

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 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 "Plans") which are annexed hereto as Exhibit (or listed on said Exhibit) sufficient for the construction and finishing of the

Demised Premises. The Plans have been approved by Tenant. ^{and have} Tenant hereby approves (i) OK

Swanke, Hayden, Connell, Ltd. as the architects (the

^{their scope of services provided} "Architect") and ~~the fees~~ of the Architect and (ii) as subconsultant

~~("Consultant") for technical support and the fees of the Consultant. The fees of the Architect (including the cost of preparation of the Plans) and the Consultant shall be included in the Work Cost (hereinafter defined).~~

In accordance with the Plans, Landlord, at Landlord's ^{with} expense, subject to the ~~Cap~~ ^{the cap}

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 Plans.

(B) The term "Work Cost" as used in this Article shall mean the actual cost to Landlord of furnishing and installing ~~such part of~~ Tenant's Initial Work. ~~Landlord shall require its general contractor to obtain not less than three (3) bids from each major trade ("Sub-List")~~

~~(excluding trades affecting Building systems). Notwithstanding the preceding, the~~ 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 Tenant's Initial Work shown on the Plans.

(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 ~~has made and~~ makes no representation of the date on which it will complete 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~~ Substantially Complete the general office portion of Tenant's Initial Work within ~~(days after all required approvals have been obtained by the Architect from the Port Authority for the performance of Tenant's Initial Work~~ three (3) months after full execution and unconditional delivery of this Lease by Landlord and Tenant (the "Target Date"). In the event (a) the general office portion of Tenant's Initial Work shall not be Substantially Completed (as hereinafter defined) on or prior to the 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 Target Date that the general office portion of Tenant's Initial Work shall have failed to have been so ~~substantially completed~~ 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.

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FOR
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WHAT ABOUT THE OTHER HOURS OF THE WEEK?

(G) Subject to the provisions of this Article 6 ~~hereof~~ 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.

CABLING
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See F.P. 23
A.A. 11

(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 ~~major construction is completed~~ work is completed excepting minor details of construction or decoration which do not materially adversely affect Tenant's use of the general office portion of the Demised Premises, ⁱⁱ including necessary sign-offs of The Port Authority, (or when all ~~major construction~~ work (except as aforesaid) would have been completed but for delays caused by Tenant as provided in this Paragraph (H) or otherwise), ~~although minor items are not substantially completed and~~ ⁱⁱⁱ (ii) a certified air balancing report approved by Landlord's engineer as being in conformance with the Plans has been delivered to the Tenant. ~~Such unfinished work shall include, but not be limited to, any incomplete construction or improvements which do not materially interfere with Tenant's use and occupancy of the Demised Premises. Tenant shall promptly submit to Landlord a "punch-list" of such minor unfinished work which punch-list items, after reasonable approval 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 not less than 3 business days notice ("Landlord's Completion Notice") of Substantial Completion on or~~ ~~after the date of Substantial Completion, which notice shall include the items under (i) (Port Authority sign-offs) and (ii) above.~~ ⁱⁱⁱ ~~and (ii) above.~~ Tenant shall certify or deny certification of Substantial

next business day follow

Lease Commence
Prior to Sub
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Completion ("Certification") to Landlord within three (3) business days after receipt of Landlord's Completion Notice. Failure by Tenant to respond within said three (3) business day period, shall be deemed Certification by Tenant. If ~~the City~~ Tenant shall deny Certification, Tenant shall state in writing in reasonable detail the reasons for such denial but, in any event, the Commencement Date shall be deemed to have occurred on the date set forth in Landlord's Completion Notice, ~~(open for discussion)~~ [subject to the right of the City Tenant to have such issue resolved by Arbitration as provided in Paragraph J of this Article.]

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(b) Tenant specifically acknowledges and agrees that the Work Cost ~~will~~ may increase and there ~~will~~ may be delay in completion of Tenant's Initial Work by reason of (i) ~~Tenant's failure or unreasonable delay to consult with Landlord to enable Landlord to prepare plans or specifications;~~ (ii) subject to Paragraph (C) hereof, unreasonable delay or failure by Tenant in supplying information, ~~approving estimates or giving authorizations;~~ (iii) ~~Tenant's making changes or additions in the plans or specifications or materials originally approved;~~ (iv) (ii) interference by Tenant or Tenant's contractors with the performance of Tenant's Initial Work; ~~(v) delay or failure of any special or additional new materials selected by Tenant;~~ (vi) ~~additional work requested by Tenant (without regard to any time periods granted to Tenant hereunder for the approval of estimates and/or revisions of Tenant's Plans);~~ (vii) 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 Plans (without regard to any time periods granted to Tenant hereunder for making such resubmissions or revisions); ~~or (viii) work, materials,~~

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~~components and other items specified by Tenant which are not Building standard, and/or are not readily available to Landlord or Landlord's designated contractor, or require special manufacturing, fabrication or installation, or require additional time to obtain or install thereby delaying the date that Tenant's Initial Work would otherwise be substantially completed, including but not limited to, special wall coverings, light fixtures, entrance doors, woodwork, glass, stairways, door hardware, floor coverings and security and communications devices. Landlord shall not be responsible for any of the delays set forth in this Article, and, at, At Landlord's option, the term Term of this Lease shall commence ~~three (3) business days after~~ on the date on which Tenant's Initial Work of the general office portion of the Demised Premises would have been ~~substantially completed~~ Substantially Completed if not for the occurrence of any such delays.~~

See J *> who determines the DAY DAYS. Who/then is the ARBITRATION? if Tenant delays - LL must give notice for Tenant to cure (?)*

(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 and 00/100 (\$2,061,675.00) DOLLARS~~ (the

"Cap") _____ (\$ _____) DOLLARS (the "Landlord's Maximum Contribution"). *Plus the A & E services* *Worked out in approval of Feb.*

If the Work Cost shall exceed the Cap 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) days after Landlord's rendition of such estimate. If the Work Cost shall exceed \$ _____,

Tenant shall 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,

*Receipt and receipt of
invoice from LL.*

Tenant shall promptly meet with Landlord to resolve the overage. Payment by Tenant of such excess cost cost in excess of Landlord's Maximum Contribution shall be made within 45 days after Substantial Completion. Any payment by Tenant after said 45 days shall be made together with interest of at 2 points over the Base Rate from date of Substantial Completion to date of payment. (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 is open for discussion)~~ (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, 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 thereof.

(K) 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.

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portion*