

City of Philadelphia



(Bill No. 050105)

AN ORDINANCE

Approving a Lease Agreement between Philadelphia Gas Works by Philadelphia Facilities Management Corporation, solely in its capacity as operator and manager of the City-owned Philadelphia Gas Works, and Greater Germantown Housing Development Corporation for certain premises located at 212-14 W. Cheltenham Avenue.

WHEREAS, The Philadelphia Gas Works by Philadelphia Facilities Management Corporation (“PFMC”) desires to enter into a Lease Agreement whereby PFMC, in its capacity as operator and manager of the City-owned Philadelphia Gas Works, under and pursuant to an agreement with the City of Philadelphia dated December 29, 1972, as amended, will continue to rent from Greater Germantown Housing Development Corporation certain premises located at 212-14 W. Cheltenham Avenue for an additional term; and

WHEREAS, Section VIII(3) of the Agreement dated December 29, 1972, as amended, between the City of Philadelphia and Philadelphia Facilities Management Corporation provides in part that leases of real estate for the Philadelphia Gas Works shall be submitted to the Philadelphia Gas Commission for its approval and shall be submitted to City Council for its approval by ordinance; and

WHEREAS, The Philadelphia Gas Commission at a meeting duly held on November 16, 2004, approved the proposed Lease Agreement between Philadelphia Gas Works by Philadelphia Facilities Management Corporation and Greater Germantown Housing Development Corporation attached hereto as Exhibit “A”, and favorably recommended approval of the transaction to City Council; now therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Pursuant to Section VIII(3) of the Agreement dated December 29, 1972, as amended, between the City of Philadelphia and the Philadelphia Facilities Management Corporation, the Lease Agreement between Philadelphia Gas Works by Philadelphia Facilities Management Corporation and Greater Germantown Housing Development Corporation, set forth in Exhibit “A” attached hereto and made a part hereof, is hereby approved.

SECTION 2. The Exhibit “A” referred to and incorporated in this Ordinance shall be kept on file by the Chief Clerk of City Council and shall be available to the public for inspection, reading or copying at reasonable times.

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LEASE AGREEMENT

This Lease Agreement ("Lease") is entered into as of the ____ day of _____, 2004, and effective, August 1, 2004, by and between GREATER GERMANTOWN HOUSING DEVELOPMENT CORPORATION, a Pennsylvania non-profit corporation, with its principal address at 5538 Wayne Avenue, Philadelphia, Pennsylvania 19144 ("Landlord") and PHILADELPHIA GAS WORKS, by PHILADELPHIA FACILITIES MANAGEMENT CORPORATION, a Pennsylvania non-profit corporation, solely in its capacity as operator and manager of Philadelphia Gas Works ("PGW") pursuant to an agreement with the City of Philadelphia, dated December 29, 1972, as amended, with its principal address at 800 W. Montgomery Avenue, Philadelphia, Pennsylvania 19122 ("Tenant").

Background

A. Landlord is the record owner of certain property and buildings located at 212-214 W. Cheltenham Avenue, Philadelphia, Pennsylvania (the "Building No. 1 and Building No. 2") in the City of Philadelphia (collectively hereinafter referred to as the "Premises").

B. PGW is a collection of real and personal property owned by the City of Philadelphia and operated by Philadelphia Facilities Management Corporation ("PFMC").

C. Tenant has been leasing 4112 square feet more or less in Building No. 2 ("Leased Premises") from Landlord's predecessor, Chel-Wayne Associates, since July 29, 1993, as district offices and a retail store for the sale and service of gas appliances and customer contact.

D. The Additional Lease Term in the Lease Agreement dated July 29, 1993 ("Lease Agreement"), expired on July 31, 2001, and Tenant and Landlord have renewed the Lease Agreement pursuant to the terms of said Lease Agreement.

E. Greater Germantown Housing Development Corporation purchased 212-14 W. Cheltenham Avenue from Chel-Wayne Associates, and the parties desire to enter into a new lease agreement.

F. Subject to the terms and conditions set forth below, Landlord and Tenant desire to enter into this Lease.

Therefore, in consideration of the mutual covenants of Landlord and Tenant and for other good and valuable consideration, receipt of which is acknowledged, Landlord and Tenant, intending to be legally bound, agree as follows:

1. Leased Premises

Landlord leases to Tenant and Tenant leases from Landlord all of the Leased Premises, together with the right to use in common with others all common areas, and ten (10) parking spaces in the area designated by Landlord as "Employee Parking". If

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Tenant requests additional spaces in the Employee Parking, Landlord agrees to use its best efforts to comply with Tenant's request for said additional parking.

2. Use

Tenant may use the Leased Premises for the purpose of maintaining and operating its district offices and a retail store for the sale and service of gas appliances and customer contact and for all uses incident and ancillary to that purpose. Tenant shall not use or occupy the Leased Premises, or permit the use or occupancy of the Leased Premises, in any manner or for any purpose which would violate any Applicable Laws (defined below).

3. Term; Renewal; Termination

A. The term of this Lease shall be for one year ("Initial Term") and shall commence on August 1, 2004 ("Commencement Date") and shall terminate on July 31, 2005.

