END OF PAGE]
[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed and delivered as of the date first above written.

PURCHASER:

GRUBHUB HOLDINGS INC.

By:	/s/ Adam DeWitt
Name:	Adam DeWitt
Title:	Chief Financial Officer

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed and delivered as of the date first above written.

PARENT:

GRUBHUB INC.

By:	/s/ Adam DeWitt
Name:	Adam DeWitt
Title:	Chief Financial Officer

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed and delivered as of the date first above written.

SELLER:

YELP INC.

By:	/s/ Charles Barker
Name:	Charles Barker
Title:	Chief Financial Officer

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed and delivered as of the date first above written.

EAT24, LLC

By:	/s/ Laurence Wilson
Name:	Lauren Wilson
Title:	Authorized Signatory

THIRD AMENDMENT TO LEASE

THIS THIRD AMENDMENT TO LEASE (this "Amendment") is made as of May 6, 2016 (the "Effective Date"), by and between **BURNHAM CENTER-111 WEST WASHINGTON, LLC,** a Delaware limited liability company ("Landlord"), and **GRUBHUB HOLDINGS INC.,** a Delaware corporation ("Tenant").

RECITALS:

A. Landlord and Tenant are parties to an Office Building Lease dated March 23, 2012, as amended by First Amendment to Lease dated December 11, 2013, and by Second Amendment to Lease dated October 5, 2015 (the "Second Amendment" and collectively, the "Existing Lease"), whereby Landlord leases to Tenant certain premises consisting of approximately 102,132 rentable square feet in the building located at 111 West Washington Street, Chicago, Illinois (the "Building"), as more particularly described in the Existing Lease. The Existing Lease, together with this Amendment is sometimes collectively referred to as the "Lease".

B. Pursuant to the Second Amendment, Landlord agreed to lease to Tenant and Tenant agreed to lease from Landlord certain premises located on the 8th floor of the Building and defined in the Second Amendment as Expansion Space B.

C. Landlord and Tenant previously executed that certain Commencement Date Memorandum dated November 17, 2015 (the "Existing CDM") memorializing, among other things, Commencement Date A (as defined in the Second Amendment) as March 15, 2016, Commencement Date B (as defined in the Second Amendment) as January 1, 2017, and Annual Base Rent for the remainder of the Term, including for Expansion Space B commencing on January 1, 2017.

D. Tenant desires to take possession of portions of Expansion Space B prior to Delivery Deadline B (as defined in the Second Amendment) and Landlord is willing to permit Tenant to take possession of portions of Expansion Space B on the dates set forth in this Amendment and otherwise on the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. DEFINITIONS.

(a) General Definitions. Each capitalized term used in this Amendment shall have the same meaning as is ascribed to such capitalized term in the Lease, unless otherwise provided for herein.

(b) Specific Definitions. For purposes of this Amendment, the following definitions shall apply:

(i) "Portion A" means that portion of Expansion Space B labeled on Exhibit A attached hereto consisting of approximately 18,788 rentable square feet located on the 8th floor of the Building.

(ii) "Portion B" means that portion of Expansion Space B labeled on Exhibit A attached hereto consisting of approximately 4,584 rentable square feet located on the 8th floor of the Building.

(iii) "Portion C" means that portion of Expansion Space B labeled on Exhibit A attached hereto consisting of approximately 2,973 rentable square feet located on the 8th floor of the Building.

(iv) "Portion D" means that portion of Expansion Space B labeled on Exhibit A attached hereto consisting of certain corridors, restrooms, and elevator lobbies located on the 8th floor of the Building.

Other terms not defined in the Lease and used herein shall have the definitions given to them in the body of this Amendment.

2. DELIVERY OF PORTION A AND PORTION B.

(a) Date of Delivery. As soon as practicable after the Effective Date, Landlord shall deliver possession of Portion A and Portion B to Tenant. Landlord anticipates that delivery of Portion A and Portion B to Tenant shall occur on or before May 15, 2016.

(b) Condition of Portion A and Portion B . Notwithstanding anything in the Second Amendment to the contrary, Landlord shall deliver Portion A and Portion B to Tenant in its current "as-is" condition. Any demolition, floor leveling, or other work required to prepare Portion A and Portion B for Tenant's occupancy shall be performed by Tenant, at Tenant's sole cost, pursuant to the terms and conditions of Exhibit C to the Second Amendment.

(c) Term . The lease term for Portion A and Portion B shall commence on the date that is the later of (i) ninety (90) days following delivery of Portion A and Portion B to Tenant and (ii) August 1, 2016 (the "Portion A/B Rent Commencement Date").

(d) Rent for Portion A and Portion B . Effective as of the Portion A/B Rent Commencement Date and continuing until the Portion C Rent Commencement Date (defined below), Tenant shall pay Base Rent for Portion A and Portion B at the same per square foot rate applicable to Expansion Space B set forth in Section 4(c) of the Second Amendment.

3. DELIVERY OF PORTION C.

(a) Date of Delivery . Landlord shall use commercially reasonable efforts to deliver possession of Portion C to Tenant on or before November 15, 2016. Tenant acknowledges that Portion C is currently occupied by another tenant and that Landlord will use commercially reasonable efforts to cause such Tenant to surrender Portion C to Landlord promptly upon the expiration of such Tenant's lease.

(b) Condition of Portion C . Notwithstanding anything in the Second Amendment to the contrary, Landlord shall deliver Portion C to Tenant in its current "as-is" condition. Any demolition, floor leveling, or other work required to prepare Portion C for Tenant's occupancy shall be performed by Tenant, at Tenant's sole cost, pursuant to the terms and conditions of Exhibit C to the Second Amendment.

(c) Term . The lease term for Portion C shall commence on the date that is ninety (90) days following delivery of Portion C to Tenant (the "Portion C Rent Commencement Date"). The parties acknowledge that "Commencement Date B" as defined in the Second Amendment shall be deemed to have occurred on the date that is ninety (90) days following delivery of Portion C to Tenant.

(d) Rent for Portion C . Effective as of the Portion C Rent Commencement Date, Tenant shall commence paying Base Rent for the entire Expansion Space B pursuant to Section 4(c) of the Second Amendment and the Abated Rent B shall commence on such date pursuant to Section 4(d) of the Second Amendment.

4. DELIVERY OF PORTION D .

(a) Delivery of Portion D . Portion D shall remain part of the Common Areas of the Building until the date that Landlord delivers portion C to Tenant. Upon such delivery of Portion C to Tenant, Portion D shall become part of the Premises.

(b) Condition of Portion D . Notwithstanding anything in the Second Amendment to the contrary, Landlord shall deliver Portion D to Tenant in its current "as-is" condition. Any demolition, floor leveling, or other work required to prepare Portion D for Tenant's occupancy shall be performed by Tenant, at Tenant's sole cost, pursuant to the terms and conditions of Exhibit C to the Second Amendment.

5. **WAIVER OF EXPANSION SPACE B DELIVERY PENALTIES** In consideration of Landlord's delivery of Portion A and Portion B to Tenant prior to Delivery Deadline B, Tenant hereby waives all penalties for any failure of Landlord to deliver Expansion Space B to Tenant prior to Delivery Deadline B. Therefore, Section 4(b) of the Second Amendment is deleted in its entirety and shall be of no force and effect.

6. **EXPANSION SPACE B HVAC .** Section 9(b) of the Second Amendment is deleted in its entirety.

7. **COMMENCEMENT DATE MEMORANDUM.** Upon determination of the Portion C Rent Commencement Date, Landlord and Tenant shall execute the Commencement Date Memorandum in substantially the form attached hereto as Exhibit D to memorialize the Base Rent and dates for the Base Rent rates. Upon execution of the Commencement Date Memorandum attached hereto, the Existing CDM shall be void and of no further effect.

8. **BROKERS OR FINDERS .** Tenant represents and warrants to Landlord that except for Bradford Allen Realty Services ("Bradford"), it has engaged no broker or finder and that no claims for brokerage commissions or finders' fees arising from any act of Tenant will arise in connection with the execution of this Amendment. Landlord represents and warrants to Tenant that except for Jones Lang LaSalle ("JLL" and together with Bradford, the "Broker"), it has engaged no broker or finder and that no claims for brokerage commissions or finders' fees arising from any act of Landlord will arise in connection with the execution of this Amendment. Tenant shall indemnify, defend and hold harmless Landlord from and against any liabilities and claims for commissions and fees arising out of a breach of the foregoing representation and warranty made by Tenant. Tenant and Landlord acknowledge and agree that no commissions shall be due and payable to Bradford and to JLL pursuant to this Amendment and that the Second Amendment shall control all commissions payable to Bradford and to JLL pursuant to Tenant's lease of Expansion Space B. For purposes of Section 23 of the Second Amendment only, Commencement Date B shall be deemed to be the Portion C Rent Commencement Date.

9. **BINDING EFFECT .** The Existing Lease, as amended hereby, shall continue in full force and effect, subject to the terms and provisions thereof and hereof. In the event of any conflict between the terms of the Lease and the terms of this Amendment, the terms of this Amendment shall control. This Amendment shall be binding upon and inure to the benefit of Landlord, Tenant and their respective successors and permitted assigns.

10. **SUBMISSION .** Submission of this Amendment by Landlord to Tenant for examination and/or execution shall not constitute a reservation of or option for the Premises or in any manner bind Landlord and no obligations on Landlord shall arise under this Amendment unless and until this Amendment is fully signed and delivered by Landlord and Tenant; provided, however, the execution and delivery by Tenant of this Amendment to Landlord shall constitute an irrevocable offer by Tenant to lease the Additional Space on the terms and conditions herein contained.

11. **CONFIDENTIALITY .** Landlord and Tenant acknowledge and agree that the terms of this Amendment and the Existing Lease are confidential and constitute proprietary information of Landlord and Tenant. Disclosure of the terms could adversely affect the ability of the parties to negotiate other leases and impair the parties' relationship with other tenants. Accordingly, except as provided in this Section, the parties agree that they shall not intentionally and voluntarily disclose the terms and conditions of this Amendment or the Lease to any other tenant or apparent prospective tenant of the Building, either directly or indirectly, without the prior written consent of the other party; provided, however, that Tenant may disclose the terms to prospective subtenants or assignees under the Lease, to its accountants, attorneys and other professional advisers and as required by applicable law. Landlord acknowledges that Tenant is a publically traded company and is required to disclose the terms of material contracts, including the terms of the Lease, in accordance with applicable law. Landlord may disclose the terms to prospective lenders and entities interested in purchasing the Building from Landlord. In addition, except as required by law, neither party shall make a press release or other public announcement with respect to the Lease, without the prior written consent of the other party.

[Signatures are on the following page]

IN WITNESS WHEREOF, this Amendment is executed as of the day and year aforesaid.

LANDLORD:

BURNHAM CENTER-111 WEST WASHINGTON, LLC, a Delaware limited liability company

By: 111 West Washington Holdings, LLC, a Delaware limited liability company, its Sole Manager

By: /s/ Ire Bergstein
Name: Ire Bergstein
Title: Vice President and Treasurer

TENANT:

GRUBHUB HOLDINGS, INC., a Delaware corporation

By: /s/ Adam DeWitt
Name: Adam DeWitt
Title: CFO

FOURTH AMENDMENT TO LEASE

THIS FOURTH AMENDMENT TO LEASE (this "Amendment") is made as of October 16 , 2017 (the "Effective Date"), by and between **BURNHAM CENTER-111 WEST WASHINGTON, LLC,** a Delaware limited liability company ("Landlord"), and **GRUBHUB HOLDINGS INC.,** a Delaware corporation (''Tenant").

RECITALS:

Landlord and Tenant are parties to an Office Building Lease dated March 23, 2012, as amended by First Amendment to Lease dated December 11, 2013, by Second Amendment to Lease dated October 5, 2015 (the "Second Amendment"), and by Third Amendment to Lease dated May 6, 2016 (collectively, the "Existing Lease"), whereby Landlord leases to Tenant certain premises consisting of approximately 128,477 rentable square feet (the "Existing Premises") in the building located at 111 West Washington Street, Chicago, Illinois (the "Building"), as more particularly described in the Existing Lease. The Existing Lease, together with this Amendment are sometimes collectively referred to as the "Lease".

Landlord and Tenant desire to amend the Existing Lease to include those certain premises located on the seventh (7 th) floor of the Building and containing approximately 17,608 rentable square feet as shown on Exhibit A attached hereto (the "Fourth Am endment Expansion Space") as part of the Premises and make certain other changes to the Existing Lease on the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. DEFINITIONS . Each capitalized term used in this Amendment shall have the same meaning as is ascribed to such capitalized term in the Lease, unless otherwise provided for herein.

2. EXPANSION SPACE.

(a) Lease of Fourth Amendment Expansion Space . Landlord leases to Tenant and Tenant leases from Landlord the Fourth Amendment Expansion Space. The Fourth Amendment Expansion Space is leased to Tenant subject to all of the same terms and provisions as are contained in the Lease, except as otherwise set forth herein. The Fourth Amendment Expansion Space is leased for a lease term commencing on November 1, 2017 (the "Expansion Commencement Date") and expiring on March 31, 2028. From and after the Expansion Commencement Date, the term "Premises" as used and defined in the Lease, as amended hereby, shall be deemed to mean and refer to the Existing Premises and the Fourth Amendment Expansion Space, and shall be deemed to consist of 146,085 rentable square feet. The parties agree that notwithstanding anything in the Existing Lease to the contrary, such square footage shall be deemed correct for all purposes.

(b) Delivery of Fourth Amendment Expansion Space . Landlord shall deliver possession of the Fourth Amendment Expansion Space to Tenant upon full execution of this Amendment in an "AS-IS" condition.

(c) Base Rent for Fourth Amendment Expansion Space . Commencing on the Expansion Commencement Date (subject to Paragraph (d) below), Tenant shall pay Base Rent for the Fourth Amendment Expansion Space pursuant to the following schedule:

Period	Annual Base Rent per square foot	Rate of Annual Base Rent	Monthly Base Rent
11/1/17 – 10/31/18	$32.00	$563,456.00	$46,954.67
11/1/18 – 10/31/19	$32.50	$572,260.00	$47,688.33
11/1/19 – 10/31/20	$33.00	$581,064.00	$48,422.00
11/1/20 – 10/31/21	$33.50	$589,868.00	$49,155.67
11/1/21 – 10/31/22	$34.00	$598,672.00	$49,889.33
11/1/22 – 10/31/23	$34.50	$607,476.00	$50,623.00
11/1/23 – 10/31/24	$35.00	$616,280.00	$51,356.67
11/1/24 – 10/31/25	$35.50	$625,084.00	$52,090.33
11/1/25 – 10/31/26	$36.00	$633,888.00	$52,824.00
11/1/26 – 10/31/27	$36.50	$642,692.00	$53,557.67
11/1/27 – 3/31/28	$37.00	$651,496.00	$54,291.33

(d) Rent Abatement for Fourth Amendment Expansion Space . Notwithstanding anything in this Amendment to the contrary, provided that Tenant is not then in an uncured monetary default under the Lease for non-payment of Base Rent or Additional Rent in excess of $10,000 (a "Material Monetary Rent Default"), the Monthly Base Rent for the Fourth Amendment Expansion Space shall abate for the first ten (10) full calendar months following the Expansion Commencement Date ("Expansion Abated Rent"); provided, however, that the entire amount of Expansion Abated Rent otherwise due and payable multiplied by a fraction the numerator of which is the number of months until the Expiration Date and the denominator of which is the total number of months pursuant to which the Fourth Amendment Expansion Space is leased (without reference to any renewal option period) pursuant to this Lease shall be reinstated and become immediately due and payable upon the occurrence of a Material Monetary Rent Default by Tenant under the Lease beyond all applicable notice and cure periods, which reinstatement shall be as a result of the failure to satisfy a condition subsequent and shall not be deemed liquidated damages or a penalty. Any obligation by Tenant to pay a portion of the Expansion Abated Rent shall terminate on the Expiration Date, without reference to any renewal option period.

(e) Fourth Amendment Expansion Space Common Expenses . In addition to Base Rent, commencing on the Expansion Commencement Date, Tenant shall pay Tenant's Prorata Share of Common Expenses for the Fourth Amendment Expansion Space pursuant to the terms of the Lease. For purposes of this Paragraph, (i) the Base Year for the Fourth Amendment Expansion Space shall be 2017, and (ii) Tenant's Prorata Share of the Building for the Fourth Amendment Expansion Space shall be 3.06%. Tenant shall continue to pay Additional Rent pursuant to the Existing Lease.

(f) Expansion Base Rent Reduction . Notwithstanding anything in this Amendment to the contrary, commencing on the Expansion Commencement Date and continuing through March 31, 2028, the Base Rent for the Fourth Amendment Expansion Space shall be abated by $160,912.70

per annum for a total of $1,676,173.92 (the "Expansion Base Rent Reduction"), which Expansion Base Rent Reduction shall be applied toward each installment of Monthly Base Rent in the amount of $13,409.39. Upon a sale or refinancing of the Building or the Land on which the Building is located, Landlord may, at its sole option, pay to Tenant the total amount of remaining Expansion Base Rent Reduction as a lump sum payment (the "Expansion Base Rent Reduction Payment") in which event, Tenant's right to further Expansion Base Rent Reduction as set forth in this paragraph shall be void and of no further effect. Landlord shall provide Tenant with at least thirty (30) days' prior written notice of Landlord's intention to make an Expansion Base Rent Reduction Payment. The giving of such notice shall not obligate Landlord to make the Expansion Base Rent Reduction Payment, which shall be conditioned upon the closing of any such sale or refinancing of the Building or the Land on which the Building is located. The amount of the Expansion Base Rent Reduction Payment shall be calculated as of the date of such closing and actual payment to Tenant. Any such Expansion Base Rent Reduction Payment shall be made at the closing of any such sale, or refinancing of the Building or the Land on which the Building is located and the Expansion Base Rent Reduction shall terminate effective as of the monthly installment of Base Rent that is due as of, or immediately following, receipt by Tenant of the Expansion Base Rent Reduction Payment by wire transfer of immediately available funds. Landlord's providing of notice to Tenant does not obligate Landlord to make such payment. As an example and not as a limitation, if Landlord sells the Building as of the sixty-fifth (65 th) calendar month following the Expansion Commencement Date, such that Tenant would be entitled to 60 more months of Expansion Base Rent Reduction, Landlord may pay Tenant the remaining Expansion Base Rent Reduction Payment in the amount of $804,563.40 ($13,409.39 x 60) at the closing of such sale and thereafter Tenant will have no further right to application of the Expansion Base Rent Reduction toward each installment of Monthly Base Rent for the Fourth Amendment Expansion Space.

(g) Exercise of First Expansion Option . Landlord and Tenant acknowledge and agree that Tenant's lease of the Fourth Amendment Expansion Space satisfies Section 16(a) of the Second Amendment and thus such Section 16(a) shall be void and no further effect from and after the date of this Amendment.

3. EXTENSION OF TERM . The Term of the Lease is hereby extended through March 31, 2028 (the "Expiration Date"). The Term for each of the Existing Premises and the Fourth Am endment Expansion Space shall be coterminous so that the Lease for each such space shall terminate on the Expiration Date, unless earlier terminated in accordance with the terms of the Lease, as modified by this Amendment.

4. BASE RENT FOR EXISTING PREMISES . Tenant shall continue to pay Base Rent for the Existing Premises through March 31, 2026 as set forth in the Existing Lease. Effective April 1, 2026, the Base Rent for the Existing Premises for the period between April 1, 2026 and the Expiration Date shall be as set forth in the following Base Rent schedule:

Period	Annual Base Rent per square foot	Rate of Annual Base Rent	Monthly Base Rent
4/1/26 – 10/31/26	$36.00	$4,625,172.00	$385,431.00
11/1/26 – 10/31/27	$36.50	$4,689,410.50	$390,784.21
11/1/27 – 3/31/28	$37.00	$4,753,649.00	$396,137.42

5. EXISTING PREMISES BASE RENT REDUCTION . The Premises Base Rent Reduction

(as defined in the Second Amendment) set forth in Section 6(d) of the Second Amendment shall remain in effect with respect to the Existing Premises and shall continue through March 31, 2026 as set forth in Section 6(d).

6. UPFIT ALLOWANCE. Commencing on the earlier of the date Tenant notifies Landlord it is not exercising the Early Termination Option set forth in the Second Amendment (which notice may be given no earlier than July 1, 2022) and October 1, 2022, and provided Tenant has not exercised the Early Termination Option, Landlord shall provide an allowance of up to $899,339.00 ($7.00 per rentable square foot of the Existing Premises) (the "Upfit Allowance") toward the costs of the Tenant's improvements to the Premises (the "2022 Improvements"). The 2022 Improvements shall be performed pursuant to the terms and conditions of the Lease pertaining to alterations. Landlord shall pay portions of the Upfit Allowance to Tenant from time to time, but not more than one (1) time per thirty (30) days, within thirty (30) days following Landlord's receipt of (a) paid invoices for the 2022 Improvements, if applicable, (b) partial or final lien waivers from the contractor and all subcontractors and suppliers for such 2022 Improvements, if applicable (provided that Landlord shall not be required to release the final 10% of the Upfit Allowance until final lien waivers are received for all 2022 Improvements), and (c) written request for disbursement from Tenant. Tenant may apply up to $642,385.00 ($5.00 per rentable square foot of the Existing Premises) to the cost of furniture, fixtures and equipment to be used within the Premises. Any portion of the Upfit Allowance not used toward the cost of the 2022 Improvements within calendar year 2022 shall be deemed forfeited.

7. ELEVATOR. Landlord agrees to modify the Dedicated Elevator (as defined in the Second Amendment) to include the seventh (7th) floor of the Building. Tenant acknowledges that such modification may require Landlord to change the current infrastructure to install operable doors, call buttons, and indicator lights/bells, and update the interior elevator cab panel of the Dedicated Elevator (the "Expansion Elevator Work"). Tenant acknowledges that the Elevator Work is subject to permit and approval by the City of Chicago. Promptly after the date of this Amendment, Landlord will submit any required applications for approval by the City of Chicago for the Expansion Elevator Work and will request the City of Chicago to expedite processing of said approvals, provided that such expedited processing shall not require Landlord to engage a permit expediter. Within one hundred twenty (120) days following Landlord's receipt of the City of Chicago approval for the Expansion Elevator Work, Landlord shall cause the Expansion Elevator Work to be completed, at Landlord's sole cost and expense, in a good and workmanlike manner and in compliance with all applicable laws.

8. ASBESTOS. The last sentence of Section 30(d) of the Existing Lease is deleted and replaced with the following:

"Except as otherwise provided in the previous two (2) sentences, Landlord shall be responsible for encapsulating and/or remediating, prior to the Expansion Commencement Date in accordance with applicable Enviro nm ental Laws any ACM encountered by Landlord in the performance of Landlord's construction activities."

9. TERMINATION OPTION. Tenant's Early Termination Option set forth in Section 18 of the Second Amendment shall remain in effect, subject to the following:

(a) Early Termination Date. The Early Termination Date shall be December 31, 2023.

(b) Early Termination Notice. The Early Termination Notice must be given no earlier than

July 1, 2022 and no later than September 30, 2022.

(c) Termination Fee. The Termination Fee shall be revised as follows:

(i) Termination fee if Landlord has not made the Remaining Base Rent Reduction Payment and Expansion Base Rent Reduction Payment . If Landlord has not made the Remaining Base Rent Reduction Payment and Expansion Base Rent Reduction Payment as of the date of the Early Termination Notice, the Termination Fee shall be equal to $ 3,869,880.70.

(ii) Termination fee if Landlord has made the Remaining Base Rent Reduction Payment and Expansion Base Rent Reduction Payment. If Landlord has made the Remaining Base Rent Reduction Payment and Expansion Base Rent Reduction Payment as of the date of the Early Termination Notice, the Termination Fee shall be equal to the sum of (A) $ 3,869,880.70 plus (B) the unamortized Remaining Base Rent Reduction Payment and Expansion Base Rent Reduction Payment made by Landlord, amortized on a straight-line basis over the period commencing on the date that Landlord made the Remaining Base Rent Reduction Payment and Expansion Base Rent Reduction Payment to Tenant and ending on the Early Termination Date at an interest rate of eight percent (8%) per annum.

(d) Abatement of Existing Premises Rent . The abatement of Monthly Base Rent and Additional Rent set forth in Section 18 of the Second Amendment if Tenant does not exercise the Early Termination Option shall apply only to the Existing Premises and not to the Fourth Amendment Expansion Space. If such abatement is applicable, it shall occur during the months of January 2024 through and including April 2024.

(e) No Further Modifications . Except as modified above, the Early Termination Option shall remain in full force and effect.

10. ACCESS TO MECHANICAL AREAS . Tenant acknowledges that the seventh (7 th) floor of the Building contains certain mechanical areas serving the Building (the "Mechanical Areas") that Landlord accesses on a daily basis. Landlord shall have access to the Mechanical Areas at all times. Tenant shall ensure that any improvements performed by Tenant to the Fourth Amendment Expansion Space or furniture, fixtures, and equipment placed in the Fourth Amendment Expansion Space do not interfere with Landlord's access to the Mechanical Areas. Tenant shall not access the Mechanical Areas without the consent of Landlord.

11. BROKERS OR FINDERS . Tenant represents and warrants to Landlord that except for Bradford Allen Realty Services ("Bradford"), it has engaged no broker or finder and that no claims for brokerage commissions or finders' fees arising from any act of Tenant will arise in connection with the execution of this Amendment. Landlord represents and warrants to Tenant that except for Jones Lang LaSalle ("JLL" and together with Bradford, the "Broker"), it has engaged no broker or finder and that no claims for brokerage commissions or finders' fees arising from any act of Landlord will arise in connection with the execution of this Amendment. Tenant shall indemnify, defend and hold harmless Landlord from and against any liabilities and claims for commissions and fees arising out of a breach of the foregoing representation and warranty made by Tenant. Landlord shall pay any commission owing to the Broker pursuant to one or more separate written agreements between Landlord and Broker.

12. BINDING EFFECT . The Existing Lease, as amended hereby, shall continue in full force

and effect, subject to the terms and provisions thereof and hereof. In the event of any conflict between the terms of the Lease and the terms of this Amendment, the terms of this Amendment shall control. This Amendment shall be binding upon and inure to the benefit of Landlord, Tenant and their respective successors and permitted assigns.

13. SUBMISSION. Submission of this Amendment by Landlord to Tenant for examination and/or execution shall not constitute a reservation of or option for the Premises or in any manner bind Landlord and no obligations on Landlord shall arise under this Amendment unless and until this Amendment is fully signed and delivered by Landlord and Tenant.

14. COUNTERPARTS. This Amendment may be executed in counterparts, each of which shall be an original and all of which counterparts taken together shall constitute one and the same agreement. To facilitate the execution and delivery of this Amendment, the parties may execute and exchange counterparts of the signature pages by fax of electronic mail, and the signature of either party to any counterpart may be appended to any other counterpart.

15. CONFIDENTIALITY. Landlord and Tenant acknowledge and agree that the terms of this Amendment and the Existing Lease are confidential and constitute proprietary information of Landlord and Tenant. Disclosure of the terms could adversely affect the ability of the parties to negotiate Other leases and impair the parties' relationship with other tenants. Accordingly, except as provided in this Section, the parties agree that they shall not intentionally and voluntarily disclose the terms and conditions of this Amendment or the Lease to any other tenant or apparent prospective tenant of the Building, either directly or indirectly, without the prior written consent of the other party; provided, however, that Tenant may disclose the terms to prospective subtenants or assignees under the Lease, to its accountants, attorneys and other professional advisers and as required by applicable law. Landlord acknowledges that Tenant is a publically traded company and is required to disclose the terms of material contracts, including the terms of the Lease, in accordance with applicable law. Landlord may disclose the terms to prospective lenders and entities interested in purchasing the Building from Landlord. In addition, except as required by law, neither party shall make a press release or other public announcement with respect to the Lease, without the prior written consent of the other party.

[Signatures are on the following page]

IN WITNESS WHEREOF, this Amendment is executed as of the day and year aforesaid.

LANDLORD:

BURNHAM CENTER-111 WEST WASHINGTON, LLC, a Delaware limited liability company

By: 111 West Washington Holdings, LLC, a Delaware limited liability company, its Sole member

By: /s/ Richard R. Previd
Name: Richard R. Previd
Title: AUTHORIZED SIGNATORY

TENANT:

GRUBHUB HOLDINGS, INC., a Delaware corporation

By: /s/ Adam DeWitt
Name: Adam DeWitt
Title: 10/16/17

TRIZECHAHN 1065 AVENUE OF THE AMERICAS LLC,

LANDLORD

AND

SEAMLESSWEB PROFESSIONAL SOLUTIONS, LLC,

TENANT

OFFICE LEASE

The entire fifteenth (15th) floor
1065 Avenue of the Americas
New York, NY 10018

OFFICE LEASE AGREEMENT

TABLE OF CONTENTS

LEASE AGREEMENT

1065 Avenue of the Americas

New York, NY

THIS LEASE AGREEMENT ("Lease") is entered into as of the Date (defined below), by and between the Landlord and Tenant (defined below).

1. BASIC LEASE DEFINITIONS, EXHIBITS AND ADDITIONAL DEFINITIONS

1.1 Basic Lease Definitions

In this Lease, the following defined terms shall have the meanings indicated.

(a) "Date" shall mean the date of full execution and delivery of this Lease, which is May 19 , 2011.

(b) "Landlord" shall mean **TRIZECHAHN 1065 AVENUE OF THE AMERICAS LLC,** a Delaware limited liability company.

(c) "Tenant" shall mean **SEAMLESSWEB PROFESSIONAL SOLUTIONS, LLC,** a Delaware limited liability company.

(d) "Premises" shall mean the entire fifteenth (15th) floor of the Building.

(e) "Area of the Premises" shall mean, for purposes of this Lease, the equivalent of 28,681 rentable square feet.

(f) "Use" shall mean executive, administrative and general office use for the conduct of Tenant's business and no other use, subject to the provisions of this Lease and the certificate of occupancy for the Building.

(g) "Term" shall mean the duration of this Lease, which shall be approximately ten (10) years and ten (10) months, beginning on the "Commencement Date" (as defined in Section 3.1 below) and ending on the "Expiration Date" (as defined in this Section 1.1), unless terminated or canceled earlier pursuant to the provisions of this Lease or by law.

(h) The "Expiration Date" shall mean the last day of the month in which occurs the day immediately preceding the date that is ten (10) years and ten (10) months following the Commencement Date.

(i) "Base Rent" shall mean the Rent payable pursuant to Section 4.1, which:

(i) beginning on the Commencement Date through and including the day immediately prior to the fifth (5th) anniversary of the Commencement Date, shall be One Million Six Hundred Six Thousand One Hundred Thirty Six and 00/100 Dollars ($1,606,136.00) per annum payable at the rate of $133,844.67 per month; and

(ii) beginning on the fifth (5th) anniversary of the Commencement Date through and including the Expiration Date, shall be One Million Seven Hundred Forty Nine Thousand Five Hundred Forty One and 00/100 Dollars ($1,749,541.00) per annum payable at the rate of $145,795.08 per month.

(j) "Tenant's Tax Share" shall mean 4.20%.

(k) "Tenant's Expense Share" shall mean 4.46%.

(l) "Base Tax Year" shall mean the July 1, 2011 – June 30, 2012 tax fiscal year.

(m) "Base Expense Year" shall mean Landlord's Fiscal Year ending December 31, 2011.

(n) "Rent Commencement Date" shall mean July 1, 2012.

(o) [Intentionally deleted.]

