

CORPORATE SUITE LEASE  
between  
THE COUNTY OF ALBANY  
and  
NEW YORK STATE CORRECTION OFFICERS AND  
POLICE BENEVOLENT ASSOCIATION

Lease Authorization: Resolution No.: 197 for 2022

This is an Agreement to lease ("Lease") a suite at the Albany County Civic Center, currently known as the MVP Arena, by and between; the County of Albany, a municipal corporation organized and existing under the laws of New York State, with offices located at 112 State Street, Albany, New York 12207 (hereinafter referred to as "County") SMG, as managing agent of the MVP Arena with offices located at 51 South Pearl Street, Albany, New York 12207 (hereinafter "SMG") and New York State Correction Officers and Police Benevolent Association with offices located at 102 Hackett Boulevard, Albany, New York 12209 (hereinafter referred to as "Suiteholder").

WHEREAS, the County has available for lease certain private enclosed suites at its civic center; and

WHEREAS, Suiteholder proposes to lease one suite; and

WHEREAS, the Albany County Legislature by Resolution No. 196 for 2022 has authorized the County Executive to enter into this Lease Agreement;

NOW, THEREFORE, the County, SMG and Suiteholder, intending to be legally bound hereby, mutually agree as follows:

ARTICLE 1. LEASED PREMISES: SUITE

The County hereby leases to Suiteholder and Suiteholder hereby agrees to lease from County, Suite No. 19 (the "Suite") as more specifically described in Exhibit "A" for Suiteholder's use during the lease term.

ARTICLE 2. TERM

The term of this Lease shall be for a period of three (3) years, commencing on September 1, 2022 and ending on August 31, 2025. At the expiration of the term, Suiteholder shall return the suite to the County broom clean and without damage, reasonable wear and tear excepted. Any and all permanent fixtures and structural improvements provided by Suiteholder shall become the property of the County without any reimbursement by or cost to the County.

ARTICLE 3. PAYMENT

Suiteholder agrees to pay to the county the minimum fixed rent, and all other sums due and payable to the county pursuant to this agreement as additional rent, as follows:

A. The Suiteholder agrees to pay to the county during the three-year term of this Lease the sum of ONE HUNDRED FIFTY THREE THOUSAND AND 00/100 DOLLARS (\$153,000.00).

B. The annual rental payments totaling FIFTY ONE THOUSAND AND 00/100 (\$51,000.00) DOLLARS due hereunder shall be made as follows:

1. The County and SMG acknowledge a credit due to Suiteholder in the amount of FIFTY FIVE THOUSAND TWO HUNDRED FIFTY AND 00/100 DOLLARS (\$55,250.00) for payments made and accepted during a closure period of the Arena.

2. FORTY SIX THOUSAND SEVEN HUNDRED FIFTY AND 00/100 DOLLARS (\$46,750.00) due on or before September 1, 2023.

3. FIFTY ONE THOUSAND AND 00/100 DOLLARS (\$51,000.00) due on or before September 1 during each subsequent contract year of the lease agreement.

C. The foregoing payment installments are solely for the Suiteholder's convenience. Any default in payment of installments set forth herein shall provide the County the right to elect, in addition to and not to the exclusion of any other remedy allowed by law:

1. To accelerate the whole of the amount set forth in Paragraph A above for the whole of the Lease term remaining, which amount shall become at once due and payable without notice or demand, and/or
2. To withhold providing the Suiteholder with tickets and parking tickets to all events until such time as the co-tenant is no longer in default of its payment obligations.

D. The term "Contract Year" as used herein, shall mean any year during the term hereof commencing on September 1, and ending the following August 31.

E. The Suiteholder shall pay any and all sales tax, if any, determined by the New York State Department of Taxation and Finance to be due and payable under the terms of this Lease.

F. A flat screen TV and cable access is provided in each suite. A current charge of \$20.00 per month is billed for cable service.

