

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Docket No. 03-E-0106

**In the Matter of the Liquidation of
The Home Insurance Company**

**MOTION FOR APPROVAL OF
LEASE AGREEMENT WITH 61 BROADWAY OWNER LLC**

Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), hereby moves that the Court enter an order in the form submitted herewith approving a Lease Agreement (the "Lease") between the Liquidator and 61 Broadway Owner LLC ("Landlord"). As reasons for this motion, the Liquidator respectfully states:

1. The motion seeks approval for the Lease between the Liquidator and the Landlord for space to house the liquidation's principal operations at 61 Broadway, New York, New York commencing in the fall of 2010. Affidavit of Peter A. Bengelsdorf, Special Deputy Liquidator, in Support of Motion for Approval of Lease Agreement with 61 Broadway Owner LLC ("Bengelsdorf Affidavit") submitted herewith, ¶ 2. A copy of the Lease is attached as Exhibit A.

3. The current lease for 37,719 square feet of space on the fifth floor of 59 Maiden Lane, New York, New York expires on December 31, 2010. The Liquidator accordingly has sought to identify options and obtain a lease on reasonable commercial terms at the favored option as described below. This process was supervised by the Special Deputy Liquidator, and the Lease is the outcome. The Lease is subject to approval by the Court. Lease Article 46. If Court approval is obtained by May 1, 2010, the Landlord has committed to deliver the premises

to the Liquidator by August 31, 2010. Lease Article 4. Either party may cancel the Lease if Court approval is not obtained by May 15, 2010. Lease Article 46. Bengelsdorf Affidavit, ¶ 2.

4. As an initial matter, the Liquidator determined that it is appropriate to maintain the principal operations of the liquidation in New York City. Home and, subsequently, the principal operations of the Home liquidation have been located in successive buildings at 59 Maiden Lane for over eighty-five years. Approximately two-thirds of the 61 members of the liquidation staff who work at the Maiden Lane office have been working at that location for over twenty years. They commute to work from various locations in the New York, New Jersey area. Significantly, these employees include senior staff whose experience and training are essential to the successful liquidation of Home. In light of the likely loss of personnel and consequent disruption to the orderly liquidation of Home that would be caused by moving the liquidation's principal operations out of the financial district, the Liquidator has concluded that it is necessary to keep those operations in lower Manhattan. See Bengelsdorf Affidavit, ¶ 3.

5. The Liquidator anticipates that it will require ten to fifteen years to complete the liquidation of Home. The essential task of determining claims takes time. Approximately 21,092 proofs of claim have been filed in the Home estate. To date, the liquidation has finally addressed approximately 7,512 of these proofs (as well as making partial determinations on an additional 1,468 proofs) and has also addressed 1,206 of the 5,209 proofs of claim that are incomplete because they do not include the executed release required by RSA 402-C:40, I; 35 proofs have been withdrawn. The remaining 12,339 proofs of claim (including those only partially determined to date) are expected to include many of the more difficult claims, including pollution, asbestos claims and other mass tort claims. The Liquidator anticipates that it will take more than ten years to determine the claims (at approximately 1,000 per year), to collect assets (including reinsurance on allowed claims), and close out the estate. It is also anticipated that

liquidation staff will be reduced as these tasks are gradually accomplished and the workload decreases. See Bengelsdorf Affidavit, ¶ 4.

6. In these circumstances, the Liquidator engaged a New York real estate broker, Cushman & Wakefield, to identify properties in lower Manhattan that would potentially meet the needs of the liquidation. The broker identified eleven such properties, including the current space at 59 Maiden Lane, and representatives of the Liquidator visited each of them.

Bengelsdorf Affidavit, ¶ 5.

7. Based on the visits, initial indications of the likely financial terms available for each building, and consultation with the broker, the Liquidator determined to present non-binding offer letters for lower floor space to the owners or operators of three of the buildings. One was a pre-World War II building, and the other two were built in the 1960s. Each of the term sheets provided for a build out of the space to building standard. That is, to the basic standard of the building with no upgrades. Bengelsdorf Affidavit, ¶ 6.

8. The liquidation team and the broker then analyzed the responses of the three potential landlords for the most likely occupancy period of ten years. The proposal for 23,750 square feet of sixth floor space at 61 Broadway, the pre-World War II building, was economically most favorable, both on an aggregate and on a net present value basis. The Liquidator accordingly entered into negotiations with the owner for a lease at that location. Bengelsdorf Affidavit, ¶ 7.

9. The Lease is the result of those negotiations. It is tailored to the needs of the liquidation, in accommodating the eventual downsizing of liquidation staff and the potential closure of the liquidation between ten and fifteen years. It provides for a flexible downsizing of the space at the option of the Liquidator. The Lease has a term of fifteen years four months to commence upon substantial completion of the premises by the Landlord but no earlier than

September 1, 2010. Lease Article 1.A.(IV); Lease Article 1.A.(XIX). However, the Liquidator has a right to terminate the Lease in ten years. Lease Article 44. Further, the Liquidator has the option to return to the Landlord two portions of the premises each totaling 7,500 square feet, the first in years eight or nine of the Lease and the second in years eleven or twelve. Lease Article 45. Bengelsdorf Affidavit, ¶ 8.

10. The annual base rent under the Lease commences at \$30 per rentable square foot for years one through seven, \$33 per square foot for years eight through ten, and \$36 per square foot for years eleven through the end of the term, subject to a fixed 2% annual cumulative increase in the base rent in lieu of operating expense escalations. The Lease provides for an abatement of rent for sixteen months, with four months free rent applied at lease commencement and the remaining twelve months amortized over months five through forty-eight of the Lease. If, as is likely, the Liquidator relinquishes space in year eight and elects to terminate the lease at year ten, the total undiscounted rent would be \$6,212,881. If the Liquidator were to terminate the lease after ten years, without having exercised the right to relinquish a portion of the premises, the total undiscounted rent would be \$7,074,090. If the Liquidator were to occupy the entire space for the entire fifteen year four month term of the Lease, the total undiscounted rent would be \$12,748,303. Bengelsdorf Affidavit, ¶ 9.

11. Based on advice from the broker, the Liquidator believes that (a) the rental provided for in the Lease is consistent with fair market rent in the New York financial district for buildings of like class with leases of similar duration, and (b) the terms of the Lease are consistent with generally accepted commercial lease terms in the New York financial district. See Bengelsdorf Affidavit, ¶ 10.

12. The cost of refitting the new space to meet the needs of the liquidation operation is included in the rental under the Lease. The liquidation will in addition incur the cost of

moving the operation. That cost is estimated to be approximately \$200,000 for the movers plus additional costs including the expense of an architect to assist in the preparation of a proposed floor plan and office product consultation, the expense to purchase and install a security system for the premises, and the expense for electrical/network cabling required in connection with the installation of the information technology infrastructure. The Liquidator considered these costs in evaluating whether or not to stay in the current space. Since the Liquidator seeks to reduce the size of the space from 37,719 square feet to 23,750 square feet, the costs of renovating the existing space (which was last fitted out over thirty years ago), preparing a new floor plan, and updating security and electrical cabling would have been incurred in any event. Renovation of the space while occupied would also entail significant disruption of the liquidation's operations. See Bengelsdorf Affidavit, ¶ 11.

13. The Bengelsdorf Affidavit summarizes the reasons that support the determination to enter the Lease. Bengelsdorf Affidavit ¶¶ 2-12. For the reasons set forth in the Bengelsdorf Affidavit, the Liquidator submits that the Lease is fair and reasonable and that it is in the best interests of the policyholders and other creditors of Home. See Bengelsdorf Affidavit, ¶ 13.

WHEREFORE, the Liquidator respectfully requests that this Court:

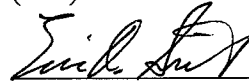
- A. Grant this Motion for Approval of Lease Agreement with 61 Broadway Owner LLC;
- B. Enter an Order in the form submitted herewith approving the Lease; and
- C. Grant such other and further relief as justice may require.

Respectfully submitted,

ROGER A. SEVIGNY, COMMISSIONER
OF INSURANCE OF THE STATE OF
NEW HAMPSHIRE, SOLELY AS
LIQUIDATOR OF THE HOME
INSURANCE COMPANY,

By his attorneys,
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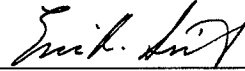


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April 5, 2010

Certificate of Service

I hereby certify that a copy of the foregoing Motion for Approval of Lease Agreement with 61 Broadway Owner LLC, the supporting affidavit, and the proposed form of approval order were sent, this 5th day of April, 2010, by first class mail, postage prepaid to all persons on the attached service list.



Eric A. Smith
NH Bar ID No. 16952

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

In the Matter of the Liquidation of
The Home Insurance Company
Docket No. 03-E-0106

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AGREEMENT OF LEASE

BETWEEN

61 BROADWAY OWNER LLC,

AS LANDLORD,

AND

ROGER A. SEVIGNY, NEW HAMPSHIRE COMMISSIONER

OF INSURANCE, SOLELY IN HIS CAPACITY AS LIQUIDATOR OF

THE HOME INSURANCE COMPANY,

AS TENANT.

PREMISES:

Entire Sixth (6th) Floor, Suite 600

61 Broadway

New York, New York

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EXHIBIT "A" – Floor Plan of Premises

EXHIBIT "A-1" - Floor Plan of Storage Space

EXHIBIT "B" - Landlord's Certificate

EXHIBIT "C" - Landlord's Work

EXHIBIT "C-1" - Landlord's Work – Plans and Work Letter

EXHIBIT "D" - Rent Schedule

EXHIBIT "E" - Insurance Requirements

EXHIBIT "F" - Cleaning Specifications

EXHIBIT "G" - Contraction Option Spaces

AGREEMENT OF LEASE

THIS AGREEMENT OF LEASE (this "Lease") is made as of this 29th day of March 2010 by and between **61 BROADWAY OWNER LLC**, a Delaware limited liability company having an office c/o Broad Street Development, LLC, 61 Broadway, New York, New York 10006 ("Landlord") and **ROGER A. SEVIGNY, NEW HAMPSHIRE COMMISSIONER OF INSURANCE, SOLELY IN HIS CAPACITY AS LIQUIDATOR OF THE HOME INSURANCE COMPANY**, having a current principal place of business at 59 Maiden Lane, New York, New York 10038 ("Tenant").

1. BASIC LEASE TERMS.

A. Definitions. The following definitions contained in this subsection A of this Article 1 shall have the meanings hereinafter set forth used throughout this Lease and the Exhibits and Schedules (if any) annexed hereto and made a part hereof.

- (i) "Base Tax Year" shall mean the Tax Year (as defined in Article 28 herein) for 2010/2011.
- (ii) "Broker" shall collectively mean Broad Street Development, LLC and Cushman & Wakefield, Inc.
- (iii) "Building" shall mean the building known as 61 Broadway, City, County and State of New York.
- (iv) "Commencement Date" shall mean, subject to the provisions of Article 46 herein, the earlier of (a) the date on which Landlord's Work (as defined in Exhibit "C" annexed hereto) in the Premises is Substantially Completed (as defined in Exhibit "C" annexed hereto), (b) the date on which Landlord's Work in the Premises would have been Substantially Completed but for the occurrence of any Tenant Delay Days (as defined in Exhibit "C" annexed hereto), or (c) the date Tenant occupies the Premises for the purposes of conducting its business therein. Notwithstanding the foregoing, the parties agree that the Commencement Date shall occur no earlier than September 1, 2010.
- (v) Intentionally omitted.
- (vi) "Effective Date" shall mean the date that notice of the Court Approval, as defined in Article 46, is provided to Landlord.
- (vii) "Electric Charges" shall mean the charges and expenses payable by Tenant to Landlord in connection with Tenant's consumption of electricity in the Premises measured by a submeter as more fully set forth in Article 30 hereof.

- (viii) "Expiration Date" shall mean the date that is fifteen (15) years and four (4) months following the last day of the month in which the Commencement Date occurs.
- (ix) "Landlord's Work" shall mean the work, construction and installations at the Premises to be performed by Landlord at Landlord's sole cost and expense as set forth on Exhibit "C" annexed hereto.
- (x) "Lease Year" shall mean period of twelve (12) consecutive calendar months. The first "Lease Year" shall commence on the Commencement Date, and shall end with the expiration of the next succeeding twelve (12) months, plus the number of days, if any, required to have the period end at the expiration of the calendar month, and each Lease Year shall run consecutively thereafter.
- (xi) "Permitted Uses" shall mean administrative and executive offices in connection with an insurance company.
- (xii) "Premises" shall mean the entire rentable portion of the sixth (6th) floor in the Building and known as Suite 600, as more particularly shown cross-hatched on Exhibit "A" annexed hereto and made a part hereof.
- (xiii) "Real Property" shall mean the Building together with the plot of land upon which such building stands.
- (xiv) "Rent" for the Premises shall mean the base rent payable by Tenant to Landlord as set forth on Exhibit "D" annexed hereto.
- (xv) "Rent Commencement Date" shall mean four (4) months following the Commencement Date.
- (xvi) "Security Deposit" shall mean \$178,125.00.
- (xvii) "Storage Space" shall mean approximately 3,325 rentable square feet located in the basement of the Building as more particularly shown cross-hatched on Exhibit "A-1" annexed hereto and made a part hereof.
- (xviii) "Tenant's Proportionate Share" shall mean 3.65%, which for the purposes of this subparagraph (xv) only has been computed on the basis of a fraction, the numerator of which (23,750 rsf) is the approximate rentable square footage of the Premises as deemed to be applicable by Landlord and Tenant solely for the purposes of calculating Tenant's Proportionate Share and the denominator of which (650,000 rsf) is the approximate rentable square footage of the Building as deemed to be

applicable by Landlord and Tenant solely for the purposes of calculating Tenant's Proportionate Share.

- (xix) "Term" shall mean fifteen (15) years and four (4) months commencing on the Commencement Date and ending on the Expiration Date, unless sooner terminated pursuant to any of the terms, covenants or conditions of this Lease.

B. Demise. Subject to and upon the terms and conditions of this Lease, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises. Landlord hereby provides the Storage Space to Tenant for Tenant's use at no charge to Tenant, except that Tenant hereby agrees to pay electric charges for the Storage Space on a rent inclusion basis (based on \$3.00 per rentable square foot) in the amount of \$9,975.00 per annum, payable in equal monthly installments of \$831.25. Such electric charges shall be deemed Additional Rent and payable by Tenant to Landlord in accordance with the terms of this Lease.

C. Rent.

(i) Commencing as of the Rent Commencement Date, and continuing each Lease Year throughout the Term, Tenant shall pay Landlord the annual Rent payable without demand, on or in advance of the first day of each month in equal monthly installments, in lawful money (legal tender for public or private debts) of the United States of America, at the office of Landlord or such other place as Landlord may designate from time to time without any set-off, offset, abatement or deduction whatsoever. If the Rent Commencement Date occurs on a date other than the first day of a calendar month, then Tenant shall pay to Landlord on or before the first day of the next month the monthly installment of Rent for such partial month on a pro rata basis (based on the actual number of days in the commencement month).

(ii) Notwithstanding anything to the contrary set forth in this Lease, provided Tenant is not in default under the terms and conditions of this Lease beyond the expiration of all applicable grace and/or cure periods, Tenant shall receive an abatement of Rent for the Premises in the amount of \$949,999.92 (the "Abatement"), which Abatement shall be applied as follows: (a) \$59,375.00 per month for each of the first four (4) months following the Commencement Date; and (b) \$16,193.18 per month for the period from the fifth (5th) month following the Commencement Date and continuing through and including the forty-eighth (48th) month following the Commencement Date. If an Event of Default (as defined in Article 17 herein) occurs during the Term, Landlord shall have the right to declare the Abatement due and payable by Tenant to Landlord and recover the Abatement from Tenant as damages as more fully set forth herein.

(iii) Notwithstanding the foregoing, Tenant's obligations to pay for Electric Charges for the Premises as set forth in Article 30 herein shall commence on the Commencement Date and there shall be no abatement whatsoever of the Electric Charges.

D. Additional Rent. Additional rent (herein called "Additional Rent") consisting of all sums, costs, expenses, and payments required of Tenant pursuant to the terms of this Lease

(other than Rent), including, without limitation, Electric Charges, Tenant's Proportionate Share of Taxes (hereinafter defined) and any other payment as shall become due from and payable by Tenant to Landlord hereunder, shall be paid in accordance with Subsection C of this Article 1 above.

E. Landlord's Certificate. Tenant shall, at Landlord's option, within fifteen (15) days of the Commencement Date, execute the certificate (the "Landlord's Certificate") annexed hereto as Exhibit "B", to the extent it is true and accurate, certifying the Commencement Date, the Cancellation Date, and the Expiration Date of this Lease and such dates shall be deemed conclusive for purposes of this Article and this Lease.

F. Delivery of Possession. Provided that the Effective Date (as hereinafter defined) occurs on or before May 1, 2010 and further provided that no Tenant Delay Days occur, Landlord shall deliver the Premises to Tenant, with Landlord's Work in the Premises Substantially Completed, on or before August 31, 2010. If the Commencement Date shall not occur by September 1, 2010, in addition to the Abatement provided in Subsection C (ii) of this Article 1, Tenant's obligation to pay Rent shall be abated two (2) days for each day thereafter until the Commencement Date shall occur. If Landlord does not deliver possession of the Premises to Tenant with Landlord's Work Substantially Completed on or before December 1, 2010, Tenant shall have the right to terminate this Lease with no further obligation to Landlord. If Tenant elects to terminate this Lease under this Subsection F, Landlord shall promptly return to Tenant any advance payments of Rent, the Security Deposit and all other amounts paid by Tenant upon the Effective Date of this Lease. Notwithstanding the foregoing, if the Effective Date is delayed beyond May 1, 2010, all dates in this subsection F shall be adjusted, day for day, based on the number of days beyond May 1, 2010. if by way of example, the Effective Date occurs on May 15, 2010, provided that no Tenant Delay Days occur, Landlord shall deliver the Premises to Tenant, with Landlord's Work in the Premises Substantially Completed, on or before September 15, 2010 and the dates above shall be extended on a day for day basis accordingly.

2. USE AND OCCUPANCY. Tenant shall use and occupy the Premises for the Permitted Uses, and for no other purpose. The provisions of this Article shall be binding upon Tenant's successors, assigns, subtenants and licensees and shall not be waived by any consent to an assignment or subletting or otherwise except by written instrument expressly referring to this Article.

3. TENANT'S ALTERATIONS.

A. Alterations Within Premises. Tenant shall not make or perform or permit the making or performance of, any alterations, installations, improvements, additions or other physical changes in or about the Premises ("Alterations") without Landlord's prior consent, which shall not be unreasonably withheld, delayed or conditioned. Landlord and Tenant hereby agree that Alterations shall not include Landlord's Work. Subject to the prior written consent of Landlord, and to the provisions of this Article, Tenant, at Tenant's expense, may make Alterations in or to the interior of the Premises which are nonstructural, do not affect the Building's mechanical, electrical, plumbing, or other Building systems or the structural integrity of the Building, do not affect any part of the Building other than the Premises, do not affect any

service required to be furnished by Landlord to Tenant or to any other tenant or occupant of the Building, do not reduce the value or utility of the Building and which are performed only by contractors and mechanics first selected by Tenant and approved by Landlord, such approval not to be unreasonably withheld, conditioned or delayed and in compliance with all applicable laws. Notwithstanding the forgoing, Tenant shall be permitted to make minor and cosmetic changes costing less than \$75,000.00 in the aggregate, for each Alteration during the Term, without the Landlord's consent. Tenant shall not without the Landlord's consent perform work which would (i) require changes to the structural components of the Building or the exterior design of the Building, (ii) require any material modification to the Building's mechanical, electrical, plumbing installations or other Building installations outside the Premises, or (iii) not be in compliance with all applicable laws, rules, regulations and requirements of any governmental department having jurisdiction over the Building and/or the construction of the Premises, including but not limited to, the Americans with Disabilities Act of 1990. Any changes required by any governmental department affecting the construction of the Premises shall be performed at Tenant's sole cost, excluding Landlord's Work. All Alterations shall be done at Tenant's expense and at such times and in such manner as Landlord may from time to time reasonably designate pursuant to the conditions for Alterations prescribed by Landlord for the Premises.

B. Restoration of Premises. All furniture, furnishings and movable fixtures and removable partitions installed by Tenant must be removed from the Premises by Tenant, at Tenant's expense, prior to the Expiration Date. All Alterations in and to the Premises which may be made by or on behalf of Tenant prior to and during the Term, or any renewal thereof, shall become the property of Landlord upon the Expiration Date or earlier end of the Term or any renewal thereof, and shall not be removed from the Premises by Tenant unless Landlord, at Landlord's option and upon sixty (60) days prior written notice to Tenant prior to the Expiration Date, elects to have them removed from the Premises by Tenant, in which event the same shall be removed from the Premises by Tenant, at Tenant's expense, prior to the Expiration Date. In the event Landlord elects to have Tenant remove such Alterations, Tenant shall repair and restore in a good and workmanlike manner to the condition existing prior to any such Alterations (reasonable wear and tear excepted) any damage to the Premises or the Building caused by such removal. Any of such Alterations or other property not so removed by Tenant at or prior to the Expiration Date or earlier termination of the Term shall become the property of Landlord, but nothing herein shall be deemed to relieve Tenant of responsibility for the cost of removal of any such Alterations or other property which Tenant is obligated to remove hereunder.

C. Submission of Plans. Prior to making any Alterations which require Landlord's consent, Tenant (i) shall submit to Landlord or to a consultant appointed by Landlord ("Landlord's Consultant") four (4) sets of detailed plans and specifications (including layout, architectural, mechanical, electrical, plumbing, proposed floor and electrical loads, sprinkler and structural drawings stamped by a professional engineer or architect licensed in the State of New York) for each proposed Alteration and shall not commence any such Alteration without first obtaining Landlord's approval of such plans and specifications which shall not be unreasonably withheld, delayed or conditioned, (ii) shall pay to Landlord all costs and expenses incurred by Landlord exclusive of charges or supervisory fees (including the cost of Landlord's Consultant) in connection with Landlord's review of Tenant's plans and specifications, (iii) shall, at its expense, obtain all permits, approvals and certificates required by any governmental or

quasi-governmental bodies, and (iv) shall furnish to Landlord evidence that Tenant, and Tenant's contractors and subcontractors engaged in connection with such Alterations, are carrying such insurance as Landlord may reasonably require. Upon completion of such Alteration, Tenant, at Tenant's expense, shall if necessary and required by law, obtain certificates of final approval of such Alteration, including the "as-built" drawings showing such Alterations, required by any governmental or quasi-governmental bodies and shall furnish Landlord with copies thereof. Landlord shall, at no cost or expense to Landlord, cooperate with Tenant's efforts to obtain any necessary permits, filings or approvals from any governmental agency or body. All Alterations shall be made and performed in accordance with the Rules and Regulations (hereinafter defined) and in accordance with the Americans with Disabilities Act of 1990, including but not limited to the accessibility provisions thereof; all materials and equipment to be incorporated in the Premises as a result of all Alterations shall be new and first quality; no such materials or equipment shall be subject to any lien, encumbrance, chattel mortgage or title retention or security agreement. Tenant agrees to allow Landlord's designated contractor to bid on any Alterations to be performed by or on behalf of Tenant. Landlord's approval of Tenant's plans, specifications and working drawings for Alterations shall create no responsibility or liability on the part of Landlord with respect to their completeness, design, sufficiency or compliance with all applicable laws, rules or regulations of governmental agencies or authorities.

D. Performance and Payment Bonds. As a condition to Tenant performing any Alterations, in or to the Premises which require Landlord's consent and prior to the commencement of any such Alterations, Tenant shall furnish a contractor's performance and payment bond guaranteeing lien free completion of the work or alterations and payment of obligations to its sub-contractors and suppliers. The amount, form and substance of such bond shall be reasonably acceptable to Landlord, providing for a direct right of action against the surety by a claimant, naming Landlord and its Mortgagee as co-obligees, and shall be underwritten by a surety company authorized to do and doing business in the State of New York and reasonably acceptably to Landlord.

E. Mechanics' Liens; Labor Conflicts Any mechanic's lien filed against the Premises, or the Real Property, for work claimed to have been done for, or materials claimed to have been furnished to, Tenant, shall be discharged by Tenant within thirty (30) days after notice of same is provided to Tenant, at Tenant's expense, by payment or filing the bond required by law. Tenant shall not, at any time prior to or during the Term, directly or indirectly employ, or permit the employment of, any contractor, service provider, mechanic or laborer in the Premises, whether in connection with any Alterations, cleaning services or otherwise, if, in Landlord's sole and reasonable discretion, such employment will interfere or cause any conflict with other contractors, service providers, mechanics, or laborers engaged in the construction, cleaning, maintenance or operation of the Building by Landlord, Tenant or others. In the event of any such interference or conflict, Tenant, upon demand of Landlord, shall cause all contractors, service providers, mechanics or laborers causing such interference or conflict to leave the Building immediately.

