

RXR PROVIDER AGREEMENT

The Undersigned, on behalf of itself, its subcontractors and/or agents (hereinafter collectively referred to as the "Provider"), in consideration of RXR Realty, LLC and its affiliates (hereinafter collectively referred to as "RXR") permitting the Provider to deliver goods, provide services, and/or perform any work at 237 Park Avenue (the "Building"), hereby agrees to the following as an express condition precedent to RXR consenting to the Provider delivering any goods, providing services and/or performing any work at the Building.

1. **Indemnity:** To the maximum extent permitted by law, Provider shall indemnify, defend, save and hold harmless RXR, the ground lessee and their respective partners, officers, members, managers, agents, directors, employees and anyone else acting for or on behalf of any of them (herein collectively called "Indemnitees") from and against any and all liability, damage, loss, claims, demands and actions of any nature whatsoever (including attorney's fees and disbursements) that arise out of or are connected with, or are claimed to arise out of or be connected with any act by the Provider or omission to act by the Provider, including without limitation, the delivery of goods, provision of services and/or performance of work by the Provider, any act or omission of the Provider and any accident that happens, or is alleged to have happened, in or about the place where the work is being performed or in the vicinity thereof (a) during the period in which the Provider is performing the Work, either directly or indirectly through a subcontractor or material supplier, or (b) during the period in which any of the Contractor's property, equipment or personnel are in or about such place or the vicinity thereof arising out of or in connection with the delivery of goods, provision of services and/or performance of work by the Provider. Notwithstanding the above, wherever there is a provision in the applicable law governing this Agreement that makes void and unenforceable indemnification of an Indemnatee where the Indemnatee is grossly negligent, in whole or in part, then and in any event such indemnification shall apply only to the maximum extent permitted by such applicable law, and if permitted by law, shall not preclude indemnification other than to the extent that the Indemnatee is grossly negligent. The Provider's obligation to indemnify, defend, save and hold harmless the Indemnitees shall not be limited by the provisions of any Workers' Compensation or similar law.

2. **Insurance:** Prior to the commencement of any work by the Provider and as a condition of commencement, the Provider shall provide proof of insurance coverage covering the work to be performed with minimum limits as specified below, in such form and content as required by RXR, in RXR's sole and absolute discretion:

a) Workers Compensation/Employers Liability (WC/EL) with statutory limits.

b) Commercial General Liability with limits of \$1,000,000 per occurrence for Bodily Injury, Property Damage or Personal Injury including coverage for Contractual Liability, Independent Contractors, and Products/Completed Operations with a limit of \$2,000,000 annual aggregate per project.

c) Business Automobile covering "any auto" with limits of \$1,000,000 combined single limit per accident for Bodily Injury and Property Damage.

d) Umbrella Liability with limits of \$5,000,000 per occurrence and annual aggregate per project, except high hazards operations where higher limits would be required.

e) All policies except the WC/EL shall include the RXR, Ground Lessee, (appropriate management co) and all allied, associated, owned, managed, controlled, operated, affiliated or subsidiary companies, organizations, LLCs, joint ventures or partnerships, active or inactive as they now exist or may exist in the future, as additional insured's in a form acceptable to the Owner. Coverage required under this provision shall be primary and non-contributory. Insurance carriers must be licensed in New York and rated at least **A VIII by A.M. Best**.

f) Provider shall also provide Owner with certificates of insurance for such policies evidencing coverage and providing for thirty (30) days' notice of cancellation by the insurance carrier to Owner before commencing work.

g) Provider agrees not to make claims against or seek to recover from RXR for loss or damage to Provider's property or property of others insured by Provider's insurance. Provider's insurance policies shall contain a waiver of subrogation in favor of the RXR. Provider waives any right of recovery against RXR for damage to or loss or destruction of Provider's property.

3. Evergreen Clause: This Agreement shall remain in force unless cancelled by RXR upon sixty (60) days written notice to the Provider.

4. Relationship of Parties. Provider does hereby state, represent and warrant that it is an independent contractor. All personnel shall be the responsibility of the Provider and shall not for any purpose be considered employees or agents of RXR. In no event and/or under no circumstances shall the Provider in the performance of its contractual obligation hereunder be deemed or considered to be acting as servant, agent or employee of RXR and has no authority to commit or bind RXR to any liabilities or obligations. Provider agrees that it is solely responsible for and shall comply with all payments due or to become due to all personnel or material suppliers, including the withholding of appropriate taxes and the compliance with any and all worker's compensation laws, union agreements, or similar employer obligations or requirements with respect to all Personnel, and Provider hereby agrees to indemnify and save harmless RXR, and any affiliate, subsidiary, employee or parent corporation of either against any and all liability therefore. Provider shall be responsible for the supervision and direction of the performance of the services by Provider's employees and any approved sub-contractors, suppliers or materialmen. All personnel shall be properly uniformed or suitably attired. Provider agrees to maintain good order and shall be responsible for the good behavior of all personnel while on the premises of the Building. This Agreement shall not be construed in any way to create a partnership or joint venture between the parties. The sole relationship of Provider and RXR is that of an independent contractor.

5. Rules and Regulations. The Provider hereby agrees to abide by any and all rules and regulations of the Building as promulgated by RXR from time to time and in the event of any violation of said rules and regulations by the Provider, the Provider shall be required to indemnify, defend, save and hold harmless the Indemnities from and against any and all liability, damage, loss, claims, demands and actions of any nature whatsoever (including attorney's fees and disbursements) that arise out of or are connected with such violation(s).

6. Governing Law. This Agreement shall be interpreted in accordance with the laws of the State of New York and the parties hereby designate the State of New York as the venue for any and all judicial actions or proceedings. All parties hereby waive, to the fullest extent permitted by law, trial by jury brought by either of the parties hereto against the other on any matter whatsoever arising out of, or in any way, connected with this Agreement and/or any claim for injury or damage hereunder.

PROVIDER:

Amounts in USD

Company Name: _____

Executed By: _____

Title: _____

Date: _____