B. Provided that Tenant is not in default under the terms of this Lease, Tenant, at its sole option, shall have the right to renew this Lease for additional one-year periods (each such one-year shall be called a "Renewal Term", if applicable), unless Tenant provides written notice to Landlord at least 120 days before the end of said Term or then current Renewal Term (if applicable) of Tenant's desire that this Lease not renew, in which case this Lease shall expire at the end of the Term or then current Renewal Term, as the case may be.

C. If Landlord desires to terminate this Lease upon the expiration of the Initial Term or Renewal Term, Landlord shall provide written notice to Tenant at least 150 days before the end of said Term or then current Renewal Term of Landlord's desire that this Lease not renew.

4. Rent

A. Commencing August 1, 2004, Tenant shall pay Landlord annual rent ("Rent") in 12 equal installments in accord with the following schedule :

Period	Rate per	Annual Rent
Monthly Rent Payment	Square Foot	
8/1/2004 – 7/31/05	\$15.00	\$ 61,680.00
8/1/2005 – 7/31/06	\$15.50	\$ 63,736.00
		\$ 5,140.00
		\$ 5,311.33

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B. The monthly rental payment from Tenant to Landlord shall be payable in advance on the 1st day of each calendar month beginning on the Commencement Date.

C. If the parties agree to renew the term of the Lease pursuant to Section 3(B) above after the second year, the Rent in each Renewal Term shall be increased by a percentage equal to 50% of the percentage increase in the Consumer Price Index Seasonally Adjusted U.S. City Average For All Urban Consumers (1982-84= 100) of the Bureau of Labor Statistics of the United States Department of Labor ("CPI") as reported for the most recent calendar year by the federal government; that is, by way of example: $((\text{Percentage increase in CPI}) \times .5) \times (\text{Rent during current year}) = \text{Rent Increase for Renewal Term}$.

5. Additional Rent

A. All amounts over and above the Rent payable by Tenant to Landlord under the terms of this Lease shall be deemed Additional Rent hereunder and shall be payable to Landlord upon demand, unless provision is made herein for payment of any such amount on a specific date or within a specified time.

B. Landlord acknowledges and agrees that Tenant may require that all water and sewer rents be billed directly to the property owner of the Premises, in which case Tenant shall reimburse Landlord for all water and sewer rents, as Additional Rent, after presentation of paid receipts by Landlord, provided that Landlord shall pay all water and sewer bills in a timely manner to obtain the greatest discount possible for early payment and so as not to incur any penalties or interest for late payment.

C. Upon receipt of paid invoices from Landlord, Tenant shall reimburse the Landlord for real estate taxes and assessment installments imposed upon the Premises. Tenant agrees to reimburse the Landlord, as Additional Rent, its pro rata share of the portion of the aforesaid taxes and assessments attributable to the square footage of the Premises utilized by Tenant (based on the ratio which is the square footage of the Leased Premises bears to the total rentable square footage of the Premises of which the Leased Premises is a part (which total rentable square footage Landlord represents and warrants is 102,000 square feet). Tenant's pro-rata share is 3.37 % ("Tenant's Share"). If the aforesaid taxes levied against the Premises and assessments which Tenant is obligated to pay hereunder shall be for a tax year or period which is not included in the term of this Lease, then Tenant shall be obligated to pay a pro rata share of such particular tax or assessment attributable to the portion of such tax or period included within the Term and the Renewal Term of this Lease. Nothing herein shall be construed to require Tenant to reimburse Landlord for the payment of any franchise, inheritance, estate, succession or transfer tax of Landlord or income or excess profits taxes assessed upon or in respect to the income of the Landlord or chargeable to or required to be paid by the Landlord.

D. Tenant agrees to pay Tenant's Share of the Landlord's cost to provide maintenance and janitorial service for the common areas. Landlord shall provide Tenant annually with a detailed statement of the actual cost for maintenance and janitorial

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service broken down by component expenses which are included in determining Tenant's Share.

E. Tenant agrees to pay Tenant's Share of the Landlord's cost for insurance premium, if any, for the Premises. In the event of a Casualty (as defined in Article 12), if the parties determine that the Lease shall continue pursuant to Article 12, the insurance proceeds less reasonable costs of collection shall be used to pay the cost of the restoration as the work progresses. If pursuant to Article 12, Tenant or Landlord, in their respective reasonable judgment, determine that the Lease should terminate because the Premises have been destroyed or rendered unsuitable for Tenant's use, then the insurance proceeds less (i) the cost of demolishing Building No. 2 and cleaning the Premises from all demolition and/or Casualty debris or (ii) the cost of cleaning and sealing Building No. 2 in accord with all Applicable Law, shall be paid to the Landlord. After such termination, Landlord shall demolish Building No. 2 and clean all construction and Casualty debris from the Premises or clean out and seal Building No. 2, pursuant to all Applicable Law. Such withheld amount of insurance proceeds shall be paid to Landlord promptly upon completion thereof. Landlord's right under Article 12A hereof to terminate this Lease on account of a Casualty shall apply only if restoration is required to at least two-thirds of Building No. 2 or if the remainder of the Term of this Lease is less than eighteen (18) months.

6. Utilities, Building Services, and Facilities

A. Landlord, without cost to Tenant, shall ensure that, on or before the Commencement Date, and at all times thereafter, the Premises are properly metered for all utility services supplied to the Premises with a single meter for each utility service supplied.

B. Landlord acknowledges that the Leased Premises has all necessary water, electricity, telephone, and other utility services hookups to and throughout the Premises.

