

AGREEMENT  
BETWEEN  
THE STATE OF NEW YORK, ACTING THROUGH THE  
OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION AND  
THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION,  
AND  
HUDSON RIVER PARK TRUST

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This AGREEMENT is made effective as of the 3<sup>rd</sup> day of April, 1999 (the “Commencement Date”) between the State of New York (“State”), acting through its Office of Parks, Recreation and Historic Preservation (“OPRHP”) and through its Department of Environmental Conservation (“DEC”), and the Hudson River Park Trust (“HRPT”), a public benefit corporation of the State of New York;

Whereas, the Hudson River Park Act, Chapter 592 of the Laws of 1998 of the State of New York (the “Act”), designated and dedicated certain of the property west of Route 9A along the Hudson River in lower Manhattan from Battery Place north to 59<sup>th</sup> Street as the “Hudson River Park” (the “Park”). The Park includes both upland and underwater lands, the western boundary of which is the U.S. pierhead line. Section 3(e) of the Act more particularly describes the extent of the park boundaries;

Whereas, HRPT has been duly created pursuant to Section 5 of the Act, as a body corporate and politic constituting a public benefit corporation, for the purpose of planning, designing, developing, constructing, operating and maintaining the Park as more specifically described and defined in the Act;

Whereas, the Act prescribes that all legal and equitable title to state lands within the boundaries of the Park are, in the case of upland lands, under the authority of OPRHP, and, in the case of underwater lands, under the authority of DEC. Section 7.3(b) of the Act directs the State to enter into an agreement which conveys to HRPT a possessory interest in such state lands within the Park and confirms HRPT’s right to properly exercise the powers and responsibilities provided to HRPT under the Act;

Whereas, this Agreement is intended to fulfill the obligations set forth in Section 7.3(b) of the Act;

Whereas, this Agreement is intended to protect and preserve the State of New York’s ownership and regulatory control over the State-owned property within the Park, through OPRHP and DEC, and to further

the State's interest in creating and maintaining a world class park along the Hudson River that will, among other things, encourage, promote and expand public access to the Hudson River, promote water-based recreation, and enhance the natural, cultural, and historic aspects of the Hudson River; and

Whereas, this Agreement is strictly a conveyance to HRPT of a possessory interest of the state-owned lands within the Park in accordance with Section 7.3(b) of the Act and is not intended and nor shall it be construed to be a waiver or modification of any other statutory and regulatory rights or obligations of the parties hereto. HRPT is and shall continue to be bound by any and all applicable OPRHP and/or DEC statutory and regulatory requirements respecting its development, operation and/or maintenance of the Park.

**NOW, THEREFORE**, the State, acting through OPRHP and DEC, and HRPT agree as follows:

**WITNESSETH**

ARTICLE I

Definitions

SECTION 1.01. For all purposes of this Agreement references to the "General Project Plan," "Hudson River Park," and "Hudson River Park Trust," are intended to have the meaning and be consistent with the definitions of such terms and phrases set forth in Section 3 of the Act. In addition, for all purposes of this Agreement the following terms and phrases shall have the following meanings:

- (a) "Concessionaire" shall mean a person, business, whether for-profit or not-for-profit, educational or research organization granted permission or license by the HRPT pursuant to a written agreement to develop and/or operate a business, educational or research operation within the Park in accordance with the Act requirements and restrictions.

- (b) “Governmental Requirement” shall mean any present or future law, rule, order, ordinance, regulation, permit, consent, certificate, approvals, codes and executive orders of any federal, state and local governmental agency, body or other authority now existing or hereafter created and of any applicable Fire Rating Bureau or other body exercising similar functions.
- (c) "Improvements" shall mean any buildings, structures (including, without limitation, piers) or betterments at the Premises existing as of the effective date of this Agreement or hereafter erected.
- (d) “Incumbent Leases” shall mean all leases, permits or licenses affecting the Premises (or other grant of the right to use or occupy part or all of the Premises) in effect as of the effective date of this Agreement.
- (e) “License” or “Permit” shall mean a grant to a person by HRPT of limited permission or authority to conduct a particular activity or to occupy a portion of the Premises for a specified use without granting any possessory interest or estate in such property.
- (f) “Licensee” or “Permittee” shall mean a person holding a license or permit to conduct a specified activity or undertake a specified use within the Park.
- (g) “Parties” shall mean the participants of this Agreement; the State, acting through OPRHP and DEC, and HRPT.
- (h) “Person” shall mean any individual, corporation, partnership, estate, trust, unincorporated association, governmental entity or agency thereof.
- (i) “Premises” shall mean all the State-owned properties within the boundaries of the Hudson River Park, including any Improvements, as more particularly described in Article II, Section 2.01 below.

- (j) “Project” shall mean the development, operation, and maintenance of the Hudson River Park in conformity with the General Project Plan, as may be amended from time to time in accordance with the terms of the Act.
- (k) “Sublease” shall mean any sublease of a portion of the Premises by HRPT as sublessor.
- (l) “Sublessee” shall mean a person holding a sublease for a portion of the Premises.
- (m) “Term” shall have the meaning set forth in Article II, Section 2.01 below.

## ARTICLE II

### Demised Premises and Term

SECTION 2.01. OPRHP and DEC, for good and valuable consideration, each hereby demise and lease unto HRPT, on behalf of the State of New York and to the full extent of their authority under Section 7.3 of the Act, and HRPT does take and hire to the full extent of the authority provided it under the Act, and subject to the Act and the covenants and agreements hereinafter expressed, the Premises as more particularly defined below, together with all Improvements now or hereafter erected thereon, within the boundaries of the Park. Such lease and grant of authority to HRPT includes the power to regulate, restrict and/or prohibit activities and uses within the park in furtherance of and consistent with the powers granted HRPT in Section 7 of the Act, including but not limited to, the authority to regulate the mooring, docking and operation of vessels within the park.

The Premises are all those State-owned lands which lie within the designated Park bounded on the east by the Route 9A bikeway/walkway and running west to a western boundary along the United States pierhead line; and bounded on the south beginning at the northern bulkhead of Battery Park City, south of Harrison Street; running north to a northern boundary at 35<sup>th</sup> Street.

