This Instrument Prepared By:

Robert R. Campbell, Jr., Esq.
Holland & Knight LLP
511 Union Street, Suite 2700
Nashville, Tennessee 37219

Parking Facility License Agreement

THIS PARKING FACILITY LICENSE AGREEMENT (the "**Agreement**"), is made as of the ___ day of _____, 2023 (the "**Effective Date**"), by and between the **METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY DISTRICT ENERGY SYSTEM** (hereinafter "**Licensee**"), and **PR II/SH PEABODY UNION APARTMENTS OWNER, LLC**, a Delaware limited liability company (hereinafter "**Licensor**").

WITNESSETH:

WHEREAS, Licensor is the owner of that certain property commonly known as 30 Peabody Street, Nashville, Tennessee, as more particularly described on **Exhibit A** attached hereto (the "**Property**"), within which is located (or will be located) a below grade Parking Facility with approximately 1,043 spaces (the "**Parking Facility**"); and

WHEREAS, Licensor has agreed to provide an irrevocable license to Licensee to access and use, and to permit others to access and use, the Parking Facility;

NOW, THEREFORE, for and in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Licensor and Licensee agree as follows:

1. **Parking Facility**. Licensor hereby grants Licensee and Licensee hereby accepts from Licensor, a license for the use of the Parking Facility (the "**License**"). Such License entitles Licensee, and invitees of Licensee (Licensee and such invitees are referred to herein singularly as an "**Authorized User**" and collectively as "**Authorized Users**"), access to and non-exclusive use of the Parking Facility during Operating Hours (as defined in Section 3(a) below) for a total of 75 Parking Hours (as defined below) per month on a non-cumulative basis, and otherwise with usage at such times and on such terms as are applicable to office tenants in the Project who do not have reserved spaces in the Parking Facility. Licensee's use of the Parking Facility shall be in common with users of other parking spaces in the Parking Facility. As used herein, a "**Parking Hour**" shall mean an hour's worth of parking, provided that portions of an hour shall be rounded up to the nearest quarter hour on a per visit basis.

2. **License Fees**. Licensee and Authorized Users shall not be required to pay any license fee, parking fee or other charge to use the Parking Facility during the 75 Parking Hours described in Section 1 above. Notwithstanding the foregoing, in the event an Authorized User utilizes the Parking Facility for a period of time that exceeds the amount of time permitted by such Authorized User's Access Devices (as defined below), then such Authorized User shall be responsible for any fees related to such excess time.

3. **Use and Operation**.

(a) As used herein, the term "**Operating Hours**" initially means between 6:00 a.m. to 6:00 p.m. on Monday through Friday, but may be adjusted from time to time by Licensor, provided that the Operating Hours shall be the same for Licensee and for all office tenants in the Project who do not have reserved parking spaces.

(b) The Parking Facility may be used solely as a parking facility for motor vehicles (the "**Permitted Use**"), and for no other use without Licensor's prior written consent.

(c) Licensor will make available to Licensee, at Licensee's cost on a monthly basis, parking validations, either physical or digital, as Licensor generally utilizes for the Parking Facility, to provide access for Authorized Users designated by Licensee (such access means, devices or codes being referred to herein as the "**Access Devices**"). Licensee shall pay the actual cost of replacement or issuance of additional Access Devices beyond the initial allocation if approved by Licensor in its sole discretion.

(d) Licensor reserves the right to suspend any individual Authorized User's rights to utilize the Parking Facility upon such users breach of the terms hereof, including any applicable rules and regulations until such breach is cured.

(e) Authorized Users may utilize the Parking Facility solely for business purposes in connection with Licensee's business.

