

RESOLUTION NO. 2025-33906

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, IN SUBSTANTIAL FORM, A LEASE AGREEMENT BETWEEN THE CITY AND MIAMI BEACH RACQUET CLUB, LLC, PURSUANT TO REQUEST FOR PROPOSALS NO. 2025-218-ND, FOR THE CONSTRUCTION, MANAGEMENT, AND OPERATION OF A PADEL/PICKLEBALL FACILITY ON A PARKING GARAGE ROOFTOP ADJACENT TO LINCOLN LANE NORTH, LOCATED AT 640 17TH STREET (G5 PARKING GARAGE), FOR USE OF APPROXIMATELY 39,000 SQUARE FEET OF THE ROOFTOP OF THE G5 PARKING GARAGE (PADEL PREMISES), FOR A TERM OF NINE (9) YEARS AND 364 DAYS; FURTHER, AUTHORIZING THE CITY MANAGER TO FINALIZE THE LEASE; FURTHER, FOLLOWING SUCCESSFUL NEGOTIATIONS, AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE THE LEASE; AND FURTHER, AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY'S OFFICE TO PROCEED WITH, AND TAKE ANY AND ALL REQUIRED ACTIONS RELATIVE TO, THE CONDOMINIUMIZATION OF THE G5 GARAGE, CREATING A CONDOMINIUM UNIT FOR THE PADEL PREMISES, SEPARATE FROM THE REMAINDER OF THE G5 GARAGE UNIT, TO ENSURE THE CONTINUED TAX EXEMPT STATUS OF THE G5 GARAGE.

WHEREAS, on February 26, 2025, the Mayor and City Commission approved the issuance of the Request for Proposals (RFP) No. 2025-218-ND for the Construction, Management, and Operation of a Padel/Pickleball Facility on Parking Garage Rooftop Adjacent to Lincoln Lane North; and

WHEREAS, the RFP included parking garage G5 (640 17th Street) with up to 40,000 square feet available on the rooftop and/or parking garage G9 (1661 Pennsylvania Avenue) with up to 20,000 square feet available on the rooftop, with proposals to be submitted for one or both parking garages and for multiple terms, based upon the options shown below:

Option A: G5 with a five (5)-year lease or management agreement;

Option B: G5 with a five (5) to less than ten (10)-year lease or management agreement;

Option C: G9 with a five (5)-year lease or management agreement; and/or

Option D: G9 with a five (5) to less than ten (10)-year lease or management agreement; and

WHEREAS, on May 9, 2025, the City received a total of nine (9) proposals from the following firms for Options B and D; however, no proposals were received for Options A and C:

- Option B: G5 with a five (5) to less than ten (10)-year lease or management agreement:
 - Nomad One LLC
 - Racquet 360 Inc./IBC New York d/b/a Padel Padel
 - Racquet Property Company LLC
 - Sunset Padel LLC
 - Ultra Sports Holding LLC
 - Van Veggel Ventures LLC
 - World Padel Florida LLC

- Option D:G9 with a five (5) to less than ten (10)-year lease or management agreement
 - World Padel Florida LLC

WHEREAS, the proposal from Atlanta Tennis failed to identify which option it was pursuing and was further deemed non-responsive for failure to submit the Financial Proposal (Tab 6 of the RFP) on or before the deadline for submittal of proposals; and

WHEREAS, on May 20, 2025, The City Manager, via Letter to Commission No. 211-2025, appointed an Evaluation Committee; and

WHEREAS, the Evaluation Committee convened on May 28, 2025, to review and score the proposals; and

WHEREAS, the Evaluation Committee received an overview of the project, information relative to the City's Cone of Silence Ordinance and the Government Sunshine Law, general information on the scope of services, and a copy of each proposal; and

WHEREAS, the Evaluation Committee was instructed to score and rank each proposal pursuant to the evaluation criteria established in the RFP; and

WHEREAS, the Evaluation Committee process resulted in the proposers being ranked by the Evaluation Committee as indicated below:

- Option B: G5 with a five (5) to less than ten (10)-year lease or management agreement:
 - 1st ranked – Racquet Property Company LLC;
 - 2nd ranked - Racquet 360 Inc./IBC New York d/b/a Padel Padel;
 - 3rd ranked - World Padel Florida LLC;
 - 4th ranked - Van Veggel Ventures LLC;
 - 5th ranked - Sunset Padel LLC;
 - 6th ranked - Nomad One LLC; and
 - 7th ranked - Ultra Sports Holding LLC; and
- Option D: G9 with a five (5) to less than ten (10)-year lease or management agreement:
 - 1st ranked – World Padel Florida LLC; and

WHEREAS, at the June 25, 2025 City Commission meeting, the City Commission asked that the Administration to consider the following recommendations when negotiating the agreement: (i) incorporate pickleball as part of the activation, (ii) consider the branding of Miami Beach in the promotions, and (iii) ensure the best revenue share; and

WHEREAS, on June 25, 2025, the Mayor and City Commission adopted Resolution 2025-33784, authorizing the Administration to negotiate an agreement with Racquet Property Company, LLC, as the top-ranked proposer for Option B; further, if the Administration is not successful in negotiating an agreement with Racquet Property Company LLC, authorizing the Administration to enter into negotiations with Racquet 360 Inc./IBC New York d/b/a Padel Padel, as the second-ranked proposer for Option B; further, if the Administration is not successful in negotiating an agreement with Racquet 360 Inc./IBC New York d/b/a Padel Padel, authorizing the Administration to enter into negotiations with World Padel Florida LLC, as the third-ranked

proposer for Option B, provided that the final negotiated agreement would be subject to the prior approval of the Mayor and City Commission; and

WHEREAS, the Administration has negotiated the essential terms of the Lease Agreement with Miami Beach Racquet Club, LLC (“Padel Tenant”), a wholly owned subsidiary of Racquet Property Company, LLC (the “Agreement”), a draft copy of which is attached to the City Commission Memorandum accompanying this Resolution as Exhibit “A,” and containing the following essential terms:

- Tenant
- Miami Beach Racquet Club, LLC, a Florida limited liability company, a wholly owned subsidiary of the proposer, Racquet Property Company, LLC, a Florida limited liability company
- Guarantor
- Racquet Property Company, LLC
- Padel Premises/Use of Space
The vendor proposed exclusive use of the 39,000-square-foot site on rooftop of G5 Garage (“Padel Premises”), for padel courts, and is not pursuing additional pickleball facilities within this project at this time.
- Agreement Term/Commencement Date
- Term of nine (9) years and 364 days from the Commencement Date, defined as the earlier of: (i) Tenant securing a temporary Certificate of Occupancy or a full Certificate of Occupancy to operate the Padel Premises; or (ii) a date that is eighteen (18) months from the date the parties execute the Lease (Effective Date).
- Rent Commencement Date
- Same date as the Commencement Date
- Minimum Rent
- \$200,000.00/year; \$16,666.00/month for first Lease Year and escalates each year thereafter by 3%
- Percentage Rent
- Tenant shall pay an annual percentage rent (“PG”) payment equal to the product of (i) three percent (3%) and (ii) the amount of gross receipts for the applicable calendar year (“Gross Revenues”) that exceeds Four Million Five Hundred Thousand and No/100 Dollars (\$4,500,000.00), due within thirty (30) days from the end of each calendar year, together with audited financial statements.
- Utility Work
Tenant shall be responsible, at its sole cost and expense, to provide any and all appropriate utility connection points to the Premises sufficient to allow Tenant to use the Premises for the Permitted Uses (“Utility Work”), including, without limitation, water, sewer, and electricity. Tenant shall be reimbursed for the costs associated with such Utility Work by deducting said costs from the Landlord’s PG payments until such costs have been completely reimbursed to Tenant. Additional upgrades to the Tenant’s utilities may be approved by the City and similarly reimbursed to Tenant.

- Deposit
- \$50,000.00

- Trade Name
- Padel X Miami Beach

- Buildout Timeline
- The vendor requires the full 18-month buildout period after the execution of the Agreement, as articulated in the RFP.

- Parking
- The City and vendor agreed to implement a parking validation system to ensure secured parking for venue users.

- Hours of Operation
- 7:00 AM to 11:00 PM

- Non-Refundable Contribution:
- \$200,000.00 due within five (5) business days from Tenant securing the master building permit for the construction of the Facility.

- Orderly Operations
- Operate and maintain Padel Premises as first-class padel facility in compliance with the City's Customer Service Standards and Extremely Clean Standards

- Public Benefits:
- \$50,000 per Lease Year in-kind contribution, commencing upon opening of the Padel Premises, to include:
 - a minimum of one (1) free weekly padel initiation sessions for Miami Beach Residents;
 - a minimum of seven (7) time blocks of one and a half (1.5) hours per block per week, accommodating forty (40) Miami Beach residents with preferred rates and reserved access for Miami Beach residents;
 - providing access to the Padel Premises (without a space rental fee) for a minimum of two (2) Charity events per Lease Year;
 - producing a minimum of eight (8) weekend wellness events at the Premises that are open to the community;
 - providing affordable after school and youth programs for a minimum of forty (40) students per school year;
 - providing youth summer camps and seasonal clinics for a minimum of forty (40) students per year;
 - providing a minimum of Ten Thousand and No/100 Dollars (\$10,000.00) per year in subsidized memberships for youth enrolled in after school programming;
 - providing a minimum of ten (10) sponsorship grants for talented juniors needing financial assistance to access professional training and competition preparation;
 - fund a minimum of four (4) proactive engagements per year, which could include local schools, non-profit organizations, and cultural groups to introduce them to the sport;
 - fund a minimum of four (4) Family-friendly programming per year; and
 - (11) work with Parks and Recreation Department to host 1-2 free family friendly activations per Lease Year; and

- Sustainability Initiatives
- Pursuant to Section 3.5 (Tab 3 of Tenant’s Proposal), Tenant agrees to recycle a minimum of Ten Thousand (10,000) aluminum cans and plastic bottles from its operations at the Padel Premises, thereby diverting these recyclables from landfills and reducing CO2 emissions. Tenant agrees to incorporate into its operations the following from recycled materials: trash bins, coolers, benches, recycled apparel and recycled towels. Recycling, made from recycled materials, shall be placed at the Padel Premises to encourage recycling.

- Performance Penalties
- As set forth in Article VIII of the Draft Lease

- Real Estate Ad-Valorem Taxes
- Tenant responsible for payment of ad-valorem taxes

- Branding
- The vendor agreed to collaborate with the City on co-branding opportunities.

- Structural Considerations
- Plans were submitted for vendor review. Agreement language will include an “opt-out” clause should the garage site be deemed structurally insufficient to support the proposed facilities.

- Maintenance
Tenant maintains Padel Premises and the City is responsible for the structural repairs to the G5 Garage.

- Utilities
Padel Tenant responsible for utility bills

WHEREAS, the G5 Garage is a public parking garage and is exempt from having to pay ad-valorem property taxes, comparable to other municipally-owned facilities and buildings that serve a public purpose, and

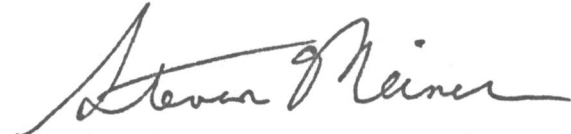
WHEREAS, to ensure the continued tax-exempt status of the G5 Garage, the Padel Premises should be separated from the rest of the Garage pursuant to a condominiumization process, and

WHEREAS, based upon the fact that this project is expected to deliver a high-quality recreational facility, generate additional City revenue, and provide meaningful public benefits, while ensuring protections for the City through the negotiated terms, the City Manager recommends approving, in substantial form, the Lease Agreement with Miami Beach Racquet Club, LLC, and authorizing the City Manager and the City Attorney’s Office to proceed with, and take any and all required actions relative to, the condominiumization of the G5 Garage, creating a condominium unit for the Padel Premises, separate from the remainder of the Garage, to ensure the continued tax exempt status of the Garage.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby approve, in substantial form, a Lease Agreement between the City and Miami Beach Racquet Club, LLC, pursuant to Request for Proposals No. 2025-218-ND, for the

Construction, Management, and Operation of a Padel/Pickleball Facility on a Parking Garage Rooftop adjacent to Lincoln Lane North, located at 640 17th Street (G5 Parking Garage), for use of approximately 39,000 square feet of the rooftop of the G5 Parking Garage (Padel Premises), for a term of nine (9) years and 364 days; further, authorize the City Manager to finalize the Lease; further, following successful negotiations, authorize the City Manager and City Clerk to execute the Lease; and further, authorize the City Manager and City Attorney's office to proceed with, and take any and all required actions relative to, the condominiumization of the G5 Garage, creating a condominium unit for the Padel Premises, separate from the remainder of the G5 Garage unit, to ensure the continued tax exempt status of the G5 Garage.

PASSED and **ADOPTED** this 17 day of September 2025.


Steven Meiner, Mayor


ATTEST:


Rafael E. Granado, City Clerk

SEP 18 2025



APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION


City Attorney

9/15/2025
Date

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: September 17, 2025

TITLE: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, IN SUBSTANTIAL FORM, A LEASE AGREEMENT BETWEEN THE CITY AND MIAMI BEACH RACQUET CLUB, LLC, PURSUANT TO REQUEST FOR PROPOSALS NO. 2025-218-ND, FOR THE CONSTRUCTION, MANAGEMENT, AND OPERATION OF A PADEL/PICKLEBALL FACILITY ON A PARKING GARAGE ROOFTOP ADJACENT TO LINCOLN LANE NORTH, LOCATED AT 640 17TH STREET (G5 PARKING GARAGE), FOR USE OF APPROXIMATELY 39,000 SQUARE FEET OF THE ROOFTOP OF THE G5 PARKING GARAGE (PADEL PREMISES), FOR A TERM OF NINE (9) YEARS AND 364 DAYS; FURTHER, AUTHORIZING THE CITY MANAGER TO FINALIZE THE LEASE; FURTHER, FOLLOWING SUCCESSFUL NEGOTIATIONS, AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE THE LEASE; AND FURTHER, AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY'S OFFICE TO PROCEED WITH, AND TAKE ANY AND ALL REQUIRED ACTIONS RELATIVE TO, THE CONDOMINIUMIZATION OF THE G5 GARAGE, CREATING A CONDOMINIUM UNIT FOR THE PADEL PREMISES, SEPARATE FROM THE REMAINDER OF THE G5 GARAGE UNIT, TO ENSURE THE CONTINUED TAX EXEMPT STATUS OF THE G5 GARAGE. (PARKS AND RECREATION)

RECOMMENDATION

Item to be submitted in Supplemental.

BACKGROUND/HISTORY

ANALYSIS

FISCAL IMPACT STATEMENT

TBD

Does this Ordinance require a Business Impact Estimate?
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

CONCLUSION

Applicable Area

South Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

Yes

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

Procurement

Sponsor(s)

Co-sponsor(s)

Condensed Title


Approve Lease Agmt w/ MB Racquet Club, (RFP 2025-218-ND), Padel/Pickleball Facility.
PKS/PR

Previous Action (For City Clerk Use Only)

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager 

DATE: September 17, 2025

TITLE: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, IN SUBSTANTIAL FORM, A LEASE AGREEMENT BETWEEN THE CITY AND MIAMI BEACH RACQUET CLUB, LLC, PURSUANT TO REQUEST FOR PROPOSALS NO. 2025-218-ND, FOR THE CONSTRUCTION, MANAGEMENT, AND OPERATION OF A PADEL/PICKLEBALL FACILITY ON A PARKING GARAGE ROOFTOP ADJACENT TO LINCOLN LANE NORTH, LOCATED AT 640 17TH STREET (G5 PARKING GARAGE), FOR USE OF APPROXIMATELY 39,000 SQUARE FEET OF THE ROOFTOP OF THE G5 PARKING GARAGE (PADEL PREMISES), FOR A TERM OF NINE (9) YEARS AND 364 DAYS; FURTHER, AUTHORIZING THE CITY MANAGER TO FINALIZE THE LEASE; FURTHER, FOLLOWING SUCCESSFUL NEGOTIATIONS, AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE THE LEASE; AND FURTHER, AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY'S OFFICE TO PROCEED WITH, AND TAKE ANY AND ALL REQUIRED ACTIONS RELATIVE TO, THE CONDOMINIUMIZATION OF THE G5 GARAGE, CREATING A CONDOMINIUM UNIT FOR THE PADEL PREMISES, SEPARATE FROM THE REMAINDER OF THE G5 GARAGE UNIT, TO ENSURE THE CONTINUED TAX EXEMPT STATUS OF THE G5 GARAGE.**

RECOMMENDATION

The City Administration ("Administration") recommends that the Mayor and City Commission ("City Commission") adopt the Resolution, approving in substantial form, the draft Lease Agreement attached hereto, pursuant to Request for Proposals (RFP) 2025-218-ND for the Construction, Management, and Operation of a Padel/Pickleball Facility on a Parking Garage Rooftop Adjacent to Lincoln Lane North; authorize the City Manager to finalize the Lease Agreement with Miami Beach Racquet Club, LLC for the operation of a padel facility and, following completion of successful negotiations, authorize the City Manager and City Clerk to execute the Lease; and further, authorize the City Manager and City Attorney's Office to proceed with, and take any and all required actions relative to, the condominiumization of the G5 Garage, creating a condominium unit for the Padel Premises, separate from the remainder of the G5 Garage unit, to ensure the continued tax exempt status of the G5 Garage.

BACKGROUND/HISTORY

The City of Miami Beach offers a dynamic and diverse environment for recreational and leisure activities. With over 40 park facilities, seven miles of beachfront and Beachwalk, and numerous amenities, residents and visitors have ample opportunities to engage in sports, health, and wellness. Whether enjoying playgrounds, tennis courts, bike trails, golf courses, an ice-skating rink, a bowling alley, or various beach and waterway activities, the city provides countless ways for people to stay active, connect with others, and build a sense of community.

To enhance the city's recreation, leisure, and lifestyle offerings, on December 11, 2024, at the request of Commissioner Joseph Magazine, the Mayor and City Commission authorized the

Administration to prepare a Request for Proposals (“RFP”) for the construction, management, and operation of a padel facility on a city-owned surface parking lot adjacent to Lincoln Road.

At the February 3, 2025, City Commission meeting, item C2 M requested approval of the City Commission to issue RFP 2025-218-ND for Construction, Management, and Operation of a Padel/Pickleball Facility on Surface Parking Lot adjacent to Lincoln Lane North. However, the request was approved with amendments. The item was separated by Commissioners Rosen Gonzalez and Magazine. A motion was made by Commissioner Magazine to issue the RFP and seconded by Commissioner Suarez, as amended.

The recommended amendments to the RFP included the following:

1. Remove P27 lot from consideration in the RFP;
2. Include the 17th Street and Pennsylvania Avenue garages in the RFP if viable;
3. Incorporate incentivizing a larger footprint on the garage rooftop;
4. Present a better financial model on the rooftop in terms of revenue for the City’s Parking Department.
5. Conduct public outreach; and
6. RFP to go out to market subsequent to the February 26, 2025, Commission Meeting, if approved.

Following the affirmative vote of the Commission, the item was placed on February 26, 2025, Commission Meeting for approval, as amended. On the February 26, 2025 City Commission Meeting, Commissioner Magazine pulled Item C2 F from the Consent Agenda and proposed eliminating the P-26 parking lot from the RFP. Additionally, the RFP was amended to include a lease and management agreement option. Commissioner Magazine made a motion to approve the issuance of the RFP as amended, which was seconded by Commissioner Rosen Gonzalez.

Therefore, as directed and approved by Commission, the RFP included the rooftops of parking garages G5 (640 17th Street) with up to 40,000 square feet available on the rooftop and/or G9 (1661 Pennsylvania Avenue) with up to 20,000 square feet available on the rooftop, to be considered for the construction, management, and operation of the proposed padel/pickleball facility. Proposals may be submitted for one or both parking garages and for multiple terms. Proposers could submit up to four (4) proposal options for the options shown below:

Option A: G5 with a five (5)-year lease or management agreement

Option B: G5 with a five (5) to less than ten (10)-year lease or management agreement

Option C: G9 with a five (5)-year lease or management agreement

Option D: G9 with a five (5) to less than ten (10)-year lease or management agreement

RFP responses were due and received on May 9, 2025. The City received a total of nine (9) proposals from the following firms, as noted below for Options B and D. No proposals were received for Options A and C.

Option B:G5 with a five (5) to less than ten (10)-year lease or management agreement

- Nomad One LLC
- Racquet 360 Inc./IBC New York d/b/a Padel Padel
- Racquet Property Company LLC
- Sunset Padel LLC
- Ultra Sports Holding LLC
- Van Veggel Ventures LLC

- World Padel Florida LLC

Option D: G9 with a five (5) to less than ten (10)-year lease or management agreement

- World Padel Florida LLC

No Option Proposal provided: Atlanta Tennis

The proposal from Atlanta Tennis was deemed non-responsive for failure to submit the Financial Proposal (Tab 6) on or before the deadline for submittal of proposals.

On May 28, 2025, an evaluation committee appointed by the City Manager convened to consider the proposals received. The evaluation process resulted in the ranking of proposers in the following order:

Option B: G5 with a five (5) to less than ten (10)-year lease or management agreement

- 1st ranked – Racquet Property Company LLC
- 2nd ranked - Racquet 360 Inc./IBC New York d/b/a Padel Padel
- 3rd ranked - World Padel Florida LLC
- 4th ranked - Van Veggel Ventures LLC
- 5th ranked - Sunset Padel LLC
- 6th ranked - Nomad One LLC
- 7th ranked - Ultra Sports Holding LLC

Option D: G9 with a five (5) to less than ten (10)-year lease or management agreement

1st ranked – World Padel Florida LLC

ANALYSIS

On June 25, 2025, the Mayor and City Commission adopted Resolution 2025-33784, authorizing the Administration to negotiate with Racquet Property Company LLC, as the top-ranked proposer for Option B; further, if the Administration is not successful in negotiating an Agreement with Racquet Property Company LLC, authorizing the Administration to enter into negotiations with Racquet 360 Inc./IBC New York d/b/a Padel Padel, as the second-ranked proposer for Option B; further, if the Administration is not successful in negotiating an Agreement with Racquet 360 Inc./IBC New York d/b/a Padel Padel, authorizing the Administration to enter into negotiations with World Padel Florida LLC, as the third-ranked proposer for Option B. The Resolution provided that the final negotiated agreement be subject to the prior approval of the Mayor and City Commission.

At the June 25, 2025, Commission meeting, the City Commission asked that the Administration consider the following recommendations when negotiating the agreement: (i) incorporate pickleball as part of the activation, (ii) consider the branding of Miami Beach in the promotions, and (iii) ensure the best revenue share. Commissioner Magazine made a motion to approve the Resolution with the requested recommendations; seconded by Commission Fernandez. As directed by the City Commission, City staff commenced negotiations with Racquet Property Company LLC to develop the terms of a proposed lease agreement. The negotiation process was collaborative and multi-disciplinary, involving representatives from the Procurement, Parks and Recreation, Parking, Planning, Facilities, Legal, and Building Departments. These discussions were on the following dates:

- July 25, 2025
- August 5, 2025
- September 4, 2025

- September 10, 2025
- September 12, 2025

During these negotiation meetings, the parties engaged in detailed discussions covering key lease terms, operational responsibilities, site planning considerations, and compliance with applicable codes and regulations. The City team worked to ensure that the proposed agreement aligned with the City's strategic goals, community interests, and legal requirements. Negotiations also focused on financial feasibility, public benefit, and making sure the project would remain functional, valuable, and beneficial to the City and its residents over time.

Summary of Essential Business Terms contained in the Draft Lease Agreement

- **Tenant**
Miami Beach Racquet Club, LLC, a Florida limited liability company, a wholly owned subsidiary of the proposer, Racquet Property Company, LLC, a Florida limited liability company
- **Guarantor**
Racquet Property Company, LLC
- **Padel Premises/Use of Space**
The vendor proposed exclusive use of the 39,000-square-foot site on rooftop of G5 Garage ("Padel Premises"), for padel courts, and is not pursuing additional pickleball facilities within this project at this time.
- **Agreement Term**
The vendor requested a lease term of nine (9) years and 364 days from the Commencement Date, defined as the earlier of: (i) Tenant securing a temporary Certificate of Occupancy or a full Certificate of Occupancy to operate the Padel Premises; or (ii) a date that is eighteen (18) months from the date the parties execute the Lease (Effective Date).
- **Rent Commencement Date**
Same date as the Commencement Date
- **Minimum Rent**
\$200,000.00/year; \$16,666.00/month for first Lease Year and escalates each year thereafter by 3%
- **Percentage Rent**
Tenant shall pay an annual percentage rent ("PG") payment equal to the product of (i) three percent (3%) and (ii) the amount of gross receipts for the applicable calendar year ("Gross Revenues") which exceeds Four Million Five Hundred Thousand and No/100 Dollars (\$4,500,000.00), due within thirty (30) days from the end of each calendar year, together with audited financial statements.
- **Deposit**
\$50,000.00
- **Trade Name**
Padel X Miami Beach
- **Utility Work**
Tenant shall be responsible, at its sole cost and expense, to provide any and all appropriate utility connection points to the Premises sufficient to allow Tenant to use the Premises for the Permitted Uses ("Utility Work"), including, without limitation, water, sewer,

and electricity. Tenant shall be reimbursed for the costs associated with such Utility Work by deducting said costs from the Landlord's PG payments until such costs have been completely reimbursed to Tenant. Additional upgrades to the Tenant's utilities may be approved by the City and similarly reimbursed to Tenant.