4. REPAIRS. Landlord at its sole cost and expense shall maintain and make repairs to the exterior of the structural and public portions of the Building and all Building systems servicing the Premises, including but not limited to mechanical, electrical, plumbing and heating,

ventilation and air-conditioning ("HVAC") servicing the Premises in a manner similar to other buildings comparable to the Building and located in the Downtown area of Manhattan. Landlord will make all repairs or replacements at reasonable times and upon prior reasonable notice (which may be oral), except emergency repairs, which may be made without notice and at any time. Landlord shall use commercially reasonable efforts to minimize interference with Tenant's business operations in the Premises in connection with any repairs, replacements or improvements to be performed under this Lease. Tenant shall, throughout the Term, take good care of the Premises and the fixtures and appurtenances therein and at Tenant's sole cost and expense, make all nonstructural repairs thereto as and when needed to preserve them in good working order and condition, reasonable wear and tear and damage for which Tenant is not responsible under the terms of this Lease excepted. Landlord shall, at Tenant's expense, replace the lamps, tubes, ballasts and starters in the lighting fixtures installed in the Premises. Notwithstanding the foregoing, all damage or injury to the Premises or to any other part of the Building, or to its fixtures, equipment and appurtenances, whether requiring structural or nonstructural repairs, caused by or resulting from the carelessness, omission, neglect or improper conduct of, or Alterations made by, or any work, labor, service or equipment done for or supplied to, Tenant or any subtenant, or the installation, use or operation of any property or equipment by Tenant or any of Tenant's subtenants, agents, employees, invitees or licensees, shall be repaired promptly by Tenant, at its sole cost and expense, to the satisfaction of Landlord. Additionally, all damage or injury to the Premises, or to any other part of the Building, or to Tenant's fixtures, equipment and appurtenances, whether requiring structural or nonstructural repairs, caused by or resulting from the carelessness, omission, neglect or improper conduct of, or any work, labor, service or equipment done by or supplied by, Landlord, Landlord's agents, contractors or invitees, shall be repaired promptly by Landlord, at its sole cost and expense, to the reasonable satisfaction of Tenant. Tenant also shall repair all damage to the Building and the Premises caused by the moving of Tenant's fixtures, furniture or equipment. All the aforesaid repairs shall be of quality and class equal to the original work or construction and shall be made in accordance with the provisions of Article 3 hereof. If Tenant fails after fifteen (15) days notice to proceed with due diligence to make repairs required to be made by Tenant hereunder, or if Landlord elects to make any repairs in or to the Building or the facilities and systems thereof for which Tenant is responsible, the same may be made by Landlord, at the expense of Tenant, and the reasonable expenses thereof incurred by Landlord shall be collectible by Landlord as Additional Rent promptly after rendition of a bill or statement therefor. Tenant shall give Landlord prompt notice of any defective condition in the Premises for which Landlord may be responsible hereunder. Except as expressly provided in Article 10 hereof, there shall be no allowance to Tenant for a diminution of rental value and no liability on the part of Landlord by reason of inconvenience, annoyance or injury to business arising from Landlord, Tenant or others making, or failing to make, any repairs, alterations, additions or improvements in or to any portion of the Building, or the Premises, or in or to fixtures, appurtenances, or equipment thereof. If the Premises be or become infested with vermin as a result of Tenant's acts or omissions, Tenant, at Tenant's expense, shall cause the same to be exterminated from time to time to the satisfaction of Landlord and shall employ such exterminators and such exterminating company or companies as shall be approved by Landlord. Landlord represents that it shall regularly exterminate the common areas of the Building during the Term. The water and wash closets and other plumbing fixtures shall not be used for any purposes other than those for which they were designed or constructed, and no sweepings, rubbish, rags, acids or other substances shall be

deposited therein. If at any time any windows of the Premises are temporarily closed, darkened or bricked-up due to Legal Requirements (as hereinafter defined) or any of such windows are permanently closed, darkened or bricked-up if required by law or related to any construction upon property adjacent to the Real Property by others, Landlord shall not be liable for any damage Tenant may sustain thereby and Tenant shall not be entitled to any compensation therefor nor abatement of Rent nor shall the same release Tenant from its obligations hereunder nor constitute an eviction. In the event of a temporary closing or darkening of windows, Landlord shall use commercially reasonable efforts to promptly act to have such windows restored to original conditions so to minimize interference with Tenant's business operations in the Premises.

5. **WINDOW CLEANING.** Tenant shall not clean, nor require, permit, suffer or allow any window in the Premises to be cleaned, from the outside in violation of Section 202 of the Labor Law, or any other applicable law, or of the rules of the Board of Standards and Appeals, or of any other board or body having or asserting jurisdiction. Landlord agrees to clean the windows as set forth in Exhibit "F".

6. **REQUIREMENTS OF LAW; FLOOR LOAD.**

A. **Requirements of Law.** Landlord agrees to deliver the Premises to Tenant in compliance with all Legal Requirements. Landlord agrees, at Landlord's sole cost and expense, to comply with or cause compliance with, all Legal Requirements related to the Building, the Building's systems, and the Premises throughout the Term of this Lease as such Term may be extended. Tenant, at Tenant's sole expense, shall promptly comply with all present and future laws, statutes, orders, directives and regulations of federal, state, county, city and municipal authorities, departments, bureaus, boards, agencies, commissions and other sub-divisions thereof, and of any official thereof and any other governmental and quasi-public authority and all rules, orders, regulations or requirements of the New York Board of Fire Underwriters, or any other similar body (hereinafter "Legal Requirements"), which shall now or hereafter impose any violation, order or duty upon Landlord or Tenant with respect to the Premises as a result of Tenant's specific or particular manner of use of the Premises as opposed to the Permitted Use. Notwithstanding the foregoing, Tenant shall not be required to make any structural repairs or alterations to the Premises, the Building or the systems servicing the Building, unless such repair or alteration is necessitated by Tenant's specific or particular manner of use as opposed to the Permitted Use of the use, occupation or alteration thereof by Tenant. Tenant shall not do or permit to be done any act or thing upon the Premises which is contrary to and will invalidate or be in conflict with any public liability, fire or other policies of insurance at any time carried by or for the benefit of Landlord with respect to the Building and fixtures and property therein, or which shall or might subject Landlord to any liability or responsibility to any person or for property damage. Tenant shall not do, or permit anything to be done in or upon the Premises, or bring or keep anything therein, except as now or hereafter permitted by the New York City Fire Department, New York Board of Fire Underwriters, New York Fire Insurance Rating Organization or other authority having jurisdiction and then only in such quantity and manner as not to increase the insurance rate applicable to the Building, or use the Premises in a manner which shall increase the rate of fire insurance on the Building or on property located therein, over that in similar type buildings or in effect prior to this Lease. If by reason of Tenant's failure

to comply with the provisions of this Article, the fire insurance rate shall at the beginning of this Lease or at any time thereafter be higher than it otherwise would be, then Tenant shall reimburse Landlord, as Additional Rent hereunder, for that part of all fire insurance premiums thereafter paid by Landlord which shall have been charged because of such failure of use by Tenant, and shall make such reimbursement upon the first day of the month following such outlay by Landlord, provided Landlord has furnished Tenant with documentation supporting such increase in the premium. In any action or proceeding wherein Landlord and Tenant are parties, a schedule or "make up" of rates for the Building or the Premises issued by the New York Fire Insurance Rating Organization, or other body fixing such fire insurance rates, shall be conclusive evidence of the facts therein stated and of the several items and charges in the fire insurance rates then applicable to the Premises. Any work or installations made or performed by or on behalf of Tenant or any person claiming through or under Tenant pursuant to this Article shall be made in conformity with, and subject to the provisions of, Article 3 hereof.

B. Floor Load. Tenant shall not place a load upon any floor of the Premises exceeding the floor load per square foot area (75 pounds/square foot) which such floor was designed to carry and which is allowed by law. Landlord reserves the right to prescribe the weight and position of all safes, business machines and heavy equipment and installations such that the same are placed and maintained by Tenant, at Tenant's expense, in settings sufficient in Landlord's judgment to absorb and prevent vibration, noise and annoyance. Tenant shall not move any safe, heavy machinery, heavy equipment, freight, bulky matter or fixtures into or out of the Building without Landlord's prior consent and payment to Landlord of Landlord's reasonable and customary costs in connection therewith. If such safe, machinery, equipment, freight, bulky matter or fixtures requires special handling, Tenant agrees to employ only persons holding a Master Rigger's License to do said work, and that all work in connection therewith shall comply with the Administrative Code of the City of New York and all other laws and regulations applicable thereto, and shall be done during such hours as Landlord may designate. Commencing on the first anniversary of the Commencement Date and continuing annually thereafter throughout the term of this Lease, Tenant shall submit to Landlord a structural inventory promptly following request by Landlord. Landlord shall also have the right, upon prior reasonable notice, on an annual basis, to access the Premises, subject to the provisions of Article 14 herein, to review Tenant's structural loading.

7. SUBORDINATION.

A. This Lease is subject and subordinate to each and every ground or underlying lease of the Real Property or the Building hereafter made by Landlord (collectively, the "Superior Leases") and to each and every trust indenture and mortgage (collectively the "Mortgages") which may now or hereafter affect the Real Property, the Building or any such Superior Lease and the leasehold interest created thereby, and to all renewals, extensions, supplements, amendments, modifications, consolidations, and replacements thereof or thereto, substitutions therefor and advances made thereunder. As of the date hereof, Landlord represents that there are no Superior Leases affecting the Real Property and the Building. This clause shall be self-operative and no further instrument of subordination shall be required to make the interest of any lessor under a Superior Lease, or trustee or mortgagee of a Mortgage superior to the interest of Tenant hereunder. In confirmation of such subordination, however, Tenant shall

execute promptly any certificate that Landlord may request. If the date of expiration of any Superior Lease shall be the same day as the Expiration Date, the Term shall end and expire twelve (12) hours prior to the expiration of the Superior Lease. Tenant covenants and agrees that, except as expressly provided herein, Tenant shall not knowingly do anything that would constitute a default under any Superior Lease or Mortgage, or omit to do anything that Tenant is obligated to do under the terms of this Lease so as to cause Landlord to be in default under any of the foregoing. If, at any time Landlord's obligations as lessee under the Master Lease require Landlord to modify any of its obligations under, or any of the terms of, this Lease or if, in connection with the financing of the Real Property, the Building or the interest of the lessee under any Superior Lease, any lending institution shall request reasonable modifications of this Lease, provided such modifications do not materially increase the financial obligations or materially and adversely affect the rights of Tenant under this Lease or with respect to the Premises, Tenant covenants to make such modifications.

B. Attornment. If at any time prior to the expiration of the Term, any Mortgage shall be foreclosed or any Superior Lease shall terminate or be terminated for any reason, Tenant agrees, at the election and upon demand of any owner of the Real Property or the Building, or the lessor under any such Superior Lease, or of any mortgagee in possession of the Real Property or the Building, to attorn, from time to time, to any such owner, lessor or mortgagee, upon the then executory terms and conditions of this Lease, for the remainder of the term originally demised in this Lease, provided that such owner, lessor or mortgagee, as the case may be, or receiver caused to be appointed by any of the foregoing, shall not then be entitled to possession of the Premises. The provisions of this subsection B shall inure to the benefit of any such owner, lessor or mortgagee, shall apply notwithstanding that, as a matter of law, this Lease may terminate upon the termination of any such Superior Lease, and shall be self-operative upon any such demand, and no further instrument shall be required to give effect to said provisions. Tenant, however, upon demand of any such owner, lessor or mortgagee, agrees to execute, from time to time, instruments in confirmation of the foregoing provisions of this subsection B, reasonably satisfactory to any such owner, lessor or mortgagee, acknowledging such attornment and setting forth the terms and conditions of its tenancy. Nothing contained in this subsection B shall be construed to impair any right otherwise exercisable by any such owner, lessor or mortgagee.

C. Notwithstanding anything to the contrary set forth herein, Landlord shall obtain a subordination, non-disturbance and attornment agreement in a form reasonably satisfactory to Tenant ("SNDA") from the holder of any existing lease, right, claim, mortgage or deed of trust against or affecting the Premises promptly after the execution and delivery of this Lease. Additionally, Landlord agrees to use commercially reasonable efforts to obtain such SNDA from any mortgagees and/or superior lessors of Landlord who later come into existence at any time prior to the expiration of the term of this Lease.

8. RULES AND REGULATIONS. Tenant and Tenant's employees, agents, visitors and licensees shall observe faithfully, and comply strictly with, the Rules and Regulations of the Building annexed hereto as Exhibit "J", and such other and further reasonable Rules and Regulations as Landlord or Landlord's agents may from time to time adopt (collectively, the "Rules and Regulations") on such notice to be given as Landlord may elect. Nothing in this Lease contained shall be construed to impose upon Landlord any duty or obligation to enforce

the Rules and Regulations or terms, covenants or conditions in any other lease, against any other tenant and Landlord shall not be liable to Tenant for violation of the same by any other tenant, its employees, agents, visitors or licensees.

9. **INSURANCE.**

A. **Liability Insurance.** Tenant shall obtain at its own expense and keep in full force and effect during the Term, a policy of commercial general liability insurance (including, without limitation, insurance covering Tenant's contractual liability under this Lease), under which Tenant is named as the insured, and Landlord, Landlord's managing agent, the present and any future mortgagee of the Real Property or the Building and/or such other designees specified by Landlord as additional insureds as set forth on Exhibit "E" annexed hereto and made a part hereof, which may be amended from time to time. Such policy shall contain a provision which provides the insurance company will not cancel or refuse to renew the policy, or change in any material way the nature or extent of the coverage provided by such policy, without first giving Landlord at least thirty (30) days written notice by certified mail, return receipt requested, which notice shall contain the policy number and the names of the insureds and policy holder. The minimum limits of liability shall be a combined single limit with respect to each occurrence in an amount of not less than \$5,000,000 for injury (or death) and damage to property or such greater amount as Landlord may, from time to time, reasonably require. Tenant shall also maintain at its own expense during the Term a policy of workers' compensation insurance providing statutory benefits for Tenant's employees and employer's liability. Tenant shall provide to Landlord upon the Effective Date and at least thirty (30) days prior to the termination of any existing policy, a certificate evidencing the effectiveness of the insurance policies required to be maintained hereunder which shall include the named insured, additional insured, carrier, policy number, limits of liability, effective date, the name of the insurance agent and its telephone number. Tenant shall provide Landlord with a complete copy of any such policy upon written request of Landlord. Tenant shall have no right to obtain any of the insurance required hereunder pursuant to a blanket policy covering other properties unless the blanket policy contains an endorsement that names Landlord, Landlord's managing agent and/or designees specified by Landlord from time to time, as additional insureds, references the Premises, and guarantees a minimum limit available for the Premises equal to the amount of insurance required to be maintained hereunder. Each policy required hereunder shall contain a clause that the policy and the coverage evidenced thereby shall be primary with respect to any policies carried by Landlord, and that any coverage carried by Landlord shall be excess insurance. The limits of the insurance required under this subsection shall not limit the liability of Tenant under this Lease. All insurance required to be carried by Tenant pursuant to the terms of this Lease shall be effected under valid and enforceable policies issued by reputable and independent insurers permitted to do business in the State of New York, and rated in Best's Insurance Guide, or any successor thereto (or if there be none, an organization having a national reputation) as having a general policyholder rating acceptable to Landlord. In the event that Tenant fails to continuously maintain insurance as required by this subsection, Landlord may, at its option and without relieving Tenant of any obligation hereunder, order such insurance and pay for the same at the expense of Tenant. In such event, Tenant shall repay the amount expended by Landlord, with interest thereon, immediately upon Landlord's written demand therefor.

B. "All Risk" Insurance and Business Interruption Insurance.

(i) Tenant shall also maintain at its own expense during the Term a policy against fire and other casualty on an "all risk" form covering all Alterations, construction and other improvements installed within the Premises by Tenant, whether existing in the Premises on the date hereof or hereinafter installed by Tenant, and on all furniture, fixtures, equipment, personal property and inventory of Tenant located in the Premises and any property in the care, custody and control of Tenant (fixed or otherwise) in an amount adequate to cover the replacement of such items, which policy shall otherwise comply with the provisions of subsections A and C of this Article 9. On any such policy, Tenant shall name Landlord as a loss payee, as its interest may appear.

(ii) Tenant shall also maintain at its own expense during the Term business interruption or rental value insurance in an amount at least equal to the rental value of the Premises for at least eighteen (18) months (that is, the aggregate amount of all rent and other consideration payable under the lease by Tenant).

C. Waiver of Subrogation. The parties hereto shall procure an appropriate clause in, or endorsement on, any "all-risk" property insurance covering the Premises and the Building, including its respective Alterations, construction and other improvements as well as personal property, fixtures, furniture, inventory and equipment located thereon or therein, pursuant to which the insurance companies waive subrogation or consent to a waiver of right of recovery, and each party hereby agrees that it will not make any claim against or seek to recover from the other or the partners, directors, officers, shareholders or employees of such party for any loss or damage to its property or the property of others resulting from fire or other hazards covered by such "all-risk" property insurance policies to the extent that such loss or damage is actually recoverable under such policies exclusive of any deductibles. Such waiver will not apply should any loss or damage result from one of the parties' gross negligence or willful misconduct. If the payment of an additional premium is required for the inclusion of such waiver of subrogation provision, each party shall advise the other of the amount of any such additional premiums and the other party shall pay the same. It is expressly understood and agreed that Landlord will not carry insurance on the Alterations, construction and other improvements presently existing or hereafter installed within the Premises or on Tenant's fixtures, furnishings, equipment, personal property or inventory located in the Premises or insurance against interruption of Tenant's business.

10. DESTRUCTION OF THE PREMISES; PROPERTY LOSS OR DAMAGE

A. Repair Estimate. If the Premises or the Building are damaged by fire or other casualty (a "Casualty"), Landlord shall, within one hundred twenty (120) days after such Casualty, deliver to Tenant a good faith estimate (the "Damage Notice") of the time needed to repair the damage caused by such Casualty.

B. Tenant's Rights. If a material portion of the Premises or access to the Premises is damaged by Casualty such that Tenant is prevented from conducting its business in the Premises in a manner reasonably comparable to that conducted immediately before such Casualty and

Landlord estimates that the damage caused thereby cannot be repaired within one hundred fifty (150) days after the date of Casualty (the "Repair Period"), then Tenant may terminate this Lease by delivering written notice to Landlord of its election to terminate within thirty (30) days after the Damage Notice has been delivered to Tenant. Additionally, if Landlord notifies Tenant that it intends to commence repairs following the delivery of the Damage Notice to Tenant, but Landlord fails to commence said repairs or fails to complete said repairs within ninety (90) days from the date of the Damage Notice, except if such failure is the result of force majeure or Legal Requirements, Tenant may terminate this Lease by delivering written notice to Landlord of its election to terminate within thirty (30) days from the expiration of said ninety (90) month period.

C. Landlord's Rights. If a Casualty damages the Premises or a material portion of the Building and (1) Landlord estimates that the damage to the Premises cannot be repaired within the Repair Period, (2) the damage to the Premises exceeds 50% of the replacement cost thereof (excluding foundations and footings), as estimated by Landlord, and such damage occurs during the last two years of the Term, or (3) Landlord is required to pay the insurance proceeds arising out of the Casualty to a Landlord's Mortgagee, then Landlord may terminate this Lease by giving written notice of its election to terminate within thirty (30) days after the date of the Casualty.

D. Repair Obligation. If neither party elects to terminate this Lease following a Casualty, then Landlord shall, promptly repair the Premises and shall proceed with reasonable diligence to restore the Premises to substantially the same condition as they existed immediately before such Casualty; however, Landlord shall not be required to repair or replace any Alterations or betterments installed by Tenant within the Premises (which shall be promptly and with due diligence repaired and restored by Tenant at Tenant's sole cost and expense) or any furniture, equipment, trade fixtures or personal property of Tenant or others in the Premises or the Building, and Landlord's obligation to repair or restore the Premises shall be limited to the extent of the insurance proceeds actually received by Landlord for the Casualty in question. If the Casualty occurs prior to the completion of Landlord's Work, Landlord agrees to complete Landlord's Work, at its sole cost and expense.

E. Abatement of Rent. If the Premises are damaged by Casualty, Rent and Additional Rent for the portion of the Premises so damaged shall be abated on a reasonable basis from the date of damage until the completion of Landlord's repairs (or until the date of termination of this Lease by Landlord or Tenant as provided above, as the case may be), unless a Tenant Party caused such damage, in which case, Tenant shall continue to pay rent without abatement. Tenant's liability for rent shall resume fifteen (15) days after written notice from Landlord that the Premises are substantially ready for Tenant's occupancy.

F. Waiver. Tenant hereby waives the provisions of Section 227 of the New York Real Property Law and agrees that the provisions of this Article shall govern and control in lieu thereof.

11. **CONDEMNATION.**

A. **Condemnation.** If the whole of the Real Property, the Building or the Premises shall be acquired or condemned for any public or quasi-public use or purpose, this Lease and the Term shall end as of the date of the vesting of title with the same effect as if said date were the Expiration Date and Tenant shall have the lesser of sixty (60) days or the time required by Legal Requirements to vacate the Premises (the "Vacate Time Frame"). If only a part of the Real Property shall be so acquired or condemned then, (i) except as hereinafter provided in this subsection A, this Lease and the Term shall continue in force and effect but, if a part of the Premises is included in the part of the Real Property so acquired or condemned, from and after the date of the vesting of title, the Rent shall be reduced in the proportion which the area of the part of the Premises so acquired or condemned bears to the total area of the Premises immediately prior to such acquisition or condemnation; (ii) whether or not the Premises shall be affected thereby, Landlord, at Landlord's option, may give to Tenant, within the Vacate Time Frame following the date upon which Landlord shall have received notice of vesting of title, a notice of termination of this Lease and Tenant shall have the Vacate Time Frame to vacate the Premises; or (iii) if the part of the Real Property so acquired or condemned shall contain more than thirty percent (30%) of the total area of the Premises immediately prior to such acquisition or condemnation, or if, by reason of such acquisition or condemnation, Tenant no longer has reasonable means of access to the Premises, Tenant, at Tenant's option, may give to Landlord, within sixty (60) days next following the date upon which Tenant shall have received written notice of vesting of title, a notice of termination of this Lease and Tenant shall have the Vacate Time Frame to vacate the Premises. If any such notice of termination is given by Landlord or Tenant, this Lease and the Term shall come to an end and expire upon the expiration of the Vacate Time Frame with the same effect as if the date were the Expiration Date. If a part of the Premises shall be so acquired or condemned and this Lease and the Term shall not be terminated pursuant to the foregoing provisions of this subsection A, Landlord, at Landlord's expense, shall restore that part of the Premises not so acquired or condemned to a self-contained rental unit. In the event of any termination of this Lease and the Term pursuant to the provisions of this subsection A, the Rent shall be apportioned as of the date of sooner termination and any prepaid portion of Rent for any period after such date shall be refunded by Landlord to Tenant.

B. **Award.** In the event of any such acquisition or condemnation of all or any part of the Real Property, Landlord shall be entitled to receive the entire award for any such acquisition or condemnation, Tenant shall have no claim against Landlord or the condemning authority for the value of any unexpired portion of the Term and Tenant hereby expressly assigns to Landlord all of its right in and to any such award. Nothing contained in this subsection B shall be deemed to prevent Tenant from making a claim in any condemnation proceedings for the then value of any furniture, furnishings and fixtures installed by and at the sole expense of Tenant and included in such taking and the value of the leasehold estate, provided that such award shall not reduce the amount of the award otherwise payable to Landlord.

12. **ASSIGNMENT AND SUBLETTING.**

A. **Prohibition Without Consent.** Except as otherwise expressly set forth herein, Tenant expressly covenants that it shall not (i) assign or otherwise transfer this Lease or the term

and estate hereby granted, (ii) mortgage, pledge or encumber this Lease or the Premises or any part thereof in any manner by reason of any act or omission on the part of Tenant, (iii) sublet the Premises or any part thereof or permit the Premises or any part thereof to be used or occupied by others (whether for desk space, mailing privileges or otherwise) without obtaining the prior written consent of Landlord in each instance, which consent shall not be unreasonably withheld, conditioned or delayed. If this Lease be assigned, or if the Premises or any part thereof be sublet or occupied by anybody other than Tenant, Landlord may, after default beyond the expiration of any notice and grace periods by Tenant, collect rent from the assignee, subtenant or occupant, and apply the net amount collected to the Rent herein reserved, but no assignment, underletting, occupancy or collection shall be deemed a waiver of the provisions hereof, the acceptance of the assignee, undertenant or occupant as tenant, or a release of Tenant from the further performance by Tenant of covenants on the part of Tenant herein contained. The consent by Landlord to an assignment or underletting shall not in any way be construed to relieve Tenant from obtaining the express consent in writing of Landlord to any further assignment or underletting. In no event shall any permitted subtenant assign or encumber its sublease or further sublet all or any portion of its sublet space, or otherwise suffer or permit the sublet space or any part thereof to be used or occupied by others, without Landlord's prior written consent in each instance. Any assignment, sublease, mortgage, pledge, encumbrance or transfer in contravention of the provisions of this Article 12 shall be void.