4. **Rights Reserved to Licensor**. Licensor reserves the following rights and Licensee has acceded thereto. Specification of the rights reserved to Licensor herein shall not exclude any right accruing to Licensor by operation of law or reserved specifically or by inference from any provision contained in this Agreement:

(a) To change the name or street address of the Parking Facility or the Property;

(b) To retain at all times and to use all keys to all locks and access controls within and into the Parking Facility;

(c) To approve or disapprove the weight, size or location of all vehicles and articles in and about the Parking Facility and to require all such items to be moved into and out of the Facility at such times and in such manner as Licensor shall direct in writing. Movement of Licensee's or each Authorized User's vehicles into or out of the Parking Facility and within the Parking Facility is entirely at the risk and responsibility of Licensee and such Authorized Users;

(d) To specify from time to time reasonable rules and regulations with respect to the use of the Parking Facility, provided that the same are applied uniformly to all users of the Parking Facility and are consistent with the provisions of this Agreement (the "**Rules and Regulations**"). The initial Rules and Regulations for the Parking Facility are attached hereto as **Exhibit B**.

(e) To undertake any maintenance of the Parking Facility; and

(f) To alter or reconfigure the Parking Facility.

5. **Licensee's Covenants**. Licensee shall:

(a) promptly provide written notice to Licensor and, if applicable, the manager of the Parking Facility (the "**Operator**") of any maintenance or repair item that Licensee believes requires Licensor's attention and of any claim received by Licensee that could be the Licensor's responsibility;

(b) comply with the Rules and Regulations;

(c) cause each Authorized User to agree in writing to comply with the Rules and Regulations;

(d) cooperate with Licensor and the Operator (if any) in enforcing the Rules and Regulations;

(e) use commercially reasonable efforts to enforce any agreement between Licensee and Authorized User to the extent such agreement relates to or affects Licensee's obligations under this Agreement;

(f) not use the Parking Facility for any purpose whatsoever in violation of any present or future laws, ordinances, rules or regulations of any governmental body with jurisdiction over the Parking Facility; and

(g) to immediately notify Licensor in writing upon the termination of any Authorized User's employment.

6. **Irrevocable License**. Licensor and Licensee agree that the license created hereby is coupled with an interest and shall not be revocable except as otherwise provided for herein. Without limitation, this Agreement and the license created hereby shall survive and shall not terminate upon (i) any transfer of all or any part of the Property or the Parking Facility (or any interest therein), or (ii) the foreclosure of any deed of trust or other security interest that encumbers the Property or the Parking Facility or any portion thereof.

7. **Estoppel Certificate**. Within seven (7) calendar days after receipt of a written request by Licensor or Licensee (the party making the request being referred to herein as the "**Requesting Party**"), the other party (which may include any Authorized User) (the "**Recipient**") shall execute and deliver an estoppel certificate confirming the following:

a. to the actual knowledge of the Recipient, (i) the Requesting Party is not in default under this Agreement, and (ii) no event has occurred or circumstance exists that, with the

giving of notice or the passage of time or both, would constitute a default by the Requesting Party under this Agreement (or, if not true, stating any exceptions to the foregoing statement); and

b. this Agreement remains in full force and effect.

If a Requesting Party seeks to modify or add to the above confirmatory statements in items (a) and (b) above, it shall submit the proposed modifications or additions to the Recipient concurrent with its request, in which case the Requesting Party and the Recipient shall act reasonably and in good faith to negotiate such modifications or additions within such 7-day period. If agreement is not reached on all proposed modifications or additions within such 7-day period after good faith negotiations, the Recipient may satisfy its obligation to deliver an Estoppel Certificate by delivering to the Requesting Party an estoppel containing the statements in items (a) and (b) above and with such modifications and additions that have been mutually approved by the Requesting Party and the Recipient. Such estoppel certificate may be relied upon by the Requesting Party and any prospective or potential tenant, licensee, lender, investor or purchaser of the Project or the Parking Facility, and their successors and assigns.

8. **Assignment of Agreement, Etc.**

(a) Licensee may not (i) assign (in whole or in part) Licensee's rights under this Agreement, (ii) encumber this Agreement, or (iii) sublicense the use of all or any part of the Parking Facility without first obtaining the written consent of Licensor, which may be withheld in Licensor's sole discretion.