- **Buildout Timeline**
The vendor requires the full 18-month buildout period after the execution of the Agreement, as articulated in the RFP.
- **Parking**
The City and vendor agreed to implement a parking validation system to ensure secured parking for venue users.
- **Hours of Operation**
7:00 AM to 11:00 PM
- **Non-Refundable Contribution**
\$200,000.00 due within five (5) business days from Tenant securing the master building permit for the construction of the Facility.
- **Orderly Operations**
Operate and maintain Padel Premises as first-class padel facility in compliance with the City's Customer Service Standards and Extremely Clean Standards
- **Public Benefits**
\$50,000 per Lease Year in-kind contribution, commencing upon opening of the Padel Premises, to include:
 - a minimum of one (1) free weekly padel initiation sessions for Miami Beach Residents;
 - a minimum of seven (7) time blocks of one and a half (1.5) hours per block per week, accommodating forty (40) Miami Beach residents with preferred rates and reserved access for Miami Beach residents;
 - providing access to the Padel Premises (without a space rental fee) for a minimum of two (2) Charity events per Lease Year;
 - producing a minimum of eight (8) weekend wellness events at the Premises that are open to the community
 - providing affordable after school and youth programs for a minimum of forty (40) students per school year;
 - providing youth summer camps and seasonal clinics for a minimum of forty (40) students per year;
 - providing a minimum of Ten Thousand and No/100 Dollars (\$10,000.00) per year in subsidized memberships for youth enrolled in after school programming;
 - providing a minimum of ten (10) sponsorship grants for talented juniors needing financial assistance to access professional training and competition preparation;
 - fund a minimum of four (4) proactive engagements per year, which could include local schools, non-profit organizations, and cultural groups to introduce them to the sport;
 - fund a minimum of four (4) Family-friendly programming per year; and
 - (11) work with Parks and Recreation Department to host 1-2 free family friendly activations per Lease Year.
- **Sustainability Initiatives**
Pursuant to Section 3.5 (Tab 3 of Tenant's Proposal), Tenant agrees to recycle a minimum of Ten Thousand (10,000) aluminum cans and plastic bottles from its operations at the Padel Premises, thereby diverting these recyclables from landfills and reducing CO2 emissions. Tenant agrees to incorporate into its operations the following from recycled materials: trash bins, coolers, benches, recycled apparel and recycled towels. Recycling,

made from recycled materials, shall be placed at the Padel Premises to encourage recycling.

- **Performance Penalties**
As set forth in Article VIII of the Draft Lease
- **Real Estate Ad-Valorem Taxes**
Tenant responsible
- **Branding**
The vendor agreed to collaborate with the City on co-branding opportunities.
- **Structural Considerations**
Plans were submitted for vendor review. Agreement language will include an “opt-out” clause should the garage site be deemed structurally insufficient to support the proposed facilities.
- **Maintenance**
Tenant maintains Padel Premises and the City is responsible for the structural repairs to the G5 Garage.
- **Utilities**
Discussions regarding utility responsibilities are ongoing.
- **Revenue to the City**
As outlined in the Fiscal Impact Statement, the agreement will provide additional revenue to the City.

CONDOMINIUMIZATION OF THE G5 GARAGE

The G5 Garage is a public parking garage and is exempt from having to pay ad-valorem property taxes, comparable to other municipally-owned facilities and buildings that serve a public purpose. To ensure the continued tax exempt status of the G5 Garage, the Padel Premises should be separated from the rest of the Garage via a condominiumization process. The City will retain full ownership of the condominium unit(s), with the Mayor and Commissioners serving as the condominium association board.

The Tenant and the City Administration have negotiated the essential business terms of the Lease Agreement, as more particularly delineated in this City Commission Memorandum and in the draft Lease Agreement, attached hereto as Exhibit “A”. This partnership is expected to deliver a high-quality recreational facility, generate additional City revenue, and provide meaningful public benefits, while ensuring protections for the City through negotiated terms. As such, the City Manager recommends moving forward with finalizing the negotiation of the Lease and, following successful negotiations, executing the Lease with Tenant.

FISCAL IMPACT STATEMENT

The City and Raquet Property have negotiated the following financial terms:

1. A one-time upfront payment of \$200,000 upon obtaining the building permits, thus demonstrating financial commitment and helping offset any initial loss of parking revenue, public costs, or planning resources required by the City.
2. Compensation to the City that includes a base rent of \$200,000 a year, subject to a 3% annual increase. The proposed rent structure improves by 2.5 times the minimum guaranteed revenue loss associated with repurposing the rooftop. This ensures the City maintains fiscal neutrality and significantly enhances its return on the existing public space.

3. Percentage Rent: Tenant agrees to pay to the City, together with Minimum Rent payments, an annual percentage rent ("PG") payment equal to 3% of Gross Receipts for the applicable calendar year which exceed \$4.5 Million.
4. The initial Utility Work and any future Utility upgrade which may be approved by the City is deducted from the PG payments of the City until Tenant is reimbursed. This cost will not be known until the final construction plans are prepared.
5. Public Benefits estimated at a cost of \$50,000/year in in-kind programming and services.
6. Elevated parking revenues and activation of the surrounding businesses. \$200,000 per year in additional parking revenue at standard rates, further contributing to the financial sustainability of the site and the surrounding district generated by the increase and steady traffic driven by the facility which will enhance the usage of the garage's remaining parking inventory, providing long-term value to the City.

Does this Ordinance require a Business Impact Estimate?

(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:

See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

The agreement will generate revenue and should not create any operational costs for the City.

CONCLUSION

Based upon the favorable terms, including the public benefits being offered to the community, the City Manager recommends that the Mayor and City Commission adopt the Resolution, approving in substantial form, the draft Lease Agreement attached hereto, pursuant to Request for Proposals (RFP) 2025-218-ND for the Construction, Management, and Operation of a Padel/Pickleball Facility on a Parking Garage Rooftop Adjacent to Lincoln Lane North; authorize the City Manager to finalize the Lease Agreement with Miami Beach Racquet Club, LLC for the operation of a padel facility and, following completion of successful negotiations, authorize the City Manager and City Clerk to execute the Lease; and further, authorize the City Manager and City Attorney's Office to proceed with, and take any and all required actions relative to, the condominiumization of the G5 Garage, creating a condominium unit for the Padel Premises, separate from the remainder of the G5 Garage unit, to ensure the continued tax exempt status of the G5 Garage.

ATTACHMENTS

Resolution

Exhibit "A" – Draft Lease Agreement

Applicable Area

South Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

Yes

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

Parks and Recreation / Procurement

Sponsor(s)

Co-sponsor(s)

Condensed Title

Approve Lease Agreement w/ Miami Beach Racquet Club for Construction, Management, and Operation of a padel facility.

Previous Action (For City Clerk Use Only)

MT /  /  / KB

EXHIBIT "A"

LANDLORD:

City of Miami Beach, Florida
1700 Convention Center Drive
Miami Beach, Florida 33139

Tenant:

Miami Beach Racquet Club, LLC
201 Alhambra Circle, Suite 1205
Coral Gables, Florida 33134

DATE OF EXECUTION:

_____, 2025

**LEASE AGREEMENT
PURSUANT TO RFP-2025-218-ND FOR THE CONSTRUCTION, MANAGEMENT, AND OPERATION
OF A PADEL FACILITY ON THE ROOFTOP OF THE G5 PARKING GARAGE (640 17TH STREET)**

LEASE SUMMARY

The following is a summary of basic lease provisions with respect to the Lease. It is an integral part of the Lease, and terms defined or dollar amounts specified in this Summary shall have the meanings or amounts as stated, unless expanded upon in the text of the Lease and its Exhibits, which are attached to and made a part of this Summary.

1. "Date of Lease Execution": _____, 2025.
2. "Landlord": City of Miami Beach, Florida
3. "Landlord's Address":
City of Miami Beach, Florida
1700 Convention Center Drive
Miami Beach, Florida 33139
Attention: Parks & Recreation Department Director

with a copy to:

City of Miami Beach, Florida
1700 Convention Center Drive
Miami Beach, Florida 33139
Attention: City Attorney
4. "Tenant": Miami Beach Racquet Club, LLC,
a Florida limited liability company
5. "Tenant's Address": 201 Alhambra Circle, Suite 1205
Coral Gables, Florida 33134
6. "Guarantor": Racquet Property Company, LLC, a Florida limited
liability company
7. "Guarantor's Address": 201 Alhambra Circle, Suite 1205
Coral Gables, FL 33134
8. "Premises" (section 1.1): Sketch and Legal Description
640 17th Street
Miami Beach, FL 33139
as shown on Exhibit "A"
9. "Gross Rentable Area of
Premises" (section 1.1): Approximately 39,000 square feet.
10. (Intentionally Omitted)
11. (Intentionally Omitted)
12. (Intentionally Omitted)

13. "Permitted Use of Premises" (section 3.1): Premises shall be used exclusively as a first class indoor padel Facility (as defined in section 3.1).

14. "Term of Lease" (section 1.1): Initial Lease Term commences as of the Date of Lease Execution ("Commencement Date") and expires on a date that is nine (9) years and three hundred sixty-four (364) days from the earlier of: (i) Tenant securing a temporary Certificate of Occupancy or a full Certificate of Occupancy to operate the Premises; or (ii) a date that is eighteen (18) months from the Commencement Date (the "Expiration Date").

"Estimated Completion Date" for Tenant's Work is eighteen (18) months from the Commencement Date.

"Rent Commencement Date": the earlier of: (i) the date on which Tenant secures a temporary Certificate of Occupancy or a full Certificate of Occupancy; or (ii) a date that is eighteen (18) months from the Commencement Date.

15. "Minimum Rent" (section 2.2):

<u>MONTHS</u>	<u>ANNUAL/MONTHLY PAYMENT (PLUS SALES TAX)</u>
Lease Year 1 - from Rent Commencement Date plus the following twelve (12) full months	\$200,000.00/ \$16,666.00 plus sales tax
Lease Year 2 – end of Term, including any approved Renewal Terms	See Note (*)

* Commencing on the first day of the second Lease Year, and at the beginning of each succeeding Lease Year thereafter during the Term of the Lease (a Lease Year, as defined in section 2.1), including any approved Renewal Terms, the Minimum Rent shall be increased annually in increments of three percent (3%).

16. Percentage Rental (section 2.3): The product of (i) three percent (3%) and (ii) the Gross Receipts that exceed Four Million Five Hundred Thousand and No/100 Dollars (\$4,500,000.00) every calendar year during the Term of the Lease.

17. Prepaid Rent (section 2.2): \$16,667.00, due upon execution of Lease; to be applied to first full month of Minimum Rent due.

18. Security Deposit: \$50,000.00 (due upon execution of Lease)
19. Property Taxes (section 2.4): 100% of Real Estate Ad-Valorem Taxes assessed against the Premises or as a direct result of Tenant's operations.
20. Comprehensive General Liability Insurance (section 9.1): \$1,000,000.00 per occurrence; \$2,000,000.00 general aggregate; \$2,000,000.00 umbrella policy
21. Trade Name (section 3.1): Padel X Miami Beach
22. Broker(s) (section 16.12): None
23. Hours of Operation (section 3.5): The Hours of Operation shall be daily 7 AM until 11:00 PM. Any change to the Hours of Operation shall be subject to th prior written approval of the City Manager.
24. Non-Refundable Contribution: \$200,000.00 due within five (5) business days from Tenar securing the master building permit for the construction of th Facility.
25. Public Benefits (Article VII): \$50,000.00 per year in-kind contribution, commencing on th date the Facility opens to the public for use.

THIS LEASE AGREEMENT (the "**Lease**"), dated the ____ day of _____, 2025, is made between the City of Miami Beach, Florida, a Florida municipal corporation, in its proprietary capacity (the "**City**" or "**Landlord**"), and Miami Beach Racquet Club, LLC, a Florida limited liability company (the "**Tenant**").

RECITALS:

WHEREAS, the City, in its proprietary capacity, is the fee simple owner of a ____ story parking garage, identified by the City as the "G5" parking garage, containing _____ parking spaces (the "**Garage**") and located at 640 17th Street, Miami Beach, FL 33139 (the "**City's Property**"); and

WHEREAS, on February 28, 2025, the City issued a Request for Proposals No. 2025-218-ND, for the Construction, Management, and Operation of a Padel Facility on Parking Garage Rooftop Adjacent to Lincoln Lane North (the "**RFP**"); and

WHEREAS, on June 25, 2025, the Mayor and City Commission accepted the recommendation of the City Manager pursuant to the RFP and authorized the city administration to enter into negotiations with the Tenant, as the most qualified proposer pursuant to the RFP, for the padel facility at the rooftop of the Garage, and further required that the final negotiated agreement be subject to the prior approval of the Mayor and City Commission; and

WHEREAS, on _____, the Mayor and City Commission adopted Resolution Number _____, approving this Lease; and

WHEREAS, in the event of a conflict between this Lease, the RFP and Tenant's proposal in response to the RFP (the "Proposal"), the following order of precedent shall prevail: this Lease; the RFP; and the Proposal; and

WHEREAS, the City intends to submit the City's Property to a condominium form of ownership (the "**Condominium**") pursuant to a recorded Declaration of Condominium, designating the Premises as a separate condominium unit separate from the remainder of the Garage, and once the condominiumization process has been completed, the City and Tenant agree to execute an amendment to this Lease, modifying the description of the Premises consistent with the recorded Declaration of Condominium.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City, as Landlord, and Tenant hereby agree as follows:

The above recitals are true and correct and are incorporated as part of this Lease.

ARTICLE I. TERM.

1.1 Term.

(A) In consideration of the performance by Tenant of its obligations under this Lease, Landlord leases to Tenant, and Tenant leases from Landlord, for the Term, a portion of the rooftop of the Garage ("**Premises**"). A site plan showing the location of the Premises within the Garage is attached hereto and made a part hereof as **Exhibit "A."** The gross rentable area of the Premises is shown on the Lease Summary. The Premises does not extend beyond the footprint of the Premises.

(B) The "Term" of the Lease is the period from the Commencement Date as specified in the Lease Summary, through the Expiration Date, as specified in the Lease Summary.

(C) Termination Right Prior to Construction of Facility. In the event that Tenant is unable to secure the requisite approvals, including the master building permit for the construction of the Facility improvements, within one (1) year from the Commencement Date, Tenant or Landlord may terminate the Lease upon written notice to the other party. In the event that the Lease is terminated under this Subsection (C), then Landlord shall return to Tenant the Prepaid Rent, in the amount of \$16,667.00, within thirty (30) days following termination of this Lease

1.2. Landlord's Work. Tenant acknowledges and agrees that it is accepting possession of the Premises in "as-is" "where is" condition, and except as otherwise expressly set forth herein, Landlord has no obligation to improve, repair, restore, refurbish, or otherwise incur any expense in improving or changing the condition of the Premises at any time during the Term.

ARTICLE II. RENT.

2.1 Covenant to Pay. Tenant shall pay to Landlord all sums due hereunder from time to time from the Rent Commencement Date without prior demand, together with all applicable Florida sales tax thereon; however, unless otherwise provided in this Lease, payments other than Tenant's regular monthly payments of Minimum Rent shall be payable by Tenant to Landlord within five (5) days following written demand. All rent or other charges that are required to be paid by Tenant to Landlord shall be payable at Landlord's address indicated on the Lease Summary. Minimum Rent for any "Lease Year" consisting of less than twelve (12) months shall be prorated on a per diem basis, based upon a period of 365 days. "Lease Year" means the twelve (12) full calendar months commencing on the Commencement Date. However, the final Lease Year may contain less than twelve (12) months due to expiration or sooner termination of the Term. Minimum Rent and any other payments due from Tenant to Landlord under this Lease ("Additional Rent"), shall be collectively referred to as "Rent". Tenant agrees that its covenant to pay Rent and all other sums under this Lease is an independent covenant and that all such amounts are payable without counterclaim, set-off, deduction, abatement, or reduction whatsoever, except as expressly provided for in this Lease.

2.2 Minimum Rent.

(A) Minimum Rent. Subject to any escalation which may be provided for in this Lease, Tenant shall pay Minimum Rent for the Term in the initial amount specified in the Lease Summary, which, except for the first installment, shall be payable throughout the Term in equal monthly installments in advance on the first day of each calendar month of each year of the Term, such monthly installments to be in the amounts (subject to escalation) specified in the Lease Summary. The Prepaid Rent shall be due within two (2) business day of the execution of the Lease by Landlord and Tenant, to be applied on the Rent Commencement Date in accordance with paragraph 17 of the Lease Summary. The Minimum Rent described above shall be adjusted during the Term of this Lease as provided in paragraph 15 of the Lease Summary.

(B) Non-Refundable Contribution. Additionally, within five (5) business days from the date in which Tenant secures the master building permit for the construction of the Facility, Tenant shall pay to Landlord a one-time, non-refundable contribution ("Tenant Contribution"), in the total amount of \$200,000.00. Once due, the Tenant Contribution is owed to Landlord and is non-refundable.

(C) All payments shall be made pursuant to the instructions provided to Tenant from the City Manager's designee, in writing, which initially will be via electronic payments.

2.3. Percentage Rent. Tenant agrees to pay to the City within one hundred twenty (120) days from the end of each calendar year an annual percentage rent ("PG") payment equal to the product of (i) three percent (3%) and (ii) the amount of Gross Receipts of the Tenant that exceed Four Million Five Hundred Thousand and No/100 Dollars (\$4,500,000.00) for every calendar year during the Term of the Lease, payable within one hundred twenty (120) days from the end of each calendar year. Together with such payment, the Tenant shall provide to the Landlord an annual statement of Gross Receipts for such calendar year consistent with the requirements in Section 2.9(C). Notwithstanding the foregoing, in connection with the initial Utility Work and any additional approved Utility Work, as described in Section 5.7, the Tenant shall be entitled to deduct from PG such expenses or costs before remitting such amount to the Landlord.

The term "Gross Receipts" is understood to mean all income received by the Tenant from all sales made by Tenant of services, food, beverages and merchandise, in, on or from the Premises (less returns and refunds) excluding amounts of any Federal, State, or City sales tax, or other tax, governmental imposition, assessment, charge or expense of any kind, collected by the Tenant from customers and required by law to be remitted to the taxing or other governmental authority.

Notwithstanding the foregoing, "Gross Receipts" shall not include any of the following:

- (A) gratuities to employees paid by Tenant's patrons or customers (even if included in the check to the patron or customer);
- (B) food and beverages served to employees of Tenant at no cost;
- (C) food and beverages provided by way of promotions or promo checks;
- (D) a walkout (i.e. a meal served but not paid for); or
- (E) any approved Utility Work.

2.4 Sales and Use Tax. Payment of any required Florida State Sales and Use Tax shall be the responsibility of Tenant. Any payments due to Landlord from Tenant shall include the required Florida State Sales and Use Tax, as it is Landlord's intent that it is to receive all Rent payments due from the Tenant as net of such Florida State Sales and Use Tax.

2.5 Intentionally Omitted.

2.6 Rent Past Due. If any payment due from Tenant shall be overdue more than five (5) business days, a late charge of five (5%) percent of the delinquent sum may be charged by Landlord. If any payment due from Tenant shall remain overdue for more than fifteen (15) calendar days, an additional late charge in an amount equal to the lesser of the highest rate permitted by law or one and one-half percent (1½%) per month (eighteen percent (18%) per annum) of the delinquent amount may be charged by Landlord until paid, such charge to be computed for the entire period for which the amount is overdue and which shall be in addition to and not in lieu of the five percent (5%) late charge or any other remedy available to Landlord.

2.7 Security Deposit. Landlord acknowledges receipt of a security deposit in the amount specified on the Lease Summary to be held by Landlord, without any liability for interest thereon, as security for the performance by Tenant of all its obligations under this Lease. Landlord shall be entitled

to commingle the security deposit with Landlord's other funds. If Tenant defaults in any of its obligations under this Lease beyond its applicable grace or cure period, Landlord may at its option, but without prejudice to any other rights which Landlord may have, apply all or part of the security deposit to compensate Landlord for any loss, damage, or expense sustained by Landlord as a result of such default. If all or any part of the security deposit is so applied, Tenant shall restore the security deposit to its original amount on written demand of Landlord, within ten (10) days from the date of the written demand.

If Tenant is not in default of the Lease, as defined in Article IX, and Tenant is current on all rental payments with no monies past due, then Landlord shall return to Tenant the Security Deposit, in the amount of \$50,000.00 within thirty (30) days following termination or expiration of this Lease. In the alternative to making a cash deposit, Tenant may secure a payment and performance bond, having the face value of \$50,000.00, subject to approval by the City Manager or City Manager's designee of the form of the bond.

2.8 Landlord's Lien. To secure the timely construction and installation of all improvements to the Premises by Tenant and to secure the payment of all Rent and other sums of money due and to become due hereunder and the faithful performance of this Lease by Tenant, Tenant hereby gives to Landlord an express first and prior contract lien and security interest on all property now or hereafter acquired (including fixtures, equipment, chattels, and merchandise) which may be placed in the Premises and also upon all proceeds of any insurance which may accrue to Tenant by reason of destruction of or damage to any such property. Such property shall not be removed therefrom without the written consent of Landlord until all arrearages in rental and other sums of money then due to Landlord hereunder shall first have been paid; provided, Tenant may operate its business in the ordinary course and the removal of merchandise from the Premises by customers of Tenant shall not be a default under this section. All exemption laws are hereby waived in favor of said lien and security interest. This lien and security interest is given in addition to Landlord's statutory lien and shall be cumulative thereto. Landlord shall, in addition to all of its rights hereunder, also have all of the rights and remedies of a secured party under the Uniform Commercial Code as adopted in the State in which the Premises is located. To the extent permitted by law, this Lease shall constitute a security agreement under Article 9 of the Florida Uniform Commercial Code.

2.9 Inspection and Audit; Reports.

(A) Tenant shall collect and maintain its financial records pertaining to its operations pursuant to this Lease in accordance with generally acceptable accounting principles during the Term, and for a period of three (3) years following the expiration or termination of the Lease. Such records shall be open and available to the Landlord, as deemed necessary by the City Manager or City Manager's designee, upon ten (10) business days' written notice that the Landlord desires to review said records. Tenant shall maintain accurate receipt-printing cash registers or a like alternative which will record and show the revenue generated for every sale made or service provided including, but not limited to, all padel instruction; lessons and clinics; court rental fees; sales equipment rentals; pro shop sales; and the sale and operation of food and beverage concessions. Tenant shall also maintain such other records as would be required by an independent CPA in order to audit a statement of annual Gross Receipts and profit and loss statement pursuant to generally accepted accounting principles. Tenant shall maintain its records relating to the operation of the Facility within Miami-Dade County, Florida. Tenant shall maintain a segregated account for its operations pursuant to this Lease.

(B) The City Manager or City Manager's designee shall be entitled to audit Tenant's records pertaining to its operations during the Term as often as it deems reasonably necessary throughout the Term of this Lease, and within the three (3) year period following the expiration or termination of the Lease. The City shall be responsible for paying all costs associated with such audits, unless the audit(s) reveals a deficiency of five (5%) percent or more in Tenant's statement of gross receipts for any year or years audited, in which case the Tenant shall pay to the City,

within thirty (30) days of the audit being deemed final (as specified below), the cost of the audit and a sum equal to the amount of the deficiency revealed by the audit, plus interest; provided, however, the audit shall not be deemed final until Tenant has received the audit and has had a reasonable opportunity to review the audit and discuss the audit with the City. These audits are in addition to periodic audits by the City of Resort Tax collections and payments, which are performed separately. Nothing contained within this Section shall preclude the City's audit rights for Resort Tax collection purposes.

(C) Tenant shall submit, within one hundred twenty (120) days from the end of each calendar year during the Term, an annual statement of Gross Receipts, in a form consistent with generally accepted accounting principles. Additionally, such Statement shall be accompanied by a report from an independent CPA firm.

(D) Reports. Tenant shall submit quarterly reports to Landlord containing the following information:

- (1) Any repairs made to the Facility;
- (2) Report of Facility usage, which may include court usage, number of clinics, tournaments, and lessons provided;
- (3) Programmatic plan for the public benefits provided during the prior quarter and the amount of people served;
- (4) Programmatic plan for the public benefits planned for the next ensuing quarter;

Landlord reserves the right to add or modify the items required in the monthly report, as Landlord deems necessary, in its sole and reasonable discretion, in order to adequately monitor usage of the Facility and performance of the public benefits.

2.10 All Rent payments or other payments due hereunder shall be paid to the City of Miami Beach at the following address:

City of Miami Beach
Finance Department
c/o Revenue Manager
1700 Convention Center Drive
Miami Beach, Florida 33139

ARTICLE III. USE OF PREMISES.

3.1 Permitted Use: Public Padel Facility. Tenant shall be responsible for designing, permitting (including, but not limited to, Design Review Board approval), constructing, managing, marketing, activating, operating, and maintaining a first-class padel facility that enhances the recreational, leisure, and health and wellness offerings of the Lincoln Road area (the "**Facility**"), subject to Tenant securing the approval of the City, in its proprietary capacity, and any applicable regulatory approvals. This use shall include the operation of ten (10) premium fully covered and climate-controlled padel courts; pro shop; locker rooms/restrooms; lounge; spectator area; wellness area; storage; food and beverage concession facilities (including the on-site sale and service of beer and wine, subject to obtaining and maintaining all necessary licenses, permits, and approvals) that do not infringe on the City Vending Contracts (as defined in subsection 6.4 herein); and as Tenant's office (the "Permitted Uses"). Tenant's services in connection with the Permitted Uses is more particularly described in Tenant's response to the RFP, a copy of which are incorporated herein by reference and attached hereto as **Exhibit "B"**. For the avoidance of doubt, "Permitted Uses" shall mean all of the uses and activities set forth in **Exhibit "B"**.

Other than the Permitted Uses, no other use, business, or services shall be conducted by Tenant at the Premises without the prior written consent of the City Manager.

Tenant agrees, acknowledges, covenants and represents to Landlord that the Garage is for the use by the public; that such public use is a prime consideration; and must be balanced accordingly with the services to be provided by the Tenant, without restricting, or in any way limiting, the public access, nature, or ambiance of the Garage. Accordingly, Tenant agrees, acknowledges, covenants, and represents to City that the public's right to use the Garage shall not be infringed upon by any activity of Tenant.

Tenant hereby agrees, acknowledges, covenants, and represents to Landlord that, during the term of this Agreement, subject to Section 12.1, it shall continually provide high-quality, first-class affordable padel services, to serve the City's residents and visitors and to meet the demand of the City's hotel and Lincoln Road community for this type of service throughout such Term.

The business of Tenant in the Premises shall be carried on under the name specified in the Lease Summary and under no other name unless approved by Landlord in writing. Tenant shall carry on its business within the Premises in a reputable manner and shall not do, omit, permit, or suffer to be done or exist upon the Premises anything which shall result in a nuisance, hazard, or bring about a breach of any provision of this Lease or any applicable municipal or other governmental law or regulation, or would otherwise be inconsistent with the operation of similar upscale padel facilities such as the Padel X Downtown Miami (Arts & Entertainment District), Padel X Boca Raton and Padel X Palm Beach (NORA District).

