

LESSEE (initials)  
[REDACTED]

STANDARD FORM - OFFICE LEASE EGR/9-06

LESSOR  
[REDACTED]

**Lease** made as of the 30th day of July 2012, between 1841BROADWAY ASSOCIATES, a New York Limited Partnership, by Eastgate Realty - a division of O.S.L. Shipping and Development, Inc. as managing agent having an office at 410 Park Avenue, New York, New York 10022 hereinafter referred to as "Lessor" or "landlord", and

[REDACTED]

a (Corporation), (Partnership), (Limited Liability Company)

hereinafter referred to as "Lessee" or "Tenant".

**Witnesseth:** Lessor hereby leases to Lessee and Lessee hereby hires from Lessor: Room 706

but not including any easements for light and air which easements are specifically excluded (said space is hereinafter called the "Premises") in the building known as 1841 Broadway (the "Building") in the County of New York, City of New York (the Building, together with the plot of land upon which it stands and all other improvements thereon, is hereinafter called the "Real Property") for a term of approximately Five (5) years to commence on the 1st day of December, 2012 or sooner date on which Lessor delivers, and Lessee accepts a possession of the Premises, (hereinafter the "Commencement Date") and to expire at 10:00 A.M. on the 30<sup>th</sup> day of November, 2017, (hereinafter the "Expiration Date") or until such term shall sooner end as provided in Article 4 and/or elsewhere herein provided or pursuant to law, both dates inclusive, at a fixed annual rental at the annual rates set forth in Schedule "A" annexed hereto and made a part hereof subject to adjustments as hereinafter provided plus electricity charges per Article 33 hereof payable for the convenience of Lessee in equal monthly installments in advance on the first day of each month, except that the first installment of rent and electricity charges due under this Lease shall be paid by Lessee upon its execution of this Lease, unless this Lease be a renewal and which rent Lessee agrees to pay in lawful money of the United States which shall be legal tender in payment of all debts and dues public and private at the time of payment.

Lessor and Lessee covenant and agree:

1. PURPOSE.

1.01 Lessee shall use and occupy the premises only for offices in the transaction of its business of **any legal** Dermatologist Office [REDACTED] and for ~~no~~ other purposes.

1.02 Without limiting the operation or effect of the restriction contained in Section 1.01 of this Article Lessee hereby represents, warrants and agrees that Lessee shall not use the Premises or any part thereof, or permit the Premises or any part thereof to be used, (i) for the business of photographic, multilith or multigraph reproductions or offset printing, (ii) for ~~banking, trust company,~~ depository, guarantee or safe deposit business, (iii) as ~~an~~ **any** savings bank, a savings and loan association, or as a loan company, (iv) for the sale of travelers checks, money orders, drafts, foreign exchange or letters of credit or for the receipt of money for transmission, (v) as a retail stock broker's or dealer's office which shall be open to the general public (except pursuant to prior appointment), (vi) as a restaurant or bar or for the sale of confectionery, soda, beverages, sandwiches, ice cream or baked goods or for the preparation, dispensing or consumption of food or beverages in any manner whatsoever, (vii) as a news or cigar stand, (viii) as an employment agency, (ix) a labor union office, ~~any other business, (x) as an employment agency, (xi) a labor union office, (xii) dance or music studio or school (except for the training of employees of Lessee), (xiii) as a barber shop or beauty salon, or (xiv) for the direct sale, at retail or otherwise, of any goods or products, (xv) conduct of an auction, (xvi) gambling activities, (xvii) the conduct of obscene, pornographic or similar disreputable institution or other ~~not-for-profit organization or any tax-exempt organization within the meaning of section 1361(a)(2) of the Internal Revenue Code of 1986, as amended, or any successor or substitute statute, or title or regulation which should be so construed, (xviii) as a public utility, (xix) foreign government mission, (xx) agency, department or bureau of the United States Government, any state or municipality within the United States or any political subdivision of any of them, (xxi) messenger service, (xxii) alcohol, drug or substance abuse rehabilitation or treatment clinic or abortion clinic.~~~~

1.03 The rights of each tenant in the Building, including Lessee, to the entrances, corridors and elevators of the Building are limited to ingress and egress from such tenant's premises and no tenant shall use, or permit the use of the entrances, corridors, or elevators for any other purpose. Lessee shall not invite to its Premises, or permit the visit of persons in such numbers or under such conditions as to interfere with the use and enjoyment of any of the plazas, entrances, corridors and other facilities of the Building by other tenants, nor shall Lessee encumber or obstruct, or permit the encumbrances or obstruction of any of the sidewalks, plazas, entrances, corridors, elevators, fire exits or stairways of the Building. Lessor reserves the right to control and operate the public portions of the Building, the public facilities, as well as facilities furnished for the common use of Lessee and the other tenants, in such manner as Lessor deems best for the benefit of the tenants generally.

2. RENT AND ADDITIONAL RENT.

3. ASSIGNMENT AND SUBLETTING.

2.01 Lessee shall pay fixed annual rent at the rate per annum set forth on Schedule "A" annexed hereto and made a part hereof and pay additional rent as provided herein promptly when due without notice or demand therefor at the office of Lessor or such other place as Lessor may designate, without any abatement, set off or deduction whatsoever, except as may be expressly provided in this Lease. Any sum other than fixed annual rent payable hereunder shall be deemed additional rent for default in payment of which Lessor shall have the same remedies as a default in payment of fixed annual rent. Unless otherwise instructed by Lessor, fixed annual rent and/or additional rent shall be paid by good and sufficient check (subject to collection) drawn on a New York City Bank which is a member of the New York Clearing House Association or a successor thereto.

2.02 If the Commencement Date occurs on a day other than the first day of a calendar month, the fixed annual rent for the partial calendar month in which the Commencement Date occurs shall be prorated and the fixed annual rent for the partial calendar month in which the Commencement Date occurs shall be paid on the Commencement Date.

2.03 No payment by Lessee or receipt or acceptance by Lessor of a lesser amount than the correct fixed annual rent or additional rent shall be deemed to be other than a payment on account, nor shall any endorsement or statement placed by or on behalf of Lessee on any check or payment be deemed an accord and satisfaction, and Lessor may accept such check or payment without prejudice to Lessor's right to recover the balance or pursue any other remedy in this Lease or provided at law.

2.04 Any Appointments or prorations of fixed annual rent or additional rent to be made under this Lease shall be computed on the basis of a 360 day year consisting of twelve (12) months of thirty (30) days each.

2.05 If Lessor shall not have received any payment due Lessor from Lessee under the provisions of this Lease including, without limitation, any payment of fixed annual rent, additional rent or any portion, installment or adjustment thereof, within ten (10) days of the due date then interest shall become due and owing to Lessor on such payment from the date when it was first due, and the amount thereof shall constitute additional rent under the terms of this Lease and shall be collectible as such. The interest shall be computed at the following rates: for individual and partnership lessees, at the maximum legal rate of interest; for corporate, limited liability companies or government entity lessees at two percent per month unless there is an applicable maximum legal rate of interest which then shall be used. The foregoing interest rates shall apply until the principal obligation due for fixed annual rent and/or additional rent (including but not limited to any accelerated rent and/or additional rent) is fully paid and satisfied and said rates shall supersede the pre-judgment and post-judgment CPLR 5004 statutory rate of interest for all purposes. If Lessor shall at any time or times accept rent after it has become due and payable, such acceptance shall not constitute a waiver of any of Lessor's rights hereunder or excuse such delay or delays on subsequent occasions. The payment of interest as provided in this Article shall be without prejudice, and in addition to any of Lessor's rights and remedies under this Lease or at law for the default by Lessee in fulfilling the covenant to pay fixed or additional rent.

LESSEE (initials)

LESSOR (initials)

3.01 Neither Lessor nor Lessee's legal representatives or successors in interest by operation of law or otherwise, shall assign, mortgage, pledge or otherwise encumber or transfer (whether voluntary or otherwise) this Lease or any interest under it, or allow any transfer thereof or any lien upon Lessee's interest by operation of law, or sublet, suffer or permit all or part of the Premises to be used or occupied by others, or enter into any franchise or license agreement, or grant any franchise or license with respect to the Premises, or permit the Premises or any part thereof to be occupied, or used for desk space, mailing privileges or otherwise, by any person other than Lessee, without the prior written consent of Lessor in each instance. The transfer of a majority of the issued and outstanding capital stock of any corporate Lessee or sublessee of this Lease or a majority of the total interest in any partnership Lessee or sublessee, however accomplished, and whether in a single transaction or in a series of related or unrelated transactions, shall be deemed an assignment of this Lease or of such sublease. By way of example, but not by way of limitation, the issuance of additional stock, a stock voting agreement or change in classes of stock which results in a change of control of Lessee or if Lessee is a partnership or joint venture or limited liability company, or similar entity a transfer of an interest in the distributions of profits and losses of such partnership or joint venture or limited liability company or other mechanism such as the creation of additional general partnership interests, membership and/or limited partnership interests which results in a change of control of such partnership or joint venture or limited liability company or similar entity shall be deemed an assignment of this Lease or of such sublease. The transfer of outstanding capital stock of any corporate tenant, for purposes of this Article, shall not include a sale of such stock by persons other than those deemed "insiders" within the meaning of the Securities Exchange Act of 1934 as amended, and which sale is effected through "over-the-counter market" or through any recognized stock exchange. If without Lessor's written consent this Lease is assigned, or the Premises are sublet or occupied by anyone other than Lessee, Lessor may after default by Lessee accept the rent from such assignee, subtenant or occupant, and apply the net amount thereof to the rent herein reserved, but no such assignment, subletting, occupancy or acceptance of rent shall be deemed a waiver of this covenant, the acceptance of the assignee, subtenant or occupant as tenant, or a release of Lessee from the further performance by Lessee of covenants on the part of Lessee herein contained. Consent by Lessor to an assignment or subletting shall not relieve Lessee from the obligation to obtain Lessor's written consent to any further assignment or subletting. In no event shall any permitted sublessee 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 Lessor's prior written consent in each instance. A modification, amendment or extension of a sublease shall be deemed a sublease. Any assignment, sublease, mortgage, pledge, encumbrance or transfer in contravention of the provisions of this Article 3 shall be void.

3.02 If Lessee desires to assign this Lease or to sublet all or any portion of the Premises, it shall first submit in writing to Lessor the documents described in Section 3.10 hereof, and shall offer in writing, (i) with respect to a prospective assignment, to assign this Lease to Lessor without any payment of monies or other consideration thereof ("Recapture Option"), or, (ii) with respect to a prospective subletting, to sublet to Lessor the portion of the Premises involved ("Leaseback Area") for the term specified by Lessee in its proposed sublease at the lower of (a) Lessee's proposed subrental or (b) at the same rate of fixed annual rent and additional rent, and otherwise on the same terms, covenants and conditions (including provisions relating to escalation rents), as are contained herein and as are allocable and applicable to the portion of the Premises to be covered by such subletting. The offer shall specify the date when the Leaseback Area will be made available to Lessor, which date shall be in no event earlier than ninety (90) days nor later than one hundred eighty (180) days following acceptance of the offer. If an offer of sublease is made, and if the proposed sublease will result in all or substantially all of the Premises being sublet, then Lessor shall have the option to extend the term of the proposed sublease for the balance of the term of this Lease less one (1) day.

3.03 Lessor shall have a period of ~~ten (10)~~ 90 days from the receipt of such offer to either accept or reject the same. If Lessor shall accept such offer (i) Lessee shall then execute and deliver to Lessor, or to anyone designated or named by Lessor, an assignment or sublease, as the case may be, in either case in a form reasonably satisfactory to Lessor's counsel; and (ii) Lessee, on demand, shall pay to Lessor or its managing agent (as Lessor shall elect) an amount equal to the brokerage commissions which would have been incurred by Lessee but for its accepting such offer.

3.04 If Lessor exercises its Recapture Option to terminate this Lease pursuant to Section 3.02 of this Article, Lessor shall be free to and shall have no liability to Lessee if Lessor should lease the Premises (or any part thereof) to Lessee's prospective assignee or subtenant.

3.05 If a sublease is made pursuant to Section 3.03 it shall expressly:

(a) permit Lessor to make further subleases of all or any part of the Leaseback Area and (at no cost or expense to Lessee) to make and authorize any and all changes, alterations, installations and/or improvements in such space as Lessor may deem necessary for such subletting, at Lessor's expense;

(b) provide that Lessee will at all times permit reasonably appropriate means of ingress to and egress from the Leaseback Area;

(c) negate any intention that the estate created under such sublease be merged with any other estate held by either of the parties;

(d) provide that Lessor shall accept the Leaseback Area "AS IS" except that alterations as may be required physically to separate the Leaseback Area from the remainder of the Premises and to permit lawful occupancy, it being intended that Lessee shall have no other cost or expense in connection with the subletting of the Leaseback Area;

(e) provide that at the expiration of the term of such sublease Lessee shall accept the return of the Leaseback Area in its then existing condition "AS IS" with Building standard ceiling, lighting, electrical, ventilation and venetian blind installations and any special installations or modifications then remaining therein previously installed or constructed by or for a former subtenant(s), provided such special installations shall not render such space unusable for ordinary office purposes. The provisions of this Section shall survive the Expiration Date or such sooner termination date of the sublease.

(f) provide that it is subject to all of the covenants, agreements, terms, provisions and conditions of this Lease except such as are irrelevant or inapplicable, and except as otherwise expressly set forth to the contrary in this Article;

(g) shall be upon the same terms and conditions as those contained in the proposed sublease, except such as are irrelevant or inapplicable and except as otherwise expressly set forth to the contrary in this Article;

(h) give the sublessee the unqualified and unrestricted right, without Lessee's permission, to assign such sublease or any interest therein and/or to sublet the space covered by such sublease or any part or parts of such space and to make any and all changes, alterations and improvements in the space covered by such sublease, and, if the proposed sublease will result in all or substantially all of the Premises being sublet, grant Lessor or its designee the option to extend the term

of such sublease for the balance of the term of this Lease less one (1) day;

(i) provide that any assignee or further subtenant of Lessor or its designee, may, at the election of Lessor, be permitted to make alterations, decorations and installations in such space or any part thereof and shall also provide in substance that any such alterations, decorations and installations in such space therein made by any assignee or subtenant of Lessor or its designee may be removed, in whole or in part, by such assignee or subtenant, at its option, prior to or upon the expiration or other termination of such sublease provided that such assignee or subtenant, at its expense, shall repair any damage and injury to such space so sublet caused by such removal.

(j) any assignment or subletting by Lessor or its designee (as the subtenant) may be for any purpose or purposes that Lessor, in Lessor's sole and unlimited discretion, shall deem suitable or appropriate.

3.06 Lessor shall indemnify and save Lessee harmless from all obligations with respect to the Leaseback Area, except for fixed annual rent and additional rents due under the Lease, during the period of time it is so sublet.

3.07 Subject to the foregoing, performance by Lessor or its designee, under a sublease of the Leaseback Area shall be deemed performance by Lessee of any similar obligation under this Lease and any default under any such sublease shall not give rise to a default under any similar obligation contained in this Lease, nor shall Lessee be liable for any default under this Lease or deemed to be in default hereunder if such default is occasioned by or arises from any act or omission of the tenant under such sublease or is occasioned by or arises from any act or omission of any occupant holding under or pursuant to any such sublease.

3.08 Lessee shall have no obligation, at the expiration or earlier termination of the Term, to remove any alteration, installation or improvement made in the Leaseback Space by Lessor (or its designee).

3.09 If required by applicable law in connection with any termination of this Lease, or subletting of all or any portion of the Leaseback Space to Lessor or its designee, Lessee shall complete, swear to and file any questionnaires, tax returns, affidavits or other documentation which may be required to be filed with the New York State Department of Taxation and Finance in connection with Article 31-B of the Tax Law of the State of New York, and/or with the Commissioner of Finance of the City of New York in connection with the New York City Real Property Transfer Tax and/or with the appropriate governmental agency in connection with any other tax which may now or hereafter be in effect. Lessee further agrees to pay any amounts which may be assessed in connection with any of such taxes and to indemnify Lessor against and to hold Lessor harmless from any claim(s) for payment of such taxes as a result of such transactions.

3.10 If Lessee requests Lessor's consent to a specific assignment or subletting, it shall submit in writing to Lessor (i) the name and address of the proposed assignee or sublessee, (ii) ~~its~~ its ~~reasonably satisfactory information as to the nature and character of the business of the proposed assignee or sublessee, and as to the nature of its proposed use of the space, (iv) current banking, financial or other credit information, relating to the proposed assignee or sublessee, including without limitation, its most recent financial report, reasonably sufficient to enable Lessor to determine the financial responsibility and character of the proposed assignee or sublessee and (v) an agreement by Lessee to indemnify Lessor against liability resulting from any claims that may be made against Lessor by the proposed assignee or sublessee or by any brokers or other persons claiming a commission or similar compensation in connection with the proposed assignment or sublease.~~

3.11 If Lessor shall not have accepted Lessee's offer, as provided in Section 3.02 and 3.03 Lessor will not unreasonably withhold or delay its consent (which must be in writing and shall be delivered in form reasonably satisfactory to Lessor and Lessor's counsel to Lessee's request for consent to such specific assignment or subletting. Any such consent of Lessor shall be subject to the terms of this Article, unless expressly stated otherwise, in writing by Lessor; shall be limited to the uses and by the restrictions contained in Article 1 hereof and shall be conditioned upon there being no default by Lessee, beyond any applicable grace period, under any of the terms, covenants and conditions of this Lease at the time that Lessor's consent to any such subletting or assignment is requested and continuing through the date of the commencement of the term of any such proposed sublease or the effective date of any such proposed assignment.

3.12 Upon receiving Lessor's written consent, or where such consent is unnecessary under Section 3.14 hereof, a duly executed copy of the sublease or assignment shall be delivered to Lessor within ten (10) days after execution thereof. Any such sublease shall provide that the sublessee shall comply with all applicable terms and conditions of this Lease to be performed by the Lessee hereunder. Any such assignment of lease shall contain an assumption by the assignee of all of the terms, covenants and conditions of this Lease to be performed by the Lessee.

3.13 Anything herein contained to the contrary notwithstanding:

(a) Lessee shall not advertise (but may list with brokers) its space for assignment or subletting at a rental rate lower than the rental rate then being paid by Lessee to Lessor; nor shall any advertisement state the name (as distinguished from the address) of the Building or the proposed rental, nor shall the Premises be listed for subletting or assignment, with a broker, agent or other representative unless the then managing agent of the Building or other agent designated by Lessor is also given a non-exclusive agency.

(b) No assignment or subletting shall be made:

(i) To any person or entity which shall at that time be a tenant, subtenant or other occupant of any part of the Building of which the Premises form a part, or who deal with Lessor or Lessor's agent (directly or through a broker) with respect to space in the Building during the six (6) months immediately preceding Lessee's request for Lessor's consent;

(ii) By the legal representatives of the Lessee or by any person to whom Lessee's interest under this Lease passes by operation of law, except in compliance with the provisions of this Article;

(iii) To any person or entity for the conduct of a business which is not in keeping with the standards and the general character of the Building of which the Premises form a part or for a use or purpose that would violate any negative covenant as to use contained in any other lease of space in the Building;

(iv) to a proposed assignee or subtenant who is not a reputable person of good character and with sufficient financial worth considering the responsibility involved, and Lessor has been furnished with reasonable proof thereof or who is a government or a government agency, or a charity or other organization dependent in whole or in part on grants or charitable contributions;

(v) If Lessee shall have (a) advertised or publicized in any way the availability of the Premises without prior notice to Lessor;

(vi) If the proposed occupancy shall increase the office cleaning requirements, if any, or impose an extra burden upon services to be supplied by Lessor to Lessee;

LESSEE (initials)

LESSOR (initials)

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

(d) 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 Lessor;

(e) Each sublease shall provide that it is subject and subordinate to this Lease and to the terms to which this Lease is or shall be subordinate, and that in the event of termination, re-entry or dispossession by Lessor under this Lease Lessor may, at its option, take over all of the right, title and interest of Lessee, as sublessor, under such sublease, and such subtenant shall, at Lessor's option, return to Lessor pursuant to the then executory provisions of such sublease, except that Lessor shall not (i) be liable for any previous act or omission of Lessee under such sublease, (ii) be subject to any counterclaim, offset or defense, not expressly provided in such sublease, which theretofore accrued to such subtenant against Lessee, or (iii) be bonded by any previous modification to such sublease or by any previous prepayment of more than one (1) month's rent. The provisions of this Article shall be self-operative and no further instrument shall be required to give effect to this provision.

3.14 If Lessee 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 the federal government ("Governmental Entity"), the provisions of Sections 3.02 through 3.05 of this Article shall apply to a transfer (by one or more transfers) of any of Lessee'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 Lessee'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 Lessee, provided that in any of such events the successor Governmental Entity (i) shall utilize the Premises in a manner substantially similar to Lessee, and (ii) shall not utilize the Premises in any manner which, in Lessor's judgment, would impair the reputation of the Building as a first-class office building.

3.15 If Lessor shall not have accepted Lessee's offer and Lessee effects such assignment or subletting, then Lessee thereafter shall pay to Lessor a sum equal to (i) any rent or other consideration (including any sums paid for the sale or rental of Lessee's fixtures, leasehold improvements, equipment, furniture or other personal property, less, in the case of a sale, the then fair market value thereof) paid to Lessee by any subtenant which (after deducting the costs of Lessee, if any, in effecting the subletting, including reasonable alteration costs, commissions and legal fees) is in excess of the rent and additional rent allocable to the subleased space which is then being paid by Lessee to Lessor pursuant to the terms hereof; and (ii) any other profit or gain (after deducting any necessary expenses incurred) realized by Lessee from any such subletting or assignment, which, in the case of assignment shall include any sums paid for the sale of Lessee's fixtures, leasehold improvements, equipment and furniture, furnishings or other personal property less the fair market value thereof. All sums payable hereunder by Lessee shall be payable to Lessor as additional rent upon receipt thereof by Lessee. In no event shall the amount of the aggregate rent to be paid by the proposed subtenant be less than the then current market rent for the Premises as though the Premises were vacant, and the rental and other terms and conditions of the sublease are the same as those contained in the proposed sublease furnished to Lessor pursuant to Section 3.03 of this Article.

3.16 Lessee shall reimburse Lessor on demand for the reasonable costs that may be incurred by Lessor 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, the legal and other professional costs incurred in connection with the granting of any requested consent and Lessor's administrative fees in connection with an assignment or subletting of the Premises; and if Lessor so requests Lessee shall deposit a sum with Lessor's professionals in an amount to be determined within Lessor's reasonable discretion to secure the legal fees or other professional fees, costs and disbursements for review, consultation, advice and drafting incurred by Lessor with its professionals as a condition of Lessor undertaking consideration of Lessee's request to assign the Lease or sublet the Premises.

3.17 Except for any subletting by Lessee to Lessor or its designee pursuant to the provisions of this Article, each subletting or assignment pursuant to this Article shall be subject to all of the covenants, agreements, terms, provisions and conditions contained in this Lease including the use and restrictions contained in Article 1 hereof. Notwithstanding any such subletting or assignment and/or acceptance of rent or additional rent by Lessor from any subtenant or assignee, Lessee shall 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 Lessee to be performed and all acts and omissions of any licensee or subtenant or assignee or anyone claiming under or through any subtenant or assignee which shall be in violation of any of the obligations of this Lease shall be deemed to be a violation by Lessee. Lessee further agrees that notwithstanding any such subletting or assignment, no other and further subletting of the Premises or assignment of this Lease by Lessee or any person claiming through or under Lessee shall be made except upon compliance with and subject to the provisions of this Article. If Lessor shall decline to give its consent to any proposed assignment or sublease, or if Lessor shall exercise either of its options under Section 8.02 of this Article, Lessee shall indemnify, defend and hold harmless Lessor 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 Lessor by the proposed assignee or sublessee or by any brokers or other persons claiming a commission or similar compensation in connection with the proposed assignment or sublease.