(p) " Landlord ' s Building Address " shall mean:

TrizecHahn 1065 Avenue of the Americas LLC
c/o BREA Property Management, LLC
1065 Avenue of the Americas
New York, New York 10018
Attention: Property Manager

(q) "Landlord's Notice Address" shall mean: TrizecHahn 1065 Avenue of the Americas LLC c/o BREA Property Management, LLC, 1065 Avenue of the Americas, New York, New York 10018, Attention: Property Manager; with a copy of sent to TrizecHahn 1065 Avenue of the Americas LLC c/o Equity Office, 2 North Riverside Plaza, Suite 2100, Chicago, Illinois 60606, Attention: Chief Legal Counsel, and TrizecHahn 1065 Avenue of the Americas LLC, c/o The Blackstone Group, 1095 Avenue of the Americas, New York, New York 10036, Attention: Adam Goldenberg, with an additional copy to TrizecHahn 1065 Avenue of the Americas LLC c/o BREA Property Management, LLC, 1095 Avenue of the Americas, New York, New York 10036, Attention: Josh Glick, Asset Manager, with an additional copy to: Blank Rome LLP, 405 Lexington Avenue, New York, New York 10174, Attention: Stuart D. Kaplan, Esq.

(r) "Tenant's Notice Address" shall mean: SeamlessWeb Professional Solutions, LLC, 1065 Avenue of the Americas, New York, New York 10018, Attention: President; with a copy sent to: SeamlessWeb Professional Solutions, LLC, c/o ARAMARK Corporation, 1101 Market Street, 27th Floor, Philadelphia, Pennsylvania 19107, Attention: Director of Real Estate.

(s) "Broker(s)" shall mean the following broker or brokers: Newmark Knight Frank, for Landlord, and Cushman & Wakefield, Inc., for Tenant.

(t) "Liability Insurance Amount" shall mean $5,000,000.00.

1.2 Exhibits

The Exhibits listed below are attached to and incorporated in this Lease. In the event of any inconsistency between such Exhibits and the terms and provisions of this Lease, the terms and provisions of the Exhibits shall control. The Exhibits to this Lease are:

Exhibit A	-	Description of Land
Exhibit B	-	Landlord's Work
Exhibit C	-	HVAC Specifications
Exhibit D	-	Cleaning Specifications
Exhibit E	-	Rules and Regulations
Exhibit F	-	Rules and Regulations for Alterations
Exhibit G	-	Guaranty
Exhibit H	-	Prohibited Tenants
Exhibit I	-	Other Tenants' Rights
Exhibit J	-	ROFO Space Floor Plans

1.3 Additional Definitions

In addition to the terms defined in Section 1.1 and other Sections of this Lease, the following defined terms when used in this Lease shall have the meanings indicated:

(a) "Additional Rent" shall mean the Rent payable under the provisions of Sections 4.2 and 4.4 and Article 8 of this Lease.

(b) "Alteration(s)" shall mean any and all improvements, installations, changes, additions, renovations, replacements and/or restorations made in, to or upon the Premises.

(c) "Building" shall mean the office and retail building commonly known as 1065 Avenue of the Americas, New York, located on the Land and in which the Premises are located.

(d) "Building Systems" shall mean the central heating, ventilating, air conditioning, plumbing, electric, life safety, mechanical, wiring, sprinkler, Class E, sewerage, water, mechanical, elevator and other systems installed by Landlord in the core and shell of the Building, and all other fixtures, equipment and appurtenances and systems installed by Landlord in the core and shell of the Building.

(e) "Common Areas" shall mean certain interior and exterior common and public areas located on the Land and in the Building as may be designated by Landlord for the non-exclusive use in common by Tenant, Landlord and other tenants, and their employees, guests, customers, agents and invitees.

(f) "Expenses" shall have the meaning set forth in Section 4.4 of this Lease.

(g) "Fiscal Year" shall mean Landlord's fiscal year, which ends on December 31 st of each calendar year and may be changed at Landlord's discretion.

(h) "Force Majeure" shall mean any acts of God, governmental restriction, requirements of Law, strikes, labor disturbances, shortages of or inability to obtain materials or supplies, or any other cause or event beyond Landlord's or Tenant's reasonable control by which such party shall be hindered, delayed or prevented from performance of any act under this Lease.

(i) "Holidays" shall mean all Federal, State, City and banking holidays and Building Service Employees and Operating Engineer's Union contract holidays now or hereafter in effect.

(j) "Insurance Boards" shall mean and include the National Board of Fire Underwriters and any other body having similar jurisdiction (whether at the federal, state or local level) and the New York Fire Insurance Exchange, and any other body establishing insurance premium rates.

(k) "Land" shall mean the real property known as 1065 Avenue of the Americas, New York, NY and described on Exhibit A hereto.

(l) "Laws" shall mean any and all present or future federal, state, county, borough, municipality or local laws, statutes, ordinances, rules, regulations or orders of any and all governmental or quasi-governmental authorities having jurisdiction, including the Americans with Disabilities Act of 1990 (the "ADA"), NYC Local Laws No. 5 of 1973, No. 16 of 1984 and No. 58 of 1988, each as amended from time to time, and all Laws then in effect relating to asbestos.

(m) "Prime Rate" shall mean the rate of interest announced from time to time by Citibank, N.A., or any successor to it, as its prime rate. If Citibank, N.A. or any successor to it ceases to announce a prime rate, Landlord shall designate a reasonably comparable financial institution for purposes of determining the Prime Rate.

(n) "Rent" shall mean the Base Rent, Additional Rent and all other amounts required to be paid by Tenant under this Lease.

(o) "Tax Year" shall mean every twelve (12) consecutive month period, all or any part of which occurs during the Term, commencing each July 1 or such other date as shall be the first day of the fiscal tax year of the City of New York or other governmental agency responsible for the collection of Taxes.

(p) "Taxes" shall mean (whether represented by one or more bills) the total of all real estate taxes, levies, license fees and assessments (including water rates and sewer rents), whether general or special, foreseen or unforeseen, ordinary or extraordinary, of any nature whatsoever, now or hereafter levied, confirmed, charged or imposed upon or attributable to, the Land, the Building and/or Landlord's interest therein, and payable by Landlord.

Any special assessment or levy (including, without limitation, any " Business Improvement District " assessments) which is imposed upon the Land, the Building or Landlord ' s interest therein shall be deemed to be included in the term " Taxes " ; and if, due to a future change in or addition to the method of taxation, a gross receipts, capital, capital stock or other tax shall be levied against Landlord or the owner of the Building and/or the Land in substitution for or in lieu of or as an additional part of any tax in the nature of real estate tax or assessment, such gross receipts, capital, capital stock or other tax (whether or not directly imposed upon, or based upon, the assessed valuation of the Building, the Land or Landlord ' s interest therein) shall be deemed to be included in the term " Taxes " , but only to the extent of the amount thereof that would be levied if Landlord ' s interest in the Land and Building were the only assets of Landlord. " Taxes " shall not include income taxes, excess profit taxes, franchise taxes, estate taxes, inheritance taxes or documentary transfer taxes or penalties or late charges due as a result of Taxes being paid after their due date (if such lateness is not attributable to Tenant), except to the extent any such taxes are in the nature of or in substitution for or are a recharacterization or replacement of Taxes.

2. GRANT OF LEASE

2.1 Demise

Subject to the terms, covenants, conditions and provisions of this Lease, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises, together with the non-exclusive right to use the Common Areas, for the Term.

2.2 Quiet Enjoyment

Landlord covenants that during the Term Tenant shall have quiet and peaceable possession of the Premises, subject to the terms, covenants, conditions and provisions of this Lease, and Landlord shall not disturb such possession except as expressly provided in this Lease.

2.3 Landlord and Tenant Covenants

Landlord covenants to observe and perform all of the terms, covenants and conditions applicable to Landlord in this Lease. Tenant covenants to pay the Rent when due, and to observe and perform all of the terms, covenants and conditions applicable to Tenant in this Lease.

3. TERM

3.1 Commencement Date

"Commencement Date" shall mean the date on which Landlord shall deliver possession of the Premises to Tenant broom clean, free of Hazardous Substances which are not in compliance with applicable Law, and free of all tenancies, licenses and rights of occupants and with Landlord's Work (as defined in Section 5 below) substantially complete. When the Commencement Date is determined, Landlord and Tenant shall execute an agreement setting forth the Commencement Date and the Expiration Date, provided that any failure of the parties to enter into such agreement shall not affect the occurrence of such dates as provided under this Lease.

3.2 Early Occupancy

Tenant shall have no right to enter the Premises until Landlord shall tender possession, unless Tenant shall obtain Landlord's prior consent to such entry. If Tenant shall take possession of all or any part of the Premises with Landlord's prior written consent for any purpose prior to delivery of possession thereof by Landlord, then all of the covenants and conditions of this Lease shall bind both parties with respect to all of the Premises, and Tenant shall pay Landlord Rent in accordance with the provisions of Sections 4 and 8 of this Lease commencing on the date Tenant shall have first taken possession of the Premises at the rate of the Base Rent plus Additional Rent. No early occupancy under this Section 3.2 shall change the Commencement Date or the Expiration Date. Notwithstanding the foregoing, Landlord and Tenant shall arrange for Tenant's entry into the Premises, accompanied by a representative of Landlord, prior to the Commencement Date, to permit Tenant to measure the Premises and make other observations for the purpose of developing the construction drawings described in Section 5.2 below.

3.3 Delayed Occupancy

3.3.1 If Landlord shall be unable to give possession of the Premises to Tenant on any specific date by reason of the failure of a prior tenant or occupant thereof to vacate the Premises or deliver possession of the Premises to Landlord, or for any other reason, Landlord shall not be subjected to any damages or other liability, or be deemed in default under this Lease, for the failure to give possession of the Premises on such date. No such failure to give possession of the Premises on any specific date shall affect the validity of this Lease or the obligations of Tenant hereunder or be deemed to extend the Term, but the Rent payable under this Lease shall not commence until the Commencement Date, provided that this Lease shall then be in full force and effect and an Event of Default shall not have occurred and be continuing, except that if such failure to give possession has been caused by any act or omission of Tenant, there shall be no abatement or postponement of Rent. Landlord shall not be subject to any liability for any delay in completing any repairs, improvements or decorations expressly required to be made to the Premises by Landlord.

3.3.2 Tenant hereby waives any rights to rescind this Lease which Tenant might otherwise have pursuant to Section 223-a of the Real Property Law of the State of New York, or pursuant to any other law of like import now or hereafter in force.

3.4 Surrender

Upon the Expiration Date or earlier cancellation or termination of the Term (such date, as applicable, being hereinafter referred to as the "Surrender Date"), Tenant shall immediately vacate and surrender possession of the Premises to Landlord broom clean and in good order, repair and condition, except for ordinary wear and tear and damage by fire or other casualty. Upon the expiration or other termination of the Term, Tenant shall (a) remove all Specialty Alterations required to be removed by Section 10.1.5 and shall restore the Premises to the condition existing prior to the installation of such Specialty Alterations, which removal and restoration shall be performed pursuant to the provisions of Article 10 of this Lease, and (b) remove all of Tenant's trade fixtures, office furniture, office equipment and other personal property from the Premises. Tenant shall immediately repair any damage caused by such removal or, at Landlord's option, pay Landlord on demand the reasonable cost of repairing any damage to the Premises or Building caused by the removal of any such items. Any of Tenant's property remaining in the Premises shall be conclusively deemed to have been abandoned by Tenant and may be stored, sold, destroyed or otherwise disposed of by Landlord without further notice to or demand upon Tenant, and without liability or obligation to account to or compensate Tenant, and Tenant shall pay to Landlord, as Rent on demand, all costs incurred by Landlord to store and dispose of such abandoned property.

3.5 Holding Over

3.5.1 Tenant shall not hold over at any time and Landlord may exercise any and all remedies at law or in equity to recover possession of the Premises, as well as any damages incurred by Landlord, due to Tenant's failure to vacate the Premises and deliver possession to Landlord as required by this Lease. If Tenant shall fail to surrender the Premises to Landlord on the Surrender Date in accordance with the provisions of Section 3.4 above, Tenant shall pay to Landlord, as use and occupancy for each month or fraction thereof during which Tenant continues to occupy the Premises after the Surrender Date (the "Continued Occupancy Period"), an amount of money (the "Occupancy Payment") equal to one hundred fifty percent (150%) of the monthly Base Rent payable during the last year of the Term plus one-twelfth (1/12) of the annual Additional Rent payable under Sections 4 and 8 of this Lease during the last year of the Term. Tenant shall make the Occupancy Payment, without notice or demand, on the first day of each and every month during the Continued Occupancy Period. The receipt and acceptance by Landlord of all or any portion of the Occupancy Payment shall not be deemed a waiver or acceptance by Landlord of Tenant's breach of Tenant's covenants and agreements under Section 3.4 or this Section 3.5, or a waiver by Landlord of Landlord's right to institute any summary holdover proceedings against Tenant, or a waiver by Landlord of any other of Landlord's rights or remedies against Tenant in such event as provided for in this Lease or under Law.

3.5.2 In addition to making all required Occupancy Payments, Tenant shall, in the event of Tenant's failure to surrender the Premises on the Surrender Date in accordance with the provisions of Section 3.4 above, also indemnify and hold Landlord harmless from and against any and all loss or liability resulting from any delay by Tenant in so surrendering the Premises, including any special damages or claims Landlord may suffer by reason of any claims made by any succeeding occupant founded on such delay, and any reasonable attorneys' fees, disbursements and court costs incurred by Landlord in connection with the foregoing.

3.5.3 Tenant expressly waives, for itself and for any person claiming by, through or under Tenant, any rights which Tenant or any such persons may have under the provisions of Section 2201 of the New York Civil Practice Law and Rules, and of any successor law of like import then in force, in connection with any summary holdover proceedings which Landlord may institute to enforce the provisions of this Article 3.

3.5.4 Tenant's obligation to observe or perform each and every one of the covenants set forth in Section 3.4 and this Section 3.5 shall survive the expiration or other termination of the Term.

4. RENT

4.1 Base Rent

Commencing on the Commencement Date and continuing throughout the Term, Tenant agrees to pay Landlord Base Rent in accordance with the provisions of this Lease. Base Rent shall be payable in monthly installments in the amount specified in Section 1.1(i) above, in advance, on or before the first day of each and every month during the Term. However, if the Term commences on other than the first day of a month or ends on other than the last day of a month, Base Rent for such month shall be prorated. Tenant shall pay the first monthly installment of Base Rent becoming due under this Lease upon execution of this Lease by Tenant and Landlord. Notwithstanding the foregoing and Section 1.1(i), provided that this Lease shall then be in full force and effect and an Event of Default shall not have occurred and be continuing, the Base Rent shall abate completely from the Commencement Date through the date that is one day prior to the Rent Commencement Date.

4.2 Additional Taxes

4.2.1 Tenant shall pay to Landlord, as Additional Rent, for each Tax Year subsequent to the Base Tax Year that contains any part of the Term (but in no event prior to the first (1st) anniversary of the Commencement Date), an amount ("Tenant's Tax Payment") equal to Tenant's Tax Share of the amount by which Taxes for such Tax Year exceed Taxes for the Base Tax Year. Prior to or as soon as practicable after the beginning of each Tax Year subsequent to the Base Tax Year, Landlord shall submit a statement to Tenant (the "Tax Statement") setting forth Tenant's Tax Payment. Tenant's Tax Payment shall be payable in two (2) equal installments, the first of which shall be due and payable on the June 1 immediately preceding the commencement of the Tax Year with respect to which a Tax Statement shall be rendered and the second of which shall be due and payable on the December 1 immediately preceding the second half of such Tax Year, provided, however, that if Landlord shall render any Tax Statement after or less than ten (10) days prior to the date on which a Tax Payment would otherwise be due, then such payment shall be due ten (10) days after Landlord shall have rendered such Tax Statement.

4.2.2 If, following the delivery of any Tax Statement, Landlord shall receive a refund of Taxes with respect to a Tax Year for which Tenant has paid any Additional Rent under the provisions of this Section 4.2, Tenant's Tax Share of the net proceeds of such refund, after deduction of legal fees, appraiser's fees and other expenses incurred in obtaining reductions and refunds and collecting the same (and after deduction of such expenses for previous Tax Years which were not offset by tax refunds for such Tax Years) shall be applied and allocated to the periods for which the refund was obtained and, if no Event of Default shall be continuing, Landlord shall, at Landlord's option, refund or credit to Tenant, Tenant's Tax Share of the net proceeds of such refund. In no event shall any refund or credit due to Tenant hereunder exceed Tenant's Tax Payment paid by Tenant for such particular Tax Year. In no event shall Tenant have the right to seek from the taxing authority any refund or reduction of Taxes. If, prior to the delivery of a Tax Statement to Tenant with respect to a particular Tax Year, Landlord shall obtain a reduction in Taxes for that Tax Year, then Tenant shall pay to Landlord, within fifteen (15) days following the issuance to Tenant of a bill therefor, an amount equal to Tenant's Tax Share of all costs and expenses (including legal, appraisal and other expert fees) incurred by Landlord in obtaining such reduction.

4.2.3 If there shall be a reduction or refund of Taxes for the Base Tax Year, Landlord shall furnish to Tenant a revised statement indicating the Taxes payable with respect to the Base Tax Year as so finally determined and all prior and future payments of Tenant's Tax Share of increases in Taxes provided for in this Section 4.2 shall be recalculated accordingly. Any additional payment due for any Tax Year shall be made by Tenant within fifteen (15) days after the furnishing to Tenant of the revised Tax Statement.

4.3 Other Taxes

In the event that any taxes upon or measured by Rent or upon or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises or any portion of the Premises which are typically payable by Tenant (e.g. commercial rent tax) are allocated by Law to be payable by Landlord, Tenant shall reimburse Landlord upon demand for any and all such taxes payable by Landlord.

4.4 Additional Expenses

4.4.1 For purposes of this Section 4.4, the term "Expenses" shall mean the aggregate of those expenses (other than those expressly excluded below) incurred or accrued by Landlord or any contractor employed by Landlord with respect to each Fiscal Year in accordance with standard accounting practices of the real estate industry with respect to the operation of first class office buildings in midtown Manhattan ("Standard Accounting Practices") in connection with operating, repairing, managing, equipping, securing, protecting, maintaining, replacing, renewing, cleaning, decorating and inspecting the Building and/or Land. Without limiting the generality of the foregoing, "Expenses" shall include the following items, whether directly incurred or through separate contract therefor:

(a) Wages, salaries, fees, bonuses and other compensation and payments and payroll taxes and contributions to any social security, unemployment insurance, welfare, pension or similar fund and payments for other fringe benefits required by law or by union agreement (or, if the employees or any of them are non-union, then payment for benefits comparable to those generally required by union agreement in first-class office buildings in the Borough of Manhattan, City of New York, which are unionized) made to or on behalf of all employees of Landlord or any contractor or agent employed by Landlord up to and including the grade of the Building's general manager performing services rendered in connection with the operation, repair and maintenance of the Building and/or Land, including without limitation:

(i) Elevator operators, if any, and starters and assistant starters;

(ii) Window cleaners, porters, janitors, maids, cleaners, dusters, sidewalk shovelers and miscellaneous handymen, and all of their supervisors;

(iii) Watchmen, caretakers, security personnel and persons engaged in patrolling and protecting the Building and all of their supervisors;

(iv) Carpenters, engineers, firemen, mechanics, electricians, plumbers and persons engaged in the operation, repair and maintenance of the Building and the Building Systems (other than exclusively for particular tenants of the Building) and all of their supervisors;

(v) The Building manager, superintendent, assistants, clerical and administrative personnel, if any; and

(vi) Management personnel of Landlord or the managing agent performing services in or for the Building (including, without limitation, costs for property accounting, construction management at the Building, information technology services, human resources personnel and building operations and management supervisory personnel), provided that if such personnel also service other buildings a reasonable allocation of their wages, salaries, fees and other compensation shall be made.

(b) The uniforms of all employees, and the cleaning, pressing and repair thereof.

(c) Cleaning and maintenance costs for the Land and Building, including the windows, sidewalks and plazas, and the costs of all labor, supplies, equipment and materials incidental thereto.

(d) Premiums and other charges incurred by Landlord with respect to all insurance relating to the Building and the operation and maintenance thereof, including, without limitation:

(i) Fire and extended coverage insurance, including windstorm, hail, explosion, riot, rioting attending a strike, civil commotion, aircraft, vehicle and smoke insurance;

(ii) Public liability insurance;

(iii) Elevator insurance;

(iv) Worker ’ s compensation insurance;

(v) Boiler and machinery insurance;

(vi) Rent, use and occupancy insurance;

(vii) Health, accident and group life insurance on all employees; and

(viii) War damage and terrorism insurance.

(e) The cost of electricity, fuel and other utilities used in connection with the operation and maintenance of the Building other than the cost of electricity furnished to leaseable space in the Building.

(f) Costs incurred for the operation, service, security, maintenance, inspection, and repairs and Alterations of the Land, the Building and the Building Systems and the costs of labor, materials, supplies and equipment used in connection with all of the aforesaid items.

(g) Water charges and sewer rents, except to the extent included in Taxes or reimbursed by tenants.

(h) Taxes (e.g., sales taxes and the like) upon any of the expenses enumerated herein.

(i) Management fees of the managing agent for the Building, not to exceed 3% of gross rents generated for the Building; provided, however, that nothing herein shall preclude Landlord from engaging affiliated entities as manager of the Building.

(j) Administrative and clerical supplies.

(k) Depreciation on personal property and moveable equipment.

(l) Reasonable occupancy costs for the Building management office, consisting of base rent costs plus a proportionate share of Expenses and Taxes attributable to such office and office expenses relating to the Building only, such as telephone, utilities, stationery and the like.

(m) Capital costs incurred to save or reduce Expenses, provided that any such costs shall only be included in each Fiscal Year to the extent of the annual amortization thereof calculated on a straight line basis over the useful life of such item in accordance with Standard Accounting Practices, together with interest thereon at 6% per annum, and further provided that the amortized portion of such costs shall be included in Expenses for the Base Expense Year if the same were so incurred in the Base Expense Year for the applicable item.

(n) Costs incurred to comply with Laws (other than Laws (a) in effect prior to the Commencement Date (b) with which it is Landlord’s obligation to comply and (c) which, under present judicial or administrative interpretation, are being violated on the Commencement Date), provided that any such costs that are treated as capital expenses by Landlord in accordance with Standard Accounting Practices shall only be included in any Fiscal Year to the extent of the annual amortization thereon calculated on a straight-line basis over the useful life of such item in accordance with Standard Accounting Practices together with interest thereon at 6% per annum, and further provided that the amortized portion of such capital expenses shall be included in Expenses for the Base Expense Year if the same were so incurred in the Base Expense Year for the applicable item.

(o) Costs incurred to comply with insurance requirements, provided that any such costs that are treated as capital expenses by Landlord in accordance with Standard Accounting Practices shall only be included in any Fiscal Year to the extent of the amount of the annual amortization thereof calculated on a straight-line basis over the useful life of such item in accordance with Standard Accounting Practices together with interest thereon at 6% per annum, and further provided that the amortized portion of such capital expenses shall be included in Expenses for the Base Expense Year if the same were so incurred in the Base Expense Year for the applicable item.

(p) The cost of repairs and replacements made in connection with repairs of cables, fans, pumps, boilers, cooling equipment, wiring and electrical fixtures and metering, control and distribution equipment, component parts of the HVAC, electrical, plumbing, elevator and any life or property protection systems (including, without limitation, sprinkler systems), window washing equipment and snow removal equipment, provided that any such expenses that are treated as capital expenses by Landlord in accordance with Standard Accounting Practices shall only be included in any Fiscal Year to the extent of the annual amortization thereon calculated on a straight-line basis over the useful life of such item in accordance with Standard Accounting Practices together with interest thereon at 6% per annum, and further provided that the amortized portion of such capital expenses shall be included in Expenses for the Base Expense Year if the same were so incurred in the Base Expense Year for the applicable item.

(q) The cost (or rental value) of any Building security or other system used in connection with life or property protection (including the cost of, or rental cost of, all machinery, electronic systems and other equipment comprising any part thereof), provided that any such expenses that are treated as capital expenses by Landlord in accordance with Standard Accounting Practices shall only be included in any Fiscal Year to the extent of the annual amortization thereon calculated on a straight-line basis over the useful life of such item in accordance with Standard Accounting Practices together with interest thereon at 6% per annum, and further provided that the amortized portion of such capital expenses shall be included in Expenses for the Base Expense Year if the same were so incurred in the Base Expense Year for the applicable item.

(r) Reasonable costs incurred to contest the validity of any Laws.

(s) Out of pocket costs incurred for painting and decorating the Building and the Common Areas (including, without limitation, the lobby) and other non-leaseable areas of the Building and landscaping the Land and interior and exterior public areas and plazas of the Building, and costs of operating public displays.

(t) Costs and fees for accounting, bookkeeping, auditing, consulting, legal and other professional services.

(u) Real estate, vault and other taxes not included in Taxes.

(v) Customary office building and landlord's trade association membership fees and dues.

Notwithstanding the foregoing, Expenses shall not include expenditures for any of the following: (1) mortgage principal or interest; (2) ground lease payments; (3) leasing commissions and costs of advertising space for lease in the Building; (4) costs for which Landlord is reimbursed by insurance proceeds or by payments from tenants of the Building (other than such tenants' contributions to Expenses); (5) tenant change work (other than repairs) performed for and reimbursed to Landlord by other tenants; (6) repairs or rebuilding necessitated by condemnation; (7) Taxes which are included in the definition of Taxes set forth in Section 1.3; (8) the removal, encapsulation or enclosure of any asbestos containing material in the Building; (9) depreciation (except as expressly provided above); (10) legal fees incurred in negotiating leases or collecting rents; (11) costs directly and solely related to the maintenance and operation of the entity that constitutes the Landlord, such as accounting fees incurred solely for the purpose of reporting Landlord's financial condition; (12) the cost of special services provided to tenants of the Building to the extent that such services exceed the services required to be provided to Tenant under this Lease at no additional charge and (13) executive salaries for personnel not performing services related to the operation or maintenance of the Building.

If less than 95% of the Building shall be occupied during any Fiscal Year, then the amount by which those Expenses that vary with occupancy (such as cleaning costs) would have increased had the Building been 95% occupied and operational and had all Building services been provided to all tenants shall be reasonably determined and the amount of such increase shall be included in Expenses for such Fiscal Year.

4.4.2 (a) Additional Expenses . Tenant agrees to pay Landlord, as Additional Rent, in the manner provided below for each Fiscal Year subsequent to the Base Expense Year (but in no event prior to the first (1st) anniversary of the Commencement Date), Tenant's Expense Share of the amount by which Expenses for such Fiscal Year exceed Expenses for the Base Expense Year ("Additional Expenses").

(b) Estimated Payments . Prior to or as soon as practicable after the beginning of each Fiscal Year subsequent to the Base Expense Year, Landlord shall notify Tenant of Landlord's estimate of Tenant's Expense Share of Additional Expenses for the ensuing Fiscal Year ("Landlord's Estimate"). On or before the first day of each month during the Fiscal Year with respect to which Landlord shall have given Tenant a Landlord's Estimate, Tenant shall pay to Landlord, in advance, the monthly amount set forth on Landlord's Estimate (the "Monthly Estimated Expense Payment"), provided that until Landlord shall give Tenant a new Landlord's Estimate with respect to the ensuing Fiscal Year, Tenant shall continue to pay the Monthly Estimated Expense Payment on the basis of the prior Fiscal Year's Landlord's Estimate until the month after the month in which Landlord shall have given Tenant a new Landlord's Estimate. In the first month in which Tenant shall be obligated to pay a new Monthly Estimated Expense Payment based on the new Landlord's Estimate, Tenant shall pay to Landlord a sum equal to the product of (x) the difference between the new Monthly Estimated Expense Payment and the prior year's Monthly Estimated Expense Payment multiplied by (y) the number of months which shall have elapsed since the beginning of the then current Fiscal Year. If at any time or times it appears to Landlord that Tenant's Expense Share of Additional Expenses for

the then-current Fiscal Year shall vary from Landlord ' s Estimate by more than 5%, Landlord may, by notice to Tenant, revise the Landlord ' s Estimate for such Fiscal Year and subsequent Monthly Estimated Expense Payments by Tenant for such Fiscal Year shall be based upon such revised Landlord ' s Estimate.

(c) Annual Settlement . As soon as practicable after the close of each Fiscal Year subsequent to the Base Expense Year (or, in the case of the Fiscal Year immediately subsequent to the Base Expense Year, as soon as practicable after the close of such Fiscal Year), Landlord shall deliver to Tenant a statement of Tenant's Expense Share of Additional Expenses for such Fiscal Year (the "Annual Expense Statement"). If, on the basis of such Annual Expense Statement, Tenant shall owe an amount that is less than the sum of the Monthly Estimated Expense Payments previously paid by Tenant for such Fiscal Year, Landlord shall, at Landlord's option, either refund such excess amount to Tenant or credit such excess amount against the next Monthly Estimated Expense Payment(s) due or to become due from Tenant to Landlord. If, on the basis of such Annual Expense Statement, Tenant shall owe an amount that is more than the sum of the Monthly Estimated Expense Payments previously paid by Tenant for such Fiscal Year, Tenant shall pay the deficiency to Landlord within 30 days after the delivery of such Annual Expense Statement to Tenant.

(d) Tenant's Audit Right . The Annual Expense Statements furnished by Landlord to Tenant as provided in Section 4.4.2(c) shall be binding on Tenant as to the determination of Expenses for the Base Expense Year and/or any subsequent Fiscal Year; provided, however, Tenant may, within one (1) year after receipt of Landlord's first statement setting forth Expenses for the Base Expense Year and/or any Annual Expense Statement for any comparison Fiscal Year, by written notice delivered to Landlord, time being of the essence, question the correctness of such Annual Expense Statement or statement of the Expenses for the Base Expense Year (provided that such challenge to the Expenses for the Base Expense Year shall have been made within the one (1) year period following Tenant's receipt of the first statement setting forth Expenses for the Base Expense Year). Landlord shall permit Tenant or Tenant's independent certified public accountants, who shall not work on a contingency basis ("CPA"), to have access to the books and records utilized to compute Expenses, during normal business hours upon reasonable notice for a period of one (1) year after receipt of such Annual Expense Statement in question, and during no other time, and Landlord shall maintain books and records necessary for computation of Expenses. Pending determination of any such dispute, and as a condition to Tenant's right to review Landlord's books and records in accordance with this Section, Tenant shall pay Additional Rent in accordance with the Annual Expense Statement that Tenant is disputing, without prejudice to Tenant's position. Tenant shall notify Landlord in reasonable detail and with reasonable specificity of any claim by Tenant of overpayment of Expenses within thirty (30) days after the expiration of the aforesaid one (1) year review period, or Tenant shall be deemed to have waived any claims not asserted within said thirty (30) day period. No copying of any of Landlord's books and records shall be allowed. Tenant agrees that Tenant shall not disclose the contents of such books and records to any other party unless (i) Tenant is compelled to disclose the information pursuant to court order or applicable law; (ii) such disclosure is in connection with any proceeding enforcing any remedies of Tenant as to the computation of Expenses or (iii) such disclosure is to any officer, employee, or CPA of Tenant. Landlord may require any CPA employed by Tenant to execute a confidentiality agreement in form reasonably satisfactory to Landlord prior to reviewing any books and records of Landlord. Tenant hereby waives any rights Tenant may have to review any books and records of Landlord (including, without limitation, any rights by law) except as expressly set forth in this Section 4.4.2 and with respect to discovery under the New York Civil Practice Law and Rules. Landlord shall maintain its records for a period of at least three (3) years.

4.5 Adjustments of and Revisions To Payments Of Additional Rent

If this Lease shall commence on a day other than the first day of a Tax Year or Fiscal Year, or shall terminate on a day other than the last day of a Tax Year or Fiscal Year, then Tenant's Tax Payment and/or Tenant's Expense Share of Additional Expenses applicable to the Tax Year or Fiscal Year in which such commencement or termination shall occur shall be prorated on the basis of the number of days within such Tax Year and/or Fiscal Year that are within the Term. Tenant's obligation to pay Additional Rent which has accrued but not been paid allocable to periods prior to the expiration or earlier termination of the Term (if any) and Landlord's obligation to refund Taxes or any overpayment of Tenant's Expense Share of Additional Expenses under this Article 4 shall survive such expiration or earlier termination. Landlord shall have the right to render a corrected or revised Tax Statement or Annual Expense Statement at any time and from time to time during the Term, and Landlord's failure to render any Tax Statement or Annual Expense Statement or revision or correction thereto during the Tax Year or Fiscal Year to which such statement shall relate shall not prejudice Landlord's right to render any such statement at any later time, provided such revised or corrected statement is delivered within three (3) years following the delivery of the Tax Statement or Annual Expense Statement it revises or corrects.