3.2 Compliance with Laws. The Premises shall be used and occupied in a safe, careful, and proper manner so as not to contravene any present or future laws, rules, regulations, constitutions, orders, ordinances, charters, statutes, codes, executive orders, and requirements of any governmental authorities having jurisdiction over the Premises or any street, road, avenue, or sidewalk comprising a part of, or lying in front of, the Premises or any vault in or under the Premises (including, without limitation, any of the foregoing relating to handicapped access or parking, the local building codes, and the laws, rules, regulations, orders, ordinances, statutes, codes, and requirements of any applicable Fire Rating Bureau or other body exercising similar functions), the temporary and/or permanent certificate or certificates of occupancy issued for the Premises as then in force, and any and all provisions and requirements of any property, casualty, or other insurance policy required to be carried by Tenant under this Lease. If due to Tenant's use of the Premises repairs, improvements, or alterations are necessary to comply with any of the foregoing, Tenant shall pay the entire cost thereof.

3.3 Environmental Provisions.

(A) Tenant shall not knowingly incorporate into, use, or otherwise place or dispose of at the Premises or in the Facility (or allow others to incorporate into, use, or otherwise place or dispose of at the Premises or in the Facility) any Hazardous Materials, as hereinafter defined, unless (i) such Hazardous Materials are for use in the ordinary course of business (i.e., as with office or cleaning supplies), (ii) notice of and a copy of the current material safety data sheet is provided to Landlord for each such Hazardous Material (except for Hazardous Materials used by Tenant in the ordinary course of business (i.e., as with office or cleaning supplies), and (iii) such materials are handled and disposed of in accordance with all applicable governmental laws, rules, and regulations. If Landlord or Tenant ever has knowledge of the presence in the Premises or the Facility of Hazardous Materials which affect the Premises, such party shall notify the other thereof in writing promptly after obtaining such knowledge. For purposes of this Lease, "Hazardous Materials" shall mean: (a) petroleum and its constituents;

(b) radon gas, asbestos in any form which is or could become friable, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of federal, state or local safety guidelines, whichever are more stringent; (c) any substance, gas, material or chemical which is or may hereafter be defined as or included in the definition of "hazardous substances," "hazardous materials," "hazardous wastes," "pollutants or contaminants," "solid wastes," or words of similar import under any applicable governmental laws, rules, and regulations including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. § 9061 et seq.; the Hazardous Materials Transportation Act, as amended, 49 U.S.C. § 1801, et seq.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, et seq.; and Florida Statutes, Chapters 376 and 403; and (d) any other chemical, material, gas, or substance, the exposure to or release of which is regulated by any governmental or quasi-governmental entity having jurisdiction over the Facility or the operations thereon.

(B) If Tenant or its affiliates, employees, agents, visitors, invitees, licensees, contractors, assignees or subtenants shall ever violate the provisions of subsection (a), above, then Tenant shall clean-up, remove, and dispose of the Hazardous Material causing the violation, in compliance with all applicable governmental standards, laws, rules, and regulations and repair any damage to the Premises or Facility within such period of time as may be reasonable under the circumstances after written notice by Landlord, provided that such work shall commence not later than thirty (30) days from such notice and be diligently and continuously carried to completion by Tenant or Tenant's designated contractor. Tenant shall notify Landlord of its method, time, and procedure for any clean-up or removal of Hazardous Materials under this provision; and Landlord shall have the right to require reasonable changes in such method, time, or procedure or to require the same to be done after normal business hours or during periods of reduced parking demand for the Facility, or as may reasonably be required for the protection of customers or occupants of the Facility.

(C) Notwithstanding any contrary provisions of this Lease, Tenant, agrees to defend, indemnify, and hold harmless Landlord against any and all claims, costs, expenses, damages, liability, and the like, which Landlord may hereafter be liable for, suffer, incur, or pay arising under any applicable environmental laws, rules, and regulations and resulting from or arising out of any breach of the covenants contained in this section 3.3, or out of any act, activity, or violation of any applicable environmental laws, rules, and regulations on the part of Tenant, its affiliates, employees, agents, visitors, invitees, licensees, contractors, assignees or subtenants, unless caused by the gross negligence or willful neglect of Landlord. Tenant's liability under this section 3.3 shall survive the expiration or any termination of this Lease.

3.4 Hours; Continued Occupancy.

(A) During the Term, Tenant shall conduct its business in the Premises, at a minimum, on all days and during the Hours of Operation set forth in paragraph 23 of the Lease Summary, except during periods when the Garage is closed for parking by the public; closure during certain holidays, as may be agreed upon by the Tenant and Landlord in writing; any other event for which Tenant requests and receives prior written approval from the City Manager; or during a force majeure event ("Permitted Closures"). In the event of a Permitted Closure, Tenant shall ensure that proper signage is placed on the Premises and advance notification is provided to patrons. Tenant shall open the whole of the Premises for business to the public, fully fixtured, stocked, and staffed in accordance with the Lease Summary, unless otherwise approved in writing by Landlord, and shall continuously, actively, and diligently carry on the business specified in section 3.1 on the whole of the Premises during the Term, during such hours and upon such days as are herein required, except when prevented from doing so as a result of a Permitted Closure. Tenant acknowledges that Landlord is executing this Lease in reliance thereupon and that the same is a material element inducing Landlord to execute this Lease. Tenant shall not keep or display any merchandise on or otherwise obstruct the common areas and shall not sell,

advertise, conduct, or solicit business anywhere within the Garage other than in the Premises. Tenant shall ship and receive supplies, fixtures, equipment, furnishings, wares, and merchandise only through the appropriate service and delivery facilities provided by Landlord; and shall not park its trucks or other delivery vehicles or allow suppliers or others making deliveries to or receiving shipments from the Premises to park in the parking areas, except in those parts thereof as may from time to time be allocated by Landlord for such purpose. Tenant shall maintain available a substantial stock of goods, wares, and merchandise adequate to ensure successful operation of Tenant's business and shall employ and maintain sales and other personnel sufficient at all times for proper service to customers.

(B) Landlord agrees to incorporate and maintain technology within the Garage that enables validation rights for Tenant's patrons, including functionality that allows validated patrons to avoid flat fees or surcharges during holidays, special events, or similar occasions; provided, however, that Tenant shall be responsible for reimbursing Landlord for any costs associated with securing and maintaining this technology. Tenant agrees to reimburse the City such expenses within five (5) days from receipt of the invoice from Landlord. Landlord shall use commercially reasonable efforts to ensure that access to the Garage is available during the Hours of Operation, except during Permitted Closures.

3.5 Prohibited Uses. Notwithstanding any other provisions of this Lease, Tenant shall not use the Premises nor permit them to be used for any of the following purposes: (A) for the sale by Tenant, as its principal business purpose, of any merchandise which Tenant, in the course of its normal business practice, purchases at manufacturers' clearances or purchases of ends-of-runs, bankruptcy stock, seconds, or other similar merchandise; (B) for the sale of second-hand goods, war surplus articles, insurance salvage stock, fire sale stock, merchandise damaged by or held out to be damaged by fire, except merchandise damaged by fire or smoke occurring in the Premises, and then only for thirty (30) days after the date of any such damage; (C) as an auction or flea market; (D) for a bankruptcy sale or going-out-of-business sale or liquidation sale or any similar sale, unless Tenant is in fact in bankruptcy or is going out of business or is in liquidation, in which case such sale shall not continue beyond thirty (30) days; (E) a business primarily used for an order office, mail order office, or catalogue store; (F) as a business engaged in intentionally deceptive or fraudulent advertising or selling practices or any other act or business practice contrary to honest retail practices; (G) to offer or sell hookahs, cigarettes or CBD products; (H) for any unlawful purpose; (I) for living quarters or (J) for the operation of any offensive, noisy, or dangerous activity, nuisance, or anything against public policy.

Tenant will conduct its operations so as to maintain a reasonably quiet and tranquil environment for the adjacent areas and make no public disturbances. Tenant shall ensure that no garbage is thrown onto the sidewalks or other public spaces adjacent to the Premises and that the Facility is kept in a sanitary condition, free of any stench or foul odors.

Tenant shall take appropriate precautions to prevent fire at the Facility and Garage, maintaining existing fire detection devices and extinguishing equipment at all times.

Tenant will not permit the outside use of any musical instrument or noise-making device at the Facility, which would be in violation of the City's Noise Ordinance, as same may be amended from time to time.

Pursuant to Section 46-232 of the Code of the City of Miami Beach (the "City Code"), Tenant shall not use gas powered leaf blowers in the maintenance of the Facility; however, battery and electric-powered leaf blowers may be used within the City, consistent with the regulations set forth in section 46-152 of the City Code; provided that waste is not blown off of the rooftop of the Garage.

In the event of any violation by the Tenant or if Landlord or its authorized representative shall deem any conduct on the part of the Tenant to be objectionable or improper, Tenant shall be deemed to

be in default of this Agreement should Tenant fail to correct any such violation, conduct, or practice to the satisfaction of Landlord within twenty-four (24) hours after receiving written notice of the nature and extent of such violation, conduct, or practice.

3.6 Hurricane Evacuation Plan. The Hurricane Evacuation Plan will be implemented within 24–48 hours of issuance of a Hurricane Watch, ensuring full evacuation and facility shutdown no later than 12 hours before anticipated storm impact. Securing activities (equipment, utilities, structural protections) will be executed within a 12-hour window, coordinated with the City’s emergency management protocols. Upon approval of the final plans for the Premises, Tenant shall provide the City with a detailed description of the Hurricane Evacuation Plan, which shall be subject to approval by the City Manager or City Manager’s designee. Tenant agrees to make any required modification to the Hurricane Evacuation Plan which is requested by the City.

3.7 Taxes, Assessments, and Licenses.

(A) Payment of Personal Property Taxes; Sales Tax Reports. Tenant shall pay, when due, all taxes attributable to the personal property, trade fixtures, business, occupancy, or sales of Tenant or any other approved occupant of the Premises and to the use of the Premises by Tenant or such other approved occupant.

(B) Tenant agrees and shall pay before delinquency all taxes (including but not limited to Resort Taxes) and assessments of any kind levied or assessed upon the Facility and/or on Tenant by reason of this Lease, or by reason of Tenant’s business and/or operations at the Facility.

(C) Procedure If Ad Valorem Taxes Assessed. If ad valorem taxes are assessed against the Premises or any portion of the Garage by reason of Tenant’s business and/or operations thereon (“Real Estate Tax Bill”), Tenant shall be solely responsible for prompt and timely payment of same. In the event that Tenant does not pay such Real Estate Tax Bill before becoming delinquent, Landlord may pay the Real Estate Tax Bill and, upon Landlord presenting Tenant with proof of said payment, Tenant shall reimburse Landlord for said payment as Additional Rent within five (5) days from receipt of the bill.

(D) Tenant shall also be solely responsible (at its sole cost and expense) for obtaining and maintaining current any applicable business tax receipts required by law for the Permitted Uses; and licenses or permits, as required for Tenant’s operations, including ensuring that any approved subcontractors have secured the necessary licenses and permits.

3.8 Signs. Tenant, at Tenant’s expense, shall erect and maintain identification signage upon the storefront of the Premises. The design and specification of such signage (including camera-ready artwork) shall be submitted for the prior approval of the City Manager or City Manager’s designee and any other required governmental approvals. Tenant shall have the right to install and maintain Tenant’s trade name with a logo lock up of the Padel X logo and the City’s logo on all exterior walls of the Premises. Except with the prior written consent of Landlord, Tenant shall not otherwise erect, install, display, inscribe, paint, or affix any signs, lettering, or advertising medium upon or above any exterior portion of the Premises or in or on Tenant’s improvements.

3.9 Special Events/Sponsorships/Promotions.

(A) Tenant’s Permitted Uses contemplates the production, promotion, or sponsorship by the Tenant of padel related special events at the Facility. For purpose of this subsection (A) only, Tenant’s “Special Event” shall mean any event in which Tenant shall dedicate, and close to the general public, 50% or more of the Facility’s courts. Tenant shall be permitted to hold up to thirty (30) days of Special Events in any calendar year, subject to complying with the City’s Special Events Permit Requirements

and Guidelines ("Approved Special Event Days"). For any use, other than those provided for in this Lease, a Special Events Permit may be required, and if required, shall be obtained through the City's Office of Tourism and Culture. The prior written authorization of the City Manager or the City Manager's designee must be obtained for any such Special Event. The City Administration shall evaluate requests for Special Events Permits on a case by case basis, in accordance with the City's Special Event Permit Requirements and Guidelines.

(B) Sponsorships. The City reserves unto itself all present and future rights to negotiate all forms of endorsement and/or sponsorship agreements based on the marketing value of any City trademark, property, brand, logo and/or reputation. Any and all benefits derived from an endorsement and/or sponsorship agreement based on the marketing value of a City of Miami Beach trademark property, brand, logo and/or reputation, shall belong exclusively to the City. Tenant shall be specifically prohibited from entering into, or otherwise creating any, sponsorships and/or endorsements with third parties which are based solely or in any part on the marketing value of a City trademark, property, brand, logo and/or reputation.

It is further acknowledged that the name, likeness, equipment, concepts, logos, designs and other intellectual property rights of Tenant shall remain in the exclusive possession and control of Tenant at all times; provided, however, that Tenant hereby grants City an irrevocable license to use any Tenant trademark, brand, and/or logo, for purposes of the City's promotion of the programs and services provided at the Premises and including, without limitation, the right to use such trademarks, brand, and/or logo in all media (for such public marketing purposes).

(C) No Advertising/Promotional Assistance.

(1) No Advertising. Tenant understands that City of Miami Beach regulations strictly prohibit Tenant from advertising on any part of the Premises or improvements within the Premises which may be visible by the public from the exterior of the Garage, and expressly agrees not to conduct any advertising hereunder unless expressly approved in writing by the City, in the City's sole and absolute discretion.

(2) Marketing/Promotional Assistance. Tenant and Landlord agree to work together to create a logo lock-up, which may be used to brand and market Miami Beach merchandise. Also, Tenant agrees to promote the "City of Miami Beach" brand in connection with its merchandising and other promotional materials. Further, at the sole option and discretion of the City Manager, the City may place a link to any website maintained by Tenant, including links for users to reach Tenant and/or learn more information about the programs and services offered at the Facility. Tenant agrees to place a link for the City of Miami Beach on its website to inform users of the Facility. At the City's written request, Tenant shall remove the link or any reference to the Miami Beach Facility.

Both the City and Tenant agree to make good faith efforts to promote the use of the Facility within the City of Miami Beach under the terms of this Lease. Any placement of advertisement or other form of promotion of the Facility, including the location of the Facility, shall be subject to the prior written approval of the City Manager or City Manager's designee. Any print materials prepared by the Tenant for use of the Facility including, without limitation, marketing materials or stationery, shall require the approval of the City Manager's designee prior to printing. Materials must include the City designation/ logo and appropriate ADA (Americans with Disabilities Act) disclaimer.

3.10 Heavy Articles. Tenant shall not place in or move about the Premises without Landlord's prior written consent any safe or other heavy article which in Landlord's reasonable opinion may damage the Premises, and Landlord may designate the location of any such heavy articles in the Premises.

3.11 Bicycles, Animals. Tenant shall not bring any animals or birds into the Premises and shall not permit bicycles or other vehicles inside the Premises except in areas designated from time to time by Landlord in writing for such purposes.

3.12. Deliveries. Tenant shall ensure that deliveries of supplies, fixtures, equipment, furnishings, wares, and merchandise to the Premises are made through such entrances, elevators, and corridors and at such times as may from time to time be designated by Landlord in writing and shall promptly pay or cause to be paid to Landlord the cost of repairing any damage in the Garage caused by any person making improper deliveries to Tenant.

3.13 Obstructions. Tenant shall not obstruct or place anything in or on the sidewalks or driveways outside the Garage or in the lobbies, corridors, stairwells, or other common areas, or use such locations for any purpose except access to and exit from the Premises without Landlord's prior written consent. Landlord may remove at Tenant's expense any such obstruction or thing caused or placed by Tenant (and unauthorized by Landlord) without notice or obligation to Tenant.

3.14 Pest Control. In order to maintain satisfactory and uniform pest control throughout the Garage, Tenant shall engage for its own Premises and at its sole cost, a qualified pest extermination Tenant either designated or approved by Landlord, who shall perform pest control and extermination services in the Premises at such intervals as reasonably required or as may be directed by Landlord.

ARTICLE IV. EMPLOYEES AND INDEPENDENT CONTRACTORS.

4.1 In connection with its operations, Tenant may hire Personnel (as defined herein) who will be the Personnel of the Tenant and not of the City, and who will be subject to a background Check Process, as set forth in Section 4.5, at the expense of the Tenant. Tenant shall provide an adequate number of Personnel and man-hours in order to operate its business.

4.2 The Tenant and Personnel must demonstrate knowledge and experience in padel instruction and related activities, facility management, padel court maintenance and related activities.

4.3 Tenant's Personnel shall wear clean appropriate apparel to include uniforms/name tags, such that Facility patrons can easily identify Tenant and its Personnel.

4.4 The Tenant shall hire Personnel to work in its operation who are neat, clean, qualified and efficient and shall comport themselves in a professional and courteous manner and be in conformity with the City's Customer Service standards, as set forth in the attached **Exhibit "D"**. If the City deems it appropriate and remits written instructions to the Tenant, the Tenant and its Personnel may be required to attend Customer Service training as conducted by the City. The Tenant and any Personnel hired by same shall comply with the pre-employment requirements and standards as established by the City of Miami Beach's Human Resources Department. If Tenant materially fails to comply with these provisions, the City may send written notice of default. The Tenant shall have an experienced manager or managers overseeing the Facility and related operations at all times the Facility is open to the general public.

4.5 Personnel Background Checks.

Tenant shall comply with the requirements of Sections 1012.32 and 1012.465, Florida Statutes, requiring that only those employees who have successfully passed the background screening required by the referenced statutes, and who meet the standards established by the statutes, be allowed access to the Facility and/or allowed to perform services under this Lease. This requirement shall also extend to all Tenant representatives, agents, independent contractors, sub-contractors, or volunteers (such

employees, representatives, agents, independent Tenants, sub-contractors, or volunteers of Tenant shall be collectively referred to herein as "Personnel") performing duties under this Lease. Tenant must provide a list of Personnel working at the Facility upon the commencement date of each Lease Year.

The Personnel shall undergo the aforesated background screening and a drug screening, as well as a credit history check for those positions that require the handling of money (collectively referred to herein as "Background Check Process") prior to entering the Facility to begin employment. The Background Check Process will be the responsibility of the Tenant and Tenant or such Personnel undergoing the Background Check Process will bear the cost of acquiring the required Background Check Process, and any fee imposed by the Florida Department of Law Enforcement to maintain the records related to the background screening provided with respect to Tenant and its Personnel. A listing of Personnel who have cleared the backgrounding process must be submitted to the City when requested.

The Personnel shall not be permitted to work at the Facility until such time as the Background Check Process has been completed and the City has cleared the Personnel to work under this Lease. If any Personnel is away from the job for a period of 45 or more days, the City will require a new Background Check Process.

The City and Tenant agree and acknowledge that the failure of Tenant to perform any of the duties described in subsection shall constitute a material breach of this Lease, for which the City reserves the right to terminate immediately and without further liability to the City. Tenant agrees to indemnify defend and hold harmless the City, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from Tenant's failure to comply with the requirements of this subsection, or Sections 1012.32 and 1012.465, Florida Statutes.

Tenant agrees to require all of its Personnel to notify the Tenant and the City of any arrest(s) or conviction(s) of any offense within 24 hours of its occurrence. Tenant further agrees to immediately notify the City upon becoming aware that one of its Personnel, who was previously certified as completing the Background Check Process, is subsequently arrested, or convicted of any disqualifying offense. **Failure by Tenant to notify the City of such arrest or conviction within 24 hours of being put on notice shall constitute a material breach of this Agreement entitling the City to terminate this Lease immediately, without further liability to the City, following ten (10) days written notice to Tenant and Tenant failing to cure this default.**

ARTICLE V. INITIAL CONSTRUCTION; MAINTENANCE, REPAIRS, AND ALTERATIONS.

5.1. Tenant's Construction Obligations.

(A) Subject to the provisions hereof, Tenant shall, at its sole expense, design, secure permits (including Design Review Board ("DRB") approval) and cause the construction and installation of all improvements to the Premises, as necessary to be fully functional for its intended purpose (such improvements being referred to herein as "Tenant's Work"), in accordance with the terms and conditions of the Escrow Agreement and Work Letter attached hereto as **Exhibit "E"**. This includes addressing required systems such as lighting, sanitation, and sound (as needed), as well as ensuring compliance with all building and safety codes (including life safety). Additionally, the DRB approval order or the City Manager's proprietary approval may require certain safety features for the project, which may include a fence with a minimum of 6' in height and 6' away from the edge; and/or a net with a height of a minimum of 9 to 12'.

(B) TENANT's project plan/schedule for permitting and constructing the Facility is incorporated herein by reference and attached hereto as **Exhibit "F"**.

(C) Tenant shall not alter the existing fire alarm system in the Premises or the Garage. Tenant's Plans shall include detailed drawings and specifications for the design and installation of Tenant's fire alarm (and security) system(s) for the Premises. Such system(s) shall meet all appropriate building code requirements, and the fire alarm system shall, at Tenant's expense, be integrated into the City's fire alarm system for the Garage. (The City is not required to provide any security system.) The City's electrical contractor and/or fire alarm contractor shall, at Tenant's expense, make all final connections between Tenant's and the City's fire alarm systems. Tenant shall insure that all work performed on the fire alarm system shall be coordinated at the job site with the City's representative.

(D) The above requirements for submission of plans and the use of specific contractors shall not apply to improvements, maintenance or repairs which do not exceed \$5,000.00, provided that the work is not structural, and provided that it is permitted by applicable law.

5.2 Maintenance and Repairs by Landlord. It is hereby acknowledged and agreed that the City shall maintain and repair the foundations and all structural components of the Garage. Tenant will notify in writing of any necessary repairs that are the obligation of the City. The City shall not be responsible for any damages caused to Tenant by reason of failure of any equipment or facilities serving the Premises or delays in the performance of any work for which the City is responsible to perform pursuant to this Lease. Notwithstanding any other provisions of this Lease, if any part of the Premises is damaged or destroyed or requires repair, replacement, or alteration as a result of the act or omission of Tenant, its employees, agents, invitees, customers, licensees, or contractors, or as a result of Tenant's operations, the City shall have the right to perform same and the cost of such repairs, replacement, or alterations shall be paid by Tenant to the City upon written demand as Additional Rent. In addition, if, in an emergency, it shall become necessary to make promptly any repairs or replacements required to be made by Tenant, the City may re-enter the Premises and proceed forthwith to have the repairs or replacements made and pay the costs thereof. Upon written demand, Tenant shall reimburse the City for the cost of making the repairs as Additional Rent. The City shall exercise its rights under this section in a manner so as to minimize any disruption or interference with the operation of Tenant's business and property.

5.3 Maintenance and Repairs by Tenant. Tenant shall, at its sole cost, repair and maintain the Premises, all to a standard consistent with a first class padel facility, with the exception of base building, general mechanical for the entire Garage, general electrical systems for the entire Garage, and foundation of Garage, which are the obligation of the City. Without limiting the generality of the foregoing, Tenant is specifically required to maintain and make repairs to (i) the portion of any pipes, lines, ducts, wires, or conduits contained within the Premises including, without limitation, interior plumbing and electrical installations, (ii) windows, plate glass, doors, and any fixtures or appurtenances composed of glass (including, without limitation, interior and exterior washing of windows and plate glass and the installation of hurricane shutters, if provided by the Landlord); (iii) Tenant's sign; (iv) any heating or air conditioning equipment serving the Premises ("HVAC") (which shall include, without limitation, a preventive maintenance HVAC service contract. Such service contract shall include, without limitation, preventive HVAC maintenance no less than monthly) and a copy of such service contract will be provided to the City; and (v) the Premises or the Garage when repairs to the same are necessitated by any act or omission of Tenant, or the failure of Tenant to perform its obligations under this Lease. All repair and maintenance performed by Tenant in the Premises shall be performed by Tenants or workmen designated or approved by the City, which approval shall not be unreasonably withheld or delayed. Tenant shall also furnish, maintain, and replace all electric light bulbs, tubes, and tube casings located within or serving the Premises and Tenant's signage, all at Tenant's sole cost and expense. Any repairs or improvements to the Facility required as a result of Tenant's operations shall be Tenant's responsibility, unless caused by the gross negligence or willful neglect of the City.

5.4 Approval of Tenant's Alterations. Unless otherwise provided herein, no alterations (including, without limitation, improvements, additions, or modifications to the Premises) shall be made by Tenant to the Premises without the City's prior written approval, which may be withheld in the City's sole discretion. Any alterations by Tenant shall be performed at the sole cost of Tenant, by contractors and workmen approved by the City, which approval shall not be unreasonably withheld or delayed, and performed in a good and workmanlike manner, in accordance with all applicable laws and regulations.

5.5 Removal of Improvements and Fixtures.

(A) At the expiration or earlier termination of this Lease, all leasehold improvements and fixtures (other than unattached, movable trade fixtures which can be removed without damage to the Premises) shall be removed by Tenant, at Tenant's sole cost and expense, unless Landlord, in writing, authorizes such fixtures to remain, and shall restore the Premises to the same finish and condition which existed as of the Commencement Date. Any damage to the existing finishes of the Premises or Garage shall be patched and repaired by Tenant, at its expense, and all such work shall be done to the City's reasonable satisfaction ("Restoration Work"). If any of the Restoration Work does not match the original surface of the roof-top of the Garage as of the Commencement Date, then at the City Manager's option, the entire surface of the roof-top of the Garage shall be restored at Tenant's expense. Tenant agrees to indemnify and hold harmless the City, its agents, and employees from and against any and all costs, expenses, damage, loss, or liability, including, but not limited to, reasonable attorneys' fees and costs, which arise out of, is occasioned by, or is in any way attributable to the build-out of the Premises or any subsequent improvements or alterations by Tenant pursuant to this Lease. Tenant, at its expense, shall be responsible for the maintenance, repair, and replacement of any and all items constructed by Tenant.

(B) Tenant may, during the Term, in the usual course of its business, remove its trade fixtures, provided that Tenant is not in default under this Lease; and Tenant shall, at the expiration or earlier expiration of the Term (only if requested of the City), at its sole cost, remove such leasehold improvements and trade fixtures in the Premises. Tenant shall, at its own expense, repair any damage caused to the Premises and Garage by such removal. If Tenant does not remove its trade fixtures at the expiration, or if requested by the City in writing, upon an earlier termination of the Term, the trade fixtures may also, at the option of the City, become the property of the City and may be removed from the Premises and sold or disposed of by the City in such manner as it deems advisable without any accounting to Tenant.