3.18 In no event shall Lessee be entitled to make, nor shall Lessee make, any claim and Lessee hereby waives any claim, for money damages (nor shall Lessee claim any money damages by way of set-off, counterclaim or defense based upon any claim or assertion by Lessee that Lessor has unreasonably withheld or unreasonably delayed its consent or approval to a proposed assignment or subletting as provided for in this Article. Lessee's sole remedy shall be an action or proceeding to enforce any such provision, or for specific performance, injunction or declaratory judgment.

3.19 The listing of any name other than that of Lessee, 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 Lessor 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 Lessor, revocable at Lessor's will by notice to Lessee.

3.20 If the Lessor shall recover or come into possession of the Premises before the date herein fixed for the termination of this Lease, Lessor 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 Lessee and to succeed to all the rights of said subleases and sublettings or such of them as it may elect to take over. Lessee hereby expressly assigns and transfers to Lessor such of the subleases and sublettings as Lessor 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 Lessor hereunder or if Lessor shall otherwise succeed to Lessee's estate in the Premises, at which time Lessee shall upon request of

Lessor, execute, acknowledge and deliver to Lessor such further instruments of assignment and transfer as may be necessary to vest in Lessor the then existing subleases and sublettings. Every subletting hereunder is subject to the condition and by its acceptance 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 Lessor hereunder or if Lessor shall otherwise succeed to Lessee's estate in the Premises, that such subtenant shall waive any right to survivor possession or to terminate the sublease and, at Lessor's election, such subtenant shall be bound to Lessor for the balance of the term of such sublease and shall affirm to and recognize Lessor, as its landlord, under all of the then executory terms of such sublease, except that Lessor shall not (i) be liable for any previous act, omission or negligence of Lessee 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 Lessee, (iii) be bonded 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 repair to the core and shell of the building (as defined in Section 1.01) as can reasonably be accomplished from the net proceeds of insurance actually made available to Lessor; (v) be obligated to repair the subleased space of 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 Lessor as consequential damages allocable to that part of the subleased space of 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 Lessor's obligations under this Lease, and the subtenant shall execute and deliver to Lessor any instruments Lessor may reasonably request to evidence and confirm such agreement. Each subtenant or licensee of Lessee shall be deemed automatically upon execution of the sublease and/or taking possession 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.

#### 4. DEFAULT.

4.01 Lessor, at Lessor's option, may terminate this Lease on ~~five (5) days~~ notice: (i) if rent or additional rent is not paid within ~~three (3) days~~ after written notice from Lessor, or (ii) if Lessee shall have failed to cure a default in the performance of any covenant of this Lease (other than the payment of rent or additional rent) or any rule or regulation hereinafter set forth, within ~~ten (10) days~~ after written notice thereof from Lessor (unless a shorter period to cure is prescribed by law), or if default cannot be completely cured in such time, if Lessee shall not promptly proceed to cure such default within ~~ten (10) days~~ or shall not complete the curing of such default with the diligence; or (iii) when and to the extent permitted by law, if a petition in bankruptcy shall be filed by or against Lessee or any guarantor of Lessee's obligations under this Lease or if Lessee or such guarantor shall make a general assignment for the benefit of creditors, or receive the benefit of any insolvency or reorganization act; or (iv) if a receiver or trustee is appointed for any portion of Lessee's or such guarantor's property and such appointment is not vacated within twenty (20) days; or (v) if an execution or attachment shall be issued under which the Premises shall be taken or occupied or attempted to be taken or occupied by anyone other than Lessee; or (vi) if the Premises become and remain ~~vacant~~ deserted for a period of ten (10) days (and the fact that any of Lessee's property remains in the Premises shall not be evidence that Lessee has not ~~abandoned~~ ~~abandoned~~ ~~any~~ ~~other~~ ~~business~~ ~~and~~ ~~Lessor's~~ ~~business~~ ~~premises~~ ~~is~~ ~~in~~ ~~ret~~ ~~of~~ ~~space~~ ~~in~~ ~~the~~ ~~Building~~ ~~or~~ ~~if~~ ~~Lessee~~ ~~shall~~ ~~fail~~ ~~to~~ ~~move~~ ~~into~~ ~~the~~ ~~possession~~ ~~of~~ ~~the~~ ~~premises~~ ~~within~~ ~~ten~~ ~~(10)~~ ~~days~~ ~~after~~ ~~the~~ ~~cessation~~ ~~of~~ ~~the~~ ~~Lease~~), or if Lessee'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 3 hereof.

4.02 At the expiration of the five (5) ~~day~~ notice period, this Lease and any rights of renewal or extension thereof shall terminate ~~whether or not~~ the Term shall have commenced) as completely as if that were the date originally fixed for the expiration of the term of this Lease, but Lessee shall remain liable as hereinafter provided.

4.03 Nothing contained herein is intended to not shall it limit, modify or supersede the obligations, rights or remedies of Lessor or the manner of service of notices or demands which are prescribed by applicable laws and statutes including but not limited to any demand for rent or additional rent required as a predicate or condition precedent to the institution of summary proceedings for recovery of possession of the Premises; nor shall Lessor be required hereby to serve bills, statements or invoices for rent or additional rent or other charges due under the Lease other than by ordinary first class mail.

4.04 If, at any time, (i) Lessee shall be comprised of two (2) or more persons, or (ii) Lessee's obligations under this Lease shall have been guaranteed by any person other than Lessee, or (iii) Lessee's interest in this Lease shall have been assigned, the word "Lessee", as used in this Article, shall be deemed to mean any one or more of the persons primarily or secondarily liable for Lessee's obligations under this Lease. Any monies received by Lessor from or on behalf of Lessee during the pendency of any summary proceeding for recovery of possession of the Premises or pendency of any action for recovery of possession of the Premises or pendency of any such compensation for the use and occupation of the Premises and the acceptance of any such compensation by Lessor shall not be deemed an acceptance of rent or a waiver on the part of Lessor of any rights or remedies.

4.05 At the election of Lessor, upon default in payment of any installment of rent and/or additional rent beyond any applicable grace period, the whole rent hereby reserved for the whole of said Term remaining unpaid shall at once become due and payable in full and any installments thereof which were herein allowed for the convenience of Lessee shall be deemed accelerated ~~with~~ ~~without~~ ~~any~~ ~~notice~~ ~~or~~ ~~demand~~ and Lessor may seek judgment therefor by way of summary proceedings or plenary action. For the purposes of this Article rent reserved for the whole of said Term and then remaining unpaid at the time of default in the payment of any installment(s) thereof shall include all accrued installments of rent and additional rent plus the fixed annual rent as set forth in Schedule "A" hereto through the end of the Term plus additional rent and charges initially taken at the then current rate, increase, escalation or charge at the time of default through the then current and applicable year, portion of year or period and thereafter projected with an increase in each succeeding year or period of next adjustment at a rate of increase or adjustment of 10% above the amount of each preceding year or period and as if charged in each succeeding monthly installment for the year or period when same would otherwise be payable through the end of the Term. Lessor and Lessee acknowledge that the foregoing provision for determination of the amount of accelerated additional rent or charges is reasonable and necessary in that the same are not readily ascertainable in advance and Lessor agrees to accept the accelerated amounts as provided for herein in place and stead of any later claim and/or right to recover the actual amounts for additional rent or charges as same are finally determined and Lessor and Lessee each hereby expressly waive upon Lessor's election to accelerate rent and additional rent all rights each may have to sue for any deficiency or any credit in respect to the sums projected and the actual charges as finally determined pursuant to the applicable provisions of this Lease, it being the intent of the parties hereto to that the foregoing provisions shall be the reasonable and accepted measure of damage upon acceleration.

4.06 In connection with any holdover or non-payment proceedings which



Lessor may institute to enforce the provisions of this Lease, Lessee expressly waives, for itself and for any person(s) claiming through or under Lessee, any rights which Lessee or any such person(s) may have under the provisions of Section 2201 of the New York Civil Practice Law and Rules and of any similar or successor law of like import then in effect.

4.07 The surrender or acceptance of the Premises after default by Lessee or the removal of Lessee during the pendency of summary proceeding or action for ejectment and/or re-entry and/or resumption or retaking of possession thereof by Lessor by force, process of law or otherwise (and whether or not in a manner specifically enumerated in this Lease) shall not operate to release or discharge Lessee of liability for rent, additional rent or damages and Lessee shall remain liable hereunder unless expressly released and discharged in a writing signed by Lessor.

4.08 All rights and remedies of Lessor enumerated in this Lease shall be cumulative, and none shall exclude any other right or remedy allowed by law. In addition to the other remedies in this Lease provided, Lessor shall be entitled to restrain by injunction the violation or attempted violation of any of the covenants, agreements or conditions of this Lease.

#### 5. RENTLETTING, ETC.

5.01 If Lessor shall re-enter the Premises on the default of Lessee, by summary proceedings, or otherwise (including but not limited to any circumstance set forth in Section 4.07 of the previous Article):

(a) Lessor may re-let the Premises or any part thereof from time to time, as Lessee's agent, in the name of Lessor, or otherwise, for a term shorter or longer than the balance of the term of this Lease, at such rental or rentals, and upon such other conditions, and may grant concessions or free rent, as Lessor, in its sole discretion, may determine,

(b) Unless Lessor elects to accelerate all rent and additional rent pursuant to Section 4.05 of the previous Article, Lessee shall pay Lessor any deficiency between the rent hereby reserved and the net amount of any rents collected by Lessor for the remaining Term of this Lease, through such re-letting. Such deficiency shall become due and payable monthly, as it is determined. Lessor shall have no obligation to re-let the Premises, and its failure or refusal to do so, or failure to collect rent on re-letting, shall not affect or operate to relieve Lessee's liability hereunder. Lessor, at Lessor's option, may make such repairs, replacements, alterations, additions, improvements, decorations and other physical changes in and to the Premises as Lessor, in its sole discretion, considers advisable or necessary in connection with any such re-letting or proposed re-letting, without relieving Lessee of any liability under this Lease or otherwise affecting any such liability. In computing the net amount of rents collected through such re-letting Lessor may deduct all expenses incurred in obtaining possession or re-letting the Premises, including legal expenses, attorneys fees, brokerage fees, the cost of restoring the Premises to good order and condition, and the cost of all alterations and decorations deemed necessary by Lessor to effect re-letting. In no event shall Lessee be entitled to a credit or repayment for rental income which exceeds the sums payable by Lessee hereunder or which covers a period after the original term of this Lease. If the Premises, or any part thereof, shall be re-let together with other space in the building, the rents collected or reserved under any such re-letting and the expenses of any such re-letting shall be equitably apportioned for the purposes of this Section.

(c) Lessor shall recover as liquidated damages, in addition to accrued rent and other charges, if Lessor's re-entry is the result of Lessee's bankruptcy, insolvency, or reorganization, the full rental for the maximum period allowed by any act relating to bankruptcy, insolvency or reorganization.

5.02 Lessee hereby waives the service of any notice of intention to re-enter or to institute legal proceedings to that end which may otherwise be required to be given under any present or future law. Lessee, on its own behalf and on behalf of all persons claiming through or under Lessee, including all creditors, does hereby waive any and all rights which Lessee 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 (i) Lessee shall have been dispossessed by judgment or by warrant of any court or judge, or (ii) any re-entry by Lessor, or (iii) any expiration or termination of this Lease and the Term, whether such dispossession, 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 Lessee, or any persons claiming through or under Lessee, of any term, covenant or condition of this Lease or Lessee's part to be observed or performed, Lessor 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 or hereafter set forth are cumulative and shall not preclude Lessor from involving any other remedy allowed at law or in equity.

5.03 Nothing contained in this Article shall be deemed to limit or preclude the recovery by Lessor from Lessee 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 Lessor may be entitled in addition to the damages set forth in Section 5.01(b) or (c) of this Article.

5.04 If Lessee abandons the Premises or Lessor otherwise becomes entitled so to elect, and Lessor elects, without terminating this Lease, to endeavor to re-let the Premises, Lessor may, at Lessor's option enter into the Premises, remove Lessee's signs and other evidence of tenancy, and take and hold possession thereof, without such entry and possession terminating the lease or releasing Lessee, in whole or in part, from Lessee's obligation to pay the rent hereunder for the full term as hereinafter provided.

5.05 If the consideration collected by Lessor upon any such re-letting for Lessee's account is not sufficient to pay monthly the full amount of the fixed rent and additional rent reserved in this lease, together with all other expenses required to be paid by Lessee hereunder and the cost of repairs, alterations, additions, redecoration and Lessor's expenses, Lessee shall pay to Lessor at Lessor's election the amount of each monthly deficiency upon demand.

5.06 If Lessor re-enters the Premises for any cause, or if Lessee abandons or vacates the Premises, any property left in the Premises by Lessee shall be deemed to have been abandoned by Lessee, and Lessor shall have the right to retain or dispose of such property in any manner without any obligation to account therefor to Lessee. Any and all property which may be removed from the Premises by Lessor pursuant to the authority of this Lease or of Law or to which Lessee is or may be entitled, may be handled, removed or stored by Lessor at the risk, cost and expense of Lessee, and Lessor shall in no event be responsible for the value, preservation or safekeeping thereof. The Lessee shall pay to Lessor, upon demand, any and all expenses incurred in such removal and all storage charges against such property so long as the same shall be in Lessor's possession or under Lessor's control. Any such property of Lessee not removed from the Premises or retaken from storage by Lessee within thirty (30) days after the end of the Term or of Lessee's right to possession of the Premises, however terminated, shall be conclusively deemed to have been forever abandoned by Lessee and either may be retained by Lessor as its property or may be disposed of in such manner as Lessor may see fit. Lessor shall be entitled to charge Lessee storage for any property left or remaining in the Premises after re-entry by Lessor,

expiration of the Term, or dispossession by summary proceedings or otherwise, in a sum equal to twice the last monthly rent and additional rent prorated for each day or part thereof that said property remains in the Premises, until such time as Lessor either disposes of said property as abandoned or declares or takes said property as its own.

#### LESSOR MAXIMUM CURB DEFERITS

6.01 If Lessee shall default in performing any covenant or condition of this Lease, Lessor may perform the same for the account of Lessee, and Lessee shall reimburse Lessor for any expense incurred therefor. Lessee agrees that if it shall at any time fail to make any payment or perform any other act on its part to be made or performed under this Lease, Lessor may, but shall not be obliged to, and after reasonable notice or demand and without waiting, or releasing Lessee from any obligation under this Lease, make such payment or perform such other act to the extent Lessor may deem desirable and in connection therewith to pay reasonable expenses and employ counsel. The Lessee agrees to pay for all expenses resulting from any Lessee default under this Lease, including, but not limited to, reasonable attorney fees if legal action is required to enforce performance by Lessee of any condition, obligation or requirement hereunder including all such legal fees and legal expenses incurred in hearings or proceedings to determine reasonable fees and expenses. All sums paid by Lessor and all expenses in connection therewith, together with interest at the rate as set forth in Article 2.05 hereof, shall be deemed additional rent hereunder and payable at the time of any installment of rent thereafter becoming due and Lessor shall have the same rights and remedies for the non-payment thereof, or of any other additional rent, as in the case of default in the payment of rent.

#### 7. ALTERATIONS.

7.01 Lessee shall not make or permit or cause the making or performance of, any alterations, installations, improvements, additions or other physical changes in or about the Premises (hereinafter collectively called "Alterations") without Lessor's prior written consent. Lessor agrees not to unreasonably withhold or delay its consent to any Alterations which are nonstructural or which do not affect the Building's mechanical systems or services, proposed to be made by Lessee to adapt the Premises for those business purposes permitted by Article 1 hereof, provided that such Alterations are permitted only by such other Building other than the Premises, do not adversely affect any service required to be furnished by Lessor to Lessee or to any other tenant or occupant of the Building, do not adversely affect building systems (including but not limited to electrical plumbing, mechanical, heating, air-conditioning, and ventilation or other building systems) and do not reduce the value or utility of the Building. In granting its consent to any alterations, Lessor may impose such conditions as to guaranty of completion and payment and of restoration, approved contractors, and otherwise as Lessor, in its reasonable discretion, may consider desirable. All Alterations shall be done at Lessee's expense and at such times and in such manner as Lessor may from time to time reasonably designate pursuant to the conditions for Alterations prescribed by Lessor for the Premises. Lessee at Lessee's expense, shall comply with all requirements of law now or hereafter in effect to the extent such requirements apply to Alterations made in the Premises by Lessee and all requirements including but not limited to those respecting Hazardous Substances as hereafter defined and other environmental matters to the extent the presence or exposure of such materials in the Premises was caused by Lessee, and requirements of all insurance bodies at any time in force, applicable to the Premises or to Lessee's use thereof, except that Lessee shall not hereby be under any obligation to comply with any requirement requiring any structural alteration of the Premises, unless such alteration is required by reason of a condition which has been created by, or at the instance of, Lessee, or is required by reason of a breach of any of Lessee's covenants and agreements hereunder; Lessee shall a) not generate, store, dispose of or otherwise handle any substance, waste or material which is deemed hazardous, toxic, a pollutant or contaminant, under any Law now or hereafter in effect (Hazardous Substances), on the Premises or in or around the Building, in any manner contrary to any applicable Laws; and b) remove, cleanup and remedy any Hazardous Substance on the Premises to the extent caused by Lessee or exposed and made necessary by Lessee's Alterations at the premises and required by applicable Laws, if the presence or exposure of such Hazardous Substances resulted from the action of Lessee, its employees, contractors or agents, and Lessee shall be obligated to pay fixed annual rent and additional rent hereunder until such removal, cleanup or remedy is completed in accordance with applicable Laws, whether or not the Term shall terminate or expire. All furniture, furnishings and freestanding moveable fixtures (excluding anything which in any manner is attached fastened, joined or affixed to the reality or structure of the building or Premises which upon installation shall be and remain the property of Lessor), including but not limited to radiator covers, built-ins, window treatments, locks, alarms, door bells, chimes, alarm devices, hardware, buzzer systems, lighting fixtures, window air-conditioning units) and partitions installed by Lessee and all movable Alterations in and to the Premises which may be made by Lessee at its own cost and expense prior to and during the Term, or any renewal thereof, shall remain the property of Lessee and upon the Expiration Date or earlier end of the Term or any renewal thereof, may be removed from the Premises by Lessee at Lessee's option, provided, however, that Lessee shall repair and restore in a good and workmanlike manner to then Building standard condition (reasonable wear and tear excepted) any damage to the Premises or the Building caused by such removal. Any of such movable fixtures or installations not so removed by Lessee at or prior to the Expiration Date or earlier termination of the Term shall become the property of Lessor and shall remain upon and be surrendered with the Premises at the end of the Term as part thereof together with those installations and fixtures made by or on behalf of Lessee but belonging to Lessor, provided, however, Lessee, by notice to Lessee may elect to have such fixtures removed by Lessee at the end of the Term. Lessee's obligation to remove any freestanding, moveable, or otherwise removable fixtures which it is Lessee's responsibility to remove shall not extend to general office purposes.

7.02 Prior to making any Alterations, Lessee (i) shall submit to Lessor detailed plans and specifications (including layout, architectural, mechanical and structural drawings) for each proposed Alteration and shall not commence any such Alteration without first obtaining Lessor's written approval of such plans and specifications, (ii) shall, at its expense, obtain all permits, approvals and certificates required by any governmental or quasi-governmental bodies, and (iii) shall furnish to Lessor duplicate original policies of worker's compensation insurance (covering all persons to be employed with such Alteration) and contractors and subcontractors in connection with such Alteration) and commercial general liability (including property damage coverage) insurance in such form, with such companies, for such periods and in such amounts as Lessor may reasonably require, naming Lessor and its agents as additional insureds. If Lessor shall fail to disapprove Lessee's plans and specifications for any proposed alteration, improvement or addition within fifteen (15) Business Days for written review, Lessor's receipt thereof (provided in each instance the same shall be of a scope and state reasonably susceptible of review in such periods), Lessor shall be deemed to have approved such plans and specifications. Any disapproval given by Lessor shall be required to be accompanied by a statement in reasonable detail of the reason for such disapproval. The terms "consent" and "approval", when used in this Lease or in any notice from Lessor to Lessee with respect to Lessor's review of Lessee's plans and specifications showing proposed Alterations, to the Premises, shall be deemed to mean Lessor's consent to or acceptance or approval of such plans and specifications only, which consent or acceptance or approval shall not be deemed to be (x) an agreement by Lessor that the contemplated

Alterations comply with any legal requirements, or the certificate of occupancy for the Building (y) an acceptance or approval of the sufficiency, completeness or any other aspect of the proposed Alteration; or (z) a waiver by Lessor of compliance by Lessee with any of the other terms of this Lease and any other agreements or other documents relating thereto, nor shall such acceptance or approval create any liability on the part of the Lessor with respect to the design, specifications or other matters set forth in such plans and specifications. Upon completion of such Alteration, Lessee, at Lessee's expense, shall obtain certificates of final approval of such Alteration required by any governmental quasi-governmental bodies and shall furnish Lessor with copies thereof. All Alterations shall be made and performed in accordance with the Rules and Regulations (hereinafter defined); 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. In the event any Alterations are performed by a general partner of Lessor, or the managing agent of Lessor or any entity which is under the common control of Lessor or any general partner of Lessor or the managing agent, the failure by Lessee to pay the cost of such Alterations upon rendition of a bill therefor shall be deemed a material default under this Lease. Without limiting the generality of the foregoing, Lessee shall not install any window air-conditioning unit(s) in the Premises without the prior written approval and consent in writing of Lessor. Any such installation proposed by the Lessee shall be of the type known as a "Ritter Kit" which shall not protrude past the interior side of the window frame or glass and shall be recessed within the Premises so as not to interfere with the operation of the window or adversely affect the window frame. Notwithstanding anything contained herein to the contrary Lessor shall be the sole judge in its sole and absolute discretion whether the installation proposed by Lessee and as installed by Lessee complies with the preceding sentence and shall be permitted or disallowed.

7.03 If Lessee's Alteration involves alteration of electrical and lighting installations in the Premises Lessee agrees to make prompt, good faith application for, and, if approved, to participate in any Con Edison high efficiency lighting power rebate or conservation program for "High Efficiency Lighting" with respect to all applicable electrical and lighting installations in the Premises and to conform its electrical and lighting plans and specifications to the requirements of said program or any successor or subsequent High Efficiency Lighting program offered or operated under the auspices of the public utility company then servicing the Building. Lessee shall fully cooperate with Lessor, upon Lessor's request (s), from time to time during the term, to implement any energy efficient lighting upgrade projects to be undertaken with the public utility or its authorized agents at the Building or the Premises.

7.04 Lessee shall not, at any time prior to or during the Term, directly or indirectly employ, or permit the employment of, any contractor, mechanic or laborer in the Premises, whether in connection with any Alteration or otherwise, without Lessor's sole discretion, such employment will interfere or cause any conflict with other contractors, mechanics, or laborers engaged in the construction, maintenance or operation of the Building by Lessor, Lessee or others. In the event of any such interference or conflict, Lessee, upon demand of Lessor, shall cause all contractors, mechanics or laborers causing such interference or conflict to leave the Building immediately.

7.05 Before proceeding with any alteration which will cost more than \$500.00 (exclusive of the costs of decorating work and items constituting Lessee's property), as estimated by a reputable contractor designated by Lessor, Lessee shall furnish to Lessor one of the following (as selected by Lessor): (i) a cash deposit or (ii) a performance bond and a labor and materials payment bond (issued by a corporate surety licensed to do business in New York reasonably satisfactory to Lessor) or (iii) an irrevocable, unconditional, negotiable letter of credit, issued by and drawn on a bank or trust company which is a member of the New York Clearing House Association in a form reasonably satisfactory to Lessor; each to be in an amount equal to one hundred twenty-five (125%) percent of the cost of the Alteration, estimated as set forth above. Any such letter of credit shall be for one year and shall be renewed by Lessee each and every year until the alteration in question is completed and shall be delivered to Lessor not less than thirty (30) days prior to the expiration of the then current letter of credit. Failure to deliver such new letter of credit on or before said date shall be a material default under and breach of this Lease and Lessor shall have the right, inter alia, to present the then current letter of credit for payment. Upon the completion of the Alteration in accordance with the terms of this Article and (i) the submission to Lessor of proof evidencing the payment in full for said Alteration, (v) the certification of Lessee and Lessee's architect that the Alteration is completed, (vi) the submission to Lessor of lien waivers from the contractors, subcontractors and materialmen performing the Alteration, (x) the submission to Lessor of a lien search indicating that no liens have heretofore been filed against the Building and/or the Land in connection with the Alteration, (y) the submission to Lessor of proof that all governmental authorities (including without limitation the New York City Department of Buildings) have issued final approval of the Alteration as built and occupancy of the space as altered and (z) Lessee has delivered "as built" drawings to Lessor with respect to the Alteration, the security deposited with Lessor under this Article (or the balance of the proceeds thereof, if Lessee has furnished cash or a letter of credit and if Lessor has drawn on the same) shall be returned to the Lessee. Upon Lessee's failure to properly perform, complete and fully pay for the said alteration, as determined by Lessor, Lessor shall be entitled to draw on the security deposited under this Article to the extent it deems necessary in connection with the said Alteration, the restoration and/or protection of the Premises or the Real Property and the payment or satisfaction of any costs, damages or expenses in connection with the foregoing and/or Lessee's obligations under this Article.

