

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 ~~has prepared~~ 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 preliminary plans and scope of work ("Preliminary Plans") which are annexed hereto as Exhibit ____ (or listed on said Exhibit ____) ~~sufficient for the construction and finishing of the Demised Premises. The~~ The Final Plans must ^{be} (i) 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 hereby approves ^{ve} ~~has approved~~ (i) Swanke, Hayden, Connell, Ltd. as the

The Port Authority of New York and New Jersey and

architects (the "Architect") and the fees of the Architect and (ii) _____ as
 subconsultant ("Consultant") for technical support and the fees of the Consultant: their Scope of
 Services ^{is} annexed hereto and made a part hereof as Exhibit.

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 ^{C.M.} ~~contractor~~ to make
 and complete in and to the Demised Premises the work and installations (herein called "Tenant's
 Initial Work") specified in the Plans.

Final Plans.

^{Within 35 days of the execution and delivery of this lease,}
 Landlord shall cause said Architect to arrange for preparation of initial Final Plans
 and delivery of same to DRES and the Port Authority and other regulatory agencies (if any)
 which require said submission. DRES will review and either approve or disapprove the
 Final Plans, which approval shall not be unreasonably withheld, conditioned or delayed
 within five (5) ^{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 ^{TEN (10)} ~~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 Plans. The parties agree that all bidding has been completed and Tenant has approved a Work Cost of \$ _____, which sum includes all costs (hard and soft) to complete 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 the services required for Tenant's Initial Work shown on the Plans, requested by DRES, which are set forth above and any additional Architects fees' for 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) ^{CM} general contractor's general conditions and one (1) ^{CM's} contractor's over-head and profit to the extent indicated in contractor's bid only; 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 payment by Tenant of any items included in the Tenant's Work Cost, including any components of overhead and profit and general contractors' 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 THIS} 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.

DRES shall, within five (5) ^{business} 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 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 and 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 Tenant's Initial Work, Tenant shall supply the same within three (3)

business days after written request requested 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 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 general office portion of Tenant's Initial Work within three (3) months after full execution and

unconditional delivery of this Lease by Landlord and Tenant approval of the bids of all trades necessary for Substantial Completion (the "Target Date"). In the event (a) the general office

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Landlord has failed to meet the timeframes in Sections A and B of this Article and

and the "Remainder Target Date" respectively

portion of Tenant's Initial Work shall not be Substantially Completed (as hereinafter defined) on ^{or the remainder of the Demised Premises by the Remainder Target Date} 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 ^e 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 ^{AND/OR REMAINDER TARGET DATE} that the ^{RESPONSIVE} general office portion of Tenant's Initial Work shall have failed to have been so Substantially Completed.

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.

(H) (a) For the purposes of this Article, Tenant's Initial Work of the general office portion of the Demised Premises shall be deemed to be Substantially Completed when (i) all work ^{and the remainder} is completed excepting minor details of construction or decoration which do not materially

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DOES RENT START AT GENERAL OFFICE PORTION SUBSTANTIAL COMPLETION?
IF SO, FULL OR PARTIAL RENT?

adversely affect Tenant's use of ~~the general office portion of~~ the Demised Premises, including necessary sign-offs of The Port Authority, (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 on or promptly after the 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 ~~three (3)~~ ^{five (5)} business days after receipt of Landlord's Completion Notice. Failure by Tenant to respond within said ~~three (3)~~ ^{five (5)} 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, 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

BUT EXCLUDING REVISIONS OR RESUBMISSIONS OF TENANT'S FINAL PLANS
NECESSITATED BY CORRECTIONS ~~REQUESTED~~ REQUESTED BY A/E/S.
OF SAID DOCUMENTS

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) 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.