B. Notice of Proposed Transfer. If Tenant shall at any time or times during the Term desire to assign this Lease or sublet all or more than fifteen (15%) percent of the approximate rentable square footage of the Premises, Tenant shall give notice thereof to Landlord. The notice shall be deemed an offer from Tenant to Landlord whereby Landlord (or Landlord's designee) may, at its option, terminate this Lease and recapture the Premises. Said option may be exercised by Landlord by notice to Tenant at any time within thirty (30) days after the aforesaid notice has been given by Tenant to Landlord; and during such thirty (30) day period Tenant shall not assign this Lease nor sublet such space to any person or entity.

C. Intentionally Omitted.

D. Termination by Landlord. If Landlord exercises its option to recapture and the recapture involves the entire Premises, then this Lease shall terminate and expire on the date that such assignment or sublet was to be effective or commence, as the case may be, and the Rent and Additional Rent due hereunder shall be paid and apportioned to such date. Furthermore, if Landlord exercises its option to terminate this Lease, Landlord shall be free to and shall have no liability to Tenant if Landlord should lease the Premises (or any part thereof) to Tenant's prospective assignee or subtenant.

E. Intentionally Omitted.

F. Delivery of Information for Proposed Transfer. Provided Landlord does not exercise the recapture option provided to it pursuant to subsection B of this Article 12, Tenant may elect to market this Lease for assignment or a subletting of all or a portion of the Premises. In the event Tenant secures an assignee or subtenant, it shall notify Landlord accordingly, which notice shall be accompanied by (i) a conformed or photostatic copy of the proposed assignment

or sublease, the effective or commencement date of which shall be not less than sixty (60) nor more than one hundred and eighty (180) days after the giving of such notice, (ii) a statement setting forth in reasonable detail the identity of the proposed assignee or subtenant, the nature of its business and its proposed use of the Premises, (iii) current financial information with respect to the proposed assignee or subtenant, including, without limitation, its most recent financial report.

G. Conditions for Landlord's Approval. In the event Landlord does not exercise the option provided to it pursuant to subsection B of this Article 12 and provided that Tenant is not in monetary default of any of Tenant's obligations under this Lease (after notice and the expiration of any applicable grace period) as of the time of Landlord's consent, and as of the effective date of the proposed assignment or commencement date of the proposed sublease, Landlord's consent (which must be in writing and form reasonably satisfactory to both Landlord and Tenant) to the proposed assignment or sublease shall not be unreasonably withheld or delayed, provided and upon condition that:

(i) Tenant shall have complied with the provisions of subsection B of this Article 12 and Landlord shall not have exercised its option under subsection B of this Article 12 within the time permitted therefor;

(ii) In Landlord's reasonable judgment the proposed assignee or subtenant is engaged in a business or activity, and the Premises, or the relevant part thereof, will be used in a manner, which (a) is in keeping with the then standards of the Building, (b) is limited to the use of the Premises as general offices;

(iii) The proposed assignee or subtenant is a reputable party of good character and with sufficient financial worth considering the responsibility involved, and Landlord has been furnished with reasonable proof thereof;

(iv) The form of the proposed sublease or instrument of assignment (a) shall be in form reasonably satisfactory to Landlord, and (b) shall comply with the applicable provisions of this Article 12;

(v) There shall not be more than four (4) subtenants of the Premises;

(vi) The rental and other terms and conditions of the sublease are the same as those contained in the proposed sublease furnished to Landlord pursuant to subsection F of this Article 12; and

(vii) Within five (5) days after receipt of a bill therefor, Tenant shall reimburse Landlord for the reasonable costs that may be incurred by Landlord in connection with said assignment or sublease, including without limitation, the costs of making investigations as to the acceptability of the proposed assignee or subtenant, and reasonable legal costs in the amount of \$2,500.00 incurred by Landlord in connection with the granting of any requested consent.

Except for any subletting by Tenant to Landlord or its designee pursuant to the provisions of this Article 12, each subletting pursuant to this subsection G of this Article 12 shall be subject to all of the covenants, agreements, terms, provisions and conditions contained in this Lease. Notwithstanding any such subletting to Landlord or any such subletting to any other subtenant and/or acceptance of Rent or Additional Rent by Landlord from any subtenant, Tenant shall and will remain fully liable for the payment of the Rent and Additional Rent due and to become due hereunder and for the performance of all the covenants, agreements, terms, provisions and conditions contained in this Lease on the part of Tenant to be performed and all acts and omissions of any licensee or subtenant or anyone claiming under or through any subtenant which shall be in violation of any of the obligations of this Lease shall be deemed to be a violation by Tenant. Tenant further agrees that notwithstanding any such subletting, no other and further subletting of the Premises by Tenant or any person claiming through or under Tenant shall or will be made except upon compliance with and subject to the provisions of this Article 12. If Landlord shall decline to give its consent to any proposed assignment or sublease, or if Landlord shall exercise its option under subsection B of this Article 12, Tenant shall indemnify, defend and hold harmless Landlord against and from any and all loss, liability, damages, costs, and expenses (including reasonable counsel fees) resulting from any claims that may be made against Landlord by the proposed assignee or subtenant or by any brokers or other persons claiming a commission or similar compensation in connection with the proposed assignment or sublease.

H. Future Requests. In the event that (i) Landlord fails to exercise its option under subsection B of this Article 12 and consents to a proposed assignment or sublease, and (ii) Tenant fails to execute and deliver the assignment or sublease to which Landlord consented within ninety (90) days after the giving of such consent, then, Tenant shall again comply with all of the provisions and conditions of subsection B of this Article 12 before assigning this Lease or subletting all or part of the Premises.

I. Sublease Provisions. With respect to each and every sublease or subletting authorized by Landlord under the provisions of this Lease, it is further agreed that:

(i) No subletting shall be for a term ending later than one (1) day prior to the Expiration Date of this Lease;

(ii) No sublease shall be delivered, and no subtenant shall take possession of the Premises or any part thereof, until an executed counterpart of such sublease has been delivered to Landlord; and

(iii) Each sublease shall provide that it is subject and subordinate to this Lease and to the matters to which this Lease is or shall be subordinate, and that in the event of termination, re-entry or dispossession by Landlord under this Lease Landlord may, at its option, take over all of the right, title and interest of Tenant, as sublessor, under such sublease, and such subtenant shall, at Landlord's option, attorn to Landlord pursuant to the then executory provisions of such sublease, except that Landlord shall not (a) be liable for any previous act or omission of Tenant under such sublease, (b) be subject to any counterclaim, offset or defense, not expressly provided in such sublease, which theretofore accrued to such subtenant against Tenant, or (c) be bound by any previous modification of such sublease or by any previous

prepayment of more than one (1) month's Rent. The provisions of this Article 12 shall be self-operative and no further instrument shall be required to give effect to this provision.

J. Profits from Assignment or Subletting.

(i) If Landlord shall give its consent to any assignment of this Lease or to any sublease or if Tenant shall enter into any other assignment or sublease permitted hereunder, Tenant shall in consideration therefor, pay to Landlord, as Additional Rent:

(a) in the case of an assignment, an amount equal to fifty (50%) percent of all sums and other consideration payable to Tenant by the assignee for, or by reason of, such assignment, after deducting therefrom the "Tenant's Costs" (as hereinafter defined); and

(b) in the case of a sublease, fifty (50%) percent of any rents, additional charges, or other consideration payable under the sublease by the subtenant to Tenant that are in excess of the Rent and Additional Rent accruing during the term of the sublease in respect of the subleased space (at the rate per square foot payable by Tenant hereunder) pursuant to the terms hereof, after deducting therefrom the Tenant's Costs.

(ii) For purposes hereof, the term "Tenant's Costs" shall mean: (a) the amount of any customary and reasonable brokerage fees or commissions actually paid to a broker as a result of any assignment or subletting by Tenant hereunder, advertising costs and reasonable counsel fees and disbursements incurred with respect to such assignment or subletting; and (b) the actual out of pocket cost to Tenant of any additional improvements made to prepare the space in question for the occupancy of the subtenant or the assignee thereof, and in the case of a subletting, any rent abatement and/or concession or work allowance granted by Tenant to such abatement in lieu of or in addition to Tenant's performance of any such improvements. Tenant shall submit to Landlord receipts evidencing the payment of such Tenant Costs, or other proof of payment as Landlord shall reasonably require.

(iii) The sums payable under this subsection J of this Article 12 shall be paid to Landlord as and when payable by the subtenant to Tenant.

K. Other Transfers.

(i) If Tenant is a corporation, partnership or limited liability entity other than a corporation whose stock is listed and traded on a nationally recognized stock exchange (hereinafter referred to as a "public corporation"), the provisions of subsection A of this Article 12 shall apply to a transfer (by one or more transfers) of a majority of the stock, partnership or membership interests of Tenant as if such transfer of a majority of the stock of Tenant were an assignment of this Lease; but said provisions shall not apply to transactions with a corporation or limited liability entity into or with which Tenant is merged or consolidated or to a successor partnership or to which substantially all of Tenant's assets are transferred, provided that such merger, consolidation or transfer of assets is for a valid business purpose and not principally for the purpose of transferring the leasehold estate created hereby, and provided further, that in any of such events (a) the successor to Tenant has a net worth computed in accordance with generally

accepted accounting principles at least equal to the networth of Tenant herein named on the date of this Lease and (b) proof satisfactory to Landlord of such net worth shall have been delivered to Landlord at least ten (10) days prior to the effective date of any such transaction.

(ii) If Tenant is a subdivision, authority, body, agency, instrumentality or other entity created and/or controlled pursuant to the laws of the State of New York or any city, town or village of such state or of federal government ("Governmental Entity"), the provisions of subsection A of this Article 12 shall apply to a transfer (by one or more transfers) of any of Tenant's rights to use and occupy the Premises, to any other Governmental Entity, as if such transfer of the right of use and occupancy were an assignment of this Lease; but said provisions shall not apply to a transfer of any of Tenant's rights in and to the Premises to any Governmental Entity which shall replace or succeed to substantially similar public functions, responsibilities and areas of authority as Tenant, provided that in any of such events the successor Governmental Entity (a) shall utilize the Premises in a manner substantially similar to Tenant, and (b) shall not utilize the Premises in any manner which, in Landlord's judgment, would impair the reputation of the Building as a first-class office building.

L. Related Corporation. Tenant may, without Landlord's consent, but upon written notice to Landlord, permit any corporations or other business entities (but not including Governmental Entities) which control, are controlled by, or are under common control with Tenant (herein referred to as "related corporation") to sublet all or part of the Premises for any of the purposes permitted to Tenant, subject however to compliance with Tenant's obligations under this Lease. Such subletting shall not be deemed to vest in any such related corporation any right or interest in this Lease or the Premises nor shall it relieve, release, impair or discharge any of Tenant's obligations hereunder. For the purposes hereof, "control" shall be deemed to mean ownership of not less than fifty percent (50%) of all of the voting stock of such corporation or not less than fifty percent (50%) of all of the legal and equitable interest in any other business entities.

M. Assumption by Assignee. Any assignment or transfer, whether made with Landlord's consent pursuant to subsection A of this Article 12 or without Landlord's consent pursuant to subsection K of this Article 12, shall be made only if, and shall not be effective until, the assignee shall execute, acknowledge and deliver to Landlord an agreement in form and substance satisfactory to Landlord whereby the assignee shall assume the obligations of this Lease and agree to be bound by all of the terms, conditions, covenants and provisions hereof on the part of Tenant to be performed or observed and whereby the assignee shall agree that the provisions in subsection A of this Article 12 shall, notwithstanding such assignment or transfer, continue to be binding upon it in respect of all future assignments and transfers. The original named Tenant covenants that, notwithstanding any assignment or transfer, whether or not in violation of the provisions of this Lease, and notwithstanding the acceptance of Rent and/or Additional Rent by Landlord from an assignee, transferee or any other party, the original named Tenant shall remain fully liable for the payment of the Rent and Additional Rent and for the other obligations of this Lease on the part of Tenant to be performed or observed.

N. Liability of Tenant. The joint and several liability of Tenant and any immediate or remote successor in interest of Tenant and the due performance of the obligations of this

Lease on Tenant's part to be performed or observed shall not be discharged, released or impaired in any respect by any agreement or stipulation made by Landlord extending the time, or modifying any of the obligations, of this Lease, or by any waiver or failure of Landlord to enforce any of the obligations of this Lease.

O. Re-entry by Landlord. If Landlord shall recover or come into possession of the Premises before the date herein fixed for the termination of this Lease, Landlord shall have the right, at its option, to take over any and all subleases or sublettings of the Premises or any part thereof made by Tenant and to succeed to all the rights of said subleases and sublettings or such of them as it may elect to take over. Tenant hereby expressly assigns and transfers to Landlord such of the subleases and sublettings as Landlord may elect to take over at the time of such recovery of possession, such assignment and transfer not to be effective until the termination of this Lease or re-entry by Landlord hereunder or if Landlord shall otherwise succeed to Tenant's estate in the Premises, at which time Tenant shall upon request of Landlord, execute, acknowledge and deliver to Landlord such further instruments of assignment and transfer as may be necessary to vest in Landlord the then existing subleases and sublettings. Every subletting hereunder is subject to the condition and by its acceptance of and entry into a sublease, each subtenant thereunder shall be deemed conclusively to have thereby agreed from and after the termination of this Lease or re-entry by Landlord hereunder or if Landlord shall otherwise succeed to Tenant's estate in the Premises, that such subtenant shall waive any right to surrender possession or to terminate the sublease and, at Landlord's election, such subtenant shall be bound to Landlord for the balance of the term of such sublease and shall attorn to and recognize Landlord, as its landlord, under all of the then executory terms of such sublease, except that Landlord shall not (i) be liable for any previous act, omission or negligence of Tenant under such sublease, (ii) be subject to any counterclaim, defense or offset not expressly provided for in such sublease, which theretofore accrued to such subtenant against Tenant, (iii) be bound by any previous modification or amendment of such sublease or by any previous prepayment of more than one (1) month's rent and Additional Rent which shall be payable as provided in the sublease, (iv) be obligated to repair the subleased space or the Building or any part thereof, in the event of total or substantial total damage beyond such repair as can reasonably be accomplished from the net proceeds of insurance actually made available to Landlord, (v) be obligated to repair the subleased space or the Building or any part thereof, in the event of partial condemnation beyond such repair as can reasonably be accomplished from the net proceeds of any award actually made available to Landlord as consequential damages allocable to the part of the subleased space or the Building not taken or (vi) be obligated to perform any work in the subleased space of the Building or to prepare them for occupancy beyond Landlord's obligations under this Lease, and the subtenant shall execute and deliver to Landlord any instruments Landlord may reasonably request to evidence and confirm such attornment. Each subtenant or licensee of Tenant shall be deemed automatically upon and as a condition of occupying or using the Premises or any part thereof, to have given a waiver of the type described in and to the extent and upon the conditions set forth in this Article 12.

P. Listings. The listing of any name other than that of Tenant, whether on the doors of the Premises or the Building directory, or otherwise, shall not operate to vest any right or interest in this Lease or in the Premises, nor shall it be deemed to be the consent of Landlord to any assignment or transfer of this Lease or to any sublease of the Premises or to the use or

occupancy thereof by others. Any such listing shall constitute a privilege extended by Landlord, revocable at Landlord's will by notice to Tenant.

13. **CONDITION OF THE PREMISES.** Tenant has examined the Premises and agrees to accept possession of the Premises in the condition and state of repair which shall exist on the date hereof "as is", subject to the Substantial Completion of Landlord's Work in accordance with the terms and conditions this Lease and in compliance with all Legal Requirements, and subject further to Landlord's completion of any punchlist items. Tenant further agrees that Landlord shall have no other obligation to perform any work or make any installations in order to prepare the Premises for Tenant's occupancy except for Landlord's Work and any work to bring the Premises into compliance with all Legal Requirements. Subject to the foregoing, the taking of possession of the Premises by Tenant shall be conclusive evidence as against Tenant that, at the time such possession was so taken, the Premises and the Building were in good and satisfactory condition.

14. **ACCESS TO PREMISES.**

A. **Access by Landlord.** Tenant shall permit Landlord, Landlord's agents and public utilities servicing the Building to erect, use, maintain and replace, concealed ducts, pipes and conduits in and through the Premises, provided that they are concealed within the walls, floors and ceilings, and further provided there is no material change to the means of ingress and egress to and from the Premises and that the square footage of the Premises is not materially reduced. Landlord, Landlord's agents and/or affiliates, and the holder of any Mortgage shall each have the right to enter the Premises at all reasonable times, except in the event of an emergency, upon no less than twenty-four (24) hours prior notice, which may be oral. Landlord, Landlord's agents and/or affiliates, and the holder of any Mortgage shall each have the right to enter the Premises at all reasonable times to (i) examine the same, (ii) to show them to prospective purchasers, mortgagees or lessees of the Building or space therein, (iii) to make such decorations, repairs, replacements, alterations, improvements or additions as Landlord may deem necessary or desirable to the Premises or to any other portion of the Building or which Landlord may elect to perform following Tenant's failure to make repairs or perform any work which Tenant is obligated to perform under this Lease, (iv) for the purpose of complying with laws, regulations or other requirements of government authorities and (v) to perform "Remedial Work" (as defined in Article 40 hereof) after the failure of Tenant to perform the same in accordance with the terms of this Lease. Landlord shall be allowed, during the progress of any work in and about the Premises, to take all necessary material and equipment into and upon the Premises and to temporarily store them within the Premises without the same constituting an eviction or constructive eviction of Tenant in whole or in part and the Rent shall in nowise abate while any decorations, repairs, replacements, alterations, improvements or additions are being made, by reason of loss or interruption of business of Tenant, or otherwise. During the six (6) months prior to the Expiration Date or the expiration of any renewal or extended term, Landlord may exhibit the Premises to prospective tenants thereof. During Landlord's access to the Premises as permitted by this Article 14, Landlord shall use best efforts to minimize interference with Tenant's business operations therein. If Tenant shall not be personally present to open and permit an entry into the Premises, at any time, when for any reason an entry therein shall be necessary or permissible, Landlord or Landlord's agents may enter the same by a master key, or

may forcibly enter the same, without rendering Landlord or such agents liable therefor (if during such entry Landlord or Landlord's agents shall accord reasonable care to Tenant's property), and without in any manner affecting the obligations and covenants of this Lease. Nothing herein contained, however, shall be deemed or construed to impose upon Landlord any obligation, responsibility or liability whatsoever, for the care, supervision or repair of the Building or any part thereof, other than as herein provided.

B. Other Landlord Privileges. Landlord shall have the right at any time upon prior reasonable notice, which may be oral, without the same constituting an actual or constructive eviction and without incurring any liability to Tenant therefor, to change the arrangement and/or location of entrances or passageways, doors and doorways, corridors, elevators, stairs, toilets or other public parts of the Building, provided there is no material change to the means of ingress and egress to and from the Premises and that the square footage of the Premises is not materially reduced. Tenant acknowledges that Landlord may (but shall have no obligation to) perform repairs, improvements, alterations and/or substantial renovation work in and to the public parts of the Building and the mechanical and other systems serving the Building (which work may include improvements to the lobby and facade of the Building, which may require that scaffolding and/or a sidewalk bridge be placed in front of the Building, and the replacement of window glass, requiring access to the same from within the Premises). Landlord shall incur no liability to Tenant, nor shall Tenant be entitled to any abatement of Rent on account of any noise, vibration or other disturbance to Tenant's business at the Premises (provided that Tenant is not denied access thereto) which shall arise out of the performance by Landlord or other tenants of the aforesaid repairs, alterations, additions, improvements, alterations and renovations of the Building or any part thereof and Tenant hereby agrees to release Landlord of and from any claims (including without limitation, claims arising by reason of loss or interruption of business) of every kind and nature whatsoever arising under or in connection therewith. Tenant understands and agrees that all parts (except surfaces facing the interior of the Premises) of all walls, windows and doors bounding the Premises (including exterior Building walls, core corridor walls, doors and entrances), all balconies, terraces and roofs adjacent to the Premises, all space in or adjacent to the Premises used for shafts, stacks, stairways, chutes, pipes, conduits, ducts, fan rooms, heating, air cooling, plumbing and other mechanical facilities, service closets and other Building facilities are not part of the Premises, and Landlord shall have the use thereof, as well as access thereto through the Premises for the purposes of operation, maintenance, alteration and repair. Landlord, throughout the Term, shall have free access to any and all mechanical installations of Landlord, including but not limited to air-cooling, fan, ventilating, machine rooms and electrical closets.

15. CERTIFICATE OF OCCUPANCY. Landlord represents that the Building was erected prior to the requirement of a certificate of occupancy, and as a result thereof, no certificate of occupancy currently exists for the Building, nor is one required.

16. LANDLORD'S LIABILITY. The obligations of Landlord under this Lease shall not be binding upon Landlord named herein after the sale, conveyance, assignment or transfer by such Landlord (or upon any subsequent landlord after the sale, conveyance, assignment or transfer by such subsequent landlord) of its interest in the Building or the Real Property, as the case may be, and in the event of any such sale, conveyance, assignment or transfer, Landlord

shall be and hereby is entirely freed and relieved of all covenants and obligations of Landlord hereunder, and it shall be deemed and construed without further agreement between the parties or their successors in interest, or between the parties and the purchaser, grantee, assignee or other transferee that such purchaser, grantee, assignee or other transferee has assumed and agreed to carry out any and all covenants and obligations of Landlord hereunder. Neither the shareholders, members, directors nor officers of Landlord, if Landlord is a corporation, nor the partners comprising Landlord (nor any of the shareholders, members, directors or officers of such partners), if Landlord is a partnership (collectively, the "Parties"), shall be liable for the performance of Landlord's obligations under this Lease. Tenant shall look solely to Landlord to enforce Landlord's obligations hereunder and shall not seek any damages against any of the Parties. The liability of Landlord for Landlord's obligations under this Lease shall not exceed and shall be limited to Landlord's interest in the Building and the Real Property, the rental income, and the insurance or sale proceeds therefrom and Tenant shall not look to or attach any other property or assets of Landlord or the property or assets of any of the Parties in seeking either to enforce Landlord's obligations under this Lease or to satisfy a judgment for Landlord's failure to perform such obligations. In no event shall Landlord (or any of the officers, trustees, directors, partners, beneficiaries, joint ventures, members, stockholders or other principals or representatives and the like, disclosed or undisclosed, thereof) ever be liable for incidental or consequential damages.

17. **DEFAULT.**

A. Events of Default; Conditions of Limitation. This Lease and the term and estate hereby granted are subject to the limitations that upon the occurrence, at any time prior to or during the Term, of any one or more of the following events (referred to as "Event(s) of Default"):

(i) if Tenant shall default in the payment when due of any installment of Rent or in the payment when due of any Additional Rent, and such default shall continue for a period of ten (10) days after written notice that same is due; or

(ii) if Landlord serves Tenant with more than two (2) notices within any twelve (12) month period for the non-payment of Rent and/or Additional Rent; or

(iii) if Tenant shall default in the observance or performance of any term, covenant or condition of this Lease on Tenant's part to be observed or performed (other than the covenants for the payment of Rent and Additional Rent) and Tenant shall fail to remedy such default within thirty (30) days after written notice from Landlord to Tenant of such default, or if such default is of such a nature that it cannot be completely remedied within said period of thirty (30) days and Tenant shall not commence within said period of thirty (30) days, or shall not thereafter diligently prosecute to completion all steps necessary to remedy such default;

(iv) intentionally omitted; or

(v) if Tenant's interest in this Lease shall devolve upon or pass to any person, whether by operation of law or otherwise, except as may be expressly permitted under Article 12 hereof; or

(vi) Tenant fails to procure, maintain and deliver to Landlord evidence of the insurance policies and coverages as required under Article 9; or

(vii) if any execution or attachment shall be issued against Tenant or any of Tenant's property pursuant to which the Premises shall be taken or occupied or attempted to be taken or occupied;

then, in any of said cases, at any time prior to or during the Term, of any one or more of such Events of Default, Landlord, at any time thereafter, at Landlord's option, may serve a ten (10) days written notice of termination of this Lease upon Tenant and, in the event such notice is given, this Lease and the Term shall come to an end and expire (whether or not the Term shall have commenced) upon the expiration of said ten (10) days with the same effect as if the date of expiration of said ten (10) days were the Expiration Date, but Tenant shall remain liable for damages as provided in Article 18 hereof.