7.06 Lessee shall keep records and proof of all costs and payments for Lessee's Alterations costing in excess of Five Thousand (\$5,000.00) dollars. Lessee shall, within forty-five (45) days after demand, by Lessor, furnish to Lessor copies of such records and cost if Lessor shall require same in connection with any proceedings to reduce the assessed valuation of the Real Property, or in connection with any proceeding as to which Lessor is a party or for any other reason or purpose involving the interests of Lessor.

## 8. LIENS.

8.01 Lessee agrees to obtain and deliver to Lessor, written and unconditional waivers of liens (and an agreement and consent of any professionals or others employed by Lessee that Lessee's filed plans may be replaced by Lessor or Lessor's professionals) for all plans, specifications and drawings for work or materials to be furnished to Lessee at the premises, signed by all architects, engineers and designers to become involved in such work for Lessee. With respect to contractors, subcontractors, materialmen and laborers, for all work or materials to be furnished to Lessee at the Premises, Lessee agrees to obtain and deliver to Lessor written and unconditional waivers of mechanics liens upon the Premises or the Building after payments to the contractors, subject to any then applicable provisions of the Lien Law. Notwithstanding the foregoing, Lessee at its expense shall cause any lien filed against the Premises or the Building, for work or materials claimed to have been furnished to Lessee, or U.C.C. financing statement or other lien, charge or order for the payment of money to be discharged of record within ten (10) days after notice thereof at Lessee's expense, by payment or filing the bond required by law or by deposit into court of a sum sufficient to discharge the lien of record. Lessee shall indemnify and save Lessor harmless against and from all costs, liabilities, suits, penalties, claims and demands, including reasonable attorneys' fees resulting therefrom.

## 9. REPAIRS/MAINTENANCE OF PREMISES

9.01 Lessee shall, throughout the Term, take good care of the Premises and the fixtures, equipment and appurtenances within, ~~and~~ exclusively serving the Premises and at Lessee's sole cost and expense, shall perform routine maintenance and make all nonstructural repairs thereto as and when needed to preserve them in good working order and condition ~~as to which Lessee is not responsible~~, except for reasonable wear and tear and except for damages for which Lessee is not responsible under the terms of this Lease, ~~whether or not the repairs are necessitated by the negligence, fault or error of any person, firm, company or contractor.~~ The Premises shall be maintained, repaired and renovated in conformity with the general policy of the foregoing sentence, if the Premises are equipped with an air-conditioning system or equipment and/or associated ductwork that exclusively serves the Premises, Lessee agrees, at Lessee's sole cost and expense, to maintain and repair the system, equipment and associated ductwork and to replace parts as necessary to keep same in good working order and condition. To that end Lessee agrees to obtain and provide to Lessor, at Lessee's sole cost and expense, a routine maintenance and service agreement covering the air-conditioning system, equipment and associated ductwork with an air-conditioning contractor approved by Lessor. 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 carelessness, omission, neglect or improper conduct of Alterations made by Lessee, Lessee's agents, servants, employees, invitees or licensees, shall be repaired promptly by Lessee, at its sole cost and expense, to the satisfaction of Lessor. Lessee also shall repair all damage to the Building and the Premises caused by the moving of Lessee's fixtures, furniture or equipment. All the aforesaid repairs shall be of quality or class equal to or better than the then Building Standard work or construction and shall be made in accordance with the provisions of Article 7 hereof. If Lessee fails after ten (10) days' notice (unless a shorter period is required by law) to proceed with due diligence to make repairs required to be made by Lessee, the same may be made by Lessor, at the expense of Lessee, and the expenses thereof incurred by Lessor shall be collectible by Lessor as additional rent after rendition of a bill or statement therefor. Lessee shall give Lessor prompt notice of any damage to or any defective condition in, servicing or passing through the Premises. Lessee may have the use of any window unit air conditioning equipment located in the Premises, and Lessee, at its own cost and expense, shall maintain and repair such equipment and shall reimburse Lessor in accordance with Article 93 of this Lease, for electricity consumed by the equipment. The exterior walls of the Building, the windows and the portions of all window sills outside same are not part of the Premises deemed by this Lease, and Lessor hereby reserves all rights to such parts of the Building. Except as provided in Article 10 hereof, there shall be no allowance to Lessee for a diminution of rental value and no liability on the part of Lessor by reason of inconvenience, annoyance or injury to business arising from Lessor, Lessee 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, Lessee, at Lessee's expense, shall cause the same to be exterminated from time to time to the satisfaction of Lessor and shall employ such exterminators and such exterminating company or companies as shall be approved by Lessor. Any violation issued by governmental or quasi governmental authorities against the Premises or the Building or to Lessor, its agents, servants and/or employees for the presence of mice or other vermin in the Premises shall be the sole responsibility of Lessee and Lessee shall indemnify and hold Lessor harmless from and against all fines and penalties imposed as a result of said violations. 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. ~~9.02 Notwithstanding anything to the contrary contained in Section 9.01~~

9.03 Except to the extent otherwise provided in Article 10 of this Lease, Lessee's obligation to maintain and repair the public portions of the Building shall be limited to the maintenance and repair of fixed fixtures.

## 10. DESTRUCTION.

10.01 If the Premises shall be partially damaged by fire or other casualty, and if Lessee shall give prompt written notice thereof to Lessor, the damage to core and shell of the Building (it being agreed by the parties hereto that the core and shell of the Building includes the floor slabs and building systems, excluding Lessee's alterations, improvements, installations and betterments to the Premises) shall be repaired at the expense of Lessor, ~~but without prejudice to the right of subrogation, if any, of Lessee's insurer; provided, however, Lessor shall not be required to repair or restore any of Lessee's property or any alteration, installation or leasehold improvement or betterments made by or for Lessee (hereinafter "Lessee's Property").~~ The rent shall abate in proportion to the portion of the Premises not usable by Lessee for the period from the date of the damage or destruction to (i) the date the damage to the Premises shall be substantially repaired (provided, however, that if in Lessor's judgment such repairs would have been substantially completed at an earlier date but for Lessee's having failed to reasonably cooperate with Lessor in effecting such repairs, then the Premises shall be deemed to have been repaired substantially on such earlier date and any reduction or abatement shall cease) or (ii) if the Building and not the Premises is so damaged or destroyed, the date on which the Premises shall be made tenable; provided, however, should Lessee or any of its subcontractors occupy a portion of the Premises during the period the repair work is taking place and prior to the date the Premises are substantially repaired or made tenable, the fixed annual rent and additional rent allocable to such reoccupied portion based upon the proportion of which the reoccupied portion of the Premises bears to the total area of the Premises, shall be payable by Lessee from the date of such occupancy. Lessor shall not be liable to Lessee for any delay in restoring the Premises, Lessee's sole remedy being the right to an abatement of rent, as above provided. If the Premises are rendered wholly untenantable by fire or other casualty and if Lessor shall decide not to restore the Premises, or if the Building shall be so damaged that Lessor shall decide to demolish it, or to rebuild it (whether or not the Premises have been written notice to Lessee of its election that such notice is given and Lessee shall vacate the Premises and surrender the same to Lessor. Notwithstanding the foregoing, each party shall look ~~first~~ to any insurance in its favor before making any claim against the other party or recovery ~~but without prejudice to the right of subrogation, if any, of Lessee's insurer;~~ and to the extent that Lessor and Lessee each hereby releases and waives all right of recovery against the other or any one claiming through or under each of them by way of subrogation or otherwise. The foregoing release and waiver shall be in force only if both releases' insurance policies contain a clause providing that such a release

or waiver shall not invalidate the insurance and also, provided that such a policy can be obtained without additional premiums. Lessee hereby expressly waives the provisions of Section 287 of the Real Property Law and agrees that the provisions of this Article shall govern and control in lieu thereof.

10.02 Losses covered by the insurance provided for in Article 98 hereof shall be adjusted with Lessor, Lessee and any Superior Lessee and Superior Mortgagee as their respective interests shall appear. Insurance proceeds shall be payable to a bank or trust company (which may include any Superior Mortgagee), selected by Lessor as the "Depository". All insurance moneys paid to the Depository as provided in this Section shall be for the benefit of Lessee, subject to Section 10.03 below, shall be paid to Lessee or as Lessee may direct from time to time as the repair or restoration of Lessee's Property (hereinafter sometimes referred to as "Lessee's Insured Property" as pertains to insurance proceeds) progresses, but not more frequently than once in any calendar month, in amounts equal to the cost of labor and material incorporated into and used in such work plus builders', architects' and engineers' fees in connection with such work, upon delivery to the Depository, Lessor and the Superior Mortgagee, if any, of a certificate of a responsible officer or partner of Lessee accompanied by evidence satisfactory to Lessor and the Superior Mortgagee, if any, (i) showing the cost of labor and material incorporated in such repairs or restoration, or incorporated therein since the last previous application, (ii) (A) certifying that the amounts requested by Lessee are payable to Lessee in accordance with the provisions of this Section and that such amounts are then due and payable from Lessee or have theretofore been paid by Lessee, (B) that there are no mechanics' or similar lien for labor and materials theretofore supplied and (C) that the balance of the proceeds after making the payment requested will be sufficient to pay the balance of the cost of repair or restoration.

10.03 Notwithstanding the foregoing, in no event shall any insurance proceeds be payable to Lessee, if Lessee shall be in default under any of the terms and provisions of this Lease. If there is a default under this Lease at any time while any insurance proceeds are being held by the Depository, Lessor shall have the right to have disbursed to it such portion of the proceeds as is necessary or appropriate to cure Lessee's then existing default(s) and pay any damages to which Lessor is entitled, and the Depository shall, upon receipt of written request therefor from Lessor, disburse to Lessor such portion of the proceeds as Lessor has certified to the Depository as being an amount that is necessary or appropriate to cure Lessee's then existing default(s), with the balance, if any, in any event to be applied toward restoration of the Premises in the manner otherwise set forth in Sections 10.01 and 10.02.

10.04 In the event that any of the foregoing insurance proceeds paid by the insurance companies to the Depository with respect to Lessee's Insured Property shall remain after the completion of such restoration, the amount of such excess shall, provided no default then exists, be paid to Lessee.

10.05 Lessor and Lessee each agree to cooperate with the other as may be reasonably required in connection with the prosecution or defense of any action or proceeding arising out of or for the collection of any insurance proceeds that may be due in the event of any loss or damage to Lessee's Insured Property and execute and deliver to such other party such instruments as may be reasonably required to facilitate the recovery of any insurance proceeds, but the costs and expenses of all such actions and proceedings shall be paid by Lessee.

10.06 Subject to the terms and conditions of the foregoing Sections of this Article, in the event this Lease is terminated or expires prior to the repair and restoration of the Premises by Lessee all insurance proceeds shall be payable to Lessor as its sole property, except for a portion of such proceeds which in Lessor's reasonable judgment is equal to the then insured value of Lessee's Property.

10.07 Repairs or restoration of Lessee's Property shall be performed by Lessee with due diligence in accordance with the provisions of Article 7 as if such work was an Alteration. Lessee shall be required to complete such repairs and restoration whether or not the insurance proceeds shall be sufficient to pay for the cost thereof.

10.08 ~~Notwithstanding any of the foregoing provisions of this Article, if a~~ reason of some act or omission on the part of Lessee or any of its subcontractors or its or their partners, directors, officers, servants, employees, agents or contractors, either (a) Lessor or any Superior Lessor or any Superior Mortgagee shall be unable to collect all of the insurance proceeds available without limitation rent (insurance proceeds) applicable to damage or destruction of the Premises or the Building by fire or other casualty, or (b) the Premises or the Building shall be damaged or destroyed, ~~rendered completely or partially untenantable, on account of fire or other casualty, then, without prejudice to any other remedies which may be available against Lessee, there shall be no abatement or reduction of fixed annual rent or additional rent.~~

10.09 Lessor will not carry insurance of any kind on Lessee's Property and shall not be obligated to repair any damage to or replace Lessee's Property, and Lessee agrees to look solely to its insurance for recovery of any damage to or loss of Lessee's Property. If Lessee shall fail to maintain such insurance, Lessor shall have the right to obtain insurance on Lessee's Property and the cost thereof shall be additional rent under this Lease and payable by Lessee to Lessor on demand.

10.10 Any Building employee to whom any property shall be entrusted by or on behalf of Lessee shall be deemed to be acting as Lessee's agent with respect to such property and neither Lessor nor its agents shall be liable for any damage to property of Lessee or of others entrusted to employees of the Building, nor for the loss of or damage to any property of Lessee by theft or otherwise. Neither Lessor nor its agents shall be liable for any injury or damage to persons or property or interruption of Lessee's business resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or snow or leaks, from any part of the Building or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place or by dampness or by any other cause of whatsoever nature; nor shall Lessor or its agents be liable for any such damage caused by other tenants or persons in the Building or caused by construction of any private, public or quasi-public work; nor shall Lessor be liable for any latent defect in the Premises or in the Building. Anything in this Article to the contrary notwithstanding, nothing in this Lease shall be construed to relieve Lessor from responsibility directly to Lessee for any loss or damage caused directly to Lessee wholly or in part by the gross negligence or willful misconduct of Lessor. Nothing in the foregoing sentence shall affect any right of Lessor to the indemnity from Lessee to which Lessor may be entitled under Article 20 hereof in order to recoup for payments made to compensate for losses of third parties. If at any time any windows of the Premises are temporarily closed, darkened or bricked-up if required by law or related to any construction upon property adjacent to the Real Property by Lessor or others, Lessor shall not be liable for any damage Lessee may sustain thereby and Lessee shall not be entitled to any compensation therefor nor abatement of Rent nor shall the same release Lessee from its obligations hereunder nor constitute an actual or constructive eviction. Lessee shall reimburse and compensate Lessor as additional rent within five (5) days after rendition of a statement for all expenditures made by, or damages or fines sustained or incurred by, Lessor due to nonperformance or non-compliance with or breach or failure to observe any term, covenant or condition of this Lease upon Lessee's part to be kept, observed, performed or complied with. Lessee shall give immediate notice to Lessor in case of fire or accident in the Premises or in the Building. Lessee shall not move any safe, heavy machinery, heavy equipment, freight, bulky matter or fixtures into or out of the Building without Lessor's prior written consent and payment to Lessor of Lessor's costs in connection therewith. If such safe, machinery, equipment, freight, bulky matter

LESSEE (initials)

or fixtures requires special handling, Lessee 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 Lessor may designate. Notwithstanding said consent of Lessor, Lessee shall indemnify Lessor for, and hold Lessor harmless and free from, damages sustained by persons or property and for any damages or moneys paid out by Lessor in settlement of any claims or judgments, as well as for all expenses and attorneys' fees incurred in connection therewith and all costs incurred in repairing any damage to the Building or appurtenances.

## 11. END OF TERM / EARLY TERMINATION.

11.01 Lessee shall surrender the Premises to Lessor at the expiration or sooner termination of this Lease in good order and condition, except for reasonable wear and tear and damage by fire or other casualty, and Lessee shall remove all of its property subject to the limitations and conditions of Article 7 hereof. Lessee agrees it shall indemnify and save Lessor harmless against all costs, claims, loss or liability resulting from delay by Lessee in so surrendering the premises, including without limitation, ~~the cost of any and all reasonable cost of repair or restoration.~~ The parties recognize and agree that the damage to Lessor resulting from any failure by Lessee timely to surrender the Premises will be substantial, and will exceed the amount of monthly rent theretofore payable hereunder, and will be impossible of accurate measurement. Lessee therefore agrees that if possession of the Premises is not surrendered to Lessor upon expiration or sooner termination of the term of this Lease, then Lessee will pay Lessor as liquidated damages for each month and for each portion of any month during which Lessee holds over in the Premises after expiration or termination of the Term of this Lease, a sum equal to three times the average rent and additional rent which was payable per month under this Lease during the last six months of the term thereof. Nothing herein contained shall be deemed to permit Lessee to retain possession of the Premises after the Expiration Date or sooner termination of this Lease and no acceptance by Lessor of payments from Lessee after the Expiration Date or sooner termination of the Term shall be deemed to be other than an account of the amount to be paid by Lessee in accordance with the provisions of this Article, which provisions shall survive the Expiration Date or sooner termination of this Lease. Lessee grants to Lessor full and free license to enter into and upon the Premises in such event with or without process of law and to repossess the Premises and to expel or remove Lessee and any others who may be occupying or within the Premises and to remove any and all property therefrom, using such force as may be necessary, without being deemed in any manner guilty of trespass, violating any covenant of quiet enjoyment, eviction or forcible entry or detainer, and without relinquishing Lessor's right to rent or any other right given to Lessor hereunder or by operation of law. Lessee expressly waives, for itself and for any person claiming through or under Lessee, any rights which Lessee or any such person may have under the provisions of Section 2201 of the New York Civil Practice Law and Rules and of any successor law of like import then in force in connection with any holdover summary proceedings which Lessor may institute to enforce the foregoing provisions of this Article. The aforesaid obligations shall survive the expiration or sooner termination of the Term of this Lease. At any time during the Term of this Lease, Lessor may exhibit the Premises to prospective purchasers or mortgagees of Lessor's interest therein, and may place upon the Premises the usual "For Sale" notices. During the last year of the Term of this Lease, Lessor may exhibit the Premises to prospective tenants and may place and keep upon the Premises the usual "To Let" notice.

~~11.02 Notwithstanding anything contained in this Lease to the contrary, independent of any other provision of this Lease, Lessor may correct this lease at any time for any reason upon at least thirty (30) days prior written notice to Lessee and Lessee shall receive no consideration of such cancellation, upon surrender and delivery of possession of the Premises to Lessor, a sum equal to the amount which would have been payable by way of arrears of payment at Lessor's option.~~

## 12. SUBORDINATION AND ESTOPPEL.

12.01 Lessee has been informed and understands that this Lease is and shall be subject and subordinate to all other ground or underlying leases and to all mortgages which may now or hereafter affect such leases or the real property of which the Premises form a part, and to all such leases of the real property of which the Premises form a part, and to all renewals, modifications, consolidations, replacements and extensions thereof. This Article shall be self-operative and no further instrument of subordination shall be necessary. In confirmation of such subordination, Lessee shall execute promptly any certificate that Lessor may request. Lessee hereby appoints Lessor as Lessee's irrevocable attorney-in-fact to execute any document of subordination on behalf of Lessee.

12.02 If any Superior Lessor, Superior Lessee, or Superior Mortgagee or the nominee or designee of any Superior Lessor, Superior Lessee or Superior Mortgagee shall succeed to the rights of Lessor under this Lease, whether through possession or foreclosure action or delivery of Master Lease or other new lease or deed, or otherwise, then at the request of such party so succeeding to Lessor's rights (herein called "Successor Lessor") Lessee shall affirm to and recognize such Successor Lessor as Lessee's landlord under this Lease and shall promptly execute and deliver any instrument that such Successor Lessor may reasonably require to evidence such attornment. Upon such attornment, this Lease shall continue in full force and effect as a direct lease between Successor Lessor and Lessee upon all of the terms, conditions and covenants as are set forth in this Lease, except that Successor Lessor shall not be (i) liable in any way to Lessee for any act or omission, neglect or default on the part of Lessor under this Lease, except if arising from a condition which is a continuing default under this Lease, or (ii) responsible for any loss or damage caused by or on deposit with Lessor to the credit of (a) Lessee except to the extent turned over to Successor Lessor, (iii) subject to any counterclaim, set-off, defense or recoupment whatsoever, which theretofore accrued to Lessee against Lessor, except if arising from a condition which is a continuing default under this Lease which such Successor Lessor had notice prior to becoming Successor Lessor, (iv) bound by any previous modification of this Lease unless approved in writing by Successor Lessor or of which Successor Lessor had notice prior to becoming Successor Lessor or by any previous prepayment of Fixed Rent for more than one (1) month, which was not approved in writing by Successor Lessor, (v) liable to Lessee beyond Successor Lessor's interest in the Property and the rents, income, receipts, revenues, issues and profits issuing from same, (vi) responsible for the performance of any work to be done by Lessor under this Lease to render the Premises ready for occupancy by Lessee, or (vii) required to remove any person occupying the Premises or any part thereof, except if such person claims by, through, or under the Successor Lessor. Upon receipt from any Superior Mortgagee of notice that an Event of Default, as defined in any Superior Mortgagee exists, Lessee shall and is hereby authorized and directed to, pay directly to the Superior Mortgagee all Rent thereafter accruing, and the receipt of such Rent by the Superior Mortgagee shall be a release of Lessee to the extent of all amounts so paid; Rent so received by the Superior Mortgagee shall be applied by the Superior Mortgagee first to the expenses, if any, of collection and then in accordance with the terms of the Superior Mortgage. Without impairing its rights under the Superior Mortgage, the Superior Mortgagee may, at its option, at any time and from time to time, release to Lessor Rent so received by the Superior Mortgagee, or any part thereof. The Superior Mortgagee shall not be liable for its failure to collect, or its failure to exercise diligence in the collection of, Rent, but shall be accountable only for Rent that it shall actually receive.

12.03 Lessee shall not do or suffer or permit anything to be done which

LESSOR (initials)



would constitute a default under any Superior Mortgage or Superior Lease, to the extent Lessee has been notified and the same is not in contravention of Lessee's rights under this Lease and does not materially affect Lessee's obligations hereunder.

12.04 If any act or omission by Lessor would give Lessee the right, immediately or after lapse of time, to cancel or terminate this Lease or to chain a partial or total eviction, Lessee will not exercise any such right until (a) it has given written notice of such act or omission to each holder of a Superior Mortgage and to each Superior Lessor, whose name and address shall have previously been furnished to Lessee, by delivering notice of such act or omission addressed to each such party at its last address so furnished and (b) a reasonable period for remedying such act or omission shall have elapsed following such giving of notice (which shall in no event be less than the period to which Lessor shall be entitled under this Lease to effect such remedy) provided such holder shall, with reasonable diligence, give Lessee notice of its intention to remedy such act or omission and shall commence and continue to act upon such intention within the period set forth herein.

12.05 If, in connection with the financing of the Real Property, the Building, or the interest of the Lessor under any Superior Lease, any lending institution shall request reasonable modifications of this Lease, that do not materially increase the obligations or materially and adversely affect the rights of Lessee under this Lease or increase the Rent payable pursuant to this Lease, Lessee covenants to make such modifications from time to time.

12.06 Lessee, from time to time and on at least ~~seventy~~ 70 days prior written request by Lessor will deliver to Lessor a written statement executed by Lessee and duly acknowledged and in form satisfactory to Lessor: (i) stating that this Lease is then in full force and effect and has not been modified (or if modified, setting forth all modifications), (ii) setting forth the date to which the rent, additional rent and other charges hereunder have been paid, together with the amount of fixed annual base monthly rent then payable, (iii) stating whether or not, to the best knowledge of Lessee, Lessor is in default under this Lease, and, if Lessor is in default, setting forth the specific nature of all such defaults, (iv) stating the amount of the security deposit under this Lease, (v) stating whether there are any subsenses affecting the Premises, (vi) stating the address of Lessee to which all notices and communication under the Lease shall be sent, the Commencement Date and the Expiration Date, and (vii) as to any other matters requested by Lessor. Lessee acknowledges that any statement delivered pursuant to this Section shall be deemed a representation and warranty to be relied upon by any purchaser or owner of the Real Property or the Building, or of Lessor's interest in the Real Property or the Building or any Superior Lease, or by any mortgagee of a Mortgage, or by any assignee of or any mortgagee of a Mortgage, or by any Lessor under any Superior Lease.