The Park, as set forth in Section 3(e) of the Hudson River Park Act, shall have the following boundaries and include the following areas:

- (i) The southern boundary shall be the northern boundary of Battery Place and Battery Place extended, provided that the Battery Park city project area as defined in section 1972 of the public authorities law shall not be included within the boundaries of the Park;
- (ii) the northern boundary shall be the northern boundary of 59th street and 59th Street extended;
- (iii) the western boundary shall be the United States pierhead line; and
- (iv) the eastern boundary shall be the western boundary of West Street, Eleventh Avenue or Twelfth Avenue (whichever boundary is more westerly at any point), provided that as any portion of the state highway Route 9-A is completed, as certified by the Commissioner of Transportation of the State, the eastern boundary of the Park adjacent to that portion shall be the western boundary of state highway Route 9-A;
- (v) Thomas F. Smith Park which has been rebuilt as part of the Route 9-A project;
- (vi) the area bounded by 14th street, 15th street, Tenth Avenue and Route 9-A;
- (vii) any additional land adjacent to the park or adjacent to Route 9-A acquired in accordance with the provisions of the Act to expand the Park; and
- (viii) any pier or upland area currently in private ownership that made a part of the Park after acquisition by or transfer to the City or State.

TOGETHER with all franchises, easements, appurtenances, encumbrances and other rights and privileges now or hereafter belonging to the Premises.

As noted in the Act, the eastern portion of the Park is currently subject to an easement to enable the New York State Department of Transportation to complete work on its Route 9A road improvement and

construction project. The Parties acknowledge and agree that the metes and bounds description currently being completed by the New York State Department of Transportation, as part of its Route 9A work, will more particularly describe and specify the eastern boundary of the Park and, in turn, define the full extent of the leased Premises and property interest being conveyed herein. The Parties recognize that completion of such description is not expected to be done prior to execution of this Agreement and agree that description of the Premises and the extent of the property interest being conveyed herein is subject to the prospective inclusion and incorporation herein as Appendix B of such metes and bounds description as though it were fully set forth herein at the time of the Commencement Date.

HRPT, its successors and assigns, shall have quiet enjoyment of the Premises for the purposes herein set forth for a term of forty- nine (49) years (the “Term”) commencing on the Commencement Date and expiring at 12:00 o'clock noon on the forty-ninth (49<sup>th</sup>) anniversary of the Commencement Date (the “Expiration Date”) both dates inclusive, unless this Agreement shall sooner terminate as hereinafter provided. The term of this Agreement may be extended for two (2) additional periods of twenty-five (25) years each, by mutual agreement of the Parties. Unless notice, as provided for in Article XV of this Agreement, is given by one of the Parties within six (6) months of the end of the Term as provided for herein, the term extension shall be automatic.

SECTION 2.02. HRPT acknowledges that it is familiar with and has inspected the Premises, the physical condition thereof (including, without limitation, the fact that the Premises includes substantial portions of waterfront and pier property which may present special difficulties in design, construction and maintenance of the Premises), and the Incumbent Leases. HRPT accepts the Premises as is, in its existing condition and state of repair, and, except as otherwise expressly set forth in this Agreement, HRPT accepts and agrees that: (i) no representations, statements, or warranties, express or implied, have been made by or on behalf of either OPRHP or DEC in respect of the Premises, the status of title hereof, the physical condition

thereof, the zoning or other laws, regulations, rules and orders applicable thereto, taxes, or the use that may be made of the Premises; and (ii) HRPT has not relied on any such representations, statements or warranties.

SECTION 2.03. The terms of this Lease Agreement do not alter either HRPT, OPRHP or DEC's respective jurisdiction or authority under the Act. Accordingly, whenever, pursuant to the terms of this Agreement, HRPT, OPRHP and/or DEC is authorized or obligated to act, it may do so only to the extent of its jurisdiction and the authority provided in the Act or as otherwise provided by law.

### ARTICLE III

#### Construction of Project

SECTION 3.01 HRPT agrees that upon delivery to it of possession of the Premises or any portions thereof, it will on all or such portion commence or cause to be commenced or continue, as appropriate, and complete or cause to be completed, without cost to either OPRHP or DEC, the planning, design, development and construction of the Park, including the repair and/or replacement of any Improvements, in accordance with the Act and the General Project Plan, as that Plan may be amended from time to time in accordance with the terms of the Act.

SECTION 3.02. HRPT shall provide at least thirty (30) days prior written notice to both OPRHP and DEC of any proposed amendments to the General Project Plan in accordance with Article XV below.

SECTION 3.03. Any and all planning, design, construction, lease, concession or other contracts or agreements entered into by HRPT in connection with the development, operation or use of the Premises shall include an express statement that OPRHP and DEC are not parties to such contract or agreement and in no way shall be responsible to any party for any claims of any nature whatsoever arising or which may arise from such contract or agreement unless OPRHP and/or DEC expressly takes over such contract or agreement and then only as to claims arising after such contract or agreement is taken over by either

OPRHP or DEC and in such event only to the extent of their authority over state owned lands in accordance with Section 7.3 of the Act.

#### ARTICLE IV

##### Rent

SECTION 4.01. HRPT shall pay each to OPRHP and DEC in consideration for this Agreement an annual fee of one (\$1) dollar, for a total sum of forty-nine (\$49) Dollars over the term of this Agreement, together with other good and valuable consideration, the receipt of which is hereby acknowledged.

SECTION 4.02. Any rents, profits, revenue and/or income from sales, rentals, or any source whatsoever derived by HRPT from the Premises shall be used only for those purposes contemplated by the Act.

SECTION 4.03. Unless otherwise specifically agreed to in writing, neither OPRHP nor DEC shall be responsible for any water, sewer rents, rates and/or charges for utilities, licenses and permit fees and/or other similar governmental charges which at any time during the term of this Agreement may be assessed, levied, confirmed, imposed upon or become a lien on the Premises.

#### ARTICLE V

##### Insurance Requirements

SECTION 5.01. Within ten (10) days of its execution of this Agreement, HRPT shall provide both OPRHP and DEC with Certificates of Insurance evidencing compliance with all insurance requirements contained in this Agreement. Such Certificates shall be of form and substance acceptable to both OPRHP and DEC. Use of New York State Office of General Services (“OGS”) approved Certificate of Insurance

forms shall constitute an acceptable form. Acceptance and/or approval of a Certificate of Insurance by the OPRHP or DEC does not and shall not be construed to relieve HRPT of any obligations, responsibilities or liabilities under this Agreement.