(b) Licensor shall have the unqualified right to assign its interest and obligations to any person or entity acquiring the Parking Facility (whether in fee, by lease or by master operating agreement) without the consent of Licensee, as long as such person or entity assumes Licensor's obligations under this Agreement, and Licensor shall be released from all obligations and liabilities hereunder from and after the effective date of such assignment if such future obligations are expressly assumed by the assignee. Upon sale or other transfer of the Parking Facility (whether as a part of the sale of the Project or other separate sale either in fee, by lease or by master operating agreement), (i) Licensor shall assign this Agreement to the purchaser, transferee or operator under a master operating agreement (ii) Licensor shall cause such purchaser, transferee or operator to assume this Agreement and the obligations of Licensor in writing, and (iii) Licensor shall provide a copy of such assumption agreement to Licensee within five (5) business days after conclusion of such sale or transfer.

9. **Notices**. Any and all notices required to be given under this Agreement shall be personally delivered or made by registered or certified mail, return receipt requested, or made by overnight express delivery service, addressed to the parties at the following respective addresses or at such other addresses as the parties hereafter may designate:

Licensee: **Licensor:**

Director
Metropolitan Department of Water and Sewerage Services
1600 Second Avenue North
Nashville, TN 37208

PR II/SH PEABODY UNION APARTMENTS OWNER, LLC
c/o Peabody Union MF, LLC
201 E. Las Olas Suite 1200
Ft. Lauderdale, Florida 33301

Copy To:

Director of Law
108 Metro Courthouse
Nashville, TN 37201

Copy To:

Robert R. Campbell, Jr., Esq.
Holland & Knight, LLP
511 Union Street, Suite 2700
Nashville, TN 37219

Unless otherwise provided herein, any such notice or demand shall be deemed given when personally delivered or, if sent by overnight express delivery service, one (1) day after deposit therewith, or if mailed, two (2) days after deposit in the United States Mail. All payments due hereunder hall, unless otherwise so directed by the receiving party, be paid at such addresses.

10. **Relationship of the Parties; No Interest in Real Estate**. Without limiting the rights granted to Licensee under this Agreement or the obligations of Licensor hereunder, (A) the relationship of Licensee and Licensor shall be solely that of a Licensee and Licensor; (B) all persons employed by Licensor to operate the Parking Facility shall be deemed to be employees of Licensor and not of Licensee; (C) neither Licensor nor its employees shall have any authority to act as the agent of Licensee; (D) neither part shall be liable for debts incurred by the other, and (E) nothing herein contained shall be construed to grant to Licensee any estate in real property or the exclusive right to a particular parking space.

11. **Payment of Costs and Attorneys' Fees**.

(a) Licensee shall pay Licensor, at Licensee's sole expense, all costs and reasonable attorneys' fees incurred by Licensor in litigation between Licensor and Licensee in which Licensor is the prevailing party.

(b) Licensor shall pay Licensee, at Licensor's sole expense, all costs and reasonable attorneys' fees incurred by Licensee in litigation between Licensee and Licensor in which Licensee is the prevailing party.

12. **Closure of the Parking Facility**. In the event that casualty, condemnation, repair, restoration, or any other cause necessitates the temporary or permanent closure of the Parking Facility, Licensor's obligations hereunder shall be suspended during such closure period. Notwithstanding anything to the contrary herein, in the event that the Parking Facility is permanently closed, this Agreement shall automatically terminate.

12. **Miscellaneous**.

(a) No delay in the exercise of any right or remedy hereunder shall be deemed a waiver of such right or remedy, nor shall the exercise of any right or remedy be deemed a waiver of such or remedy, nor shall the exercise of any right or remedy be deemed an election of remedies or a waiver of any other rights or remedies, nor shall the waiver of any right or

remedy with respect to any particular default, failure or similar action of a party hereunder be deemed a waiver of any right or remedy with respect to any other prior, concurrent or subject default, failure or similar action by a party.