### 13. CONDEMNATION.

13.01 If the whole or any substantial part of the Premises shall be condemned by eminent domain or acquired by private purchase in lieu thereof, for any public or quasi-public purpose, this Lease shall terminate on the date of the vesting of title through such proceeding or purchase, and Lessee shall have no claim against Lessor for the value of any unexpired portion of the term of this Lease, nor shall Lessee be entitled to any part of the condemnation award or private purchase price. If less than a substantial part of the Premises is condemned, this Lease shall not terminate, but rent shall abate in proportion to the portion of the Premises condemned.

13.02 In the event of any such acquisition or condemnation of all or any part of the Real Property, Lessor shall be entitled to receive the entire award for any such acquisition or condemnation. Lessee shall have no claim against Lessor or the condemning authority for the value of any unexpired portion of the Term and Lessee hereby expressly assigns to Lessor all of its right in and to any such award. Nothing contained in this subsection shall be deemed to prevent Lessee 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 Lessee and Lessee's moving expenses, provided that such award shall not reduce the amount of the award otherwise payable to Lessor.

### 14. REQUIREMENTS OF LAW.

14.01 Lessee shall give prompt notice to Lessor of any notice it receives of the violation of any law or requirement of any public authority with respect to the Premises or the use or occupation thereof. Lessee shall, at Lessee's expense, comply with all present and future laws and requirements of any public authorities in respect of the Premises or the use or occupation thereof, or the abatement of any nuisance in, on or about the Premises, and be responsible for the cost of compliance with all present and future laws and requirements of any public authorities in respect of the Real Property arising from (i) Lessee's use of the Premises, (ii) the manner of conduct of Lessee's business or operation of its installations, equipment or other property therein, ~~for the purpose of compliance~~ created by or at the instance of Lessee, or (iv) the breach of any of Lessee's obligations hereunder, whether or not such compliance requires work which is structural or non-structural, ordinary or extraordinary, foreseen or unforeseen; and Lessee shall pay all the cost, expenses, fines, penalties and damages which may be imposed upon Lessor or any Superior Lessor by reason of or arising out of Lessee's failure to fully and promptly comply with and observe the provisions of this Section. Without limiting the generality of the foregoing, it is specifically agreed that Lessee shall comply with all laws that require the installation, modification or maintenance within the premises of any fire rated partition, gas, smoke, or fire detector or alarm or any sprinkler or other system to extinguish fires. However, Lessee need not comply with any such law or requirement of any public authority so long as Lessee shall be contesting the validity thereof, or the applicability thereof to the Premises, in accordance with Section 223(a) hereof.

14.02 If Lessor makes any material improvements to the Building during the term of this Lease in order to comply with any Laws, then Lessee shall pay to Lessor, as additional rent, Lessee's share equal to ~~70%~~ 70% of the cost of such capital improvement amortized by Lessor in accordance with an amortization schedule with a reasonable interest factor included therein, determined by Lessor in Lessor's reasonable judgment. As soon as practicable following the completion of each such capital improvement, Lessor shall furnish to Lessee a statement setting forth Lessor's computation of Lessee's share of such capital improvement, as amortized on a monthly basis over the remainder of the term of this Lease or the useful life of such capital improvement (whichever is determined by Lessor), whichever is less. On the first day of the calendar month following the furnishing of Lessor's statement and thereafter on the first day of each calendar month during the term of this Lease, Lessee shall pay to Lessor the monthly sum set forth on such statement, together with reasonable interest as shall be determined by Lessor on the unpaid portion of Lessee's share of the cost of such capital ~~improvements~~.

14.03 Lessee, at its expense, after notice to Lessor, may contest by appropriate proceedings prosecuted diligently and in good faith, the validity, or applicability to the premises, of any law or requirement of any public authority, provided that (i) Lessor shall not be subject to criminal penalty or to prosecution for a crime or offense or any other fine or charge, nor shall the Premises or any part thereof or the Building or Land, or any part thereof, be subject to being condemned or vacated, nor shall the Building or Land, or any part thereof, be subjected to any lien or encumbrance, by reason of noncompliance or otherwise by reason of such contest; (ii) before the commencement of such contest, Lessee shall furnish to Lessor a cash deposit or other security in amount, form and substance satisfactory

to Lessor and shall indemnify Lessor against the cost thereof and against all liability for damages, interest, penalties and expenses (including reasonable attorneys' fees and expenses), resulting from or incurred in connection with such contest or noncompliance, (iii) such noncompliance or contest shall not constitute any such Superior Lease and/or Superior Mortgage, or if any such Superior Lease and/or Superior Mortgage shall permit, such noncompliance or contest on condition of the taking of action or furnishing of security by Lessor, such action shall be taken and such security shall be furnished at the expense of Lessee, (iv) such noncompliance or contest shall not prevent Lessor from obtaining any and all permits and licenses in connection with the operation of the Building; and (v) Lessee shall keep Lessor advised as to the status of such proceedings. Without limiting the application of the above, Lessor shall be deemed subject to prosecution for a crime or offense if Lessor, or its managing agent, or any officer, director, partner, shareholder or employee of Lessor or its managing agent, as an individual, is charged with a crime or offense of any kind or degree whatever, whether by service of a summons or otherwise, unless such charge is withdrawn before Lessor or its managing agent, or such officer, director, partner, shareholder or employee of Lessor or its managing agent (as the case may be) is required to plead or answer thereto.

14.04 Lessee at its sole expense shall comply with all rules, orders, regulations or requirements of the New York Board of Fire Underwriters, or any other similar body which shall impose any violation, order or duty upon Lessor or Lessee with respect to the Premises as a result of the use or occupation thereof by Lessee or the manner of use or occupation thereof by Lessee or the conduct by Lessee of its business in the Premises whether or not in a manner different from the ordinary and proper conduct of such business. Lessee shall not do or permit to be done any act or thing upon the Premises which will invalidate or be in conflict with any insurance policies covering the Building and fixtures and property therein; and 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 of storage as not to increase the rate for fire insurance 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. Any work or installations made or performed by or on behalf of Lessee or any person claiming through or under Lessee pursuant to this Article shall be made in conformity with, and subject to the provisions of Article 7 hereof. If by reason of failure of Lessee 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 Lessee shall reimburse Lessor, as additional rent hereunder, for that part of all fire insurance premiums thereafter paid by Lessor which shall have been charged because of such failure by Lessee, and shall make such reimbursement to Lessor upon demand. That the Premises are being used for the purpose set forth in Article 1 hereof shall not relieve Lessee from the foregoing duties, obligations and expenses. In any action or proceeding wherein Lessor and Lessee 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.

14.05 Subject to Lessor's prior approval of any window cleaning contractor engaged by Lessee, Lessee shall require every person engaged by him to clean any window in the premises from the outside to use the equipment and safety devices required by Section 202 of the Labor Law and the rules of any governmental authority having or asserting jurisdiction over the Building or the Premises.

### 15. CERTIFICATE OF OCCUPANCY.

15.01 Lessee shall not at any time use or occupy the Premises in violation of the certificate of occupancy issued for the Premises or for the Building and in the event that any department of the City or State of New York shall hereafter at any time contend and/or declare by notice, violation, order or in any other manner whatsoever that the Premises are used for a purpose which is a violation of such certificate of occupancy, whether or not such use shall be a Permitted Use, Lessee shall, upon five (5) days' written notice from Lessor, unless a shorter period is prescribed by law, immediately discontinue such use of the Premises. Failure by Lessee to discontinue such use after such notice shall be considered a default in the fulfillment of a covenant of this Lease and Lessor shall have the right to exercise any and all rights and privileges and remedies given to Lessor by and pursuant to the provisions of Articles 4 and 6 hereof. ~~The statement in this Article of the nature of the business to be conducted by Lessee shall not be deemed to constitute a representation or warranty by Lessor that such use is lawful or permissible in the Premises under the certificate of occupancy.~~

### 16. POSSESSION.

16.01 If Lessor shall be unable to give possession of the Premises on the commencement date of the term because of the retention of possession of any occupant thereof, alteration or construction work, or for any other reason except as hereinafter provided, Lessor shall not be subject to any liability for such failure. In such event, this Lease shall stay in full force and effect, without extension of its Term. However, the rent hereunder shall not commence until the Premises are available for occupancy by Lessee. If delay in possession is due to work, changes or decorations being made by or for Lessee, or is otherwise caused by Lessee, there shall be no rent abatement and the rent shall commence on the date specified in this Lease. If permission is given to Lessee to occupy the Premises ~~on or after~~ prior to the date specified as the commencement of the Term and prior to completion of work, if any, to be performed by Lessor, in preparing the Premises for Lessee, then substantial completion of Lessor's work shall be deemed to have occurred on the taking of earlier possession of the Premises by Lessee and the obligation to pay Rent and/or additional rent shall then commence. If Lessee takes earlier possession as aforesaid Lessee agrees not to interfere with the performance and completion of work, if any, to be performed or completed by Lessor and agrees that Lessor shall not be responsible for any delay in completion of such work. Such early possession and occupancy shall be deemed to be pursuant to the terms of this Lease including the covenant to pay rent. The provisions of this Article are intended to and shall constitute an express provision to the contrary within the meaning of Section 223(a) of the New York Real Property Law.

### 17. QUIET ENJOYMENT

17.01 Lessor covenants that if Lessee pays the rent and performs all of Lessee's other obligations under this Lease, Lessee may peacefully and quietly enjoy the Premises, subject to the terms, covenants and conditions of this Lease and to the ground or superior leases, underlying leases and mortgages hereinbefore mentioned.

### 18. RIGHT OF ENTRY.

18.01 Lessee shall permit Lessor, Lessor's agents, any Superior Lessor, Superior Lessee or Superior Mortgage and public utilities servicing the Building to erect, use and maintain, ducts, pipes and conduits in and through the Premises, Lessor or Lessor's agents, any Superior Lessor, Superior Lessee or Superior Mortgage shall have the right to enter the Premises ~~at all times~~ at all times to examine the same, to show them to prospective purchasers, mortgagees or lessees of the Building or space therein, and to make such decorations, repairs,

alterations, improvements or additions as Lessor may deem necessary or desirable to the Premises or to any other portion of the Building or which Lessor, any Superior Lessor, Superior Lessee or Superior Mortgagee may elect to perform following Lessee's failure to make repairs or perform any work which Lessee is obligated to perform under this Lease, or for the purpose of complying with laws, regulations or other requirements of government authorities and Lessor, any Superior Lessor, Superior Lessee or Superior Mortgagee shall be allowed to take all material into and upon the Premises that may be required therefor, without the same constituting an eviction or constructive eviction of Lessee in whole or in part and the rent shall in no wise abate while said decorations, repairs, alterations, improvements, or additions are being made, by reason of loss or interruption of business of Lessee, or otherwise.

18.02 During the one (1) year prior to the Expiration Date or the expiration of any renewal or extended term, Lessor, any Superior Lessor, Superior Lessee or Superior Mortgagee may exhibit the Premises to prospective tenants thereof. The right to exhibit the Premises shall include the right, exercisable by Lessor at any time during the term, to take photographs and or make video recordings of the Premises and to use same to market and show the Premises for leasing or to document the condition of the Premises. If, during the last twelve (12) months of the Term, Lessee shall have removed all or substantially all of Lessee's property therefrom, Lessor, any Superior Lessor, Superior Lessee or Superior Mortgagee may immediately enter and alter, renovate and redecorate the Premises, without elimination or abatement of rent, or incurring liability to Lessee for any compensation, and such acts shall not be deemed an actual or constructive eviction and shall have no effect upon this Lease.

18.03 If Lessee 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, Lessor or Lessor's agents any Superior Lessor, Superior Lessee or Superior Mortgagee may enter the same by a master key, or, in the event of an emergency, may forcibly enter the same, without rendering Lessor or such agents liable therefor and without in any manner affecting the obligations and covenants of this Lease.

18.04 Lessor shall have the right at any time, without the same constituting an actual or constructive eviction and without incurring any liability to Lessee 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 and to change the name, number or designation by which the Building is commonly known. In addition, Lessee understands and agrees that Lessor may perform substantial renovation work in and to the public parts of the Building and the mechanical systems serving the Building (which work may include the replacement of the building exterior facade and window glass, requiring access to the same from within the Premises), and that Lessor shall incur no liability to Lessee, nor shall Lessee be entitled to any abatement of rent on account of any noise, vibration or other disturbance to Lessee's business at the Premises (provided that Lessee is not denied access to said Premises) which shall arise out of the performance by Lessor of the aforesaid renovations of the Building. Lessee 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 Lessor shall have the use thereof, as well as access thereto through the Premises for the purposes of operation, maintenance, alteration and repair.

18.05 Nothing herein contained, however, shall be deemed or construed to impose upon Lessor any obligation, responsibility or liability whatsoever, for the care, supervision or repair of the Building or any part thereof, other than as herein provided.

19. VAULT SPACE.

19.01 Anything contained in any plan or blueprint to the contrary notwithstanding, no vault or other space not within the building property line is deemed hereunder. No use of such space by Lessee shall be deemed to be pursuant to a license, revocable at will by Lessor, without diminution of the rent payable hereunder. If Lessee shall use such vault space, any fines, taxes or charges made by any governmental authority for such space shall be paid by Lessee.

20. INDEMNITY.

20.01 Lessee shall not do or permit any act or thing to be done upon the Premises which may subject Lessor, any Superior Lessor, Superior Lessee or Superior Mortgagee 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 Lessor, any Superior Lessor, Superior Lessee or Superior Mortgagee against any such liability. Lessee agrees to indemnify and save harmless Lessor, any Superior Lessor, Superior Lessee or Superior Mortgagee from and against (i) all claims of whatever nature against Lessor, any Superior Lessor, Superior Lessee or Superior Mortgagee arising from any act, omission or negligence of Lessee, its contractors, licensees, agents, servants, employees, invitees or visitors, including any claims arising from any act, omission or negligence of Lessor or Lessor and Lessee, except for the gross negligence or willful misconduct of Lessor; (ii) all claims against Lessor, any Superior Lessor, Superior Lessee or Superior Mortgagee arising from 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) all claims against Lessor, any Superior Lessor, Superior Lessee or Superior Mortgagee arising from any accident, injury or damage 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 Lessee or Lessee's agents, employees, invitees or visitors, including any claims arising from any act, omission or negligence of Lessor or Lessor and Lessee, except for the gross negligence or willful misconduct of Lessor; and (iv) any breach, violation or nonperformance of any covenant, condition or agreement in this Lease set forth and contained on the part of Lessee to be fulfilled, kept observed and performed. 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. Nothing contained in this section shall negate or limit the provisions of section 88.08 with respect to additional insured coverage.

21. LESSOR'S LIABILITY.

21.01 This Lease and the obligations of Lessee hereunder shall in no way be affected because Lessor is unable to fulfill any of its obligations or to supply any service, by reason of strike or other cause not within Lessor's control. Lessor shall have the right, without incurring any liability to Lessee, to stop any service because of accident or emergency, or for repairs, alterations or improvements, necessary or desirable in the judgment of Lessor, until such repairs alterations or improvements shall have been completed. Lessor shall not be liable to Lessee or anyone else, for any loss or damage to person, property or business, unless due to the negligence of Lessor, nor shall Lessor be liable for any latent defect in the Premises or the Building. Lessee agrees to look solely to Lessor's estate and interest in the land and building, or the lease of the building or of the land and building, and the Premises, for the satisfaction of any right or remedy of Lessee

for the collection of a judgment (or other judicial process) requiring the payment of money by Lessor, in the event of any liability by Lessor, and no other property or assets of Lessor shall be subject to levy, execution or other enforcement procedure for the satisfaction of Lessee's remedies under or with respect to this Lease, the relationship of Lessor and tenant hereunder, or Lessee's use and occupancy of the Premises or any other liability of Lessor to Lessee (except for negligence).

21.02 The obligations of Lessor under this Lease shall not be binding upon Lessor named herein after the sale, conveyance, assignment or transfer by Lessor (or upon any subsequent landlory) 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, Lessor shall be and hereby is entirely freed and relieved of all covenants and obligations of Lessor 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 Lessor hereunder. Neither the shareholders, directors or officers of Lessor is a corporation, nor the partners or members comprising Lessor, if Lessor is a partnership or limited liability company (collectively, the "Parties"), shall be liable for the performance of Lessor's obligations under this Lease. Lessee shall look solely to Lessor to enforce Lessor's obligations hereunder and shall not seek any damages against any of the Parties.

21.03 Lessor, its employees and its agents shall not be liable for any damage to property of Lessee or of others entrusted to employees of the Building, not for the loss of or damage to any property of Lessee by theft or otherwise. Lessor, its employees, agents, contractors and subcontractors shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or snow or leaks from any part of the Building or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place or by dampness or from any latent defect in the Premises or in the Building or by any other cause of whatsoever nature unless caused by and due to the negligence of Lessor, its agents, employees, contractors and subcontractors; nor shall Lessor, its employees, agents, contractors and subcontractors be liable for any such damage caused by other tenants or persons in the Building or caused by operations in construction of any private, public or quasi-public work.

21.04 Lessee agrees to indemnify and hold harmless Lessor, any Superior Lessor, Superior Lessee or Superior Mortgagee and its officers, directors, contractors, agents and employees from and against any and all liability (statutory or otherwise), claims, suits, demands, damages, judgments, costs, fines, penalties, interest and expense (including, but not limited to, counsel fees and disbursements incurred in any action or proceeding), to which Lessor, any Superior Lessor, Superior Lessee or Superior Mortgagee or any such officer, director, contractor, agent or employee may be subject or suffer by reason of any liability or claim for any injury to, or death of, any person or persons or damage to property (including any loss of use thereof) or otherwise arising from or in connection with the use and occupancy of the Premises or from any work, installation or thing whatsoever done or omitted in or about the Premises during the Term of this Lease and during the period of time, if any, prior to the Lease Commencement Date that Lessee may have been given access to the Premises, or arising from any condition of the Premises due to under this Lease or from any act, omission or negligence of Lessee or any of Lessee's agents, contractors, servants, employees, subcontractors, licensees, guests or invitees. The indemnity set forth herein shall survive the expiration or sooner termination of the Term hereof.

21.05 Lessee shall reimburse and compensate Lessor, as additional rent, within five (5) days after rendition of a statement, for all expenditures made by or damages or fines sustained or incurred by Lessor (including, but not limited to, reasonable counsel fees and disbursements incurred in connection with any action or proceeding) due to the operation of this Article or nonperformance or noncompliance with or breach or failure by Lessee to observe any term, covenant or condition of this Lease. If, in any action or proceeding liability arising out of the negligence of both Lessor and Lessee is established, Lessee agrees (i) to indemnify Lessor in accordance with the provision of this Article, and (ii) to waive any right of contribution against Lessor. Lessee agrees that its sole remedy in cases where Lessor's reasonableness in exercising its judgment or withholding its consent or approval is applicable, if any, shall be those in the nature of an injunction, declaratory judgment, or specific performance, the rights to money damages or other remedies being hereby specifically waived.

22. CONDITION OF PREMISES.

22.01 Lessee has examined and inspected the Premises, and, except as otherwise specifically provided in this Lease, agrees to accept the Premises "As Is" and in its condition on the Commencement Date. Lessee's taking of possession of the Premises shall be conclusive evidence against Lessee that the Premises were in good order and satisfactory condition when Lessee took possession and that any construction required to be performed by Lessor was substantially completed. Lessor shall not have any obligation to alter, remodel, repair or improve the Premises or the Building and no representation respecting the condition of the Premises or the Building has been made by Lessor to Lessee, other than as may be contained herein or in a separate agreement signed by Lessor and Lessee simultaneously executed herewith. Except as otherwise provided in this Lease, upon the Expiration Date or earlier termination of this Lease, Lessee shall return the Premises broom-clean and in as good condition as when Lessee took possession, ordinary wear and loss by fire or other casualty excepted, failing which Lessor may restore the Premises to such condition and Lessee shall pay the reasonable cost thereof on demand. The provisions of this Article shall survive the Expiration Date or earlier termination of this Lease.

23. FLOOR LOAD

23.01 Lessee shall not place a load upon any floor of the Premises exceeding the floor load per square foot area which such floor was designed to carry and which is allowed by law. Lessor reserves the right to prescribe the weight and position of all safes, business machines and heavy equipment and installations. Business machines and mechanical equipment shall be placed and maintained by Lessee at Lessee's expense in settings sufficient in Lessor's judgment to absorb and prevent vibration, noise and annoyance.

24. LESSEES AFFIRMATIVE WAIVERS

24.01 Lessee, on behalf of itself and any and all persons claiming through or under Lessee, does hereby waive and surrender all right and privilege which it, they or any of them might have under or by reason of any present or future law, to redeem the Premises or to have a continuance of this Lease after being dispossessed or ejected therefrom, by process of law or under the terms of this Lease or after the termination of this Lease as provided in this Lease.

24.02 If Lessee is in arrears in payment of fixed annual rent or additional rent or charges, Lessee waives Lessee's right, if any, to designate the items to which any payments made by Lessee are to be credited, and Lessee agrees that Lessor may apply any payments made by Lessee to such items as Lessor sees fit, irrespective of and notwithstanding any designation or request by Lessee as to the items which of any such payments shall be credited. In the event that Lessee is a tenant under more than one lease with Lessor, Lessor shall have the right to apply or apportion



any undesignated payment first among said lessors and then among the items to which the payment made by Lessee is to be credited.

#### 25. JURY WAIVER.

25.01 Lessor and Lessee hereby waive trial by jury in any action, proceeding or counterclaim involving any matter whatsoever arising out of or in any way connected with this Lease, the relationship of landlord and tenant, Lessee's use or occupancy of the Premises (except for personal injury or property damage) or involving the right to any statutory relief or remedy. It is further mutually agreed that in the event Lessor commences any summary proceeding for nonpayment of rent, Lessee will not interpose any counterclaim of whatever nature or description in any such proceeding provided nothing contained herein shall be deemed to limit Lessee's right to bring a separate action. Without limiting the generality of the foregoing provisions, Lessee agrees that it shall not assert in such summary proceeding any counterclaim for damage or interference with its use or occupancy of the Premises based upon the alleged negligence of Lessor, its agents, servants or employees whether or not such a claim is inextricably tied to the obligations to pay rent. The parties acknowledge each to the other, that such claims if permitted to be asserted would necessarily involve Third-party Insurance Carriers and their counsel in defense thereof and the undue prejudicial delay of the summary proceedings.

#### 26. NO WAIVER.

26.01 If there be any agreement between Lessor and Lessee 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 Lessor and Lessee prior to the expiration of the Term shall not be considered an extension thereof or a vested right in Lessee to such further term, so as to prevent Lessor from cancelling this Lease and any such extension thereof during the remainder of the original Term, such privilege, if and when so exercised by Lessor, shall cancel and terminate this Lease and any such renewal or extension previously entered into between Lessor and Lessee or the right of Lessee to any such renewal or extension; any right herein contained on the part of Lessor to cancel this Lease shall continue during any extension or renewal hereof; any option on the part of Lessee herein contained for an extension or renewal hereof shall not be deemed to give Lessee any option for a further extension beyond the first renewal or actual term. No act or omission of Lessor or its agents shall constitute an actual constructive eviction, unless Lessor shall have first received written notice of Lessee's claim and shall have had a reasonable opportunity to meet such claim. No act or omission of Lessor or its agents shall constitute an acceptance of a surrender of the premises, except a writing signed by Lessor. The delivery of keys to Lessor or its agents shall not constitute a termination of this Lease or a surrender of the Premises. Acceptance by Lessor of less than the rent herein provided shall at Lessor's option be deemed on account of earliest rent remaining unpaid. The receipt by Lessor of rent with knowledge of the breach of any covenant of this Lease shall not be deemed a waiver of such breach. No endorsement on any check or letter accompanying rent, shall be deemed an accord and satisfaction and such check may be cashed without prejudice to Lessor. No waiver of any provision of this Lease shall be effective, unless such waiver be a writing signed by Lessor. This Lease contains the entire agreement between the parties; all prior negotiations and agreements are merged in this Lease and no modification thereof shall be binding unless in writing and signed by the party concerned. 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. Lessee shall comply with the rules and regulations printed in this Lease, and any reasonable modifications hereof or additions thereto. Lessor shall not be liable to Lessee for the violation of such rules and regulations by any other tenant. Failure of Lessor to enforce any provision of this Lease, or any rule or regulation, shall not be construed as the waiver of any subsequent violation of a provision of this Lease or any rule or regulation.