C. Landlord, at its sole expense, shall ensure that the Building's water heating and plumbing systems are equipped and maintained to supply the Premises adequate water pressure.

D. Tenant shall pay directly to the utility companies all charges for gas, telephone, electric and all other utility services furnished and supplied to the Leased Premises and consumed by the Tenant and billed directly by the utility company to the Tenant, provided that each service is separately metered at Landlord's sole expense to show the amount of such service consumed by the Tenant within the Premises.

E. Landlord shall at all times perform all necessary and prudent maintenance, repairs and replacements to ensure the Premises comply with all Applicable Law throughout the term of this Lease as set forth in Article 11. In addition, Landlord shall make such other repairs, and replacements as Tenant may request from time to time, provided, however, that Tenant agrees to pay the cost of the repairs, and replacements it requests which are not otherwise required under the terms of this Lease.

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The parties' obligation to make repairs and replacement shall arise only upon receipt of a valid notice of violation from any local, state or federal governmental authority. Nothing set forth in this Article 6(E) shall be construed to limit Article 11 of this Lease.

F. Landlord, at its sole expense, shall install all security and fire alarms in, on, and about the Premises as required by Applicable Law.

G. Notwithstanding Tenant's obligation to pay for heat and air conditioning as set forth in this Lease, Landlord, at its sole expense, shall ensure that the Premises is provided with the appropriate heating, ventilating, and air conditioning system.

H. Without limiting any other provision of this Lease, Landlord, at its sole expense, shall perform all necessary and prudent preventive maintenance on Building No.2's heating, ventilating, and air conditioning system and on the fire suppression system in accordance with the requirements contained in any warranties pertaining to the equipment in the systems and as required by Applicable Law.

7. Improvements and Tenant's Fixtures

A. Tenant shall not make, permit or construct any improvements, renovations, replacements, additions and/or alterations upon or otherwise modify or alter the Premises in any way without the prior review and written consent of the Landlord, provided that such consent shall not be reasonably withheld, delayed or conditioned.

B. Any improvements, renovations, replacements, and/or alterations approved by the Landlord shall be made by Tenant at Tenant's sole cost and expense, in a workman like manner, and in compliance with all Applicable Laws, as defined in Article 14 below.

C. All reviews, approvals and/or consents of Landlord required under this Article 7 shall be granted or denied by Landlord within a reasonable time (not to exceed 30 days) from receipt by Landlord of Tenant's request for such review, approval and/or consent. Upon approval by Landlord, any and all plans and specifications for improvements, renovations, replacements, additions and/or alterations, shall become part of this Lease as though fully set forth herein, and Tenant shall diligently cause work to be completed in accordance with such documents.

D. Except as expressly provided otherwise by Landlord in any consent or approval required under this Article 7, all such improvements, renovations, replacements, additions, and/or alterations shall constitute a part of the Premises and become property of Landlord provided, however, Tenant shall have the right to remove any or all such trade fixtures, including but not limited to the Haworth Furniture (partitions, work surfaces and file cabinets) and a Teller's cage, from time to time during and upon the expiration or earlier termination of this Lease. Tenant shall repair any damage or injury to the Premises caused by the installation and/or removal of any such trade fixtures. Tenant shall have the right to move furniture into and out of the Premises in Tenant's sole discretion.

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8. Tenant's Quiet Enjoyment; Landlord's Access to Premises

A. So long as Tenant has paid all Rent currently due and performed all other obligations required under this Lease, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term and any Renewal Term without hindrance or interruption or interference by Landlord or anyone lawfully claiming through Landlord with Tenant's enjoyment and possession of the Premises, subject, however, to the terms and conditions of this Lease.

B. Landlord hereby grants to Tenant the right to erect and/or maintain a sign or signs on the exterior portion of Building 2 and/or the shopping center, provided however, that such signs are in conformity with existing municipal requirements and shopping requirements for such signs and further that Tenant, at Tenant's sole cost and expense shall secure all necessary permits and approvals for such signs.

C. If Landlord has received notice from Tenant of Tenant's intent to terminate this Lease pursuant to Article 3(B) above, then during the last 30 days of the Term or during the last 30 days of the then current Renewal Term, as the case may be, Landlord may at reasonable times, and upon 48 hours advance notice to Tenant, inspect the Premises and show them to prospective purchasers or mortgagees and to prospective tenants.

D. Landlord or its authorized agent may at reasonable times and upon reasonable prior written notice to Tenant enter the Premises to inspect, alter, improve, or repair the Premises as necessary to protect or maintain the Premises.

E. Landlord may display a "For Sale" sign on the Premises at any time. If Landlord has received notice from the Tenant of Tenant's intention to terminate this Lease pursuant to sections 3(B) above, then Landlord may display a "For Rent" sign upon the Premises during the last 90 days of the Term or the then current Renewal Term, if applicable.