(b) The unenforceability, invalidity, or illegality or any provision of this Agreement shall not render the other provisions unenforceable, invalid or illegal.

(c) This Agreement shall be construed and interpreted in accordance with the laws of the State of Tennessee.

(d) This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, and there are no prior contemporaneous oral or written representations, promises or agreements not expressly referred to herein. This Agreement may not be amended or modified hereafter except by a written agreement signed by the party to be affected thereby.

(e) All of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, and permitted successors, transferees and assigns.

(f) Paragraph headings are solely for convenience, are not to be considered part of this Agreement and are not intended to modify, explain or to be a full or accurate description of the content thereof.

(g) This Agreement shall be recorded in the Register's Office for Davidson County, Tennessee.

(h) Upon any breach of this Agreement by Licensor or Licensee, the other party shall be entitled to pursue any remedy that is available at law or in equity, including, but not limited to, termination of this Agreement.

13. **Liability of Licensor and Licensee; Waiver**.

(a) Licensee specifically agrees to look solely to Licensor's then interest in the Property at the time owned and insurance awards or proceeds, for recovery of any judgment from Licensor, it being specifically agreed that in no event shall Licensor (original or successor), or any of the officers, trustees, directors, partners, beneficiaries, joint venturers, members, stockholders or other principals or agents or representatives, and the like, disclosed or undisclosed, thereof, ever be personally liable for any such judgment, or other liability or for the payment of any monetary obligation to Licensee. The provision contained in the foregoing sentence is not intended to, and shall not, limit any right that Licensee might otherwise have to obtain injunctive relief against Licensor or Licensor's successors in interest, or to take any action not involving the personal liability of Licensor (original or successor) or requiring Licensor to pay, directly or indirectly, monetary damages from Licensor's assets other than Licensor's equity interest in the Property. In no event shall Licensor or any such

officers, etc., as aforesaid, ever be liable to Licensee for any loss of business or indirect or consequential damages suffered by Licensee from whatever cause.

(b) All parkers, persons, or Authorized Users using the Parking Facility, or parking a vehicle in the Parking Facility pursuant hereto shall do so at their own risk. The provisions of this Section 15 shall survive the expiration or earlier termination of this Agreement.

(c) In no event shall Licensor be considered in default of any of its obligations under this Agreement unless Licensee has notified Licensor of the alleged default and Licensor has failed to cure the default within ten (10) days after Licensor's receipt of written notice from Licensee as to monetary defaults or within thirty (30) days after Licensor's receipt of written notice from Licensee as to non-monetary default or such longer period as may be reasonably required for Licensor to cure such non-monetary default.

(d) Notwithstanding any other provision hereof, neither Licensee nor Licensor shall in any event be liable for failure to furnish or perform any obligation under this Agreement, other than any payment obligation, when prevented from doing so by reason of Force Majeure; and any measured time period shall be extended by the period during which Licensor or Licensee is so prevented.

(e) As used in this Agreement, "Force Majeure" shall mean, collectively and individually, strike, lockout or other labor trouble, fire or other casualty, epidemic, pandemic or viral, bacterial, or any other disease outbreak, government recommended or required social distancing or quarantines, governmental pre-emption of priorities or other controls in connection with a national or other public emergency or shortages of fuel, supplies or labor, breakdown, accident, or because of war or other emergency, or any cause beyond the reasonable control of the party unable to perform the obligation, except that in no case shall financial reasons constitute Force Majeure.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their names as of the day and year first above written.

LICENSEE:

METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVISON COUNTY

By:

Abraham Wescott, Director
Department Public Property

Scott Potter, Director
Department of Water and Sewerage Services

APPROVED AS TO FORM AND
LEGALITY:

Metropolitan Attorney

LICENSOR:

PR II/SH PEABODY UNION
APARTMENTS OWNER, LLC,
a Delaware limited liability company

By: PR II/SH PEABODY HOLDINGS, LLC,
its sole member

By: PEABODY UNION MF, LLC,
its authorized member

By:
Name: Jeff McDonough
Title: Authorized Signatory

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Before me, a Notary Public in and for said County and State, duly commissioned and qualified, personally appeared Abraham Wescott, with whom I am personally acquainted, and who upon oath acknowledged himself to be the Director of Public Property of the Metropolitan Government of Nashville and Davidson County, Tennessee, the within named bargainor, and that he as such Director of Public Property being authorized so to do, executed the within instrument for the purposes contained therein, by signing the name of the Metropolitan Government of Nashville and Davidson County, Tennessee.