#### 27. OCCUPANCY AND USE BY LESSEE.

27.01 Lessee acknowledges that its continued occupancy of the Premises and the regular conduct of its business therein, are of utmost importance to the Lessor in the renewal of other leases in the Building, in the renting of vacant space in the building in the providing of electricity, air conditioning, steam and other services to the tenants in the Building, and in the maintenance of the character and quality of the tenants in the Building. Lessee therefore covenants and agrees that it will occupy the entire Premises, and will conduct its business therein in the regular and usual manner, throughout the Term of this Lease. Lessee acknowledges that Lessor is executing this Lease in reliance upon these covenants, and that these covenants are a material element of consideration inducing the Lessor to execute this Lease. Lessee further agrees that if it vacates the premises or fails to so conduct its business therein, at any time during the Term of this Lease, without the prior written consent of the Lessor, then all rent and additional rent reserved in this Lease from the date of such breach to the expiration date of this Lease shall become immediately due and payable to Lessor.

27.02 The parties recognize and agree that the damage to Lessor resulting from any breach of the covenants in Section 27.01 hereof will be extremely substantial, will be far greater than the rent payable for the balance of the Term of this Lease, and will be impossible of accurate measurement. The parties therefore agree that in the event of a breach or threatened breach of the said covenants, in addition to all of Lessor's other rights and remedies, at law or in equity or otherwise, Lessor shall have the right of injunction to preserve Lessee's occupancy and use. The words "become vacant or deserted" as used elsewhere in this Lease shall include Lessee's failure to occupy or use as required by this Article.

27.03 If Lessee breaches either of the covenants in Section 27.01 above, and this Lease be terminated because of such default, then, in addition to Lessor's rights of re-entry, restoration, preparation for and rental, and anything elsewhere in this Lease to the contrary notwithstanding, Lessor shall retain its right to judgment on and collection of Lessee's aforesaid obligation to make a single payment to Lessor of a sum equal to the total of all rent and additional rent reserved for the remainder of the original Term of this Lease, subject to future credit or repayment to Lessee in the event of any re-letting of the Premises by Lessor, after first deducting from rental income all expenses incurred by Lessor in reducing to judgment or otherwise collecting Lessee's aforesaid obligation, and in obtaining possession of, restoring, preparing for and re-letting the Premises. In no event shall Lessee be entitled to a credit or repayment for rental income which exceeds the sums payable by Lessee hereunder or which covers a period ~~less than the original term of this Lease.~~

#### 28. NOTICES.

28.01 Except as otherwise expressly provided in this Lease, any bills, statements, notices, demands, requests or other communications given or required to be given under this Lease shall be deemed sufficiently given or rendered if in writing, sent by registered or certified mail (return receipt requested) addressed to Lessee (i) at Lessee's address set forth in this Lease if mailed prior to Lessee's taking possession of the Premises, or (ii) at the Building if mailed subsequent to Lessee's taking possession of the Premises, or (iii) at any place where Lessee or any agent or employee of Lessee may be found if mailed subsequent to Lessee's vacating, deserting, abandoning or surrendering the Premises with a copy to, or to Lessor at Lessor's address set forth in this Lease, with a copy to: Martin Nardi Gamble, Est., PLLC, 50 Grandview Boulevard,

Yonkers, New York 10710 or to such other address as either Lessor or Lessee may designate as its new address for such purpose by notice given to the others in accordance with the provisions of this Article. Any such bill, statement, demand, notice, request or other communication shall be deemed to have been rendered or given on the date when it shall have been mailed as provided in this Article. Nothing contained herein is intended to nor shall it limit, modify or supersede the obligations, rights or remedies of Lessor or the manner of service of notices or demands which are prescribed by applicable laws and statutes including but not limited to any demand for rent or additional rent required as a predicate or condition precedent to the institution of summary proceedings for recovery of possession of the Premises; nor shall Lessor be required hereby to serve bills, statements or invoices for rent or additional rent or other charges due under the Lease other than by ordinary first class mail.

#### 29. WATER.

29.01 Lessee shall pay the amount of Lessee's cost for all water used by Lessee for any purposes other than ordinary lavatory uses, and any sewerage or tax based thereon. Lessor may install a water meter to measure Lessee's water consumption for all purposes and Lessee agrees to pay for the installation and maintenance thereof and for water consumed as shown on said meter. If water is made available to Lessee in the Building or the Premises through a meter which also supplies other premises, or without a meter, then Lessee shall pay to Lessor ~~the appropriate amount for such water.~~

#### 30. SPRINKLER SYSTEM.

30.01 If there shall be a sprinkler system in the Building for any period during this Lease, Lessee shall pay \$ 00 per month, for sprinkler supervisory service. If such sprinkler system is damaged by any act or omission of Lessee or its agents, employees, licensees or visitors, Lessee shall restore the system to good working condition at its own expense. If the New York Board of Fire Underwriters, the New York Fire Insurance Exchange, the Insurance Services Office or any governmental authority requires the installation or any alteration to a sprinkler system by reason of Lessee's occupancy or use of the premises, including any alteration necessary to obtain the full allowance for a sprinkler system under the fire rate of Lessor, or for any other reason, Lessee shall make such installation or alteration promptly and at its own expense.

#### 31. HEAT, ELEVATOR, ETC.

31.01 Lessor shall provide passenger elevator service during all usual business hours including Saturdays until 1 P.M. except on Sundays, State holidays, Federal holidays, or Building Service Employees Union Contract holidays. Lessor shall furnish heat to the Premises during all usual business hours including Saturdays until 1 P.M., except on Sundays, State holidays, Federal holidays, or Building Service Employees Union Contract holidays in the cold season in each year. Lessor may remove Lessee's refuse from the Building and Lessee shall pay the cost thereof. If the elevators in the Building are manually operated, Lessor may convert to automatic elevators at any time, without in any way affecting Lessee's obligations hereunder.

#### 32. SECURITY DEPOSIT.

32.01 Lessee shall deposit with Lessor the sum of \$ 12,778.95 as security for the faithful performance and observance by Lessee of the terms of this Lease. It is agreed that in the event Lessee 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, Lessor 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 or to which Lessee is in default or for any sum which Lessor may expend or may be required to expend by reason of Lessee'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 re-letting of the Premises, whether such damages or deficiency accrue or accrues before or after summary proceedings or other re-entry by Lessor. If Lessor applies or retains any part of the Security Deposit so deposited, Lessee, within ~~thirty (30) days~~ after notice from Lessor shall deposit with Lessor the amount so applied or retained so that Lessor shall have the full Security Deposit on hand at all times during the Term. The failure by Lessee to deposit such additional amount within the foregoing time period shall be deemed a material default pursuant to Article 4 of this Lease. If Lessee shall fully and faithfully comply with all of the terms, provisions, covenants and conditions of this Lease, the security shall be returned to Lessee after the Expiration Date and after delivery of the entire possession of the Premises to Lessor. In the event of a sale of the Real Property or the Building or leasing of the Building, Lessor shall have the right to transfer the Security Deposit to the vendor or lessee and Lessor shall thereupon be released by Lessee from all liability for the return of the Security Deposit; and Lessee agrees to look solely to the new Lessor 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 Lessor. Lessee further covenants that, except in connection with a permitted assignment of this Lease, it will not assign or encumber or attempt to assign or encumber the Security Deposit and neither Lessor nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance. In any event, in the absence of evidence satisfactory to Lessor of a permitted assignment of the right to receive the security, or the remaining balance thereof, Lessor may return the security to the original Lessee regardless of one or more assignments of this Lease.

32.02. At Lessee's election, in lieu of the security deposit required under section 32.01 hereof Lessee, at any time simultaneously with, or following the execution of this Lease, may deliver to Lessor an irrevocable and unconditional letter of credit in the amount of the Security Deposit payable in New York City running in favor of Lessor issued by and drawn upon a New York bank or upon a national bank (hereinafter the "Issuing Bank") with offices in New York City which is a member of the New York Clearinghouse and which is acceptable to Lessor. Such letter of credit (as the same may be renewed, replaced or continued from time to time as hereinafter provided) shall remain in effect for the entire Term, shall not expire earlier than thirty (30) days after the expiration of the Term and shall provide that upon the occurrence of any event of default by Lessee under this Lease, the Issuing Bank shall honor the letter of credit and pay to Lessor the amount due to Lessor or any part thereof so requested by reason of Lessee's default, upon presentation of the letter of credit, together with a statement from Lessor that the Lessee is in default under this Lease, and specifying the amount due to Lessor or any part thereof by reason said default. The letter of credit shall further provide that it will be honored by the Issuing Bank upon the delivery of such statement by Lessor. If as a result of any such application of all or any part of such security, the amount available to be drawn upon the letter of credit shall be less than the required security, Lessee shall forthwith provide Lessor with additional cash or letter(s) of credit in amount equal to such deficiency. In the event of a transfer of Lessor's interest in the building, Lessor shall transfer and deliver the letter of credit to the transferee and Lessor shall, without any further agreement between the parties, thereupon be released by Lessee from all liability therefore, and it is agreed that the provisions hereof shall apply to every transfer or assignment made of the said letter of credit, or any part thereof to a new Lessor. In such event Lessee agrees to look solely to the new Lessor for the return of said cash security or letter of credit. Lessee further covenants that it will not assign or encumber said letter of credit, or any part thereof, and that neither Lessor nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance. Lessee shall fully cooperate with Lessor and any and all transferees, successors or assigns of Lessor to cause the depository bank to

amend the name of the beneficiary designation in said letter of credit or to issue a new letter of credit in the name and to the favor of such Transferee, successor or assignee of Lessor's interest and letter of credit. The letter of credit shall provide that it shall have an initial term of not less than one (1) year. Unless the Issuing Bank declines the issuance thereof, the letter of credit and any confirmation thereof to Lessor hereunder shall contain a provision of automatic renewal, without further amendment, for consecutive periods of one (1) year thereafter during the Term of this Lease (the "Self Renewing Letter of Credit"), or until the Issuing Bank sends written notice (the "Non-Renewal Notice") to Lessor by certified or registered mail, return receipt requested, not less than forty-five (45) days next preceding the then expiration date of the letter of credit that it elects not to have such letter of credit renewed and that Lessor shall have the right after receipt of the Non-Renewal Notice, exercisable by means of sight draft, to receive the moneys represented by the letter of credit and hold or apply such proceeds, as the case may be, pursuant to the terms of Section 32.01 of this Article 32, as a cash security pending the replacement of such letter of credit without the necessity of first providing the Issuing Bank with a statement from Lessor that the Lessee is in default under this Lease. If the Issuing Bank declines to deliver a Self Renewing Letter of Credit, Lessee shall, alternatively, provide and Lessor shall accept a letter of credit renewable by Lessee for successive periods of not less than one (1) year through and including a term ending thirty (30) days after expiration of the Term of this Lease. Lessee agrees to renew or replace the letter of credit or to cause the letter of credit to be amended, modified and continued for successive terms as aforesaid at least forty-five (45) days prior to the expiration of the then expiring letter of credit such that Lessor shall be in possession of and shall hold to its favor as beneficiary an enforceable letter of credit at all times during the Term of this Lease and for thirty (30) days thereafter. If Lessee fails to timely renew or replace the letter of credit, or fails to cause the letter of credit to be amended, modified and continued for any successive period as aforesaid at least forty-five (45) days prior to the expiration of the then expiring letter of credit or if Lessee fails to maintain the letter of credit in the amount and upon the terms set forth in this Article, in each case through and including thirty days after the expiration of the Term of this Lease, such failure shall constitute a default under the Lease as to which, in addition to all other remedies available to Lessor under this Lease, Lessor shall have the right to immediately present such letter of credit to the Issuing Bank, in accordance with the terms of this Article without further notice to Lessee, and the entire sum secured thereby shall be paid to Lessor, to be held as cash security or applied as provided in this Article, unless prior to Lessor's drawing thereon Lessee deposits with Lessor cash security in the amount to be held and applied by Lessor as provided in this Article.

### 33. ELECTRICITY.

33.01 Lessee agrees that Lessor may furnish electricity to Lessee on a "submetering basis or on a "rent inclusion" basis.

(a) Submetering: If and so long as Lessor provides electricity to the Premises on a submetering basis, Lessee covenants and agrees to purchase the same from Lessor on Lessor's designated general charges, terms and rates set forth in the highest service classification rate in effect on or after January 1, 2000 for residential uses (and without regard to the actual wholesale rate at which Lessor purchases its bulk electricity supply for the entire building before the addition of costs associated with the redistribution of electric current to tenants) permitted to be charged by the public utility corporations serving the New York City Metropolitan Area, including the five boroughs of New York City, Westchester, Rockland, Nassau and Suffolk Counties, for electricity consumed by all increased by the same percentage as any percentage increase in the billing to Lessor for electricity for the entire building by reason of increase in Lessor's electric rates, fuel adjustment, market supply charges or service classifications or for any other such reason, subsequent to January 1, 2000. Where necessary, one meter measures the service of Lessee which is being the service rendered through each meter may be computed and billed separately on a submetering basis and charges thereon. Bills therefor shall be rendered to such meter as Lessor may elect and the amount, as computed from such meter, shall be deemed to be, and be paid as, additional rent. In the event that such bills are not paid within 15 days after the same are rendered, Lessor may, without further notice, discontinue the service of electric current to Premises without releasing Lessee from any liability under this Lease and without Lessor or Lessor's agent incurring any liability for any damage or loss sustained by Lessee by such discontinuance of service. If Lessor shall not have received any payment due Lessor from Lessee under this article within ten (10) days of the date then interest shall be chargeable thereon in accordance with Section 2.05 of this Lease. If any tax is imposed upon Lessor's receipt from the sale or resale of electrical energy or gas or telephone service to Lessee by any Federal, State or Municipal Authority, Lessee covenants and agrees that where permitted by law, Lessee's pro-rata share of such taxes shall be passed on to, and included in the bill of, and paid by, Lessee to Lessor.

(b) Rent Inclusion: If and so long as Lessor provides electricity to the Premises on a rent inclusion basis, Lessee agrees that the fixed annual rent shall be increased by the amount of the Electricity Rent Inclusion Factor ("ERIF"), as hereinafter defined. Lessee acknowledges and agrees (i) that the fixed annual rent hereinafter set forth in this Lease does not yet, but is to include an ERIF component of \$3.00 per rentable square foot as hereinafter set forth to compensate Lessor for electrical wiring and other installations necessary for and for its obtaining and making available to Lessee the redistribution of electric current as an additional service; and (ii) that said ERIF, which shall be subject to adjustments as hereinafter provided, has been partially based upon an estimate of the Lessee's connected electrical load, which shall be deemed to be the demand (KW), and hours of use thereof, which shall be deemed to be the energy (KWH), for ordinary lighting and light office equipment and the operation of the usual small business machines, including Xerox or other copying machines (such lighting and equipment are hereinafter called "Ordinary Equipment") during ordinary business hours (ordinary business hours" shall be deemed to mean 16 hours per week), with Lessor providing an average connected load of 4775 watts of electricity for all purposes per rentable square foot. Any installation and use of equipment other than Ordinary Equipment and/or any connected load and/or any energy usage by Lessee in excess of the foregoing shall result in adjustment of the ERIF as hereinafter provided. For purposes of this Article only the rentable square foot area of the presently demised Premises shall be deemed and taken to be 791 square feet and the current rate is \$3.00 per rentable square foot.

(1) If the cost to Lessor of electricity shall have been, or shall be, increased subsequent to January 1, 2000, (whether such change occurs prior to or during the term of this Lease), by change in Lessor's electric rates, charges, fuel adjustment, market supply charges or service classifications, or by taxes or charges of any kind imposed upon Lessor for electricity, or for any other such reason, then the ERIF, shall be changed in the same percentage as such change.

(2) The parties agree that a reputable, independent electrical consultant, selected by Lessor (Lessor's electrical consultant), may determine the percentage change for the changes in the ERIF due to Lessor's changed costs, and that Lessor's electrical consultant may from time to time make surveys in the Premises of the electrical equipment and fixtures and the use of current. Nothing contained herein shall be construed to limit or require that the determination of any increase in electrical cost be made by declaration of an electrical consultant and Lessor may immediately impose such increase retroactively from its effective date as soon as same is reported or published to the general public or to Lessor by the utility company furnishing electric power, whether rendered by public or private report, bulletin, declaration, statement, billing or otherwise, or by the Public Service Commission, or by any other ordinarily recognized source of public

information, including any reputable news reporting or media publication, any one of which shall be deemed, as between Lessor and Lessee sufficient and prima facie documentation of the increase.

(3) If any such survey shall reflect a connected load in the Premises in excess of 4775 watts of electricity for all purposes per rentable square foot and/or energy usage in excess of ordinary business hours (each such excess is hereinafter called "excess electricity"), then the connected load and/or the amount of use portion(s) of the then existing ERIF shall each be increased by an amount which is equal to the factor of the then existing ERIF multiplied by the percentage of which is the excess electricity over the connected load and/or excess usage and the determination of which is the connected load and/or the excess usage shall be the basis for the computation of the then existing ERIF. Such factors shall be determined by Lessor's electrical consultant. The fixed annual rent shall also be appropriately adjusted effective as of the date of any such change in connected load and/or energy usage, as disclosed by said survey.

(ii) If such survey shall disclose installation and use of other than Ordinary Equipment, then Lessee shall pay for electricity consumed thereby as determined by surveys made by Lessor's electrical consultant, such payment to be an adjustment to ERIF and additional rent at charges equal and set from time to time during the Term of this Lease by Lessee, but not more than those specified in the highest rate service classification then in effect for commercial uses permitted to be charged by the public utility corporations serving the New York City Metropolitan Area, including the five boroughs of New York City, Westchester, Rockland, Nassau and Suffolk Counties, for electricity consumed by all increased by the same percentage as any percentage increase in the billing to Lessor for electricity for the entire building by reason of increase in Lessor's electric rates, fuel adjustment, market supply charges or service classifications or for any other such reason, subsequent to January 1, 2000. Where necessary, one meter measures the service of Lessee which is being the service rendered through each meter may be computed and billed separately on a submetering basis and charges thereon. Bills therefor shall be rendered to such meter as Lessor may elect and the amount, as computed from such meter, shall be deemed to be, and be paid as, additional rent. In the event that such bills are not paid within 15 days after the same are rendered, Lessor may, without further notice, discontinue the service of electric current to Premises without releasing Lessee from any liability under this Lease and without Lessor or Lessor's agent incurring any liability for any damage or loss sustained by Lessee by such discontinuance of service.

(c) In no event is the originally specified \$3.00 per rentable square foot ERIF portion of the fixed annual rent charge or any other charges imposed upon Lessee for electricity, including but not limited to market supply charges and taxes subsequent to January 1, 2000, to be reduced during the term of this lease.

(d) Lessee shall pay all costs and expenses associated with submetering of the supply of electricity to the Premises, including but not limited to cost of any meter, submeter, installation, repair, replacement and maintenance of any submeter for the Premises, whether or not an existing or a new installation, and Lessee shall pay an administrative service charge or fee for the submetering company used by Lessor to determine monthly submetered electric charges and billing, at the rate of five (5%) percent of billing. At the event that Lessor furnishes electricity to Lessee on a submetering basis and the Premises adjoins any public portion of the building to which Lessor also supplies electric current but which electrical service and consumption is not metered under Lessee's submeter for the Premises, including but not limited to electric service furnished to common hallways, vestibules, lobbies and bathrooms, then Lessor may surcharge Tenants during the Term of this Lease a sum equal to five (5%) percent of Lessee's electric bills and said surcharge shall have the same character, force, effect and treatment as the regularly billed submetered electricity charge. If submetered electric service to the demised Premises includes electric service to adjacent common areas of the building it shall be deemed included as charges due to Lessee's electric service without any credit or reduction to the amount due to Lessor and Lessee shall have no claim against Lessor for such common area usage.

(e) Lessee shall pay all costs and expenses of any electrical survey by Lessee's Electrical Consultant and Lessee's payment to Section 33.01 (b) (3).

(f) In the event that Lessee receives the supply of electricity directly from a public or private utility company (and not from Landlord on an ERIF basis) and the Premises adjoins any public portion of the building to which Lessor supplies electric current, including but not limited to common hallways, vestibules, lobbies and bathrooms, then Lessor may surcharge Tenants during the Term of this Lease a sum equal to five (5%) percent of Lessee's electric bills and said surcharge shall have the same character, force, effect and treatment as the regularly billed submetered electricity charge. If submetered electric service to the demised Premises includes electric service to adjacent common areas of the building it shall be deemed included as charges due to Lessee's electric service without any credit or reduction to the amount due to Lessor and Lessee shall have no claim against Lessor for such common area usage.

(g) Lessor's request made at any time during the Term of this Lease for an additional survey to be held otherwise in accordance with the terms of Article 32 of this Lease a sum equal to three (3) months electricity charges in the case of a person Lessee and a sum equal to six (6) months electricity charges in the case of a non-person Lessee, which sum shall be paid to Lessor within three (3) business days of demand therefor or Lessor may without further notice to Lessee discontinue all electric current to the Premises without releasing Lessee from any liability under this Lease and without Lessor or Lessor's agent incurring any liability for any damage or loss sustained by Lessee by such discontinuance of service.

33.02 The determinations by Lessor's electrical consultant shall be binding and conclusive on Lessor and Lessee from and after the delivery of copies of such determinations to Lessor and Lessee, unless, within 15 days after delivery thereof Lessee pays all sums billed and due under this Article and within fifteen (15) days after delivery thereof, Lessee by written notice to Lessor disputes such determination, it being the intent hereof that Lessee shall not be entitled to dispute or contest the determination unless and until all outstanding electricity charges billed by Lessor to Lessee and/or as determined by Lessor's electrical consultant to be additional ERIF are paid in full, such payment to be without prejudice and subject to credit or adjustment only after the dispute or contest is resolved. If Lessee so disputes the determination, it shall, at its own expense, obtain from a reputable, independent electrical consultant its own determinations in accordance with the provisions of this Article. Lessee's consultant and Lessor's consultant then shall seek to agree. If they cannot agree within thirty (30) days they shall choose a third reputable electrical consultant, whose cost shall be shared equally by the parties, to make similar determinations which shall be controlling. (If they cannot agree on such third consultant within ten (10) days, then either party may apply to the Supreme Court in the County of New York for such appointment.) If the controlling determinations differ from Lessor's electrical consultant, then the parties shall promptly make adjustment for any deficiency owed by Lessee or overage paid by Lessee.