9. Affirmative Covenants of Tenant

Tenant shall:

A. pay to Landlord all amounts due as Rent, Additional Rent, and all other charges provided for herein in accordance with the terms of this Lease;

B. maintain the interior space of the Leased Premises in good order and repair, ordinary wear and tear excepted;

C. peacefully surrender the Leased Premises at the end of the Term or then current Renewal Term, in the same condition which Tenant has agreed to maintain the Leased Premises, ordinary wear and tear excepted;

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D. notify Landlord with reasonable promptness of any material damage to or defects in the Leased Premises of which Tenant has actual knowledge and of any injuries to persons which occur in or about the Leased Premises;

E. maintain public insurance covering its use of the Leased Premises with a limit of at least one million (\$1,000,000.00) dollars and property damage insurance with a limit of at least three million (\$3,000,000.00) dollars, in the names of Tenant and Landlord as their interests may appear. Tenant shall deliver to Landlord prior to the commencement of this Lease, certificates of insurance evidencing such coverages with companies, or evidence of self-insurance, acceptable to Landlord. Tenant shall, at least ten (10) days prior to the expiration, cancellation or lapsing of any such insurance deliver to Landlord certificates evidencing such insurance coverage or the renewal thereof, provided, however, that if Tenant fails to deliver such certificates of insurance, or evidence of self insurance, as aforesaid, Landlord shall have the right to obtain similar insurance, the cost of which shall be borne by Tenant and paid to Landlord as Additional Rent, immediately upon demand;

F. perform or cause to be performed routine cleaning and janitorial services in the interior of the Leased Premises and keep the Leased Premises clean and free from all garbage, dirt and other refuse matter;

G. pay for all services and utilities used in the Leased Premises, in accordance with Article 5 above; and

H. maintain the fire extinguishers located on the Leased Premises.

10. Negative Covenants of Tenant

Tenant shall not, without having obtained the prior written consent of Landlord, which consent shall not be unreasonably withheld, delayed, or conditioned:

A. make any alterations, additions, or Renovations to the Leased Premises, except for the installation of trade fixtures as authorized by Article 7 above;

B. occupy or use the Leased Premises in any other manner or for any other purpose than as permitted under Article 2(A);

C. Tenant shall not cause or suffer any waste, damage, disfigurement or injury to the Premises.

D. do or suffer to be done any act, matter or thing objectionable to Landlord's insurance companies whereby the fire insurance or any other insurance Landlord may carry for the Leased Premises, or any part thereof, shall become void or suspended, or whereby the same shall be rated as a more hazardous risk than at the date of execution of this Lease, or carry or have any flammable or explosive matter of any kind in or about the Leased Premises in violation of Applicable Law. Landlord represents and warrants that it has informed its insurance companies of Tenant's proposed use of the Leased Premises, that Tenant's proposed use of the Leased

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Premises is in compliance with all of Landlord's insurance policies for the Leased Premises and shall not cause any increase in the premiums for such insurance. Landlord acknowledges that Tenant is relying upon Landlord's representation and warranty in making the covenant in this Article 10(D);

E. permit or suffer any mechanic's, materialman's, or laborer's lien to be placed upon the Leased Premises in connection with any work on or about the Leased Premises performed by Tenant.

11. Landlord's Obligation to Maintain and Repair the Premises

A. Landlord shall, at its sole cost and expense, maintain, Repair and preserve the Premises in good and orderly condition and repair, including but not limited to all driveways, curbs, sidewalks, entrances, passageways, hallways, stairways, foyers located in Buildings, and all areas adjoining same, parking areas, fire towers, and all common areas of the Premises, and in compliance with all Applicable Law (as defined in Article 14), except that Tenant agrees, at its expense, to make all necessary repairs and replacements as required by Article 9 and/or Applicable Law as a result of Tenant's use and operation of the Building. Except as provided in Article 12, Landlord also shall at its sole cost and expense maintain and Repair all structural parts of the Premises and its plumbing, mechanical, and fire suppression systems, including but not limited to roofs, exterior walls, structural interior walls, foundations, structural frames, water supply systems, sewage disposal systems, and heating, ventilation, air conditioning and electrical systems. Landlord undertakes all responsibility for Repairs to the base building and Tenant agrees to undertake all responsibility for Repairs to all Tenant fit-outs in the Leased Premises as more specifically provided in Article 9(B). The terms "Repairs" and "Repair" shall include all necessary and prudent repairs, replacements, renewals, and alterations, whether ordinary or extraordinary, foreseen or unforeseen. Except for those maintenance and Repair obligations explicitly imposed on Tenant by this Lease, Landlord shall perform all necessary and prudent maintenance and Repairs on the Premises.

B. Landlord shall commence and diligently pursue all necessary and prudent Repairs to the Premises within 48 hours of notice from Tenant of the need for such Repair. Repairs of an emergency nature, however, shall be commenced and completed by Landlord immediately upon Landlord learning of them, whether by notice or otherwise. If the Repairs are not completed by Landlord on or before 60 days after notice from Tenant, then Tenant may terminate this Lease or pay all installments of Rent due after such 60 days into an escrow account established and maintained by Tenant. If Tenant chooses not to terminate this Lease and instead to pay Rent into escrow, then upon completion of the Repairs to Tenant's satisfaction, Tenant shall pay the funds in the escrow account over to Landlord, less the amount of any costs or expenses incurred by Tenant as a result of the condition which required Repair, which costs or expenses shall be retained by Tenant from the escrowed Rent.

C. Landlord shall promptly pay any tax or levy imposed by any governing authority in connection with the maintenance of security and fire suppression systems and inspections of the elevator at the Premises.

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D. Landlord shall maintain fire and casualty damage insurance in an amount which shall comply with co-insurance requirements of the insurance company insuring the Premises.

