

Fill in this information to identify the case:

Debtor 1 KIKO USA, Inc.

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: District of Delaware, Wilmington Division

Case number 18-10069-MFW

E-Filed on 04/26/2018
Claim # 82

Modified Form 410

Proof of Claim

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>T-C 470 PARK AVENUE SOUTH OWNER LLC</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? <u>AMOL K. PACHNANDA, ESQ. C/O INGRAM LLP</u> Name <u>250 Park Avenue 250 Park Avenue, Sixth Floor</u> Number Street <u>New York</u> <u>NY</u> <u>10075</u> City State ZIP Code Contact phone <u>(212) 907-9625</u> Contact email <u>apachnanda@ingramllp.com</u> Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	Where should payments to the creditor be sent? (if different) _____ Name _____ Number Street _____ City State ZIP Code Contact phone _____ Contact email _____
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? ☒ No
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ____

7. How much is the claim? \$ 604,341.84. Does this amount include interest or other charges?
☒ No
☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.

LEASE

9. Is all or part of the claim secured? ☒ No
☐ Yes. The claim is secured by a lien on property.
Nature of property:
☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
☐ Motor vehicle
☐ Other. Describe: _____

Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____ %
☐ Fixed
☐ Variable

10. Is this claim based on a lease? ☐ No
☒ Yes. Amount necessary to cure any default as of the date of the petition. \$ 3,242.12

11. Is this claim subject to a right of setoff? ☒ No
☐ Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☒ No

☐ Yes. Check one:

Amount entitled to priority

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

\$ 0.00

☐ Up to \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ 0.00

☐ Wages, salaries, or commissions (up to \$12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ 0.00

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ 0.00

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ 0.00

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

\$ 0.00

* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?

☒ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the Debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ 0.00

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04/26/2018
MM / DD / YYYY

AMOL PACHNANDA
Signature

Print the name of the person who is completing and signing this claim:

Name AMOL PACHNANDA
First name Middle name Last name

Title ATTORNEY

Company Ingram Yuzek Gainen Carroll & Bertolotti, LLP
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address
Number Street

City State ZIP Code

Contact phone Email

Attachment 1 - Proof of Claim_Kiko 18_10069 (MFW).pdf

Description -

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

-----)
In re:)
)
KIKO USA, INC.,) Chapter 11
) Case No. 18-10069 (MFW)
) **Re: Docket Nos. 160 and 177**
Debtor.)
 :)

PROOF OF CLAIM OF T-C 470 PARK AVENUE SOUTH OWNER LLC

1. T-C 470 PARK AVENUE SOUTH OWNER LLC (the “Claimant”) is the landlord and owner of the non-residential mixed use office and retail building located at 470 Park Avenue South, New York, New York (the “Building”).

2. Claimant leased the entirety of the fifteen (15th) floor in the Building (the “Premises”) pursuant to a written office lease, dated as of March 14, 2014, by and between Claimant, as landlord, and Debtor, as tenant (the “Lease”). A copy of the Lease is annexed as Exhibit A.

3. On January 24, 2018, Debtor filed a voluntary petition under Chapter 11.

4. Debtor is liable to Claimant in the amount of \$604,341.84.¹

5. This claim arises from the terms and conditions of the Lease. *See* Exhibit A.

6. The claim arises from Debtor’s rejection of the Lease, effective as of February 28, 2018.

¹ Claimant intends to draw-down on the security deposit in the form of a letter of credit in the amount of \$385,018.50.

7. An itemization of the elements of Debtor's liability to the Claimant is annexed as Exhibit B.

8. No judgment has been rendered on this claim.

9. The amount of all payments on this claim have been credited and deducted for the purpose of making this Proof of Claim.

10. These claims are not subject to any setoff or counterclaim.

11. Claimant reserves the right to amend or supplement this Proof of Claim from time to time hereafter as it may deem necessary or proper.

12. This Proof of Claim is filed under compulsion of the bar date set pursuant to the Order (I) Authorizing the Rejection of Office Lease, (II) Authorizing the Debtor to Enter into Short Term Lease Agreement, and (III) Granted Related Relief filed as of March 27, 2018, and is filed to protect Claimant from forfeiture of its claims by reason of said bar date. Filing of this proof of claim is not and should not be construed to be: a) a waiver or release of Claimant's rights against any other entity or person liable for all or part of any claim described herein; b) a waiver of the right to withdraw the reference, if any, with respect to the subject matter of these claims, any objection or other proceedings commenced with respect thereto or any other proceedings commenced in this case against or otherwise involving Claimant; c) a waiver of any right to the subordination, in favor of Claimant, of indebtedness or liens held by creditors of the Debtor or affiliated debtors; or d) an election of remedy which waives or otherwise affects any other remedy of Claimant.

Dated: New York, New York
April 26, 2018

T-C 470 PARK AVENUE SOUTH OWNER LLC,
Claimant

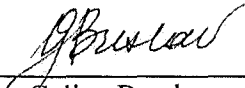
By: 
Name: Galina Breslav
Title: Senior Director

Exhibit A

OFFICE LEASE

by and between

**T-C 470 PARK AVENUE SOUTH OWNER LLC,
a Delaware limited liability company**

(“Landlord”)

and

**KIKO USA INC.,
a Delaware corporation**

(“Tenant”)

Dated as of

March 14, 2014

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LIST OF EXHIBITS

Schedule 1	Base Rent Schedule
Exhibit A-1	Floor Plan of the Premises
Exhibit A-2	Legal Description of the Project
Exhibit B	Intentionally Omitted
Exhibit C	Intentionally Omitted
Exhibit D	Landlord's Base Building Work
Exhibit E	Building Rules and Regulations
Exhibit F	Form Tenant Estoppel Certificate
Exhibit G	Tenant's Commencement Letter

OFFICE LEASE

THIS OFFICE LEASE (this "Lease") is made between T-C 470 PARK AVENUE SOUTH OWNER LLC, a Delaware limited liability company ("Landlord"), and the Tenant described in *Item 1* of the Basic Lease Provisions.

LEASE OF PREMISES

Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, subject to all of the terms and conditions set forth herein, those certain premises (the "Premises") described in *Item 3* of the Basic Lease Provisions and as shown in the drawing attached hereto as Exhibit A-1. The Premises are located in the Building described in *Item 2* of the Basic Lease Provisions. The Building is located on that certain land (the "Land") more particularly described on Exhibit A-2 attached hereto, which may also be improved with landscaping, and other improvements, fixtures and common areas and appurtenances now or hereafter placed, constructed or erected on the Land (sometimes referred to herein as the "Project").

BASIC LEASE PROVISIONS

- | | |
|---|---|
| 1. Tenant: | Kiko USA Inc.,
a Delaware corporation |
| 2. Building: | 470 Park Avenue South
New York, New York 10016 |
| 3. Description of Premises: | Entire 15 th Floor South |
| 4. Rentable Square Feet: | 9,686 rentable square feet |
| 5. Tenant's Proportionate Share: | 3.46% |
| 6. Base Rent: | In accordance with and pursuant to <u>Schedule 1</u> ,
attached hereto and made a part hereof. |

7. **Lease Year** Lease Year 1 shall commence on the Rent Commencement Date and shall end on the date preceding the first anniversary of the Rent Commencement Date, or, if the Rent Commencement Date is not the first day of the calendar month, Lease Year 1 shall end on the last day of the month in which occurs the first anniversary of the Rent Commencement Date. Each succeeding Lease Year (e.g., Lease Year 2, Lease Year 3, etc.) shall commence on the day following the end of the preceding Lease Year and shall extend for 12 consecutive months, provided, however, that the last Lease Year shall expire on the Expiration Date.
8. **Installment of Base Rent payable upon Execution:** \$44,394.17
9. **Security Deposit Payable Upon Execution:** \$385,018.50 in the form of cash or letter of credit (as the same may be reduced from time to time in accordance with Paragraph 2(c)).
10. **Lease Term:** Approximately ten (10) years and six (6) months.
11. **Commencement Date:** The date that the Landlord's Work (as hereinafter defined) is Substantially Completed (as hereinafter defined) or would have been Substantially Completed but for Tenant Delay (as hereinafter defined).
12. **Rent Commencement Date** The date immediately following the six (6) month anniversary of the Commencement Date.
13. **Expiration Date:** The date immediately preceding the tenth (10th) anniversary of the Rent Commencement Date, provided, however, if the Rent Commencement Date is not the first day of a calendar month, then the Expiration Date shall be the last day of the month in which occurs the tenth (10th) anniversary of the Rent Commencement Date.

14. **Base Year for Real Estate Taxes:** Sum of (i) the Real Estate Taxes payable on January 1, 2014 for the second half of the 2013 fiscal year (i.e., period from January 1, 2014 to June 30, 2014) and (ii) the Real Estate Taxes payable on July 1, 2014 for the first half of the 2014 fiscal year (i.e., period from July 1, 2014 to December 31, 2014)

15. **Broker(s) (See Paragraph 19(k)):**

Landlord's Broker: Newmark Grubb Knight Frank
125 Park Avenue
New York, NY 10017

Tenant's Broker: Cushman & Wakefield, Inc.
1290 Avenue of the Americas
New York, NY 10104

16. **Addresses for Notices:**

To: TENANT:

To: LANDLORD:

T-C 470 Park Avenue South Owner LLC
c/o TIAA- CREF
Global Real Estate
730 Third Avenue
New York, New York 10017
Attn: Galina Breslav

With a copy to:

Newmark Grubb Knight Frank
470 Park Avenue South
New York, NY 10016
Attn: Building Manager

and to:

Ingram Yuzek Gainen Carroll & Bertolotti, LLP
250 Park Avenue, 6th Floor
New York, New York 10177
Attn: Shane O'Neill, Esq.

17. **Address for Payment of Rent:** All payments payable under this Lease shall be directed as follows:

By Mail:

T-C 470 Park Avenue South Owner LLC
P.O. Box 416041
Boston, Massachusetts 02241

By Wire:

T-C 470 Park Avenue South Owner LLC
Account #: 385002861768
ACH ABA#: 011900571
Wire ABA#: 026009593
Account Name: 470 Park Avenue South #6623 -
Coll

Bank Address is required:

Bank of America
Mail Code: NC1-002-20-08
BANK OF AMERICA PLAZA
101 S TRYON ST
CHARLOTTE NC 28255-0001

or to such other address as Landlord may designate
in writing.

18. **Effective Date:** The date of execution and delivery of this Lease by both Landlord and Tenant.

19. **The “State” is the State of New York**

This Lease consists of the foregoing introductory paragraphs and Basic Lease Provisions, the provisions of the Standard Lease Provisions (the “Standard Lease Provisions”) (consisting of Paragraph 1 through Paragraph 27 which follow), Schedule 1, and Exhibits A-1 through Exhibit A-2 and Exhibits B through Exhibit G, all of which are incorporated herein by this reference. In the event of any conflict between the provisions of the Basic Lease Provisions and the provisions of the Standard Lease Provisions, the Standard Lease Provisions shall control.

STANDARD LEASE PROVISIONS

1. TERM

(a) The Initial Term shall commence on the Commencement Date. Unless earlier terminated in accordance with the provisions hereof, the Initial Term of this Lease shall be for the period shown in *Item 10* of the Basic Lease Provisions. As used herein, “Lease Term” shall mean the Initial Term referred to in *Item 10* of the Basic Lease Provisions, subject to any

extension of the Initial Term hereof exercised in accordance with the terms and conditions expressly set forth herein. Unless Landlord is terminating this Lease prior to the Expiration Date in accordance with the provisions hereof, Landlord shall not be required to provide notice to Tenant of the Expiration Date. This Lease shall be a binding contractual obligation effective upon execution hereof by Landlord and Tenant, notwithstanding the later commencement of the Lease Term. As used in this Lease, as to any construction performed by Landlord under this Lease, "Substantial Completion," "Substantially Complete," or any derivation thereof, means that such work has been completed substantially in accordance with the plans thereof, as reasonably determined by Landlord's architect, except for minor details of construction, decoration and mechanical adjustments, if any, the non-completion of which does not materially interfere with Tenant's use of the Premises or, if applicable, performance of any alterations by Tenant in the Premises (collectively, "Punchlist Items"). The taking of possession of the Premises by Tenant shall be deemed delivery of the Premises by Landlord, Substantial Completion of Landlord's Work and acceptance by Tenant of the Premises. Landlord will have access to the applicable portion of the Premises at all reasonable times for the performance of Punchlist Items. Tenant will not unreasonably interfere with Landlord's performance of the Punchlist Items. Both parties shall act reasonably and in good faith to agree on the list of Punchlist Items, which list of agreed Punchlist Items will be initially produced by Tenant's architect. Subject to Landlord's completion of any Punchlist Items, which Landlord will complete within sixty (60) days following the Commencement Date, Landlord will deliver exclusive possession of the Premises to Tenant on the Commencement Date. Landlord shall endeavor to give Tenant at least thirty (30) days' prior written notice of the date on which Landlord anticipates that Landlord's Work will be Substantially Completed.

(b) If the Commencement Date is delayed or otherwise does not occur on or before a particular date, this Lease shall not be void or voidable, nor shall Landlord be liable to Tenant for any loss or damage resulting therefrom. Tenant expressly waives any right to rescind this Lease under Section 223-a of the New York Real Property Law or under any present or future statute of similar import then in force and further expressly waives the right to recover any damages, direct or indirect, which may result from Landlord's failure to deliver possession of the Premises on the date provided herein. Tenant agrees that the provisions of this Paragraph 1(b) of this Lease are intended to constitute "an express provision to the contrary" within the meaning of said Section 223-a. Notwithstanding anything to the contrary in this Lease, in the event the Commencement Date has not occurred on or prior to the date that is eight (8) months following the approval of Final Plans (the "Outside Commencement Date"), which date is subject to a day-for-day extension for Tenant Delay (as hereinafter defined) and/or Force Majeure, then, as Tenant's sole and exclusive remedy with respect thereto, the Rent Commencement Date shall be extended by two (2) days for each day after the Outside Commencement Date (as the same may be extended as hereinabove provided) that the Commencement Date has not occurred. Notwithstanding the foregoing, if the Commencement Date has not occurred for any reason on or prior to the date which is eighteen (18) months following the date of approval of the Final Plans (the "Final Delivery Date") (which date is subject to a day-for-day extension for Tenant Delay and/or Force Majeure), Tenant, as its sole and exclusive remedy with respect thereto, shall have the right to cancel this Lease, without liability, by written notice to Landlord delivered within thirty (30) days following the Final Delivery Date (as the same may be extended as hereinabove provided), *time being of the essence*, in which case Landlord shall promptly return to Tenant any prepaid amounts paid by Tenant to Landlord hereunder. For clarity, in the event Tenant does not elect to

exercise the cancellation option provided hereinabove, the Rent Commencement Date will extend in accordance with the terms of this Paragraph 1(b).

(c) Following the occurrence of the Commencement Date, Landlord may prepare and deliver to Tenant, Tenant's Commencement Letter in the form of Exhibit G attached hereto (the "Commencement Letter"). In such event, Tenant shall execute a copy of the Commencement Letter and return it to Landlord. If Tenant fails to sign and return the Commencement Letter to Landlord or reasonably object thereto (which notice will set forth in reasonable detail the basis for Tenant's objection) within fifteen (15) days of its receipt from Landlord, the Commencement Letter as sent by Landlord shall be deemed to have correctly set forth the Commencement Date and the other matters addressed in the Commencement Letter. Failure of Landlord to send the Commencement Letter shall have no effect on the Commencement Date.

2. BASE RENT AND SECURITY DEPOSIT

(a) Tenant agrees to pay during each month of the Lease Term as Base Rent ("Base Rent") for the Premises the sums shown for such periods in *Item 6* of the Basic Lease Provisions.

(b) Except as expressly provided to the contrary herein, Base Rent shall be payable in consecutive monthly installments, in advance, without demand, deduction or offset, commencing on the Commencement Date and continuing on the first day of each calendar month thereafter until the expiration of the Lease Term. The first full monthly installment of Base Rent applicable to such month shall be payable upon Tenant's execution of this Lease. The obligation of Tenant to pay Rent and other sums to Landlord and the obligations of Landlord under this Lease are independent obligations. If the Commencement Date is a day other than the first day of a calendar month, or the Lease Term expires on a day other than the last day of a calendar month, then the Rent for such partial month shall be calculated on a per diem basis. Notwithstanding the foregoing, provided that Tenant is not in default under this Lease beyond the applicable notice and cure period, Tenant will be entitled to an abatement of Base Rent for the period from and after the Commencement Date to and including the date immediately prior to the Rent Commencement Date, provided, however, that if any default exists during such rent free period and is thereafter cured, then, so long as this Lease remains in effect, Tenant shall be immediately entitled to the applicable unapplied portion of the abatement after such default has been cured.

(c) (i) Simultaneously with the execution of this Lease, Tenant had deposited with Landlord, as partial consideration for this Lease and as security and as collateral for the faithful performance and observance by Tenant of the terms, provisions, and conditions of this Lease, an amount equal to the Security Deposit. In the event Tenant shall have defaulted under any of the terms and provisions of this Lease, including but not limited to the payment of Rent and if the same shall not have been cured within any applicable cure period provided for herein, Landlord may use, apply or retain the whole or any part of the Security Deposit to the extent necessary to satisfy the obligations and liabilities of Tenant to Landlord as set forth herein, including but not limited to any amounts which Landlord may expend or be required to expend by reason of Tenant's default in respect of any of the terms, provisions, covenants and conditions of this Lease, and including but not limited to any damages or deficiency accrued before or after summary proceedings or other re-entry by Landlord. No interest will be payable to Tenant on the Security Deposit. If Landlord shall apply all or any portion of the Security Deposit, Tenant shall,

within ten (10) days following written notice of the amount thereof from Landlord, pay to Landlord the sum so used, applied or retained which shall be added to the security deposit so that the same shall be replenished to the amount of the Security Deposit.

(ii) In lieu of a cash security deposit, Tenant may at any time provide to Landlord, as partial consideration for this Lease and as collateral for the faithful performance and observance by Tenant of the terms, provisions, and conditions of this Lease, an unconditional irrevocable standby letter of credit issued by a bank or other financial institution satisfactory to Landlord (the "Letter of Credit"), which Letter of Credit shall reflect Landlord as the beneficiary, shall be for a term of not less than one (1) full calendar year, and shall be in the amount of the Security Deposit. Any Letter of Credit required to be provided by Tenant hereunder shall be in form and substance reasonably acceptable to Landlord, shall provide for payment at a location reasonably acceptable to Landlord, shall be assignable to any subsequent owner of the Building, and shall provide, in part, that in each instance in which Tenant shall have defaulted under any of the terms and provisions of this Lease, including but not limited to the payment of Rent and if the same shall not have been cured within any applicable cure period provided for herein, Landlord shall be entitled to draw upon the Letter of Credit (in a single or multiple draws up to the full amount of the Security Deposit) to the extent necessary to satisfy the obligations and liabilities of Tenant to Landlord as set forth herein, including but not limited to any amounts which Landlord may expend or be required to expend by reason of Tenant's default in respect of any of the terms, provisions, covenants and conditions of this Lease, and including but not limited to any damages or deficiency accrued before or after summary proceedings or other re-entry by Landlord. If Landlord shall apply all or any portion of the Security Deposit, Tenant shall, within fifteen (15) days following written notice of the amount thereof from Landlord, provide a new or revised Letter of Credit in such amount as will equal, together with any remaining balance on the Letter of Credit, the Security Deposit. The Letter of Credit shall be automatically renewed by the bank (without notice from Landlord) each year for additional one (1) year periods, unless at least thirty (30) days prior to the expiration date of such Letter of Credit the bank sends notice to Landlord that it elects not to extend the Letter of Credit for any additional period. Upon such notice, Landlord may draw on sight the Letter of Credit in the full amount of the Letter of Credit. The failure of Tenant to provide Landlord with a renewal or replacement Letter of Credit at least thirty (30) days prior to each expiration thereof during the Lease Term shall allow Landlord to draw upon the Letter of Credit in the full amount of the Security Deposit and to hold the proceeds thereof as a cash security deposit hereunder.

(iii) Notwithstanding anything to the contrary herein, provided that Tenant has not been in monetary or material non-monetary default under this Lease beyond the applicable notice and cure period on two (2) or more occasions and is not then in default under this Lease as of the applicable reduction date, Tenant shall be entitled to reduce the amount of the Security Deposit by the amount of \$128,339.50 at the start of Lease Year 3 and at the start of Lease Year 6 (provided, however, in the event Tenant is in default on the applicable reduction date, then, in such event, the applicable reduction will occur on the date such default has been cured, provided such cure is prior to the expiration of the applicable notice and cure period provided hereunder). Thereafter, for the remainder of the Lease Term, the Security Deposit will be \$128,339.50. If applicable, with respect to the decreases to the Letter of Credit amount as set forth above, Tenant will deliver an amendment to the existing Letter of Credit or a replacement Letter of Credit

meeting the requirements set forth herein. Landlord agrees to cooperate with Tenant in connection therewith and Tenant will reimburse Landlord for Landlord's actual out-of-pocket costs incurred in connection therewith.

(iv) If Tenant performs all of Tenant's obligations hereunder and is not then in default of its obligations hereunder, the Security Deposit (or the remaining portion thereof) shall be returned to Tenant within sixty (60) days after (a) the expiration of the Lease Term, or (b) the date Tenant has vacated and delivered entire possession of the Premises to Landlord in the condition required hereunder, whichever is later.

(v) In the event of transfer of the Building, Landlord shall have the right to transfer the Letter of Credit or any cash security deposit (either, as applicable, the "Security") to the transferee and Landlord shall thereupon be released by Tenant from all liability for the return of the Security, provided Landlord has notified Tenant of such transfer. Tenant agrees to look solely to such transferee for the return of the Security, and it is agreed that the provisions hereof shall apply to every transfer made of the Security to any such transferee.

(d) The parties agree that for all purposes hereunder the term "Rentable Area" shall mean the rentable area as set forth in this Lease. In the event that the Rentable Area of the Premises or the Project is modified due to recapture, casualty, condemnation, or any other reason in accordance with this Lease, remeasurement and recalculation of the Rentable Area of the Premises may be undertaken by Landlord's architect in accordance with the Real Estate Board of New York (REBNY) standards and the Rentable Area and Tenant's Proportionate Share shall for purposes of this Lease shall be adjusted accordingly and the basis for such adjustment will be provided to Tenant in reasonable detail.

3. ADDITIONAL RENT

(a) If Real Estate Taxes (defined below) for the Project for any Tax Year (defined below) during the Lease Term exceed Base Real Estate Taxes (defined below), Tenant shall pay to Landlord, concurrently with each installment of Base Rent as Additional Rent an amount equal to Tenant's Proportionate Share of such excess ("Taxes Excess"). Tenant will have no obligation to pay its share of Real Estate Taxes relating to the period of time preceding the first (1st) anniversary of the Commencement Date.

(b) "Tenant's Proportionate Share" is the percentage set forth as *Item 5* of Basic Lease Provisions subject to adjustment only as expressly provided in this Lease.

(c) The term "Base Real Estate Taxes" shall mean all Real Estate Taxes incurred or payable by Landlord during the Tax Year specified as Tenant's Base Year for Real Estate Taxes in *Item 14* of the Basic Lease Provisions.

(d) The term "Tax Year" shall mean the fiscal tax year of the City of New York commencing July 1 and ending June 30, or such other period as hereafter used by the City of New York.

(e) "Real Estate Taxes" mean any form of assessment, license fee, license tax, business license fee, levy, charge, improvement bond, tax, water and sewer rents and charges, utilities and communications taxes and charges or similar or dissimilar imposition imposed by any authority having the direct power to tax, including any city, county, state or federal government, or any school, agricultural, lighting, drainage or other improvement or special assessment district thereof, or any other governmental charge, general and special, ordinary and extraordinary, foreseen and unforeseen, which may be assessed against any legal or equitable interest of Landlord in the Premises, Building, Common Areas or Project. Real Estate Taxes shall also include, without limitation:

(A) any charges or taxes from inclusion of the Project or the Building or any part thereof in a business improvement district ("BID"), if applicable;

(B) assessment, tax, fee, levy or charge in substitution, partially or totally, of any assessment, tax, fee, levy or charge previously included within the definition of Real Property Taxes. It is the intention of Tenant and Landlord that all such new and increased assessments, taxes, fees, levies and charges be included within the definition of Real Estate Taxes for the purposes of this Lease;

(C) any assessment, tax, fee, levy or charge allocable to or measured by the area of the Premises or other premises in the Building or the rent payable by Tenant hereunder or other tenants of the Project, including, without limitation, any gross receipts tax or excise tax levied by state, city or federal government, or any political subdivision thereof, with respect to the receipt of such rent, or upon or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises, or any portion thereof but not on Landlord's other operations;

(D) any assessment, tax, fee, levy or charge upon this transaction or any document to which Tenant is a party, creating or transferring an interest or an estate in the Premises;

(E) any assessment, tax, fee, levy or charge by any governmental agency related to any transportation plan, fund or system (including assessment districts) instituted within the geographic area of which the Project is a part; and/or

(F) any costs and expenses (including, without limitation, reasonable attorneys' fees) incurred in attempting to protest, reduce or minimize Real Estate Taxes.

Notwithstanding anything to the contrary in this Lease, Real Estate Taxes shall exclude all transfer, income, estate, inheritance, death, succession, franchise, partnership, corporate and capital stock taxes of Landlord, and any late charges imposed with respect to the same provided Tenant timely made its payments required under this Lease. If due to a future change in the method of taxation any franchise, income, profit or other tax shall be levied in substitution in whole or in part for or in lieu of any tax which would otherwise constitute Real Estate Taxes, such franchise, income, profit or other tax shall be deemed to be Real Estate Taxes for the purposes of this Lease.

As of the date of this Lease, to Landlord's actual knowledge, Landlord is not aware of any abatement of Real Estate Taxes applicable to the Base Year for Real Estate Taxes. As used in this Paragraph 3(e), Landlord's actual knowledge means only the actual knowledge of Galina Breslav, without any obligation to make any inquiry or investigation and expressly excludes constructive knowledge, imputed knowledge and knowledge by implication. Such named person shall have no personal liability to Tenant with respect to any of the matters set forth in this Lease.