33.03 At the option of Lessor, Lessee agrees to purchase from Lessor or its agents all lighting tubes, lamps, starters, ballast and bulbs used in the Premises and to pay for the cost of installation thereof at reasonably comparable prices or rates generally charged by landlords to tenants of comparable office buildings within New York County. All lighting tubes, lamps, starters, ballast and bulbs installed and used in the Premises shall be of high energy-efficiency ratings as shall be consistent with Con Edison's "Apple Power Rebate Program for High Efficiency Lighting" or such other programs or ratings of the public utility as may be instituted, available and applicable to the Premises for cost and energy savings. All lighting tubes, lamps, starters, ballast and bulbs installed and used in the Premises become Lessor's property upon the expiration or sooner termination of the Lease. Lessor shall not be liable to Lessee for any loss or damage or expense which Lessee may sustain or incur if either the quantity or character of electric service is changed or is no longer available or suitable for Lessee's requirements. Lessee covenants and agrees that at all times its use of electric current shall never exceed the capacity of existing feeders to the Building or the users or wiring installation. Lessee agrees not to connect any additional electrical equipment to the Building electric distribution system, other than lamps, typewriters and other small office machines which consume comparable amounts of electricity, without

Lessor's prior written consent, which consent shall not be unreasonably withheld. Lessee agrees that it shall only connect and use electrical equipment in the Premises of high energy efficiency ratings and shall maintain such equipment in proper working order so that it operates at all times at the highest rated efficiency for such equipment. Lessor from time to time may inspect and test Lessee's electrical equipment to determine whether such equipment is being maintained and operated at the highest energy efficiency rate designated for such equipment and Lessee agrees to provide access to such equipment to Lessor and its designated representatives for such purpose. In the event that Lessor determines that any of Lessee's electrical equipment is not being maintained at the highest energy efficiency rate for such equipment Lessor may so notify Lessee in writing, which notice shall specify the deficient equipment and Lessor's test results thereon. Lessee shall have thirty (30) days to make such repair to the equipment and restore the operation of same to its highest energy efficiency rate. If further inspection and testing by Lessor shall determine that the previously cited equipment is still functioning below its highest energy efficiency rate Lessor may require Lessee to cease the use of said equipment and its removal from the Premises. Lessee shall cease use of the equipment specified by Lessor's initial notice upon receipt of notice from the Lessor to cease such use and shall remove said equipment within Ten (10) days of service of said notice.

33.04 Any user or users to supply Lessee's electrical requirements, upon written request of Lessee, will be installed by Lessor, at the sole cost and expense of Lessee, if, in Lessor's sole judgment, the same are necessary and will not cause permanent damage or injury to the Building or Premises or cause or create a dangerous or hazardous condition or entail excessive or unreasonable alterations, repairs or expense or interfere with or disturb other tenants or occupants. In addition to the installation of such user or users, Lessor will also at the sole cost and expense of Lessee, install all other equipment proper and necessary in connection therewith subject to the aforesaid terms and conditions. The parties acknowledge that they understand that it is anticipated that electric rates, charges, etc., may be changed by virtue of time-of-day rates or other methods of billing, market supply charges, taxes or other impositions beyond Lessor's control and that the references in the foregoing paragraphs to changes in methods charges or rules on billing are intended to include any such changes. Supplementing Article 24 hereof, if all or part of the submetering charges or the ERF payable in accordance with Subdivision (a) or (b) of this Article becomes uncollectible or reduced or refunded by virtue of any law, order or regulation, the parties agree that, at Lessor's option, in lieu of submetering additional rent or ERF, and in consideration of Lessee's use of the Building's electrical distribution system and receipt of redistributed electricity and payment by Lessor consultants fees and other redistribution costs, the fixed annual rental rate(s) to be paid under this Lease shall be increased by an "alternative charge" which shall be a sum equal to \$ 3.00 per year multiplied by the factor of 791 and changed in the same percentage as any change in the cost to Lessor for electricity for the entire Building calculated on the basis of the above-mentioned terms, or any other charges imposed for electricity mentioned herein, or any percentage change to be computed as in Subdivision (A) of Section 33.01. The Lessor reserves the right, at any time upon ten (10) days written notice, to change its furnishing of electricity to Lessee from a rent inclusion basis to a submetering basis, or vice versa. The Lessor reserves the right to terminate the furnishing of electricity on a rent-inclusion, submetering, or any other basis at any time, upon ten (10) days written notice to the Lessee, in which event the Lessee may make application directly to the public utility for the Lessee's entire separate supply of electric current, provided however that Lessee need not permit its meters, wires, and controls, to be used for such purposes. Any meters, wires or other equipment or connections necessary to furnish electricity on a submetering basis or to enable Lessee to obtain electric current directly from such utility shall be installed at Lessee's sole cost and expense. Rent ~~inclusion~~ costs will be allowed. The Lessor, upon the expiration of the aforesaid ten (10) days written notice to the Lessee may discontinue furnishing the electric current but this Lease shall otherwise remain in full force and effect.

33.05 Each electricity bill or statement of electricity charges rendered to Lessee shall be conclusive and binding upon Lessee unless within ninety (90) days after mailing thereof by ordinary first class mail Lessee shall notify Lessor in writing that it disputes the correctness of the bill or statement and sets forth the particular respects in which the bill or statement is claimed to be incorrect including (i) the amount of any alleged error or overcharge, (ii) whether the error proceeds from application of an incorrect electric rate, fuel adjustment charge, market supply charge, service classification rate, tax or other charge of any kind, (iii) the methods and figures used by Lessee in recomputing the alleged correct amounts showing in detail Lessee's computations. In the event that Lessee has timely served the required written notice disputing correctness of Lessor's bill or statement, Lessee will have a one-hundred eighty (180) day period to commence an action or proceeding to recover any alleged overcharge and the failure to commence such action or proceeding within the prescribed period shall constitute a bar to such claim which thereafter shall be deemed forever lapsed, released and discharged against Lessor and said one-hundred eighty (180) day period shall serve in place and stead of any other applicable statute of limitations under law.

### 34. RENT CONTROL

34.01 In the event the fixed annual rent or additional rent or any part thereof provided to be paid by Lessee under the provisions of this Lease during the Term shall become uncollectible or shall be reduced or required to be reduced or refunded by virtue of any Federal State, County or City law, order or regulation, or by any direction of a public officer or body pursuant to law, or the orders, rules, code or regulations of any organization or entity formed pursuant to law, whether such organization or entity be public or private, then Lessor, at its option, may at any time thereafter terminate this Lease, by not less than thirty (30) days written notice to Lessee, on a date set forth in said notice, in which event this Lease and the Term hereof shall terminate and come to an end on the date filed in said notice as if the said date were the date originally fixed herein for the termination of the Term. Lessor shall not have the right so to terminate this lease if Lessee within such period of thirty (30) days shall in writing lawfully agree that the rentals herein reserved are a reasonable rental and agree to continue to pay said rentals, and if such agreement by Lessee shall then be legally enforceable by Lessor. Notwithstanding anything contained herein to the contrary, upon the termination of such legal rent restriction or control the fixed annual rent and/or additional rent shall become and thereafter shall be payable in accordance with the amounts reserved herein for the periods following such termination, and Lessee shall pay to Lessor promptly upon being billed, to the maximum extent legally permissible, an amount equal to (i) the fixed annual rent and/or additional rent which would have been paid pursuant to this Lease but for such legal rent restriction or control less (ii) the rents paid by Lessee during the period such legal rent restriction was in effect.

### 35. SHORING

35.01 Lessee shall permit any person authorized to make an excavation on land adjacent to the Building containing the Premises to do any work within the Premises necessary to preserve the wall of the building from injury or damage, and Lessee shall have no claim against Lessor for damages or abatement of rent by reason thereof

### 36. EFFECT OF CONVEYANCE, ETC.

36.01 If the Building containing the Premises shall be sold, transferred or leased, or the lease thereof transferred or sold, Lessor shall be relieved of all

LESSEE (initials)

future obligations and liabilities hereunder and the purchaser, transferee or lessee of the Building shall be deemed to have assumed and agreed to perform all such obligations and liabilities of Lessor hereunder. In the event of such sale, transfer or lease, Lessor shall also be relieved of all existing obligations and liabilities hereunder, provided that the purchaser, transferee or lessee of the Building assumes in writing such obligations and liabilities.

### 37. RIGHTS OF SUCCESSORS AND ASSIGNS

37.01 This Lease shall bind and inure to the benefit of the heirs, executors, administrators, successors, and, except as otherwise provided herein, the assigns of the parties hereto. If any provision of any Article of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of that Article, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of said Article and of this Lease shall be valid and be enforced to the fullest extent permitted by law.

### 38. INSURANCE

38.01 Lessee shall not violate, or permit the violation of, any condition imposed by any insurance policy then issued for or in respect of the Building and/or the property therein, and shall not do, permit anything to be done, or keep or permit anything to be kept in the Premises which would subject Lessor, any Superior Lessor or any Superior Mortgagee to any liability or responsibility for personal injury or death or property damage, or which would increase any insurance rate in respect of the Building or the property therein or risk of personal injury or property damage over the rate which would otherwise then be in effect or which would result in insurance companies of good standing refusing to insure the Building or the property therein in amounts reasonably satisfactory to Lessor, or which would result in the cancellation of or the assertion of any defense by the insurer in whole or in part to claims under any policy of insurance in respect of the Building or the property therein or risks insured against. If, by reason of any failure of Lessee to comply with the provisions of this Section, or premiums on Lessor's insurance on the Building and/or equipment and/or property therein or risk of personal injury or property damage shall be higher than they otherwise would be, Lessee shall reimburse Lessor, on demand and as Additional Charges, for that part of such premiums attributable to such failure on the part of Lessee. A schedule or "make up" of rates for the Building or the Premises, as the case may be, issued by the New York Fire Insurance Rating Organization or other similar body making rates for insurance for the Building or the Premises, as the case may be, shall be conclusive evidence of the facts therein stated and of the several items and changes in the insurance rate then applicable to the Building or the Premises, as the case may be.

38.02 Lessee shall secure an appropriate clause in, or an endorsement upon, each insurance policy obtained by it and covering or applicable to the Premises or the personal property, fixtures and equipment located therein or thereon, pursuant to which the insurance company waives subrogation or permits the insured, prior to any loss, to agree with a third party to waive any claim it might have against said third party without invalidating the coverage under the insurance policy. The waiver of subrogation or permission for waiver of any claim shall extend to Lessor and its agents and employees and each Superior Lessor and Superior Mortgagee. Lessee hereby releases, ~~waives~~ and its agents and employees and each Superior Lessor and Superior Mortgagee in respect of any claim (including a claim for negligence) which it might otherwise have against Lessor, its agents or employees or any Superior Lessor or Superior Mortgagee for loss, damage or destruction with respect to Lessee's property by fire or other casualty (including rental value or business interest, as the case may be) occurring during the term of this Lease and normally covered under a fire insurance policy with extended coverage endorsement in the form normally used in respect to similar property in New York County.

38.03 Lessee, at its expense, shall maintain at all times during the term of this Lease (a) "all-risk" property insurance covering all present and future improvements, betterments and property (including, without limitation Lessee's Property and Lessor's Property) within or comprising all or any part of the Premises to a limit of not less than the full replacement cost thereof, but in no event less than ~~the full replacement cost thereof~~ with a deductible of not more than \$1,000.00 and (b) commercial general liability insurance in respect of the Premises and the conduct or operation of the business therein, including a contractual liability endorsement and personal injury (or death) liability coverage, with Lessor and its managing agent, if any, and each Superior Lessor and Superior Mortgagee whose name and address is furnished to Lessee, as additional insureds, with limits of not less than ~~the full replacement cost thereof~~ \$3,000,000.00 Dollars combined single limit for bodily or personal injury and property damage liability in any one occurrence and (c) ~~death benefits and identification of immediate beneficiaries with Lessor and its managing agent, if any, and each Superior Lessor and Superior Mortgagee whose name and address is furnished to Lessee, as additional insureds, with limits of not less than three times the full replacement cost thereof~~ with limits of not less than three times the full replacement cost thereof in the event of the death of any insured in the Premises, (e) Worker's Compensation, and (f) "all-risk" Builder's Risk coverage when Alterations or construction are in process as more particularly provided pursuant to Article 7 hereof. The limits of such insurance shall not limit the liability of the Lessee. The scope of required coverage for additional insureds includes not only the additional insureds' vicarious liability but also the direct liability of the additional insureds, including but not limited to liability based on the sole negligence of the additional insureds or any one of them, and the insurance acquired by such additional insureds in its excess of, and will not contribute with, Lessee's liability insurance. Lessee shall deliver to Lessor and to each additional insureds, at least ten (10) days prior to the Commencement Date, such fully paid policies of insurance in form reasonably satisfactory to Lessor, issued by the insurance company or its authorized agent. Lessee shall procure and pay for renewals of such insurance from time to time before the expiration thereof, and Lessee shall deliver to Lessor and any additional insureds such renewal policy at least thirty (30) days before the expiration of any existing policy. All such policies shall be issued by companies of recognized responsibility licensed to do business in New York State and rated by Best's Insurance Reports or any successor publication of comparable standing and carrying a rating of A-VIII or better or the then equivalent of such rating, and all such policies shall contain a provision whereby the same cannot be cancelled or modified unless Lessor and any additional insureds are given at least thirty (30) days prior written notice of such cancellation or modification. The proceeds of policies providing "all risk" property insurance of Lessee's Insured Property shall be payable to Lessor, Lessee and each Superior Lessor and Superior Mortgagee as their interest may appear, as provided in Article 10 hereof.

38.04 Lessor, ~~may from time to time require that the amount of the insurance maintained by Lessee under Section 38.03 be increased so that the amount thereof adequately protects Lessor's interest.~~

38.05 It is expressly understood and agreed that Lessor will not carry insurance on Lessee's fixtures, furnishings, equipment or other property effects or insurance against interruption of Lessee's business.

### 39. ARBITRATION

39.01 In each case specified in this Lease, if any, in which resort to arbitration shall be required, such arbitration (unless otherwise specifically provided in other Sections of this Lease) shall be in New York City in accordance with the Commercial Arbitration Rules of the American Arbitration Association and the

LESSOR (initials)



provisions of this Lease. The decision and award of the arbitrator(s) shall be in writing, shall be final and conclusive on the parties, and counterpart copies thereof shall be delivered to each of the parties. In rendering such decision and awards, the arbitrators shall not add to, subtract from or otherwise modify the provisions of this Lease. Judgment may be had on the decision and award of the arbitrator(s) so rendered in any court of competent jurisdiction.

#### 40. ESCALATIONS

##### 40.01 INCREASE IN TAXES:

(a) For the purposes of this Section 40.01 of Article 40, the following definitions shall apply:

(1) "Taxes" shall mean the aggregate amount of real estate taxes and any special assessments (exclusive of penalties and interest thereon) imposed upon the Real Property (including, without limitation, (i) assessments made upon or with respect to any "air rights" or "development rights", and (ii) 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 this Article) which assessments, if payable in installments, shall be deemed payable in the maximum number of permissible installments (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 or rental tax) is imposed upon Lessor 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 tax or assessment shall be deemed part of the Taxes. With respect to any Comparison Year (hereinafter defined) all expenses, including 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.

(2) "Base Taxes" shall mean the amount of Taxes imposed upon the Building and/or the Land by the governmental authority in the Base Year.

(3) "Base Year" shall mean fiscal year commencing July 1, 2012 and ending June 30, 2013, both dates inclusive.

(4) "Comparison Year" shall mean with respect to Taxes, any Tax Year subsequent to the Base Tax Year.

(5) "Tax Year" shall mean the period of twelve months from July 1 through June 30 for such other period of twelve months as hereinafter may be duly adopted by the City of New York as its fiscal year for real estate tax purposes) any portion of which occurs during the Term.

(6) "Lessee's Share" shall be .79 %

(7) "Tax Payment" shall mean the amounts payable by Lessee in accordance with the provisions of this Article.

(8) "Lessor's Tax Statement" shall mean a written statement setting forth a comparison of the Base Taxes and Taxes for the Comparison Year (pursuant to the provisions of this Section 40.01) accompanied by a copy of the official received Tax bill and stating the amount due from and payable by Lessee.

(b) If the Taxes for any Comparison Year shall be more than the Base Taxes, Lessee shall pay, as Additional Rental for such Tax Year an amount equal to Lessee's Share of the amount by which the Taxes for such Comparison Year are greater than the Base Taxes. The Taxes shall be initially computed on the basis of the Assessed Valuation in effect at the time Lessor's Tax 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 this Article. ~~It is understood that no attorney's fees or Taxes under Section 40.09 shall be paid by Lessee's Share of the Annual Business Improvement District (BID) assessment levied under Article 19-A of the General Municipal Law, as part of the Tax Payment.~~

(c) For purposes of this Article, the following provisions shall apply:

(1) If at any time during the Term of this Lease the methods of taxation prevailing at the commencement of the Term hereof shall be altered so that in lieu of, or as an addition to or as a substitute for the whole or any part of the taxes, assessments, levies, impositions or charges now levied, assessed or imposed on real estate and the improvements thereof, there shall be levied, assessed and imposed (i) a tax, assessment, levy imposition or charge wholly or partially as a capital levy or otherwise on the rents received therefrom, or (ii) a license fee measured by the rent payable by Lessee to Lessor, or (iii) any other such additional or substitute tax, assessment, levy, imposition or charge, then all such taxes, assessments, levies, impositions or charges on the part hereof so measured or based shall be deemed to be included within the term Taxes for the purpose hereof.

(2) The full Tax Payment shall be payable by Lessee within 45 days after receipt of a demand from Lessor therefor, which demand shall be accompanied by a copy of the tax bill together with Lessor's computations of the Tax Payment (hereinafter "Lessor's Tax Statement") irrespective of whether the City of New York permits Lessor to pay its Taxes for any Tax Year in installments and Lessor elects to pay its Taxes in installments.

(3) The Tax Payment shall be prorated to correspond with that portion of a Tax Year occurring within the Term of this Lease. Lessor's failure to render a Lessor's Tax Statement during or with respect to any Comparison Year shall not prejudice Lessor's right to render a Lessor's Tax Statement during or with respect to any subsequent Comparison Year, and shall not eliminate or reduce Lessee's obligation to pay increases in the rent pursuant to this Article for such Comparison Year.

(4) In the event the Base Taxes are reduced, Lessor shall have the right to adjust the amount of Tax Payment due from Lessee for all Tax Years thereby affected and Lessee agrees to pay the amount of said adjustment on the next rental installment day immediately following receipt of a rent statement from Lessor setting forth the amount of said adjustment.

(5) In the event that, after a Lessor's Tax Statement has been sent to Lessee, 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 Lessor, then, promptly after receipt of such refund, Lessor shall send Lessee a Revised Lessor Tax Statement adjusting the Taxes for such Comparison Year (taking into account the expenses mentioned in the last sentence of subsection 40.01(f) of this Article) and setting forth Lessee's Share of such refund and Lessee shall be entitled to receive such Share by way of a credit against the rent next becoming due after the sending of such Statement; provided, however, that Lessee's Share of such refund shall be limited to the amount, if any, which Lessee had theretofore paid to Lessor as increased rent for such Comparison Year on the basis of the Assessed Valuation before it had been reduced.

(6) The obligation of Lessee in respect of such Additional rental applicable for

the last year of the Term of this Lease or part thereof shall not be subject to proration and shall survive the expiration or sooner termination of the Term of this Lease.

(7) If during the Term of this Lease, Taxes are required to be paid (either to the appropriate taxing authorities or as tax escrow payments to a mortgage or ground lessor) in full or in monthly, quarterly, or other installments, on any other date or dates than as presently required, then, at Lessor's option, Lessee's Share with respect to Taxes shall be correspondingly accelerated or revised so that Lessee's Share is due at least thirty (30) days prior to the date payments are due to the taxing authorities or the Superior Mortgage or Ground Lessor, as the case may be. The benefit of any discount for any early payment or prepayment of Taxes shall accrue solely to the benefit of Lessor, and such discount shall not be subtracted from Lessee's Share of such Taxes.

(8) Notwithstanding the fact that the aforesaid increase in rent is measured by an increase in Taxes, such increase is additional rental and shall be paid by Lessee as herein provided regardless of the fact that Lessee may be exempt, in whole or in part, from the payment of any Taxes by reason of Lessee's diplomatic or other exempt status or for any other reason whatsoever.

(9) Lessor's Tax Statement shall be accepted as prima facie evidence of the facts and figures contained therein and on official record with the taxing authorities having jurisdiction over the Building and Lessor and Lessee hereby stipulate that Lessor's Tax Statement shall be admissible in any court proceeding between the parties as direct prima facie evidence of the Base Taxes, Comparison Year Taxes, Tax Payment due from the Lessee and any other fact or figure set forth therein, upon proof that a true copy of Lessor's Tax Statement was either personally delivered to Lessee or was mailed to Lessee, ordinary first class mail, addressed to Lessee at the Premises and Lessee hereby waives any objection to the introduction and admission of Lessor's Tax Statement into evidence in any court proceeding or action between the parties based on the ground of hearsay evidence. There shall be no evidentiary obligation on burden upon Lessor to prove by other or additional documentary proof, payments, invoices or receipts the accuracy or veracity of Lessor's Tax Statement for the purpose of sustaining a prima facie case. Nothing contained herein shall prevent, prohibit or preclude Lessee from introducing evidence in any court proceeding or action between the parties contesting or disputing the accuracy or veracity of the facts or figures set forth in Lessor's Tax Statement.

##### 40.02 WAGE RATE ESCALATION:

(a) For purposes of this Section 40.02 of Article 40 the following definitions shall apply:

(1) "Wage Rate" shall mean the minimum weekly hourly rate of wages including without limitation living benefits and adjustments of every kind whether paid by Lessor or any contractor employed by Lessor computed as paid over forty-four hours worked for forty (40) hours in the Base Year pursuant to an agreement between the Realty Activity Board on Labor Relations and Service Employees International Union, AFL-CIO, or any successor thereof, and provided, however, that if there is no such agreement in effect prescribing a Wage Rate for Base Year computations and payments shall nevertheless be made upon the basis of the regular hourly Wage Rate actually payable to workers by Lessor or by Lessor's service contractors over forty-four weeks and provided, however, that in any year during the Term of this Lease the regular employment of Plaintiffs shall occur on days or during hours which exist on or other payment provisions which effect payments to such Agreement, then the wages hourly rate for the Base Year shall be deemed to be the average hourly rate for the Base Year as determined during the Base Year as required, computed, by the parties to an agreement between Realty Activity Board and the Local 39B of the regular employment of Plaintiffs for forty hours during a calendar week at a regular hourly wage rate of \$3.00 for the first thirty hours and premium or overtime hourly wage rate of \$4.40 for the remaining ten hours, then the hourly rate of wages under this Section 40.02 during each period shall be the total weekly rate of \$15.00 divided by the total number of regular hours of employment during the Base Year.

(2) "Base Wage Rate" shall mean the Wage Rate in effect on January 1, 2004.

(3) "Base Wage Rate Year" shall mean calendar year 2004.

(4) "Class A Office Buildings" shall mean office buildings in the same class or category as the Building under any agreement between the Realty Activity Board and Local 39B, regardless of the designation given to such office buildings in any such agreement.

(5) The term "Plaintiff" shall mean that classification of non-supervisory employees employed to and about Class A Office Buildings who develop and assist in their time to general cleaning, maintenance and miscellaneous services essentially of a non-technical and non-mechanical nature and who are the type of employees who are presently included in the classification of "Class A Others" in the Commercial Building Agreement between the Realty Activity Board and the local union.

(6) The term "Multiemployer Rates" shall mean 3000.

(7) "Comparison Year" shall mean with respect to Wage Rate any calendar year subsequent to the Base Wage Rate Year.

(8) The term "Wage Benefit" shall include, without limitation, health and welfare pay, sick pay, welfare and pension fund contributions, disability benefits and profit sharing plan, vacation pay, plans and supplemental unemployment benefits, training and educational pay for days allowed for absence, bonuses and other day-off and other benefits, plan payments and payment of vacation or disability money, whether or not required under any applicable law, regulation or ordinance.

(9) Lessor's Wage Rate Statement shall mean a written statement setting forth a comparison of the Base Wage Rate and the Comparison Year Wage Rate pursuant to the provisions of Section 40.02 and stating the amount of the Wage Rate Increase Charge due from and payable by Lessee.

(10) If the Wage Rate charge for any Comparison Year, set forth in all of Lessee's fall within the provisions of this Section 40.02, shall be greater than the product obtained by multiplying the Multiemployer Rate by one hundred (100) percent of the number of seats (including any fraction of a seat) by which the Wage Rate is greater than the Base Wage Rate, such payment to be made in equal monthly installments commencing with the first month installment of first rent falling due or after the effective date of such increase in Wage Rate (with the last payment to include the payments subsequent to which the due date) and continuing with the provisions of this Article. Lessor shall give Lessee written notice of each change in Wage Rate. If Lessor's Wage Rate Statement that will be effective to create or change Lessee's obligation to pay the Wage Increase Charge pursuant to the provisions of this Section 40.02, which notice shall contain Lessor's calculation of the Wage Increase Charge payable and shall be accompanied by a copy of the Wage Rate Statement, shall be provided, if necessary, to correspond with that portion of a calendar year occurring within the Term of this Lease.