12. Destruction of the Premises

A. If in Tenant's or Landlord's reasonable judgment, (i) the Premises have been substantially or totally destroyed or rendered unsuitable for Tenant's intended use, or (ii) Premises have been substantially or totally destroyed or rendered unsuitable for Tenant's intended use because of fire, explosion, wind storm, tornado or other casualty ("Casualty"), then Tenant or Landlord shall have the option of terminating this Lease as of the date of the Casualty by delivering to the other party written notification of termination. Upon either party's delivery of notification of termination under this Article 12(A), this Lease and all rights and obligations of Landlord or Tenant under this Lease shall terminate and any Rent paid in advance or on account of any period of time on or after the date of the Casualty shall be promptly refunded by Landlord to Tenant.

B. If the Premises should be partially damaged by Casualty which renders the Premises, or portions thereof, unsuitable for Tenant's intended use, and rebuilding or repairs can, in the reasonable judgment of Tenant, be completed by Landlord within 60 calendar days after the date of the Casualty, and this Lease is not terminated under Article 12(A) above, then, upon written notice from Tenant, Landlord shall (1) at its sole expense proceed with diligence to rebuild or repair the Premises to the condition in which the Premises existed immediately prior to the Casualty, or (2) elect not to rebuild the Premises, in which case Tenant may immediately terminate this Lease as of the date of the Casualty.

i. If the Premises are to be rebuilt and repaired pursuant to this Article 12(B) and any portion of the Premises is, in Tenant's reasonable judgment, unusable for Tenant's purposes during such rebuilding or repair, then until the rebuilding or repairs are completed, Rent shall be reduced pro rata based on the remaining square footage of the Premises usable by Tenant. If Landlord and Tenant cannot agree on the remaining square footage usable by Tenant, then the difference in Rent between Tenant's and Landlord's estimates of usable square footage shall be paid into escrow by Tenant, and Landlord may proceed by law to prove Landlord's estimate of the square footage and recover the amount paid into escrow; provided, however, that if Landlord does not bring such an action within 120 days from Tenant's commencement of escrow payments, all such payments shall be deemed waived by Landlord and Tenant shall thereafter be required to pay Rent based upon Tenant's estimate of usable square footage only until the rebuilding and repairs are complete in accordance with Article 12(b) above.

ii. If Landlord fails to complete the necessary rebuilding or repairs within 60 calendar days after the date of the Casualty, and Tenant has provided Landlord with the written notice required by Article 12(B) above, then Tenant shall have the right to terminate this Lease retroactively to the date of the Casualty by delivering written notice of termination to Landlord and upon such termination. Upon Tenant's delivery of its notice of termination under this Article 12(B)(ii), this Lease and all rights and obligations

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of Tenant under this Lease shall terminate, and any Rent paid in advance, or paid and attributable to periods of time after the date of the Casualty, shall be promptly refunded by Landlord to Tenant.

C. Landlord shall abide by all current and future Applicable Law regarding the removal and/or covering of graffiti from the Premises, including the Building and parking area. Landlord shall at all times during the term of this Lease remove or cover all graffiti within five (5) days from the date Landlord is notified by Tenant. If the Landlord fails to remove the graffiti within this time period, Tenant may, itself or by contract remove and/or cover the graffiti, and at Tenant's sole option either (i) bill the Landlord for the costs of removal and/or covering of the graffiti, or (ii) deduct such costs from future Rent notwithstanding any provision to the contrary contained in this Lease.

13. Condemnation

A. If all or a material part of the Premises are taken for any public or quasi-public use under any governmental law, ordinance or regulation, by right of eminent domain, or by purchase in lieu thereof ("Condemnation"), and the Condemnation would, in Landlord's reasonable judgment, prevent or materially interfere with Tenant's use of the Premises for the purpose set forth in this Lease, then this Lease shall automatically terminate as of the date title to the Premises or physical possession of the Premises, whichever is earlier, vests in the condemning authority. Upon termination of this Lease pursuant to this Article 13(A), all rights and obligations under this Lease shall terminate, and any Rent paid in advance or paid and attributable to periods of time after the date of such termination promptly shall be refunded by Landlord to Tenant.

B. If a portion of the Premises shall be taken by Condemnation and this Lease is not terminated as provided in Article 13(A) above, then this Lease shall not terminate but the rent payable hereunder during the unexpired portion of this Lease shall be reduced pro rata based on the square footage of the Premises which in Tenant's reasonable judgment remains useable by Tenant.

14. Applicable Laws; Representations and Warranties

A. Landlord shall at its sole cost and expense promptly comply with all laws, ordinances, notices, orders, rules, regulations and requirements of all federal, state and municipal governments and appropriate departments, agencies, commissions, boards and officers thereof, whether now existing or hereafter enacted ("Applicable Law") relating to the condition and general use of the Premises and Building No. 2. Tenant agrees, at its expense, to comply with all Applicable Law which directly relates to Tenant's use and operation of the Leased Premises. Applicable Law shall include but not be limited to the following:

i. that certain federal legislation commonly known as the "Americans with Disabilities Act of 1990", P.L. §§ 101--336, generally codified at 42 U.S.C. §§ 12101 et seq., as amended, and all regulations and guidelines promulgated pursuant to that legislation;

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ii. all laws governing or regulating the use, presence, handling and/or disposal of any "Hazardous Substance" (defined below); and

iii. The Philadelphia Code.