Witness my hand and seal, at office in Nashville, Tennessee, this 19th day of October, 2023.

Sally E. Palmer
Notary Public

SALLY E. PALMER
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY

My Commission Expires: Sept. 7, 2026

STATE OF FLORIDA)
COUNTY OF BROWARD)

Personally appeared before me, the undersigned, a Notary Public of said county and state, Jeff McDonough, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledged that he is the Authorized Signatory of PEABODY UNION MF, LLC, the maker or a constituent of the maker, and is authorized by the maker or by its constituent, the constituent being authorized by the maker, to execute this instrument on behalf of the maker.

Witness my hand, at office, this 17 day of October, 2023.

My Commission Expires: 7.12.2027

Patino
Notary Public

Notary Public State of Florida
Tracy Lynn Patino
My Commission HH 420675
Expires 7/12/2027

EXHIBIT A

Legal Description

Lot 1, Final Plat, Tract K, Peabody Street, as shown on plat of record as Instrument Number 20230512-0035449, in the Register's Office of Davidson County, Tennessee, reference to which plat is hereby made for a more particular description of said property.

Being the same property conveyed to PR II/SH Peabody Union Apartments Owner, LLC, a Delaware limited liability company, as of record in Instrument Number 20220310-0027631 and Instrument Number 20220310-027632 in the Register's Office of Davidson County, Tennessee.

EXHIBIT B

Parking Facility Rules and Regulations

1. Cars must be parked entirely within the stall lines painted on the floor, and only compact cars may be parked in areas reserved for compact cars.

2. All directional signs and arrows must be observed.

3. The speed limit shall be five (5) miles per hour.

4. Spaces reserved for handicapped parking must be used only by vehicles properly designated.

5. Parking is prohibited in all areas not expressly designated for parking, including without limitation:

(a) areas not striped for parking
(b) aisles
(c) where "no parking" signs are posted
(d) ramps
(e) loading zones
(f) reserved zones Licensor may assign

6. Parking stickers, key cards or any other devices or forms of identification or entry must be displayed as requested.

7. Designated parking area managers or attendants are not authorized to make or allow any exceptions to these Rules.

8. Except to the extent that Licensor provides valet parking service at the Parking Facility, every parker is required to park and lock his own car.

9. Any parking devices reported lost or stolen found on any unauthorized car will be confiscated and the illegal holder will be subject to prosecution. Lost or stolen devices found by a customer must be reported to the office of the designated parking area immediately.

10. Washing, waxing, cleaning or servicing of any vehicle by the customer and/or his agents is prohibited; provided, that Licensor may authorize qualified auto detailing companies to conduct such activities within areas designated by Licensor for such purposes from time to time.

11. Parking spaces may be used only for parking passenger vehicles.

12. Licensee agrees to acquaint all persons to whom Licensee assigns parking space of these Rules.

13. Licensor in its sole discretion reserves the right to deny Parking Facility access to oversized vehicles or vehicles which create excessive maintenance or clean up resulting from, but not limited to leakage, drainage, or exhaust. Licensee is responsible for ensuring that each vehicle meets Licensor's guidelines for height and width and that each vehicle occupies only one parking space. It is understood that customary pickups and SUVs and over-sized handicapped accessible vans are permitted.

14. Licensee acknowledges that Operator does not permit long term storage of vehicles. Operator reserves the right to remove any Parker's vehicle at Licensee's expense if such vehicle is not operable or is stored for more than five (5) continuous days.