(e) Lessor's Wage Rate Statement shall be conclusive and binding upon Lessee within (i) within thirty (30) days after the receipt of such notice Lessee shall notify Lessor that it disputes the correctness of Lessor's Wage Rate Statement specifying the particular respects in which the statement is claimed to be incorrect and (ii) if such dispute shall not have been settled by agreement shall submit the dispute to arbitration with the American Arbitration Association within ninety (90) days of receipt of the notice. Binding the determination of each dispute Lessee shall pay the Wage Increase Charge in accordance with Lessor's Wage Rate Statement without prejudice to Lessee's position. If such dispute is determined to be in favor of Lessee, Lessor shall pay all costs and expenses of Lessee incurred in proceeding or defending the arbitration proceeding including Lessee's actual attorneys' fees. Lessor's Wage Rate Statement shall be accepted as prima facie evidence of the facts and figures contained therein and on official record with the Realty Advisory Board as set forth in the Union contract and all amendments or modifications thereto and Lessee and Lessor hereby stipulate that the same shall be admissible in any court or arbitration proceeding between the parties or direct prima facie evidence of the Wage Rate, Cost of Living, Consumer Year Rate, Wage Increase Charge due from the Lessee and other obligations set forth therein upon proof that a true copy of Lessor's Wage Rate Statement was either personally delivered to Lessee or was mailed to Lessee's ordinary first-class mail address or to Lessee at the Premises and Lessee hereby waives any objection to the introduction and admission of Lessor's Wage Rate Statement into evidence in any court proceeding or arbitration proceeding between the parties based on the ground of hearsay evidence. There shall be no evidentiary obligation on behalf of Lessee to prove by other or additional documentary proof of payments received or receipts or accounts or items of Lessor's Wage Rate Statement for the purpose of obtaining a price adjustment. Provided that Lessee has objected to the correctness of Lessor's Wage Rate Statement as presented in the first sentence of this subsection and has otherwise complied with the terms and conditions thereof (unless the same has been determined against Lessee in arbitration) nothing contained herein shall prevent Lessee from introducing evidence in any court proceeding or arbitration proceeding between the parties containing or disputing the accuracy or veracity of the facts and figures set forth in Lessor's Wage Rate Statement.

(4) The Wage Rate is intended to be a substitute comparative index of economic costs and inflationary pressures and does not necessarily reflect the actual costs of wages or other expenses of operating the Building. The Wage Rate shall be used whether or not the Building is a Class A Office Building, whether or not persons are employed in the Building and whether or not it complies with applicable laws and regulations of the United States.

40.03 - COST OF LIVING ADJUSTMENTS. The fixed annual rent reserved in this Lease and payable hereunder shall be adjusted as of the times and in the manner set forth in this Section:

(a) For the purposes of Section 40.03 of this Article, the following definitions shall apply:

(1) The term "Base Year" shall mean the full calendar year during which the term of this Lease commences.

(2) The term "Price Index" shall mean the "Consumer Price Index" published by the Bureau of Labor Statistics of the U.S. Department of Labor. All items, U.S. city averages, all urban consumers (presently denominated (CPI-U)), or a successor or substitute index appropriately adjusted.

(3) The term "Price Index for the Base Year" shall mean the average of the monthly All Items Price Indexes for each of the 12 months of the Base Year.

(4) Effective as of each January and July subsequent to the Base Year, there shall be made a cost of living adjustment of the fixed annual rental rate payable hereunder. The July adjustment shall be based on the percentage difference between the Price Index for the preceding month of June and the Price Index for the Base Year. The January adjustment shall be based on such percentage difference between the Price Index for the preceding month of December and the Price Index for the Base Year.

(5) In the event the Price Index for June in any calendar year during the term of this lease reflects an increase over the Price Index for the Base Year, then the fixed annual rent herein provided to be paid as of the July 1st following such month of June (unchanged by any adjustments under this Article) shall be multiplied by the percentage difference between the Price Index for June and the Price Index for the Base Year and the resulting sum shall be added to such fixed annual rent effective as of each July 1st. Said adjusted fixed annual rent shall thereafter be payable hereunder in equal monthly installments, until it is readjusted pursuant to the terms of this lease.

(6) In the event the Price Index for December in any calendar year during the term of this lease reflects an increase over the Price Index for the Base Year, then the fixed annual rent herein provided to be paid as of the January 1st following such month of December (unchanged by any adjustments under this Article) shall be multiplied by the percentage difference between the Price Index for December and the Price Index for the Base Year and the resulting sum shall be added to such fixed annual rent effective as of each January 1st. Said adjusted fixed annual rent shall thereafter be payable hereunder in equal monthly installments, until it is readjusted pursuant to the terms of this Lease.

(7) The following illustrates the mechanics of the price indexes used in the computation of the above-mentioned cost of living adjustments in the annual rent payable hereunder. Assuming that said fixed annual rent is \$10,000, that the Price Index for the Base Year was 100.0 and that the Price Index for the month of June in a calendar year following the Base Year was 105.0, then the percentage increase thus reflected, i.e., 5.0% (50/100) would be multiplied by \$10,000, and said fixed annual rent would be increased by \$500.10 effective as of July 1st of said calendar year.

(8) In the event that the Price Index ceases to use 1967=100 as the basis of calculation or if a substantial change is made in the terms of number of items contained in the Price Index, then the Price Index shall be adjusted to the figure that would have been arrived at had the manner of computing the Price Index in effect at the date of this Lease not been altered. In the event such Price Index for non-partisan publication is not available, a reliable governmental or other determining the Price Index shall be used.

(9) No adjustments or reconciliations retroactive or otherwise shall be made to the Price Index for any month.

(10) Lessor will cause statements of the Cost of Living Adjustments provided for in this Section 40.03 to be prepared in reasonable detail and delivered to Lessee. The statements thus furnished to Lessee shall constitute a final determination as between Lessor and Lessee of the Cost of Living Adjustment based upon data published by the U.S. Department of Labor for the periods represented thereby.

(11) In no event shall the fixed annual rent originally provided to be paid under this Lease (exclusive of the adjustments under this Section 40.03) be reduced by virtue of this Article.

(12) Any delay or failure of Lessor, beyond July or January of any year in

computing or billing for the rent adjustments hereinabove provided, shall not constitute a waiver of or in any way impair the continuing obligation of Lessee to pay such rent adjustments hereunder.

(b) Notwithstanding any expiration or termination of this Lease prior to the Expiration Date (except in the case of a cancellation of this Lease prior to the Lessee's obligation to pay rent as adjusted under this Article) Lessee shall continue to pay rent as adjusted under this Article until the expiration of the Lease. Lessee shall cover all periods up to the Lease Expiration Date, and shall survive any expiration or termination of this Lease.

40.04 Lessor's failure to prepare and deliver any of the Tax Statements, Wage Rate Statements, or Cost of Living Adjustment Statements (as if applicable by Lessee) or any of the Operating Expense Statements (as if applicable by Lessee) set forth in this Article 40 or in the Rider to this Lease, or Lessor's failure to make a demand therefor, shall not in any way cause Lessor to forfeit or surrender its rights to collect any of the foregoing items of Additional Rental that may have become due during the term of this Lease. Lessee's liability for the amounts due under this Article 40 shall survive the expiration of the term hereof, and any amount due for a partial period between the expiration of a Tax Year, calendar year, or Lease Year and the Expiration Date shall be prorated.

#### 41. BROKER

41.01 Lessee warrants and represents that it has had no dealings with any broker or agent in connection with this Lease other than with Eastgate Realty and Eastgate Realty and warrants and represents that Eastgate Realty and Eastgate Realty were the sole broker(s) who negotiated and brought about this transaction, and covenants to pay, hold harmless and indemnify Lessor from and against any and all costs, loss, damage expense or liability (including court costs and attorneys fees) arising out of any inaccuracy or alleged inaccuracy or breach of the above warranty and representation and/or for any compensation, commission or charge claimed by any other broker(s) or agent(s) with respect to this Lease or the negotiation thereof with whom Lessee had dealings. The execution and delivery of this Lease by Lessor shall be conclusive evidence that Lessor has relied upon the foregoing representation and warranty.

#### 42. CAPTIONS AND PRONOUNS

42.01 The captions herein are inserted only for convenience, and are in no way to be construed as a part of this Lease or as a limitation of the scope of any provision of this Lease. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the person or persons may require.

#### 43. MISCELLANEOUS

43.01 It is understood and agreed that this Lease is submitted to Lessee on the understanding that it shall not be considered an offer and shall not bind Lessor in any way until (i) Lessee has duly executed and delivered duplicate originals to Lessor and (ii) Lessor has executed and delivered one of said originals to Lessee.

43.02 If more than one person executes this Lease as Lessee, each of them understands and hereby agrees that the obligations of each of them under this Lease are and shall be joint and several, that the term "Lessee" as used in this Lease shall mean and include each of them jointly and severally and that the act or notice from, or notice or refund to, or the signature of, any one or more of them, with respect to the tenancy and/or this Lease, including, but not limited to, any renewal, extension, expiration, termination or modification of this Lease, shall be binding upon each and all of the persons executing this Lease as Lessee with the same force and effect as if each and all of them had so acted or had so given or had received such notice or refund or so signed.

~~43.03 The person signing this Lease on behalf of the Lessor is a representative of the Lessor and hereby acknowledges also signing this Lease individually as guarantor of the due and punctual payment of rent and/or additional rent for value Received and in consideration of the letting of the Premises to the Lessee, and does hereby covenant and agree, to and with the Lessor and the Lessor's legal representatives, that if default shall at any time be made by the said Lessee in the payment of the rent and/or additional rent and the performance of the covenants contained in the within Lease, on the Lessee's part to be paid and performed, that the guarantor will well and truly pay the said rent and/or additional rent, or any arrears thereof, that may remain due unto said Lessor, and also pay all damages that may arise in consequence of the non performance of said covenants and this Guaranty, or either of them, without requiring notice of any such default from the Lessor. The guarantor hereby waives all right to trial by jury in any action or proceeding hereinafter instituted by the Lessor, to which the guarantor may be a party. This guaranty and the obligations of the guarantor shall be deemed cancelled and of no force and effect from and after the Cancellation Date as hereinafter defined, if, after a default by Lessee which continues beyond any applicable grace period, (i) Lessee gives Lessor thirty (30) days prior written notice of the date on which the Premises will be vacated and Lessee actually vacates and surrenders possession on or before the date specified in said notice; and the failure to do so shall require a new thirty (30) days' prior written notice and reset of the surrender date to satisfy this condition; (ii) all terms of repair and maintenance under the Lease to be performed by Lessee have been performed; Guarantor hereby agrees that any repair and maintenance necessary to be performed to the Premises due to the willful misconduct or gross negligence of Lessee, shall be performed by the Guarantor prior to vacating the Premises; (iii) Lessee unconditionally surrenders peaceful possession of the Premises described in this Lease after demand therefor by Lessor in good order and condition together with any and all fixtures, improvements and equipment appurtenant to the real property unless they are required to be removed by Lessee pursuant to the terms of this Lease and Lessor has not waived the requirement in writing and (iv) Lessee pays all rent and additional rent through the end of the month in which surrender of possession as aforesaid is delivered to Lessor. Cancellation of this guaranty shall be fixed and effective as of the date on which shall last occur the events set forth above as (i), (ii), (iii) and (iv) (herein the "Cancellation Date") but in no event prior to the date specified in the item (i) notice set forth above, and thereafter the guarantor shall no longer be liable for the obligations of the Lease. If property, fixtures and installations which the Lessee is required to remove at the expiration of termination of the Lease are not removed by the Lessee at or prior to such expiration or termination the Guarantor agrees to reimburse Lessor for any and all expenses in connection therewith, and to hold the Lessor harmless from any claims or liability in connection with such removal. This Guaranty includes a guarantee of the obligation of the Lessee to replace any item where replacement is necessitated by the acts or omissions of the Lessee, its agents, employees or invitees, or by failure of the Lessee to make timely repairs. Lessor may (but is not obligated to) first look to the Guarantor for any Annual Rent, additional rent, or other guaranteed obligations of Lessee, before applying any security moneys held under this Lease. In such event Guarantor would be obligated to pay to Lessor any Annual Rent and/or additional rent, and perform any of the above obligations prior to Lessor's applying any security held. The Guarantor may, at Lessor's option, be joined in any action or proceeding commenced by Lessor against Lessee in connection with and based upon any covenant and obligations in said Lease, which have been guaranteed by guarantor, and that the undersigned hereby waives any demand by Lessor and/or prior action by Lessor of any nature whatsoever against Lessee. This Guaranty shall remain in full force and effect notwithstanding the alteration of the said Lease by the parties thereto whether prior to or subsequent to the execution hereof and as to any renewal, extension, modification or amendment of said Lease and as to any assignee of Lessee's interest in said Lease, and the Guarantor does hereby waive notice of any of the foregoing and agrees that the~~

43.04 If Lessor agrees to provide Lessee, at Lessor's sole cost and expense, with a single listing of Lessee's name on the directory in the lobby of the Building. Upon written request by Lessee, Lessor in Lessor's sole discretion may but shall not be obligated to provide Lessee with additional listings on such directory, at Lessee's sole cost and expense. Lessor shall have the right to make and determine the size, placement and abbreviation of Lessee's requested listing(s) as may be appropriate in Lessor's sole judgment for addition to the Building directory.

43.05 If Lessee is a corporation, partnership, limited liability company or other non-person entity, Lessee and each individual executing this Lease on behalf of Lessee hereby represents and warrants that Lessee is a duly formed and validly existing entity qualified to do business in the State of New York and that Lessee and such party have the full right, power and authority to execute and deliver this Lease, that such execution, delivery and performance of Lessee's obligations shall not cause, create or constitute a default or breach under any agreement to which Lessee is a party or by which it is bound. Lessee shall, if requested, deliver to Lessor a certified copy of a corporate resolution authorizing or ratifying the execution and delivery of this Lease. Lessee and the individual signing this lease on behalf of Lessee further represent that the information concerning its financial status, stockholders, parent, subsidiaries and affiliates, if any, prior to the execution and delivery of this Lease is unchanged, true and correct, accurately represents the financial status of the subject for whom submitted and that there has been no material or adverse change in the financial status of Lessee or said persons.

43.06 If Lessee is a partnership (or is comprised of two (2) or more persons) individually and as co-partners of a partnership) or if Lessee'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 3 (any such partnership and such persons are referred to in this Article as a "Partnership Lessee") the following provisions of this Article shall apply to such Partnership Lessee: (a) the liability of each of the parties comprising a Partnership Lessee shall be joint and several and such parties 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 Lessor; and by any notices, demands, requests or other communications which may hereafter be given by a Partnership Lessee or by any of the parties comprising a Partnership Lessee, and (iii) any bills, statements, notices, demands, requests or other communications given or rendered to a Partnership Lessee and to all such parties shall be binding upon a Partnership Lessee and all such parties, and (iv) if a Partnership Lessee shall admit new partners, all of such new partners shall, by their admission to the Partnership Lessee, be deemed to have assumed performance of all of the terms, covenants and conditions of this Lease on Lessee's part to be observed and performed, and (v) a Partnership Lessee shall give prompt notice to Lessor of the admission of any such new partners, and upon demand of Lessor, shall cause each such new partner to execute and deliver to Lessor an agreement in form satisfactory to Lessor, wherein each such new partner shall assume performance of all the terms, covenants and conditions of this Lease on Lessee's part to be observed and performed (but neither Lessor's failure to request any such agreement nor the failure of any such new partner to execute or deliver any such agreement to Lessor shall vitiate the provisions of subdivision (v) of Section 43.06 of this Article).

43.07 Lessor and Lessee acknowledge that Lessor has duly appointed O.S.L. Shipping & Development, Inc. by its division, Eastgate Realty, 410 Park Avenue, New York, New York, 10022, as its sole and exclusive managing agent for the Building and the Premises denuded hereunder with full power and authority to act in its place and stand in connection with all matters pertaining to this Lease, including but not limited to the power to enter into leases, amendments, modifications and renewals thereof, to collect rent and additional rent on its behalf, to issue notices and demands pursuant to the Lease, and to institute or initiate all legal actions or proceedings for the collection of rent and/or additional rent and/or recovery of possession of premises in the Building by disposition of tenants or other persons therefrom, and to engage counsel for such purpose. Any notice or communication issued by Martin Nardi Gamble, Esq., PLLC, Martin Nardi Gamble, Esq., or any other attorney designated in writing to Lessee by Lessor as its counsel shall have the same force and authority as a notice or communication signed and issued by Lessor or its managing agent herein.

43.08 Irrespective of the place of execution or performance, this Lease shall be governed by and construed in accordance with the laws of the State of New York. This Lease shall be construed without regard to any presumption or other rule requiring construction against the party causing this Lease to be drafted. Each covenant, agreement, obligation or other provision of this Lease on Lessee's part to be performed shall be deemed and construed as a separate, and independent covenant of Lessee, not dependent on any other provision of this Lease. The person signing this Lease individually, or as a representative of a corporate Lessee or partner of a Partnership Lessee warrants and represents that he has received a copy of this Lease in advance of the execution hereof and has fully and completely reviewed the same with legal counsel or has had full and complete opportunity to do so and understands the import, meaning and effect of the terms and conditions of this Lease and the nature and scope of the obligations and liabilities created hereunder and has entered into this Lease voluntarily and of his own free will without any duress or coercion, and without any promise, representation or inducement other than as contained in this Lease.

43.09 Lessee represents and warrants that there are no actions, suits or proceedings pending or, to the knowledge of Lessee, threatened against or affecting Lessee, at law or in equity or before any federal, state, municipal or governmental department, commission, board, bureau, agency or instrumentality which would impair Lessee's ability to perform its obligations under this Lease.

43.10 Lessee acknowledges that it has no rights to any "development" or "air rights" or comparable rights appurtenant to the Real Property, and consents without further consideration, to any utilization of such rights by Lessor and agrees to promptly execute and deliver any instruments which may be requested by Lessor, including instruments merging zoning lots, evidencing such acknowledgment and consent. The provisions of this Section shall be deemed to

be and shall be construed as an express waiver by Lessee of any interest Lessee may have as a party in interest (as such quoted term is defined in Section 19-10 Zoning Lot of the Zoning Resolution of the City of New York) in the Real Property.

~~43.11 The Lessor shall have the option, exercisable by ninety (90) days written notice given to the Lessee (herein "Sale-Demolition Notice"), of cancelling and terminating this Lease and the Term hereof effective as of the ninety-first (91st) day after service thereof or if a date certain is specified in said notice at least 91 days after service thereof, that as of the date certain in the event that the Lessor, Owner or any successor or subsequent Lessor or Owner of the Premises, plans to demolish the Building, sell the Building or to rehabilitate a substantial part thereof. This Lease shall then automatically come to an end, expire, terminate and cease as of the 91st day after service of the Sale-Demolition Notice or as of the date certain specified in said notice.~~

43.12 If any provision of this Lease or the application thereof to any person or circumstance shall be determined to be invalid or unenforceable, the remaining provisions of this Lease or the application of such provision to any person or circumstance other than those to which it is held invalid or unenforceable shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

43.13 It is understood that Lessor may occupy portions of the Building in the conduct of Lessor's business. In such event, all references herein to other tenants of the Building shall be deemed to include Lessor as an occupant.

~~43.14 Lessee agrees that upon receiving a written request from Lessor, Lessee shall will within ten (10) days deliver a copy of this Lease to Lessor, if Lessor so requests, a memorandum of this Lease, a recordable form to Lessor. Lessee shall not record this Lease or a memorandum thereof, without the prior written consent of Lessor.~~

~~43.15 At least 90 days in advance of moving into or out of the Building, Lessee shall pay to Lessor a move-in or move-out deposit, as the case may be equal to 4 hours' charges at the rate designated by Lessor as move-in or move-out charges for off hours use of the elevator and/or elevator operator. The move into or out of the Building shall be made during non-business hours as shall be designated by Lessor and upon at least 30 days' written notice to Lessor, subject to the convenient schedule of Lessor accompanied by written proof satisfactory to Lessor of insurance and bonding carried by Lessee's movers who must be licensed movers, insured and bonded in the State of New York. Lessor shall at all times have the right to designate the manner in which Lessee's property will be moved through and from the Building and to discontinue Lessee's use of elevator, stairs and corridors in the event of any violation or disregard of Lessor's instructions. Lessor will have the right to suspend the use of the elevator, stairs and corridors if it appears that the move-in or move-out charges will exceed the deposit until Lessee pays a further deposit equal in amount to the original deposit to secure payment of Lessor's charges. Any sums not applied to move-in or move-out charges or damages caused by Lessee's moving activities shall be refunded to Lessee.~~

~~43.16 In consideration of making and entering into this Lease and the inducement to Lessor's execution and delivery of this Lease and/or possession of the Premises to Lessee, without which no Lease would be made and entered by Lessor, Lessee hereby waives, releases and discharges any and all claims Lessee has or may have against Lessor arising or accruing under any prior lease or other agreement or relationship between the parties.~~

43.17 For the purposes of this Lease, the following terms have the meanings indicated below:

(a) The term "and/or" when applied to one or more matters or things shall be construed to apply to any one or more or all thereof as the circumstances warrant at the time in question.

(b) The Terms "herein", "hereof" and "hereunder" and words of similar import, shall be construed to refer to this Lease as a whole, and not to any particular Article or Section, unless expressly so stated.

(c) The Term "Laws" and "requirements of any public authorities or governmental authorities" and words of similar import shall mean laws and ordinances of any or all of the federal, state, city, town, county, borough and village governments and rules, regulations, order and directives of any and all departments, subdivisions, bureaus, agencies or offices thereof, and of any other governmental, public or quasi-public or quasi-governmental authorities having jurisdiction over the Building and/or the Premises, and the direction of any public officer pursuant to law, whether now or hereafter in force.

(d) The term "person" shall mean any natural person or persons, a partnership, a corporation, and any other form of business or legal association or entity.

(e) The term "requirements of insurance bodies" and words of similar import shall mean rules, regulations, orders and other requirements of the New York Board of Underwriters and/or the New York Fire Insurance Rating Organization and/or any other similar body performing the same or similar functions and having jurisdiction or cognizance over the Building and/or the Premises, whether now or hereafter in force.

(f) 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 as well as all other days recognized as holidays under applicable union contracts.

(g) The term "Superior Lease" shall mean any lease (including without limitation, a Master Lease) to which this Lease is subject and subordinate (whether because of prior right or by operation of Article 12 of this Lease)

(h) The term "Superior Lessor" shall mean the lessor under a Superior Lease.

(i) The term "Superior Lessee" shall mean the lessee under a Superior Lease.

(j) The term "Superior Mortgage" shall mean any mortgage to which this Lease is subject and subordinate (whether because of prior right or by operation of Article 12 of this Lease)

(k) The term "Superior Mortgagee" shall mean the holder of a Superior Mortgage.

44 RULES AND REGULATIONS REFERRED TO IN THIS LEASE

44.01. No animals, birds, bicycles or vehicles shall be brought into or kept in the Premises. Lessee shall not cause or permit in the Premises any disturbing noises which may interfere with occupants of this or neighboring buildings, any cooking or objectionable odors or any nuisance of any kind, or any inflammable or explosive fluid, chemical or substance.

44.02. The toilet rooms and other water apparatus shall not be used for any purposes other than those for which they were constructed, and no sweepings, paper, ink, chemicals or other unsuitable substances shall be thrown thereon. Lessee shall not throw anything out of doors, windows or skylights, or into



hallways, stairways or elevators, nor place food or objects on outside window sills. Lessee shall not obstruct or cover the halls, stairways and elevators, or use them for any purpose other than ingress and egress to or from Lessee's Premises, nor shall skylights, windows, doors and transoms that reflect or admit light into the Building be covered or obstructed in any way.