SECTION 5.02. All insurance required by this Agreement shall be obtained at the sole cost and expense of HRPT; shall be maintained with insurance carriers licensed to do business in New York State, and acceptable to OPRHP and DEC; shall be primary and non-contributing to any insurance or self-insurance maintained by OPRHP or DEC; shall be endorsed to provide that written notice be given to OPRHP and DEC, at least (30) days prior to the cancellation, non-renewal, or material alteration of such policies, which notice evidenced by return receipt of United States Certified Mail, shall be sent, together with a cover letter referencing this Agreement, to OPRHP and DEC at the addresses set forth in Article XV below and shall name the People of the State of New York, the New York State Executive Department, the New York State Office of Parks, Recreation and Historic Preservation, the New York City Region of State Parks, Recreation and Historic Preservation Commission, the Department of Environmental Conservation, and each of their commissioners, officers, agents, employees, successors and assigns as additional insureds thereunder. Insurers and policies obtained through OGS shall be considered acceptable to both OPRHP and DEC.

SECTION 5.03. HRPT shall be solely responsible for the payment of all deductibles and self insured retentions to which such policies are subject. Deductibles and self-insured retentions must be approved by OPRHP and DEC. Such approval shall not be unreasonably withheld.

SECTION 5.04. Each insurance carrier must be rated at least "A-" Class "VII" in the most recently published Best's Insurance Report. If, during the term of a policy, a carrier's rating falls below "A-" Class "VII", the insurance must be replaced no later than the renewal date of the policy with an

insurer acceptable to OPRHP and DEC and rated at least "A-" Class "VII" in the most recently published Best's Insurance Report.

SECTION 5.05. HRPT shall cause all insurance to be in full force and effect as on the Commencement Date and to remain in full force and effect throughout the term of this Agreement and as further required by this Agreement. HRPT shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverages during the period of time such coverages are required to be in effect. Not less than thirty (30) days prior to the expiration date or renewal date of any policy, HRPT shall supply OPRHP and DEC each with updated replacement Certificates of Insurance, and amendatory endorsements.

SECTION 5.06. HRPT, throughout the term of this Agreement, or as otherwise required by this Agreement, shall obtain and maintain in full force and effect, the following insurance with limits not less than those described below and as required by terms of this Agreement, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies):

(a) Commercial General Liability Insurance with a limit of not less than \$10,000,000 per each occurrence. Such liability shall be written on the Insurance Service Office's ("ISO") occurrence form CG 00 01, or a substitute form providing equivalent coverages and shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal and advertising injury, cross liability coverage, liability assumed in a contract (including the tort liability of another assumed in a contract) and explosion, collapse & underground coverage. If such insurance contains an aggregate limit, it shall apply separately to the Premises;

(b) Workers Compensation, Employers Liability, and Disability Benefits as required by New York State;

(c) Comprehensive Business Automobile Liability Insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non-owned automobiles;

(d) In the event that HRPT owns, hires, borrows or otherwise employs a vessel for docking and/or use within the Premises, HRPT shall obtain a Protection and Indemnity insurance policy with a limit of not less than \$5,000,000. Such insurance shall provide coverage at a minimum for loss of life, personal injury and illness of crew, passengers and third-party individuals, damage to cargo on board, damage to piers, docks, buoys and other fixed or floating objects and damage to other vessels and their cargo;

(e) Commercial Property Insurance on the improvements and betterments to the Premises covering at a minimum, the perils insured under the ISO Special Causes of Loss Form (CP 10 30), or a substitute form providing equivalent coverages, including debris removal, demolition and increased cost of construction that are caused by requirements regulating the construction or repair of damaged facilities, including an ordinance and law endorsement, in an amount of not less than the Full Insurable Value of the improvements and betterments to the Premises. Full Insurable Value shall mean actual replacement cost of the Improvements (exclusive of cost of non-insurable portions thereof, such as excavation, foundations and footings);

(f) If any of the Improvements to the Premises contain boilers or other heating or cooling mechanical equipment, then HRPT shall maintain Boiler and Machinery Insurance covering all of the boilers, fired or unfired pressure vessels, heating ventilating and air-conditioning units and any other mechanical equipment which services the Premises and which may malfunction or cause damage to property or injury to persons, in an amount of not less than \$1,000,000. HRPT shall be responsible for ensuring that any such boilers or mechanical equipment are regularly inspected;

(g) If any of the Improvements to the Premises contain plate glass, then HRPT shall maintain Plate Glass Insurance on forms and in amounts acceptable to OPRHP and DEC;

(h) If HRPT uses, stores, handles, processes or disposes of Hazardous Materials, then HRPT shall maintain in full force and effect through the Term, Environmental Impairment Liability insurance with limits of not less than \$1,000,000 providing coverage for bodily injury, property damage or damage as a result of actual alleged or threatened emission, discharge, dispersal seepage, release or escape of pollutants, including loss, cost or expenses incurred as a result of any cleanup of pollutants or in the investigation, settlement or defense of any claim, suit, or proceedings against The People of the State of New York, arising from HRPT's use, storage, handling, processing or disposal of Hazardous Materials;

(i) If HRPT sells distributes, serves or furnishes alcoholic beverages, then HRPT shall maintain in full force and effect through the Term, Liquor Liability Insurance with limits of not less than \$1,000,000; and

(j) During the performance of any construction work, restoration or alteration, HRPT shall maintain builder's risk completed value form covering the perils insured under the ISO special causes of loss form, including collapse, building materials, water damage, and transit and theft of building materials with deductible reasonably approved by the State, in non-reporting form, covering the total value of work performed and equipment, supplies and materials at the location of the job as well as at any off-site storage location used with respect to the Project. The policy shall cover the cost of demolition and debris removal as may be legally necessary by the operation of any law, ordinance or regulation.

SECTION 5.07. Every five years from the effective date of this Agreement (the "Anniversary date"), HRPT shall, in consultation with the New York State Office of General Services, Bureau of Insurance, or any successor thereto, undertake a review and evaluation of the insurance coverages required under this Agreement to determine whether the extent and types of coverages mandated herein provide

sufficient coverage for the Premises and all operations managed or maintained by HRPT. Within six months of such Anniversary date, HRPT shall provide a report of its findings and identify any OGS recommended changes in such insurance coverage to OPRHP and DEC for review and approval. Promptly upon approval from OPRHP and DEC, HRPT shall obtain any additional coverages recommended and as approved by OPRHP and DEC.

