AGREEMENT OF LEASE

between

BATTERY PARK CITY AUTHORITY,
Landlord

and

RECTOR PLACE ASSOCIATES L.P.,
Tenant

Premises
Site L

Battery Park City--Residential Phase II
New York, New York

Dated as of December 10, 1984

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AGREEMENT OF LEASE made as of the 20th day of December, 1984, between BATTERY PARK CITY AUTHORITY ("Landlord"), a body corporate and politic constituting a public benefit corporation of the State of New York having an office at 40 West Street, New York, New York 10006, and RECTOR PLACE L ASSOCIATES L.P. ("Tenant"), a Delaware limited partnership having an office c/o The Related Companies, Inc., 645 Fifth Avenue, New York, New York 10022.

WITNESSETH:

It is hereby mutually covenanted and agreed by and between the parties hereto that this Lease is made upon the terms, covenants and conditions hereinafter set forth.

ARTICLE 1

DEFINITIONS

The terms defined in this Article 1 and in Article 42 shall, for all purposes of this Lease and all supplemental agreements referring hereto, have the following meanings and the meanings set forth in Article 42.

"Abatement Period" shall have the meaning provided in Section 3.01(f).

"Additional Rent" shall have the meaning provided in Section 3.01(d).

"Adjusted Tax Equivalent" shall have the meaning provided in Section 3.02(b).

"Affiliate" shall mean in the case of any Person (hereinafter defined), a corporation, partnership, tenancy-in-common or or other business entity or individual which, directly or indirectly, controls, is controlled by or is under common control with such Person. For purposes of the foregoing definition, "control" (including "control by" and "under common control with") shall mean possession, directly or indirectly, of the power to direct or cause the direction of the management policies of the entity in question, whether through the ownership of voting securities, partnership interests, or by contract or otherwise.

"Apartment Corporation" shall have the meaning set forth in the Cooperative Plan (hereinafter defined).

"Approved Remedies" shall have the meaning provided in Section 26.04(a).

"Architect" shall mean Bond, Ryder, James Architects, P.C., or a successor who shall have been approved by Landlord, which approval shall not be unreasonably withheld.

"Base Rent" shall have the meaning provided in Section 3.01(a).

"Buildings" shall mean all the buildings (including footings and foundations), Equipment (hereinafter defined) and other improvements and appurtenances of every kind and description hereafter erected, constructed, or placed upon the Land (hereinafter defined) including, without limitation, Capital Improvements (hereinafter defined), and any and all alterations and replacements thereof, additions thereto and substitutions therefor, excluding, however, Landlord's Civic Facilities (hereinafter defined).

"Business Days" shall mean any day which is not a Saturday, Sunday or a day observed as a holiday by either the State of New York or the federal government.

"Capital Improvement" shall have the meaning provided in Section 13.01.

"Certificate of Occupancy" shall mean a certificate of occupancy issued by the Department of Buildings of New York City (hereinafter defined) pursuant to Section 1804 of the New York City Charter or other similar certificate issued by a department or agency of New York City.

"Civic Facilities" shall have the meaning provided in Section 26.01(a).

"Civic Facilities Budget" shall have the meaning provided in Section 26.05(b).

"Civic Facilities Drawings and Specifications" shall have the meaning provided in Section 26.01(a).

"Civic Facilities Payment" shall have the meaning provided in Section 26.05(a).

"Commencement Date" shall mean the date of this Lease.

"Commencement of Construction" shall mean the date upon which on-site construction of the Buildings shall commence, including any excavation or pile driving but not in-

cluding test borings, test pilings, surveys and similar pre-construction activities.

"Completion of Foundations" shall mean the excavation of the Land and construction or installation of piles, pile caps, basement slab and underground piping and conduit underneath the slab.

"Completion of the Buildings" shall mean the issuance of a permanent Certificate or Certificates of Occupancy for all of the Buildings and (i) if the Premises (hereinafter defined) shall be used for rental purposes, the actual occupancy by bona fide Subtenants (hereinafter defined) under valid Subleases (hereinafter defined) of eighty percent (80%) of the rentable residential apartments and fifty percent (50%) of any rentable non-residential space in the Buildings or (ii) if Tenant's estate in the Premises shall have been submitted to a cooperative form of ownership (x) satisfaction by Tenant of the provisions of Section 10.01(e)(i), (y) the assignment by Tenant of its interest in this Lease to the Apartment Corporation and (z) consummation of the sale by Tenant (or any holder of unsold shares) of thirty-five percent (35%) of the Cooperative Apartments to bona fide purchasers pursuant to purchase or subscription agreements theretofore delivered to Landlord or (iii) if Tenant's estate in the Premises shall have been submitted to a condominium form of ownership, consummation of the Initial Unit Transfers (as hereinafter defined).

"Cooperative Apartment" shall mean each apartment identified in the Cooperative Plan (hereinafter defined).

"Cooperative Plan" shall mean the plan to submit Tenant's leasehold estate in the Premises to cooperative ownership together with all amendments, modifications and supplements thereto.

"Construction Agreements" shall mean agreements for construction, Restoration (hereinafter defined), Capital Improvement, rehabilitation, alteration, repair or demolition performed pursuant to this Lease.

"Construction Commencement Date" shall mean March 1, 1985.

"Consumer Price Index" shall mean the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, New York, N.Y. - Northeastern N.J. Area, All Items (1967 =100), or any successor or substitute index thereto, appropriately adjusted; provided that if there shall be no successor index and the parties shall fail to agree upon a substitute index within thirty (30) days, or if the parties shall fail to agree upon the appropriate adjustment of such

successor or substitute index within thirty (30) days, a substitute index or the appropriate adjustment of such successor or substitute index, as the case may be, shall be determined by arbitration pursuant to Article 36.

"Default" shall mean any condition or event which constitutes or, after notice or lapse of time, or both, would constitute an Event of Default (hereinafter defined).

"Deficiency" shall have the meaning provided in Section 24.04(c).

"Depository" shall mean any Person who would qualify as an Institutional Lender (hereinafter defined) who is designated by Tenant (subject to the consent of Landlord which consent shall not be unreasonably withheld) to serve as Depository pursuant to this Lease, provided all funds held by the Depository pursuant to this Lease shall be held in New York City.

"Design Guidelines" shall mean the "Design Guidelines for the South Residential Area of Battery Park City", dated April, 1981, as the same may hereafter be amended.

"Due Date" shall mean, with respect to an Imposition (hereinafter defined), the last date on which such Imposition can be paid without any fine, penalty, interest or cost being added thereto or imposed by law for the non-payment thereof.

"Enclosure of Buildings" shall mean that all masonry, perimeter walls and window frames with glazing have been substantially completed from the third floor to the top floor of the Buildings, except temporary exterior elevator and/or hoist cut-outs and renting office access stairs and entrance.

"Equipment" shall mean all fixtures incorporated in the Premises (hereinafter defined), including, without limitation, (i) all machinery, dynamos, boilers, heating and lighting equipment, pumps, tanks, motors, air conditioning compressors, pipes, conduits, fittings, ventilating and communications apparatus, elevators, escalators, incinerators, garbage compactors, antennas, computers, sensors, and (ii) laundry equipment and refrigerators, stoves, dishwashers and other major kitchen appliances except to the extent any of the foregoing shall be owned by Subtenants, Tenant-Stockholders, Unit Owners, concessionaires or contractors engaged in maintaining the same. "Equipment" shall not mean any fixture or utilities owned by any utility company.

"ERS" shall have the meaning provided in Section 26.01(a).

"Esplanade" shall have the meaning provided in Section 26.01(a).

"Esplanade Budget" shall have the meaning provided in Section 26.05(b).

"Event of Default" shall have the meaning provided in Section 24.01.

"Expiration Date" shall have the meaning provided in Article 2.

"First Appraisal Date" shall have the meaning provided in Section 3.01(e).

"Governmental Authority (Authorities)" shall mean the United States of America, the State of New York, New York City and any agency, department, commission, board, bureau, instrumentality or political subdivision of any of the foregoing, now existing or hereafter created, having jurisdiction over the Premises or any portion thereof.

"Impositions" shall have the meaning provided in Section 4.01.

"Improvement Approvals" shall have the meaning provided in Section 13.01(a).

"Indemnitees" shall have the meaning provided in Section 19.01.

"Initial Occupancy Date" shall have the meaning provided in Section 26.05(a).

"Institutional Lender" shall mean a savings bank, a savings and loan association, a commercial bank or trust company (whether acting individually or in a fiduciary capacity), an insurance company organized and existing under the laws of the United States or any state thereof, a religious, educational or eleemosynary institution, a federal, state or municipal employee's welfare, benefit, pension or retirement fund, a recognized credit corporation such as General Electric Credit Corporation, any governmental agency or entity insured by a governmental agency or any combination of Institutional Lenders; provided, that each of the above entities shall qualify as an Institutional Lender

within the provisions of this Section only if it shall (a) be subject to (i) the jurisdiction of the courts of the State of New York in any actions and (ii) the supervision of (A) the Comptroller of the Currency of the United States or the Insurance Department or the Banking Department or the Comptroller of the State of New York, or the Board of Regents of the University of the State of New York, or the Comptroller of the City or (B) any federal, state or municipal agency or public benefit corporation or public authority advancing or insuring mortgage loans or making payments which, in any manner, assist in the financing, development, operation and maintenance of improvements, and (b) have net assets of not less than $500,000,000.

"Involuntary Rate" shall mean the Prime Rate (hereinafter defined) plus 2% per annum but, in no event, in excess of the maximum permissible interest rate then in effect in the State of New York.

"Land" shall mean the land described in Exhibit "A" annexed to this Lease and made a part hereof.

"Land Tax Equivalent" shall mean for any Tax Year, the product obtained by multiplying (i) the total assessed value of the Land in effect for the Tax Year preceding the Commencement of Construction (without regard to any exemption or abatement from real property taxation in effect prior to such Commencement of Construction) times (ii) the tax rate applicable to comparable real property situated in the Borough of Manhattan in effect for the Tax Year in which the payment is made. The total assessed value of the Land deemed to be in effect for the Tax Year preceding the Commencement of Construction, as provided in clause (i) above, is $925,000.

"Landlord", on the date as of which this Lease is made, shall mean Battery Park City Authority, but thereafter "Landlord" shall mean only the landlord at the time in question under this Lease.

"Landlord's Civic Facilities" shall have the meaning provided in Section 26.01(c).

"Landlord's Construction Obligations" shall have the meaning provided in Section 26.04(a).

"Landlord's Project Manager" shall have the meaning provided in Section 11.02(e).

"Lease" shall mean this Agreement of Lease and all amendments, modifications and supplements thereof.

"Lease Year" shall mean the twelve-month period beginning on the Commencement Date and each succeeding twelve-month period during the Term.

"Maintenance Obligations" shall have the meaning provided in Section 26.03(a).

"Master Development Plan" shall mean the plan annexed hereto as Exhibit "C", as the same may be hereafter amended.

"Master Landlord," on the date as of which this Lease is made, shall mean Battery Park City Authority, but thereafter, "Master Landlord" shall mean only the lessor at the time in question under the Master Lease.

"Master Lease" shall mean the Restated Amended Agreement of Lease, made as of June 10, 1980, between BPC Development Corporation, as landlord, and Battery Park City Authority, as tenant, a Memorandum of which was recorded on June 11, 1980 in the Office of the City Register, New York County in Reel 527 at page 163, as amended by First Amendment to Restated Amended Lease dated as of June 15, 1983 and recorded on June 20, 1983 in said Register's Office in Reel 696 at page 424, and Second Amendment to Restated Amended Lease dated June 15, 1983 and recorded on June 20, 1983 in said Register's Office in Reel 696 at page 432, and as the same may be hereafter amended.

"Mortgage" shall mean any mortgage which constitutes a lien on Tenant's interest in this Lease and the leasehold estate created hereby, provided such mortgage is held by (i) an Institutional Lender, (ii) a Person formerly constituting Tenant, or such Person's assignee, if such mortgage is made to such Person in connection with an assignment by it of its interest in this Lease, (iii) a Principal (as hereinafter defined) or (iv) an Affiliate. The term "Mortgage" shall not include a Unit Mortgage or Recognized Unit Mortgage (each as hereinafter defined).

"Mortgagee" shall mean the holder of a Mortgage. The term "Mortgagee" shall not include a Unit Mortgagee or Recognized Unit Mortgagee (each as hereinafter defined).

"New York City" shall mean The City of New York, a municipal corporation of the State of New York.

"Non-Disturbance and Attornment Agreement" shall have the meaning provided in Section 10.09.

"Operating Costs" shall have the meaning provided in Section 26.05(a).

"Parcels" shall have the meaning set forth in Section 11.09.

"Payment Period" shall have the meaning provided in Section 26.05(b).

"Payments in Lieu of Taxes" and "PILOT" shall have the meaning provided in Section 3.02.

"Person" shall mean and include an individual, corporation, partnership, joint venture, estate, trust, unincorporated association, any Federal, State, County or municipal government or any bureau, department or agency thereof.

"Phase II" shall mean the Phase II Development of the Project Area, as such Phase II is delineated in the Design Guidelines.

"Plans and Specifications" shall mean the plans and specifications referred to in Section 11.02(c).

"Preliminary Plans and Specifications" shall mean the preliminary plans and outline specifications for the construction of the Buildings referred to in Section 11.02(b).

"Premises" shall mean the Land and Buildings.

"Prime Rate" shall mean, at any time or from time to time, the annual interest rate announced as the prime rate or base rate by Citibank, N.A. or its successors.

"Principal" shall mean (i) Stephen M. Ross and (ii) any of Denis A. Blackett, Thomas F. Welch, E. Anthony Mackall, Sam Mintz or Joanne Roche.

"Project Area" shall mean the premises demised to Landlord pursuant to the Master Lease.

"Qualifying Sublease" shall have the meaning provided in Section 10.09.

"Reappraisal Date" shall have the meaning provided in Section 3.01(e).

"Rector Park" shall have the meaning provided in Section 26.01(a).

"Rector Park Budget" shall have the meaning provided in Section 26.05(b).

"Release Date" shall have the meaning provided in Section 3.08(b).

"Rent Control Sanction" shall have the meaning provided in Section 3.08(d).

"Rent Insurance" shall have the meaning provided in Section 7.01(a)(iv).

"Rent Officer" shall have the meaning provided in Section 3.08(c).

"Rent Program" shall have the meaning provided in Section 3.08(c).

"Rent Regulations" shall have the meaning provided in Section 3.08(a).

"Rental" shall have the meaning provided in Section 3.07.

"Requirements" shall have the meaning provided in Section 14.01.

"Residential Esplanade" shall have the meaning provided in Section 26.05(b).

"Residential Parks" shall have the meaning provided in Section 26.05(b).

"Residential TCO" shall have the meaning provided in Section 3.02(b).

"Restoration" shall have the meaning provided in Section 8.01.

"Restoration Funds" shall have the meaning provided in Section 8.02(a).

"Restore" shall have the meaning provided in Section 8.01.

"Scheduled Completion Date" shall have the meaning provided in Section 11.04.

"Scheduled Completion Date for Foundations" shall mean six (6) months from the Construction Commencement Date.

"Schematics" shall mean the schematic drawings referred to in Section 11.02(a).

"Section 421-a" shall have the meaning provided in Section 3.08(a).

"Section 421-a Penalty Date" shall have the meaning provided in Section 3.08(e).

"Self-Help" shall have the meaning provided in Section 26.04(b).

"Settlement Agreement" shall mean the Settlement Agreement, dated as of June 6, 1980, between New York City and UDC, as supplemented by Letter, dated June 9, 1980, from Richard A. Kahan to Edward I. Koch, and as the same may be hereafter amended.

"Site A" shall mean that portion of the Project Area leased under the Site A Lease (hereinafter defined).

"Site A Lease" shall mean the Agreement of Lease bearing even date herewith made by and between Battery Park City Authority, as landlord and Rector Park A Associates L.P., as tenant, covering Site A, and all amendments, modifications and supplements thereof.

"Stabilization Association" shall have the meaning provided in Section 3.08(b).

"Subleases" shall have the meaning provided in Section 10.04.

"Substantial Completion of the Buildings" or "Substantially Complete(d)" shall have the meaning provided in Section 11.04.

"Subtenants" shall have the meaning provided in Section 10.04.

"Supplemental Rent" shall have the meaning provided in Section 3.01(b) hereof.

"Tax Equivalent" shall mean the product obtained by multiplying (a) the total assessed value of the Premises

for the Tax Year by (b) the tax rate applicable to comparable real property situated in the Borough of Manhattan for such Tax Year, provided that for the ten (10) Tax Years commencing with the Tax Year next succeeding the Tax Year in which the Residential TCO is issued, the total assessed value of the Premises for purposes of this calculation shall be reduced by $925,000 (without regard to any exemption or abatement from real property taxation in effect prior to such Commencement of Construction).

"Tax Year" shall mean each tax fiscal year of the City of New York.

"Taxes" shall have the meaning provided in Section 4.03(a).

"Tenant" shall mean Rector Place L Associates L.P. and, if Rector Place L Associates L.P. or any successor to its interest hereunder shall assign or transfer its tenant's interest hereunder in accordance with the terms of this Lease, the term "Tenant" shall mean such assignee or transferee.

"Tenant's Civic Facilities" shall have the meaning provided in Section 26.01(b).

"Tenant-Stockholder" shall mean any Person acquiring shares in the Apartment Corporation and the interest of lessee under the proprietary lease appurtenant to such shares.

"Term" shall mean the term of this Lease as set forth in Article 2 hereof.

"Title Matters" shall have the meaning provided in Article 2.

"Transaction Payments" shall have the meaning provided in Section 3.05.

"Transfer" shall have the meaning provided in Section 10.01.

"Unavoidable Delays" shall mean (i) with respect to Tenant or its obligations hereunder, delays incurred by Tenant due to strikes, lockouts, work stoppages due to labor jurisdictional disputes, acts of God, inability to obtain labor or materials due to governmental restrictions or acts

of God (other than any governmental restrictions which Tenant is bound to observe pursuant to the terms of this Lease), enemy action, civil commotion, fire, unavoidable casualty or other similar causes beyond the control of Tenant, unusual subsurface conditions, Landlord's failure to complete the Civic Facilities in accordance with Section 26.02, a work stoppage or slow-down requested by Landlord in order not to unreasonably interfere with the work of other developers within the Project Area, which for purposes of this Section shall include the construction activities of Landlord under this Lease or the wrongful failure of Landlord (as determined by arbitration pursuant to this Lease) to grant any consent or approval to Tenant (but not including Tenant's insolvency or financial condition), and (ii) with respect to Landlord or its obligations hereunder, delays incurred by Landlord due to strikes, lockouts, work stoppages due to labor jurisdictional disputes, acts of God, inability to obtain labor or materials due to governmental restrictions (other than any governmental restrictions which Landlord is bound to observe pursuant to the terms of this Lease), enemy action, civil commotion, fire, unavoidable casualty or other similar causes beyond the control of Landlord (but not including Landlord's insolvency or financial condition); in each case provided such party shall have notified the other party not later than fourteen (14) days after such party knows or should have known of the occurrence of same and the effects of which a prudent Person in the position of the party asserting such delay could not have reasonably prevented. Notwithstanding anything herein contained to the contrary, any delays incurred by Tenant as a result of unusual subsurface conditions shall not, in the aggregate, exceed one hundred and eighty (180) days.

"UDC" shall mean New York State Urban Development Corporation, a corporate governmental agency of the State of New York constituting a political subdivision and public benefit corporation, its successors and assigns.

"Zoning Lot Declaration" shall mean that certain Declaration of Zoning Lot and Development Restrictions dated July 9, 1982 and recorded in the Office of the Register of the City of New York, New York County in Reel 648 at page 276, as the same may hereafter be amended.

ARTICLE 2

PREMISES AND TERM OF LEASE

Landlord does hereby demise and sublease to Tenant, and Tenant does hereby hire and take from Landlord, the Premises, together with all easements, appurtenances and other rights and privileges now or hereafter belonging or appertaining to the Premises, subject to those matters affecting title set forth in Exhibit "B" annexed hereto and made a part hereof ("Title Matters").

TO HAVE AND TO HOLD unto Tenant, its successors and assigns, for a term of years (the "Term") commencing on the Commencement Date and expiring on the 17th day of June, 2069 or on such earlier date upon which this Lease may be terminated as hereinafter provided (the "Expiration Date").

ARTICLE 3

RENT

Section 3.01.

(a) For the period beginning on the Commencement Date and continuing thereafter throughout the Term, Tenant shall pay to Landlord, without notice or demand, the annual sums set forth or referred to below (collectively, the "Base Rent"): 12/20/84

(i) Except as otherwise provided in Section 3.01 (h), for each Lease Year (or portion thereof) listed on Schedule 1 hereto, up to but not including the First Appraisal Date, the annual rate set forth on column I on Schedule I opposite such Lease Year (or portion thereof).

(ii) For the Lease Year commencing on the First Appraisal Date and continuing for a period of fifteen (15) Lease Years thereafter, an amount per annum equal to 6% of the fair market value of the Land, determined and redetermined from time to time as hereinafter provided, considered as unencumbered by this Lease and the Master Lease and as unimproved except for the Civic Facilities and other site improvements made by Landlord and as subject to the Zoning Lot Declaration.

Notwithstanding anything contained in Section 3.01(a)(ii) to the contrary, the Base Rent payable for the period commencing on the First Appraisal Date and continuing for a period of fifteen (15) Lease Years thereafter shall not exceed $838,000 per annum.

(iii) For the Lease Year commencing on the expiration of the fifteenth (15th) Lease Year after the First Appraisal Date and for each Lease Year thereafter to the end of the Term, an amount per annum equal to 6% of the fair market value of the Land, determined and redetermined from time to time as hereinafter provided, considered as unencumbered by this Lease and the Master Lease, and as unimproved except for the Civic Facilities and other site improvements made by Landlord and as subject to the Zoning Lot Declaration.

Notwithstanding any determination or redetermination of fair market value hereunder, Base Rent payable on and after the First Appraisal Date shall not be less than the highest Base Rent payable for any Lease Year prior to the First Appraisal Date, and Base Rent payable on and after any other Reappraisal Date shall not be less than the Base Rent payable immediately prior to such Reappraisal Date.

(b) In addition to the amount to be paid pursuant to Section 3.01(a) hereof, if PILOT for any Lease Year shall be less than the amount shown on column II of Schedule 1 for such Lease Year, Tenant shall pay to Landlord, as supplemental rent (the "Supplemental Rent") and in the manner provided in Section 3.01(c) hereof, for each Lease Year, an amount equal to the difference between the amount shown on column II on Schedule 1 for such Lease Year and PILOT for such Lease Year.

(c) Base Rent and Supplemental Rent shall be payable [redacted] monthly installments in advance commencing on the Commencement Date and on the first day of each calendar month thereafter during the Term. Base Rent and Supplemental Rent shall be payable in currency which at the time of payment is legal tender for public and private debts in the United States of America, and shall be payable to the office of Landlord set forth above or at such other place as Landlord shall direct by notice to Tenant. Base Rent and Supplemental Rent due for any period of less than a full Lease Year, and any installment of Base Rent and Supplemental Rent due for any period of less than a full month, shall be appropriately apportioned.

(d) Tenant shall also pay to Landlord, without notice or demand all other amounts, which Tenant herein assumes or agrees to pay, including without limitation PILOT and Civic Facilities Payment (collectively, the "Additional Rent").

(e) For the purposes of calculating Base Rent pursuant to Section 3.01(a)(ii) and (iii), the fair market value of the Land shall be determined as of the first day of the calendar month next succeeding the twenty-fifth anniversary of the date on which a temporary certificate of occupancy shall be issued for any dwelling unit in the Buildings and as of each subsequent fifteenth anniversary thereafter (such twenty-fifth anniversary being referred to herein as the "First Appraisal Date", and each subsequent fifteenth anniversary being referred to herein as a "Reappraisal Date"). Such determination of fair market value shall be by appraisal in the manner provided in Section 3.09 hereof, unless at least twelve months before the First Appraisal Date or any Reappraisal Date, Landlord and Tenant shall have agreed upon such fair market value.

(f) Notwithstanding anything herein contained to the contrary, if Landlord fails to substantially complete the Civic Facilities as provided in Section 26.02, Tenant's obligation to pay Base Rent and Supplemental Rent shall be abated, in the amount hereinafter set forth, for the period of time between the date Landlord is obligated to substantially complete the Civic Facilities as provided in Section 26.02 and the date Landlord shall have substantially completed the Civic Facilities (the "Abatement Period"). The amount of Base Rent and Supplemental Rent abated by Tenant shall be in an amount equal to the product derived by multiplying the Base Rent and Supplemental Rent which would have been payable for the Abatement Period by three (3).

(g) In the event Completion of Foundations shall not have occurred by the Scheduled Completion Date For Foundations, as such date may be extended by reason of Unavoidable Delays, Tenant shall pay from time to time to Landlord, within five (5) days after demand, an amount equal to $550 for each day between the Scheduled Completion Date For Foundations, as such date may be extended by reason of Unavoidable Delays, and the date Completion of Foundations shall occur, provided, however, if the number of days shall exceed sixty (60) days, such amount shall increase to $750 for each day between the sixty-first (61st) day and the one hundred and twentieth (120th) day and if the number of days shall exceed one hundred and twenty (120) days, such amount shall be further increased to $950 for each day thereafter until the date Completion of Foundations shall occur. Such amounts shall constitute Rental hereunder. Provided Tenant shall have Substantially Completed the Buildings on or be-

fore the Scheduled Completion Date, as such date may be extended by reason of Unavoidable Delays, Tenant shall receive a credit against the next installment(s) of Rental equal to the amount paid by Tenant to Landlord pursuant to this Section 3.01(g). In the event Tenant shall not have Substantially Completed the Buildings on or before the Scheduled Completion Date, as such date may be extended by reason of Unavoidable Delays, Tenant shall not be entitled to receive the credit set forth in the preceding sentence.

(h) Unless Tenant's estate in the Premises shall have been submitted to either a cooperative or condominium form of ownership in accordance with the terms of this Lease, from and after the Section 421-a Penalty Date up to but not including the First Appraisal Date (i) the Base Rent payable by Tenant shall be at the annual rate set forth on Column I on Schedule 2 opposite such Lease Year (or portion thereof) and (ii) the Supplemental Rent payable by Tenant shall, for each Lease Year, be in an amount equal to the difference between the amount shown on Column II on Schedule 2 for such Lease Year and PILOT for such Lease Year. The provisions of this Section 3.01(h) shall be of no force or effect if prior to the Section 421-a Penalty Date, Tenant shall have submitted its estate in the Premises to either a cooperative or condominium form of ownership in accordance with the terms of this Lease.

Section 3.02.

(a) For each Tax Year (or portion thereof) during the Term, Tenant shall pay to Landlord without notice or demand, an annual sum (each such sum being hereinafter referred to as a "Payment in Lieu of Taxes" or "PILOT") equal to the Adjusted Tax Equivalent for such Tax Year, payable in equal quarterly installments during such Tax Year, in advance on the first day of each such quarterly period. PILOT due for any period of less than a full Tax Year, and any installment of PILOT due for less than a quarterly period, shall be appropriately apportioned.

(b) For the purposes of this Section 3.02, the Adj[illegible]ivalent shall be, (i) for each Tax Year or po[illegible] within the period commencing on the first day of the month following the Commencement Date (unless the Commencement Date shall be the first day of a month in which case such period shall commence on the Commencement Date) and ending on the last day of the Tax Year in which a temporary Certificate of Occupancy is duly issued by the New York City Department of Buildings for all residential space in the Buildings ("Residential TCO"), an amount equal to the Land Tax Equivalent or a pro rata portion thereof, as the case may be; (ii) for the succeeding ten (10) Tax Years, subject to Tenant's compliance with the provisions of Sec-

tion 3.08, an amount equal to the sum of the Land Tax Equivalent plus the Tax Equivalent less the following amounts: (A) for the two Tax Years immediately following the Tax Year in which the Residential TCO is issued, an amount equal to one hundred percent (100%) of the Tax Equivalent; (B) for the succeeding two Tax Years, an amount equal to eighty percent (80%) of the Tax Equivalent; (C) for the succeeding two Tax Years, an amount equal to sixty percent (60%) of the Tax Equivalent; (D) for the succeeding two Tax Years, an amount equal to forty percent (40%) of the Tax Equivalent; and (E) for the succeeding two Tax Years, an amount equal to twenty percent (20%) of the Tax Equivalent; and (iii) for each Tax Year or portion of a Tax Year thereafter, an amount equal to the Tax Equivalent.

(c) Tenant shall be entitled to the amount of exemptions or abatements, if any, that would be available to Tenant under any law, rule, regulation or code which now or hereafter grants abatements of or exemptions or relief from real estate taxes to an owner of comparable real property in the Borough of Manhattan if Tenant were the fee owner of the Premises and would otherwise be entitled to such exemptions or abatements and if the Premises were not exempt from such taxes, provided that Tenant shall otherwise comply with all requirements of such law, rule, regulation or code.

Section 3.03. Tenant shall continue to pay the full amount of PILOT required under Section 3.02, notwithstanding that Tenant may have instituted tax assessment reduction or other actions or proceedings pursuant to Section 4.06 hereof to reduce the assessed valuation of the Premises or any portion thereof. If any such tax reduction or other action or proceeding shall result in a final determination in Tenant's favor, (i) Tenant shall be entitled to a credit against future PILOT to the extent, if any, that the PILOT previously paid for the Tax Year for which such final determination was made exceeds the higher of (A) the PILOT as so determined, or (B) the amount stated for the period which is coterminous with such Tax Year on column II on Schedule 1 or Schedule 2, as applicable, hereto, and (ii) if such final determination is made for the then current Tax Year, future payments of PILOT for said Tax Year shall be based on the PILOT as so determined. If at the time Tenant is entitled to receive such a credit, the City of New York is paying interest on refunds of Taxes, Tenant's credit shall include interest at the rate then being paid by the City of New York. In no event, however, shall Tenant be entitled to any refund of any such excess from Landlord.

Section 3.04. Tenant shall pay to Landlord the Civic Facilities Payment in accordance with the provisions of Section 26.05.

89/90 - 80%
90/91 - 80%
91/92 - 60%
92/93 - 60%
93/94 - 40%
94/95 - 40%
95/96 - 20%
96/97 - 20%

Section 3.05.

(a) In the event Tenant shall submit Tenant's leasehold estate in the Premises to either a cooperative or condominium form of ownership, Tenant shall pay to Landlord, in the manner hereinafter provided, a payment or payments (the "Transaction Payments") in an amount equal to $2,150 for each Cooperative Apartment or Unit, as the case may be.

(b) (i) As security for Tenant's obligation to pay the Transaction Payments for Cooperative Apartments, Tenant shall deliver to Landlord, prior to the assignment of this Lease to the Apartment Corporation, security reasonably satisfactory to Landlord securing such obligation. Tenant's failure to deliver such security shall constitute a Default hereunder and any assignment of this Lease shall be void.

(ii) As security for Tenant's obligation to pay the Transaction Payments for Units, Tenant shall deliver to Landlord, prior to Tenant's recording of the Declaration, security reasonably satisfactory to Landlord securing such obligation. Tenant's failure to deliver such security shall constitute a Default hereunder.

(c) Except as provided in Section 3.05(d), within ten (10) days after the closing of a Cooperative Apartment or Unit, as the case may be, Tenant shall pay to Landlord, the Transaction Payment with respect to such Cooperative Apartment or Unit so sold.

(d) Notwithstanding anything herein contained to the contrary, (i) if a Cooperative Apartment shall be transferred to a holder of unsold shares, the Transaction Payment with respect to such Cooperative Apartment shall not be payable until such holder of unsold shares shall transfer the Cooperative Apartment to a bona fide purchaser and (ii) if a Unit shall be transferred to other than a bona fide purchaser, the Transaction Payment with respect to such Unit shall not be payable until such purchaser shall transfer the Unit to a bona fide purchaser.

Section 3.06. Landlord and Tenant agree that the Base Rent, Supplemental Rent and Additional Rent shall be absolutely net to Landlord without any abatement, deduction, counter-claim, set-off or offset whatsoever except as specifically set forth in this Lease, so that this Lease shall yield, net, to Landlord, the Base Rent, Supplemental Rent and Additional Rent in each year during the Term and that Tenant shall pay all costs, expenses and charges of every kind and nature relating to the Premises (except Taxes, if any) which may arise or become due or payable during or af-

ter (but attributable to a period falling within) the Term, and that Landlord shall be indemnified by Tenant against, and held harmless by Tenant from, the same.