(f) If at any time during the term of this Lease Landlord notifies Tenant that Landlord intends to avail itself of certain abatements, exemptions and/or deferrals with respect to Real Estate Taxes (individually and collectively, the "Abatement Programs"), then, from and after the date of such notification Tenant agrees, to the extent required under the Abatement Programs, to:

(1) report to Landlord the number of workers permanently engaged in employment in the space leased, the nature of each worker's employment and the New York City residency of each worker.

(2) provide access to the Premises by employees and agents of the Department of Finance of the City of New York, the Office of Labor Services, or any such other agency at all reasonable times at the request of Landlord.

Tenant shall not be required to pay taxes or charges which become due because of the willful neglect or fraud by Landlord in connection with the Abatement Programs or otherwise relieve or indemnify Landlord from any personal liability arising under Administrative Code §11-265, except where imposition of such taxes, charges or liability is occasioned by actions of Tenant in violation of this Lease.

(g) After Landlord shall have given Tenant a written estimate (the "Landlord's Estimated Statement") of Tenant's Proportionate Share of Taxes Excess, if any, for the Project for the upcoming calendar year, Tenant shall pay such estimated amount to Landlord in equal monthly installments, in advance on the first day of each month, concurrent with each payment of Base Rent. If and when Landlord shall furnish Tenant a statement (the "Landlord's Reconciliation Statement") indicating in reasonable detail (including a copy of the applicable tax bill) the actual excess of Real Estate Taxes over Base Real Estate Taxes for any applicable period, the parties shall, within thirty (30) days thereafter, make any payment or allowance necessary to adjust Tenant's estimated payments to Tenant's actual share of such excess as indicated by such Landlord's Reconciliation Statement. Such Landlord's Reconciliation Statement shall be binding on Tenant for all purposes. Notwithstanding the foregoing, in the event Tenant reasonably believes that a Landlord's Estimated Statement is factually incorrect (i.e., there is an arithmetic error in Landlord's determination of Tenant's Proportionate Share of Taxes Excess), then Tenant must notify Landlord of such error within sixty (60) days following receipt of the Landlord's Estimated Statement, which notice must include reasonably detailed information as to the miscalculation by Landlord and Tenant's calculation. In the event Tenant timely sends such notice, the parties will work in good faith to resolve the calculation discrepancy. Any payment due Landlord shall be payable by Tenant within thirty (30) days of demand from Landlord. Any amount due Tenant shall be credited against installments of Base

Rent next becoming due under this Paragraph 3(g) or refunded to Tenant following the end of the Lease Term if there shall be no additional amounts due or to become due Landlord under this Lease.

(h) Tenant shall pay no later than thirty (30) days before delinquency, all taxes and assessments (i) levied against any personal property, Alterations, tenant improvements or trade fixtures of Tenant in or about the Premises, (ii) based upon this Lease or any document to which Tenant is a party creating or transferring an interest in this Lease or an estate in all or any portion of the Premises, and (iii) levied for any business, professional, or occupational license fees. If any such taxes or assessments are levied against Landlord or Landlord's property or if the assessed value of the Project is increased by the inclusion therein of a value placed upon such personal property or trade fixtures, Tenant shall upon demand reimburse Landlord for the taxes and assessments so levied against Landlord, or such taxes, levies and assessments resulting from such increase in assessed value. To the extent that any such taxes are not separately assessed or billed to Tenant, Tenant shall pay the amount thereof as invoiced to Tenant by Landlord.

(i) Any delay or failure of Landlord in (i) delivering the Landlord's Estimated Statement or the Landlord's Reconciliation Statement described in this Paragraph 3, or (ii) computing or billing Tenant's Proportionate Share of Taxes Excess shall not constitute a waiver of its right to require an increase in Rent, or in any way impair the continuing obligations of Tenant under this Paragraph 3. In no event shall Landlord render a bill to Tenant for Tenant's Proportionate Share of Taxes Excess with respect to a particular Lease Year more than twenty (24) months following the final determination of Real Estate Taxes with respect to such Lease Year.

(j) Even though the Lease Term has expired and Tenant has vacated the Premises, when the final determination is made of Tenant's Proportionate Share of Taxes Excess for the year in which this Lease terminates (which determination will be made within eighteen (18) months following the expiration or earlier termination of this Lease), Tenant shall immediately pay any increase due over the estimated Real Estate Taxes paid, and conversely, any overpayment made by Tenant shall be promptly refunded to Tenant by Landlord.

(k) From and after the Commencement Date, electricity shall be supplied to the Premises in accordance with the provisions of Paragraph 3(k)(i) below.

(i) Submetering.

Tenant shall purchase from Landlord all electricity consumed or to be consumed in the Premises and shall pay to Landlord or a meter company designated by Landlord, as Additional Rent, Tenant's Electricity Share (as hereinafter defined) of the costs attributable to electricity consumed on those floors of the Building on which the Premises (or portions thereof) are located (the "Electricity Additional Rent"), as determined by a meter or meters (measuring both consumption and demand) and related equipment installed on the floor of the Premises. Tenant shall purchase the electricity from Landlord at the rate ("Landlord's Rate") charged by the utility company to the Landlord, plus an additional amount equal to 5% of the monthly electricity bill. Bills

therefor may be rendered independent of any Base Rent bills that Landlord may send and at such times as Landlord may elect, and the amount of the Electricity Additional Rent shall be deemed to be Additional Rent payable by Tenant within thirty (30) days after such bill is rendered. If there is more than one meter for the Premises, the electricity rendered through each meter may be computed and billed separately. The term "Landlord's Rate" shall mean the average cost per kWh (including all applicable taxes, surcharges, demand charges, energy charges, fuel adjustment charges, time of day charges, and other sums payable in respect thereof) computed by taking the total bill for electricity charged by the utility for the Building and dividing it by the total kWh consumed in the Building for the respective billing period. Tenant acknowledges that the electric rates, charges, taxes and other costs may be changed by virtue of peak demand, time-of-day rates, or other methods of billing, and that the foregoing reference to changes in methods or rules of billing is intended to include any such changes. In no event shall the Electricity Additional Rent for submetered electricity supplied to the Premises be less than Landlord's actual cost to purchase and distribute such electricity plus the additional charges specified above. If any tax (other than a tax based on the income received by Landlord) is imposed upon the Electricity Additional Rent received by Landlord from the sale or resale of electricity to Tenant, Tenant agrees that to the extent permitted by Law, Tenant shall reimburse such taxes to Landlord as Additional Rent within thirty (30) days after demand therefor.

As used herein, "Tenant's Electricity Share" of any amount or cost is the portion of such amount or cost that is attributable to Tenant's consumption of electricity in the Premises as determined by the meter or meters installed on such floor.

(ii) Basic Capacity, Excess.

(A) Tenant covenants and agrees that at all times its use of electric current shall not exceed the existing capacity of existing feeders to the Building or the risers or wiring installation (the "Basic Capacity") and Tenant shall not use any electrical equipment which, in Landlord's opinion, will overload such installations or interfere with the use thereof by other tenants of the Building. Landlord will provide at least 400 amps of electricity for Tenant's use in the Premises (inclusive of heating, ventilation and air-conditioning) during the Lease Term. Landlord shall bear all costs and expenses necessary to connect the Basic Capacity to the Premises, including, but not limited to, the installation of any additional conduits, wiring, cables, transformers switches or similar equipment or installations necessary to bring the Basic Capacity to the Premises. Tenant covenants that its use of electricity will not exceed the Basic Capacity.

(B) If Tenant requests electricity in addition to the Basic Capacity, or Tenant is drawing electricity in excess of the Basic Capacity, and if such additional electricity is available for use by Tenant without resulting in material alterations in the Building Systems (or if alterations are required but the provisions of Paragraph 3(k)(ii)(C) below apply), Landlord may, at its option, connect such additional electricity to the Premises following written request from Tenant therefor and Tenant agrees to pay Landlord a reasonable connection charge, provided however, that Landlord shall in all events be entitled to reserve such amounts of existing electrical capacity available to

Landlord through the existing Building Systems as it shall reasonably deem necessary to meet the commercially reasonable requirements of present occupants of the Building (which includes the allocation of electricity under leases and other written agreements) and future occupants of then-vacant space in the Building ("Basic Tenant Requirements"), and provided further, that Landlord shall not be required to allocate to Tenant more than a commercially reasonable proportion of such excess capacity over Basic Tenant Requirements, taking into account the Rentable Area of the Premises, Tenant's existing Basic Capacity, the reasonableness of Tenant's request, and such other factors as may be commercially reasonable.

(C) If Landlord, in its sole and exclusive discretion, determines that it is necessary or desirable to install additional risers, conduits, feeders, wiring, cables transformers, switch-boards and/or related equipment, installations or appurtenances in the Premises or to the Building in order to furnish to Tenant such additional electricity requested by Tenant, Landlord shall, subject to the conditions in Paragraph 3(k)(v), proceed (or, at Landlord's option, permit an electrical contractor employed by Tenant but satisfactory to Landlord to proceed) with reasonable diligence to install such additional risers, conduits, feeders, wiring, cables, transformers, switchboards and/or related equipment, installations or appurtenances as are reasonably necessary or desirable to satisfy Tenant's request for additional electricity; provided however, that the same and the use thereof (i) shall not cause permanent damage to the Building or the Premises, (ii) shall not create a dangerous condition or entail unreasonable alterations or unreasonably interfere with or disturb other tenants or occupants of the Building, (iii) shall not increase the premiums for any fire insurance on the Building, (iv) shall be allowed by the utility company servicing the Building, and (v) shall comply with all Laws. Tenant shall pay all costs and expenses incurred by Landlord in connection with such installation within twenty (20) days after demand therefor. Landlord and its agents shall be permitted access to the electric closets and the meters.

(iii) Tenant shall not make any alteration of, or additions to, the electrical equipment or wiring in the Premises except in compliance with the provisions of Paragraph 4 below.

(iv) Tenant shall at all times comply with the rules, regulations, tariffs, terms and conditions applicable to service, equipment, wiring and other requirements of the utility company supplying electricity to the Building. Tenant shall supply, at Tenant's cost, adequate electric lighting and electric power to Landlord or Landlord's contractors to clean or make repairs in the Premises.

(v) Landlord shall not be liable or responsible to Tenant for any loss, damage or expense that Tenant may incur by reason of any failure, inadequacy or defect in the character, quantity, quality or supply of electricity furnished to the Premises or the Building for any reason whatsoever.

(l) The term "Additional Rent" shall mean, collectively, all amounts payable under this Lease other than Base Rent. The Base Rent, Additional Rent, late fees, and other amounts

required to be paid by Tenant to Landlord hereunder (including Taxes Excess) are sometimes collectively referred to as, and shall constitute, "Rent".

4. IMPROVEMENTS AND ALTERATIONS

(a) Landlord shall deliver the Premises to Tenant, and Tenant agrees to accept the Premises from Landlord in its existing "AS-IS", "WHERE-IS" and "WITH ALL FAULTS" condition except that Landlord shall complete the Landlord's Work with respect to the Premises, and Landlord shall have no obligation to refurbish or otherwise improve the Premises throughout the Lease Term.

(b) Any alterations, additions, or improvements of any type made by or on behalf of Tenant to the Premises shall be deemed "Alterations". All Alterations shall be subject to Landlord's prior written consent, which consent may be granted or withheld by Landlord in its sole discretion with respect to any Alterations what are structural in nature, materially affect the mechanical, electrical, plumbing, heating and life safety systems of the Building (the "Building Systems") or are visible from the exterior of the Premises (each of the foregoing, a "Material Alterations"). Notwithstanding anything to the contrary contained herein, Landlord's prior consent shall not be unreasonably withheld, conditioned or delayed with respect to proposed Alterations that (i) comply with all applicable Laws; (ii) are compatible with the Building and the Building Systems; (iii) will not interfere with the use and occupancy of any other portion of the Building by any other tenant or their invitees; (iv) do not affect the structural portions of the Building; and, (v) do not and will not, whether alone or taken together with other improvements, require the construction of any other improvements or alterations within the Building (collectively, the Alterations in clause (i) through (v) above, the "Non-Material Alterations"). For clarity, the term Material Alterations and Non-Material Alterations constitute Alterations. Notwithstanding the foregoing, Landlord's prior consent shall not be required for any Non-Material Alterations which cost, in the aggregate, less than \$75,000 and do not require the issuance of a building permit or a change to the Building's certificate of occupancy; provided Tenant provided Landlord with prior written notice of the performance of such Alterations, and such Alterations shall be subject to all of the other provisions of this Lease. Tenant shall cause, at its sole cost and expense, all Alterations to comply with insurance requirements and with Laws and shall construct, at its sole cost and expense, any alteration or modification required by Laws as a result of any Alterations. All Alterations shall be constructed at Tenant's sole cost and expense, in a first class and good and workmanlike manner by contractors reasonably acceptable to Landlord and only new materials shall be used. All plans and specifications for any Alterations shall be submitted to Landlord for its approval, unless as otherwise provided for specifically herein. Landlord may monitor construction of the Alterations and Tenant shall reimburse Landlord for any actual out-of-pocket costs incurred by Landlord in monitoring such construction. Landlord's right to review plans and specifications and to monitor construction shall be solely for its own benefit, and Landlord shall have no duty to see that such plans and specifications or construction comply with applicable laws, codes, rules and regulations. The approval of plans, or consent by Landlord to the making of any Alterations, does not constitute Landlord's representation that such plans or Alterations comply with any Laws. Landlord shall not be liable to Tenant or any other party in connection with Landlord's approval of any plans, or Landlord's consent to Tenant's performing any Alterations. Without limiting the other grounds

upon which Landlord may refuse to approve any contractor or subcontractor, Landlord may take into account the desirability of maintaining harmonious labor relations at the Project. Landlord may also require that all structural work, life safety related work and all mechanical, electrical, plumbing and roof related work be performed by contractors designated by Landlord whose cost will be commercially competitive. Landlord shall have the right, in its sole discretion, to instruct Tenant to remove those improvements or Alterations from the Premises which (X) were not approved in advance by Landlord (in the event Landlord's prior approval was required under this Lease), (Y) were not built in conformance with the plans and specifications approved by Landlord, (Z) Landlord specified during its review of plans and specifications for Alterations would need to be removed by Tenant upon the expiration of this Lease and the affected portion of the Premises would need to be restored to its condition prior to the installation of such Alterations (collectively, the "Removable Alterations"). Notwithstanding anything to the contrary herein, Tenant shall only be required to remove those Alterations with respect to which clause (Z) above is applicable if such Alterations constitute Atypical Alterations. As used in this Lease, the term "Atypical Alterations" shall mean those alterations, improvements, fixtures, equipment attached to or built into the Premises by or on behalf of Tenant which are not standard office installations, including, without limitation, kitchens, vaults, safes, conveyors, dumbwaiters, beam cuts, slab penetrations and floor openings, raised flooring, and internal staircases. Except as set forth above, Tenant shall not be obligated to remove any Alterations at the expiration of this Lease. If any Alterations are required to be removed from the Premises, then Tenant, at Tenant's sole cost and expense, shall remove such Alterations prior to the expiration or earlier termination of this Lease and shall repair and restore the area where such Alteration was installed to its condition prior to the installation of the Alteration in question, reasonable wear and tear excepted. Any Alterations remaining in the Premises following the expiration of the Lease Term or following the surrender of the Premises from Tenant to Landlord shall become the property of Landlord and Tenant will be liable to Landlord for costs incurred by Landlord in disposing of or demolishing the same. Tenant shall provide Landlord with the identities and mailing addresses of all contractors, subcontractors and materialmen performing work or supplying materials, prior to beginning such construction, and Landlord may post on and about the Premises notices of non-responsibility pursuant to applicable Law. Tenant shall assure payment for the completion of all work free and clear of liens and shall provide certificates of insurance for worker's compensation and other coverage in amounts and from an insurance company reasonably satisfactory to Landlord protecting Landlord against liability for bodily injury or property damage during construction. Upon completion of any Alterations and upon Landlord's reasonable request, Tenant shall deliver to Landlord sworn statements setting forth the names of all contractors and subcontractors who did work on the Alterations and final lien waivers from all such contractors and subcontractors.

(c) At least thirty (30) days prior to making any Alterations, Tenant, at its sole cost and expense, will (A) submit to Landlord for its approval, detailed plans and specifications of each proposed Alteration (provided, however, if detailed plans and specifications are customarily not prepared for the Alterations in question, Tenant will submit to Landlord a reasonably detailed description of the Alterations to be performed), and (B) obtain all permits, approvals and certificates required from the applicable governmental authority. Landlord will respond to any request for approval of Tenant's plans and specifications for Alterations within thirty (30) days after such request is made. If Landlord fails to respond to Tenant's request within the aforesaid thirty (30) day period, Tenant will have the right to provide Landlord with a second request for

approval (a "Second Request"), which will specifically identify the plans and specifications to which such request relates, and set forth in bold capital letters the following statement: **LANDLORD MUST COMPLETE ITS REVIEW AND APPROVE OR DISAPPROVE THESE PLANS AND SPECIFICATIONS WITHIN FIVE (5) BUSINESS DAYS AFTER RECEIPT OF THIS NOTICE. FAILURE BY LANDLORD TO DO SO WILL BE DEEMED TO BE LANDLORD'S APPROVAL OF SUCH PLANS AND SPECIFICATIONS.** If Landlord fails to respond to a Second Request within five (5) Business Days after receipt by Landlord, the plans and specifications for which the Second Request is submitted shall be deemed to be approved by Landlord. Landlord shall not be liable to Tenant or any other party in connection with Landlord's approval (or deemed approval) of any plans and specifications, or Landlord's consent (or deemed consent) to Tenant's performing any Alterations.

(d) Upon completion of any Alteration, Tenant shall provide Landlord, at Tenant's expense, with a complete set of plans in reproducible form and specifications reflecting the actual conditions of the Alterations, together with a copy of such plans on diskette in the AutoCAD format or such other format as may then be in common use for computer assisted design purposes. Tenant shall pay to Landlord, as additional rent, the reasonable costs of Landlord's engineers and other consultants (but not Landlord's on-site management personnel) for review of all plans, specifications and working drawings for the Alterations and for the incorporation of such Alterations in the Landlord's master Building drawings, within ten (10) Business Days after Tenant's receipt of invoices either from Landlord or such consultants. In addition to such costs, Tenant shall pay to Landlord, within ten (10) Business Days after completion of any Alterations, the actual, reasonable costs incurred by Landlord for services rendered by Landlord's management personnel and engineers to coordinate and/or supervise any of the Alterations to the extent such services are provided in excess of or after the normal on-site hours of such engineers and management personnel.

(e) Tenant shall keep the Premises, the Building and the Project free from any and all liens arising out of any Alterations, work performed, materials furnished, or obligations incurred by or for Tenant. In the event that Tenant shall not, within thirty (30) days following the date that Tenant has notice of the imposition of any such lien, cause the same to be released of record by payment or posting of a bond in a form and issued by a surety acceptable to Landlord, Landlord shall have the right, but not the obligation, to cause such lien to be released by such means as it shall deem proper (including payment of or defense against the claim giving rise to such lien); in such case, Tenant shall reimburse Landlord for all amounts so paid by Landlord in connection therewith, together with all of Landlord's costs and expenses, with interest thereon at the Default Rate (defined below) and Tenant shall indemnify and defend Landlord and each and all of the Landlord Indemnitees (as hereinafter defined) against any damages, losses or costs arising out of any such claim. Tenant's indemnification of Landlord and each and all of the Landlord Indemnitees contained in this Paragraph shall survive the expiration or earlier termination of this Lease. Such rights of Landlord shall be in addition to all other remedies provided herein or by Law.

(f) Landlord, through its construction manager (i.e., Tishman Interiors Construction) will perform the initial work with respect to the Premises ("Landlord's Initial Work") pursuant to the Final Plans (as hereinafter defined). Tenant will pay the construction manager a

construction management fee equal to ten percent (10%) of the cost to perform the Landlord's Initial Work for general conditions plus one and one-quarter percent (1 ¼%) for insurance, together with applicable sales taxes (collectively, the "Construction Manager's Fee"). Such Construction Manager's Fee shall be paid by Landlord from the Landlord's Initial Work Cap. No later than March 7, 2014 (the "Proposed Construction Drawings Deadline"), Tenant will submit to Landlord, in the form requested by Landlord, a complete set of construction drawings for the Premises, which drawings will be of a scope and specificity necessary to obtain construction bids and file with the New York City Department of Buildings (the "DOB") (the "Proposed Construction Drawings"). The Proposed Construction Drawings shall be accurate and of good quality such that only minimal and insubstantial revisions and/or corrections are required. After delivery of the Proposed Construction Drawings, Landlord shall have ten (10) Business Days to approve Tenant's Proposed Construction Drawings, which approval shall not be unreasonably withheld, conditioned or delayed. If Landlord disapproves of all or a portion of the Proposed Construction Drawings, Landlord shall notify Tenant within such ten (10) Business Day period which notice shall include a reasonably detailed explanation of the reasons for such disapproval and any revisions required by Landlord, in which event Tenant shall revise the Proposed Construction Drawings and resubmit them to Landlord within five (5) days after Tenant's receipt of written notice from Landlord. Landlord shall respond to Tenant's request for approval of the revised Proposed Construction Drawings within five (5) days of resubmission. This procedure shall continue until Landlord finally approves the Proposed Construction Drawings (such approved Proposed Construction Drawings, the "Final Plans"). Landlord's right to review the Proposed Construction Drawings and the Final Plans shall be solely for the Landlord's benefit, and Landlord shall have no duty to see that the Proposed Construction Drawings and Final Plans comply with applicable Laws. The approval of such drawings and plans does not constitute Landlord's representation that such drawings or plans comply with any Laws. Landlord will not be liable to Tenant or any other party in connection with Landlord's approval of any such drawings and plans, or Landlord's consent to perform work pursuant to such drawings and plans. At Tenant's request, Landlord will advise Tenant which of the improvements that are to be constructed in accordance with the Final Plans constitute Atypical Alterations.

(g) Promptly following approval by Landlord of the Final Plans, Landlord will file the same with the City of New York Department of Buildings ("DOB"). Tenant's design professionals and engineer will sign-off on the Final Plans as a professional certification with the DOB. The Final Plans and, correspondingly, the "Tenant Approved Construction Budget" (as hereinafter defined) may be further revised in order to reflect any changes necessitated by the DOB and/or changes requested by Landlord's construction manager and/or any value engineering requested by Tenant.

(h) The Proposed Construction Drawings shall be delivered by receipted courier or delivery service to the following address: Newmark Grubb Knight Frank, 470 Park Avenue South, New York, NY 10016, Attn: Andrew Cunningham.

(i) Tenant may not make changes to the Final Plans without Landlord's approval which shall not be unreasonably withheld or delayed; however, Tenant shall be responsible for any additional cost relating to such changes and any delay in schedule is a Tenant Delay.

Landlord's Initial Work shall be performed by Landlord only once, it being understood that Landlord's obligation to perform Landlord's Initial Work is a single, non-recurring obligation.

(i) (i) Landlord's cost for Landlord's Initial Work shall equal an amount not to exceed \$581,160 in the aggregate (i.e., \$60 per rentable square foot of the Premises) ("Landlord's Initial Work Cap").

(ii) Concurrent with submission of the Final Plans to the DOB for approval, Landlord, through its construction manager, will solicit no less than three (3) lump sum, fixed bids from subcontractors for each trade with respect to the construction of the Landlord's Initial Work, provided three (3) reputable contractors exist for each such trade. Landlord will advise Tenant in advance of the date that Landlord shall open the bids. Tenant shall have the right to be present at the opening of the bids, the leveling of the bids, and the selection of the subcontractors. Notwithstanding the foregoing, the selection of each subcontractor shall be made by Tenant (acting reasonably). The sum of the bids selected by Tenant for completing the Landlord's Initial Work are hereinafter, collectively, referred to as "Tenant Approved Construction Budget". If the Tenant Approved Construction Budget indicates that the cost of Landlord's Initial Work shall be in excess of the Landlord's Initial Work Cap, Tenant shall have the opportunity to value engineer Landlord's Initial Work by having the Proposed Construction Drawings revised. Thereafter, Tenant will prepare revised drawings and Landlord will obtain revised bids. The contract that Landlord or Landlord's construction manager, as the case may be, enters into for the Landlord's Initial Work is referred to herein as the "Construction Contract." Tenant will have the right to attend meetings held by Landlord regarding the progress of the Landlord's Initial Work. Such meetings shall be held at the Building on a regularly scheduled weekday and time selected by Landlord.

(iii) In the event change orders are proposed by the Landlord's construction manager, Landlord shall promptly notify Tenant of such request. Tenant shall have two (2) Business Days following receipt of such request to give or deny its approval to such change orders (which approval shall not be unreasonably withheld, conditioned or delayed. In the event Tenant fails to give or deny its approval within the aforesaid period, Tenant shall be deemed to have approved such change orders. Notwithstanding anything to the contrary hereinabove, Tenant's prior approval shall not be required for change orders that are substantially similar in quality to the items being replaced and/or do not substantially affect the aesthetic look of any component of the Landlord's Initial Work and do not cause the cost of Landlord's Initial Work to be materially in excess of the Tenant Approved Construction Budget, provided, however, that the Tenant's architect has approved such change orders. Tenant shall be responsible for all out-of-pocket costs to complete Landlord's Initial Work above Landlord's Initial Work Cap. Landlord's Initial Work Cap shall include both "hard costs" and "soft costs" (including, without limitation permitting fees) actually incurred by Landlord, or Landlord's construction manager, as the case may be.

(iv) Notwithstanding anything to the contrary in this Lease, at Tenant's request, Landlord shall disburse to Tenant up to 10% of the Landlord's Initial Work Cap for costs relating to architectural and engineering costs, IT costs and furniture costs ("Tenant Soft Costs"). Within thirty (30) days after receipt of a request for disbursement from Tenant signed by an authorized representative of Tenant (designated as ^{Officer}the Chief Executive), but not more

frequently than monthly and subject to the 10% limitation set forth above, which request will include copies of invoices of the Tenant Soft Costs paid by Tenant and appropriate lien waivers, if any, Landlord will disburse from time to time a portion of the Landlord's Initial Work Cap for Tenant Soft Costs actually incurred by Tenant for which disbursement is requested and which have not been the subject of any previous disbursement. At Tenant's request, such disbursements will be made directly to Tenant's vendors.

