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LEASE NO.

LEASE BETWEEN

THE CITY OF NEW YORK
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
1 CENTRE STREET, 20TH FLOOR NORTH
NEW YORK, NEW YORK 10007

&

7 WORLD TRADE COMPANY, L.P.

Premises: 7 World Trade Center (Block 84, Lot 36),
Borough of Manhattan
Approximately ~~50,065~~ 50,182 square feet of space
to be used by the
Mayor's Office of Emergency Management

3/4/98

Richie
Glen
V. noie
Josep

DRAFT # 56
February 5 March 3, 1998

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This index is included only as a matter of convenience of reference and shall not be deemed or construed in any way to define or limit the scope of the following lease or the intent of any provision thereof.

THE CITY OF NEW YORK
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
1 DIVISION OF REAL ESTATE SERVICES
CENTRE STREET, 20TH FLOOR NORTH
NEW YORK, NEW YORK 10007

AGREEMENT OF LEASE made as of the day of February March, 1998, between 7 WORLD TRADE COMPANY, L.P., a Delaware limited partnership, with an address at; 521 Fifth Avenue, New York, New York 10175 hereinafter designated as **Landlord**, and THE CITY OF NEW YORK, a municipal corporation, acting through the Department of Citywide Administrative Services, with an address at 1 Centre Street, 20th Floor North, New York, New York 10007, hereinafter designated as **Tenant**.

W I T N E S S E T H:

WHEREAS, the parties hereto desire to enter into a lease of approximately ~~50,065~~ 50,182 rentable square feet of office space; and

WHEREAS, the City Planning Commission has approved the leasing of the aforesaid premises on December 3, 1997. (Calendar No. 21) pursuant to §195 of the New York City Charter, and the City Council did not disapprove the proposed leasing of the aforesaid premises; and

WHEREAS, this Lease is subject to public hearing and Mayoral approval pursuant to §824(a) of the New York City Charter, said hearing to be scheduled subsequent to the execution by the Landlord of this Lease; and

WHEREAS, this Lease may be executed by the Deputy Commissioner of the Department of Citywide Administrative Services after public hearing and Mayoral approval pursuant to §824(a) of the New York City Charter and after approval as to form by the Corporation Counsel of the City of New York; and

WHEREAS, the General Partner of Landlord has the authority to execute this Lease on behalf of Landlord.

NOW, THEREFORE, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord subject to public hearing and mayoral approval and subject to approval as to form by Corporation Counsel, the following described premises (hereinafter referred to as the **"Demised Premises"**): approximately 45,815 rentable square feet of office space on the entire 23rd floor and approximately 4,256 4,367 rentable square feet of office space on the 7th floor as shown on Exhibit A annexed hereto and made a part hereof, of the building (hereinafter referred to as the **"Building"**) located at 7 World Trade Center (Block 84, Lot 36) in the Borough of Manhattan, on the certain premises and the air rights above the same demised to Landlord by the Underlying Lease (the **"Land"**).

The Demised Premises shall be used by the Mayor's Office of Emergency Management for executive and general offices for its domestic and international activities, such uses and activities to be conducted in a manner consistent with a first-class office building and for no other purpose whatsoever or for such other similar purposes as the Commissioner of Citywide Administrative Services may determine, provided such other purposes are consistent with the aforesaid, in conformity with the Underlying Lease, no portion of the Demises Premises shall be used to deal with the public on an "off the street" basis and upon the terms and conditions

hereinafter set forth. The square footage of the Demised Premises consists of the rentable square footage set forth above, said square footage is accurate and the City relies upon these representations has been reviewed ~~and confirmed~~ by the Department of Citywide Administrative Services, Department of Real Estate Services ("DRES").



Date of Execution, which shall be the date the City executes and delivers this lease

ARTICLE 1

TERM

The term ("**Term**") of this Lease for which the Demised Premises are hereby leased, shall commence on ~~a date~~ (herein called the "**Commencement Date**") ~~which shall be (i) the day on which Tenant's Initial Work (as defined in Article 6) in the general office portion of the Demised Premises has been Substantially Completed (as defined in Article 6) or (ii) the day Tenant, or anyone claiming under or through Tenant, first occupies all or any portion of the Demised Premises and conducts business therein, whichever of (i) or (ii) occurs earlier, and shall end at noon on January 31, 2018, which ending date is hereinafter called the "**Expiration Date**", or shall end on such earlier date upon which the Term may expire or be canceled or terminated pursuant to any of the conditions or covenants of this Lease or pursuant to law.~~ Promptly following the Commencement Date the parties hereto (hereinafter sometimes referred to as the "parties") shall enter into a supplementary agreement fixing the date of the Commencement Date but if the parties are unable to agree upon the Commencement Date within fifteen (15) days after Landlord's written request to enter into such supplementary agreement, such date shall be determined by arbitration in the matter provided in Article 6 (J) and as and when so determined the parties shall enter into such supplementary agreement.

