

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 ~~45,815~~ 50,065 square feet of space
to be used by the
Mayor's Office of Emergency Management

DRAFT # 45
~~December 18, 1997~~ February 5, 1998

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(ii)

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 the _____ day of ~~1997~~ February, 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**.

WITNESSETH:

WHEREAS, the parties hereto desire to enter into a lease of approximately ~~45,815~~
50,065 rentable square feet of office space; and

WHEREAS, the City Planning Commission has approved the leasing of the aforesaid
premises on _____, 1997, (Calendar No. _____) 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

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§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 23rd floor and approximately 4,250 rentable square feet of office space on the 7th floor as shown on Exhibit 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

the parties shall enter into such supplementary agreement.

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 ~~TWO~~ FOUR HUNDRED ~~EIGHTY TWO~~ ONE THOUSAND EIGHT HUNDRED TWENTY and 00/100 ~~(\$1,282,820.00)~~ Dollars ~~(\$106,901.67)~~ (\$1,401,820.00) DOLLARS (\$116,818.33 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 ~~SIX~~ SEVEN HUNDRED ~~THREE~~ FIFTY-TWO THOUSAND ~~FIVE~~ TWO HUNDRED ~~TWENTY~~ SEVENTY-FIVE and 00/100 ~~(\$1,603,525.00)~~ Dollars ~~(\$133,627.08)~~ (\$1,752,275.00) DOLLARS (\$146,022.92 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 ~~SIX HUNDRED NINETY-FIVE THOUSAND~~ ONE EIGHT HUNDRED ~~FIFTY-TWO THOUSAND FOUR HUNDRED~~ FIVE and 00/100 ~~(\$1,695,155.00)~~ Dollars ~~(\$141,262.92)~~ (\$1,852,405.00) DOLLARS (\$154,367.08 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) ~~ONE~~ TWO MILLION ~~NINE~~ ONE HUNDRED ~~TWENTY-~~
~~FOUR~~ TWO THOUSAND ~~TWO~~ SEVEN HUNDRED THIRTY and 00/100 ~~(\$1,924,230.00)~~
~~Dollars (\$160,352.50)~~ (\$2,102,730.00) DOLLARS (\$175,227.50 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 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

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 ~~ninety (90)~~ **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 ~~15~~ **30** days following receipt of the Termination Notice. Time shall be of the essence with respect to the giving of such notice and payment by

condemnation;

- (13) The cost of any alterations to prepare space for occupancy of any tenant in the Building;
- (14) Expenses resulting from any violations by Landlord of the terms of this Lease or any other lease in the Building;
- (15) Refinancing costs and mortgage interest and amortization payments;
- (16) Any item otherwise indicated in this Lease to be performed at Landlord's sole cost and expense; ~~and~~
- (17) Any item otherwise indicated in this Lease to be performed by Landlord but paid for by Tenant as additional rent or otherwise; and
- (18) Expenditures for capital improvements or capital equipment, other than those included in I.(3) above.-**

The intent of the parties is that Tenant shall pay its proportionate share of increases in Base Year Operating Expenses (i.e. Operating Expense Escalations) based on the Building being not less than ninety-five percent (95%) occupied. Accordingly, in determining the amount of Base Year Operating Expenses, if less than ninety-five percent (95%) of the Building rentable area shall have been occupied by tenant(s) at any time during any such Operating Expense Base Year, Base Year Operating Expenses shall be increased by an amount equal to expenses which would have been incurred in the Building under an operating clause such as this one had such occupancy been ninety-five percent (95%) throughout such Operating Expense Base Year.

Landlord shall be required to disclose and notify Tenant of any significant related party transactions the cost of which are included in the Base Year Operating Expenses. When such transactions occur prices of same must be in line with normal industry practice in New York City. Failure to notify Tenant of such related party transactions shall result in a disallowance of such

1998.

1.3 “Lease Year” shall mean each period of twelve (12) consecutive months, beginning on the first day of January of each calendar year, during the Term of this Lease.