4.6 Terms of Payment

All Base Rent, Additional Rent and other Rent shall be paid to Landlord in lawful money of the United States of America, at Landlord's Building Address or to such other person or at such other place as Landlord may from time to time designate in writing, without notice or demand and without right of deduction, abatement or setoff, except as otherwise expressly provided in this Lease.

4.7 Interest and Late Fee on Late Payments

All amounts payable under this Lease by Tenant to Landlord, if not paid within fifteen (15) days after becoming due, shall bear interest from the due date until paid at the lesser of (x) the highest interest rate permitted by law or (y) 3% in excess of the then-current Prime Rate.

4.8 Right to Accept Payments

No receipt by Landlord of an amount less than Tenant's full amount due shall be deemed to be other than payment "on account", nor shall any endorsement or statement on any check or any accompanying letter effect or evidence an accord and satisfaction. Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance or pursue any right of Landlord. No payments by Tenant to Landlord after the expiration or other termination of the Term, or after the giving of any notice (other than a demand for payment of money) by Landlord to Tenant, shall reinstate, continue or extend the Term or make ineffective any notice given to Tenant prior to such payment. After notice or commencement of a suit, or after final judgment granting Landlord possession of the Premises, Landlord may receive and collect any sums of Rent due under this Lease, and such receipt shall not void any notice or in any manner affect any pending suit or any judgment obtained.

4.9 Insufficient Funds

If any check delivered to Landlord in full or partial payment of any amounts due to Landlord pursuant to the terms of this Lease shall not be honored by reason of insufficient or uncollected funds or for any other reason, then (i) Tenant shall pay to Landlord a service charge on account thereof in the amount of Two Hundred Dollars ($200.00), which charge shall be due and payable as Additional Rent with the next monthly installment of Base Rent.

4.10 Lockbox

If Landlord shall direct Tenant to pay Base Rent or Additional Rent to a "lockbox" or other depository whereby checks issued in payment of Base Rent and/or Additional Rent are initially cashed or deposited by a person or entity other than Landlord (albeit on Landlord's authority), then, for any and all purposes under this Lease: (i) Landlord shall not be deemed to have accepted such payment until ten (10) days after the date on which Landlord shall have actually received such funds, and (ii) Landlord shall be deemed to have accepted such payment if (and only if) within said ten (10) day period, Landlord shall not have refunded (or attempted to refund) such payment to Tenant. Nothing contained in the immediately preceding sentence shall be construed to place Tenant in default of Tenant's obligation to pay Rent if and for so long as Tenant shall timely pay the Rent required pursuant to this Lease in the manner designated by Landlord.

5. CONDITION AND DELIVERY OF PREMISES

5.1 By taking possession of the Premises hereunder, Tenant shall be deemed to have accepted the Premises as being in good order, condition and repair, and otherwise in its then existing "as is" and "where is" condition as of the Commencement Date. Landlord shall not be obligated to perform any work whatsoever to prepare the Premises for Tenant, except that, prior to the Commencement Date, Landlord shall have substantially completed the work set forth on Exhibit B ("Landlord's Work") in a good and workmanlike manner, with Building standard materials and at Landlord's cost. Except as may be expressly set forth in this Lease, Tenant acknowledges that neither Landlord, nor any employee, agent or contractor of Landlord has made any representation or warranty concerning the Land, Building, Common Areas or Premises, or the suitability of any for the conduct of Tenant's business. Landlord reserves, for Landlord's exclusive use, any of the following (other than as installed by Tenant for Tenant's exclusive use) that may be located in the Premises: janitor closets, stairways and stairwells; fans, mechanical, electrical, telephone and similar rooms; and elevator, pipe and other vertical shafts, flues and ducts.

5.2 Tenant intends to undertake renovations in the Premises to prepare the same for Tenant ' s occupancy (the " Initial Improvements "). As soon as is reasonably practicable after the Date of this Lease, Tenant shall deliver to Landlord, for Landlord ' s approval, construction drawings for the Initial Improvements. Such construction drawings shall reflect Alterations that would not (a) alter the exterior of the Building in any way or affect the exterior appearance of the Building (provided that, as part of the Initial Improvements, Tenant may install a louver for the Supplemental Air Cooled Units, provided that such louver and the location thereof are subject to the approval of Landlord), (b) exceed or adversely affect the capacity, maintenance, expenses or integrity of the Building ' s structure or any of its components, including, without limitation, the Building Systems, (c) affect the certificate of occupancy for the Building or necessitate the performance of any work by Landlord in the Building or (d) adversely affect the premises of any other tenants or occupants of the Building. Within ten (10) business days following Landlord ' s receipt of such construction drawings, Landlord shall notify Tenant, either approving such construction drawings or specifying for Tenant, in reasonable detail, Landlord ' s reasons for withholding approval and any required modifications. Within five (5) business days following receipt of Landlord ' s response to the construction drawings, if the same were not approved, Tenant shall revise such construction drawings to reflect Landlord ' s responses. Such process shall continue, with each party responding to the other within five (5) business days after such party ' s receipt of the revised construction drawings or response thereto, as applicable, until Landlord approves such construction drawings. If Landlord fails to approve the construction drawings, or respond to the same with reasonable detail indicating its reasons for disapproval within the aforesaid ten (10) business day period, or within five (5) business days following any resubmission thereof (which five (5) business day period shall be extended by one (1) day for each day beyond the five (5) business days provided for response that Tenant fails to revise such construction drawings to reflect Landlord ' s responses), and if thereafter Landlord in either case also fails to approve or so respond to Tenant within five (5) business days after receipt from Tenant of a notice (a " Plan Notice ") seeking a response to Tenant ' s request for approval of the construction drawings, Landlord shall be deemed to have approved the construction drawings provided that Tenant shall have stated in capitalized letters and bold type (a) on the envelope of the Plan Notice: " **SECOND NOTICE REGARDING CONSTRUCTION DRAWINGS** " and (b) on the first page of the Plan Notice: " **LANDLORD ' S FAILURE TO RESPOND TO TENANT REGARDING THE CONSTRUCTION DRAWINGS WITHIN FIVE (5) BUSINESS DAYS AFTER RECEIPT OF THIS NOTICE SHALL BE DEEMED TO BE LANDLORD ' S APPROVAL OF SUCH CONSTRUCTION DRAWINGS** . " Landlord shall not charge Tenant a supervisory fee for Landlord ' s review of the construction drawings as described in this Section 5.2, but Tenant shall reimburse Landlord for Landlord ' s reasonable out of pocket costs in reviewing such construction drawings. Landlord shall inform Tenant, at the time of approval of Tenant ' s construction drawings, of the items of the Initial Improvements which constitute Specialty Alterations required to be removed by Tenant upon the expiration or earlier termination of the Term. Tenant may install one or more air cooled air conditioning units (the " Supplemental Air Cooled Units ") within the Premises as part of the Initial Improvements, provided the location of any Supplemental Air Cooled Units shall be subject to Landlord approval prior to installation, and the operation thereof shall not adversely affect the Building Systems, and provided that the operation of any such units shall not cause Tenant to exceed the capacity of electric current allocated to Tenant pursuant to Article 8.

5.3 Following the approval of the construction drawings as set forth in Section 5.2 above, Landlord shall (a) provide sufficient points of connection in the Premises to the Building's Class E system for typical office use and (b) deliver an ACP-5 certificate to Tenant reflecting the scope of the Initial Improvements as shown on the approved construction drawings.

5.4 Tenant shall perform the Initial Improvements at Tenant's own cost and expense, in compliance with Laws and the provisions of this Lease (including without limitation Article 10), and in accordance with the approved construction drawings developed as set forth in Section 5.2 above. Notwithstanding the foregoing sentence, provided that no Event of Default shall at the time of any disbursement have occurred and be continuing, Landlord shall contribute up to One Million Six Hundred Thirty Four Thousand, Eight Hundred Seventeen and 00/100 Dollars ($1,634,817.00) ("Landlord's Contribution") to the cost of the Initial Improvements (up to ten percent (10%) of which may be used for architectural, engineering and design costs and the costs of furniture systems), which Landlord shall pay to Tenant as follows: Landlord shall pay up to ninety percent (90%) of Landlord's Contribution in installments no more frequently than thirty (30) days apart throughout the course of performance of the Initial Improvements, each within thirty (30) days after Tenant submits to Landlord (a) copies of paid invoices for the applicable work performed or materials used, (b) lien waivers covering all work for which payment is being requested, (c) an architect's certification stating that the portion of the Initial Improvements for which payment is being requested has been performed in accordance with the approved construction drawings, and certifying as to the

amount due and owing to contractors and (d) such other evidence that the services performed have been rendered with respect to, and materials used have been incorporated into, such Initial Improvements, as Landlord may reasonably request. Landlord shall pay the remaining ten percent (10%) of Landlord ' s Contribution following completion of the Initial Improvements and within thirty (30) days after Tenant submits to Landlord (a) copies of paid invoices for the applicable work performed or materials used, (b) final lien waivers with respect to the Initial Improvements, (c) an architect ' s certification stating that the Initial Improvements have been completed in accordance with the approved construction drawings, and certifying as to the amount due and owing to contractors and (d) such other evidence that the services performed have been rendered with respect to, and materials used have been incorporated into, such Initial Improvements, as Landlord may reasonably request.

5.5 Tenant contemplates installing one new men's restroom and one new women's restroom (the "Restrooms") as part of the Initial Improvements. Provided that Tenant installs such Restrooms, and provided that no Event of Default shall be continuing at the time of disbursement, Landlord shall contribute up to One Hundred Forty Thousand and 00/100 Dollars ($140,000.00) to the cost of the Restroom installation, which Landlord shall pay to Tenant following completion of the Restroom installation and within thirty (30) days after Tenant submits to Landlord (a) copies of paid invoices for the applicable work performed or materials used, (b) final lien waivers with respect to the Restroom installation, (c) an architect's certification stating that the Restroom installation has been completed in accordance with the approved construction drawings and with the ADA and all applicable Laws, and certifying as to the amount due and owing to contractors and (d) such other evidence that the services performed have been rendered with respect to, and materials used have been incorporated into, such Restroom installation, as Landlord may reasonably request.

6. USE AND OCCUPANCY

6.1 Use

6.1.1 Tenant agrees to use and occupy the Premises only for the Use described in Section 1.1 and no other use.

6.1.2 The use of the Premises permitted under Section 6.1(a) shall not include, and Tenant shall not use, or permit the use of, the Premises or any part thereof for: (i) the offices or business of a governmental or quasi-governmental bureau, department or agency, foreign or domestic, including an autonomous governmental corporation or diplomatic or trade mission; or (ii) the conduct or maintenance of any gambling or gaming activities; or any political activities or any club activities; or a school; or employment or placement agency; or messenger service; or for the manufacturing, storage, shipping or receiving of goods; or for retail sales; or for the cooking or distribution of food.

6.2 Compliance

6.2.1 Tenant agrees to use the Premises in a safe, careful and proper manner, and, at Tenant's expense, to comply with all Laws now or hereafter existing (including, without limitation, the certificate of occupancy for the Premises and/or the Building, the Americans with Disabilities Act of 1990, NYC Local Laws No. 5 of 1973, No. 16 of 1984 and No. 58 of 1988, each as amended from time to time, and all Laws then in effect relating to asbestos and all orders, rules and regulations of Insurance Boards) that shall impose upon Landlord or Tenant any obligation, order or duty (including, without limitation, the performance of any Alterations), whether foreseen or unforeseen, ordinary or extraordinary, with respect to:

(a) the Premises (including, without limitation, any leasehold improvements or Alterations in the Premises and Tenant's use of the Premises), or

(b) any part of the Building other than the Premises if such obligation, order or duty shall arise from (i) the specific use or manner of any use or occupancy of the Premises by Tenant or any person claiming through or under Tenant, or (ii) a condition created by Tenant or any person claiming under or through Tenant or any or their respective agents, contractors, employees, licensees, guests or invitees (including, without limitation, any Alteration or improvement in the Premises), or (iii) a breach of Tenant's obligations under this Lease or the negligence of Tenant or its agents, contractors, employees, licensees, guests or invitees.

6.2.2 If any Insurance Boards or Laws shall require or recommend installation of fire extinguishers or of a " sprinkler system " or any other fire protection devices or any changes, modifications, alterations or additions thereto for any reason, whether or not attributable to Tenant ' s use of the Premises, or if any such installation or equipment becomes necessary to prevent the imposition of a penalty or charge against the full allowance for a sprinkler or fire extinguishing system in the fire insurance rate as fixed by Insurance Boards, or by any fire insurance company, then Tenant, at Tenant ' s expense, shall promptly make such installation within the Premises and supply such changes, modifications, alterations, additions or other equipment in the Premises in connection with such installation.

6.2.3 Landlord and Tenant agree that, during the Term, each shall comply with all Laws governing, and all procedures established by Landlord for, the use, abatement, removal, storage, disposal or transport of any substances, chemicals or materials declared to be, or regulated as, hazardous or toxic under any applicable Laws ("Hazardous Substances") and any required or permitted alteration, repair, maintenance, restoration, removal or other work in or about the Premises, Building or Land that involves or affects any Hazardous Substances. Each party shall indemnify and hold the other and the other's "Affiliated Parties" (as defined in Section 14.2) harmless from and against any and all claims, costs and liabilities (including reasonable attorneys' fees) arising out or in connection with any breach by such party of its covenants under this Section 6.2.3. The parties' obligations under this Section 6.2.3 shall survive the expiration or early termination of the Term.

6.3 Occupancy

Tenant shall not do or permit anything to be done which obstructs or interferes with other tenants' rights or with Landlord's providing Building services, or which injures or annoys other tenants. Tenant shall not cause, maintain or permit any nuisance in or about the Premises and shall keep the Premises free of debris, and anything of a dangerous, noxious, toxic or offensive nature or which could create a fire hazard or undue vibration, heat or noise. Tenant shall not make or permit any use of the Premises which may jeopardize any insurance coverage for the Building or Premises, increase the cost of insurance or require additional insurance coverage for the Building or Premises or which shall invalidate or be in conflict with the terms of the New York State standard form of fire insurance with extended coverage. If by reason of Tenant's failure to comply with the provisions of this Section 6.3, (a) any insurance coverage shall be jeopardized, and within five (5) days following notice from Landlord Tenant does not cure the same, then Landlord shall have the option to terminate this Lease or (b) insurance premiums shall be increased, and within five (5) days following notice from Landlord Tenant does not cure the same, then Landlord may require Tenant to immediately pay Landlord as Rent the amount of the increase in insurance premiums.

6.4 Covenants

Tenant expressly acknowledges that irreparable injury shall result to Landlord in the event of a breach of any of the covenants made by Tenant in this Article 6, and it is agreed that, in the event of such breach, Landlord shall be entitled, in addition to any other remedies available, to an injunction to restrain the violation thereof. Breach of any of Tenant's covenants under this Article shall also constitute an Event of Default pursuant to the provisions of Article 21 hereof.

6.5 Window Washing

Tenant shall not clean, or permit, suffer or allow to be cleaned, any windows in the Premises from the outside in violation of Section 202 of the Labor Law or any other Laws.

7. SERVICES AND UTILITIES

7.1 Landlord's Operation of the Building

Beginning on the Commencement Date and throughout the Term, subject to the provisions of this Lease, Landlord shall operate and maintain the Building (i) in compliance with all applicable Laws which shall materially affect Tenant's use and occupancy of the Premises, other than Laws required to be complied with by Tenant or other tenants of the Building and subject to Landlord's right to contest the validity or applicability of any such Laws, and (ii) as a first class office building in accordance with the standards from time to time prevailing for comparable first-class office buildings in midtown Manhattan.

7.2 Landlord ' s Standard Services

Subject to the provisions of this Lease, Landlord shall provide the following services beginning on the Commencement Date:

(a) Maintain and make all necessary repairs and replacements to the Common Areas of the Building, all structural elements of the Building and the Building Systems, but excluding those portions of the Premises and the Building required to be repaired or maintained by Tenant pursuant to Section 9 of this Lease. Except as expressly provided in this Lease, there shall be no allowance to Tenant for a diminution of rental value or interruption of business, and no liability on the part of Landlord, by reason of inconvenience, annoyance or injury to business arising from Landlord, Tenant or others making any repairs in or to any portion of the Building or Building Systems or the Premises. Landlord shall use reasonable efforts to minimize interference with the conduct of Tenant's business in the Premises during the performance of any repairs (without incurring overtime or premium labor charges). To the extent that Tenant's use of the Premises (including Tenant's use of all Building Systems serving the Premises and Common Areas of the Building) shall be materially affected, Landlord shall perform all repairs (i) in a workmanlike manner using grades of materials at least equal in quality to the materials adopted as a standard for the Building and (ii) in compliance with applicable Laws.

(b) Provide Building standard elevator service on usual business days (but in no event on Saturdays or Sundays), Holidays excepted, from 8:00 A.M. to 5:00 P.M., and have one elevator on call at all other days and times. Tenant shall be permitted to use the Building's freight elevators on an "as available" basis between the hours of 8:00 A.M. to 5:00 P.M. on usual business days at no charge to Tenant (including during Tenant's Initial Improvements and move in), and at any other days or times on an "as available" basis at Landlord's then current Building standard rate for such freight elevator usage, (which as of the Date of this Lease is $80.02 per hour), without markup (and in each case Tenant shall be required to pay for a minimum of four (4) hours of usage). Tenant shall be permitted to use the Building's freight elevators for thirty (30) hours in the aggregate at such other days or times, without charge, in connection with the Initial Improvements and Tenant's move into the Premises.

(c) Operate the central air-conditioning, heating and ventilating system installed by Landlord in the Building (the "HVAC System") during the applicable seasons on usual business days (but in no event on Saturdays or Sundays), Holidays excepted, from 8:00 A.M. to 6:00 P.M. in accordance with the design specifications for the HVAC System, which are set forth on Exhibit C annexed hereto and made a part hereof, and are subject to applicable Laws and the New York State Energy Conservation Code and the New York City Energy Conservation Code. Tenant expressly acknowledges that the windows are hermetically sealed and will not open and Landlord makes no representation as to the habitability of the Premises at any time the central ventilating and air conditioning systems are not in operation. Tenant hereby expressly waives any claims against Landlord arising out of the cessation of operation of the central air conditioning, heating and ventilating systems, or the suitability of the Premises when same are not in operation or due to normal scheduling or for the reasons set forth in Section 7.3. Landlord shall not be liable for the failure of the air conditioning system if such failure results from the occupancy of the Premises by more than an average of one person for each 100 square feet in any separate room or area (exclusive of use for the HVAC System) or if Tenant installs and operates machines, incandescent lighting and appliances the total demand electrical load of which exceeds 5 watts per square foot of rentable area in any separate room or area. If Tenant shall request heating, ventilation or air conditioning at any times other than those set forth above, Landlord shall provide the same, subject to the provisions of this Lease, provided that Tenant shall give written notice requesting such after hours service to Landlord's Building manager or other representative in charge of the Building at least 48 hours in advance of the day on which Tenant shall desire such after hours service. Tenant shall pay to Landlord, for such after hours service, as Rent, then current Landlord's Building standard charge therefor, within thirty (30) days after demand. As of the Date of this Lease, Landlord's Building standard charges for heating, ventilation and air conditioning are: $368.90 per hour for heating, $292.55 per hour for ventilation and $466.75 per hour for air conditioning. If Tenant shall request such overtime service for Saturday, Sunday or a Holiday for a period of less than eight (8) hours, Tenant shall pay for a minimum of eight (8) hours of such overtime service. If any other tenants of the Building whose premises are served by the same HVAC System as the Premises shall request overtime service for any of the same hours as Tenant, the charge to Tenant for such common use shall be pro-rated based upon the rentable area of the Premises and the premises of such other tenant(s) requesting such service. However, nothing herein contained shall obligate Landlord to pro-rate such charge based upon other tenants who may receive the benefit of such service but who shall not have so requested such service.

(d) Furnish New York City water for ordinary lavatory and drinking and office cleaning purposes if a wet column is located in the Premises. If Tenant requires, uses or consumes water for any other purpose, or installation becomes required by Laws, Tenant agrees that Tenant shall (or Landlord may at Tenant ' s cost) install a meter or meters or other means to measure Tenant ' s water consumption, and Tenant further agrees to pay for the cost of the meter or meters and the installation thereof, and to pay for the maintenance of said meter equipment and/or to pay Landlord ' s cost of other means of measuring such water consumption by Tenant. Additionally, Landlord may install meters for the Building generally, and in such case Landlord shall, at Landlord ' s cost, install and maintain a meter or meters or other means to measure Tenant ' s water consumption. In any such case, Tenant shall reimburse Landlord for the cost of all water consumed (including costs of generating hot water, if any) as measured by said meter or meters or as otherwise measured, including sewer rents, as additional rent within thirty (30) days after bills are rendered.

(e) Furnish either directly or through the Building cleaning contractor, which Tenant hereby approves, customary standard office cleaning service in the Premises and in the Common Areas of the Building (including the common elevator corridor and bathrooms on the floor on which the Premises are located, if any) according to the specifications set forth on Exhibit D attached hereto, during the evenings following usual business days (but in no event following Saturdays or Sundays), Holidays excepted. Tenant shall pay to Landlord the reasonable costs incurred by Landlord for (x) extra cleaning in the Premises required because of (i) misuse or neglect by Tenant or its employees or business visitors, (ii) use of portions of the Premises for preparation, serving or consumption of food or beverages or other special purposes (except mail room) requiring greater or more difficult cleaning work than office areas, (iii) unusual quantity of interior glass surfaces, (iv) non Building standard materials or finishes installed by Tenant or at its request, and (y) removal from the Premises and the Building of (i) so much of any refuse or rubbish of Tenant as shall exceed that ordinarily accumulated daily in the routine of business office occupancy and (ii) refuse and rubbish of Tenant's vending machines and other eating facilities requiring special handling (known in the trade as "wet garbage"). Tenant may arrange for removal of such wet garbage by its own personnel or by contractors approved by Landlord, subject to such rules and regulations as Landlord may reasonably impose for the proper operation and maintenance of the Building. Tenant may also arrange directly with Landlord's cleaning contractor to pay for any or all of the costs of extra cleaning and rubbish removal referred to in this Section. Landlord and its cleaning contractor and their employees shall have after hours access to the Premises and the free use of light, power and water facilities in the Premises as shall be reasonably required for the purpose of cleaning the Premises in accordance with Landlord's obligations hereunder.

(f) List Tenant on the Building office directory board, provided that Landlord maintains an office directory board in the Building. Tenant may install Tenant's standard identifying signage in the 15th floor elevator lobby, which signage shall be subject to the approval of Landlord in all respects, which approval shall not be unreasonably withheld.

(g) Commensurate with the standards of other first class office buildings in midtown Manhattan, provide general Building security seven (7) days per week, twenty-four (24) hours per day.

(h) If Landlord or Landlord's affiliate shall at any time during the Term furnish any services to Tenant other than Landlord's Building standard services to be furnished to Tenant pursuant to the provisions of this Section 7.2 without separate charge to Tenant, then Tenant shall pay to Landlord, or, at Landlord's option to Landlord's designated affiliate, as Rent, within thirty (30) days after demand, Landlord's then current Building standard charge for such services. Such additional services may include, as an example only, additional electric power or cleaning services.

7.3 Interruption of Services

Landlord reserves the right to temporarily stop the furnishing of any Building services and the service of any of the Building Systems to perform repairs or Alterations which, in Landlord's judgment, shall be necessary or desirable or when necessary by reason of accident or emergency. If any of the Building Systems or services required to be provided by Landlord pursuant to this Article 7 or Article 8 below shall be interrupted, curtailed or stopped, Landlord shall use reasonable efforts with due diligence to resume such service; provided, however, that Landlord shall have no liability whatsoever by reason of any such interruption, curtailment or stoppage of any of such services (whether the same shall be interrupted, curtailed or stopped while Landlord shall be performing any repairs or Alterations or when Landlord shall be prevented from supplying or furnishing the same by reason of Laws, the failure of any public utility or governmental authority serving the Building to supply electricity, water, steam, oil or

other fuel, strikes, lockouts, the difficulty of obtaining materials after the use of due diligence, accidents or by any other cause beyond Landlord ' s reasonable control), including, without limitation, any liability for damages to Tenant ' s personal property or for interruption of business caused by any such interruption or stoppage, nor shall the same constitute an actual or constructive eviction or entitle Tenant to any abatement or diminution of the Rent payable under this Lease or in any manner or for any purpose relieve Tenant from any of its obligations under this Lease. Notwithstanding the foregoing, to the extent that any such interruption or stoppage is not required by Law (other than Laws in effect prior to the Commencement Date, with which it is Landlord ' s obligation to comply and which, under present judicial or administrative interpretation, are being violated on the Commencement Date), is not caused by the negligence or a willful act of Tenant or its employees, agents, contractors or subcontractors, and causes Tenant ' s inability to conduct business in the Premises for a period of four (4) consecutive business days, and Tenant does not actually occupy or conduct its business in the Premises during such period, for each subsequent business day on which Tenant is unable to, and does not actually, so conduct business in the Premises as a result thereof, there shall be an abatement of Base Rent.

7.4 Changes in Laws

In the event any governmental entity promulgates or revises any law, or issues mandatory controls relating to the use or conservation of energy, water, light or electricity, or the provision of any other utility or service furnished by Landlord in the Building, Landlord may take any appropriate action to comply with such provision of law or mandatory controls, including the making of alterations to the Building. Neither Landlord's actions nor its failure to act shall entitle Tenant to any damages, abate or suspend Tenant's obligation to pay Base Rent and Additional Rent or constitute or be construed as a constructive or other eviction of Tenant except as otherwise specifically set forth herein.

8. ELECTRIC

8.1 Electric Capacity

From and after the Commencement Date, Landlord shall furnish to the Premises five (5) watts demand load per rentable square foot of electric current (exclusive of use for the HVAC System) for Tenant's use in the Premises upon and subject to the terms and conditions set forth in this Article 8. If during the Term Tenant delivers to Landlord a load letter demonstrating Tenant's need for additional electric capacity, then Landlord shall, at Landlord's cost, furnish to the Premises such capacity demonstrated to be required by Tenant, up to one (1) additional watt demand load per rentable square foot. Tenant covenants and agrees that at all times its use of electric current shall not exceed such capacity or the wiring installations in the Premises. Tenant's consumption of electrical energy at the Premises shall be measured by submeters (which shall be equipped to measure "time of day" usage) installed and maintained by Landlord, at Landlord's expense.

8.2 Submeters

Tenant shall purchase all electric current from Landlord or Landlord's designated agent for use in the Premises at 102% of the cost (without additional markup) that Landlord would be charged on the basis of Landlord's rate schedule published by the public utility company or other service provider serving the Building (the "Utility Company") in effect from time to time (including fuel, taxes, "on-peak" and "off-peak" usage, "time of day" usage, and other applicable factors relating to the rate schedule) based on readings from time to time during the Term of the submeters measuring Tenant's consumption of electricity in the Premises.

8.3 Additional Rent

Where more than one submeter measures Tenant's consumption of electricity, the service rendered through each submeter shall be totalled and the total shall be billed as if the consumption of electricity were measured by one submeter in accordance with the provisions hereof. Bills therefor shall be rendered no more frequently than monthly and no less frequently than quarterly and shall be payable, as Additional Rent, within thirty (30) days of demand.

8.4 Electric Usage; Equipment

Landlord shall not in any way be liable or responsible to Tenant for any loss, damage or expense which Tenant may sustain or incur if either the quantity or character of electric service is changed or is no longer available or suitable for Tenant's requirements unless due to Landlord's negligence or wrongful acts (but in no event shall Landlord be liable for consequential damages and in no event shall Landlord voluntarily reduce the amount of power supplied to the Premises to less than five (5) watts demand load per rentable square foot, exclusive of use for the HVAC System, or to less than six (6) watts, or such applicable wattage up to six (6) watts, if Tenant has delivered the load letter contemplated by Section 8.1). Any additional riser or risers to supply Tenant's electrical requirements in excess of six (6) watts demand load per rentable square foot will upon written request of Tenant, be installed by Landlord at the sole cost and expense of Tenant if the same are necessary for Tenant's proposed use and will not cause adverse damage or injury to the Building or the operation thereof or the Premises, cause or create a dangerous or hazardous condition, entail excessive or unreasonable alterations, repairs or expense or interfere with or disturb other tenants or occupants and, in addition to the installation of such riser or risers, Landlord will also, at the sole cost and expense of Tenant, install all other equipment which, in Landlord's reasonable judgment, is proper and necessary in connection therewith, subject to the aforesaid terms and conditions. Tenant's use of electric current shall never exceed the capacity of existing feeders or risers to, or wiring installations serving, the Premises. All of such cost and expense shall be paid by Tenant to Landlord upon Landlord's demand.

8.5 Discontinuance of Service

Landlord reserves the right to discontinue furnishing electricity to Tenant in the Premises at any time upon not less than thirty (30) days' notice to Tenant or, provided that Tenant shall promptly commence and thereafter diligently prosecute the procuring of electricity, such longer period as may be reasonably required for Tenant to obtain electricity from an alternate source. If Landlord shall exercise such right of termination, this Lease shall continue in full force and effect and shall be unaffected thereby, except only that, from and after the effective date of such termination, Landlord shall not be obligated to furnish electricity to Tenant. If Landlord so discontinues furnishing electric energy to Tenant, Tenant shall arrange to obtain electricity directly from the Utility Company. Such electricity may be furnished to Tenant by means of the then existing Building system feeders, risers and wiring to the extent that the same are available, suitable and safe for such purposes. If Landlord elects to discontinue furnishing electricity to Tenant other than if required by Law or the Utility Company, Landlord shall install, at Landlord's expense, all meters and additional panel boards, feeders, risers, wiring and other conductors and equipment which may be required to obtain electricity directly from such Utility Company, and Tenant shall maintain such installations at Tenant's expense. Such discontinuance shall not be deemed a lessening or diminution of services within the meaning of any present or future Laws.

8.6 Alterations

Tenant shall make no alterations or additions to the electric equipment and/or appliances presently installed in the Premises without the prior written consent of Landlord in each instance. Should Landlord grant such consent, all additional risers or other equipment required for electric capacity in excess of (6) watts demand load per rentable square foot shall be provided by Landlord and the cost thereof shall be paid by Tenant upon Landlord's demand. All said work shall be performed in accordance with Article 10 of this Lease.

8.7 Tax

If any tax is imposed upon Landlord's receipt from the sale or resale of electric energy to Tenant by any Federal, State or Municipal Authority, where permitted by Law, Tenant's Tax Share of such taxes shall be paid by Tenant to Landlord.

8.8 Change in Laws

If the Utility Company, or any Laws, shall institute or require a change in the manner in which electricity is to be furnished or paid for, and such change reasonably necessitates an appropriate modification of this Article 8, Tenant agrees to execute such modification. Tenant agrees to fully and timely comply with all rules and regulations of the public utility applicable to Tenant or the Premises.

8.9 Submeter Calibration

If during any time during the Term, it shall be determined that one or more of the submeters servicing the Premises were malfunctioning, then Tenant shall pay Landlord an amount based on historical billings for similar time periods in the Premises as the amount that would have been payable by Tenant had such malfunction not occurred.

8.10 Statements

Landlord's failure to render any statement under the provisions of this Article 8 shall not prejudice Landlord's right to render such statement at any time thereafter or to render a statement under this Article 8 for prior or subsequent periods. The obligations of Tenant with respect to any payment required to be made pursuant to the provisions of this Article 8 shall survive the expiration or sooner termination of the Term.