Not needed?
?

If rent is a lump sum, somewhere should be said that we have spaces @ ground fl. & roof.

ARTICLE 2

RENT

The "rents" reserved under this Lease, for the Term thereof, shall be and consist of:

(a) "Base Rent" (or "fixed rent") at the following annual amounts:

(i) ONE MILLION FOUR HUNDRED ONE FIVE THOUSAND ~~EIGHT HUNDRED TWENTY~~ NINETY-SIX and 00/100 (~~\$1,401,820.00~~) (\$1,405,096.00) DOLLARS (~~\$116,818.33~~) (\$117,091.33) per month) for the period commencing on the Rent Commencement Date and ending on the day next preceding the fifth (5th) anniversary of the Rent Commencement Date, both dates inclusive (the "1st Rental Period");

(ii) ONE MILLION SEVEN HUNDRED FIFTY-TWO SIX THOUSAND TWO THREE HUNDRED SEVENTY ~~-FIVE~~ and 00/100 (~~\$1,752,275.00~~) (\$1,756,370.00) DOLLARS (~~\$146,022.92~~) (\$146,364.17) per month) for the period commencing on the day next succeeding the expiration of the 1st Rental Period and ending on the day next preceding the tenth (10th) anniversary of the Rent Commencement Date, both dates inclusive (the "2nd Rental Period");

(iii) ONE MILLION EIGHT HUNDRED FIFTY-TWO SIX THOUSAND FOUR SEVEN HUNDRED FIVE THIRTY-FOUR and 00/100 (~~\$1,852,405.00~~) (\$1,856,734.00) DOLLARS (~~\$154,367.08~~) (\$154,727.83) per month) for the period commencing on the day next succeeding the expiration of the 2nd Rental Period and ending on the day next preceding the fifteenth (15th) anniversary of the Rent Commencement Date, both dates inclusive (the "3rd Rental Period"); and

(iv) TWO MILLION ONE HUNDRED TWO SEVEN THOUSAND SEVEN SIX HUNDRED THIRTY FORTY-FOUR and 00/100 (~~\$2,102,730.00~~) (\$2,107,644.00) DOLLARS (~~\$175,227.50~~) (\$175,637.00) per month) for the period commencing on the day next succeeding the expiration of the 3rd Rental Period and ending on the Expiration Date (the "4th Rental Period"), which shall be payable in equal monthly installments at the end of each and every calendar month during the Term. The term "Rent Commencement Date" shall mean January 1, 1999 *(Subject to the provisions of Article 6 E)* and be applicable solely as to Base Rent, it being agreed that additional rent and all other charges (including escalations under Article 4 and electricity under Article 10) shall begin on the Commencement Date); and

(b) "additional rent" consisting of all such other sums of money as shall become due from and payable by Tenant to Landlord hereunder (for default in payment of which Landlord shall have the same remedies as for a default in payment of Base Rent), all to be paid to Landlord at its office, or such other place, or to such agent and at such place, as Landlord may designate by notice to Tenant, in lawful money of the United State of America, by check drawn on a bank or trust company which is a member of the New York Clearing House Association (or successor thereto).

Tenant shall pay the Base Rent and additional rent herein reserved promptly as and when the same shall become due and payable, without demand therefor and without any abatement, deduction or setoff whatsoever except as expressly provided in this Lease. If the Rent Commencement Date occurs on a day other than the first day of a calendar month, the Base Rent for such calendar month shall be prorated and the balance of the first month's fixed rent Base Rent theretofore paid shall be credited against the next monthly installment of Base Rent.

All bills sent by Landlord to Tenant shall have clearly reflected thereon the property, address, and block and lot for which the bill is being sent. All bills must be legible and must contain the address to which the payment should be sent. The name, address, and telephone number of the Landlord's contact person for billing inquiries must be provided to Tenant in the manner designated in Article 21 hereof. The parties acknowledge that Pilot (hereinafter defined) payable by Landlord to the Port Authority constitutes a component of Base Rent.