(v) Any portion of the Landlord's Initial Work Cap which has not been used in connection with the performance of the Landlord's Initial Work shall be deemed forfeited by Tenant, provided, however, in the event Tenant has made timely (i.e., prior to the expiration of the applicable notice and cure period) payments of Rent under this Lease for the first three Lease Years, Tenant, upon prior notice to Landlord, will have the right to convert up to \$174,348 of the Landlord's Initial Work Cap to additional free-rent under this Lease, effective as of the start of Lease Year 4. Any amount of the Landlord's Initial Work Cap remaining after such conversion will be deemed forfeited by Tenant.

(j) Notwithstanding anything to the contrary in this Lease, if it is determined, pursuant to the Construction Contract, that Landlord's Initial Work will cost more than Landlord's Initial Work Cap, then, within two (2) Business Days following such determination, Tenant will pay to Landlord an amount equal to the difference between the amount set forth in the Construction Contract and the amount of the Landlord's Initial Work Cap (the "Tenant Contribution").

(k) Landlord, at its sole cost and expense, shall perform the work described on Exhibit D, attached hereto and made a part hereof (the "Landlord's Base Building Work"). The Landlord's Base Building Work shall be performed using Building standard materials. Landlord's Base Building Work shall be performed by Landlord only once, it being understood that Landlord's obligation to perform Landlord's Base Building Work is a single, non-recurring obligation. Landlord's Base Building Work will be performed in accordance with all Laws applicable to the Premises.

(l) Except as otherwise expressly provided herein, the parties acknowledge and agree that there shall be no postponement of Rent for any delay by Landlord in the performance of the Landlord's Work, Landlord shall not be liable for any damages thereby, this Lease shall not be void or voidable thereby, and the Initial Term shall not be affected.

(m) The Premises shall be deemed delivered to Tenant on the date when Landlord has Substantially Completed the Landlord's Work. In the event Landlord is delayed in Substantially Completing the Landlord's Work as the result of Tenant Delay, then the Commencement Date will occur on the date on which Landlord would have Substantially Completed the Landlord's Work had such delay not occurred. Notwithstanding anything to the contrary contained herein, if Substantial Completion of the Landlord's Work is delayed on account of (i) the failure of Tenant to submit Proposed Construction Drawings to Landlord on or prior to the Proposed Construction Drawings Deadline, (ii) the failure to have approved Final Plans on or prior to the date which is twenty (20) days following the Proposed Construction Drawings Deadline (the "Final Plans Deadline"), to the extent such failure is not attributable to Landlord's failure to timely respond to submission and resubmissions of Proposed Construction

Drawings, (iii) the failure of Tenant to cooperate with Landlord in connection with the filing of the Final Plans with the DOB, (iv) the failure of Tenant to pay to Landlord the Tenant's Contribution within the required time period, (v) the violation of this Lease by Tenant, (vi) any change, additional work or work stoppage requested by Tenant after the Final Plans Deadline, as the case may be, and agreed to by Landlord, (vii) any changes requested by Tenant to the Final Plans and agreed to by Landlord, (viii) any Long-Lead Item(s) (as hereinafter defined) which are part of Landlord's Initial Work, (ix) the failure by Tenant to respond within the time period as hereinabove provide when a response by Tenant is requested by Landlord in connection with the performance of the Landlord's Work (provided, however, if no specific time period is mentioned, the requisite time period for Tenant to respond is twenty-four (24) hours after notice from Landlord), (x) any interference with construction of the Landlord's Work due to Tenant's entry into the Premises prior to the Substantial Completion of the Landlord's Work (other than entry to inspect the progress of Landlord's Initial Work at a time agreeable to Landlord), or (xi) value engineering of the Landlord's Initial Work by Tenant, then any such delay shall constitute a "Tenant Delay", and the Commencement Date shall be deemed to have occurred when it would otherwise have occurred but for any such Tenant Delay. The term "Long-Lead Item(s)" means any item which is not a stock item and must be specially manufactured, fabricated or installed or of such an unusual, delicate or fragile nature that is a risk that (aa) there will be a delay in its manufacture, fabrication, delivery or installation or (bb) after delivery, such items will need to be reshipped, or redelivered or repaired). If Landlord becomes aware of any matter that may constitute a Tenant Delay, such matter shall not constitute a Tenant Delay for any period of time prior to one (1) day preceding Landlord's notifying Tenant of such matter, provided no such notice shall be required or given for any matter specified herein that becomes a Tenant Delay after the lapse of a specified time period assigned to it herein.

(n) The Landlord's Initial Work and the Landlord's Base Building Work is referred to, collectively, as the "Landlord's Work."

(o) Subject to Landlord's approval (which approval will not be unreasonably withheld), Tenant, at its sole cost and expense, shall have the right to install identification signage on the main entry door of the Premises and in the elevator lobby of the floor in which the Premises are located.

(p) Notwithstanding anything to the contrary in this Lease, all notices required or permitted to be given under the Lease which relate to the Landlord's Work shall be given by email only, as follows:

If to Landlord: Andrew J. Cunningham
acunningham@ngkf.com

If to Tenant: Vittorio.verdun@percassi.com

with a copy to:

Michel Fiechter
MFiechter@TPGArchitecture.com

or at such other email address as either party shall have theretofore given to the other by notice.

5. REPAIRS

(a) Landlord's obligation with respect to repair as part of Basic Services shall be limited to (i) the structural portions of the Building, (ii) the exterior walls of the Building, including, without limitation, glass and glazing, (iii) the roof, (iv) Building Systems (except for any lavatory, shower, toilet, wash basin and kitchen facilities in and exclusively serving the Premises, from the point of connection to the main trunk system and except for the AC System (as hereinafter defined), and (v) Common Areas. Landlord shall not be deemed to have breached any obligation with respect to the condition of any part of the Project unless Tenant has given to Landlord written notice of any required repair and Landlord has not made such repair within a reasonable time following the receipt by Landlord of such notice. The foregoing notwithstanding: (i) Landlord shall not be required to repair damage to any of the foregoing to the extent caused by the acts or omissions of Tenant or its agents, employees or contractors, except to the extent covered by insurance carried by Landlord; and (ii) the obligations of Landlord pertaining to damage or destruction by casualty shall be governed by the provisions of Paragraph 9. Landlord shall have the right but not the obligation to undertake work or repair that Tenant is required to perform under this Lease and that Tenant fails or refuses to perform in a timely and efficient manner. Except as expressly provided in Paragraph 9 of this Lease, there shall be no abatement of Rent and no liability of Landlord by reason of any injury to or interference with Tenant's business arising from the making of any repairs, alterations or improvements in or to any portion of the Premises, the Building or the Project. Tenant waives the right to make repairs at Landlord's expense under any law, statute or ordinance now or hereafter in effect.

(b) Tenant, at its expense, (i) shall keep the Premises and all fixtures contained therein (including, without limitation, all fixtures or appurtenances for distributing Building services within the Premises) in a safe, clean and neat condition, and (ii) shall bear the cost of maintenance and repair, by contractors selected by Landlord, of all facilities which are not expressly required to be maintained or repaired by Landlord and which serve the Premises from the main trunk system on the floor. Tenant shall make all repairs to the Premises not required to be made by Landlord under subparagraph (a) above with replacements of any materials to be made by use of materials of equal or better quality. Tenant shall do all decorating, remodeling, alteration and painting desired by Tenant during the Lease Term. Subject to Paragraph 8(e) of this Lease, Tenant shall pay for the cost of any repairs to the Premises, the Building or the Project made necessary by any negligence or willful misconduct of Tenant or any of its assignees, subtenants, employees or their respective agents, representatives, contractors, or other persons permitted in or invited to the Premises or the Project by Tenant. If Tenant fails to make such repairs or replacements within fifteen (15) days after written notice from Landlord, Landlord may at its option make such repairs or replacements, and Tenant shall within thirty (30) days of a written demand pay Landlord for the cost thereof, together with an administration fee equal to ten percent (10%) of such costs.

(c) Upon the expiration or earlier termination of this Lease, Tenant shall surrender the Premises in a safe, clean and neat condition, normal wear and tear excepted. In addition to the

restoration and removal obligations set forth in Paragraph 4(b) of this Lease, Tenant shall remove from the Premises all trade fixtures, furnishings and other personal property of Tenant and all external and visible computer and phone cabling and wiring installed by or on behalf of Tenant, shall repair all damage caused by such removal, and shall restore the Premises to its original condition, with respect to areas where Tenant installed Removable Alterations, reasonable wear and tear excepted. In addition to all other rights Landlord may have, in the event Tenant does not so remove any such fixtures, furnishings or personal property, Tenant shall be deemed to have abandoned the same, in which case Landlord may store or dispose of the same at Tenant's expense, appropriate the same for itself, and/or sell the same in its discretion.

6. USE OF PREMISES

(a) Tenant shall use the Premises only for general administrative and executive office use and shall not use the Premises or permit the Premises to be used for any other purpose. Landlord shall have the right to deny its consent to any change in the permitted use of the Premises in its sole and absolute discretion.

(b) Tenant shall not at any time use or occupy the Premises, or permit any act or omission in or about the Premises in violation of any law, statute, ordinance or any governmental rule, regulation or order now existing or hereinafter enacted (collectively, "Law" or "Laws") and Tenant shall, upon written notice from Landlord, discontinue any use of the Premises which is declared by any governmental authority to be a violation of Law. If any Law shall, by reason of the nature of Tenant's specific use or occupancy of the Premises (as opposed to merely standard office use), impose any duty upon Tenant or Landlord with respect to (i) modification or other maintenance of the Premises, the Building or the Project, or (ii) the use, Alteration or occupancy thereof, Tenant shall comply with such Law at Tenant's sole cost and expense. This Lease shall be subject to and Tenant shall comply with all financing documents encumbering the Building or the Project and all covenants, conditions and restrictions affecting the Premises, the Building or the Project (provided same do not prevent the use of the Premises for the use provided for herein), including, but not limited to, Tenant's execution of any subordination agreements requested by a mortgagee (which for purposes of this Lease includes any lender or grantee under a deed of trust) of the Premises, the Building or the Project.

(c) Tenant shall not at any time use or occupy the Premises in violation of the certificates of occupancy issued for or restrictive covenants pertaining to the Building or the Premises (provided, however, subject to Paragraph 19(i) hereof, with respect to restrictive covenants, only to the extent Landlord has notified Tenant of such restrictive covenants pertaining to the Building or the Premises), and in the event that any architectural control committee or department of the state or the city or county in which the Project is located shall at any time contend or declare that the Premises are used or occupied in violation of such certificate or certificates of occupancy or restrictive covenants, Tenant shall, upon five (5) days' notice from Landlord or any such governmental agency, immediately discontinue such use of the Premises (and otherwise remedy such violation). The failure by Tenant to discontinue such use shall be considered a default under this Lease and Landlord shall have the right to exercise any and all rights and remedies provided herein or by Law. Any statement in this Lease of the nature of the business to be conducted by Tenant in the Premises shall not be deemed or construed to constitute a representation or guaranty by Landlord that such business is or will continue to be

lawful or permissible under any certificate of occupancy issued for the Building or the Premises, or otherwise permitted by Law.

(d) Tenant shall not do or permit to be done anything which may invalidate or increase the cost of any fire, All Risk, Causes of Loss - Special Form or other insurance policy covering the Building, the Project and/or property located therein and shall comply with all rules, orders, regulations and requirements of the appropriate fire codes and ordinances or any other organization performing a similar function, provided, however, Tenant will not be required to undertake any structural Alterations unless due to or resulting from the nature of Tenant's specific use or occupancy of the Premises (as opposed to merely standard office use). In addition to all other remedies of Landlord, Landlord may require Tenant, promptly upon demand, to reimburse Landlord for the full amount of any additional premiums charged for such policy or policies by reason of Tenant's failure to comply with the provisions of this Paragraph 6.

(e) Tenant shall not in any way interfere with the rights or quiet enjoyment of other tenants or occupants of the Premises, the Building or the Project. Tenant shall not use or allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose, nor shall Tenant cause, maintain, or permit any nuisance in, on or about the Premises, the Building or the Project. Tenant shall not place weight upon any portion of the Premises exceeding the structural floor load (per square foot of area) which such area was designated (and is permitted by Law) to carry or otherwise use any Building system in excess of its capacity or in any other manner which may damage such system or the Building. Tenant shall not create within the Premises a working environment with a density of greater than the maximum density permitted by Law. Business machines and mechanical equipment shall be placed and maintained by Tenant, at Tenant's expense, in locations and in settings sufficient in Landlord's reasonable judgment to absorb and prevent vibration, noise and annoyance. Tenant shall not commit or suffer to be committed any waste in, on, upon or about the Premises, the Building or the Project.

(f) Subject to the terms of this Lease, Tenant shall keep and maintain any and all security devices in or on the Premises in good working order, including, but not limited to, exterior door locks for the Premises and smoke detectors and burglar alarms located within the Premises and shall cooperate with Landlord and other tenants in the Project with respect to access control and other safety matters.

(g) As used herein, the term "Hazardous Material" means any (a) oil or any other petroleum-based substance, flammable substances, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other wastes, materials or pollutants which (i) pose a hazard to the Project or to persons on or about the Project or (ii) cause the Project to be in violation of any Laws; (b) asbestos in any form, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing levels of polychlorinated biphenyls, or radon gas; (c) chemical, material or substance defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "extremely hazardous waste", "restricted hazardous waste", or "toxic substances" or words of similar import under any applicable local, state or federal law or under the regulations adopted or publications promulgated pursuant thereto, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, et seq.; the Hazardous Materials Transportation Act, as amended, 49 U.S.C. §1801, et

seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. §1251, et seq.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §6901, et seq.; the Safe Drinking Water Act, as amended, 42 U.S.C. §300, et seq.; the Toxic Substances Control Act, as amended, 15 U.S.C. §2601, et seq.; the Federal Hazardous Substances Control Act, as amended, 15 U.S.C. §1261, et seq.; and the Occupational Safety and Health Act, as amended, 29 U.S.C. §651, et seq.; (d) other chemical, material or substance, exposure to which is prohibited, limited or regulated by any governmental authority or may or could pose a hazard to the health and safety of the occupants of the Project or the owners and/or occupants of property adjacent to or surrounding the Project, or any other Person coming upon the Project or adjacent property; and (e) other chemicals, materials or substances which may or could pose a hazard to the environment. The term "Permitted Hazardous Materials" shall mean Hazardous Materials which are contained in ordinary office supplies of a type and in quantities typically used in the ordinary course of business within executive offices of similar size in the comparable office buildings, but only if and to the extent that such supplies are transported, stored and used in full compliance with all applicable Laws and otherwise in a safe and prudent manner. Hazardous Materials which are contained in ordinary office supplies but which are transported, stored and used in a manner which is not in full compliance with all applicable Laws or which is not in any respect safe and prudent shall not be deemed to be "Permitted Hazardous Materials" for the purposes of this Lease.

(i) Tenant, its assignees, subtenants, and their respective agents, servants, employees, representatives and contractors (collectively referred to herein as "Tenant Affiliates") shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises by Tenant or by Tenant Affiliates without the prior written consent of Landlord (which may be granted, conditioned or withheld in the sole discretion of Landlord), save and except only for Permitted Hazardous Materials, which Tenant or Tenant Affiliates may bring, store and use in reasonable quantities for their intended use in the Premises, but only in full compliance with all applicable Laws. On or before the expiration or earlier termination of this Lease, Tenant shall remove from the Premises all Hazardous Materials (including, without limitation, Permitted Hazardous Materials), regardless of whether such Hazardous Materials are present in concentrations which require removal under applicable Laws, except to the extent that such Hazardous Materials were present in the Premises as of the Commencement Date and were not brought onto the Premises by Tenant or Tenant Affiliates, and except for Hazardous Materials brought on the Premises by Landlord or other tenants, the removal of which shall be Landlord's responsibility.

(ii) Tenant agrees to indemnify, defend and hold Landlord and Landlord Indemnitees harmless for, from and against any and all claims, actions, administrative proceedings (including informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, liabilities, interest or losses, including reasonable attorneys' fees and expenses, court costs, consultant fees, and expert fees, together with all other costs and expenses of any kind or nature that arise during or after the Lease Term directly or indirectly from or in connection with the presence, suspected presence, or release of any Hazardous Material in or into the air, soil, surface water or groundwater at, on, about, under or within the Premises, or any portion thereof caused by Tenant or Tenant Affiliates.

(iii) In the event any investigation or monitoring of site conditions or any clean-up, containment, restoration, removal or other remedial work (collectively, the "Remedial Work") is required under any applicable Law, by any judicial order, or by any governmental entity as the result of operations or activities upon, or any use or occupancy of any portion of the Premises by Tenant or Tenant Affiliates, Landlord shall perform or cause to be performed the Remedial Work in compliance with such Law or order at Tenant's sole cost and expense. All Remedial Work shall be performed by one or more contractors, selected and approved by Landlord, and under the supervision of a consulting engineer, selected by Tenant and approved in advance in writing by Landlord. All costs and expenses of such Remedial Work shall be paid by Tenant, including, without limitation, the charges of such contractor(s), the consulting engineer, and Landlord's reasonable attorneys' fees and costs incurred in connection with monitoring or review of such Remedial Work.

(iv) Each of the covenants and agreements of Tenant set forth in this Paragraph 6(g) shall survive the expiration or earlier termination of this Lease.

7. UTILITIES AND SERVICES

(a) Landlord shall furnish, or cause to be furnished to the Premises, the utilities and services described in this Paragraph 7(a) (collectively the "Basic Services") during Business Hours except as expressly provided otherwise:

(i) Cold and hot water for lavatory and pantries, which shall be available 24 hours a day, 7 days a week;

(ii) Heat from October 15 to May 15;

(iii) Routine maintenance, repairs, structural and exterior maintenance (including, without limitation, exterior glass and glazing and cleaning of the exterior of the perimeter windows), painting and electric lighting service for all Common Areas of the Project in the manner and to the extent deemed by Landlord to be standard, subject to the limitation contained in Paragraph 5(a) above;

(iv) Public elevator service and a freight elevator serving the floors on which the Premises are situated, during hours designated by Landlord. During Tenant's initial move into the Premises, Landlord shall, at no cost to Tenant, provide Tenant with up to twelve (12) hours of non-exclusive use of the freight elevator outside of Business Hours for Tenant's initial move into the Premises. Subject to Force Majeure and emergencies, Tenant will have access to the Premises 24 hours a day, seven (7) days a week. In addition, subject to Force Majeure and emergencies, at least one (1) elevator will be available at all times.

(b) In the event Landlord is required to provide services in excess of the Basic Services (such services, the "Extra Services") Tenant shall pay Landlord the Landlord's Building standard cost of providing such additional services (or an amount equal to Landlord's reasonable estimate of such cost, if the actual cost is not readily ascertainable) together with an administration fee equal to fifteen percent (15%) of such cost, within ten (10) days following

presentation of an invoice therefore by Landlord to Tenant. The cost chargeable to Tenant for all extra services shall constitute Additional Rent.

(c) Tenant agrees to cooperate fully at all times with Landlord and to comply with all reasonable regulations and requirements which Landlord may from time to time prescribe for the use of the utilities and Basic Services described herein. Landlord shall not be liable to Tenant for the failure of any other tenant, or its assignees, subtenants, employees, or their respective invitees, licensees, agents or other representatives to comply with such regulations and requirements. The term "Business Hours" shall be deemed to be Monday through Friday from 8:00 A.M. to 6:00 P.M. and Saturday from 8:00 A.M. to 1:00 P.M., excepting Holidays. The term "Holidays" shall be deemed to mean and include New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day and those other holidays designated from time to time in the union contracts for Building employees. The term "Business Day" shall mean any day other than a Holiday, Saturday or Sunday.

(d) If Tenant requires utilities or services in quantities greater than or at times other than that generally furnished by Landlord as set forth above, Tenant shall pay to Landlord, upon receipt of a written statement therefor, Landlord's Building standard charge for such use. In the event that Tenant shall require additional electric current, water for use in the Premises and if, in Landlord's judgment, such excess requirements cannot be furnished unless additional risers, conduits, feeders, switchboards and/or appurtenances are installed in the Building, subject to the conditions stated below, Landlord shall proceed to install the same at the sole cost of Tenant, payable upon demand in advance. The installation of such facilities shall be conditioned upon Landlord's consent, and a determination that the installation and use thereof (i) shall be permitted by applicable Law and insurance regulations, (ii) shall not cause permanent damage or injury to the Building or adversely affect the value of the Building or the Project, and (iii) shall not cause or create a dangerous or hazardous condition or interfere with or disturb other tenants in the Building. In the case of any additional utilities or services to be provided hereunder, Landlord may require a switch and metering system to be installed so as to measure the amount of such additional utilities or services. Tenant agrees to pay the amount shown on such meters plus ten percent (10%). The cost of installation, maintenance and repair thereof shall be paid by Tenant upon demand. Notwithstanding the foregoing, Landlord shall have the right to contract with any utility provider it deems appropriate to provide utilities to the Project.

(e) Landlord shall not be liable for, and Tenant shall not be entitled to, any damages, abatement or reduction of Rent, or other liability by reason of any failure to furnish any services or utilities described herein for any reason, including, without limitation, when caused by accident, breakage, water leakage, flooding, repairs, Alterations or other improvements to the Project, strikes, lockouts or other labor disturbances or labor disputes of any character, governmental regulation, moratorium or other governmental action, inability to obtain electricity, water or fuel, or any other cause beyond Landlord's control. Landlord shall be entitled to cooperate with the energy conservation efforts of governmental agencies or utility suppliers. No such failure, stoppage or interruption of any such utility or service shall be construed as an eviction of Tenant, nor shall the same relieve Tenant from any obligation to perform any covenant or agreement under this Lease. In the event of any failure, stoppage or interruption thereof, Landlord shall use reasonable efforts to attempt to restore all services promptly. No representation is made by Landlord with respect to the adequacy or fitness of the Building's

ventilating, air conditioning or other systems to maintain temperatures as may be required for the operation of any computer, data processing or other special equipment of Tenant. Anything herein to the contrary notwithstanding, if there is a failure of Essential Services (hereinafter defined) for five (5) consecutive Business Days due solely to a matter within Landlord's reasonable control and such failure substantially prevents Tenant from using the Premises or a material portion thereof and Tenant is actually not using the Premises or such material portion thereof, Tenant, as its sole remedy, shall be entitled to an abatement of Base Rent commencing after the fifth (5th) consecutive Business Day (but excluding the fifth (5th) Business Day) from the date Tenant notifies Landlord of such failure for such material portions of the Premises that are in fact not being used by Tenant. The term "Essential Services" shall mean the heating system, electricity, plumbing, and elevator service. The aforesaid abatement shall be reduced by Tenant's business interruption insurance applicable to Rent for such period.

(f) Landlord reserves the right from time to time to make reasonable and nondiscriminatory modifications to the above standards for Basic Services and Extra Services.

(g) Tenant shall maintain in good order and repair the sprinkler, fire-alarm and life-safety system in the Premises in accordance with this Lease and all Laws.

(h) Tenant shall, at Tenant's expense, keep the Premises clean and in order, to the reasonable satisfaction of Landlord, and for that purpose shall employ the person or persons, or corporation reasonably approved by Landlord. All portions of the Premises used for the storage, preparations, service or consumption of food or beverages shall be cleaned daily and exterminated against infestation by vermin, roaches and rodents regularly and, in addition, whenever there shall be evidence of any infestation. In addition, Tenant will reimburse Landlord (within thirty (30) days following receipt of written notice from Landlord) for all costs and expenses incurred by Landlord in connection with the removal of Tenant's refuse and rubbish from the Premises and the Building. By 5:00 PM on Business Days, Tenant shall deposit such rubbish in a sealed receptacle in a location designated by Landlord and such deposit of the refuse and rubbish shall be subject to such rules and regulations, as in the judgment of Landlord, are necessary for the proper operation of the Building. Tenant shall at its sole cost and expense comply with any and all recycling rules and regulations as required by any municipal authority or applicable Laws.

(i) (A) As part of the Landlord's Work, Landlord will install a brand new twenty-five (25) ton Tenant controlled air-cooled air-conditioning unit for the Premises (the "AC Equipment"). Tenant shall be permitted to use the AC Equipment for supplying air-conditioning service to the Premises subject to and in accordance with this Lease. Tenant acknowledges and agrees that air-conditioning service to the Premises shall be supplied through equipment operated, maintained and repaired by Tenant and that Landlord has no obligation to operate, maintain or repair the said equipment or to supply air-conditioning service to the Premises. The AC Equipment and all other air conditioning systems, equipment and facilities hereafter located or servicing the Premises (the "Base Building Systems") including, without limitation, the ducts, dampers, registers, grilles and appurtenances utilized in connection with both the AC Equipment and the Base Building Systems (collectively hereinafter referred to as the "AC System"), shall be maintained, repaired, replaced and operated by Tenant in compliance with all present and future

Laws relating thereto at Tenant's sole cost and expense. Tenant shall pay Landlord for all electricity consumed in the operation of the AC System on a submetered basis in accordance with Paragraph 3(k) of this Lease. Tenant shall pay for all parts and supplies necessary for the proper operation of the AC System (and any restoration or replacement by Tenant of all or any part thereof shall be in quality and class at least equal to the original work or installations); provided, however, that Tenant shall not alter, modify, remove or replace the AC System, or any part thereof, without Landlord's prior written consent, which consent will not be unreasonably withheld, conditioned or delayed. Landlord will assign to Tenant any manufacturer's warranties associated with the AC Equipment.