1.4 “Operating Expenses Base Year” shall mean the calendar year 1998.

2. “Operating Expense Escalation” shall mean a sum payable by Tenant to Landlord each Lease Year computed by multiplying the sum representing the Base Year Operating Expenses as defined under Subsection A. 1 of this Article 4 by the percentage, if any, by which the average Price Index, as published for the month following the last month of the Lease Year in question, shall exceed the Base Price Index. Such sum shall be multiplied by ~~2.37~~ % 2.59% which represents Tenant pro rata share of Operating Expenses for the Building. (See example for calculating CPI Index changes below.)

3. Such Operating Expense Escalation for every Lease Year which follows the Operating Expense Base Year shall be billed and paid as follows:

(a) Within five weeks after the beginning of any such Lease Year, Landlord shall deliver to Tenant a statement (hereinafter the “Estimate”) showing the estimated amount of such Operating Expense Escalation payable for the then current Lease Year, which estimated amount shall be calculated by using the previous Lease Year’s CPI factor according to 2. above. Tenant shall pay Landlord the same sum, in equal monthly installments (such monthly installment hereinafter referred to as the “Amount”) in arrears on the last day of each and every month during such Lease Year. Such Estimate shall be on account of the Operating Expense Escalation accruing under this Subsection A.2, subparagraph 3 (b), below for the then current Lease Year.

(b) Within five (5) weeks after the end of the Lease Year, in which such

be the obligation of Landlord, and (iii) any Taxes resulting from an increase of the assessed value of the Building attributable to additions or capital improvements (other than replacements) to the Building unless such addition or capital improvement was made in whole or in part for the benefit of tenants generally. As of the date hereof, to the best of Landlord's knowledge, the only Taxes affecting the Building and/or the Land are the real estate taxes payable to the City of New York as Pilot.

Tenant covenants and agrees that for each lease year of the Term commencing with July 1, 1998, where the total annual Real Estate Taxes imposed or assessed upon the land and Building for such lease year is greater than the Tax base for the New York City fiscal year 1997/1998 (hereinafter referred to as the "**Real Estate Tax Base Year**"), Tenant shall pay to Landlord as additional rent, a sum equal to two point ~~three seven~~ **five nine** percent (~~2.37%~~) **(2.59%)** of such increase, which represents Tenant's proportionate share of such increase. The amount of such additional rent payable for any lease year having a duration of less than twelve (12) months shall be prorated.

The Tax base for the Real Estate Tax Base Year shall be the annual Real Estate Taxes finally imposed or assessed on the Land and Building for the Real Estate Tax Base Year.

Appropriate credit shall be given for any refund obtained by reason of a reduction in the assessed valuation made by the assessors or the courts at any time during this Lease or at any time thereafter taking into account Landlord's costs in obtaining any such reduction. The original computations, as well as payments of additional rent, if any, under the provisions of this Article, shall be based on the original assessed valuation with adjustments to be made if and when the Tax refund, if any, has been paid to Landlord.

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 preliminary plans and scope of work ("**Preliminary Plans**") which are annexed hereto as Exhibit ____ (or listed on said Exhibit ____). 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 ~~has~~ 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 ____.

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 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.

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. **Landlord shall use its best efforts to have such preparation and delivery of the Final Plans occur on or prior to _____, 1998.** 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~~ 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 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 CM + Ins 1.25%
- (c) one (1) ~~general contractor's~~ general conditions (not to exceed 8%) and one (1) ~~contractor's over-head and profit to the extent indicated in contractor's bid only~~ (not to exceed 10% plus 6%); 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 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.

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 ~~DCAS~~ 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 ~~DCAS~~ 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 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 ~~requested~~ 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~~ 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) months after approval of the bids of all trades necessary for Substantial Completion ~~(the "~~ 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 ~~general office portion~~ GOP of Tenant's Initial Work shall not be Substantially Completed (as hereinafter defined) 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 ~~general office portion~~ 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 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.