ARTICLE 3

OPTION TO TERMINATE

The Tenant shall have the right to terminate this Lease, in whole, without any penalty or liability to Tenant, except as provided in this Article, effective as of the end of the 2nd Rental Period, or at any time thereafter, upon eighteen (18) months prior written notice to the Landlord (the "**Termination Notice**"), in which event, this Lease shall terminate at the end of the 2nd Rental Period (or later date contained in the Termination Notice) as if such date were the Expiration Date, provided that (i) the Expiration Date shall fall on the last day of a calendar month and (ii) within one hundred eighty (180) days after the delivery of Tenant's Termination Notice under this Article 3, Tenant shall pay to Landlord an amount equal to the unamortized portion of the brokerage commission (as of the Expiration Date in the Termination Notice) paid by Landlord to the Broker (as defined in Article 29). Landlord shall provide Tenant with a statement of such commission within 30 days following receipt of the Termination Notice. Time shall be of the essence with respect to the giving of such notice the Termination Notice and payment by Tenant.

any statement furnished by Landlord to Tenant. All statements are subject to audit by the occupying agency or its representative and post-audit by the Office of the Comptroller. Landlord shall be required to retain the books and records required herein, at its main office or such other location within New York City as it may designate, for six (6) years after the period to which they relate.

Upon Tenant's request, Landlord shall notify Tenant of (i) any protest filed by any other tenant regarding any amounts billed pursuant to this Article and of (ii) any audits, resolution of audits, claims for refund of overpayments, settlements of overpayments, refunds of overpayments, and litigation and arbitration proceedings for recovery of overpayments, where such audits and other actions result in a determination that overcharges have occurred under this Article.

ARTICLE 5

LANDLORD'S INTEREST IN PREMISES

Landlord warrants and represents that it is the owner of the leasehold estate demised under the Underlying Lease and is empowered and authorized to lease said premises as provided herein.

ARTICLE 6

LAYOUT AND FINISH

(A) Landlord shall prepare ~~a final plan or~~ final set of plans (which said ~~final plan or~~ final set of plans, ~~as the case may be~~, is hereinafter called the "Final Plans") based upon the

which plans?

preliminary plans and scope of work ("**Preliminary Plans**") which are ~~annexed hereto as Exhibit~~
~~—(or listed on said Exhibit —)~~ C annexed hereto. The Final Plans must (i) be engineering
 and architecturally complete; (ii) be coordinated with existing Building conditions and facilities;
 (iii) conform to all applicable codes and requirements (including but not limited to terms and
 conditions in the professional services requirement document prepared by DRES, i.e., "Guide for
 Design Consultant"; (iv) clearly distinguish Tenant's Initial Work (hereinafter defined) from
Tenant's alterations, if any; (v) be coordinated and based on the Preliminary Plans; ~~and (vi)~~
~~incorporate and elaborate on the Phasing Plan~~, in order to create a complete set of construction
 documents. The Final Plans must be filed by Landlord with all governmental authorities having
 jurisdiction. The Preliminary Plans have been approved by Tenant. Landlord and Tenant have
 approved (i) Swanke, Hayden, Connell, Ltd. as the architects (the "**Architect**") and their Scope
 of Services annexed hereto and made a part hereof as Exhibit D.

?

In accordance with the Final Plans, Landlord, at Landlord's initial expense, subject to
 Landlord's Maximum Contribution (as hereinafter defined in Paragraph (I) of this Article) and
 except as otherwise expressly specified in this Lease, will cause its designated ~~contractor~~ *with manager* to make
 and complete in and to the Demised Premises the work and installations (herein called "**Tenant's**
Initial Work") specified in the Final Plans.