Section 3.07. All amounts payable by Tenant pursuant to this Lease, including, without limitation, Base Rent, Supplemental Rent, Additional Rent, Impositions and payments pursuant to Section 11.06(c) (collectively, "Rental"), shall constitute rent under this Lease and shall be payable in the same manner as Base Rent, except as otherwise set forth in this Lease. Notwithstanding anything contained in this Lease to the contrary, Transaction Payments shall not constitute Rental.

Section 3.08. Tenant, on a voluntary basis and solely as a condition precedent to receiving benefits (as set forth in Section 3.02 hereof) equivalent to benefits available under Section 421-a of the Real Property Tax Law ("Section 421-a"), shall, until the Release Date, comply with the provisions of this Section 3.08.

(a) Tenant shall enjoy such rights and observe such requirements pertaining to the rental of dwelling units in the Buildings (including rent increases authorized by virtue of section 4.2 of the rules and regulations governing the Section 421-a partial tax exemption program and all other rent increases permitted by applicable laws or regulations), as would be available or applicable to the owner of the Buildings pursuant to the Emergency Tenant Protection Act of 1974, Title YY of Chapter 51 of the Administrative Code of the City of New York, and the Code of the Real Estate Industry Stabilization Association of New York City, Inc., as well as regulations promulgated pursuant thereto, all as heretofore and hereafter amended (collectively, the "Rent Regulations"), had the construction of the Buildings commenced on the Construction Commencement Date and had the Buildings received partial tax exemption under Section 421-a and consequently been subject to rent stabilization under applicable law and regulation. Tenant shall be entitled to receipt of the benefits (as set forth in Section 3.02(b) hereof) presently equivalent to benefits available under Section 421-a notwithstanding any modification, amendment, supplement or termination of Section 421-a.

(b) Tenant shall apply for membership in, and/or submit itself to the jurisdiction of, the real estate industry stabilization association registered with the New York City Department of Housing Preservation and Development, pursuant to Section YY51-6.0 of the Administrative Code or any successor association administered by the State of New York or City of New York, or the appropriate State or City housing agency having jurisdiction over rent stabilized buildings (the "Stabilization Association"). Upon joining or submitting to the jurisdiction of the Stabilization Asso-

ciation, Tenant shall comply with all of the applicable requirements thereof and shall remain a member in good standing thereof, and/or subject to the jurisdiction thereof, or of any successor association or agency, until such date as the owner of the Building would no longer be required to so comply and to remain such a member and/or subject to such jurisdiction, had construction of the Building commenced on the Construction Commencement Date and received partial tax exemption under Section 421-a and consequently had been subject to rent stablization under applicable laws and regulation or until the twenty-seventh (27th) anniversary of the Commencement Date, whichever date is sooner (the "Release Date").

(c) In the event that Tenant fails to become a member or to subject itself to the jurisdiction of the Stabilization Association prior to the issuance of a temporary or permanent Certificate of Occupancy for any dwelling unit in the Buildings in accordance with the provisions of the preceding paragraph (b), Tenant shall nevertheless comply with all of the requirements of the Rent Regulations as if Tenant had become a member or had submitted to the jurisdiction of such Stabilization Association, and in such case a Person (the "Rent Officer") appointed by Landlord shall administer a program of rent regulations which shall be the same as the Rent Regulations administered by the Stabilization Association (the "Rent Program"). The authority of the Rent Officer shall be limited to implementing and administering the Rent Program. In such event, Tenant shall pay to Landlord administration fees in a per unit amount equal to fees and dues paid by owners of comparable properties which are enrolled in the rent stabilization association, or its successor, such fees to constitute Rental hereunder. Tenant in no manner waives, limits or otherwise compromises its right to resort to any and all facets of the judicial system for the resolution of disputes pertaining to the Rent Program or the administration thereof.

(d) Noncompliance by Tenant with the Rent Regulations or with the Rent Program, as the case may be, shall cause Tenant to be subjected to such sanctions and penalties as would be imposed by the Stabilization Association, had the Buildings received partial tax exemption under Section 421-a and had the owner failed to comply with the Rent Regulations, regardless of whether Tenant is actually a member, or is actually subject to the jurisdiction, of the Stabilization Association or whether the Rent Program is being implemented and administered by the Rent Officer. In the event Tenant fails to remain a member in good standing, or subject to the jurisdiction, of the applicable rent regulatory regime, because its membership or participation in, or registration with, the Stabilization Association, or the Rent Program, as the case may be, has terminated or been revoked prior to the Release Date, Tenant shall become subject

to such sanctions and penalties as are then applicable to owners of buildings receiving partial tax exemption under Section 421-a upon such termination or revocation, including, if applicable, submitting to the jurisdiction of the agency implementing and administering the rent control program pursuant to Title "Y" of Chapter 51 of the New York City Administrative Code, as heretofore and hereafter amended (the "Rent Control Sanction"). In the event Tenant is required to comply with the Rent Program in accordance with the provisions of paragraph (c) of this Section and Tenant's membership or participation in such Rent Program is terminated or revoked by reason of Tenant's non-compliance with the Rent Program prior to the Release Date, Tenant shall be subject to the Rent Control Sanction (if applicable, in accordance with the preceding sentence) as the same shall be administered by the Rent Officer. If the Rent Control Sanction becomes applicable, until the Release Date all increases in rents and other matters pertaining to the rental of residential units in the Buildings shall be regulated in accordance with the rent control laws and regulations by the governmental agency having jurisdiction or by the Rent Officer, as the case may be. Failure by Tenant to submit to the Rent Control Sanction where required hereunder, or to comply with the rent control laws and regulations as administered by the governmental agency having jurisdiction, or their equivalent as administered by the Rent Officer, shall, at Landlord's option, constitute an Event of Default hereunder.

(e) Tenant shall comply with all of the requirements of Section 421-a and the rules and regulations promulgated thereunder. In the event that Tenant shall either commit an act or fail to commit an act, which act or failure would result in revocation or discontinuance of tax benefits under Section 421-a had the Buildings received partial tax exemption under such Section (the date of such revocation or discontinuance of tax benefits under Section 421-a had the Building received partial tax exemption under this Section is hereinafter called the "Section 421-a Penalty Date"), then the PILOT payable under Section 3.02 hereof shall be increased to an amount equal to the real estate taxes which would be payable by the owner of the Premises in the case of such revocation or discontinuance, were Tenant the fee owner thereof and had the Buildings received partial tax exemption under Section 421-a and, to the extent provided in Section 3.01(h) hereof, the Base Rent and Supplemental Rent shall be payable pursuant to the provisions of said Section 3.01(h). Prior to payment of any such increase, Tenant shall have the right to contest or challenge the same in the same manner as is provided for contest or challenge of the revocation or discontinuance of partial tax exemption benefits under Section 421-a and the rules and regulations promulgated thereunder.

(f) Whether subject to the Rent Regulations or the Rent Program, the initial rents permitted to be charged by Tenant to Subtenants of dwelling units in the Buildings shall be the maximum allowable rents as determined by the New York City Department of Housing Preservation and Development or successor agency, as if the Buildings had received partial tax exemption under Section 421-a and consequently been subject to rent stabilization under applicable law and regulation, provided that, if permitted under applicable law, in addition to such allowable rents, Tenant shall be entitled to charge amounts equal to Civic Facilities Payments as set forth in paragraph (g) of this Section.

(g) Notwithstanding anything to the contrary contained in paragraphs (a) through (f) of this Section, Tenant, in addition to any rents permitted to be charged and collected pursuant to the Rent Regulations or Rent Program, shall, if permitted by applicable law, be permitted to charge and collect from all Subtenants in the aggregate an amount equal to the Tenant's Civic Facilities Payment. Such charge shall be based on each Subtenant's pro rata share of the Civic Facilities Payment, apportioned according to the size of the unit.

(h) Tenant's obligations under this Section 3.08 shall cease upon the Release Date.

(i) Each Sublease for a dwelling unit in the Buildings shall contain a provision advising the Subtenant that rents for the unit are regulated pursuant to the terms of this Lease, under the Rent Regulations or the Rent Program, as the case may be. Upon request by any Subtenant, Tenant shall make available to such Subtenant a copy of the Rent Regulations or the Rent Program.

(j) In the event Tenant submits its estate in the Premises to either a cooperative or condominium form of ownership, Tenant shall be obligated to apply for membership in and/or submit itself to the jurisdiction of the Stabilization Association, comply with the applicable requirements thereof and subject itself to the Rent Program or the Rent Regulations only if and to the extent that any of the foregoing would be applicable to a building (w) which had received partial tax exemption under Section 421-a, (x) whose submission to cooperative or condominium ownership occurred at the same time as Tenant's, (y) which had the same proportion of its residential units subject to tenancies at the time of such submissions as had the Buildings at the time of submission and (z) whose construction commenced on the Construction Commencement Date (all such buildings with characteristics w, x, y, and z, "Comparable Buildings").

(k) Unit Owners or Tenant-Stockholders shall be subject to the rules, regulations and provisions of the Stabilization Association, Rent Regulations or the Rent Pro-

gram only if and to the extent that the foregoing would be applicable to owners of condominium or cooperative units in Comparable Buildings.

Section 3.09.

(a) Each determination of fair market value of the Land referred to in Section 3.01(a)(ii) shall be made in accordance with the procedures set forth in Article XVII of the Master Lease. Landlord shall and shall cause Master Landlord to permit Tenant and Tenant's representatives (including its Mortgagee or Mortgagees, if any) and witnesses, at Tenant's own cost and expense, to participate in such procedures. Landlord, as tenant under the Master Lease, shall appoint as its appraiser under the Master Lease an appraiser designated by Tenant, and Tenant shall pay the fees and expenses payable by Landlord as such tenant in respect of the Premises pursuant to Section 17.02 of the Master Lease.

(b) In the event that New York City shall, for any reason, fail to determine the assessed value of the Premises for any Tax Year during the Term, such assessed value shall be determined in accordance with the procedures set forth in Article XVII of the Master Lease, provided that, in making such determination, the appraisers shall take into consideration the equalization rates then applicable to comparable properties situated in the Borough of Manhattan, as well as any limitations on increases in assessed value prescribed by applicable law. Tenant shall have the same right to participate in such procedures, and to appoint an appraiser, as set forth in paragraph (a) of this Section 3.09.

ARTICLE 4

IMPOSITIONS

Section 4.01. Tenant covenants and agrees to pay, as hereinafter provided, all of the following items (collectively, "Impositions") imposed by any Governmental Authority (other than a Governmental Authority acting solely in its capacity as Landlord and not as a Governmental Authority): (a) real property assessments (not including Taxes), (b) personal property taxes, (c) occupancy and rent taxes, (d) water, water meter and sewer rents, rates and charges, (e) excises, (f) levies, (g) license and permit fees, (h) service charges with respect to police protection, fire protection, street and highway construction, maintenance and lighting, sanitation and water supply, if any, (i) fines, penalties and other similar or like governmental charges applicable to the foregoing and any interest or costs with respect thereto, and (j) except for Taxes, any and all other

governmental levies, fees, rents, assessments or taxes and charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, and any interest or costs with respect thereto, which at any time during the Term relating to a period during the Term are, or, if the Premises or any part thereof or the owner thereof were not exempt therefrom, would have been (1) assessed, levied, confirmed, imposed upon or would have become due and payable out of or in respect of, or would have been charged with respect to, the Premises or any document to which Tenant is a party creating or transferring an interest or estate in the Premises (excluding any transfer or capital gains taxes imposed in connection with the execution of this Lease), the use and occupancy thereof by Tenant and (2) encumbrances or liens on (i) the Premises, or (ii) the sidewalks or streets in front of or adjoining the Premises, or (iii) any vault (other than a vault in respect of which a utility company is obligated to pay any charge specified above or which is exempt from any such charge by reason of use thereof by any such utility company), passageway or space in, over or under such sidewalk or street, or (iv) any other appurtenances of the Premises, or (v) any personal property (except personal property which is not owned by or leased to Tenant), Equipment or other facility used in the operation thereof, or (vi) the Rental (or any portion thereof) payable by Tenant hereunder, each such Imposition, or installment thereof, during the Term to be paid not later than ten (10) days prior to the Due Date thereof; provided, however, that if, by law, any Imposition may at the option of the taxpayer be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Tenant may exercise the option to pay the same in such installments and shall be responsible for the payment of such installments only, together with applicable interest, if any, provided that all such installment payments together with applicable interest, if any, relating to periods prior to the date definitely fixed in Article 2 hereof for the expiration of the Term are required to be made prior to the Expiration Date.

Section 4.02. Tenant, from time to time upon request of Landlord, shall promptly furnish to Landlord official receipts of the appropriate imposing authority, or other evidence reasonably satisfactory to Landlord, evidencing the payment thereof.

Section 4.03.

(a) "Taxes" shall mean the real property taxes assessed and levied against the Premises or any part thereof pursuant to the provisions of Chapter 58 of the Charter of New York City and Chapter 17, Title E, of the Administrative Code of The City of New York, as the same may now or hereafter be amended, or any statute or ordinance in lieu thereof in whole or in part and which would otherwise be payable if

the Premises or any part thereof or the owner thereof were not exempt therefrom. If the Premises shall at any time become subject to Taxes, Landlord shall pay the Taxes on or before the due date thereof. In no event shall Tenant be obligated to pay Taxes. Landlord shall have the right, at its own cost and expense, to contest the imposition of Taxes, and pending such contest, if permitted by applicable law, Landlord shall not be required to pay the Taxes being so contested, unless failure to pay same shall result in the imminent loss or forfeiture of the Premises and the termination of Tenant's interest under this Lease or Tenant would by reason thereof be subject to any civil or criminal penalty or liability. If Landlord shall exercise its right to contest the imposition of Taxes, Landlord shall promptly notify Tenant of such contest, and shall deliver to Tenant copies of all applications, protest and other documents submitted by Landlord to any Governmental Authority. Landlord shall not, without Tenant's prior written consent, enter into a settlement of any such contest if such settlement would affect the amount of PILOT payable by Tenant under this Lease. If Landlord shall have failed to pay the Taxes as required hereunder and shall not have timely commenced a procedure to contest same, or shall have timely commenced a procedure to contest the Taxes but failure to pay the Taxes during the pendency of such proceeding will result in the imminent loss or forfeiture of the Premises and the termination of Tenant's interest under this Lease or Tenant would by reason thereof be subject to any civil or criminal penalty or liability, then Tenant may pay such unpaid taxes together with any interest or penalties thereon and deduct such payment from the next installment of PILOT (and, to the extent, if any, that such payment shall exceed the next installment of PILOT, from the next installment(s) of Base Rent) payable under the Lease together with interest thereon at the Involuntary Rate. Nothing contained herein shall be construed to release Tenant from its obligation to pay Impositions other than Taxes as provided in this Article 4.

(b) Nothing herein contained shall require Tenant to pay municipal, state or federal income, gross receipts, inheritance, estate, succession, profit, capital or transfer gains tax, transfer or gift taxes of Landlord, or any corporate franchise tax imposed upon Landlord.

Section 4.04. Any Imposition relating to a period a part of which is included within the Term and a part of which is included in a period of time before the Commencement Date or after the date definitely fixed in Article 2 hereof for the expiration of the Term (whether or not such Imposition shall be assessed, levied, confirmed, imposed upon or in respect of or become a lien upon the Premises, or shall become payable, during the Term) shall be apportioned between Landlord and Tenant as of the Commencement Date, such date definitely fixed for the expiration of the Term, so that Tenant shall pay that portion of such Imposition

which that part of such fiscal period included in the period of time after the Commencement Date or before such date definitely fixed for the expiration of the Term bears to such fiscal period, and Landlord shall pay the remainder thereof. Other than in respect of Impositions relating, in part, to a period of time before the Commencement Date, no such apportionment of Impositions shall be made if this Lease is terminated prior to the Expiration Date as the result of an Event of Default.

Section 4.05. Tenant shall have the right at its own expense to contest the amount or validity, in whole or in part, of any Imposition by appropriate proceedings diligently conducted in good faith, in which event, notwithstanding the provisions of Section 4.01 hereof, payment of such Imposition shall be postponed if, and only as long as:

(a) neither the Premises nor any part thereof, or interest therein would, by reason of such postponement or deferment, be, in the reasonable judgment of Landlord, in imminent danger of being forfeited or lost or Landlord would by reason thereof be subject to any criminal liability; and

(b) Tenant shall have deposited with, at Tenant's option, either Landlord or Depository, cash or other security reasonably satisfactory to Landlord in the amount so contested and unpaid, together with all interest and penalties in connection therewith and all charges that may or might be assessed against or become a charge on the Premises or any part thereof in such proceedings.

Upon the termination of such proceedings, it shall be the obligation of Tenant to pay the amount of such Imposition or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees (including attorney's fees and disbursements), interest, penalties or other liabilities in connection therewith, and upon such payment, Landlord or Depository, as the case may be, shall return, with interest, if any, any amount deposited with it with respect of such Imposition as aforesaid, provided, however, that Landlord or Depository, as the case may be, at Tenant's request or upon Tenant's failure to do so in a timely manner, shall disburse said moneys on deposit with it directly to the Governmental Authority to whom such Imposition is payable and any remaining monies, with interest, if any, shall be returned promptly to Tenant. If, at any time during the continuance of such proceedings, Landlord shall, in its reasonable opinion, deem insufficient the amount deposited as aforesaid, Tenant, upon demand, shall make an additional deposit of such additional sums or other acceptable security as Landlord reasonably may request, and upon failure of Tenant to do so, the amount theretofore deposited may be applied by Landlord to the payment, removal and discharge of such Imposition and the interest and penal-

ties in connection therewith and any costs, fees (including reasonable attorney's fees and disbursements) or other liability accruing in any such proceedings, and the balance, if any, with any interest earned thereon, shall be returned to Tenant or the deficiency, if any, shall be paid by Tenant to Landlord on demand.

Section 4.06. Tenant shall have the right to seek a reduction in the valuation of the Premises assessed for Taxes and to prosecute any action or proceeding in connection therewith, provided that no such action or proceeding shall postpone Tenant's obligation to pay any Imposition except in accordance with the provisions of Section 4.05 hereof. Except to the extent provided in Section 3.03 hereof, no such action or proceeding shall affect Tenant's obligation to pay any installment of PILOT.

Section 4.07. Landlord shall not be required to join in any proceedings referred to in Sections 4.05 or 4.06 hereof unless the provisions of any law, rule or regulation at the time in effect shall require that such proceedings be brought by or in the name of Landlord, in which event, Landlord shall join and cooperate in such proceedings or permit the same to be brought in its name but shall not be liable for the payment of any costs or expenses in connection with any such proceedings and Tenant shall reimburse Landlord for any and all costs or expenses which Landlord may reasonably sustain or incur in connection with any such proceedings. If the provisions of such law, rule or regulation at the time in effect shall require that such proceedings be brought by or in the name of Master Landlord, Landlord shall use its best efforts to cause Master Landlord to join and cooperate in such proceedings or permit the same to be brought in the name of Master Landlord, provided Master Landlord shall not be liable for the payment of any costs or expenses in connection with any such proceedings and Tenant shall reimburse Master Landlord for any and all costs and expenses which Master Landlord may reasonably sustain or incur in connection with any such proceedings, provided, however, so long as Landlord is Master Landlord, Landlord shall so join and cooperate in such proceedings or permit the same to be brought in its name. In the event Tenant institutes a proceeding referred to in Sections 4.05 or 4.06 hereof and no law, rule or regulation in effect at the time requires that such proceeding be brought by and/or in the name of Landlord, Landlord, nevertheless, shall, at Tenant's cost and subject to the reimbursement provisions set forth hereinabove, cooperate with Tenant in such proceeding.

Section 4.08. Any certificate, advice or bill of the appropriate official designated by law to make or issue the same or to receive payment of any Imposition asserting non-payment of such Imposition shall be prima facie evidence that such Imposition is due and unpaid at the time of the making or issuance of such certificate, advice or bill, at the time or date stated herein.

ARTICLE 5

DEPOSITS FOR IMPOSITIONS

Section 5.01.

(a) In order to assure the payment of all Impositions Tenant, upon the written demand of Landlord at any time after the occurrence of an Event of Default hereunder, shall deposit with Depository on the first of each and every month during the Term, an amount equal to one-twelfth (1/12th) of the annual Impositions then in effect.

(b) If, at any time, the monies so deposited by Tenant shall be insufficient to pay in full the next installment of Impositions then due, Tenant shall deposit the amount of the insufficiency with Depository to enable Depository to pay each installment of Impositions at least thirty (30) days prior to the Due Date thereof.

(c) Depository shall hold the deposited monies in a special account for the purpose of paying the charges for which such amounts have been deposited as they become due, and Depository shall apply the deposited monies for such purpose not later than the Due Date for such charges.

(d) If, at any time, the amount of any Imposition is increased or Landlord receives information from the entity or entities imposing such Imposition that an Imposition will be increased and the monthly deposits then being made by Tenant under this Article would be insufficient to pay such Imposition thirty (30) days prior to the Due Date thereof, the monthly deposits shall thereupon be increased and Tenant shall deposit immediately with Depository sufficient monies for the payment of the increased Imposition. Thereafter, the monthly payments shall be adjusted so that Depository shall receive from Tenant sufficient monies to pay each Imposition at least thirty (30) days prior to the Due Date of such Imposition.

(e) For the purpose of determining whether Depository has on hand sufficient monies to pay any particular Imposition at least thirty (30) days prior to the Due Date thereof, deposits for each category of Imposition shall be treated separately. Depository shall not be obligated to use monies deposited for the payment of an item not yet due and payable for the payment of an item that is due and payable.

(f) Notwithstanding the foregoing, (i) deposited monies may be held by Depository in a single bank account, and (ii) Depository may, at Landlord's option and direction and if Tenant shall fail to make any payment required under this Lease, use any monies deposited pursuant to Article 4 or 5 for any item for the payment of any Rental.

(g) If this Lease shall be terminated by reason of any Event of Default or if dispossess occurs pursuant to Section 24.03(b), all deposited monies under this Article then held by Depository shall be paid to and applied by Landlord in payment of any and all sums due under this Lease and Tenant shall promptly pay the resulting deficiency.

(h) Any interest paid on monies deposited pursuant to this Article shall be applied pursuant to the foregoing provisions against amounts thereafter becoming due and payable by Tenant.

(i) Anything in this Article 5 to the contrary notwithstanding, if the Event of Default which gave rise to Landlord having demanded that Tenant make deposits under this Section 5.01 shall have been cured by Tenant and for a period of six (6) consecutive months following such cure no Default shall have occurred under this Lease, then, at any time after the expiration of such six (6) month period, upon the written demand of Tenant, provided that Tenant is not then in Default under this Lease, all monies deposited under this Article then held by Depository, with the interest, if any, accrued thereon, shall be returned to Tenant and Tenant shall not be required to make further deposits under this Article 5 unless and until there shall occur a subsequent Event of Default and Landlord shall make written demand upon Tenant to make deposits for Impositions.

(j) In the event that a Mortgagee (provided such Mortgagee be an Institutional Lender) shall require Tenant to deposit funds to insure payment of Impositions, any amount so deposited by Tenant shall be credited against the amount, if any, which Tenant would otherwise be required to deposit under this Article 5.

Section 5.02. If Landlord ceases to have any interest in the Premises, Landlord shall transfer to the Person who owns or acquires such interest in the Premises or is the transferee of this Lease, all of Landlord's rights with respect to the deposits made pursuant to Section 5.01, subject to the provisions thereof. Upon such transfer and notice thereof to Tenant, the transferor shall be deemed to be released from all liability with respect thereto, such transferee shall be deemed to have assumed from and after the date of such transfer all of Landlord's obligations with respect to such deposits and Tenant agrees to look solely to the transferee with respect thereto. The provisions hereof shall apply to each successive transfer of the deposits.

ARTICLE 6

LATE CHARGES

In the event that any payment of Rental shall become overdue for ten (10) days beyond the due date thereof pursuant to this Lease (or if no such date is set forth in this Lease, then such due date for purposes of this Article 6 shall be deemed to be the date upon which demand therefor is made), a late charge on the sums so overdue equal to the Involuntary Rate, for the period from the due date to the date of actual payment, shall become due and payable to Landlord as liquidated damages for the administrative costs and expenses incurred by Landlord by reason of Tenant's failure to make prompt payment and the late charges shall be payable by Tenant, on demand. No failure by Landlord to insist upon the strict performance by Tenant of its obligations to pay late charges shall constitute a waiver by Landlord of its right to enforce the provisions of this Article 6 in any instance thereafter occurring. The provisions of this Article 6 shall not be construed in any way to extend the grace periods or notice periods provided for in Article 24.

ARTICLE 7

INSURANCE

Section 7.01.

(a) Tenant at its sole cost and expense shall, at all times after Substantial Completion of the Buildings and thereafter throughout the Term:

(i) keep the Buildings insured under an "All Risk of Physical Loss" form of policy, including, without limitation, coverage for loss or damage by water, flood, subsidence and earthquake (excluding, at Tenant's option, from such coverage normal settling only) and, when and to the extent obtainable from the United States government or any agency thereof, war risks; such insurance to be written on an "Agreed Amount" basis, with the replacement value of the Buildings to be determined from time to time, but not less frequently than required by the insurer and in any event at least once every three (3) years, provided, however, in the event Tenant's leasehold estate in the Premises shall be submitted to condominium ownership in accordance with Article 42, such determination shall be made on an annual basis, it being agreed that no omission on the part of Landlord to re-

quest any such determination shall relieve Tenant of its obligation to determine the replacement value thereof (in the absence of such valuation, the FM (Factory Mutual) or IRI (Industrial Risk Insurers) Indices will be applied);

(ii) provide and keep in force comprehensive general liability insurance against liability for bodily injury, death and property damage, it being agreed that such insurance shall (A) be in an amount as may from time to time be reasonably required by Landlord, but not less than Fifty Million Dollars ($50,000,000) combined single limit inclusive of primary, umbrella and following form excess policies for liability for bodily injury, death and property damage (provided that, in the event Tenant's leasehold estate in the Premises shall have been submitted to either a condominium or cooperative, Tenant shall maintain such insurance in such amounts as may from time to time be reasonably required by Landlord with regard to such amounts as, at the time in question, are customarily carried by prudent owners of like cooperative or condominium buildings in the Borough of Manhattan, but with limits of not less than Two Million Dollars ($2,000,000) in respect of bodily injury or death to any one person and Five Million Dollars ($5,000,000) in respect of bodily injury or death to any number of persons in any one accident and not less than Five Hundred Thousand Dollars ($500,000) for damages to property), (B) include the Premises and all streets, alleys and sidewalks adjoining or appurtenant to the Premises, (C) be of a blanket contractual nature and shall contain an agreement by the insurer to indemnify and hold Landlord and Master Landlord harmless from and against all cost, expense and/or liability (including, without limitation, attorneys' fees and disbursements) arising out of or based upon any and all claims, accidents, injuries and damages mentioned in Article 19 and required to be insured against hereunder, and (D) also provide the following protection:

(1) completed operations;

(2) the broad form comprehensive general liability endorsement voiding all exclusions relating to restrictive contractual and employee coverage; and

(3) water damage legal liability;

(iii) provide and keep in force workers' compensation insurance providing statutory New York

State benefits for all persons employed by Tenant at or in connection with the Premises;

(iv) provide and keep in force on an "Agreed Amount" basis rent insurance on an "All Risk of Physical Loss" basis in an amount not less than one (1) year's current Base Rent, Supplemental Rent, if applicable, PILOT and Civic Facilities Payment ("Rent Insurance");

(v) if a sprinkler system shall be located in any portion of the Buildings, provide and keep in force sprinkler leakage insurance in amounts approved by Landlord, which approval shall not be unreasonably withheld (the foregoing to be required only if same is excluded from the insurance required to be provided and kept in force pursuant to Section 7.01(a)(i));

(vi) provide and keep in force boiler and machinery insurance in an amount as may from time to time be reasonably determined by Landlord but not less than Ten Million Dollars ($10,000,000) per accident on a combined basis covering direct property loss and loss of income and covering all steam, mechanical and electrical equipment, including without limitation, all boilers, unfired pressure vessels, air conditioning equipment, elevators, piping and wiring;

(vii) provide and keep in force automobile liability insurance for all owned, non-owned, leased, rented and/or hired vehicles insuring against liability for bodily injury and death and for property damage in an amount as may from time to time be reasonably determined by Landlord but not less than One Million Dollars ($1,000,000) combined single limit; and

(viii) provide and keep in force such other insurance in such amounts as may from time to time be reasonably required by Landlord against such other insurable hazards as at the time are commonly insured against by prudent owners of like buildings and improvements.

(b) All insurance provided by Tenant as required by this Section 7.01 (except the insurance under Section 7.01(a)(iii)) shall name Tenant as named insured and Landlord and Master Landlord as additional insureds to the extent, where applicable, of their respective insurable interests in the Premises. The coverage provided by Tenant as required by Sections 7.01(a)(i), (v), (vi) and (vii) also shall name each Mortgagee as an insured under a standard mortgagee clause.

(c) Whenever Tenant shall be required to carry insurance under this Section 7.01, Tenant shall not be required to carry insurance in any greater amounts or against any additional hazards than at the time are commonly carried by prudent owners of like buildings and improvements except as required by the Master Lease, provided that the types or amounts of such coverage shall never be different from or less than, as the case may be, the types or amounts specifically required hereunder. Any dispute as to the amounts of additional insurance to be carried, or the additional kinds of hazards to be insured against, shall be resolved by arbitration pursuant to Article 36.

Section 7.02.

(a) The loss under all policies required by any provision of this Lease insuring against damage to the Buildings by fire or other casualty shall be payable to Depository, except that amounts of less than Two Hundred and Fifty Thousand Dollars ($250,000) shall be payable in trust directly to Tenant for application to the cost of Restoration in accordance with Article 8 hereof. Such amount shall be adjusted on the fifth (5th) anniversary of the Commencement Date and on each fifth (5th) anniversary of the date on which an adjustment is made pursuant to this Section 7.02(a) by adding to $250,000 an amount equal to the product of (x) $250,000 and (y) the percent of increase, if any, in the Consumer Price Index for the month in which the applicable anniversary date occurs over the Consumer Price Index for the month in which the Commencement Date occurs. Any dispute as to the calculation of such adjustment shall be determined by arbitration pursuant to Article 36. Rent Insurance shall be carried in favor of Landlord and Tenant, as their respective interests appear, but the proceeds thereof to the extent required hereunder shall be paid to Depository and shall be applied to the Rental payable by Tenant under this Lease unt.l completion of Restoration of the Buildings by Tenant. To the extent such proceeds include other than Rent Insurance proceeds to which Landlord is entitled, Landlord shall only be entitled to the proceeds thereof which are allocated to Rental. All insurance required by any provision of this Lease shall be in such form and shall be issued by such responsible companies licensed and authorized to do business in the State of New York as are reasonably acceptable to Landlord. All policies referred to in this Lease shall be procured, or caused to be procured, by Tenant, at no expense to Landlord, and for periods of not less than one (1) year. The originals of such policies shall be delivered to Landlord immediately upon receipt from the insurance company or companies unless such originals are required to be held by any Mortgagee, in which event, certificates thereof shall be so delivered to Landlord, together with proof satisfactory to Landlord that the full premiums thereon have been paid, provided, that Landlord shall not, by reason of custody of such policies, be deemed to have knowledge of the contents thereof. New or renewal policies

replacing any policies expiring during the Term or certificates thereof, shall be delivered as aforesaid at least twenty (20) days before the date of expiration, together with proof satisfactory to Landlord that the full premiums thereon have been paid. Premiums on policies shall not be financed in any manner whereby the lender, on default or otherwise, shall have the right or privilege of surrendering or cancelling the policies or reducing the amount of loss payable thereunder, provided, however, that premiums may be paid in installments.

(b) Tenant and Landlord shall cooperate in connection with the collection of any insurance moneys that may be due in the event of loss and Tenant and Landlord shall execute and deliver such proofs of loss and other instruments as may be required for the purpose of obtaining the recovery of any such insurance moneys. Tenant shall reimburse Landlord for any and all reasonable costs or expenses which Landlord may sustain or incur in connection therewith.

(c) Tenant shall not carry separate insurance (other than personal injury liability insurance) concurrent in form or contributing in the event of loss with that required by this Lease to be furnished by Tenant, unless Landlord is included therein as a named insured and each Mortgagee as an additional insured with loss payable as provided in this Lease. Tenant immediately shall notify Landlord of the carrying of any such separate insurance and shall cause the policies therefor or certificates thereof to be delivered as required in this Lease.