C. Conditional Limitation. Nothing contained in this Article 17 shall be deemed to require Landlord to give the notices herein provided for 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 intended that such notices 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 holdover tenant.

18. REMEDIES AND DAMAGES.

A. Landlord's Remedies.

(a) Landlord and its agents and servants may immediately, or at any time after an Event of Default or after the date upon which this Lease and the Term shall expire and come to an end, re-enter the Premises or any part thereof, either by summary proceedings, or by any other applicable action or proceeding, (without being liable to indictment, prosecution or damages therefor), and may repossess the Premises and dispossess Tenant and any other persons from the Premises and remove any and all of their property and effects from the Premises; and

(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.

(c) 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 restore the operation of this Lease, after (a) Tenant shall have been dispossessed by a judgment or by warrant of any court or judge, or (b) any re-entry by Landlord, or (c) any expiration or termination of this Lease and the 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 special remedies were not provided in this Lease for such breach. The right to invoke the remedies hereinbefore set forth are cumulative and shall not preclude Landlord from invoking any other remedy allowed at law or in equity.

B. Damages. (i) If this Lease and the Term be terminated and come to an end as provided in Article 17, or by or under any summary proceeding or any other action or proceeding, or if Landlord shall re-enter the Premises as provided in subsection A of this Article 18, or by or under any summary proceeding or any other action or proceeding, then, in any of said events:

(a) Tenant shall pay to Landlord all Rent, Additional Rent, Landlord's mortgagee's fees and charges, and other charges payable under this Lease by Tenant to Landlord to the date upon which this Lease and the Term shall been terminated 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 Term and the net amount, if any, of rents collected under any reletting effected pursuant to the provisions of subsection A(i) of this Article 18 for any part of such period (first deducting from the rents collected under any such reletting all of Landlord's reasonable expenses in connection with the termination of this Lease, or Landlord's reentry upon the Premises and with such reletting including, but not limited to, all repossession costs, brokerage commissions, advertising, legal expenses, 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 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, a sum equal to the net present value (discounted at a rate of 10% per annum) of the amount by which the Rent reserved in this Lease for the period which otherwise would have constituted the unexpired portion of the Term exceeds the then fair and reasonable rental value of the Premises for the same period, less the aggregate amount of Deficiencies theretofore collected by Landlord pursuant to the provisions of subsection B(1)(b) of this Article 18 for the same period; if, before presentation of proof of such liquidated damages to any court, commission or tribunal, the Premises, or any part thereof, shall have been relet by Landlord for the period which otherwise would have constituted the unexpired portion of the Term, or any part thereof, the amount of rent reserved upon such reletting shall be deemed, prima facie, to be the fair and reasonable rental value for the part or the whole of the Premises so relet during the term of the reletting.

(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 subsection B. 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. Solely for the purposes of this Article, the term "Rent" as used in subsection B(i) of this Article 18 shall mean the Rent in effect immediately prior to the date upon which this Lease and the Term shall have expired and come to an end, or the date of re-entry upon the Premises by Landlord, as the case may be, adjusted to reflect any increase or decrease pursuant to the provisions of Article 28 hereof for the Comparison Year (as defined in said Article 28) immediately preceding such event. Nothing contained in Article 17 or this Article 18 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 statute or rule of law, or of any sums or damages to which Landlord may be entitled in addition to the damages set forth in subsection B(i) of this Article 18.

C. Legal Fees. (i) Tenant hereby agrees to pay, as Additional Rent, all attorneys' fees and disbursements (and all other court costs or expenses of legal proceedings) which Landlord may incur or pay out by reason of, or in connection with:

- (a) any action or proceeding by Landlord to terminate this Lease;
- (b) any other action or proceeding by Landlord against Tenant (including, but not limited to, any arbitration proceeding);
- (c) any default by Tenant in the observance or performance of any obligation under this Lease (including, but not limited to, matters involving payment of Rent and

Additional Rent, computation of escalations, alterations or other Tenant's work and subletting or assignment), whether or not Landlord commences any action or proceeding against Tenant;

(d) any action or proceeding brought by Tenant against Landlord (or any officer, partner or employee of Landlord) in which Tenant fails to secure a final unappealable judgment against Landlord; and

(e) any other appearance by Landlord (or any officer, partner or employee of Landlord) as a witness or otherwise in any action or proceeding whatsoever involving or affecting Landlord, Tenant or this Lease.

(ii) Tenant's obligations under this subsection C of Article 18 shall survive the expiration of the Term hereof or any earlier termination of this Lease. This provision is intended to supplement (and not to limit) other provisions of this Lease pertaining to indemnities and/or attorneys' fees.

D. Additional Landlord Remedies.

(i) Mention in this Lease of any particular remedy, shall not preclude Landlord from any other remedy, in law or in equity. Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws.

(ii) Tenant hereby acknowledges and agrees that in the event this Lease and the Term hereof shall expire and come to an end as provided in Article 17, or if Tenant shall vacate the Premises prior to the Expiration Date, Tenant shall be liable for an amount equal to the sum of the actual unamortized portion on Landlord's books of (i) the cost of Landlord's Work, if any, plus (ii) the Abatement, and (iii) any brokerage commissions or fees paid by Landlord in connection with this Lease (amortized on a straight-line basis over the Term of this Lease), which sum shall be immediately due and payable by Tenant on demand by Landlord and deemed to be additional rent hereunder.

(iii) Notwithstanding the foregoing, in the event Tenant has exercised its options set forth in Articles 44 and 45, respectively, prior to the enforcement of Landlord's rights under this Article 18, such Landlord remedies shall be modified accordingly.

19. FEES AND EXPENSES.

A. Curing Tenant's Defaults. If Tenant shall default in the observance or performance of any term or covenant on Tenant's part to be observed or performed under or by virtue of any of the terms or provisions in any Article of this Lease, after the giving of notice and upon the expiration of any applicable grace period (except in an emergency), Landlord may immediately or at any time thereafter and without notice perform the same for the account of Tenant. If Landlord makes any expenditures or incurs any obligations for the payment of money in connection with any such default by Tenant or the cure thereof including, but not limited to, any damages or fines or any reasonable attorneys' fees and disbursements in instituting, prosecuting or defending any action or proceeding, such sums paid or obligations incurred with

interest and costs shall be deemed to be Additional Rent hereunder and shall be paid by Tenant to Landlord within ten (10) days of rendition of any bill or statement to Tenant therefor. If the Term hereof shall have expired at the time Landlord sustains or incurs such expenditures, such sums shall be recoverable by Landlord, as damages.

B. Late Charges. If Tenant shall fail to make payment of any installment of Rent or any Additional Rent within ten (10) days after the date when such payment is due, Tenant shall pay to Landlord, in addition to such installment of Rent or such Additional Rent, as the case may be, as a late charge and as Additional Rent, a sum equal to seven (7%) percent of the amount unpaid. Tenant acknowledges and agrees that, except as otherwise expressly provided herein, if Tenant fails to dispute any item of Additional Rent within thirty (30) days of the end of the applicable Lease Year for items in Landlord's control or (ii) sixty (60) days after the expiration of the Term for items controlled by third parties, Tenant shall be deemed to have waived its right to dispute the same.

C. Curing Landlord's Default. If Landlord breaches any covenant or obligation under this Lease and fails to remedy such breach within thirty (30) days after receipt by Landlord of written notice from Tenant specifying the breach, or if such breach cannot, with due diligence, be cured within said period of thirty (30) days, if Landlord has not, within said thirty (30) day period, commenced and thereafter with due diligence proceeds to cure the breach within such longer period as is reasonably necessary under the circumstances; then Landlord shall be in default hereunder, and Tenant may perform such obligations and charge Landlord therefor and Landlord shall reimburse such charges to Tenant promptly after demand thereof. This Subsection C shall not be construed to obligate Tenant to undertake any such work.

20. NO REPRESENTATIONS BY LANDLORD. Landlord or Landlord's agents have made no representations or promises with respect to the Building, the Real Property, the Premises, Taxes (as defined in Article 28 hereof) or any other matter or thing affecting or related to the Premises, except as herein expressly set forth and no rights, easements or licenses are acquired by Tenant by implication or otherwise except as expressly set forth herein.

21. END OF TERM.

A. Surrender of Premises. Upon the expiration or other termination of the Term, Tenant shall quit and surrender to Landlord the Premises, broom clean, in good order and condition, ordinary wear and tear and damage for which Tenant is not responsible under the terms of this Lease excepted, and Tenant shall remove all Alterations and property pursuant to Article 3 hereof. Tenant's obligation to observe or perform this covenant shall survive the expiration or sooner termination of the Term. If the last day of the Term or any renewal thereof falls on Saturday or Sunday this Lease shall expire on the business day immediately preceding.

B. Holdover by Tenant. The parties recognize and agree that the damage to Landlord resulting from any failure by Tenant to timely surrender possession of the Premises as aforesaid will be substantial, will exceed the amount of the monthly installments of the Rent theretofore payable hereunder, and will be impossible to accurately measure. Tenant therefore agrees that if possession of the Premises is not surrendered to Landlord on the Expiration Date or

sooner termination of the Term, in addition to any other rights or remedy Landlord may have hereunder or at law, Tenant shall pay to Landlord for each month and for each portion of any month during which Tenant holds over in the Premises after the Expiration Date or sooner termination of this Lease, a sum equal to one and one-half (1.5) times the aggregate of that portion of the Rent and the Additional Rent which was payable under this Lease during the last month of the Term. Nothing herein contained shall be deemed to permit Tenant to retain possession of the Premises after the Expiration Date or sooner termination of this Lease and no acceptance by Landlord of payments from Tenant after the Expiration Date or sooner termination of the Term shall be deemed to be other than on account of the amount to be paid by Tenant in accordance with the provisions of this Article 21, which provisions shall survive the Expiration Date or sooner termination of this Lease. If Tenant shall hold-over or remain in possession of any portion of the Premises beyond the Expiration Date of this Lease Tenant shall be deemed a tenant at sufferance, and Tenant shall be subject to summary proceeding and all damages related thereto. Additionally, if Tenant shall hold-over in the Premises for a period of forty-five (45) days beyond the Expiration Date, Tenant shall be responsible for any damages arising out of lost opportunities (and/or new leases) by Landlord to re-let the Premises (or any part thereof). All damages to Landlord by reason of such holding over by Tenant may be the subject of a separate action and need not be asserted by Landlord in any summary proceedings against Tenant.

22. **QUIET ENJOYMENT.** Landlord covenants and agrees with Tenant that upon Tenant paying the Rent and Additional Rent and observing and performing all the terms, covenants and conditions on Tenant's part to be observed and performed, Tenant may peaceably and quietly enjoy the Premises, subject, nevertheless, to the terms and conditions of this Lease including, but not limited to, Article 16 hereof and to all Superior Leases and Mortgages.

23. **EARLY OCCUPANCY.** If permission is given to Tenant to enter into the possession of the Premises or to occupy premises other than the Premises prior to the Commencement Date, Tenant covenants and agrees that such occupancy shall be deemed to be under all the terms, covenants, conditions and provisions of this Lease, including the covenant to pay Rent.

24. **NO WAIVER.**

A. If there be any agreement between Landlord and Tenant providing for the cancellation of this Lease upon certain provisions or contingencies and/or an agreement for the renewal hereof at the expiration of the Term, the right to such renewal or the execution of a renewal agreement between Landlord and Tenant prior to the expiration of the Term shall not be considered an extension thereof or a vested right in Tenant to such further term, so as to prevent Landlord from canceling this Lease in accordance with the terms hereof or applicable law and any such extension thereof during the remainder of the original Term; such right to cancel this Lease in accordance with the terms hereof, if and when so exercised by Landlord, shall cancel and terminate this Lease and any such renewal or extension previously entered into between Landlord and Tenant or the right of Tenant to any such renewal or extension; any right herein contained on the part of Landlord to cancel this Lease shall continue during any extension or renewal hereof; any option on the part of Tenant herein contained for an extension or renewal hereof shall not be deemed to give Tenant any option for a further extension beyond the first renewal or extended term.

B. No act or thing done by Landlord or Landlord's agents during the Term shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept such surrender shall be valid unless in writing signed by Landlord. No employee of Landlord or of Landlord's agents shall have any power to accept the keys of the Premises prior to the termination of this Lease. The delivery of keys to any employee of Landlord or of Landlord's agents shall not operate as a termination of this Lease or a surrender of the Premises. In the event Tenant at any time desires to have Landlord sublet the Premises for Tenant's account, Landlord or Landlord's agents are authorized to receive said keys for such purpose without releasing Tenant from any of the obligations under this Lease, and Tenant hereby relieves Landlord of any liability for loss of or damage to any of Tenant's effects in connection with such subletting, except for losses or damages arising out of Landlord's gross negligence or willful misconduct.

C. The failure of Landlord to seek redress for violation of, or to insist upon the strict performance of, any covenant or condition of this Lease or any of the Rules and Regulations set forth or hereafter adopted by Landlord, shall not prevent a subsequent act which would have originally constituted a violation from having all force and effect of an original violation. The receipt by Landlord of Rent with knowledge of the breach of any covenant of this Lease shall not be deemed a waiver of such breach. The failure of Landlord to enforce any of the Rules and Regulations set forth, or hereafter adopted, against Tenant and/or any other tenant in the Building shall not be deemed a waiver of any such Rules and Regulations. No provision of this Lease shall be deemed to have been waived by Landlord unless such waiver be in writing signed by Landlord.

D. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly Rent herein stipulated shall be deemed to be other than on account of the earliest stipulated Rent, or as Landlord may elect to apply same, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy in this Lease provided.

E. This Lease contains the entire agreement between the parties and all prior negotiations and agreements are merged in this Lease. Any executory agreement hereafter made shall be ineffective to change, modify, discharge or effect an abandonment of it in whole or in part unless such executory agreement is in writing and signed by the party against whom enforcement of the change, modification, discharge or abandonment is sought.

25. **WAIVER OF TRIAL BY JURY.** It is mutually agreed by and between Landlord and Tenant that the respective parties hereto shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Lease (except for personal injury actions), the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, any claim of injury or damage, or for the enforcement of any remedy under any statute, emergency or otherwise. It is further mutually agreed that in the event Landlord commences any summary proceeding (whether for nonpayment of rent or because Tenant continues in possession of the Premises after the expiration or termination of the Term), Tenant

will not interpose any counterclaim (except for mandatory or compulsory counterclaims) of whatever nature or description in any such proceeding.

26. **INABILITY TO PERFORM** Except as otherwise set forth in this Lease, this Lease and the obligation of Tenant to pay Rent and Additional Rent hereunder and perform all of the other covenants and agreements hereunder on the part of Tenant to be performed shall in nowise be affected, impaired or excused because Landlord is unable to fulfill any of its obligations under this Lease expressly or impliedly to be performed by Landlord or because Landlord is unable to make, or is delayed in making any repairs, additions, alterations, improvements or decorations or is unable to supply or is delayed in supplying any equipment or fixtures if Landlord is prevented or delayed from so doing by reason of strikes or labor troubles or by accident or by any cause whatsoever reasonably beyond Landlord's control, including but not limited to, laws, governmental preemption in connection with a National Emergency or by reason of any rule, order or regulation of any federal, state, county or municipal authority or any department or subdivision thereof or any government agency or by reason of the conditions of supply and demand which have been or are affected by war or other emergency.

27. **BILLS AND NOTICES**. All notices, consents, approvals and other communications (collectively the "Notice"), with the exception of bills and notices sent in connection with the commencement of any legal proceeding, that are required or may be given under this Lease shall be in writing and shall be deemed to have been duly given or made: if by hand, immediately upon delivery along with a signed receipt evidencing such by hand delivery; if by telex, telecopier, telegram or similar electronic device, immediately upon sending along with confirmation of receipt, provided it is sent on a business day, but if not, then immediately upon the beginning of the first (1st) business day after being sent; if registered or certified mail, return receipt requested, postage prepaid on the fifth (5th) business day after mailing; if by Federal Express, Express Mail or any other overnight delivery service, on the first business day after dispatch. The Notice shall be sent to the parties at the following addresses (or to such other address as either party may designate by notice in accordance with this provisions of this paragraph):

A. If to Landlord, at its address set forth above, with copies to:

Broad Street Development, LLC
61 Broadway, Suite 1407
New York, New York 10006
Attn: Mr. Raymond Chalme' and Mr. Daniel Blanco
Facsimile (212) 609-3711

Platte, Klarsfeld, Levine & Lachtman, LLP
10 East 40th Street, 46th Floor
New York, New York 10016
Attn: David R. Lachtman, Esq.
Facsimile (212) 402-1790

B. If to Tenant, prior to the Commencement Date, at its address set forth above (Attn: Angela Anglum, Esq.), and after the Commencement Date, at the Premises (Attn: Angela Anglum, Esq.), with a copy to:

Rackemann, Sawyer & Brewster
160 Federal Street
Boston, Massachusetts 02110
Attn: Lauren D. Armstrong, Esq.
Facsimile (617) 542-7437

28. **ESCALATIONS.**

A. **Defined Terms.** In a determination of any increase in the Rent under the provisions of this Article 28, Landlord and Tenant agree as follows:

(i) "Taxes" shall mean the aggregate amount of real estate taxes and any special or other assessments (exclusive of penalties and interest thereon) imposed upon the Real Property and real estate taxes or assessments imposed in connection with the receipt of income or rents from the Building to the extent that same shall be in lieu of all or a portion of the aforesaid taxes or assessments, or additions or increases thereof (including, without limitation, (i) assessments made upon or with respect to any "air rights", (ii) assessments made in connection with any business improvement district and (iii) any assessments levied after the date of this Lease for public benefits to the Real Property or the Building (excluding an amount equal to the assessments payable in whole or in part during or for the Base Tax Year (as defined in Article 1 of this Lease)) which assessments, if payable in installments, shall be deemed payable in the maximum number of permissible installments and there shall be included in real estate taxes for each Comparison Year in which such installments may be paid, the installments of such assessment so becoming payable during such Comparison Year (in the manner in which such taxes and assessments are imposed as of the date hereof); provided, that if because of any change in the taxation of real estate, any other tax or assessment (including, without limitation, any occupancy, gross receipts, rental, income, franchise, transit or other tax) is imposed upon Landlord or the owner of the Real Property or the Building, or the occupancy, rents or income therefrom, in substitution for or in addition to, any of the foregoing Taxes, such other tax or assessment shall be deemed part of the Taxes. With respect to any Comparison Year (hereinafter defined) all expenses, including reasonable attorneys' fees and disbursements, experts' and other witnesses' fees, incurred in contesting the validity or amount of any Taxes or in obtaining a refund of Taxes shall be considered as part of the Taxes for such year. Notwithstanding the foregoing, Taxes shall not include penalties or interest, excise tax on Landlord's gross or net rentals or other income, franchise, transfer gift, estate, succession, increases resulting from Landlord's failure to deliver required information to the taxing authority, and increases in Taxes resulting from construction during the Term, if not performed for the benefit of the Tenant.

(ii) "Assessed Valuation" shall mean the amount for which the Real Property is assessed pursuant to applicable provisions of the New York City Charter and of the Administrative Code of the City of New York for the purpose of imposition of Taxes.

(iii) "Tax Year" shall mean the period July 1 through June 30 (or such other period as hereinafter may be duly adopted by the City of New York as its fiscal year for real estate tax purposes).

(iv) "Base Taxes" shall mean the Taxes payable for the Base Tax Year.

(v) "Comparison Year" shall mean (a) with respect to Taxes, any Tax Year subsequent to the Base Tax Year for any part or all of which there is an increase in the Rent pursuant to subsection B of this Article 28.

(vi) "Landlord's Statement" shall mean an instrument or instruments containing a comparison of any increase or decrease in the Rent for the preceding Comparison Year pursuant to the provisions of this Article 28 along with a copy of the tax bill from appropriate taxing authority.

B. Escalation. If the Taxes payable for any Comparison Year (any part or all of which falls within the Term) shall represent an increase above the Base Taxes, then the Rent for such Comparison Year and continuing thereafter until a new Landlord's Statement is rendered to Tenant, shall be increased by Tenant's Proportionate Share of such increase. The Taxes shall be initially computed on the basis of the Assessed Valuation in effect at the time Landlord's Statement is rendered (as the Taxes may have been settled or finally adjudicated prior to such time) regardless of any then pending application, proceeding or appeal respecting the reduction of any such Assessed Valuation, but shall be subject to subsequent adjustment as provided in subsection D(i)(a) of this Article 28.

C. Payment of Escalations. (i) At any time prior to, during or after any Comparison Year Landlord shall render to Tenant, either in accordance with the provisions of Article 27 hereof or by personal delivery at the Premises, a Landlord's Statement or Statements showing separately or together (a) a comparison of the Taxes payable for the Comparison Year with the Base Taxes, and (b) the amount of the increase in the Rent resulting from such comparison. Landlord's failure to render a Landlord's Statement and/or receive payments with respect thereto during or with respect to any Comparison Year shall not prejudice Landlord's right to render a Landlord's Statement and/or receive payments with respect thereto during or with respect to any subsequent Comparison Year, and shall not eliminate or reduce Tenant's obligation to pay increases in the Rent pursuant to this Article 28 for such Comparison Year. Landlord may also at any time and from time to time, furnish to Tenant a revised Landlord's Statement or Statements showing a comparison of the Taxes payable for the Comparison Year with the Base Taxes.

(ii) With respect to an increase in the Rent resulting from an increase in the Taxes for any Comparison Year above the Base Taxes, Tenant shall pay to Landlord a sum equal to one-twelfth (1/12th) of such increase on the first day of each calendar month. If Landlord's Statement shall be furnished to Tenant after the commencement of the Comparison Year to which it relates, then (1) until Landlord's Statement is rendered for such Comparison Year, Tenant shall pay Tenant's Proportionate Share of Taxes for such Comparison Year in monthly installments, as described above, based upon the last prior Landlord's Statement rendered to

Tenant with respect to Taxes, and (2) Tenant shall, within ten (10) days after Landlord's Statement is furnished to Tenant, pay to Landlord an amount equal to any underpayment of the installments of Taxes theretofore paid by Tenant for such Comparison Year and, in the event of an overpayment by Tenant, Landlord shall permit Tenant to credit against subsequent payments under this subsection (C)(ii)(b) of this Article 28 the amount of such overpayment or receive from Landlord a cash refund if at the end of the Term. Notwithstanding the foregoing, if during the Term of this Lease, Landlord elects to pay Taxes in full or in semi-annual or other installments, on any other date or dates than as presently required, then, at Landlord's option, Tenant's Proportionate Share with respect to Taxes shall be correspondingly accelerated or revised so that Tenant's Proportionate Share is due at least thirty (30) days prior to the date payments are due to the taxing authorities. The benefit of any discount for any early payment or prepayment of Taxes shall accrue solely to the benefit of Landlord and Tenant, and such discount shall not be subtracted from Tenant's Proportionate Share of such Taxes.

(c) Following each Landlord's Statement, a reconciliation shall be made as follows: Tenant shall be debited with any increase in the Rent shown on such Landlord's Statement and credited with the aggregate, if any, paid by Tenant on account in accordance with the provisions of subsection C(ii) for the Comparison Year in question; Tenant shall pay any net debit balance to Landlord within thirty (30) days next following rendition by Landlord, either in accordance with the provisions of Article 27 hereof or by personal delivery to the Premises, of an invoice for such net debit balance; any net credit balance shall be applied against the next accruing monthly installment of Rent or a cash refund shall be paid to Tenant if at the end of the Term.

D. Adjustments. (i) (a) In the event that, after a Landlord's Statement has been sent to Tenant, an Assessed Valuation which had been utilized in computing the Taxes for a Comparison Year is reduced (as a result of settlement, final determination of legal proceedings or otherwise), and as a result thereof a refund of Taxes is actually received by or on behalf of Landlord, then, promptly after receipt of such refund, Landlord shall send Tenant a statement adjusting the Taxes for such Comparison Year (taking into account the expenses mentioned in the last sentence of subsection A (i) of this Article 28) and setting forth Tenant's Proportionate Share of such refund and Tenant shall be entitled to receive such Share by way of a credit against the Rent next becoming due after the sending of such Statement or a cash refund if at the end of the Term; provided, however, that Tenant's Share of such refund shall be limited to the amount, if any, which Tenant had theretofore paid to Landlord as increased Rent for such Comparison Year on the basis of the Assessed Valuation before it had been reduced.

(b) In the event that, after a Landlord's Statement has been sent to Tenant, the Assessed Valuation which had been utilized in computing the Base Taxes is reduced (as a result of settlement, final determination of legal proceedings or otherwise) then, and in such event: (1) the Base Taxes shall be retroactively adjusted to reflect such reduction, and (2) if such reduction in the Base Taxes results in an increase in Tenant's obligation to pay Additional Rent, then all retroactive Additional Rent resulting from such retroactive adjustment shall be payable on the thirtieth (30) day after Tenant receives an invoice from Landlord setting forth the basis for such retroactive adjustment and Additional Rent payments.