Within 35 days after the unconditional execution and delivery of this Lease by
Landlord and Tenant, Landlord shall cause said Architect to arrange for preparation of initial
the Final Plans and delivery of same to DRES and the Port Authority and other regulatory
 agencies (if any) which require said submission. ~~Landlord shall use its best efforts to have such~~
~~preparation and delivery of the Final Plans occur on or prior to _____, 1998.~~ DRES will

Sched. says March 30

review and either approve or disapprove the Final Plans, which approval shall not be unreasonably withheld, conditioned or delayed within ten (10) business days after receipt by DRES. In the event DRES shall not approve such Final Plans it shall indicate in writing in reasonable detail the corrections required before such approval can be furnished. Thereafter, Landlord shall resubmit revised Final plans within ten (10) business days and DRES shall approve or disapprove such revised drawings and indicate whatever corrections it requires within five (5) business days after receipt thereof, following which Landlord shall within five (5) business days of its receipt of corrections required by DRES fully complete the revision of the Final Plans based on the requested corrections and furnish DRES with a complete set thereof for its approval, which approval shall not be unreasonably withheld, conditioned or delayed.

(B) The term "Work Cost" as used in this Article shall mean the actual cost to Landlord of furnishing and installing Tenant's Initial Work as shown on the Final Plans and shall consist of all costs and expenses (excluding construction loan interest and related financing costs) charged to Landlord for:

- (a) the approved Architect's fees for any change orders after February 12, 1998 to the services required for Tenant's Initial Work requested by DRES, which are ~~set forth above~~ in the Architect's Scope of Services and any additional Architects fees' for ~~any change orders or~~ major modifications or increases in the scope of the Architect's services to the extent requested and authorized in writing signed by DRES,
- (b) the performance of all terms of Tenant's Initial Work in accordance with the Final Plans; and
- (c) one (1) ~~general contractor's~~ construction manager's general conditions (not to exceed 8%) and one (1) ~~contractor's~~ construction manager's overhead and profit (not to exceed ~~10%~~ 6% plus 6%) insurance of 1.25%; Landlord shall not be entitled to be paid an administrative or management fee for the performance of Tenant's Initial Work. There shall be no double

and not limited to
 payment by Tenant of any items included in the Tenant's Work Cost, including any components of overhead and profit and general contractors' construction manager's fees.

Within ten (10) days after DRES's approval of the Final Plans, and prior to the commencement of the Tenant's Initial Work, Landlord shall submit to DRES all the Port Authority administrative approvals with respect to the Final Plans and completed DRES cost estimate forms ~~(attached hereto as Exhibit —)~~. The cost estimate forms shall be completed by the bidders approved by DRES and Landlord and shall indicate in reasonable detail the proposed cost of Tenant's Initial Work after Landlord, (i) shall have obtained three (3) competitive bids, proof of which will be supplied to DRES, by three (3) subcontractors of each trade pre-approved by DRES, of which Landlord or an affiliated entity may be one; and (ii) shall have selected the lowest responsible bidder, except that Landlord shall designate sprinkler and fire alarm subcontractors. *(arbitration)*

DRES shall, within five business (5) days of its receipt of Landlord's notice of the Work Cost, approve or disapprove the Work Cost. If DRES disapproves, it will meet with Landlord within five (5) days to determine an agreed upon cost. As part of the process DRES will meet with the lowest bidder to resolve any discrepancies in unit prices and quantities. In the event Landlord and DRES are unable to resolve their differences and agree upon the Tenant's Initial Work cost items, Landlord shall solicit bids from at least three (3) new subcontractors designated by DRES in which case the procedures and time frames with respect to the bids shall apply to such additional bids and bidders. Within five (5) business days from approval of the Tenant's Work Cost and prior to commencing construction, Landlord will submit a copy of the work permit (or alternative document issued by the Port Authority) to DRES. All subcontractors

Long lead items
generator
Switch gear
2 pumps F.O. of Water

shall be approved by Landlord, have a good reputation, be acceptable for the performance of such work in other first class office buildings in Manhattan to meet Landlord's reasonable requirements for the Building.

The Work Cost shall be subject to audit by the Department of Citywide Administrative Services and/or its authorized representative. Such costs may, in the discretion of the Comptroller of the City of New York, also be post-audited by the Comptroller.

(C) In all instances where Tenant is required to supply information or authorizations with regard to Tenant's Initial Work, Tenant shall supply the same within three (3) business days after written request therefor by Landlord, except in such unusual case where more than three (3) business days shall be reasonably necessary due to the nature of such request but, Tenant shall promptly commence and diligently proceed to supply the same to Landlord.

(D) Except as provided in this Article, Landlord shall not be required to spend any money or to do any work to prepare the Demised Premises for Tenant's occupancy. The specification of Tenant's Initial Work represents the limit of Landlord's responsibilities in connection with the preparation of the Demised Premises and except as so provided, Tenant shall take the Demised Premises "as-is". Any other improvements, alterations or additions shall be performed by Tenant, but subject to all of the terms, conditions and covenants of this Lease.