SECTION 5.08. Waiver of Subrogation. HRPT shall cause to be included in each of its policies insuring against loss, damage or destruction by fire or other insured casualty a waiver of the insurer's right of subrogation against OPRHP and DEC, or, if such waiver is unobtainable (i) an express agreement that such policy shall not be invalidated if HRPT waives or has waived before the casualty the right of recovery against OPRHP and/or DEC or (ii) other form of permission for the release of OPRHP and/or DEC.

SECTION 5.09. HRPT shall require its Sublessees, Concessionaires, Permittees, Licensees, contractors and subcontractors to carry insurance with the same limits and provisions as provided herein, or with lesser coverages and/or at lower limits as HRPT deems appropriate in consultation with OGS.

## ARTICLE VI

### Covenants Against Waste and Covenants to Repair

SECTION 6.01. HRPT covenants, at its sole cost and expense to improve and keep, or cause the Sublessees, Concessionaires, Permittees, and/or Licensees, to keep, the Premises clean and in good condition and free of accumulations of dirt, rubbish, snow and ice, and to make, or cause its Sublessees, Concessionaires, Permittees, and/or Licensees to make, all repairs (including structural repairs) and replacements necessary, including, without limitation, performing routine maintenance and capital repairs, and securing the Premises during the performance of any and all construction in accordance with

appropriate and applicable safety standards, to maintain the same in a condition appropriate for improvement of similar construction, use and class by OPRHP and DEC in other State parks or recreational areas within the New York City Park and DEC Region. Unless the Parties otherwise agree in writing, all repairs and maintenance shall be made at no cost or expense to OPRHP or DEC and shall be made in accordance with all applicable Governmental Requirements and insurance policies.

## ARTICLE VII

### Governmental Requirements

SECTION 7.01. HRPT shall comply with any and all applicable Governmental Requirements, without regard to the nature or cost of the work required to be done, affecting the Premises or affecting the construction, maintenance, use, operation or occupancy thereof, whether or not the same involve or require any structural changes or additions in or to the Premises, and without regard to whether or not such changes or additions are required on account of any particular use to which the Premises, or any part thereof, may be put; provided, however, that HRPT shall have the right to contest the validity of any Governmental Requirements or the application upon HRPT thereof in accordance with Section 7.02 below.

SECTION 7.02. With respect to any proceeding challenging the validity or applicability of any Governmental Requirement, HRPT shall take all reasonable steps necessary to promptly commence such action after HRPT receives notice from a governmental authority asserting the applicability of such Governmental Requirement and shall prosecute to final adjudication with reasonable dispatch. Notwithstanding the foregoing, HRPT shall promptly comply with any such Governmental Requirement, and compliance shall not be deferred if such non-compliance shall result in the imminent loss or forfeiture

of the Premises, or any part thereof or if OPRHP or DEC shall be in danger of being subject to criminal liability or penalty by reason of non-compliance therewith.

## ARTICLE VIII

### Damage to or Destruction of Improvements

SECTION 8.01. HRPT covenants, with respect to insured or uninsured damage to Premises under the control and/or operation of an authorized Sublessee, Concessionaire, Permittee, and/or Licensee, that it will take, at its sole cost and expense, all appropriate steps (including litigation, if necessary) to ensure that such party restores, replaces, repairs or rebuilds such property and any damaged or destroyed Improvements thereon to the condition, quality and class they were in immediately prior to such damage or destruction, or with such changes or alterations as the Sublessee, Concessionaire, Permittee, and/or Licensee, with the prior consent of HRPT, shall elect to make in conformity with the provisions of Article III hereof. HRPT shall take all appropriate steps to ensure that such Sublessee, Concessionaire, Permittee, and/or Licensee undertakes and executes such restoration, repair, replacement or rebuilding work promptly and with reasonable diligence.

SECTION 8.02. HRPT covenants, with respect to damage or destruction of Premises under HRPT's direct control and operation, that it will take all reasonable measures to restore, replace, repair or rebuild the Improvements damaged or destroyed to the condition, quality and class they were in immediately prior to such damage or destruction, or with such changes or alterations as HRPT, with thirty (30) days prior written notice to OPRHP and DEC, shall elect to make in conformity with the provisions of Article III hereof. Any insurance proceeds received by HRPT as a result of damage or destruction of any portion of the Premises, in whole or in part, shall be used to undertake any needed restoration, repair, replacement or rebuilding work at such property or, if the work is not undertaken, such proceeds shall be

dedicated for maintenance or construction work as may be needed at other State owned properties or Improvements within the Premises.

SECTION 8.03. This Agreement shall not terminate by reason of damage or destruction, total or partial, to any Improvements or by reason of the consequent untenability, in whole or in part, of any Improvement, and HRPT waives any and all rights to quit or surrender the Premises or any part thereof as a consequence of such damage or destruction, unless specifically mandated by subsequent legislation, and HRPT expressly agrees that its obligations hereunder, including the payment of rentals, charges and other monetary obligations shall continue as though there were no damage or destruction.

## ARTICLE IX

### Mechanics' Liens

SECTION 9.01. (a) In case any mechanic's lien shall at any time be filed against the Premises or the Improvements or any part thereof, or if any public improvement lien created or permitted to be created by HRPT shall be filed against any asset of or fund appropriated to OPRHP, DEC, HRPT, or the State of New York, HRPT shall take all appropriate measures to cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If HRPT shall fail to cause such lien to be discharged within ninety days then, in addition to any other right or remedy, OPRHP and/or DEC may, but shall not be obligated to, discharge such lien either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings, or in any event OPRHP and/or DEC shall be entitled, if OPRHP and/or DEC so elects, to compel foreclosure of such mechanic's or public improvement lien by the lienor and to pay the amount of any judgment in favor of the lienor, with interest, costs and allowances. All such sums paid by OPRHP or DEC and all reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred

by OPRHP or DEC or by the State on their behalf in connection with a discharge pursuant to Section 9.01, together with interest thereon at the then-applicable statutory rate from the respective dates of OPRHP and/or DEC's making of each such payment or incurring each such sum, cost or expense, until the date of actual repayment to OPRHP or DEC, as applicable, shall be paid by HRPT to OPRHP or DEC, as applicable, subject to appropriation, within ten (10) days after OPRHP or DEC shall have submitted to HRPT a statement, in reasonable detail, substantiating the amount demanded by OPRHP or DEC.