5.6 Liens. Tenant shall promptly pay for all materials supplied and work done in respect of the Premises by, through, or under Tenant so as to ensure that no lien is recorded against any portion of the Premises or Garage or against the City's or Tenant's interest in the Premises or Garage, as applicable. If a lien is so recorded, Tenant shall discharge it promptly by payment or bonding. If any such lien against the Premises or Garage or against the City's or Tenant's interest in the Premises or Garage, as applicable, the City shall have the right to remove such lien by bonding or payment and the cost thereof shall be paid immediately upon ten (10) days written notice from City to the Tenant. The City and Tenant expressly agree and acknowledge that no interest of the City in the Premises or the Garage shall be subject to any lien for improvements made by Tenant in or for the Premises, and the City shall not be liable for any lien for any improvements made by Tenant, such liability being expressly prohibited by the terms of this Lease. In accordance with applicable laws of the State of Florida, Landlord has filed in the public records of Miami-Dade County, Florida, a public notice containing a true and correct copy of this paragraph, and Tenant hereby agrees to inform all contractors and material suppliers performing work in or for or supplying materials to the Premises of the existence of said notice.

5.7 Utilities. Tenant shall be responsible, at its sole cost and expense, to provide any and all appropriate utilities connection points to the Premises sufficient to allow Tenant to use the Premises for

the Permitted Uses ("Utility Work"). For the avoidance of doubt, such Utility Work shall include, without limitation, water, sewer, and electricity. Tenant shall be reimbursed for the costs associated with such Utility Work as set forth in Section 2.3. Tenant shall pay to Landlord, or as Landlord directs, all gas, electricity, water, sewer, cable, trash, pest control and other utility charges applicable to the Premises, as separately metered. Tenant shall, at its own cost, install, maintain and repair, as required, its electrical meter for the Premises. In addition, Tenant's electrical equipment and lighting shall be restricted to that equipment and lighting which individually does not have a rated capacity and/or design load greater than the rated capacity and/or design load of the Facility. If Tenant's consumption of electrical services exceeds either the rated capacity and/or design load of the Facility, then Tenant shall remove the equipment and/or lighting to achieve compliance within twenty (20) days after receiving written notice from Landlord, or such equipment and/or lighting may remain in the Premises, so long as Tenant shall pay for all costs of installation and maintenance of submeters, wiring, air-conditioning, and other items required by Landlord, in Landlord's reasonable discretion, to accommodate Tenant's excess design loads and capacities; provided, however, Tenant shall be reimbursed for those costs as set forth in Section 2.3. Except with respect to Tenant's maintenance responsibilities as set forth in Section 5.3, and notwithstanding anything herein to the contrary, if Tenant believes, in its reasonable discretion, that the utilities of the Premises require an upgrade to accommodate Tenant's Permitted Uses, as may be approved by Landlord in accordance with the provisions in Section 5.4 as additional Utility Work, then Tenant shall incur the cost or expense of such upgrade and be reimbursed for those costs as set forth in Section 2.3.

5.8 Orderly Operation.

(A) The Tenant shall have a neat and orderly operation, consistent with a first class padel facility and at all times and shall be solely responsible for all costs in connection with the maintenance of the equipment clean, fully functional, free of damage, in accordance with the manufacturer's specifications and maintenance requirements, the costs in connection with the upkeep of the padel courts, and the necessary janitorial services for the Facility including, without limitation the following:

- (1) Electric Blowers
- (2) Hot/Water/Pressure Washing
- (3) Trash cans with Rollers
- (4) Brooms and Pans
- (5) Court materials
- (6) Benches
- (7) Umbrellas
- (8) Outdoor Furniture
- (9) Indoor Furniture
- (10) Televisions
- (11) Ball Caddies
- (12) Racquets
- (13) Balls
- (14) Computers
- (15) Phones
- (16) Office Supplies
- (17) Janitorial Supplies

With respect to the janitorial services for the Facility to include bathroom supplies at interior bathrooms. Upon written request, the Tenant shall provide the City Manager's designee with a list of all cleaning solvents, solutions, agents, chemicals, detergents, and any other fluids or materials used in the provision of the maintenance services, and their corresponding OSHA Material Safety Data Sheets, where applicable.

(B) Courts and Related Facilities Maintenance Standards. The parties herein acknowledge, and Tenant agrees to ensure the Facility is properly and effectively maintained adhering to widely and commonly used for a first class padel Court Maintenance Standards, as well as the Extremely Clean standards set forth in the City's cleanliness index, attached hereto as **Exhibit "G"** (collectively, the "Maintenance Standards"). It is further understood that upon the written request of the City, Tenant shall periodically, or upon the City's written request, provide the City Manager or his designee, with a maintenance report in a format approved by the City.

(C) Recycling, Litter, Garbage and Debris Removal. With respect to recycling, litter, garbage and debris removal, the Tenant shall provide, at its sole cost and expense, receptacles within the confines of the Facility and shall provide a sufficient number of these receptacles for its own use and for the use of the public. Disposal of the contents of said receptacles and removal of litter, garbage and debris within the Facility as well as recycling (collectively referred to herein as "Waste Removal Procedures"), shall be done on a daily basis, and shall be the sole cost and responsibility of the Tenant. Notwithstanding the foregoing, the Tenant shall be permitted to utilize the City's Waste Removal Procedures, which the City is currently receiving at the Garage, as an in-kind service ("In-Kind Service"), at no additional cost to Tenant. Should the current In-Kind Service terminate at any time during the Term of this Agreement or should Tenant's use exceed the current In-Kind Service being provided at the Facility, Tenant shall be responsible for securing and paying for separate and/or additional Waste Removal Procedures, which may include, without limitation, routine bulk trash pick-ups and labor costs associated therewith. The dumping or disposal of any refuse, discards, trash or garbage, generated by, or as a result of the operations on the Facility, into any of the Miami Beach trash receptacles located in or around the remainder of the Garage or Lincoln Road, by the Tenant (including its staff and employees), shall be strictly prohibited unless previously agreed to by the City Manager or City Manager's designee. Since Tenant will have a food and beverage service, Tenant is also required to clean up any garbage generated by its operations, even if it spills over into the other portions of the Garage or public sidewalks adjacent to the Garage.

5.9 Inspection. The Tenant agrees that the Facility and all amenities, equipment, and operations thereon may be inspected at any time during Hours of Operation by the City Manager or his/her designee to ensure compliance with this Lease and applicable law, or by any other Municipal, County, State officer, or agency having responsibilities for inspections of such operations.

Upon reasonable written notice, not less than 24 hours (but no notice is required in emergencies), Tenant shall provide the City with access to the Premises to make such repairs, alterations, or improvements thereto as Landlord considers necessary or reasonably desirable; to have access to underfloor facilities and access panels to mechanical shafts and to check, calibrate, adjust, and balance controls and other parts of the heating, air conditioning, ventilating, and climate control systems. The City reserves to itself (and others acting on behalf of the City) the right to install, maintain, use, and repair pipes, ducts, conduits, vents, wires, and other installations leading in, through, over, or under the Premises and for this purpose, the City may take all material into and upon the Premises which is required therefor. Tenant shall not unduly obstruct any pipes, conduits, or mechanical or other electrical equipment so as to prevent reasonable access thereto. The City shall exercise its rights under this section, to the extent possible in the circumstances, in such manner so as to minimize interference with Tenant's use and enjoyment of the Premises and Tenant's property.

The Tenant hereby waives all claims against the City for compensation for loss or damage sustained by reason of any interference with the operations by the City or any public agency or official in enforcing its or his duties or any laws or ordinances. Any such interference shall not relieve the Tenant from any obligation hereunder.

5.10 Right to Show Premises. Landlord and its agents have the right to enter the Premises at all reasonable times and upon reasonable written notice not less than 24 hours to show them to prospective purchasers, lenders, or anyone having a prospective interest in the Facility, and, during the last six (6) months of the Term, to show them to prospective tenants. Landlord shall exercise its rights under this section, to the extent possible in the circumstances, in such manner so as to minimize interference with Tenant's use and enjoyment of the Premises and Tenant's property.

ARTICLE VI. MANAGEMENT, FEES, CHARGES AND PROGRAMS & RELATED SERVICES TO BE PROVIDED.

6.1 Management of Padel Pro Shop Related Items and Services. As part of the Permitted Uses, Tenant agrees to provide the programs set forth in **Exhibit "B"**. An implementation schedule of said services shall be provided by the Tenant within sixty (60) days of the Commencement Date. Said schedule and any modifications, additions or deletions to the list are subject to the prior written approval of the City Manager and Exhibit "B" shall be amended accordingly. Notwithstanding the foregoing, modifications or changes in prices for said services may be made in the sole discretion of Tenant without notice to or approval from the City Manager or Designee; provided, however, that any increase or decrease in such prices exceeding fifteen percent (15%) shall require the prior written approval of the City Manager or Designee. Any approval or consent required of the City Manager or Designee under this Section 6.2 shall not be unreasonably withheld, conditioned, or delayed. The City Manager or Designee shall respond to any approval or consent request within fifteen (15) business days; however, that the City's failure to respond or approve within said fifteen (15) business day period shall not be deemed an approval by the City. Tenant may offer for sale those padel related items including, but not limited to, balls, racquets, shoes, shirts, hats, and towels, and offer related services. Prices sold in the Pro Shop and for other programs and services shall be substantially in accordance with the price ranges of other similar padel facilities.

6.2 Fees for hourly court rentals, lessons, clinics, merchandise, equipment rental, and food and beverage sales and any other related items or services to be sold must be prominently posted at the Facility at those location(s) where such fees are normally paid. All fees and charges shall be competitive with those charged by comparable padel facilities in Miami-Dade and Broward Counties. Initial fees for programs, clinics and lessons are set forth in **Exhibit "H"** attached hereto. All modifications or changes in the fees described in **Exhibit "H"** may be made in the sole discretion of Tenant without notice to or approval from the City Manager or Designee; provided, however, that any increase or decrease in such fees exceeding fifteen percent (15%) shall require the prior approval of the City Manager or Designee. Any approval or consent required of the City Manager or Designee under this Section 6.2 shall not be unreasonably withheld, conditioned, or delayed. The City Manager or Designee shall respond to any approval or consent request within fifteen (15) business days; provided, however, that the City's failure to respond or approve with said fifteen (15) business day period shall not be deemed an approval by the City.

6.3 The initial menu and costs associate with the food and beverage operation is incorporated herein by reference and attached hereto as **Exhibit "I"**. All modifications or changes in the costs described in **Exhibit "I"** may be made in the sole discretion of Tenant without notice to or approval from the City Manager or Designee; provided, however, that any increase or decrease in such costs exceeding fifteen percent (15%) shall require the prior approval of the City Manager or Designee. Such approval shall not be unreasonably withheld, conditioned, or delayed. The City Manager shall respond to any approval or consent request within fifteen (15) business days; however, the City's failure to respond or approve within said fifteen (15) business day period shall not be deemed an approval by the City.

6.4 Exclusive City Vending Contracts. Tenant's food and beverage service shall be subject

to, and shall not, in any event, conflict with or otherwise violate the City's exclusive vending contracts, as may be procured or amended from time to time, which currently include the City's exclusive pouring rights agreement with PepsiCo d/b/a PepsiCo Beverage Sales, LLC, for all non-alcoholic beverage categories, including but not limited to soda, water, juice, iced tea, isotonic; and an exclusive pouring rights agreement with Red Bull for the energy drink beverage category; as such, the dispensing or sale of any competing products is prohibited under this Lease. Additionally, Tenant shall be required to utilize the services of the City's exclusive vending contract with Bettoli Trading Corp. for snacks. All of the City's vending contracts shall be collectively referred to herein as the "City Vending Contracts"), a copy of which are being provided to Tenant simultaneously herewith. The City Manager's designee will provide Tenant with the contact information for each of the City Vending Contracts, as Tenant will be required to purchase the products from that designated product distributor. The City will provide Tenant with written notice of any changes to, or terminations of, the City Vending Contracts.

ARTICLE VII. PUBLIC BENEFITS.

As additional consideration for this Lease, Tenant agrees to provide the following benefits to the public utilizing the Premises (the "Public Benefits"):

(A) Programs at the Facility:

- Residents;
- (1) a minimum of one (1) free weekly padel initiation sessions for Miami Beach Residents;
 - (2) providing a 15% reduction in court booking fees to Miami Beach residents;
 - (3) providing access to the Facility (without a space rental fee) for a minimum of two (2) Charity events per Lease Year;
 - (4) producing a minimum of eight (8) weekend wellness events at the Premises that are open to the community
 - (5) providing affordable after school and youth programs for a minimum of forty (40) students per school year;
 - (6) providing youth summer camps and seasonal clinics for a minimum of forty (40) students per year;
 - (7) providing a minimum of Ten Thousand and No/100 Dollars (\$10,000.00) per year in subsidized memberships for youth enrolled in after school programming;
 - (8) providing a minimum of ten (10) sponsorship grants for talented juniors needing financial assistance to access professional training and competition preparation;
 - (9) fund a minimum of four (4) proactive engagements per year, which could include local schools, non-profit organizations, and cultural groups to introduce them to the sport;
 - (10) fund a minimum of four (4) Family-friendly programming per year; and
 - (11) work with Parks and Recreation Department to host 1-2 free family friendly activations per Lease Year.

(B) Sustainability Initiatives. Pursuant to Section 3.5 (Tab 3 of Tenant's Proposal), Tenant agrees to recycle a minimum of Ten Thousand (10,000) aluminum cans and plastic bottles from its operations at the Facility, thereby diverting these recyclables from landfills and reducing CO2 emissions. Tenant agrees to incorporate into its operations the following from recycled materials: trash bins, coolers, benches, recycled apparel and recycled towels. Recycling, made from recycled materials, shall be placed at the Facility to encourage recycling.

ARTICLE VIII. FINES AND PENALTIES.

The City reserves the right to levy fines against the Tenant when the City determines that Tenant is not meeting the level of performance required under this Lease for the Facility. The following table below depicts areas where fines will be levied:

Work Activity	Grace Period
Quality of Operations	24 hours
Personnel Shortages	4 hours
Personnel Dress Code	8 hours
Reporting	24 hours
Payments	24 hours
Equipment Deficiencies	72 hours
Maintenance	24 hours
Supplies	8 hours
Program Management	24 hours
Communications	48 hours
Life Safety Maintenance	2 hours
Public Benefits	24 hours

Fines for failures to complete corrective action for any of the performance activities listed above are as follows:

- \$100 after failing to complete corrective action after two (2) notifications
- \$200 after three (3) notifications
- \$500 after four (4) notifications

If additional time is required to complete corrective action, a written request must be submitted for approval to the City Manager's designee prior to the end of the grace period. The basis for the implementation of fines and penalties includes but is not limited to the following:

- a. Quality of Operations – Inability to provide service in a workmanlike and professional manner; failure to conform to professional and industry standards; unable to provide maintenance services in a manner in clean orderly and safe condition.
- b. Personnel Shortages – Failure to provide necessary on-site personnel required to provide services consistent with other first class padel operation in Miami-Dade County and Broward County.
- c. Personnel Dress Code – Failure of employees to meet uniform requirements required pursuant to Article IV, including wearing clean uniforms.
- d. Reporting – Failure to submit required reports pursuant to subsection 2.9 or subsection 5.8 on the due dates.
- e. Payments – Failure to submit required payments due under this Lease and thresholds on due dates.
- f. Equipment Deficiencies – Inability to fully operate; in non-functional condition; in state of disrepair and or visibly damaged; lacking maintenance; and not generally

maintained and in clean condition.

- g. Maintenance – Failure to maintain the Premises are required pursuant to subsection 5.8.
- h. Supplies – Failure to provide the supplies necessary for the proper execution of Tenant's operations or maintenance service specified.
- i. Program Management - Failure to implement a comprehensive management program to respond to the City and/ or stakeholder requests for services and maintenance issues require by this Lease.
- j. Communications – Failure to address routine, scheduled, and emergency maintenance and repair activities.
- k. Safety Regulations – Failure to adhere to OSHA's most recently published Safety and Health Regulations and general Occupational Safety and Health Standards.
- l. Public Benefits – Failure to provide Public Benefits required under this Lease.

ARTICLE IX. INSURANCE AND INDEMNITY.

9.1 Tenant's Insurance. The Tenant shall maintain the below required insurance in effect prior to awarding the Lease and for the duration of the Lease. The maintenance of proper insurance coverage is a material element of the Lease and failure to maintain or renew coverage may be treated as a material breach of the Lease, which could result in withholding of payments or termination of the Lease.

(A) Worker's Compensation Insurance for all employees of the vendor as required by Florida Statute 440, and Employer Liability Insurance for bodily injury or disease. Should the Tenant be exempt from this Statute, the Tenant and each employee shall hold Landlord harmless from any injury incurred during performance of the Lease. The exempt Tenant shall also submit (i) a written statement detailing the number of employees and that they are not required to carry Workers' Compensation insurance and do not anticipate hiring any additional employees during the term of this Lease or (ii) a copy of a Certificate of Exemption.

(B) Commercial General Liability Insurance on an occurrence basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence, and \$2,000,000 general aggregate.

(C) Umbrella Liability with limits no less than \$2,000,000. The umbrella coverage must be as broad as the primary General Liability coverage.

(D) All-Risk property and casualty insurance, written at a minimum of eighty (80%) percent of replacement cost value and with replacement cost endorsement, covering all leasehold improvements installed in the Premises by or on behalf of Tenant and including without limitation all of Tenant's personal property in the Premises (including, without limitation, inventory, trade fixtures, floor coverings, furniture, and other property removable by Tenant under the provisions of this Lease).

(E) Liquor Liability Insurance on an occurrence basis, including property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. (Required, if necessary.)

(F) Business interruption insurance, sufficient to insure Tenant for no less than one (1) full year of loss of business, with the Landlord named thereon as loss payee to the extent permitted by applicable law.

9.2 Additional Insured - City of Miami Beach must be included by endorsement as an additional insured with respect to all liability policies (except Professional Liability and Workers' Compensation) arising out of work or operations performed on behalf of the Tenant including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired or borrowed in the form of an endorsement to the Tenant's insurance.

9.3 Notice of Cancellation - Each insurance policy required above shall provide that coverage shall not be cancelled, except with notice to the City of Miami Beach c/o EXIGIS Insurance Compliance Services.

9.4 Waiver of Subrogation – Vendor agrees to obtain any endorsement that may be necessary to affect the waiver of subrogation on the coverages required. However, this provision applies regardless of whether the City has received a waiver of subrogation endorsement from the insurer.

9.5 Acceptability of Insurers – Insurance must be placed with insurers with a current A.M. Best rating of A:VII or higher. If not rated, exceptions may be made for members of the Florida Insurance Funds (i.e. FWCIGA, FAJUA). Carriers may also be considered if they are licensed and authorized to do insurance business in the State of Florida.

9.6 Verification of Coverage – Tenant shall furnish the City with original certificates and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this contract. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Tenant's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

CERTIFICATE HOLDER MUST READ:
CITY OF MIAMI BEACH
c/o EXIGIS Insurance Compliance Services
P.O. Box 4668 – ECM #35050
New York, NY 10163-4668

Kindly submit all certificates of insurance, endorsements, and exemption letters to our servicing agent, EXIGIS, at:

Certificates-miamibeach@riskworks.com

9.7 Special Risks or Circumstances - The City of Miami Beach reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

9.8 Compliance with the foregoing requirements shall not relieve the Tenant of his liability and obligation under this section or under any other section of this Lease.

9.9 Intentionally Deleted.

9.10 Loss or Damage; Indemnification.

(A) Loss or Damage. Tenant acknowledges that the City will be performing any maintenance and repairs required of the City hereunder. The City shall not be liable for any death or injury arising from or out of any occurrence in, upon, at, or relating to the Garage or damage to property of Tenant or of others located on the Premises or elsewhere in the Garage, nor shall it be responsible for any loss of or damage to any property of Tenant or others from any cause, unless such death, injury, loss, or damage results from the gross negligence, willful misconduct of the City. Without limiting the generality of the foregoing, the City shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, falling ceiling tile, falling fixtures, steam, gas, electricity, water, plumbing works (outside of the Premises), roof, or subsurface of any floor or ceiling of the Garage or from the street or any other place or by any other cause whatsoever, unless resulting from the gross negligence, willful misconduct, of the City.

Notwithstanding the foregoing paragraph, in no event shall the City be liable, whether to Tenant or to third parties, for an interruption or failure in the supply of any utilities or services to the Premises, or for any damage to person or property arising from a force majeure event, environmental concerns, theft, vandalism, HVAC malfunction, sprinklers, appliances, plumbing works within the Premises, windows, dampness, the bursting or leaking of water pipes, any act or omission of Tenant, or its employee, agent, contractor, invitee, guest, assignee, or approved sub-tenant or occupant of the Premises or of any other person, or otherwise. Additionally, all personal property placed or moved into the Premises will be at the sole risk of Tenant.

(B) Tenant shall indemnify, defend and hold harmless Landlord from and against any and all losses (including loss of Minimum Rent and Additional Rent payable in respect to the Premises), claims, actions, damages, liability, and expense of any kind whatsoever (including reasonable attorneys' fees and costs at all tribunal levels), unless caused by the gross negligence, willful misconduct, of Landlord, arising from (1) any occurrence in, upon, or at the Premises, (2) the occupancy, use, or improvement by Tenant, or its employee, agent, contractor, invitee, guest, assignee, or sub-tenant of the Premises or any part thereof, (3) wholly or in part by any act or omission of Tenant or its employee, agent, contractor, invitee, guest, assignee, sub-tenant or by anyone permitted to be on the Premises by Tenant; (4) any misuse, neglect or unlawful use of the Premises by Tenant or its employee, agent, contractor, invitee, guest, assignee, or sub-tenant; or (5) any breach, violation, or non-performance of any undertaking of Tenant under this Lease.

(C) No Waiver of Sovereign Immunity. Nothing contained in this subsection or elsewhere in this Lease is in any way intended to be a waiver of the limitation placed upon the City's liability as set forth in Florida Statutes Section 768.28.

ARTICLE X. DAMAGE AND DESTRUCTION.

10.1 Damage to Premises. Tenant acknowledges that if the Premises are partially or totally destroyed due to fire or other casualty, any repairs to or rebuilding of the damaged portions of the Facility will be performed by Landlord and in any event only to the extent that Landlord is required to repair or rebuild the Facility. If Landlord repairs or rebuilds, Rent shall abate proportionately to the portion of the Premises, if any, rendered untenantable from the date of destruction or damage until the repairs have been substantially completed. Upon being notified that the repairs have been substantially completed, Tenant shall diligently perform all other work required to fully restore the Premises for use in Tenant's business, in every case at Tenant's cost and without any contribution to such cost by Landlord, whether or not Landlord has at any time made any contribution to the cost of supply, installation, or construction of

leasehold improvements in the Premises. Tenant agrees that during any period of reconstruction or repair of the Premises, it will continue the operation of its business within the Premises to the extent practicable. If all or any part of the Premises shall be damaged by fire or other casualty and the fire or other casualty is caused by the fault or neglect of Tenant or Tenant's agents, guest, or invitees, rent and all other charges shall not abate.

10.2 Termination for Damage. Notwithstanding section 10.1, if damage or destruction which has occurred to the Premises or the Facility is such that in the reasonable opinion of Landlord such reconstruction or repair cannot be completed within nine (9) months of the happening of the damage or destruction, Landlord or Tenant, at its option, may terminate this Lease on written notice to the other, given within thirty (30) days after such damage or destruction and Tenant shall immediately deliver vacant possession of the Premises in accordance with the terms of this Lease, including section 5.1(B).

In addition, if Landlord undertakes the reconstruction or repair, and does not complete same within nine (9) months after the date of the fire or other casualty (subject to the time required to prepare plans for reconstruction, to obtain building permits, to receive distribution of insurance proceeds, and to complete the likely contract bidding process and all other relevant factors, but not to exceed an additional ninety (90) days), then Tenant shall have the right to terminate this Lease by written notice to Landlord delivered within thirty (30) days after the expiration of such nine (9) month period (or as extended), whereupon both parties shall be relieved of all further obligations hereunder, except as otherwise expressly set forth herein.

ARTICLE XI. ASSIGNMENT, LEASES, AND TRANSFERS.

Tenant shall not assign; sublease; grant any concession or license or management agreement; permit the use of by any other person other than Tenant; or otherwise transfer all or any portion of this Agreement and/or of the Facility (all of the forgoing are herein after referred to collectively as "transfers"), without the prior written consent of the City Commission, in the City Commission's sole discretion.

ARTICLE XII FORCE MAJEURE.

12.1 A "Force Majeure" event is an event that (i) in fact causes a delay in the performance of the Tenant or the City's obligations under this Lease, and (ii) is beyond the reasonable control of such party unable to perform the obligation, and (iii) is not due to an intentional act, error, omission, or negligence of such party, and (iv) could not have reasonably been foreseen and prepared for by such party at any time prior to the occurrence of the event. Subject to the foregoing criteria, Force Majeure may include events such as war, civil insurrection, riot, fires, epidemics, pandemics, terrorism, sabotage, explosions, embargo restrictions, quarantine restrictions, transportation accidents, strikes, strong hurricanes or tornadoes, earthquakes, or other acts of God which prevent performance. Force Majeure shall not include technological impossibility, inclement weather, or failure to secure any of the required permits pursuant to this Lease.

12.2 If the City or Tenant's performance of its contractual obligations is prevented or delayed by an event believed by to be Force Majeure, such party shall immediately, upon learning of the occurrence of the event or of the commencement of any such delay, but in any case within fifteen (15) business days thereof, provide notice: (i) of the occurrence of event of Force Majeure, (ii) of the nature of the event and the cause thereof, (iii) of the anticipated impact on this Lease, (iv) of the anticipated period of the delay, and (v) of what course of action such party plans to take in order to mitigate the detrimental effects of the event. The timely delivery of the notice of the occurrence of a Force Majeure event is a condition precedent to allowance of any relief pursuant to this section; however, receipt of such notice shall not constitute acceptance that the event claimed to be a Force Majeure event is in fact Force

Majeure, and the burden of proof of the occurrence of a Force Majeure event shall be on the requesting party.