G. A telephone is provided in each Suite. Suiteholder will be billed a monthly fee of \$32.00 and for any long distance calls made from the telephone.

#### ARTICLE 4. OBLIGATIONS OF THE COUNTY

The County agrees to provide the following services and rights to Suiteholder with respect to the said Suite:

A. Suiteholder shall be entitled to the sole and exclusive use of the said Suite during all ticketed events throughout the term of this Lease, subject to the terms and conditions contained herein, with the exception of events and tournaments of the National Collegiate Athletic Association (NCAA). Suite tickets for NCAA events may be purchased by the Suiteholder at the sole expense of the Suiteholder. Notwithstanding any other provision to the contrary, if the Suiteholder elects not to purchase all sixteen (16) tickets in the Suite to any NCAA event, the County shall have the right to assign the Suite during such NCAA events or retain the Suite for County use during such NCAA events without compensation to the Suiteholder. With the aforementioned exception for NCAA events for which the Suiteholder elects not to purchase all sixteen (16) tickets in the Suite, the County agrees, that so long as Suiteholder is not in default of any of the terms and conditions of this Lease, no other person or entity shall be permitted to use the Suite for any purpose at any time during the term of the Lease without each co-tenant's prior consent.

B. Suiteholder shall have the opportunity to purchase up to sixteen (16) tickets for seats in preferred locations outside the Suite for all ticketed events presented in the Arena for the duration of this Lease, except that for certain events in the discretion of SMG, the Suiteholder may be limited to eight (8) tickets in preferred locations outside of the Suite. Tickets for all Arena events purchased hereunder shall be at the sole expense of the Suiteholder. The price of such tickets shall be the price set for the seats in the row directly in front of the Suite.

C. Suiteholder shall receive during each contract year four (4) free reserved parking places in the adjoining parking garage for each and every ticketed event held at the Arena, except for NCAA Tournaments or Events. Parking for NCAA Tournaments and Events may be purchased separately at the sole expense of the Suiteholder.

D. Custodial cleaning of Suite after events and annual "spring cleaning."

E. Said suite shall accommodate sixteen (16) persons and shall be serviced and furnished as provided herein and in Exhibit "A" annexed hereto and made a part hereof.

F. The operational and management obligations of the County under this Lease will be implemented and administered by SMG.

#### ARTICLE 5. USE OF SUITE

A. Suiteholder shall use and occupy the Suite solely for the observance of events at the Arena in accordance with the terms of this Lease and such other written rules and regulations as

the County may promulgate from time to time. Suiteholder's rights to use the Suite during all events throughout the term of this Lease shall be subject at all times to all of the terms and conditions contained herein.

B. Suiteholder's right of access to the Suite for any event shall be solely by presentation of tickets for such event, it being understood that the County shall furnish to Suiteholder the tickets for each event, such tickets to be made available by the County to Suiteholder prior to each event in accordance with procedures established by the County, subject to the terms and conditions set forth in this Lease.

C. Suiteholder shall not sell any food or beverages whatsoever in the Suite. Any food, or beverage used or required in the Suite shall be obtained from Aramark Corporation, or a concessionaire designated by the County, and Suiteholder shall promptly pay all bills for food, beverages and services furnished, sold or rendered to Suiteholder in connection with Suiteholder's use of this Suite. Notwithstanding the foregoing, Suiteholder shall have the right to bring or cause to be brought nonalcoholic beverages into the Suite for its own use or the use of its invitees provided that beverages shall not be brought into the Suite for the purpose of resale to the public and may not be provided by an outside caterer.

D. Suiteholder and Suiteholder's guests shall at all times maintain proper decorum while using the Suite and shall not attach or display any sign, advertisements or notices in or around the Suite without the prior written consent of the County, which consent shall not be unreasonably withheld.