(d) All property insurance policies as required by this Lease shall provide in substance that all adjustments for claims with the insurers in excess of Two Hundred and Fifty Thousand Dollars ($250,000) (as such amount shall be increased as provided in Section 7.02(a)) shall be made with Landlord, Tenant and any Mortgagee named as additional insured. Any adjustments for claims with the insurers involving sums of less than Two Hundred and Fifty Thousand Dollars ($250,000) (as such amount shall be increased as provided in Section 7.02(a)) shall be made with Tenant.

(e) All Rent Insurance shall provide in substance that all adjustments for claims with the insurers shall be made with Landlord and Tenant.

(f) Tenant shall not violate or permit to be violated any of the conditions or provisions of any insurance policy required hereunder, and Tenant shall so perform and satisfy or cause to be performed and satisfied the requirements of the companies writing such policies so that at all times companies of good standing, reasonably satisfactory to Landlord, shall be willing to write and continue such insurance.

(g) Each policy of insurance required to be obtained by Tenant as herein provided and each certificate therefor issued by the insurer shall contain to the extent obtainable and whether or not an additional premium shall be payable in connection therewith (i) a provision that no act or omission or negligence of Tenant or any other named insured or violation of warranties, declarations or conditions by Tenant or any other named insured shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained, (ii) an agreement by the insurer that such policy shall not be cancelled or modified without at least thirty (30) days' prior written notice to Landlord and each Mortgagee, (iii) an agreement that the coverage afforded by the insurance policy shall not be affected by the performance of any work in or about the Buildings or the occupation or use of the Premises by Tenant or any Subtenant for purposes more hazardous than those permitted by the terms of such policy, (iv) a waiver by the insurer of any claim for insurance premiums against Landlord or any named insured other than Tenant, and (v) a waiver of subrogation by the insurers of any right to recover the amount of any loss resulting from the negligence of Tenant, Landlord, their agents, employees or licensees.

(h) All liability insurance required to be provided and kept in force by Tenant under this Lease shall be written on an "Occurrence" basis, provided, however, that if (i) a basis other than such "Occurrence" basis shall be adopted throughout the insurance industry and (ii) such other basis shall be accepted by most prudent owners of like buildings and improvements and most Institutional Lenders, then Tenant may provide and keep in force liability insurance written on such other basis.

Section 7.03.

(a) Tenant, on the written demand of Landlord after the occurrence of an Event of Default hereunder, shall deposit with Depository on the first day of each and every month during the Term, an amount equal to one-twelfth (1/12th) of the annual insurance premiums required to be carried by Tenant hereunder, as estimated by Landlord, unless such insurance premiums are deposited with a Mortgagee (provided such Mortgagee be an Institutional Lender). If at any time the insurance premiums shall be increased or Landlord receives information that the insurance premiums will be increased, and the monthly deposits being paid by Tenant under this Article would be insufficient to pay such insurance premiums thirty (30) days prior to the due date, the monthly deposits shall thereupon be increased and Tenant shall, within ten (10) days prior to the due date thereof, deposit immediately with Depository sufficient monies for the payment of the increased insurance premiums. Thereafter, the monthly deposits shall be adjusted so that Depository shall receive from Tenant sufficient monies to pay the

insurance premiums at least thirty (30) days before the insurance premiums become due and payable.

(b) Anything in Section 7.03(a) to the contrary notwithstanding, if the Default which gave rise to Landlord having demanded that Tenant make deposits under Section 7.03(a) shall have been cured by Tenant and for a period of six (6) consecutive months following such cure no Default shall have occurred under this Lease, then, at any time after the expiration of such six (6) month period, upon the written demand of Tenant, provided that Tenant is not then in Default under this Lease, all monies deposited under Section 7.03(a) then held by Depository, together with the interest, if any, accrued thereon, shall be returned to Tenant and Tenant shall not be required to make further deposits under Section 7.03(a) unless and until there shall occur a subsequent Event of Default and Landlord shall make written demand upon Tenant to make deposits under Section 7.03(a).

Section 7.04. The insurance required by this Lease, at the option of Tenant, may be effected by blanket or umbrella policies issued to Tenant covering the Premises and other properties owned or leased by Tenant or any affiliates thereof, provided that the policies otherwise comply with the provisions of this Lease and specifically allocate to the Premises the coverages required hereby, without possibility of reduction of coinsurance by reason of, or damage to, any other premises named therein, and if the insurance required by this Lease shall be effected by any such blanket or umbrella policies, Tenant shall furnish to Landlord and to each Mortgagee certified copies or duplicate originals of such policies in place of the originals, with schedules thereto attached showing the amount of insurance afforded by such policies applicable to the Premises, and in addition, within thirty (30) days after the filing thereof with any insurance ratemaking body, copies of the schedule or make-up of all improvements affected by any such blanket or umbrella policy of insurance.

Section 7.05. Notwithstanding any other provision of this Article, Tenant shall at all times throughout the Term provide and keep in force insurance of the type and at least in the amounts required under the Master Lease.

ARTICLE 8

USE OF INSURANCE PROCEEDS

Section 8.01. If all or any part of any of the Buildings shall be destroyed or damaged in whole or in part by fire or other casualty (including any casualty for which insurance was not obtained or obtainable) of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, Tenant shall give to Landlord immediate notice thereof, ex-

cept that no notice shall be required if the estimated cost of repairs, alterations, restortions, replacements and rebuilding (collectively, "Restoration") shall be less than $5,000 (as such amount shall be increased as provided in Section 7.02(a)), and Tenant shall, at its sole cost and expense, whether or not such damage or destruction shall have been insured, and whether or not insurance proceeds, if any, shall be sufficient for the purpose of such Restoration, with reasonable diligence (subject to Unavoidable Delays) repair, alter, restore, replace and rebuild (collectively, "Restore") the same, at least to the extent of the value and as nearly as possible to the condition, quality and class of the Buildings existing immediately prior to such occurrence, with such changes or alterations as Tenant, with the prior consent of Landlord, which consent shall not be unreasonably withheld, shall elect to make, provided that, after the Restoration, the Buildings are in substantial conformity with the Master Development Plan, the Design Guidelines and, in the event such Restoration is commenced within ten (10) years after the date the Buildings have been Substantially Completed, the Plans and Specifications, and Landlord in no event shall be called upon to Restore any Buildings now or hereafter existing or any portion thereof or to pay any of the costs or expenses thereof. Notwithstanding anything herein contained to the contrary, Tenant shall, in any event, commence such Restoration not later than six (6) months after the date of such damage or destruction. If Tenant shall fail or neglect to Restore with reasonable diligence (subject to Unavoidable Delays) the Buildings or the portion thereof so damaged or destroyed, or having so commenced such Restoration, shall fail to complete the same with reasonable diligence (subject to Unavoidable Delays) in accordance with the terms of this Lease, or if prior to the completion of any such Restoration by Tenant, this Lease shall expire or be terminated for any reason, Landlord may, but shall not be required to, complete such Restoration at Tenant's expense. Each such Restoration shall be done in accordance with the provisions of this Lease. In any case where this Lease shall expire or be terminated prior to the completion of Restoration, Tenant shall account to Landlord for all amounts spent in connection with any Restoration which was undertaken and shall pay over to Landlord the remainder, if any, of the Restoration Funds previously received by it.

Section 8.02.

(a) Subject to the provisions of Sections 7.02(a), 8.03, 8.04 and, if applicable, Section 8.05, Depository shall pay over to Tenant from time to time, upon the following terms, any monies which may be received by Depository from insurance provided by Tenant (other than Rent Insurance) or cash or the proceeds of any security deposited with Depository pursuant to Section 8.05 (collectively, the "Restoration Funds") but, in no event, to any extent or in any

sum exceeding the amount actually collected by Depository upon the loss; provided, however, that Depository, before paying such moneys over to Tenant, shall be entitled to reimburse itself and Landlord therefrom to the extent, if any, of the necessary, reasonable and proper expenses (including reasonable attorney's fees) paid or incurred by Depository and Landlord in the collection of such monies. Depository shall pay to Tenant, as hereinafter provided, the Restoration Funds, for the purpose of the Restoration to be made by Tenant to Restore the Buildings to a value which shall be not less than their value prior to such fire or other casualty. Such Restoration shall be done in accordance with, and subject to, the provisions of Article 13, including, without limitation, the maintenance of the insurance coverage referred to in Section 13.01(f).

(b) Prior to the making of any Restoration which, in accordance with Section 8.01, requires notice to be given to Landlord, Tenant shall furnish Landlord with an estimate of the cost of such Restoration, prepared by a licensed professional engineer or registered architect, approved by Landlord, which approval shall not be unreasonably withheld. Landlord, at its election and expense, may engage a licensed professional engineer or registered architect to prepare its own estimate of the cost of such Restoration. If there is any dispute as to the estimated cost of the Restoration, such dispute shall be resolved by arbitration in accordance with the provisions of Article 36.

(c) Subject to the provisions of Sections 7.02(a), 8.03, 8.04 and, if applicable, 8.05, the Restoration Funds shall be paid to Tenant from time to time thereafter in installments as the Restoration progresses, upon application to be submitted by Tenant to Depository and Landlord showing the cost of labor and materials purchased and delivered to the Premises for incorporation in the Restoration, or incorporated therein since the last previous application, and due and payable or paid by Tenant. If any vendor's, mechanic's, laborer's, or materialman's lien is filed against the Premises or any part thereof, or if any public improvement lien relating to the Restoration of the Premises is created or permitted to be created by Tenant and is filed against Landlord, or any assets of, or funds appropriated to, Landlord, Tenant shall not be entitled to receive any further installment until such lien is satisfied or discharged (by bonding or otherwise). Notwithstanding the foregoing, the existence of any such lien shall not preclude Tenant from receiving any further installment of Restoration Funds, provided such lien will be discharged with funds from such installment.

(d) Subject to the provisions of Section 8.03(a)(iv), the amount of any installment to be paid to Tenant shall be such proportion of the total Restoration Funds received by Depository as the cost of labor and materials theretofore incorporated (or delivered to the Premises to be

incorporated) by Tenant in the Restoration bears to the total estimated cost of the Restoration by Tenant, determined in accordance with this Section 8.02, less (i) all payments theretofore made to Tenant out of the Restoration Funds and (ii) ten percent (10%) of the amount so determined until completion of fifty percent (50%) of the Restoration and five percent (5%) of the amount so determined thereafter.

(e) Subject to the provisions of Sections 8.03, 8.04 and, if applicable, 8.05, upon completion of and payment for the Restoration by Tenant, the balance of the Restoration Funds held by Depository shall be paid over to Tenant. In the event that the Restoration Funds are insufficient for the purpose of paying for the Restoration, Tenant shall nevertheless be required to make the Restoration and pay any additional sums required for the Restoration.

(f) Notwithstanding the foregoing, if Landlord makes the Restoration at Tenant's expense, as provided in Section 8.01, then Depository shall pay over the Restoration Funds to Landlord, upon request, to the extent not previously paid to Tenant pursuant to this Section 8.02, and Tenant shall pay to Landlord, on demand, any sums in excess of the portion of the Restoration Funds received by Landlord necessary to complete the Restoration. Upon completion of the Restoration, Landlord shall deliver to Tenant a certificate, in reasonable detail, setting forth the expenditures made by Landlord for such Restoration.

Section 8.03. The following shall be conditions precedent to each payment made to Tenant as provided in Section 8.02 above:

(a) there shall be submitted to Depository and Landlord the certificate of the aforesaid engineer or architect approved by Landlord pursuant to Section 8.02(b) stating (i) that the sum then requested to be withdrawn either has been paid by Tenant or is due and payable to contractors, subcontractors, materialmen, engineers, architects or other Persons (whose names and addresses shall be stated) who have rendered or furnished services or materials for the work and giving a brief description of such services and materials and the principal subdivisions or categories thereof and the several amounts so paid or due to each of said Persons in respect thereof, and stating in reasonable detail the progress of the work up to the date of said certificate; (ii) that no part of such expenditures has been or is being made the basis, in any previous or then pending requisition, for the withdrawal of the Restoration Funds or has been made out of the Restoration Funds received by Tenant; (iii) that the sum then requested does not exceed the value of the services and materials described in the certificate; and (iv) that the balance of the Restoration Funds held by Depository will be sufficient upon completion of the Restoration to pay for the same in full, and stating in reasonable detail an estimate of the cost of such completion;

(b) there shall be furnished to Landlord an official search, or a certificate of a title insurance company reasonably satisfactory to Landlord, or other evidence reasonably satisfactory to Landlord, showing that there has not been filed any vendor's, mechanic's, laborer's or materialman's statutory or other similar lien affecting the Premises or any part thereof, or any public improvement lien with respect to the Premises or the Restoration created or permitted to be created by Tenant affecting Landlord, or the assets of, or funds appropriated to, Landlord, which had not been discharged of record (by bonding or otherwise), except such as will be discharged upon payment of the amount then requested to be withdrawn; and

(c) at the time of making such payment, there is no existing and unremedied Event of Default on the part of Tenant under Article 24.

Section 8.04.

(a) If any loss, damage or destruction occurs, the cost of Restoration of which equals or exceeds Two Hundred and Fifty Thousand Dollars ($250,000) in the aggregate, determined as provided in Section 8.02(b) (as such amount shall be increased as provided in Section 7.02(a)), Tenant shall furnish to Landlord the following:

(i) at least thirty (30) days before the commencement of any Restoration, complete plans and specifications for the Restoration of the Buildings, prepared by a licensed professional engineer or registered architect whose qualifications shall meet with the approval of Landlord, which approval shall not be unreasonably withheld, together with the approval thereof and any required permits issued by any Governmental Authority with respect to the Restoration and such plans and specifications, and, at the request of Landlord, any other drawings, information or samples to which Landlord is entitled under Article 11, all of the foregoing to be subject to Landlord's review and approval for substantial conformity with the Master Development Plan, the Design Guidelines and, if such Restoration is commenced within ten (10) years from the date the Buildings shall have been Substantially Completed, the Plans and Specifications; all such plans and specifications and other materials for the Restoration shall become the sole and absolute property of Landlord if for any reason this Lease shall be terminated;

(ii) at least ten (10) days before the commencement of any Restoration, a contract reasonably satisfactory to Landlord in form assignable to Landlord (subject to any prior assignment to

any Mortgagee), made with a reputable and responsible contractor approved by Landlord, which approval shall not be unreasonably withheld, providing for (x) the completion of the Restoration in accordance with said plans and specifications, free and clear of all liens, encumbrances, security agreements, interests and financing statements relating thereto, and (y) payment and performance bonds in forms and by sureties satisfactory to Landlord, naming the contractor as obligor and Landlord and Tenant and Mortgagee, if applicable, as obligees, each in a penal sum equal to the difference between the estimated cost of the Restoration and the amount of the insurance proceeds available for the Restoration or, in lieu thereof, such other security reasonably satisfactory to Landlord; and

(iii) at least ten (10) days before the commencement of any Restoration, an assignment to Landlord (subject to any prior assignment to any Mortgagee) of the contract so furnished and the bonds, if any, provided thereunder, such assignment to be duly executed and acknowledged by Tenant and by its terms to be effective only upon any termination of this Lease or upon Landlord's reentry upon the Premises following an Event of Default prior to the complete performance of such contract, such assignment also to include the benefit of all payments made on account of said contract including payments made prior to the effective date of such assignment.

(b) Notwithstanding that the cost of Restoration of any loss, damage or destruction is less than Two Hundred and Fifty Thousand Dollars ($250,000) (as such amount shall be increased as provided in Section 7.02(a)), such cost to be determined as provided in Section 8.02(b), to the extent that any portion of the Restoration involves work on the exterior of a Building or a change in the height, bulk or setback of a Building from the height, bulk or setback existing immediately prior to the loss, damage or destruction, or in any other matter relating to or affected by the Master Development Plan, the Design Guidelines or, if such Restoration is commenced within ten (10) years from the date the Buildings shall have been Substantially Completed, the Plans and Specifications, then Tenant shall furnish to Landlord at least fifteen (15) days before the commencement of the Restoration a complete set of specifications for the Restoration of the Buildings and, if requested by Landlord, plans, involving such work or such change, prepared by a licensed professional engineer or registered architect whose qualifications shall meet with the approval of Landlord,

which approval shall not be unreasonably withheld, and, at Landlord's request, such other items designated in clause (i) of Section 8.04(a), all of the foregoing to be subject to Landlord's review and approval as provided therein.

(c) In the event that Tenant shall desire to modify the plans and specifications which Landlord theretofore has approved pursuant to Sections 8.04(a)(i) or 8.04(b) with respect to, or which will in any way affect, any aspect of the exterior of the Buildings or which will affect compliance with the Design Guidelines or the Master Development Plan, Tenant shall submit the proposed modifications to Landlord. Tenant shall not be required to submit to Landlord proposed modifications of the plans and specifications which affect the interior of the Buildings. Landlord shall review the proposed changes (other than changes to the interior of the Buildings) to determine whether or not they (i) conform to the Master Development Plan and the Design Guidelines and (ii) provide for design, finishes and materials which are comparable in quality to those provided for in the approved plans and specifications, and shall approve such proposed changes if they do so conform and so provide. If Landlord determines that the proposed changes are not satisfactory in light of the above criteria, it shall so advise Tenant, specifying in what respect the plans and specifications, as so modified, do not conform to the Master Development Plan or the Design Guidelines or do not provide for design, finishes and materials which are comparable in quality to those provided for in the approved plans and specifications. Within twenty (20) Business Days, Tenant shall revise the plans and specifications so as to meet Landlord's objections and shall deliver same to Landlord for review. Each review by Landlord shall be carried out within ten (10) Business Days of the date of delivery of the plans and specifications, as so revised (or one or more portions thereof), by Tenant, and if Landlord shall not have notified Tenant of its determination within such period, it shall be deemed to have determined that the proposed changes are satisfactory. Landlord shall not review portions of the approved plans and specifications which Landlord has previously determined to be satisfactory, provided same have not been changed by Tenant.

Section 8.05. With respect to any Restoration, the cost of which exceeds Two Hundred and Fifty Thousand Dollars ($250,000) (as such amount shall be increased as provided in Section 7.02(a)), if the estimated cost of any such Restoration, determined as provided in Section 8.02(b), exceeds the net insurance proceeds, then, prior to the commencement of such Restoration, unless Landlord has given its written approval of the payment and performance bonds provided for in the contract for the Restoration referred to in Section 8.04(a)(ii)(y) and the amounts thereof cover such excess, Tenant shall deposit with Depository, as security for completion of the Restoration, a bond, cash or other se-

curity reasonably satisfactory to Landlord in the amount of such excess, to be held and applied by Depository in accordance with the provisions of Section 8.02.

Section 8.06. This Lease shall not terminate or be forfeited or be affected in any manner, and there shall be no reduction or abatement of the Rental payable hereunder, by reason of damage to or total, substantial or partial destruction of any of the Buildings or any part thereof or by reason of the untenantability of the same or any part thereof, for or due to any reason or cause whatsoever, and Tenant, notwithstanding any law or statute present or future, waives any and all rights to quit or surrender the Premises or any part thereof. Tenant expressly agrees that its obligations hereunder, including without limitation, the payment of Rental payable by Tenant hereunder, shall continue as though the Buildings had not been damaged or destroyed and without abatement, suspension, diminution or reduction of any kind. It is the intention of Landlord and Tenant that the foregoing is an "express agreement to the contrary" as provided in Section 227 of the Real Property Law of the State of New York.

ARTICLE 9

CONDEMNATION

Section 9.01.

(a) If at any time during the Term, the whole or substantially all of the Premises shall be taken (excluding a taking of the fee interest in the Premises, or any leasehold interest superior to that of the Tenant's, if after such taking, Tenant's rights under this Lease are not affected) for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain or by agreement among Landlord, Tenant and those authorized to exercise such right, this Lease and the Term shall terminate and expire on the date of such taking and the Rental payable by Tenant hereunder shall be equitably apportioned as of the date of such taking.

(b) The term "substantially all of the Premises" shall be deemed to mean such portion of the Premises as, when so taken, would leave remaining a balance of the Premises which, due either to the area so taken or the location of the part so taken in relation to the part not so taken, would not under economic conditions, applicable zoning laws, building regulations then existing or prevailing or the Master Development Plan, and after performance by Tenant of all covenants, agreements, terms and provisions contained herein or by law required to be observed or performed by Tenant, (i) if the Premises shall be used for rental purposes, per-

mit the Restoration of the Buildings thereon so as to constitute a complete, rentable building or buildings capable of producing a fair and reasonable net annual income proportional to the number of square feet not so taken or (ii) if Tenant's estate in the Premises shall have been submitted to either a cooperative or condominium form of ownership, permit the Restoration of the Buildings thereon so as to constitute an economically viable cooperative or condominium, as the case may be. If the Premises shall be used for rental purposes, the average net annual income produced by the Buildings during (i) the period commencing on the date of Completion of the Buildings and ending on the last anniversary of that date which preceded the taking, or (ii) the five (5) year period immediately preceding such taking, whichever is shorter, shall be deemed to constitute a fair and reasonable net annual income for the purpose of determining what is a fair and reasonable net annual income. If there be any dispute as to whether or not "substantially all of the Premises" has been taken, such dispute shall be resolved by arbitration with the provisions of Article 36.

(c) If the whole or substantially all of the Premises shall be taken or condemned as provided in this Article 9, the award, awards or damages in respect thereof shall be apportioned as follows: (i) there shall first be paid to Landlord so much of the award which is for or attributable to the value of that part of the Land, considered as unimproved and unencumbered by this Lease and the Master Lease and also considered subject to the Zoning Lot Declaration provided that (x) consideration of the Zoning Lot Declaration is not violative of the provisions of the Master Lease and (y) in the event that any provision of the Zoning Lot Declaration applicable to the Premises shall be hereafter amended and, pursuant to such amendment, Tenant shall replace, enlarge or substantially alter the Buildings or shall change the use of the Buildings or any material part thereof, to conform to, or as permitted by, such amendment, the Zoning Lot Declaration as so amended shall be considered when determining the value of the Land, and the fair market value of Landlord's Civic Facilities taken in any proceeding with respect to such taking; (ii) there shall next be paid to the Mortgagee which holds a first lien on Tenant's interest in this Lease so much of the balance of such award as shall equal the unpaid principal indebtedness secured by such Mortgage with interest thereon at the rate specified therein to the date of payment; (iii) there shall next be paid to Landlord so much of the award which is for or attributable to the value of Landlord's reversionary interest in that part of the Buildings taken in such proceeding (it being agreed between Landlord and Tenant that, notwithstanding anything herein contained to the contrary, for a period of forty (40) years from the Scheduled Completion Date, the value of Landlord's reversionary interest in the Buildings shall be deemed to be zero); and (iv) subject to rights of any Mortgagees, Tenant shall receive the balance of the

award, if any. If there be any dispute as to which portion of the award is attributable to the Land and the Civic Facilities and which portion is attributable to the Buildings, or as to the value of Landlord's reversionary interest in the Buildings, such dispute shall be resolved by arbitration in accordance with the provisions of Article 36.

(d) Each of the parties agrees to execute any and all documents that may be reasonably required in order to facilitate collection by them of such awards.

Section 9.02. For purposes of this Article 9, the "date of taking" shall be deemed to be the earlier of (i) the date on which actual possession of the whole or substantially all of the Premises, or a part thereof, as the case may be, is acquired by any lawful power or authority pursuant to the provisions of the applicable federal or New York State law or (ii) the date in which title to the Premises or the aforesaid portion thereof shall have vested in any lawful power or authority pursuant to the provisions of the applicable federal or New York State law.

Section 9.03. If less than substantially all of the Premises shall be so taken, this Lease and the Term shall continue as to the portion of the Premises remaining without abatement of the Base Rent or diminution of any of Tenant's obligations hereunder. If as a direct result of such taking PILOT shall be reduced, the Supplemental Rent payable by Tenant hereunder shall be reduced by an amount equal to the amount by which PILOT shall have been so reduced. If the parties are unable to agree on the amount of the reduction of Supplemental Rent, such dispute shall be resolved by arbitration in accordance with the provisions of Article 36. In no event shall Base Rent be reduced. Tenant, at its sole cost and expense, whether or not the award or awards, if any, shall be sufficient for the purpose shall (subject to Unavoidable Delays) proceed diligently to Restore any remaining part of the Buildings not so taken so that the latter shall be complete, operable, self-contained architectural units in good condition and repair in conformity with the Master Development Plan, the Design Guidelines and, to the extent reasonably practicable, in the event such Restoration is commenced within ten (10) years from the date the Buildings are Substantially Completed, the Plans and Specifications. In the event of any taking pursuant to this Section 9.03, the entire award for or attributable to the Land, considered as unimproved and unencumbered by this Lease, and also considered subject to the Zoning Lot Declaration, with the same proviso as is set forth in Section 9.01(c), and the fair market value of Landlord's Civic Facilities in any proceeding with respect to such taking, shall be first paid to Landlord, and the balance of the award, if any, shall be paid to Depository except that if such balance shall be less than Two Hundred Fifty Thousand Dollars ($250,000) (as such amount shall be increased as

provided in Section 7.02(a)), such balance shall be payable, in trust, to Tenant (provided that if the Master Lease requires payment in trust to Landlord or a Mortgagee, such balance shall be paid as provided therein) for application to the cost of Restoration of the part of the Buildings not so taken. Subject to the provisions and limitations in this Article 9, Depository shall make available to Tenant as much of that portion of the award actually received and held by Depository, if any, less all necessary and proper expenses paid or incurred by Depository, the Mortgagee most senior in lien and Landlord in the condemnation proceedings, as may be necessary to pay the cost of Restoration of the part of the Buildings remaining. Such Restoration shall be done in accordance with and subject to the provisions of Article 8. Payments to Tenant as aforesaid shall be disbursed in the manner and subject to the conditions set forth in Article 8. Any balance of the award held by Depository and any cash and the proceeds of any security deposited with Depository pursuant to Section 9.04 remaining after completion of the Restoration shall be paid to Tenant. Each of the parties agrees to facilitate collection by them of their respective awards. If the portion of the award made available by Depository, as aforesaid, is insufficient for the purpose of paying for the Restoration, Tenant shall nevertheless be required to make the Restoration and pay any additional sums required for the Restoration.

Section 9.04. With respect to any Restoration required by the terms of this Article 9, the cost of which, as determined in the manner set forth in Section 8.02(b), exceeds both (i) Two Hundred and Fifty Thousand Dollars ($250,000) (as such amount shall be increased as provided in Section 7.02(a)) and (ii) the balance of the condemnation award after payment of the expenses set forth in Section 9.03, then, prior to the commencement of such Restoration, Tenant shall either (x) deposit with Depository a bond, cash or other security reasonably satisfactory to Landlord in the amount of such excess, to be held and applied by Depository in accordance with the provisions of Section 9.03, as security for the completion of the Restoration or (y) deliver to Landlord a binding and enforceable commitment, satisfactory to Landlord in its sole discretion, for a loan adequate to assure completion of the Restoration, free of public improvement, vendors', mechanics', laborers' or materialmen's statutory or other similar liens.

Section 9.05. If the temporary use of the whole or any part of the Premises shall be taken at any time during the Term for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain or by agreement between Tenant and those authorized to exercise such right, Tenant shall give prompt notice thereof to Landlord and the Term shall not be reduced or affected in any way and Tenant shall continue to pay in full the Rental payable by Tenant here-

under without reduction or abatement, and Tenant shall be entitled to receive for itself any award or payments for such use, provided, however, that:

(a) if the taking is for a period not extending beyond the Term and if such award or payment is made less frequently than in monthly installments, the same shall be paid to and held by Depository as a fund which Depository shall apply from time to time to the payment of the Rental payable by Tenant hereunder, except that, if such taking results in changes or alterations in any of the Buildings which would necessitate an expenditure to Restore such Buildings to their former condition, then, a portion of such award or payment considered by Landlord, in its reasonable opinion, as appropriate to cover the expenses of the Restoration shall be retained by Depository, without application as aforesaid, and applied and paid over toward the Restoration of such Buildings to their former condition, substantially in the same manner and subject to the same conditions as provided in Section 9.03; and any portion of such award or payment which shall not be required pursuant to this Section 9.05(a) to be applied to the Restoration of the Buildings or to the payment of Rental until the end of the Term (or, if the taking is for a period terminating prior to the end of the Term, until the end of such period), shall be paid to Tenant; or

(b) if the taking is for a period extending beyond the Term, such award or payment shall be apportioned between Landlord and Tenant as of the Expiration Date, and Landlord's and Tenant's share thereof, if paid less frequently than in monthly installments, shall be paid to Depository and applied in accordance with the provisions of Section 9.05(a), provided, however, that the amount of any award or payment allowed or retained for the Restoration of the Buildings and not previously applied for such purpose shall remain the property of Landlord if this Lease shall expire prior to the Restoration of the Buildings.

Section 9.06. In case of any governmental action, not resulting in the taking or condemnation of any portion of the Premises but creating a right to compensation therefor, such as the changing of the grade of any street upon which the Premises abut, this Lease shall continue in full force and effect without reduction or abatement of Rental and the award shall be paid to Landlord to the extent of the amount, if any, necessary to restore any portion of the Civic Facilities to their former condition and any balance remaining shall be paid to Tenant. Subject to Unavoidable Delays, such restoration shall be diligently performed by Landlord subject to and in accordance with the provisions of Article 26 hereof. In the event Landlord shall fail to perform such restoration Tenant shall have the right to do so in accordance with the provisions of Article 26 hereof and the remedies provided in Section 26.04.

Section 9.07. In the event of a negotiated sale of all or a portion of the Premises in lieu of condemnation, the proceeds shall be distributed as provided in cases of condemnation.

Section 9.08. Landlord, Tenant and any Mortgagee shall be entitled to file a claim and otherwise participate in any condemnation or similar proceeding and all hearings, trials and appeals in respect thereof.

Section 9.09. Notwithstanding anything to the contrary contained in this Article 9, in the event of any permanent or temporary taking of all or any part of the Premises, Tenant and its Subtenants shall have the exclusive right to assert claims for any trade fixtures and personal property so taken which were the property of Tenant or its Subtenants (but not including any Equipment) and for relocation expenses of Tenant or its Subtenants, and all awards and damages in respect thereof shall belong to Tenant and its Subtenants, and Landlord hereby waives any and all claims to any part thereof; provided, however, that if there shall be no separate award or allocation for such trade fixtures or personal property, then such claims of Tenant and its Subtenants, or awards and damages, shall be subordinate to Landlord's claims under this Article.

ARTICLE 10

ASSIGNMENT, SUBLETTING, MORTGAGES, ETC.

Section 10.01.

(a) Except as otherwise specifically provided in this Section 10.01, until Completion of the Buildings, neither this Lease nor the interest of Tenant in this Lease, shall be sold, assigned, or otherwise transferred, whether by operation of law or otherwise, nor shall any of the issued or outstanding capital stock of any corporation which, directly or indirectly, is Tenant under this Lease be (voluntarily or involuntarily) sold, assigned, transferred, pledged or encumbered, whether by operation of law or otherwise, nor shall any voting trust or similar agreement be entered into with respect to such stock, nor any reclassification or modification of the terms of such stock take place, nor shall there be any merger or consolidation of such corporation into or with another corporation nor shall additional stock (or any warrants, options or debt securities convertible, directly or indirectly, into such stock) in any such corporation be issued if the issuance of such additional stock (or such other securities, when exercised or converted into stock) will result in a change of the controlling stock ownership of such corporation as held by the

shareholders thereof, nor shall any general partner's interest in a partnership which is Tenant under this Lease be (voluntarily or involuntarily) sold, assigned or transferred (each of the foregoing transactions with respect to stock or other securities of a corporation or a general partner's interest in a partnership being herein referred to as a "Transfer"), nor shall Tenant sublet the Premises as an entirety or substantially as an entirety, without the prior consent of Landlord in each case and the delivery to Landlord of the documents specified in Section 10.01(d) hereof.