(ii) Any Landlord's Statement sent to Tenant shall be conclusively binding upon Tenant unless, within thirty (30) days after such statement is received, Tenant shall (a) pay to Landlord the amount set forth in such statement, without prejudice to Tenant's right to dispute the same, and (b) within thirty (30) days following the end of the Lease Year in which such statement is received, send a written notice to Landlord objecting to such statement and specifying the particular respects in which such statement is claimed to be incorrect.

(iii) Anything in this Article 28 to the contrary notwithstanding, under no circumstances shall the Rent payable under this Lease be less than the then annual base Rent set forth in Article I hereof.

(iv) The expiration or termination of this Lease during any Comparison Year for any part or all of which there is an increase or decrease in the Rent under this Article shall not affect the rights or obligations of the parties hereto respecting such increase or decrease and any Landlord's Statement relating to such increase or decrease may, on a pro rata basis, be sent to Tenant subsequent to, and all such rights and obligations shall survive, any such expiration or termination. Any payments due under such Landlord's Statement shall be payable within thirty (30) days after such statement is received by Tenant.

E. Expense Escalation. In addition to other sums due hereunder, commencing on the first anniversary of the Commencement Date, Landlord and Tenant agree that the Rent payable by Tenant to Landlord, as set forth on the Rent Schedule attached hereto as Exhibit "D", contains a two (2.0%) percent fixed Rent increase, compounded annually. Such escalation amounts shall be payable in accordance with the terms hereof, in lieu of any operating expense or porters wage escalation. Such expense escalation under this subsection E is intended to constitute an agreed rental escalation and the computation thereof may or may not constitute an actual reimbursement to Landlord for expenses in the nature of costs paid by or incurred by Landlord with respect to the Building.

29. SERVICES.

A. Elevator. Landlord shall provide passenger elevator facilities on business days from 8:00 a.m. to 6:00 p.m. and shall have at least one passenger elevator in the bank of elevators servicing the Premises available at all other times. Landlord shall provide freight elevator services on an "as available" basis for incidental use by Tenant from 7:30 a.m. to 5:30 p.m. on business days only. Any extended use may be arranged with Landlord's prior consent and Tenant shall pay as Additional Rent all building standard charges therefor. Notwithstanding the foregoing, Landlord hereby grants to Tenant forty (40) hours of freight elevator services, free of charge, during Tenant's initial move into the Building and the Premises.

B. Heating, Ventilation and Air-Conditioning.

(i) Landlord shall deliver the Premises to Tenant with a new heating, ventilation and air-conditioning (the "HVAC System") of sufficient capacity to service the Premises for normal office use during the hours of 7:00 a.m. to 7:00 p.m. as follows: (a) heating shall be provided from October 16th through May 14th; and (b) air-conditioning shall be provided

from May 15th through October 15th, subject to the subparagraph G of this Article herein. Tenant shall notify Landlord by 3:00 pm in the event Tenant shall require air-conditioning after 6:00 p.m. on a normal weekday and (ii) by 3:00 pm on Friday in the event Tenant shall require air-conditioning or heating during the weekend. Tenant shall pay to Landlord building standard rates for after hours charges for providing chilled water to the Unit during such after hours periods, which rates are currently \$50.00 per hour and subject to modification during the Term. Landlord shall ensure that any building system, including any existing HVAC systems that are located on the Premises or pass through the Premises but are used for other occupants are maintained, repaired and replaced at Landlord's sole cost and expense.

(ii) Additionally, prior to the Commencement Date, Landlord shall install a four (4) ton supplemental air-conditioning system to exclusively serve Tenant's computer room located in the Premises (the "Supplemental AC System"). The Supplemental AC System including, without limitation, the ducts, dampers, registers, grilles and appurtenances shall be maintained, repaired and operated by Tenant in compliance with all present and future laws and regulations relating thereto at Tenant's sole cost and expense. Tenant shall pay for all electricity consumed in the operation of the Supplemental AC System. Tenant shall pay for all parts and supplies necessary for the proper operation of the Supplemental 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 or modify the Supplemental AC System, or any part thereof without Landlord's prior written consent.

(iii) Without limiting the generality of the foregoing, Tenant shall, at its own cost and expense, (a) cause to be performed all maintenance of the Supplemental AC System, including all repairs and replacements thereto other than major components of the air-conditioning mechanical equipment (e.g., the compressor and pumps), and (b) commencing thirty (30) days following the Commencement Date, and thereafter throughout the Term of this Lease, maintain in force and provide a copy of same to Landlord an air conditioning service repair and full service maintenance contract covering the Supplemental AC System in form reasonably satisfactory to Landlord with an air conditioning contractor or servicing organization reasonably approved by Landlord (the "Supplemental AC Repair Contract"). All such contracts shall provide for the thorough overhauling of the Supplemental AC System at least once each year during the Term of this Lease and shall expressly state that it shall be an automatically renewing contract terminable upon not less than (30) days prior written notice to Landlord and 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 Supplemental 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 Supplemental 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 on demand.

C. After Hours and Additional Services. The Rent does not include any charge to Tenant for the furnishing of any freight elevator facilities (other than as contemplated in Article 29 subsection A) or for the service of heat to the Premises during periods other than the hours and days set forth in sections A and B of this Article 29 for the furnishing and distributing of such facilities or services (referred to as "Overtime Periods"). Accordingly, if Landlord shall furnish any freight elevator facilities, except as provided in subsection A of this Article 29, or heat to the Premises during Overtime Periods, then Tenant shall pay Landlord Additional Rent for such facilities or services at the standard rates then fixed by the Landlord for the Building or, if no such rates are then fixed, at reasonable rates. Neither the facilities nor the services referred to in this subsection C shall be furnished to Tenant or the Premises if Landlord has not received advance notice from Tenant specifying the particular facilities or services requested by Tenant at least twenty-four (24) hours prior to the date on which the facilities or services are to be furnished, except as otherwise provided herein; or if Tenant is in default beyond the expiration of notice and grace periods, under or in breach of any of the terms, covenants or conditions of this Lease; or if Landlord shall reasonably determine, in its sole and exclusive discretion, that such facilities or services are requested in connection with, or the use thereof shall create or aid in a default under or a breach of any term, covenant or condition of this Lease. All of the facilities and services referred to in this subsection C are conveniences and are not and shall not be deemed to be appurtenances to the Premises, and the failure of Landlord to furnish any or all of such facilities or services shall not constitute or give rise to any claim of an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement or diminution of Rent, or relieve Tenant from any of its obligations under this Lease, or impose any liability upon Landlord or its agents by reason of inconvenience or annoyance to Tenant, or injury to or interruption of Tenant's business or otherwise. Landlord may limit the furnishing during Overtime Periods of any of the facilities or services referred to in this subsection C to a total of twenty (20) hours in any one week.

D. Cleaning. Landlord shall provide Building-standard cleaning services for the Premises, at Landlord's sole cost and expense, in accordance with the cleaning specifications set forth on Exhibit "G" annexed hereto and made a part hereof.

E. Sprinkler System. As part of Landlord's Work, Landlord shall install a sprinkler system within the Premises as set forth on Exhibit C-1 and in compliance with all laws. During the Term of this Lease, as may be extended, Landlord shall be responsible for maintaining, repairing and replacing the sprinkler system within the Premises unless damage to the sprinkler system was caused by Tenant. If such system or any of its appliances shall be damaged or injured or not in proper working order by reason of any act or omission of Tenant, Tenant's agents, servants, employees, licensees or visitors, Tenant shall forthwith restore the same to good working condition at its own expense. Landlord represents that as of the date hereof there is no sprinkler system in the balance of Building, but if such is installed in the balance of the Building, Landlord shall be responsible for its maintenance and repair, except as otherwise set forth in this Subsection E.

F. Water. Landlord shall provide water for ordinary drinking, cleaning and lavatory purposes.

G. Interruption of Services. Landlord reserves the right to stop service of the heating, the elevator, electrical, plumbing or other mechanical systems or facilities in the Building when necessary, by reason of accident or emergency, or for repairs, additions, alterations, replacements, decorations or improvements in the judgment of Landlord desirable or necessary to be made, until said repairs, additions, alterations, replacements, decorations or improvements shall have been completed. Landlord shall have no responsibility or liability for interruption, curtailment or failure to supply heat, elevator, plumbing, electricity when prevented by exercising its right to stop service or by strikes, labor troubles or accidents or by any cause whatsoever reasonably beyond Landlord's control, or by failure of independent contractors to perform or by laws, orders, rules or regulations of any federal, state, county or municipal authority, or failure of suitable fuel supply, or inability by exercise of reasonable diligence to obtain suitable fuel or by reason of governmental preemption in connection with a National Emergency or by reason of the conditions of supply and demand which have been or are affected by war or other emergency. The exercise of such right or such failure by Landlord shall not constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any compensation or to any abatement or diminution of Rent, or relieve Tenant from any of its obligations under this Lease, or impose any liability upon Landlord or its agents by reason of inconvenience or annoyance to Tenant, or injury to or interruption of Tenant's business, or otherwise. Notwithstanding the foregoing, if any essential service to be provided by Landlord under the terms of this Lease is interrupted or curtailed, except if caused by force majeure, for a period in excess of seven (7) full business days after notice of same is given to Landlord, and as a result thereof Tenant is unable to continue operating its business in the Premises as a result of same, Tenant shall receive an abatement of the Rent and Additional Rent for the pro rata portion of the Premises that is unusable for the period of time that such essential service has been interrupted or curtailed.

H. Tenant's Covenants Regarding Services.

(i) Tenant shall not use any electrical equipment which, in Landlord's reasonable judgment, would exceed the capacity of the electrical equipment serving the Premises. If Landlord determines that Tenant's electrical requirements necessitate installation of any additional risers, feeders or other electrical distribution equipment, or if Tenant provides Landlord with evidence reasonably satisfactory to Landlord of Tenant's need for excess electricity and requests that additional electrical equipment be installed, Landlord shall, at Tenant's expense, install such additional electrical equipment, provided that Landlord, in its sole judgment, determines that (a) such installation is practicable and necessary, (b) such additional electrical equipment is permissible under applicable Requirements, and (c) the installation of such electrical equipment will not cause permanent damage to the Building or the Premises, cause or create a hazardous condition, entail excessive or unreasonable alterations, interfere with or limit electrical usage by other tenants or occupants of the Building or exceed the limits of the switchgear or other facilities serving the Building, or require power in excess of that available from the utility serving the Building.

(ii) No Tenant party shall at any time enter the mechanical rooms of the Premises or the Building or tamper with, adjust, or otherwise affect such mechanical rooms. Landlord shall not be responsible if the HVAC System fails to provide cooled or heated air, as

the case may be, to the Premises in accordance with the design specifications of said system by reason of (a) any equipment installed by, for or on behalf of Tenant, which has an electrical load in excess of the average electrical load and human occupancy factors for the HVAC System as designed, or (b) any rearrangement of partitioning or other Alterations made or performed by, for or on behalf of Tenant. Tenant shall install, if missing after the completion of Landlord's Work, blinds or shades on all windows, which blinds and shades shall be subject to Landlord's approval, and shall keep all of the operable windows in the Premises closed, and lower the blinds when necessary because of the sun's position, whenever the HVAC System is in operation. Tenant shall cooperate with Landlord and shall abide by the Rules and Regulations which Landlord may reasonably prescribe for the proper functioning and protection of the HVAC System.

30. ELECTRICITY SERVICE.

A. Subject to the terms of this Article 30, Landlord shall furnish electrical service for the Premises on a submetered basis.

(i) For purposes of this Article:

(a) "Usage" shall mean actual usage of electricity in the Premises, including all lighting fixtures, electrical receptacles, equipment and air-conditioning equipment (including the Supplemental AC System) installed in, or servicing the Premises, as measured by the submeter(s) to be installed by Landlord for each calendar month or such other period as Landlord shall determine and shall include the energy and peak demand (kilowatt hours and kilowatts). In the event any air conditioning equipment utilized for the Premises is utilized by other tenants of the Building, the energy consumption (kWh) and demand (kW) will be measured and allocated by Landlord proportionately, on the basis of the respective amount of rentable square footage occupied by such tenants, including Tenant, as well as usage;

(b) "Landlord's Rate" shall mean the service classification (including all applicable taxes, surcharges, demand charges and rates, energy charges and rates, fuel adjustment charges, time of day charges and other charges, adjustments and sums payable in respect thereof) pursuant to which Landlord purchases electric current for the Building from the utility company and/or the Energy Supply Company (ESCO) supplying electric current to the Building, in effect from time to time during the term of this lease, which shall be utilized as the rate structure for the determination of "Basic Cost" (as hereinafter defined);

(c) "Basic Cost" shall mean the product of (i) Usage multiplied by (ii) the Landlord's Rate, for the period that corresponds to the period during which Usage was measured; and

(d) "Tenant's Cost" shall mean an amount equal to the sum of (i) the Basic Cost plus (ii) eight (8%) percent of the Basic Cost for Landlord's overhead and expenses in connection with submetering.

(ii) Landlord, at Landlord's sole cost and expense, shall install one or more meters and other necessary equipment to measure the amount of Usage. Tenant shall, at its

expenses, properly and continuously maintain, repair and cause any and all replacements of the meters and other necessary equipment using an electrician or contractor approved by Landlord. Where more than one meter measures the amount of Usage, Usage through each meter shall be computed and billed separately in accordance with the provisions of this subparagraph A.

(iii) Landlord shall, from time to time but not more often than monthly, furnish Tenant with an invoice indicating the period during which the Usage was measured and the amount of Tenant's Cost payable by Tenant to Landlord for such period. Within thirty (30) days after receipt of each such invoice, Tenant shall pay the amount of Tenant's Cost set forth thereon to Landlord as Additional Rent (hereinafter the "Electric Charges"). In addition, if any tax is imposed upon Landlord by any municipal, state or federal agency or subdivision with respect to the purchase, sale or resale of electrical energy supplied to Tenant hereunder, then, to the extent permitted by law, such taxes shall be passed on to Tenant as Electric Charges and included in the bill to, and paid by, Tenant to Landlord, as Additional Rent.

(iv) Tenant hereby acknowledges that Landlord has made no representation or warranty as to whether or not the electrical service described above is or will be sufficient or adequate for Tenant's electrical needs from time to time during the term of this Lease. In addition, Landlord shall not in any wise be liable or responsible to Tenant for any loss, damage, or expense that Tenant may sustain or incur if either the quantity or character of electrical service is changed, is no longer available, or is unsuitable for Tenant's requirements.

(v) In no event shall Tenant use or install any fixtures, equipment or machines the use of which in conjunction with other fixtures, equipment and machines in the Premises would result in an overload of the electrical circuits servicing the Premises.

(vi) (a) Tenant covenants and agrees that, at all times, its use of electric current shall never exceed the capacity of the feeders to the Building or the risers or wiring installation thereof. In connection therewith, Tenant expressly agrees that all installations, alterations and additions of and to the electrical distribution system within the Premises after the Commencement Date shall be subject to Landlord's prior written approval in each instance (which approval shall not be unreasonably withheld, conditioned or delayed), and, if such approval shall be given, all such installation shall be installed in accordance with the New York City Electric Code by a licensed electrical contractor approved by Landlord. If, in connection with any request for such approval, Landlord shall, in its sole reasonable judgment, determine that additional risers, feeders, wiring installation or other equipment are required, Landlord shall, at the sole cost and expense of Tenant, install such additional risers, feeders, wiring installations and other equipment that Landlord shall deem necessary with respect thereto, provided, however, that, if Landlord shall determine, in its sole judgment, that the same will cause permanent damage or injury to the Building or to the Premises, cause or create a dangerous or hazardous condition, entail excessive or unreasonable alterations, repairs, or expense, interfere with, or disturb, the other tenants or occupants of the Building, or adversely affect Landlord's ability to supply or furnish electricity to other portions of the Building at any time during or prior to the term of this Lease, then Landlord shall not be obligated to make such installation, and Tenant shall not make the installation, alteration, or addition to the electrical distribution system within the Premises with respect to which Tenant requested Landlord's approval. All of the aforesaid

costs and expenses are chargeable and collectible as Additional Rent, and shall be paid by Tenant to Landlord within ten (10) days after rendition of any bill or statement to Tenant therefor.

(b) Landlord shall furnish, install and replace, as required, all lighting tubes, lamps, bulbs and ballasts required in the Premises, at Tenant's sole cost and expense. All lighting tubes, lamps, bulbs and ballasts so installed shall become Landlord's property upon the expiration or sooner termination of this lease. Additionally, all fixtures, if same do not conform to the description set forth hereafter, shall be lamped and ballasted (or relamped and reballasted) throughout the Premises by Landlord, at Tenant's expense as follows: fluorescent fixtures shall be lamped with Building standard bulbs and lenses.

(vii) In the event the meter(s) installed in the Premises for the measurement of electricity consumption in the Premises to determine Electric Charges or any alternative submetering system installed by Landlord at a later date, becomes prohibited from use, then Landlord, at its expense, may cause an independent electrical engineer chosen by Landlord or an electrical consulting firm selected by Landlord (the "Electrical Consultant") to survey and determine Usage in, and Basic Cost for, the Premises from time to time in order to establish electric charges on a rent-inclusion basis (the "Electric Inclusion Factor"), and the Electrical Consultant shall make such determination using criteria generally accepted in the Metropolitan New York City area and Landlord's Rate in effect at the time, and shall include the quantity and peak demand, for all electricity consumed by Tenant, plus eight (8%) percent of the Basic Cost for Landlord's expenses and administration fees. The determination made by the Electrical Consultant with regard to the Electric Inclusion Factor, shall be binding on both Landlord and Tenant and such amount shall be deemed Tenant's Cost. If, at any time or times after the date such determination is made, the rates at which Landlord purchases electrical energy from the utility supplying electrical service to the Building or any charges incurred or taxes payable by Landlord in connection therewith shall be increased, the Rent and the Electric Inclusion Factor shall be increased upon demand of Landlord in an annual amount which shall fairly represent the estimated increase in the annual value to Tenant of the electrical service provided by Landlord to Tenant under the provisions of this subsection.

(viii) Notwithstanding anything in subparagraph A(vii) to the contrary, Tenant shall have the right as hereinafter provided, to contest any amounts determined by the Electrical Consultant pursuant to subparagraph A(vii) as shall be due to Landlord as a result of any such survey. In the event that Tenant fails to send a written notice (an "Objection Notice") to Landlord within thirty (30) days after the date of the Electrical Consultant's notice containing said Usage and Basic Cost, such notice shall become conclusive and binding upon Tenant. If Tenant disputes any such notice by sending an Objection Notice within the time and in the manner hereinbefore provided, then Tenant shall, at its sole cost and expense, have the right to engage an electrical engineer or electrical consulting firm ("Tenant's Consultant") who shall promptly make a survey (the "Disputing Survey") indicating Tenant's electrical usage in the Premises. In the event that Landlord and Tenant are unable to agree on the amount of Usage and Basic Cost within thirty (30) days after the date Tenant furnishes Landlord with a copy of the Disputing Survey, then the Electrical Consultant and Tenant's Consultant shall select a mutually acceptable electrical engineer or electrical consulting firm (the "Third Consultant") within ten (10) days after the expiration of such thirty (30) day period. The Electrical Consultant and Tenant's Consultant shall submit the dispute to the Third Consultant and the determination by the

Third Consultant shall be conclusive and binding upon Landlord and Tenant. During the pendency of any such dispute, Tenant shall pay to Landlord the amount set forth in the Electrical Consultant's notice until the dispute is finally determined in accordance with the provisions of this Section and, in the event that such final determination is less than the amount set forth in the Electrical Consultant's notice, Landlord shall, at Tenant's election, refund to Tenant the amount of such excess payment or credit any such excess against any amounts then due or becoming due to Landlord under this lease. The cost of the Third Consultant shall be borne equally by Landlord and Tenant.

B. Landlord represents that the electrical capacity to be delivered to the Premises shall be no less than six (6) watts per rentable square foot, demand load, exclusive of base Building heating, ventilation and air-conditioning.

C. Landlord reserves the right to discontinue furnishing electricity to Tenant in the Premises on not less than sixty (60) days' notice to Tenant, and provided Landlord is discontinuing furnishing electricity to tenants occupying at least fifty (50%) percent of the rentable square footage of the Building. If Landlord exercises such right to discontinue, or is compelled to discontinue furnishing electricity to Tenant, this Lease shall continue in full force and effect and shall be unaffected thereby, except only that from and after the effective date of such discontinuance, Landlord shall not be obligated to furnish electricity to Tenant and the Rent shall be reduced accordingly. If Landlord so discontinues furnishing electricity to Tenant, Tenant shall arrange to obtain electricity directly from the utility or other company servicing the Building. Such electricity may be furnished to Tenant by means of the then existing electrical facilities serving the Premises to the extent that the same are available, suitable and safe for such purposes. All additional meters and all additional panel boards, feeders, risers, wiring and other conductors and equipment which may be required to obtain electricity, of substantially the same quantity, quality and character, shall be installed by Landlord, at Tenant's sole cost and expense. Landlord shall not voluntarily discontinue furnishing electricity to Tenant until Tenant is able to receive electricity directly from the utility or other company servicing the Building.

D. Landlord shall not be liable to Tenant in any way for any interruption, curtailment or failure, or defect in the supply or character of electricity furnished to the Premises by reason of any requirement, act or omission of Landlord or of any utility or other company servicing the Building with electricity or for any other reason except Landlord's, its employee and agents gross negligence or willful misconduct. If either the quantity or character of electrical service is changed by the utility or other company supplying electrical service to the Building or is no longer available or suitable for Tenant's requirements, no such change, unavailability or unsuitability shall constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement or diminution of rent, or relieve Tenant from any of its obligations under this Lease, or impose any liability upon Landlord, or its agents, by reason of inconvenience or annoyance to Tenant, or injury to or interruption of Tenant's business, or otherwise.

31. **PARTNERSHIP TENANT.**

A. **Partnership Tenants.** If Tenant's interest in this Lease shall be assigned to a partnership (or to two (2) or more persons, individually and as co-partners of a partnership) pursuant to Article 12 (any such partnership and such persons are referred to in this Article 31 as a "Partnership Tenant"), the following provisions of this Article 31 shall apply to such Partnership Tenant: (i) the liability of each of the parties comprising a Partnership Tenant shall be joint and several, and (ii) each of the parties comprising a Partnership Tenant hereby consents in advance to, and agrees to be bound by, any written instrument which may hereafter be executed, changing, modifying or discharging this Lease, in whole or in part, or surrendering all or any part of the Premises to Landlord, and by any notices, demands, requests or other communications which may hereafter be given by a Partnership Tenant or by any of the parties comprising a Partnership Tenant, and (iii) any bills, statements, notices, demands, requests or other communications given or rendered to a Partnership Tenant and to all such parties shall be binding upon a Partnership Tenant and all such parties, and (iv) if a Partnership Tenant shall admit new partners, all of such new partners shall, by their admission to a Partnership Tenant, be deemed to have assumed performance of all of the terms, covenants and conditions of this Lease on Tenant's part to be observed and performed, and (v) a Partnership Tenant shall give prompt notice to Landlord of the admission of any such new partners, and upon demand of Landlord, shall cause each such new partner to execute and deliver to Landlord an agreement in form satisfactory to Landlord, wherein each such new partner shall assume performance of all the terms, covenants and conditions of this Lease on Tenant's part to be observed and performed (but neither Landlord's failure to request any such agreement nor the failure of any such new partner to execute or deliver any such agreement to Landlord shall vitiate the provisions of subdivision (iv) of subsection A of this Article 31).

B. **Limited Liability Entity.** Notwithstanding anything to the contrary contained herein, if Tenant is a limited or general partnership (or is comprised of two (2) or more persons, individually or as co-partners), the change or conversion of Tenant to (i) a limited liability company, (ii) a limited liability partnership, or (iii) any other entity which possesses the characteristics of limited liability (any such limited liability company, limited liability partnership or entity is collectively referred to as a "Limited Liability Successor Entity"), shall be prohibited unless the prior written consent of Landlord is obtained, which consent may be withheld in Landlord's sole discretion. Notwithstanding the foregoing, Landlord agrees not to unreasonably withhold or delay such consent provided that:

(a) The Limited Liability Successor Entity succeeds to all or substantially all of Tenant's business and assets;

(b) The Limited Liability Successor Entity shall have a net worth, determined in accordance with generally accepted accounting principles, consistently applied, of not less than the greater of the net worth of Tenant on (1) the date of execution of this Lease, or (2) the day immediately preceding the proposed effective date of such conversion;

(c) Tenant is not in default of any of the terms, covenants or conditions of this Lease on the proposed effective date of such conversion;

(d) Tenant shall cause each partner of Tenant to execute and deliver to Landlord an agreement, in form and substance satisfactory to Landlord, wherein each such partner agrees to remain personally liable for all of the terms, covenants and conditions of this Lease that are to be observed and performed by the Limited Liability Successor Entity; and

(e) Tenant shall reimburse Landlord within ten (10) business days following demand by Landlord for any and all reasonable costs and expenses that may be incurred by Landlord in connection with said conversion of Tenant to a Limited Liability Successor Entity, including, without limitation, any attorney's fees and disbursements.