9. REPAIRS AND MAINTENANCE OF PREMISES; ACCESS TO PREMISES BY LANDLORD

9.1 Repairs by Tenant

Subject to the terms of Article 6, Section 7.2(a), and Articles 13 and 15, and except to the extent Landlord is required or elects to perform or pay for certain maintenance or repairs in accordance with said Sections, Tenant shall, at Tenant's sole expense, at all times during the Term, maintain in good order and repair and in compliance with all applicable Laws, the Premises and all fixtures, glass, appurtenances and equipment therein (including promptly and adequately repairing, restoring and/or replacing all portions that are damaged or broken), including, without limitation, Tenant's entire distribution system for all of the Building Systems that serve the Premises up to the point at which such distribution system connects to the Building System, i.e., (i) Tenant's entire air distribution ceiling duct system to the point at which the same connects to the main distribution duct for the Premises located in the core area of the Building (but not the perimeter heating/cooling units located around the perimeter of the Premises, which units shall be repaired by Landlord except to the extent to which the same are damaged by Tenant), (ii) Tenant's entire electrical system to the panel box that services the Premises, (iii) all water and waste lines and fixtures to the point at which the same connect to the vertical pipes and wet columns located in the core of the Building, (iv) the portion of the "Class E" fire safety system within the Premises (the portion of the system outside of the Premises other than that required to be maintained by other tenants of the Building shall be Landlord's responsibility) and (v) any and all supplemental and other systems located in and/or exclusively serving the Premises. Tenant shall also repair, restore and/or replace all damage and injury to the Premises or to any portion of the Building or the Building Systems outside of the Premises (including, without limitation, the rough floor, the rough ceiling, exterior walls and load bearing columns and other structural elements) caused by or arising from any acts or omissions of Tenant or Tenant's agents, contractors or employees. All repairs and other work performed by Tenant or Tenant's contractors (which shall be subject to Landlord's approval) shall (i) be performed in compliance with all of the provisions of Article 10 of this Lease, (ii) be performed in a first-class workmanlike manner using only grades of materials at least equal in quality to Building standard materials and (iii) comply with all insurance requirements and all applicable Laws.

9.2 Failure to Maintain Premises; Landlord's Right to Cure

If Tenant shall fail to perform any of its obligations under Section 9.1, then Landlord may, upon not less than ten (10) days' prior notice to Tenant (except in case of actual or suspected emergency, in which case no notice shall be required) perform such obligations and Tenant shall pay as Rent to Landlord the cost of such performance, including an amount sufficient to reimburse Landlord for third party supervision costs, within ten (10) days after demand from Landlord.

9.3 Landlord's Right to Perform Repairs to Building Systems

In any case in which Tenant shall be required or desire to make any repairs or perform any Alterations or other work pursuant to this Article or Articles 6 or 10 and such repairs, Alterations or other work shall affect the Building Systems or areas outside of the Premises, Landlord may, in Landlord's discretion, elect to make such repairs or to perform such Alterations or other work for and on behalf of Tenant, but at Tenant's sole cost and

expense. In such event, Tenant shall reimburse Landlord, as Rent, for the reasonable cost incurred by Landlord to perform such repairs and/or Alterations or other work in accordance with the standards of first class office buildings in midtown Manhattan, within thirty (30) days after Landlord shall furnish a statement to Tenant of the amount thereof.

9.4 Access to Premises by Landlord

9.4.1 Tenant shall permit Landlord and Landlord's agents, representatives, contractors and employees and public utilities servicing the Building with identification to enter the Premises at all reasonable times upon at least 24 hours' prior notice (except in case of actual or suspected emergency in which event no notice shall be required), which notice may be oral, for any of the following purposes, it being agreed that Landlord and Tenant shall use reasonable efforts to coordinate the presence of a representative of Tenant, but that such presence shall not be required for such entry: (i) to examine or inspect the Premises, (ii) to show the Premises to existing or prospective mortgagees, lenders or ground lessors or to prospective purchasers, (iii) to comply with any Laws or the requirements of any insurance policies or Encumbrance (as defined in Section 25.1) affecting the Building, it being agreed that Landlord shall use commercially reasonable efforts to minimize interference with the conduct of Tenant's business in the Premises, (iv) to perform any Alterations, repairs, improvements, additions, replacements or restorations which Landlord shall deem necessary or desirable, (v) to comply with any of Landlord's obligations under this Lease, (vi) to exercise any right or remedy of Landlord under this Lease, including, without limitation, Landlord's rights to cure any default of Tenant under this Lease (provided that any notice of default Landlord shall give to Tenant shall also serve as any prior notice required to be given under this Section 9.4.1 and no further notice of Landlord's entry under this Section shall be required) and (vii) during the last twelve (12) months of the Term, to show the Premises to prospective tenants. Landlord shall have the right to take any materials and equipment into the Premises that may be required while any repairs, restorations, improvements, replacements, additions or Alterations are being performed in the Premises and such performance shall not constitute an actual or constructive eviction in whole or in part or entitle Tenant to any abatement of the Rent payable under this Lease (except as otherwise expressly provided in Article 13 or in this Section 9.4.1 or Section 10.2) or other compensation for interruption to or loss of business or subject Landlord to any other liability. Landlord shall use reasonable efforts to minimize interference in the normal conduct of Tenant's business during any such entry by Landlord, provided that Landlord shall not be obligated to employ labor at overtime or premium pay rates. Notwithstanding the foregoing, to the extent that Landlord's entry and performance under this Section 9.4.1 is not required by Law and causes Tenant's inability to conduct business in the Premises for a period of five (5) consecutive business days, and Tenant does not actually occupy or conduct its business in the Premises during such period, for each subsequent business day on which Tenant is unable to, and does not actually, so conduct business in the Premises as a result thereof, there shall be an abatement of Base Rent. If Tenant shall not be present when any entry into the Premises shall be necessary or desirable, Landlord and Landlord's agents, representatives, contractors or employees may enter the Premises without rendering Landlord or such parties liable, provided that such parties shall use reasonable care under the circumstances to avoid damage to Tenant's property and Alterations.

9.4.2 Without incurring any liability to Tenant, Landlord may permit access to the Premises and open the same, whether or not Tenant shall be present, upon demand of any receiver, trustee, assignee for the benefit of creditors, sheriff, marshal or court officer entitled to, or purporting to be entitled to, such access for the purpose of taking possession of, or removing, Tenant's property or for any other lawful purpose (but by this provision any action by Landlord hereunder shall not be deemed a recognition by Landlord that the person or official permitted to such access has any right to such access or interest in or to this Lease, or in or to the Premises), or upon demand of any representative of the fire, police, building, sanitation or other department of the city, state or federal governments.

9.4.3. Any reservation of a right by Landlord to enter upon the Premises and to make or perform any repairs, Alterations or other work in, to or about the Premises which, in the first instance, is the obligation of Tenant pursuant to this Lease, shall not be deemed to: (i) impose any obligation on Landlord to do so, (ii) render Landlord liable (to Tenant or any third party) for the failure to do so, or (iii) relieve Tenant from any obligation to indemnify Landlord as otherwise provided elsewhere in this Lease.

9.5 Notice of Damage

Tenant shall notify Landlord promptly after Tenant learns of (a) any fire or other casualty in the Premises; (b) any damage to or defect in the Premises, including the fixtures and equipment in the Premises, for the repair of which Landlord might be responsible; and (c) any damage to or defect in any parts of appurtenances of the Building's sanitary, electrical, heating, air conditioning, elevator or other systems located in or passing through the Premises.

9.6 Janitorial Services

In addition to the cleaning services provided by Landlord pursuant to Section 7.2(e), Tenant shall, at Tenant's expense, keep the Premises clean and in order. If Tenant desires or requires additional cleaning services, Tenant may contract for such additional service, at Tenant's cost, using Landlord's approved cleaning contractor or another person, firm or corporation who or which shall be subject to the prior written approval of Landlord. Landlord expressly reserves the right to exclude from the Building any person, firm or corporation attempting to perform any such work or furnish any of such services without Landlord's prior written approval or not so designated by Landlord.

9.7 Energy Conservation

Tenant agrees to abide by all requirements which Landlord may reasonably prescribe for the proper protection and functioning of the Building Systems and the furnishing of the Building services. Tenant agrees to keep all windows closed while the HVAC System is in operation. Tenant further agrees to cooperate with Landlord in any energy conservation effort pursuant to a program or procedure promulgated or recommended by ASHRAE, USGBC, the New York City Energy Conservation Code or any applicable Laws.

10. ALTERATIONS

10.1 Alterations by Tenant

10.1.1 Subject to the provisions of this Article 10 and to other applicable provisions of this Lease, Tenant may from time to time, at Tenant's expense, perform Alterations in and to the Premises to better adapt the same to its business, provided that any such Alteration shall (a) not alter the exterior of the Building in any way or affect the exterior appearance of the Building; (b) not be structural or exceed or adversely affect the capacity, maintenance, expenses or integrity of the Building's structure or any of its components, including, without limitation, the Building Systems; (c) not affect the certificate of occupancy for the Building or necessitate the performance of any work by Landlord in the Building; (d) comply with all applicable Laws (including the Americans with Disabilities Act of 1990, NYC Local Laws No. 5 of 1973, No. 16 of 1984 and No. 58 of 1988, each as amended from time to time, and all Laws then in effect relating to asbestos) and all orders, rules and regulations of Insurance Boards; (e) be made only with the prior written consent of Landlord; (f) not violate any agreement (including, without limitation, any Encumbrance) which affects the Building or binds Landlord; and (g) not be subject to any lien, encumbrance, chattel mortgage, security interest, charge of any kind whatsoever, or any conditional sale or other similar or dissimilar title retention agreement. Notwithstanding item (e) above, (i) Tenant shall have the right to make purely decorative or cosmetic Alterations without the consent of Landlord and (ii) Landlord shall not unreasonably withhold consent to non-structural Alterations to be performed within the Premises costing less than $100,000.00 in the aggregate over any one (1) year period.

10.1.2 All Alterations, including the Initial Improvements, shall be performed subject to and in compliance with all of the following terms and conditions:

(a) Tenant shall not commence the performance of any Alteration until Tenant shall have obtained Landlord's prior written approval of detailed plans and specifications for such Alteration ("Tenant's Plans"), which approval shall not be unreasonably withheld or unduly delayed with respect to any Alteration as to which Landlord may not unreasonably withhold Landlord's consent. Tenant's Plans shall be prepared by a professional architect or engineer licensed to practice in the State of New York and shall be in form, content and detail sufficient (x) to secure all required governmental permits and approvals, (y) for a contractor to perform all work shown thereon and covered thereby and (z) sufficient to determine (i) whether such Alteration complies with all Laws, (ii) whether such Alteration is to be performed using materials at least equal to Building standard and (iii) the effect such Alteration

shall have on the structural components of the Building, including the Building Systems, and the operation and maintenance of the Building Within ten (10) business days following Landlord ' s receipt of Tenant ' s Plans, Landlord shall notify Tenant, either approving Tenant ' s Plans or specifying for Tenant, in reasonable detail, Landlord ' s reasons for withholding approval and any required modifications. Within five (5) business days following receipt of Landlord ' s response to Tenant ' s Plans, if the same were not approved, Tenant shall revise Tenant ' s Plans to reflect Landlord ' s responses. Such process shall continue, with each party responding to the other within five (5) business days after such party ' s receipt of the revised Tenant ' s Plans or response thereto, as applicable, until Landlord approves Tenant ' s Plans. If Landlord fails to approve Tenant ' s Plans, or respond to the same with reasonable detail indicating its reasons for disapproval within the aforesaid ten (10) business day period, or within five (5) business days following any resubmission thereof (which five (5) business day period shall be extended by one (1) day for each day beyond the five (5) business days provided for response that Tenant fails to revise Tenant ' s Plans to reflect Landlord ' s responses), and if thereafter Landlord in either case also fails to approve or so respond to Tenant within five (5) business days after receipt from Tenant of a Plan Notice seeking a response to Tenant ' s request for approval of Tenant ' s Plans, Landlord shall be deemed to have approved Tenant ' s Plans provided that Tenant shall have stated in capitalized letters and bold type (a) on the envelope of the Plan Notice: " **SECOND NOTICE REGARDING TENANT ' S PLANS** " and (b) on the first page of the Plan Notice: " **LANDLORD ' S FAILURE TO RESPOND TO TENANT REGARDING TENANT ' S PLANS WITHIN FIVE (5) BUSINESS DAYS AFTER RECEIPT OF THIS NOTICE SHALL BE DEEMED TO BE LANDLORD ' S APPROVAL OF TENANT ' S PLANS** . "

(b) All Alterations shall be performed in compliance with all applicable Laws. Without limiting the generality of the foregoing, Tenant shall not commence to perform any Alteration until Tenant shall have obtained and delivered to Landlord originals or true and complete copies of all permits, authorization, licenses and permits required to be obtained by applicable Laws prior to the performance of any Alteration. Tenant shall prosecute all Alterations to completion with due diligence and promptly upon completion of all Alterations, Tenant shall obtain all required approvals, permits, and other "sign-offs" from all governmental authorities having jurisdiction and shall deliver copies thereof to Landlord.

(c) All Alterations shall be performed subject to Landlord's rules and regulations governing the construction of Alterations in the Building, attached hereto as Exhibit F , as the same may be modified from time to time, provided that no such modifications shall materially increase Tenant's obligations or liabilities hereunder or reduce Tenant's rights hereunder. Such rules and regulations shall be applied in a nondiscriminatory manner as against other tenants of the Building.

(d) In order to maintain and control the quality and standards of workmanship of the Building, Tenant shall only utilize contractors and subcontractors who shall have been approved in writing by Landlord to perform Alterations in the Building, provided that Landlord shall not unreasonably withhold consent to contractors proposed by Tenant if the work such contractors are performing is not structural work or work affecting the Building Systems, and such contractors are licensed to practice in the State of New York, are adequately insured as required under this Lease and provide certificates evidencing the same to Landlord, and abide by the requirements of Section 10.1.6 with respect to labor harmony. Landlord shall at all times during the Term maintain a list of not less than three (3) independent, responsible contractors and subcontractors for each trade who shall be acceptable to Landlord, except that Landlord shall have the right to designate only one (1) approved contractor for the performance of work on the life safety systems of the Building and one (1) filing agent. Landlord shall have the right to change the approved contractors set forth on such list at any time and from time to time. Landlord shall also have the right to refuse to grant access to the Building and the Premises to any contractor or subcontractor not approved by Landlord. Notwithstanding anything to the contrary in this Section 10.1.2(d), Tenant shall utilize Landlord's designated contractor(s) for all work affecting the Building Systems. Tenant shall have the right to use its own telecommunications provider or vendor for Alterations relating to Tenant's cabling of the Premises, and in such case (a) riser quantity and size must be reasonably approved by Landlord and (b) Landlord shall provide unobstructed shaft space and access pathways appurtenant to the Premises for such Alterations on a non-exclusive basis at no charge to Tenant.

(e) Tenant shall maintain, and shall cause all persons performing any Alterations or other work in the Building on behalf of Tenant to maintain, worker's compensation insurance, and commercial general liability insurance (including, without limitation, completed operations and contractual liability coverages), property damage insurance and such other insurance as Landlord may reasonably require (with Landlord, Landlord's managing agent and such other persons as Landlord shall reasonably designate named as additional insureds), in amounts, with companies and in a form reasonably satisfactory to Landlord, which insurance shall remain in effect during the entire period in which such Alterations or other work shall be performed. Prior to the commencement of every Alteration, Tenant shall deliver to Landlord proof of all such insurance.

(f) Tenant shall perform all Alterations using materials at least equal in quality to that of work performed in similar class buildings as the Building in New York City.

(g) Tenant shall promptly pay, when due, the cost of all Alterations and other work performed by or on behalf of Tenant or any person claiming through or under Tenant, and, upon completion, Tenant shall deliver to Landlord, to the extent not previously received by Landlord, evidence of payment, contractors' affidavits and full and final waivers of all liens for labor, services or materials.

(h) Upon completion of all Alterations, Tenant, at its expense, shall have promptly prepared and submitted to Landlord reproducible as-built CAD plans of such Alteration.

10.1.3 In the event that Landlord shall submit Tenant's Plans to Landlord's independent architects or engineers for review, Tenant shall pay to Landlord, as Rent, all reasonable out-of-pocket costs up to $3,000.00 incurred by Landlord for such review, within thirty (30) days after demand.

10.1.4 Landlord may require Tenant to furnish to Landlord, prior to the commencement of any Alteration which shall have an estimated cost in excess of a sum equal to nine (9) monthly installments of Base Rent, a payment and performance bond in form and substance satisfactory to Landlord, obtained at Tenant's expense, in an amount equal to at least 125% of the estimated cost of such Alteration, guaranteeing to Landlord the prompt completion of and payment for such Alteration within a reasonable time, free and clear of all liens, encumbrances, chattel mortgages, security interests, conditional bills of sale and other charges, in accordance with the plans and specifications approved by Landlord. Notwithstanding the foregoing, the named Tenant under this Lease shall not be required to furnish the payment and performance bond required under this Section 10.1.4, provided that during the course of any such Alteration the Guaranty (as defined in Article 32) remains in full force and effect.

10.1.5 All Alterations, whether temporary or permanent in character, made or paid for by Landlord or Tenant shall, without compensation to Tenant, become Landlord's property upon installation and shall be surrendered to Landlord upon the expiration or earlier termination of the Term, in good condition, ordinary wear and tear excepted, except that Tenant shall remove, at or prior to the expiration or earlier termination of the Term, all Specialty Alterations (hereafter defined) that, upon Landlord's approval of Tenant's Plans, Landlord has notified Tenant must be removed at or prior to the expiration or earlier termination of the Term, provided that, on any submission to Landlord of Tenant's Plans, Tenant shall have stated in capitalized letters and bold type, " **IN ITS RESPONSE TO THE ENCLOSED PLANS, LANDLORD MUST INDICATE WHETHER TENANT SHALL REMOVE ANY SPECIALTY ALTERATIONS AT OR PRIOR TO THE EXPIRATION OR EARLIER TERMINATION OF THE TERM, OR TENANT SHALL NOT HAVE THE OBLIGATION TO SO REMOVE SUCH SPECIALTY ALTERATIONS** ." If Tenant shall be required to remove any Specialty Alterations, then upon such removal, Tenant shall restore the affected portion of the Premises to the condition existing prior to the installation of such Specialty Alteration. For purposes of this Section, "Specialty Alterations" shall mean any and all vaults, cooking kitchens, subflooring structures and raised flooring systems, structural reinforcements, auditoria, dumbwaiters, mainframe computer centers, copying centers, libraries, internal staircases, private lavatories, medical facilities, and any other Alterations which are not customary for build-outs of tenants of first class office buildings in midtown Manhattan generally and are unusually expensive to demolish or remove.

10.1.6 Tenant shall not at any time, either directly or indirectly, use any contractors or labor or materials in the Premises if the use of same would create any difficulty with other contractors or labor engaged by Tenant or Landlord or others in the construction, maintenance or operation of the Building or any part thereof. In the event of any such difficulty, Tenant, upon Landlord's demand, shall cause all contractors, mechanics or laborers causing such difficulty to leave the Building immediately.

10.1.7 Tenant shall pay (x) any increase in property taxes on, or fire or casualty insurance premiums for, the Building attributable to any Alteration and (y) the cost of any modifications to the Building outside the Premises that are required to be made in order to make any Alteration to the Premises.

10.1.8 Landlord's review, supervision, commenting on or approval of any Alteration or aspect of work to be performed by or for Tenant (whether pursuant to this Article 10 or otherwise) shall be solely for Landlord's protection and, except as may otherwise be expressly provided in this Lease, shall create no warranties or duties to Tenant or to third parties.

10.2 Alterations by Landlord

Landlord, at its cost, may perform renovations, improvements, alterations, or modifications to the Building, the Premises, the Common Areas and/or the Building Systems (collectively, the "Renovations"). Tenant acknowledges that the Renovations may be performed by Landlord in the Premises during normal business hours. Landlord and Tenant agree to cooperate with each other in order to enable the Renovations to be performed in a timely manner and, with respect to any Renovations in the Premises, with as little inconvenience to the operation of Tenant's business as is reasonably possible. Any inconvenience suffered by Tenant during the performance of any Renovations shall not subject Landlord to any liability for any loss or damage resulting therefrom or entitle Tenant to any credit, abatement or adjustment of Rent, Additional Rent or other sums payable under the Lease. Notwithstanding the foregoing, Landlord shall remain liable to the extent provided under the Lease or at law or in equity for any actual damage or loss to persons or property resulting from the Renovations, subject to the waiver of subrogation provisions set forth in the Lease. Notwithstanding the foregoing, to the extent that Landlord elects to undertake any Renovation not required by Law (other than Laws in effect prior to the Commencement Date, with which it is Landlord's obligation to comply and which, under present judicial or administrative interpretation, are being violated on the Commencement Date) or which are not in accordance with the reasonable practices of commercial building owners in midtown Manhattan, and such Renovation causes Tenant's inability to conduct business in the Premises for a period of five (5) consecutive business days, and Tenant does not actually occupy or conduct its business in the Premises during such period, for each subsequent business day on which Tenant is unable to, and does not actually, so conduct business in the Premises as a result thereof, there shall be an abatement of Base Rent. Nothing contained in this Section 10.2 shall be deemed to relieve Tenant of any duty, obligation or liability of Tenant under this Lease to make any repair, replacement or improvement or comply with any Laws.

11. LIENS

11.1 Tenant agrees to pay before delinquency all costs for work, services or materials furnished to Tenant or any person claiming through Tenant for the Premises, the nonpayment of which could result in any lien against the Land, Building or Premises. Tenant shall keep title to the Land, Building and Premises free and clear of any such lien. Tenant shall immediately notify Landlord of the filing of any such lien or any pending claims or proceedings relating to any such lien and shall indemnify and hold Landlord harmless from and against all loss, damages and expenses (including reasonable attorneys' fees) suffered or incurred by Landlord as a result of such lien, claims and proceedings. In case any such lien attaches, Tenant agrees to cause it to be released and removed of record within thirty (30) days after the notice of the filing of such lien shall have been given to Tenant (failing which Landlord may do so at Tenant's sole expense), unless Tenant has a good faith dispute as to such lien in which case Tenant may contest such lien by appropriate proceedings so long as Tenant deposits with Landlord a bond or other security in an amount reasonably acceptable to Landlord which may be used by Landlord to release such lien. Upon final determination of any permitted contest, Tenant shall immediately pay any judgment rendered and cause the lien to be released of record.

11.2 Nothing in this Lease 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 materialman for the performance of any labor or the furnishing of labor or materials for the specific improvement, alteration to or repair of the Premises or any part thereof, nor as giving Tenant any right, power or authority to contract for or permit the rendering of any services or the furnishing of any material that would give rise to the filing of any liens against the Land, Building, Premises or any part thereof. Notice is hereby given that Landlord shall not be liable for any work performed or to be performed at the Premises for Tenant or any subtenant, or for any material furnished or to be furnished at the Premises for Tenant or any subtenant upon credit, and that no mechanic's or other lien for such work or material shall attach to or affect the estate or interest of Landlord in and to the Land, Building or Premises. Landlord shall have the right to post and keep posted on the Premises any notices which Landlord reasonably may be required to post for the protection of Landlord the Land Building and/or the Premises from any lien.

12. INSURANCE

12.1 During the Term, Tenant shall provide and keep in force the following insurance:

(a) Commercial general liability insurance relating to Tenant ' s business carried on, in or from the Premises and Tenant ' s use and occupancy of the Premises, insuring against loss due to personal or bodily injury or death and damage to property (including, without limitation, contractual liability insurance), with limits of not less than the Liability Insurance Amount for any one accident or occurrence; and

(b) All risk or fire insurance (including standard extended endorsement perils, leakage from fire protective devices and other water damage) insuring Tenant's fixtures, furnishings, equipment, documents, files, work products, inventory, stock-in-trade and all leasehold improvements and Alterations in the Premises on a full replacement cost basis in amounts sufficient to protect the personal property of Tenant and providing business interruption coverage for a period of one year.

12.2 Landlord, Landlord's managing agent and the holder of any Encumbrance shall be named as additional insureds in the policy described in Section 12.1(a), provided that Landlord shall give Tenant the names and addresses of all parties other than Landlord. Landlord hereby notifies Tenant that Landlord's managing agent is BREA Property Management, LLC, having an address c/o 1065 Avenue of the Americas, New York, NY 10018. All of the insurance policies required to be maintained by Tenant under this Article 12 shall (a) include cross liability and severability of interests clauses, (b) be written on an "occurrence" (and not a "claims made") form and (c) provide that Tenant's insurance shall be primary and not contributing to or with or be in excess of any other insurance maintained by Landlord or any other additional insured. Any insurance coverage obtained pursuant to this Lease listing Landlord, Landlord's managing agent and the holder of any Encumbrance as additional insureds or beneficiaries shall not be required to cover liability other than that assumed by Tenant under this Lease. The policy described in Section 12.1(b) shall comply with the provisions of Section 14.1 below. Tenant's insurance policies shall otherwise be upon such other terms and conditions as Landlord from time to time reasonably requires and shall be issued by insurance companies reasonably satisfactory to Landlord and which are licensed to do business in the State of New York. Tenant shall furnish to Landlord, on or before the Commencement Date and at least 15 days before the expiration date of any expiring policy, certificates from Tenant's insurance company on the forms currently designated "ACORD 25" (Certificate of Liability Insurance) and "ACORD 28" (Evidence of Commercial Property Insurance) or the equivalent. Attached to the ACORD 25 (or equivalent) there shall be an endorsement listing the additional insureds listed above, and attached to the ACORD 28 (or equivalent) there shall be an endorsement designating Landlord as a loss payee with respect to the policy described in Section 12.1(b), and each such endorsement shall be binding on Tenant's insurance company. If Tenant shall fail to maintain any required insurance or pay any premiums thereon, or to furnish satisfactory proof of such insurance to Landlord as required, Landlord may, upon not less than ten (10) days' notice, effect such insurance coverage and recover from Tenant on demand any premiums paid by Landlord.

12.3 Whenever, Landlord's commercially reasonable judgment indicates a need for additional or different types of insurance coverage, Tenant shall, upon Landlord's request, promptly obtain such insurance coverage, at Tenant's expense, provided that such coverage shall not exceed the insurance coverage then required by prudent owners of comparable first class office buildings in midtown Manhattan.

12.4 Landlord shall maintain such "all risk" insurance for the Building as Landlord shall determine, in its commercially reasonable judgment, subject to such terms and conditions (including, without limitation, deductibles and self-retention limits) as Landlord shall determine. Such insurance shall be in an amount sufficient to repair or replace the Building in the event of loss. Nothing contained in this Lease shall require Landlord to maintain insurance against risks of terrorism. Landlord shall maintain commercial general liability insurance relating to Landlord's business carried on in the Building and Landlord's maintenance or operation of the Building, insuring against loss due to personal or bodily injury or death and damage to property (including contractual liability insurance), with limits of not less than $5,000,000.00 for any one accident or occurrence.

13. DAMAGE OR DESTRUCTION

13.1 Termination Options

13.1.1 If the Premises or any other portion of the Building necessary for Tenant's occupancy of the Premises shall be damaged by fire or other casualty, Landlord shall, promptly after learning of such damage, notify Tenant in writing of the time necessary to demolish all damaged portions of the Premises and repair or restore the Premises and such portions of the Building as are necessary for Tenant's occupancy of the Premises as nearly as practicable to the condition existing prior to such fire or other casualty, excluding the repair and restoration of any

and all leasehold improvements, Alterations, trade fixtures, furnishings, equipment and personal property of Tenant in the Premises (such demolition, repair and restoration work being hereinafter referred to as " Landlord ' s Restoration Work "), as estimated by a reputable architect, engineer or contractor selected by Landlord (the " Estimate ").

13.1.2 If the Estimate shall state that Landlord's Restoration Work cannot be completed within nine (9) months after the date of such damage (or within 60 days after the date of such damage if such damage shall have occurred within the last 12 months of the Term), then Tenant shall have the option to terminate this Lease by giving Landlord notice thereof within thirty (30) days after Landlord shall have given Tenant the Estimate. In addition, if Landlord's Restoration Work is not substantially complete within nine (9) months following the date of such damage, Tenant shall have the option to terminate this Lease by giving Landlord notice thereof within ten (10) days after the expiration of such nine (9) month period.

13.1.3 If all or any part of the Premises or the Building is damaged or destroyed by fire or other casualty, and (a) the Building is so damaged (whether or not the Premises shall have been damaged) that Landlord shall elect not to restore or repair such damage to the Building or (b) such damage shall have occurred within the last eighteen (18) months of the Term and the Estimate shall state that the repair or restoration of the damage to the Premises or to any other portion of the Building necessary for Tenant's occupancy cannot be completed within sixty (60) days from the date of such damage, then, in any of such events, Landlord and Tenant shall each have the right, at its option, to terminate this Lease by giving notice thereof to the other party within ninety (90) days after the date on which such fire or other casualty shall have occurred. If all or any part of the Premises or the Building is damaged or destroyed by fire or other casualty, and the Estimate shall state that Landlord's Restoration Work cannot be completed within nine (9) months after the date of such damage, then Landlord shall have the right, at its option, to terminate this Lease by giving notice thereof to Tenant within ninety (90) days after the date on which such fire or other casualty shall have occurred.

13.1.4 If either party shall exercise its option to terminate this Lease pursuant to the provisions of this Section 13.1, the Term shall expire and this Lease shall terminate thirty (30) days (except as otherwise expressly provided in 13.1.2) after Landlord or Tenant, as the case may be, shall have given the other party such notice of termination, as if such date were the Expiration Date (provided, however, that Rent payable for the period commencing on the date of such damage and ending on the date on which this Lease shall terminate shall be subject to any abatement provided for in Section 13.3 below) and Landlord shall be entitled to all proceeds of the insurance policy described in Section 12.1(b) applicable to any damaged leasehold improvements or Alterations in the Premises to the extent paid for by Landlord.

13.2 Repair Obligations

If the Premises or the Building are damaged by fire or other casualty and neither party shall terminate this Lease pursuant to the provisions of Section 13.1, then Landlord shall promptly commence and diligently prosecute Landlord's Restoration Work, subject to delays for insurance adjustments and delays caused by matters beyond Landlord's reasonable control. Landlord shall perform Landlord's Restoration Work (i) in a workmanlike manner using grades of materials at least equal in quality to the materials adopted as a standard for the Building and (ii) in material compliance with applicable Laws and insurance requirements of Landlord's insurer. Landlord shall have no liability to Tenant, including any liability for inconvenience or annoyance or injury to the business of Tenant, resulting in any way from damage from fire or other casualty or the repair thereof. Except as otherwise provided in Section 13.1.2 above, Tenant shall not be entitled to terminate this Lease if any required repairs or restoration are not in fact completed within the time period set forth in the Estimate, provided that Landlord promptly commences and diligently pursues such repairs and restoration to completion, subject to the provisions of this Article 13. In no event shall Landlord be obligated to repair, restore or replace any of the improvements, Alterations, fixtures, furnishings, equipment or personal property required to be insured by Tenant pursuant to Section 12.1; Tenant agrees to repair, restore or replace such improvements, Alterations, fixtures, furnishings, equipment and personal property as soon as possible after the date of such fire or other casualty, to at least the condition existing prior to its damage, using materials at least equal to Building standard. However, in connection with the performance of Landlord's Restoration Work, Landlord may, at its option, elect to repair and restore the damage, if any, caused to any or all of the leasehold improvements and/or Alterations required to be insured by Tenant according to Section 12.1(b). If Landlord shall make such election, Landlord shall be entitled to all proceeds of the insurance policy described in Section 12.1(b) applicable to the leasehold improvements and Alterations Landlord so elects to repair or restore. Landlord and Tenant shall cooperate with each other in their respective efforts to collect insurance proceeds.