(E) Landlord makes no representation of the date on which it will Substantially Complete (hereinafter defined) Tenant's Initial Work, and Landlord shall be under no penalty or liability to Tenant whatsoever by reason of any delay in such performance and this Lease shall not be affected thereby, except as set forth in the last sentence of this Paragraph (E) and Paragraph (L). In no event shall the Expiration Date be postponed beyond January 31, 2018. Landlord

agrees that it will use reasonable efforts to obtain contracts for the performance of the work required to be performed by it and to arrange to have all such work commenced without delay and prosecuted without unnecessary interruption until completion. Notwithstanding the preceding, Landlord shall use its best efforts (at no additional expense) to Substantially Complete the approximately _____ square feet of the general office portion ("GOP") of Tenant's Initial Work within three (3) six (6) months after approval of the bids of all trades necessary for Substantial Completion of the GOP (the "Office Target Date"). Landlord shall use its best efforts (at no additional expense) to Substantially Complete Tenant's Initial Work in the balance of the Demised Premises within six (6) months after approval of the bids of all trades necessary for Substantial Completion of the Demised Premises (the "Remainder Target Date"). In the event (a) the GOP of "Target Date", excluding the Long Lead Items/Work set forth on Schedule 1 annexed hereto (the "Scheduled Items"). In the event (a) Tenant's Initial Work shall not be Substantially Completed (as hereinafter defined) excluding the Scheduled Items on or prior to the Office Target Date not due to a Tenant delay (as set forth in this Article) or fault of Tenant to perform its obligations under this Lease, and (b) Tenant shall not have taken possession of any portion of the Demised Premises, then, the Rent Commencement Date shall be adjourned one (1) day for each one (1) day after the Office Target Date that the GOP of Tenant's Initial Work shall have failed to have been so Substantially Completed. In the event (i) Tenant's Initial Work in the balance of the Demised Premises shall not be Substantially Completed (as hereinafter defined) on or prior to the Remainder Target Date not due to a Tenant delay (as set forth in this Article) or fault of Tenant to perform its obligations under this Lease, and (ii) Tenant shall not have taken possession of any portion of the balance of the Demised Premises, then, the fixed rent payable

NOTE: No day for day rent credit if LL fails to deliver final plans, etc. on time (i.e. LL's timeframe in sections A & B).

~~hereunder solely in respect of the balance of the Demised Premises (on a per square foot basis) shall be abated one (1) day for each one (1) day after the Remainder Target Date that Tenant's Initial Work shall have failed to have been so Substantially Completed. The provisions of the immediately preceding sentence shall not affect the Rent Commencement Date or the payment of rent for the GOP of the Demised Premises.~~

F. Tenant shall be permitted to enter into the Demised Premises for installation of its machinery, furniture, equipment and fixtures and performance of its work, all as permitted by this Lease prior to the Commencement Date at its sole risk, provided that such entry and work do not interfere in any way with Landlord's performance of the work to be done by Landlord. At any time during such period of prior entry, if Landlord notifies Tenant that Tenant's entry or work is interfering with or delaying Landlord's performance of Tenant's Initial Work, Tenant shall forthwith discontinue any further work and shall remove from the Demised Premises and shall cause its workmen or contractors to remove therefrom, any equipment, materials or installations which are the subject of Landlord's notice.

(G) Subject to the provisions of this Article 6 and Article 11, all work performed by Landlord, including the Building air conditioning installation, shall, upon installation, become Landlord's property and shall be surrendered at the expiration or sooner termination of the Term of this lease, in good condition, reasonable wear and tear excepted. *Trade fixt. & equipment*