(b) Nothing in this Agreement shall be deemed or construed in any way as constituting the consent or request of OPRHP or DEC, express or implied, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration or repair with respect to the Premises or the Improvements, or any part thereof. Nothing in this Agreement shall be deemed or construed in any way as giving HRPT any right, power or authority to contract or permit the rendering of any services or the furnishing of any materials that would give rise to filing of any lien against the Premises or the Improvements or any part thereof or any asset of or fund appropriated to OPRHP, DEC, HRPT, or the State. Notice is hereby given that neither OPRHP nor DEC shall be liable for any work performed or to be performed or any materials or services furnished or to be furnished for HRPT or any Subtenant, Concessionaire, Permittee and/or Licensee upon credit, with respect to the Premises or the Improvements, and that no mechanic's lien for such work or materials shall attach to the fee interests of the State, OPRHP or DEC in and to the Premises or any asset of or fund appropriate to OPRHP, DEC, HRPT, or the State.

## ARTICLE X

### Lawful Use of Premises and Surrender Upon Expiration

#### or Earlier Termination of the Agreement

SECTION 10.01. HRPT shall not use or allow the Premises or any part thereof to be used or occupied for any unlawful purpose or for any dangerous or noxious trade or business, or in violation of any Certificate of Occupancy affecting the use of the Improvements, or in violation of the Act, or in violation of the General Project Plan or any amendment thereof, in accordance with Act requirements.

SECTION 10.02. HRPT shall on the last day of the Term or upon any earlier termination of this Agreement (unless this Agreement has been renewed or HRPT has otherwise been given an extension of its right to possess or occupy the Premises), surrender and deliver up the Premises unto the possession and use of OPRHP or DEC, as applicable in accordance with their respective statutory authority over such properties, in good order, condition and repair, reasonable wear and tear excepted, free and clear of all leases and occupancies unless otherwise agreed in to writing by OPRHP and/or DEC, and free and clear of all liens and encumbrances other than those, if any, existing at the date hereof, or any created by OPRHP and/or DEC. There shall be no payment or allowance whatsoever by OPRHP or DEC on account of or for any Improvements at the time of the surrender, or for the contents thereof, equipment therein or appurtenances thereto, whether or not the same or any part thereof shall have been constructed by, paid for, purchased or otherwise acquired by HRPT.

SECTION 10.03. On the last day of the Term or upon any earlier termination of this Agreement HRPT shall deliver to OPRHP or DEC, as applicable in accordance with their respective statutory authority over such properties, HRPT's executed counterparts of all Subleases, Permits, Licenses and other concession or use agreements, and any service and maintenance contracts then affecting the Premises, true and complete maintenance records for the Premises, any permanent or temporary

certificates of occupancy then in effect for any Improvements; all warranties and guarantees then in effect which HRPT has received in connection with any work or services performed at the Premises, together with a duly executed assignment thereof to OPRHP or DEC, as applicable in accordance with their respective statutory authority over such properties, all financial reports, books and records and any and all other documents of every kind and nature whatsoever relating to the Premises.

SECTION 10.04. Six (6) months prior to the end of the Term or within thirty (30) days of any earlier termination of this Agreement HRPT shall provide written notice to all Subtenants, Concessionaires, Permittees, Licensees, and any other legal occupants of the Premises, with a copy to OPRHP or DEC, as applicable in accordance with their respective statutory authority over such properties, of the termination of this Agreement. Such notice shall expressly advise such Subtenants, Concessionaires, Permittees, Licensees, and any other legal occupants of the Premises of the assignment to OPRHP or DEC, as applicable in accordance with their respective statutory authority over such properties, of the operative Sublease or Concessionaire Agreement. If applicable, such notice shall expressly advise such Subtenant's, Concessionaire's, Permittee's, Licensee's, and any other legal occupant's obligation to vacate the Premises and to promptly remove all personal property, unless their operative sublease, concessionaire or occupancy agreement provides otherwise and OPRHP or DEC has consented thereto.

SECTION 10.05. Except as provided in Section 10.06 below, any personal property of HRPT or any Concessionaire, Sublessee, Permittee, Licensee or other occupant remaining on the Premises after the termination of this Agreement and after the removal of HRPT or such Concessionaire, Sublessee, Permittee, Licensee or other occupant from the Premises, may, at the option of OPRHP or DEC, as applicable in accordance with their respective statutory authority over such properties, be deemed to have been abandoned by HRPT or such Concessionaire, Sublessee, Permittee, Licensee or other occupant and

either may be retained by OPRHP or DEC, as applicable in accordance with their respective statutory authority over such properties, as its property or be disposed of, without accountability in such manner as OPRHP or DEC may see fit. Neither OPRHP nor DEC shall be responsible for any loss or damage occurring to any such property owned by HRPT or any Concessionaire, Sublessee, Permittee, Licensee or other occupant.

SECTION 10.06. Prior to any such disposition of personal property considered abandoned by HRPT or a Concessionaire, Sublessee, Permittee, Licensee or other occupant, OPRHP or DEC, as applicable, shall consult with the New York City Department of Parks and Recreation to determine whether the City of New York has rights to any such property.

SECTION 10.07. The provisions of this Article X shall survive any termination of this Agreement.

## ARTICLE XI

### Extent of Liability and Indemnification

SECTION 11.01. Neither OPRHP nor DEC shall be liable in any event whatsoever for any injury, death or damage to HRPT or to any other Person happening on, in or about the Premises, its Improvements and/or appurtenances, nor for any injury or damage to the Premises or to any property belonging to HRPT or to any Person which may be caused by any fire or breakage, or by the use, misuse or abuse of the Improvements, or any street or sidewalk within the Premises, or which may arise from any other cause whatsoever except to the extent any of the foregoing shall have resulted from the negligent or wrongful act or omission on the part of the State of New York, OPRHP, DEC or their respective commissioners, officers, employees, contractors, consultants or assigns, and in such event, only to the extent that such State of New York, OPRHP and/or DEC responsibility or liability is consistent with and

as may be limited by the Court of Claims Act, State Finance Law or other applicable State statutes or requirements.

SECTION 11.02. Neither OPRHP nor DEC shall be liable to HRPT or to any other Person for any failure of water supply, gas, steam or electric current, nor for any injury or damage to any property of HRPT or of any other Person or to the Premises caused by or resulting from gasoline, oil, steam, rain, snow or other substance which may leak or flow from the street, sewer, gas mains, or subsurface area or from any part of the Premises, or leakage of gasoline, oil or other substance from pipes, appliances, sewers or plumbing works therein, or from any other place, nor for interference with light or other incorporeal hereditaments by anybody, or caused by any public or quasi-public work, except to the extent any of the foregoing shall have resulted from the negligent or wrongful act or omission on the part of the State of New York, OPRHP, DEC, or their respective commissioners, officers, employees, contractors, consultants or assigns, and in such event, only to the extent that such State of New York, OPRHP and/or DEC responsibility or liability is consistent with and as may be limited by the Court of Claims Act, State Finance Law or other applicable State statutes or requirements.