B. For purposes of this Lease the term "Hazardous Substance" shall mean one or more of the following:

i. asbestos, asbestos-containing materials, flammables, volatile hydrocarbons, industrial solvents, explosives, chemicals known to cause cancer or reproductive toxicity, radioactive material, petroleum, petroleum products, petroleum distillates or fractions, natural gas, synthetic gas, and any substance defined as "hazardous substance," "hazardous materials" "hazardous waste," "toxic substance," "pollutant," or contaminant" by any federal, state or municipal law, statute or ordinance or any governmental agency or unit having appropriate jurisdiction, and

ii. any and all other materials or substances that any governmental agency or unit having appropriate jurisdiction shall determine from time to time are hazardous, harmful, toxic, or dangerous or are otherwise required to be investigated, monitored, removed, cleaned up or remediated.

C. For purposes of this Lease, the term "Contamination" shall mean the uncontained presence of any Hazardous Substance in or on, or arising at any time from, the Premises, including but not limited to Building No. 2, which may be required to be investigated, monitored, remediated or removed by any governmental agency or unit having appropriate jurisdiction.

D. As a material inducement to entering into this Lease by Tenant, based upon Landlord's knowledge and after diligent investigation, Landlord hereby represents, warrants, and covenants that the Premises, including but not limited to Building No. 2, comply and shall continue to comply with all Applicable Law, that there is no Contamination at the Premises, that there is no condition existing at the Premises which, with the passage of time, would give rise to Contamination, and that Landlord shall comply with all its obligations under this Lease. If at any time during the Term and any Renewal Term, either Landlord or Tenant learn that the Premises or any conditions existing on the Premises violate or with the passage of time would violate any Applicable Law, then Landlord shall at its own expense and in accordance with Applicable Law promptly take all actions necessary to remedy such condition including but not limited to causing any and all Hazardous Substances in or arising from the Premises, including but not limited to Building No. 2, to be handled, encapsulated, and/or disposed of in accordance with all Applicable Law in a way which does not present a risk of Contamination, and to cause the Premises to become or remain in compliance with Applicable Law; except that if such conditions were caused by Tenant, its contractors, agents, employees or invitees, then Tenant at its expense shall take all such actions necessary to remedy such condition.

E. Tenant shall at all times comply with the requirements of Applicable Law applicable to Tenant's use of the Premises or the activities thereon of Tenant or any of

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Tenant's contractors, employees, agents, clients or invitees. Furthermore, neither Tenant, nor its agents, contractors, employees or invitees, shall bring or allow anyone else to bring onto the Premises, or to generate, use, store, keep or dispose of on or from the Premises, any Hazardous Substances, except for customary amounts of cleaning products and solvents used by Tenant in the ordinary and proper way for cleaning the Premises. Each party shall promptly provide the other with copies of all correspondence to and from, and all submissions to, any and all government authorities relating to Hazardous Substances in, on, about or from the Premises.

15. Miscellaneous Representations and Warranties

Based upon Landlord's knowledge and after diligent investigation, Landlord represents and warrants that:

A. Landlord is the owner of the Premises, including Buildings No. 1 and No. 2, and the employee parking and has the exclusive right and authority to enter into, execute, and deliver this Lease. Tenant, upon paying the Rent set forth in this Lease shall and may peaceably and quietly have, hold and enjoy the Premises for the Term and any Renewal Term, if applicable, without hindrance or molestation or interference from Landlord or any other person or entity, subject to and in accordance with Article 8.

B. As of the date of this Lease, the Premises, including but not limited to Building No. 2, are in compliance with all Applicable Laws, and there are, or shall be, no outstanding violations of any applicable zoning, building, electrical or fire code of any applicable governing or authoritative body. Except as noted in Article 2(A) above, there are no restrictions which would adversely affect, prohibit, or limit Tenant's proposed use of the Premises.

C. Building No. 2 has been constructed in a good and workmanlike manner in accordance with Applicable Law, and there are no outstanding violations of any applicable zoning, building, electrical or fire code of any applicable governing or authoritative body.

D. The Premises are in good condition, operation and repair, including without limitation Building No. 2's roof, exterior walls, interior walls, foundation, structural frame, plumbing and sewage disposal systems, mechanical systems, and heating, air conditioning and electrical systems.

E. Tenant's intended use of the Premises as set forth in this Lease is acceptable to Landlord and, except as noted in section 2(A) above, is in accordance with Applicable Law, including all zoning requirements.

F. The Premises is subject to a mortgage, but is not subject to a deed of trust, or other lien whatsoever, and Landlord shall deliver a nondisturbance agreement from the mortgagee(s), holder(s) of deed of trust or any holder(s) of any lien of real property of which the Premises is a part to Tenant. All future mortgages, deeds of trust and/or liens on the Premises shall be subject to this Lease and Landlord shall notify such mortgagee(s), holder(s) of deed of trust, and/or holder(s) of any lien of this Lease

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and obtain nondisturbance agreement from each in favor of Tenant; provided that Tenant will subordinate to future mortgages if provided with a satisfactory non-disturbance agreement by future mortgagees.