32. **VAULT SPACE.** Any vaults, vault space or other space outside the boundaries of the Real Property, notwithstanding anything contained in this Lease or indicated on any sketch, blueprint or plan are not included in the Premises. Landlord makes no representation as to the location of the boundaries of the Real Property. All vaults and vault space and all other space outside the boundaries of the Real Property which Tenant may be permitted to use or occupy is to be used or occupied under a revocable license, and if any such license shall be revoked, or if the amount of such space shall be diminished or required by any Federal, State or Municipal authority or by any public utility company, such revocation, diminution or requisition shall not constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement or diminution of rent, or relieve Tenant from any of its obligations under this Lease, or impose any liability upon Landlord. Any fee, tax or charge imposed by any governmental authority for any such vaults, vault space or other space shall be paid by Tenant.

33. **SECURITY DEPOSIT.** On the Effective Date, Tenant shall deposit with Landlord the Security Deposit as security for the faithful performance and observance by Tenant of the terms, conditions and provisions of this Lease, including without limitation the surrender of possession of the Premises to Landlord herein provided. It is agreed that in the event Tenant defaults in respect of any of the terms, provisions and conditions of this Lease, including, but not limited to, the payment of Rent and Additional Rent, Landlord may apply or retain the whole or any part of the Security Deposit so deposited to the extent required for the payment of any Rent and Additional Rent or any other sum as to which Tenant is in default or for any sum which Landlord may expend or may be required to expend by reason of Tenant's default in respect of any of the terms, covenants and conditions of this Lease, including but not limited to, any damages or deficiency in the reletting of the Premises, whether such damages or deficiency accrue or accrues before or after summary proceedings or other reentry by Landlord. If Landlord applies or retains any part of the Security Deposit so deposited, Tenant, within ten (10) days' after notice from Landlord, shall deposit with Landlord the amount so applied or retained so that Landlord shall have the full Security Deposit on hand at all times during the Term. The failure by Tenant to deposit such additional amount within the foregoing time period shall be deemed a material default pursuant to Article 17 of this Lease. If Tenant shall fully and faithfully comply with all of the terms, provisions, covenants and conditions of this Lease, the Security Deposit shall be returned to Tenant after the Expiration Date and after delivery of the entire possession of the Premises to Landlord. In the event of a sale of the Real Property or the Building or leasing of the Building, Landlord shall have the right to transfer the Security Deposit to the vendee or lessee and Landlord shall thereupon be released by Tenant from all liability for the return of the

Security Deposit; and Tenant agrees to look solely to the new Landlord for the return of the Security Deposit; and it is agreed that the provisions hereof shall apply to every transfer or assignment made of the Security Deposit to a new Landlord. Tenant further covenants that it will not assign or encumber or attempt to assign or encumber the Security Deposit and that neither Landlord nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance. The Security Deposit shall be placed in an interest-bearing account and all interest thereon (less the statutory administrative fee which shall be retained by Landlord) shall be remitted to Tenant annually, provided Tenant is not then in default in the performance of any of its monetary obligations under this Lease.

34. **CAPTIONS AND ADDITIONAL DEFINITIONS.**

A. The captions are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Lease nor the intent of any provision thereof.

B. The term "office" or "offices", wherever used in this Lease, shall not be construed to mean premises used as a store or stores, for the sale or display, at any time, of goods, wares or merchandise, of any kind, or as a restaurant, shop, booth, bootblack or other stand, barber shop, or for other similar purposes or for manufacturing.

C. The words "reenter" and "reentry" as used in this Lease are not restricted to their technical legal meaning.

D. The term "rent" as used in this Lease shall mean and be deemed to include Rent, any increases in Rent, all Additional Rent and any other sums payable hereunder.

E. The term "business days" as used in this Lease shall exclude Saturdays, Sundays and all days observed by the State or Federal Government as legal holidays and union holidays for those unions that materially affect the delivery of services in the Building.

35. **PARTIES BOUND.** The covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of Landlord and Tenant and their respective heirs, distributees, executors, administrators, successors, and, except as otherwise provided in this Lease, their assigns.

36. **BROKER.** Landlord and Tenant covenant, warrant and represent to each other that there was no broker instrumental in consummating this lease other than the Broker, and no conversations or negotiations were had with any other broker concerning the leasing of the Premises. Tenant and Landlord agree to indemnify, defend and hold and save the other harmless against any and all liability from any claims of any broker other than the Broker who claims to have dealt with the other party (including, without limitation, the cost of counsel fees in connection with the defense of any such claims in connection with the leasing of the Premises). Landlord agrees to pay all commissions and/or fees due to the Broker pursuant to the terms of a separate agreement.

37. **INDEMNITY.** Tenant shall not do or permit any act or thing to be done upon the Premises which may subject Landlord to any liability or responsibility for injury, damages to persons or property or to any liability by reason of any violation of law or of any legal requirement of public authority, but shall exercise such control over the Premises as to fully protect Landlord against any such liability. Tenant agrees to indemnify and save harmless Landlord from and against all liabilities, obligations, damages, penalties, claims, costs and expenses, including reasonable attorney fees, incurred or arising from (i) any act, omission or negligence of Tenant, its contractors, licensees, agents, employees, invitees or visitors, other than any claims arising from any act, omission or negligence of Landlord or Landlord and Tenant; (ii) any accident, injury or damage whatsoever caused to any person or to the property of any person and occurring during the Term in or about the Premises, (iii) any accident, injury or damage to any person, entity or property, occurring outside of the Premises but anywhere within or about the Real Property, where such accident, injury or damage results or is claimed to have resulted from an act or omission of Tenant or Tenant's agents, employees, invitees or visitors, other than any claims arising from any act, omission or negligence of Landlord or Landlord and Tenant, (iv) any breach, violation or nonperformance of any covenant, condition or agreement in this Lease set forth and contained on the part of Tenant to be fulfilled, kept, observed and performed and (v) Tenant, or any of Tenant's contractors, licensees, agents, employees, invitees or visitors causing or permitting any Hazardous Substance (as hereinafter defined) to be brought upon, kept or used in or about the Premises or the Real Property or any seepage, escape or release of such Hazardous Substances. The term "Hazardous Substances" shall mean, collectively, (a) asbestos and polychlorinated biphenyls and (b) hazardous or toxic materials, wastes and substances which are defined, determined and identified as such pursuant to any law. Tenant's liability under this Lease extends to the acts and omissions of any subtenant and any contractor, licensee, agent, employee, invitee or visitor of any subtenant. As used herein and in all other provisions in this Lease containing indemnities made for the benefit of Landlord, the term "Landlord" shall mean the Landlord herein named and its managing agent and their respective parent companies and/or corporations, their respective controlled, associated, affiliated and subsidiary companies and/or corporations and their respective members, officers, partners, agents, consultants, servants, employees, successors and assigns. This indemnity and hold harmless agreement shall include indemnity from and against any and all liability, fines, suits, demands, costs and expenses of any kind or nature incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof.

B. Landlord shall indemnify defend and save Tenant harmless from and against all claims against Tenant to the extent arising from; (i) any damage to the Premises or any bodily injury resulting from the gross negligence or willful misconduct of Landlord; (ii) if Landlord causes or permits Hazardous Substances to be brought upon, kept or used in or about the Premises or the Real Property or any seepage, escape or release of Hazardous Substances; (iii) any act, omission or negligence of Landlord, its contractors, licensees, agents, employees, invitees or visitors; and (iv) any breach, violation or nonperformance of any covenant, condition or agreement in this Lease set forth and contained on the part of Landlord to be fulfilled, kept, observed and performed.

38. **ADJACENT EXCAVATION SHORING.** If an excavation shall be made upon land adjacent to the Premises, 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 said person shall deem necessary to preserve the wall or the Building 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.

39. **TENANT'S CERTIFICATE:** Tenant shall, without charge at any time and from time to time, within fifteen (15) business days after receipt of written request by Landlord, certify by written instrument, duly executed, acknowledged and delivered and given with the express knowledge that any party may rely on the information set forth in said instrument, to any mortgagee, assignee of any mortgage or to any purchaser, or any proposed mortgagee, assignee of any mortgage or purchaser, or any other person, firm or corporation specified by Landlord:

(A) that this Lease is unmodified and in full force and effect (or, if there has been modification, that the Lease is in full force and effect as modified and stating the modifications) and that both the Landlord and the Tenant are not then in default under this Lease (or, if there has been a default, stating the default(s), if any);

(B) whether or not there are then existing any setoffs or defenses against the enforcement of any of the agreements, terms, covenants or conditions hereof upon the part of Tenant to be performed or complied with (and, if so, specifying the same);

(C) the dates, if any, to which the Rent, Additional Rent and other charges hereunder have been paid in advance, and stating the Rent, Additional Rent and other charges provided for in the Lease;

(D) the commencement date and expiration date of the Lease;

(E) whether or not any Rent has been paid more than 30 days before the due date, and whether or not the Tenant has any unsatisfied claim against Landlord;

(F) the security deposit (if any) deposited by Tenant under the Lease;

(G) whether any actions, whether voluntary or otherwise, are pending against the Tenant under the bankruptcy laws of the United States or any state thereof; and

(H) whether the Tenant has any option to renew or expand the term of the Lease or the leased premises, as the case may be, and whether the Tenant has any right of first refusal to purchase (or lease) the Premises or any part thereof or the Building in which the Premises are located.

In the event that Tenant fails to deliver to Landlord the aforesaid certificate within the time period described hereinabove, then Landlord shall deliver a second notice requiring delivery of the certificate within three (3) days following receipt of the second notice. If Tenant fails to deliver the executed certificate within said three (3) day period, Tenant hereby agrees that such conduct shall be deemed an Event of Default thereby entitling Landlord to exercise all of its rights and remedies hereunder.

40. **HAZARDOUS SUBSTANCES.**

Except as to customary cleaning supplies, Tenant shall not permit the handling, use, storage or transportation of Hazardous Substances in or about the Premises or the Building and Tenant shall, at its sole cost and expense, perform any and all Remedial Work arising from, growing out of or related to any breach of the foregoing covenant by Tenant. The term "Remedial Work" shall mean all investigation, monitoring, restoration, abatement, detoxification, containment, handling, treatment, removal, storage, decontamination, clean-up, transport, disposal or other ameliorative work or response action undertaken in connection with (a) any "Environmental Laws" (as hereinafter defined), (b) any order of any governmental authority having jurisdiction over the Premises and/or the Building, or (c) any final judgment, consent decree, settlement or compromise with respect to any "Hazardous Substances Claims" (as hereinafter defined). The term "Hazardous Substances Claims" shall mean any and all enforcement, clean-up, removal, remedial or other governmental or regulatory actions, agreements or orders threatened in writing, instituted or completed pursuant to any Environmental Laws and any and all other actions, proceedings, claims, written demands or causes of action, whether meritorious or not (including, without limitation, third party claims for contribution, indemnity, personal injury or real or personal property damage), that, in each case, relate to, arise from or are based, in whole or in part, on the occurrence or alleged occurrence of any violation or alleged violation of or responsibility under any applicable Environmental Law relating to the Premises and/or the Building or to the ownership, use, occupation or operation thereof. The term "Environmental Laws" shall mean any and all present and future federal, state and local laws (whether under common law, statute, ordinance, rule, regulation or otherwise), court or administrative orders or decrees, requirements of permits issued with respect thereto, and other requirements of governmental authorities having jurisdiction over the Premises and/or the Building relating to protection of the environment, to public health and safety or any Hazardous Substances (including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. " 9601, et seq., as heretofore or hereafter amended from time to time). Landlord represents that to the best of Landlord's knowledge, as of the Commencement Date of the Lease, there are no Hazardous Substances present on, in, under or emanating from the Premises or the Building.

41. **RELOCATION.** Intentionally Omitted.

42. **MISCELLANEOUS.**

A. **No Offer.** This Lease is offered for signature by Tenant and it is understood that this Lease shall not be binding upon Landlord unless and until (i) Landlord shall have executed and delivered a fully executed copy of this Lease to Tenant and (ii) Court Approval has been obtained pursuant to Article 46, below.

B. **Directory Listings.** Landlord agrees to provide Tenant, at Landlord's sole cost and expense, with listings of the entities appearing on Tenant's initial sign under subparagraph J. below, on the computer directory in the lobby of the Building.

C. Force Majeure. Other than for Tenant's obligations under this Lease that can be performed by the payment of money (e.g., payment of rent and maintenance of insurance), whenever a period of time is herein prescribed for action to be taken by either party hereto, such party shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, terrorist acts or activities, governmental laws, regulations, or restrictions, or any other causes of any kind whatsoever which are beyond the control of such party.

D. Separability. If any clause or provision of this Lease is illegal, invalid, or unenforceable under present or future laws, then the remainder of this Lease shall not be affected thereby and in lieu of such clause or provision, there shall be added as a part of this Lease a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

E. Amendments; Binding Effect; No Electronic Records. This Lease may not be amended except by instrument in writing signed by Landlord and Tenant. No provision of this Lease shall be deemed to have been waived by Landlord unless such waiver is in writing signed by Landlord, and no custom or practice which may evolve between the parties in the administration of the terms hereof shall waive or diminish the right of Landlord to insist upon the performance by Tenant in strict accordance with the terms hereof. Landlord and Tenant hereby agree not to conduct the transactions or communications contemplated by this Lease by electronic means, except by facsimile transmission as specifically set forth in Article 27); nor shall the use of the phrase "in writing" or the word "written" be construed to include electronic communications except by facsimile transmissions as specifically set forth in Article 27). The terms and conditions contained in this Lease shall inure to the benefit of and be binding upon the parties hereto, and upon their respective successors in interest and legal representatives, except as otherwise herein expressly provided. This Lease is for the sole benefit of Landlord and Tenant, and, other than Landlord's Mortgagee, no third party shall be deemed a third party beneficiary hereof.

F. No Merger. There shall be no merger of the leasehold estate hereby created with the fee estate in the Premises or any part thereof if the same person acquires or holds, directly or indirectly, this Lease or any interest in this Lease and the fee estate in the leasehold Premises or any interest in such fee estate.

G. Water or Mold Notification. To the extent Tenant or its agents or employees discover any water leakage, water damage or mold in or about the Premises, the Building or the Real Property, Tenant shall promptly notify Landlord thereof in writing, and Landlord promptly shall remedy at its expense.

H. Joint and Several Liability. If Tenant is comprised of more than one party, each such party shall be jointly and severally liable for Tenant's obligations under this Lease. All unperformed obligations of Tenant hereunder not fully performed at the end of the Term shall survive the end of the Term, as permitted by law, including payment obligations with respect to rent and all obligations concerning the condition and repair of the Premises.

I. Authority. If Tenant is a corporation or partnership, each individual executing this Lease on behalf of Tenant hereby represents and warrants that Tenant is a duly formed and validly existing entity and that Tenant has full right and authority to execute and deliver this Lease and that each person signing on behalf of Tenant is authorized to do so.

J. Signage. Tenant shall not exhibit, inscribe, paint or affix any sign, advertisement, notice or other lettering on any portion of the Building or the outside of the Premises without the prior written consent of Landlord in each instance, may be granted or denied in Landlord's reasonable discretion. A plan of all signage or other lettering proposed to be exhibited, inscribed, painted or affixed on the entry door(s) to the Premises shall be prepared by Tenant in conformity with Building standard signage requirements (if any) and submitted to Landlord for Landlord's consent, which shall not be unreasonably withheld or delayed. Upon the granting of Landlord's consent, Tenant may install such signage at Tenant's sole cost and expense. Upon installation of any such signage or other lettering, such signage or lettering shall not be removed, changed or otherwise modified in any way without Landlord's prior written approval, which may be granted or denied in Landlord's sole discretion. Any signage, advertisement, notice or other lettering which shall be exhibited, inscribed, painted or affixed by or on behalf of Tenant in violation of the provisions of this section may be removed by Landlord and the cost of any such removal shall be paid by Tenant as Additional Rent. Notwithstanding the foregoing, Landlord, at Tenant's expense, shall supply and install Tenant's initial signage to the Premises outside of the elevator on the floor of the Building where the Premises is located. Furthermore, Landlord hereby approves Tenant's current sign to be installed outside of the Premises.

K. Consents and Approvals; Fees. In all circumstances under this Lease where the prior consent or permission of Landlord is required before Tenant is authorized to take any particular type of action, such consent must be in writing and the determination of whether to grant such consent or permission shall be, except as expressly provided otherwise herein, within the sole and exclusive judgment and discretion of Landlord, and it shall not constitute any nature of breach by Landlord under this Lease or any defense to the performance of any covenant, duty or obligation of Tenant under this Lease that Landlord delayed or withheld the granting of such consent or permission. Wherever in this Lease Landlord's consent or approval is required, if Landlord shall delay or refuse such consent or 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 set-off, counterclaim or defense) based upon any claim or assertion by Tenant that Landlord unreasonably withheld or unreasonably delayed its consent or approval. Tenant's sole remedy shall be an action or proceeding to enforce any such provision, for specific performance, injunction or declaratory judgment. Except as otherwise provided herein, whenever Tenant requests Landlord to take any action not required of it hereunder or give any consent required or permitted under this Lease, Tenant shall reimburse Landlord for Landlord's reasonable, out-of-pocket costs payable to third parties and incurred by Landlord in reviewing the proposed action or consent, including reasonable attorneys', engineers' or architects' fees, within thirty (30) days after Landlord's delivery to Tenant of a statement of such costs. Tenant will be obligated to make such reimbursement without regard to whether Landlord consents to any such proposed action.

L. Telecommunications. Tenant and its telecommunications companies, including local exchange telecommunications companies and alternative access vendor services companies, shall have no right of access to and within the Building, for the installation and operation of telecommunications systems, including voice, video, data, internet, and any other services provided over wire, fiber optic, microwave, wireless, and any other transmission systems ("Telecommunications Services"), for part or all of Tenant's telecommunications within the Building and from the Building to any other location without Landlord's prior written consent, which shall not be unreasonably withheld or delayed. All providers of Telecommunications Services shall be required to comply with the rules and regulations of the Building, applicable Laws and Landlord's policies and practices for the Building. Tenant acknowledges that Landlord shall not be required to provide or arrange for any Telecommunications Services and that Landlord shall have no liability to any Tenant Party in connection with the installation, operation or maintenance of Telecommunications Services or any equipment or facilities relating thereto. Tenant, at its cost and for its own account, shall be solely responsible for obtaining all Telecommunications Services.

M. Confidentiality. Except as required by Article 46, below, Tenant acknowledges that the terms and conditions of this Lease are to remain confidential for both parties benefit, and may not be disclosed by Landlord or Tenant to anyone, by any manner or means, directly or indirectly, without Landlord's prior written consent from either party; however, Tenant may disclose the terms and conditions of this Lease if required by applicable law or court order, to its attorneys, accountants, employees and existing or prospective financial partners provided same are advised by Tenant of the confidential nature of such terms and conditions and agree to maintain the confidentiality thereof (in each case, prior to disclosure). Landlord and Tenant shall be liable for any disclosures made in violation of this Section by Landlord and Tenant or by any entity or individual to whom the terms of and conditions of this Lease were disclosed or made available by Landlord or Tenant. The consent by Landlord or Tenant to any disclosures shall not be deemed to be a waiver on the part of Landlord or Tenant of any prohibition against any future disclosure.

N. Governing Law. This Lease shall be construed in accordance with the laws of New York.

O. Recordation. Tenant covenants not to place this Lease on record or to record this Lease without the prior written consent of Landlord. At the request of Landlord, Tenant will execute a memorandum of lease for recording purposes containing references to such provisions of this Lease as Landlord, in its sole discretion, shall deem necessary.

P. Counterparts. This Lease may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall be deemed to be one and the same instrument. Furthermore, this Lease may be executed by a party's signature transmitted by facsimile or by electronic mail in pdf format ("pdf"), and copies of this Lease executed and delivered by means of faxed or pdf signatures shall have the same force and effect as copies hereof executed and delivered with original signatures. All parties hereto may rely upon faxed or pdf signatures as if such signatures were originals. In the event the parties deliver signatures by fax or pdf, original signature pages shall be delivered promptly thereafter.

Q. Tenant Manual. Tenant hereby acknowledges receipt of a manual (the "Tenant Manual") which provides information with respect to the Building including, without limitation, hours of operation of the Building, Building-standard services (i.e. electricity, heating, ventilation and air-conditioning, cleaning and elevator services). The Tenant Manual is hereby incorporated into this Lease by reference. In the event of any inconsistency between this Lease, Landlord's Work and the Tenant Manual, the provisions of this Lease and Landlord's Work shall govern.

R. Financial Statements. If an Event of Default by Tenant occurs during the term of this Lease beyond the expiration of all applicable grace and/or cure periods, Landlord shall have the right to request in writing, but no more than one (1) time per calendar year (except if requested in connection with the refinancing or sale of the Building), copies of Tenant's financial statements prepared internally by Tenant and certified by a certified public accountant.

S. Landlord's Disclaimer of Implied Warranty. Landlord and Tenant expressly disclaim any implied warranty that the Premises are suitable for Tenant's intended commercial purpose, and Tenant's obligation to pay rent hereunder is not dependent upon the condition of the Premises or the performance by Landlord of its obligations hereunder, and, except as otherwise expressly provided herein, Tenant shall continue to pay the rent, without abatement, demand, setoff or deduction, notwithstanding any breach by Landlord of its duties or obligations hereunder, whether express or implied.

T. Lower Manhattan Benefits.

(i) Tenant intends to apply for, seek and obtain all available subsidies, discounts, grants and other benefits (collectively the "Benefits") from all available sources with respect to its execution of this Lease. Landlord agrees to fully and timely cooperate with Tenant, at no added cost to Tenant or Landlord, in connection with such applications and in obtaining and implementing the Benefits, which shall include, but not be limited to executing documents and passing on to Tenant all Benefits which must be obtained or received by Tenant by or through Landlord.

(ii) Tenant hereby requests that an application for abatement of real property taxes pursuant to Title 4 of the Real Property Tax Law (the "RPTL") be filed for the Premises by Landlord and Tenant in accordance with the Lower Manhattan Commercial Revitalization Program (any abatement granted pursuant to Tenant's application under the said Title 4 being hereinafter referred to as the "The Home Insurance Tax Abatement"). All fees, charges, costs and other expenses incurred in connection with the application and continuing eligibility for The Home Insurance Tax Abatement shall be the sole responsibility of Tenant.

(iii) Pursuant to Section 499 -c.5. of the RPTL, Tenant is hereby informed that, provided Tenant complies with the terms and conditions hereof and the Lease:

(a) An application for the Lower Manhattan Commercial Revitalization Program Tax Abatement pursuant to Title 4 of the RPTL will be made for the Premises;

(b) The Rent payable by Tenant under the Lease (including Additional Rent payable in respect of Taxes), will accurately reflect any Tax Abatement granted pursuant to Title 4 of the RPTL for the Premises;

(c) At least \$5.00, \$10.00 or \$35.00 per square foot in the abatement zone must be spent on improvements to the Premises and the common areas of the Building, the amount being dependent upon the length of the lease, lease type and number of employees.

(iv) All abatements granted will be revoked if, during the benefit period, real estate taxes, water or sewer charges or other lienable charges are unpaid for more than one year, unless such delinquent amounts are paid as provided in subdivision 4 of Section 499-f of the RPTL.

(v) If The Home Insurance Tax Abatement shall be granted to Tenant, and for so long as such Tax Abatement shall remain in effect (the "Benefit Period"), Tenant shall be entitled to receive a credit against Rent and Additional Rent payable by Tenant in an amount equal to The Home Insurance Tax Abatement which is actually received by Landlord, at the beginning of each benefit period.

(vi) Upon the request of Tenant, Landlord shall complete, execute and submit with Tenant all application (including any revised applications therefore), certificates of continuing eligibility and such other documents, certificates and instrument that the New York City Department of Finance may require Landlord to complete, execute and submit in order to issue a certificate of abatement granting The Home Insurance Tax Abatement or in order to maintain The Home Insurance Tax Abatement in effect.

(vii) Landlord makes no representations or warranties that Tenant shall qualify for and receive such abatements hereunder.

U. Tenant's Access. Tenant shall be granted access to the Building and the Premises twenty-four (24) hours per day, seven (7) days per week, 365 days per year.