13.3 Rent Abatement

If all of the Premises shall be damaged or destroyed or rendered inaccessible or untenantable by any fire or other casualty, then the Rent shall abate, and if only a portion of the Premises shall have been damaged or destroyed or rendered inaccessible or untenantable, the Rent shall be reduced by an amount which bears the same ratio to the total amount of Rent otherwise payable under this Lease as the portion of the Premises which shall have been damaged or rendered inaccessible or untenantable bears to the entire Premises, in either case for the period beginning on the date of such damage and ending on (x) if Landlord shall have elected to repair and restore any leasehold improvements and Alterations in the Premises pursuant to the provisions of Section 13.2, fifteen (15) days after the date on which Landlord shall have substantially completed both of Landlord's Restoration Work and such leasehold improvements and Alterations or (y) if Landlord shall not have elected to repair and restore the damage, if any, caused to the leasehold improvements or Alterations required to be insured by Tenant according to Section 12.1(b), the earlier of the date on which (i) Tenant shall have substantially completed the repair and restoration of such leasehold improvements and Alterations as nearly as practicable to the condition existing immediately prior to such fire or other casualty, or (ii) the thirtieth (30th) day after Landlord shall have substantially completed Landlord's Restoration Work. In no event shall Landlord be liable for any inconvenience or annoyance to Tenant or injury to the business of Tenant resulting in any way from damage caused by fire or other casualty or the repair of such damage, provided however that, to the extent Tenant remains in possession of a portion of the Premises, Landlord shall take all reasonable steps to minimize the disruption to Tenant's business and use of such portion of the Premises during the period of repair (other than using labor at overtime or premium pay rates).

13.4 Fire Wardens

Tenant shall throughout the Term provide fire wardens and searchers as required under NYC Local Law No. 5. of 1973, as heretofore and/or hereafter amended.

13.5 Express Agreement Regarding Casualty

This Lease shall be considered an express agreement governing any case of damage to or destruction of the Building or any part thereof by fire or other casualty, and Section 227 of the Real Property Law of the State of New York providing for a contingency in the absence of express agreement and any other law of like import now or hereafter in force, shall have no application in such case.

14. WAIVERS AND INDEMNITIES

14.1 Mutual Waiver of Subrogation Rights

14.1. Landlord shall cause each property insurance policy carried by Landlord insuring the Building against loss, damage, or destruction by fire or other casualty, and Tenant shall cause each property insurance policy carried by Tenant and insuring the Premises and Tenant's Alterations, leasehold improvements, equipment, furnishings, fixtures and contents against loss, damage, or destruction by fire or other casualty, to be written in a manner so as to provide that the insurance company waives all rights of recovery by way of subrogation against Landlord or Tenant in connection with any loss or damage covered by any such policy, even though such loss, damage or destruction might have been occasioned by the negligence of Landlord, Tenant or their respective agents, employees, contractors, invitees and/or permitted subtenants or other occupants. Neither party shall be liable to the other for the amount of such loss or damage which is in excess of the applicable deductible, if any, caused by fire or any of the risks enumerated in its policies, provided that such waiver was obtainable at the time of such loss or damage. However, if such waiver cannot be obtained, or shall be obtainable only by the payment of an additional premium charge above that which is charged by companies carrying such insurance without such waiver of subrogation, then the party undertaking to obtain such waiver shall notify the other party of such fact and such other party shall have a period of ten (10) days after the giving of such notice to agree in writing to pay such additional premium if such policy is obtainable at additional cost (in the case of Tenant, pro rata in proportion of the rentable square feet in the Area of the Premises to the total rentable area covered by such insurance); and if such other party does not so agree or the waiver shall not be obtainable, then the provisions of this Section 14.1 shall be null and void as to the risks covered by such policy for so long as either such waiver cannot be obtained or the party in whose favor a waiver of subrogation is desired shall refuse to pay the additional premium. If the release of either Landlord or Tenant, as set forth in the second sentence of this Section 14.1, shall contravene any law with respect to

exculpatory agreements, the liability of the party in question shall be deemed not released, but no action or rights shall be sought or enforced against such party unless and until all rights and remedies against the other ' s insurer are exhausted and the other party shall be unable to collect such insurance proceeds. The waiver of subrogation set forth in this Section 14.1 shall extend to the benefit of the agents, Affiliated Parties (as defined in Section 14.2 below) and employees of each party, but only if and to the extent that such waiver can be obtained without additional charge (unless the party to be benefited shall pay such charge). Nothing contained in this Section 14.1 shall be deemed to relieve either party from any duty imposed elsewhere in this Lease to repair, restore and rebuild. In the event of any permitted sublease or occupancy (by a person other than Tenant) of all or a portion of the Premises, all of Tenant ' s covenants and obligations set forth in this Section 14.1 shall bind and be fully applicable to the subtenant or occupant (as if such subtenant or occupant were Tenant hereunder) for the benefit of Landlord and Landlord ' s agents.

14.2 Definition of Affiliated Parties

For purposes of this Article 14, the term "Affiliated Parties" shall mean a party's parent, subsidiaries and affiliated corporations and its and their partners, ventures, members, directors, officers, shareholders, agents, servants and employees.

14.3 Tenant's Waivers

Except to the extent caused by the willful or negligent act or omission or breach of this Lease by Landlord or anyone for whom Landlord is legally responsible, Landlord, its Affiliated Parties and the holder of any Encumbrance shall not be liable or in any way responsible for, and Tenant waives all claims against Landlord, its Affiliated Parties and the holder of any Encumbrance for any loss, injury or damage suffered by Tenant or others relating to (a) loss or theft of, or damage to, property of Tenant or others; (b) injury or damage to persons or property resulting from fire, explosion, falling plaster, escaping steam or gas, electricity, water, rain or snow, or leaks from any part of the Building or from any pipes, appliances or plumbing, or from dampness; or (c) damage caused by other tenants, occupants or persons in the Premises or other premises in the Building, or caused by the public or by construction of any private or public work. Tenant's waivers under this Section 14.3 shall survive the expiration or early termination of the Term.

14.4 Indemnity

14.4.1 Subject to Section 14.1 and except to the extent caused by the willful or negligent act or omission or breach of this Lease by Landlord or anyone for whom Landlord is legally responsible, Tenant shall defend, indemnify and hold Landlord, the holder of any Encumbrance and their respective partners, principals, members, directors, officers, shareholders, agents, servants and employees (any or all of the foregoing hereinafter referred to as the "Landlord Indemnified Parties") harmless from and against any and all liability, loss, claims, demands, damages or expenses (including reasonable attorneys' fees, disbursements and court costs) due to or arising out of: (a) any accident, injury or damage occurring on or about the Premises (including, without limitation, accidents, injury or damage resulting in injury to persons, death, property damage or theft) during the Term or during any period of time prior to or after the Term that Tenant shall have been in possession of the Premises; (b) any act, omission or negligence of Tenant or any one claiming through or under Tenant and any of their agents, contractors, employees, servants, licensees, invitees or visitors; (c) any accident, injury or damage whatsoever caused to any person or to the property of any person outside of the Premises but anywhere within or about the Building, where such accident, injury or damage results or is claimed to have resulted from any act, omission or negligence of Tenant or any one claiming through or under Tenant or any of their respective contractors, licensees, agents, servants, employees, invitees or visitors and (d) any breach, violation or non-performance of any of the terms, covenants or conditions to be observed or performed by Tenant under this Lease. Tenant's obligations under this Section 14.4.1 shall survive the expiration or earlier termination of the Term.

14.4.2 If any claim, action or proceeding shall be brought against any of the Landlord Indemnified Parties for a matter covered by the indemnity set forth in this Section, Tenant, upon notice from the Landlord Indemnified Party, shall defend such claim, action or proceeding by counsel reasonably acceptable to the Landlord Indemnified Party, at Tenant's expense. Counsel for Tenant's insurer is hereby approved. Notwithstanding the foregoing, the Landlord Indemnified Party may retain its own counsel to assist in the defense of any claim having a

potential liability in excess of $1,000,000, and Tenant shall pay the reasonable fees of such attorneys. No such claim, action or proceeding shall be settled by Tenant without the consent of Landlord unless such settlement shall be at no cost to Landlord.

14.4.3 Subject to Section 14.1 and except to the extent caused by the willful or negligent act or omission or breach of this Lease by Tenant or anyone for whom Tenant is legally responsible, Landlord shall defend, indemnify and hold Tenant, its respective partners, principals, members, directors, officers, shareholders, agents, servants and employees (any or all of the foregoing hereinafter referred to as the "Tenant Indemnified Parties") harmless from and against any and all liability, loss, claims, demands, damages or expenses (including reasonable attorneys' fees, disbursements and court costs) due to or arising out of: (a) any act, omission or negligence of Landlord or any one claiming through or under Landlord and any of their agents, contractors, employees, servants, licensees or visitors, (b) any accident, injury or damage whatsoever caused to any person or to the property of any person outside of the Premises but anywhere within the Building (including, without limitation, accidents, injury or damage resulting in injury to persons, death, property damage or theft) and (c) any breach, violation or non-performance of any of the terms, covenants or conditions to be observed or performed by Landlord under this Lease. Landlord's obligations under this Section 14.4.3 shall survive the expiration or earlier termination of the Term.

14.4.4 If any claim, action or proceeding shall be brought against any of the Tenant Indemnified Parties for a matter covered by the indemnity set forth in this Section, Landlord, upon notice from the Tenant Indemnified Party, shall defend such claim, action or proceeding by counsel reasonably acceptable to the Tenant Indemnified Party, at Landlord's expense. Counsel for Landlord's insurer is hereby approved. Notwithstanding the foregoing, the Tenant Indemnified Party may retain its own counsel to assist in the defense of any claim having a potential liability in excess of $1,000,000, and Landlord shall pay the reasonable fees of such attorneys. No such claim, action or proceeding shall be settled by Landlord without the consent of Tenant unless such settlement shall be at no cost to Tenant.

15. CONDEMNATION

15.1 Full Taking

If all or substantially all of the Building or Premises are taken for any public or quasi-public use under any applicable Laws or by right of eminent domain, or are sold to the condemning authority in lieu of condemnation, then this Lease shall terminate as of the earlier of the date on which the condemning authority takes physical possession of or title to the Building or Premises.

15.2 Partial Taking

15.2.1 Landlord's Termination of Lease. If only part of the Building or Premises is thus taken or sold in lieu of condemnation, and if after such partial taking, in Landlord's reasonable judgment, alteration or reconstruction is not economically justified, then Landlord (whether or not the Premises are affected) may terminate this Lease by giving written notice to Tenant within sixty (60) days after the taking.

15.2.2 Additional Rights of Termination. If over 20% of the Premises is thus taken or sold, either party hereto may terminate this Lease if in the reasonable judgment of the exercising party, the Premises cannot be operated in an economically viable fashion because of such partial taking. Such termination must be exercised by written notice to the other party given not later than sixty (60) days after Tenant is notified of the taking of the Premises.

15.2.3 Effective Date of Termination. Termination by Landlord or Tenant shall be effective as of the date when physical possession of the applicable portion of the Building or Premises is taken by the condemning authority.

15.2.4 Election to Continue Lease. If neither Landlord nor Tenant elects to terminate this Lease upon a partial taking of a portion of the Premises, the Rent payable under this Lease shall be diminished by an amount allocable to the portion of the Premises which was so taken or sold. If this Lease is not terminated upon a partial taking of the Building or Premises, Landlord shall, at Landlord's sole expense, promptly restore and reconstruct the Building and Premises to substantially their former condition to the extent the same is feasible. However, Landlord shall not be required to spend for such restoration or reconstruction an amount in excess of the net amount received by Landlord as compensation or damages for the part of the Building or Premises so taken.

15.3 Awards

As between the parties to this Lease, Landlord shall be entitled to receive, and Tenant assigns to Landlord, all of the compensation awarded upon taking of any part or all of the Building or Premises, including any award for the value of the unexpired Term. However, Tenant may assert a claim in a separate proceeding against the condemning authority for the value of Tenant's trade fixtures or personal property, the cost of moving and other business relocation expenses and damages to Tenant's business incurred as a result of such condemnation provided that the foregoing shall not reduce the award payable to Landlord.

16. ASSIGNMENT AND SUBLETTING

16.1 Limitation

Except as otherwise expressly provided in this Article 16, without Landlord's prior written consent, Tenant shall not assign, mortgage, pledge, encumber or otherwise transfer all or any of its interest under this Lease, sublet all or any part of the Premises or permit the Premises to be used or occupied by any party other than Tenant and its employees.

16.2 Notice of Proposed Transfer; Landlord's Options

16.2.1 (a) If Tenant shall desire to (x) sublet all or substantially all of the Premises for a period ending not earlier than one (1) day prior to the Expiration Date or (y) assign Tenant's interest in this Lease, Tenant shall submit to Landlord, prior to so offering all or substantially all of the Premises for subletting or offering to assign Tenant's interest in this Lease, as the case may be, a notice (the "Notice of Intention") of Tenant's intention to so sublet all or substantially all of the Premises or assign this Lease, as the case may be, which notice shall set forth the effective date of the proposed assignment or subletting, and which shall be accompanied by the items set forth in 16.3(a) below.

(b) Landlord shall have the right, by notice (the "Termination Notice") given to Tenant within thirty (30) days following Landlord's receipt of the Notice of Intention, to terminate this Lease on a date to be specified in the Termination Notice, which date (the "Termination Date") shall be the later of (i) the effective date of the proposed subletting or assignment, or (ii) the thirtieth (30th) day after the date on which Tenant shall have given Landlord the Notice of Intention, whereupon the term of this Lease shall expire on the Termination Date with the same force and effect as if such date were originally provided herein as the Expiration Date of the Term.

16.2.2 If, within thirty (30) days following Landlord's receipt of a Notice of Intention, Landlord shall not have exercised the foregoing right to terminate this Lease, then Landlord's right to so terminate this Lease pursuant to this Section 16.2 shall be deemed waived, but only with respect to the particular sublet or assignment referred to in such Notice of Intention.

16.2.3 If Tenant shall not consummate an assignment of this Lease or a subletting of any portion or all of the Premises, as the case may be, as shall have been specified in Tenant's Notice of Intention, within two hundred ten (210) days following receipt of Tenant's Notice of Intention, Tenant shall not have the right to consummate the subletting of the Premises or the assignment of this Lease, as the case may be, without again requesting Landlord's consent thereto and otherwise complying with all of the provisions of this Section 16.2.

16.2.4 Notwithstanding anything contained in Section 16.2 to the contrary, Landlord shall not have the right to terminate this Lease in the event of a transfer of the type described in Sections 16.7.1 or 16.7.2.

16.3 Consent Not To Be Unreasonably Withheld

If Landlord shall not exercise its applicable option under Section 16.2, or if such option is not applicable to the proposed transaction, then, provided that no Event of Default shall be continuing, Landlord shall not unreasonably withhold its consent to a proposed assignment or subletting (which determination Landlord shall make within ten (10) business days following receipt of Tenant's Notice of Intention containing all items set forth in subparagraph (a) below if Tenant desires to sublease the Premises for less than the remainder of the Term or to sublease a portion of the Premises, and within ten (10) business days following Landlord's waiver of its right to terminate this Lease in response to a Notice of Intention containing all items set forth in subparagraph (a) below or

Landlord ' s failure to exercise its right to terminate within thirty (30) days following receipt of a Notice of Intention containing all items set forth in subparagraph (a) below, in the case of assignment of this Lease or a sublease of all or substantially all of the Premises as described in 16.2.1), provided that each of the following conditions shall be satisfied:

(a) Tenant's Notice of Intention (which shall be required for each proposed sublease or assignment in addition to those subject to Landlord's right of recapture, but not with respect to those transactions permitted by Sections 16.7.1 and 16.7.2) shall have been accompanied by (i) a statement setting forth the name and address of the proposed assignee or subtenant and the nature of its business, (ii) in the case of a sublease of a portion of the Premises, a reasonably accurate floor plan indicating the portion of the Premises intended to be sublet (the "Space"), (iii) a reasonably detailed statement describing the proposed use of the Premises, (iv) financial statements prepared by an independent certified public accountant containing the opinion of such accountant reflecting the proposed assignee's or subtenant's current financial condition and income and expenses for the past two (2) years, or other evidence satisfactory to Landlord of the financial condition of the proposed assignee or subtenant, and (v) an executed copy of the proposed assignment (which shall contain an assumption agreement complying with the provisions of Section 16.4 below) or sublease, as the case may be. Tenant shall also deliver to Landlord such other or additional information as Landlord may reasonably request;

(b) The proposed subtenant or assignee, in Landlord's reasonable opinion, shall have sufficient financial capacity and business experience to perform its obligations under the proposed sublease or, in the case of an assignment, this Lease; and

(c) The use of the Premises by the proposed assignee or subtenant shall only be for purposes which, in Landlord's reasonable opinion, (i) are lawful, (ii) are limited to the permitted Use of the Premises under this Lease, (iii) are consistent with the general character of business carried on by tenants of a first-class office buildings in midtown Manhattan and with a majority of the tenants of the Building, (iv) [deleted], (v) shall not increase the likelihood of damage or destruction to the Building, (vi) shall not cause an increase in insurance premiums for insurance policies applicable to the Building, (vii) shall not require new tenant improvements incompatible with the then-existing Building Systems and components and (viii) shall not impose any additional burdens or costs on Landlord in the operation of the Building; and

(d) The proposed assignee or subtenant is not an entity listed on Exhibit H attached hereto; and

(e) The proposed assignee or subtenant, or any person who directly or indirectly controls, is controlled by, or is under common control with, the proposed assignee or subtenant, at the time Tenant requests Landlord's consent and at the time of the proposed transfer, shall not be a tenant or occupant in the Building, nor a party with whom Landlord is then negotiating or has within the past six (6) months negotiated for the leasing of space in the Building; and

(f) The form of the proposed assignment or sublease shall comply with the provisions of this Section 16 and shall be reasonably satisfactory to Landlord in form and substance. Tenant shall have the right to sublease at fair market value. Fair market value shall be determined at Tenant's own discretion. Tenant shall not advertise asking rent but rather "Rent upon request."

16.4 Form of Transfer

16.4.1 All subleases shall be subject to the following provisions, and Landlord's consent to a proposed sublease shall not be effective or binding upon Landlord unless and until Tenant shall have delivered to Landlord an original duly executed sublease that shall comply with the following provisions:

(a) The term of the sublease shall end no later than one (1) day prior to the Expiration Date of this Lease;

(b) Each sublease shall provide that (i) the sublease shall be subject and subordinate to this Lease and to all matters to which this Lease is or shall be subordinate and (ii) upon any termination of this Lease prior to the date fixed as the Expiration Date, re-entry or repossession of the Premises by Landlord under this Lease or surrender of the Premises with Landlord's written consent, Landlord may, at its option, take over any of the right, title and interest of Tenant, as sublessor, under such sublease, and such subtenant shall, at Landlord's option, attorn and agree to be bound to Landlord in accordance with the provisions of this Section 16, it being agreed that Landlord shall nevertheless not be (1) liable for any previous act or omission of Tenant (including any negligence of

Tenant) as sublandlord under the sublease, (2) subject to any credit, defense, offset, claim or demand which may have previously accrued to the subtenant against Tenant, (3) bound by any previous modification or amendment of such sublease not consented to by Landlord or by any previous prepayment of more than one (1) month ' s rent, (4) be obligated to perform any repairs or other work beyond Landlord ' s obligations under this Lease or (5) liable for the return of any security deposit except to the extent such sums have actually been paid over to Landlord; it being understood and agreed that the provisions of this Section 16.4.1(b) shall be self-operative, and that no further instruments shall be required to give effect to this provision, but that upon the request of Landlord, Tenant shall execute and deliver such instruments to Landlord as Landlord shall reasonably request to confirm the foregoing provisions; and

(c) Each sublease shall contain a provision requiring the subtenant to comply with the provisions of Section 14.1 of this Lease, which provisions shall be applicable to such subtenant as if such subtenant were the Tenant under this Lease.

16.4.2 No assignment shall be binding on Landlord, and Landlord's consent to any proposed assignment of this Lease shall not be effective until Tenant shall have delivered to Landlord a duly executed and acknowledged original assignment and assumption agreement which shall contain an assumption by the transferee of all of the terms, covenants, conditions and agreements to be observed or performed by the Tenant under this Lease, in form and substance reasonably satisfactory to Landlord.

16.4.3 A fully executed copy of any sublease or assignment of this Lease shall be delivered to Landlord within ten (10) days after the execution thereof.

16.5 Payments to Landlord

16.5.1 If Landlord shall not exercise any of its options under Section 16.2 and shall give its consent to any sublease of the Premises, Tenant shall, in consideration therefor, pay to Landlord, as Rent, fifty (50%) percent of the amount by which any and all rents, additional charges or other consideration payable to Tenant by the subtenant under the sublease or any other agreement entered into in connection therewith exceeds the Base Rent and Additional Rent payable under this Lease (prorated with respect to the Space as appropriate) accruing during the term of the sublease, but after deducting from such rents, additional charges or other consideration any Sublease Transaction Costs (hereafter defined) actually incurred by Tenant. The sums payable under this Section 16.5.1 shall be payable to Landlord as and when the same shall be paid by the subtenant to Tenant. As used in this Section, "Sublease Transaction Costs" shall mean any of the following sums actually incurred by Tenant to consummate such sublease: (i) up to one and one half brokerage commissions at a customary rate, (ii) reasonable attorneys' fees and disbursements and (iii) any reasonable costs incurred by Tenant to prepare the subleased premises for the subtenant's occupancy thereof.

16.5.2 If Landlord shall not exercise any of its options under Section 16.2 above and shall give its consent to any assignment of Tenant's interest in this Lease, Tenant shall, in consideration of such assignment, pay to Landlord, as Rent, fifty (50%) percent of any and all sums and other consideration payable to Tenant by the assignee for or by reason of such assignment, but after deducting from such sums or other consideration any Assignment Transaction Costs (hereafter defined) actually incurred by Tenant. The sums payable under this Section 16.5.2 shall be payable to Landlord as and when the same shall be paid by the assignee to Tenant. As used in this Section, "Assignment Transaction Costs" shall mean any of the following sums actually incurred by Tenant to consummate such assignment: (i) up to one and one half brokerage commissions at a customary rate, (ii) reasonable attorneys' fees and disbursements, and (iii) any reasonable construction costs incurred by Tenant to prepare the Premises for the assignee.

16.6 Change of Ownership

Any change by Tenant in the form of its legal organization (such as, for example, a change from a general to a limited partnership), any direct transfer of 50% or more of Tenant's assets or of Tenant's stock, membership, partnership or other direct equity interests (including any transfer by operation of law or by a series of transfers), and any other direct transfer following which any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934) other than ARAMARK Corporation and/or its affiliates shall have obtained the power to elect more than fifty percent (50%) of the members of the board of directors (or similar governing body) of Tenant, shall be deemed an "assignment" of this Lease requiring Landlord's prior written

consent, except as provided in Section 16.7 (Permitted Transfers). The transfer of any outstanding capital stock of a corporation whose stock is publicly-traded shall not, however, be deemed a " transfer of interest " under this Section 16.6.

16.7 Permitted Transfers

16.7.1 Provided that no Event of Default shall be continuing, Tenant may, upon not less than ten (10) business days' prior notice to Landlord, but without obtaining Landlord's consent, assign this Lease or sublease all or any part of the Premises to an Affiliate of Tenant (as defined in Section 16.7.3 below) for so long as such Affiliate of Tenant shall remain an Affiliate of the Tenant initially named herein, provided that (i) the Affiliate of Tenant shall continue to use the Premises for the Use and for no other use and (ii) Tenant shall deliver a duplicate original duly executed sublease or assignment and assumption agreement evidencing such assignment or sublease to Landlord within ten (10) days after the execution thereof, which instrument shall comply with the provisions of Section 16.4 hereof. Notwithstanding any such assignment or subletting, Tenant shall remain fully and primarily liable for the obligations of the Tenant under this Lease. Any assignment or sublease effected in accordance with the provisions of this Section 16.7 shall be subject to all of the provisions of this Article 16 (including, without limitation, Section 16.4). If any time following an assignment to an Affiliate of Tenant or subletting to an Affiliate of Tenant, such assignee or subtenant shall cease to be an Affiliate of Tenant, then Tenant shall obtain Landlord's consent to such assignment or subletting pursuant to this Article 16 in the same manner as if the assignee or subtenant, as the case may be, were not an Affiliate of Tenant, and if Landlord declines to consent to such assignment or subletting in accordance with the provisions of this Article 16, (x) in the event of an assignment of this Lease, Tenant shall, at least ten (10) days prior to the date such assignee shall cease to be an Affiliate of Tenant, assign this Lease back to the Tenant named herein or to the entity which was the Tenant immediately prior to such assignment to the Affiliate of Tenant and (y) in the event of a sublease of all or any part of the Premises, Tenant shall, within three (3) days prior to the date such subtenant ceases to be an Affiliate of Tenant, terminate such sublease and, in either of said cases, cause the assignee or subtenant, as the case may be, to vacate the Space, and, with respect to any Space not constituting the entire Premises, restore the Premises to the condition existing immediately prior to the commencement of the sublease term, including any demolition of partitions and doors erected or installed pursuant to Section 16.4.1(d) above and related repair and restoration of the Premises. Sections 16.2 and 16.5 shall not apply to a sublease or assignment to an Affiliate of Tenant made pursuant to and in accordance with this Section 16.7 (Tenant must, however, give not less than ten (10) business days' notice to Landlord of such sublease or assignment as specified in this Sections 16.7.1).

16.7.2 Provided that no Event of Default shall be continuing, Tenant may, upon not less than ten (10) business days' prior notice to Landlord (subject to the last sentence of this Section), but without obtaining Landlord's consent, (w) assign this Lease to any entity to which Tenant shall sell all or substantially all of its assets or in connection with any merger or consolidation of Tenant or any sale of all of the equity interests of Tenant, (x) change its legal form of organization, (y) permit the sale or transfer of any direct or indirect equity interest of Tenant to any direct or indirect equity holder of ARAMARK Corporation, including, without limitation, by a direct or indirect dividend or other distribution of Tenant's equity interests, or (z) permit the transfer of all or any portion of the direct or indirect equity interests of Tenant through an initial public offering of such interests (any event described in either of clause (w), (x), (y) or (z) shall hereinafter be referred to as a "Corporate Succession"), provided that: (i) in each case, the transferee or Tenant shall continue to use the Premises for the Use and for no other use and the principal purpose of the Corporate Succession shall not be the acquisition of Tenant's interest in this Lease and (ii) in the case of clause (w), where Tenant sells all or substantially all of its assets, such transferee shall have assumed all of the obligations of Tenant under this Lease and a duly executed and acknowledged duplicate original counterpart of such assumption agreement shall have been given to Landlord not later than ten (10) days after the effective date thereof. Any assignment effected in accordance with the provisions of this Section 16.7 shall be subject to all of the provisions of this Section 16 (including, without limitation, Section 16.4) other than Sections 16.2 and 16.5. Tenant must, however, give not less than ten (10) business days' notice to Landlord of such assignment as specified in this Section 16.7.2, unless such advance notice is impractical to give prior to any Corporate Succession, in which case Tenant shall notify Landlord thereof promptly following the consummation of such transaction.

16.7.3 As used in this Section 16.7, the term " Affiliate of Tenant " shall mean any person, corporation or other entity controlling, controlled by or under common control with, Tenant or in which Tenant shall own at least fifty-one (51%) percent of the voting interests (for purposes of this definition, the word " control " and its related terms, including " controlling, " " controlled by " and " under common control with, " shall mean the possession of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities, by contract, or otherwise).

16.7.4 Notwithstanding anything to the contrary contained in this Article 16, the Tenant named herein may, without obtaining Landlord's consent, permit up to an aggregate of ten percent (10%) of the rentable area of the Premises to be used by individuals or entities with whom the Tenant named herein is directly engaged in business (including clients and consultants of the Tenant named herein) to occupy or use space within the Premises without the same constituting an assignment of this Lease or a sublease of the Premises, provided that (a) any such occupancy shall be subject to all requirements of the Lease and to applicable Laws, (b) any use of the Premises by such persons shall be in accordance with the Use of the Premises (c) any such arrangement shall terminate automatically with, and each such occupant shall vacate the Premises on or prior to, the expiration or earlier termination of the Term, (d) no such occupancy shall create or be deemed to create any right, title or interest in or to the Premises for any such occupant and (e) no part of the Premises shall be separately demised and all parts of the Premises shall remain accessible through a common entrance. Tenant shall, upon Landlord's request, provide a list of the persons occupying the Premises at any given time and such other information as Landlord may reasonably request, including, without limitation, the nature of the business of any such person and the names of contact persons. In addition to, and not by way of limitation of Section 14.4.1, Tenant shall indemnify Landlord and hold Landlord harmless from any damages and any claim of tenancy arising out of any such arrangement.

16.8 Effect of Transfers

16.8.1 No subletting or assignment shall release Tenant from any of its obligations under this Lease unless Landlord, in Landlord's sole discretion, agrees to the contrary in writing, and, in the event of a permitted assignment or other transfer (other than a sublease), the assignee or transferee shall be deemed to have assumed all of Tenant's obligations under this Lease and shall be jointly and severally liable with Tenant for all of the obligations of the Tenant under this Lease. Consent to one assignment or subletting shall not be deemed a consent to any subsequent assignment or subletting. In the event of any default by any assignee or subtenant or any successor of Tenant in the performance of any Lease obligation, Landlord may proceed directly against Tenant without exhausting remedies against such assignee, subtenant or successor. Any act or omission of an assignee or subtenant or any person claiming under or through any of them that violates this Lease shall be deemed a violation of this Lease by Tenant. If this Lease shall be assigned or if the Premises shall be sublet or occupied by anyone other than Tenant, whether or not in violation of the provisions of this Lease, then Landlord may collect from the assignee or transferee or, after an Event of Default shall have occurred, from the subtenant, and Tenant hereby authorizes and directs such party to pay to Landlord, all rent (whether or not denominated as Base Rent, Additional Rent or otherwise), additional rent and other charges payable pursuant to such instrument, with the net amount so collected applied to the Base Rent, Additional Rent and other charges payable under this Lease, but no such acceptance of rent by Landlord from any person other than Tenant shall be deemed a waiver by Landlord of any provision of this Section 16 or an acceptance by Landlord of the assignee, transferee or subtenant as a tenant, or a release of Tenant from the further performance of the covenants and agreements to be performed by Tenant under this Lease.

16.8.2 The voluntary or other surrender of this Lease by Tenant or the cancellation of this Lease by mutual agreement of Tenant and Landlord shall not work a merger and, upon any termination of this Lease prior to the date fixed as the Expiration Date for any reason, or any re-entry or repossession of the Premises by Landlord under this Lease or any surrender of the Premises with Landlord's written consent, Landlord shall have the right, at Landlord's option, to take over all of the right, title and interest of Tenant, as sublessor, in and to any and all subleases or such of them as Landlord shall elect to take over and assume at the time of such recovery of possession or termination. Tenant shall, upon the request of Landlord, execute, acknowledge and deliver to Landlord such further assignments and transfers as may be necessary to vest in Landlord the then existing subleases and sublettings. If Landlord shall choose to take over any such sublease, such election shall be exercised by notice to all known subtenants in the Premises and such subtenants shall (a) be deemed to have waived any right to surrender possession of the sublease space or to terminate the sublease, (b) be bound to Landlord for the balance of the term of the sublease and (c) attorn directly to Landlord under all of the executory terms of this Lease, except that the rent shall be payable at the rates set forth in the sublease and except that Landlord shall not be (i) liable for any previous

act, omission or negligence of Tenant, (ii) subject to any credit, claim, defense or offset which may have previously accrued to the subtenant against Tenant, (iii) be bound by any previous modification or amendment of the sublease made without Landlord ' s prior consent or by any previous prepayment of more than one month ' s rent, (iv) be obligated to perform any repairs or other work beyond Landlord ' s obligations under this Lease or (v) liable for the return of any security deposit except to the extent such sums have actually been paid over to Landlord. No further instruments shall be required to give effect to this provision, but upon the request of Landlord, Tenant shall execute and deliver such instruments to Landlord as Landlord shall reasonably request to confirm the foregoing provisions and each subtenant shall execute and deliver such instruments as Landlord may reasonably request to evidence said attornment.