(B) Without limiting the generality of the foregoing, Tenant shall, at its own cost and expense, (i) cause to be performed all maintenance of the AC System, including all repairs and replacements thereto, and (b) throughout the Lease Term, maintain in force and provide a copy of same to Landlord an air conditioning service repair and full service maintenance contract covering the AC System in form reasonably satisfactory to Landlord with an air conditioning contractor or servicing organization reasonably approved by Landlord. All such contracts shall provide for the thorough maintenance of the AC System at least once each year during the Lease Term and shall expressly state that (i) it shall be an automatically renewing contract terminable upon not less than thirty (30) days prior written notice to the Landlord and (ii) the contractor providing such service shall maintain a log at the Premises detailing the service provided during each visit pursuant to such contract. Tenant shall keep such log at the Premises and permit Landlord to review same promptly after Landlord's request. The AC System is and shall at all times remain the property of Landlord, and at the expiration or sooner termination of the Lease, Tenant shall surrender to Landlord the AC System in good working order and condition, subject to normal wear and tear and shall deliver to Landlord a copy of the service log. In the event that Tenant fails to obtain the contract required herein or perform any of the maintenance or repairs required hereunder, Landlord shall have the right, but not the obligation, to procure such contract and/or perform any such work and charge the Tenant as Additional Rent hereunder the cost of same plus an administrative fee equal to fifteen percent (15%) of such cost which shall be paid for by Tenant within thirty (30) days of demand. Notwithstanding anything to the contrary in this Lease, Landlord will, at Landlord's sole cost and expense, replace the compressor in the AC Equipment if replacement rather than repair is required by the maintenance company and the replacement is not caused by the negligent or willful act of Tenant or Tenant Affiliates.

(j) Landlord has informed Tenant that, at of the date hereof, Verizon, Cogent Communications, Broadview Networks and Time Warner Cable provide telecommunication services to the Building.

(k) Landlord shall maintain, repair and operate the Building in a manner consistent in all material respects with buildings in Midtown South of comparable age and quality, provided, however, this Paragraph 7(k) shall only apply in the event the landlord under this Lease is not TIAA (as hereinafter defined) or an entity related to or affiliated with TIAA.

8. NON-LIABILITY AND INDEMNIFICATION OF LANDLORD; INSURANCE

(a) To the greatest extent permitted by Law, Landlord shall not be liable for any injury, loss or damage suffered by Tenant or to any person or property occurring or incurred in or about the Premises, the Building or the Project from any cause. Without limiting the foregoing, neither Landlord nor any of its partners, officers, trustees, affiliates, directors, employees, contractors, agents or representatives (collectively, "Affiliates") shall be liable for and, except as otherwise expressly provided in this Lease, there shall be no abatement of Rent (except in the event of a casualty loss or a condemnation as set forth in Paragraph 9 and Paragraph 10 of this Lease) for (i) any damage to Tenant's property stored with or entrusted to Affiliates of Landlord, (ii) loss of or damage to any property by theft or any other wrongful or illegal act, or (iii) any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of the Building or the Project or from the pipes, appliances, appurtenances or plumbing works therein or from the roof, street or sub-surface or from any other place or resulting from dampness or any other cause whatsoever or from the acts or omissions of other tenants, occupants or other visitors to the Building or the Project or from any other cause whatsoever, (iv) any diminution or shutting off of light, air or view by any structure which may be erected on lands adjacent to the Building, whether within or outside of the Project, or (v) any latent or other defect in the Premises, the Building or the Project. Tenant shall give prompt notice to Landlord in the event of (i) the occurrence of a fire or accident in the Premises or in the Building, or (ii) the discovery of a defect therein or in the fixtures or equipment thereof. This Paragraph 8(a) shall survive the expiration or earlier termination of this Lease.

(b) Subject to Paragraph 8(e) hereof, to the greatest extent permitted by Law and except to the extent resulting from the gross negligence or willful misconduct of Landlord, Tenant hereby agrees to indemnify, protect, defend and hold harmless Landlord and its designated property management company, and their respective partners, members, affiliates and subsidiaries, and all of their respective officers, trustees, directors, shareholders, employees, servants, partners, representatives, insurers and agents (collectively, "Landlord Indemnitees") for, from and against all liabilities, claims, fines, penalties, costs, damages or injuries to persons, damages to property, losses, liens, causes of action, suits, judgments and reasonable expenses (including reasonable court costs, attorneys' fees, expert witness fees and costs of investigation), of any nature, kind or description of any person or entity, directly or indirectly arising out of, caused by, or resulting from (in whole or part) (1) Tenant's construction of, or use, occupancy or enjoyment of, the Premises, (2) any activity, work or other things done, permitted or suffered by Tenant and its agents and employees in or about the Premises, (3) any breach or default in the performance of any of Tenant's obligations under this Lease, (4) any act, omission, negligence or willful misconduct of Tenant or any of its agents, contractors, employees, business invitees or licensees, or (5) any damage to Tenant's property, or the property of Tenant's agents, employees, contractors, business invitees or licensees, located in or about the Premises (collectively, "Liabilities"). To the greatest extent permitted by Law and except to the extent resulting from the negligence or willful misconduct of Tenant, Landlord hereby agrees to indemnify, defend and hold Tenant harmless from and against any and all losses, liabilities, claims, damages or expenses (including, without limitation, reasonable attorneys' fees and costs), arising from or in connection with the gross negligence or willful misconduct of Landlord or its agents or employees. This Paragraph 8(b) shall survive the expiration or earlier termination of this Lease.

(c) Landlord shall promptly advise Tenant in writing of any action, administrative or legal proceeding or investigation as to which this indemnification may apply, and Tenant, at Tenant's expense, shall assume on behalf of Landlord and each and every Landlord Indemnatee and conduct with due diligence and in good faith the defense thereof with counsel reasonably satisfactory to Landlord; provided, however, that Landlord and each and every Landlord Indemnatee shall have the right, at its option, to be represented therein by advisory counsel of its own selection and at its own expense. In the event of failure by Tenant to fully perform in accordance with this Paragraph, Landlord and each and every Landlord Indemnatee, at its option, and without relieving Tenant of its obligations hereunder, may so perform, but all costs and expenses so incurred by Landlord and each and every Landlord Indemnatee in that event shall be reimbursed by Tenant to Landlord and each and every Landlord Indemnatee, as the case may be, together with interest on the same from the date any such expense was paid by Landlord and each and every Landlord Indemnatee, as the case may be, until reimbursed by Tenant, at the rate of interest provided to be paid on judgments, by the law of the jurisdiction to which the interpretation of this Lease is subject. The indemnification provided in Paragraph 8(b) shall not be limited to damages, compensation or benefits payable under insurance policies, workers' compensation acts, disability benefit acts or other employees' benefit acts.

(d) Insurance.

(i) Tenant at all times during the Lease Term shall, at its own expense, keep in full force and effect (A) commercial general liability insurance providing coverage against bodily injury and disease, including death resulting therefrom and property damage to a combined single limit of \$1,000,000 to one or more than one person as the result of any one accident or occurrence, which shall include provision for contractual liability coverage insuring Tenant for the performance of its indemnity obligations set forth in this Paragraph 8 and in Paragraph 6(g)(ii) of this Lease, with an Excess Limits (Umbrella) Policy in the amount of \$5,000,000, (B) worker's compensation insurance and Occupancy Disease Coverage to the statutory limit, if any, and employer's liability insurance to the limit of \$500,000 per occurrence, and (C) All Risk or Causes of Loss - Special Form property insurance, including fire and extended coverage, sprinkler leakage, vandalism, malicious mischief, wind and/or hurricane coverage, covering full replacement value of all of Tenant's personal property, trade fixtures and improvements in the Premises. Landlord, its mortgagee, its designated property management firm, its subsidiaries and Teachers Insurance and Annuity Association of America ("TIAA") shall be named as additional insureds on the said policies described in clause (A) above and shall be named as loss payee as to the policies described in clause (C) above and each of the policies provided above in clauses (A) through (C) shall be issued by an insurance company or companies authorized to do business in the State and which have policyholder ratings not lower than "A-" and financial ratings not lower than "VII" in Best's Insurance Guide (latest edition in effect as of the Effective Date and subsequently in effect as of the date of renewal of the required policies). EACH OF SAID POLICIES SHALL ALSO INCLUDE A WAIVER OF SUBROGATION PROVISION OR ENDORSEMENT IN FAVOR OF LANDLORD, ITS MORTGAGEE, ITS DESIGNATED PROPERTY MANAGEMENT FIRM, ITS SUBSIDIARIES AND TIAA, AND AN ENDORSEMENT PROVIDING THAT LANDLORD SHALL RECEIVE THIRTY (30) DAYS PRIOR WRITTEN NOTICE OF ANY

CANCELLATION OF, NONRENEWAL OF, REDUCTION OF COVERAGE OR MATERIAL CHANGE IN COVERAGE ON SAID POLICIES. Tenant hereby waives its right of recovery against Landlord and each and every Landlord Indemnitee of any amounts paid by Tenant or on Tenant's behalf to satisfy applicable worker's compensation laws. The policies or duly executed certificates showing the material terms for the same, together with satisfactory evidence of the payment of the premiums therefor, shall be deposited with Landlord on or before the Commencement Date and upon renewals of such policies not less than fifteen (15) days prior to the expiration of the term of such coverage. If certificates are supplied rather than the policies themselves, Tenant shall allow Landlord, at all reasonable times, to inspect the policies of insurance required herein.

(ii) It is expressly understood and agreed that the coverages required represent Landlord's minimum requirements and such are not to be construed to void or limit Tenant's obligations contained in this Lease, including without limitation Tenant's indemnity obligations hereunder. Neither shall (A) the insolvency, bankruptcy or failure of any insurance company carrying Tenant, (B) the failure of any insurance company to pay claims occurring nor (C) any exclusion from or insufficiency of coverage be held to affect, negate or waive any of Tenant's indemnity obligations under this Paragraph 8 and Paragraph 6(g)(ii) or any other provision of this Lease. With respect to insurance coverages, except worker's compensation, maintained hereunder by Tenant and insurance coverages separately obtained by Landlord, all insurance coverages afforded by policies of insurance maintained by Tenant shall be primary insurance as such coverages apply to Landlord, and such insurance coverages separately maintained by Landlord shall be excess, and Tenant shall have its insurance policies so endorsed. The amount of liability insurance under insurance policies maintained by Tenant shall not be reduced by the existence of insurance coverage under policies separately maintained by Landlord. Tenant shall be solely responsible for any premiums, assessments, penalties, deductible assumptions, retentions, audits, retrospective adjustments or any other kind of payment due under its policies. Tenant shall increase the amounts of insurance or the insurance coverages as Landlord may reasonably request from time to time, but not in excess of the requirements of prudent landlords or lenders for similar tenants occupying similar premises in midtown Manhattan.

(iii) Tenant's occupancy of the Premises without delivering the certificates of insurance shall not constitute a waiver of Tenant's obligations to provide the required coverages. If Tenant provides to Landlord a certificate that does not evidence the coverages required herein, or that is faulty in any respect, such shall not constitute a waiver of Tenant's obligations to provide the proper insurance.

(iv) Throughout the Lease Term, Landlord agrees to maintain (i) fire and extended coverage insurance, and, at Landlord's option, earthquake damage coverage, terrorism coverage, wind and hurricane coverage, and such additional property insurance coverage as Landlord deems appropriate, on the insurable portions of Building and the remainder of the Project in an amount not less than the fair replacement value thereof, subject to reasonable deductibles (ii) boiler and machinery insurance amounts and with deductibles that would be considered standard for similar class office building in the

metropolitan area in which the Premises is located, and (iii) commercial general liability insurance with a combined single limit coverage of at least \$1,000,000.00 per occurrence. All such insurance shall be obtained from insurers Landlord reasonably believes to be financially responsible in light of the risks being insured.

(v) If, by reason of any failure of Tenant to comply with the provisions of this Lease, the rate of fire, boiler, sprinkler, water damage or other insurance (with extended coverage) on the Building or on the property and equipment of Landlord or any other tenant or subtenant in the Building shall be higher than it otherwise would be, Tenant shall reimburse Landlord and the other tenants in the Building for that part of the fire, boiler, sprinkler, water damage or other insurance premiums thereafter paid by Landlord which shall have been charged because of such failure by Tenant and Tenant shall make the reimbursement on the first day of the month following such payment by Landlord. If Tenant shall fail to make such reimbursement when billed for the same, Landlord may treat the same as a default in the payment of rental and shall also be entitled to interest on the unpaid sum at the then Default Rate until such sum shall be fully paid to Landlord. In any action or proceeding wherein Landlord and Tenant are parties, a schedule or "make up" of rates for the Building or Premises issued by the New York Fire Insurance Exchange or other body making fire insurance rates for the Premises, shall be conclusive evidence of the facts therein stated and of the several items and charges in the fire insurance rate then applicable to said Building or Premises.

(e) Mutual Waivers of Recovery. Landlord, Tenant, and all parties claiming under them, each mutually release and discharge each other from responsibility for that portion of any loss or damage paid or reimbursed by an insurer of Landlord or Tenant under any fire, extended coverage or other property insurance policy maintained by Tenant with respect to its Premises or by Landlord with respect to the Building or the Project (or which would have been paid had the insurance required to be maintained hereunder been in full force and effect), no matter how caused, including negligence, and each waives any right of recovery from the other including, but not limited to, claims for contribution or indemnity, which might otherwise exist on account thereof. Any fire, extended coverage or property insurance policy maintained by Tenant with respect to the Premises, or Landlord with respect to the Building or the Project, shall contain, in the case of Tenant's policies, a waiver of subrogation provision or endorsement in favor of Landlord, and in the case of Landlord's policies, a waiver of subrogation provision or endorsement in favor of Tenant, or, in the event that such insurers cannot or shall not include or attach such waiver of subrogation provision or endorsement, Tenant and Landlord shall obtain the approval and consent of their respective insurers, in writing, to the terms of this Lease. The mutual releases, discharges and waivers contained in this provision shall apply EVEN IF THE LOSS OR DAMAGE TO WHICH THIS PROVISION APPLIES IS CAUSED SOLELY OR IN PART BY THE NEGLIGENCE OF LANDLORD OR TENANT.

(f) Business Interruption. Landlord shall not be responsible for, and Tenant releases and discharges Landlord from, and Tenant further waives any right of recovery from Landlord for, any loss for or from business interruption or loss of use of the Premises suffered by Tenant in connection with Tenant's use or occupancy of the Premises, EVEN IF SUCH LOSS IS CAUSED SOLELY OR IN PART BY THE NEGLIGENCE OF LANDLORD.

(g) Adjustment of Claims. Tenant shall cooperate with Landlord and Landlord's insurers in the adjustment of any insurance claim pertaining to the Building or the Project or Landlord's use thereof.

(h) Increase in Landlord's Insurance Costs. Tenant agrees to pay to Landlord any increase in premiums for Landlord's insurance policies resulting from Tenant's use or occupancy of the Premises, provided, however, Tenant use of the premises for general office use will not result in any increase in such premiums.

(i) Failure to Maintain Insurance. Any failure of Tenant to obtain and maintain the insurance policies and coverages required hereunder or failure by Tenant to meet any of the insurance requirements of this Lease shall constitute an event of default hereunder, and such failure shall entitle Landlord to pursue, exercise or obtain any of the remedies provided for in Paragraph 12, and Tenant shall be solely responsible for any loss suffered by Landlord as a result of such failure. In the event of failure by Tenant to maintain the insurance policies and coverages required by this Lease or to meet any of the insurance requirements of this Lease, Landlord, at its option, and without relieving Tenant of its obligations hereunder, may obtain upon notice and the expiration of five (5) day cure period said insurance policies and coverages or perform any other insurance obligation of Tenant, but all costs and expenses incurred by Landlord in obtaining such insurance or performing Tenant's insurance obligations shall be reimbursed by Tenant to Landlord, together with interest on same from the date any such cost or expense was paid by Landlord until reimbursed by Tenant, at the rate of interest provided to be paid on judgments, by the law of the jurisdiction to which the interpretation of this Lease is subject.

9. FIRE OR CASUALTY

(a) Subject to the provisions of this Paragraph 9, in the event the Premises, or access thereto, is wholly or partially destroyed by fire or other casualty, Landlord shall (to the extent permitted by Law and covenants, conditions and restrictions then applicable to the Project) rebuild, repair or restore the base building and the base building systems serving the Premises to substantially the condition existing prior to such fire or other casualty (excluding Tenant's Alterations, trade fixtures, equipment and personal property, which Tenant shall be required to restore) and this Lease shall continue in full force and effect. Notwithstanding the foregoing, (i) Landlord's obligation to rebuild, repair or restore the Premises shall not apply to Tenant's Alterations, trade fixtures, any personal property, equipment or other items installed or contained in the Premises, and (ii) Landlord shall have no obligation whatsoever to rebuild, repair or restore the Premises with respect to any damage or destruction occurring during the last twelve (12) months of the term of this Lease.

(b) Landlord may elect to terminate this Lease in any of the following cases of damage or destruction to the Premises, the Building or the Project: (i) where the cost of rebuilding, repairing and restoring (collectively, "Restoration") of the Building or the Project, would, regardless of the lack of damage to the Premises or access thereto, in the reasonable opinion of Landlord, exceed twenty percent (20%) of the then replacement cost of the Building; (ii) where, in the case of any damage or destruction to any portion of the Building or the Project

by uninsured casualty, the cost of Restoration of the Building or the Project, in the reasonable opinion of Landlord, exceeds \$500,000; or (iii) where, in the case of any damage or destruction to the Premises or access thereto by uninsured casualty, the cost of Restoration of the Premises or access thereto, in the reasonable opinion of Landlord, exceeds twenty percent (20%) of the replacement cost of the Premises; or (iv) if Landlord has not obtained appropriate zoning approvals for reconstruction of the Project, Building or Premises. Any such termination shall be made by thirty (30) days' prior written notice to Tenant given within one hundred twenty (120) days of the date of such damage or destruction. Landlord shall notify Tenant in writing within ninety (90) days after the casualty stating its best estimate of how long the restoration of the Premises will take. If (i) Landlord notifies Tenant within such period that the Premises cannot be fully restored to the condition to which they are required to be restored by Landlord within three hundred sixty five (365) days, or (ii) within three hundred sixty five (365) days after the casualty (as such period may be extended for delays attributable to Tenant or Force Majeure), the Premises have not been fully restored to the condition to which they are required to be restored by Landlord, then, in any of such cases, Tenant may, at its option and as its sole and exclusive remedy, cancel this Lease by providing written notice to Landlord (the "Tenant's Casualty Termination Notice") within thirty (30) days following receipt of Landlord's notice if clause (i) is applicable, or within thirty (30) days following the expiration of the three hundred sixty five (365) day period (as such period may be extended for delays attributable to Tenant or Force Majeure) if clause (ii) is applicable. Thereafter, this Lease will be deemed canceled as of the date that is thirty (30) days following the delivery of the Tenant's Casualty Termination Notice and the Rent shall continue to be apportioned according to the affected portion that Tenant is not actually occupying until the effective date of cancellation, and shall cease with respect to the period of time following such effective date. If this Lease is not terminated by Landlord and as the result of any damage or destruction, the Premises, or a portion thereof, are rendered untenantable, the Base Rent shall abate (based upon the extent to which such damage and Restoration materially interfere with Tenant's business in the Premises) during the period commencing on the date of such fire or casualty and ending on the date that is earliest to occur of (x) the date Tenant is first able to use the Premises for the conduct of its business, (y) the date that Tenant should have been first able to use the Premises for the conduct of its business, if Tenant had exercised commercially reasonable diligence in performing those repairs, restoration or rebuilding which were required to be performed by Tenant in order to so use the Premises, or (iii) the date immediately following the three (3) month anniversary of the date that the Landlord Substantially Completed its restoration obligations. This Lease shall be considered an express agreement governing any case of damage to or destruction of the Premises, the Building or the Project. This Lease sets forth the terms and conditions upon which this Lease may terminate in the event of any damage or destruction. Landlords' Restoration work be will be performed in accordance with all Laws applicable to the Premises.

(c) In the event the fire or other casualty occurs during the last twelve (12) months of the Lease Term and the Premises are substantially damaged, then, in such event, Tenant may, at its option and as its sole and exclusive remedy, cancel this Lease by providing written notice to Landlord (the "Tenant's Casualty Termination Notice") within thirty (30) days following the date of the casualty. Thereafter, this Lease will be deemed canceled as of the date that is thirty (30) days following the delivery of the Tenant's Casualty Termination Notice and the Rent shall be apportioned according to the affected portion that Tenant is not actually occupying until the

effective date of cancellation, and shall cease with respect to the period of time following such effective date.

(d) This Paragraph 9 constitutes an express agreement governing any case of damage or destruction of the Premises or the Building by fire or other casualty, and Section 227 of the Real Property Law of the State of New York, which provides for such contingency in the absence of an express agreement, and any other law of like nature and purpose now or hereafter in force shall have no application in any such case.

10. EMINENT DOMAIN

In the event the whole of the Premises, the Building or the Project shall be taken under the power of eminent domain, or sold to prevent the exercise thereof (collectively, a "Taking"), this Lease shall automatically terminate as of the date of such Taking. In the event a Taking of a portion of the Project, the Building or the Premises shall, in the reasonable opinion of Landlord, substantially interfere with Landlord's operation thereof, Landlord may terminate this Lease upon thirty (30) days' written notice to Tenant given at any time within sixty (60) days following the date of such Taking. For purposes of this Lease, the date of Taking shall be the earlier of the date of transfer of title resulting from such Taking or the date of transfer of possession resulting from such Taking. In the event that a portion of the Premises is so taken and this Lease is not terminated, Landlord shall, to the extent of proceeds paid to Landlord as a result of the Taking, with reasonable diligence, use commercially reasonable efforts to proceed to restore (to the extent permitted by Law and covenants, conditions and restrictions then applicable to the Project) the Premises (other than Tenant's personal property and fixtures, and above-standard tenant improvements) to a complete, functioning unit. In such case, the Base Rent shall be reduced proportionately based on the portion of the Premises so taken. If all or any portion of the Premises is the subject of a temporary Taking, this Lease shall remain in full force and effect and Tenant shall continue to perform each of its obligations under this Lease; in such case, Tenant shall be entitled to receive the entire award allocable to the temporary Taking of the Premises. Except as provided herein, Tenant shall not assert any claim against Landlord or the condemning authority for, and hereby assigns to Landlord, any compensation in connection with any such Taking, and Landlord shall be entitled to receive the entire amount of any award therefor, without deduction for any estate or interest of Tenant. Nothing contained in this Paragraph 10 shall be deemed to give Landlord any interest in, or prevent Tenant from seeking any award against the condemning authority for the Taking of personal property, fixtures, above standard tenant improvements of Tenant or for relocation or moving expenses recoverable by Tenant from the condemning authority. This Paragraph 10 shall be Tenant's sole and exclusive remedy in the event of a Taking. This Lease sets forth the terms and conditions upon which this Lease may terminate in the event of a Taking.

11. ASSIGNMENT AND SUBLETTING

(a) Tenant shall not directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, assign, sublet, mortgage or otherwise encumber all or any portion of its interest in this Lease or in the Premises or grant any license for any person other than Tenant or its employees to use or occupy the Premises or any part thereof without obtaining the prior written consent of Landlord, which may be withheld in Landlord's sole and absolute discretion. Partial

subleasing is not permitted under this Lease. Any such attempted assignment, subletting, license, mortgage, other encumbrance or other use or occupancy without the consent of Landlord shall, at Landlord's option, be null and void and of no effect. Any mortgage, or encumbrance of all or any portion of Tenant's interest in this Lease or in the Premises and any grant of a license for any person other than Tenant or its employees to use or occupy the Premises or any part thereof shall be deemed to be an "assignment" of this Lease. In addition, as used in this Paragraph 11, the term "Tenant" shall also mean any entity that has guaranteed Tenant's obligations under this Lease, and the restrictions applicable to Tenant contained herein shall also be applicable to such guarantor.

(b) No assignment or subletting shall relieve Tenant of its obligation to pay the Rent and to perform all of the other obligations to be performed by Tenant hereunder. The acceptance of Rent by Landlord from any other person shall not be deemed to be a waiver by Landlord of any provision of this Lease or to be a consent to any subletting or assignment. Consent by Landlord to one subletting or assignment shall not be deemed to constitute a consent to any other or subsequent attempted subletting or assignment. If Tenant desires at any time to assign this Lease or to sublet the Premises, it shall first notify Landlord of its desire to do so and shall submit in writing to Landlord all pertinent information relating to the proposed assignee or sublessee, all pertinent information relating to the proposed assignment or sublease, and all such financial information as Landlord may reasonably request concerning the Tenant and proposed assignee or subtenant, and all such other information as Landlord may reasonably request concerning the Tenant and the proposed assignee or subtenant. Any assignment or sublease shall be expressly subject to the terms and conditions of this Lease.

(c) At any time within thirty (30) days after Landlord's receipt of the information specified in subparagraph (b) above, Landlord may by written notice to Tenant elect to terminate this Lease in its entirety, provided, however, if Tenant proposes to sublease only a portion of the Premises, then Landlord will have the right to terminate the Lease only with respect to the portion of the Premises proposed to be subleased. In the event Landlord recaptures a portion of the Premises, Landlord, at Tenant's sole cost and expense, will do all the work necessary to erect a demising wall between the portion of the Premises so recaptured by Landlord and the balance of the Premises retained by Tenant and all other work necessary to make the recaptured space a self-contained rental unit and install any required Building corridors, restrooms, elevator lobbies, etc.

(d) If any Tenant is a corporation, partnership or other entity that is not publicly traded on a recognized national stock exchange, any transaction or series of related or unrelated transactions (including, without limitation, any dissolution, merger, consolidation or other reorganization, any withdrawal or admission of a partner or change in a partner's interest, or any issuance, sale, gift, transfer or redemption of any capital stock of or ownership interest in such entity, whether voluntary, involuntary or by operation of law, or any combination of any of the foregoing transactions) resulting in the transfer of control of such Tenant, shall be deemed to be an assignment of this Lease subject to the provisions of this Paragraph 11. The term "control" as used in this Paragraph 11(d) means the power to directly or indirectly direct or cause the direction of the management or policies of Tenant. Any transfer of control of a subtenant which is a corporation or other entity shall be deemed an assignment of any sublease. Notwithstanding anything to the contrary in this Paragraph 11(d), if the original Tenant under this Lease is a

corporation, partnership or other entity, a change or series of changes in ownership of stock or other ownership interests which would result in direct or indirect change in ownership of less than fifty percent (50%) of the outstanding stock of or other ownership interests in such Tenant as of the date of the execution and delivery of this Lease shall not be considered a change of control.