(H) (a) For the purposes of this Article, Tenant's Initial Work ~~of the GOP of the Demised Premises and the balance of the Demised Premises, as the case may be,~~ shall be deemed to be Substantially Completed when (i) all work is completed excepting (including necessary sign-offs of The Port Authority), excepting the Scheduled Items and minor details of

construction or decoration which do not materially adversely affect Tenant's use of the ~~GOP of the Demised Premises or the balance of the Demised Premises, as the case may be, including necessary sign-offs of The Port Authority, Demised Premises~~ (or when all work (except as aforesaid) would have been completed but for delays caused by Tenant as provided in this Paragraph (H) or otherwise), and (ii) a certified air balancing report approved by Landlord's engineer as being in conformance with the Final Plans has been delivered to the Tenant. Tenant shall promptly submit to Landlord a "punch-list" of such minor unfinished work which punch-list items, undisputed by Landlord, will be diligently completed. Tenant shall periodically inspect Tenant's Initial Work and make any objections thereto, if called for, without delay, so as to mitigate changes, delays and costs. Landlord shall give Tenant notice ("Landlord's Completion Notice") of Substantial Completion of the ~~GOP and the balance of the Demised Premises~~ on or promptly after the ~~respective dates~~ date of Substantial Completion, which notice shall include the items under (i) (Port Authority sign-offs) and (ii) above. Tenant shall certify or deny certification of Substantial Completion ("Certification") to Landlord within ~~five (5)~~ three (3) business days after receipt of Landlord's Completion Notice. Failure by Tenant to respond within said ~~five (5)~~ three (3) business day period, shall be deemed Certification by Tenant. If Tenant shall deny Certification, Tenant shall state in writing in reasonable detail the reasons for such denial but, in any event, Substantial Completion and the Commencement Date shall be deemed to have occurred on the date set forth in Landlord's Completion Notice, ~~for the GOP of the Demised Premises~~, subject to the right of Tenant to have such issue resolved by Arbitration as provided in Paragraph J of this Article.

(b) Tenant specifically acknowledges and agrees that the Work Cost may

increase and there may be delay in completion of Tenant's Initial Work by reason of (i) subject to Paragraph (C) hereof, unreasonable delay or failure by Tenant in supplying information or giving authorizations;(ii) interference by Tenant or Tenant's contractors with the performance of Tenant's Initial Work after notice to Tenant;(iii) additional work or changes or new materials requested by Tenant, it being agreed that Landlord's response to Tenant's request for additional work or changes or new materials shall include the cost thereof and estimated resulting delay time; or (iv) any resubmissions or revisions of Tenant's Final Plans (without regard to any time periods granted to Tenant hereunder for making such resubmissions or revisions). Corrections of errors in the Final Plans shall not be deemed a Tenant delay. Landlord shall advise Tenant with reasonable promptness after Landlord has knowledge of any condition or occurrence or act which will result in a delay under this Paragraph. ~~At Landlord's option, the Term of this Lease shall commence on the date on which Tenant's Initial Work of the general office portion of the Demised Premises would have been Substantially Completed if not for the occurrence of any such delays.~~ (Term commences on execution.)

(I) Notwithstanding anything contained to the contrary in this Lease, the total cost of Tenant's Initial Work which Landlord shall provide Tenant without charge and for installations performed prior to the ^{Sub. Comp.} Commencement Date shall be ~~TWO MILLION TWO HUNDRED FIFTY-TWO THOUSAND NINE HUNDRED TWENTY-FIVE (\$2,252,925.00) DOLLARS~~ (the "Landlord's Maximum Contribution"). Landlord and Tenant acknowledge and agree that the Scope of Services of the Architect constitute a portion of the Work Cost. If the Work Cost shall exceed Landlord's Maximum Contribution, Tenant may accept Landlord's detailed estimate of such excess cost (including any resulting delay) only by countersigning and delivering same to

44-What about if it does not commence work?
or stop work after the start?

It reserves the right to finish work on Sec 31, 1999
(page 32)

~~Landlord within three (3) business days after Landlord's rendition of such estimate. If the Work Cost shall exceed Landlord's Maximum Contribution, any amount up to a maximum of~~

~~\$ _____ (the "Cap") \$ 1,661,843.00 (the "Landlord's Contribution"). The~~

~~Work Cost in excess of Landlord's Contribution will be paid by Tenant. If the Work Cost~~

~~exceeds the Cap The parties acknowledge that the Architect's Development Design Package~~

~~dated December 26, 1997 expresses a Work Cost of \$ 591,082.00. If the Work Cost~~
 (including Landlord's Contribution) exceeds \$ 14,287,986.00, Tenant shall promptly meet
 which shall be landlord's sole cost and expense

~~with Landlord to resolve the overage. Payment by Tenant of such cost, but the preceding shall~~

~~not affect Tenant's responsibility for payment of the Work Cost in excess of Landlord's~~