16.9 Miscellaneous

16.9.1 Landlord's consent to an assignment or a sublease shall not constitute Landlord's consent to any other or further assignment of this Lease or to any further subletting of all or part of the Premises by Tenant or anyone claiming through Tenant (or to the assignment of any sublease) and shall not relieve Tenant from obtaining the prior written consent of Landlord to any future assignment or sublease and otherwise complying with all of the provisions of this Section 16.

16.9.2 Any modification of a sublease to which Landlord shall have consented shall constitute a new sublease subject to the provisions of this Article 16.

16.9.3 Tenant shall pay to Landlord, as Rent, within fifteen (15) days after demand, all reasonable out-of-pocket costs incurred by Landlord (including reasonable legal fees and disbursements and the costs of making any investigations as to the acceptability of any proposed assignee or subtenant) in connection with a request by Tenant that Landlord consent to any proposed assignment or sublease, up to a maximum of $3,000.00 in each instance.

16.9.4 In the event of any permitted assignment of Tenant's interest in this Lease, the terms, covenants and conditions of this Lease may be changed, altered or modified in any manner whatsoever by Landlord and the assignee without the consent thereto of assignor Tenant, and no such change, alteration or modification shall release assignor Tenant from the performance by it of any of the terms, covenants and conditions on its part to be performed under this Lease.

17. PERSONAL PROPERTY

17.1 Removal

All personal property, trade fixtures and furnishings installed in the Premises by Tenant at Tenant's cost, other than those affixed to the Premises so that they cannot be removed without damage and other than those replacing an item theretofore furnished and paid for by Landlord or for which Tenant has received a credit or allowance (a) may be removed from the Premises from time to time in the ordinary course of Tenant's business or in the course of making any Alterations to the Premises permitted under Section 10.1, and (b) shall be removed by Tenant at the end of the Term in accordance with Section 3.4. Tenant shall promptly repair, at its expense, any damage to the Building resulting from the installation or removal of Tenant's personal property in or from the Premises.

17.2 Responsibility

Tenant shall be solely responsible for all costs and expenses related to personal property used or stored in the Premises. Tenant shall pay any taxes or other governmental impositions levied upon or assessed against such personal property, or upon Tenant for the ownership or use of such personal property, on or before the due date for payment.

18. ESTOPPEL CERTIFICATES

18.1 Tenant agrees that at any time and from time to time (but on not less than 20 days' prior request by Landlord), Tenant shall execute, acknowledge and deliver to Landlord a certificate indicating any or all of the following: (a) the Commencement Date, the Rent Commencement Date and Expiration Date; (b) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the date and nature of each modification); (c) the date, if any, through which Base Rent, Additional Rent and any other Rent payable have been paid; (d) that no default by Landlord, to the best of Tenant's knowledge, or Tenant exists which has not been cured, except as to defaults stated in such certificate; (f) provided such events have occurred, that Tenant has accepted the Premises and that all improvements required to be made to the Premises by Landlord have been completed according to this Lease; (g) that, except as specifically stated in such certificate, Tenant, and only Tenant, currently occupies the Premises; and (h) such other matters as may be reasonably requested by Landlord. Any such certificate may be relied upon by Landlord and any prospective purchaser or present or prospective mortgagee, deed of trust beneficiary or ground lessor of all or a portion of the Building.

18.2 Landlord agrees that at any time and from time to time (but on not less than 20 days' prior request by Tenant), Landlord will execute and deliver to Tenant a statement setting forth any or all of the following: (a) the Commencement Date, the Rent Commencement Date and Expiration Date of this Lease; (b) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the date of each modification); (c) the date through which Base Rent has been paid and whether any Additional Rent and other Rent which Landlord had previously billed to Tenant has been paid; and (d) to the best of Landlord's knowledge (but without any investigation) any Event of Default by Tenant exists which has not been cured, except as to Events of Default stated in such certificate. Any such certificate may be relied upon only by Tenant and any assignee or subtenant of Tenant under this Lease.

19. TRANSFER OF LANDLORD'S INTEREST; LIMITATIONS ON LANDLORD'S LIABILITY

19.1 Sale, Conveyance and Assignment

Nothing in this Lease shall be construed to restrict Landlord's right to sell, convey, assign or otherwise deal with the Building or Landlord's interest under this Lease.

19.2 Effect of Sale, Conveyance or Assignment

The term "Landlord" as used in this Lease shall mean the Landlord at the particular time in question, and a sale, conveyance or assignment of the Building or Landlord's interest therein shall automatically release Landlord from liability under this Lease and from and after the effective date of the transfer Tenant shall look solely to Landlord's transferee for performance of Landlord's obligations under this Lease, it being understood that from and after the date of such transfer, the term "Landlord" shall only mean the transferee and the covenants and agreements of Landlord shall thereafter be binding upon such transferee.

19.3 Limitations on Landlord's Liability

Any liability for damages, breach or nonperformance of this Lease by Landlord, or arising out of the subject matter of, or the relationship created by, this Lease, shall be collectible only out of Landlord's interest in the Building and no personal liability has been assumed by, or shall at any time be asserted against, Landlord, its parent and affiliated corporations, its and their partners, venturers, directors, officers, agents, servants and employees, or any of its or their successors or assigns; all such liability, if any, being expressly waived and released by Tenant. Notwithstanding anything to the contrary contained in this Lease, to the full extent permitted by law, in no event shall Landlord be liable for any consequential, special or punitive damages arising out of any breach or default in the performance or observance of any of the terms, covenants or conditions to be observed or performed by Landlord under this Lease.

20. RULES AND REGULATIONS

Tenant agrees to faithfully observe and comply with the Rules and Regulations set forth in Exhibit E attached hereto and with all reasonable modifications and additions to such Rules and Regulations (which shall be applicable to all Building tenants) from time to time adopted by Landlord and of which Tenant is notified in writing, provided that no such modifications shall materially increase Tenant's obligations or liabilities hereunder or reduce Tenant's rights hereunder. If there shall be any conflict between the Rules and Regulations or any such modification or addition and any right expressly granted to Tenant under this Lease, the provisions of this Lease shall control. Landlord's enforcement of the Rules and Regulations shall be nondiscriminatory against Tenant as against other Tenants of the Building, but Landlord shall not be responsible to Tenant for failure of any person to comply with the Rules and Regulations.

21. DEFAULT AND REMEDIES

21.1 Events of Default

If any one or more of the following events ("Events of Default") shall occur:

(a) Tenant shall fail to pay to Landlord the full amount of any Base Rent or Additional Rent, or any other charge payable under this Lease by Tenant to Landlord, on or before the date upon which the same shall first become due and such failure shall continue for more than seven (7) days after Landlord shall have given Tenant written notice thereof; or

(b) Tenant shall do anything or permit anything to be done, whether by action or inaction, in breach of any covenant, agreement, term, provision or condition of this Lease, or any Exhibit annexed hereto, on the part of Tenant to be kept, observed or performed (other than a breach of the type referred to in clause 21.1(a) above), and such breach shall continue and shall not be fully remedied by Tenant within thirty (30) days after Landlord shall have given to Tenant a notice specifying the same, except in connection with a breach which cannot be remedied or cured within said thirty (30) day period, in which event the time of Tenant within which to cure such breach shall be extended for such time as shall be reasonable to cure the same, but only if Tenant, within such initial thirty (30) day period, shall promptly commence and thereafter proceed diligently and continuously to cure such breach, and provided further that such period of time shall not be so extended as to jeopardize the interest of Landlord in the Land and/or the Building or so as to subject Landlord to any liability, civil or criminal), provided however, that if such breach or noncompliance which cannot be remedied or cured within said thirty (30) day period shall cause or result in (i) a dangerous condition in the Premises or Building, (ii) any insurance coverage carried by Tenant or Landlord with respect to the Premises or Building being jeopardized or (iii) a material disturbance to another tenant, then an Event of Default shall exist if such breach or noncompliance shall not be cured as soon as reasonably practicable after notice from Landlord to Tenant, and in any event within forty five (45) days after such notice shall have been given by Landlord to Tenant; or

(c) Tenant shall desert or abandon the Premises or shall fail to take possession of the Premises within one hundred twenty (120) days after the Commencement Date; or

(d) If Tenant shall commence or institute any case, proceeding or other action (i) seeking relief on its behalf as debtor or to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts under any existing or future Law of any jurisdiction, relating to bankruptcy, insolvency, reorganization or relief of debtors, or (ii) seeking appointment of a receiver, trustee, custodian or other similar official for it or for any part of its property; or

(e) If Tenant shall make a general assignment for the benefit of creditors;

(f) If any case, proceeding or other action shall be commenced or instituted against Tenant (i) seeking to have an order for relief entered against Tenant as debtor or to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts under any existing or future Law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, or (ii) seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any part of its property, which (x) results in any such entry of an order for relief, adjudication of bankruptcy or insolvency or such an appointment or the issuance or entry of any other order having a similar effect, or (y) is not contested, in good faith, by Tenant within 14 days of the date such case, proceeding or other action is instituted (or such shorter time period as may be prescribed by local bankruptcy rule, the bankruptcy court or other applicable law) or (z) remains undismissed for a period of 90 days;

then, upon the occurrence of any of said events, Landlord may at any time thereafter give to Tenant a notice of termination of the Term of this Lease setting forth a termination date three (3) days from the date of the giving of such notice, and, upon the giving of such notice, this Lease and the term and estate hereby granted (whether or not the Term shall theretofore have commenced) shall expire and terminate upon the expiration of said three (3) days with the same effect as if that day were the date hereinbefore set for the expiration of the Term of this Lease, but Tenant shall remain liable for damages as provided in Section 21.3 below.

21.2 Landlord's Remedies

21.2.1 If an Event of Default shall have occurred, Landlord and/or Landlord's agents and servants, whether or not the Term of this Lease shall have been terminated pursuant to Section 21.1, may, without notice to Tenant, immediately or at any time thereafter reenter into or upon the Premises or any part thereof, either by summary dispossess proceedings or by any suitable action or proceeding at law, or by force or otherwise, to the extent legally permitted, without being liable to indictment, prosecution or damages therefor, and may repossess the same, and may remove any persons or property therefrom, to the end that Landlord may have, hold and enjoy the Premises again as and of its first estate and interest therein. The words "reenter" "reentry" and "reentered" as used in this Lease are not restricted to their technical legal meanings. In the event of any termination of this Lease under the provisions of Section 21.1, or in the event that Landlord shall reenter the Premises under the provisions of Section 21.2, or in the event of the termination of this Lease (or of reentry) by or under any summary dispossess or other proceeding or action or any provision of law, Tenant shall thereupon pay to Landlord the Base Rent, Additional Rent and any other charges payable hereunder by Tenant to Landlord up to the time of such termination of this Lease, or of such recovery of possession of the Premises by Landlord, as the case may be, plus the expenses incurred or paid by Landlord in terminating this Lease or of reentering the Premises and securing possession thereof, including reasonable attorneys' fees and costs of removal and storage of Tenant's property, and Tenant shall also pay to Landlord damages as provided in Section 21.3 below.

21.2.2 In the event of the reentry into the Premises by Landlord under the provisions of this Section 21.2, and if this Lease shall not be terminated, Landlord may (but shall have absolutely no obligation to do so), not in Landlord's own name, but as agent for Tenant, relet the whole or any part of the Premises for any period equal to or greater or less than the remainder of the original term of this Lease, for any sum which Landlord may deem suitable, including rent concessions, and for any use and purpose which Landlord may deem appropriate. Such reletting may include any improvements, personalty and trade fixtures remaining in the Premises.

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

21.2.4 In the event of (i) the termination of this Lease under the provisions of this Article 21, or (ii) the reentry of the Premises by Landlord under the provisions of this Section 21.2, or (iii) the termination of this Lease (or reentry) by or under any summary dispossess or other proceeding or action or any provision of law by reason of default hereunder on the part of Tenant, Landlord shall be entitled to retain all monies, if any, paid by Tenant to Landlord, whether as advance rent, security deposit or otherwise, but such monies shall be credited by Landlord against any Base Rent, Additional Rent or any other charge due from Tenant at the time of such termination or reentry or, at Landlord's option, against any damages payable by Tenant under Section 21.3 or pursuant to law.

21.2.5 The specified remedies to which Landlord may resort under this Lease are cumulative and concurrent and are not intended to be exclusive of each other or of any other remedies or means of redress to which Landlord may lawfully be entitled at any time, and Landlord may invoke any remedy allowed under this Lease or at law or in equity as if specific remedies were not herein provided for, and the exercise by Landlord of any one or more of the remedies allowed under this Lease or in law or in equity shall not preclude the simultaneous or later exercise by the Landlord of any or all other remedies allowed under this Lease or in law or in equity.

21.3 Damages

21.3.1 In the event of any termination of this Lease under the provisions hereof or under any summary dispossess or other proceeding or action or any provision of law, or in the event that Landlord shall reenter the Premises under the provisions of this Lease, Tenant shall pay to Landlord as damages, at the election of Landlord, either:

(a) a sum which at the time of such termination of this Lease or at the time of any such reentry by Landlord, as the case may be, represents the then value of the excess, if any, of (i) the aggregate of the installments of Base Rent and the Additional Rent (if any) which would have been payable hereunder by Tenant, had this Lease not so terminated or had Landlord not reentered the Premises, for the period commencing with such earlier termination of this Lease or the date of any such reentry, as the case may be, and ending with the date set forth initially for the expiration of the full term of this Lease pursuant to Articles 1 and 2, over (ii) the aggregate rental value of the Premises for the same period (the amounts of each of clauses (i) and (ii) being first discounted to present value at an annual rate of six (6%) percent); or

(b) sums equal to the aggregate of the installments of Base Rent and Additional Rent (if any) which would have been payable by Tenant had this Lease not so terminated, or had Landlord not so reentered the Premises, payable upon the due dates therefor specified herein following such termination or such reentry and until the Expiration Date originally set forth in this Lease for the expiration of the Term; provided, however, that if Landlord shall relet the Premises during said period, Landlord shall credit Tenant with the net rents received by Landlord from such reletting, such net rents to be determined by first deducting from the gross rents as and when received by Landlord from such reletting the expenses incurred or paid by Landlord in terminating this Lease and of reentering the Premises and of securing possession thereof, including reasonable attorneys' fees and costs of removal and storage of Tenant's property, as well as the expenses of reletting, including repairing, restoring and improving the Premises for new tenants, brokers' commissions, advertising costs, reasonable attorneys' fees, and all other similar or dissimilar expenses chargeable against the Premises and the rental therefrom in connection with such reletting, it being understood that such reletting may be for a period equal to or shorter or longer than the remaining term of this Lease; provided further, that (1) in no event shall Tenant be entitled to receive any excess of such net rents over the sums payable by Tenant to Landlord hereunder, (2) in no event shall Tenant be entitled in any suit for the collection of damages pursuant to this Subdivision (b) to a credit in respect of any net rents from a reletting except to the extent that such net rents are actually received by Landlord prior to the commencement of such suit, and (3) if the Premises or any part thereof should be relet in combination with other space, then proper apportionment on a square foot area basis shall be made of the rent received from such reletting and of the expenses of reletting, or if relet for a period longer than the remaining Term of this Lease, the expenses of reletting shall be apportioned based on the respective periods.

21.3.2. For the purposes of Section (a)(i) of Section 21.3.1, the amount of Additional Rent which would have been payable by Tenant under Articles 4 and 8 for each year ending after such termination of this Lease or such reentry, shall be deemed to be an amount equal to the amount of such Additional Rent payable by Tenant for the calendar year and Tax Year ending immediately preceding such termination of this Lease or such reentry. Suit or suits for the recovery of such damages, or any installments thereof, may be brought by Landlord from time to time at Landlord's election, and nothing contained herein shall be deemed to require Landlord to postpone suit until the date when the term of this Lease would have expired if it had not been terminated under the provisions of this Section 21, or under any provision of law, or had Landlord not reentered the Premises.

21.4 Miscellaneous

21.4.1 Nothing contained in this Article 21 shall be construed as limiting or precluding the recovery by Landlord against Tenant of any sums or damages to which, in addition to the damages particularly provided above, Landlord may lawfully be entitled by reason of any default under this Lease on the part of Tenant. The failure or refusal of Landlord to relet the Premises or any part or parts thereof, or the failure of Landlord to collect the rent thereof under any reletting, shall not release or affect Tenant's liability for damages.

21.4.2 Tenant, for Tenant, and on behalf of any and all persons claiming through or under Tenant, including creditors of all kinds, does hereby waive and surrender all right and privilege which they or any of them might have under or by reason of any present or future law to redeem the Premises, or to have a continuance of this Lease for the term hereby demised, after Tenant shall be dispossessed or ejected therefrom by process of law or under the terms of this Lease or after the expiration or termination of this Lease as herein provided or pursuant to law. Tenant also waives the provisions of any law relating to notice and/or delay in levy of execution in case of an eviction or dispossess of a tenant for non-payment of rent, and of any other law of like import now or hereafter in effect. In the event that Landlord shall commence any summary proceeding for non-payment of rent or for holding over after the termination of this Lease, Tenant shall not, and hereby expressly waives any right to, interpose any counterclaim of whatever nature or description in any such proceeding, except to the extent that by failing to interpose such counterclaim Tenant would be barred from asserting such counterclaim in a separate action or proceeding.

21.4.3 If Landlord shall commence any action or summary proceeding against Tenant, Tenant shall reimburse Landlord, as Rent, Landlord ' s reasonable attorneys ' fees and expenses, if judgment is awarded for Landlord, or if Landlord accepts the payment subsequent to service of process but prior to entry of judgment.

21.4.4 Nothing contained in this Lease shall limit or prejudice Landlord's right to prove and obtain as liquidated damages in any bankruptcy, insolvency, receivership, reorganization or dissolution proceeding, an amount equal to the maximum allowable by any Laws governing such proceeding in effect at the time when such damages are to be proved, whether or not such amount be greater, equal to or less than the amounts recoverable, either as damages or Rent, under this Lease.

21.4.5 Upon the occurrence of an Event of Default, Landlord shall be entitled to exercise all of the rights set forth in this Article 21 above (including the right to terminate this Lease), notwithstanding that this Lease provides that Landlord may cure the default or otherwise perform the obligation of Tenant which gave rise to such Event of Default, and regardless of whether Landlord shall have effected such cure or performed such obligation.

21.4.6 The failure of either Landlord or Tenant to enforce their respective rights for violation of, or to insist upon the strict performance of any covenant, agreement, term, provision or condition of this Lease, or any of the rules and regulations, shall not constitute a waiver thereof, and each party shall have all remedies provided herein and by applicable law with respect to any subsequent act which would have originally constituted a violation. The receipt by Landlord of Base Rent and/or Additional Rent with knowledge of the breach of any covenant, agreement or condition of this Lease shall not be deemed a waiver of such breach.

21.4.7 The provisions of this Article 21 shall survive the expiration or sooner termination of this Lease.

21.5 Landlord's Right To Cure

Landlord may, but shall not be obligated to, cure any default by Tenant under this Lease at any time after notice and the lapse of any cure period specified within the conditional limitation to which such default relates, without giving further notice and without waiving its remedies with respect to such default; provided, however, that Landlord may cure any default by Tenant under this Lease without notice to Tenant or opportunity to cure in the case of (i) actual or suspected emergency or a dangerous condition in the Premises or the Building, (ii) Landlord's interest in the Land and/or the Building being jeopardized or Landlord's being subject to any liability, civil or criminal, (iii) any insurance coverage carried by Tenant or Landlord with respect to the Premises or the Building being jeopardized or (iv) any other provision of this Lease permitting Landlord to cure a default of Tenant under such provision, in which case such notice and cure period as shall be specified in such provision shall control and the notice and cure period under Section 21.1 shall not be required to be given. Whenever Landlord so elects, all costs and expenses incurred by Landlord in curing any such default, including reasonable attorneys' fees and disbursements, together with interest at the lower of five (5%) percent above the then-current Prime Rate or the highest rate permitted by law on the amount of the costs and expenses so incurred commencing on the date such costs and expenses are paid by Landlord, shall be paid by Tenant to Landlord as Rent within fifteen (15) days after demand.

22. ENFORCEMENT OF REASONABLE CONSENT

Tenant hereby waives any claim against Landlord for monetary damages which it may have based upon any assertion that Landlord has unreasonably withheld or unreasonably delayed any consent or approval that, pursuant to the terms of this Lease, is not to be unreasonably withheld by Landlord and Tenant agrees that its sole remedy shall be either (a) an action or proceeding to enforce any such provision or for specific performance, injunction or declaratory judgment or (b) settling such dispute pursuant to the expedited arbitration procedure set forth in Article 31 below. In the event of such a determination, the requested consent or approval shall be deemed to have been granted; provided, however, that Landlord shall have no liability to Tenant for its refusal or failure to give such consent or approval and the sole remedy for Landlord's unreasonably withholding or delaying of consent or approval shall be as provided in this Section.

23. [INTENTIONALLY DELETED]

24. BROKER

Landlord and Tenant represent and warrant to each other that it dealt with no broker or agent who negotiated or was instrumental in negotiating or consummating this Lease except the Broker. Neither party knows of any real estate broker or agent who is or might be entitled to a commission or compensation in connection with this Lease other than the Broker. Landlord shall pay all fees, commissions or other compensation payable to the Broker pursuant to a separate agreement between Landlord and the Broker. Tenant and Landlord shall indemnify and hold each other harmless from all damages paid or incurred by the other resulting from any claims asserted against the other party by brokers or agents claiming through the other party.

25. SUBORDINATION AND NON-DISTURBANCE

25.1 Subordination and Non-Disturbance

(a) This Lease is and shall be subject and subordinate in all respects to any ground lease, mortgage or deed of trust now or later encumbering the Land or the Building, and to all their renewals, modifications, supplements, consolidations and replacements (each, an "Encumbrance"). While such subordination shall be self-operative and shall occur automatically, Tenant agrees, upon request by and without cost to Landlord or any successor in interest, to execute and deliver to Landlord or the holder of an Encumbrance such instrument(s) as may be reasonably required by such Encumbrance holder to evidence such subordination, on such Encumbrance holder's standard form, within fifteen (15) days after request by Landlord. In the alternative, however, the holder of an Encumbrance may unilaterally elect to subordinate such Encumbrance to this Lease. Landlord represents that, as of the Date of this Lease, neither the Land nor the Building is subject to an Encumbrance.

(b) Landlord agrees to request, and use commercially reasonable efforts to obtain, at Tenant's sole cost, an agreement from any future holder of an Encumbrance in recordable form and in substance customarily adopted by such Encumbrance holder, to the effect that, in the event of any termination or foreclosure of an Encumbrance, so long as Tenant is not in default in the payment of any Base Rent or Additional Rent and so long as no Event of Default shall be continuing, (i) its rights as Tenant under this Lease shall not be affected or terminated, (ii) Tenant's possession of the Premises shall not be disturbed, (iii) unless otherwise required by applicable Laws, no action or proceeding shall be commenced against Tenant and (iv) the Lease shall continue in full force and effect, all notwithstanding the foreclosure or termination of any Encumbrance. Tenant hereby agrees that making one request to an Encumbrance holder in writing shall be deemed "commercially reasonable efforts" for purposes of this Section 25.1(b).

25.2 Attornment

If the interest of Landlord is transferred to any person (a "Successor Landlord") by reason of the termination or foreclosure, or proceedings for enforcement, of an Encumbrance, or by delivery of a deed in lieu of such foreclosure or proceedings, Tenant shall, upon demand and at the election of Successor Landlord, attorn to the Successor Landlord. Upon attornment this Lease shall continue in full force and effect as a direct lease between the Successor Landlord and Tenant, upon all of the same terms, conditions and covenants as stated in this Lease except that a Successor Landlord shall not be (a) liable for any previous act or omission or negligence of Landlord under this Lease, (b) subject to any counterclaim, defense or offset not expressly provided for in this Lease and asserted with reasonable promptness, which therefore shall have accrued to Tenant against Landlord, (c) bound by an previous modification or amendment of this Lease or by any previous prepayment of more than one month's rent, unless such modification or prepayment shall have been approved in writing by the holder of any Encumbrance through or by reason of which the Successor Landlord shall have succeeded to the rights of Landlord under this Lease or (d) obligated to perform any repairs or other work beyond Landlord's obligations under this Lease. Tenant agrees, upon request by and without cost to the Successor Landlord, to promptly execute and deliver to the Successor Landlord such instrument(s) as may be reasonably required by Successor Landlord to evidence such attornment.

25.3 Cure by Encumbrance Holder

If any act or omission by Landlord shall give Tenant the right, immediately or after the lapse of time, to cancel or terminate this Lease or to claim a partial or total eviction, Tenant shall not exercise any such right until (a) it shall have given written notice of such act or omission to each holder of any Encumbrance and (b) a reasonable period for remedying such act or omission shall have elapsed following such notice (which shall in no event be less than the period to which Landlord would be entitled under this Lease to effect such remedy) provided such holder of an Encumbrance shall, with reasonable diligence, give Tenant notice of its intention to remedy such act or omission and shall commence and continue to act upon such intention.

26. NOTICES

All notices required or permitted under this Lease must be in writing and shall only be deemed properly given and received (a) when actually given and received, if delivered in person to a party who acknowledges receipt in writing; or (b) one (1) business day after deposit with a private courier or overnight delivery service, if such courier or service obtains a written acknowledgment of receipt; or (c) two (2) business days after deposit in the United States mails, certified or registered mail with return receipt requested and postage prepaid or (d) when served in the same manner as a summons in a Supreme Court action is then provided to be made under New York law. All such notices must be transmitted by one of the methods described above to, in the case of notices to Landlord, both Landlord's Building Address and Landlord's Notice Address, and in the case of notices to Tenant, to Tenant's Notice Address, or, in either case, at such other address(es) of which either party may notify the other in accordance with the provisions of this Article 26 or otherwise at such address(es) as shall be permitted under New York law for service of a summons in a Supreme Court action.

27. OPTION TO EXTEND

27.1 Provided that when Tenant exercises its option hereunder and on the Expiration Date no Event of Default shall have occurred and be continuing, the Tenant named herein, or an Affiliate to whom the Tenant named herein shall have assigned this Lease or sublet the Premises pursuant to Section 16.7, shall have the option to extend the Term for a single, five (5) year period (the "Extension Term"). In addition, as a condition of Tenant's exercise of such extension option, if the Guaranty is not at such time in effect then upon the exercise of such option Tenant shall deliver to Landlord, in addition to the security delivered to Landlord as a condition of the termination of the Guaranty upon a Qualifying Corporate Succession (as defined in the Guaranty), either (a) a cash security deposit or (b) an irrevocable standby letter of credit in form reasonably acceptable to Landlord, which cash security deposit or letter of credit shall be in an amount equal to fifteen percent (15%) of the total amount of Base Rent that would be due under the Lease during the Extension Term. The Extension Term shall commence on the day after the Expiration Date and shall expire on the last day of the calendar month in which the day immediately prior to the fifth (5th) anniversary of the Expiration Date shall occur unless the Extension Term shall sooner end pursuant to any of the terms, covenants or conditions of this Lease or pursuant to law. Tenant shall give Landlord written notice ("Tenant's Extension Notice") of Tenant's intention to exercise such option at least fifteen (15), but not more than eighteen (18), months prior to the Expiration Date, the time of exercise being of the essence (and the date that is fifteen (15) months prior to the Expiration Date hereinafter known as the "Exercise Date"), and upon the giving of such notice, this Lease and the Term shall be extended without execution or delivery of any other or further documents, with the same force and effect as if the Extension Term had originally been included in the Term, and the Expiration Date shall thereupon be deemed to be the last day of the Extension Term. All of the terms, covenants and conditions of this Lease shall continue in full force and effect during the Extension Term, including items of Additional Rent and escalation which shall remain payable on the terms herein set forth (but excluding, in relation to the Extension Term, the provisions for rent concession set forth in Section 4.1 and for Landlord's contribution to the Initial Improvements), except that the Base Rent for the Extension Term shall be as determined in accordance with Section 27.2 and Tenant shall have no further right to extend the Term.

27.2 The Base Rent payable by Tenant for the Premises during the Extension Term shall be the fair market rental value of the Premises as of the day immediately preceding the commencement of the Extension Term ("FMRV"), based on the fair market rental value of space comparable to the Premises in midtown Manhattan, taking into account all relevant factors such as free rent, build out, brokerage commissions, tax and operating expense base years (which shall be adjusted during the Extension Term) and other market conditions. The FMRV shall be determined as follows:

(a) At any time after the date that is twenty (20) months prior to the Expiration Date, but no later than sixteen (16) months prior to the Expiration Date, Tenant shall have the right to send a notice to Landlord (the " FMRV Request Notice ") requesting that Landlord propose a good faith estimate of the FMRV. Within ten (10) business days following the delivery of the FMRV Request Notice, Landlord shall submit to Tenant its non-binding good faith estimate of the FMRV for the Extension Term, and within ten (10) business days following the date Landlord submitted such estimate to Tenant, Tenant shall submit to Landlord its non- binding good faith estimate of the FMRV for the Extension Term. Promptly following each party ' s exchange of their respective estimates of the FMRV, Landlord and Tenant shall negotiate in good faith to endeavor to agree upon the FMRV; provided, however, until each party submits its final estimate of FMRV as set forth in Landlord ' s Maximum FMRV and Tenant ' s Minimum FMRV (each as hereinafter defined), each party shall be permitted to revise its respective estimate from time to time. Fifteen (15) days prior to the earlier of (i) the Exercise Date or (ii) the date Tenant intends to deliver Tenant ' s Extension Notice, Tenant shall send Landlord a notice (the " Final Submission Notice "), requesting Landlord to submit its final estimate. Within five (5) days following the delivery of the Final Submission Notice, Landlord shall submit to Tenant its final estimate of the FMRV, which estimate shall constitute the maximum thereof that Landlord can claim as the FMRV for the Extension Term in any arbitration thereof (" Landlord ' s Maximum FMRV "), and within five (5) days following the date Landlord submitted its final estimate, Tenant shall submit to Landlord its final estimate of the FMRV, which estimate shall constitute the minimum thereof Tenant can claim as the FMRV for the Extension Term in any arbitration thereof (" Tenant ' s Minimum FMRV "). If Landlord and Tenant cannot reach agreement on the FMRV for the Extension Term by the Exercise Date, Tenant shall nonetheless have the right to exercise its option to extend the Term by delivering Tenant ' s Extension Notice to Landlord in accordance with Section 27.1 above, and the FMRV shall be determined in accordance with the terms of clause (b) below.

(b) No later than the date that is nine (9) months prior to the commencement of the Extension Term, Landlord and Tenant shall designate a reputable, licensed real estate broker having an office in New York County with at least ten (10) years' experience in evaluating midtown Manhattan commercial property and who is familiar with the rentals then being charged in the Building and in comparable buildings and areas (the "Independent Broker"). Upon the failure of Landlord and Tenant to timely agree upon the designation of the Independent Broker, then the Independent Broker shall be appointed by the President of the Real Estate Board of New York. The Independent Broker shall not be an individual who had represented Landlord or Tenant as a broker nor been employed by either Landlord or Tenant within the two (2) year period prior to appointment of the Independent Broker, nor shall the Independent Broker be an individual who had represented Landlord or Tenant in the determination of fair market rental value in the two (2) year period prior to appointment of Independent Broker. Concurrently with such appointment, Landlord and Tenant shall each submit to the Independent Broker, each with a copy to the other, Landlord's Maximum FMRV and Tenant's Minimum FMRV, respectively (or, if the early determination procedure described in 27.2(a) above was not timely initiated, Landlord and Tenant shall each submit its good faith estimate of the FMRV for the Extension Term, and such submissions shall be deemed to be Landlord's Maximum FMRV and Tenant's Minimum FMRV, respectively). The Independent Broker shall conduct such investigations and hearings as he or she may deem appropriate and shall, within sixty (60) days after the date of his or her designation, choose either Landlord's Maximum FMRV or Tenant's Minimum FMRV to be the FMRV during the Extension Term and such choice shall be binding upon Landlord and Tenant. The fees and expenses of the Independent Broker shall be shared equally by Landlord and Tenant. Notwithstanding anything to the contrary in this Section 27, Tenant shall have the one time right to rescind Tenant's Extension Notice at any time prior to the date that is twelve (12) months prior to the Expiration Date, time being of the essence.