(e) Notwithstanding any assignment or subletting, Tenant and any guarantor or surety of Tenant's obligations under this Lease shall at all times during the Lease Term and any subsequent renewals or extensions remain fully responsible and liable for the payment of the Rent and for compliance with all of Tenant's other obligations under this Lease.

(f) If this Lease is assigned or if the Premises is subleased, or in the event of the mortgage or pledge of Tenant's leasehold interest, or grant of any concession or license within the Premises, or if the Premises are occupied by anyone other than Tenant, then upon a default by Tenant hereunder beyond the expiration of any applicable notice and cure period Landlord may collect Rent from the assignee, sublessee, mortgagee, pledgee, concessionee or licensee or other occupant and, except to the extent set forth in the preceding paragraph, apply the amount collected to the next Rent payable hereunder; and all such Rent collected by Tenant shall be held in deposit for Landlord and immediately forwarded to Landlord. No such transaction or collection of Rent or application thereof by Landlord, however, shall be deemed a waiver of these provisions or a release of Tenant from the further performance by Tenant of its covenants, duties, or obligations hereunder.

(g) If Tenant effects an assignment or sublease or requests the consent of Landlord to any proposed assignment or sublease, then Tenant shall, upon demand, pay Landlord for all actual reasonable out-of-pocket attorneys' and paralegal fees and costs incurred by Landlord in connection with such assignment or sublease or request for consent, not to exceed \$5,000. Acceptance of the reimbursement of Landlord's attorneys' and paralegal fees shall in no event obligate Landlord to consent to any proposed assignment or sublease.

(h) Notwithstanding any provision of this Lease to the contrary, in the event this Lease is assigned to any person or entity pursuant to the provisions of the Bankruptcy Code, any and all monies or other consideration payable or otherwise to be delivered in connection with such assignment shall be paid or delivered to Landlord, shall be and remain the exclusive property of Landlord and shall not constitute the property of Tenant or Tenant's estate within the meaning of the Bankruptcy Code. All such money and other consideration not paid or delivered to Landlord shall be held in trust for the benefit of Landlord and shall be promptly paid or delivered to Landlord.

(i) The joint and several liability of the Tenant named herein and any immediate and remote successor-in-interest of Tenant (by assignment or otherwise), and the due performance of the obligations of this Lease on Tenant's part to be performed or observed, shall not in any way be discharged, released or impaired by any (a) agreement that modifies any of the rights or obligations of the parties under this Lease, provided, however, the liability of the Tenant named herein shall not exceed the liability contemplated by the terms of this Lease, (b) stipulation that extends the time within which an obligation under this Lease is to be performed, (c) waiver of the

performance of an obligation required under this Lease, or (d) failure to enforce any of the obligations set forth in this Lease.

(j) If Tenant is any form of partnership, a withdrawal or change, voluntary, involuntary or by operation of law of any partner, or the dissolution of the partnership, shall be deemed a voluntary assignment. If Tenant consists of more than one (1) person, a purported assignment, voluntary or involuntary or by operation of law from one (1) person to the other shall be deemed a voluntary assignment. Subject to Paragraph 11(o) hereof, if Tenant is a corporation or limited liability entity, any dissolution, merger, consolidation or other reorganization of Tenant, or sale or other transfer of a controlling percentage of the ownership interest of Tenant, or the sale of at least fifty percent (50%) of the value of the assets of Tenant shall be deemed a voluntary assignment.

(k) If Landlord does not exercise Landlord's option provided Paragraph 11(c), and provided Tenant is not in default hereunder beyond the applicable notice and cure period, Landlord's consent to the proposed assignment or subletting shall not be unreasonably withheld or delayed, provided that, in connection with such request, Tenant delivers to Landlord (A) a true and complete statement reasonably detailing the identity of the proposed assignee or subtenant ("Transferee"), the nature of its business and its proposed use of the Premises, (B) current financial information with respect to the Transferee, including its most recent financial statements, and (C) any other information Landlord may reasonably request, and further provided that:

(i) in Landlord's reasonable judgment, the Transferee is engaged in a business or activity, and the Premises will be used in a manner, which (1) is in keeping with the then standards of the Building or the Project, (2) is for the uses permitted under this Lease, and (3) does not violate any restrictions set forth in this Lease, any Security Documents or any negative covenant as to use of the Premises required by any other lease in the Building;

(ii) the Transferee is reputable with sufficient financial means to perform all of its obligations under this Lease or the sublease, as the case may be;

(iii) if Landlord has, or reasonably expects to have within 6 months thereafter, comparable space available in the Building, neither the Transferee nor any person or entity which, directly or indirectly, controls, is controlled by, or is under common control with, the Transferee is then an occupant of the Building;

(iv) the Transferee is not a person or entity (or affiliate of a person or entity) with whom Landlord is then or has been within the prior 9 months negotiating in connection with the rental of space in the Building;

(v) there shall be not more than 2 occupants, including Tenant, in the Premises;

(vi) intentionally omitted; and

(vii) the Transferee shall not be entitled, directly or indirectly, to diplomatic or sovereign immunity, regardless of whether the Transferee agrees to waive such diplomatic or sovereign immunity, and shall be subject to the service of process in, and the jurisdiction of the courts of, the City and State of New York.

(l) With respect to each and every subletting and/or assignment approved by Landlord under the provisions of this Lease:

(A) the form of the proposed assignment or sublease shall be reasonably satisfactory to Landlord;

(B) no sublease shall be for a term ending later than one day prior to the Expiration Date; and

(C) if an default beyond the expiration of the applicable notice and cure period occurs prior to the effective date of such assignment or subletting, then Landlord's consent thereto, if previously granted, shall be immediately deemed revoked without further notice to Tenant, and in such case, any such assignment or subletting shall constitute a further default under this Lease (without any notice and cure period).

(m) In the case of any assignment by Tenant under this Lease to an unrelated third-party, Tenant shall pay to Landlord, an amount equal to 50% of the amount (which amount is herein called the "Assignment Profit") by which (x) all sums and other consideration paid to Tenant by or on behalf of the assignee for or by reason of such assignment (including sums paid for the sale or rental of Tenant's leasehold improvements, fixtures, equipment, furniture, furnishings or other personal property less in the case of the sale thereof, the then fair market value thereof, and, if such consideration is paid in installments, any interest paid on such installments) exceed (y) the aggregate of reasonable legal fees and expenses, reasonable rent concessions, customary brokerage commissions, advertising fee and promotional and marketing fees paid by Tenant in connection with such assignment, and the reasonable cost of any space preparation or other work worked done by or on behalf of Tenant. The amounts payable to Landlord shall be due and payable within thirty (30) days after Tenant's receipt of payment from or on behalf of the assignee (including any amounts received as damages or other sums from such assignee on account of such assignee's default in connection with said assignment).

(n) In the case of any sublease by Tenant under this Lease to an unrelated third-party, Tenant shall pay to Landlord an amount equal to 50% of the amount (which amount is herein called the "Subleasing Profit"), calculated on a monthly basis, by which (x) any rents, additional charges or other consideration paid to Tenant under or by reason of the sublease (and any related instruments) by or on behalf of the subtenant (including sums paid for the sale or rental of Tenant's leasehold improvements, fixtures, equipment, furniture, furnishings or other personal property) and any sums received by Tenant from or on behalf of the subtenant on account of profits received by such subtenant from an underletting), shall exceed the aggregate of (1) the Rent and all other sums to be paid by Tenant hereunder with respect to the Premises, (2) the aggregate of reasonable legal fees and expenses, reasonable rent concessions, customary brokerage commissions, advertising fees, and promotional and marketing fees paid by Tenant in

connection with such sublease, and the reasonable cost of any space preparation or other work worked done by or on behalf of Tenant, amortized on a straight-line basis over the term of such sublease. The amounts payable to Landlord shall be paid in equal monthly installments in arrears over the term of the sublease in question (not later than thirty (30) days after Tenant's receipt of such amount from or on behalf of the subtenant). If, however, the sublease is terminated as a result of a default thereunder by the subtenant, Tenant's obligation to pay further sums to Landlord shall terminate except with regard to any damages or other sums thereafter received by Tenant from such subtenant to the extent attributable to any rents or other amounts included in the Subleasing Profit calculation, of which Tenant shall pay to Landlord 50% on account of the Subleasing Profit.

(o) Notwithstanding anything to the contrary in this Lease, upon thirty (30) days' prior notice to Landlord but without the need for Landlord's prior consent, Tenant shall have the right to: (A) sublease the Premises or any portion thereof or assign this Lease to any successor (a "Successor") to Tenant by virtue of merger, consolidation, sale of all or substantially all of Tenant's assets or stock, provided that (i) the Successor assumes by written instrument reasonably satisfactory to Landlord all of Tenant's obligations under this Lease, (ii) such transfer is for a valid business purpose and not for the purposes of avoiding any obligations under this Lease, and (iii) (x) the Successor is in keeping with the character of first class office tenants in similar first class office buildings in midtown south Manhattan and (y) shall have a tangible net worth that is equal to the greater of the tangible net worth of Tenant as of the Effective Date or the tangible net worth of the Tenant immediately preceding the date of such transfer or (B) sublease the Premises or any portion thereof or assign this Lease to any Affiliate of Tenant, provided that (i) the Affiliate assumes by written instrument reasonably satisfactory to Landlord all of Tenant's obligations under this Lease accruing from and after the date of such transfer, (ii) such transfer is for a valid business purpose and not for the purposes of avoiding any obligations under this Lease, and (iii) the Affiliate and its conduct of business is in keeping with the character of first class office tenants in similar first class office buildings in midtown south Manhattan. As used herein, the term "Affiliate" shall mean an entity directly or indirectly controlled by, controlling, or under common control with Tenant and the words "controlled," "controlling," or "control" shall mean the direct or indirect ownership of fifty percent (50%) of the entity. The provisions of Paragraphs 11(c), (m) and (n) will not apply in connection with transfers effectuated under this Paragraph 11(o). Notwithstanding the foregoing, if at any time thereafter the assignee or sublessee shall cease to be an Affiliate of Tenant, then Tenant shall be required to obtain Landlord's consent to the continuation of such assignment or subletting as provided herein.

(p) Tenant has advised Landlord that one or more clients of Tenant, service providers to Tenant, and others with whom Tenant has an independent ongoing business relationship (each a "Permitted User") may from time to time be using space in the Premises. Notwithstanding anything to the contrary in this Paragraph 11, each Permitted User shall be allowed such use, without Landlord's consent, but upon at least 30 days' prior notice to Landlord upon the following conditions: (A) Landlord shall not be litigating against such proposed Permitted User within the prior 12 months, (B) the Permitted User shall not be entitled, directly or indirectly, to diplomatic or sovereign immunity and shall be subject to service of process in, and the jurisdiction of the court of, the State of New York, (C) there will be no separate entrances and demising walls for the Permitted User, (D) the aggregate number of rentable square feet used by

all Permitted Users at any one time shall not exceed twenty percent (20%) of rentable square feet of the Premises (the "Permitted User Maximum Square Footage") and (E) Tenant shall receive no rent, payment or other consideration in connection with such occupancy in respect of such space other than nominal rent payments (in no event greater per rentable square foot than the Base Rent and Taxes Excess payable hereunder per rentable square foot) or other consideration for actual services rendered or provided by or for such occupant. With respect to each and every Permitted User, the following shall apply: (x) each Permitted User shall have no privity of contract with Landlord and therefore shall have no rights under this Lease, and Landlord shall have no liability or obligation to the Permitted User under this Lease for any reason whatsoever in connection with such use or occupancy, which use and occupancy shall be subject and subordinate to this Lease, (y) each Permitted User shall use the Premises in conformity with all applicable provisions of this Lease, and (z) Tenant shall be liable for the acts of such Permitted User in the Premises.

12. DEFAULT; REMEDIES; DAMAGES

(a) Events of Default. The occurrence of any one or more of the following events shall constitute an "event of default" or "default" (herein so called) under this Lease by Tenant: (i) Tenant shall fail to pay Rent or any other rental or sums payable by Tenant hereunder within five (5) days after Landlord notifies Tenant of such nonpayment; provided, however, Landlord shall only be obligated to provide such written notice to Tenant two (2) times within any calendar year and in the event Tenant fails to timely pay Rent or any other sums for a third time during any calendar year, then Tenant shall be in default for such late payment and Landlord shall have no obligation or duty to provide notice of such non-payment to Tenant prior to declaring an event of default under this Lease; (ii) the failure by Tenant to observe or perform any of the express or implied covenants or provisions of this Lease to be observed or performed by Tenant, other than monetary failures as specified in Paragraph 12(a)(i) above, where such failure shall continue for a period of thirty (30) days after written notice thereof from Landlord to Tenant; provided, however, that if the nature of Tenant's default is such that more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant shall commence such cure within said thirty (30) day period and thereafter diligently prosecute such cure to completion; (iii) the making by Tenant or any guarantor hereof of any general assignment for the benefit of creditors, (iv) the filing by or against Tenant or any guarantor hereof of a petition to have Tenant or any guarantor hereof adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant or any guarantor hereof, the same is dismissed within sixty (60) days), (v) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease or of substantially all of guarantor's assets, where possession is not restored to Tenant or guarantor within sixty (60) days, (vi) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of substantially all of guarantor's assets or of Tenant's interest in this Lease where such seizure is not discharged within sixty (60) days; (vii) any material representation or warranty expressly made by Tenant or guarantor in this Lease or any other document delivered in connection with the execution and delivery of this Lease or pursuant to this Lease proves to be incorrect in any material respect; or (viii) Tenant or guarantor shall be liquidated or dissolved or shall begin proceedings towards its liquidation or dissolution. Nothing

contained in this Paragraph 12(a) or otherwise set forth in this Lease shall be deemed to require Landlord to give the notices otherwise herein provided prior to the commencement of a summary proceeding for non-payment of Rent or a plenary action for recovery of Rent on account of any default in the payment of the same, it being the intention that any notices proscribed in this Lease are for the sole purpose of creating a conditional limitation hereunder pursuant to which this Lease shall terminate and if Tenant thereafter remains in possession after such termination, Tenant shall do so as a tenant holding over without the consent of Landlord.

In the event of any event of default by Tenant, in addition to any other remedies available to Landlord under this Lease, at law or in equity, Landlord may at its option serve a written three (3) days notice of cancellation of this Lease upon Tenant, and upon the expiration of said three (3) days, this Lease and the term hereof shall end, expire and terminate (whether or not the Lease Term shall theretofore have commenced) as fully and completely as if the date of expiration of such three (3) day period were the day herein definitely fixed for the end and expiration of this Lease and the Lease Term hereof, and Tenant shall then quit and surrender the Premises to Landlord but Tenant shall remain liable as hereinafter provided.

(b) Landlord's Remedies.

(i) Upon the termination of this Lease in the manner provided for in Paragraph 12(a) hereof, or upon the termination of this Lease for any other reason whatsoever, or if Tenant defaults in the payment of Rent or additional rent, or if Tenant defaults in the observance, performance or fulfillment of any other covenant or condition on the part of Tenant to be observed, performed or fulfilled hereunder, then, in any of such events, in addition to all other remedies provided for herein or available as a matter of law or in equity:

(A) Landlord and its agents and servants may immediately, or at any time after such default or after the date upon which this Lease and the Lease Term shall expire and come to an end, re-enter the Premises or any part thereof, either (i) by force or otherwise and dispossess Tenant and any other persons from the Premises and remove any and all of their property and effects from the Premises (without being liable to indictment, prosecution or damages therefor) or (ii) by summary proceedings or by any other applicable action or proceeding and dispossess Tenant and any other persons from the Premises and remove any and all of their property and effects from the Premises, and in all instances, take and retain possession of the Premises as if this Lease had not been made. To the extent permitted by Law, Tenant hereby waives the service of any notice of intention to re-enter or to institute legal proceedings for any reason whatsoever;

(B) Landlord, at Landlord's option, may relet the whole or any part or parts of the Premises from time to time, either in the name of Landlord or otherwise, to such tenant or tenants, for such term or terms ending before, on or after the Expiration Date, at such rental or rentals and upon such other conditions, which may include concessions and free rent periods, as Landlord, in its sole discretion, may determine. Landlord shall have no obligation to relet the Premises or any part thereof and shall in no event be liable for refusal or failure to relet the Premises or any part thereof, or, in the event of any such reletting, for refusal or failure to collect any rent due upon any such reletting, and no such refusal or failure shall operate to relieve Tenant of any liability under this Lease or

otherwise to affect any such liability; Landlord, at Landlord's option, may make such repairs, replacements, alterations, additions, improvements, decorations and other physical changes in and to the Premises as Landlord, in its sole discretion, considers advisable or necessary in connection with any such reletting or proposed reletting, without relieving Tenant of any liability under this Lease or otherwise affecting any such liability. Tenant further agrees to reimburse Landlord upon demand for any expenditures made by it for such repairs, replacements, alterations, additions, improvements and other physical changes and for all other expenses incurred in connection with such reletting or proposed reletting (including, without limitation, attorney's fees and brokerage commissions); and

(C) Landlord may enforce the performance of Tenant's obligations hereunder by injunction or other equitable relief (which remedy may be exercised upon any breach or default or threatened breach or default of Tenant's obligations hereunder).

(ii) Tenant, on its own behalf and on behalf of all persons claiming through or under Tenant, including all creditors, does further hereby waive any and all rights which Tenant and all such persons might otherwise have under any present or future Law to redeem the Premises, or to re enter or repossess the Premises, or to reinstate this Lease, after (a) Tenant shall have been dispossessed by a judgment of possession or by warrant of eviction issued by any court, or (b) any re entry by Landlord, or (c) any expiration or termination of this Lease and the Lease Term, whether such dispossess, re entry, expiration or termination shall be by operation of law or pursuant to the provisions of this Lease. The words "re enter", "re entry" and "re entered" as used in this Lease shall not be deemed to be restricted to their technical legal meanings. In the event of a breach or threatened breach by Tenant, or any persons claiming through or under Tenant, of any term, covenant or condition of this Lease on Tenant's part to be observed or performed, Landlord shall have the right to enjoin such breach and the right to invoke any other remedy allowed by Law or in equity as if re entry, summary proceedings and other remedies were not provided in this Lease for such breach. The remedies hereinbefore set forth are cumulative, and invoking any or all of them shall not preclude Landlord from invoking any other remedy allowed at law or in equity.

(c) Damages.

(i) If this Lease and the Lease Term shall expire and come to an end for any reason whatsoever, or if Landlord shall re-enter the Premises, then, in any of said events:

(A) Tenant shall pay to Landlord all Rent and other charges payable under this Lease by Tenant to Landlord to the date upon which this Lease and the Lease Term shall have expired and come to an end or to the date of re-entry upon the Premises by Landlord, as the case may be;

(B) Tenant also shall be liable for and shall pay to Landlord, as damages, any deficiency (referred to as "Deficiency") between the Rent reserved in this Lease for the period which otherwise would have constituted the unexpired portion of the Lease Term and the net amount, if any, of rents collected under any reletting effected pursuant to the

provisions of Paragraph 12(b)(i) above for any part of such period (first deducting from the rents collected under any such reletting all of Landlord's expenses in connection with the termination of this Lease, or Landlord's re-entry upon the Premises and with such reletting including, but not limited to, all repossession costs, brokerage commissions, advertising, reasonable attorneys' fees and disbursements, alteration costs and other expenses of preparing the Premises for such reletting); any such Deficiency shall be paid in monthly installments by Tenant on the days specified in this Lease for payment of installments of Base Rent, Landlord shall be entitled to recover from Tenant each monthly Deficiency as the same shall arise, and no suit to collect the amount of the Deficiency for any month shall prejudice Landlord's right to collect the Deficiency for any subsequent month by a similar proceeding; and

(C) whether or not Landlord shall have collected any monthly Deficiencies as aforesaid, Landlord shall be entitled to recover from Tenant, and Tenant shall pay to Landlord, on demand, in lieu of any further Deficiencies as and for liquidated and agreed final damages (the parties agreeing that such amount shall not be a penalty), a sum equal to the accelerated amount by which the Rent reserved in this Lease shall have been due for the period which otherwise would have constituted the unexpired portion of the Term, less the aggregate amount of Deficiencies theretofore collected by Landlord pursuant to the provisions of Paragraph 12(c)(i)(B) for the same period.

(ii) If the Premises, or any part thereof, shall be relet together with other space in the Building, the rents collected or reserved under any such reletting and the expenses of any such reletting shall be equitably apportioned for the purposes of this subparagraph (ii). Tenant shall in no event be entitled to any rents collected or payable under any reletting, whether or not such rents shall exceed the Rent reserved in this Lease. Nothing contained in this Lease shall be deemed to limit or preclude the recovery by Landlord from Tenant of the maximum amount allowed to be obtained as damages by any Law, or of any sums or damages to which Landlord may be entitled in addition to the damages set forth in this Paragraph 12.

(d) Landlord's Remedies; Re-Entry Rights. No re-entry or taking possession of the Premises by Landlord pursuant to this Paragraph 12(d) or other action on Landlord's part, shall be construed as an election to terminate this Lease unless a written notice of such intention be given to Tenant or unless the termination thereof be decreed by a court of competent jurisdiction, nor shall any such re-entry or taking possession of the Premises be deemed a waiver or vitiate any right of Landlord to any of the damages and remedies provided in this Lease, at Law or in equity.

(e) Landlord's Right to Perform. Except as specifically provided otherwise in this Lease, all covenants and agreements by Tenant under this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any abatement or offset of Rent. If Tenant shall fail to pay any sum of money (other than Base Rent) or perform any other act on its part to be paid or performed hereunder and such failure shall continue for three (3) days with respect to monetary obligations (or ten (10) days with respect to non-monetary obligations, except in case of emergencies, in which such case, such shorter period of time as is reasonable under the circumstances) after Tenant's receipt of written notice thereof from Landlord, Landlord may, without waiving or releasing Tenant from any of Tenant's obligations, make such payment or

perform such other act on behalf of Tenant. All sums so paid by Landlord and all necessary incidental costs incurred by Landlord in performing such other acts shall be payable by Tenant to Landlord within five (5) days after demand therefor as Additional Rent.

(f) Interest. If any monthly installment of Rent, or any other amount payable by Tenant hereunder is not received by Landlord within five (5) days of the date when due, it shall bear interest at the Default Rate from the date due until paid. All interest, and any late charges imposed pursuant to Paragraph 12(g) below, shall be considered Additional Rent due from Tenant to Landlord under the terms of this Lease. The term "Default Rate" as used in this Lease shall mean the lesser of (A) the rate announced from time to time by Wells Fargo Bank or, if Wells Fargo Bank ceases to exist or ceases to publish such rate, then the rate announced from time to time by the largest (as measured by deposits) chartered bank operating in the State, as its "prime rate" or "reference rate", plus four percent (4%), or (B) the maximum rate of interest permitted by Law.

(g) Late Charges. Tenant acknowledges that, in addition to interest costs, the late payments by Tenant to Landlord of any monthly installment of Base Rent, Additional Rent or other sums due under this Lease will cause Landlord to incur costs not contemplated by this Lease, the exact amount of such costs being extremely difficult and impractical to fix. Such other costs include, without limitation, processing, administrative and accounting charges and late charges that may be imposed on Landlord by the terms of any mortgage, deed to secure debt, deed of trust or related loan documents encumbering the Premises, the Building or the Project. Accordingly, if any monthly installment of Base Rent, Additional Rent or any other amount payable by Tenant hereunder is not received by Landlord by the due date thereof, Tenant shall pay to Landlord an additional sum of four percent (4%) of the overdue amount as a late charge, but in no event more than the maximum late charge allowed by Law. The parties agree that such late charge represents a fair and reasonable estimate of the costs that Landlord will incur by reason of any late payment as hereinabove referred to by Tenant, and the payment of late charges and interest are distinct and separate in that the payment of interest is to compensate Landlord for the use of Landlord's money by Tenant, while the payment of late charges is to compensate Landlord for Landlord's processing, administrative and other costs incurred by Landlord as a result of Tenant's delinquent payments. Acceptance of a late charge or interest shall not constitute a waiver of Tenant's default with respect to the overdue amount or prevent Landlord from exercising any of the other rights and remedies available to Landlord under this Lease or at law or in equity now or hereafter in effect. Notwithstanding anything to the contrary in this Lease, the aforesaid late charge will not apply to the first late payment of Rent in any twelve (12) month period.

(h) Rights and Remedies Cumulative. All rights, options and remedies of Landlord contained in this Paragraph 12 and elsewhere in this Lease shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and Landlord shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law or in equity, whether or not stated in this Lease. Nothing in this Paragraph 12 shall be deemed to limit or otherwise affect Tenant's indemnification of Landlord pursuant to any provision of this Lease.

(i) Costs Upon Default and Litigation. Tenant shall pay to Landlord and its mortgagees as Additional Rent all the expenses incurred by Landlord or its mortgagees in connection with any default by Tenant hereunder or the exercise of any remedy by reason of any default by Tenant hereunder, including reasonable attorneys' fees and expenses. If Landlord or its mortgagees shall be made a party to any litigation commenced against Tenant or any litigation pertaining to this Lease or the Premises, at the option of Landlord and/or its mortgagees, Tenant, at its expense, shall provide Landlord and/or its mortgagees with counsel approved by Landlord and/or its mortgagees and shall pay all reasonable costs incurred or paid by Landlord and/or its mortgagees in connection with such litigation.