For the purpose of this Section 10.01:

(i) the sale, assignment or other transfer, whether by operation of law or otherwise, of any of the issued or outstanding capital stock of any corporation which, directly or indirectly, is Tenant under this Lease or which is a general partner of any partnership which is Tenant under this Lease, by the owner thereof shall not be deemed a Transfer and shall not be subject to the provisions of Section 10.01(a) if made (A) upon the owner's death, or (B) to the owner's spouse, child or parent, provided that, except with respect to the death of a Principal, after giving effect to such transaction, the interest held by a Principal shall not be reduced below eighty percent (80%) of the total interest held by such Principal on the date hereof;

(ii) The prior consent of Landlord shall not be withheld or delayed with respect to a Transfer (x) to a Mortgagee which is an Institutional Lender (or its affiliate) or (y) of an interest in a general partner of Tenant or the interest of a general partner in Tenant or the assignment of Tenant's interest in this Lease to a different partnership entity; provided that following any such Transfer or assignment (A) there shall be at least two general partners of Tenant, one of which shall control, be controlled by, or be under common control with, either Housing Innovations, Inc.; HII Corporation; Planning Innovations, Inc.; Thomas F. Welch Associates, Inc.; Denis A. Blackett if then alive; Thomas F. Welch if then alive; E. Anthony Mackall if then alive; Sam Mintz if then alive and/or Joanne Roche if then alive, and the other of which shall control, be controlled by or be under common control with, either The Related Companies, Inc. or Stephen Ross, if then alive, and (B) Housing Innovations, Inc.; HII Corporation; Planning Innovations, Inc.; Thomas F. Welch Associates, Inc.; Denis A. Blackett if then alive; Thomas F. Welch if then

alive; E. Anthony Mackall if then alive; Sam Mintz if then alive and/or Joanne Roche if then alive (singularly or in combination) shall have (directly or indirectly) an interest in one general partner at least equal to eighty percent (80%) of the interest which they (singularly or in any combination) have in one of the general partners as of the date hereof, and Stephen Ross (if then alive) shall have (directly or indirectly) an interest in one general partner at least equal to eighty percent (80%) of the interest which he has in one of the general partners as of the date hereof.

(b) From and after Completion of the Buildings Landlord shall not withhold its consent to a Transfer, an assignment by Tenant of its interest hereunder or a subletting of the Premises as an entirety or substantially as an entirety provided Tenant shall have complied with the provisions of this Article 10. This Section 10.01(b), Section 10.01(c) (except as otherwise provided therein) and Section 10.01(d) shall not apply to an assignment or partial assignments in connection with a Cooperative Plan or Condominium Plan which shall be governed by the provisions of Section 10.01(e)(i) and Section (e)(ii), respectively.

(c) In no event, whether before or after Completion of the Buildings, shall Tenant make a Transfer, assign this Lease or any portion of its interest hereunder or sublet the Premises as an entirety or substantially as an entirety to any Person in which, an ownership interest, in the aggregate, or five percent (5%) or greater is held, directly or indirectly, by any individual (A) who has ever been convicted of a felony; (B) against whom any action or proceeding is pending to enforce rights of the State of New York or any agency, department, public authority or public benefit corporation thereof arising out of a mortgage obligation to the State of New York or to any such agency, department, public authority or public benefit corporation; or (C) with respect to whom any notice of substantial monetary default which remains uncured has been given by the State of New York or any agency, department, public authority or any public benefit corporation thereof arising out of a mortgage obligation to the State of New York or to any such agency, department, public authority or public benefit corporation. The provisions of this Section 10.01(c) shall not apply to any Tenant-Stockholders or Unit Owners. The provisions of this Section 10.01(c) shall apply to any Person (x) purchasing at least fifteen percent (15%) of the Cooperative Apartments or Units or (y) subletting at least fifteen percent (15%) of the residential apartments.

(d) No assignment, subletting of the Premises as an entirety or substantially as an entirety, or Transfer shall become effective under this Lease unless and until

Tenant complies with the provisions of Section 10.01(g) and, in addition, delivers the following documents to Landlord:

(i) in the case of an assignment, (A) an executed counterpart of the instrument(s) of assignment, containing, inter alia, the name, address and telephone number of the assignee, (B) executed instruments of assumption of Tenant's obligations under this Lease by said assignee, effective as of the date of the assignment, and (C) an affidavit of the assignee or an authorized officer or general partner thereof, setting forth (x) in the case of a partnership, the names and addresses of the general partners thereof and all other partners of the assignee having a five percent (5%) or greater ownership interest in the assignee, (y) in the case of a corporation (other than a corporation whose common stock is traded over the New York Stock Exchange or the American Stock Exchange or which is an Institutional Lender), the names and addresses of all persons having five percent (5%) or greater record ownership of stock in, and all directors and officers of, the assignee;

(ii) in the case of a subletting of the Premises as an entirety or substantially as an entirety, (A) an executed counterpart of the sublease, containing, inter alia, the name, address, and telephone number of the subtenant, and (B) an affidavit of the subtenant or an authorized officer or general partner thereof, setting forth the same information with respect to the partners, shareholders, officers and directors of the subtenant as is required with respect to assignees under subsection (i) of this Section 10.01(d); and

(iii) in the case of a Transfer, (A) an executed counterpart of each document by which such Transfer was accomplished, and (B) an affidavit of an authorized officer or general partner of Tenant, setting forth the same information with respect to the partners, shareholders, officers and directors of Tenant as is required with respect to assignees under subsection (i) of this Section 10.01(d).

(e) (i) From and after Substantial Completion of the Buildings, Landlord shall not withhold its consent to an assignment by Tenant of its interest in this Lease to the Apartment Corporation pursuant to a Cooperative Plan provided Tenant shall have complied with the provisions of Section 3.05 (b)(i) and delivered to Landlord (w) a true and correct copy of such Cooperative Plan and any

amendments, modifications and supplements thereto, (x) a true and correct copy of the letter of acceptance of the Cooperative Plan issued by the New York State Department of law, (y) a true and correct copy of the letter accepting the amendment declaring the Cooperative Plan effective issued by the New York State Department of Law and (z) such other documents in connection therewith as may be reasonably requested by Landlord.

(ii) Any assignment or partial assignment(s) by Tenant of its interest in this Lease pursuant to a Condominium Plan shall be governed by the provisions of Article 42 hereof.

(f) The foregoing requirement of prior consent by Landlord shall not apply to the acquisition of the Premises by a Mortgagee, through the foreclosure of a Mortgage complying with the terms of Section 10.10 and Section 10.11 hereof, or through a deed or instrument of transfer delivered in lieu of such foreclosure, so long as such Mortgagee shall, in the instrument transferring to such Mortgagee the interest of Tenant hereunder, assume and agree to perform all of the terms, covenants and conditions of this Lease thereafter to be observed or performed by Tenant, subject to the provisions of Section 41.08 hereof. Each reference in this Section 10.01(f) to "Mortgagee" shall be deemed to include a wholly owned subsidiary (direct or indirect) of such Mortgagee, provided such Mortgagee has delivered to Landlord a written notice advising that such a subsidiary should be so deemed and certifying (i) that such subsidiary is wholly owned (direct or indirect) by such Mortgagee and (ii) that such subsidiary is authorized to act in the place and stead of such Mortgagee.

(g) In each instance wherein Tenant desires to effect an assignment, a sublease of the Premises as an entirety or substantially as an entirety, or a Transfer, Tenant shall, prior to the effective date of such transaction, notify Landlord of the proposed transaction and submit to Landlord all of the information and copies of the applicable documents provided for in Section 10.01(d) (which documents may be unexecuted but shall, in all other respects, be in substantially final form) and such other information and documentation it may wish if the proposed transaction is subject to the consent of the Landlord. Landlord shall within twenty (20) days after receipt of requisite information and documentation notify Tenant whether it grants its consent if such consent is required hereunder, and in those instances wherein the consent of Landlord is not so required or is granted, whether the form and substance of each such document required to be reasonably satisfactory to Landlord is satisfactory to Landlord and whether the information submitted establishes compliance with the provisions of Section

10.01(c), specifying, in the event that Landlord denies its consent to such transaction or determines that any such documentation is not satisfactory or any such information does not establish such compliance, the reason for such denial or determination. If Landlord shall not have notified Tenant of such denial or determination within such period, it shall be deemed to have consented to the proposed transaction if such consent is required and to have determined that the form and substance of each such document is satisfactory and the information submitted establishes compliance with the provisions of Section 10.01(c) and (d). In addition, if Tenant contemplates an assignment, a sublease of the Premises as an entirety or substantially as an entirety, or a Transfer, Tenant may submit the affidavit required pursuant to subdivisions (i), (ii) or (iii) of Section 10.01(d), as the case may be, and within twenty (20) days after receipt of such submission, Landlord shall notify Tenant whether the information submitted establishes compliance with the relevant provisions of Section 10.01(c) and (d), and if Landlord determines that such information does not establish such compliance, specify the reason for such determination. If Landlord shall not have notified Tenant of such determination within such period, it shall be deemed to have been determined that the information submitted establishes compliance with the relevant provisions of Section 10.01(c). Landlord shall be deemed to have acted reasonably under this Section 10.01(g) if it withholds consent at any time that a notice specifying that a Default exists shall have been given by Landlord to Tenant (unless the Default specified in such notice has been cured).

Section 10.02. No assignment of this Lease, subletting of the Premises as an entirety or substantially as an entirety or Transfer shall have any validity except upon compliance with the provisions of this Article 10 and, with respect to an assignment or partial assignment(s) pursuant to a Condominium Plan, Article 42.

Section 10.03. Any consent by Landlord under Section 10.01 above shall apply only to the specific transaction thereby authorized and shall not relieve Tenant from any requirement hereunder of obtaining the prior consent of Landlord to any further sale or assignment of this Lease or Transfer or subletting of the Premises as an entirety or substantially as an entirety.

Section 10.04. Tenant may, without Landlord's prior consent, but subject to the provisions of this Section 10.04, enter into agreements for the rental of residential and non-residential space in the Buildings, or the occupancy of such space pursuant to licenses or concessions for periods shorter than the remainder of the Term at the time of such agreements (all of such agreements being herein referred to collectively as "Subleases", and the occupants pursuant to Subleases as "Subtenants"). Each Sublease shall

obligate the Subtenant pursuant thereto to occupy and use the premises included therein for purposes consistent with the Requirements and with the Master Development Plan. Tenant shall promptly and diligently enforce all of its rights as the landlord under all Subleases in accordance with the terms thereof. The term "Sublease" shall not include any sublease of a Cooperative Apartment or Unit and the term "Subtenant" shall not include any subtenant of a Cooperative Apartment or Unit. Except as provided in the last sentence of Section 10.01(c), any Tenant-Stockholder shall have the right to sell, sublet, mortgage or otherwise transfer its Cooperative Apartment without Landlord's consent or approval.

Section 10.05. The fact that a violation or breach of any of the terms, provisions or conditions of this Lease or of the Master Lease results from or is caused by an act or omission by any of the Subtenants shall not relieve Tenant of Tenant's obligation to cure the same. Tenant shall take any and all reasonable steps necessary to prevent any such violation or breach.

Section 10.06. Landlord, after an Event of Default by Tenant, may, subject to the rights of any Mortgagee, collect subrent and all other sums due under Subleases, and apply the net amount collected to the Rental payable by Tenant hereunder, but no such collection shall be, or be deemed to be, a waiver of any agreement, term, covenant or condition of this Lease or the acceptance by Landlord of any Subtenants as Tenant hereunder, or a release of Tenant from performance by Tenant of its obligations under this Lease.

Section 10.07. To secure the prompt and full payment by Tenant of the Rental and the faithful performance by Tenant of all the other terms and conditions herein contained on its part to be kept and performed, Tenant hereby assigns, transfers and sets over unto Landlord, subject to any assignment of Subleases and/or rents made in connection with any Mortgage, all of Tenant's right, title and interest in and to all Subleases and hereby confers upon Landlord, its agents and representatives, a right of entry in, and sufficient possession of, the Premises to permit and insure the collection by Landlord of the rentals and other sums payable under the Subleases, and further agrees that the exercise of the right of entry and qualified possession by Landlord shall not constitute an eviction of Tenant from the Premises or any portion thereof and that should said right of entry and possession be denied Landlord, its agent or representative, Landlord, in the exercise of said right, may use all requisite force to gain and enjoy the same without responsibility or liability to Tenant, its servants, employees, guests or invitees, or any Person whomsoever; provided, however, that such assignment shall become operative and effective only if (a) an Event of Default shall occur

and remain uncured, or (b) this Lease and the Term shall be cancelled or terminated pursuant to the terms, covenants and conditions hereof, or (c) there occurs repossession under a dispossess warrant or other re-entry or repossession by Landlord under the provisions hereof, and then only as to such of the Subleases that Landlord has agreed to take over and assume.

Section 10.08. At any time and from time to time but not more than once in each Lease Year, upon Landlord's demand, Tenant promptly shall deliver to Landlord a schedule of all Subleases, setting forth the names of all Subtenants. Upon the reasonable request of Landlord, Tenant shall permit Landlord and its agents and representatives to inspect all Subleases and, at Landlord's expense except if an Event of Default shall have occurred and be continuing, to make copies thereof.

Section 10.09. All Subleases shall provide that (a) they are subject to this Lease and to the Master Lease, (b) the Subtenants will not pay rent or other sums under the Subleases with Tenant for more than one (1) month in advance (excluding security and other deposits required under such Sublease), and (c) at Landlord's option, on the termination of this Lease pursuant to Article 24, the Subtenants will attorn to, or enter into a direct Sublease on identical terms with, Landlord. Landlord agrees, for the benefit of any non-residential Subtenant of Tenant under a Sublease for in excess of 7,000 square feet (a) made to an unrelated third party at a rental substantially equivalent to then prevailing market rental, (b) which is in accordance with all of the requirements of this Lease and (c) which confers no greater rights upon such Subtenant than are conferred upon Tenant under this Lease nor, except with respect to provision of basic services customarily provided to commercial tenants in such circumstances, imposes more onerous obligations upon Landlord, as successor landlord under the Sublease, than are imposed on landlord in this Lease ("Qualifying Sublease"), that Landlord shall deliver to such Subtenant a duly executed and acknowledged instrument (the "Non-disturbance and Attornment Agreement") wherein Landlord agrees to recognize such Subtenant as the direct tenant of Landlord under its Sublease upon the termination of this Lease pursuant to Article 24, provided that (a) at the time of such termination no default exists under such Subtenant's Sublease which at such time would permit the landlord thereunder to terminate the Sublease or to exercise any remedy for dispossession provided for therein, and (b) concurrently with such execution, acknowledgment and delivery by Landlord, such Subtenant shall deliver to Landlord the Non-disturbance and Attornment Agreement duly executed and acknowledged by such Subtenant, confirming the agreement of such Subtenant to attorn to Landlord and to recognize Landlord as such Subtenant's landlord under its Sublease, which agree-

ment shall provide that neither Landlord, nor anyone claiming by, through or under Landlord, shall be:

(u) liable for any act or omission of any prior landlord (including, without limitation, the then defaulting landlord),

(v) subject to any offsets or defenses that such Subtenant may have against any prior landlord (including, without limitation, the then defaulting landlord),

(w) bound by any payment that such Subtenant might have paid to any prior landlord (including, without limitation, the then defaulting landlord) or any other Person of (i) rent or any other charge payable under such Subtenant's sublease for more than the current month or (ii) any security deposit which shall not have been delivered to Landlord,

(x) bound by any covenant to undertake or complete any construction of the Buildings or any portion thereof demised by the Sublease,

(y) bound by any obligation to make any payment to the Subtenant, or

(z) bound by any Sublease or amendment thereto or modification thereof which reduced the basic rent, additional rent, supplemental rent or other charges payable under the Sublease, or shortens the term thereof, or otherwise increases the obligations of landlord thereunder, made without the written consent of Landlord.

Within fifteen (15) days after Tenant submits to Landlord a copy of a Sublease (which may be unexecuted but which shall, in all other respects be in final form), Landlord shall notify tenant whether same is a Qualifying Sublease. If Landlord shall determine that such Sublease is a Qualifying Sublease, then, promptly after notice to Tenant of such determination, Landlord and such Subtenant each shall duly execute, acknowledge and deliver to one another the Non-disturbance and Attornment Agreement. If Landlord shall determine that same is not a Qualifying Sublease, Landlord shall specify the reason for such determination. If there be any dispute as to whether any Sublease is a Qualifying Sublease, such dispute shall be resolved by arbitration in accordance with the provisions of Article 36.

Section 10.10.

(a) Tenant shall have the right to mortgage its interest in this Lease in accordance with the terms of this

Lease. If Tenant shall mortgage Tenant's interest in this Lease, Tenant shall give Landlord prompt notice of such Mortgage and furnish Landlord with a complete and correct copy of each such Mortgage, certified as such by Tenant, together with the name and address of such Mortgagee. After receipt of the foregoing, Landlord shall give to such Mortgagee, at the address of such Mortgagee set forth in such notice, and otherwise in the manner provided by Article 25, a copy of each notice of Default by Tenant at the same time as, and whenever, any such notice of Default shall thereafter be given by Landlord to Tenant, and no such notice of Default by Landlord shall be deemed to have been duly given to Tenant unless and until a copy thereof shall have been so given to each Mortgagee. Each Mortgagee (i) shall thereupon have a period of ten (10) days more in the case of a Default in the payment of Rental and thirty (30) days more in the case of any other Default, after such notice is given to it, for remedying the Default, or causing the same to be remedied, or causing action to remedy a Default mentioned in Section 24.01(c) or (d) to be commenced, than is given Tenant after such notice is given to it, and (ii) shall, within such periods and otherwise as herein provided, have the right to remedy such Default, cause the same to be remedied or cause action to remedy a Default mentioned in Section 24.01(c) or (d) to be commenced. Landlord shall accept performance by a Mortgagee of any covenant, condition or agreement on Tenant's part to be performed hereunder with the same force and effect as though performed by Tenant.

(b) Notwithstanding the provisions of Section 10.10(a) hereof, no Default by Tenant shall be deemed to exist as long as a Mortgagee, in good faith, shall have commenced promptly either (i) to cure the Default and to prosecute the same to completion, or (ii) if possession of the Premises is required in order to cure the Default, to institute foreclosure proceedings and obtain possession directly or through a receiver, and to prosecute such proceedings with diligence and continuity and, upon obtaining such possession, commenced promptly to cure the Default and to prosecute the same to completion with diligence and continuity, provided, however, that the Mortgagee shall have delivered to Landlord, in writing within three (3) Business Days after the expiration of the time given to Tenant pursuant to the provisions of this Lease to remedy the event or condition which would otherwise constitute a Default hereunder, its agreement to take the action described in clause (i) or (ii) herein, and that during the period in which such action is being taken (and any foreclosure proceedings are pending), all of the other obligations of Tenant under this Lease, to the extent they are reasonably susceptible of being performed by the Mortgagee, are being duly performed. However, at any time after the delivery of the aforementioned agreement, the Mortgagee may notify Landlord, in writing, that it has relinquished possession of the Premises or that it will

not institute foreclosure proceedings or, if such proceedings have been commenced, that it has discontinued them, and in such event, the Mortgagee shall have no further liability under such agreement from and after the date it delivers such notice to Landlord (except for any obligations accruing prior to the date it delivers such notice), and, thereupon, Landlord shall have the unrestricted right to terminate this Lease and to take any other action it deems appropriate by reason of any Default by Tenant, and upon any such termination the provisions of Section 10.11 shall apply. Notwithstanding anything herein contained to the contrary, provided such Mortgagee shall have otherwise complied with the provisions of this Section 10.10, such Mortgagee shall have no obligation to cure any Defaults which are not reasonably susceptible to being cured by such Mortgagee.

(c) Except as provided in Section 10.10(b), no Mortgagee shall become liable under the provisions of this Lease unless and until such time as it becomes, and then only for as long as it remains, the owner of the leasehold estate created hereby as provided in Section 10.11. In the event that a Mortgagee shall become the owner of such leasehold estate, such Mortgagee shall not be bound by any modification or amendment of this Lease made prior to its acquisition of such interest unless the Mortgagee shall have consented to such modification or amendment at the time it was made or at the time of such acquisition.

Section 10.11.

(a) In the case of termination of this Lease by reason of any Event of Default or for any other reason pursuant to the terms hereof, Landlord shall give prompt notice thereof to each Mortgagee under a Mortgage made in compliance with the provisions of Section 10.10, at the address of such Mortgagee set forth in the notice mentioned in Section 10.10(a) hereof, and otherwise in the manner provided by Article 25. Landlord, on written request of such Mortgagee made any time within thirty (30) days after the giving of such notice by Landlord, shall execute and deliver a new lease of the Premises to the Mortgagee, or its designee or nominee, for the remainder of the Term, upon all the covenants, conditions, limitations and agreements herein contained, provided that the Mortgagee (i) shall pay to Landlord, simultaneously with the delivery of such new lease, all unpaid Rental due under this Lease up to and including the date of the commencement of the term of such new lease and all expenses including, without limitation, reasonable attorneys' fees and disbursements and court costs, incurred by Landlord in connection with the Default by Tenant, the termination of this Lease and the preparation of the new lease, and (ii) shall cure all Defaults existing under this Lease which are reasonably susceptible of being cured by the Mortgagee.

(b) Any such new lease and the leasehold estate thereby created shall, subject to the same conditions contained in this Lease, continue to maintain the same priority as this Lease with regard to any mortgage, including any fee mortgage, on the Premises or any part thereof or any other lien, charge or encumbrance thereon whether or not the same shall then be in existence. Concurrently with the execution and delivery of such new lease, Landlord shall assign to the tenant named therein all of its right, title and interest in and to moneys (including insurance and condemnation proceeds), if any, then held by or payable to Landlord or Depository which Tenant would have been entitled to receive but for termination of this Lease, and any sums then held by or payable to Depository shall be deemed to be held by or payable to it as Depository under the new lease.

(c) Upon the execution and delivery of a new lease under this Section 10.11, all Subleases which theretofore may have been assigned to Landlord shall be assigned and transferred, without recourse, by Landlord to the tenant named in such new lease. Between the date of termination of this Lease and the date of execution of the new lease, if a Mortgagee shall have requested such new lease as provided in paragraph (a) of this Section 10.11, Landlord shall not cancel any Subleases or accept any cancellation, termination or surrender thereof (unless such termination shall be effected as a matter of law on the termination of this Lease) without the consent of the Mortgagee, except for a default as permitted in the Subleases or for the purpose of permitting Landlord to enter into Subleases with other tenants who will occupy not less than the same amount of space demised by the cancelled Subleases at a rental rate per square foot and for terms not less than the rental rates per square foot and for at least the remainder of the unexpired terms, respectively, of the cancelled Subleases.

(d) If there is more than one Mortgage, Landlord shall only recognize the Mortgagee whose Mortgage is senior in lien and which has requested a new lease of the Premises within the time period set forth in Section 10.11(a) as the Mortgagee entitled to the rights afforded by Section 10.11, provided that Tenant shall have given Landlord notice of such Mortgage in compliance with the provisions of Section 10.10(a).

Section 10.12. In any circumstances where arbitration is provided for under this Lease, Landlord agrees that Landlord shall give any Mortgagee who shall have given Landlord a notice as provided in Section 10.10(a) notice of any demand by Landlord for any arbitration, and Landlord shall recognize the Mortgagee whose Mortgage is senior in lien as a proper party to participate in the arbitration.

ARTICLE 11

CONSTRUCTION OF BUILDINGS

Section 11.01. Tenant shall, at its sole cost and expense, and using a reputable and responsible contractor or construction manager approved by Landlord, which approval shall not be unreasonably withheld, promptly commence (subject to Unavoidable Delays) on or before the Construction Commencement Date and diligently construct the Buildings in accordance with the Master Development Plan, the Design Guidelines, the Plans and Specifications, and the applicable provisions of this Lease (subject to Unavoidable Delays). Tenant shall as soon as practicable obtain from New York City and all other Governmental Authorities all permits, consents, certificates and approvals required to commence construction of the Buildings. At the request of Tenant, Landlord, at no cost or expense to it, shall within ten (10) days of Tenant's request, execute and deliver any documents or instruments reasonably required to obtain such permits, consents, certificates and approvals, provided such documents or instruments do not impose any liability or obligation on Landlord. Tenant shall not undertake Commencement of Construction unless and until (i) Tenant shall have obtained as aforesaid and delivered to Landlord copies of all necessary permits, consents, certificates and approvals for such construction from all Governmental Authorities which are required to have been obtained prior to Commencement of Construction, (ii) Landlord shall have reviewed the Plans and Specifications in the manner provided herein and shall have determined that they conform to the Master Development Plan and the Design Guidelines, and (iii) (a) a building loan Mortgage in an amount sufficient, in Landlord's judgment, to assure completion of construction of the Buildings shall have been made for the financing of such construction or (b) Landlord shall have approved a plan submitted by Tenant for financing the construction of the Buildings. Tenant shall obtain such other permits, consents, certificates and approvals as may be required from time to time to continue and complete the construction of the Buildings. Tenant shall deliver to Landlord within fifteen (15) Business Days after Commencement of Construction its certification setting forth the date of Commencement of Construction. In the event Landlord shall not have objected to such date within fifteen (15) Business Days after Tenant shall have submitted its certification to Landlord, such date shall be deemed to be the date of Commencement of Construction. In the event Landlord shall have delivered its objection within such fifteen (15) Business Day period and the parties shall be unable to agree on such date, such dispute shall be resolved by arbitration pursuant to Article 36.

Section 11.02.

(a) As soon as practicable, but in no event later than January 7, 1985, Tenant shall submit to Landlord scaled schematic drawings (the "Schematics") prepared by the Architect in sufficient detail so as to provide Landlord with the following information to enable Landlord to determine whether or not Tenant's development scheme for the Premises conforms to the Master Development Plan and the Design Guidelines:

(i) a site plan showing the Buildings and all necessary connections to and relationships with Civic Facilities located on or adjacent to the Premises;

(ii) floor plans of a typical floor as well as of each atypical floor, any special public areas and all commercial areas;

(iii) elevation plans for the north, south, east and west portions of the Premises on scale of 1"-8' and front wall elevations showing ground floor through fourth floor, indicating material treatment on scale of 1"-4';

(iv) detail plans for special facilities and/or special areas;

(v) outline specifications of basic systems and materials;

(vi) model indicating building massing on scale of 1"-20'; and

(vii) building sections on scale of 1"-8' or 1"-16'.

If Landlord determines that the Schematics conform to the Master Development Plan and the Design Guidelines, Landlord shall notify Tenant to that effect. If Landlord determines that the Schematics do not conform to the Master Development Plan and the Design Guidelines, Landlord shall so notify Tenant, specifying those respects in which the Schematics do not so conform, and Tenant shall revise the Schematics to so conform and shall resubmit the same to Landlord for review within seven (7) Business Days of the date of notice from Landlord to Tenant that the Schematics do not so conform. Each review by Landlord shall be carried out within seven (7) Business Days of the date of submission of the Schematics by Tenant (and if Landlord shall not have notified Ten-

ant of its determination within such seven (7) Business Day period, it shall be deemed to have determined that the Schematics do conform to the Master Development Plan and the Design Guidelines).

(b) As soon as practicable but in no event later than twenty-one (21) days after Landlord shall have notified Tenant that the Schematics conform to the Master Development Plan and the Design Guidelines, Tenant shall submit to Landlord for its review, preliminary plans and outline specifications (the "Preliminary Plans and Specifications") for the Buildings, drawn at the same scale as final contract plans prepared by the Architect. If Landlord determines that the Preliminary Plans and Specifications conform to the Master Development Plan, the Design Guidelines and the Schematics, Landlord shall notify Tenant to that effect. If Landlord determines that the Preliminary Plans and Specifications do not conform to the Master Development Plan, the Design Guidelines and the Schematics, Landlord shall so notify Tenant, specifying those respects in which the Preliminary Plans and Specifications do not so conform, and Tenant shall revise the same to so conform and shall resubmit the Preliminary Plans and Specifications to Landlord for review within seven (7) Business Days of the date of notice from Landlord to Tenant that the Preliminary Plans and Specifications do not so conform. Each review by Landlord shall be carried out within seven (7) Business Days of the date of submission of the Preliminary Plans and Specifications by Tenant (and if Landlord shall not have notified Tenant of its determination within such seven (7) Business Day period, it shall be deemed to have determined that the Preliminary Plans and Specifications do conform to the Master Development Plan and the Design Guidelines).

(c) As soon as practicable but in no event later than ninety (90) days after Landlord shall have notified Tenant that Preliminary Plans and Specifications conform to the Master Development Plan, the Design Guidelines and the Schematics, Tenant shall submit to Landlord final plans and specifications for the Buildings by the Architect (such plans and specifications, as the same may be changed from time to time by Tenant, to the extent they are approved by Landlord, being herein referred to as the "Plans and Specifications"). The Plans and Specifications shall be reviewed by Landlord to determine whether or not they conform to the Master Development Plan, the Design Guidelines and the Preliminary Plans and Specifications. If Landlord determines that they do so conform, Landlord shall notify Tenant to that effect. If Landlord determines that the Plans and Specifications do not conform to the Master Development Plan, the Design Guidelines and the Preliminary Plans and Specifications, Landlord shall so notify Tenant, specifying those respects in which the Plans and Specifications do not so conform, and Tenant shall revise the same to so conform and shall resubmit the Plans and Specifications to Landlord

for review within seven (7) Business Days of the date of notice from Landlord to Tenant that the Plans and Specifications do not so conform. Each review by Landlord shall be carried out within seven (7) Business Days of the date of submission of the Plans and Specifications by Tenant and revisions thereof (and if Landlord shall not have notified Tenant of its determination within such seven (7) Business Day period, it shall be deemed to have determined that the Plans and Specifications do conform to the Master Development Plan and the Design Guidelines).

(d) In the event that Tenant shall desire to modify the approved Plans and Specifications with respect to, or which will in any way affect, any aspect of the exterior of a Building or a change in the height, bulk or setback of a Building or in any other matter relating to or affected by the Master Development Plan and the Design Guidelines, Tenant shall submit the proposed modifications to Landlord. Tenant shall not be required to submit to Landlord proposed modifications of the Plans and Specifications which affect solely the interior of the Buildings. Landlord shall review the proposed changes to determine whether or not they conform to the Master Development Plan and the Design Guidelines. If Landlord determines that they do so conform, Landlord shall notify Tenant to that effect. If Landlord determines that the Plans and Specifications, as so revised, do not conform to the Master Development Plan and the Design Guidelines, Landlord shall so notify Tenant, specifying those respects in which they do not so conform, and Tenant shall revise the same to so conform and shall resubmit them to Landlord for review within seven (7) Business Days of the date of notice from Landlord to Tenant that they do not so conform. Each review by Landlord shall be carried out within seven (7) Business Days of the date of submission of the Plans and Specifications, as so revised, by Tenant (and if Landlord shall not have notified Tenant of its determination within such seven (7) Business Day period, it shall be deemed to have determined that they do conform to the Master Development Plan and the Design Guidelines).

(e) Notwithstanding the provisions of Section 11.02(d), if, after the Commencement of Construction, Tenant makes a good faith determination that any proposed modification which requires Landlord's approval under said Section is of a minor or insubstantial nature, Tenant may so advise an employee designated by Landlord ("Landlord's Project Manager") (delivering to him or her a written statement setting forth the proposed modification and the basis for Tenant's determination and simultaneously delivering a copy of said statement to Landlord's President and Chief Executive Officer). Landlord's Project Manager shall, in writing, before the expiration of the third full Business Day after the receipt of said advice, either (i) notify Tenant of approval of said proposed modification or (ii) notify Tenant that Tenant is required to submit the proposed modification to

Landlord as provided for in Section 11.02(d). In the event Landlord's Project Manager acts in accordance with (ii) above, Landlord, after receipt from Tenant of the proposed modification, shall endeavor to expedite its review thereof and notification to Tenant of its determination. Nothing set forth in this Section 11.02(e) shall require Landlord to notify Tenant of Landlord's determination earlier than the expiration of the seven (7) Business Day period set forth in Section 11.02(d) with respect to such modification, provided, however, that if Landlord's Project Manager shall not have notified Tenant of either (i) or (ii) above within the three (3) Business Day period set forth above, Landlord shall be deemed to have approved the proposed modification.

(f) The Plans and Specifications shall comply with the laws, regulations and rules of New York City and all other requirements of Governmental Authorities, including but not limited to the Building Code of New York City. The responsibility to assure such compliance shall be Tenant's; Landlord's determination that the Plans and Specifications conform to the Master Development Plan and the Design Guidelines shall not be, nor shall it be construed to be or relied upon as, a determination that the Plans and Specifications comply with the laws, regulations and rules of such Governmental Authorities. In the event that there shall be a conflict between the Requirements and the Design Guidelines, the Requirements shall prevail.