12.3 No party hereto shall be liable for its failure to carry out its obligations under this Lease during a period when such party is rendered unable, in whole or in part, by Force Majeure to carry out such obligations. The suspension of any of the obligations under this Lease due to a Force Majeure event shall be of no greater scope and no longer duration than is required. The party shall use its reasonable best efforts to continue to perform its obligations hereunder to the extent such obligations are not affected or are only partially affected by the Force Majeure event, and use its reasonable best efforts to correct or cure the event or condition excusing performance and otherwise to remedy its inability to perform to the extent its inability to perform is the direct result of the Force Majeure event with all reasonable dispatch.

12.4 Obligations pursuant to this Lease that arose before the occurrence of a Force Majeure event, causing the suspension of performance, shall not be excused as a result of such occurrence unless such occurrence makes such performance not reasonably possible. The obligation to pay money in a timely manner for obligations and liabilities which matured prior to the occurrence of a Force Majeure event shall not be subject to the Force Majeure provisions.

12.5 Should, for reasons unrelated to Tenant's negligence or intentional misconduct, thirty percent (30%) or more of the Facility or thirty percent (30%) or more of the courts be closed due to repairs or closure of the Garage for a time period greater than thirty (30) continuous days, the parties shall agree to negotiate, in good faith, to an appropriate modification to the Tenant's Rent payment obligations for the applicable time period, based upon the proportionate loss of revenue or proportionate loss of use of the Facility. If the parties cannot reach an agreement, the current terms and conditions of this Lease shall remain in place and either party may terminate this Lease upon providing the other with a minimum of sixty (60) days' notice. If this Lease is terminated pursuant to this subsection, Tenant shall be paid for any services performed up to the date of termination; following which the City shall be discharged from any and all liabilities, duties, and terms arising out of, or by virtue of, this Lease. In no event will any condition of Force Majeure extend this Lease beyond its stated Term.

12.6 Labor Dispute. In the event of a labor dispute which results in a strike, picket or boycott affecting the Facility or operation described in this Lease, Tenant shall not thereby be deemed to be in default or to have breached any part of this Lease, unless such dispute shall have been caused by illegal labor practices or violations by Tenant of applicable collective bargaining agreements and there has been a final determination of such fact which is not cured by Tenant within thirty (30) days.

12.7 Waiver of Loss from Hazards. The Tenant hereby expressly waives all claims against the City for loss or damage sustained by the Tenant resulting from any Force Majeure contemplated in Subsection 12.5 and Labor Dispute in Subsection 12.6 above, and the Tenant hereby expressly waives all rights, claims, and demands against the City and forever releases and discharges the City from all demands, claims, actions and causes of action arising from any of the aforesaid causes.

ARTICLE XIII. DEFAULT.

13.1 Defaults. A default by Tenant shall be deemed to have occurred hereunder, if and whenever:

(i) any Minimum Rent is not paid within five (5) days from written notice or demand for payment has been made by Landlord;

(ii) any other Additional Rent is in arrears and is not paid within five (5) days after written demand by Landlord;

(iii) Tenant has breached any of its obligations in this Lease (other than the payment of Rent or other enumerated defaults in subsections (iv) – (x) and Tenant fails to remedy such breach within thirty (30) days (or such shorter period as may be provided in this Lease) of written notice from the City, or if such breach cannot reasonably be remedied within thirty (30) days (or such shorter period), then if Tenant fails to immediately commence to remedy and thereafter proceed diligently to remedy such breach, not to exceed ninety (90) days, in each case after notice in writing from Landlord;

(iv) Tenant becomes bankrupt or insolvent;

(v) any of Landlord's policies of insurance with respect to the Facility are canceled or adversely changed as a result of Tenant's use or occupancy of the Premises and Tenant fails to either restore such policies of insurance to comply with the terms of this Lease or obtain replacement policies of insurance satisfactory to Landlord within five (5) business days;

(vi) Tenant fails to open the Premises fully stocked for operation on the earlier of: (1) thirty (30) days from the date of issuance of the temporary certificate of occupancy or full certificate of occupancy or (2) the date that is eighteen (18) months from the Commencement Date, following written notice from Landlord and Tenant failing to open within ten (10) days following said notification;

(vii) Except for Permitted Closures, as set forth in Section 3.4(A), the business operated by Tenant in the Premises shall be closed by governmental or court order or for any other reason for a period of thirty (30) days or longer and Tenant failing to open within ten (10) days following written notification from Landlord;

(viii) Failure of Tenant to operate continuously for the Permitted Uses, fully stocked and during the entirety of the Hours of Operation, following written notice from Landlord and Tenant failing to cure said default within ten (10) days following said notification;

(ix) The Guarantor (1) ceases to hold a controlling ownership interest in the Tenant; (2) makes a general assignment for the benefit of creditors; (3) files a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment of debt, liquidation or dissolution or similar relief under any present or future statute, law or regulation of any jurisdiction, (4) dissolves or (5) becomes inactive; and

(x) Tenant's failure to perform any covenant, condition or obligations under the Lease for three or more times in a given Lease Year beyond any applicable cure period, then such conduct shall, at the election of the City, represent a separate event of default which cannot be cured by Tenant. In such case, the City may immediately or at any time thereafter, and without further demand or notice, terminate this Agreement without being prejudiced as to any remedies which may be available to it for breach of contract. Tenant acknowledges that the purpose of this provision is to prevent repetitive defaults by Tenant under the Lease, which work a hardship upon the City, and deprive the City of the timely performance by Tenant hereunder.

13.2 Remedies. In the event of any default beyond its applicable cure period hereunder by Tenant, then without prejudice to any other rights which it has pursuant to this Lease or at law or in equity, Landlord shall have the following rights and remedies, which are cumulative and not alternative:

(A) Landlord may cancel this Lease by written notice to Tenant (unless notice is waived by other provisions of this Lease) and retake possession of the Premises for Landlord's account, or may

terminate Tenant's right to possession of the Premises without terminating this Lease. In either event, Tenant shall then quit and surrender the Premises to Landlord. If Landlord terminates Tenant's right to possession of the Premises without terminating this Lease, Tenant's liability under all of the provisions of this Lease shall continue notwithstanding any expiration and surrender, or any re-entry, repossession, or disposition hereunder.

(B) Landlord may enter the Premises as agent of Tenant to take possession of any property of Tenant on the Premises, to store such property at the expense and risk of Tenant or to sell or otherwise dispose of such property in such manner as Landlord may see fit without notice to Tenant. Re-entry and removal may be effectuated by summary dispossession proceedings, by any suitable action or proceeding, or otherwise. Landlord shall not be liable in any way in connection with its actions pursuant to this section, to the extent that its actions are in accordance with law.

(C) If Landlord terminates Tenant's right to possession of the Premises without terminating this Lease under subsection (A) above, Tenant shall remain liable (in addition to accrued liabilities) to the extent legally permissible for all rent and all of the charges Tenant would have been required to pay until the date this Lease would have expired had such cancellation not occurred. Tenant's liability for rent shall continue notwithstanding re-entry or repossession of the Premises by Landlord. In addition to the foregoing, Tenant shall pay to Landlord such sums as the court which has jurisdiction thereover may adjudge as reasonable attorneys' fees with respect to any successful lawsuit or action instituted by Landlord to enforce the provisions of this Lease.

(D) Landlord may relet all or any part of the Premises for all or any part of the unexpired portion of the Term of this Lease or for any longer period, and may accept any rent then attainable; grant any concessions of rent, and agree to paint or make any necessary repairs, alterations, and decorations for any new tenant as it may deem advisable in its sole and absolute discretion. Landlord shall be under no obligation to relet or to attempt to relet the Premises, except as expressly set forth below.

(E) If Landlord terminates Tenant's right to possession of the Premises without terminating this Lease under subsection (A) above, and Landlord so elects, the rent hereunder shall be accelerated and Tenant shall pay Landlord damages in the amount of any and all sums which would have been due for the remainder of the Term (reduced to present value using a discount factor equal to the stated prime lending rate on the date of Tenant's default by Landlord's then existing mortgagee or, if there is no mortgagee, by Citibank, N.A., New York). Prior to or following payment in full by Tenant of such discounted sum promptly upon demand, Landlord shall use commercially reasonable efforts to relet the Premises. If Landlord receives consideration as a result of a reletting of the Premises relating to the same time period for which Tenant has paid accelerated rent, such consideration actually received by Landlord, less any and all of Landlord's cost of repairs, alterations, additions, redecorating, and other expenses in connection with such reletting of the Premises, shall be a credit against such discounted sum, and such discounted sum shall be reduced if not yet paid by Tenant as called for herein, or if Tenant has paid such discounted sum, such credited amount shall be repaid to Tenant by Landlord (provided said credit shall not exceed the accelerated amount).

(F) Landlord may remedy or attempt to remedy any default of Tenant under this Lease for the account of Tenant and to enter upon the Premises for such purposes. No notice of Landlord's intention to perform such covenants need be given Tenant unless expressly required by this Lease. Landlord shall not be liable to Tenant for any loss or damage caused by the reasonable acts of Landlord in remedying or attempting to remedy such default and Tenant shall pay to Landlord all expenses incurred by Landlord in connection with remedying or attempting to remedy such default. Any expenses incurred by Landlord shall accrue interest from the date of payment by Landlord until repaid by Tenant at 18% per annum.

13.3 Costs. Tenant shall pay to Landlord within ten (10) business days of demand all costs incurred by Landlord, including reasonable attorneys' fees and costs at all tribunal levels, incurred by Landlord in enforcing any of the obligations of Tenant under this Lease. In addition, upon any default by Tenant, Tenant shall be also liable to Landlord for the expenses to which Landlord may be put in re-entering the Premises; repossessing the Premises; painting, altering, or dividing the Premises; combining the Premises with an adjacent space for any new tenant; putting the Premises in proper repair; protecting and preserving the Premises by placing watchmen and caretakers therein; reletting the Premises (including reasonable attorneys' fees and disbursements, marshal's fees, and brokerage fees, in so doing); and any other expenses reasonably incurred by Landlord.

13.4 Additional Remedies; Waiver. The rights and remedies of Landlord set forth herein shall be in addition to any other right and remedy now and hereinafter provided by law. All rights and remedies shall be cumulative and non-exclusive of each other. No delay or omission by Landlord in exercising a right or remedy shall exhaust or impair the same or constitute a waiver of, or acquiescence to, a default.

13.5 Default by Landlord. In the event of any default by Landlord, Tenant's exclusive remedy shall be an action for damages or injunction, but prior to any such action Tenant will give Landlord written notice specifying such default with particularity, and Landlord shall have a period of thirty (30) days following the date of such notice in which to cure such default; provided, however, that if such default reasonably requires more than thirty (30) days to cure, Landlord shall have a reasonable time to cure such default, provided Landlord promptly commences to cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion, not to exceed ninety (90) days). Notwithstanding any provision of this Lease, in the event of a default by Landlord, Tenant hereby agrees and acknowledges that in no event shall Landlord be liable for any incidental, indirect, special or consequential damages including, without limitation, loss of revenue or loss of profits of Tenant which may be alleged as a result of Landlord's default, and Landlord's maximum liability shall be as provided in section 13.6.

13.6 Limitation of Landlord's Liability. Landlord desires to enter into this Lease only if in so doing the Landlord can place a limit on its liability for any cause of action for money damages due to an alleged breach by the Landlord of this Lease, so that its liability for any such breach never exceeds the sum of \$100,000.00. Tenant hereby expresses its willingness to enter into this Lease with Tenant's recovery from the Landlord for any damage action for breach of contract to be limited to a maximum amount of \$100,000.00. Accordingly, and notwithstanding any other term or condition of this Lease, Tenant hereby agrees that the Landlord shall not be liable to the Tenant for damages in an amount in excess of \$100,000.00, for any action or claim for breach of contract arising out of the performance or non-performance of any obligations imposed upon the Landlord by this Lease. Nothing contained in this paragraph or elsewhere in this Lease is in any way intended to be a waiver of the limitation placed upon the Landlord's liability as set forth in Section 768.28, Florida Statutes.

ARTICLE XIV. ESTOPPEL CERTIFICATE ; SUBORDINATION.

14.1 Estoppel Certificate. Within ten (10) business days after written request by Landlord, Tenant shall deliver in a form supplied by Landlord, an estoppel certificate to Landlord as to the status of this Lease, including whether 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 identifying the modification agreements); the amount of Minimum Rent and Additional Rent then being paid and the dates to which same have been paid; whether or not there is any existing or alleged default by either party with respect to which a notice of default has been served, or any facts exist which, with the passing of time or giving of notice, would constitute a default and, if there is any such default or facts, specifying the nature and extent thereof; and any other matters pertaining to this Lease as to which Landlord shall request such certificate. Landlord, and any prospective purchaser, lender, or ground lessor shall have the right to rely on such certificate.

14.2 Subordination; Attornment. This Lease and all rights of Tenant shall be subject and subordinate to any and all mortgages, security agreements, or like instruments resulting from any financing, refinancing, or collateral financing (including renewals or extensions thereof), and to any and all ground leases, made or arranged by Landlord of its interests in all or any part of the Facility, from time to time in existence against the Facility, whether now existing or hereafter created. Such subordination shall not require any further instrument to evidence such subordination. However, on written request, Tenant shall further evidence its agreement to subordinate this Lease and its rights under this Lease to any and all documents and to all advances made under such documents. The form of such subordination shall be made as reasonably required by Landlord, its lender, or ground lessor, if applicable. Tenant shall, if requested by Landlord, or a mortgagee, owner, or purchaser, or by any person succeeding to the interest of such mortgagee, owner, or purchaser, as the result of the enforcement of the remedies provided by law or the applicable instrument held by Landlord, such mortgagee, owner, or purchaser, automatically attorn to and become the tenant of Landlord or any such mortgagee, owner, purchaser, or successor-in-interest, without any change in the terms or other provisions of this Lease; provided, however, that Landlord, said mortgagee, owner, purchaser, or successor shall not be bound by (a) any payment of Minimum Rent or Additional Rent for more than one (1) month in advance, or (b) any security deposit or the like not actually received by Landlord, such mortgagee, owner, or purchaser, or successor, or (c) any amendment or modification in this Lease made without the consent of Landlord, such mortgagee, owner, purchaser, or successor, or (d) any construction obligation, free rent, or other concession or monetary allowance, or (e) any set-off, counterclaim, or the like otherwise available against Landlord, or (f) any act or omission of any prior landlord (including Landlord). Upon written request by Landlord, said mortgagee, owner, or purchaser, or successor, Tenant shall execute and deliver an instrument or instruments confirming its attornment.

Notwithstanding the foregoing, any such subordination of this Lease shall be conditioned on the Landlord obtaining a nondisturbance agreement in favor of Tenant from all mortgagees and ground lessors regarding any financings or other leases entered into by Landlord with respect to the Premises, and no subordination shall be effective without a corresponding nondisturbance agreement.

ARTICLE XV. CONTROL OF FACILITY BY LANDLORD.

15.1 Use and Maintenance of Common Areas. Tenant and those doing business with Tenant for purposes associated with Tenant's business on the Premises, shall have a non-exclusive license to use the common areas for their intended purposes during normal business hours in common with others entitled thereto and subject to any rules and regulations imposed by the City. The City shall use commercially reasonable efforts to keep the common areas in good repair and condition and shall clean the common areas when necessary, in Landlord's discretion, consistent with the standards Landlord routinely maintains for similar public parking garage facilities. Tenant acknowledges that any common

areas of the Garage shall at all times be under the exclusive control and management of the City. For purposes of this Lease, "common areas" shall mean those areas, facilities, utilities, improvements, equipment, and installations of the Garage which serve or are for the benefit of all users of the Garage and which are not designated or intended by the city to be leased, from time to time, or which are provided or designated from time to time by the City for the benefit or use of all users of the Garage. Tenant acknowledges that the remaining portion of the Garage (other than the Premises), which is used as a parking garage facility, is not a part of the Premises, and that Tenant has no right or license to use the Garage spaces pursuant to this Lease. Any use by Tenant or its invitees of the Garage spaces shall require payment for the parking spaces and shall be subject to the rules and regulations in connection therewith imposed by the City (or successor owner) and/or the operator of the Garage. The City shall not be liable for any damage to automobiles of any nature whatsoever to, or any theft of, automobiles or other vehicles or the contents thereof, while in or about the Garage.

15.2 Alterations by the City. The City may (but shall not be obligated to) (i) alter, add to, subtract from, construct improvements on, re-arrange, and construct additional facilities in, adjoining, or proximate to the Premises; (ii) relocate the facilities and improvements in or comprising the Garage or erected on the City's Property; (iii) do such things on or in the Garage as required to comply with any laws, by-laws, regulations, orders, or directives affecting the City's Property or any part of the Garage; and (iv) do such other things on or in the Garage as landlord, in the use of good business judgment determines to be advisable. Landlord shall not be in breach of its covenants for quiet enjoyment or liable for any loss, costs, or damages, whether direct or indirect, incurred by Tenant due to any of the foregoing; provided, Landlord shall use reasonable efforts to exercise its rights under this subsection in a manner so as to minimize any disruption or interference with the operation of Tenant's business and property; the interruption is due to an event of Force Majeure, or the Garage is closed to the public by the City.

ARTICLE XVI. CONDEMNATION.

16.1 Total or Partial Taking. If the whole of the Premises, or such portion thereof as will make the Premises unusable for the purposes leased hereunder, shall be taken by any public authority under the power of eminent domain or sold to public authority under threat or in lieu of such taking, the Term shall cease as of the day possession or title shall be taken by such public authority, whichever is earlier ("Taking Date"), whereupon the rent and all other charges shall be paid up to the Taking Date with a proportionate refund by the City of any Rent and all other charges paid for a period subsequent to the Taking Date. If less than the whole of the Premises, or less than such portion thereof as will make the Premises unusable for the purposes leased hereunder, the Term shall cease only as to the part so taken as of the Taking Date, and Tenant shall pay Rent and other charges up to the Taking Date, with appropriate credit by the City (toward the next installment of Rent or Additional Rent due from Tenant) of any Rent, Additional Rent or other charges paid for a period subsequent to the Taking Date. Minimum Rent, Additional Rent and other charges payable to Landlord shall be reduced in proportion to the amount of the Premises taken.

16.2 Award. All compensation awarded or paid upon a total or partial taking of the Premises or Garage including the value of the leasehold estate created hereby shall belong to and be the property of the City without any participation by Tenant; Tenant shall have no claim to any such award based on Tenant's leasehold interest. However, nothing contained herein shall be construed to preclude Tenant, at its cost, from independently prosecuting any claim directly against the condemning authority in such condemnation proceeding for damage to, or cost of removal of, stock, trade fixtures, furniture, and other personal property belonging to Tenant and for Tenant's moving expenses; provided, however, that no such claim shall diminish or otherwise adversely affect the City's award or the award of any mortgagee.

ARTICLE XVII. PROHIBITIONS REGARDING SALE OR USE OF EXPANDED POLYSTYRENE
FOOD SERVICE ARTICLES, SINGLE-USE PLASTIC BEVERAGE STRAWS, AND SINGLE-USE
PLASTIC STIRRERS.

17.1 Tenant hereby agrees and acknowledges that, pursuant to Section 82-7 of the City Code, as may be amended from time to time, Tenant shall not sell, use, provide food in, or offer the use of expanded polystyrene food service articles (as defined in City Code Section 82-7) in the Premises. A violation of this section shall be deemed a default under the terms of this Lease. Notwithstanding the above, this section shall not apply to expanded polystyrene food service articles used for prepackaged food that have been filled and sealed prior to receipt by Tenant.

17.2 Additionally, Tenant agrees and acknowledges that, pursuant to Section 82-8 of the City Code, as may be amended from time to time, Tenant shall not sell, use, provide food in, or offer the use of single-use plastic beverage straws or single-use plastic stirrers (as defined in City Code Section 82-8) in the Premises. A violation of this section shall be deemed a default under the terms of this Lease. Notwithstanding the above, the requirements of Section 82-8 shall not restrict Tenant from providing a beverage with, or offering the use of, a single-use plastic beverage straw or single-use plastic stirrer to an individual with a disability or medical condition that impairs the consumption of beverages without a single-use plastic beverage straw or single-use plastic stirrer.

17.3 As additional consideration for this Lease, separate and apart from the requirements of Sections 82-7 and 82-8 of the City Code, Tenant agrees:

(A) not sell, use, provide food in, or offer the use of expanded polystyrene food service articles in the Premises. A violation of this section shall be deemed a default under the terms of this Lease. Notwithstanding the above, this section shall not apply to expanded polystyrene food service articles used for prepackaged food that have been filled and sealed prior to receipt by Tenant; and

(B) not sell, use, provide food in, or offer the use of single-use plastic beverage straws or single-use plastic stirrers in the Premises. A violation of this section shall be deemed a default under the terms of this Lease. Notwithstanding the above, Tenant shall be permitted to providing a beverage with, or offering the use of, a single-use plastic beverage straw or single-use plastic stirrer to an individual with a disability or medical condition that impairs the consumption of beverages without a single-use plastic beverage straw or single-use plastic stirrer.

XVIII. TENANT'S COMPLIANCE WITH FLORIDA'S PUBLIC RECORDS LAW.

18.1 Tenant shall comply with Florida Public Records law under Chapter 119, Florida Statutes, as may be amended from time to time.

18.2 The term "public records" shall have the meaning set forth in Section 119.011(12), which means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business of the City.

18.3 Pursuant to Section 119.0701 of the Florida Statutes, if the Tenant meets the definition of "Tenant" as defined in Section 119.0701(1)(a), the Tenant shall:

(A) Keep and maintain public records required by the City to perform the service;

(B) Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law;

(C) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the contract term and following completion of the Lease, if the Tenant does not transfer the records to the City;

(D) Upon completion of the Lease, transfer, at no cost to the City, all public records in possession of the Tenant or keep and maintain public records required by the City to perform the service. If the Tenant transfers all public records to the City upon completion of the Lease, the Tenant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Tenant keeps and maintains public records upon completion of the Lease, the Tenant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

18.4 Request for Records; Noncompliance.

(A) A request to inspect or copy public records pursuant to this Article XVIII relating to the City's contract for services must be made directly to the City. If the City does not possess the requested records, the City shall immediately notify the Tenant of the request, and the Tenant must provide the records to the City or allow the records to be inspected or copied within a reasonable time.

(B) Tenant's failure to comply with the City's written request for records within a reasonable time as set forth in Section 18.4(A) shall constitute a breach of this Lease and, the City, at its sole discretion, may: (1) unilaterally terminate the Lease; (2) avail itself of the remedies set forth under the Lease; and/or (3) avail itself of any available remedies at law or in equity.

(C) Tenant who fails to provide the public records to the City within a reasonable time may be subject to penalties under s. 119.10.

18.5 Civil Action.

(A) If a civil action is filed against a Tenant to compel production of public records relating to the City's contract for services, the court shall assess and award against the Tenant the reasonable costs of enforcement, including reasonable attorneys' fees, if:

(1) The court determines that the Tenant unlawfully refused to comply with the public records request within a reasonable time; and

(2) At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the Tenant has not complied with the request, to the City and to the Tenant.

(B) A notice complies with subparagraph (A)(2) if it is sent to the City's custodian of public records and to the Tenant at the Tenant's address listed on its contract with the City or to the Tenant's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.

(C) A Tenant who complies with a public records request within 8 business days after the notice is sent is not liable for the reasonable costs of enforcement.

18.6 IF THE Tenant HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE TENANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS LEASE, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**CITY OF MIAMI BEACH
ATTENTION: RAFAEL E. GRANADO, CITY CLERK
1700 CONVENTION CENTER DRIVE
MIAMI BEACH, FLORIDA 33139
E-MAIL: RAFAELGRANADO@MIAMIBEACHFL.GOV
PHONE: 305-673-7411**

XIX. INSPECTOR GENERAL AUDIT RIGHTS.

19.1 Pursuant to Section 2-256 of the Code of the City of Miami Beach, the City has established the Office of the Inspector General which may, on a random basis, perform reviews, audits, inspections and investigations on all City contracts, throughout the duration of said contracts. This random audit is separate and distinct from any other audit performed by or on behalf of the City.

19.2 The Office of the Inspector General is authorized to investigate City affairs and empowered to review past, present and proposed City programs, accounts, records, contracts and transactions. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of witnesses and monitor City projects and programs. Monitoring of an existing City project or program may include a report concerning whether the project is on time, within budget and in conformance with the contract documents and applicable law. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process including but not limited to project design, bid specifications, (bid/proposal) submittals, activities of the Tenant, its officers, agents and employees, lobbyists, City staff and elected officials to ensure compliance with the contract documents and to detect fraud and corruption. Pursuant to Section 2-378 of the City Code, the City is allocating a percentage of its overall annual contract expenditures to fund the activities and operations of the Office of Inspector General.

19.3 Upon ten (10) days written notice to the Tenant, the Tenant shall make all requested records and documents available to the Inspector General for inspection and copying. The Inspector General is empowered to retain the services of independent private sector auditors to audit, investigate, monitor, oversee, inspect and review operations activities, performance and procurement process including but not limited to project design, bid specifications, (bid/proposal) submittals, activities of the Tenant its officers, agents and employees, lobbyists, City staff and elected officials to ensure compliance with the contract documents and to detect fraud and corruption.

19.4 The Inspector General shall have the right to inspect and copy all documents and records in the Tenant's possession, custody or control which in the Inspector General's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements from and with successful subtenants and suppliers, all

project-related correspondence, memoranda, instructions, financial documents, construction documents, (bid/proposal) and contract documents, back-change documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records and supporting documentation for the aforesaid documents and records.

19.5 The Tenant shall make available at its office at all reasonable times the records, materials, and other evidence regarding the acquisition (bid preparation) and performance of this Lease, for examination, audit, or reproduction, until three (3) years after final payment under this Lease or for any longer period required by statute or by other clauses of this Lease. In addition:

(A) If this Lease is completely or partially terminated, the Tenant shall make available records relating to the work terminated until three (3) years after any resulting final termination settlement; and

(B) The Tenant shall make available records relating to appeals or to litigation or the settlement of claims arising under or relating to this Lease until such appeals, litigation, or claims are finally resolved.

19.6 The provisions in this section shall apply to the Tenant, its officers, agents, employees, subtenants and suppliers. The Tenant shall incorporate the provisions in this section in all subcontracts and all other agreements executed by the Tenant in connection with the performance of this Lease.

19.7 Nothing in this section shall impair any independent right to the City to conduct audits or investigative activities. The provisions of this section are neither intended nor shall they be construed to impose any liability on the City by the Tenant or third parties.

ARTICLE XX. E-VERIFY.