G. Landlord and Landlord's partners are not currently indebted to the City of Philadelphia or Tenant, and will not at any time during the term of this Lease (including any extensions or renewals thereof) be indebted to the City of Philadelphia or Tenant, for or on account of any delinquent taxes (including, but not limited to, taxes collected by City of Philadelphia on behalf of the School District of Philadelphia), liens, judgments, fees or other debts for which no written agreement or payment plan satisfactory to Tenant has been established. In addition to any other rights or remedies available to Tenant at law or in equity, Landlord acknowledges that any breach or failure to conform to this certification may, at the option of Tenant, result in the termination of this Lease for default (in which case Landlord shall be liable for all excess costs and other damages resulting from the termination).

16. Default

A. Tenant will be in default of this Lease upon the occurrence of one or more of the following:

i. failure to pay when due all amounts due hereunder within 30 days after written notice of any such failure has been given by Landlord to Tenant;

ii. failure to perform any of Tenant's material obligations hereunder within 30 days after written notice of any such failure has been given by Landlord to Tenant. If such default – other than the failure to pay Rent – cannot be cured within 30 days from the date Tenant receives notice of the default from Landlord, then Landlord shall not exercise any right or remedy hereunder so long as Tenant is proceeding with due diligence and in good faith to cure the default.

iii. admits in writing its inability to pay its debts generally as they become due, files a petition in bankruptcy or a petition to take advantage of any insolvency act, makes an assignment for the benefit of its creditors, or consents to the appointment of a receiver of itself or of the whole or any substantial part of its property;

iv. files a petition or answer seeking reorganization or arrangement under any political bankruptcy law or statute; or

v. on a petition in bankruptcy filed against it, is adjudicated a bankrupt or a court of competent jurisdiction shall enter an order or decree appointing, without its consent, a receiver, trustee or liquidator for the Tenant or of the whole or any substantial part of its property, or approving a petition filed against it seeking reorganization or arrangement of the Tenant under any applicable law or statute; and such judgment, order or decree shall not be vacated or set aside or stayed within ninety (90) days from the date of the entry thereof.

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B. Upon a default by Tenant, Landlord is entitled to do one or more of the following, in addition to exercising any of its other rights and remedies under law or equity:

i. bring a legal action to recover all unpaid Rent and Additional Rent, if any, provided, however, that Landlord shall not be entitled to accelerate the payment of the unpaid annual Rent and Additional Rent, but shall only be entitled to recover such Rents as the same become due for the unexpired Term;

ii. declare this Lease terminated;

iii. bring a legal action to repossess the Leased Premises.

C. If in accordance with Article 16(B)(ii) Landlord declares this Lease terminated, then Landlord shall act in good faith to re-let the Leased Premises and shall make all reasonable efforts to rent the Leased Premises for at least the then current rental of this Lease for the balance of the Term or then current Renewal Term, if applicable. Landlord shall set off the rents received by Landlord following re-letting of the Leased Premises under Article 16(B)(ii) against any amounts for which Landlord shall seek to hold Tenant liable under this Lease.

D. All of the remedies given to Landlord by this Lease and all the rights and remedies given to Landlord by law or equity shall be cumulative and concurrent.

E. Landlord shall be in default of this Lease if Landlord shall fail to fulfill any of its material obligations under this Lease (including but not limited to all those obligations of Landlord set forth above in Articles 2, 5, 6, 11, and 14) within 30 days after receiving written notice from Tenant of such failure. If Landlord cannot reasonably cure the default or fulfill any of its obligations under this Lease within 30 days from Tenant's notice, then Tenant shall not exercise any right or remedy hereunder so long as Landlord has promptly commenced and is proceeding with due diligence and in good faith to cure the default.

F. If Landlord defaults under this Lease, then, in addition to exercising any of its other rights at law and equity, Tenant shall have the right to:

i. withhold Rent and Additional Rent payments until Landlord has cured such default;

ii. set off against Rent and Additional Rent payments against any damages suffered by Tenant as a result of Landlord's default;

iii. terminate this Lease retroactive to the date of the default by delivering notice to Landlord of Tenant's intent to terminate the Lease. If Tenant terminates this Lease pursuant to Article 16(F), then Tenant shall have no further obligations under this Lease and Landlord shall promptly refund to Tenant any Rent paid by Tenant on account of periods after the effective date of termination and Tenant shall have all other rights and remedies available to it at law and in equity.

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G. No term, condition, covenant, or default under this Lease shall be deemed waived except by written agreement of the parties. No waiver by Landlord or Tenant of any term, provision, covenant, condition, or default of this Lease shall be deemed to be a waiver of subsequent compliance with such term, provision, covenant, or condition, or of any subsequent default.

17. Nondiscrimination

Tenant shall not discriminate or permit discrimination against any person because of race, color, religion, national origin, sex or sexual orientation. In the event of such discrimination, Landlord may, in addition to any other rights or remedies available under this Lease, at law or in equity, terminate this Lease with Tenant forthwith. Tenant shall comply with the provisions of Title VII of the Civil Rights Act of 1964 (42 U.S.C. §200d et seq.), §504 of the Federal Rehabilitation Act of 1973 (29 U.S.C. §794), The Age Discrimination Act of 1975, (42 U.S.C. §6101 et seq.), Title IX of the Education Amendments of 1972, (20 U.S.C. §1681), and 45 C.F.R. Part 92, as they may be amended from time to time, which together prohibit discrimination on the basis of race, color, national origin, sex, handicap, age and religion.