(g) In addition to the documents referred to in Section 11.01 and this Section 11.02, Tenant shall, at least fifteen (15) days prior to ordering the same for incorporation into the Buildings, submit to Landlord samples of materials to be used on the exterior, for the exterior windows of the Buildings and the same shall be subject to Landlord's approval for conformity to the Design Guidelines, the Master Development Plan and the Plans and Specifications. If Landlord shall have failed to object to any of such materials within fourteen (14) days after its receipt of such materials, it shall be deemed to have approved such materials. Landlord reserves the right to maintain its field personnel at the Premises to observe Tenant's construction methods and techniques and Landlord shall be entitled to have its field personnel or other designees attend Tenant's job and/or safety meetings. No such observation or attendance by Landlord's personnel or designees shall impose upon Landlord any responsibility for any failure by Tenant to observe applicable legal requirements or safety practices in connection with such construction, or constitute an acceptance of any work which does not comply in all respects with the requirements of this Lease.

(h) Tenant acknowledges that the maximum permissible "floor area," as such term is defined in the Zoning Resolution of the City of New York, for the Land shall be 141,000 square feet.

(i) Tenant shall not construct or permit to exist any Buildings on the Land unless the Buildings are in compliance with the Zoning Lot Declaration, the Master Development Plan and the Design Guidelines.

(j) Landlord acknowledges and agrees that in order to meet the construction schedule required by Landlord, Tenant may be required to "fast track" certain aspects of the Plans and Specifications, and of the excavation and foundation stage of the construction process. Landlord agrees, within the limitations of sound construction practice, to cooperate with Tenant, as reasonably requested from time to time by Tenant, in "fast tracking" the construction of the Buildings. Such cooperation shall only include (i) shortening the review periods provided for herein, (ii) reviewing certain aspects of the Preliminary Plans and Specifications and Plans and Specifications prior to completion and submission to Landlord of every aspect thereof; and (iii) permitting Tenant to begin excavation and foundation work prior to completion and approval by Landlord of the Plans and Specifications.

(k) Notwithstanding anything contained in Section 11.01 to the contrary, Tenant shall have the right to commence excavation and foundation work prior to submission to and approval by Landlord of the Plans and Specifications provided (x) Tenant shall have complied with the provisions of Sections 11.01(i) and (iii) and 11.03 and (y) Tenant shall have submitted and Landlord shall have received the Preliminary Plans and Specifications in the manner provided herein and shall have determined that they conform to the Master Development Plan, the Design Guidelines and the Schematics.

Section 11.03.

(a) Tenant, prior to the Commencement of Construction, shall provide, or cause to be provided, and thereafter shall keep in full force and effect, or cause to be kept in full force and effect with respect to the Premises, until Substantial Completion of the Buildings, the following at no cost or expense to Landlord:

(i) comprehensive general liability insurance, naming contractor or construction manager as named insured and, as additional insureds, Tenant, Landlord, Master Landlord and each Mortgagee under a standard mortgagee clause, such insurance to insure against liability for bodily injury and death and for property damage in such amount as may from time to time be reasonably required by Landlord (which shall be not less than Fifty Million Dollars ($50,000,000) combined single limit nor more than such amount as, at the time in question, is customarily carried by prudent owners of like buildings and improvements), such insurance to include operations-premises liability, contractor's protective liability on the opera-

tions of all subcontractors, completed operations (to be kept in force for not less than three (3) years after Substantial Completion of the Buildings), broad form contractual liability (designating the indemnity provisions of the Construction Agreements), a broad form comprehensive general liability endorsement deleting all exclusions pertaining to contractual and employee coverage and, if the contractor is undertaking foundation, excavation or demolition work, an endorsement that such operations are covered and that the "XCU Exclusions" have been deleted;

(ii) automobile liability insurance for all owned, non-owned, leased, rented and/or hired vehicles insuring against liability for bodily injury and death and for property damage in an amount not less than One Million Dollars ($1,000,000) combined single limit, such insurance to name Tenant as named insured and, as additional insureds, Landlord, Master Landlord, any general contractor or construction manager engaged by Tenant and each Mortgagee under a standard mortgagee clause;

(iii) workers' compensation insurance providing statutory New York State benefits for all persons employed in connection with the construction at the Premises; and

(iv) all-risk builder's risk insurance written on a one hundred percent (100%) of Completed Value (non-reporting) basis with limits as provided in Section 7.01(a)(i), naming, to the extent of their respective insurable interests in the Premises, Tenant as named insured, and, as additional insureds, Landlord, Master Landlord, any contractor or construction manager engaged by Tenant and each Mortgagee under a standard mortgagee clause. In addition, such insurance (A) shall contain an acknowledgment by the insurance company that its rights of subrogation have been waived with respect to all of the insureds named in the policy and an endorsement stating that "permission is granted to complete and occupy", and (B) if any storage location situated off the Premises is used, shall include coverage for the full insurable value, all materials and equipment on or about any such storage location intended for use with respect to the Premises.

In the event the proceeds received pursuant to the insurance coverage required under Section 11.03(a)(iv) hereof shall exceed Two Hundred and Fifty Thousand Dollars ($250,000) (as such amount shall be increased as provided in Section 7.02(a)), such proceeds shall be paid to Depository and disbursed in accordance with the provisions of Sections 8.02 and 8.03 hereof. In the event such proceeds shall be Two Hundred and Fifty Thousand Dollars ($250,000) (as such amount shall be

increased as provided in Section 7.02(a)) or less, such proceeds shall be payable, in trust, to Tenant for application to the cost of completion of construction of the Buildings.

(b) No construction shall be commenced until Tenant shall have delivered to Landlord the original policies of insurance or certificates thereof, as required by this Section 11.03 and as more fully provided in Section 7.02(a) hereof.

(c) Tenant shall comply with the provisions of Section 7.02 hereof with respect to the policies required by this Section 11.03.

(d) To the extent that the insurance coverages required pursuant to this Section 11.03 duplicate those required by Article 7 or Section 13.01(f) hereof, Tenant shall not be required to maintain such coverages in duplicate, but in each instance the more extensive coverage shall be maintained.

(e) In addition to the insurance required pursuant to this Section 11.03, Tenant shall, prior to Commencement of Construction, obtain, or cause to be obtained, and furnish to Landlord, payment and performance bonds in forms and by sureties satisfactory to Landlord, naming the construction contractor as obligor and Landlord, Tenant and Mortgagee as co-obligees, each in a penal sum equal to the amount of the construction contract for the Buildings or other security satisfactory to Landlord in its sole discretion, including without limitation, a letter of credit, provided the amount, form and issuer shall have been approved by Landlord.

Section 11.04. Tenant covenants and agrees that construction of the Buildings shall be (a) commenced and prosecuted with all reasonable diligence and without interruption, subject to Unavoidable Delays, and (b) Substantially Completed (as hereinafter defined) in a good and workmanlike manner in accordance with the approved Plans and Specifications, the Master Development Plan, and the Design Guidelines, by March 1, 1987, as such date may be extended for Unavoidable Delays (the "Scheduled Completion Date"). Upon Substantial Completion of the Buildings, Tenant, at its sole cost and expense shall furnish Landlord with a true copy of the temporary Certificate of Occupancy for the Buildings and a complete set of "as built" plans prepared and certified to be complete and correct by the Architect, and a survey prepared and sealed by a registered surveyor showing all Buildings and all easements and other matters of record relating to the Premises, guaranteed by such surveyor to Tenant, Landlord, each Mortgagee, and to any title company which shall have insured or committed to insure the Premises or any portion thereof or interest therein, and bearing the certification of such surveyor that all of the Buildings are within the property lines of the Land and do not

encroach upon any easement or violate any restriction of record. "Substantial Completion of the Buildings" or "Substantially Completed" shall mean (i) substantial completion of all construction work on the Buildings, (ii) the delivery to Landlord of a true copy of the Residential TCO and (iii) a certificate from the Architect certifying that the construction has been substantially completed substantially in accordance with the approved Plans and Specifications, the Master Development Plan, and the Design Guidelines. Notwithstanding anything herein contained to the contrary, if Tenant shall have failed to deliver the Residential TCO on or before the Scheduled Completion Date as a result of the failure of the Department of Buildings of New York City, or successor body of similar function, to issue the same, such failure shall not constitute a Default hereunder provided a registered architect reasonably satisfactory to Landlord certifies in writing to Landlord that Tenant has completed all work necessary to obtain such Residential TCO. Landlord agrees that the Architect shall be acceptable to Landlord for purposes of certifying that Tenant has completed all work necessary to obtain the Residential TCO. In such event, Tenant shall deliver a true copy of the Residential TCO to Landlord promptly upon its issuance. Within six (6) months after the date of Substantial Completion of the Buildings, Tenant shall furnish Landlord with permanent Certificates of Occupancy for all of the Buildings duly issued by the New York City Department of Buildings, but Tenant's failure to obtain such permanent Certificate of Occupancy within such six (6) month period shall not be a Default hereunder if Tenant shall be diligently and in good faith attempting to obtain same (which attempt (i) shall include, but not be limited to, the reasonable expenditure of monies, but (ii) shall not obligate Tenant to complete construction of any interior portion of the non-residential space in the Buildings until such portion has been made subject to one or more Subleases). In any event, Tenant shall furnish Landlord with such permanent Certificate of Occupancy promptly after same has been duly issued.

Section 11.05. Subject to Article 16 hereof, at all times during the Term, the Premises and the assets of, or funds appropriated to, Landlord, shall be free and clear of all liens arising out of, or connected with, the construction of the Buildings, but the foregoing shall not modify Tenant's right to mortgage Tenant's interest in the Premises in accordance with the provisions of this Lease.

Section 11.06.

(a) The materials to be incorporated into the Buildings at any time during the Term shall, upon purchase of same and at all times thereafter, constitute the property of Landlord, and upon construction of the Buildings or the incorporation of such materials therein, title thereto shall

continue in Landlord, provided, however, (i) that Landlord shall not be liable in any manner for payment or otherwise to any contractor, subcontractor, laborer or supplier of materials in connection with the purchase of any such materials, (ii) that Landlord shall have no obligation to pay any compensation to Tenant by reason of its acquisition of title to such materials and Buildings, and (iii) that Landlord shall have no obligation with respect to the storage or care of such materials or the Buildings.

(b) All Construction Agreements with respect to construction of the Buildings shall include the following provision: "[contractor] [subcontractor] [materialman] hereby agrees that immediately upon the purchase by [contractor] [subcontractor] [materialman] of any building materials to be incorporated in the Building (as said term is defined in the lease pursuant to which the owner acquired a leasehold interest in the property), or of any building materials to be incorporated in improvements made thereto, such materials shall become the sole property of Battery Park City Authority, a public benefit corporation, notwithstanding that such materials have not been incorporated in, or made a part of, such Buildings at the time of such purchase; provided, however, that Battery Park City Authority shall not be liable in any manner for payment or otherwise to [contractor] [subcontractor] [materialman] in connection with the purchase of any such materials and Battery Park City Authority shall have no obligation to pay any compensation to [contractor] [subcontractor] [materialman] by reason of such materials becoming the sole property of Battery Park City Authority."

(c) Tenant acknowledges that by reason of this Lease and the ownership of the Buildings by Landlord, certain sales and compensating use taxes will not be incurred in connection with the construction of the Buildings. Tenant shall pay to Landlord, as payments in lieu of such sales and compensating use taxes Two Hundred and Ninety-Six Thousand Six Hundred and Twenty-Nine Dollars ($296,629), payable in eight (8) equal quarterly payments, each in the amount of $37,078.63, the first such payment to be made on the first day [illegible] following the date on which the Commencement [illegible] Construction shall occur (unless such date shall be the first day of a month in which case such payment shall be made on such date) and the succeeding payments to be made on the first day of each quarter thereafter. Such amounts payable to Landlord by Tenant shall be deemed Rental under this Lease. In the event Tenant is compelled by any Governmental Authority to pay any sales or compensating use tax in respect of materials incorporated (or to be incorporated) in the Buildings and as to which Tenant previously has made to Landlord payments in lieu of such taxes, Tenant shall receive a credit against the next installment(s) of Base Rent and PILOT in an amount equal to the amount of such taxes

(including interest and penalties) which Tenant has been compelled to pay, provided that (i) each Construction Agreement with respect to construction of the Buildings contains the provision set forth in Section 11.06(b), (ii) Tenant has notified Landlord in writing prior to payment of such taxes that a claim has been made therefor, (iii) if permitted by applicable law, Landlord has the opportunity to contest the imposition of same provided that neither Tenant's interest in the Premises nor any income derived by Tenant therefrom would, by reason of such contest, be forfeited or lost, or subject to any lien, encumbrance or charge, and Tenant would not by reason thereof be subject to any civil or criminal liability, and (iv) in no event shall the credit allowed to Tenant hereunder exceed the amount of monies paid to Landlord in lieu of such taxes pursuant to this Section.

Section 11.07. Tenant, at its sole cost and expense may, at its option, or at the request of Landlord shall furnish and install a project sign, designed, and with such text as shall be reasonably required, by Landlord, at a location on the Premises reasonably satisfactory to Landlord and Tenant. In no event shall the cost to Tenant for such project sign exceed $500. Tenant also shall extend to Landlord and any of its designee(s), the privilege of being featured participants in ground-breaking and opening ceremonies to be held at such time and in such manner as Landlord and Tenant shall agree.

Section 11.08. Tenant, at its sole cost and expense, shall remove from Battery Park City all fill excavated from the Premises and shall dispose of such fill in accordance with all applicable Requirements.

Section 11.09. Tenant acknowledges that it is aware that construction activities of other developers and of Landlord are in progress or contemplated within the Project Area. Tenant shall coordinate its construction activities at the Premises with other construction activities taking place in the Project Area, including, without limitation, those carried on by other developers in Phase II and pursuant to four Agreements of Severance Lease between Landlord and Olympia & York Battery Park Company, dated as of June 15, 1983, and those incident to the construction of the Civic Facilities and civic facilities in other portions of the Project Area. Except as specifically provided in this Lease, in no event shall Landlord or Master Landlord be liable for any delays in Tenant's construction of the Buildings attributable to other construction activity in the Project Area. In addition, Tenant shall (i) cause any and all work which Tenant is required to or does perform on, under or adjacent to any portion of any street situated in whole or in part in the Project Area to be performed in accordance with all applicable Requirements and in a manner which does not wrongfully obstruct or hinder ingress to or

egress from any portion of the Project Area, (ii) not cause, permit or suffer the storage of construction materials or the placement of vehicles not then being operated in connection with construction activities on any portion of any such street, except as may be permitted by applicable Requirements, (iii) undertake its construction activities in accordance with normal New York City construction rules and (iv) promptly repair or, if reasonably required by Landlord, replace any portion of the Civic Facilities damaged by the act or omission of Tenant or any agent, contractor or employee of Tenant, any such repair or replacement, as the case may be, to be performed (A) by using materials identical to those used by Landlord, or, if Tenant, despite its best efforts, is unable to procure such materials, using materials in quality and appearance similar to those used by Landlord and approved by Landlord, and (B) in accordance with the Civic Facilities Drawings and Specifications. Landlord shall have the right, but shall not be obligated, to erect a perimeter fence enclosing the Premises and Parcel K (as shown on the map annexed hereto as Exhibit "H" and made a part hereof) (the Premises and such parcels collectively, the "Parcels"), provided such fence shall have entrances so as to permit construction access to the Premises. In the event Landlord erects such a fence, Tenant shall not interfere with same and, if the fence shall be damaged by the act or omission of Tenant or any agent, contractor or employee of Tenant, Tenant shall promptly repair or, if reasonably required by Landlord, replace same in the manner provided in the immediately preceding clause (iv)(A). Unless such fence is in existence prior to the Commencement Date, Tenant shall enclose the Land with an 8-foot high chain-mesh fence so as to separate the Premises from the remainder of the Project Area. During construction Tenant shall maintain Tenant's fence in good condition; provided however that Tenant shall not be required to erect such a fence between the Premises and any parcels within Phase II of which Tenant or any Person comprising Tenant is a tenant. Upon substantial completion of all construction work of the Buildings, Tenant shall remove Tenant's fence and, if constructed, Landlord shall remove its fence from around the Premises. Subject to applicable Requirements, Tenant shall have the right to remove Tenant's fence at an earlier date and, if constructed, at the request of Tenant, Landlord shall remove its fence from around the Premises, if Tenant has commenced its program to lease space in the Buildings or sell Cooperative Apartments or Units.

Section 11.10. Tenant shall cause its contractors and all other workers at the Premises connected with Tenant's construction to work harmoniously with each other, and with the other contractors and workers in the Project Area, and Tenant shall not engage in, permit or suffer, any conduct which may disrupt such harmonious relationship.

Section 11.11. Tenant shall carry out construction of the Buildings in a manner which does not interfere with, delay or impede the activities of Landlord, its con-

tractors, and other contractors and developers within the Project Area. If, in Landlord's reasonable judgment, Tenant fails to comply with its obligations under this Section 11.11, Landlord may, in addition, to any other remedies it may have hereunder, order Tenant (and Tenant's contractors) to cease those activities which Landlord believes interfere with, delay or impede such other contractors or developers. No delay or other loss or hindrance of Tenant arising from any such order by Landlord or from the actions or omissions of any such contractor or developer shall form the basis for any claim by Tenant against Landlord or excuse Tenant from the full and timely performance of its obligations under this Lease except as expressly set forth in this Lease.

Section 11.12. With respect to construction on the Premises, all persons employed by Tenant will be paid, without subsequent deduction or rebate unless expressly authorized by law, not less than the minimum hourly rate required by law.

Section 11.13. Tenant shall, at all times during the construction of the Buildings and until Completion of the Buildings, secure its obligations under this Lease, including without limitation, the payment of Rental, by depositing with Landlord upon the execution of this Lease a clean irrevocable letter of credit drawn in favor of Landlord and, having a term of not less than one (1) year, payable upon presentation of sight draft in United States dollars, issued by and drawn on a recognized commercial bank or trust company which is a member of the New York Clearing House Association and, in form and content acceptable to Landlord. The amount of the letter of credit shall be Five Hundred and Six Thousand Seven Hundred and Forty-Three Dollars ($506,743). The letter of credit shall be renewed without decrease in amount each and every year as provided herein. Each renewed letter of credit shall be delivered to Landlord not less than thirty (30) days before the expiration of the then current letter of credit. If Landlord shall not have received such renewed letter of credit within such period, Landlord shall use its best efforts to notify Tenant of such fact, provided, however, Landlord's failure to so notify Tenant shall not prohibit Landlord from presenting such letter of credit for payment as hereinafter provided. Failure of Tenant to renew the letter of credit or any renewal thereof in accordance with this Section 11.13 shall entitle Landlord to present the letter of credit or renewal thereof for payment, in which event Landlord shall hold and apply the proceeds thereof (together with any interest earned thereon) as provided in Section 11.14. Notwithstanding the foregoing, provided (i) Landlord shall not have presented the letter of credit for payment and (ii) no Default shall have occurred and be continuing hereunder, then at the expiration of one (1) year from the Commencement Date, Tenant

shall have the right to reduce the letter of credit to Two Hundred and Fifty-Three Thousand Three Hundred and Seventy-One and 50/100 Dollars ($253,371.50).

Section 11.14. At any time and from time to time during the Term, so long as Tenant is required to maintain an irrevocable letter of credit pursuant to this Article, if an Event of Default shall occur under this Lease, whether or not this Lease is thereby terminated, Landlord is hereby authorized by Tenant to present the letter of credit for payment. In the event this Lease is terminated in accordance with the provisions of Article 24 or Tenant is dispossessed by summary proceedings or otherwise as provided in Section 24.03(b), Landlord is authorized by Tenant, to retain all of the proceeds thereof as liquidated damages. In the event this Lease is not terminated or Tenant is not dispossessed, Landlord is hereby authorized by Tenant to apply all or a portion of said proceeds to the payment of any sums then due or thereafter becoming due under this Lease and to the payment of any damages or costs to Landlord resulting from such Event of Default and to retain the balance thereof pending further application or payment to Tenant as hereinafter provided. Landlord shall give notice to Tenant whenever Landlord applies any portion of the proceeds and Tenant shall thereupon obtain and deliver to Landlord an irrevocable letter of credit in the same amount as, and containing terms and conditions similar to, the one presented by Landlord, and thereupon Landlord shall pay the unapplied balance to Tenant and the Event of Default with respect to which the security was applied shall be deemed cured. Unless theretofore applied by Landlord, Landlord shall deliver to Tenant the letter of credit or proceeds thereof on the date of Completion of the Buildings provided no Default shall have occurred and be continuing hereunder.

Section 11.15. Tenant agrees that all piledriving shall be performed in accordance with applicable requirements and during hours normally permitted for such work in New York City. Landlord agrees (a) to include this provision in all leases of parcels within Phase II, and (b) not to grant to any other tenant of such a parcel permission to undertake piledriving other than as provided in the section of such tenant's lease which corresponds to this Section.

Section 11.16. Landlord agrees that the leases to be entered into with other tenants of parcels within Phase II shall require such tenants to comply with requirements substantially similar to those required of Tenant pursuant to Sections 11.02(i), 11.07, 11.08, 11.09, 11.10, 11.11, 11.12 and 11.15. Landlord further agrees to enforce compliance with such requirements on a non-discriminatory basis.

ARTICLE 12

REPAIRS

Section 12.01. Tenant, at its sole cost and expense, and throughout the Term, shall take good care of the Premises (excluding Landlord's Civic Facilities), including, without limiting the generality of the foregoing, the Buildings, roofs, foundations and appurtenances thereto, all sidewalks, vaults (other than vaults which are under the control of, or are maintained or repaired by, a utility company), sidewalk hoists, water, sewer and gas connections, pipes and mains which are located on or service the Premises (unless the City of New York or a public utility company is obligated to maintain or repair same) and all Equipment, and shall put, keep and maintain the Buildings in good and safe order and condition, and make all repairs therein and thereon, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, necessary or appropriate to keep the same in good and safe order and condition, and whether or not necessitated by wear, tear, obsolescence or defects, latent or otherwise, provided, however that Tenant's obligations with respect to Restoration resulting from a casualty or condemnation shall be as provided in Articles 8 and 9 hereof. Tenant shall not commit or suffer, and shall use all reasonable precaution to prevent, waste, damage or injury to the Premises. When used in this Section 12.01, the term "repairs" shall include all necessary replacements, alterations and additions. All repairs made by Tenant shall be equal in quality and class to the original work and shall be made in compliance with (a) the laws, regulations and rules of New York City (including, but not limited to, Local Law No. 5, 1973, as amended) and all other Governmental Authorities, (b) the New York Board of Fire Underwriters or any successor thereto, and (c) the Building Code of New York City, as then in force.

Section 12.02. Tenant, at its sole cost and expense, also shall keep clean and free from dirt, snow, ice, rubbish, obstructions and encumbrances, the sidewalks, grounds, chutes and sidewalk hoists comprising, in front of, or adjacent to, the Premises and any parking facilities and plazas on the Land.

Section 12.03. Except as otherwise specifically provided in this Lease, Landlord shall not be required to furnish any services, utilities or facilities whatsoever to the Premises, nor shall Landlord have any duty or obligation to make any alteration, change, improvement, replacement, Restoration or repair to, nor to demolish, any Buildings. Tenant assumes the full and sole responsibility for the condition, operation, repair, alteration, improvement, replacement, maintenance and management of the Premises. Partic-

ularly, but without limitation of the immediately foregoing covenant, Tenant shall not clean nor require, permit, suffer nor allow any window in the Buildings to be cleaned from the outside in violation of Section 202 of the Labor Law or of the rules of the Industrial Board or other state, county or municipal department, board or body having jurisdiction.

ARTICLE 13

CHANGES, ALTERATIONS AND ADDITIONS

Section 13.01. From and after Substantial Completion of the Buildings, Tenant shall not demolish, replace or materially alter the Buildings, or any part thereof, or make any addition thereto, whether voluntarily or in connection with repairs or Restorations required by this Lease (collectively, "Capital Improvement"), unless Tenant shall comply with the following requirements and, if applicable, with the additional requirements set forth in Section 13.02:

(a) No Capital Improvement shall be undertaken until (i) Landlord shall have consented to sufficiently detailed plans and specifications therefor, pursuant to Section 13.02, and (ii) Tenant shall have procured from all Governmental Authorities and paid for all permits, consents, certificates and approvals for the proposed Capital Improvement which are required to be obtained prior to the commencement of the proposed construction (collectively, "Improvement Approvals"). Landlord shall not unreasonably refuse to join or otherwise cooperate in the application for any such Improvement Approvals, provided such application is made without cost or expense to Landlord. Copies of all such Improvement Approvals, certified by Tenant to be true copies thereof, shall be delivered to Landlord. Notwithstanding the foregoing, if the estimated cost of any proposed Capital Improvement is less than Two Hundred Fifty Thousand Dollars ($250,000) (as such amount shall be increased as provided in Section 7.02(a)), such estimated cost for all purposes under this Article 13 to be determined as provided in Section 8.02(b), Tenant (i) subject to the provisions of Section 13.02(b), shall not be obligated to obtain Landlord's consent with respect to such Capital Improvement, but (ii) shall comply with all other provisions of this Section 13.01 and Section 13.02(b) and Section 13.02(d).

(b) Any Capital Improvement, when completed, shall be of such a character as not to reduce the value of the Premises below its value immediately before construction of such Capital Improvement was commenced.

(c) Any Capital Improvement shall be made with reasonable diligence and continuity (Unavoidable Delays excepted) and in a good and workmanlike manner and in compliance with (i) all Improvement Approvals and building and zoning laws, (ii) the Master Development Plan, the Design Guidelines and, if required pursuant to Section 13.02(a), the Plans and Specifications, (iii) the plans and specifications therefor as the same may be amended and approved by Landlord when such approval is required under this Lease, (iv) the orders, rules, regulations and requirements of any Board of Fire Underwriters or any similar body having jurisdiction, and (v) all other Requirements.

(d) In connection with any Capital Improvement, the Premises and the assets of, or funds appropriated to, Landlord shall at all times be free of liens for labor and materials supplied or claimed to have been supplied to the Premises except as provided in Section 16.02.

(e) No construction of any Capital Improvement which involves work which affects the structural portion of the Buildings shall be commenced until Tenant shall have delivered to Landlord insurance policies or certificates thereof issued by responsible insurers, bearing notations evidencing the payment of premiums or accompanied by other evidence satisfactory to Landlord of such payments, for the insurance required by Section 11.03 and Article 7 hereof. If, under the provisions of any casualty, liability or other insurance policy or policies then covering the Premises or any part thereof, any consent to such Capital Improvement by the insurance company or companies issuing such policy or policies shall be required to continue and keep such policy or policies in full force and effect, Tenant, prior to the commencement of construction of the Capital Improvement, shall obtain such consents and pay any additional premiums or charges therefor that may be imposed by said insurance company or companies.

(f) Landlord shall notify Tenant of Landlord's determination with respect to any request for consent required under this Section 13.01 within fourteen (14) days of the later of (i) Landlord's receipt of the plans and specifications and such other drawings, information or samples which Landlord shall have requested in accordance with Section 13.01(a). Landlord's failure so to notify Tenant within said time period shall be deemed to constitute consent to such request.

Section 13.02.

(a) If the estimated cost of any proposed Capital Improvement shall exceed Two Hundred and Fifty Thousand Dollars ($250,000) (as such amount shall be increased as provided in Section 7.02(a)), either individually or in the ag-

gregate with other Capital Improvements constructed in any twelve (12) month period during the Term, Tenant shall:

(i) pay to Landlord the reasonable fees and expenses of any architect or engineer selected by Landlord to review the plans and specifications describing the proposed Capital Improvement and inspect the work on behalf of Landlord, which fees and expenses shall not exceed $500; and

(ii) furnish to Landlord the following:

(w) at least thirty (30) days before the commencement of any work in connection with the proposed Capital Improvement, complete specifications for the Capital Improvement and, if appropriate in Landlord's reasonable opinion, plans, prepared by a licensed professional engineer or a registered architect whose qualifications shall meet with the approval of Landlord, which approval shall not be unreasonably withheld, and, at the request of Landlord, any other drawings, information or samples to which Landlord is entitled under Article 11, all of the foregoing to be subject to Landlord's review and approval for conformity with the Master Development Plan, the Design Guidelines and, in the event such Capital Improvement is commenced within ten (10) years from the date the Buildings shall have been Substantially Completed, the Plans and Specificatons;

(x) at least ten (10) days before the commencement of any work in connection with the proposed Capital Improvement, a contract reasonably satisfactory to Landlord in form assignable to Landlord (subject to any prior assignment to any Mortgagee), made with a reputable and responsible contractor approved by Landlord, which approval shall not be unreasonably withheld, providing for (1) the completion of the Capital Improvement in accordance with the schedule included in the plans and specifications, free and clear of all liens, encumbrances, security agreements, interests and financing statements, and (2) payment and performance bonds or other security satisfying the requirements of Section 8.04(a)(ii) hereof; and

(y) at least ten (10) days before the commencement of any work in connection with the proposed Capital Improvement, an assign-

ment to Landlord (subject to any prior assignment to any Mortgagee) of the contract so furnished and the bonds or other security provided thereunder, such assignment to be duly executed and acknowledged by Tenant and by its terms to be effective only upon any termination of this Lease or upon Landlord's re-entry upon the Premises or following any Event of Default prior to the complete performance of such contract, such assignment also to include the benefit of all payments made on account of such contract, including payments made prior to the effective date of such assignment.

(b) Notwithstanding that the cost of any Capital Improvement is less than Two Hundred and Fifty Thousand Dollars ($250,000) (as such amount shall be increased as provided in Section 7.02(a)), such cost to be determined as provided in Section 8.02(b), to the extent that any portion of the Capital Improvement involves work involving the exterior of a Building or a change in the height, bulk or setback of a Building from the height, bulk or setback existing immediately prior to the Capital Improvement or in any other matter relating to or affected by the Master Development Plan or the Design Guidelines, then Tenant shall furnish to Landlord at least thirty (30) days before the commencement of the Capital Improvement, complete specifications for the Capital Improvement and, if appropriate in Landlord's reasonable opinion, plans, prepared by a licensed professional engineer or registered architect whose qualifications shall meet with the approval of Landlord, which approval shall not be unreasonably withheld, and, at Landlord's request, such other items designated in clause (w) of Section 13.02(a)(ii) hereof, all of the foregoing to be subject to Landlord's review and approval as provided therein.

(c) Landlord shall notify Tenant of Landlord's determination with respect to any request for approval required under this Section 13.02 within fourteen (14) days of the later of (i) Landlord's receipt of such request from Tenant and (ii) Landlord's receipt of the plans and specifications and the drawings, information or samples which Landlord shall have requested in accordance with Section 13.02 (a)(ii)(w). Landlord's failure to so notify Tenant within said time period shall be deemed to constitute approval.

(d) In the event that Tenant shall desire to modify the plans and specifications which Landlord theretofore has approved pursuant to Section 13.02(a)(ii)(w) with respect to, or which will in any way affect, any aspect of the exterior of the Buildings or which will affect compliance with the Design Guidelines or the Master Development Plan, Tenant shall submit the proposed modifications to Landlord.

Tenant shall not be required to submit to Landlord proposed modifications of the plans and specifications which affect solely the interior of the Buildings. Landlord shall review the proposed changes to determine whether or not they (i) conform to the Master Development Plan and the Design Guidelines and (ii) provide for design, finishes and materials which are comparable in quality to those provided for in the approved plans and specifications and shall approve such proposed changes if they do so conform and so provide. If Landlord determines that the proposed changes are not satisfactory in light of the above criteria, it shall so advise Tenant, specifying in what respect the plans and specifications, as so modified, do not conform to the Master Development Plan or the Design Guidelines or do not provide for design, finishes and materials which are comparable in quality to those provided for in the approved plans and specifications. Within twenty (20) Business Days, Tenant shall revise the plans and specifications so as to meet Landlord's objections and shall deliver same to Landlord for review. Each review by Landlord shall be carried out within ten (10) Business Days of the date of delivery of the plans and specifications, as so revised (or one or more portions thereof), by Tenant, and if Landlord shall not have notified Tenant of its determination within such period, it shall be deemed to have determined that the proposed changes are satisfactory. Landlord shall not review portions of the approved plans and specifications which Landlord has previously determined to be satisfactory, provided same have not been changed by Tenant.

Section 13.03. All Capital Improvements shall be carried out under the supervision of an architect selected by Tenant and approved in writing by Landlord, which approval shall not be unreasonably withheld. Upon completion of any Capital Improvement Tenant shall furnish to Landlord a complete set of "as-built" plans for such Capital Improvement if such plans were submitted to Landlord for approval, and, where applicable, a survey meeting the requirements of Section 11.04 hereof, together with a permanent Certificate of Occupancy therefor issued by the New York City Department of Buildings, to the extent a modification thereof was required.

Section 13.04. Title to all additions, alterations, improvements and replacements made to the Buildings, including without limitation, the Capital Improvements, shall forthwith vest in Landlord as provided in Section 11.06, without any obligation by Landlord to pay any compensation therefor to Tenant.