13. ACCESS; CONSTRUCTION

Landlord reserves from the leasehold estate hereunder, in addition to all other rights reserved by Landlord under this Lease, the right to use the roof and exterior walls of the Premises and the area beneath, adjacent to and above the Premises. Landlord also reserves the right to install, use, maintain, repair, replace and relocate equipment, machinery, meters, pipes, ducts, plumbing, conduits and wiring through the Premises, which serve other portions of the Building or the Project in a manner and in locations which do not unreasonably interfere with Tenant's use of the Premises or reduce the useable square footage of the Premises (other than to a *de minimis* extent). In addition, Landlord shall have free access to any and all mechanical installations of Landlord or Tenant, including, without limitation, machine rooms, telephone rooms and electrical closets. Tenant agrees that there shall be no construction of partitions or other obstructions which materially interfere with or which threaten to materially interfere with Landlord's free access thereto, or materially interfere with the moving of Landlord's equipment to or from the enclosures containing said installations. Landlord shall at all reasonable times, during Business Hours and after reasonable written or oral notice, have the right to enter the Premises to inspect the same, to supply janitorial service and any other service to be provided by Landlord to Tenant hereunder, to exhibit the Premises to prospective purchasers, lenders or tenants (for prospective tenant, however, only during the last twelve (12) months of the Lease Term), to post notices of non-responsibility, to alter, improve, restore, rebuild or repair the Premises or any other portion of the Building, or to do any other act permitted or contemplated to be done by Landlord hereunder, all without being deemed guilty of an eviction of Tenant and without liability for abatement of Rent or otherwise. For such purposes, Landlord may also erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed. Landlord shall conduct all such inspections and/or improvements, alterations and repairs so as to minimize, to the extent reasonably practical and without material additional expense to Landlord, any interruption of or interference with the business of Tenant. Tenant hereby waives any claim for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby. For each of such purposes, Landlord shall at all times have and retain a key with which to unlock all of the doors in, upon and about the Premises (excluding Tenant's vaults and safes, access to which shall be provided by Tenant upon Landlord's reasonable request). Landlord shall have the right to use any and all means which Landlord may deem proper in an emergency in order to obtain entry to the Premises or any portion thereof, and Landlord shall have the right, at any time during the Lease Term, to provide whatever access control measures it deems reasonably necessary to the Project, without any interruption or abatement in the payment of Rent by Tenant. Any entry into the Premises obtained by Landlord

by any of such means shall not under any circumstances be construed to be a forcible or unlawful entry into, or a detainer of, the Premises, or any eviction of Tenant from the Premises or any portion thereof. No provision of this Lease shall be construed as obligating Landlord to perform any repairs, Alterations or decorations to the Premises or the Project except as otherwise expressly agreed to be performed by Landlord pursuant to the provisions of this Lease.

14. BANKRUPTCY

(a) If at any time on or before the Commencement Date there shall be filed by or against Tenant in any court, tribunal, administrative agency or any other forum having jurisdiction, pursuant to any applicable law, either of the United States or of any state, a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver, trustee or conservator of all or a portion of Tenant's property, or if Tenant makes an assignment for the benefit of creditors, this Lease shall ipso facto be canceled and terminated and in such event neither Tenant nor any person claiming through or under Tenant or by virtue of any applicable law or by an order of any court, tribunal, administrative agency or any other forum having jurisdiction, shall be entitled to possession of the Premises and Landlord, in addition to the other rights and remedies given by Paragraph 12 hereof or by virtue of any other provision contained in this Lease or by virtue of any applicable law, may retain as damages any Rent, Security Deposit or moneys received by it from Tenant or others on behalf of Tenant.

(b) If, after the date hereof, or if at any time during the term of this Lease, there shall be filed against Tenant in any court, tribunal, administrative agency or any other forum having jurisdiction, pursuant to any applicable law, either of the United States or of any state, a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver, trustee or conservator of all or a portion of Tenant's property, and the same is not dismissed after sixty (60) calendar days, or if Tenant makes an assignment for the benefit of creditors, this Lease, at the option of Landlord exercised within a reasonable time after notice of the happening of any one or more of such events, may be canceled and terminated and in such event neither Tenant nor any person claiming through or under Tenant or by virtue of any statute or of an order of any court shall be entitled to possession or to remain in possession of the Premises, but shall forthwith quit and surrender the Premises, and Landlord, in addition to the other rights and remedies granted by Paragraph 12 hereof or by virtue of any other provision contained in this Lease or by virtue of any applicable law, may retain as damages any Rent, Security Deposit or moneys received by it from Tenant or others on behalf of Tenant.

15. INTENTIONALLY OMITTED

16. SUBORDINATION; ATTORNMENT; ESTOPPEL CERTIFICATES

(a) Tenant agrees that this Lease and the rights of Tenant hereunder shall be subject and subordinate to any and all deeds to secure debt, deeds of trust, security interests, mortgages, master leases, ground leases or other security documents and any and all modifications, renewals, extensions, consolidations and replacements thereof (collectively, "Security Documents") which now or hereafter constitute a lien upon or affect the Project, the Building or the Premises. Such subordination shall be effective without the necessity of the execution by Tenant of any additional document for the purpose of evidencing or effecting such subordination. In addition,

Landlord shall have the right to subordinate or cause to be subordinated any such Security Documents to this Lease and in such case, in the event of the termination or transfer of Landlord's estate or interest in the Project by reason of any termination or foreclosure of any such Security Documents, Tenant shall, notwithstanding such subordination, attorn to and become the Tenant of the successor-in-interest to Landlord at the option of such successor-in-interest. Furthermore, Tenant shall within fifteen (15) days of demand therefor execute any instruments or other documents which may be required by Landlord or the holder of any Security Document and specifically shall execute, acknowledge and deliver within fifteen (15) days of demand therefor a subordination of lease or subordination of deed of trust or mortgage, in the form required by the holder of the Security Document requesting the document; the failure to do so by Tenant within such time period shall be a material default hereunder. As of the date of this Lease, there is no Security Document affecting any portion of the Project.

(b) If any proceeding is brought for default under any ground or master lease to which this Lease is subject or in the event of foreclosure or the exercise of the power of sale under any mortgage, deed of trust or other Security Document made by Landlord covering the Premises, at the election of such ground lessor, master lessor or purchaser at foreclosure, Tenant shall attorn to and recognize the same as Landlord under this Lease, provided such successor expressly agrees in writing to be bound to all future obligations by the terms of this Lease, and if so requested, Tenant shall enter into a new lease with that successor on the same terms and conditions as are contained in this Lease (for the unexpired term of this Lease then remaining). Tenant hereby waives its rights under any current or future law which gives or purports to give Tenant any right to terminate or otherwise adversely affect this Lease and the obligations of Tenant hereunder in the event of any such foreclosure proceeding or sale.

(c) Tenant shall, upon not less than fifteen (15) days' prior notice by Landlord, execute, acknowledge and deliver to Landlord a statement in writing certifying to those facts for which certification has been requested by Landlord or any current or prospective purchaser, holder of any Security Document, ground lessor or master lessor, including, but without limitation, that (i) this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), (ii) the dates to which the Base Rent, Additional Rent and other charges hereunder have been paid, if any, and (iii) whether or not to the best knowledge of Tenant, Landlord is in default in the performance of any covenant, agreement or condition contained in this Lease and, if so, specifying each such default of which Tenant may have knowledge. The form of the statement attached hereto as Exhibit F is hereby approved by Tenant for use pursuant to this subparagraph (c); however, at Landlord's option, Landlord shall have the right to use other reasonable and commercial forms for such purpose. In the event Tenant fails to execute and deliver the statement to Landlord within the aforesaid fifteen (15) day period, Landlord will send a second notice to Tenant, which notice will set forth in bold capital letters the following statement: **TENANT MUST EXECUTE, ACKNOWLEDGE AND DELIVER THIS STATEMENT TO LANDLORD WITHIN THREE (3) BUSINESS DAYS AFTER RECEIPT OF THIS NOTICE.** Tenant's failure to execute and deliver such statement within three (3) Business Days after receipt of the second notice shall, at the option of Landlord, constitute a material default under this Lease and, in any event, shall be conclusive upon Tenant that this Lease is in full force and effect without modification except as may be represented by Landlord in any such certificate prepared by Landlord and delivered to Tenant for execution.

Any statement delivered pursuant to this Paragraph 16 may be relied upon by any prospective purchaser of the fee of the Building or the Project or any mortgagee, ground lessor or other like encumbrances thereof or any assignee of any such encumbrance upon the Building or the Project.

17. SALE BY LANDLORD; TENANT'S REMEDIES; NONRECOURSE LIABILITY

(a) In the event of a sale or conveyance by Landlord of the Building or the Project, Landlord shall be released from any and all liability under this Lease accruing thereafter. If the Security Deposit has been deposited by Tenant to Landlord prior to such sale or conveyance, Landlord shall transfer the Security Deposit to the purchaser, and upon delivery to Tenant of notice thereof, Landlord shall be discharged from any further liability in reference thereto.

(b) All obligations of Landlord under this Lease will be binding upon Landlord only during the period of its ownership of the Project and not thereafter. All obligations of Landlord hereunder shall be construed as covenants, not conditions; and, except as may be otherwise expressly provided in this Lease, Tenant may not terminate this Lease for breach of Landlord's obligations hereunder.

(c) Notwithstanding anything contained in this Lease to the contrary, the obligations of Landlord under this Lease (including any actual or alleged breach or default by Landlord) do not constitute personal obligations of the individual partners, directors, officers, trustees, members or shareholders of Landlord or Landlord's members or partners, and Tenant shall not seek recourse against the individual partners, directors, officers, trustees, members or shareholders of Landlord or against Landlord's members or partners or against any other persons or entities having any interest in Landlord, or against any of their personal assets for satisfaction of any liability with respect to this Lease. Any liability of Landlord for a default by Landlord under this Lease, or a breach by Landlord of any of its obligations under the Lease, shall be limited solely to its interest in the Building (and net sale proceeds, and insurance proceeds and condemnation awards not used for rebuilding or restoration or applied by any mortgagee) but in no event to exceed twenty five percent (25%) of the Building's fair market value at the time in question, and in no event shall any personal liability be asserted against Landlord in connection with this Lease nor shall any recourse be had to any other property or assets of Landlord, its partners, directors, officers, trustees, members, shareholders or any other persons or entities having any interest in Landlord. Tenant's sole and exclusive remedy for a default or breach of this Lease by Landlord shall be either (i) an action for damages, or (ii) an action for injunctive relief; Tenant hereby waiving and agreeing that Tenant shall have no offset rights or right to terminate this Lease on account of any breach or default by Landlord under this Lease. Under no circumstances whatsoever shall Landlord ever be liable for punitive, consequential or special damages under this Lease and Tenant waives any rights it may have to such damages under this Lease in the event of a breach or default by Landlord under this Lease. Except as otherwise provided in Paragraph 19(f) of this Lease, Tenant shall not be liable for punitive, consequential or special damages under this Lease and, subject to Paragraph 19(f) hereof, Landlord waives any rights it may have to such damages under this Lease in the event of a breach or default by Tenant under this Lease.

(d) As a condition to the effectiveness of any notice of default given by Tenant to Landlord, Tenant shall also concurrently give such notice under the provisions of

Paragraph 17(b) to each beneficiary under a Security Document encumbering the Project of whom Tenant has received written notice (such notice to specify the address of the beneficiary). In the event Landlord shall fail to cure any breach or default within the time period specified in subparagraph (b), then prior to the pursuit of any remedy therefor by Tenant, each such beneficiary shall have an additional thirty (30) days within which to cure such default, or if such default cannot reasonably be cured within such period, then each such beneficiary shall have such additional time as shall be necessary to cure such default, provided that within such thirty (30) day period, such beneficiary has commenced and is diligently pursuing the remedies available to it which are necessary to cure such default (including, without limitation, as appropriate, commencement of foreclosure proceedings).

18. COMMON AREAS

(a) Tenant shall have the nonexclusive right, in common with others, to the use of such entrances, lobbies, fire vestibules, restrooms (excluding restrooms on any full floors leased by a tenant), mechanical areas, ground floor corridors, elevators and elevator foyers, electrical and janitorial closets, telephone and equipment rooms, loading and unloading areas, the Project's plaza areas, if any, ramps, drives, stairs, and similar access ways and service ways and other common areas and facilities in and adjacent to the Building and the Project as are designated from time to time by Landlord for the general nonexclusive use of Landlord, Tenant and the other tenants of the Project and their respective employees, agents, representatives, licensees and invitees ("Common Areas"). The use of such Common Areas shall be subject to the rules and regulations contained herein and the provisions of any covenants, conditions and restrictions affecting the Building or the Project. Tenant shall keep all of the Common Areas free and clear of any obstructions created or permitted by Tenant or resulting from Tenant's operations, and shall use the Common Areas only for normal activities and ingress and egress by Tenant and its employees, agents, representatives, licensees and invitees to and from the Premises, the Building or the Project. If, in the reasonable opinion of Landlord, unauthorized persons are using the Common Areas by reason of the presence of Tenant in the Premises, Tenant, upon demand of Landlord, shall correct such situation by appropriate action or proceedings against all such unauthorized persons. Nothing herein shall affect the rights of Landlord at any time to remove any such unauthorized persons from said areas or to prevent the use of any of said areas by unauthorized persons. Landlord reserves the right to make such changes, alterations, additions, deletions, improvements, repairs or replacements in or to the Building, the Project (including the Premises) and the Common Areas as Landlord may reasonably deem necessary or desirable, including, without limitation, constructing new buildings and making changes in the location, size, shape and number of driveways, entrances, loading areas, landscaped areas and walkways; provided, however, that (i) there shall be no unreasonable permanent obstruction of access to or use of the Premises resulting therefrom, and (ii) Landlord shall use commercially reasonable efforts to minimize any interruption with Tenant's use of the Premises. Notwithstanding any provision of this Lease to the contrary, the Common Areas shall not in any event be deemed to be a portion of or included within the Premises leased to Tenant and the Premises shall not be deemed to be a portion of the Common Areas. This Lease is granted subject to the terms hereof, the rights and interests of third parties under existing liens, ground leases, easements and encumbrances affecting such property, all zoning regulations, rules, ordinances, building restrictions and other laws and regulations now in effect or hereafter adopted by any governmental authority having jurisdiction over the Project or any part thereof; provided,

however, that none of the foregoing shall materially interfere with the use of the Premises by Tenant for general administrative and executive office use.

(b) Notwithstanding any provision of this Lease to the contrary, Landlord specifically reserves the right to redefine the term "Project" for purposes of allocating and calculating Real Estate Taxes so as to include or exclude areas as Landlord shall from time to time determine or specify (and any such determination or specification shall be without prejudice to Landlord's right to revise thereafter such determination or specification) so long as Tenant's share of Real Estate Taxes are not thereby increased. In addition, Landlord shall have the right to contract or otherwise arrange for amenities, services or utilities to be on a common or shared basis to both the Project and adjacent areas not included within the Project, so long as the basis on which the cost of such amenities, services or utilities is allocated to the Project is determined on an arms-length basis or some other basis reasonably determined by Landlord. In the case where the definition of the Project is revised for purposes of the allocation or determination of Real Estate Taxes, Tenant's Proportionate Share shall be appropriately revised to equal the percentage share of all Rentable Area contained within the Project (as then defined) represented by the Premises. The Rentable Area of the Project is subject to adjustment by Landlord from time to time to reflect any remeasurement thereof by Landlord's architect, at Landlord's request, and/or as a result of any additions or deletions to any of the buildings in the Project as designated by Landlord. Landlord shall have the sole right to determine which portions of the Project and other areas, if any, shall be served by common management, operation, maintenance and repair.

(c) Landlord shall have the exclusive rights to the airspace above and around, and the subsurface below, the Premises and other portions of the Building and Project.

(d) Notwithstanding anything to the contrary herein, Tenant expressly acknowledges that, subject to the terms of this Lease, during the Lease Term Landlord will be undertaking demolition work, renovations, modifications, etc. with respect to the Common Areas. Tenant agrees that, subject to the provisions of this Lease, the performance by Landlord of such work shall not be construed as an eviction of Tenant, nor shall the same relieve Tenant from any obligation to perform any covenant or agreement under this Lease, nor otherwise give rise to any other claim of any nature against Landlord. Landlord agrees that in undertaking such work, except in the event of an emergency, Landlord will use reasonable efforts to not materially interfere with Tenant's conduct of business in the Premises.

19. MISCELLANEOUS

(a) Attorneys' Fees. Tenant agrees to pay Landlord upon demand, as Additional Rent, a sum equal to all reasonable costs and expenses (including reasonable attorneys' fees, costs of investigation and disbursements) incurred by Landlord (whether or not an action shall have been commenced by Landlord) to enforce any or all of its rights hereunder, specifically including the cost of collecting sums due, whether or not an action or proceeding is commenced, or levying and collecting on any judgment or arbitration award in Landlord's favor. In the event of any legal action or proceeding brought by either party against the other arising out of this Lease, the prevailing party shall be entitled to recover reasonable out-of-pocket attorneys' fees and costs (including, without limitation, court costs and expert witness fees) incurred in such action. Such amounts shall be included in any judgment rendered in any such action or proceeding. Such fees shall be apportioned if there is a settlement or partial award to each party.

(b) Waiver. No waiver by Landlord or Tenant of any provision of this Lease or of any breach by Tenant or Landlord hereunder shall be deemed to be a waiver of any other provision hereof, or of any subsequent breach by Tenant or Landlord. Landlord's consent to or approval of any act by Tenant requiring Landlord's consent or approval under this Lease shall not be deemed to render unnecessary the obtaining of Landlord's consent to or approval of any subsequent act of Tenant. No act or thing done by Landlord or Landlord's agents during the term of this Lease shall be deemed an acceptance of a surrender of the Premises, unless in writing signed by Landlord. The delivery of the keys to any employee or agent of Landlord shall not operate as a termination of the Lease or a surrender of the Premises. The acceptance of any Rent by Landlord following a breach of this Lease by Tenant shall not constitute a waiver by Landlord of such breach or any other breach unless such waiver is expressly stated in a writing signed by Landlord.

(c) Notices. Any notice, demand, request, consent, approval, disapproval or certificate ("Notice") required or desired to be given under this Lease shall be in writing and given by certified mail, return receipt requested, by personal delivery or by a nationally recognized overnight delivery service (such as Federal Express or UPS) providing a receipt for delivery. Notices may not be given by facsimile. The date of giving any Notice shall be deemed to be the date upon which delivery is actually made by one of the methods described in this Paragraph 19(c) (or attempted if said delivery is refused or rejected). If a Notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next Business Day. All notices, demands, requests, consents, approvals, disapprovals, or certificates shall be addressed at the address specified in *Item 16* of the Basic Lease Provisions or to such other addresses as may be specified by written notice from Landlord to Tenant and if to Tenant, at the Premises. Either party may change its address by giving reasonable advance written Notice of its new address in accordance with the methods described in this Paragraph; provided, however, no notice of either party's change of address shall be effective until fifteen (15) days after the addressee's actual receipt thereof. For the purpose of this Lease, Landlord's counsel and the Building's property manager may provide Notices to Tenant on behalf of Landlord and such notices shall be binding on Tenant as if such notices have been provided directly by Landlord.

(d) Access Control. Landlord shall be the sole determinant of the type and amount of any access control or courtesy guard services to be provided to the Project, if any. IN ALL

EVENTS, LANDLORD SHALL NOT BE LIABLE TO TENANT, AND TENANT HEREBY WAIVES ANY CLAIM AGAINST LANDLORD, FOR (I) ANY UNAUTHORIZED OR CRIMINAL ENTRY OF THIRD PARTIES INTO THE PREMISES, THE BUILDING OR THE PROJECT, (II) ANY DAMAGE TO PERSONS, OR (III) ANY LOSS OF PROPERTY IN AND ABOUT THE PREMISES, THE BUILDING OR THE PROJECT, BY OR FROM ANY UNAUTHORIZED OR CRIMINAL ACTS OF THIRD PARTIES, REGARDLESS OF ANY ACTION, INACTION, FAILURE, BREAKDOWN, MALFUNCTION AND/OR INSUFFICIENCY OF THE ACCESS CONTROL OR COURTESY GUARD SERVICES PROVIDED BY LANDLORD, IF ANY. Tenant shall provide such supplemental security services and shall install within the Premises such supplemental security equipment, systems and procedures as may reasonably be required for the protection of its employees and invitees, provided that Tenant shall coordinate such services and equipment with any security provided by Landlord. The determination of the extent to which such supplemental security equipment, systems and procedures are reasonably required shall be made in the sole judgment, and shall be the sole responsibility, of Tenant. Tenant acknowledges that it has neither received nor relied upon any representation or warranty made by or on behalf of Landlord with respect to the safety or security of the Premises or the Project or any part thereof or the extent or effectiveness of any security measures or procedures now or hereafter provided by Landlord, and further acknowledges that Tenant has made its own independent determinations with respect to all such matters.

(e) Intentionally Omitted.

(f) Holding Over. Landlord and Tenant recognize that Landlord's damages resulting from Tenant's failure to timely surrender possession of the Premises may be substantial, may exceed the amount of the Rent payable hereunder, and will be impossible to accurately measure. Accordingly, if Tenant remains in possession of the Premises after the termination or expiration of the Lease Term, in addition to any other rights or remedies Landlord may have hereunder or at law, Tenant shall pay to Landlord, for its use and occupancy, an amount equal to one and one half (1½) times the greater of (i) the fair market rental value of the Premises for such month (as reasonably determined by Landlord), or (ii) the Base Rent in effect on the termination date, computed on a monthly basis for each month or part thereof during such holding over. Tenant shall, through the entire holdover period, be subject to all of the terms and provisions of this Lease. All other payments (including payment of Additional Rent) shall continue under the terms of this Lease. In addition, with respect to any holdover without Landlord's express consent in writing which continues for more than thirty (30) days, Tenant shall be liable for all damages incurred by Landlord as a result of such holding over and shall indemnify, defend and hold Landlord and Landlord Indemnitees harmless from and against any and all costs, claims or expenses incurred in connection therewith including, without limitation, (x) any payment or rent concession which Landlord may be required to make to any tenant obtained by Landlord for all or any part of the Premises (a "New Tenant") by reason of the late delivery of space to the New Tenant as a result of Tenant's holding over or in order to induce such New Tenant not to terminate its lease by reason of the holding over by Tenant, (y) the loss of the benefit of the bargain if any New Tenant shall terminate its lease by reason of the holding over by Tenant, and (z) any claim for damages by any New Tenant. No holding over by Tenant, whether with or without consent of Landlord, shall operate to extend this Lease except as otherwise expressly provided, and this Paragraph shall not be construed as consent for Tenant to retain possession of

the Premises. Tenant expressly waives, for itself and for any person claiming by, through or under Tenant, any rights which Tenant or any such person may have under the provisions of Section 2201 of the New York Civil Practice Law and Rules, and of any successor law of like import then in force, only in connection with any holdover summary proceedings which may be instituted by Landlord to enforce the provisions if this Paragraph 19(f) upon the expiration or earlier termination of this Lease.

(g) Condition of Premises. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS LEASE, LANDLORD HEREBY DISCLAIMS ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY THAT THE PREMISES ARE SUITABLE FOR TENANT'S INTENDED PURPOSE OR USE, WHICH DISCLAIMER IS HEREBY ACKNOWLEDGED BY TENANT. THE TAKING OF POSSESSION BY TENANT SHALL BE CONCLUSIVE EVIDENCE THAT TENANT:

(i) ACCEPTS THE PREMISES, THE BUILDING AND LEASEHOLD IMPROVEMENTS AS SUITABLE FOR THE PURPOSES FOR WHICH THE PREMISES WERE LEASED;

(ii) ACCEPTS THE PREMISES AND PROJECT AS BEING IN GOOD AND SATISFACTORY CONDITION SUBJECT TO COMPLETION OF LANDLORD'S WORK, PUNCHLIST ITEMS AND LATENT DEFECTS IN LANDLORD'S WORK WHICH ARE DISCOVERED BY TENANT AND DISCLOSED TO LANDLORD WITHIN ONE (1) YEAR AFTER THE SUBSTANTIAL COMPLETION OF THE LANDLORD'S WORK;

(iii) SUBJECT TO CLAUSE (ii) ABOVE, WAIVES ANY DEFECTS IN THE PREMISES AND ITS APPURTENANCES EXISTING NOW OR IN THE FUTURE; AND

(iv) WAIVES ALL CLAIMS BASED ON ANY IMPLIED WARRANTY OF SUITABILITY OR HABITABILITY.

(h) Quiet Possession. Upon Tenant's paying the Rent reserved hereunder and observing and performing all of the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the Premises for the term hereof without hindrance or ejection by any person lawfully claiming under Landlord, subject to the provisions of this Lease and to the provisions of any (i) covenants, conditions and restrictions, (ii) master lease, or (iii) Security Documents to which this Lease is subordinate or may be subordinated.

(i) Matters of Record. Except as otherwise provided herein, this Lease and Tenant's rights hereunder are subject and subordinate to all matters affecting Landlord's title to the Project recorded in the Real Property Records of the County in which the Project is located, prior to and subsequent to the date hereof, including, without limitation, all covenants, conditions and restrictions. Tenant's use of the Premises for general administrative and executive office use will not be materially affected by such covenants, conditions or restrictions. Tenant agrees for itself and all persons in possession or holding under it that it will comply with and not violate any such

covenants, conditions and restrictions or other matters of record of which Tenant is made aware. Landlord reserves the right, from time to time, to grant such easements, rights and dedications as Landlord deems necessary or desirable, and to cause the recordation of parcel maps and covenants, conditions and restrictions affecting the Premises, the Building or the Project, as long as such easements, rights, dedications, maps, and covenants, conditions and restrictions do not materially interfere with the use of the Premises by Tenant. At Landlord's request, Tenant shall join in the execution of any of the aforementioned documents.

(j) Successors and Assigns. Except as otherwise provided in this Lease, all of the covenants, conditions and provisions of this Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns. Tenant shall attorn to each purchaser, successor or assignee of Landlord.

(k) Brokers. Tenant represents and warrants that it has had no dealings with any real estate broker or agent in connection with the negotiation of this Lease, excepting only the brokers named in *Item 14* of the Basic Lease Provisions and that it knows of no other real estate broker or agent who is or might be entitled to a commission in connection with this Lease. Tenant hereby agrees to indemnify, defend and hold Landlord and Landlord Indemnitees harmless for, from and against all claims for any brokerage commissions, finders' fees or similar payments by any persons other than those listed in *Item 14* of the Basic Lease Provisions with whom it has dealt and all costs, expenses and liabilities incurred in connection with such claims, including reasonable attorneys' fees and costs. Landlord represents and warrants that it has had no dealings with any real estate broker or agent in connection with the negotiation of this Lease, excepting only the brokers named in *Item 14* of the Basic Lease Provisions and that it knows of no other real estate broker or agent who is or might be entitled to a commission in connection with this Lease. Landlord hereby agrees to indemnify, defend and hold Tenant and Tenant Affiliates harmless for, from and against all claims for any brokerage commissions, finders' fees or similar payments by any persons other than those listed in *Item 14* of the Basic Lease Provisions with whom it has dealt and all costs, expenses and liabilities incurred in connection with such claims, including reasonable attorneys' fees and costs. Landlord will pay the brokers named in *Item 14* pursuant to a separate agreement.