20.1 To the extent that Tenant provides labor, supplies, or services under this Lease, Tenant shall comply with Section 448.095, Florida Statutes, "Employment Eligibility" ("E-Verify Statute"), as may be amended from time to time. Pursuant to the E-Verify Statute, commencing on January 1, 2021, Tenant shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees during the Term of the Lease. Additionally, Tenant shall expressly require any subtenant performing work or providing services pursuant to the Lease to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subtenant. If Tenant enters into a contract with an approved subtenant, the subtenant must provide the Tenant with an affidavit stating that the subtenant does not employ, contract with, or subcontract with an unauthorized alien. Tenant shall maintain a copy of such affidavit for the duration of this Lease or such other extended period as may be required under this Lease.

20.2 Termination Rights.

(A) If the City has a good faith belief that Tenant has knowingly violated Section 448.09(1), Florida Statutes, which prohibits any person from knowingly employing, hiring, recruiting, or referring an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States, the City shall terminate this Lease with Tenant for cause, and the City shall thereafter have or owe no further obligation or liability to Tenant.

(B) If the City has a good faith belief that a subtenant has knowingly violated the foregoing subsection 40.1, but the Tenant otherwise complied with such subsection, the City will promptly notify the Tenant and order the Tenant to immediately terminate the contract with the subtenant. Tenant's

failure to terminate a subtenant shall be an event of default under this Lease, entitling City to terminate this Lease for cause.

(C) A contract terminated under the foregoing subsection 20.2(A) or 20.2(B) is not in breach of contract and may not be considered as such.

(D) The City or Tenant or a subtenant may file an action with the Circuit or County Court to challenge a termination under the foregoing subsection 20.2(A) or 20.2(B) no later than 20 calendar days after the date on which the contract was terminated.

(E) If the City terminates the Lease with Tenant under the foregoing subsection 20.2(A), Tenant may not be awarded a public contract for at least 1 year after the date of termination of this Lease.

(F) Tenant is liable for any additional costs incurred by the City as a result of the termination of this Lease under this section 20.

ARTICLE XXI. TENANT'S COMPLIANCE WITH ANTI-HUMAN TRAFFICKING LAWS.

Tenant agrees to comply with Section 787.06, Florida Statutes, as may be amended from time to time, and has executed the Certification of Compliance with Anti-Human Trafficking Laws, as required by Section 787.06(13), Florida Statutes, a copy of which is attached hereto as **Exhibit "J"**.

ARTICLE XXII. PROHIBITION ON CONTRACTING WITH A BUSINESS ENGAGING IN A BOYCOTT.

Tenant warrants and represents that it is not currently engaged in, and will not engage in, a boycott, as defined in Section 2-375 of the City Code. In accordance with Section 2-375.1(2)(a) of the City Code, Tenant hereby certifies that Tenant is not currently engaged in, and agrees for the duration of the Lease to not engage in, a boycott of Israel.

ARTICLE XXIII. PROHIBITION AGAINST CONTRACTING WITH FOREIGN COUNTRIES OF CONCERN WHEN AN INDIVIDUAL'S PERSONAL IDENTIFYING INFORMATION MAY BE ACCESSED.

Tenant hereby agrees to comply with Section 287.138, Florida Statutes, as may be amended from time to time, which states that as of January 1, 2024, a governmental entity may not accept a bid on, a proposal for, or a reply to, or enter into, a contract with an entity which would grant the entity access to an individual's personal identifying information (PII), unless the entity provides the governmental entity with an affidavit signed by an officer or representative of the entity under penalty of perjury attesting that the entity does not meet any of the criteria in Paragraphs 2(a)-(c) of Section 287.138, Florida Statutes: (a) the entity is owned by a government of a foreign country of concern; (b) the government of a foreign country of concern has a controlling interest in the entity; or (c) the entity is organized under the laws of or has its principal place of business in a foreign country of concern (each a "Prohibited Entity"). A foreign country of concern is defined in Section 287.138 (1)(c), Florida Statutes, as may be amended from time to time, as the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern. Additionally, beginning July 1, 2025, a governmental entity may not extend or renew a contract with a Prohibited Entity. Tenant warrants and represents that it

does not fall within the definition of a Prohibited Entity, and as such, has caused an authorized representative of Tenant to execute the "Prohibition Against Contracting with Entities of Foreign Countries of Concern Affidavit", incorporated herein by reference and attached hereto as **Exhibit "K"**.

ARTICLE XXIV. PROHIBITION ON CONTRACTING WITH AN INDIVIDUAL OR ENTITY WHICH HAS PERFORMED SERVICES FOR COMPENSATION TO A CANDIDATE FOR CITY ELECTED OFFICE.

Tenant warrants and represents that, within two (2) years prior to the Commencement Date, Tenant has not received compensation for services performed for a candidate for City elected office, as contemplated by the prohibitions and exceptions of Section 2-379 of the City Code.

For the avoidance of doubt, the restrictions on contracting with the City pursuant to Section 2-379 of the City Code shall not apply to the following:

- (A) Any individual or entity that provides goods to a candidate for office.
- (B) Any individual or entity that provides services to a candidate for office if those same services are regularly performed by the individual or entity in the ordinary course of business for clients or customers other than candidates for office. This includes, without limitation, banks, telephone or internet service providers, printing companies, event venues, restaurants, caterers, transportation providers, and office supply vendors.
- (C) Any individual or entity which performs licensed professional services (including for example, legal or accounting services).

ARTICLE XXV. NO DISCRIMINATION.

25.1 Equal Employment Opportunity.

Neither Tenant nor any affiliate of Tenant performing services hereunder, or pursuant hereto, will discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin, sexual orientation, and disability, as defined in Title I of ADA.

25.2 No Discrimination.

The Tenant agrees that there shall be no discrimination as to race, color, national origin, sex, age, disability, religion, income or family status, in its employment practices or in the operations referred to by this Agreement; and further, there shall be no discrimination regarding any use, service, maintenance, or operation within the Facility. All services offered at the Facility shall be made available to the public, subject to the right of the Tenant and the City to establish and enforce rules and regulations to provide for the safety, orderly operation, and security of the Facility.

Additionally, Tenant shall comply fully with the City of Miami Beach Human Rights Ordinance, codified in Chapter 62 of the City Code, as may be amended from time to time, prohibiting discrimination in employment (including independent Tenants), housing, public accommodations, and public services and in connection with its membership or policies because of actual or perceived race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, age, disability, ancestry, height, weight, hair texture and/or hairstyle, domestic partner status, labor organization membership, familial situation, or political affiliation.

ARTICLE XXVI. MISCELLANEOUS.

26.1 Headings.

The section, subsection and paragraph headings contained herein are for convenience of reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Lease.

26.2 Severability.

If any provision of this Lease or any portion of such provision or the application thereof to any person or circumstance shall be held to be invalid or unenforceable, or shall become a violation of any local, State, or Federal laws, then the same as so applied shall no longer be a part of this Lease but the remainder of the Lease shall not be affected thereby and this Lease as so modified shall remain in full force and effect.

26.3 Conflict of Interest.

Tenant shall perform its services under this Lease and conduct the professional padel management and operations contemplated herein, in a manner so as to show no preference for other padel operations/facilities owned, operated, managed, or otherwise controlled by Tenant with regard to its responsibilities pursuant to this Lease.

26.4 No Third-Party Beneficiary.

Nothing in this Lease shall confer upon any person or entity, including, but not limited to subtenants, other than the parties hereto and their respective successors and permitted assigns, any rights, or remedies by reason of this Lease.

26.5 City Manager and City Manager's Designee. The City Manager is the Executive Director of the City. The City Manager's designee, who is the person designated to administer this Lease shall be the Parks & Recreation Department Director. The City Manager shall have authority to approve any amendments to the Lease within the City Manager's purchasing authority under the City Code of Ordinances; however, the City Manager's designee shall have authority to administer the day to day coordination with Tenant and other administrative approvals on behalf of the City.

26.6 City as Landlord in its Proprietary Capacity. In all respects hereunder, the City's obligations and performance is pursuant to City's position as the owner of the Premises, acting in its proprietary capacity. In the event the City exercises its regulatory authority as a governmental body, the exercise of such regulatory authority and the enforcement of any rules, regulations, laws and ordinances (including through the exercise of the City's building, fire, code enforcement, police department or otherwise) shall be deemed to have occurred pursuant to City's regulatory authority as a governmental body and shall not be attributable in any manner to City as a party to this Lease or in any way be deemed in conflict with, or a default under, the City's obligations hereunder.

26.7 Holding Over. If Tenant remains in possession of the Premises after the end of the Term without having executed and delivered a new lease or an agreement extending the Term, there shall be no tacit renewal of this Lease or the Term, and Tenant shall be deemed to be occupying the Premises as a Tenant from month to month at a monthly Minimum Rent payable in advance on the first day of each month equal to twice the monthly amount of Minimum Rent payable during the last month of the Term, and otherwise upon the same terms as are set forth in this Lease, so far as they are applicable to a monthly tenancy.

26.8 Waiver; Partial Invalidity. If the City excuses or condones any default by Tenant of any obligation under this Lease, this shall not be a waiver of such obligation in respect of any continuing or

subsequent default and no such waiver shall be implied. All of the provisions of this Lease are to be construed as covenants even though not expressed as such. If any provision of this Lease is held or rendered illegal or unenforceable it shall be considered separate and severable from this Lease and the remaining provisions of this Lease shall remain in force and bind the parties as though the illegal or unenforceable provision had never been included in this Lease.

26.9 Recording. Neither Tenant nor anyone claiming under Tenant shall record this Lease or any memorandum hereof in any public records without the prior written consent of the City.

26.10 Notices. Any notice, consent, or other instrument required or permitted to be given under this Lease shall be in writing and shall be delivered in person, or sent by certified mail, return receipt requested, or overnight express mail courier, postage prepaid, addressed (i) if to the City, at the address set forth in the Lease Summary; and (ii) if to Tenant, at the Premises or, prior to Tenant's occupancy of the Premises, at the address set forth on the Lease Summary. Any such notice or other instruments shall be deemed to have been given and received on the day upon which personal delivery is made or, if mailed pursuant to certified mail, then forty-eight (48) hours following the date of mailing. Either party may give notice to the other of any change of address and after the giving of such notice, the address therein specified is deemed to be the address of such party for the giving of notices. If postal service is interrupted or substantially delayed, all notices or other instruments shall be delivered in person or by overnight express mail courier.

26.11 Successors; Joint and Several Liability. The rights and liabilities created by this Lease extend to and bind the successors and assigns of the City and the heirs, executors, administrators, and permitted successors and assigns of Tenant. No rights, however, shall inure to the benefit of any transferee unless such Transferee has been approved by the City. If there is at any time more than one Tenant or more than one person constituting Tenant, their covenants shall be considered to be joint and several and shall apply to each and every one of them.

26.12 Captions and Section Numbers. The captions, section numbers, article numbers, and table of contents appearing in this Lease are inserted only as a matter of convenience and in no way affect the substance of this Lease.

26.13 Extended Meanings. The words "hereof," "hereto," "hereunder," and similar expressions used in this Lease relate to the whole of this Lease and not only to the provisions in which such expressions appear. This Lease shall be read with all changes in number and gender as may be appropriate or required by the context. Any reference to Tenant includes, when the context allows, the employees, agents, invitees, and licensees of Tenant and all others over whom Tenant might reasonably be expected to exercise control. This Lease has been fully reviewed and negotiated by each party and their counsel and shall not be more strictly construed against either party.

26.14 Entire Agreement; Governing Law; Time. This Lease and the Exhibits and Riders, if any, attached hereto are incorporated herein and set forth the entire agreement between the City and Tenant concerning the Premises and there are no other agreements or understandings between them. This Lease and its Exhibits and Riders may not be modified except by agreement in writing executed by the City and Tenant. This Lease shall be construed in accordance with and governed by the laws of the State of Florida. Time is of the essence of this Lease.

26.15 No Partnership. The parties hereby acknowledge that it is not their intention under this Lease to create between themselves a partnership, joint venture, tenancy-in-common, joint tenancy, co-ownership, or agency relationship. Accordingly, notwithstanding any expressions or provisions contained herein, nothing in this Lease, whether based on the calculation of rental or otherwise, shall be

construed or deemed to create, or to express an intent to create, a partnership, joint venture, tenancy-in-common, joint tenancy, co-ownership or agency relationship of any kind or nature whatsoever between the parties hereto. The provisions of this section shall survive expiration of the Term.

26.16 Quiet Enjoyment. If Tenant pays rent and other charges and fully observes and performs all of its obligations under this Lease, Tenant shall be entitled to peaceful and quiet enjoyment of the Premises for the Term without interruption or interference by the City or any person claiming through City.

26.17 Brokerage. The City and Tenant each represent and warrant one to the other that neither of them has employed any broker in connection with the negotiations of the terms of this Lease or the execution thereof. The City and Tenant hereby agree to indemnify and to hold each other harmless against any loss, expense, or liability with respect to any claims for commissions or brokerage fees arising from or out of any breach of the foregoing representation and warranty.

26.18 Radon Notice. Chapter 88-285, Laws of Florida, requires the following notice to be provided with respect to the contract for sale and purchase of any building, or a rental agreement for any building. **RADON GAS:** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

26.19 Execution. This Lease has been submitted for discussion purposes only and shall not be deemed an offer by either party to the other to enter into this Lease unless and until this Lease shall have been executed by both parties, indicating their acceptance of the terms and conditions contained herein.

26.20 TRIAL BY JURY. THE CITY AND TENANT EACH HEREBY WAIVES ITS RIGHT TO A JURY TRIAL OF ANY ISSUE OR CONTROVERSY ARISING UNDER THIS LEASE.

[SIGNATURE PAGE TO FOLLOW]

EXECUTED as of the day and year first above written.

ATTEST:

LANDLORD:

CITY OF MIAMI BEACH, FLORIDA,
a Florida municipal corporation

By: _____
Rafael E. Granado, Secretary

By: _____
Eric T. Carpenter, City Manager

By: _____
Witness

Print Name

Date: _____

ATTEST:

TENANT:

MIAMI BEACH RACQUET CLUB, LLC, a Florida limited
liability company

By: _____
Witness

By: _____
Print Name/Title: _____

Print Name

Date: _____

EXHIBIT "A"

SKETCH OF FACILITY

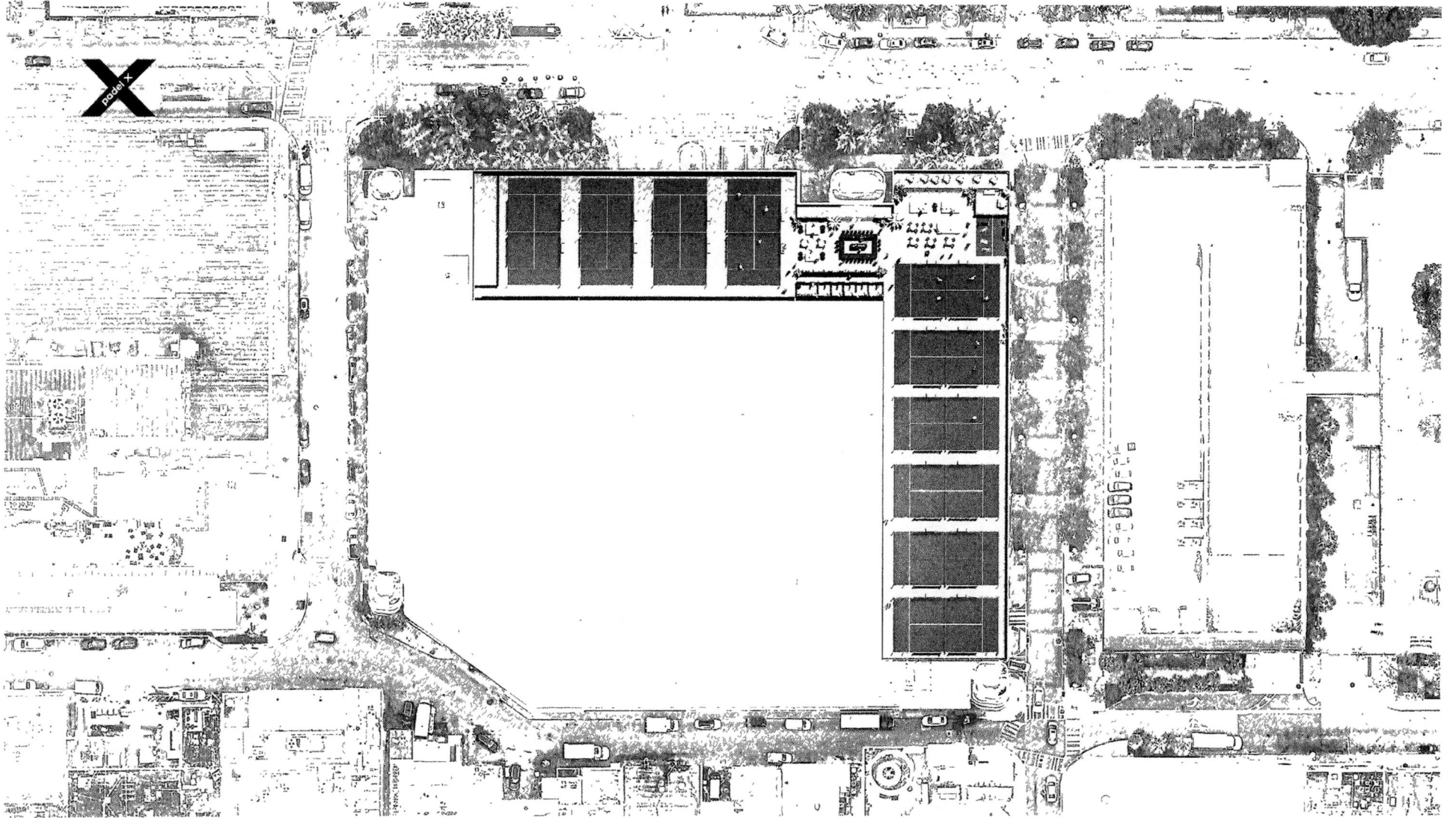


EXHIBIT "B"

PERMITTED USES

Key Factors for Running a Successful Padel Club

Social and sporting services that should be offered

The **social** component of your club can be enhanced through...



... food & beverage

with places for members to relax and socialize



... social events

and friendly tournaments to foster community



... seasonal camps

focusing on skill development and fun activities



... lounge areas

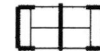
where members can relax and spectate in comfort



... other amenities

such as a pro shop or a kids club

At a **sporting** level, a club should provide...



... padel courts

well maintained and with good lighting



... locker rooms

clean and well equipped with showers and lockers



... private and group lessons

with qualified coaches for different skill levels



... leagues and tournaments

regularly organized for all player categories



... equipment rental

Including rackets and balls



3.1 Executive Summary

Padel X Miami Beach redefines urban recreation spaces by combining **world-class sports infrastructure, wellness activation, sustainability leadership, and community programming**. Padel X Miami Beach will become a central health, recreation, and social activation hub in line with the City's objectives to revitalize the area through sports activities and lifestyle. Padel X proposes an **indoor club to protect the courts from the prevailing winds in Miami Beach rooftops and enhance the playing experience**. Additionally, there could be a public safety issue if the courts were outdoor, with padel balls flying out into the existing traffic.

Designed by Populous, global leaders in sports architecture, the project integrates premium facilities with vibrant community spaces:

- 10 premium fully covered & climate-controlled padel courts.
- A Wellness area for recovery and stretching.
- Food & Beverage terrace overlooking Lincoln Road.
- Court-side video technology for digital engagement.
- Exclusive brand collaborations (e.g., Lacoste partnership).

Padel X, supported by a qualified architectural and engineering team, presents a dynamic plan to develop a 39,000 square-foot rooftop padel club atop the Garage G5 at 640 17th Street, Miami Beach. The project will transform underutilized rooftop space into a vibrant community recreation venue, featuring 10 Padel courts, a reception, pro shop, locker rooms, a wellness area, an outdoor terrace and an indoor lounge overlooking the courts. The club will serve Miami's local players on a daily basis and host regional and national Padel tournaments, supporting the city's commitment to active lifestyles and community-focused development. The project will be designed, permitted and built in 9 months following permit approvals, with **full compliance to the Florida Building Code, Miami Beach zoning regulations, ADA standards**, and hurricane-resilient construction practices. All lighting, sanitation, and sound systems are designed for tournament-quality performance while minimizing neighborhood impact.

The design respects the garage's existing structure and maintains the City's zoning 100-foot height limit. Parking demand will be mitigated by utilizing the garage's existing capacity, implementing designated parking areas, and promoting alternative transportation. While formal green building certification is not pursued, the project embodies a strong commitment to sustainability, resilience, and community health, with energy-efficient systems, water conservation measures, and durable, low-maintenance materials. Upon lease expiration or termination, all rooftop improvements are designed to be fully removable, restoring the garage to its original or better condition.



3.2 Programming Concept

Padel X Miami Beach is an innovative indoor sports facility featuring 11 state-of-the-art padel courts in a modern, climate-controlled environment. Designed for year-round use, the club provides high-quality recreation and wellness programming in support of the City of Miami Beach's health, community engagement, and sustainability goals.

Operational Plan

- Facility Hours: Open daily from 7:00 AM to 11:00 PM, accommodating a wide demographic, from early morning players to late evening visitors.
- Management Team: A full-time Club Director will lead operations, supported by certified coaches, hospitality staff, and program coordinators.
- Digital Access: Members and guests will reserve courts, sign up for programs, and track events through a fully integrated digital platform.

Programming and Utilization

Padel X Miami Beach will activate all 11 courts with diverse and inclusive programming:

- Instructional Programs: Daily adult and youth clinics, private and group lessons, and a junior development academy.
- Community Play: Weekly open play sessions, leagues, round-robins, and monthly tournaments to build a consistent local player base.
- Special Events: Monthly wellness activations, themed social events, and charity tournaments to broaden participation and visibility.
- Private and Corporate Rentals: Space will be available for brand activations, corporate outings, and private celebrations.

Community & Economic Impact

Strategically located near Lincoln Road, the facility will drive consistent traffic to surrounding businesses. Padel X Miami Beach will actively collaborate with restaurants, retailers, and wellness brands through co-promotions, pop-ups, and cross-marketing opportunities.

In addition, the club will offer

- Offer youth outreach and sponsorships for potential champions.
- Host neighborhood-focused events in collaboration with local schools and organizations.
- Serve as a safe, weatherproof recreation option in a dense urban setting.

Health, Wellness & Sustainability

Padel X Miami Beach supports the City's wellness vision through:

- Accessible fitness for all skill levels and ages.
- Social sport experiences that encourage active lifestyles and mental well-being.

Our operations also emphasize sustainability

- Closed-loop recycling initiative: repurposing plastic waste (e.g., ball canisters and packaging) into club furniture and branded merchandise.
- Green infrastructure: energy-efficient lighting, water conservation systems, and waste reduction protocols.
- Eco-conscious retail: branded Padel X apparel and products made from recycled and organic materials.



3.2.1 Accessibility

Ensuring Inclusive Access for All Residents, Employees, and Visitors

Padel X Miami Beach is committed to removing traditional barriers to sports participation. From pricing to programming, our goal is to make padel approachable, inclusive, and welcoming for every segment of the community—regardless of age, ability, or income level.

Facility Design

- Fully ADA Compliant: All courts, locker rooms, entrances, and common areas are fully accessible to individuals with disabilities.
- Smart Scheduling and Layout: Court layouts and traffic flows are optimized for safety and convenience, allowing easy access for families, seniors, and visitors with mobility considerations.

Programming for All Levels

- Level Up Academy: Our signature instructional program offers over 40 weekly events, segmented by age, gender, and skill level. This structured approach ensures that each player receives instruction tailored to their goals and experience level.
- Free Friday Initiation Classes: Every week, new players can attend a free clinic, try the sport, and get rated using our Playtomic system—encouraging participation without financial pressure.
- Membership Options: A flexible membership plan provides added value for frequent players, including free bookings during off-peak hours and complimentary access to the Volley machine.

Coaching Structure

At our flagship Downtown location, we've developed a coaching model that creates a strong sense of community and personal engagement. We will replicate this structure at Padel X Miami Beach, with each certified pro focusing on a specific segment:

- Advanced/Competitive Players – Simon
- Intermediate Players – Agustin
- Beginners & Boys Juniors – Tato
- Women & Girls Juniors – Lorena

All programming and training operations are overseen by Nalle Grinda, ensuring consistency, high standards, and a strong developmental pipeline from entry-level to elite.



3.2.1 Accessibility

Technology & Affordability

- Playtomic Integration: All court bookings, programs, and events are easily accessible through the Playtomic app—the global leader in padel reservations.
- Accessible Pay-to-Play Model: No exclusive or costly memberships—just simple, transparent pricing to maximize participation and community reach.
- Regular fund-raising charity events, family days, and open clinics to build broad local engagement.
- Special discounts for local residents and youth programs in select hours.
- School partnerships, where we will make available time slots to introduce school students to the game and develop social skills thru sports.
- Youth engagement programs that invites kids of all ages and levels to develop their skills.
- Senior activity integration, with low impact clinics.



3.2.2 Community Engagement

At Padel X Miami Beach, community engagement is a foundational pillar. Our programming and partnerships are designed to connect generations, build inclusivity, and serve the diverse needs of Miami Beach residents.

All-Day Activation Model:

- Morning and Midday Clinics for seniors, parents, and retirees.
- After-School Programming for youth.
- Evening Events and Mixers for working professionals.
- Weekend Family Play Hours for multi-generational participation.

School Partnerships:

- Active collaboration with Miami Beach Senior High School.
- Capacity for 44 students playing simultaneously across 11 courts.
- Weekly youth sport sessions to introduce the game to hundreds of students.

Junior Development:

- Daily Kids Club at 4:30 PM (mirroring Downtown Miami's successful model).
- Junior programs led by Tato and Lorena Rouillon, U.S. national team coaches.
- Pro training tracks for U18, U16, and U14 athletes aspiring to compete nationally.

Support for Youth:

- Discounted Youth Memberships for regular Kids Club attendees.
- Summer Camps & seasonal clinics.
- Scholarships and Sponsorship Grants for high-potential but underserved youth.
- Flexible schedules tailored to family routines and school calendars.