SECTION 11.03. In addition to the provisions of Sections 11.01 and 11.02 above, neither OPRHP nor DEC shall be liable to HRPT or to any other Person for any injury or damage to any property of HRPT or of any other Person or to the Premises, arising out of any sinking, shifting, movement, subsidence, failure in load-bearing capacity of, or other matter or difficulty related to, soil, landfill, bulkhead, piers or piers supports, or other surface or subsurface materials, structures or supports, at the Premises, except to the extent any of the foregoing shall have resulted from the negligent or wrongful act or omission on the part of the State of New York, OPRHP, DEC, or their respective commissioners, officers, employees, contractors, consultants or assigns, and in such event, only to the extent that such

State of New York, OPRHP and/or DEC responsibility or liability is consistent with and as may be limited by the Court of Claims Act, State Finance Law or other applicable State statute or requirement.

SECTION 11.04. HRPT shall indemnify and hold harmless the People of the State of New York, the New York State Executive Department, OPRHP and the New York City State Park, Recreation and Historic Preservation Commission, DEC, and their respective commissioners, officers, employees, agents, successors and assigns to the extent of its liability insurance policies as required herein against and from any and all claims by or on behalf of any person arising from the conduct or management of or from any work done by or on behalf of HRPT in or on the Premises.

SECTION 11.05. HRPT will further indemnify and hold harmless the People of the State of New York, the New York State Executive Department, OPRHP, the New York City State Park, Recreation and Historic Preservation Commission, DEC, and their respective commissioners, officers, employees, agents, successors and assigns to the extent of its liability insurance policies as required herein against and from any and all claims arising during the term of this Agreement from any condition therein or arising from any breach or default on the part of HRPT in the performance of any covenant or agreement on the part of HRPT to be performed, pursuant to this Agreement, or arising from any negligence of HRPT, or any sublessee, concessionaire, permittee, licensee or of its or their agents, contractors, subcontractors, servants or employees, or arising from any accident, injury or damage to any person or property during the term of this Agreement in or about Premises and from and against all judgments, costs and expenses and liabilities incurred in as a result of such claim, action or proceeding brought therein.

SECTION 11.06. In the event an action or proceeding is brought against the State, OPRHP, DEC or their respective commissioners, officers, employees, agents or assigns by reason of any such claim, HRPT upon notice from OPRHP and/or DEC, covenants to defend such action or proceedings in the name of OPRHP and/or DEC, at the cost and expense of HRPT, by counsel reasonably satisfactory to OPRHP

and DEC and approved by the Attorney General, as applicable. If HRPT defends any such action to which the State, OPRHP or DEC is made a party, OPRHP and/or DEC, as applicable, shall be entitled to take part in the matter involved, at its election and cost, by counsel of its own choosing, provided that such action by OPRHP or DEC shall not relieve HRPT of its obligation to indemnify the parties for any judgment or settlement amount, nor shall it limit or make void any liability of any insurer of HRPT hereunder in respect to the claim or matter in question.

SECTION 11.07. Further, such indemnification shall not apply to the extent the liability in question arises from the negligent or willful conduct or omission on the part of the State of New York, OPRHP, the New York City State Park, Recreation and Historic Preservation Commission, DEC, or their respective commissioners, officers, employees, agents or assigns.

SECTION 11.08. The provisions of this Article XI shall survive any termination of this Agreement.

## ARTICLE XII

### Assignment and Subletting

SECTION 12.01. Neither this Agreement nor the leasehold estate created hereby shall be assigned without the written consent of OPRHP and DEC.

SECTION 12.02. OPRHP and DEC hereby expressly assign to HRPT, and HRPT hereby accepts from OPRHP and DEC, all of their respective interests, including all rights, privileges, duties and obligations, under the Incumbent Leases. Existing Lessees, Permittees and Licensees have been notified of HRPT's authority and control over the development, operation and maintenance of the Premises. HRPT shall require that this Agreement is attached and its terms and conditions incorporated by reference

in all subsequent concession agreements, subleases, permits and licenses entered into by HRPT or its Concessionaires, Sublessees, Permittees or Licensees for the Premises.

SECTION 12.03. Notwithstanding any contrary provisions set forth in the Standard State Contracting Provisions, annexed hereto as Appendix A, HRPT is hereby empowered, without the need to obtain any further authorization from OPRHP or DEC, to execute, upon a request from any of its Sublessees, Concessionaires, Permittees and/or Licensees, any consents for any mortgage assignment or subleases as may be required under such lease, concession, permit, or license and for which HRPT determines, upon its review and factual confirmation, is warranted and consistent with the purposes of the Hudson River Park Act.

## ARTICLE XIII

### OPRHP and DEC Rights to Perform HRPT Covenants

SECTION 13.01. If HRPT at any time defaults on any duty or obligation hereunder and such default results in a substantial risk to public health or safety or to the environment, OPRHP and/or DEC, after providing HRPT with notice and a thirty (30) day opportunity to cure, may (but shall be under no obligation to) perform such obligation on HRPT's behalf. If HRPT indicates in writing within twenty (20) days after receiving such written notice that it needs an additional, specified period of time to cure any such default and diligently works to cure such default within such specified period of time, OPRHP or DEC, as applicable in accordance with their respective statutory authority over the Premises, may in its discretion accept or deny such request for an extension of time. Performance by OPRHP or DEC in any such instance shall not be considered a waiver or release by OPRHP or DEC of any obligation of HRPT contained in this Agreement. No notice or opportunity to cure has to be given if the risk is imminent, in

which case HRPT shall be informed as soon as practicable of the occurrence and any steps taken to avert or reduce the risk.