E. Suiteholder and Suiteholder's guests shall comply with all applicable governmental laws and orders, including but not limited to all laws and orders governing smoking in public place. Suiteholder and Suiteholder's guests shall comply with all rules promulgated by the County relating to the use and occupancy of the Suite to the extent consistent with the rights of Suiteholder under this Lease.

F. Any changes or upgrading of the Suite's finishings and/or furnishings shall be solely at Suiteholder's expense and only with prior written permission of the County, which permission shall not be unreasonably withheld.

G. Suiteholder shall commit no waste of the leased premises and agrees to take good care of the premises, the fixtures and appurtenances.

#### ARTICLE 6. RIGHT OF ENTRY

The County and its employees and agents shall have the right to enter Suiteholder's leased premises for: (a) the performance of the duties required to be performed by the County hereunder, and for any and all purposes related thereto, and (b) to investigate any suspected violations of the provisions of this Lease, County rules, and/or any applicable governmental laws, orders, codes or regulations.

#### ARTICLE 7. INSURANCE

A. Suiteholder, at its own expense, shall maintain and keep in effect, with insurance companies acceptable to the County, insurance hereinafter specified, with respect to Suiteholder's obligations under this Lease. Suiteholder shall provide the County annually with a certificate of insurance at least ten (10) days prior to the commencement of the contract year evidencing Suiteholder's payment for a comprehensive general liability policy covering bodily injury, property damage, personal injury and products liability coverage in the amount of at least ONE MILLION (\$1,000,000) DOLLARS per occurrence, including fire legal liability coverage in the amount of FIFTY THOUSAND (\$50,000) DOLLARS per occurrence. The insurance shall (a) name the County of Albany, State of New York, New York State Urban Development Corporation, SMG, MYP Health Care, as additional, co-insureds as their interest may appear, and (b) provide that the policy(ies) shall remain in full force and effect notwithstanding that the insured has waived his right of action against any party prior to the occurrence of a loss.

B. In the event Suiteholder fails to maintain and keep such insurance in effect, the County has the option to elect against such Suiteholder that fails to obtain and/or maintain insurance as required herein, (A) to treat such breach as a default and terminate any/or all Suiteholder's rights under this Lease in accordance with Article 9 of this agreement, (B) to cure such breach on reasonable notice to the Suiteholder, at the expense of such Suiteholder, and such Suiteholder shall be liable for the reasonable amount of all expenses incurred by the County in curing the breach on Suiteholder's behalf, which shall be payable to the County on demand as additional rent, or (C) to withhold providing Suiteholder with tickets and parking passes to all events until such time as Suiteholder has provided the County with proof, acceptable to the County, that insurance is in full force and effect.

#### ARTICLE 8. FORCE MAJEURE

It is understood and agreed that the County shall not be responsible to Suiteholder (through a refund of rent or otherwise) for the cancellation or non-performance of any events scheduled at the Arena due to any cause or circumstances beyond the County's control. Suiteholder shall have no claim against the County for any abatement of rent, nor shall the same constitute a constructive or partial eviction, unless the same is continuing for a period of one (1) month.

#### ARTICLE 9. DEFAULT AND TERMINATION

A. In addition to any other remedy to which the County may be entitled by law or as set forth in this Lease, in the event Suiteholder fails to promptly and timely make the payments required hereunder or otherwise breaches any of the terms and conditions herein contained or any rules promulgated hereunder, the County shall have the right to cancel this Lease on fifteen (15) days prior written notice, subject to the right of Suiteholder to cure such breach within said period, with the exception of any violation by Suiteholder of the provisions of Art. 11-B and/or C which violations Suiteholder shall not have the right to cure. All rights of Suiteholder under this Lease shall then terminate and the County shall have no further obligation of any kind to Suiteholder and the County shall have the right to exclude Suiteholder from the Suite. In the event of termination, any advance rentals held by the County may be applied by the County to