ARTICLE 14

REQUIREMENTS OF PUBLIC AUTHORITIES AND OF INSURANCE UNDERWRITERS AND POLICIES; COMPLIANCE WITH MASTER LEASE

Section 14.01. Tenant, at its sole cost and expense, promptly shall comply with any and all applicable present and future laws, rules, orders, ordinances, regulations, statutes, requirements, codes and executive orders (collectively, "Requirements") without regard to the nature or cost of the work required to be done, extraordinary, as well as ordinary, of any and all Governmental Authorities now existing or hereafter created, and of any and all of their departments and bureaus, of any applicable Fire Rating Bureau or other body exercising similar functions, affecting the Premises or any street, avenue or sidewalk comprising a part or in front thereof or any vault in or under the same, or requiring the removal of any encroachment, or affecting the construction, maintenance, use, operation, management or occupancy of the Premises, whether or not the same involve or require any structural changes or additions in or to the Premises, and without regard to whether or not such changes or additions are required on account of any particular use to which the Premises, or any part thereof, may be put. Notwithstanding the foregoing, Tenant shall not be required to comply with Requirements of Landlord (other than New York City solely in its capacity as a Governmental Authority) except as otherwise expressly provided in this Lease. Tenant also shall comply with any and all provisions and requirements of any casualty, liability or other insurance policy required to be carried by Tenant under the provisions of this Lease.

Section 14.02. Tenant shall have the right to contest the validity of any Requirements or the application thereof at Tenant's sole cost and expense. During such contest, compliance with any such contested Requirements may be deferred by Tenant upon condition that, if Tenant is not an Institutional Lender, before instituting any such proceedings, Tenant shall furnish to Landlord a bond, cash or other security reasonably satisfactory to Landlord, securing compliance with the contested Requirements and payment of all interest, penalties, fines, fees and expenses in connection therewith. Any such proceeding instituted by Tenant shall be begun as soon as is reasonably possible after the issuance of any such contested matters, or after notice (actual or constructive) to Tenant of the applicability of such matters to the Premises and shall be prosecuted to final adjudication with reasonable dispatch. Notwithstanding the foregoing, Tenant promptly shall comply with any such Requirements and compliance shall not be deferred if such non-compliance shall result in the imminent loss or forfeit-

ure of the Premises, or any part thereof or if Landlord shall be in danger of being subject to criminal liability or penalty by reason of non-compliance therewith. Landlord agrees that it shall cooperate with Tenant in any such contest to such extent as Tenant may reasonably request, it being understood, however, that Landlord shall not be subject to any liability for the payment of any costs or expense in connection with any proceeding brought by Tenant.

Section 14.03. Tenant shall not cause or create or permit to exist or occur any condition or event relating to the Premises which would, with or without notice or passage of time, result in an event of default under the Master Lease. Tenant shall, at its sole cost and expense, perform all of Landlord's obligations as tenant under the Master Lease relating to the maintenance and operation of the Premises unless, in accordance with the terms of this Lease, Landlord is specifically obligated to perform any such obligation.

ARTICLE 15

EQUIPMENT

Section 15.01. All Equipment shall be and shall remain the property of Landlord. Tenant shall not have the right, power or authority to, and shall not, remove any Equipment from the Premises without the prior consent of Landlord, which consent shall not be unreasonably withheld, provided, however, such consent shall not be required in connection with repairs, cleaning or other servicing, or if (subject to Unavoidable Delays) the same is promptly replaced by Equipment which is at least equal in utility and value to the Equipment being removed. Notwithstanding the foregoing, Tenant shall not be required to replace any Equipment which performed a function which has become obsolete or otherwise is no longer necessary or desirable in connection with the use or operation of the Premises, unless such failure to replace would reduce the value of the Premises or would result in a reduced level of maintenance of the Premises, in which case Tenant shall be required to install such Equipment as may be necessary to prevent such reduction in the value of the Premises or in the level of maintenance.

Section 15.02. Tenant shall keep all Equipment in good order and repair and shall replace the same when necessary with items at least equal in utility and value to the Equipment being replaced.

ARTICLE 16

DISCHARGE OF LIENS; BONDS

Section 16.01. Subject to the provisions of Section 16.02 hereof, except as otherwise expressly provided herein, Tenant shall not create or permit to be created any lien, encumbrance or charge upon the Premises or any part thereof, or the Project Area or any part thereof, the income therefrom or any assets of, or funds appropriated to, Landlord, and Tenant shall not suffer any other matter or thing whereby the estate, rights and interest of Landlord in the Premises or any part thereof might be impaired.

Section 16.02. If any mechanic's, laborer's or materialman's lien (other than a lien arising out of any work performed by Landlord) at any time shall be filed in violation of the obligations of Tenant pursuant to Section 16.01 against the Premises or any part thereof or the Project Area or any part thereof, or, if any public improvement lien created or permitted to be created by Tenant shall be filed against any assets of, or funds appropriated to, Landlord, Tenant, within thirty (30) days after notice of the filing thereof, or such shorter period as may be required by any Mortgagee, shall cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If Tenant shall fail to cause such lien to be discharged of record within the period aforesaid, and if such lien shall continue for an additional ten (10) days after notice by Landlord to Tenant, then, in addition to any other right or remedy, Landlord may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings, and in any such event, Landlord shall be entitled, if Landlord so elects, to compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest, costs and allowances. Any amount so paid by Landlord, including all reasonable costs and expenses incurred by Landlord in connection therewith, together with interest thereon at the Involuntary Rate, from the respective dates of Landlord's making of the payment or incurring of the costs and expenses, shall continue Rental payable by Tenant under this Lease and shall be paid by Tenant to Landlord on demand. Notwithstanding the foregoing provisions of this Section 16.02, Tenant shall not be required to discharge any such lien if Tenant is in good faith contesting the same and has furnished a cash deposit or a security bond or other such security reasonably satisfactory to Landlord in an amount sufficient to pay such lien with interest and penalties.

Section 16.03. Nothing in this Lease contained shall be deemed or construed in any way as constituting the consent or request of Landlord, express or implied, by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration to or repair of the Premises or any part thereof, nor as giving Tenant any right, power or authority to contract for or permit the rendering of any services or the furnishing of materials that would give rise to the filing of any lien against Landlord's interest in the Premises or any part thereof, the Project Area or any part thereof, or any assets of, or funds appropriated to, Landlord. Notice is hereby given, and Tenant shall cause all Construction Agreements to provide, that Landlord shall not be liable for any work performed or to be performed at the Premises for Tenant or any Subtenant for any materials furnished or to be furnished at the Premises for any of the foregoing, and that no mechanic's or other lien for such work or materials shall attach to or affect the estate or interest of Landlord in and to the Premises or any part thereof, or any assets of, or funds appropriated to, Landlord.

Section 16.04. Tenant shall have no power to do any act or make any contract which may create or be the foundation for any lien, mortgage or other encumbrance upon the estate or assets of, or funds appropriated to, Landlord or of any interest of Landlord in the Premises.

ARTICLE 17

NO REPRESENTATIONS BY LANDLORD; POSSESSION

Section 17.01. Tenant acknowledges that Tenant is fully familiar with the Land, the physical condition thereof (including, without limitation, the fact that the Premises include substantial portions of landfill which may present special difficulties in the design, construction and maintenance of the Buildings), the Title Matters, the Master Lease, the Master Development Plan and the Design Guidelines. Tenant accepts the Land in its existing condition and state of repair, and Tenant agrees that, except as otherwise expressly set forth in this Lease, no representations, statements, or warranties, express or implied, have been made by or on behalf of Landlord in respect of the Premises, the status of title thereof, the physical condition thereof, including, without limitation, the landfill portions thereof, the zoning or other laws, regulations, rules and orders applicable thereto, Taxes, or the use that may be made of the Land, that Tenant has relied on no such representations, statements or warranties, and that Landlord shall in no event whatsoever be liable for any latent or patent defects in the Land.

Section 17.02. Notwithstanding anything herein contained to the contrary, Landlord represents that the Master Lease, Design Guidelines, Master Development Plan and Settlement Agreement have not been amended, modified or supplemented, except as specifically set forth in the definitions contained in Article 1.

Section 17.03. Landlord will deliver possession of the Land on the Commencement Date vacant and free of occupants and tenancies, subject to the Title Matters.

ARTICLE 18

LANDLORD NOT LIABLE FOR INJURY OR DAMAGE, ETC.

Section 18.01. Landlord shall not in any event whatsoever be liable for any injury or damage to Tenant or to any other Person happening on, in or about the Premises and its appurtenances, nor for any injury or damage to the Premises or to any property belonging to Tenant or to any other Person which may be caused by any fire or breakage, or by the use, misuse or abuse of any of the Buildings (including, but not limited to, any of the common areas within the Buildings, Equipment, elevators, hatches, openings, installations, stairways, hallways, or other common facilities), or the streets or sidewalk area within the Premises or which may arise from any other cause whatsoever except to the extent any of the foregoing shall have resulted from the negligence or wrongful act of Landlord, its officers, agents, employees or licensees; nor shall Landlord in any event be liable for the acts or failure to act of any other tenant of any premises within the Project Area other than the Premises, or of any agent, representative, employee, contractor or servant of such other tenant.

Section 18.02. Landlord shall not be liable to Tenant or to any other Person for any failure of water supply, gas or electric current, nor for any injury or damage to any property of Tenant or of any other Person or to the Premises caused by or resulting from gasoline, oil, steam, gas, electricity, or hurricane, tornado, flood, wind or similar storms or disturbances, or water, rain or snow which may leak or flow from the street, sewer, gas mains or subsurface area or from any part of the Premises, or leakage of gasoline or oil from pipes, appliances, sewer or plumbing works therein, or from any other place, nor for interference with light or other incorporeal hereditaments by anybody, or caused by any public or quasi-public work except to the extent any of the foregoing shall have resulted from the negligence or wrongful act of Landlord, its officers, agents, employees or licensees.

Section 18.03. In addition to the provisions of Sections 18.01 and 18.02, in no event shall Landlord be liable to Tenant or to any other Person for any injury or damage to any property of Tenant or of any other Person or to the Premises, arising out of any sinking, shifting, movement, subsidence, failure in load-bearing capacity of, or other matter or difficulty related to, the soil, or other surface or subsurface materials, on the Premises, it being agreed that Tenant shall assume and bear all risk of loss with respect thereto.

ARTICLE 19

INDEMNIFICATION OF LANDLORD AND OTHERS

Section 19.01. Tenant shall not do, or knowingly permit any Subtenant, Unit Owner, Tenant-Stockholder or sublessee of a Unit or Cooperative Apartment or any employee, agent or contractor of Tenant or of any Subtenant, Unit Owner, Tenant-Stockholder or sublessee of a Unit or Cooperative Apartment to do any act or thing upon the Premises or elsewhere in the Project Area which may reasonably be likely to subject Landlord or any former Landlord to any liability or responsibility for injury or damage to persons or property, or to any liability by reason of any violation of law or any other Requirement, and shall use its best efforts to exercise such control over the Premises so as to fully protect Landlord and any former Landlord against any such liability. Subject to Section 41.08, Tenant, to the fullest extent permitted by law, shall indemnify and save Landlord, any former Landlord and the State of New York and their agents, directors, officers and employees (collectively, the "Indemnitees"), harmless from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including, without limitation, engineers', architects' and attorneys' fees and disbursements, which may be imposed upon or incurred by or asserted against any of the Indemnitees by reason of any of the following occurring during the Term, except (i) to the extent that the same shall have been caused in whole or in part by the negligence or wrongful act of any of the Indemnitees and (ii) Tenant shall not be obligated to indemnify any of the Indemnitees with respect to consequential damages:

(a) construction of the Buildings or any other work or thing done in or on the Premises or any part thereof;

(b) any use, non-use, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Premises or any part thereof or of any

street, alley, sidewalk, curb, vault, passageway or space comprising a part of the Premises or adjacent thereto, provided such indemnity with regard to streets, alleys, sidewalks, curbs, vaults, passageways and other space is limited to an alteration, repair, condition, or maintenance of any street, alley, sidewalk, curb, vault, passageway or other space done or performed by Tenant or any agent, contractor, servant or employee of Tenant or which Tenant is obligated to do or perform;

(c) any negligent or tortious act or failure to act (or act which is alleged to be negligent or tortious) within the Project Area on the part of Tenant or any agent, contractor, servant or employee of Tenant;

(d) any accident, injury (including death at any time resulting therefrom) or damage to any Person or property occurring in or on the Premises or any part thereof or in, or or about any sidewalk or vault;

(e) any failure on the part of Tenant to perform or comply with any of the covenants, agreements, terms or conditions contained in this Lease on its part to be performed or complied with;

(f) any lien or claim which may have arisen out of any act of Tenant or any agent, contractor, servant or employee of Tenant against or on the Premises or any other portion of the Project Area, or any lien or claim created or permitted to be created by Tenant in respect of the Premises against any assets of, or funds appropriated to any of the Indemnitees under the laws of the State of New York or of any other Governmental Authority or any liability which may be asserted against any of the Indemnitees with respect thereto;

(g) any failure on the part of Tenant to keep, observe and perform any of the terms, covenants, agreements, provisions, conditions or limitations contained in the Construction Agreements, Subleases, or other contracts and agreements affecting the Premises, on Tenant's part to be kept, observed or performed; or

(h) any contest by Tenant permitted pursuant to the provisions of this Lease, including, without limitation, Articles 4, 14 and 28 hereof.

Section 19.02. The obligations of Tenant under this Article 19 shall not be affected in any way by the absence in any case of covering insurance or by the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies affecting the Premises.

Section 19.03. If any claim, action or proceeding is made or brought against any of the Indemnitees by reason

of any event for which Tenant has agreed to indemnify the Indemnitees in Section 19.01, then, upon demand by Landlord, Tenant, at its sole cost and expense, shall resist or defend such claim, action or proceeding (in such Indemnitee's name, if necessary) by the attorneys for Tenant's insurance carrier (if such claim, action or proceeding is covered by insurance maintained by Tenant) or (in all other instances) by such attorneys as Tenant shall select and Landlord shall approve, which approval shall not be unreasonably withheld. In such event, Tenant shall control all decisions in respect of the litigation and settlement of such claims. Notwithstanding the foregoing, Landlord may engage its own attorneys to defend it or to assist in its defense. Provided such claim, action or proceeding is not covered by insurance maintained by Tenant and the attorneys engaged by Landlord are experienced in matters of the type in question, Tenant shall pay the reasonable fees and disbursements of such attorneys. In the event such claim, action or proceeding is covered by insurance and Tenant's insurer refuses to pay all or any portion of the fees and disbursements of any attorneys separately retained by Landlord, Landlord shall pay such fees and disbursements or such portion as shall not be paid by Tenant's insurer. The indemnification obligations imposed upon Tenant under Section 19.01 shall not apply to any settlement separately agreed to by Landlord without Tenant's written consent, nor if Landlord retains its own attorneys and such retention will materially impair or materially diminish Tenant's insurance coverage and Landlord has been so advised in writing by Tenant's insurer.

Section 19.04. The provisions of this Article 19 shall survive the Expiration Date with respect to actions or the failure to take any actions or any other matter arising prior to the Expiration Date.

ARTICLE 20

RIGHT OF INSPECTION, ETC.

Section 20.01. Tenant shall permit Landlord and its agents or representatives to enter the Premises at all reasonable times and upon reasonable notice (except in cases of emergency) for the purpose of (a) inspecting the same, (b) determining whether or not Tenant is in compliance with its obligations hereunder, (c) constructing, maintaining and inspecting any Civic Facilities, and (d) making any necessary repairs to the Premises and performing any work therein that may be necessary by reason of Tenant's failure to make any such repairs or perform any such work, provided that, except in any emergency, Landlord shall have given Tenant a notice specifying such repairs or work and Tenant shall have failed to make said repairs or to do such work within thirty

(30) days after the giving of such notice (subject to Unavoidable Delays), or if said repairs or such work cannot reasonably be completed during such thirty (30) day period, to have commenced and be diligently pursuing the same (subject to Unavoidable Delays).

Section 20.02. Nothing in this Article 20 or elsewhere in this Lease shall imply any duty upon the part of Landlord to do any work required to be performed by Tenant hereunder and performance of any such work by Landlord shall not constitute a waiver of Tenant's default in failing to perform the same. Landlord, during the progress of any such work, may keep and store at the Premises all necessary materials, tools, supplies and equipment. Landlord shall not be liable for inconvenience, annoyance, disturbance, loss of business or other damage of Tenant or any Subtenant by reason of making such repairs or the performance of any such work, or on account of bringing materials, tools, supplies and equipment into the Premises during the course thereof and the obligations of Tenant under this Lease shall not be affected thereby. To the extent that Landlord undertakes such work or repairs, such work or repairs shall be commenced and completed in a good and workmanlike manner, in accordance with the Design Guidelines and Master Development Plan, if applicable, and with reasonable diligence, subject to Unavoidable Delays, and in such a manner as not to unreasonably interfere with the conduct of business in or use of such space.

ARTICLE 21

LANDLORD'S RIGHT TO PERFORM TENANT'S COVENANTS

Section 21.01. If Tenant at any time shall be in Default of any of its obligations under this Lease, after notice thereof and after applicable grace periods, if any, provided under this Lease for Tenant or a Mortgagee, respectively, to cure or commence to cure same, Landlord, without waiving or releasing Tenant from any obligation of Tenant contained in this Lease, may (but shall be under no obligation to) perform such obligation on Tenant's behalf.

Section 21.02. All reasonable sums paid by Landlord and all reasonable costs and expenses incurred by Landlord in connection with its performance of any obligation pursuant to Section 21.01, together with interest thereon at the Involuntary Rate from the respective dates of Landlord's making of each such payment or incurring of each such sum, cost, expense, charge, payment or deposit until the date of actual repayment to Landlord, shall be paid by Tenant to Landlord on demand. Any payment or performance by Landlord pursuant to Section 21.01 shall not be nor be deemed to be a

waiver or release of breach or Default of Tenant with respect thereto or of the right of Landlord to terminate this Lease, institute summary proceedings or take such other action as may be permissible hereunder if an Event of Default by Tenant shall have occurred. Landlord shall not be limited in the proof of any damages which Landlord may claim against Tenant arising out of or by reason of Tenant's failure to provide and keep insurance in force as aforesaid to the amount of the insurance premium or premiums not paid, but Landlord also shall be entitled to recover, as damages for such breach, the uninsured amount of any loss and damage and the reasonable costs and expenses of suit, including, without limitation, reasonable attorneys' fees and disbursements, suffered or incurred by reason of damage to or destruction of the Premises.

ARTICLE 22

NO ABATEMENT OF RENTAL

Except as may be otherwise expressly provided herein, there shall be no abatement, off-set, diminution or reduction of Rental payable by Tenant hereunder or of the other obligations of Tenant hereunder under any circumstances.

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.01. Subject to the provisions of law and this Lease, Tenant shall occupy the Premises in accordance with the Certificate or Certificates of Occupancy for the Premises, the Master Development Plan and the Design Guidelines, and for no other use or purposes.

Section 23.02. Tenant shall not use or occupy, nor permit or suffer the Premises or any part thereof to be used or occupied for any unlawful or illegal business, use or purpose, or in such manner as to constitute a nuisance of any kind (public or private) or that Landlord, in its reasonable judgment, deems offensive by reason of odors, fumes, dust, smoke, noise or other pollution, or for any purpose or in any way in violation of the Certificates of Occupancy or of any governmental laws, ordinances, requirements, orders, directions, rules or regulations, or which may make void or voidable any insurance then in force on the Premises or, without Landlord's prior consent, for any use which requires a special permit under the Zoning Resolution of the City of New York as then in effect. Tenant shall take, immediately

upon the discovery of any such unpermitted, unlawful, illegal or extra hazardous use, all necessary actions, legal and equitable, to compel the discontinuance of such use. If for any reason Tenant shall fail to take such actions, and such failure shall continue for thirty (30) days after notice from Landlord to Tenant, Landlord is hereby irrevocably authorized to take all such actions in Tenant's name and on Tenant's behalf, Tenant hereby appointing Landlord as Tenant's attorney-in-fact for all such purposes.

Section 23.03. Tenant shall not knowingly suffer or permit the Premises or any portion thereof to be used by the public in such manner as might reasonably tend to impair title to the Premises or any portion thereof, or in such manner as might reasonably make possible a claim or claims of adverse usage or adverse possession by the public, as such, or of implied dedication of the Premises or any portion thereof.

Section 23.04. Tenant shall take all such actions as Landlord is required to take in connection with the use and occupancy of the Premises under the terms of the Master Lease, and Tenant shall not (to the extent reasonably within Tenant's control) permit any action or condition in respect of the Premises which constitutes or would, with notice or lapse of time or both, constitute an "Event of Default" under the terms of the Master Lease. Landlord shall perform all obligations of tenant under the Master Lease other than those which are the obligation of Tenant under this Lease and related documents.

ARTICLE 24

EVENTS OF DEFAULT; CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.01. Each of the following events shall be an "Event of Default" hereunder:

(a) if Tenant shall fail to pay any installment of Rental, or any part thereof, when the same shall become due and payable and such failure shall continue for ten (10) days after notice from Landlord to Tenant;

(b) if (i) Commencement of Construction shall not have occurred on or before the Construction Commencement Date (subject to Unavoidable Delays) and such failure shall continue for twenty-five (25) days after notice from Landlord to Tenant or (ii) Substantial Completion of the Buildings shall not have occurred within thirty-six (36) months from the Construction Commencement Date (subject to Unavoidable Delays);

(c) if Tenant shall fail to perform (subject to Unavoidable Delays) any of Tenant's obligations under the provisions of Article 11 of this Lease (other than the obligations referred to in the preceding Section 24.01(b)) and such failure shall continue for thirty (30) days after notice thereof from Landlord to Tenant specifying such failure (unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot by their nature or because of Unavoidable Delays reasonably be performed, done or removed, as the case may be, within such thirty (30) day period, in which case no Event of Default shall be deemed to exist as long as Tenant shall have commenced curing the same within such thirty (30) day period and shall, subject to Unavoidable Delays, diligently and continuously prosecute the same to completion);

(d) if Tenant shall fail to observe or perform one or more of the other terms, conditions, covenants or agreements contained in this Lease and such failure shall continue for a period of thirty (30) days after notice thereof by Landlord to Tenant specifying such failure (unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot by their nature or because of Unavoidable Delays reasonably be performed, done or removed, as the case may be, within such thirty (30) day period, in which case no Event of Default shall be deemed to exist as long as Tenant shall have commenced curing the same within such thirty (30) day period and shall, subject to Unavoidable Delays, diligently and continuously prosecute the same to completion);

(e) to the extent permitted by law, if Tenant shall admit, in writing, that it is unable to pay its debts as such become due, provided, however, this provision shall be of no further force or effect upon the submission by Tenant of its estate in the Premises to either a cooperative or condominium form of ownership in accordance with the provisions of this Lease;

(f) to the extent permitted by law, if Tenant shall make an assignment for the benefit of creditors, provided, however, this provision shall be of no further force or effect upon the submission by Tenant of its estate in the Premises to either a cooperative or condominium form of ownership in accordance with the provisions of this Lease;

(g) to the extent permitted by law, if Tenant shall file a voluntary petition under Title 11 of the United States Code or if such petition is filed against it, and an order for relief is entered, or if Tenant shall file any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, other present or future applicable federal, state or other statute or law,

or shall seek or consent to or acquiesce in or suffer the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Tenant, or of all or any substantial part of its properties or of the Premises or any interest therein of Tenant, or if Tenant shall take any corporate action in furtherance of any action described in Sections 24.01(e), (f) or (g) hereof, provided, however, this provision shall be of no further force or effect upon the submission by Tenant of its estate in the Premises to either a cooperative or condominium form of ownership in accordance with the provisions of this Lease;

(h) to the extent permitted by law, if within ninety (90) days after the commencement of any proceeding against Tenant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other statute or law, such proceeding shall not have been dismissed, or if, within ninety (90) days after the appointment, without the consent or acquiescence of Tenant, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Tenant or of all or any substantial part of its properties or of the Premises or any interest therein of Tenant, such appointment shall not have been vacated or stayed on appeal or otherwise, or if, within thirty (30) days after the expiration of any such stay, such appointment shall not have been vacated, provided, however, this provision shall be of no further force or effect upon the submission by Tenant of its estate in the Premises to either a cooperative or condominium form of ownership in accordance with the provisions of this Lease;

(i) if Tenant shall abandon the Premises;

(j) if this Lease or the estate of Tenant hereunder shall be assigned, subleased, transferred, mortgaged or encumbered, or there shall be a Transfer, without Landlord's approval to the extent required hereunder or without compliance with the provisions of this Lease applicable thereto and such transaction shall not be made to comply or voided ab initio within thirty (30) days after notice thereof from Landlord to Tenant; or

(k) if a levy under execution or attachment shall be made against the Premises and such execution or attachment shall not be vacated or removed by court order, bonding or otherwise within a period of thirty (30) days; or

(l) if Tenant shall at any time fail to maintain its corporate existence in good standing, or to pay any corporate franchise tax when and as the same shall become due

and payable and such failure shall continue for sixty (60) days after notice thereof from Landlord or any governmental agency to Tenant; or

(m) if, prior to Commencement of Construction, an Event of Default (as such term is defined in the Site A Lease) shall have occurred and shall not have been remedied within the applicable time periods set forth in the Site A Lease.

Section 24.02. If an Event of Default shall occur, Landlord may elect to declare due and payable a sum equal to the amount by which the Rental reserved in this Lease for the unexpired portion of the Term exceeds the fair and reasonable rental value of the Premises for the same period, both discounted to present worth at the rate of eight percent (8%) per annum, such sum shall be due and payable ten (10) days after notice by Landlord to Tenant of such election. However, the aforesaid remedy shall not be applicable to a Mortgagee which elects to cure the Default of Tenant pursuant to Section 10.10 or receives a new lease pursuant to Section 10.11. Landlord may also elect to proceed by appropriate judicial proceedings, either at law or in equity, to enforce performance or observance by Tenant of the applicable provisions of this Lease and/or to recover damages for breach thereof.

Section 24.03.

(a) If any Event of Default (i) described in Sections 24.01(e), (f), (g), or (h) hereof shall occur, or (ii) described in Sections 24.01(b), (c), (d), (i), (j), (k), (l) or (m) shall occur and Landlord, at any time thereafter, at its option, gives written notice to Tenant stating that this Lease and the Term shall expire and terminate on the date specified in such notice, which date shall be not less than twenty (20) days after the giving of such notice, and if, on the date specified in such notice, Tenant shall have failed to cure the Default which was the basis for the Event of Default, then this Lease and the Term and all rights of Tenant under this Lease shall expire and terminate as of the date on which the Event of Default described in clause (i) above occurred or the date specified in the notice given pursuant to clause (ii) above, as the case may be, were the date herein definitely fixed for the expiration of the Term and Tenant immediately shall quit and surrender the Premises. Anything contained herein to the contrary notwithstanding, if such termination shall be stayed by order of any court having jurisdiction over any proceeding described in Sections 24.01(g) or 24.01(h) hereof, or by federal or state statute, then, following the expiration of any such stay, or if the trustee appointed in any such proceeding, Tenant or Tenant as debtor-in-possession shall fail to assume Tenant's obligations under this Lease within the period prescribed

therefor by law or within one hundred twenty (120) days after entry of the order for relief or as may be allowed by the court, or if said trustee, Tenant or Tenant as debtor-in-possession shall fail to provide adequate protection of Landlord's right, title and interest in and to the Premises or adequate assurance of the complete and continuous future performance of Tenant's obligations under this Lease as provided in Section 24.15 hereof, Landlord, to the extent permitted by law or by leave of the court having jurisdiction over such proceeding, shall have the right, at its election, to terminate this Lease on ten (10) days' notice to Tenant, Tenant as debtor-in-possession or said trustee and upon the expiration of said ten (10) day period this Lease shall cease and expire as aforesaid and Tenant, Tenant as debtor-in-possession and/or trustee shall immediately quit and surrender the Premises as aforesaid.

(b) If an Event of Default described in Section 24.01(a) shall occur, or this Lease shall be terminated as provided in Section 24.03(a), Landlord, without notice, may re-enter and repossess the Premises using such force for that purpose as may be necessary without being liable to indictment, prosecution or damages therefor and may dispossess Tenant by summary proceedings or otherwise.

Section 24.04. If this Lease shall be terminated as provided in Section 24.03(a) or Tenant shall be dispossessed by summary proceedings or otherwise as provided in Section 24.03(b) hereof,

(a) Tenant shall pay to Landlord all Rental payable by Tenant under this Lease to the date upon which this Lease and the Term shall have expired and come to an end or to the date of re-entry upon the Premises by Landlord, as the case may be;

(b) Landlord may complete all construction required to be performed by Tenant hereunder and may repair and alter the Premises in such manner as Landlord may deem necessary or advisable (and may apply to the foregoing all funds, if any, then held by the Depository pursuant to Articles 7, 8, or 9 or by Landlord under the letter of credit referred to in Section 11.13) without relieving Tenant of any liability under this Lease or otherwise affecting any such liability, and/or let or relet the Premises or any parts thereof for the whole or any part of the remainder of the Term or for a longer period, in Landlord's name or as agent of Tenant, and out of any rent and other sums collected or received as a result of such reletting Landlord shall: (i) first, pay to itself the reasonable cost and expense of terminating this Lease, re-entering, retaking, repossessing, completing construction and repairing or altering the Premises, or any part thereof, and the cost and expense of removing all persons and property therefrom, including in such

costs brokerage commissions, legal expenses and reasonable attorneys' fees and disbursements, (ii) second, pay to itself the reasonable cost and expense sustained in securing any new tenants and other occupants, including in such costs brokerage commissions, legal expenses and reasonable attorneys' fees and disbursements and other expenses of preparing the Premises for reletting, and, if Landlord shall maintain and operate the Premises, the reasonable cost and expense of operating and maintaining the Premises, and (iii) third, pay to itself any balance remaining on account of the liability of Tenant to Landlord; Landlord in no way shall be responsible or liable for any failure to relet the Premises or any part thereof, or for any failure to collect any rent due on any such reletting, and no such failure to relet or to collect rent shall operate to relieve Tenant of any liability under this Lease or to otherwise affect any such liability;

(c) if Landlord shall not have declared all Base Rent due and payable pursuant to Section 24.02 hereof, Tenant shall be liable for and shall pay to Landlord, as damages, any deficiency (referred to as "Deficiency") between the Rental reserved in this Lease for the period which otherwise would have constituted the unexpired portion of the Term and the net amount, if any, of rents collected under any reletting effected pursuant to the provisions of Section 24.04(b) for any part of such period (first deducting from the rents collected under any such reletting all of the payments to Landlord described in Section 24.04(b) hereof; any such Deficiency shall be paid in installments by Tenant on the days specified in this Lease for payment of installments of Rental, and Landlord shall be entitled to recover from Tenant each Deficiency installment as the same shall arise, and no suit to collect the amount of the Deficiency for any installment period shall prejudice Landlord's right to collect the Deficiency for any subsequent installment period by a similar proceeding; and

(d) if Landlord shall not have declared all Base Rent due and payable pursuant to Section 24.02 hereof, and whether or not Landlord shall have collected any Deficiency installments as aforesaid, Landlord shall be entitled to recover from Tenant, and Tenant shall pay to Landlord, on demand, in lieu of any further Deficiencies, as and for liquidated and agreed final damages (it being agreed that it would be impracticable or extremely difficult to fix the actual damage), a sum equal to the amount by which the Rental reserved in this Lease for the period which otherwise would have constituted the unexpired portion of the Term exceeds the then fair and reasonable rental value of the Premises for the same period, both discounted to present worth at the rate of eight (8%) per cent per annum less the aggregate amount of Deficiencies theretofore collected by Landlord pursuant to the provisions of Section 24.04(c) for the same period; it being agreed that before presentation of

proof of such liquidated damages to any court, commission or tribunal, if the Premises, or any part thereof, shall have been relet by Landlord for the period which otherwise would have constituted the unexpired portion of the Term, or any part thereof, the amount of rent reserved upon such reletting shall be deemed, prima facie, to be the fair and reasonable rental value for the part or the whole of the Premises so relet during the term of the reletting.

Section 24.05. No termination of this Lease pursuant to Section 24.03(a) or taking possession of or reletting the Premises, or any part thereof, pursuant to Sections 24.03(b) and 24.04(b), shall relieve Tenant of its liabilities and obligations hereunder, all of which shall survive such expiration, termination, repossession or reletting.