(H) (a) For the purposes of this Article, Tenant's Initial Work of the ~~general office portion~~ **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 minor details of construction or decoration which do not materially adversely affect Tenant's use of the ~~general office portion~~ **GOP of the Demised Premises or the balance** of the Demised Premises, ^(u) **as the case may be,** 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 ^(iv) ~~(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 ~~date~~ respective dates 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)~~ ³ five (5) business days after receipt of Landlord's Completion Notice. Failure by Tenant to respond within said ~~three (3)~~ 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, 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

*T. H. Lee
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T. H. Lee*

periods granted to Tenant hereunder for making such resubmissions or revision

shall advise Tenant with reasonable promptness after Landlord has knowl
condition or occurrence or act which will result in a delay under this Par;

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.

(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 TWO MILLION SIXTY-ONE THOUSAND SIX HUNDRED SEVENTY-FIVE (\$2,061,765.00) DOLLARS less all costs, expenses and fees pursuant to 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 provided for in Exhibit hereto (said sum of \$2,061,675.00 as so reduced is herein called the "Landlord's Maximum Contribution") 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 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") 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

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 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, 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

enters the Demised Premises, then Landlord, at its expense, may cause an independent electrical engineer chosen by Landlord or an electrical consulting firm selected by Landlord (hereinafter referred to as the "**Electrical Consultant**") to survey and determine Usage in, and Tenant's Cost for, the Demised Premises from time to time, at least once per six (6) month period, and the Electrical Consultant shall make such determination using criteria generally accepted in the Metropolitan New York City area and Landlord's Rate in effect at the time, and shall include the quantity and peak demand, for all electricity consumed by Tenant. The determination made by the Electrical Consultant shall be binding on both Landlord and Tenant and such amount shall be deemed Tenant's Cost.

(H) Subject to all of the provisions of this Article, Landlord agrees (at no expense to Landlord) to reasonably cooperate with Tenant for Tenant to obtain electricity to the Demised Premises from the Power Authority of the State of New York ("**PASNY**"), provided and upon condition that:

1. (a) Tenant is not then in default under any of the terms, covenants or conditions of this Lease beyond the expiration of any applicable notice and cure periods hereunder, (b) Tenant named herein shall not have assigned this Lease and shall then occupy the entire Demised Premises for the conduct of its business, ~~(e)~~(C) Tenant shall expeditiously comply with all of the requirements of this Paragraph (H), and (d) Tenant shall have established to Landlord's reasonable satisfaction that the receipt of PASNY electric current is lawful and in compliance with the requirements of this Paragraph (H), then on or prior to the first (1st) anniversary of the Commencement Date, Tenant named herein shall have the one-time, non-recurring option (the "**PASNY Electric Option**") to be exercised only upon not less than thirty (30) days' prior written

preceding paragraph, shall commence the repairs and diligently proceed with continuity to complete said work. In the event Landlord fails to commence and complete said work after said notice, as aforesaid, Tenant may, as agent for the Landlord, perform same and deduct the reasonable cost thereof from any rent due or that may become due and payable under this Lease.

In the event Tenant is unable to use any part or all of the Demised Premises because of Landlord's failure to perform such work as set forth in the two preceding paragraphs hereof, the rent shall be reduced, during such period, proportionately to the diminution in space resulting from such failure.

~~Tenant shall make such ordinary and nonstructural interior repairs as necessary for its occupancy or request Landlord, at Tenant's expense to perform such repairs.~~ **Excluding Tenant's personal property, Landlord shall, upon Tenant's request and at Tenant's expense, make necessary repairs to Tenant's Initial Work, Tenant's alterations and improvements in the Demised Premises.**

Notwithstanding anything to the contrary in Article 13 hereof, Landlord shall be responsible for the performance and cost of all repairs resulting from defects of materials and workmanship in construction of Tenant's Initial Work during the first year immediately ~~following~~ **following** Substantial Completion of such portion of Tenant's Initial Work.