27.3 In the event the Extension Term shall commence prior to a determination of the Base Rent during the Extension Term as herein provided, then the Base Rent to be paid by Tenant to Landlord until such determination has been made shall be (a) the Base Rent for the twelve (12) month period immediately preceding the commencement of the Extension Term plus (b) all escalations and Additional Rent payable under this Lease. After such determination has been made for the Base Rent during the Extension Term, any excess rental for the Extension Term theretofore paid by Tenant to Landlord shall be credited by Landlord against the next ensuing monthly Base Rent payable by Tenant to Landlord and any deficiency in Base Rent due from Tenant to Landlord during the Extension Term shall be immediately paid.

27.4 Promptly after the Base Rent has been determined, Landlord and Tenant shall execute, acknowledge and deliver an agreement setting forth the Base Rent for the Extension Term, as finally determined, provided the failure of the parties to do so shall not affect their respective rights and obligations hereunder.

27.5 Anything herein to the contrary notwithstanding, (i) Tenant ' s Extension Notice shall not be valid or effective if, at the time Tenant ' s Extension Notice is given, any Event of Default shall have occurred and be continuing and (ii) Tenant ' s Extension Notice, if effectively given, shall be voidable by Landlord if any Event of Default shall have occurred and be continuing on the first day of the Extension Term.

28. MISCELLANEOUS

28.1 Binding Effect

Each of the provisions of this Lease shall bind and inure to the benefit of, as the case may be, Landlord and Tenant, and their respective heirs, successors and assigns, provided that this clause shall not be construed to permit any transfer by Tenant in violation of the provisions of Article 16.

28.2 Complete Agreement; Modification

All of the representations and obligations of the parties are contained in this Lease. No modification, waiver or amendment of this Lease or of any of its conditions or provisions shall be binding upon Landlord or Tenant unless the same shall be in writing and shall be signed by the party against whom enforcement shall be sought.

28.3 Delivery for Examination

The submission of the form of this Lease for examination shall not bind Landlord in any manner, and no obligations shall arise under this Lease until it shall be signed and exchanged by Landlord and Tenant.

28.4 No Air Rights; Obstructions of Light or View; Closure

This Lease does not grant any easements or rights for light, air or view. Any diminution or blockage of light, air or view by any structure or condition now or later erected shall not affect this Lease or impose any liability on Landlord. If at any time any windows of the Building (including the Premises) are temporarily darkened, or the light, air or view therefrom is obstructed temporarily by reason of any repairs, improvements, maintenance or cleaning in or about the Building or permanently by reason of a requirement of Law or the construction of any structure that may be erected on lands in the vicinity of the Building, the same shall be without liability to Landlord and without any reduction or diminution of Tenant's obligations under this Lease and shall not be deemed to constitute an eviction.

28.5 Building Name

Tenant shall not, without Landlord's consent, use Landlord's or the Building's name, or any facsimile or reproduction of the Building, for any purpose; except that Tenant may use the Building's name in the address of the business to be conducted by Tenant in the Premises. Landlord reserves the right, upon reasonable prior notice to Tenant, to change the name or address of the Building.

28.6 Building Standard

The phrase "Building standard" shall, in all instances, refer to the then-current standard described in Landlord's most recently adopted schedule of Building standard or, if no such schedule has been adopted, to the standard which commonly prevails in and for the entire Building.

28.7 No Waiver

No waiver of any provision of this Lease shall be implied by any failure of either party to enforce any remedy upon the violation of such provision, even if such violation shall be continued or repeated subsequently. No express waiver shall affect any provision other than the provision specified in such waiver, and only for the time and in the manner specifically stated. No provision of this Lease shall be deemed to have been waived by Landlord or Tenant, unless such waiver shall be in a writing signed by Landlord or Tenant, as the case may be.

28.8 Recording; Confidentiality

Tenant shall not record this Lease, or a short form memorandum, without Landlord's written consent and any such recording without Landlord's written consent shall constitute an Event of Default. Tenant shall keep the Lease terms, provisions and conditions confidential and shall not disclose them to any other person without Landlord's prior written consent. However, Tenant may disclose Lease terms, provisions and conditions to Tenant's accountants, attorneys, managing employees and others in privity with Tenant, as reasonably necessary for Tenant's business purposes, without such prior consent.

28.9 Captions

The captions of sections are for convenience only and shall not be deemed to limit, construe, affect or alter the meaning of such sections.

28.10 Invoices

Except as may otherwise be expressly provided in this Lease, including but not limited to Tenant's audit right as set forth in Section 4.4.2(d), if Tenant shall fail to give Landlord specific written notice of its objections to any bill, invoice or statement for Rent (each, an "Invoice") within ninety (90) days after receipt of any Invoice from Landlord, such Invoice shall be binding on Tenant and Tenant may not later question the validity of such Invoice or the underlying information or computations used to determine any amounts stated therein and Landlord shall have no liability for claims for refunds or overcharges based thereon.

28.11 Severability

If any provision of this Lease shall be declared void or unenforceable by a final judicial or administrative order, this Lease shall continue in full force and effect, except that the void or unenforceable provision shall be deemed deleted and replaced with a provision as similar in terms to such void or unenforceable provision as may be possible and be valid and enforceable.

28.12 Jury Trial

LANDLORD AND TENANT EACH HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY LANDLORD OR TENANT AGAINST THE OTHER WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE, TENANT'S USE AND OCCUPANCY OF THE PREMISES, OR THE RELATIONSHIP OF LANDLORD AND TENANT, TO THE EXTENT PERMITTED BY LAW.

28.13 Authority to Bind

Landlord and Tenant represent and warrant that the individuals signing this Lease on their behalves are empowered and duly authorized to bind Landlord or Tenant, as the case may be, to this Lease.

28.14 Only Landlord/Tenant Relationship

Landlord and Tenant agree that neither any provision of this Lease nor any act of the parties shall be deemed to create any relationship between Landlord and Tenant other than the relationship of landlord and tenant.

28.15 Covenants Independent

The parties intend that this Lease be construed as if the covenants between Landlord and Tenant are independent and that the Rent shall be payable without offset, reduction or abatement for any cause, except as otherwise expressly provided in this Lease.

28.16 Governing Law

This Lease shall be governed by and construed according to the laws of the State of New York. Landlord and Tenant, any subtenant, and any guarantor of Tenant's obligations under this Lease, hereby expressly consent to the jurisdiction of the Civil Court of the City of New York and the Supreme Court of the State of New York with respect to any action or proceeding between Landlord and Tenant or such party with respect to this Lease or any rights or obligations of either party pursuant to this Lease, and agree that venue shall lie in New York County. Tenant and any subtenant further waive any and all rights to commence any such action or proceeding against Landlord before any other court.

28.17 Inability to Perform

This Lease and the obligation of Tenant to pay Base Rent, Additional Rent and other Rent, and to perform and comply with all of the other covenants and agreements hereunder on the part of Tenant to be performed or complied with, shall in no way be affected, impaired or excused in the event that Landlord shall be delayed, hindered or prevented by reason of Force Majeure from performing or complying with any of the covenants and agreements to be performed or complied with by Landlord under this Lease, or to furnish any service or facility. No such delay or failure by Landlord in the performance of any of Landlord's obligations under this Lease by reason of Force Majeure shall constitute an actual or constructive eviction in whole or in part or impose any liability upon Landlord or its agents because of inconvenience to Tenant or injury to or interruption or loss of Tenant's business or entitle Tenant to any diminution or abatement of Rent.

28.18 No Surrender

No act or thing done by Landlord or Landlord's agents (including, without limitation, the acceptance of keys by any employee of Landlord or Landlord's agents) during the Term shall be deemed to constitute an acceptance of a surrender of the Premises or the termination of this Lease, and no agreement to accept such surrender shall be valid, unless the same shall be in writing and shall be signed by Landlord. In the event that Tenant at any time shall desire to have Landlord sublet the Premises for Tenant's account, Landlord or Landlord's agents are authorized to receive said keys for such purposes without releasing Tenant from any of the obligations under this Lease, and Tenant hereby relieves Landlord of any liability for loss of or damage to any of Tenant's property in connection with such subletting.

28.19 No Merger

There shall be no merger of this Lease, or the leasehold estate created by this Lease, with any other estate or interest in the Premises, or any part thereof, by reason of the fact that the same person may acquire or own or hold, directly or indirectly, (i) this Lease or the leasehold estate created by this Lease, or any interest in this Lease or in any such leasehold estate, and (ii) any such other estate or interest in the Premises or any part thereof; and no such merger shall occur unless and until all persons having an interest (including a security interest) in (a) this Lease or the leasehold estate created by this Lease and (b) any such other estate or interest in the Premises, or any part thereof, shall join in a written instrument effecting such merger and shall duly record the same.

28.20 Force Majeure

Notwithstanding anything to the contrary contained in this Lease, the time for performance of any obligation of Landlord or Tenant under this Lease shall be excused during and extended by any period during which such party shall be prevented from performing such obligation by reason of Force Majeure, provided that lack of funds, bankruptcy or other financial difficulty shall not be deemed a Force Majeure or excuse or extend the time for performance of any obligation by either party. However, Force Majeure shall not relieve either party from any obligations under this Lease.

28.21 Time of the Essence

Subject to all applicable cure and grace periods expressly provided herein, time is of the essence as to all dates set forth in this Lease.

29. RIGHT OF FIRST OFFER

From and after the Date of this Lease and during the Term, as the same may be extended, provided that at the time of exercise no Event of Default shall be continuing and that Tenant has not at such time delivered a Termination Notice, the Tenant named herein, or an Affiliate to whom the Tenant named herein shall have assigned this Lease or sublet the Premises pursuant to Section 16.7, shall have the right of first offer to lease the following premises in the Building, which right Tenant shall have only one time with respect to each such space: (a) all or any portion of the 13th floor of the Building, shown on Exhibit J hereto, (b) all or any portion of the 14th floor of the Building, (c) all or any portion of the 16th floor of the Building, (d) all or any portion of the 17th floor of the Building, shown on Exhibit J hereto, and (e) all or any portion of the 18th floor of the Building, shown on Exhibit J hereto (individually and collectively, the "ROFO Space") on the terms set forth in this Section 29. Notwithstanding the prior sentence, such right of first offer is subject and subordinate to (i) any rights of tenancy or occupancy existing as of the Date of this Lease, including any extensions or renewals thereof, whether or not by the terms of any lease or occupancy agreement, (ii) any rights of offer, refusal, or occupancy existing pursuant to leases or agreements with other tenants or licensees in the Building in effect as of the Date of this Lease, which are listed on Exhibit I hereto, and (iii) the right of Landlord to enter into a lease of premises on the 17th floor of the Building that Landlord is negotiating as of the Date of this Lease. If Landlord desires to lease particular ROFO Space to a third party, Landlord must first deliver a notice ("First Offer Notice") to Tenant setting forth the material business terms on which Landlord is prepared to lease such ROFO Space to a third party, including the annual base rent, the duration of the term of such lease and any abatements, concessions and Landlord's work to be performed to be included under the proposed lease, and offering to lease the particular ROFO Space to Tenant on such terms. Tenant shall have a period of thirty (30) days following receipt of the First Offer Notice (the "ROFO Acceptance Period") to accept such offer by notice to Landlord. If Tenant accepts such offer within the ROFO Acceptance Period, this Lease shall be amended to (i) add the particular ROFO Space to the Premises at the annual base rent set forth in the First Offer Notice, (ii) increase Tenant's Tax Share and Tenant's Expense Share by the ratio of the rentable area of the particular ROFO Space to the rentable area of the Building or office portion thereof, as applicable, and (iii) include the terms with respect to the particular ROFO Space set forth in the First Offer Notice not covered by this Lease, and after such amendment this Article 29 shall be deemed to be deleted from this Lease and of no further force or effect with respect to such particular ROFO Space. If Tenant fails to respond to the First Offer Notice during the ROFO Acceptance Period, Tenant shall be deemed to have elected not to enter into such lease, in which event (or, in the event that Tenant elects not to enter into such lease) this Article 29 shall be deemed to be deleted from this Lease and of no further force or effect with respect to such particular ROFO Space, and Landlord may lease the particular ROFO Space to any third party on substantially the same terms as those set forth in the First Offer Notice (it being understood that a decrease in the annual base rent set forth in the First Offer Notice, taking into account rent concessions, free rent periods, and tenant allowances, by more than five percent (5%), shall be deemed a substantial change to the terms set forth in the First Offer Notice, provided that Landlord shall have no obligation to send a revised First Offer Notice to Tenant in the event of such decrease later than six (6) months following its original First Offer Notice to Tenant).

30. RIGHT TO TERMINATE

Anything contained in this Lease to the contrary notwithstanding, the Tenant named herein, or an Affiliate to whom the Tenant named herein shall have assigned this Lease or sublet the Premises pursuant to Section 16.7, shall have the right to terminate this Lease effective as of the seventh (7th) anniversary of the Rent Commencement Date by notice to Landlord (the "Termination Notice"), provided that (a) any Termination Notice shall have been delivered to Landlord at least fourteen (14) months prior to the seventh (7th) anniversary of the Rent Commencement Date (upon the timely delivery of a Termination Notice, the seventh (7th) anniversary of the Rent Commencement Date is hereafter referred to as the "Early Termination Date") and (b) as a condition of the effectiveness of the termination of this Lease, Tenant shall pay to Landlord, on the Early Termination Date, a fee equal to the unamortized amount of Landlord's Contribution and the rent concessions and brokerage commissions payable by Landlord pursuant to or in connection with this Lease, together with interest thereon at 6% from the date such costs are incurred or paid, as applicable, by Landlord, as evidenced by an invoice from Landlord. Provided that Tenant has timely delivered the Termination Notice and paid the aforesaid fee to Landlord on the Early Termination Date, upon the occurrence of the Early Termination Date, this Lease shall terminate and be of no further force or effect as if such Early Termination Date were the original Expiration Date of this Lease. Notwithstanding anything to the contrary contained herein, if at any time during the Term Tenant is leasing ROFO Space of 9,561 rentable

square feet or more in the aggregate, or has expanded the Premises following the Date of this Lease and such expansion space comprises 9,561 rentable square feet or more in the aggregate, then in either such case, Tenant shall no longer have the right to terminate this Lease pursuant to this Section 30, and this Section 30 shall as of the date of such exercise or other expansion be deemed to be deleted and of no further force or effect.

31. DETERMINATION OF DISPUTES ARISING UNDER ARTICLE 22

Any dispute regarding whether Landlord has unreasonably withheld or delayed its consent or approval that pursuant to this Lease must not be unreasonably withheld or delayed, may be conclusively determined pursuant to the following procedure and upon and subject to the following terms and conditions:

(a) At any time during the course of such dispute, Landlord or Tenant may designate, by notice to the other, a person as its representative to resolve such dispute who is qualified and experienced in the issue under dispute (the "First Representative"), whereupon, within five (5) business days thereafter, the other party shall designate another such qualified and experienced representative for the resolution of such dispute (the "Second Representative").

(b) The First Representative and the Second Representative shall attempt to resolve such dispute and any agreed resolution thereby shall be conclusive for purposes hereof. If either Landlord or Tenant fails to timely designate the Second Representative and again fails to do so within three (3) business days after notice of such failure from the other party, the resolution of such dispute by the First Representative shall be conclusive for purposes hereof.

(c) If the First Representative and the Second Representative cannot agree upon the resolution of such dispute within ten (10) business days after their appointment, they shall, within five (5) business days after the expiration of such ten (10) business day period, designate another qualified and experienced representative (the "Third Representative"), whose resolution of such dispute shall be conclusive for purposes hereof.

(d) If the First Representative and the Second Representative do not designate a Third Representative within such five (5) business day period, either party, may at any time after the expiration of such five (5) business day period, apply to the Presiding Justice of the Appellate Division, First Department, for the appointment thereof.

(e) The First Representative, the Second Representative and the Third Representative shall, by majority vote, establish the rules and procedures for the expeditious resolution of such dispute and shall issue their written determination thereof within ten (10) business days after the designation of the Third Representative.

(f) Each party shall pay its own representative, and the parties shall share equally the cost of the Third Representative.

32. GUARANTY

As a material inducement to Landlord to enter into this Lease, Tenant shall cause to be delivered to Landlord, simultaneously with the execution of this Lease, the guaranty of Aramark Corporation, a Delaware corporation, in the form annexed hereto as Exhibit G (the Guaranty").

Having read and intending to be bound by the terms and provisions of this Lease, Landlord and Tenant have signed it as of the Date.

TRIZECHAHN 1065 AVENUE OF THE AMERICAS LLC , a Delaware limited liability company

By: TrizecHahn 1065 LLC, a Delaware limited liability company

By: /s/ Adam R. Goldenberg
Name: Adam R. Goldenberg
Title: Market Managing Director

SEAMLESSWEB PROFESSIONAL SOLUTIONS, LLC , a Delaware limited liability company

By: /s/ Ted Pastva
Name: Ted Pastva
Title: VP Finance

Tenant's Federal Tax ID #: 13-4093796

AMENDMENT OF LEASE

This Amendment of Lease Agreement (this " Amendment"), dated as of the 26 th day of July 2013, by and between **TRIZECHAHN 1065 AVENUE OF THE AMERICAS PROPERTY OWNER LLC,** a Delaware limited liability company (" Landlord "), and **SEAMLESS NORTH AMERICA, LLC** (formerly known as SEAMLESSWEB PROFESSIONAL SOLUTIONS, LLC), a Delaware limited liability company (" Tenant ").

W I T N E S S E T H :

WHEREAS, Landlord and Tenant are the present parties to a lease dated as of May 19, 2011 (the " Existing Lease "), demising to Tenant the entire fifteenth (15th) floor as more particularly set forth in the Existing Lease in Landlord's building known as 1065 Avenue of the Americas, New York, New York.

WHEREAS, ARAMARK Corporation, a Delaware corporation (" Guarantor ") guaranteed particular obligations of Tenant under the Existing Lease pursuant to that certain Guaranty (the " Guaranty ") made by Guarantor as of May 18, 2011.

WHEREAS, there occurred a "Corporate Succession" as described in Section 16.7.2 of the Existing Lease, which Corporate Succession constitutes a "Qualifying Corporate Succession" as defined in Section 6 of the Guaranty.

WHEREAS, as contemplated in Section 6 of the Guaranty, Tenant is delivering a letter of credit to Landlord and upon delivery thereof, the Guaranty will automatically terminate and guarantor will have no further liability thereunder.

WHEREAS, Landlord and Tenant desire to amend the Existing Lease to provide for the delivery and administration of the letter of credit.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, Landlord and Tenant agree as follows:

1. Definitions . All capitalized terms contained in this Amendment shall, for the purposes hereof, have the same meanings ascribed to them in the Existing Lease unless otherwise defined herein. As used herein, the term " Lease " shall mean the Existing Lease, as amended by this Amendment and as hereafter amended in accordance with the terms of the Existing Lease.

2. Qualifying Corporate Succession . Landlord hereby acknowledges the occurrence of a Qualifying Corporate Succession (as defined in the Guaranty) of the type described in clause (y) of Section 16.7.2 of the Lease. Accordingly, as a condition of the termination of the Guaranty, Tenant shall, simultaneously with its execution of this Amendment, deliver to Landlord a letter of credit satisfying the conditions of Section 3 below. Upon delivery of such letter of credit, the Guaranty shall terminate and be of no further effect and Guarantor shall have no further liability thereunder.

3. Letter of Credit or Cash Security Deposit .

(A) Upon the execution of this Amendment, Tenant shall deliver to Landlord a clean, irrevocable, transferable and unconditional letter of credit (the " Letter of Credit ") issued by and drawn upon a commercial bank (hereinafter referred to as the " Issuing Bank ") which shall be a member bank of the New York Clearinghouse Association or any successor thereto (or, in the alternative, which shall have offices for banking purposes in the Borough of Manhattan and shall have a net worth determined in accordance with generally accepted accounting principles of not less than $1,000,000,000, with appropriate evidence thereof to be submitted by Tenant), which Letter of Credit shall: (i) have a term of not less than one year, (ii) be in form of Exhibit A annexed hereto and made a part hereof, (iii) be for the account of Landlord, (iv) be in the amount of $1,964,233.07, (v) except as otherwise provided herein, conform and be subject to International Standby Practices (1998), International Chamber of Commerce Publication No. 590, (vi) be fully transferable by Landlord without any fees or charges therefor (except for any such administrative charges for which Tenant shall reimburse Landlord), (vii) provide that Landlord shall be entitled to draw upon the Letter of Credit upon presentation to the Issuing Bank of a sight draft only, and (viii) provide that the Letter of Credit shall be deemed automatically renewed, without amendment, for consecutive periods of one year each year thereafter during the Term of the Lease, unless the Issuing Bank shall send notice to Landlord by registered mail, return receipt requested, not less than sixty (60) days next preceding the then expiration date of the Letter of Credit that the Issuing Bank elects not to renew such Letter of Credit, in which case Landlord shall have the right, by sight draft on the Issuing Bank, to receive the monies represented by the then existing Letter of Credit, and to hold and/or disburse such proceeds pursuant to the terms of this Section 3 as cash security. All references to the Letter of Credit in this Section 3 shall be deemed to refer to the Letter of Credit itself, or any proceeds thereof as may be drawn upon by Landlord.

(B) The Issuing Bank shall (a) be insured by the Federal Deposit Insurance Corporation and (b) have long-term, unsecured and unsubordinated debt obligations rated by Moody's Investor's Services, Inc., or its respective successors, of at least A3 or Standard and Poor's Ratings Services, or its respective successors, of at least A (collectively, the " LC Issuer Requirements "). If (A) at any time the LC Issuer Requirements are not met, or if the financial condition of the Issuing Bank changes in any other materially adverse way, as determined by Landlord in its reasonable discretion or (B) the Issuing Bank is insolvent or is placed into receivership or conservatorship by the Federal Deposit Insurance Corporation, or any successor or similar entity, or if a trustee, receiver or liquidator is appointed for the issuer, then Tenant shall in either case within thirty (30) days' written notice from Landlord, deliver to Landlord either (i) a replacement Letter of Credit which otherwise meets the requirements of this Section 3 and the LC Issuer Requirements or (ii) a cash deposit in the same amount as would be required by the Letter of Credit delivered under Section 3(A), and, subject to the last sentence of this Section 3(B), Tenant's failure to do so shall, notwithstanding anything in the Lease to the contrary, constitute an Event of Default for which there shall be no notice or cure periods being applicable thereto other than the aforesaid thirty (30) day period. In addition to, and notwithstanding anything to the contrary contained in, the foregoing, among all other rights available to it at law or in equity, in the case of (A) above, Landlord shall have the right to immediately, and without further notice to Tenant, draw the entire Letter of Credit and to hold the proceeds thereof, and in the case of (B) above, Landlord shall have the right to require Tenant, within a ten (10) business day period following the written notice from Landlord to Tenant, to deliver a cash security deposit in the amount of the Letter of Credit, which shall be held in accordance with this Section 3, as if such cash deposit were the Letter of Credit. Notwithstanding any provision to the contrary set forth herein, if Landlord has drawn on the Letter of Credit pursuant to the immediately preceding sentence, Tenant shall have no further obligation to provide Landlord with a replacement Letter of Credit or cash security and all monies so drawn on the Letter of Credit by the Landlord will be held by Landlord as a cash security deposit. Notwithstanding anything to the contrary in this Section 3, Wells Fargo Bank, N.A. is deemed to satisfy the LC Issuer Requirements as of the date of this Amendment.

(C) Tenant acknowledges and agrees that the Letter of Credit or the cash security deposit shall be security for the faithful performance and observance by Tenant of all of the covenants, agreements, terms, provisions and conditions of the Lease, and that Landlord shall have the right to draw upon the entire Letter of Credit in any instance in which Landlord would have the right to use, apply or retain any proceeds thereof pursuant to this Section 3. Upon the occurrence of an Event of Default, Landlord may, at its option, use, apply or retain all or any part of the proceeds of the Letter of Credit for the payment of (1) any Rent in arrears or any other sums of which Tenant shall be in default under the Lease and (2) any expenses, costs or damages that the Lease provides are payable by Tenant to Landlord upon or following an Event of Default. Landlord shall not be required to use, apply

or retain the whole or any part of the proceeds of the Letter of Credit, but if Landlord shall use or apply all or any portion of the proceeds of the Letter of Credit in accordance with the immediately preceding sentence, Tenant shall, within ten (10) business days after the receipt of a written demand made by Landlord, deposit with Landlord a sum sufficient to restore the amount of security held by Landlord to the amount required to be deposited on the date of this Amendment, which may be in the form of a letter of credit meeting the requirements of Section 3(A) or a cash deposit. Tenant's failure to so restore the security held by Landlord within such ten (10) business day period shall constitute an Event of Default.

(D) Tenant shall not assign or encumber the Letter of Credit without Landlord's express written consent. Neither Landlord nor its successors or assigns shall be bound by any assignment or encumbrance of the Letter of Credit unless Landlord has given its express written consent. Nothing in this Section (D) shall limit Tenant's right to assign the Lease in accordance with the provisions of Article 16 of the Lease. Landlord shall have the right, at any time and from time to time, to transfer the Letter of Credit to any purchaser or lessee of the entire Building, provided Landlord notifies Tenant of such transfer prior to, contemporaneously with, or promptly following, such transfer. Upon any such transfer and notice thereof, Tenant agrees to look solely to the new owner or lessee for the return of the Letter of Credit.

(E) Provided that Tenant shall have fully and faithfully performed all of its obligations under the Lease, Landlord shall refund the Letter of Credit, or any remaining balance, or any cash security delivered to Landlord by Tenant in accordance with this Section 3, to Tenant or, at Landlord's option, to the last assignee of Tenant's interest under the Lease, within ten (10) business days after the expiration or earlier termination of the Term and Tenant's vacation and surrender of exclusive possession of the Premises to Landlord in the condition required by the provisions of the Lease. Landlord's obligations under this Section 3(E) shall survive the expiration or earlier termination of the Term.

4. Rent Credit . Tenant acknowledges that $100,000.00 was credited against Base Rent in the month of July 2012, as contemplated by that letter agreement dated June 13, 2012 between Tenant and Landlord.

5. Lease Ratified . Except as modified by this Amendment, the Existing Lease and all covenants, agreements, terms and conditions thereof shall remain in full force and effect, and are hereby ratified and confirmed.

6. Successors and Assigns . The Covenants, agreements, terms and conditions contained in this Amendment shall bind and inure to the benefit of the parties hereto and their respective successors and, except as otherwise provided in the Lease, their respective assigns.

7. Changes to be in Writing . This Amendment may not be changed orally, but only by a writing signed by the party against whom enforcement thereof is sought.

8. Not Binding Until Executed by Landlord . This Amendment shall not be binding in any respect upon Landlord or Tenant until a counterpart hereof is executed by Landlord and delivered to tenant.

9. Counterparts . This Amendment may be executed by one or more of the parties hereto on any number of separate counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument.

[SIGNATURE(S) ON FOLLOWING PAGE(S)]

IN WITNESS WHEREOF , the parties hereto have executed this Amendment as of the day and year first above written.

LANDLORD:

TRIZECHAHN 1065 AVENUE OF THE AMERICAS PROPERTY OWNER LLC,
a Delaware limited liability company

By: /s/ Adam R. Goldenberg
Name: Adam R. Goldenberg
Title: Market Managing Director

TENANT:

SEAMLESS NORTH AMERICA, LLC.
a Delaware limited liability company

By: /s/ Ted Pastva
Name: Ted Pastva
Title: VP Finance

Exhibit A

Letter of Credit

131608.00412/7178966v.5

EXHIBIT 10.11

SECOND AMENDMENT OF LEASE

This Second Amendment of Lease Agreement (this " Amendment "), dated as of the 26 th day of July 2013, by and between **TRIZECHAHN 1065 AVENUE OF THE AMERICAS PROPERTY OWNER LLC,** a Delaware limited liability company (" Landlord "), and **SEAMLESS NORTH AMERICA, LLC** (formerly known as Seamlessweb Professional Solutions, LLC), a Delaware limited liability company (" Tenant ").

W I T N E S S E T H :

WHEREAS, Landlord and Tenant are the present parties to a lease dated as of May 19, 2011, as amended by that Amendment of Lease Agreement dated as of October 29, 2012 (as amended, the " Existing Lease "), demising to Tenant the entire fifteenth (15th) floor as more particularly set forth in the Existing Lease in Landlord's building known as 1065 Avenue of the Americas, New York, New York.

WHEREAS, Landlord and Tenant desire to amend the Existing Lease to allow Tenant to store equipment on the 16th floor of the Building on the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, Landlord and Tenant agree as follows:

1. Definitions . All capitalized terms contained in this Amendment shall, for the purposes hereof, have the same meanings ascribed to them in the Existing Lease unless otherwise defined herein. As used herein, the term " Lease " shall mean the Existing Lease, as amended by this Amendment and as hereafter amended.

2. Equipment . Landlord and Tenant acknowledge that Tenant is presently storing the equipment represented on Exhibit A attached hereto (the " Equipment ") on the southwest setback of the 16th floor of the Building (the " Setback "). Tenant may continue storing the Equipment on the Setback during the Term. Tenant may maintain and repair the Equipment, provided that Tenant is accompanied by a representative of Landlord in each instance of entry onto the Setback. Landlord and Tenant shall cooperate in the scheduling of any such entry. Tenant shall use commercially reasonable efforts not to interfere with the business operations of the tenant occupying the 16th floor of the Building in entering the 16th floor premises to access the Setback, or during any maintenance, repair or use of the Equipment. Tenant shall have no right to access or enter the Setback without a representative of Landlord present. All maintenance and repair of the Equipment shall be at Tenant's cost. Tenant hereby agrees to indemnify Landlord and the Landlord Indemnified Parties from and against any and all liability, loss, claims, demands, damages and expenses (including reasonable attorneys' fees, disbursements and court costs) due to or arising out of (a) personal injury or loss of life or (b) any damage to the Setback, the Building or any personal property of the tenant or occupant of the 16th floor, relating, in the case of either (a) or (b) above, to the Equipment.

3. Lease Ratified . Except as modified by this Amendment, the Existing Lease and all covenants, agreements, terms and conditions thereof shall remain in full force and effect, and are hereby ratified and confirmed.

4. Successors and Assigns . The covenants, agreements, terms and conditions contained in this Amendment shall bind and inure to the benefit of the parties hereto and their respective successors and, except as otherwise provided in the Lease, their respective assigns.

5. Changes to be in Writing . This Amendment may not be changed orally, but only by a writing signed by the party against whom enforcement thereof is sought.

6. Not Binding Until Executed by Landlord and Tenant . This Amendment shall not be binding in any respect upon Landlord or Tenant until a counterpart hereof is executed by each of Landlord and Tenant and delivered to the respective other party.

7. Counterparts . This Amendment may be executed by one or more of the parties hereto on any number of separate counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument.

[SIGNATURE(S) ON FOLLOWING PAGE(S)]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first above written.

LANDLORD:

TRIZECHAHN 1065 AVENUE OF THE AMERICAS PROPERTY OWNER LLC, a Delaware limited liability company

By: /s/ Adam R. Goldenberg
Name: Adam R. Goldenberg
Title: Market Managing Director

TENANT:

SEAMLESSWEB NORTH AMERICA, LLC, a Delaware limited liability company

By: /s/ Ted Pastva
Name: Ted Pastva
Title: VP Finance

Exhibit A

Equipment

131608.00412/7195303v.3

THIRD AMENDMENT OF LEASE

This Third Amendment of Lease Agreement (this '' Third Amendment "), dated as of the 27 th day of September 2017, by and between **TRIZECHAHN 1065 AVENUE OF THE AMERICAS PROPERTY OWNER LLC,** a Delaware limited liability company (" Landlord "), as landlord, and **GRUBHUB HOLDINGS INC.,** a Delaware corporation, (as successor-in-interest to SEAMLESS NORTH AMERICA, LLC, formerly known as SEAMLESSWEB PROFESSIONAL SOLUTIONS, LLC), a Delaware corporation having an address at 111 W. Washington Street, Suite 2100, Chicago, Illinois 60602 (" Tenant "), as tenant.