Section 24.06. To the extent not prohibited by law, Tenant hereby waives and releases all rights now or hereafter conferred by statute or otherwise which would have the effect of limiting or modifying any of the provisions of this Article 24. Tenant shall execute, acknowledge and deliver any instruments which Landlord may request, whether before or after the occurrence of an Event of Default, evidencing such waiver or release.

Section 24.07. Suit or suits for the recovery of damages, or for a sum equal to any installment or installments of Rental payable hereunder or any Deficiencies or other sums payable by Tenant to Landlord pursuant to this Article 24, may be brought b Landlord from time to time at Landlord's election, and nothing herein contained shall be deemed to require Landlord to await the date whereon this Lease or the Term would have expired had there been no Event of Default by Tenant and termination.

Section 24.08. Nothing contained in this Article 24 shall limit or prejudice the right of Landlord to prove and obtain as liquidated damages in any bankruptcy, insolvency, receivership, reorganization or dissolution proceeding an amount equal to the maximum allowed by statute or rule of law governing such proceeding and in effect at the time when such damages are to be proved, whether or not such amount shall be greater than, equal to or less than the amount of the damages referred to in any of the preceding Sections of this Article 24.

Section 24.09. No receipt of moneys by Landlord from Tenant after the termination of this Lease, or after the giving of any notice of the termination of this Lease (unless such receipt cures the Event of Default which was the basis for the notice), shall reinstate, continue or extend the Term or affect any notice theretofore given to Tenant, or operate as a waiver of the right of Landlord to en-

force the payment of Rental payable by Tenant hereunder or thereafter falling due, or operate as a waiver of the right of Landlord to recover possession of the Premises by proper remedy, except as herein otherwise expressly provided, it being agreed that after the service of notice to terminate this Lease or the commencement of any suit or summary proceedings, or after a final order or judgment for the possession of the Premises, Landlord may demand, receive and collect any moneys due or thereafter falling due without in any manner affecting such notice, proceeding, order, suit or judgment, all such moneys collected being deemed payments on account of the use and operation of the Premises or, at the election of Landlord, on account of Tenant's liability hereunder.

Section 24.10. Except as otherwise expressly provided herein or as prohibited by applicable law, Tenant hereby expressly waives the service of any notice of intention to re-enter provided for in any statute, or of the institution of legal proceedings to that end, and Tenant, for and on behalf of itself and all persons claiming through or under Tenant, also waives any and all right of redemption provided by any law or statute now in force or hereafter enacted or otherwise, or re-entry or repossession or to restore the operation of this Lease in case Tenant shall be dispossessed by a judgment or by warrant of any court or judge or in case of re-entry or repossession by Landlord or in case of any expiration or termination of this Lease, and Landlord and Tenant waive and shall waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, or any claim of injury or damage. The terms "enter", "re-enter", "entry" or "re-entry", as used in this Lease are not restricted to their technical legal meaning.

Section 24.11. No failure by Landlord or any prior Landlord to insist upon the strict performance of any covenant, agreement, term or condition of this Lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial Rental during the continuance of any such breach, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No covenant, agreement, term or condition of this Lease to be performed or complied with by Tenant, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by Landlord. No waiver of any breach shall affect or alter this Lease, but each and every covenant, agreement, term and condition of this Lease shall continue in full force and effect with respect to any other than existing or subsequent breach thereof.

Section 24.12. In the event of any breach or threatened breach by Tenant of any of the covenants, agreements, terms or conditions contained in this Lease, Landlord shall be entitled to enjoin such breach or threatened breach and shall have the right to invoke any rights and remedies allowed at law or in equity or by statute or otherwise as though re-entry, summary proceedings, and other remedies were not provided for in this Lease. To the extent permitted by law Tenant waives any requirement for the posting of bonds or other security in any such action.

Section 24.13. Subject to the provisions of Section 41.08, each right and remedy of Landlord provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Landlord of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by Landlord of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

Section 24.14. Tenant shall pay to Landlord all costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by Landlord in any action or proceeding to which Landlord may be made a party by reason of any act or omission of Tenant. Tenant also shall pay to Landlord all costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by Landlord in enforcing any of the covenants and provisions of this Lease and incurred in any action brought by Landlord against Tenant on account of the provisions hereof, and all such costs, expenses, and reasonable attorneys' fees and disbursements may be included in and form a part of any judgment entered in any proceeding brought by Landlord against Tenant on or under this Lease. All of the sums paid or obligations incurred by Landlord as aforesaid, with interest at the Involuntary Rate and costs, shall be paid by Tenant to Landlord within fifteen (15) days after demand by Landlord.

Section 24.15. If an order for relief is entered or if a stay of proceeding or other acts becomes effective in favor of Tenant or Tenant's interest in this Lease in any proceeding which is commenced by or against Tenant under the present or any future federal Bankruptcy Code or any other present or future applicable federal, state or other statute or law, Landlord shall be entitled to invoke any and all

rights and remedies available to it under such bankruptcy code, statute, law or this Lease, including, without limitation, such rights and remedies as may be necessary to adequately assure the complete and continuous future performance of Tenant's obligations under this Lease. Adequate protection of Landlord's right, title and interest in and to the Premises, and adequate assurance of the complete and continuous future performance of Tenant's obligations under this Lease, shall include, without limitation, the following requirements:

(a) that Tenant shall comply with all of its obligations under this Lease;

(b) that Tenant shall pay to Landlord, on the first day of each month occurring subsequent to the entry of such order, or on the effective date of such stay, a sum equal to the amount by which the Premises diminished in value during the immediately preceding monthly period, but, in no event, an amount which is less than the aggregate Rental payable for such monthly period;

(c) that Tenant shall continue to use the Premises in the manner required by this Lease;

(d) that Landlord shall be permitted to supervise the performance of Tenant's obligations under this Lease;

(e) that Tenant shall hire, at its sole cost and expense, such security personnel as may be necessary to insure the adequate protection and security of the Premises;

(f) that Tenant shall pay to Landlord within thirty (30) days after entry of such order or the effective date of such stay, as partial adequate protection against future diminution in value of the Premises and adequate assurance of the complete and continuous future performance of Tenant's obligations under this Lease, a security deposit as may be required by law or ordered by the court;

(g) that Tenant has and will continue to have unencumbered assets after the payment of all secured obligations and administrative expenses to assure Landlord that sufficient funds will be available to fulfill the obligations of Tenant under this Lease;

(h) that Landlord be granted a security interest acceptable to Landlord in property of Tenant, other than property of any of Tenant's officers, directors, shareholders, employees or partners, to secure the performance of Tenant's obligations under this Lease;

(i) that if Tenant's trustee, Tenant or Tenant as debtor-in-possession assumes this Lease and proposes to assign the same (pursuant to Title 11 U.S.C. § 365, as the same may be amended) to any Person who shall have made a bona fide offer to accept an assignment of this Lease on terms acceptable to the trustee, Tenant or Tenant as debtor-in-possession, then notice of such proposed assignment, setting forth (i) the name and address of such Person, (ii) all of the terms and conditions of such offer, and (iii) the adequate assurance to be provided Landlord to assure such Person's future performance under the Lease, including, without limitation, the assurances referred to in Title 11 U.S.C. § 365(b)(3) (as the same may be amended), shall be given to Landlord by the trustee, Tenant or Tenant as debtor-in-possession no later than twenty (20) days after receipt by the trustee, Tenant or Tenant as debtor-in-possession of such offer, but in any event no later than ten (10) days prior to the date that the trustee, Tenant or Tenant as debtor-in-possession shall make application to a court of competent jurisdiction for authority and approval to enter into such assignment and assumption, and Landlord shall thereupon have the prior right and option, to be exercised by notice to the trustee given at any time prior to the effective date of such proposed assignment, to accept an assignment of this Lease upon the same terms and conditions and for the same consideration, if any, as the bona fide offer made by such Person, less any brokerage commissions which may be payable out of the consideration to be paid by such Person for the assignment of this Lease.

Section 24.16. Nothing contained in this Article 24 shall be deemed to modify the provisions of Sections 10.10, 10.11, 10.12 or 41.08 hereof.

ARTICLE 25

NOTICES

Section 25.01. Whenever it is provided in this Lease that a notice, demand, request, consent, approval or other communication shall or may be given to or served upon either of the parties by the other, or by Landlord upon any Mortgagee, and whenever either of the parties shall desire to give or serve upon the other any notice, demand, request, consent, approval, or other communication with respect hereto or the Premises, each such notice, demand, request, consent, approval, or other communication shall be in writing and, any law or statute to the contrary nonwithstanding, shall be effective for any purpose if given or served as follows:

(a) if by Landlord, by delivery or by mailing the same to Tenant by registered or certified mail, postage prepaid, return receipt requested, addressed to Tenant c/o The Related Companies, Inc., 645 Fifth Avenue, New York, New York 10022, Attention: Mr. Peter Joseph and c/o Planning Innovations, Inc., 500 Eighth Avenue, New York, New York 10018, with copies thereof to Demov, Morris, Levin & Hammerling, 40 West 57th Street, New York, New York 10019, Att: Robert C. Hammerling, Esq., and to Shipley & Rothstein, 645 Fifth Avenue, New York, New York 10022, Attention: Ann Shipley, Esq., or to such other address(es) and attorneys as Tenant may from time to time designate by notice given to Landlord as aforesaid and, in the case of any notice required to be given to any Mortgagee pursuant to this Lease, to each such Mortgagee at the address of such Mortgagee set forth in the notice mentioned in the first sentence of Section 10.10(a) hereof; and

(b) if by Tenant, by delivering or by mailing the same to Landlord by registered or certified mail, postage prepaid, return receipt requested, addressed to Landlord at 40 West Street, New York, New York 10006, Att: President, or to such other address as Landlord may from time to time designate by notice given to Tenant as aforesaid (with a copy, given in the manner provided above, addressed to the attention of Landlord's General Counsel, at the address set forth above or at such other address as Landlord may from time to time designate by notice to Tenant as aforesaid).

Section 25.02. Every notice, demand, request, consent, approval, or other communication hereunder shall be deemed to have been given or served when delivered, or if mailed, three (3) Business Days after the date that the same shall have been deposited in the United States mails, postage prepaid, in the manner aforesaid (except that a notice designating the name or address of a person to whom any notice or other communication, or copy thereof, shall be sent shall be deemed to have been given when same is received).

Section 25.03. Landlord shall give to Tenant a copy of any notice relating to the Premises or the Civic Facilities which is given or received by Landlord pursuant to the Master Lease or the Settlement Agreement.

ARTICLE 26

CONSTRUCTION AND MAINTENANCE OF THE CIVIC FACILITIES

Section 26.01.

(a) The term "Civic Facilities" shall mean the following improvements in the Project Area, as more partic-

ularly described in the Civic Facilities Drawings and Specifications enumerated in Exhibit "D" annexed hereto and made part hereof (the "Civic Facilities Drawings and Specifications") and the Plans and Specifications:

(i) Electrical, gas and telephone mains;[1]

(ii) Water mains;[2]

(iii) Sanitary and storm sewers;[2]

(iv) Fire hydrants and Emergency Response Service ("ERS") conduits and boxes;[2]

(v) Street lighting (conduit, cable, poles, fixtures and connections);[2]

(vi) Streets;[2]

(vii) Curbs;[2]

(viii) Temporary concrete sidewalks;

(ix) Permanent sidewalk, including cobble strip and concrete paving;

(x) Landscaped esplanade ("Esplanade");

(xi) Landscaped park ("Rector Park");

(xii) Street trees;

(xiii) Balustrade; and

(xiv) Such supporting platforms and foundations as may be required for (i) through (xiii) above and for electrical vaults to be installed by the appropriate utility company.([1] and [2])

(b) The term "Tenant's Civic Facilities" shall mean the following portions of the Civic Facilities:

(i) Permanent sidewalk on Rector Place, South End Avenue and West Thames Street adjacent to the Premises, including cobble strip and concrete paving; and

(ii) Street trees (Tenant to install seven (7) trees on West Thames Street, seven (7) trees on South End Avenue and five (5) trees on Rector Place, the kinds of such trees and the exact location and installation thereof to be in accordance with specifications to be supplied by Land-

lord pursuant to letter dated the date hereof between Landlord and Tenant.

(c) The term "Landlord's Civic Facilities" shall mean all of the Civic Facilities which are not included within the definition of Tenant's Civic Facilities.

Section 26.02. Subject to Unavoidable Delays, each party, at its sole cost and expense, shall commence and thereafter diligently undertake and complete, or cause to be undertaken and completed, in accordance with the Civic Facilities Drawings and Specifications, the Plans and Specifications and the schedule set forth in Exhibit "D", the construction or installation of Landlord's Civic Facilities or Tenant's Civic Facilities, as the case may be, in a good and workmanlike manner and in compliance with normal New York City construction rules and all applicable Requirements. Notwithstanding the fact that, prior to the date hereof, certain portions of Landlord's Civic Facilities have been dedicated to New York City, Landlord's obligation to complete construction or installation of such Civic Facilities shall remain in full force and effect. Maintenance, repairs, alterations, restorations, replacements and upgrading of Rector Park, the Esplanade, the curbs referred to in Section 26.01(a)(vii) and the street trees referred to in Section 26.01(b)(ii) shall be made, to the extent specifically provided therein, in conformity with the Master Development Plan, the Design Guidelines and, in the event such work is commenced within ten (10) years after the Commencement Date, the Civic Facilities Drawings and Specifications.

Section 26.03.

(a) Landlord and Tenant each shall, at its respective sole cost and expense, take good care of Landlord's Civic Facilities or Tenant's Civic Facilities, as the case may be, and shall keep and maintain the same in good and safe order and condition and free of accumulations of dirt, rubbish, snow and ice, and shall make all repairs (including structural repairs), restorations and replacements necessary to maintain the same in first-class condition (collectively, "Maintenance Obligations") and Landlord shall create a reasonable reserve fund for such purposes from Operating Costs (as defined in Section 26.05(a)), except that (i) if Tenant installs temporary concrete sidewalks adjacent to the Premises, then Tenant shall have the sole obligation to perform Maintenance Obligations in respect of same and (ii) provided that Tenant previously has caused the street trees referred to in Section 26.01(b)(ii) to be installed in accordance with the requirements of this Article 26, Landlord shall have the sole obligation to perform Maintenance Obligations in respect of said street trees. The obligation of Landlord to perform Maintenance Obligations hereunder is expressly

conditioned upon Tenant's compliance with Tenant's obligations under Section 26.05. The parties contemplate that, after the completion of construction pursuant to Section 26.02, Maintenance Obligations for the portion of the Civic Facilities marked[1] shall be performed by the appropriate utility companies and for those portions of the Civic Facilities marked[2] shall be performed by New York City. Notwithstanding the initial sentence of this Section 26.03(a), Maintenance Obligations on the part of Landlord in respect of any portion of the Civic Facilities marked[1] or [2] shall terminate on the date that the appropriate utility company or New York City, as the case may be, shall commence performance of Maintenance Obligations in respect of same.

(b) Subject to the provisions of the next to last sentence of this Section 26.03(b) and Section 26.05(a), each party shall, at its sole cost and expense, keep those portions of the Civic Facilities with respect to which and for so long as such party is obligated to perform Maintenance Obligations pursuant to Section 26.03(a) insured (except that Landlord's obligations under this Section 26.03(b) shall not, and Tenant's obligations shall, pertain to the street trees referred to in Section 26.01(b)(ii)) for the mutual benefit of Landlord and Tenant against:

(i) loss or damage by fire, water and flood and such other risks as may be insured under an "All Risk of Physical Loss" form of policy, in amounts sufficient in each case to prevent any insured thereunder from becoming a coinsurer within the terms of the applicable policies, and in any event, in an amount not less than one hundred percent (100%) of the actual replacement value of such portions of the Civic Facilities, excluding foundation and excavation costs (such policies shall name Tenant as an additional insured to the extent of its insurable interest in such Civic Facilities); and

(ii) loss or damage by such other hazards and in such amounts as is customarily carried by prudent owners of like improvements, having regard to the character of such portions of the Civic Facilities and the use or function thereof, (it being agreed by Landlord that it shall maintain in force comprehensive general public liability insurance against liability for bodily injury, death and property damage, naming Tenant as an additional insured thereunder).

The obligations imposed upon Landlord by this Section 26.03(b) in respect of any portion of the Civic Facilities marked[1] or [2] shall terminate on the date that the appropriate utility company or New York City, as the case may be,

shall commence performance of Maintenance Obligations in respect of same. In the event Landlord fails to maintain in force the insurance required to be maintained by Landlord under this Section 26.03(b), Tenant, after thirty (30) days notice to Landlord or such shorter notice as may be necessary to prevent cancellation of the applicable policy, shall have the right (but shall not be obligated) to pay the premiums therefor and to receive an offset against Base Rent and the Civic Facilities Payment in an amount equal to the total premiums so paid together with interest thereon at the Involuntary Rate from the respective dates of Tenant's making of each such payment until the date of offset by Tenant.

Section 26.04.

(a) Except as provided in Section 26.04(d), Tenant's sole remedies for a failure by Landlord to substantially complete the Civic Facilities as provided in Section 26.02 ("Landlord's Construction Obligations") shall be (i) an extension of the Scheduled Completion Date by an amount of time equal to the time, if any, by which Tenant's construction of the Buildings has been delayed as a result of such failure, which delay shall constitute an Unavoidable Delay, (ii) as more fully described in Section 3.01(f), the abatement of Tenant's obligation to pay Base Rent and Supplemental Rent, (iii) the right to engage in Self-Help, as defined in Section 26.04(b), and to receive the offset against Base Rent, Supplemental Rent and Civic Facilities Payment provided for in Section 26.04(c) and (iv) the right to seek an injunction (the remedies specified in (i) through (iv) above, collectively, "Approved Remedies"). Landlord's failure to perform Landlord's Construction Obligations shall not give rise to any right or remedy except the Approved Remedies or the remedy provided in Section 26.04(d), or entitle Tenant to any discount from or offset against any Rental except as set forth in Sections 3.01(f) and 26.04(c) or to any other damages, and no delay, non-performance or part performance by Landlord under Section 26.02 shall release Tenant from or modify any of its obligations under this Lease except as provided herein. Tenant's sole remedies against Landlord for a failure by Landlord to perform its Maintenance Obligations in accordance with Section 26.03 shall be (i) the right to engage in Self-Help and to receive the offset against Base Rent, Supplemental Rent and Civic Facilities Payment provided for in Section 26.04(c) and (ii) the right to seek an injunction, and no such failure shall entitle Tenant to any other right, remedy or damages against Landlord. Furthermore, notwithstanding the provisions of Section 26.04(b), Tenant shall not be entitled to act pursuant to the preceding sentence at any time that a Default exists with respect to Tenant's obligation to pay Civic Facilities Payment, as provided in Section 26.05. No delay, non-performance or part performance by Landlord under Sec-

tion 26.03 shall release Tenant from any of its obligations under this Lease. The election by Tenant of any remedy specified in this Section 26.04(a) shall not preclude Tenant from pursuing any other available remedy set forth herein.

(b) If (subject to Unavoidable Delays) Landlord fails to perform Landlord's Construction Obligations or thereafter to substantially complete the Civic Facilities as provided in Section 26.02 with reasonable diligence or if Landlord fails to perform any of Landlord's Maintenance Obligations, Tenant (in its own name and not as agent of Landlord) shall have the right (but shall not be obligated) to undertake Landlord's Construction Obligations or Landlord's Maintenance Obligations, as the case may be ("Self-Help"), in accordance with the provisions of this Section 26.04(b). Prior to engaging in Self-Help, Tenant shall give Landlord written notice specifying the nature of Landlord's failure and advising of Tenant's intention to engage in Self-Help. If Landlord shall not have remedied the failure complained of prior to the thirtieth (30th) day after such notice, Tenant shall be entitled to engage in Self-Help, provided that, if such failure shall be of a nature that the same cannot be completely remedied within said thirty (30)-day period, Tenant shall not be entitled to engage in Self-Help if Landlord commences to remedy such failure within such period and thereafter diligently and continuously proceeds to remedy same. A copy of any notice given to Landlord pursuant to this Section 26.04(b) shall be sent to all other tenants of Landlord in Phase II whose names and addresses Landlord shall have given Tenant notice, and, in the event Tenant engages in Self-Help, Tenant covenants to use its best efforts to cooperate with such other tenants and to coordinate any actions taken in furtherance thereof with the actions of any tenant(s) that may elect to engage in Self-Help under the applicable provision(s) of any other lease(s) entered into by Landlord with respect to Phase II. In furtherance of Tenant's exercise of the right of Self-Help set forth in this Section 26.04(b), Landlord, upon reasonable notice, shall permit Tenant and its agents or representatives to inspect the Civic Facilities at all reasonable times for the purpose of determining whether or not Landlord is in compliance with Landlord's Construction Obligations and Landlord's Maintenance Obligations. Landlord hereby grants Tenant a right to enter upon the Civic Facilities in order to perform Self-Help in accordance with this Section 26.04(b). Tenant shall not be liable for inconvenience, annoyance, disturbance, loss of business or other damage to Landlord by reason of Tenant's exercise of the right of Self-Help hereunder, provided Tenant shall use reasonable efforts to minimize damage caused by Tenant in the exercise of its right of Self-Help.

(c) In the event Tenant engages in Self-Help as provided in this Section 26.04 (except pursuant to the succeeding Section 26.04(d)), after submission to Landlord of a written statement of Tenant's expenses with supporting documentation, Tenant shall have the right to offset against the next installment(s) of Base Rent, Supplemental Rent and Civic Facilities Payment payable under this Lease an amount equal to the reasonable expenses thereby incurred and/or theretofore paid by Tenant together with interest thereon at the Involuntary Rate computed with respect to each payment made by Tenant under this Section 26.04(c) from the date such payment is made until the date(s) Tenant effectuates the offset(s).

(d) In the event Landlord shall fail to substantially complete the Civic Facilities by the date set forth in Exhibit "D" with respect to such portion and such failure shall result from Unavoidable Delay, then, notwithstanding that the Approved Remedies shall be unavailable to Tenant, Tenant shall have the right, at Tenant's sole cost and expense, without receiving the offset against Base Rent, Supplemental Rent or Civic Facilities Payment provided for in Section 26.04(c), to engage in Self-Help in accordance with Section 26.04(b).

(e) In the event Landlord shall fail to perform Landlord's Construction Obligations, Landlord shall incur no penalty or liability and Tenant shall have no remedies or rights other than as expressly provided herein, it being agreed by the parties that Landlord's failure to achieve such substantial completion shall not be deemed a failure by Landlord to perform a substantial obligation on Landlord's part to be performed under this Lease.

Section 26.05.

(a) As its allocable share of the cost of operating, maintaining, repairing, restoring, replacing and upgrading Rector Park, the Esplanade and the street trees referred to in Section 26.01(b)(ii) and insuring the Civic Facilities in accordance with Section 26.03(b) (including the creation of the reserve fund referred to in Section 26.03(a)) (such costs being hereinafter referred to as "Operating Costs"), Tenant, for each Tax Year or portion thereof within the period commencing on the date on which a Temporary Certificate of Occupancy shall be issued for any dwelling unit in the Buildings ("Initial Occupancy Date") and ending on the last day of the Term, shall pay to Landlord an annual sum (the "Civic Facilities Payment") determined as follows:

(i) for the period commencing on the Initial Occupancy Date and ending on the last day of the Tax Year in which the Initial Occupancy Date occurs, an amount equal to the product obtained by multiplying the sum computed under the succeeding clause (ii) by a fraction the numerator of which shall be the number of days between the Initial Occupancy Date and the last day of the Tax Year in which the Initial Occupancy Date occurs and the denominator of which shall be three hundred sixty-five (365);

(ii) for each of the next two Tax Years an amount equal to the product obtained by multiplying the number of residential units in the Buildings by One Hundred Fifty Dollars ($150);

(iii) for each of the next three Tax Years, an amount equal to the product obtained by multiplying the number of residential units in the Buildings by Two Hundred Dollars ($200);

(iv) for the next succeeding Tax Year and for each Tax Year thereafter throughout the remainder of the Term, with respect to Rector Park, said curbs and said street trees, an amount equal to the product of (A) the Rector Park Budget (as hereinafter defined) multiplied by (B) .068 (said figure being computed by dividing the number of square feet of floor area in the Buildings, as permitted by the Zoning Lot Declaration, by the total number of square feet of floor area in all buildings in Phase II as permitted by said Declaration); and

(v) for the period referred to in the preceding clause (iv), with respect to the Esplanade an amount equal to the product of (A) the Esplanade Budget (as hereinafter defined) multiplied by (B) .068 (said figure being computed as set forth in the preceding clause (iv)).

Notwithstanding the provisions of the foregoing clauses (iv) and (v), the amount of Tenant's Civic Facilities Payment for any Tax Year referred to therein shall not be greater than one hundred twenty-five percent (125%) of Tenant's Civic Facilities Payment for the prior year.

(b) The provisions of this Section 26.05(b) shall be subject to the limitations on the amounts of Civic Facilities Payments payable by Tenant as set forth in Section 26.05(a). For each Tax Year (or portion thereof in the case of (i) the period commencing on the Initial Occupancy Date

and ending on the last day of the Tax Year in which the Initial Occupancy Date occurs and (ii) the Tax Year during which the Term ends) (each such Tax Year or portion thereof being hereinafter referred to as a "Payment Period") Landlord shall submit to Tenant (i) an estimate of the Operating Costs for Rector Park, the curbs referred to in Section 26.01(a)(vii) and the street trees referred to in Section 26.01(b)(ii) for such Payment Period (the "Rector Park Budget") and (ii) an estimate of the Operating Costs for the Esplanade for such Payment Period (the "Esplanade Budget") (collectively, the "Civic Facilities Budget"). The Rector Park Budget shall be an amount computed by multiplying (A) the estimated Operating Costs of all parks (as such term is reasonably defined by Landlord) in the Project Area other than parks situated in the area described in the final sentence of this Section 26.05(b) ("Residential Parks") and all curbs and street trees installed in the Project Area except in the area described as aforesaid by (B) a fraction the numerator of which shall be the number of square feet in Rector Park and the denominator of which shall be the total number of square feet in all Residential Parks. The Esplanade Budget shall be an amount computed by multiplying (A) the estimated Operating Costs of the entire esplanade in the Project Area other than such portion of the esplanade as extends along the North Cove from (i) the point where the northern line of Liberty Street as extended intersects the North Cove to (ii) the point where the extension of the western line of (proposed) North End Avenue intersects the North Cove (the "Residential Esplanade") by (B) a fraction the numerator of which is the number of linear feet of the Esplanade for Phase II and the denominator of which is the total number of linear feet of the Residential Esplanade. Tenant shall pay to Landlord the Civic Facilities Payment due in respect of each such Payment Period in equal monthly installments payable in advance on the first day of each calendar month that occurs within such Payment Period. As soon as shall be practicable after the end of such Payment Period, Landlord shall submit to Tenant a written statement setting forth the Operating Costs incurred by Landlord during such Payment Period, together with supporting documentation. Within ten (10) days of the date any such statement and documentation are submitted to Tenant, Tenant shall pay the amount, if any, by which Tenant's allocable share of Operating Costs for the applicable Payment Period exceeds the Civic Facilities Payment made by Tenant during such Payment Period. In the event the Civic Facilities Payment made by Tenant during any Payment Period exceeds Tenant's allocable share of Operating Costs, Tenant shall have the right to offset against the next monthly installments of Civic Facilities Payment the amount of such excess. The area referred to in the second sentence of this Section 26.05(b) is bounded on the south by the northern line of Liberty Street

extended west to the North Cove, on the west by proceeding from said line as extended along North Cove to the extension of the western line of (proposed) North End Avenue and then along said western line as extended to the southern line of (proposed) Vesey Street, on the north by proceeding along said southern line to the western line of Marginal Street, Wharf or Place, and on the east by the western line of Marginal Street, Wharf or Place between the southern line of (proposed) Vesey Street and the northern line of Liberty Street, all as shown on survey L.B.-45-BZ by Benjamin D. Goldberg (Earl B. Lovell-S.P. Belcher, Inc.), prepared February 23, 1983, last amended May 27, 1983.

(c) Notwithstanding any other provision of this Article 26, in the event Landlord's Civic Facilities or any portion thereof shall be destroyed or damaged by fire or other casualty or shall have been taken by the exercise of the right of condemnation or eminent domain, if the reasonable cost of restoring or replacing any portion of Landlord's Civic Facilities (including, without limitation, construction costs, bidding costs, attorneys', architects', engineers' and other professional fees and disbursements, and supervisory fees and disbursements) shall exceed the aggregate of the monies available to Landlord therefor from the reserve fund created pursuant to Section 26.03(a) and the net proceeds of insurance or condemnation available to Landlord for such purpose, provided Landlord shall have maintained the insurance coverage required under Section 26.03(b)(i), Tenant shall pay to Landlord six and eight-tenths percent (6.8%) of such excess. Landlord shall submit to Tenant a written statement setting forth (i) the cost of such restoration or replacement (together with supporting documentation) and (ii) on an itemized basis, the monies available to pay such cost. Within twenty-five (25) days of the date any such statement and documentation are submitted to Tenant, Tenant shall make the payment provided for above. Notwithstanding the foregoing, in the event Tenant's estate in the Premises shall be submitted to either a cooperative or condominium form of ownership, such payment shall be made within forty-five (45) days of the date any such statement and documentation are submitted to Tenant. All monies payable to Landlord under this Section 26.05(c) shall constitute Rental under this Lease. In the case of any replacement of Landlord's Civic Facilities for which Landlord expects to require contribution from Tenant pursuant to this Section 26.05(c), Landlord shall give Tenant six (6) months' advance notice of same, provided that where, due to emergency or exigency, such notice is not practicable, Landlord shall give such notice as is practicable under the circumstances.

(d) Landlord shall have the right, subject to Tenant's reasonable approval, to transfer to a trust or other entity the responsibility of performing Landlord's Maintenance Obligations, and provided such trust or other entity, in writing, assumes and agrees to perform Landlord's Maintenance Obligations for the benefit of all tenants of parcels within Phase II, from and after the date of such assumption Landlord shall have no further liability with respect hereto. In the event such trust or other entity is composed of the tenants of at least five (5) of the twelve (12) parcels within Phase II, Tenant shall be deemed to have granted its approval to such transfer. Prior to effecting such transfer, Landlord shall (i) furnish Tenant with reasonable assurances of the transferee's ability to perform Landlord's Maintenance Obligations and to recover the costs of same and of Tenant's right to enforce the obligations of other tenants within Phase II to make payments in respect of Landlord's Maintenance Obligations in accordance with the provisions of their respective leases, and (ii) consult with Tenant with respect to the composition of such trust or other entity. Landlord shall give Tenant notice of the consummation of any such transfer and, commencing with the first month following such notice, Tenant shall pay installments of the Civic Facilities Payment directly to such trust or other entity. Thereafter, for each Tax Year throughout the remainder of the Term, such trust or other entity shall submit to Tenant the Civic Facilities Budget and other information required by Section 26.05(b) and shall give notice thereof to Tenant in the same manner as would otherwise be required of Landlord. Notwithstanding any transfer of Landlord's Maintenance Obligations, Tenant shall retain the rights provided in this Article 26 with respect to Self-Help and offsets against Civic Facilities Payments.

(e) The leases of all parcels within Phase II shall require the tenants thereunder to pay their allocable share of the costs referred to in this Section 26.05, which shall be computed in the same manner as Tenant's share.

ARTICLE 27

ACCESS TO THE PREMISES

Landlord represents and warrants that Rector Place, South End Avenue, Albany Street, Liberty Street and West Thames Street have been dedicated to New York City.

ARTICLE 28

STREET WIDENING

If at any time during the Term any proceedings are instituted or orders made by any Governmental Authority (other than Landlord acting solely in its capacity as Landlord and not as a Governmental Authority) for the widening or other enlargement of any street contiguous to the Premises requiring removal of any projection or encroachment on, under or above any such street, or any changes or alterations upon the Premises, or in the sidewalks, vaults (other than vaults which are under the control of, or are maintained or repaired by, a utility company), gutters, curbs or appurtenances, Tenant, at Tenant's sole cost and expense, with reasonable diligence (subject to Unavoidable Delays) shall comply with such requirements, and on Tenant's failure to do so, Landlord may comply with the same in accordance with the provisions of Article 21. Tenant shall be permitted to contest in good faith any proceeding or order for street widening instituted or made by any Governmental Authority, provided that during the pendency of such contest Tenant deposits with Landlord security in amount and form reasonably satisfactory to Landlord for the performance of the work required in the event that Tenant's contest should fail. In no event shall Tenant permit Landlord to become liable for any criminal liability or penalty as a result of Tenant's failure to comply with reasonable diligence (subject to Unavoidable Delays) with any of the foregoing orders. Any widening or other enlargement of any such street and the award or damages in respect thereto shall be deemed a partial condemnation and be subject to the provisions of Article 9. Notwithstanding anything herein contained to the contrary, Tenant shall have no obligation to spend more than the amount of such award received by Tenant.