(l) Project or Building Name and Signage. Landlord shall have the right at any time to install, affix and maintain any and all signs on the exterior and on the interior of the Project or Building as Landlord may, in Landlord's sole discretion, desire. Tenant shall not use the name of the Project or Building or use pictures or illustrations of the Project or Building in advertising or other publicity or for any purpose other than as the address of the business to be conducted by Tenant in the Premises, without the prior written consent of Landlord. Additionally, Landlord shall have the exclusive right at all times during the Lease Term to change, modify, add to or otherwise alter the name, number, or designation of the Building and/or the Project, and Landlord shall not be liable for claims or damages of any kind which may be attributed thereto or result therefrom.

(m) Examination of Lease. Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for lease, and it is not effective as a lease or otherwise until execution by and delivery to both Landlord and Tenant.

(n) Time. Time is of the essence of this Lease and each and all of its provisions.

(o) Defined Terms and Marginal Headings. The words "Landlord" and "Tenant" as used herein shall include the plural as well as the singular and for purposes of Paragraphs 5, 7, 13 and 18, the term Landlord shall include Landlord, its employees, contractors and agents. The marginal headings and titles to the articles of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof.

(p) Conflict of Laws; Prior Agreements; Separability. This Lease shall be governed by and construed pursuant to the laws of the State. This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease. No prior agreement, understanding or representation pertaining to any such matter shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest. The illegality, invalidity or unenforceability of any provision of this Lease shall in no way impair or invalidate any other provision of this Lease, and such remaining provisions shall remain in full force and effect.

(q) Authority. If Tenant is a corporation or limited liability company, each individual executing this Lease on behalf of Tenant hereby covenants and warrants that Tenant is a duly authorized and existing corporation or limited liability company, that Tenant has and is qualified to do business in the State, that the corporation or limited liability company has full right and authority to enter into this Lease, and that each person signing on behalf of the corporation is authorized to do so. If Tenant is a partnership or trust, each individual executing this Lease on behalf of Tenant hereby covenants and warrants that he is duly authorized to execute and deliver this Lease on behalf of Tenant in accordance with the terms of such entity's partnership or trust agreement. Tenant shall provide Landlord on demand with such evidence of such authority as Landlord shall reasonably request, including, without limitation, resolutions, certificates and opinions of counsel. This Lease shall not be construed to create a partnership, joint venture or similar relationship or arrangement between Landlord and Tenant hereunder. If Landlord is a corporation or limited liability company, each individual executing this Lease on behalf of Landlord hereby covenants and warrants that Landlord is a duly authorized and existing corporation or limited liability company, that Landlord has and is qualified to do business in the State, that the corporation or limited liability company has full right and authority to enter into this Lease, and that each person signing on behalf of the corporation is authorized to do so.

(r) Joint and Several Liability. If two or more individuals, corporations, partnerships or other business associations (or any combination of two or more thereof) shall sign this Lease as Tenant, the liability of each such individual, corporation, partnership or other business association to pay Rent and perform all other obligations hereunder shall be deemed to be joint and several, and all notices, payments and agreements given or made by, with or to any one of such individuals, corporations, partnerships or other business associations shall be deemed to have been given or made by, with or to all of them. In like manner, if Tenant shall be a partnership or other business association, the members of which are, by virtue of statute or federal law, subject to personal liability, then the liability of each such member shall be joint and several.

(s) Rental Allocation. For purposes of Section 467 of the Internal Revenue Code of 1986, as amended from time to time, Landlord and Tenant hereby agree to allocate all Rent to the period in which payment is due, or if later, the period in which Rent is paid.

(t) Rules and Regulations. Tenant agrees to comply with all rules and regulations of the Building and the Project imposed by Landlord as set forth on Exhibit C attached hereto, as the same may be changed from time to time upon reasonable notice to Tenant. Landlord shall not be liable to Tenant for the failure of any other tenant or any of its assignees, subtenants, or their respective agents, employees, representatives, invitees or licensees to conform to such rules and regulations. In the event of any conflict between such rules and regulations and this Lease, the Lease will control.

(u) Joint Product. This Agreement is the result of arms-length negotiations between Landlord and Tenant and their respective attorneys. Accordingly, neither party shall be deemed to be the author of this Lease and this Lease shall not be construed against either party.

(v) Financial Statements. Upon Landlord's written request made in connection with any actual or proposed financing, refinancing, investment or sale of the Building or the Project or any direct or indirect interests in Landlord, Tenant shall promptly furnish Landlord, from time to time, with the most current financial statements (which statements will be audited statements, if available) prepared in accordance with generally accepted accounting principles, certified by Tenant and an independent auditor, if applicable, to be true and correct, reflecting Tenant's then current financial condition.

(w) Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, acts of war, terrorism, terrorist activities, inability to obtain services, labor, or materials or reasonable substitutes therefore, governmental actions, civil commotions, fire, flood, earthquake or other casualty, and other causes beyond the reasonable control of the party obligated to perform, except with respect to the obligations imposed with regard to Rent and other charges to be paid by Tenant pursuant to this Lease and except as to Tenant's obligations under Paragraph 6 and Paragraph 8 of this Lease and Paragraph 19(f) of this Lease (collectively, a "Force Majeure"), notwithstanding anything to the contrary contained in this Lease, shall excuse the performance of such party for a period equal to any such prevention, delay or stoppage and, therefore, if this Lease specifies a time period for performance of an obligation of either party, that time period shall be extended by the period of any delay in such party's performance caused by a Force Majeure.

(x) Counterparts. This Lease may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

(y) Waiver of Right to Jury Trial. LANDLORD AND TENANT WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY OF ANY CONTRACT OR TORT CLAIM, COUNTERCLAIM, CROSS-COMPLAINT, OR CAUSE OF ACTION IN ANY ACTION, PROCEEDING, OR HEARING BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, OR TENANT'S USE OR OCCUPANCY OF THE PREMISES (EXCEPT CLAIMS FOR PERSONAL

INJURY OR PROPERTY DAMAGE), INCLUDING WITHOUT LIMITATION ANY CLAIM OF INJURY OR DAMAGE OR THE ENFORCEMENT OF ANY REMEDY UNDER ANY CURRENT OR FUTURE LAW, STATUTE, REGULATION, CODE, OR ORDINANCE.

(z) Intentionally Omitted.

(aa) OFAC Compliance.

(i) Certification. Tenant certifies, represents, warrants and covenants that:

(A) It is not acting and will not act, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person", or other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule, or regulation that is enforced or administered by the Office of Foreign Assets Control; and

(B) It is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation.

(ii) Indemnity. Tenant hereby agrees to defend (with counsel reasonably acceptable to Landlord), indemnify and hold harmless Landlord and the Landlord Indemnitees from and against any and all Claims arising from or related to any such breach of the foregoing certifications, representations, warranties and covenants.

(bb) No Easement For Light, Air And View. This Lease conveys to Tenant no rights for any light, air or view. No diminution of light, air or view, or any impairment of the visibility of the Premises from inside or outside the Building, by any structure or other object that may hereafter be erected (whether or not by Landlord) shall entitle Tenant to any reduction of Rent under this Lease, constitute an actual or constructive eviction of Tenant, result in any liability of Landlord to Tenant, or in any other way affect this Lease or Tenant's obligations hereunder.

(cc) Nondisclosure of Lease Terms. Tenant agrees that the terms of this Lease are confidential and constitute proprietary information of Landlord, and that disclosure of the terms hereof could adversely affect the ability of Landlord to negotiate with other tenants. Tenant hereby agrees that Tenant and its partners, officers, directors, employees, agents, real estate brokers and sales persons and attorneys shall not disclose the terms of this Lease to any other person without Landlord's prior written consent, except to any lenders or potential investors in connection with any proposed financing or sale of Tenant or Tenant's business conducted in the Premises, to any accountants of Tenant in connection with the preparation of Tenant's financial statements or tax returns, to an assignee of this Lease or subtenant of the Premises, or to an entity or person to whom disclosure is required by applicable law or in connection with any action brought to enforce this Lease.

(dd) Intentionally Omitted.

(ee) ERISA. Tenant is not an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974 ("ERISA"), which is subject to Title I of ERISA, or a "plan" as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, which is subject to Section 4975 of the Internal Revenue Code of 1986; and (b) the assets of Tenant do not constitute "plan assets" of one or more such plans for purposes of Title I of ERISA or Section 4975 of the Internal Revenue Code of 1986; and (c) Tenant is not a "governmental plan" within the meaning of Section 3(32) of ERISA, and assets of Tenant do not constitute plan assets of one or more such plans; or (d) transactions by or with Tenant are not in violation of state statutes applicable to Tenant regulating investments of and fiduciary obligations with respect to governmental plans.

(ff) Intentionally Omitted.

(gg) Consent. With respect to any provision of this Lease which provides, in effect, that Landlord shall not unreasonably withhold or unreasonably, delay or condition any consent or any approval, Tenant in no event shall be entitled to make, nor shall Tenant make, any claim, and Tenant hereby waives any claim, for money damages; nor shall Tenant claim any money damages by way of setoff, counterclaim or defense, based upon any claim or assertion by Tenant that Landlord has unreasonably withheld, unreasonably conditioned or unreasonably delayed any consent or approval; but Tenant's sole remedy shall be either (x) an action or proceeding to enforce any such provision, or for specific performance, injunction or declaratory judgment, or (ii) to resolve the dispute by expedited arbitration in accordance with the then prevailing Streamlined Arbitration Rules and Procedures of Judicial Arbitration and Mediation Services ("JAMS"), or its successor organization.

(hh) No Recording. The parties agree that neither this Lease nor a memorandum of lease shall be recorded.

(ii) Adjacent Excavation; Shoring. If an excavation shall be made upon land adjacent to or under the Building, or shall be authorized to be made, Tenant shall afford to the person causing or authorized to cause such excavation, license to enter upon the Premises for the purpose of doing such work as shall be necessary to preserve the wall of the Building of which the Premises form a part from injury or damage and to support the same by proper foundations without any claim for damages or indemnity against Landlord, or diminution or abatement of Rent.

20. ZONING RIGHTS

(a) During the Lease Term of this Lease, Landlord shall have the right, and Tenant shall not have the right, (i) to cause all or any part of the Premises and/or the zoning lot upon which the Building is located in whole or in part (hereinafter referred to solely for purposes of this Paragraph 20 as the "Land") and/or the Building, to be combined with any other land or premises so as to constitute the combined premises into a single zoning "lot" or "development" or "enlargement" as those terms are now, or may hereafter be, defined in the Zoning Resolution of The City of New York (the "Zoning Resolution"); (ii) to cause any lot, development or enlargement at any time constituting or including all or any part of the Premises, the Project or

the Building to be subdivided into two or more lots, developments or enlargements; (iii) to cause development rights (whether from the Project or other premises) to be transferred to any such lot, development or enlargement; (iv) to cause other combinations, subdivisions and transfers to be effected, whether similar or dissimilar to those now permitted by law; or (v) to exploit, sell, convey, lease or otherwise transfer any so called "air rights," "air space," "zoning rights" or "development rights" above or appurtenant to the Project or the Building. Tenant hereby acknowledges that it is not a "party in interest" as defined in the Zoning Resolution, and shall not and cannot become a "party in interest" under any circumstances by virtue of its leasehold interest hereunder. Tenant further acknowledges that neither Tenant nor the estate or interest of Tenant hereunder would be "adversely affected" (within the meaning of the Zoning Resolution) by any development of the Project or the Building or any such combined premises nor by the filing of any declaration combining all or a part of the Project or the Building with any other premises and that Tenant's estate and interest hereunder are not and would not be superior to any such declaration.

(b) Notwithstanding the provisions of Paragraph 20(a), above, in the event that Tenant is deemed to have any of the rights disclaimed in Paragraph 20(a), above, or is deemed to be a party in interest, Tenant hereby transfers such rights and any rights as a party in interest to Landlord. In furtherance thereof, Tenant will, within three (3) days after written request by Landlord, execute and deliver to Landlord a waiver of its right to join in a Declaration of Restrictions pursuant to Section 12-10 of the Zoning Resolution (a "Waiver"). Upon each assignment of this Lease by Tenant (no consent thereto being implied hereby) the assignee shall execute, acknowledge and deliver to Landlord, and at any time or times, within three (3) days after written request of Landlord, Tenant and each assignee shall execute, acknowledge and deliver to Landlord, (i) any further Waiver; (ii) if requested by Landlord, any Declaration of Restrictions pursuant to said Section 12-10 (or any successor provision thereto); and (iii) any other instrument in form and substance satisfactory to the parties intended to evidence the fact that Tenant (or such assignee) has no right and asserts no claim, and/or has transferred to Landlord any such right or claim, to participate in any way in the matters reserved to Landlord pursuant to Paragraph 20(a), above. If Tenant (or such assignee) fails to so execute any such instrument within ten (10) days after Landlord's written request therefor, Landlord will send a second notice, which notice will set forth in bold capital letters the following statement: **TENANT (OR SUCH ASSIGNEE, IF APPLICABLE) MUST EXECUTE, ACKNOWLEDGE AND DELIVER THIS INSTRUMENT TO LANDLORD WITHIN FIVE (5) BUSINESS DAYS AFTER RECEIPT OF THIS NOTICE.** If Tenant (or such assignee) fails to so execute and deliver such instrument to Landlord within five (5) Business Days after receipt of the second notice, then Tenant (or such assignee) shall be hereby deemed to have irrevocably appointed Landlord its agent and attorney-in-fact, coupled with an interest, to execute and deliver the same in its name.

21. WINDOW CLEANING

Tenant will not clean any window in the Premises from the outside (within the meaning of Section 202 of the New York Labor Law or any successor statute thereto) in violation of Section 202 of the New York Labor Law or any successor statute thereto. In addition, unless the equipment and safety devices required by all legal requirements including Section 202 of the New York Labor Law or any successor statute thereto are provided and used, Tenant will not require, permit, suffer or allow the cleaning of any window in the Premises from the outside (within the meaning of said Section). Tenant hereby indemnifies Landlord against liability as a result of any violation of the foregoing.

22. SUBMISSION TO JURISDICTION

Tenant hereby (a) irrevocably consents and submits to the jurisdiction of any Federal, state, county or municipal court sitting in the State of New York in respect to any action or proceeding brought therein by Landlord against Tenant concerning any matters arising out of or in any way relating to this Lease; (b) irrevocably waives all objections as to venue and any and all rights it may have to seek a change of venue with respect to any such action or proceedings; (c) agrees that the laws of the State of New York shall govern in any such action or proceeding and waives any defense to any action or proceeding granted by the laws of any other country or jurisdiction unless such defense is also allowed by the laws of the State of New York; and (d) agrees that any final judgment rendered against it in any such action or proceeding shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by law. Tenant further agrees that any action or proceeding by Tenant against Landlord in respect to any matters arising out of or in any way relating to this Lease shall be brought only in the State of New York, county of New York. In furtherance of the foregoing, Tenant hereby agrees that its address for notices by Landlord and service of process under this Lease shall be the Premises. Notwithstanding the foregoing provisions of this Paragraph 22, Tenant may, by written notice to Landlord, change the designated agent for acceptance of service of process to any other law firm located in the City, county and State of New York.

23. SCAFFOLDING

Tenant acknowledges that Landlord may, from time to time and at Landlord's expense, install and maintain scaffolding and/or a sidewalk bridge ("Scaffolding") outside of the Premises if required by Laws or in connection with work being performed at the Building. Landlord shall have no liability to Tenant with respect to such Scaffolding.

24. CONDOMINIUM CONVERSION

Tenant acknowledges that the Building and the Project of which the Premises form a part may be subjected to the condominium form of ownership prior to the end of the Lease Term of this Lease. Tenant agrees that if, at any time during the Lease Term, the Building and the Project shall be subjected to the condominium form of ownership, then, this Lease and all rights of Tenant hereunder are and shall be subject and subordinate in all respects to any condominium declaration and any other documents (collectively, the "Declaration") which shall be recorded in order to convert the Building and the Project of which the Premises form a part to a

condominium form of ownership in accordance with the provisions of Article 9-B of the Real Property Law of the State of New York or any successor thereto. If any such Declaration is to be recorded, Tenant, upon request of Landlord and at Landlord's cost and expense, shall enter into an amendment of this Lease in such respects as shall be necessary to conform to such condominiumization, provided such amendment does not materially reduce any of Tenant's rights hereunder or materially increase any obligations or liabilities of Tenant hereunder.

25. COMPLIANCE WITH LAWS

If, at any time during the Lease Term hereof, Landlord expends any sums for alterations or improvements to the Building which are required to be made pursuant to any Law that comes into effect from and after the Commencement Date, then, in such case, Tenant shall pay to Landlord, as Additional Rent, Tenant's Proportionate Share of such cost within thirty (30) days after demand therefor. The cost of such alterations or improvement will be amortized over such periods as Landlord shall reasonably determine in accordance with its good faith application of generally acceptable accounting standards and practices, together with interest thereon at the Default Rate. Notwithstanding anything to the contrary contained hereinabove, in the event that the requirement for the performance of any such alteration or improvement is attributable to the actions, installations, use or occupancy of the Premises by Tenant, then in such event Tenant shall be responsible to pay the entire cost imposed by Landlord with respect to such alteration or improvement.

26. RENEWAL OPTION

(a) By written notice delivered to Landlord (the "Tenant's Renewal Notice") on or before the date which is twelve (12) months prior to the Expiration Date (the "Exercise Date"), time being of the essence, expressly provided that on the Exercise Date and as of the first date of the Renewal Term (i) Tenant is not in default under this Lease beyond any applicable notice and grace period and (ii) Tenant and/or Permitted Users are in occupancy of one hundred percent (100%) of the rentable square footage of the Premises, Tenant shall have the option to extend the term of this Lease with respect to Premises for five (5) years (the "Renewal Term") commencing on the first day following the Expiration Date and ending on the date immediately preceding the fifth (5th) anniversary of commencement of the Renewal Term upon the same terms and conditions hereof except that (1) the annual Base Rent to be paid by Tenant for the Premises for the Renewal Term shall be the greater of: (A) one hundred (100%) percent of the Fair Market Rental Value for the Premises, as determined as hereinafter set forth, and to be effective on the first day of the Renewal Term, or (B) the then escalated Base Rent payable by Tenant under this Lease, and (2) the Base Year for Real Estate Taxes shall be the fiscal tax year in which the Renewal Term commences. The annual increase for each Lease Year of the Renewal Term will be determined at the time that the initial Base Rent for the Renewal Term is established.

(b) No earlier than two hundred seventy (270) days and no later than one hundred twenty (120) days prior to the Expiration Date, Landlord shall submit to Tenant a statement of Landlord's determination of the Fair Market Rental Value for the Premises for the Renewal Term, which statement shall show the basis upon which such determination was made. The term "Fair Market Rental Value" means the fixed annual rent that a willing lessee would pay and a

willing lessor would accept for the Premises during the Renewal Term, taking into account all relevant factors and measured as of the commencement of the Renewal Term.

(c) Within ten (10) Business Days after receipt of Landlord's determination, Tenant may either (i) accept Landlord's determination of the Fair Market Rental Value or (ii) provide Landlord with its own determination of the Fair Market Rental Value, including the basis upon which such determination was made. Tenant's failure to elect either option (i) or (ii) of the immediately preceding sentence shall be deemed Tenant's agreement with Landlord's determination of the Fair Market Rental Value. If Tenant elects option (ii), then Landlord and Tenant shall, for a period of thirty (30) days after Landlord's receipt of Tenant's determination, negotiate in good faith to determine the Fair Market Rental Value and if Landlord and Tenant are unsuccessful in reaching agreement within such thirty (30) day period, either Landlord or Tenant may cause the issue to be arbitrated as hereinafter set forth in this Paragraph 26. Except for the determination of the Fair Market Rental Value and the re-setting of the Base Year for Real Estate Taxes (in accordance with the first paragraph of this Paragraph 26(a)), the Renewal Term shall be upon all of the terms, covenants and conditions contained in this Lease, provided that Landlord shall have no obligation to perform any work, pay any contribution or render any services to make the Premises ready for Tenant's continued use or occupancy during the Renewal Term, and Tenant shall accept the Premises in its "as-is" condition existing as of the date of the commencement of the Renewal Term.

(d) In the event either Landlord or Tenant elects to arbitrate the issue of the Fair Market Rental Value, such issue shall be determined by arbitration as hereinafter provided. Landlord and Tenant shall each appoint a fit and impartial broker as an arbitrator who shall have at least ten (10) years' experience in the commercial real estate brokerage industry in the City of New York with respect to Class A office buildings in midtown Manhattan (each a "Qualified Arbitrator"). Such appointment shall be indicated in writing by each party to the other. The arbitrators so appointed shall appoint a third Qualified Arbitrator within ten (10) Business Days after the appointment of the second arbitrator. In case either party shall fail to appoint a Qualified Arbitrator within a period of ten (10) Business Days after written notice from the other party to make such appointment, REBNY shall appoint such Qualified Arbitrator(s) upon the application of the other party. The two (2) arbitrators so appointed shall appoint the third (3rd) arbitrator within ten (10) Business Days after the appointment of the second (2nd) arbitrator, otherwise REBNY shall similarly make such appointment upon the application of the other party. The arbitrators shall proceed with all reasonable dispatch to determine the Fair Market Rental Value and under all circumstances shall be bound by the terms of this Lease and shall not add to, subtract from, or otherwise modify such provisions and shall take into account the definition of Fair Market Rental Value set forth above. Landlord and Tenant shall each be permitted to submit to the Qualified Arbitrators a revised determination the Fair Market Rental Value, provided that Landlord's revised determination shall not exceed Landlord's initial determination of the Fair Market Rental Value and Tenant's revised determination shall not be less than Tenant's initial determination of the Fair Market Rental Value. The arbitrators' sole discretion in determining the question submitted shall be limited to selecting either Landlord's determination of Fair Market Rental Value or Tenant's determination of Fair Market Rental Value (in either case as revised, if applicable, and no other amount). The decision of the arbitrators shall, in any event, be rendered within thirty (30) days after their appointment and such decision shall be in writing and in duplicate with one counterpart delivered to each

Landlord and Tenant. The arbitration shall be conducted in accordance with the then prevailing Streamlined Arbitration Rules and Procedures of JAMS for arbitration of commercial disputes and applicable New York law, and a decision of a majority of the arbitrators shall be binding, final and conclusive upon Landlord and Tenant and shall form the basis for establishing and setting the Base Rent payable hereunder with respect to the Renewal Term. The fees of the third arbitrator and the expenses incident to the proceedings shall be shared equally between Landlord and Tenant. Each party shall be responsible for the fees of its own Qualified Arbitrator.

(e) In the event the determination of the Base Rent for the Renewal Term is not finalized until after the first day of the Renewal Term, Tenant shall pay Base Rent based on Landlord's determination of Fair Market Rental Value. In the event the Base Rent for the Renewal Term is finally determined to be less than Landlord's determination of Fair Market Rental Value for the Renewal Term, Landlord will credit any overpayments by Tenant to the next installment(s) of Base Rent becoming due during the Renewal Term following the month in which the Base Rent for the Renewal Term was finally established.

(f) If Tenant exercises the option to extend this Lease for the Renewal Term and after the Fair Market Rental Value has been agreed to or determined by arbitration, as the case may be, Landlord and Tenant shall then enter into a modification of this Lease incorporating the exercise of the renewal option with such changes as shall be necessary to modify the terms of this Lease, but the failure of the parties to enter into such amendment shall not nullify or otherwise affect the validity of Tenant's exercise of the renewal option.

(g) Notwithstanding anything to the contrary contained in this Paragraph 26, Tenant's right to renew this Lease for the Renewal Term shall be personal to the named Tenant herein and its Successors.

27. TERMINATION OPTION

(a) Tenant will have the right (the "Termination Option") to terminate this Lease with respect to the entire Premises (the "Termination Premises") effective as of either the fifth (5th) or the seventh (7th) anniversary of the Rent Commencement Date (the applicable date, the "Termination Option Date"), upon at least fifteen (15) months' prior irrevocable notice (the "Termination Option Notice") to Landlord.

(b) Simultaneously with the giving of the Termination Option Notice, Tenant shall pay to Landlord a payment in an amount equal to \$484,691 if terminating as of the fifth (5th) anniversary of the Rent Commencement Date or \$373,378 if terminating as of the seventh (7th) anniversary of the Rent Commencement Date (the applicable amount, the "Termination Payment"). In the event that Tenant fails to pay the Termination Payment at the time of the Termination Option Notice, Tenant shall no longer have any right to terminate this Lease pursuant to Paragraph 27. The Termination Payment shall be payable by certified check payable to the order of Landlord drawn upon a bank which is a member of the New York Clearing House Association or by any other method of payment permitted by Landlord.

(c) In the event that Tenant shall give the Termination Option Notice and pays the Termination Payment, then on the Termination Date (A) this Lease shall terminate in its

entirety, provided that nothing contained herein shall constitute a waiver of (i) Tenant's obligations which survive the termination of this Lease, or (ii) Tenant's obligations which accrued on or prior to the Termination Date, and (B) Tenant will deliver to Landlord vacant possession of the Termination Premises subject to and in accordance with all applicable provisions of the Lease for the delivery of the Premises at the end of the Lease Term.

(d) Notwithstanding anything to the contrary contained herein, if a monetary event of default or a non-monetary event of default with respect to Tenant's maintenance and repair obligations under this Lease shall have occurred and be continuing on the date on which Tenant gives notice of its exercise of the Termination Option or on the Termination Option Date, then at Landlord's option, Tenant's exercise of the Termination Option shall be null and void and the Lease shall continue in full force and effect. In the event Landlord elects to void the Tenant's exercise of the Termination Option, then, in such event, the Landlord will refund the applicable Termination Payment to Tenant within thirty (30) days following the date of Landlord's election.