~~With~~ **Following such first year, with** respect to Tenant's repair obligations, upon completion of Tenant's Initial Work ~~request~~, to the extent **existing and** assignable, Landlord shall assign to Tenant the beneficial interest in all warranties and guarantees received by Landlord from contractors and materialmen engaged in its performance, as well as the right to enforce any contracts made with such contractors and materialmen. Landlord hereby agrees to cooperate fully

with Tenant in the event that Tenant seeks to enforce its rights with respect to said warranties and guarantees. The provisions of this paragraph shall be in lieu of addition to Landlord's responsibility set forth in the immediately preceding paragraph of this Article 13.

ARTICLE 14

CONDEMNATION

If the whole of the Demised Premises shall be taken in condemnation, this Lease shall terminate upon the vesting of title in the condemnor and all rent and other charges paid or payable by Tenant shall be apportioned as of the date of vesting of title in such condemnation proceeding.

If less than all but more than 30% of the useable area of the Demised Premises shall be so taken in condemnation, then Tenant may either terminate this Lease as to the remainder of the premises on ten (10) days written notice to Landlord or remain in possession of the remaining portion of the premises under all of the terms, conditions and covenants of this Lease, except that the rent thereafter shall be apportioned and reduced from the date of each such partial taking to the amount equal to the product of the dollar amount of rent payable on such date and the number of square feet in the part remaining. The proceeds of any award for partial taking shall be applied by Landlord to the repair, restoration or replacement of the remaining premises, and if there be any deficiency, it shall be made up by Landlord, but if there be any surplus, it shall belong to the Landlord. Said repairs, restoration or replacement of the remaining premises shall be completed within nine (9) months of the aforesaid taking in condemnation, pursuant to plans and specifications approved by the Tenant. In the event said repairs, restoration or replacement are not completed within said nine (9) month period, Tenant, in addition to any other remedy it may

written consent in each instance.

(B) If Tenant shall at any time or times during the Term desire to assign this Lease or sublet all or part of the Demised Premises, Tenant shall give notice thereof to Landlord, which notice shall be accompanied by (a) a conformed or photostatic copy of the proposed assignment or sublease, the effective or commencement date of which shall be not less than thirty (30) nor more than one hundred eighty (180) days after the giving of such notice, (b) a statement setting forth in reasonable detail the identity of the proposed assignee or subtenant, the nature of its business and its proposed use of the Demised Premises, and (C) current financial information with respect to the proposed assignee or subtenant, including, without limitation, its most recent financial report.

(C) Provided that Tenant is not in default of any of Tenant's obligations under this Lease after notice and the expiration of any applicable grace period, Landlord's consent (which must be in writing and in form reasonably satisfactory to Landlord) to the proposed assignment or sublease shall not be unreasonably withheld or delayed, provided and upon condition that;

(a) Tenant shall have complied with the provisions of Paragraph B;

(b) In Landlord's reasonable judgment the proposed assignee or subtenant is engaged in a business and the Demised Premises, or the relevant part thereof, will be used in a manner which (i) is in keeping with the then standards of the Building, (ii) is limited to the use expressly permitted under this Lease, and (iii) will not violate any negative covenant as to use contained in any other lease of space in the Building;

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

claiming a commission or similar compensation in connection with the proposed assignment or sublease.

(D) In the event that Tenant fails to execute and deliver the assignment or sublease to which Landlord consented within ninety (90) days after the giving of such consent, then, Tenant shall again comply with all of the provisions and conditions of Paragraph (B) before assigning this Lease or subletting all or part of the Demised Premises.