any obligation of the Suiteholder for the use of the Suite. Notwithstanding any exclusion under this Lease, the liability of Suiteholder for payments owed to the County in the form of rent and additional rent, shall not be extinguished for the balance of the term hereof and Suiteholder shall pay the County any deficiency arising from non-payment of such Suiteholder, including any deficiency resulting from reletting of the premises at a reduced rate. Further, the County shall have the right to relet Suiteholder's interest under this Lease and terminate Suiteholder's right under this Lease. Any re-letting of the premises upon termination, eviction, or re-entry shall be solely on Suiteholder's behalf and shall not be deemed to be the County's acceptance of Suiteholder's surrender of the premises. Any deficiencies arising from the re-letting shall be due from the defaulting Suiteholder on the first day of each of the following years for the remainder of the term.

B. In addition to any other remedy allowed by law or by this Lease, in the event either Suiteholder is in default of any obligation set forth in this Lease, the County retains the option to withhold providing a defaulting Suiteholder with event tickets and parking tickets until any breach or default is cured. Additionally, the County may also sue the defaulting Suiteholder each year for all payments due under this Lease until the end of the term.

#### ARTICLE 10. WAIVER, INDEMNIFICATION AND DAMAGE

A. The failure of any party to insist on strict performance of any covenant or condition hereof, or to exercise any option herein contained shall not be construed as a waiver of such covenant, condition or option in any other instance.

B. The County shall not be responsible for theft or any other loss or disappearance of any of the property of Suiteholder or its guests except if caused by the negligent act, omission or misconduct by the County, its employees or agents.

C. Suiteholder shall hold and save the County of Albany, State of New York, New York State Urban Development Corporation, MVP Health Care, and SMG, their officers, employees, and agents harmless from and indemnify them against any and all liability of any kind whatsoever occasioned within the Suite or ways or walks immediately adjacent thereto by reason of any injury to property and/or third persons occasioned by any act or omission, neglect or wrongdoing of the Suiteholder or any of its officers, agents, representatives, guests, employees, invitees or any other persons admitted by the Suiteholder upon the premises except County or facility employees in the performance of their official duties. Suiteholder shall, at its own cost and expense, defend and protect the County, New York State Urban Development Corporation, MVP Health Care and SMG, their officers, employees and agents against any and all such claims or demands.

D. Suiteholder shall reimburse County for any destruction of or damage to the Suite or any County property caused by Suiteholder or Suiteholder's employees, guests and/or invitees.

E. If the Suite is destroyed or is substantially damaged by elements or fire or other casualty so as to become untenable, and the County elects to restore the Suite or repair such damage, this Lease shall remain in full force and Suiteholder shall be entitled to be reimbursed

for the period the Suite is untenable. However, no such reimbursement shall be allowed if Suiteholder or Suiteholder's guests caused the destruction or damage. If the County does not elect, as aforesaid, to restore or repair the Suite within a reasonable period of time, the County shall have the right, to be exercised by notice in writing, delivered to Suiteholder within ninety (90) days from and after said occurrence, to terminate this Lease, and the tenancy hereby created shall cease as of the date of said occurrence, with rent to be adjusted as of the date of such occurrence.

#### ARTICLE 11. RENEWAL; ASSIGNMENT OR SUBLETTING; SALE OF PASSES

##### A. Renewal of Agreement

1. Upon expiration of the original term of this Lease (and upon expiration of any extended term or terms, arising pursuant to the provisions of this subparagraph) pursuant to County Law §215, the County shall grant to the Suiteholder the right of first refusal to enter into a new lease with respect to the Suite held by the Suiteholder.
2. The of first refusal shall be exercised by the Suiteholder, if at all, by written notice to the County at least one hundred and twenty (120) days prior to the expiration of the original term (or any such extended term) as provided. If Suiteholder does not timely notify the County, this Lease shall terminate at the conclusion of the original term or such extended term, as the case may be, and the County shall be free to lease the Suite to any party, commencing on the next following September 1st, it being understood that said first right of refusal, if not affirmatively exercised as aforesaid for any next succeeding term, lapses as to all subsequent terms. All property remaining on the premises after the last day of the term shall be conclusively deemed abandoned and may be removed by the County at the Suiteholder's expense. The County may also have any such property stored at the Suiteholder's sole risk and expense.
3. The right of refusal to renew shall be upon the same terms and conditions as are contained in this Lease, except that the annual payment for any additional term entered pursuant to this paragraph shall be mutually agreed to by the Parties, and finally approved by the Albany County Legislature in accordance with County Law §215.