3.2.2 Community Engagement (Sample Weekly Schedule)

To illustrate the depth and variety of our programming, below is a representative snapshot of a typical weekly schedule currently offered at Padel X Downtown Miami. This format will be replicated at Padel X Miami Beach:

Morning:

- Beginner & High Beginner Clinics
- Mixed Intermediate Clinics

Midday:

- Low Intermediate Clinics
- Complimentary Rating Sessions
- Initiation Clinics
- Advanced Intensive Training (for juniors)
- Tournaments (e.g., Rise & Rise Plus Series)

After-School (4:30 PM – 6:30 PM):

- Kids Clinics (Daily Kids Club)
- Parents Clinics (offered concurrently)

Evening:

- Mixed Intermediate & Advanced Clinics
- High Beginner and Intermediate Americanos
- Competition Circuit for WPR 12+ Players

This structure ensures full-day activation and supports family engagement, performance training, and social play.



3.2.3 Promotion

To ensure Padel X Miami Beach reaches and retains a wide, diverse audience, we have developed a multi-channel promotional strategy built on both global reach and hyperlocal engagement.

Global Visibility Through Playtomic:

- Integrated with the world's largest padel booking and engagement platform.
- Events, clinics, and tournaments listed and bookable via the app.
- Global and regional player exposure with real-time engagement.

Digital Marketing & Communication:

- Social Media: Active presence on Instagram, YouTube, Facebook, and TikTok.
- Website: Real-time schedule, registration, coach bios, and announcements.
- Newsletters: Segmented updates for different user groups and programs.

In-Club Communication:

- LED Info Screens at reception and lounge.
- QR code-enabled flyers for on-the-spot sign-ups and program info.

Local Media & Partnerships:

- Collaborations with local media, the Lincoln Road BID, and nearby hotels.
- Visitor and tourism-focused marketing through concierge and destination networks.



3.3 Partnerships and Collaboration

Padel X Miami Beach's partnership and collaboration plan is designed to complement and enhance Lincoln Road's brand as a premier lifestyle and recreation destination.

Key Strategies:

Community Activation

- Integration with Lincoln Road BID and Miami Beach events.
- Pop-up exhibitions showcasing padel during street festivals and community events.
- Official launch event with local government and community leaders.
- Digital campaign with geo tracking targeting the local community and reaching out with special discounts and benefits.

Partnership Campaigns

- Collaborations with local hotels, businesses, and wellness brands (e.g., Lacoste partnership).
- Annual Padel professional events showcasing the best padel international players in the world.
- On boarding of Padel X sponsors into this new location (Braman, Eight Sleep, Lacoste..) and using their platforms to promote the venue.

Community Heroes

- Regular fund-raising charity events, family days, and open clinics to build broad local engagement.
- Special discounts for local residents and youth programs in select hours.

Wellness Emphasis

- Positioning padel as a lifestyle: health, fitness, social interaction, and recreation.
- Pop up events with wellness partner brands on weekends, open to the community.

Padel X community activation

- We will target special offerings to our +14k data base to engage them with this new club.



3.4 Other Value-Added Public Benefits

Expanding Access, Enrichment, and Social Impact Through Community-Driven Initiatives

Beyond offering high-quality sport and recreation, Padel X Miami Beach is committed to delivering public benefits that support education, inclusion, and community pride. These programs are designed to enrich the lives of residents—particularly youth and families—while contributing to the City’s broader goals of equity and well-being.

Free Access for Miami Beach Residents

- Free Initiation Program: All Miami Beach residents are invited to attend free weekly padel initiation sessions designed to welcome new players and introduce them to the sport.
- Resident Access Hours: Designated weekly time blocks—such as “Miami Beach Resident Hours” on Tuesdays and Thursdays from 12:00 to 3:00 PM—will offer preferred rates and reserved access for local residents.

After-School & Youth Programs

- Kids Club at 4:30 PM (Daily): A structured, inclusive program designed to introduce children to padel in a fun, developmentally appropriate format. This schedule mirrors our successful Downtown Miami offering.
- Tailored Junior Pathways: For young athletes who show interest and potential, we offer age-specific training for U18, U16, and U14 categories.
- Professional Coaching Leadership: Our youth program is overseen by Tato and Lorena Rouillon, who serve as coaches of the U.S. National Boys and Girls Junior Teams, ensuring world-class guidance.
- Summer Camps & Seasonal Clinics: Enrichment experiences during school holidays focused on skill development, teamwork, and healthy routines.

Scholarships & Financial Support

- Subsidized Memberships for youth enrolled in the Kids Club program.
- Sponsorship Grants for talented juniors needing financial assistance to access professional training and competition preparation.
- Community-Based Outreach: Proactive engagement with local schools, nonprofit organizations, and cultural groups to ensure the sport reaches every corner of the community.

Flexible, Personalized Support for Families

- Our academy staff will work directly with parents to build customized, recurring schedules based on school and extracurricular calendars.
- Family-friendly programming and group options will make it easier for multiple children—or parents and children—to participate simultaneously.

These value-added benefits position Padel X Miami Beach as not just a sports club, but a civic partner dedicated to growing the game of padel while enriching the lives of those it serves.



3.5 Environmental/Sustainable Programming/Initiatives

Sustainability is deeply embedded in Padel X Miami Beach's DNA:

Facility Design and Operations:

- Full LED lighting across courts and lounges (35% energy reduction),
- Water conservation via low-flow fixtures and rainwater systems,
- Sustainable materials: recycled and low-VOC components.

Impact Metrics:

- 2,294 lbs of waste diverted from landfills (2024),
- 5.8 tons of CO₂ emissions avoided,
- Over 46,175 plastic bottles recycled into apparel and equipment: 4,617 t-shirts, 7,695 caps, 23,087 towels.

Eco-Friendly Practices:

- **Zero Waste Events:** Green tournaments, reusable containers mandatory.
- **Circular Economy Products:** Benches, bins, and coolers made from recycled plastic.

Community Environmental Education:

- Monthly sustainability workshops open to the public,
- Interactive recycling education in the facility,
- Annual "Champions for Green" Tournament celebrating eco-innovation.

Certifications:

- Full alignment with City of Miami Beach resiliency guidelines.

(Sources: Padel X Sustainability Report 2024.pdf,)



4.1 Operational Plan

Delivering Excellence Through Structure, Service, and Wellness Integration

Padel X Miami Beach will operate under a proven management framework that ensures smooth day-to-day operations, exceptional customer service, and alignment with the City of Miami Beach's goals for public health, community activity, and sustainability.

Operating Hours

- **Open 7 days a week, from 7:00 AM to 11:00 PM**, allowing for all-day activation and flexible access for residents, working professionals, students, and tourists.
- The indoor nature of the facility allows for uninterrupted programming regardless of weather or season.

Staffing Structure

The facility will be managed by a highly trained team of approximately 20 rotating staff, structured as follows:

- **Club Manager:** Oversees all aspects of operations, staffing, customer service, safety, and programming.
- **Front Desk Hosts (1–2 per shift):** Handle check-in, court reservations, retail transactions, and guest services.
- **Bartender/Nutrition Bar Attendant:** Operates the health bar, offering nutritious drinks and snacks.
- **Full-Time Cleaning Personnel:** Ensure all court, locker, lounge, and spa areas are kept clean and hygienic throughout the day.
- **Certified Coaching Team (4+ Pros):** Lead daily training, clinics, Level Up Academy programs, private lessons, and events.

Alignment with City Goals

- Year-round activity supports Miami Beach's health and wellness initiatives.
- Programming serves diverse populations, including youth, seniors, residents, and tourists.
- Sustainable practices (detailed in TAB 3) are embedded into daily operations.

Operational Tools

- **Digital Booking & Engagement Platform:** All reservations and programming are managed through the Playtomic app, offering seamless user experience and data tracking performance.
- **Event Scheduling Software:** Internal systems coordinate league play, tournaments, private events, and community sessions with real-time updates for staff and members.

Health, Recovery & Amenities

We believe that wellness doesn't stop at the court. Padel X Miami Beach includes a suite of amenities that encourage recovery, proper training routines, and long-term health:

- **Health Bar:** Offers fresh smoothies, cold-pressed juices, protein shakes, and clean snack options.
- **Warm-Up Zone:** Includes TRX stations, Theraguns, resistance bands, and stationary bikes for pre-match activation.
- **Recovery Area:** Pressure boot seating, stretch stations, and cooldown routines help prevent injury and support physical recovery.
- **Mini Spa:** Features a sauna and cold plunge pools to enhance the post-exercise experience and encourage relaxation and rejuvenation.



4.2 Marketing Approach

Padel X Miami Beach's marketing plan is designed to complement and enhance Lincoln Road's brand as a premier lifestyle and recreation destination.

Key Strategies:

Community Activation

- Integration with Lincoln Road BID and Miami Beach events.
- Pop-up exhibitions showcasing padel during street festivals and community events.
- Official launch event with local government and community leaders.
- Digital campaign with geo tracking targeting the local community and reaching out with special discounts and benefits.

Partnership Campaigns

- Collaborations with local hotels, businesses, and wellness brands (e.g., Lacoste partnership).
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Community Heroes

- Regular fund-raising charity events, family days, and open clinics to build broad local engagement.
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Wellness Emphasis

- Positioning padel as a lifestyle: health, fitness, social interaction, and recreation.
- Pop up events with wellness partner brands on weekends, open to the community.

Padel X community activation

- We will target special offerings to our +14k data base to engage them with this new club.



4.2.1 Market Analysis

Demographic Profile

- **Population:** 80,000+ permanent residents plus millions of tourists annually.
- **Income:** High disposable income levels.
- **Age Groups:** Millennials and Gen Z dominate.
- **Cultural Diversity:** Strong multicultural environment.

(Sources: U.S. Census Bureau, Miami Beach Data Portal)

Interest in Padel

- **Growth:** +20% annual participation increase worldwide.
- **Appeal:** Balanced across genders and ages.
- **Lifestyle Fit:** Wellness, community, social connection.

(Sources: Playtomic Global Padel Report 2024)

Relationship with Lincoln Road

- **Complementary Offering:** Recreation added to cultural/gastronomic assets.
- **Activation Strategy:** Public tournaments, family events, co branding with local brands.
- **Local Economy Impact:** Our club traffic will boost local restaurants and sports shops.

Anticipated Impact

- **Social Impact:** Wellness and social integration.
- **Economic Impact:** Employment, local revenue growth.
- **Cultural Impact:** New cultural-sporting events.
- **Environmental Impact:** Eco-friendly operations and community education.



4.2.1 Market Analysis

The development of Padel X Miami Beach is perfectly aligned with local market conditions, community needs, and the strategic vision of Lincoln Road and the City of Miami Beach.

Target Audiences

- **Local Residents:** Families, young professionals, retirees, and health-conscious individuals.
- **Workers:** Employees from surrounding businesses.
- **Tourists:** Domestic and international visitors to Miami Beach.
- **Sports Enthusiasts:** Tennis and padel players, and general fitness fans.
- **Youth and University Communities:** Students from FAU, Lynn University, Miami Dade College.

Key Stakeholders

- City of Miami Beach
- Lincoln Road BID
- Local Businesses
- Tourism and Hospitality Industry
- Sports Federations and Associations
- Local Schools
- Community Organizations
- Media and Communication Platforms
- Corporate Sponsors

Competitive Landscape

- **Direct Competition:** Limited premium padel facilities.
- **Indirect Competition:** Fitness boutiques, recreation in parks/hotels.
- **Opportunity:** First-mover advantage for Padel X as a premium operator.



4.2.2 Marketing Strategy

A robust multi-channel marketing plan will ensure activation and visibility:

Digital and Social Media Activation:

- Use of leading Playtomic's platform to engage local players and visitors facilitating bookings and social matches.
- Targeted paid social media campaigns (Instagram, Facebook, TikTok) to develop public awareness around the game of padel.
- Influencer partnerships with local and national wellness and sports figures.

Event Marketing:

- Pre-opening exhibitions with international players.
- Public tournaments aligned with city-wide events.
- Partnerships with art, culture, and culinary festivals at Lincoln Road.

Media:

- Press releases and media coverage in outlets like the Miami Herald, South Florida Business Journal, and The Padel Weekly.
- Digital campaigns with special benefits for local residents.

Community Outreach:

- School partnerships , where we will make available time slots to introduce school students to the game and develop social skills thru sports.
- Youth engagement programs that invites kids of all ages and levels to develop their skills.
- Senior activity integration, with low impact clinics.

(Sources: Playtomic Global Padel Report 2024.pdf, Media Articles)

EXHIBIT "C"

TENANT'S HURRICANE PLAN

For public safety considerations in emergency situations, including, without limitation, a threatened tropical storm or hurricane, Tenant shall execute the following Hurricane Plan:

(Tenant to provide, subject to City's approval)

EXHIBIT "D"

CITY'S CUSTOMER SERVICE STANDARDS

EXHIBIT "E"

ESCROW AGREEMENT AND WORK LETTER

WORK LETTER AND ESCROW AGREEMENT

THIS WORK LETTER AND ESCROW AGREEMENT (this "Work Letter") is attached to and made a part of that certain Lease Agreement (the "Lease"), dated this ____ day of _____, 2025, by and between the City of Miami Beach, a Florida municipal corporation (collectively, "Landlord"), and Miami Beach Racquet Club, LLC, a Florida limited liability company ("Tenant"), and _____ ("Escrow Agent"). The terms and provisions of the Lease are hereby incorporated into this Work Letter by reference. In the event of any inconsistencies between this Work Letter and the Lease, the provisions of this Work Letter shall control. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Lease.

In consideration of the execution of the Lease, the mutual covenants and conditions hereinafter set forth, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Landlord, Tenant and Escrow Agent agree as follows:

I. CONSTRUCTION OF TENANT'S WORK; TENANT DEPOSIT:

1. Building Shell; Construction of Tenant's Work. The terms of the Lease contemplate that Landlord shall deliver to Tenant the Premises, with no improvements in "As Is" "where is" condition, with Tenant providing all necessary utility connection points (including, but not limited to, water, sewer, and electricity) sufficient for Tenant to use the Premises for the Permitted Uses. Subject to the terms, covenants and conditions set forth in this Work Letter, Tenant shall build-out, construct and/or install, at Tenant's sole cost and expense, such walls, partitions, fixtures and other improvements in and to the Premises as Tenant deems necessary or desirable in order to make the Premises suitable for Tenant's Permitted Use (the "Tenant's Work"). This Work Letter sets forth the agreement of Landlord and Tenant with respect to the construction and/or installation of the Tenant's Work, and all ancillary matters connected therewith and Tenant's deposit into escrow of certain funds, the disbursement of which is governed hereby.

2. Tenant Deposit. Once (i) Tenant has been issued a master building permit and (ii) the construction contract containing the budget has been approved in writing by the Landlord, the Tenant shall deposit with Escrow Agent the amount of *Dollars (\$***.00) (the "Tenant Construction Fund") within five (5) business days from the later of the date of (i) and (ii). Escrow Agent shall give written notice to Landlord promptly after receipt of the payment of the Tenant Construction Fund. Failure of Tenant to make this deposit on or before the date when due and Tenant failing to cure such default following ten days written notice to Tenant shall constitute a default by Tenant under this Work Letter and under the Lease, , and shall entitle Landlord to exercise all remedies available thereunder or at law or in equity for Tenant's default. The Tenant Construction Fund shall be held and disbursed by Escrow Agent in accordance with the terms of this Work Letter to pay actual Hard Costs of constructing the Tenant's Work. In no event, however, shall any portion of the Tenant Construction Fund be used to pay any "Soft Costs." As used herein, "Hard Costs" shall mean direct contractor costs of labor, material, equipment, services, and profit. Soft Costs shall include, without limitation, architectural, engineering and legal fees; costs of financing, insurance, bonding, and security; impact fees; utility hook-up fees; costs of permits; pre-construction and post-construction expenses, and all other costs that are not direct costs of construction. All Soft Costs shall be paid as and when due from Tenant's own funds other than the Tenant Construction Fund.

3. No Unused Tenant Construction Fund. Upon final completion of the Tenant's Work, and payment of the unpaid hard costs for such Tenant's Work, any unused portion of the Tenant Construction Fund shall be remitted to Tenant by Escrow Agent within seven (7) days after Escrow Agent's receipt of a letter executed by both Landlord and Tenant confirming that the Tenant's Work has been completed and all Hard Costs have been paid. Tenant recognizes and agrees that Tenant has committed to expend not less than **** Dollars (\$***.00) towards Hard Costs of construction of the Tenant's Work. Tenant's failure to do so shall result in forfeiture to Landlord of any unexpended portion of the Tenant Construction Fund as additional Rent under the Lease.

4. Services; Landlord's Inspection. During build-out of the Tenant's Work, Tenant shall be responsible for procuring, at its own cost and expense, any and all utilities or services necessary in connection therewith. Tenant shall be responsible for the cost of any additional security which may be required as a result of Tenant's construction of the Tenant's Work, which costs are Soft Costs and may not be paid out of the Tenant Construction Fund.

5. Delay in Substantial Completion. Tenant shall not commence construction of Tenant's Work until the date specified by Landlord ("Start Date") to Tenant in written notice, which Start Date shall not be provided until the occurrence of the following: (1) the date Tenant provides the Security Deposit under the Lease; (2) receipt of escrow letter from Escrow Agent evidencing the deposit of the Tenant Construction Fund; and (3) the Landlord approves of all insurance requirements under the Lease and this Work Letter ("Estimated Commencement Date"). Tenant shall use commercially reasonable efforts to Substantially Complete the Tenant's Work in accordance with the Tenant's Construction Drawings (as hereinafter defined), not later than the Estimated Completion Date. The "Estimated Completion Date" shall be 18 months after the Commencement Date (as defined in item 14 of the Lease Summary). "Substantial Completion" shall mean the date that a final Certificate of Occupancy has been issued for the Premises and the architect has acknowledged that all work has been completed in accordance with the approved plans.

6. Landlord's Disclaimer. Notwithstanding the issuance of any approvals or consents by the Landlord, Landlord has no obligation or responsibility whatsoever for the adequacy, form or content of the Tenant's Construction Drawings, any contract, any change order, or any other matter incident to the Premises or the construction of the Tenant's Work. Any inspection of the Premises or the Tenant's Work shall be for Landlord's protection only and shall not constitute any assumption of responsibility to Tenant or anyone else with regard to the condition, construction, maintenance or operation of the Premises or the Tenant's Work or relieve Tenant of any of Tenant's obligations. Tenant shall select all surveyors, architects, engineers, contractors, materialmen and all other persons or entities furnishing services or materials to the Premises; however, the contractor and the architect shall be subject to approval by the City Manager, which approval shall not be unreasonably withheld, delayed, or conditioned. Landlord has no duty to supervise or to inspect the Premises or the construction of the Tenant's Work nor have any duty of care to Tenant or any other person to protect against, or inform Tenant or any other person of, the existence of negligent, faulty, inadequate or defective design or construction of the Tenant's Work. Landlord shall not be liable or responsible for any defect in the Premises or the Tenant's Work, the performance or default of Tenant, Tenant's Architect or Engineer, Contractor, or any other party, or for any failure to construct, complete, protect or insure the Tenant's Work, or for the payment of costs of labor, materials or services supplied for the construction of the Tenant's Work, or for the performance of any obligation of Tenant whatsoever, unless any such defect or failure to perform is, directly or indirectly, caused by Landlord's gross negligence or willful misconduct. Nothing, including acceptance of any document or instrument, shall be construed

as a representation or warranty, express or implied, to any party by Landlord. Inspection shall not constitute an acknowledgment or representation by Landlord that there has been or will be compliance with the Tenant's Construction Drawings or applicable laws and governmental requirements or that the construction is free from defective materials or workmanship. Inspection whether or not followed by notice of default shall not constitute a waiver of any default then existing, or a waiver of Landlord's right thereafter to insist that the Tenant's Work be constructed in accordance with the Tenant's Construction Drawings, applicable laws, any City board approvals and other governmental requirements. Landlord's failure to inspect shall not constitute a waiver of any of Landlord's rights under the Lease or Work Letter or at law or in equity. Tenant agrees that it shall be solely responsible for supervising the construction of the Tenant's Work, and Landlord shall have no obligation to provide any such administrative or management services.

II. **TENANT'S CONSTRUCTION DRAWINGS; BUDGET; DISBURSEMENT OF TENANT'S CONTRIBUTION FUND:**

1. Contents of Tenant's Construction Drawings. The Tenant's Work shall be completed in accordance with Tenant's Plans and Tenant's Construction Drawings as approved by Landlord pursuant to Article V of the Lease.

2. Tenant's Architect; Tenant's Engineers. Tenant shall employ a licensed architect approved by Landlord ("Tenant's Architect") in preparation of the Tenant's Plans and Tenant's Construction Drawings, which shall be prepared and sealed in such a manner as may be required for the issuance of a building permit. Such approval shall not be unreasonably withheld, delayed, or conditioned. All engineering drawings (the "Engineering Drawings"), shall be prepared by engineer(s) approved by Landlord ("Tenant's Engineers").

3. Modification of Tenant's Construction Drawings. Once approved, except as provided in Article IV, Section 10 hereof, no changes in, or revisions or additions to, the Tenant's Plans and Tenant's Construction Drawings may be made without the prior written approval of Landlord. Tenant shall provide Landlord with computerized architectural drawings ("CAD") of the Tenant's Plans and Tenant's Construction Drawings on disk. Upon completion of the Tenant's Work, Tenant shall provide Landlord with "as-built" plans both in blueprint form and in CAD form.

4. Construction Budget. Tenant shall cause Contractor to prepare a detailed budget setting forth the total cost and expenses for construction of the Tenant's Work in accordance with the Tenant's Construction Drawings, which budget shall reflect actual Hard Costs of construction of not less than \$***.00 and shall be subject to the approval of Landlord, which shall not be unreasonably withheld, delayed, or conditioned (the "Budget"). In the event that, at any time during construction of the Tenant's Work, the amount remaining in Tenant Construction Fund is not, in the reasonable opinion of Landlord, sufficient to complete the Hard Costs of the Tenant's Work, Tenant agrees to contribute a sum equal to the deficiency ("Tenant's Excess") into the Tenant Construction Fund upon thirty (30) days prior written notice. The Escrow Agent shall not be entitled to disburse any portion of the Tenant Construction Fund until Tenant shall have deposited the Tenant's Excess into the Tenant Construction Fund.

5. Disbursement of Tenant Construction Fund. Tenant agrees that in connection with any request for disbursement of the Tenant Construction Fund, Tenant shall comply with each of the requirements set forth in Article V hereof. Tenant further agrees to provide Landlord and Escrow Agent with proof of compliance prior to disbursement of any portion of the Tenant Construction Fund.

III. CONTRACTOR; CONSTRUCTION CONTRACT; PERFORMANCE BOND; BUILDING PERMITS:

1. Contractor. The Contractor employed by Tenant shall be subject to Landlord's approval, which shall not unreasonably be withheld, delayed, or conditioned ("Contractor"), and shall enter into a construction contract with Tenant ("Construction Contract"). The Contractor shall be responsible for obtaining all necessary permits and approvals, which expense shall be a Soft Cost and shall not be paid for out of the Tenant Construction Fund. All construction performed by the Contractor shall be done in accordance with, and subject to, each of the terms, covenants and conditions set forth herein. In addition thereto, Tenant shall advise the Contractor, and all subcontractors, materialmen and suppliers that no interest of Landlord in the Premises or the Garage shall be subject to liens to secure payment of any amount due for work performed or materials installed in the Premises.

2. Building Permits. Prior to commencing any work, Tenant shall obtain, at its sole cost and expense, and shall furnish copies to Landlord, all building and other permits required to construct the Tenant's Work. The cost for such building and other permits are Soft Costs and may not be paid out of the Tenant Construction Fund.

3. Performance Bond. Tenant shall require its Contractor to provide unconditional performance and payment bonds covering the total value of the Tenant's Work issued by a surety acceptable to Landlord. Said bonds shall be issued for each subcontractor, contractor or materialman furnishing material or providing labor or services to the Premises and shall (i) name Landlord as an additional obligee, (ii) be in an amount, in form and content, and issued by sureties, reasonably satisfactory to Landlord and (iii) be in compliance with all applicable laws. The cost of the performance and payment bond premiums are Soft Costs and may not be paid from the Tenant Construction Fund.

IV. TENANT'S COVENANTS WITH RESPECT TO CONSTRUCTION OF THE TENANT'S WORK:

Tenant hereby covenants and agrees with Landlord as follows:

1. Construction. (i) Prior to the commencement of construction of the Tenant's Work, to record a Notice of Commencement in the Public Records of Miami-Dade County, Florida, and to post a certified copy thereof in the Premises, in accordance with the requirements of Florida Statutes, Chapter 713, and to designate Landlord as one of the parties to receive a copy of all notices to owner, (ii) to cause the Tenant's Work to be constructed in accordance with the Tenant's Construction Drawings, all board and regulatory approvals, and all applicable Laws (as defined in Article IV, Section 15 hereof), (iii) to do no act that would relieve Contractor from its obligations to construct the Tenant's Work according to the Tenant's Construction Drawings, and (iv) to make no amendments, other than modifications or change orders as may be permitted hereunder, to the Tenant's Construction Drawings without the prior written consent of Landlord, which shall not be unreasonably withheld, delayed, or conditioned.

2. Agreement of Contractor to Complete Construction; Agreement of Tenant's Architect. To promptly furnish Landlord with the written agreement of Contractor, reasonably acceptable to Landlord, that, in the event of a default by Tenant hereunder or under the Lease or under the terms of the construction contract between Tenant and its Contractor (the "Construction Contract"), Contractor will, at the written request of Landlord, continue performance pursuant to the Construction Contract, until completion of construction of the Tenant's Work, provided

Contractor is reimbursed for all work done subsequent to Landlord's request for Contractor to complete construction. Tenant shall also furnish Landlord with the written agreement of Tenant's Architect and Tenant's Engineer, that, following a default by Tenant hereunder or under the Lease and the lapse of any applicable cure period, (i) Landlord shall be entitled to the use and benefit of the Tenant's Construction Drawings and (ii) Tenant's Architect and Engineer will continue performance under its agreement with Tenant, for the benefit of Landlord, upon written request therefor by Landlord, provided that Landlord pays Tenant's Architect and Tenant's Engineer for all services rendered by Tenant's Architect and Tenant's Engineer after Landlord's request. Landlord, at its sole option, shall be entitled to use the Tenant Construction Fund to pay amounts owed to Contractor, Tenant's Architect and/or Tenant's Engineer pursuant to this paragraph, and Escrow Agent shall promptly disburse the funds to Landlord upon Landlord's written request.