(E) With respect to each and every sublease or subletting authorized by Landlord under the provisions of this Lease, it is further agreed:

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

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

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

(F) If the Landlord shall give its consent to any assignment of this Lease or to any sublease, Tenant shall in consideration therefor, pay to Landlord, as additional rent;

(a) in the case of an assignment, an amount equal to fifty (50%) percent of all sums and other considerations paid to Tenant by the assignee for or by reason of such assignment (including, but not limited to, sums paid for the sale of Tenant's fixtures, leasehold improvements, equipment, furniture, furnishings or other personal property, less, in the case of a sale thereof, the then net unamortized or undepreciated cost thereof determined on the basis of Tenant's federal income tax returns) after deducting Tenant's Permitted Expenses (as hereinafter defined); and

(b) in the case of a sublease, fifty (50%) percent of the Net Sublease Proceeds, which shall mean any rents, additional charges or other consideration payable under the sublease to Tenant by the subtenant which is in excess of the fixed rent and additional rent accruing during the term of the sublease in respect of the subleased space (at the rate per square foot payable by Tenant hereunder) pursuant to the terms hereof (including, but not limited to, sums paid for the sale or rental of Tenant's fixtures, leasehold improvements, equipment, furniture or other personal property, less, in the case of the sale thereof, the then net unamortized or undepreciated cost thereof determined on the basis of Tenant's federal income tax returns) after deducting therefrom Tenant's Permitted Expenses. The sums payable under this Paragraph (F)(b) shall be paid to Landlord as and when paid by the subtenant to Tenant.

~~(C)~~(c) For purposes of this Paragraph F, "Tenant's Permitted Expenses" shall mean the aggregate of (1) brokerage commissions, reasonable legal fees and disbursements and closing costs to third parties, reasonable advertising expenses, any amounts payable to Landlord

submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City; and/or

- (b) The cancellation or termination of any and all such existing City contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under this agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.

1.5 The commissioner or agency head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in paragraphs (a) and (b) below. He or she may also consider, if relevant and appropriate, the criteria established in paragraphs (C) and (d) below in addition to any other information which may be relevant and appropriate:

- (a) The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.
- (b) The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.
- ~~(C)~~(c) The nexus of the testimony sought to the subject entity and its contracts, leases, permits or licenses with the City.
- (d) The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under

1.4 above, provided that the party or entity has given actual notice to the commissioner or agency head upon the acquisition of the interest, or at the hearing called for in 1.3(a) above gives notice and proves that such interest was previously acquired. Under either circumstance the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

1.6 (a) The term "license" or "permit" as used herein shall be defined as a license, permit, franchise or concession not granted as a matter of right.

1.6 (b) The term "person" as used herein shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.

1.6 ~~(c)~~(c) The term "entity" as used herein shall be defined as any firm, partnership, corporation, association, or person that receives monies, benefits, licenses, leases, or permits from or through the City or otherwise transacts business with the City.

1.6 (d) The term "member" as used herein shall be defined as any person associated with another person or entity as a partner, director, officer, principal or employee.

1.7 In addition to and notwithstanding any other provision of this Agreement, the Commissioner or agency head may in his or her sole discretion terminate this Agreement upon not less than three (3) days written notice in the event contractor fails to promptly report in writing to the Commissioner of Investigation of the City of New York any solicitation of money, goods, requests for future employment of other benefit or thing of value, by or on behalf of any employee of the City or other person, firm, corporation or entity for any purpose which may be related to the procurement or obtaining of this Lease by the Landlord, or affecting the performance of this Lease.

ARTICLE 25**SIGNIFICANT RELATED PARTY TRANSACTIONS**

Landlord shall be required to disclose and notify Tenant of any transactions with significant related parties, including subsidiaries and affiliates of Landlord, the costs of which are charged to Tenant as rent or additional rent, including, but not limited to, Base Year Operating Expenses (if CPI formula is used) overtime HVAC and Tenant repairs. For purposes of this Article, Landlord and Tenant agree that the Port Authority is not a related party of Landlord. Landlord shall provide Tenant with written notice of such transactions upon submission of invoices for Rent or at the end of the calendar year in which the transactions to be billed as Rent were performed by significant related parties. When such transactions occur, prices of same must be in line with normal industry practice in New York City. Upon 5 days notice to Landlord and Landlord's failure to notify Tenant of such related party transactions shall result in a disallowance of such costs that would otherwise be billed as rent. If such related party transactions occurred and were disclosed, but it is found by Tenant that the costs thereof exceed normal industry costs in an arms length third party transaction in New York City, then such excessive charges shall be disallowed. [This Article excludes management fees included in Operating Expenses. - **Side Letter**]