(e) If Tenant exercises the Termination Option, then, upon request by either party made on or following the Termination Option Date, the parties will execute, acknowledge and deliver an amendment to this Lease in a form reasonably satisfactory to both parties reflecting the termination of the entire Lease, but no such agreement shall be necessary in order to make the provisions hereof effective.

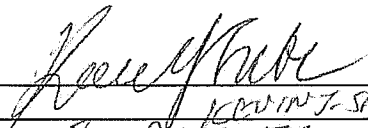
(f) Notwithstanding anything to the contrary contained in this Paragraph 27, Tenant's Termination Option shall be personal to the Tenant named herein and its Successors.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Lease to be effective as of the Effective Date.

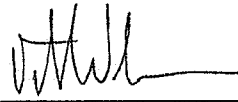
"LANDLORD":

T-C 470 PARK AVENUE SOUTH OWNER
LLC
a Delaware limited liability company

By: 
Name: KEVIN J. SMITH
Title: Sn-DIRECTOR

"TENANT":

KIKO USA INC.,
a Delaware corporation

By: 
Name: VITTORIO VERDUN
Title: CEO, KIKO USA Inc.

Attest: _____
Name: _____
Title: _____

SCHEDULE 1
BASE RENT

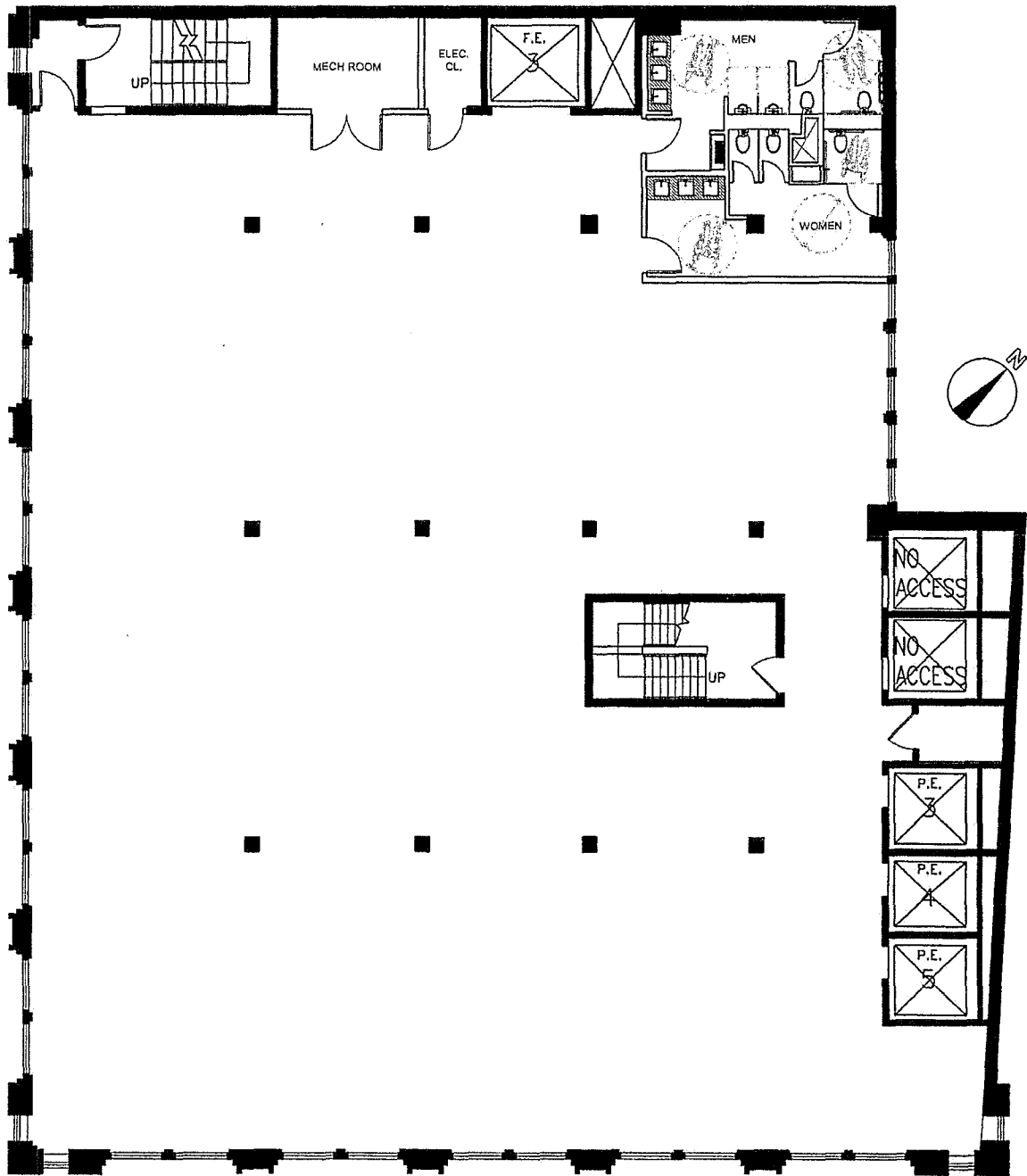
PERIOD	ANNUAL BASE RENT	MONTHLY BASE RENT	ADDITIONAL BASE RENT CONCESSION***
Lease Year 1	\$532,730	\$44,394.17	\$19,372
Lease Year 2	\$544,716.43	\$45,393.04	\$19,807.87
Lease Year 3	\$556,972.54	\$46,414.38	\$20,253.55
Lease Year 4	\$569,504.43	\$47,458.70	\$20,709.25
Lease Year 5	\$582,318.28	\$48,526.52	\$21,175.21
Lease Year 6	\$643,850.44	\$53,654.20	\$31,337.65
Lease Year 7	\$658,337.07	\$54,861.42	\$32,042.75
Lease Year 8	\$673,149.66	\$56,095.80	\$32,763.71
Lease Year 9	\$688,295.52	\$57,357.96	\$33,500.89
Lease Year 10	\$703,782.17	\$58,648.51	\$34,254.66

***Notwithstanding anything to the contrary in the Lease, provided Tenant is not in monetary or material non-monetary default under the Lease as of the first day of the applicable Lease Year, Tenant will have the right to reduce the first monthly payment of Base Rent for such Lease Year by the amount equal to the Additional Base Rent Concession applicable to such Lease Year, provided, however, that if any such default exists as of the first day of the applicable Lease Year and is thereafter cured, then so long as no other default then exists and the Lease remains in effect, Tenant shall be immediately entitled to the applicable unapplied portion of the abatement after such default has been cured.

EXHIBIT A-1
FLOOR PLAN OF THE PREMISES

The floor plan which follows is intended solely to identify the general location of the Premises, and should not be used for any other purpose. All areas, dimensions and locations are approximate, and any physical conditions indicated may not exist as shown.

31ST STREET



PARK AVENUE SOUTH

470 PAS

MIDTOWN SOUTH'S CUTTING EDGE

FLOOR 15 SOUTH: 9,686 RSF



Newmark Grubb
Knight Frank

T P G
ARCHITECTURE

EXHIBIT A-2
LEGAL DESCRIPTION OF THE PROJECT

Legal Description

**470 Park Avenue South
New York, New York**

PARCEL I

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, County of New York, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of East 31st Street and the westerly side of 4th Avenue;

THENCE Westerly along the northerly side of East 31st Street, 100 feet;

THENCE Northerly parallel with 4th Avenue, 88 feet 3 inches; and

THENCE Easterly along said boundary line, 16 feet 4-1/2 inches to a line drawn parallel with and distant 83 feet 8 inches westerly from the westerly side of 4th Avenue;

THENCE Northerly along said line drawn parallel with and distant, 83 feet 8 inches westerly from the westerly side of 4th Avenue, 110 feet 5-3/4 inches to the southerly side of East 32nd Street;

THENCE Easterly along the southerly side of East 32nd Street, 83 feet 8 inches to the southwest corner of East 32nd street and 4th Avenue;

THENCE Southerly along the westerly side of 4th Avenue, 197 feet 6 inches to the point or place of BEGINNING.

EXHIBIT A (cont.)

PARCEL II

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, County of New York, City and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of 31st Street, distant one hundred (100) feet from the corner formed by the intersection of the northerly side of 31st Street and the westerly side of 4th Avenue; running

THENCE Northerly parallel with 4th Avenue, eighty-eight (88) feet three (3) inches;

RUNNING THENCE Westerly twenty-two (22) feet six and one-half (6-1/2) inches to a point distant eighty-nine (89) feet six and five-eighths (6-5/8) inches from the northerly side of 31st Street;

RUNNING THENCE Southerly again parallel with 4th Avenue and part of the distant through a party wall, eighty-nine (89) feet six and five-eighths (6-5/8) inches to the northerly side of 31st Street; and

RUNNING THENCE Easterly along the northerly side of 31st Street, twenty-two (22) feet six (6) inches to the point or place of BEGINNING.

EXHIBIT B
INTENTIONALLY OMITTED

EXHIBIT C
INTENTIONALLY OMITTED

EXHIBIT D
LANDLORD'S BASE BUILDING WORK

The following work (unless otherwise specifically provided herein) shall be of material, manufacture, design, capacity, quality, finish and color of the standard adopted by Landlord for the Building.

- (1) Demolish all existing improvements in the Premises and deliver the Premises in broom-clean condition.
- (2) Provide Class "E" system panel with appropriate number of points and all distribution equipment necessary for code compliance.
- (3) Fireproof all exposed structural steel and seal any open penetrations.
- (4) Deliver and install a brand new tenant controlled, air-cooled 25-ton AC unit for the Premises.
- (5) Construct new ADA compliant Men's and Women's bathrooms.
- (6) Deliver an ACP-5 certificate.
- (7) Repair perimeter radiators.
- (8) Install main sprinkler loop around the core of the Premises.
- (9) Scrape and patch any major imperfections in perimeter and core walls.
- (10) Install exterior windows throughout the Premises.

EXHIBIT E
BUILDING RULES AND REGULATIONS

1. The sidewalks, entrances, passages, courts, elevators, vestibules, fire exits, stairways and corridors of halls shall not be obstructed or used for any purpose other than ingress and egress. The halls, passages, entrances, elevators, stairways, balconies and roof are not for the use of the general public, and the Landlord shall in all cases retain the right to control and prevent access thereto of all persons whose presence, in the judgment of the Landlord, shall be prejudicial to the safety, character, reputation and interests of the Building and its tenants, provided that nothing herein contained shall be construed to prevent such access to persons with whom the tenant normally deals only for the purpose of conducting its business in the Premises (such as clients, customers, office suppliers and equipment vendors, and the like) unless such persons are engaged in illegal activities. No tenant shall invite to its premises, or permit the visit of persons in such numbers or under, such conditions as to interfere with the use and enjoyment of any of the plazas, entrances, corridors, elevators and other facilities of the Building by other tenants. No tenant and no employees of any tenant shall go upon the roof of the Building without the written consent of Landlord. Landlord reserves the right to control and operate the public portions of the Building, the public facilities, as well as facilities furnished for the common use of the tenants, in such manner as Landlord deems best for the benefit of the tenants generally.

2. No awnings or other projections shall be attached to the outside walls of the Building. No curtains, blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of the Premises other than Landlord standard window coverings. All electrical ceiling fixtures hung in offices or spaces along the perimeter of the Building must be fluorescent, of a quality, type, design and bulb color approved by Landlord. Neither the interior nor the exterior of any windows shall be coated or otherwise sunscreened without the written consent of Landlord.

3. No sign, advertisement, notice or handbill shall be exhibited, distributed, painted or affixed by any tenant on, about or from any part of the Premises, the Building or the Project without the prior written consent of the Landlord, which consent will not be unreasonably withheld. If the Landlord shall have given such consent at the time, whether before or after the execution of this Lease, such consent shall in no way operate as a waiver or release of any of the provisions hereof or of this Lease, and shall be deemed to relate only to the particular sign, advertisement or notice so consented to by the Landlord and shall not be construed as dispensing with the necessity of obtaining the specific written consent of the Landlord with respect to each and every such sign, advertisement or notice other than the particular sign, advertisement or notice, as the case may be, so consented to by the Landlord. In the event of the violation of the foregoing by any tenant, Landlord may remove or stop same without any liability, and may charge the expense incurred in such removal or stopping to such tenant. Interior signs on doors and the directory tablet shall be inscribed, painted or affixed for each tenant by the Landlord at the expense of such tenant, and shall be of a size, color and style acceptable to the Landlord. The directory tablet will be provided exclusively for the display of the name and location of tenants and subtenants or occupants only and Landlord reserves the right to exclude any other names

therefrom. Nothing may be placed on the exterior of corridor walls or corridor doors other than Landlord's standard lettering.

4. The sashes, sash doors, skylights, windows, and doors that reflect or admit light and air into halls, passageways or other public places in the Building shall not be covered or obstructed by any tenant, nor shall any bottles, parcels or other articles be placed on the window sills. Tenant shall see that the windows, transoms and doors of the Premises are closed and securely locked before leaving the Building and must observe strict care not to leave windows open when it rains. Tenant shall exercise extraordinary care and caution that all water faucets or water apparatus are entirely shut off before tenant or tenant's employees leave the Building, and that all electricity, gas or air shall likewise be carefully shut off, so as to prevent waste or damage. Tenant shall cooperate with Landlord in obtaining maximum effectiveness of the cooling system by closing window coverings when the sun's rays fall directly on the windows of the Premises. Tenant shall not tamper with or change the setting of any thermostats or temperature control valves.

5. The toilet rooms, water and wash closets and other plumbing fixtures shall not be used for any purpose other than those for which they were considered, and no sweepings, rubbish, rags or other substances shall be thrown therein. All damages resulting from any misuse of the fixtures shall be borne by the tenant who, or whose subtenants, assignees or any of their servants, employees, agents, visitors or licensees shall have caused the same.

6. No tenant shall mark, paint, drill into, or in any way deface any part of the Premises, the Building or the Project. No boring, cutting or stringing of wires or laying of linoleum or other similar floor coverings shall be permitted, except with the prior written consent of the Landlord and as the Landlord may direct.

7. No vehicles, birds or animals of any kind shall be brought into or kept in or about the Premises, and no cooking shall be done or permitted by any tenant on the Premises, except that the preparation of coffee, tea, hot chocolate and similar items (including those suitable for microwave heating) for tenants and their employees shall be permitted, provided that the power required therefor shall not exceed that amount which can be provided by a 30 amp circuit. No tenant shall cause or permit any unusual or objectionable odors to be produced or permeate the Premises. Smoking or carrying lighted cigars, cigarettes or pipes in the Building is prohibited. Any bicycles brought into the Building by Tenant shall be kept within the Premises or other areas of the Building as may be designated by Landlord for bicycle storage.

8. The Premises shall not be used for manufacturing or for the storage of merchandise except as such storage may be incidental to the permitted use of the Premises. No tenant shall occupy or permit any portion of the Premises to be occupied as an office for a public stenographer or typist, or for the manufacture or sale of liquor, narcotics, or tobacco (except by a cigarette vending machine for use by tenant's employees) in any form, or as a medical office, or as a barber or manicure shop, or as an employment bureau, without the express written consent of Landlord. No tenant shall engage or pay any employees on the Premises except those actually working for such tenant on the Premises nor advertise for laborers giving an address at the Premises. The Premises shall not be used for lodging or sleeping or for any immoral or illegal purposes.

9. No tenant shall make, or permit to be made, any unseemly or disturbing noises or disturb or interfere with occupants of this or neighboring buildings or premises or those having business with them, whether by the use of any musical instrument, radio, phonograph, unusual noise, or in any other way. No tenant shall throw anything out of doors, windows or skylights or down the passageways.

10. No tenant, subtenant or assignee nor any of their servants, employees, agents, visitors or licensees shall at any time bring or keep upon the Premises any inflammable, combustible or explosive fluid, chemical or substance other than usual quantities of standard office supplies.

11. Each tenant shall be required to use Landlord's designated locksmith and may only install such locks and other security devices as Landlord approves. Each tenant shall furnish Landlord with keys to its respective premises so that Landlord may have access thereto for the purposes set forth in the Lease. Duplicate keys for a tenant's premises and toilet rooms shall be procured only from Landlord, who may make a reasonable charge therefor. No additional locks or bolts of any kind shall be placed upon any of the doors or windows by any tenant, nor shall any changes be made in existing locks or the mechanisms thereof. Each tenant must, upon the termination of his tenancy, restore to Landlord all keys of stores, offices, and toilet rooms, either furnished to, or otherwise procured by, such tenant and in the event of the loss of keys so furnished, such tenant shall pay to Landlord the cost of replacing the same or of changing the lock or locks opened by such lost key if Landlord shall deem it necessary to make such changes.

12. All removals, or the carrying in or out of any safes, freight, furniture, office equipment, packages, merchandise or bulky matter of any description must take place during the hours which Landlord shall determine from time to time, with the express written consent of Landlord. The moving of safes or other fixtures or bulky matter of any kind must be done upon previous notice to the Project Management Office and under its supervision, and the persons employed by any tenant for such work must be acceptable to the Landlord. Landlord reserves the right to inspect all safes, freight or other bulky articles to be brought into the Building and to exclude from the Building all safes, freight or other bulky articles which violate any of these Rules and Regulations or the Lease of which these Rules and Regulations are a part. Landlord reserves the right to prescribe the weight and position of all safes, which must be placed upon supports approved by Landlord to distribute the weight. No furniture, office equipment, safes, large packages, merchandise or parcels shall be moved or transported in the passenger elevators at any time.

13. No tenant shall purchase spring water, ice, towel, janitorial maintenance or other similar services from any person or persons not approved by Landlord, which approval will not be unreasonably withheld, conditioned or delayed.

14. Landlord shall have the right to prohibit any advertising by any tenant which, in Landlord's opinion, tends to impair the reputation of the Building or the Project or its desirability as an office location, and upon written notice from Landlord, any tenant shall refrain from or discontinue such advertising.

15. Landlord reserves the right to exclude from the Building between the hours of 6:00 P.M. and 7:00 A.M. and at all hours on Saturday, Sunday and Holidays all persons who do not present a pass or card key to the Building approved by the Landlord, and may require all persons admitted to or leaving the Building outside of Business Hours to register. Each tenant shall be responsible for all persons who enter the Building with or at the invitation of such tenant and shall be liable to Landlord for all acts of such persons. Tenant's employees, agents and visitors shall be permitted to enter and leave the Building whenever appropriate arrangements have been previously made between Landlord and the tenant with respect thereto. In case of an invasion, mob riot, public excitement or other circumstances rendering such action advisable in Landlord's opinion, Landlord reserves the right, without abatement of Rent, to require all persons to vacate the Building and to prevent access to the Building during the continuance of the same for the safety of the tenants, the protection of the Building, and the property in the Building. Landlord may require any person leaving the Building with any package or other object to exhibit a pass from the tenant from whose premises the package or object is being removed, but the establishment and enforcement of such requirement shall not impose any responsibility on Landlord for the protection of any tenant against the removal of property from the premises to tenant. Landlord shall in no case be liable for damages or loss arising from the admission, exclusion or ejection of any person to or from tenant's premises or the Building.

16. Any persons employed by any tenant to do janitorial work shall, while in the Building and outside of the Premises, be subject to and under the control and direction of the Project Management Office (but not as an agent or servant of said Office or of the Landlord), and such tenant shall be responsible for all acts of such persons.

17. All doors opening onto public corridors shall be kept closed, except when in use for ingress and egress.

18. The requirements of tenant will be attended to only upon application to the Project Management Office.

19. Canvassing, soliciting and peddling in the Building are prohibited and each tenant shall report and otherwise cooperate to prevent the same.

20. All office equipment of any electrical or mechanical nature shall be placed by tenant in the Premises in settings reasonably approved by Landlord, to absorb or prevent any vibration, noise or annoyance.

21. No air conditioning unit or other similar apparatus shall be installed or used by any tenant without the written consent of Landlord.

22. There shall not be used in any space, or in the public halls of the Building, either by any tenant or others, any hand trucks, except those equipped with rubber tires and rubber side guards.

23. No vending machine or machines of any description shall be installed, maintained or operated upon the Premises without the written consent of Landlord.

24. The scheduling of tenant move-ins shall be subject to the reasonable discretion of Landlord.

25. If the tenant desires telephone or telegraph connections, the Landlord will direct electricians as to where and how the wires are to be introduced. No boring or cutting for wires or otherwise shall be made without direction from the Landlord.

26. The term "personal goods or services vendors" as used herein means persons who periodically enter the Building of which the Premises are a part for the purpose of selling goods or services to a tenant, other than goods or services which are used by the tenant only for the purpose of conducting its business in the Premises. "Personal goods or services" include, but are not limited to, ice, towels, floor polishing, lighting maintenance drinking water and other beverages, food (other than delivery service), barbering services, shoe shining services, cleaning and other similar services. Landlord reserves the right to prohibit personal goods and services vendors from access to the Building except upon Landlord's prior written consent (not to be unreasonably withheld), and upon such reasonable terms and conditions, including, but not limited to, the payment of a reasonable fee and provision for insurance coverage, as are related to the safety, care and cleanliness of the Building, the preservation of good order thereon, and the relief of any financial or other burden on Landlord or other tenants occasioned by the presence of such vendors or the sale by them of personal goods or services to the tenant or its employees. If necessary for the accomplishment of these purposes, Landlord may exclude a particular vendor entirely or limit the number of vendors who may be present at any one time in the Building.

27. The Building is a non-smoking building. Smoking is prohibited at all times within the entire Building, including all premises, as well as all public/common areas for the Building. This prohibition applies during business and non-business hours to any and all restrooms, elevators, elevator lobbies, first floor lobby, stairwells, common hallways, the lunch room and any other public/common area, as well as to all areas within the premises by tenants. Smoking is only permitted in the designated smoking area outside the Building, if any, and away from the entrances to the Building.

28. The Building and Project is a weapons free environment. No tenant, owner of a tenant, officer or employee of a tenant, visitor of tenant, contractor or subcontractor of tenant, or any other party shall carry weapons (concealed or not) of any kind in the Building. This prohibition applies to all public areas, including without limitation, restrooms, elevators, elevator lobbies, first floor lobby, stairwells, common hallways, all areas within the premises of tenants and the surrounding land related to the Building.

29. All entrance doors in each tenant's premises shall be left locked when the tenant's premises are not in use. Entrance doors shall not be left open at any time. All windows in each tenant's premises shall be kept closed at all times and all blinds therein above the ground floor shall be lowered when and as reasonably required because of the position of the sun, during the operation of the Building's air-conditioning system to cool or ventilate the tenant's premises.

EXHIBIT F
FORM TENANT ESTOPPEL CERTIFICATE

TO: _____ ("Landlord")

and:

_____ ("Third Party")

Re: Property Address:

Lease Date: _____

Between _____, Landlord, and
_____, Tenant

Square Footage Leased: _____

Suite No. _____

Floor: _____

The undersigned tenant ("Tenant") hereby certifies to Third Party and Landlord as follows:

1. The above-described Lease has not been canceled, modified, assigned, extended or amended except _____.

2. Base Rent has been paid to the first day of the current month and all additional rent has been paid and collected in a current manner. There is no prepaid rent except \$_____, and the amount of the security deposit is \$_____.

3. Base Rent is currently payable in the amount of \$ _____ monthly, exclusive of Tenant's Proportionate Share of Real Estate Taxes.

4. The Lease terminates on _____, 20__ subject to any renewal option(s) set forth in the Lease.

5. The Base Year for Real Estate Taxes, as defined in the Lease, is _____.

6. All work to be performed for Tenant under the Lease has been performed as required and has been accepted by Tenant, except _____.

7. The Lease is: (a) in full force and effect; (b) to Tenant's actual knowledge, free from default; and (c) to Tenant's actual knowledge, Tenant has no claims against the Landlord or offsets against rent.

8. The undersigned has no right or option pursuant to the said Lease or otherwise to purchase all or any part of the Premises or the Building of which the Premises are a part.

9. There are no other agreements written or oral between the undersigned and the Landlord with respect to the Lease and/or the Premises and Building.

10. The statements contained herein may be relied upon by the Landlord and by any prospective purchaser of the property of which the Premises is a part and its mortgage lender.

If a blank in this document is not filled in, the blank will be deemed to read "none".

If Tenant is a corporation, the undersigned signatory is a duly appointed Officer of the corporation.

Dated this _____ day of _____, 20__.

Tenant: _____

By: _____

Name: _____

Title: _____

EXHIBIT G
TENANT'S COMMENCEMENT LETTER

To: _____ ("Landlord")

Date: _____

Tenant's Commencement Letter

Dear Sir or Madam:

The undersigned, as the Tenant under that certain Office Lease (the "Lease") dated _____, made and entered into between _____, a _____ as Landlord, and the undersigned, as Tenant, hereby certifies that:

1. The undersigned has accepted possession of the Premises described in the Lease.
2. The Commencement Date of the Lease was _____.
3. The Rent Commencement Date of the Lease is _____.
4. The Expiration Date of the Lease is _____.
5. The Lease is in full force and effect and has not been modified or amended.
6. Landlord has performed all of its obligations to improve the Premises for occupancy by the undersigned.

Very truly yours,

a _____

By: _____
Name: _____
Title: _____

Exhibit B

Itemization of Claim

A. Pre-Petition Additional Rent Arrears

<u>Due Date</u>	<u>Item</u>		<u>Amount Due</u>
01/01/18	Electricity - Submeter	\$	1,621.06
02/01/18	Electricity - Submeter		1,621.06

TOTAL PRE-PETITION CLAIM	\$	3,242.12
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B. Rejection Damages

Damages arising out of the rejection of the Lease, in the amount of \$601,099.72, representing Claimant's damages as limited by 11 U.S.C. § 502(b)(6), which is the rent and additional rent reserved in the Lease from March 1, 2018 to February 28, 2019.

TOTAL REJECTION DAMAGES CLAIM	\$	\$601,099.72
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TOTAL CLAIM	\$	\$604,341.84¹
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¹ Claimant intends to draw-down on the security deposit in the form of a letter of credit in the amount of \$385,018.50.