↑ what about the rent? Full rent?
From now they can use down notices

(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 Commencement Date shall be _____

(\$ _____) DOLLARS TWO MILLION SIXTY-ONE THOUSAND SIX

→ HUNDRED SEVENTY-FIVE (\$2,061,765.00) DOLLARS less all costs, expenses and fees

pursuant to the Scope of Services provided for in Exhibit hereto (said sum of \$2,061,675.00 as so reduced is herein called the "Landlord's Maximum Contribution"). 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 Landlord within ^{FIVE (5) BUSINESS} ~~three (3)~~ 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") will be paid by Tenant. If the Work Cost exceeds the Cap, Tenant

shall promptly meet with Landlord to resolve the overage. Payment by Tenant of such cost in

excess of Landlord's Maximum Contribution shall be made within 45 days after Substantial

? MEASUREMENT OF 7TH FLOOR = _____ RSF?
JOSEP, HAS RAIZA measured this

Add
\$45 psf
for 7th
floor
Main
\$490,247
(Architect
& consultant
fees)
+ 36,000
(structural
eng)

OF THE ENTIRE WORK

GO - CAN WE AGREE TO THIS?

Completion and receipt of an invoice from Landlord. Any payment by Tenant after said 45 days shall be made together with interest at 2 points over the Base Rate from date of Substantial Completion to date(s) of payment. Said payment by Tenant may exclude the undisputed value of punch list items, which amount shall be paid promptly by Tenant after completion by Landlord.

(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, ^{appoint} within 15 days thereafter, 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.

by pay order sub. completion

(K) ^{His case has been} If Tenant shall fail to make timely payment of any sums payable to Landlord

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, 1999[?] (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.

Tenant's Initial Work shall include all permits necessary to legalize the Demised Premises, the alterations and improvements specified herein and to comply with all requirements, rules, laws, regulations and orders of Federal, State and local authorities and of any board of fire underwriters having jurisdiction over the Demised Premises or the Real Property, including, without limitation, as of date of Substantial Completion, the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq. ("ADA"). With respect to the ADA and regulations promulgated during the Term, Landlord shall comply with and perform the Landlord's obligations, if any, imposed upon owners of office buildings as a class including all common areas that service the Demised Premises in and around the Building. Tenant shall comply with and perform all obligations arising from Tenant's specific manner of use of the Demised Premises and any alterations performed by Tenant. Subject to Landlord's right to contest, Landlord shall remove all violations which may be placed against the Demised Premises, except those violations caused by Tenant's acts, omissions or breach of the terms of this Lease.

ARTICLE 8

REAL ESTATE TAXES, ASSESSMENTS, WATER RATES,

SEWER RENTS, ARREARS

(A) If Landlord shall become the fee owner of the Real Property, Landlord shall pay all real estate taxes, assessments, water rates and sewer rents (if any) levied against said Building and Land for the tax lot where the Demised Premises is located or that may be liens thereon. Upon request, Landlord shall provide Tenant with receipted bills, payment receipts or other

back-up information reasonably satisfactory to Tenant evidencing Landlord's payment thereof within five (5) business days after Tenant shall give notice to Landlord requesting such evidence of payment.

(B) Additionally, if Landlord is in arrears in payment to the Port Authority of Pilot for the Demised Premises, then Tenant may upon five (5) days notice to Landlord, apply any rent due or that may become due and payable under this Lease to the payment of such arrears and as long as such arrears are unpaid, no action or proceeding may be maintained by Landlord against Tenant for nonpayment of rent.

ARTICLE 9

LANDLORD'S SERVICES

(A) Landlord, at Landlord's expense, shall furnish heat to the peripheral heat units in the Demised Premises and ventilation and condenser water to the Building air conditioning equipment located on the floor of the Demised Premises ("HVAC"), through the Building systems, for reasonably comfortable occupancy of the Demised Premises, from 8:00 A.M. to 6:00 P.M. ("business hours") on business days. If Tenant shall install supplemental air conditioning in the Demised Premises requiring condenser water, solely to the extent the building risers and tower have available capacity, Landlord shall furnish condenser water therefor and Tenant shall pay Landlord's then established reasonable charges in connection therewith as additional rent within five (5) business days after demand. The term "business days", as used in this Lease, shall mean all days except Saturdays, Sundays and the days observed by the Federal or the New York State or City governments as legal holidays and such other days as shall be