43. RENEWAL OPTION.

A. Provided that at the time of the exercise of the option provided for in this Article 43 and immediately prior to the expiration of the original Term of this Lease as defined in Article 1, (hereinafter referred to as the "Original Term"), this Lease shall be in full force and effect, the Tenant named herein is in occupancy of the Premises and no Event of Default exists beyond the expiration of applicable notice and cure periods, Tenant shall have the right, by notice given to Landlord not less than twelve (12) months prior to the Expiration Date of the Original Term, the time of giving of such notice to be of the essence of this Article, to extend the

Original Term of this Lease for a period of five (5) years from the Expiration Date (such period being the "Renewal Term"). If this Lease is so extended, all of the provisions of this Lease shall continue in full force and effect during the Renewal Term (including Tenant's obligation to pay Additional Rent as provided for in this Lease and the Expense Escalation as provided in subsection E of Article 28), but Landlord shall have no obligation to make or contribute to the cost of renovations, alterations or improvements in or to the Premises. Tenant shall have no further right or option to renew or extend the Term of this Lease beyond the expiration of the Renewal Term.

B. If the Original Term shall be renewed as provided in subsection A then and in that event and in addition to Additional Rent due under Article 28 (and utilizing the new current Base Tax Year), Tenant shall pay fixed annual rent during the Renewal Term (the "Renewal Term Rent") equal to ninety-five (95%) percent of the fair market rental rate of the Premises (the "Fair Market Rental Rate"), determined as of the first day of the Renewal Term. The Renewal Term Rent shall be determined initially by Landlord in a notice to Tenant (the "Renewal Notice") which notice shall contain Landlord's determination of the Renewal Term Rent (the "Landlord's Determination") and which Renewal Notice shall be delivered to Tenant not later than one hundred eighty (180) days prior to the first day of the Renewal Term. If Landlord shall fail to deliver Landlord's Determination as aforesaid, the Renewal Term Rent shall be the Rent payable on the last day of the Original Term. If Tenant disputes Landlord's Determination, Tenant shall deliver Tenant's determination of the Fair Market Rental Rate (the "Tenant's Determination") by notice delivered to Landlord (the "Notice of Dispute"), not later than thirty (30) days after delivery to Tenant of the Renewal Notice. Failure by Tenant to dispute Landlord's Determination within thirty (30) days after receipt of the Renewal Notice, time being of the essence as to such date, shall bind Tenant to such Landlord's Determination. If Landlord disputes Tenant's Determination by notice delivered to Tenant (the "Landlord's Notice") within thirty (30) days after receipt of the Notice of Dispute, Landlord and Tenant shall attempt to agree as to the Fair Market Rental Rate within thirty (30) days after Tenant's receipt of Landlord's Notice. If Landlord and Tenant shall be unable to reach an agreement regarding the Fair Market Rental Rate within said thirty (30) day period, the Fair Market Rental Rate shall be determined by an arbitration proceeding as provided in subsection C below. For the purposes of this Lease, the term "Fair Market Rental Rate" shall mean the annual fair market rental value for the Premises, for the applicable term, taking into account all relevant factors including, without limitation, (a) the size and location of the Premises, (b) the fact that during the Renewal Term, Tenant shall continue to pay Additional Rent during the Renewal Term as provided for in this Lease and Tenant shall not be required to pay, in addition to the Expense Escalation as provided in subsection E of Article 28, Tenant's Proportionate Share of such other escalation payments which Landlord is then charging tenants under other leases or offers for leases in the Building or in other buildings then owned by Landlord or its affiliates or of such other escalation payments which other landlords are then charging tenants under leases or offers for leases in other office buildings which are similar in character or location to the Building, (c) the annual rental rate then being charged by landlords to tenants in recent transactions for space in comparable office buildings located in the Downtown area of Manhattan and (d) any concessions being given by landlords to tenants for space in comparable office buildings located in the Downtown area of Manhattan but which may not be given by Landlord to Tenant hereunder.

C. Any dispute between Landlord and Tenant as to the Renewal Term Rent shall be determined in accordance with the procedures set forth in subsection D below if the parties are unable to agree upon the Renewal Term Rent.

D. If within thirty (30) days after Tenant's receipt of Landlord's Notice, Landlord and Tenant shall be unable to reach an agreement regarding the Fair Market Rental Rate, Landlord and Tenant shall jointly select an independent real estate appraiser (the "Appraiser") whose fee shall be borne equally by Landlord and Tenant. In the event that Landlord and Tenant shall be unable to jointly agree on the designation of the Appraiser within five (5) days after they are requested to do so by either party, then the parties agree to allow the American Arbitration Association, or any successor organization to designate the Appraiser in accordance with the real estate arbitration rules, regulations and/or procedures then obtaining of the American Arbitration Association or any successor organization.

E. The Appraiser shall conduct such hearings and investigations as he may deem appropriate and shall, within thirty (30) days after the date of designation of the Appraiser, choose either Landlord's or Tenant's Determination, and such choice by the Appraiser shall be conclusive and binding upon Landlord and Tenant. Each party shall pay its own counsel fees and expenses if any, in connection with any arbitration under this Article 43, including the expenses and fees of any Appraiser selected by it in accordance with provisions of this Article. Any Appraiser appointed pursuant to this Article 43 shall be an independent real estate appraiser with at least ten (10) years experience in leasing, determination of rental rates therein in the Downtown area of the Borough of Manhattan, City and State of New York, and valuation of properties which are similar in character to the Building. The Appraiser shall not have the power to add to, modify or change any of the provisions of this Lease.

F. It is expressly understood that any determination of the Fair Market Rental Rate hereunder shall be based on the relevant factors and criteria stated in subsection D of this Article 43.

G. After a determination has been made of the Fair Market Rental Rate for the Renewal Term, the parties shall execute and deliver to each other an instrument setting forth the Fair Market Rental Rate (and the Renewal Term Rent payable during the Renewal Term) as hereinabove determined.

H. Unless and until the Fair Market Rental Rate shall be determined in accordance with this Article 43, Tenant shall pay Renewal Term Rent for the Premises at the rate set forth in Landlord's Renewal Notice (in addition to any Additional Rent due and payable during such period pursuant to the terms and conditions of this Lease). Upon determination of such rent by appraisal pursuant hereto, the rent so determined shall apply retroactively to the Renewal Term commencement date, and, promptly after such determination, (x) Tenant shall pay to Landlord, within twenty (20) days following demand therefor, the excess, if any, of (a) the Renewal Term Rent, as so determined, with respect to the period commencing on the Renewal Term commencement date and terminating on the last day of the month during which such determination occurs (the "Relevant Period"), over (b) the Renewal Term Rent theretofore paid by Tenant with respect to the Relevant Period, or (y) Landlord shall pay to Tenant, within twenty (20) days following demand therefor, the excess, if any, of (a) such Renewal Term Rent actually

paid by Tenant with respect to the Relevant Period, over (b) the Renewal Term Rent, as so determined, with respect to the Relevant Period or if not paid within such twenty (20) day period, Tenant shall be entitled to credit such amount against the payments of Rent next due hereunder.

44. **CANCELLATION OPTION.** Provided that Tenant shall not be in default beyond the expiration of all applicable notice and cure periods, under any of the terms and conditions of this Lease and this Lease shall be in full force and effect, Tenant shall have a one-time right and option to cancel this Lease (the "Cancellation Option") effective as of the ten (10) year anniversary of the Rent Commencement Date (the "Cancellation Date"). Tenant shall deliver written notice (the "Cancellation Notice") to Landlord evidencing its intent to exercise its Cancellation Option in accordance with Article 27 above, which Cancellation Notice shall have been received by Landlord not less than twelve (12) months prior to the Cancellation Date. Time shall be of the essence as to the giving of the Cancellation Notice. If Tenant shall fail to exercise its Cancellation Option by delivering the Cancellation Notice, in strict conformance with the terms of this Article 44, this provision shall be deemed deleted from the Lease and of no further force and effect and Tenant shall have no option to cancel this Lease.

45. **CONTRACTION OPTION.**

A. Provided that Tenant shall not be in default beyond the expiration of all applicable notice and cure periods, under any of the terms and conditions of this Lease and this Lease shall be in full force and effect, then Tenant shall have the option (the "Contraction Option") to terminate the Lease with respect to Unit A and/or Unit B located in the Premises and designated on Exhibit "G" annexed hereto and made a part hereof (collectively the "Contraction Premises"). Tenant may exercise the Contraction Option as follows: (i) for Unit A, at any time between the 7th and 9th anniversary of the Rent Commencement Date and (ii) for Unit B at any time between the 10th and 12th anniversary of the Rent Commencement Date. Tenant's exercising of the Contraction Option is conditioned upon Tenant delivering written notice to Landlord in accordance with Article 27 above no less than ten (10) months prior to the date of said contraction, time being of the essence. In such event, Tenant agrees to vacate and surrender possession of the Contraction Premises to Landlord on the effective termination date and in the same condition as delivered to Tenant by Landlord, ordinary wear and tear and permitted alterations, additions and improvements excepted. If Tenant elects to exercise its right to terminate the Lease with respect to the Contraction Premises as described in this Article 45, then Tenant will continue to rent the remainder of the Premises other than the Contraction Premises in accordance with the terms and provisions contained in this Lease, except that Landlord and Tenant shall execute an amendment to this Lease stating that (i) Rent will be reduced on a pro rata basis and Tenant shall pay Rent to Landlord for the remainder of the Premises at the escalated rental rate then due from Tenant under this Lease, (ii) the term "Premises" for all purposes of this Lease will exclude the Contraction Premises, and (iii) the numerator of Tenant's Proportionate Share will decrease by the amount of rentable square feet contained within the Contraction Premises. Landlord and Tenant hereby agree that in order to determine Tenant's Rent obligations for the remainder of the Premises if Tenant exercises the Contraction Option, the escalated rental rates are as follows: Lease Year 7 - \$33.78 / rsf; Lease Year 8 - \$37.46 / rsf; Lease Year 9 - \$38.21 / rsf; Lease Year 10 - \$38.97 / rsf; Lease Year 11 - \$42.75 / rsf; and Lease Year 12 - \$43.61 / rsf.

B. Any attempt by Tenant to exercise its option to surrender the Contraction Premises to Landlord by any method, at any time or under any circumstances other than as specifically set forth in this Lease will be null and void and of no force or effect at the sole option and discretion of Landlord. The Contraction Option is reserved to Tenant and will not inure to the benefit of any assignees, sublessees, transferees, successors and/or assigns of Tenants.

46. **COURT APPROVAL.**

(a) Notwithstanding any provision of this Agreement to the contrary, this Lease shall only become effective upon notice by Tenant to Landlord as provided in subparagraph (b) herein, of the approval (the "Court Approval") of the Superior Court of Merrimack County, New Hampshire (the "Court"), in connection with Tenant's liquidation proceeding entitled *In the Matter of the Liquidation of The Home Insurance Company*, Docket No. 03-E-0106.

(b) Tenant shall apply to the Court for the Court Approval within seven (7) business days following the date of this Lease and shall use its commercially reasonable efforts to obtain the Court Approval as soon as reasonably practicable and shall furnish Landlord with notice of such Court Approval within three (3) business days of Tenant's receipt thereof, such notice to contain a copy of the Court Approval. This Lease is conditioned upon the approval of the Court and, if, despite such commercially reasonable efforts, the Court does not approve the Lease by May 15, 2010, either Landlord or Tenant may cancel this Lease upon three (3) days notice to the other party and this Lease shall be null and void ipso facto, and of no force and effect.

[The remainder of this page is left intentionally blank. Signature page to follow.]

IN WITNESS WHEREOF, Landlord and Tenant have respectively executed this Lease as of the day and year first above written.

LANDLORD

61 BROADWAY OWNER LLC

By: _____
Name: Raymond Chalme'
Title: Managing Member

TENANT

ROGER A. SEVIGNY, NEW HAMPSHIRE
COMMISSIONER OF INSURANCE, SOLELY IN HIS
CAPACITY AS LIQUIDATOR OF THE HOME
INSURANCE COMPANY

By: Peter A Bengelsdorf
Name: Peter A. Bengelsdorf
Title: Special Deputy Liquidator

IN WITNESS WHEREOF, Landlord and Tenant have respectively executed this Lease as of the day and year first above written.

LANDLORD

61 BROADWAY OWNER LLC

By: 

Name: Raymond Chalme

Title: Managing Member

TENANT

**ROGER A. SEVIGNY, NEW HAMPSHIRE
COMMISSIONER OF INSURANCE, SOLELY IN HIS
CAPACITY AS LIQUIDATOR OF THE HOME
INSURANCE COMPANY**

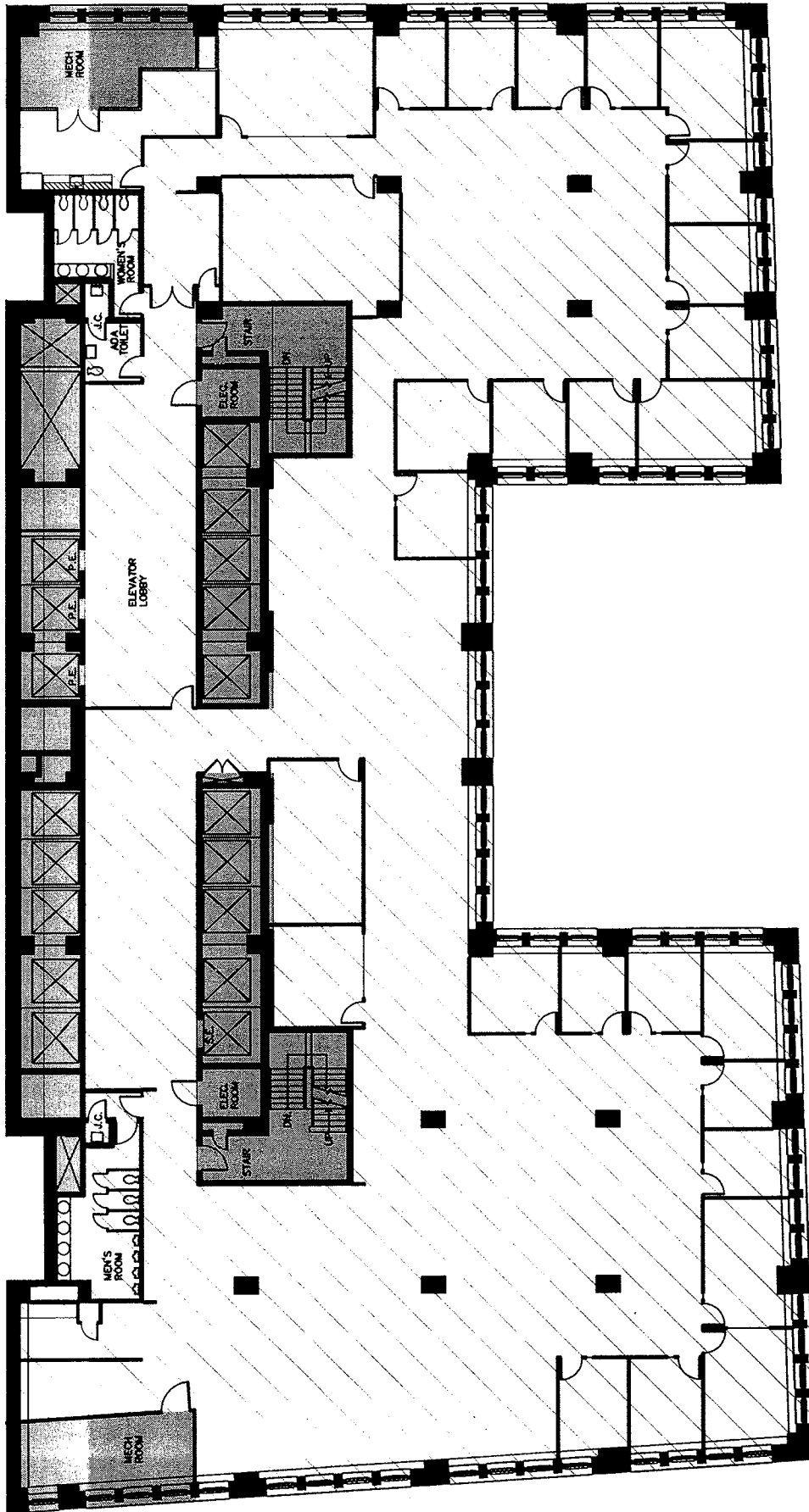
By: _____

Name: Peter A. Bengelsdorf

Title: Special Deputy Liquidator

EXHIBIT "A"

Premises



Notes: This drawing is a schematic illustration of the existing conditions and is not to be used for scaleable representation or substitute for a field survey. Please be advised that this plan represents space planning only and does not reflect proposed finishes and/ or materials.

BROAD STREET DEVELOPMENT

61 BROADWAY, SUITE 1407
NEW YORK, NY

61 BROADWAY

6TH FLOOR
PROPOSED 6TH FLOOR FOR
THE HOME INSURANCE COMPANY IN LIQUIDATION

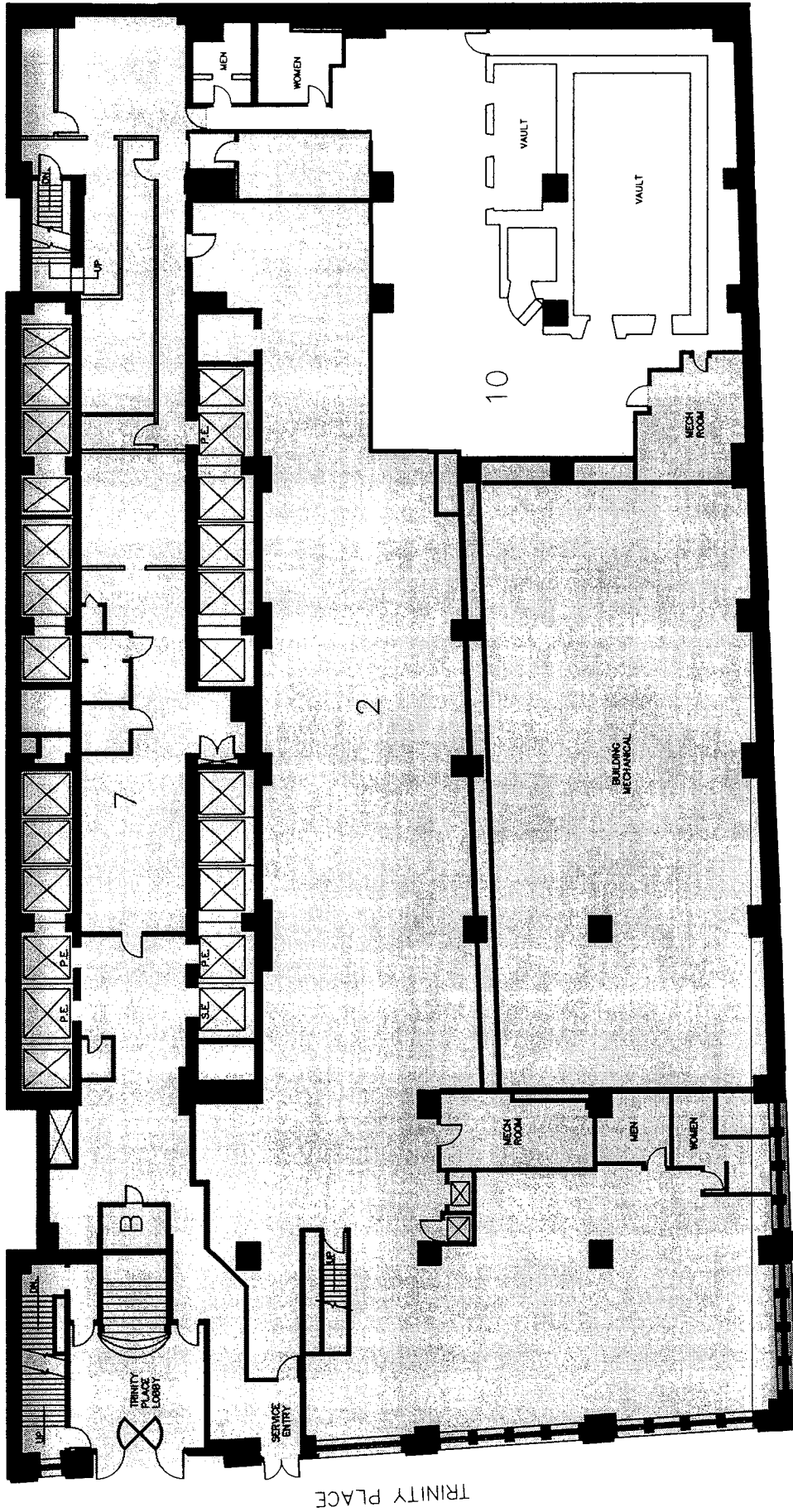
APPROVED BY _____

DRAFT
3/25/10

THE DEROSA GROUP, PC
Architects
45 Academy Street
Suite 202
Newark, New Jersey 07102
Tel: 973.624.1000

EXHIBIT "A-1"

Storage Space



EXCHANGE PLACE

Notes: This drawing is a schematic illustration of the existing conditions and is not to be used for scaleable representation or substitute for a field survey. Please be advised that this plan represents space planning only and does not reflect proposed finishes and/or materials.

BROAD STREET DEVELOPMENT
 61 BROADWAY, SUITE 1407
 NEW YORK, NY

61 BROADWAY
 BASEMENT
 PROPOSED BASEMENT FOR
 THE HOME INSURANCE COMPANY IN LIQUIDATION

APPROVED BY _____

THE DeROSA GROUP, PC
 Architects
 43 Academy Street
 Suite 202
 Newark, New Jersey 07102
 Tel: 973.624.1100

DRAFT
 3/25/09

BROADWAY

TRINITY PLACE

EXHIBIT "B"

Landlord's Certificate

____, 2010

[Tenant]
61 Broadway
New York, New York

Re: Lease ("Lease") dated _____, 2010 between 61 Broadway Owner LLC, as Landlord, and [Tenant], as Tenant, for a portion of the rentable space located on the _____ (____) floor and known as Suite _____ in the building known as 61 Broadway, New York, New York

Gentlemen:

All capitalized terms used herein shall have the meanings set forth in the Lease. Reference is made to Article 1 of the Lease.

We are writing to acknowledge and confirm that the Commencement Date (as such term is defined in Article 1 of the Lease) is _____, the Cancellation Date (as such term is defined in Article 44 of the Lease) is _____, and the Expiration Date (as such term is defined in Article 1 of the Lease) is _____.

Please sign where indicated on the bottom left-hand corner of this letter to indicate your assent to the foregoing and deliver a fully-executed duplicate original of this letter to the undersigned within five (5) days of the date hereof.

61 BROADWAY OWNER LLC,

By: _____
Name: Raymond Chalme'
Title: Managing Member

ACCEPTED AND AGREED TO:

By: _____

EXHIBIT "C"

Landlord's Work

Landlord agrees, at its sole cost and expense, to deliver a turn-key installation of the Premises and perform certain improvements to the Premises using finishes and materials selected by Landlord and Tenant in accordance with space plan (the "Plans") prepared by The DeRosa Group, PC and Landlord's work letter (the "Work Letter"), which Plans and Work Letter are attached hereto as Exhibit "C-1" (collectively the "Landlord's Work"). Additionally, Landlord agrees, at its sole cost and expense, to prepare construction documents in conjunction with Landlord's Work promptly following the date hereof.

"Substantial Completion" as used herein shall mean that Landlord's Work in the Premises is substantially completed (as reasonably determined by Landlord and Tenant) in substantial accordance with the Plans and Work Letter. Substantial Completion shall have occurred even though minor details of construction, decoration, and mechanical adjustments remain to be completed by Landlord, which completion shall be reasonably expected to take no longer than thirty (30) days thereafter and will not substantially interfere with Tenant's ability to conduct its business operations in the Premises.

"Tenant Delay Days" means each day of delay in the performance of Landlord's Work that occurs (a) because Tenant fails to timely furnish any material information in connection with Landlord's Work or deliver or approve any required documents such as the Plans (whether preliminary, interim revisions or final), pricing estimates, construction bids, and the like, (b) because of any material change by Tenant to the Plans, which has the effect of materially delaying the completion of Landlord's Work, (c) because Tenant fails to participate in any meeting with Landlord, the architect, any design professional, or any contractor, or their respective employees or representatives, in connection with the preparation or completion of construction documents, or in connection with the performance of Landlord's Work, which Tenant is required to attend and failure to participate causes an actual delay, (d) because of any specification by Tenant of materials or installations in addition to or other than Landlord's standard finish-out materials other than those agreed to in the Work Letter.

1. Landlord's Work will be performed by licensed contractors and in accordance with all Legal Requirements. Landlord agrees to obtain, as required, all permits, approvals, certificates and sign-offs associated with Landlord's Work in accordance with all Legal Requirements.