SECTION 13.02. All reasonable sums paid by OPRHP or DEC and all reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by OPRHP or DEC in connection with its performance of any obligation pursuant to Section 13.01, together with interest thereon at the then-applicable statutory rate from the respective dates of OPRHP and/or DEC's making of each such payment or incurring each such sum, cost or expense, until the date of actual repayment to OPRHP or DEC, as applicable, shall be paid by HRPT to OPRHP or DEC, as applicable, within ten (10) days after OPRHP or DEC shall have submitted to HRPT a statement, in reasonable detail, substantiating the amount demanded by OPRHP or DEC. Any payment or performance by OPRHP or DEC pursuant to Section 13.01 shall not be deemed to be a waiver or release of any breach or default by HRPT with respect thereto or of the right of OPRHP or DEC to terminate this Agreement or take such other action as may be permissible hereunder or otherwise provided at law or in equity.

## ARTICLE XIV

### Default and Early Termination

SECTION 14.01. OPRHP or DEC may terminate this Agreement if HRPT fails to observe or perform one or more of the terms, conditions, covenant or agreements contained in this Agreement, provide that the failure to perform or observe such term remains unremedied for thirty (30) days after OPRHP or DEC, as applicable in accordance with their respective statutory authority over the Premises, sends written notice of such failure to HRPT. If HRPT indicates in writing within thirty (30) days after receiving written notice that it needs an additional, specified period of time to cure any such default and diligently works to cure such default within such specified period of time, OPRHP or DEC, as applicable

in accordance with their respective statutory authority over the Premises, may in its discretion accept or deny such request for an extension of time. If an extension of time is granted and HRPT fails to cure such default within such specified period of time, OPRHP or DEC, as applicable in accordance with their respective statutory authority over the Premises, may thereafter revoke this Agreement.

SECTION 14.02. Upon the expiration of such thirty (30) days written notice, this Agreement, the Term, and all rights of HRPT hereunder shall expire and terminate as if the date specified in the notice were the expiration date, and HRPT shall quit and surrender the Premises forthwith. If such termination is stayed by court order, then following the expiration of any such stay, OPRHP and/or DEC, as the case may be, to the extent permitted by law or by leave of the court having jurisdiction over the case, shall have the right, at its election, to terminate this Agreement on twenty (20) day written notice to HRPT. Upon the expiration of such twenty (20) day notice period, this Agreement shall cease and HRPT shall immediately quit and surrender the Premises.

SECTION 14.03. OPRHP and DEC shall have the right to terminate this Agreement without notice in the event of dissolution, or any act of bankruptcy or insolvency of, or by HRPT.

## ARTICLE XV

### Notices

SECTION 15.01. Any notice, demand, approval or request under the terms of this Agreement or under any statute, that must or may be given or made by the Parties, must be in writing, and must be given or made by either personal delivery or by mail, as follows:

OPRHP (2 copies):

NYS OPRHP  
Empire State Plaza, Agency Bldg #1  
Albany, New York 12238  
Attn: Office of Counsel

NYS OPRHP, New York City Region  
679 Riverside Drive  
New York, New York 10031  
Attn: Assistant Deputy Commissioner

DEC (3 copies):  
NYS DEC  
50 Wolf Road  
Albany, New York 12233  
Attn: Office of General Counsel

NYSDEC, Region 2  
47-40 21<sup>st</sup> Street  
Long Island City, New York 11101  
Attn: Regional Director  
Attn: Regional Attorney

HRPT (1 copy):  
Hudson River Park Trust  
PMB 267, 295 Greenwich Street  
New York, New York 10007  
Attn: Counsel's Office

Any notice given hereunder shall be deemed delivered when deposited in a United States general or branch post office, enclosed in a registered or certified prepaid wrapper, addressed as provided above.

## ARTICLE XVI

### Cumulative Remedies -- No Waiver -- No Oral Change

SECTION 16.01. The specified remedies to which OPRHP and/or DEC may resort under the terms of this Agreement are cumulative and are not intended to be exclusive of any other remedies or means of redress to which OPRHP or DEC may be lawfully entitled in case of any breach or threatened breach by HRPT of any provision of this Agreement. The failure of OPRHP or DEC to insist that HRPT strictly comply with any and all of the covenants, terms or conditions of this Agreement shall not be construed as a waiver, modification or relinquishment for the future of such covenant, term or condition or of any of OPRHP or DEC's options and/or remedies provided for at law or equity for such HRPT failure. In addition to the other remedies provided for in this Agreement, OPRHP and/or DEC shall be entitled to the restraint by injunction of the violation, or attempted or threatened violation, of any of the covenants, conditions or provisions of this Agreement.

SECTION 16.02. OPRHP and DEC each reserve the right to waive, in whole or in part, any of the obligations or covenants on the part of HRPT to be performed or to cause to be performed hereunder, other than those obligations that HRPT is otherwise legally obligated to perform, including without limitation, those obligations set forth in the Act. Such waiver shall be in writing.

SECTION 16.03. Nothing in this Article XVI is intended to be, nor shall be construed to be, a waiver by HRPT of any obligation OPRHP and/or DEC may have under the Act.

## ARTICLE XVII

### Quiet Enjoyment

SECTION 17.01 OPRHP and DEC each covenant and agree that HRPT upon paying rent, and upon observing and keeping all of the covenants, agreements and provisions of this Agreement on its part to be observed and kept, including HRPT's obligations set forth in the Act, shall lawfully and quietly hold, occupy and enjoy the Premises during the term of this Agreement without hindrance or molestation by or from anyone, subject to the terms hereof.

## ARTICLE XVIII

### Certificates

SECTION 18.01. (a) OPRHP and DEC each agree at any time and from time to time upon not less than thirty (30) days prior written notice by HRPT, to execute, acknowledge and deliver to HRPT a statement in writing certifying that this Agreement is unmodified and in full force and effect (or if there shall have been modification that the Agreement is in full force and effect as modified and identifying such modifications) and stating whether or not to the best knowledge of the signer of such statement HRPT is in default in keeping, observing or performing any term covenant, agreement, provisions,

condition or limitation contained in this Agreement and, if HRPT shall be in default, specifying each such default of which the signer may have knowledge, it being intended that any such statement delivered pursuant to this Section may be relied upon by any prospective Sublessee, Concessionaire, Permittee, or Licensee. However, reliance on such certificate shall not extend to any default as to which the signer had no actual knowledge.

(b) HRPT agrees that it will at any time and from time to time upon not less than thirty (30) days prior written notice by OPRHP or DEC, execute, acknowledge and deliver to OPRHP and/or DEC, as applicable, a statement in writing certifying that this Agreement is unmodified and in full force and effect (or if there shall have been modifications that the Agreement is in full force and effect as modified and identifying such modifications) and stating whether or not, to the best knowledge of the signer of such statement, OPRHP or DEC, as applicable, is in default in keeping, observing or performing any term, covenant, agreement, provision, condition or limitation contained in this Agreement and, if OPRHP or DEC, as applicable, is in default, specifying each such default of which the signer has knowledge.