WITNESSETH:

WHEREAS, Landlord and Tenant are the present parties to a lease dated as of May 19, 2011 (the " Original Lease "), which Original Lease was amended by (i) that certain Amendment of Lease Agreement dated as of July 26, 2013 (the " First Amendment ") and (ii) that certain Second Amendment of Lease dated as of July 26, 2013 (the " Second Amendment "; the Original Lease, as amended by the First Amendment and the Second Amendment, collectively, the " Existing Lease "), pursuant to which Existing Lease Landlord leases to Tenant the entire fifteenth (15 th) floor in the building known as 1065 Avenue of the Americas, a/k/a 5 Bryant Park, New York, New York consisting of 28,681 rentable square feet (the " Original Premises "), all as more particularly set forth in the Existing Lease;

WHEREAS, effective as of December 31, 2014, SEAMLESS NORTH AMERICA, LLC was merged with and into GRUBHUB HOLDINGS INC., and therefore GRUBHUB HOLDINGS INC. succeeded to the position of Tenant under the Lease;

WHEREAS, by notice dated July 14, 2017, Landlord delivered a "First Offer Notice" to SEAMLESS NORTH AMERICA, LLC pursuant to Article 29 of the Existing Lease with respect to certain space in the Building known as Suites 1300 and 1320 (collectively, the " 13 th Floor Premises "), as set forth on Exhibit A attached hereto, with respect to which 13 th Floor Premises SEAMLESS NORTH AMERICA, LLC has a right of first offer to lease, in accordance with the terms of the Existing Lease and said First Offer Notice;

WHEREAS, Tenant, as successor-in-interest to SEAMLESS NORTH AMERICA, LLC under the Existing Lease, exercised its right of first offer to lease the 13 th Floor Premises upon the terms of the First Offer Notice and the Existing Lease;

WHEREAS, Landlord and Tenant desire to amend the Existing Lease to provide that, in addition to the Original Premises and the 13 th Floor Premises, Landlord will lease to Tenant certain space consisting of the entire twelfth (12 th) floor of the Building, as set forth on Exhibit B attached hereto (the " 12 th Floor Premises ", and together with the 13 th Floor Premises, the " Additional Premises ") and

WHEREAS, Landlord and Tenant desire to amend the Existing Lease to provide for, among other things, the memorialization of Landlord's leasing to Tenant of the Additional Premises, all upon the terms and conditions of this Third Amendment, as more fully set forth below.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, Landlord and Tenant agree as follows:

1. Definitions . All capitalized terms contained in this Third Amendment shall, for the purposes hereof, have the same meanings ascribed to them in the Existing Lease unless otherwise defined herein. As used herein, the term " Lease " shall mean the Existing Lease, as amended by this Third Amendment and as hereafter amended. Commencing on the 12 th Floor Premises Commencement Date (hereinafter defined) and continuing through the date immediately preceding the 13 th Floor Premises Commencement Date, " Premises, " as used in the Lease, shall mean the Original Premises and the 12 th Floor Premises . From and after the 13 th Floor Premises Commencement Date (hereinafter defined), " Premises, " as used in the Lease, shall mean the Original Premises and the Additional Premises

2 . 12 th Floor Premises .

(A) The " 12 th Floor Premises Commencement Date " shall mean the date on which Landlord shall deliver possession of the 12 th Floor Premises to Tenant in broom-clean condition and free of all tenancies, licenses, and third party rights and with the 12 th Floor Work (hereinafter defined) Substantially Completed; provided that the 12 th Floor Premises Commencement Date shall not occur prior to January 1, 2018, From and after the 12 th Floor Premises Commencement Date, the 12 t h Floor Premises shall be leased to Tenant upon all of the terms and conditions of the Existing Lease, except to the extent herein modified and amended. Tenant covenants and agrees to take physical possession of the 12 th Floor Premises on the 12 th Floor Premises Commencement Date. Tenant shall have no right to enter the 12 t h Floor Premises until Landlord shall tender possession, unless Tenant shall obtain Landlord's prior written consent to such entry. Notwithstanding the foregoing, upon Tenant's request, Landlord and Tenant shall arrange for Tenant's entry into the 12 th Floor Premises, accompanied by a representative of Landlord, prior to the 12 th Floor Premises Commencement Date, to permit Tenant to measure the 12 th Floor Premises; provided, however, if substantial completion of the 12 th Floor Work is delayed by any Tenant Delay (hereinafter defined), such 12 th Floor Work shall be deemed to be substantially complete as of the date substantial completion would have occurred but for such Tenant Delay. " Tenant Delay " shall mean any delay that Landlord may encounter in the completion of such work by reason of any act, neglect, failure or omission of Tenant, its agents, servants, contractors, architects or employees, including, without limitation, any delay due to Tenant's entry into the 12 th Floor Premises prior to the 12 th Floor Premises Commencement Date as contemplated in this Section 2(A). When the 12 th Floor Premises Commencement Date is determined, Landlord and Tenant shall execute an agreement setting forth the 12 th Floor Premises Commencement Date and the 12 th Floor Premises Rent Commencement Date (as hereinafter defined), provided that any failure of the parties to enter into such agreement shall not affect the occurrence of such dates as provided under this Third Amendment.

(B) By taking possession of any portion of the 12 th Floor Premises hereunder, except as otherwise may be expressly set forth in this Third Amendment, Tenant shall be deemed to have accepted the 12 th Floor Premises as being in good order, condition and repair, and otherwise in its then existing "as is" and "where is" condition as of the 12 th Floor Premises Commencement Date. Landlord shall not be obligated to perform any work whatsoever to prepare the 12 th Floor Premises for Tenant, except that, prior to the 12 th Floor Premises Commencement Date, Landlord shall have substantially completed work described on Exhibit C annexed hereto (the " 12 th Floor Work ") in accordance with all applicable Laws, at Landlord's cost. Landlord shall not be obligated to perform any work whatsoever to prepare the 12 th Floor Premises for Tenant other than the 12 th Floor Work.

3. 13 th Floor Premises.

(A) The " 13 th Floor Premises Commencement Date" shall mean the date on which Landlord shall deliver possession of the 13 th Floor Premises to Tenant in broom-clean condition and free of all tenancies, licenses, and third party rights but otherwise in its then "as-is" and "where-is" condition as of the 13 th Floor Premises Commencement Date; provided, however, that the 13 th Floor Premises Commencement Date shall not occur prior to August 1, 2018. From and after the 13 th Floor Premises Commencement Date, the 13 th Floor Premises shall be leased to Tenant upon all of the terms and conditions of the Existing Lease, except to the extent herein modified and amended. Tenant covenants and agrees to take physical possession of the 13 th Floor Premises on the 13 th Floor Premises Commencement Date. Tenant understands and acknowledges that the 13 th Floor Premises is occupied by other tenants and that Tenant shall have no right to enter the 13 th Floor Premises until Landlord shall tender possession. Notwithstanding the foregoing, upon Tenant's request to the extent permitted under the existing leases with respect to the 13 th Floor Premises, Landlord agrees to request that the existing tenant permit Tenant's one-time entry into the 13 th Floor Premises, accompanied by a representative of Landlord, prior to the 13 th Floor Premises Commencement Date, to permit Tenant to measure the 13 th Floor Premises; provided, however, that any such access shall be subject to the limitations and conditions set forth in such existing leases. When the 13 th Floor Premises Commencement Date is determined, Landlord and Tenant shall execute an agreement setting forth the 13 th Floor Premises Commencement Date and the 13 t h Floor Premises Rent Commencement Date (as hereinafter defined) and the Expiration Date (as hereinafter modified), provided that any failure of the parties to enter into such agreement shall not affect the occurrence of such dates as provided under this Third Amendment.

(B) Landlord shall not be obligated to perform any work whatsoever to prepare the 13 th Floor Premises for Tenant's occupancy thereof. By taking possession of any portion of the 13 th Floor Premises hereunder, Tenant shall be deemed to have accepted the 13 th Floor Premises as being in good order, condition and repair, and otherwise in its then existing "as is" and "where is" condition as of the 13 th Floor Premises Commencement Date.

Notwithstanding the foregoing, in the event that during the performance of the Additional Premises Initial Improvements (as hereinafter defined) in the 13 th Floor Premises it is determined that there are any Hazardous Materials existing in the 13 th Floor Premises in violation of any Law, then following written notice thereof from Tenant, Landlord shall cure such violation of Law by either encapsulating or removing such Hazardous Materials from the Premises. In the event that any such encapsulation or removal work by Landlord actually delays the performance of the Additional Premises Initial Improvements in the 13 th Floor Premises, then for each day of such actual delay, the abatement period for the 13 th Floor Premises set forth in Section 6.(A)4(ii i) below shall be increased by one (1) day .

4. Additional Premises.

(A) Tenant acknowledges that, except as may otherwise be expressly provided in the Existing Lease, neither Landlord, nor any employee, agent nor contractor of Landlord has made any representation or warranty concerning the Land, Building, Common Areas, Original Premises or Additional Premises, or the suitability of any of the foregoing for the conduct of Tenant's business. Landlord reserves for Landlord's exclusive use all of the following (other than as installed by Tenant for Tenant's exclusive use) that may be located in the Additional Premises: janitor closets, stairways and stairwells; fans, mechanical, electrical, telephone and similar rooms; and elevator, pipe and other vertical shafts, flues and ducts,

(B) If Landlord shall be unable to give possession of the 12 th Floor Premises or the 13 th Floor Premises to Tenant as set forth herein, on any specific date for any reason, Landlord shall not be subjected to any damages or other liability, or be deemed in default under the Lease for the failure to give possession of the 12 th Floor Premises or the 13 th Floor Premises, as applicable, on such date, except as otherwise provided herein with respect to rent abatement. No such failure to give possession of the 12 th Floor Premises or the 13 th Floor Premises on any specific date shall affect the validity of the Lease or the obligations of Tenant under the Lease or be deemed to extend the Term beyond the Expiration Date. Tenant hereby waives any rights to rescind this Third Amendment and/or the Lease which Tenant might otherwise have pursuant to Section 223-a of the Real Property Law of the State of New York, or pursuant to any other law of like import now or hereafter in force. Notwithstanding the foregoing, if Landlord is unable to deliver the 12th Floor Premises on or before February 1, 2018, as adjusted for Tenant Delay and Force Majeure, the abatement period with respect to the 12 th Floor Premises set forth in Section 6(A)(4)(ii) below shall be increased by one (1) day for each day after February 1, 2018 that the 12 th Floor Premises is not so delivered. Furthermore, if Landlord is unable to deliver the 12th Floor Premises on or before April 1, 2018, as adjusted for Tenant Delay and Force Majeure, the abatement period with respect to the 12 th Floor Premises set forth in Section 6(A)(4)(ii) below shall be increased by two (2) days for each day after April 1, 2018 that the 12 th Floor Premises is not so delivered and the adjustment to the abatement period described in the previous sentence shall not be applicable from and after April 1, 2018. Tenant shall not be entitled to any adjustment to the abatement period set forth in Section 6(A)(4)(iii) below; provided, however, that in the event that the existing tenants in the 13 th Floor Premises fail to surrender the 13 th Floor Premises to Landlord by August 1, 2018, Landlord agrees to use diligent efforts to cause such tenants to surrender the 13 th Floor Premises. In furtherance thereof, in the event such tenants fail to surrender the 13 th Floor Premises by September 1, 2018, then Landlord agrees to enforce the provisions of the holdover provisions of such tenants leases, including, without limitation, filing an unlawful detainer suit or other applicable court action.

5. Term . The Term of the Lease is hereby extended for an additional period so that the "Expiration Date" of the Lease shall be deemed to be the last day of the month in which occurs the day immediately preceding the date that is eleven (11) years and two (2) months following the 13 th Floor Premises Commencement Date.

6. Base Rent and Additional Rent.

(A) The Base Rent and Additional Rent (including Tenant's Tax Payment and Tenant's payment of Additional Expenses) attributable to the Original Premises shall continue to be payable as set forth in the Existing Lease, except as otherwise provided herein. Effective as of January 1, 2018, Section 1.1 (i) of the Lease is amended and restated in its entirety as follows:

(i) "Base Rent" shall mean the Rent payable pursuant to Section 4.1, as follows:

(1) With respect to the Original Premises;

(i) beginning on the Commencement Date and continuing through and including the day immediately prior to the fifth (5th) anniversary of the Commencement Date, One Million Six Hundred Six Thousand One Hundred Thirty-Six and No/100 Dollars ($1,606,136 . 00) per an n u m , payable at the rate of One Hundred Thirty-Three Thous and Eight Hundred Forty-Four an d 67/100 Dollars ($133,844.67) per month;

(ii) beginning on the fifth (5 th) anniversary of the Commencement Date and continuing through and including December 31, 2017, One Million Nine Hundred Fifty-Two Thousand Three Hundred Fifty-Five and No/100 Dollars ($1,749,541.00) per annum, payable at the rate of One Hundred Forty-Five Thousand Seven Hundred Ninety-Five and 08/100 Dollars ($145,795.08) per month;

(iii) beginning on January 1, 2018 and continuing through and including the day immediately prior to the date which is five (5) years and seven (7) months after the 12 th Floor Commencement Date, Two Million Sixty-Five Thousand Thirty-Two and No/100 Dollars ($2,065,032.00) per annum, payable at the rate of One Hundred Seventy-Two Thousand Eighty-Six and No/100 Dollars ($172,086.00) per month; and

(iv) beginning on the date which is five (5) years and seven (7) months after the12 th Floor Commencement Date, and continuing through and including the Expiration Date, Two Million Two Hundred Eight Thousand Four Hundred Thirty-Seven and No/100 Dollars ($2,208,437.00) per annum, payable at the rate of One Hundred Eighty-Four Thousand Thirty-Six and 41/100 Dollars ($184,036.41) per month.

(2) With respect to the 12 th Floor Premises:

(i) beginning on the 12th Floor Premises Commencement Date and continuing through and including the day immediately prior to the date which is six (6) years and two (2) months after the 12 th Floor Premises Commencement Date, Two Million Two Hundred Ninety-Seven Thousand Eight Hundred Eight and No/100 Dollars ($2,297,808. 00) per annum, payable at the rate of One Hundred Ninety-One Thousand Four Hundred Eighty-Four and No/100 Dollars ($191,484.00) per month; and

(ii) beginning on the day that is six (6) years and two months after the 12 th Floor Premises Commencement Date and continuing through and including the Expiration Date, Two Million Four Hundred Fifty-Seven Thousand Three Hundred Seventy-Eight and No/100 Dollars ($2,457,378.00) per annum, payable at the rate of Two Hundred Four Thousand Seven Hundred Eighty-One and 50/100 Dollars ($204,781.50) per month.

(3) With respect to the 13 th Floor Premises:

(i) beginning on the 13th Floor Premises Commencement Date and continuing through and including the day immediately prior to the date that is six (6) years and ten (10) months after the 13 th Floor Premises Commencement Date, One Million Four Hundred Eighty-Four Thousand Nine Hundred Twenty-Eight and No/100 Dollars ($1,484,928.00) per annum, payable at the rate of One Hundred Twenty-Three Thousand Seven Hundred Forty-Four and No/100 Dollars ($123,744.00) per month; and

(ii) beginning on the day that is six (6) years and ten (10) months after the 13 th Floor Premises Commencement Date and continuing through and including the Expiration Date, One Million Five Hundred Eighty-Eight Thousand Forty-Eight and No/100 Dollars ($1,588,048.00) per annum, payable at the rate of One Hundred Thirty-Two Thousand Three Hundred Thirty-Seven and 33/100 Dollars ($132,337.33) per month.

(4) Abatements . Provided Tenant is not in default beyond written notice and applicable cure periods pursuant to the terms of the Lease (i) the Base Rent attributable to the Original Premises shall be abated in its entirety for the period commencing on January 1, 2018 and ending on July 31, 2018; (ii) the Base Rent attributable to the 12 th Floor Premises shall be abated in its entirety for the period commencing on the 12 th Floor Premises Commencement Date and ending on the date which is fourteen (14) months after the 12 th Floor Premises Commencement Date; and (iii) the Base Rent attributable to the 13 th Floor Premises shall be abated its entirety for the period commencing on the 13 th Floor Premises Commencement Date and ending on the date which is twenty-two (22) months after the 13 th Floor Premises Commencement Date. For example, for purposes of clauses (ii) and (iii), subject to the provisions of this Subsection (4), if the applicable Commencement Date is the fifteenth (15 th) day of a month, then the expiration date of the abatement period would be the fourteenth (14 th) day of the fourteenth (14 th) month

thereafter with respect to the 12 th Floor Premises, and the fourteenth (14 th) day of the twenty-second (22nd) month thereafter with respect to the 13 th Floor Premises.

(B) From and after January 1, 2018 (unless otherwise specified below):

(1) " Area of the Premises " means (i) the equivalent of 60,595 rentable square feet (28,681 of which are attributable to the Existing Premises, and 31,914 of which are attributable to the 12 th Floor Premises) as of the 12 th Floor Premises Commencement Date, and (ii) the equivalent of 81,219 rentable square feet (with the addition of 20,624 rentable square feet attributable to the 13 th Floor Premises) as of the 13 th Floor Premises Commencement Date.

(2) "Tenant's Tax Share," solely with respect to the 12 th Floor Premises, shall mean 4.82%.

(3) "Tenant's Tax Share," solely with respect to the 13 th Floor Premises, shall mean 3.12%.

(4) "Tenant's Expense Share," solely with respect to the 12 th Floor Premises, shall mean 4.96%.

(5) "Tenant's Expense Share," solely with respect to the 13 th Floor Premises, shall mean 3.20%.

(6) " Base Tax Year ." solely with respect to Tenant's Tax Payment (as such term is defined in the Existing Lease) obligations relating to the Original Premises and the Additional Premises shall mean the New York City fiscal tax year commencing July 1, 2018 and ending on June 30, 2019. Tenant shall not pay Tenant's Tax Share (i) prior to the first (1 st) anniversary of the 12 th Floor Premises Commencement Date, with respect to the Original Premises and the 12 th Floor Premises, and (ii) prior to the first (1st) anniversary of the 13 th . Floor Premises Commencement Date with respect to the Thirteenth (13 th) Floor Premises.

(7) " Base Expense Year ." solely with respect to Tenant's Additional Expenses (as such term is defined in the Existing Lease) obligations relating to (i) the Original Premises and the 12 th Floor Premises shall mean Landlord's Fiscal Year ending December 31, 2018; and (ii) the 13 th Floor Premises shall mean the average of Expenses with respect to Landlord's Fiscal Year ending December 31, 2018 and Expenses with respect to Landlord's Fiscal Year ending December 31, 2019.

7. Tenant Improvements and Landlord's Contributions.

(A) Additional Premises Initial Improvements . Tenant intends to undertake renovations in the 12 th Floor Premises and the 13 th Floor Premises to prepare the same for Tenant's occupancy (the " Additional Premises Initial Improvements "). As soon as is reasonably practicable after the Date of this Third Amendment. Tenant shall deliver to Landlord, for Landlord's approval, construction drawings for the Additional Premises initial Improvements. Such construction drawings shall reflect Alterations that would not (a) alter the exterior of the Building in any way or affect the exterior appearance of the Building, (b) exceed or adversely affect the capacity, maintenance, expenses or integrity of the Building's structure or any of its components, including, without limitation, the Building Systems, (c) affect the certificate of occupancy for the Building or necessitate the performance of any work by Landlord in the Building or (d) adversely affect the premises of any other tenants or occupants of the Building. Within ten (10) business days following Landlord's receipt of such construction drawings, Landlord shall notify Tenant, either approving such construction drawings or specifying for Tenant, in reasonable detail, Landlord's reasons for withholding approval and any required modifications. Within five (5) business days following receipt of Landlord's response to the construction drawings, if the same were not approved, Tenant shall revise such construction drawings to reflect Landlord's responses. Such process shall continue, with each party responding to the other within five (5) business days after such party's receipt of the revised construction drawings or response thereto, as applicable, until Landlord approves such construction drawings. If Landlord fails to approve the construction drawings, or respond to the same with reasonable detail indicating its reasons for disapproval within the aforesaid ten (10) business day period, or within five (5) business days following any resubmission thereof (which five (5) business day period shall be extended by one (1) day for each day beyond the five (5) business days provided for response that Tenant fails to revise such construction drawings to reflect Landlord's responses), and if thereafter Landlord in either case also fails to approve or so respond to Tenant within five (5) business days after receipt from Tenant of a notice (a " Plan Notice ") seeking a response to Tenant's request for approval of the construction drawings, Landlord shall be deemed to have

approved the construction drawings provided that Tenant shall have stated in capitalized letters and bold type (a) on the envelope of the Plan Notice: **"SECOND NOTICE REGARDING CONSTRUCTION DRAWINGS"** and (b) on the first page of the Plan Notice: **"LANDLORD'S FAILURE TO RESPOND TO TENANT REGARDING THE CONSTRUCTION DRAWINGS WITHIN FIVE (5) BUSINESS DAYS AFTER RECEIPT OF THIS NOTICE SHALL BE DEEMED TO BE LANDLORD'S APPROVAL OF SUCH CONSTRUCTION DRAWINGS. "** Landlord shall not charge Tenant a supervisory fee for Landlord's review of the construction drawings as described in this Section 7(A), but Tenant shall reimburse Landlord for Landlord's reasonable out-of-pocket costs in reviewing such construction drawings. Tenant shall perform the Additional Premises Initial Improvements Original Premises Alterations at Tenant's own cost and expense, in compliance with Laws and the provisions of the Lease (including without limitation Article 10 of the Original Lease), and in accordance with the approved construction drawings developed as set forth above. Landlord agrees to deliver an ACP-5 to Tenant with respect to the condition of the 12 th Floor Premises and the 13 th Floor Premises, subject to and following approval of Tenant's plans for the Additional Premises Initial Improvements and receipt of Tenant's PW-I documents.

(B) Original Premises Alterations . Tenant intends to perform certain Alterations in the Original Premises, which shall be performed at Tenant's own cost and expense, in compliance with Laws and the provisions of the Lease (including without limitation Article 10 of the Original Lease), and in accordance with the construction drawings developed and approved in accordance with said Article 10 (the "Original Premises Alterations").

(C) Landlord's Contribution . Notwithstanding the last sentence of Section 7(A) and Section 7(B), provided that no Event of Default shall at the time of any disbursement have occurred and be continuing, Landlord shall contribute up to Eight Million Three Hundred Ninety-One Thousand Two Hundred Thirty and 00/100 Dollars ($8,391,230.00) toward the cost of the Additional Premises Initial Improvements; provided that (i) no more than One Hundred Three Thousand One Hundred Twenty and No/100 Dollars ($103,120.00) may be applied toward the cost of demolition of the 13 th Floor Premises, and (ii) at least Five Hundred Seventy-Three Thousand Six Hundred Twenty and No/100 Dollars ($573,620.00) (" Landlord's Contribution ") shall be applied toward the cost of the Original Premises Alterations (up to fifteen percent (15%) of each of which may be used for architectural, engineering and design costs and the costs of furniture systems), which Landlord shall pay to Tenant as follows: Landlord shall pay up to ninety percent (90%) of Landlord's Contribution in installments no more frequently than thirty (30) days apart throughout the course of performance of the Additional Premises Initial Improvements and the Original Premises Alterations, respectively, each within thirty (30) days after Tenant submits to Landlord (a) copies of paid invoices for the applicable work performed or materials used, (b) lien waivers covering all work for which payment is being requested, (c) an architect's certification stating that the portion of the Additional Premises Initial Improvements or Original Premises Alterations, as applicable, for which payment is being requested has been performed in accordance with the approved construction drawings, and certifying as to the amount due and owing to contractors, and (d) such other evidence that the services performed have been rendered with respect to, and materials used have been incorporated into, such Additional Premises Initial Improvements or Original Premises Alterations, as applicable, as Landlord may reasonably request. Landlord shall pay the remaining ten percent (10%) of Landlord's Contribution following completion of the Additional Premises Initial Improvements and Original Premises Alterations, respectively, and within thirty (30) days after Tenant submits to Landlord (a) copies of paid invoices for the applicable work performed or materials used, (b) final lien waivers with respect to the Additional Premises Initial Improvements or Original Premises Alterations, as applicable, (c) an architect's certification stating that the Additional Premises Initial Improvements or Original Premises Alterations, as applicable, have been completed in accordance with the approved construction drawings, and certifying as to the amount due and owing to contractors, and (d) such other evidence that the services performed have been rendered with respect to, and materials used have been incorporated into, such Additional Premises Initial Improvements or Original Premises Alterations, as applicable, as Landlord may reasonably request.

8. Elevator . Section 7. 2(b) of the Original Lease is hereby amended as follows: (i) to delete the parenthetical in the second sentence and insert the following in lieu thereof "(including during construction of the Additional Premises Initial Improvements and the Original Premises Alterations and move into the 12 th Floor Premises and the 13 th Floor Premises, provided such use shall not interfere with any work being performed by Landlord)" and (ii) to delete the last sentence and insert the following in lieu thereof:" Tenant shall be permitted to use the Building's freight elevators for up to eighty (80) hours in the aggregate, in blocks of 4 consecutive hours, at such other days or times, without charge, in connection with the performance of the Additional Premises Initial Improvements and the performance of the Original Premises Alterations and Tenant's s move into the 12 th Floor Premises and the 13 th Floor Premises.

9. Electric . Tenant ' s consumption of electrical energy at the Additional Premises shall be subject to the terms of Article 8 of the Original Lease as applied to the Additional Premises.

10. Subordination . Section 25. 1(b) of the Original Lease is hereby amended to insert "Landlord agrees to obtain from any current holder of an Encumbrance, and" at the beginning of the first sentence thereof.

11. Right of First Offer. Article 29 of the Original Lease is hereby amended as follows: (i) to delete "(d) all or any portion of the 17 th floor of the Building, shown on Exhibit J hereto, and (e) all or any portion of the 18 th floor of the Building, shown on Exhibit J hereto" and to insert the following in lieu thereof" and (d) all or any portion of the 11 th floor of the Building, shown on Exhibit J-l hereto"; and (ii) to insert "with respect to the ROFO Space on the 13 th , 14 th and 16 th floors of the Building, and existing as of the Effective Date of the Third Amendment to this Lease with respect to the ROFO Space on the 11 th floor of the Building" following "Date of this Lease" where it appears in clauses (i) and (ii). In furtherance of the foregoing, the Lease is hereby amended to insert a new Exhibit J-l, in the form attached hereto as Exhibit D .

12. Termination . Article 30 of the Original Lease is hereby terminated in its entirety and is of no further force or effect.

13. Assumption of Tenant's Obligations . GRUBHUB HOLDINGS INC. hereby confirms and acknowledges that it agrees to assume all of the terms, covenants, obligations, conditions, and agreements to be observed or performed by the Tenant under the Lease, whether accruing prior to, or following, the date of this Third Amendment.

14. Guaranty . As a material inducement to Landlord to enter into this Third Amendment, Tenant shall cause to be delivered to Landlord, simultaneously with the execution of this Third Amendment, the guaranty of GrubHub Inc., a Delaware corporation, in the form annexed hereto as Exhibit E (the '' Guaranty "). Tenant hereby represents and warrants to Landlord that the sole assets and liabilities of the GrubHub Inc. is the entity, GrubHub Holdings, Inc.

15. Brokerage . Each of Landlord and Tenant represents and warrants to the other that it dealt with no broker or agent who negotiated or was instrumental in negotiating or consummating this Third Amendment other than CBRE, Inc. (the " Broker "). Neither party knows of any real estate broker or agent who is or might be entitled to a commission or compensation in connection with this Third Amendment, other than the Broker. Landlord shall pay ail fees, Commissions or other compensation payable to the Broker pursuant to a separate agreement between Landlord and the Broker. Tenant and Landlord shall indemnify and hold each other harmless from and against any and all claims, damages, losses, costs and expenses incurred by the indemnified party resulting from any claims asserted against the indemnified party by brokers or agents other than the Broker claiming through the indemnifying party in connection with this Third Amendment. In addition to and not by way of limitation of the foregoing. Tenant shall indemnify and hold harmless Landlord from and against any and all claims, damages, losses, costs or expenses incurred by Landlord resulting from any claims asserted by Cushman & Wakefield, Inc. in connection with this Third Amendment.

16. Lease Ratified . Except as modified by this Third Amendment, the Existing Lease and all covenants, agreements, terms and conditions thereof shall remain in full force and effect, and are hereby ratified and confirmed.

17. Successors and Assigns . The covenants, agreements, terms and conditions contained in this Third Amendment shall bind and inure to the benefit of the parties hereto and their respective successors and, except as otherwise provided in the Lease, their respective, assigns.

18. Changes to be in Writing . This Third Amendment may not be changed orally, but only by a writing signed by the party against whom enforcement thereof is sought.

19. Not Binding Until Executed by Landlord and Tenant . This Third Amendment shall not be binding in any respect upon Landlord or Tenant until a counterpart hereof is executed by each of Landlord and Tenant and delivered to the respective other party.

20 . Counterparts . This Third Amendment may be executed by one or more of the parties hereto on any number of separate counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument. Signatures of the parties to this Third Amendment via facsimile or e-mail (by PDF) shall be treated as and have the same binding effect as original signatures hereon.

[SIGNATURE(S) ON FOLLOWING PAGE(S)]

IN WITNESS WHEREOF , the parties hereto have executed this Amendment as of the day and year first above written.

LANDLORD:

TRIZECHAHN 1065 AVENUE OF THE AMERICAS PROPERTY OWNER LLC, a Delaware limited liability company

By: /s/ Mark Smith
Name: Mark Smith
Title: Managing Director

TENANT:

GRUBHUB HOLDINGS INC ., a Delaware corporation

By: /s/ Adam Dewitt
Name: Adam Dewitt
Title: CFO

EXHIBIT 31.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO RULES 13a-14(a) AND 15d-14(a) OF THE SECURITIES
EXCHANGE ACT OF 1934, AS ADOPTED PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Matthew Maloney, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of GrubHub Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

By: /S/ MATTHEW MALONEY
Matthew Maloney
Chief Executive Officer and Director

Date: November 8, 2017

EXHIBIT 31.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO RULES 13a-14(a) AND 15d-14(a) OF THE SECURITIES
EXCHANGE ACT OF 1934, AS ADOPTED PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Adam DeWitt, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of GrubHub Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

By: /S/ ADAM DEWITT
Adam DeWitt
Chief Financial Officer and Treasurer

Date: November 8, 2017

EXHIBIT 32.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER

PURSUANT TO 18 U.S.C. 1350,
AS ADOPTED PURSUANT TOSECTION 906
OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of GrubHub Inc. (the "Company") on Form 10-Q for the fiscal quarter ended September 30, 2017 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Matthew Maloney, Chief Executive Officer and Director of the Company, certify, as of the date hereof and solely for purposes of and pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

1. The Report fully complies with the requirements of section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company at the dates and for the periods indicated.

By: /S/ MATTHEW MALONEY
Matthew Maloney
Chief Executive Officer and Director

Date: November 8, 2017

EXHIBIT 32.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER

PURSUANT TO 18 U.S.C. 1350,
AS ADOPTED PURSUANT TOSECTION 906
OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of GrubHub Inc. (the "Company") on Form 10-Q for the fiscal quarter ended September 30, 2017 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Adam DeWitt, Chief Financial Officer and Treasurer of the Company, certify, as of the date hereof and solely for purposes of and pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

1. The Report fully complies with the requirements of section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company at the dates and for the periods indicated.

By: /S/ ADAM DEWITT
Adam DeWitt
Chief Financial Officer and Treasurer

Date: November 8, 2017