44.03. Smoking or carrying lighted cigars, pipes or cigarettes anywhere in the Building, including within the leased Premises, is strictly prohibited by New York City's Smoke-Free Air Act, [New York Administrative Code Sections 17-501 through 17-514 and specifically under Section 17-504(a) with respect to "Places of Employment" and by the New York State Public Health Law Sections 13899(n) through 13899(f) and specifically under Section 13899(o) with respect to "Places of Employment". If the Premises are on the ground floor of the Building the Lessee thereof at its expense shall keep the sidewalks and curb in front of the Premises clean and free from ice, snow, dirt and rubbish.

44.04. Lessee shall not move any heavy or bulky materials into or out of the Building without Lessor's prior written consent, and then only during such hours and in such manner as Lessor shall approve. If any material or equipment requires special handling, Lessee shall employ only persons holding a Master Rigger's License to do such work, and all such work shall comply with all legal requirements. Lessor reserves the right to inspect all freight to be brought into the Building, and to exclude any freight which violates any rule, regulation or other provision of this Lease.

44.05. No sign, advertisement, notice or thing shall be inscribed, painted or affixed on any part of the Building, without the prior written consent of Lessor. Lessor may remove anything installed in violation of this provision, and Lessee shall pay the cost of such removal. Interior signs on doors and directories shall be inscribed or affixed by Lessor at Lessee's expense. Lessor shall control the color, size, style and location of all signs, advertisements and notices. No advertising of any kind by Lessee shall refer to the Building, unless first approved in writing by Lessor.

44.06. No article shall be fastened to, or holes drilled or nails or screws driven into, the ceilings, walls doors or other portions of the Premises, nor shall any part of the Premises be painted, papered or otherwise covered, or in any way marked or broken, without the prior written consent of Lessor.

44.07. No existing locks shall be changed, nor shall any additional locks or bolts of any kind be placed upon any door or window by Lessee, without the prior written consent of Lessor. At the termination of this Lease, Lessee shall deliver to Lessor all keys for any portion of the Premises or Building. Before leaving the Premises at any time, Lessee shall close all windows and close and lock all doors.

44.08. No Lessee shall purchase or obtain for use in the Premises any spring water, ice, towels, food, bookbinding, barbering or other such service furnished by any company or person not approved by Lessor. Any necessary exterminating work in the Premises shall be done at Lessee's expense, at such times, in such manner and by such company as Lessor shall require. Lessor reserves the right to exclude from the Building, from 6:00 p.m. till 8:00 a.m., and at all hours on Sunday and legal holidays, all persons who do not present a pass to the Building signed by Lessor. Lessor will furnish passes to all persons reasonably designated by Lessee. Lessee shall be responsible for the acts of all persons to whom passes are issued at Lessee's request. Lessee's employees, agents and visitors shall be permitted to enter and leave the Building whenever appropriate arrangements have been previously made between Lessor and the Lessee with respect thereto. Each tenant shall be responsible for all persons for whom it requests such permission and shall be liable to Lessor for all acts of such persons. Any person whose presence in the Building at any time shall, in the judgment of Lessor, be prejudicial to the safety, character, reputation or interests of the Building or its Lessee may be denied access to the Building or may be ejected therefrom. In case of invasion, riot, public excitement, acts of terrorism or other common law, Lessor may prevent all access to the Building during the continuance of the same, by closing the doors or otherwise, for the safety of the Lessees and protection of property in the Building. Lessor may require any person leaving the Building with any package or other object to exhibit a pass from the Lessee whose Premises the package or object is being removed, but the establishment and enforcement of such requirement shall not impose any responsibility on Lessor for the protection of any tenant against the removal of property from the Premises of Lessee. Lessor shall, in no way, be liable to any tenant for damages or loss arising from the admission, exclusion or ejection of any person to or from a Lessee's Premises or the Building under the provisions of this rule.

44.09. Whenever Lessee shall submit to Lessor any plan, agreement or other document for Lessor's consent or approval, or if Lessee makes a request that Lessor agree or consent to or approve any modification of the Lease, or give permission or take action for which, in the case presented, Lessor is not obliged under this Lease, or that Lessor enter into any extrinsic agreement for the benefit of Lessee, then Lessee agrees to pay Lessor as additional rent, on demand, a sum equal to the reasonable fees of any architect, engineer, attorney or professional expert employed by Lessor to review said plan, agreement or document or which require an advance deposit to secure payment of said professional fees and disbursements. ~~Lessee shall also be responsible for the cost of the~~ Lessor prepare and implement a Bicycle Access Plan (herein "BAP") pursuant to N.Y.C. Admin. Code Section 28-504, or any successor or substitute law or zoning Law, then Lessee shall be obligated to pay to Lessor on demand and as additional rent, all costs incurred by Lessor for the preparation and implementation of the BAP, including but not limited to (i) the reasonable fees of any architect, engineer or attorney employed by Lessor to prepare, review, file or implement the BAP, (ii) all governmental fees imposed by reason of the BAP and (iii) the cost to Lessor to administer the BAP and/or costs to facilitate the safe and secure transport of bicycles within the Building under the BAP, or if a direct cost cannot be so allocated, then Lessee's proportionate share of the cost incurred by Lessor from all tenants' and/or subtenants' BAP requests in the Building, ~~approved to Lessee in Lessee's sole discretion.~~

44.10. The use in the Premises of auxiliary heating devices, such as portable electric heaters, heat lamps or other devices whose principal function at the time of operation is to produce space heating, is prohibited.

44.11. The rights of each Lessee in the Building to the entrances, corridors and elevators of the Building are limited to ingress and egress from such Lessee's Premises and no Lessee shall use, or permit the use of the entrances, corridors, or elevators for any other purpose. No Lessee shall invite to its Premises, or permit the visit of persons in such numbers or under such conditions as to interfere with the use and enjoyment of any of the plazas, entrances, corridors, elevators and other facilities of the Building by other Lessees. No Lessee shall encumber or obstruct, or permit the encumbrances or obstruction of any of the sidewalks, plazas, entrances, corridors, elevators, fire exits or stairways of the Building. Lessor reserves the right to control and operate the public portions of the Building, the public facilities, as well as facilities furnished for the common use of the Lessees, in such manner as Lessor deems best for the benefit of the Lessees generally.

44.12 No Lessee shall obtain or accept for use in its Premises ice, drinking water, towels, barbering, boot blacking, floor polishing, lighting maintenance, cleaning or other similar services from any persons not authorized by Lessor in writing to furnish such services. Such services shall be furnished only at such hours, in such places within the Lessee's Premises and under such regulation as

may be fixed by Lessor.

44.13.No window or other air-conditioning units shall be installed by any Lessee, and only such window coverings as are supplied or permitted by Lessor shall be used in a Lessee's Premises.

44.14. There shall not be used in any space, nor in the public halls of the Building, either by any Lessee or by jobbers, or others in the delivery or receipt of merchandise, any hand trucks, except those equipped with rubber tires and side guards.

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

44.16. All damages resulting from any misuse of the plumbing fixtures shall be borne by the Lessee who, or whose servants, employees, agents, visitors or licensees, shall have caused the same.

44.17. Each Lessee, shall, at its expense, provide artificial light in the Premises for Lessor's agents, contractors and employees while performing janitorial or other cleaning services and making repairs or alterations in said Premises.

44.18. No furniture, office equipment, packages or merchandise will be received in the Building or carried up or down in the freight elevator, except between such hours as shall be designated by Lessor. Lessor shall prescribe the change for freight elevator use and the method and manner in which any merchandise, heavy furniture, equipment or sales shall be brought in or taken out of the Building, and also the hours at which such moving shall be done. No furniture, office equipment, merchandise, large packages or parcels shall be moved or transported in the passenger elevators at any time.

44.19. All electrical fixtures hung in offices or spaces along the perimeter of any Lessee's Premises must be fluorescent, of a quality, type, design and bulb color approved by Lessor unless the prior consent of Lessor has been obtained for other lighting.

44.20. The exterior windows and doors that reflect or admit light and air into any Premises or the halls, passageways or other public places in the Building, shall not be covered or obstructed by any Lessee, nor shall any articles be placed on the window sills.

44.21. Canvassing, soliciting and peddling in the Building is prohibited and each Lessee shall cooperate to prevent same.

44.22. No Lessee shall conduct any restaurant, luncheonette or cafeteria for the sale or service of food or beverages to its employees or to others, except as expressly approved in writing by Lessor. Subject to the terms and conditions of this Lease, Lessee shall have the right to use the kitchenette if same is located in the Premises. In addition, no Lessee shall cause or permit any odors of cooking or other processes or any unusual or objectionable odors to emanate from the Premises. The foregoing shall not preclude Lessee from having food or beverages delivered to the Premises provided that no cooking or food preparation shall be carried out at the Premises.

44.23. No Lessee shall generate, store, handle, discharge or otherwise deal with any hazardous or toxic waste, substance or material or oil or pesticide on or about the Real Property. In case of any conflict or inconsistency between any provisions of this Lease and any of the rules and regulations as originally or as hereafter adopted, the provisions of this Lease shall control.

1841 BROADWAY ASSOCIATES, Lessor / Landlord

By: Esigate Realty - a division of O.S.L. Slipping & Development, Inc.,  
As Managing Agent  
Walter Morrison, Vice President

X

[Redacted Signature]

P.C. only, as Lessee

X

[Redacted Signature]

No personal signature

ACKNOWLEDGMENT TAKEN WITHIN NEW YORK STATE

STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss.:

On the      day of      , in the year 201\_ , before me, the undersigned, personally appeared      , personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument the individual, or the person upon behalf of which the individual acted, executed the instrument.

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NOTARY PUBLIC, STATE OF NEW YORK

TENANT ACKNOWLEDGMENT  
TAKEN OUTSIDE OF NEW YORK STATE

STATE OF      )  
COUNTY OF      ) ss.:

On the      day of      , in the year 201\_ , before me, the undersigned, personally appeared      , personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument the individual, or the person upon behalf of which the individual acted, executed the instrument, and that such individual made such appearance before the undersigned in the City of      in the State of

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NOTARY PUBLIC, STATE OF

SEE RIDER ANNEXED HERETO AND MADE A PART HEREOF

In Witness Whereof, Lessor and Lessee have executed this lease as of the day and year first above written.

RIDER ANNEXED TO AND MADE A PART OF LEASE DATED July 30<sup>th</sup> 2012 BETWEEN 1841 Broadway Associates, LESSOR AND [REDACTED] PC as LESSEE

SCHEDULE A - FIXED ANNUAL RENT

The fixed Annual Rent payable hereunder shall be as follows:

- ...Forty Three thousand three hundred and seven dollars and 28/100 (\$43,307.28) per annum or Three thousand six hundred and eight dollars and 94/100 (\$3,608.94) per month for the period of 12/1/2012 to 11/30/2013
- ...Forty four thousand six hundred and six dollars and 52/100 (\$44,606.52) per annum or Three thousand seven hundred and seventeen dollars and 21/100 (\$3,717.21) per month for the period of 12/1/2013 to 11/30/2014
- ...Forty five thousand nine hundred and forty four dollars and 76/100 (\$45,944.76) per annum or Three thousand eight hundred and twenty eight dollars and 73/100 (3,828.73) per month for the period of 12/1/2014 to 11/30/2015
- ...Forty seven thousand three hundred and twenty three dollars and 10/100 (\$47,323.10) per annum or Three thousand nine hundred and forty three dollars and 59/100 (\$3,943.59) per month for the period of 12/1/2015 to 11/30/2016
- ...Forty eight thousand seven hundred and forty two dollars and 80/100 (\$48,742.80) per annum or Four thousand and sixty one dollars and 90/100 (\$4,061.90) per month for the period of 12/1/2016 to 11/30/2017

Article # 45

Landlord agrees to do the following work in the demised premises at Landlord's own cost and expense in building standard manner.

96

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97

Article # 46

Provided Lessee is not then in default of any of the terms, conditions, provisions, and covenants of this lease on Lessee's part to observe and perform, Lessor hereby waives its right to collect the fixed annual rental for the month of January 2013 ("the concession period"), provided however, Lessee shall nevertheless pay to the Lessor during the concession period the monthly charge for electricity determined in accordance with the provisions of Article #33 hereof, if applicable.

98

Article # 47

It is understood and agreed that this agreement is submitted to Lessee on the Understanding that it shall not be considered an offer and shall not bind Lessor in any way until Lessee has duly executed and delivered originals to Lessor and Lessor has delivered one of said originals to Lessee.



**TEXTS TO NUMBERED INSERTIONS ANNEXED TO  
PRINTED FORM OF OFFICE LEASE BETWEEN  
1841 BROADWAY ASSOCIATES, AS LESSOR OR LANDLORD, AND  
[REDACTED] PC, AS LESSEE OR TENANT**

- Insert 1: "the Premises in compliance with all laws and with the Building Systems in good order, and Landlord's Work Complete."
- Insert 2: "other than for installing Tenant's equipment and telcom"
- Insert 3: "except that Tenant shall have the option to extend the lease for a period of five (5) years, provided that the Landlord is not demolishing the building."
- Article 1
- Insert 4: "an off-street, retail"
- Article 3
- Insert 5: "Other than to a purchaser of the medical practice,"
- Insert 6: "thirty (30)"
- Insert 7: "Tenant shall be released from all obligations under this Lease."
- Insert 8: "Term Sheet"
- Insert 9: "within thirty (30) days from the receipt of such offer"
- Insert 10: "except in the event of a sale of the Tenant's medical practice"
- Insert 11: "with price"
- Insert 12: "(f) Tenant may add additional doctors or members to the medical practice and change the type of entity.  
(g) Tenant may sell its medical practice without such being deemed an assignment or sublease under this Lease."
- Insert 13: "in excess of \$500.00, and only if the Lessor consents to the assignment or sublease"
- Article 4
- Insert 14: "ten (10)"  
(24601566;1)

- Insert 15: "written"
- Insert 16: "five (5)"
- Insert 17: "twenty (20)"
- Insert 18: "ten (10)"
- Insert 19: "and after seven (7) days' written notice to Tenant from Landlord stating that such payment is past due"
- Article 5
- Insert 20: "but, Landlord shall use reasonable efforts to re-let the demised premises."
- Insert 21: "reasonable"
- Insert 22: "or Lessee from"
- Insert 23: "reasonable"
- Article 7
- Insert 24: "which consent shall not be (a) required with respect to painting and decorations or to such changes below \$50,000.00 or (b) unreasonably withheld or delayed, with respect to such changes in excess of \$50,000.00, so long as, in both instances, such changes do not affect the structure of the building, or interfere with building services or the use of the building by other tenants."
- Insert 25: "adversely"
- Insert 26: "which consent shall be given as aforesaid"
- Insert 27: "reasonable"
- Insert 28: "Notwithstanding anything to the contrary contained herein, Tenant shall be permitted to maintain and use in the Premises chemicals and substances typical and customary for the permitted use."
- Insert 29: "Tenant shall have no additional obligation to remove any alteration or improvement approved (or deemed approved) by Lessor at the end of the term except to the extent Lessor has conditioned its approval upon removal at the end of the term, but if Tenant elects to do so it shall repair any damage resulting thereby. Tenant may

{24601566;1}

attach and affix fixtures to the demised premises, and all of Tenant's fixtures, even though so attached and affixed, may be freely removed by Tenant at any time during the term of this lease or the expiration hereof, but all damage to the demised premises caused by such removal shall be repaired by Tenant. Lessor agrees not to designate any alterations for removal except for those which Lessor would like removed that are special types of alterations not normally installed in office space, such as floor-thru stairways and escalators or supplemental air conditioning. Tenant shall not be required to remove any initial alterations other than floor-thru stairways, if any, if elected by Lessor."

Insert 30: "after ten (10) days' written notice"

Insert 31: "in excess of \$50,000.00"

Insert 32: "Notwithstanding anything to the contrary contained herein, Tenant may remodel or renovate the Premises from time to time during the duration of this Lease."

Article 9

Insert 33: "and"

Insert 34: "Notwithstanding anything to the contrary contained herein, Landlord will maintain all Building Systems and Tenant shall not be required to (a) make any repairs (whether structural or non-structural) to the extent the same are necessitated by the act, omission or negligence of Lessor, or its agents or employees; (b) make any structural repairs; (c) make any sprinkler repairs or modifications, unless required as the result of Tenant's alterations; (d) comply with any requirements of law or of the Board of Fire Underwriters which pertain to structural repairs; or (e) comply with the provisions of the Americans with Disabilities Act (or like New York State or New York City equivalent), compliance with each of which shall be Lessor's responsibility and shall be accomplished by Lessor at its sole cost and expense unless the condition necessitating the repair shall have been caused solely by Tenant or is required as result of Tenant's specific use of the demised premises (as opposed to mere office use). Tenant shall not be required to make any alterations for enacted laws prior to the completion of its initial alterations which may be "triggered" by initial alterations or common customary alterations for office space and no obligations therefor will be the responsibility of Tenant, including, but not limited to sprinklerization, the Americans with Disabilities Act ("ADA") for bathrooms, conversion of electrical from submeter or rent inclusion to direct or sub-direct sources and the like.

Lessor agrees that, in making any such repairs, alterations, additions or improvements, Lessor shall use all reasonable efforts to minimize interferences with Tenant's use and occupancy of the demised premises and its access thereto (which



shall not include an obligation on Lessor to employ overtime labor). Lessor further agrees to perform all such repairs, alterations additions or improvements in a good and workmanlike manner with due diligence."

Article 10

Insert 35: "For purposes hereof, substantial repair shall mean that all of the work necessary to repair the Premises shall be completed, except for minor items of detail, finish and correction, the noncompletion of which shall not interfere with Tenant's use and occupancy of the Premises for the purposes permitted under this lease; provided however, if a substantial portion of the Premises is damaged and Tenant cannot operate any part of the business previously operated in the balance of the Premises in an economically feasible manner and in fact does not operate in the balance of the Premises, fixed rent and additional rent will abate for the entire Premises until the earlier of (a) ten (10) days after notice to Tenant of restoration of the Premises and (b) occupancy by Tenant of the Premises for the continued conduct of its business. Lessor shall at its cost and expense restore the Premises installations constituting "Landlord's Work" as defined in the lease."

Insert 36: "for regular conduct of business."

Insert 37: "sixty (60)"

Insert 38: ", provided Landlord similarly terminates other similarly affected leases in the building."

Insert 39: ", and such default has not been cured,"

Insert 40: "Notwithstanding anything to the contrary contained herein, if as a result of fire or other casualty, Tenant is or will be denied access to the Premises for purposes of conducting regular business for a period of forty-five (45) days, Tenant shall have the right to terminate this lease."

Article 12

Insert 41: "fourteen (14) "

Article 14

Insert 42: "other than a permitted use"

Insert 43: "Lessor shall, at its own cost and expense comply with all other laws, rules, orders, regulations and requirements, building, fire or health codes and other similar

{24601566;1}

requirements affecting real estate generally and the building specifically which require structural repairs to or structural alteration of the building or the Premises, unless such repairs or alterations are necessitated by the particular use of the Premises by Tenant for other than the permitted use hereunder, but Lessor may contest, appeal and defer compliance with the same provided that the use or occupancy of the Premises by Tenant shall not be interfered with and Tenant is not subject to prosecution for a criminal offense by reason of such noncompliance by Lessor. Without limiting the generality of the foregoing, except as hereinafter otherwise provided, Lessor shall be required, at its own expense, to make all alterations and installations in and to the building and the Premises and to take any other action and incur any other expenses in order to comply with New York City Local Law #5, or any amendment thereof or any law or ordinance successor thereto, including, without limitation, the installation of sprinkler and/or smoke or fire or carbon monoxide detection systems, or any other similar system (unless such alterations or installations are necessitated by the particular use of the demised premises) by Tenant other than that for the permitted use under this Lease, provided however that such law requires any alterations to installations with respect to partitioning or any other installations made by Tenant, such work shall be done by Tenant at its sole cost and expense. Lessor shall also cause the building and common areas thereof to comply from time to time with the ADA or any amendment thereof or law or ordinance similar or as successor thereto."

Insert 44: "Notwithstanding the foregoing, Tenant will not be responsible for fire safety, the installation of sprinkler and/or smoke or fire or carbon monoxide detection systems, or any other similar systems."

Insert 45: "14.06 Lessor acknowledges Lessee may maintain and use in the Premises chemicals and substances typical and customary for the permitted use."

Article 15

Insert 46: "The Lessor represents and guarantees that there is a valid certificate of occupancy for the Building and that the permitted use is lawful and permissible in the Premises under the certificate of occupancy."

Article 16

Insert 47: "for regular conduct of business."

Article 18

Insert 48: "upon reasonable notice to Tenant (which notice may be given orally), during Tenant's normal business hours unless otherwise requested by Tenant, with a minimum of inconvenience to Tenant,"

Insert 49: "reasonably"

Insert 50: "; provided, however, that Lessor uses all reasonable efforts to minimize interference with Tenant's use and occupancy of the demised premises and its access thereto (which shall not include an obligation on Lessor to employ overtime labor). Lessor agrees to perform all such work with due diligence."

Insert 51: "reasonably"

Insert 52: "; provided, however, that Lessor uses all reasonable efforts to minimize interference with Tenant's use and occupancy of the demised premises and its access thereto (which shall not include an obligation on Lessor to employ overtime labor). Lessor agrees to perform all such work with due diligence."

Article 21

Insert 53: "Lessor shall reimburse and compensate Lessee for all expenditures made by or damages or fines sustained or incurred by Lessee (including, but not limited to, reasonable counsel fees and disbursements in connection with any action or proceeding) due to nonperformance or noncompliance with or breach or failure by Lessor to observe any term, covenant or condition of this Lease."

Insert 54: ", subject to Landlord's Work and delivery conditions."

Article 28

Insert 55:   
York, New York 10017"

Article 32

Insert 56: ", to be held in trust in an interest-bearing account in accordance with the provisions of General Obligations Law § 7-103."

Insert 57: "ten (10)"

Insert 58: "plus interest"

(24601566;1)



Article 33

- Insert 59: "at Landlord's net actual cost for such"
- Insert 60: "if rates/ cost increases, the charge shall increase by the actual cost to Lessor"
- Insert 61: "cost"
- Insert 62: "monthly"
- Insert 63: "ten (10)"
- Insert 64: "based on consumption"
- Insert 65: "50"
- Insert 66: "6"
- Insert 67: ", but only to the extent of actual cost per kilowatt hour times the consumption."
- Insert 68: "consumption"
- Insert 69: "6"
- Insert 70: "actual consumption times Lessor's costs."
- Insert 71: "at cost impact."
- Insert 72: "\$3.00"
- Insert 73: "thirty (30)"
- Insert 74: "Notwithstanding anything to the contrary contained herein, the foregoing shall not apply to customary medical equipment."
- Insert 75: "cost basis as provided in the Lease based on Lessor's cost."
- Insert 76: "Lessor's"
- Insert 77: ", provided direct service has been effected and the ERIF shall no longer be charged."
- Insert 78: "Except for manifest error or intentional acts"

Article 38

- Insert 79: "and Lessor"
- Insert 80: "and Lessee"
- Insert 81: "and Lessor"
- Insert 82: "the other"
- Insert 83: "or Lessee"
- Insert 84: "or Lessor's"
- Insert 85: "One Million (\$1,000,000.00)"
- Insert 86: "Two Million (\$2,000,000.00)"

Article 40

- Insert 87: "without regard to any abatements or incentives deductions."
- Insert 88: "paid by Lessor"
- Insert 89: "shall be included in Taxes and Base Taxes."
- Insert 90: "thirty (30)"

Article 43

- Insert 91: "and other doctor's"
- Insert 92: "reasonable"

- Insert 93: "Lessor shall not charge move-in fees, including elevator or hoisting charges."

Article 44

- Insert 94: "out of pocket"
- Insert 95: "exceeding \$500.00"

{24601566;1}

Article 45

Insert 96: "and in compliance with all laws;"

Insert 97: "[add any work the landlord must complete] (the "Landlord's Work"). Lessor shall deliver the demised premises and maintain building systems through the term of the lease in compliance with all laws."

Insert 98: "subject to cure and reinstatement"