2. Tenant shall have the right to enter into the Premises prior to the completion of Landlord's Work in order to (a) prepare the Premises for Tenant's occupancy, (b) install furniture, personal property, appliances and interior signage, (c) install electrical, data (voice and facsimile transmission) and telephone cabling and ancillary systems, (d) install audio visual equipment and ancillary systems (e) install Tenant's security system, and (f) review the progress of performance of Landlord's Work, without commencement of the Term and without the obligation to pay Rent and/or Additional Rent and provided such entry does not materially

interfere with the performance of Landlord's Work. All initial installations by Tenant above shall be performed in accordance with Subsections A, B and E of Article 3 and Article 9 of the Lease.

3. For a period of one (1) year from the Commencement Date, Landlord will repair or replace any broken or defective fixture, installation or equipment which Landlord installed in the Premises as part of Landlord's Work.

4. Landlord shall pay all soft costs arising out of Landlord's Work, including but not limited to architectural, engineering, and government fees, and the cost of construction management services, associated with or arising out of the Landlord's Work.

EXHIBIT "C-1"

Landlord's Work – Plans and Work Letter

**LANDLORD'S WORK LETTER
HOME INSURANCE
61 BROADWAY – 6TH FLOOR
NEW YORK, NEW YORK 10006**

General Construction

Floors

1. Furnish and install building standard loop carpeting, glued down to existing slab with 4" cove vinyl base in tenant's choice of color.
 - a) Carpet: Shaw Queen Commercial: No Limits, Evidence, Baytowne III.
 - b) Roppe 4" vinyl cove base.
2. Furnish and install building standard vinyl composition tile (Armstrong-standard excelon series) in lieu of carpet with building standard 4" vinyl cove base in areas designated by the tenant (i.e. computer room, pantry, mail room, & storage room, as applicable).
3. Removal of existing flooring and prepare the slab to receive new floor finishes.

Ceilings

Furnish and install acoustical tile: beveled tegular cirrus #704 from Armstrong 24"X24" color: white

All ceilings will be continuous to the exterior walls window.

Pantry

The landlord will provide a sink with hot & cold water and a 6' laminate counter with upper and lower cabinets.

Tenant has requested 12'-0" (6'-0" additional) linear feet of counter space and upper and lower cabinets at Tenant's cost.

Tenant requests 2nd pantry on opposite side (by Men's Room) 8'-0" linear feet of upper and lower cabinets. Landlord will provide plumbing/sink in 2nd pantry at Tenant's cost.

Partitions

The landlord will provide demising partitions. They will be two hour fire rated and slab to slab in accordance with NYC code.

Building standard partition within tenant spaces shall extend from the floor to the suspended ceiling and shall be framed with 2 ½ by 25 gauge steel studs at 24" on center. One (1) layer of 5/8" gypsum wallboard (sheetrock) will be provided on each side and will be taped and triple coat spackled on the exposed side.

Exterior walls will be prepared for painting.

Partitions terminating at the building exterior will meet either a window mullion or column. No partitions, which interfere with the operation of a window or obscure a window, will be permitted.

No curves will be provided in Building Standard partitions.

Building Standard partitions will be provided to be equal to 7% of rentable area (***as required by tenants plan in lieu of landlord's allotment***).

Tenant has requested sound batting between offices and conference rooms at an additional cost to be determined to be paid by tenant (number of offices and conference rooms TBD).

Alternate pricing for Landlord during bidding, full height partition, slab to slab with sound attenuation blanket in lieu of a Building Standard partition. Provide unit price per linear feet.

Doors and Frames

Main entrance doors will be a pair of double wood doors (space permitting): 3'-0" x 7'-0" to match building standard.

General

Building Standard interior doors shall be 3'-0" x 8'-0" wood doors in knock down hollow metal frames. Building standard interior doors shall be provided at the rate of one (1) per 30 LF of Building Standard partition or 1 door per 400 rsf (***as required by tenants plan in lieu of landlord's allotment***).

- a) Each office door shall have a 12" wide side light full height of door.

Hardware

Building Standard entry doors will be provided with the following:

Lever handle lockset

Two (2) pair butt hinges

Silencers

Closers will be provided on suite entry doors and computer room only.

Building standard closer shall be a surface mounted closer (parallel arm or equal) mounted on the tenant side of the door.

Closer shall be through bolted as required for labeled openings.

Building Standard interior doors will be provided with the following: Lever handle lockset; Two (2) pair butt hinges; Floor Stop; Silencers

Tenant, at its sole cost and expense, may install security devices such as card or proximity readers on the entry doors, subject to the landlord's approval. Tenant shall submit all devices for approval by the landlord prior to installation.

Door hardware shall be AL series #626 from Schlage with bronze finish.

Window Treatments

Building standard Levolor 1" horizontal blinds-#112 Alabaster will be provided at all windows. **Tenant requests alternate price for building standard upgrade to Sol-R-Shades. Tenant will receive a \$125 per window credit.**

Finishes

All partitions will be painted with one prime coat and two finish coats in colors selected by the tenant from the landlord's standard color chart. Paint will be Benjamin Moore or equal. All paint shall be eggshell finish. Semi-gloss on all doors, bucks & metal enclosures. Twenty percent (20%) of the partitioning may be painted in an accent color on walls from corner to corner. No striping will be provided.

Benjamin Moore paint.

Entrance door to tenant's space will be finished in the buildings standard color. Wood doors and frames located within the tenant's space will be finished with a **stained or clear finish selected by the tenant.**

All Trim will be painted with one prime coat and two finish coats in colors selected by the tenant from the landlord's standard color chart. Paint will be Benjamin Moore or equal. All paint shall be satin finish.

Electric

Electrical capacity will be provided at 6 watts per square foot (demand load) at the floor electrical closet at 110/208 volts for the tenant. Service should be required to meet tenant's needs based on the proposed use of the space.

Lighting shall consist of a fluorescent basket type fixture with three (3) 31 watt T8 lamps and electronic ballast. Fixture quantities and spacing shall be as required to meet normal office lighting standards.

Emergency lighting equipped with battery backup, will be provided by landlord within the demised premises in compliance with applicable codes.

Electrical receptacles and voice/ data stub-ups shall be provided in building standard partitions.

Electrical receptacles shall be provided in building standard partitions, core walls, exterior walls or columns (excludes chopping of base building masonry) as required to accommodate tenant's new installation and as indicated below:

120V 15A wall receptacle as required for tenant's use of the space so as to provide electric power to all occupants, equipment and common areas based on conventional office needs and standards (not more than 1 per 100 RSF)

Dedicated 120V 20A wall receptacle: 1 per every 5,000 RSF.

GFI receptacle: 1 per pantry

One quadruple electrical wall receptacle may be exchanged for two duplex outlets.

Landlord will provide up to 7 floor outlets as required by tenant's plan at Tenant's cost.

As per Tenants Plan Landlord should be responsible to provide power/data outlets – infeed to cubicles in open area through columns, core walls as required and/or any other power requirements (stub-ups only).

Light switches shall be provided as follows:

One (1) switch per room

Open office areas shall be provided with switches so that one half (1/2) of the lights in an area greater than 500SF may be shut off at one time.

Fire alarms devices shall be provided in compliance with applicable codes for office occupancies.

Special fire alarm devices or systems for computer rooms, supplementary air conditioning systems, food service facilities, file rooms, or other non-typical office construction shall be provided by the tenant at tenant's sole cost and expense.

Heating, Ventilation, and Air Conditioning

Air Conditioning

HVAC is provided to maintain year round comfort based on ASHRAE Comfort Chart from 7:00 a.m. – 7:00 p.m., Monday through Friday.

Mechanical Equipment Room located on the 6th floor shall be enclosed within sound isolated partitions (slab to slab w/sound attenuation blanket between studs, homosote paneling on inside surface of walls and gasketed trim kit on inside of door frame with drop seal.

Air distribution devices will be building standard diffusers and return air grills compatible with the building standard ceiling and shall be white to match the ceiling. Linear diffusers, air handling light fixtures, air boots, etc. will be provided.

Landlord will supply & install one 4 ton air cooled supplemental HVAC unit specifically for the Data Center at no additional cost to the tenant. Unit size will be based on tenant's equipment loads (to follow) so as to maintain 68 degree at all times. Landlord will be responsible for commissioning of said equipment prior to turn over to tenant.

Ventilation air (fresh air) will be provided as per N.Y.C. building code.

Heating

Heating is provided through perimeter during regular business hours.

Zoning is provided utilizing V.A.V. thermostatic controls.

Fire Protection

Emergency Lights, horns, strobes, & Exit signs.

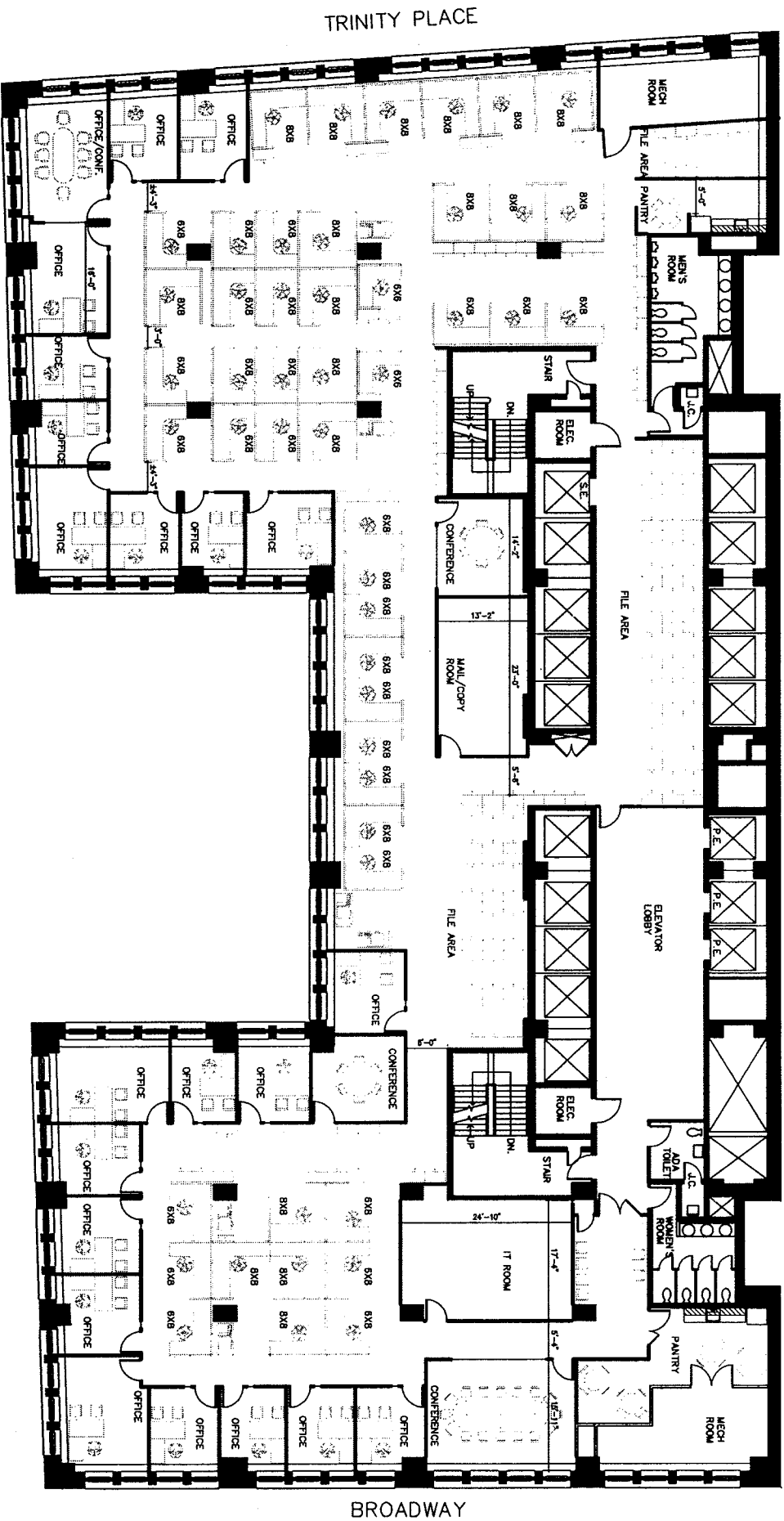
Landlord will install a sprinkler fire protection system (ESFR) on the entire 6th floor at Landlords cost and maintenance.

Telecommunications

Tenant may utilize plenum rated cable for voice and data cabling.

A telephone junction box and conduit will be provided for tenant telephones as per plan. One (1) dragline shall be provided for each conduit.

Provide 4' x 8' plywood backing for telecommunications equipment.



Notes: This drawing is a schematic illustration of the existing conditions and is not to be used for scaleable representation or substitute for a field survey. Please be advised that this plan represents space planning only and does not reflect proposed finishes and/ or materials

BROAD STREET DEVELOPMENT

61 BROADWAY, SUITE 1407
NEW YORK, NY

SK-363-066

APPROVED BY _____

THE HOME INSURANCE COMPANY IN LIQUIDATION

61 BROADWAY

6TH FLOOR

PROPOSED 6TH FLOOR FOR

THE HOME INSURANCE COMPANY IN LIQUIDATION

THE DEROSA GROUP, PC

Architects

45 Ashland Street
Suite 202
Newark, New Jersey 07102
Tel: 973.644.1100

DRAFT
5/26/10

EXHIBIT "D"

Rent Schedule

<u>Lease Year</u>	<u>Annual Rent *</u>	<u>Monthly Rent</u>
1	\$712,500.00	\$59,375.00
2	\$726,750.00	\$60,562.50
3	\$741,285.00	\$61,773.75
4	\$756,110.70	\$63,009.23
5	\$771,232.91	\$64,269.41
6	\$786,657.57	\$65,554.80
7	\$802,390.72	\$66,865.89
8	\$891,113.53	\$74,259.46
9	\$908,935.80	\$75,744.65
10	\$927,114.52	\$77,259.54
11	\$1,018,331.81	\$84,860.98
12	\$1,038,698.45	\$86,558.20
13	\$1,059,472.42	\$88,289.37
14	\$1,080,661.86	\$90,055.16
15	\$1,102,275.10	\$91,856.26
16(4 months)	n/a	\$93,693.38

* Rent, for purposes of this Exhibit "D" only, is exclusive of the Abatement.

EXHIBIT "E"

Insurance Requirements

Additional Insureds:

1. 61 Broadway Owner LLC, c/o Broad Street Development LLC, 61 Broadway, New York, NY 10006.
2. The Variable Annuity Life Insurance Company, as additional insured, first mortgagee and loss payee (also show as Certificate Holder c/o: Corporate Risk and Insurance Department, American International Group, Inc., 70 Pine Street, 48th Floor, New York, New York 10270, Tel. (212) 770-7265 or (212) 770-7494, Fax (212) 422-5327).
3. 61 Broadway LLC, c/o Broad Street Development LLC, 61 Broadway, New York, NY 10006.
4. Broad Street Development, LLC, 61 Broadway, New York, NY 10006.
5. 61 Broadway Holdco, L.L.C. c/o Broad Street Development LLC, 61 Broadway, New York, NY 10006.
6. 61 Broadway Realty Investors, L.L.C., c/o Heyman Properties, L.L.C., 667 Madison Avenue, 12th Floor, New York, New York 10021.
7. Newmark Knight Frank, 125 Park Avenue, New York, New York

EXHIBIT "F"

Cleaning Specifications

A. General Office Areas (To be performed nightly unless otherwise noted).

- Sweep all floors using chemically treated dust mops. Damp mop as necessary.
- All carpeted areas and rugs to be vacuum cleaned weekly and carpet swept nightly.
- Hand dust with treated cloth and wipe clean all office furniture including desks, chairs, fixtures, file cabinets and windowsills and radiator enclosures. Contractor shall not disturb paper on desks, file cabinets or other surfaces. Contractor shall not turn any computers or other office equipment on or off.
- Dust all door and other ventilating louvers, damp wipe as necessary.
- Clean all light fixtures, annually
- Wipe telephone receivers and mouthpieces clean with a disinfectant cleaner or damp cloth.
- Dust all chair rails, trim and moldings, windowsills and baseboards.
- Collect and remove wastepaper, cardboard boxes (which must be flattened by Contractor), and waste material to the designated areas. Tenant to purchase trash can liners for individual offices. Contractor will furnish heavy-duty waste and/or rubbish bags. Bags shall be sufficiently strong to hold contents without breaking. Agent reserves the right to approve trash removal containers and janitorial carts.
- Remove all gum and foreign matter on sight.
- Clean all water fountains and water coolers with germicidal cleanser and polish
- Remove all fingerprints and smudges from private entrance doors, light switches and doorways.
- Turn off all lights and lock all doors upon completion of cleaning leaving the premises in orderly condition.

B. General Office Areas - Quarterly Cleaning

- Vacuum and dust all pictures, frames, charts, graphs and similar wall hangings not reached in nightly cleaning.
- Vacuum and dust all vertical surfaces such as walls, partitions, doors, bucks, ventilating and air conditioning louvers, grills, high moldings and other surfaces not reached in nightly cleaning.
- Dust all overhead pipes, sprinklers, ventilating and ducts not reached in nightly cleaning.

C. Lavatories (To be performed nightly unless otherwise noted)

- Scour, wash and disinfect all basins, bowls, urinals, toilet seats (both sides) and tile walls.
- Sweep and wet mop nightly with a disinfectant all lavatory floors.

- Wash and polish all mirrors, powder shelves, bright work, and enameled surfaces in all lavatories. Contractor shall use only non-abrasive materials to avoid damage and deterioration to chrome fixtures.
- Hand dust and clean, washing where necessary, all partitions, dispensers and receptacles.
- Service sanitary napkin dispensers. Contractor shall supply sanitary napkins.
- Empty, clean and disinfect paper towel and sanitary napkin disposal receptacles and remove waste paper to designated areas.
- Fill all toilet tissue holders; soap dispensers, paper towel dispensers and sanitary napkin vending dispensers. Products supplied by Contractor unless otherwise noted.
- Remove finger and scuff marks from painted and/or vinyl surfaces.
- Machine scrub floors as necessary, but not less than once each month.
- Clean and wash all lavatory partition walls and enamel surfaces monthly
- Hand dust clean and wash all tile walls and ceilings once each month or more if necessary.
- Dust exterior of lighting fixtures monthly.
- High dust monthly.
- Wash sanitary waste receptacles monthly.
- Clean all slop sinks on all floors nightly and keep in a neat, orderly and clean condition.
- Collect proceeds from sanitary product dispensers and turn proceeds over to duly authorized representative of contractor.
- Report all mechanical deficiencies, i.e., dripping faucets, burnt out lights, etc., to the building management office.
- Urinal screens will be removed and cleaned.
- Flush floor drains with water weekly.

D. Building Service Areas

- Keep locker rooms in neat and orderly condition at all times. Wipe down lockers monthly. Wash and wax floor weekly where applicable.
- Keep all mops rinsed clean. Accumulation of rags or cloths is prohibited.
- Contractor's equipment to be stored in a central location supplied by Agent.
- Lights shall be extinguished as areas are cleaned.

E. Window Cleaning

- Wash and clean all windows both exterior and interior on a semi annual basis. Contractor shall provide adequate protection to the exterior of the building for pedestrians and tenant property during window cleaning services.
- Building entrance doors, lobby glass and Broadway Bay windows shall be cleaned daily and kept in clean condition at all times during the day.

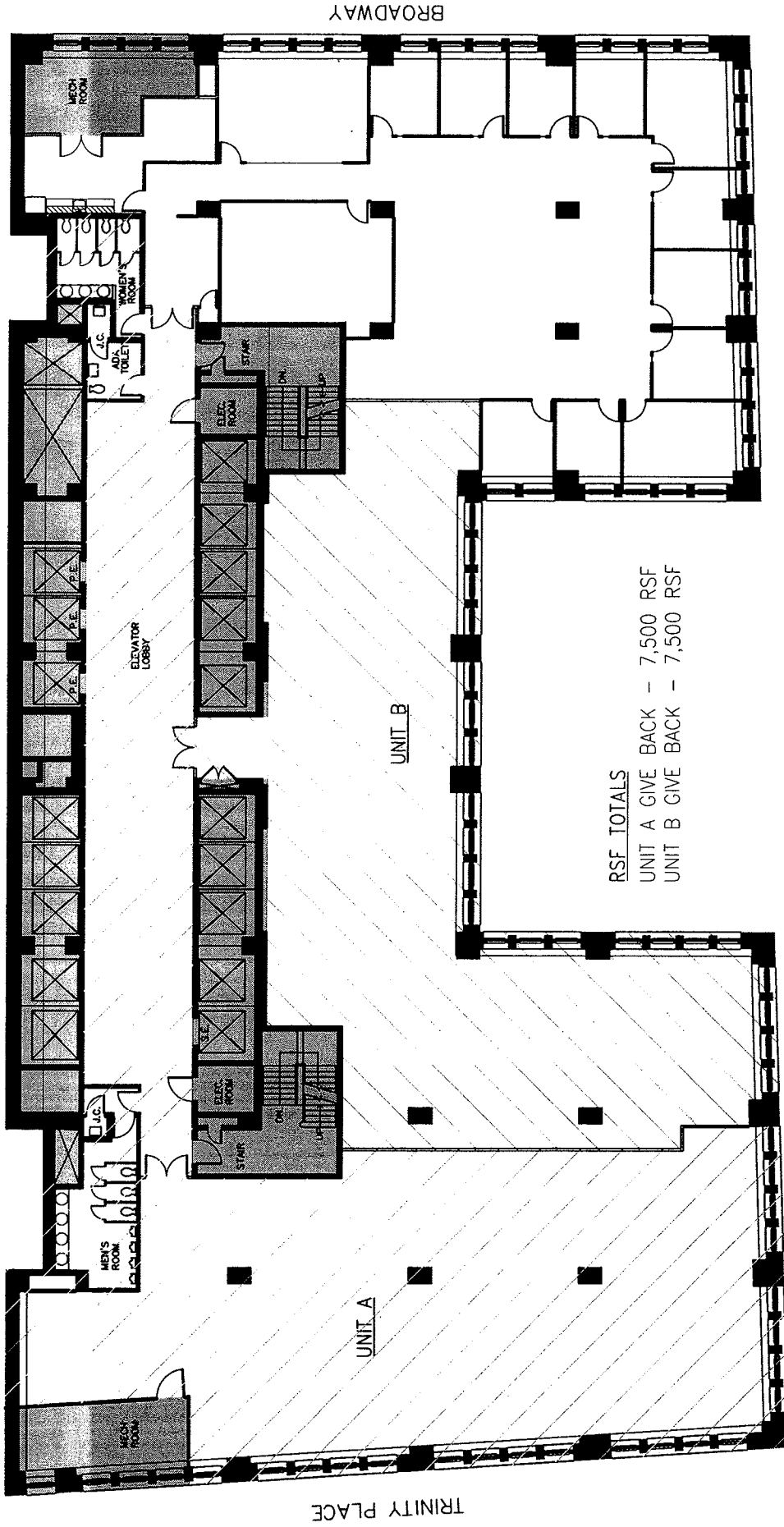
F. Trash Removal and Recycling

A recycling program that is compliant with city requirements for office paper & recyclables has been established in the building. Contractor will be responsible for managing this program as a part of its contractual responsibilities. They are as follows:

- Empty and separate all material retrieved from desk side or designated recycling receptacles nightly into bins for removal by the waste carter located in designated areas. Clear bags shall be used for recyclable wastepaper, black bags for non-recyclable waste.
- When requested, maintain records of all such recyclable and trash removals from the building, specifying the quantity of each.
- Property Manager reserves the right to impose a penalty on Contractor if waste and recyclable materials are combined. The penalty shall be the equivalent of the city imposed minimum of \$75.00 for recycling violations, or a higher amount if the Building or its tenants receive a violation due to the negligence of the Contractor's appointed staff.

EXHIBIT "G"

Contraction Option Spaces



RSF TOTALS
 UNIT A GIVE BACK - 7,500 RSF
 UNIT B GIVE BACK - 7,500 RSF

Notes: This drawing is a schematic illustration of the existing conditions and is not to be used for scaleable representation or substitute for a field survey. Please be advised that this plan represents space planning only and does not reflect proposed finishes and/or materials.

BROAD STREET DEVELOPMENT

61 BROADWAY, SUITE 1407
 NEW YORK, NY

61 BROADWAY

6TH FLOOR
 PROPOSED 6TH FLOOR FOR
 APPROVED BY _____ THE HOME INSURANCE COMPANY - GIVE BACK 2

EXCHANGE PLACE

DRAFT
 3/28/10

THE DEROSA GROUP, PC
 Architects
 45 Academy Street
 Suite 202
 Newark, New Jersey 07102
 Tel: 973.624.1100