B. Except as hereinafter provided, Suiteholder shall have no right to assign this Lease or to sell or sublet all or any portion of the Suite. The County shall have the prior right of review of any proposed assignment or subletting of the entire Suite to an entity. In determining whether to consent to such proposed assignment or sublease, the County shall give primary consideration to the financial capability of the entity to which such assignment or sublease is proposed. If such financial capability is demonstrated, consent shall not be unreasonably withheld. Upon prior written notice, the Suiteholder may assign this Lease without County consent in the event of a merger, consolidation, or sale of all or substantially all of the Suiteholder's assets where the assignment is made to the survivor of such merger or consolidation or the purchaser of such

assets. If consent is given by the County to an assignment or subletting of this Suite or any interest therein, the County shall not be barred from subsequently refusing to consent to any further assignment or sublease. Any attempt to sell, assign or sublet in violation of this paragraph without County consent, shall be deemed a default, entitling the County to elect any remedy authorized by law or by the terms of this agreement. If the premises are occupied by anybody other than Suiteholder, and Suiteholder is in default hereunder, the County may collect all payments due and owing from the occupant; but no such collection shall be deemed a waiver of the covenant herein against assignment and subletting or the acceptance of such occupant as a Suiteholder or a release of Suiteholder from further performance of the covenant(s) herein contained.

C. No sale by Suiteholder of any tickets issued to it pursuant to Article 5 hereof is permissible; and any sale or attempted sale of such tickets by Suiteholder will be deemed to be a material breach of Suiteholder's obligations hereunder, and shall subject Suiteholder to the termination provisions of Article 9 at the sole option of the County. The unauthorized sale of any tickets by agents, employees or guests of Suiteholder will not be deemed a material breach of the lease subjecting Suiteholder to the termination provisions of Article 9. Suiteholder reserves the right to distribute tickets for promotion, advertising or other similar purposes.

#### ARTICLE 12. RIGHT TO CURE; CONDITIONS OF LIABILITY; RIGHT TO SHOW PREMISES.

A. In the event Suiteholder breaches any covenant or condition of this Lease, the County may, on reasonable notice to Suiteholder (except that no notice need be given in case of emergency), cure such breach at the expense of the Suiteholder. Any reasonable expenses incurred by the County or by SMG acting on the County's behalf to cure, shall be deemed additional rent and shall be payable on demand.

B. Suiteholder shall not be entitled to claim a constructive eviction from the premises unless the Suiteholder first notifies the County in writing of the condition or conditions giving rise thereto, and, if the complaints be justified, the County fails within thirty (30) days after receipt of said notice to remedy such conditions.

C. The County has the right to enter the Suite to show the premises to prospective lessees or sublessees.

#### ARTICLE 13. SUCCESSORS AND ASSIGNS

This Lease and the covenants and conditions herein contained shall be binding upon, and inure to the benefit of, the Parties hereto, their respective heirs, devisees, personal representatives, and permitted successors and assigns. This Article shall not be construed to convey any right inconsistent with the terms of Article 11 relative to assignment of this lease or subletting of all or any portion of the Suite.

#### ARTICLE 14. HEADINGS; CONSTRUCTION



The headings appearing in this Lease are for the purpose of easy reference only and shall not be considered a part of this Lease or in any way to modify, to amend, or to affect the provisions hereof. This Lease shall be construed with equal weight for the rights of the Parties.

