

CONSTRUCTION MANAGEMENT AGREEMENT

AGREEMENT dated as of August 12, 2013, by and between [REDACTED], a New York limited liability company having its principal place of business at [REDACTED], [REDACTED], [REDACTED], New York, New York 10025 (the "Owner") and [REDACTED] & Associates, LLC, a New York limited liability company having its principal place of business at [REDACTED], Fifth Avenue, Suite 1004, New York, New York 10001 (the "Construction Manager").

WITNESSETH:

WHEREAS, Owner is the owner of certain real property located at [REDACTED] Avenue and Audubon Avenue on West 168th Street, also known as [REDACTED], New York, New York, in the borough of Manhattan, City and State of New York, on which it intends to construct the Project as hereafter described (the project "Site");

WHEREAS, Owner intends to develop and construct a new mixed-use building on the Site, on which a surface parking lot currently exists. The new building will contain 54 hotel rooms and approximately 15,000 square feet of medical offices. The building will consist of one level below grade and twelve levels above grade, with a gross slab area of approximately 38,418 square feet. All of the foregoing to be constructed substantially in accordance with the Contract Documents (as hereinafter defined) (the "Project");

WHEREAS, Owner wishes to retain Construction Manager to provide certain pre-construction management services as described herein to assist in development of the Project and thereafter; to cause the construction of certain Work required for the Project on a Guaranteed Maximum Price ("GMP") basis, as hereafter defined, as an at-risk construction manager using trade contractors ("Trade Contractors") as hereinafter provided;

WHEREAS, Construction Manager is willing to act in such capacity and cause to be provided, along with Trade Contractors retained by Construction Manager, and as hereafter set forth, all labor, materials, tools, equipment, temporary utilities, supervision and management required for the timely, lien free completion of the Project and otherwise perform its obligations hereunder (the "Work"); and

WHEREAS, Owner has retained Nobutaka Ashihara Architect P.C. as Architect for the Project ("Architect") and also has engaged either through the Architect or directly, structural, mechanical, electrical and other engineers, inspectors, agencies and consultants normally and customarily retained by architects or owners to design the elements or inspect the construction of the Project. As used throughout this Agreement, "Architect" shall be understood to refer to both the Project Architect and when required by context, to other design consultants who collectively form Owner's design team; and

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein and the sum of one (\$1.00) dollar by each party in hand paid to the other, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto intending to be legally bound, agree as follows:

ARTICLE I

(Contract Documents)

1.1 Contract Documents. The “Contract Documents”, which are listed in **Exhibit “A”** hereto, consist of: (i) this Agreement, together with all Exhibits; (ii) all Addenda issued prior to, and all duly executed Amendments (including Change Orders) and Modifications (as such term is defined by this Agreement) (in both cases with attachments) issued after, execution of this Agreement; (iii) the Drawings; (iv) the Specifications; (v) approved shop drawings; (vi) the Guaranteed Maximum Price document including all attachments thereto; and (vii) all other documents listed in Exhibit A. All of the foregoing are an integral part of this Agreement and are incorporated herein as if attached hereto. In resolving any conflicts among the Contract Documents, the above listed order of priority shall control, with item (vi) having the overriding priority, and within each category, the newer Contract Documents shall be given precedence. The Contract Documents expressly do not include documents such as any advertisement or invitation to bid, the instructions to bidders, sample forms, the Construction Manager’s bid or portions of addenda relating to any of these or any other documents, unless specifically identified in Exhibit A. A list of all definitions used herein is attached hereto as **Exhibit “B”** hereof.

1.2 State of Contract Documents. Construction Manager acknowledges that as of the execution of this Agreement, the Drawings, Specifications, and other documents listed in Exhibit A are approximately ninety-five percent (95%) complete, and will be subject to revisions, refinements, and clarifications, as well as the issuance of additional Drawings, Specifications and documents in order to fully and completely reflect all components and details of the Project subject, however to the provisions of Article X. At such time as 75% of the Contracts have been awarded, Construction Manager shall propose a Guaranteed Maximum Price, pursuant to Article VI.

1.3 Intent of Contract Documents. The intent of the Contract Documents is to include all items necessary for the proper and entire execution and completion of the Work (as hereafter defined). The Contract Documents are complementary, and what is required by one shall be as if required by all provided, however, that performance by Construction Manager shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

1.4 Conditions of the Work. Construction Manager represents that it has visited the Site of the Work, become familiar with local conditions, including the labor market, under which the Work is to be performed and correlated personal observations with the requirements of the Contract Documents.

1.5 Ownership of Drawings and Specifications. All Drawings, Specifications and copies