ARTICLE 26**ASBESTOS**

During the Term of this Lease, upon Tenant's discovery and notice to Landlord, Landlord shall monitor and manage and, where necessary abate (i.e., repair, remove, enclose,

encapsulate and/or replace) any asbestos containing materials, including, but not limited to, any such materials on boilers, pipes, ducts, tanks, spray-on or other insulation and any affected floor tiles, plaster and ceiling tiles in the Demised Premises at Landlord's expense; provided, however, that notwithstanding anything herein contained to the contrary, Tenant shall be solely responsible for the removal of any asbestos or asbestos-containing material, in accordance with then applicable laws installed or brought into the Building and/or the Demises Premises by or on behalf of Tenant or any party claiming through Tenant. Nothing contained in the preceding sentence shall be deemed to vest upon Tenant or any permitted occupant of the Demised Premises any right to install or bring into the Building or the Demised Premises any asbestos or asbestos-containing material.

ARTICLE 27

LANDLORD'S REPRESENTATIONS

Landlord hereby warrants that, to the best of its knowledge, it is not in default of any obligation to the City of New York, nor is Landlord, its officers, principals or stockholders a defendant in any action instituted by the City.

At date hereof, the partners or, if a corporate entity, officers and shareholders of Silverstein-7 World Trade Company, Inc., a Delaware corporation, the corporation which is the general ~~partner~~ **partner** of Landlord, who currently own the leasehold estate of the Underlying Lease are as follows: Larry A. Silverstein - President, Joseph P. Ritorto - Senior Executive Vice President, Howard Shapiro - Senior Vice President, Secretary and Treasurer. The sole shareholder of said corporation is Larry A. Silverstein.

for inspection by Landlord. Tenant shall at all times comply with the terms and conditions of each such license or permit.

(B) Tenant shall not at any time use or occupy, or suffer or permit anyone to use or occupy, the Demised Premises, or do or permit anything to be done in the Demised Premises, in violation of the Certificate of Occupancy or certificate (final or partial) of substantial completion of the Port Authority, for the Demised Premises or for the Building.

(C) Tenant shall not (a) use or permit the Demised Premises or any portion thereof to be used for retail store purposes or for the sale, preparation or serving of food or beverages, (b) install vending machines dispensing food, beverages or other merchandise in the Demised Premises, (c) install pay or coin-operated telephones in the Demised Premises, (d) sell or license the sale of lottery tickets or similar chances or devices nor conduct or license the conducting of off-track or other wagering operations or activities at or from the Demised Premises, (e) erect, maintain or display any signs, lettering, advertising, posters, displays or similar devices in the Demised Premises visible from the street and (f) use or make any reference by advertising or otherwise to the names "World Trade Center", "The Port Authority of New York and New Jersey", "The Port Authority" or any simulation or abbreviation of any such names or any emblem, picture or reproduction of the World Trade Center. No souvenir or souvenir-type merchandise, whether involving the World Trade Center or other Port Authority facilities (or depicting any aspect thereof) or bearing or carrying the World Trade Center legend or reproduction thereof shall be sold or displayed at or from the Demised Premises. Nothing contained in this Paragraph shall preclude Tenant from having a warming pantry as shown on Tenant's approved Plans, provided that such facility shall be for the service of food to Tenant, its

employees and business guests (but not for use as a public restaurant) , and Tenant shall comply with all applicable laws with respect thereto.

(D) Tenant shall not suffer or permit the use of any portion of the Demised Premises (a) for use by a foreign or, other than Tenant named herein, domestic governmental office, agency, bureau or other governmental instrumentality, (b) for use by or as a school, travel agency, medical or dental office or an employment, placement or executive recruitment agency, or (c) for use by a banking or other lending institution or office, agency, business or other governmental instrumentality engaged in business or dealing with the general public on an "off the street" basis.