## ARTICLE XIX

### Invalidity of Particular Provisions

SECTION 19.01. If this Agreement or any term or provision thereof or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

## ARTICLE XX

### Miscellaneous

SECTION 20.01. There shall be no merger of this Agreement or the leasehold estate created hereby with the fee estate in the Premises or any part thereof by reason of the same entity acquiring or holding, directly or indirectly, this Agreement or the leasehold estate created hereby or any interest in this Agreement or in such leasehold estate as well as the fee estate in the Premises.

SECTION 20.02. Except as specifically set forth herein this Agreement and the terms and conditions hereof shall enure only to the benefit of the Parties and shall be enforceable only by them, their successors and assigns. Unless specifically provided otherwise herein, nothing in this Agreement shall create or give to third parties any claim or right of action against HRPT, OPRHP, DEC, or the State.

SECTION 20.03. This Agreement incorporates by reference Appendix A to State Contracts annexed hereto as Appendix A as if fully set forth herein.

SECTION 20.04. This Agreement, Appendix A, annexed hereto and Appendix B (the metes and bounds description which will be attached upon its completion) set forth the entire agreement between OPRHP, DEC and HRPT with respect to the subject matter hereof. This Agreement may not be amended, modified or otherwise changed except in a writing signed by all Parties.

SECTION 20.05. Nothing in this document authorizes the HRPT to take any actions inconsistent with the Act.

SECTION 20.06. OPRHP, DEC and/or HRPT may record a memorandum of this Agreement or any amendment or modification of this Agreement. All parties hereto shall, upon the request of one or more of the other parties hereto, join in the execution of the memorandum of this Agreement or memorandum of any amendment or modification of this Agreement in proper form for recordation.

SECTION 20.07. This Agreement and disputes arising thereunder shall be governed by the Laws of the State of New York.

SECTION 20.08. Article Headings contained herein are solely for the purpose of aiding in the location of general subject matter and are not intended to be used in the construction of this Agreement.

SECTION 20.09. With the exception of the Commissioners of OPRHP and DEC, who each sit in an ex-officio capacity as an HRPT director, no staff member, officer, director or person employed by HRPT shall be considered or deemed to be an agent, employee, or legal representative of the State, OPRHP or DEC solely as a result of this Agreement or shall represent him or herself as an employee of the State for any purpose whatsoever.

SECTION 20.10. None of the Parties shall be liable for a failure to perform under this Agreement when such failure is due to fire, flood, earthquake, hurricane or a comparably severe natural event, war, riot, insurrection, strike or similar labor or industrial disturbance and/or other causes beyond the control of the Parties.

SECTION 20.11. Nothing contained in this Agreement shall be deemed or construed to mean that the State, acting through OPRHP and DEC, consents to a waiver of its sovereign immunity with respect to the activities, rights or responsibilities set forth herein.

SECTION 20.12. This Agreement is intended solely to meet the mandate of Section 7.3(b) of the Act. Nothing contained in this Agreement shall be deemed or construed as a waiver or modification of any other statutory and regulatory rights or obligations of the Parties. HRPT is and shall continue to be bound by any and all applicable OPRHP and/or DEC statutory and regulatory requirements respecting its development, operation and/or maintenance of the Park.

SECTION 20.13. This Agreement may be executed in separate counterparts, which together shall constitute the Agreement of the parties, provided that all of the parties to this Agreement have executed their respective copy of this Agreement.

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed as of the date set forth above.

**Hudson River Park Trust**

By: *Robert Balachandran*  
Name: *Robert Balachandran*  
Title: *President & CEO*

**Agency Certification:**

In addition to the acceptance of this Agreement, OPRHP's and DEC's execution of this Agreement also represents a certification by each agency that original copies of this signature page will be attached to all other exact copies of this Agreement.

**New York State Office of Parks,  
Recreation and Historic Preservation**

By: *Allen B. Causser*  
Name:  
Title:

**New York State Department of  
Environmental Conservation**

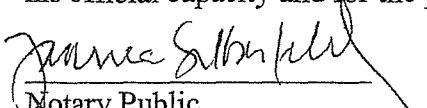
By: *Richard K. Randles*  
Name: **RICHARD K. RANGLES**  
Title: **DIRECTOR OF MANAGEMENT & BUDGET**

APPROVED AS TO FORM  
NYS ATTORNEY GENERAL  
  
JUL 18 2001  
  
*Peter Favretto*  
PETER FAVRETTO  
ASSOCIATE ATTORNEY

APPROVED  
DEPT. OF AUDIT & CONTROL  
NOV 15 2001  
*William D. Hyatt*  
FOR THE STATE COMPTROLLER

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

On this 6<sup>th</sup> day of December, 2000, before me personally came Robert Balachandran to me known, who being duly sworn, did depose and say that he is the President of the Hudson River Park Trust, and the said person described in and who executed the foregoing instrument, and he acknowledged that he executed same in his official capacity and for the purpose mentioned therein.

  
Notary Public

LAURIEANN SILBERFELD  
Notary Public, State of New York  
No. 02SI4984247  
Qualified in Nassau County 2001  
Commission Expires July 15, 19  

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

On this 9<sup>th</sup> day of JANUARY, 2000, before me personally came ALBERT E. CAIASE to me known, who being duly sworn, did depose and say that he is the Deputy Comm'r of PARKS, and the said person described in and who executed the foregoing instrument, and he acknowledged that he executed same in his official capacity and for the purpose mentioned therein.

  
Notary Public

JOSEPH C. SCALA  
Notary Public, State of New York  
Qualified in ~~Albany County~~ SARATOGA COUNTY  
No. ~~4655460~~  
My Commission Expires April 27 12/11/02

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

On this 10<sup>th</sup> day of January, 2000, before me personally came Richard K. Randles to me known, who being duly sworn, did depose and say that he is the Dir. of Management of DEC, and the said person described in and who executed the foregoing instrument, and he acknowledged that he executed same in his official capacity and for the purpose mentioned therein.

  
Notary Public

ROBERT K. DAVIES  
Notary Public, State of New York  
No. 02DA6014462  
Qualified in Albany County  
Commission Expires 10/13/2002