#### ARTICLE 15. ENTIRE AGREEMENT

The Parties agree that this Lease shall constitute the only agreement between them relative to the Suite and that no oral statements and/or no prior written matter extrinsic to this instrument shall have any force or effect. This Lease shall not be modified except by writing subscribed by all Parties.

#### ARTICLE 16. NOTICES

All notices, consents, waivers, directions, requests or other instruments or communications provided for under this Lease shall be deemed properly given if, and only if delivered personally or sent by registered or certified United States mail, postage prepaid as follows:

County of Albany	SMG	Suiteholder
County of Albany	SMG	NYSCOPBA
Department of Law	51 South Pearl Street	102 Hackett Boulevard
112 State Street, Rm. 600	Albany, New York 12207	Albany, New York 12209
Albany, New York 12207		

#### ARTICLE 17. PARTIAL INVALIDITY

If any term, part, provision, section, subdivision, paragraph or article of this Lease shall be held unconstitutional, invalid or ineffective, in whole or in part, by a court of competent jurisdiction, such determination shall not be deemed to invalidate the remaining terms, parts, provisions, sections, subdivisions, paragraphs or articles hereof.

#### ARTICLE 18. MISCELLANEOUS

A. This Lease shall be governed by the Laws of the State of New York.

B. Notwithstanding any clauses to the contrary herein, any Suiteholder property brought into the Suite and not physically secured to said premises through normally accepted trade methods of permanent installation shall not become the property of any entity other than the Suiteholder.

C. The County shall hold and save harmless the Suiteholders, their employees, officers, agents and guests from and indemnify it, or any of them against any and all liability of any kind whatsoever occasioned in, on, upon or about the Albany County Civic Center by reason of any injury to property and/or third persons occasioned by any act or omission, neglect or wrongdoing of the County, SMG, their respective agents, employees, officers and guests, except for those persons admitted to the Suite by the Suiteholders. The County shall at its own cost and expense,



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

On the \_\_\_\_ day of \_\_\_\_\_, 2022, before me, the undersigned, a notary public in and for the state, personally appeared Daniel P. McCoy, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the attached instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

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

On the \_\_\_\_ day of \_\_\_\_\_, 2022, before me, the undersigned, a notary public in and for the state, personally appeared Daniel C. Lynch, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the attached instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

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

On the \_\_\_\_ day of \_\_\_\_\_, 2022, before me, the undersigned, a notary public in and for the state personally appeared Robert H. Belber, G.M. of the MVP Arena, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the attached instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon whose behalf the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF NEW YORK )

COUNTY OF \_\_\_\_\_ ) SS.:

On the \_\_\_\_ day of \_\_\_\_\_, 2022, before me, the undersigned, a notary public in and for the state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the attached instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon whose behalf the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF NEW YORK )  
COUNTY OF \_\_\_\_\_ ) SS.:

On the \_\_\_\_ day of \_\_\_\_\_, 2022, before me, the undersigned, a notary public in and for the state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the attached instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon whose behalf the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

EXHIBIT "A"  
SUITE NO. 19  
CORPORATE SUITE FURNISHINGS

Finished and furnished Suite shall include:

- a. Wall to wall carpeting;
- b. Acoustical tile ceiling;
- c. Upholstered fabric stadium chairs with arms-seating areas to be raised for maximum visibility;
- d. Washroom containing appropriate amenities;
- e. Bar with wet sink;
- f. Television monitor bracketed from ceiling;
- g. Sliding glass window opening onto auditorium;
- h. Telephone availability;
- i. Recessed step aisle lighting;
- j. Heating, ventilation, and air conditioning.

Any upgrading of the Suite finishings and furnishings desired by Suiteholder shall be at Suiteholder's sole expense and only with the prior written permission of the County, which shall not be unreasonably withheld. All such improvements, alterations or additions shall become the property of the County and shall remain on and be surrendered with the premises, as part thereof at the termination of this Lease without disturbance, molestation, or injury.