(E) Each party agrees, at any time and from time to time, as requested by the other party, upon not less than ten (10) business days' prior notice, to execute and deliver to the other a statement certifying (a) that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and whether any options granted to Tenant pursuant to the provisions of this Lease have been exercised, (b) certifying the dates to which the fixed rent and additional rent have been paid and the amounts thereof, and stating whether or not, to the best knowledge of the signer, the other party is in default in performance of any of its obligations under this Lease, and, if so, specifying each such default of which the signer may have knowledge, it being intended that any such statement delivered pursuant hereto may be relied upon by others with whom the party requesting such certificate may be dealing. Additionally, Tenant's statement shall contain such other information as shall be required by the holder or proposed holder of any superior mortgage or the lessor or proposed lessor under any superior lease.

Reel 836, Page 1648; by Supplement #2 dated as of July 1, 1983, a Memorandum of which was recorded in said Register's Office in Reel 843, Page 309; by Supplement #3 dated as of December 4, 1987, a Memorandum of which was recorded in said Register's Office in Reel 1337, Page 2287; by Supplement #4 dated as of August 28, 1990, a Memorandum of which was recorded in said Register's Office in Reel 1725, Page 1332; by Supplement #5 dated as of June 30, 1991, a Memorandum of which was recorded in said Register's Office in Reel 1946, Page 665; by a Settlement Agreement dated as of April 20, 1984, between Landlord, the Port Authority and the City of New York; and an Amended and Restated Settlement Agreement dated as of June 30, 1991, between Landlord, the Port Authority and the City of New York; and as the same may be hereafter amended.

(b) The term **Port Authority** shall mean The Port Authority of New York and New Jersey, a body corporate and politic created by compact between the States of New York and New Jersey with the consent of the Congress of the United States of America.

~~(c)~~(c) The term **Ground Lessor** shall mean the Port Authority and any successor thereof which is the owner and holder of the Lessor's interest in the Underlying Lease.

(d) The term **Real Property** shall mean the Building and the Land and all easements, air rights, development rights and other appurtenances thereto.

ARTICLE 35

TENANT'S ANTENNA

Landlord agrees that, subject to all laws, ordinances, statutes, rules and regulations of all governmental authorities having jurisdiction thereof, and further subject to the conditions and

of Landlord, such approval not to be unreasonably withheld or delayed, and shall be further subject to inspection and reasonable supervision by Landlord.

(L) Tenant covenants and agrees that the Communications Dish, support structures, Wiring and related electrical equipment to be installed by Tenant shall not interfere with or adversely affect any equipment, installations, lines or machinery of the Building or any pre-existing other tenant of the Building, including, without limitation, any other pre-existing communications equipment in, on top of or otherwise outside the Building, or access thereto for maintenance, repair or removal.

(M) Tenant acknowledges being advised by Landlord that Landlord has, and shall be, granting to third parties various rights and licenses to utilize various portions of the Building and rooftop thereof for the installation of microwave dishes, satellite communications equipment, whip communications dishes and other communications equipment and related equipment (hereinafter all of the foregoing are collectively referred to as “Other Communications Equipment”) and that, inasmuch as Landlord’s ability to facilitate the installation and operation of such Other Communications Equipment will be of paramount importance to Landlord, Landlord shall have the right, at any time and from time to time, during the term of this Lease, upon thirty (30) days’ prior written notice to Tenant, to relocate the Tenant’s Communications Dish, support structures and related equipment to other areas of the Building and rooftop thereof, as Landlord in its sole discretion may determine so as to accommodate such Other Communications Equipment on the roof of the Building and so as to eliminate, or not to create, problems of interference with respect to or between Other Communications Equipment now, or in the future, installed on the roof or other areas of the Building. Such relocation shall, to the extent practicable, be performed