18. Notices; Payment of Rent

A. All notices, demands, requests, consents, certificates and waivers from either party to the other shall be in writing and sent by United States registered or certified mail, return receipt requested, postage prepaid, or by overnight mail, and

i. addressed to Landlord at:

Germantown Housing Development Corporation
5538 Wayne Avenue
Philadelphia, PA 19144

With a copy to:

c/o Mr. G. Kevin Smith
Corporate Realty Partners & Co., Inc.
209 Chestnut Street, Suite 300
Philadelphia, PA 19106

ii. addressed to Tenant at:

Philadelphia Gas Works
Thomas R. Bresnahan
Manager, Building Services Dept.
800 W. Montgomery Avenue
Philadelphia, PA 19122

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with a copy to:

Philadelphia Gas Works
Abby Pozefsky, Esquire
Senior Vice President and General Counsel
800 W. Montgomery Avenue
Philadelphia, PA 19122

or to such other address as the party to receive the notice, demand, request, consent, certificate or waiver may hereafter designate by written notice to the other.

B. All payments of Rent under this Lease shall be made to Landlord at the address for giving of notice to Landlord.

19. Captions

The captions in this Lease are for convenience only and are not a part of this Lease. The captions do not in any way define, limit, describe or amplify the terms and provisions of this Lease or the scope or intent thereof.

20. Assignment

Tenant shall not without the prior consent of Landlord, sublet, assign or delegate any or all of its rights, title, interest and/or obligations under this Lease to any third-party. Upon receipt of notice of any assignment and/or delegation by Tenant, Landlord shall enforce its rights under this Lease against the assignee and/or delegate and Tenant shall be deemed released from all of its obligations under this Lease.

21. Approvals

This Lease shall be valid and binding only when this Agreement has been approved by the Philadelphia Gas Commission, the City Council of the City of Philadelphia by ordinance duly adopted by the Philadelphia City Council and signed by the Mayor of the City of Philadelphia, and the approval of the Board of Directors of the PFMC.

22. Brokerage Commission

Landlord shall have the sole responsibility for the payment of any brokerage or leasing commission arising out of or in connection with this Lease. Landlord's brokerage agent for this transaction is Corporate Realty Partners & Co., Inc. Landlord agrees to hold Tenant harmless from all claims for brokerage commissions including counsel fees in connection therewith, by persons claiming by or through Landlord.

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23. PFMC's Liability

It is understood and agreed that in entering into this Agreement, PFMC does so solely in its capacity as operator and manager of the municipally-owned Philadelphia Gas Works under the Agreement dated December 29, 1972 between PFMC and the City of Philadelphia, as amended from time to time, and not otherwise; and further, that any payments required to be made by PFMC and/or PGW as a result of or arising out of its entering into this Agreement shall be made solely from the revenues of the Philadelphia Gas Works.

24. Entire Agreement; Interpretation

This Lease represents the entire agreement between the Landlord and Tenant and there are no collateral or oral agreements or understandings. This Lease may not be modified in any manner except by an instrument in writing executed by the parties. As used in this Lease, masculine or neuter pronouns and singular pronouns shall include the masculine, feminine and neuter genders and the singular and plural number.

25. Applicable Law; Jurisdiction of Disputes

This agreement shall be governed and interpreted according to the laws of the Commonwealth of Pennsylvania. Any suits or actions arising out of this Lease shall be brought exclusively in the Court of Common Pleas of the Commonwealth of Pennsylvania in Philadelphia County or the federal District Court for the Eastern District of Pennsylvania and the parties hereby subject themselves to the jurisdiction of those courts.

26. Estoppel Certificate

Each of the parties hereto agrees to give to the other, upon thirty (30) days advance request, a certificate or certificates addressed to the requesting party or to such party's mortgagee, or other designee, which shall certify in writing as to whether this Lease is then in full force and effect, the amount of any rental and/or additional rent which is then due and unpaid, the date to which the Rent and Additional Rent has been paid, and whether there are any defaults by the requesting party under this Lease which have not been cured to the satisfaction of the party issuing the certificate. If requested by the requesting party, such certificate shall be in form for recording.

27. Subordination and Non-Disturbance of Tenant

A. Without limiting the provisions of Article 15(F), if the Premises is currently subject to any mortgage, any existing or future mortgagee(s), holder(s) of deed of trust, or any holder(s) of a lien of the real property of which the Premises are a part, agrees

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that notwithstanding any exercise of any remedy pursuant to such lien, it shall not disturb or interfere with the enjoyment and possession by the Tenant of Tenant's leasehold estate in the Premises, including without limitation, the Tenant's right of possession thereof, as such rights may be limited in the Lease, and it shall not name the Tenant as a defendant in any foreclosure, sale or other proceeding instituted because of a default of the Landlord in connection with such lien, and Tenant shall possess and enjoy its leasehold interest in the Premises as stated herein with the same force and effect as if subordination granted herein had not been given and the Lease was an interest in said property prior to any said lien.

In witness of the above terms, covenants, conditions, and agreements, the parties hereto have executed this Lease under seal as of the date first above written.

WITNESS:

LANDLORD: Greater Germantown Housing
Development Corporation

By: _____

By: _____

CEO/Vice President

Attest:
Management

TENANT: Philadelphia Gas Works by
Philadelphia Facilities
Corporation

By: _____
Abby Pozefsky, Esquire
Assistant Secretary

By: _____
Vice President

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on April 14, 2005. The Bill was Signed by the Mayor on April 27, 2005.



Patricia Rafferty
Chief Clerk of the City Council