~~Maximum Contribution. Payment by Tenant of the Work Cost in excess of Landlord's~~

~~Contribution shall be made within 45 days after as follows: (i) within 60 days following~~

~~approval of the bids of all trades necessary for Substantial Completion of Tenant's Initial Work~~

~~and receipt of an invoice from Landlord. [OPEN-PROGRESS PAYMENTS FOR OVERAGE]~~

~~Any payment by Tenant after said 45 days shall be made together with interest at 2 points over~~

~~the Base Rate from date of the Demised Premises, Tenant shall pay to Landlord the sum of~~

~~\$ 3,000,000.00, (ii) within 120 days following approval of the bids of all trades~~

~~necessary for Substantial Completion to date(s) of payment of the Demised Premises, Tenant~~

~~shall pay to Landlord the sum of \$ 3,000,000.00, and (iii) upon Substantial~~
 within 45 days of

~~Completion, Tenant shall pay to Landlord the Balance of the Work Cost in excess of~~

~~Landlord's Contribution. Said payment by Tenant upon Substantial Completion may exclude~~
 within 45 days of

~~the undisputed value of punch list items, which amount shall be paid promptly by Tenant after~~

~~completion by Landlord. Any late payment by Tenant after said stated dates shall be made~~

incl. uncompleted long lead items

together with interest at 18% per annum, compounded daily from date due to date of payment, but in no event more than the highest rate of interest which at the time shall be permitted under the laws of the State of New York.

(J) Any dispute regarding the determination of Substantial Completion of Tenant's Initial Work and/or the Commencement Date shall be resolved by arbitration, in the manner by the rules and before the American Arbitration Association (or any successor organization) in New York County. The party desiring arbitration shall appoint as arbitrator on its behalf, a person having at least 10 years relevant experience and give notice written notice to the other party who shall, within 15 days thereafter, appoint a second person having at least 10 years relevant experience and give written notice thereof to the first party. The arbitrators so appointed, shall within 15 days following the appointment of the second arbitrator appoint a third disinterested person having no less than 10 years relevant experience.

Said arbitrators shall, as promptly as possible (but in any event within 30 days following the appointment of the third arbitrator) determine the dispute by a majority of the arbitrators, whose decision shall be binding and conclusive upon the parties hereto. Each party shall bear its own fees and expenses of (i) its own attorneys and other experts and the arbitrator that it selected and (ii) be responsible for one-half the fees and expenses of the third arbitrator.

The arbitrators shall have no power to vary or modify any of the provisions of this Lease, and their powers and jurisdiction are limited accordingly. The decision of the arbitrators shall be binding upon the parties, and may be entered as a judgment in any court having jurisdiction thereover.

(K) If Tenant shall fail to make timely payment of any sums payable to Landlord

60 days from app. of bids --- \$ 3,000,000
120 - - - - \$ 3,000,000

pursuant this Article, then, in addition to all other rights and remedies afforded Landlord in the event of such non-payment, Landlord may, without notice to Tenant, discontinue the performance of Tenant's Initial Work, including any additional work (or any items thereof) until such time as Tenant makes payment to Landlord of all such past due sums and provides Landlord with adequate assurance of the timely payment of all additional sums which may or shall be payable by Tenant pursuant to this Article. Any delay resulting from the discontinuance of Tenant's Initial Work and/or additional work (if any) pursuant to this Paragraph shall be deemed a delay caused by Tenant.

(L) Notwithstanding the foregoing provisions of this Lease, in the event that Landlord fails to deliver possession of the Demised Premises prior to December 31, 1998 (through no Tenant delay as provided in Paragraph H or fault of Tenant to perform its obligations under this Lease) and subject to force majeure, Tenant shall have the right to terminate this Lease within the following ten (10) days by giving notice thereof to Landlord. Upon receipt of such notice by Landlord, all liability between the parties hereto shall be extinguished. The foregoing right of termination shall be Tenant's exclusive remedy with respect to the failure to deliver possession.

ARTICLE 7

CERTIFICATE OF OCCUPANCY; COMPLIANCE WITH LAWS

Landlord agrees to deliver to the Department of Citywide Administrative Services a Certificate of Occupancy or other sufficient indicia of legality for use of the premises for the purposes set forth in this Lease and same shall be a prerequisite to the official assumption of occupancy by Tenant.

*Sched: Construction 6 months
St. 1st wk of May (Sched)*