3. Insurance. To obtain and deliver to Landlord prior to the commencement of construction of the Tenant's Work, all insurance or evidence of all insurance required under the Lease and, in addition thereto, the following (all of which are Soft Costs and may not be paid for out of the Tenant Construction Fund):

(a) Builder's Risk Insurance. Builder's risk insurance, with a deductible of not more than \$5,000, that shall (i) name Landlord, as an additional insured, (ii) provide coverage equal to the highest insurable value of the Tenant's Work (but in no event less than the contract price under Construction Contract), and (iii) be in such form and issued by such companies as shall be approved by Landlord. Such approval shall not be unreasonably withheld, delayed, or conditioned. The originals or certified copies of such policies, together with appropriate endorsements thereto, including, but not limited to, the written agreement by the insurer or insurers therein to give Landlord thirty (30) days prior written notice of intention to cancel or amend, shall be promptly delivered to Landlord; said insurance coverage to be kept in full force and effect at all times during construction of the Tenant's Work.

(b) Statutory Employer Liability and Workman's Compensation Insurance. A certificate or certificates from an insurance company reasonably acceptable to Landlord, confirming that Tenant and Contractor have obtained statutory worker's compensation and employer's liability coverage in an amount not less than required by law, without allowance for any exemption thereunder.

(c) Automobile Insurance. Business and Automobile Liability with minimum limits of One Million and No/100 Dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office and must include: (1) Owned Vehicles, (2) Hired and Non-Owned Vehicles; and (3) Employers' Non-Ownership.

Any policy of insurance herein required shall contain a contractual liability endorsement covering indemnity and defense obligations of Tenant and such other coverage as may reasonably be required by Landlord. Such policy will among other things, make specific reference to the Lease and Work Letter. Any policy obtained by Tenant insuring against loss by physical damage to any portion of the Tenant's Work or to materials to be incorporated in the Tenant's Work or covering Tenant's or its contractor's tools, supplies, machinery or equipment shall contain an endorsement providing that the insurer waives its rights of subrogation against Landlord and any other named or additional insured. Nothing in this Section shall give or create in any third party any claim or right against Landlord, except that which may exist irrespective of this Section.

The insurance required hereunder may be contained in one or more policies. Prior to commencement of any construction, Tenant shall furnish to Landlord certificates or copies of policies showing that the insurance is in force and that the premiums due thereunder shall have been paid and that the subcontractors of Contractor, and such other persons as Tenant may direct are named as insured persons jointly with Contractor in respect of any loss covered. Tenant shall provide Landlord with notice of any cancellation, termination or modification of any required insurance coverages.

In the event of any failure of Tenant to furnish and maintain insurance required hereunder, Landlord, at its option and without waiving the default of Tenant, shall have the right to provide Tenant with written notice of such noncompliance. Tenant shall have five (5) working days after receiving such notice to obtain the required insurance. If Tenant does not do so within that period, Landlord shall have the right to obtain such insurance for, and in the name of, Tenant. In such event Tenant shall pay the cost thereof upon written demand and shall furnish all information required by the insurance carrier.

4. In addition to the foregoing insurance, Tenant shall, prior to commencement of construction, provide or cause to be provided to Landlord from each subcontractor performing services or furnishing labor at the Premises (1) general liability insurance, with limits of One Million and No/100 Dollars (\$1,000,000.00) per occurrence and Two Million and No/100 Dollars (\$2,000,000.00) in the aggregate and (2) automobile insurance in form and content and in such amount as Landlord may require.

5. Subrogation. The terms of insurance policies referred to in Section IV Subsection 3(c) and Subsection 4 shall preclude subrogation claims against Tenant, Landlord and their respective officers, employees and agents.

6. Insurance Cooperation. To cooperate with Landlord in obtaining for Landlord the benefits of any insurance policy or other proceeds lawfully or equitably payable to it in connection with the transactions contemplated hereby and the collection of any indebtedness or obligation of Tenant to Landlord incurred hereunder.

7. Commencement and Completion of Construction. Tenant shall diligently pursue construction to completion, in accordance with (i) the Tenant's Construction Drawings, (ii) all City board approvals and other regulatory approvals; (iii) all applicable Laws; and (iv) such reasonable rules and regulations as Landlord may impose from time to time to ensure the orderly construction of the Tenant's Work. Tenant shall pay all Soft Costs from Tenant's own funds and not from the Tenant Construction Fund and supply such sums of money and perform such duties as may be reasonably necessary to complete the construction of the Tenant's Work on or before the Estimated Commencement Date pursuant to the Tenant's Construction Drawings and in full compliance with all of the terms, covenants and conditions of this Work Letter. Tenant shall satisfy all liens, claims, or assessments (actual or contingent) asserted against the Premises, the Building or the Project, for any material, labor, or other items furnished in connection with the construction of the Tenant's Work, and shall comply with the Florida Mechanics' Lien Law, Chapter 713, Florida Statutes. In connection with the construction of the Tenant's Work, Tenant shall comply or cause Tenant's Contractor to comply with all construction, use, building, zoning, and other similar requirements of any governmental authority having or asserting jurisdiction over the Premises or the project. Upon written request by Landlord, Tenant will provide evidence of satisfactory compliance with all of the foregoing to Landlord. In the event any lien shall be filed (whether properly or improperly) against the Premises, or the Project, it shall be removed, satisfied or transferred to bond by Tenant within ten (10) days after it becomes aware of such lien.

Tenant's failure to do so within the ten (10) day period shall be a default hereunder and under the Lease, and (i) Escrow Agent shall have no further right to make any disbursement to Tenant hereunder from the Tenant Construction Fund, and (ii) Landlord shall be entitled to avail itself of all rights and remedies provided for hereunder or under the Lease.

8. Right of Landlord to Inspect Premises. To permit Landlord, and Landlord's employees and Landlord's consultants, if any, and their representatives and agents, to enter upon the Premises and to inspect the Tenant's Work and all materials to be used in the construction thereof; and to cooperate and cause Contractor to cooperate with Landlord and its employees, representatives and agents during those inspections; provided, however, that this provision shall not be deemed to impose upon Landlord any obligation to undertake such inspections.

9. Correction of Defects. To correct any material defect in the Tenant's Work, or any departure from the Tenant's Construction Drawings not approved by Landlord or permitted hereunder within a reasonable timeframe, not to exceed sixty (60) days following written notification to Tenant. The advance of any portion of the Tenant Construction Fund shall not constitute a waiver of Landlord's right to require compliance with this covenant.

10. Approval of Change Orders. To permit no deviations in excess of \$25,000.00 per change, from the Tenant's Construction Drawings, without the prior written approval of Landlord, which shall not be unreasonably withheld, delayed, or conditioned. No change(s) shall be permitted unless and until such change(s) shall have been approved in writing by the Landlord in accordance with Article II, Section 3 hereof.

11. Notification of Claims by Subcontractors and Materialmen. To advise Landlord monthly and in writing, if Tenant receives any Notice to Owner, written or oral, from any laborer, subcontractor, or materialman in connection with any labor or materials furnished in the construction of the Tenant's Work.

12. Further Acts. To do and execute all and such further lawful and reasonable acts, documents, and assurances for the better and more effective carrying out of the intent and purpose of this Work Letter, as Landlord shall reasonably require from time to time.

13. Architect's Opinion. To furnish to Landlord upon request, the written opinion of Tenant's Architect, in form and content reasonably satisfactory to Landlord, certifying, that, based on inter alia, (i) Architect's preparation of the Tenant's Construction Drawings; (ii) Architect's supervision and inspection of construction of the Tenant's Work; (iii) all applicable Laws; and (iv) Architect's professional knowledge and judgment: that (a) the Tenant's Work has been constructed in accordance with the Tenant's Construction Drawings, all City Board approvals and other governmental approvals, (b) Tenant's Work is in compliance with all Laws, (c) the proposed Tenant's Work can be constructed in accordance with the Tenant's Construction Drawings for a cost that does not exceed the price set forth in the Construction Contract, and (d) the amount remaining in the Tenant Construction Fund is sufficient to pay for all unpaid Hard Costs of Construction.

14. Certificate of Occupancy. To obtain and furnish to Landlord a copy of a final certificate of occupancy, or such other certificate or approval required by any governmental agency to ensure that the Tenant's Work has been finally completed and that Tenant can occupy the Premises.

15. Florida Building Laws. Tenant and Contractor shall comply with all applicable provision of the Florida Building Codes Act, as amended from time to time, the Miami-Dade County Building and Zoning Code, as amended from time to time, and all other applicable laws, rules, ordinances and building or zoning codes (collectively, the "Laws").

16. Smoke, Alcohol, Drugs and Arms Free Site. Tenant acknowledges that the Premises and the Project shall be designated as a smoke, alcohol, drug and arms free site (the "Project Designation"). Tenant covenants to observe said Project Designation and to cause Contractor and all other contractors, subcontractors and materialmen employed in the construction of the Tenant's Work to comply with said restrictions. Violation of the Project Designation by Tenant, Contractor or any contractor, subcontractor or materialman employed in the construction of the Tenant's Work shall constitute a breach of the Lease, provided that Tenant shall have thirty (30) days after written notice from Landlord to cure such violation before Landlord may exercise its remedies for such breach. In addition to all other rights and remedies of Landlord hereunder, in the event of a violation of the Project Designation by any contractor, subcontractor or materialman, Landlord shall have the right to cause Tenant to terminate the contractor, subcontractor or materialman causing such violation. In order to facilitate the enforcement of this provision, Tenant agrees to include language in its contract with Contractor, and any other third party, provisions (i) requiring the Contractor and third party and any of their contractors, subcontractors and materialmen to observe said Project Designation and (ii) permitting the Tenant to terminate any contractor, subcontractor or materialman who fails to observe said Project Designation. Tenant agrees to immediately advise Landlord of any violation of the Project Designation that Tenant has actual knowledge of.

17. Parking; Location of Construction Dumpsters and Storage Trailers; Temporary Bathroom Facilities. Landlord shall have the right to specify the location for the placement of construction dumpsters and storage trailers used by Tenant and/or its Contractor in the construction of the Tenant's Work. Landlord shall also have the right to specify the parking spaces used by Contractor and all other contractors, subcontractors and materialmen. However, unless Landlord otherwise agrees, Contractor shall be solely responsible for arranging parking for all workers at an off-site location. Tenant shall, at its own cost and expense (which shall be part of Soft Costs), provide temporary bathroom facilities and off-site parking for the contractors, subcontractors and materialmen engaged in the construction of the Tenant's Work.

18. Maintenance of Premises during Construction. Tenant agrees to undertake the removal of construction related trash on or about the Premises on a weekly basis. In the event that Tenant fails to comply with the foregoing, Landlord shall have the right, but not the obligation, to undertake such trash removal and any reasonable expenses incurred by Landlord in connection therewith shall be payable by Tenant (as Soft Costs) within five (5) days after receipt of an invoice from Landlord.

V. DISBURSEMENT OF TENANT CONSTRUCTION FUND:

Subject to compliance with and fulfillment of each and every of the terms, covenants and conditions set forth herein, Escrow Agent shall make disbursements out of the Tenant Construction Fund, up to the full amount of the Tenant Construction Fund, in accordance with this Work Letter and the following procedures:

1. Request for Payment. At such time as Tenant shall desire to obtain a disbursement of any portion of the Tenant Construction Fund for Hard Costs of Tenant Improvement costs, Tenant shall complete, execute and deliver to Escrow Agent and Landlord a

request for an advance on a form of draw request approved by Landlord, within its reasonable discretion. Such draw request shall include, but not be limited to, the following information:

(a) a reasonably detailed breakdown of the total amount then being requested, identifying each contractor, subcontractor, supplier or materialman to be paid, the amount to be paid to each such contractor, subcontractor, supplier or materialman, and the work done by each such person or entity for which payment is being requested;

(b) a copy of all bills, invoices or statements for which payment is being requested must be attached to the draw request;

(c) waivers or releases or liens for all work performed to the date of the draw request, from each contractor, subcontractor, materialman or supplier performing work or supplying materials to the Premises, must be attached to the draw request;

(d) a statement by Tenant that Tenant or Tenant's Architect has inspected all work for which payment is being requested, that, based upon Tenant's Architect's inspection of the work, such work complies in all material respects with the Tenant's Construction Drawings, any City Board approvals and other governmental approvals, and applicable Laws (subject to minor "punch list" items set forth on such certificate), and that Tenant authorizes and approves the payment to each contractor, subcontractor, supplier or materialman shown on the draw request, in the amount set forth in such draw request;

(e) a certification by Tenant that:

- (i) all outstanding claims for labor, materials and fixtures in connection with the Tenant's Work have been paid in full as of the date of the draw request, or will be paid in full from the proceeds of the draw then being requested;
- (ii) there are no mechanics, materialmen or other liens filed in the public records against the Premises, the Building or the Project, arising from or out of the construction of the Tenant's Work;
- (iii) Tenant has complied with all of Tenant's obligations, and is not in default, as of the date thereof, under the Lease, the Work Letter or the Construction Contract;
- (iv) all insurance policies required hereunder and under the Lease are in full force and effect;
- (v) all funds previously disbursed by Landlord from the Tenant Construction Fund have been applied in accordance with the prior draw request;
- (vi) the undisbursed portion of the Tenant Construction Fund is sufficient to complete construction of the Tenant's Work in accordance with the Budget, the Construction Contract, the Tenant's Construction Drawings, and applicable Laws;
- (vii) there have been no changes in the Tenant's Construction Drawings other than those made pursuant to change orders permitted

hereunder or those changes that are less than the required amount to receive approval;

- (f) A consent of surety; and
- (g) such other and further information as Landlord may reasonably request.

2. Architect's Certification. Each draw request for Tenant's Work costs shall be accompanied by the written certification of Tenant's Architect, certifying that, based on (i) Architect's preparation of the Tenant's Construction Drawings, (ii) Architect's supervision and inspection of construction of the Tenant's Work, (iii) all applicable Laws, and (iv) Architect's professional knowledge and judgment:

(a) all Tenant's Work constructed as of the date of the draw request have been constructed in accordance with the Tenant's Construction Drawings and in accordance with Tenant's Construction Drawings, City Board approvals and other governmental approvals, and all applicable Laws (subject only to minor "punch list" items set forth in such certificate);

(b) (i) neither Tenant nor Tenant's Contractor is in default under the Construction Contract (but such statement shall not be deemed a waiver of any claim Tenant may have or assert against Contractor), and (ii) each contractor, subcontractor, materialman or supplier performing work on or supplying materials to the Premises in connection with the Tenant's Work has been paid in full for all work done or materials supplied, up to the date of Tenant's Architect's certification, except for amounts to be paid from the draw then being requested;

(c) all work for which Tenant is seeking disbursement from the Tenant Construction Fund, as reflected in the draw request, has been incorporated into the Premises; and

(d) the funds remaining in the Tenant Construction Fund are sufficient to pay for all Hard Costs required to complete the Tenant's Work.

3. Conditions Precedent to Each Disbursement. At no time and in no event shall Escrow Agent be obligated or permitted to disburse funds from the Tenant Construction Fund:

(a) if any default or Event of Default hereunder or under the Lease or Construction Contract shall have occurred and remain uncured; or

(b) if the Premises shall have been damaged by fire or other casualty and Landlord shall not have received insurance proceeds, sufficient in the reasonable judgment of Landlord, to effect the restoration of the Tenant's Work in accordance with the Tenant's Construction Drawings (and Tenant has failed to make arrangements satisfactory to Landlord for the payment of such insurance insufficiency); or

(c) if there shall be any mechanics' liens or other liens in connection with construction of the Tenant's Work, filed in the public records against the Premises, the Building or the Project which have not been released or transferred to bond; or

(d) if the warranties and representations of Tenant set forth herein, and, if applicable, in the Lease or in the Construction Contract, are false or untrue in any material respect as of the date of such advance; or

(e) if Tenant shall have failed to comply with and perform all of its obligations under this Work Letter or shall have failed to deliver to Landlord all documentation required hereunder; or

(f) if a Notice of Commencement has not been filed and posted as required by Article IV, Section 1 hereof; or

(g) if the funds remaining in the Tenant Construction Fund are insufficient to pay all Hard Costs to complete the Tenant's Work in accordance with the Tenant's Construction Drawings, City Board approvals and other governmental approvals, and all Laws.

4. Retainage. All disbursements from the Tenant Construction Fund shall be subject to the following retainages:

(a) Five percent (5%) of that portion of each draw, or such lesser percent as may be approved by Landlord, which is applicable to payments to be made under the Construction Contract, unless such retainage has already been deducted from the draw request. Retainage relating to amounts due under subcontracts shall be released by Escrow Agent for each subcontractor when the subcontractor has completed its contract to the satisfaction of the Contractor and Landlord.

(b) The final construction disbursement, equal to no less than 5% of the highest balance of the Tenant Construction Fund, shall be withheld by Escrow Agent, and shall be disbursed along with all other retainages under this Section, only upon compliance with the following requirements (in addition to the requirements for all other disbursements):

- (i) Receipt by Landlord and Escrow Agent of satisfactory evidence of final completion of the Tenant's Work, substantially in accordance with the Tenant's Construction Drawings, and the approval of such completion by local governmental authorities, including, but not limited to, a final certificate of occupancy issued by the appropriate governmental authority.
- (ii) Receipt by Landlord of satisfactory "as-built" plans, in both blueprint and CAD form, registered with the City of Miami Beach Building Department reflecting the completed Tenant's Work.
- (iii) Receipt by Landlord of the Contractor's Affidavit for Final Payment which shall include waivers of lien from Contractor and all subcontractors, materialmen and suppliers employed by Contractor or Tenant. Said documents shall be in form and substance reasonably satisfactory to Landlord.
- (iv) The written certification from Tenant's Architect that the Tenant's Work has been Substantially Completed in accordance with the Tenant's Construction Drawings, all City Board approvals and other governmental approvals, and all applicable Laws, specifying in detail any outstanding, minor "punch list" items to be completed.

- (v) Certificate of Occupancy
- (vi) Certificate of Completion
- (vii) Delivery and completion of all materials, documents, files, and requisites in accordance with any and all terms and conditions contained herein this Work Letter.

4. Notice, Frequency and Place of Disbursements. All draw requests for work performed or materials supplied to the Premises (for which payment has not theretofore been made), together with Tenant's Architect's Certificate and all other information and documentation required under this Work Letter, shall be submitted to Landlord and Escrow Agent by Tenant not later than the twenty fifth (25th) day of the month. Provided that (a) Tenant has complied with all of the terms, covenants and conditions set forth in this Work Letter, (b) the Architect's Certificate and Tenant's draw request are true and correct in all material respects, and (c) Landlord has not objected in writing to the proposed disbursement, Escrow Agent shall disburse the funds requested in the draw request (or such portion thereof as permitted by this Work Letter) not more than ten (10) Business Days after receipt of the draw request and supporting documentation from Tenant. Unless otherwise approved by Landlord, Escrow Agent shall only be permitted to disburse funds from the Tenant Construction Fund one (1) time each calendar month; provided, however, that Landlord shall not unreasonably withhold, delay, or condition its approval of a request by Tenant that Escrow Agent disburse funds from the Tenant Construction Fund at times other than as set forth hereinabove in this Section 4, in the event of a bona fide emergency (such as, by way of illustration, but not limitation, to avert a possible work stoppage by the Contractor or a subcontractor), provided that (i) such disbursement request otherwise complies with all of the requirements of this Work Letter, and (ii) no more than four (4) such emergency requests need be considered by Landlord.

5. Disbursements. Landlord shall have the right, but not the obligation, to require Escrow Agent to make all disbursements from the Tenant Construction Fund (i) directly to Tenant, or (ii) jointly to Tenant and Contractor.

VI. DEFAULT:

1. Defaults. In addition to the Events of Default set forth in the Lease, the following shall also be deemed to be Events of Default under the Lease:

(a) If there is any default or Event of Default under the Construction Contract that arises by reason of the failure of Tenant to pay any sum of money due under the Construction Contract, and such default is not cured within ten (10) Days following receipt by Tenant of written notice alleging such default; or

(b) If Tenant shall fail to make, not later than the date when due, the payment of premiums on any policy of insurance required hereunder, and such failure is not cured within ten (10) Days of receipt by Tenant of written notice alleging such failure; or

(c) Any other defaults hereunder, or under the Construction Contract or the Lease, involving the failure of Tenant to pay monetary sums hereunder or thereunder (including payment of all Soft Costs), and such failure continues for ten (10) Days after receipt by Tenant of written demand therefor by Landlord; provided, however, that a good faith, bona fide dispute between Tenant and the Contractor or other payee for amounts allegedly due under the

Construction Contract or other contract shall not, by itself, be considered an Event of Default hereunder, so long as Tenant is diligent and in good faith attempting to resolve such dispute.

(d) If any lien for labor, material, taxes or otherwise shall be filed against the Premises, the Garage or the Project, on account of Tenant's work, and such lien is not removed, satisfied or transferred to bond as required under Article IV, Section 7 of this Work Letter.

(e) If construction of the Tenant's Work shall be abandoned and not be resumed at such time as may be reasonably necessary to complete construction by the Estimated Completion Date, unless such cessation is due to acts of God, strike or unavailability of materials.

(f) Any other default under this Work Letter that is not cured within thirty (30) days after Tenant's receipt of notice of default from Landlord; provided, however, in the event such default cannot reasonably be cured within the thirty (30) day period, said period shall be extended for such additional period as may be reasonably required in order to cure such default (not to exceed an additional 30 days), so long as Tenant acts with reasonable diligence during and after the thirty (30) day period in attempting to cure the default; or

(g) If the total amount paid by Tenant for Hard Costs of constructing the Tenant's Work is less than \$***.00.

VII. REMEDIES OF LANDLORD:

Upon the occurrence of any one or more of the Events of Default set out in Section VI hereof, or any default or Events of Default under the Lease, and the lapse of any applicable cure period, Landlord shall at its option be entitled, in addition to and not in lieu of the remedies provided for in the Lease, exercise any of the following remedies:

1. Default Constitutes Default Under Lease. Tenant agrees that the occurrence of such Event of Default, and the lapse of any applicable cure period, shall constitute a Default under the Lease, thereby entitling Landlord (i) to exercise any of the various rights and remedies provided, including, but not limited to, the acceleration of all rents, payments and other amounts due under the Lease, and (ii) cumulatively to exercise all other rights, remedies, options and privileges provided by law or in equity (unless stipulated to the contrary in the Lease).

2. Right of Landlord to Assume Possession and Complete Construction. Tenant agrees, upon the written request of Landlord, to vacate the Premises and permit Landlord:

(a) to enter into possession;

(b) to perform or cause to be performed any and all work and labor necessary to complete the Tenant's Work in accordance with the Tenant's Construction Drawings, or in such other manner as Landlord may elect in its sole discretion;

(c) to employ security watchmen to protect the Premises; and

(d) to receive from Escrow Agent immediately upon demand that portion of the Tenant Construction Fund not previously disbursed (including any retainage) to be applied first to the extent necessary to complete construction of the Tenant's Work in accordance with the Tenant's Construction Drawings, or in such other manner as Landlord may elect, and if the completion requires a larger sum than the remaining undisbursed portion of the Tenant Construction Fund, to disburse such additional funds, all of which funds so disbursed to Landlord

shall be deemed to have been disbursed to Tenant. If Landlord proceeds under this subparagraph (d), all portions of the Tenant Construction Fund that are not used to pay for completion of construction shall not be retained by Landlord as Additional Rent. Landlord, shall have the right, but not the obligation, to take all actions reasonably necessary in connection therewith, including, but not limited to, the following: To use any funds of Tenant which may be held in deposit and any funds which may remain unadvanced hereunder for the purpose of completing the Tenant's Work in the manner called for by the Tenant's Construction Drawings, or in such other manner as Landlord may elect; to make such additions and changes and corrections in the Tenant's Construction Drawings which shall be necessary or desirable to complete the Tenant's Work in a manner reasonably acceptable to Landlord; to employ such contractors, subcontractors, agents, engineers, architects, and inspectors as shall be required for said purposes; to pay, settle, or compromise all existing or future bills and claims which are or may be liens against said Premises; to execute all applications and certificates in the name of Tenant which may be required by any construction contract and to do any and every reasonable act with respect to the construction of the Tenant's Work which Tenant may do in its own behalf. Landlord shall also have power to prosecute and defend all actions or proceedings in connection with the construction of the Tenant's Work and to take such action and require such performance as it deems reasonably necessary. In accordance therewith, Tenant hereby assigns and quit claims to Landlord all sums to be advanced hereunder, including any remaining Tenant Allowance and any retainage and any sums paid hereunder to Landlord.

3. Additional Remedy. In lieu of exercising its rights under the preceding paragraph 2, Landlord may receive from Escrow Agent immediately upon demand all funds remaining in the Tenant Construction Account and apply them towards Landlord's damages for Tenant's breach of the Lease.

VIII. ESCROW AGENT PERFORMANCE OF DUTIES:

1. Escrow Agent agrees to perform the duties of Escrow Agent under this Work Letter and to hold and disburse the Tenant Construction Fund strictly in accordance with the provisions hereof.

2. In performing any of its duties under this Work Letter, or upon the claimed failure to perform its duties hereunder, Escrow Agent shall be liable to anyone for damages, losses or expenses which may occur as a result of Escrow Agent's so acting, or failing to act; except, however, Escrow Agent shall be liable for damages arising out of its willful default or gross negligence under this Work Letter. Accordingly, Escrow Agent shall not incur any such liability with respect to (i) any good faith act or omission upon advice of counsel given with respect to any questions relating to the duties and responsibilities of Escrow Agent hereunder, or (ii) any good faith act or omission in reliance upon any document, including any written notice or instructions provided for in the Work Letter, not only as to its due execution and to the validity and effectiveness of its provisions but also as to the truth and accuracy of any information contained therein, which Escrow Agent shall in good faith believe to be genuine, to have been signed or presented by the proper person or persons and to conform with the provisions of this Work Letter.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Work Letter has been made and executed as of the date set forth below.

LANDLORD:

CITY OF MIAMI BEACH, FLORIDA

Attest:

Rafael E. Granado, City Manager

Print Name:

Date:

By: _____
Name: Eric T. Carpenter _____
Title: City Manager _____

TENANT:

**MIAMI BEACH RACQUET CLUB, LLC, a
Florida limited liability company**

Print Name _____

Print Name _____

Date:

By: _____
Name: _____
Title: _____

ESCROW AGENT:

Print Name _____

Print Name _____

Date:

By: _____
Name: _____
Title: _____

EXHIBIT "F"

PROJECT PLAN AND SCHEDULE

EXHIBIT "G"

PADEL MAINTENANCE STANDARDS
AND
THE CITY'S EXTREMELY CLEAN STANDARDS