ARTICLE 29

SUBORDINATION; ATTORNMENT

Section 29.01. Landlord's interest in this Lease, as this Lease may be modified, amended or renewed, shall not be subject or subordinate to (a) any mortgage now or hereafter placed upon Tenant's interest in this Lease or (b) any other liens or encumbrances hereafter affecting Tenant's interest in this Lease.

Section 29.02. If by reason of (a) a default under the Master Lease, or (b) a termination of the Master Lease pursuant to the terms of the Settlement Agreement, such Master Lease and the leasehold estate of Landlord in the Prem-

ises demised hereby are terminated, Tenant will attorn to the then holder of the reversionary interest in the Premises demised by this Lease and will recognize such holder as Tenant's Landlord under this Lease. The Tenant agrees to execute and deliver, at any time and from time to time, upon the request of the Landlord or of the Master Landlord any further instrument which may be reasonably necessary or appropriate to evidence such attornment. Tenant waives the provision of any statute or rule of law now or hereafter in effect which may give or purport to give Tenant any right of election to terminate this Lease or to surrender possession of the Premises in the event any proceeding is brought by the Master Landlord to terminate the same, and agrees that this Lease shall not be affected in any way whatsoever by any such proceeding.

ARTICLE 30

EXCAVATIONS AND SHORING

If any excavation shall be made or contemplated to be made for construction or other purposes upon property adjacent to the Premises, Tenant, at its option, either:

(a) shall afford to Landlord or, at Landlord's option, to the person or persons causing or authorized to cause such excavation the right to enter upon the Premises in a reasonable manner for the purpose of doing such work as may be necessary, without expense to Tenant, to preserve any of the walls or structures of the Buildings from injury or damage and to support the same by proper foundations, provided that (i) such work shall be done promptly, in a good and workmanlike manner and subject to the Master Development Plan, Design Guidelines and all applicable Requirements, (ii) Tenant shall have an opportunity to have its representatives present during all such work, (iii) Tenant shall be indemnified by Landlord or such other person, as the case may be, against any injury or damage to the Buildings or persons or property therein which may result from any such work, but shall not have any claim against Landlord for suspension, diminution, abatement or reduction of Rental payable by Tenant hereunder and (iv) Landlord or such other person (whichever shall do the work) shall agree to reimburse Tenant for income, if any, lost by Tenant as a result of any such work; or

(b) shall do or cause to be done all such work, at Landlord's or such other person's expense, as may be necessary to preserve any of the walls or structures of the Buildings from injury or damage and to support the same by proper foundations, provided that (i) Tenant shall not, by

reason of any such excavation or work, have any claim against Landlord for damages or for indemnity or for suspension, diminution, abatement, or reduction of Rental payable by Tenant hereunder and (ii) Landlord or such other person for whom the work is being performed shall agree to reimburse Tenant for income, if any, lost by Tenant as a result of any such work.

ARTICLE 31

CERTIFICATES BY LANDLORD AND TENANT

Section 31.01. Tenant agrees at any time and from time to time upon not less than ten (10) days' prior notice by Landlord to execute, acknowledge and deliver to Landlord or any other party specified by Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same, as modified, is in full force and effect and stating the modifications) and the date to which each obligation constituting the Rental has been paid, and stating whether or not to the best knowledge of Tenant, Landlord is in default in performance of any covenant, agreement or condition contained in this Lease, and, if so, specifying each such default of which Tenant may have knowledge.

Section 31.02. Landlord agrees at any time and from time to time upon not less than ten (10) days' prior notice by Tenant to execute, acknowledge and deliver to Tenant or any other party specified by Tenant a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same, as modified, is in full force and effect and stating the modifications) and the date to which each obligation constituting the Rental has been paid, and stating whether or not to the best knowledge of Landlord, Tenant is in Default in the performance of any covenant, agreement or condition contained in this Lease, and, if so, specifying each such Default of which Landlord may have knowledge.

Section 31.03. At the request of Tenant, Landlord shall request from Master Landlord a statement with respect to the Master Lease containing information substantially similar to the information furnished by Landlord pursuant to Section 31.02.

ARTICLE 32

CONSENTS AND APPROVALS

Section 32.01. All consents and approvals which may be given under this Lease shall, as a condition of their effectiveness, be in writing. The granting of any consent or approval by a party to perform any act requiring consent or approval under the terms of this Lease, or the failure on the part of a party to object to any such action taken without the required consent or approval, shall not be deemed a waiver by the party whose consent was required of its right to require such consent or approval for any further similar act.

Section 32.02. If, pursuant to the terms of this Lease, any consent or approval by Landlord or Tenant is required, then (i) unless expressly provided otherwise in this Lease, if the party who is to give its consent or approval shall not have notified the other party within fifteen (15) Business Days or such other period as expressly specified in this Lease after receiving such other party's request for a consent or approval that such consent or approval is granted or denied, and if the latter, the reasons therefor in reasonable detail, such consent or approval shall be deemed granted, and (ii) if upon notice that a consent or approval is denied, the notified party contests such denial in accordance with this Lease and a final determination that the consent or approval was unreasonably withheld or that such specified standard has been met so that the consent or approval should have been granted, the consent or approval shall be deemed granted and such granting of the consent or approval shall be the only remedy to the party requesting or requiring the consent or approval.

Section 32.03. If, pursuant to the terms of this Lease, any consent or approval by Landlord or Tenant is not to be unreasonably withheld, such consent or approval shall, in addition, not be unreasonably delayed.

Section 32.04. Except as specifically provided herein, no fees or charges of any kind or amount shall be required by either party hereto as a condition of the grant of any consent or approval which may be required under this Lease.

ARTICLE 33

SURRENDER AT END OF TERM

Section 33.01. On the last day of the Term or upon any earlier termination of this Lease, or upon a re-entry by Landlord upon the Premises pursuant to Article 24 hereof, Tenant shall well and truly surrender and deliver up to Landlord the Premises in good order, condition and repair, reasonable wear and tear excepted, free and clear of all lettings, occupancies, liens and encumbrances other than those, if any, existing at the date hereof, created by or consented to by Landlord or which lettings and occupancies by their express terms and conditions extend beyond the Expiration Date and which Landlord shall have consented and agreed, in writing, may extend beyond the Expiration Date, or if, pursuant to applicable law, such lettings or occupancies may not be terminated, without any payment or allowance whatever by Landlord. Tenant hereby waives any notice now or hereafter required by law with respect to vacating the Premises on any such termination date.

Section 33.02. On the last day of the Term or upon any earlier termination of the Lease, or upon a re-entry by Landlord upon the Premises pursuant to Article 24 hereof, Tenant shall deliver to Landlord Tenant's executed counterparts of all Subleases and any service and maintenance contracts then affecting the Premises, true and complete maintenance records for the Premises, all original licenses and permits then pertaining to the Premises, permanent or temporary Certificates of Occupancy then in effect for each of the Buildings, and all warranties and guarantees then in effect which Tenant has received in connection with any work or services performed or Equipment installed in the Buildings, together with a duly executed assignment thereof to Landlord, all financial reports, books and records required by Article 38 hereof and any and all other documents of every kind and nature whatsoever relating to the Premises.

Section 33.03. Any personal property of Tenant or of any Subtenant, Tenant-Stockholder or Unit Owner which shall remain on the Premises for ten (10) days after the termination of this Lease and after the removal of Tenant or such Subtenant, Tenant-Stockholder or Unit Owner from the Premises, may, at the option of the Landlord, be deemed to have been abandoned by Tenant or such Subtenant, Tenant-Stockholder or Unit Owner and either may be retained by Landlord as its property or be disposed of, without accountability in such manner as Landlord may see it. Landlord

shall not be responsible for any loss or damage occurring to any such property owned by Tenant or any Subtenant, Tenant-Stockholder or Unit Owner after the expiration of such ten (10) day period.

Section 33.04. The provisions of this Article 33 shall survive any termination of this Lease.

ARTICLE 34

ENTIRE AGREEMENT

This Lease, together with the Exhibits hereto, contains all the promises, agreements, conditions, inducements and understandings between Landlord and Tenant relative to the Premises and there are no promises, agreements, conditions, understandings, inducements, warranties, or representations, oral or written, expressed or implied, between them other than as herein or therein set forth and other than as may be expressly contained in any written agreement between the parties executed simultaneously herewith.

ARTICLE 35

QUIET ENJOYMENT

Landlord covenants that, so long as this Lease remains in full force and effect, Tenant shall and may (subject, however, to the exceptions, reservations, terms and conditions of this Lease) peaceably and quietly have, hold and enjoy the Premises for the term hereby granted without molestation or disturbance by or from Landlord or any Person claiming through Landlord and free of any encumbrance created or suffered by Landlord, except those encumbrances, liens or defects of title, created or suffered by Tenant and the Title Matters.

ARTICLE 36

ARBITRATION

In such cases where this Lease expressly provides for the settlement of a dispute or question by arbitration, and only in such cases, the party desiring arbitration shall appoint a disinterested person as arbitrator on its behalf and give notice thereof to the other party who shall, within

fifteen (15) days thereafter, appoint a second disinterested person as arbitrator on its behalf and give written notice thereof to the first party (each such arbitrator to be experienced in the field in which the dispute or question to be settled arose). The two (2) arbitrators thus appointed shall together appoint a third disinterested person within fifteen (15) days after the appointment of the second arbitrator, and said three (3) arbitrators shall, as promptly as possible, determine the matter which is the subject of the arbitration and the decision of the majority of them shall be conclusive and binding on all parties and judgment upon the award may be entered in any court having jurisdiction. If a party who shall have the right pursuant to the foregoing to appoint an arbitrator fails or neglects to do so, then and in such event, the other party (or if the two (2) arbitrators appointed by the parties shall fail to appoint a third arbitrator when required hereunder, then either party may apply to the American Arbitration Association (or any organization successor thereto), or in its absence, refusal, failure or inability to act, may apply for a court appointment of such arbitrator). The arbitration shall be conducted in the City and County of New York and, to the extent applicable and consistent with this Article 36, shall be in accordance with the Commercial Arbitration Rules then obtaining of the American Arbitration Association or any successor body of similar function. The expenses of arbitration shall be shared equally by Landlord and Tenant but each party shall be responsible for the fees and disbursements of its own attorneys and the expenses of its own proof. Landlord and Tenant agree to sign all documents and to do all other things necessary to submit any such matter to arbitration and further agree to, and hereby do, waive any and all rights they or either of them may at any time have to revoke their agreement hereunder to submit to arbitration and to abide by the decision rendered thereunder. The arbitrators shall have no power to vary or modify any of the provisions of this Lease and their jurisdiction is limited accordingly. If the arbitration concerns any Capital Improvement or Restoration, then each of the arbitrators shall be licensed professional engineers or registered architects having at least ten (10) years' experience in the design of residential buildings, and, to the extent applicable and consistent with this Article 36, such arbitration shall be conducted in accordance with the Construction Arbitration Rules then obtaining of the American Arbitration Association or any successor body of similar function.

ARTICLE 37

INVALIDITY OF CERTAIN PROVISIONS

If any term or provision of this Lease or the application thereof to any Person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

ARTICLE 38

FINANCIAL REPORTS

Section 38.01. Tenant, from and after the date upon which any portion of the Premises is subleased or occupied or rents or other charges are received by Tenant for the use or occupancy thereof, shall furnish to Landlord the following:

(a) if the Premises shall be used for rental purposes, as soon as practicable after the end of each fiscal year of Tenant, and in any event within one hundred and twenty (120) days thereafter, Tenant shall furnish to Landlord financial statements of operations of the Premises, for such year, setting forth in each case, in comparative form, the corresponding figures for the previous fiscal year, all in reasonable detail and accompanied by a report and opinion thereon of a Certified Public Accountant approved by Landlord, which approval shall not be unreasonably withheld, which report and opinion shall be prepared in accordance with generally accepted accounting principles consistently applied; and

(b) if Tenant's leasehold estate in the Premises shall have been submitted to either a cooperative or condominium form of ownership, as soon as practicable after the end of each fiscal year of such cooperative or condominium and, in any event, within one hundred and fifty (150) days after the end of such fiscal year, the annual report of such cooperative or condominium which is submitted to Tenant-Stockholders or Unit Owners, as the case may be.

Section 38.02. Upon Landlord's request, if at any time Tenant shall furnish to any Mortgagee operating statements or financial reports in addition to those required to

be furnished by Tenant to Landlord pursuant to Section 38.01, Tenant promptly shall furnish to Landlord copies of all such additional operating statements and financial reports. At the time at which Tenant furnishes any such operating statements or reports Tenant may inform Landlord of its belief that the public disclosure of information contained therein or any part thereof would cause substantial injury to the competitive position of Tenant's enterprise and request that to the extent permitted by law Landlord attempt to avoid such disclosure. In the event Tenant makes such request, Landlord shall use its best efforts to avoid such disclosure (but shall incur no liability to Tenant if Landlord complies with any provision of applicable law requiring such disclosure).

Section 38.03. Tenant shall keep and maintain at all times full and correct records and books of account of the operations of the Premises in accordance with such generally accepted accounting standards and otherwise in accordance with any applicable provisions of each Mortgage and accurately shall record and preserve for a period of four (4) years the records of its operations upon the Premises. Within fifteen (15) days after request by Landlord, Tenant shall make said records and books of account available from time to time for inspection by Landlord and Landlord's designee during reasonable business hours at a location designated by Tenant in New York City. At any time at which Tenant shall make said records and books of account available for inspection, it may inform Landlord of its belief that the public disclosure of the information contained therein or any part thereof would cause substantial injury to the competitive position of Tenant's enterprise and request that to the extent permitted by law Landlord attempt to avoid such disclosure. In the event Tenant makes such request, Landlord shall use its best efforts to avoid such disclosure (but shall incur no liability to Tenant if Landlord complies with any provision of applicable law requiring such disclosure).

ARTICLE 39

RECORDING OF MEMORANDUM

Either Landlord or Tenant may record this Lease or any amendment or modification of this Lease. Each shall, upon the written request of the other, join in the execution of a memorandum of this Lease or a memorandum of any amendment or modification of this Lease in proper form for recordation.

ARTICLE 40

NO DISCRIMINATION

Section 40.01. Tenant covenants and agrees that in the sale, transfer or assignment of its interest under this Lease, or in its use, operation or occupancy of the Premises and employment and conditions of employment in connection therewith, or in its subleasing of the Premises or any part thereof, or in connection with the erection, maintenance, repair, Restoration, alteration or replacement of, or addition to, any Building or the Civic Facilities (a) it shall not discriminate nor permit discrimination against any person by reason of race, creed, color, religion, national origin, ancestry, sex, age, disability or marital status, and (b) it shall comply with all applicable Federal, State and local laws, ordinances, rules and regulations from time to time in effect and the provisions of the Master Lease prohibiting such discrimination or pertaining to equal employment opportunities.

Section 40.02. Tenant shall be bound by and shall include the following paragraphs (a) through (e) of this Section 40.02 in all Construction Agreements, service and management agreements and agreements for the purchase of goods and services and any other agreements relating to the operation of the Premises, in such a manner that these provisions shall be binding upon the parties with whom such agreements are entered into (any party being bound by such provisions shall be referred to in this Section as "contractor"):

(a) Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, religion, national origin, ancestry, sex, age, disability or marital status, shall comply with all applicable Federal, State and local laws, ordinances, rules and regulations from time to time in effect and the provisions of the Master Lease prohibiting such discrimination or pertaining to equal employment opportunities and shall undertake programs of affirmative action to ensure that employees and applicants for employment are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.

(b) Contractor shall request each employment agency, labor union and authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish it with a written statement that such employment agency, labor union or representative will not discriminate because of race, creed, color, religion, national origin, ancestry, sex, age, disability or marital status and that such agency, union or representative will cooperate in the implementation of contractor's obligations hereunder.

(c) Contractor shall state in all solicitations or advertisements for employees placed by or on behalf of contractor that all qualified applicants shall be afforded equal employment opportunities without discrimination because of race, creed, color, religion, national origin, ancestry, sex, age, disability or marital status.

(d) Contractor shall comply with all of the provisions of the Civil Rights Law of the State of New York and Sections 291-299 of the Executive Law of the State of New York, shall upon reasonable notice furnish all information and reports deemed reasonably necessary by Landlord and shall permit access to its relevant books, records and accounts for the purpose of monitoring compliance with the Civil Rights Law and such sections of the Executive Law.

(e) Contractor shall include in all agreements with subcontractors the foregoing provisions of Sections (a) through (d) in such a manner that said provisions shall be binding upon the subcontractor and enforceable by the Contractor, Tenant and Landlord. Contractor shall take such action as may be necessary to enforce the foregoing provisions. Contractor shall promptly notify Tenant and Landlord of any litigation commenced by or against it arising out of the application or enforcement of these provisions, and Tenant and Landlord may intervene in any such litigation.

Section 40.03. Tenant has reviewed and participated in the development of the Affirmative Action Program for the Project, a copy of which is annexed hereto as Exhibit "F". Tenant covenants and agrees that it shall, and shall cause each of its agents, contractors and subcontractors to, promptly and diligently carry out its obligations

under such Program in accordance with the terms thereof. Notwithstanding the provisions of Article 24, if Tenant fails to comply with its obligations under this Section 40.03 or under Exhibit F, Landlord's sole remedies shall be as provided in Exhibit F.

Section 40.04. Tenant has reviewed and participated in the development of the Affirmative Fair Housing Marketing Program annexed hereto as Exhibit "G", and Tenant covenants and agrees that it shall, and shall cause each of its agents to, comply with all of the terms and provisions of said Program. Notwithstanding the provisions of Article 24, if Tenant fails to comply with its obligations under this Section 40.04 or under Exhibit G, Landlord's sole remedies shall be as provided in Exhibit G.

ARTICLE 41

MISCELLANEOUS

Section 41.01. The captions of this Lease are for convenience of reference only and in no way define, limit or describe the scope or intent of this Lease or in any way affect this Lease.

Section 41.02. The Table of Contents is for the purpose of convenience of reference only and is not to be deemed or construed in any way as part of this Lease or as supplemental thereto or amendatory thereof.

Section 41.03. The use herein of the neuter pronoun in any reference to Landlord or Tenant shall be deemed to include any individual Landlord or Tenant, and the use herein of the words "successors and assigns" or "successors or assigns" of Landlord or Tenant shall be deemed to include the heirs, legal representatives and assigns of any individual Landlord or Tenant.

Section 41.04. Depository may pay to itself out of the monies held by Depository pursuant to this Lease its reasonable charges for services rendered hereunder. Tenant shall pay Depository any additional charges for such services.

Section 41.05. If more than one entity is named as or becomes Tenant hereunder, Landlord may require the signatures of all such entities in connection with any notice to be given or action to be taken by Tenant hereunder except to the extent that any such entity shall designate another such entity as its attorney-in-fact to act on its behalf, which designation shall be effective until receipt by Landlord of

notice of its revocation. Subject to Section 41.08, each entity named as Tenant shall be fully liable for all of Tenant's obligations hereunder. Any notice by Landlord to any entity named as Tenant shall be sufficient and shall have the same force and effect as though given to all parties named as Tenant. If all such parties designate in writing one entity to receive copies of all notices, Landlord agrees to send copies of all notices to that entity.

Section 41.06. The liability of Landlord or of any Person who has at any time acted as Landlord hereunder for damages or otherwise shall be limited to Landlord's interest in the Premises, including, without limitation, the rents and profits therefrom, the proceeds of any insurance policies covering or relating to the Premises, any awards payable in connection with any condemnation of the Premises or any part thereof, and any other rights, privileges, licenses, franchises, claims, causes of action or other interests, sums or receivables appurtenant to the Premises. Neither Landlord nor any such Person nor any of the members, directors, officers, employees, agents or servants or either shall have any liability (personal or otherwise) hereunder beyond Landlord's interest in the Premises, and no other property or assets of Landlord or any such Person or any of the members, directors, officers, employees, agents or servants of either shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies hereunder.

Section 41.07. Except as otherwise expressly provided in this Lease, there shall be no merger of this Lease or the leasehold estate created hereby with the fee estate in the Premises or any part thereof by reason of the same Person acquiring or holding, directly or indirectly, this Lease or the leasehold estate created hereby or any interest in this Lease or in such leasehold estate as well as the fee estate in the Premises.

Section 41.08. Notwithstanding anything contained in this Lease or at law or in equity to the contrary, it is expressly understood, acknowledged and agreed by Landlord that (a) the liability under this Lease of Tenant or of any Person who has at any time acted as Tenant for Rental, damages or any other obligation arising out of this Lease or relating to the Premises shall be limited to proceeds of security held by Landlord and/or Depository pursuant to the terms of this Lease, Tenant's interest in the Premises, including, without limitation, any then present or future rents or profits paid to Landlord, the proceeds of any insurance policies covering or relating to the Premises and payable to Tenant or Depository on behalf of Tenant not yet received by Tenant, in the possession of Tenant or misappropriated or wrongfully distributed by Tenant, any awards pay-

able to Tenant or Depository on behalf of Tenant in connection with any condemnation of the Premises or any part thereof not yet received by Tenant, in the possession of Tenant or misappropriated or wrongfully distributed by Tenant (it being agreed that, for purposes of this Section, the interest of Tenant in such insurance proceeds or condemnation awards shall pertain only to such portion or portions thereof as are paid to Tenant rather than any Mortgagee and as shall not theretofore have been expended by Tenant for Restoration), and any other rights, privileges, licenses, franchises, claims, causes of action or other interests of Tenant or sums or receivables of Tenant and not yet applied, arising out of this Lease or appurtenant to the Premises; and (b) neither Tenant (except as hereinabove provided) nor any of the directors, officers, partners, joint venturers, principals, stockholders, employees, agents or servants of Tenant shall have any liability (personal or otherwise) hereunder and no property or assets of Tenant (except as hereinabove provided) or of any of the directors, officers, partners, joint venturers, principals, stockholders, employees, agents or servants of Tenant shall be subject to levy, execution, or other enforcement procedures for the satisfaction of Landlord's remedies hereunder. The exculpation of personal liability set forth in this Section 41.08 is intended to be absolute, unconditional and without exception of any kind.

Section 41.09. Tenant shall store all refuse from the Premises off the streets in an enclosed area on the Premises, and in a manner reasonably satisfactory to Landlord and Tenant and in accordance with the requirements of municipal and/or private sanitation services serving the Premises.

Section 41.10. Each of the parties represents to the other that it has not dealt with any broker, finder or like entity in connection with this lease transaction. If any claim is made by any Person who shall claim to have acted or dealt with Tenant or Landlord in connection with this transaction, Tenant or Landlord as the case may be, will pay the brokerage commission, fee or other compensation to which such Person is entitled, shall indemnify and hold harmless the other party hereto against any claim asserted by such Person for any such brokerage commission, fee or other compensation and shall reimburse such other party for any costs or expenses including, without limitation, reasonable attorneys' fees and disbursements, incurred by such other party in defending itself against claims made against it for any such brokerage commission, fee or other compensation.

Section 41.11. This Lease may not be changed, modified, or terminated orally, but only by a written instrument of change, modification or termination executed by the

party against whom enforcement of any change, modification, or termination is sought.

Section 41.12. This Lease shall be governed by and construed in accordance with the laws of the State of New York.

Section 41.13. The agreements, terms, covenants and conditions herein shall be binding upon, and shall inure to the benefit of, Landlord and Tenant and their respective successors and (except as otherwise provided herein) assigns.

Section 41.14. All references in this Lease to "Articles" or "Sections" shall refer to the designated Article(s) or Section(s), as the case may be, of this Lease.

Section 41.15. Subject to the rights of any Mortgagee, all plans and drawings required to be furnished by Tenant to Landlord under this Lease, including, without limitation, the Schematics, the Preliminary Plans and Specifications and the Plans and Specifications, and any and all other plans, drawings, specifications or models prepared in connection with construction at the Premises, any Restoration or Capital Improvement, shall become the sole and absolute property of Landlord upon the Expiration Date or any earlier termination of this Lease. Tenant shall deliver all such documents to Landlord promptly upon the Expiration Date or any earlier termination of this Lease. Tenant's obligation under this Section 41.16 shall survive the Expiration Date.

Section 41.16. All references in this Lease to "licensed professional engineer", "licensed surveyor" or "registered architect" shall mean a professional engineer, surveyor or architect who is licensed or registered, as the case may be, by the State of New York.

Section 41.17. If Battery Park City Authority or any successor to its interest hereunder ceases to have any interest in the Premises as lessee under the Master Lease or there is at any time or from time to time any sale or sales or disposition or dispositions or transfer or transfers of Landlord's interest in the Premises as lessee under the Master Lease, the seller or transferor shall be and hereby is entirely freed and relieved of all agreements, covenants and obligations of Landlord hereunder to be performed on or after the date of such sale or transfer relative to the interest sold or transferred, and it shall be deemed and construed without further agreement between the parties or their successors in interest or between the parties and the Person who acquires or owns the lessee's interest in the Premises under the Master Lease, including, without limitation, the purchaser or transferee in any such sale, disposi-

tion or transfer, and any fee owner of the Premises upon termination of the Master Lease, that such Person has assumed and agreed to carry out any and all agreements, covenants and obligations of Landlord hereunder accruing from and after the date of such acquisition, sale or transfer.

Section 41.18. If the Tenant named herein or any successor to its interest hereunder ceases to have any interest in the Premises under this Lease or there is at any time or from time to time any valid sale or sales or disposition or dispositions or transfer or transfers of the Tenant's or any successor's entire interest in the Premises in accordance with the provisions of Article 10, the Tenant named herein or any such successor, as the case may be, shall be and hereby is entirely freed and relieved of all agreements, covenants and obligations of Tenant hereunder to be performed on or after the date of such sale or transfer, and it shall be deemed and construed without further agreement between the parties or their successors in interest or between the parties and the Person who acquires or owns the Tenant's interest in the Premises under this Lease, including, without limitation, the purchaser or transferee in any such sale, disposition or transfer, that, subject to the provisions of Section 41.08, such Person has assumed and agreed to carry out any and all agreements, covenants and obligations of Tenant hereunder to be performed from and after the date of such acquisition, sale or transfer.

Section 41.19. To the best of Landlord's knowledge, the Master Lease, the Settlement Agreement and the Memorandum of Understanding (as more fully described on Exhibit "B" hereto) are in full force and effect. Landlord covenants and agrees that it shall not enter into or cause there to be entered into any amendment or supplement to the Master Lease, Master Development Plan, Design Guidelines, Settlement Agreement or Zoning Lot Declaration which (a) increases or materially alters or otherwise materially affects Tenant's rights or obligations under this Lease, (b) decreases or materially alters or otherwise materially affects Tenant's monetary rights or monetary claims under this Lease, (c) limits the permitted uses of the Premises or the Civic Facilities, (d) limits Tenant's rights under this Lease to dispose of or assign its interest in, the Premises or (e) decreases or alters the rights of a Mortgagee which holds a lien on Tenant's interest in this Lease under Article 10, unless the same is consented to by Tenant (or, in the case of (e), by Mortgagee) or is made subject and subordinate to this Lease and to the rights of such Mortgagee. Notwithstanding anything contained in this Lease to the contrary, in the event that Landlord shall enter into or cause to be entered into an amendment or supplement to the Master Lease, Master Development Plan, Design Guidelines, Settlement Agreement or Zoning Lot Declaration which is not in conformity with this Section 41.19, Tenant shall not be ob-

ligated to comply with the provision or provisions of such amendment or supplement which do not so conform and the same shall have no force or effect with respect to Tenant or any Mortgagee. With respect to any provision of this Lease which requires Tenant to comply with the Design Guidelines, Master Development Plan, Master Lease, Settlement Agreement or Zoning Lot Declaration, such compliance shall be limited to the Design Guidelines, Master Development Plan, Master Lease, Settlement Agreement and Zoning Lot Declaration as existing on the date hereof. Notwithstanding anything herein contained to the contrary, Tenant shall have no right to approve any amendment, modification or supplement to the Master Lease, Master Development Plan, Design Guidelines or Settlement Agreement which does not affect Phase II or any part thereof.

Section 41.20. Nothing herein is intended nor shall be deemed to create a joint venture or partnership between Landlord and Tenant, nor, except as otherwise expressly provided herein, to make Landlord in any way responsible for the debts or losses of Tenant.

Section 41.21. To the extent permitted by law from time to time, Tenant shall have the right to all depreciation deductions, investment tax credits and other similar tax benefits attributable to any construction, demolition and Restoration performed by Tenant or attributable to the ownership of the Buildings. Landlord from time to time shall execute and deliver such instruments as Tenant shall reasonably request in order to effect the provisions of this Section 41.21, and Tenant shall pay Landlord's reasonable costs and expenses thereof. Landlord makes no representations as to the availability of any such deductions, credits or tax benefits.

Section 41.22. Whenever Landlord shall have the right to approve the architect, engineer or lawyer to be employed by Tenant, any architect, engineer or lawyer so approved by Landlord at any time during the Term shall be deemed to be acceptable to Landlord for employment by Tenant at any time thereafter, unless Landlord shall have good cause for refusing to allow the continued employment of such consultant. Whenever Tenant is required to obtain Landlord's approval of an architect, engineer or lawyer, Tenant shall notify Landlord if it intends to employ an architect, engineer or lawyer previously approved. In the event that Landlord shall refuse to approve the continued employment of such consultant, it shall so notify Tenant, specifying the reason therefor.

Section 41.23. Tenant shall have the right to use the name Battery Park City in any advertising and promotional materials in connection with the leasing of the Buildings or the sale of Cooperative Apartments of Units.

Section 41.24. In connection with any payment to be made to Landlord pursuant to Section 11.06(c), Landlord, upon request by Tenant and at no cost or expense to Landlord, shall cooperate with any effort by Tenant to establish that, by reason of ownership of the Buildings by Landlord, no sales or compensating use tax is payable in respect of materials incorporated (or to be incorporated) in the Buildings. Tenant shall promptly reimburse Landlord for any and all costs or expenses which Landlord may sustain or incur while acting pursuant to this section.

Section 41.25. Tenant promptly shall apply to the appropriate authorities to obtain a separate tax lot designation for the Premises and the tax assessment for such tax lot shall be the basis for calculating PILOT payments under Section 3.02 hereof and Landlord shall cooperate with Tenant in connection therewith. If Tenant shall not be able to obtain a separate tax lot designation, Landlord and Tenant shall cooperate to obtain annually a separate, undivided tax assessment and such assessment shall be the basis for calculating PILOT payments under Section 3.02 hereof.

ARTICLE 42

CONDOMINIUM OWNERSHIP

Section 42.01. Definitions. As used in this Lease, the following terms shall have the following meanings:

"Approved Conversion" shall mean, if the Premises are then used for rental purposes, the submission by Tenant of its leasehold estate in the Premises to the Condominium Act (hereinafter defined) at any time subsequent to Completion of the Buildings.

"Board of Managers" shall mean the board of managers established pursuant to the By-Laws (hereinafter defined).

"Board of Managers Failure to Act" shall have the meaning provided in Section 42.10.

"By-Laws" shall mean the by-laws annexed to the Declaration (hereinafter defined) together with all amendments, modifications and supplements thereto.

"Common Charges" shall mean Rental and assessments payable to the Board of Managers by the Unit Owners (hereinafter defined) for the purpose of meeting the costs and expenses in connection with the repair, maintenance, replace-

ment, restoration and operation of and any alteration, addition or improvement to the common elements.

"Condominium Act" shall mean Article 9-B of the Real Property Law of the State of New York or any statute in lieu thereof.

"Condominium Depository" shall have the meaning provided in Section 42.05(c).

"Condominium Documents" shall mean the Condominium Plan (hereinafter defined), Declaration and By-Laws.

"Condominium Plan" shall mean the plan to submit Tenant's leasehold estate in the Premises to condominium ownership together with all amendments, modifications and supplements thereto.

"Declaration" shall mean the instrument by which Tenant's and/or Landlord's respective leasehold estates in the Premises are submitted to the Condominium Act, together with all amendments, modifications and supplements thereto.

"Default Certificate" shall have the meaning provided in Section 42.07(b).

"Defaulting Unit Owner" shall have the meaning provided in Section 42.07(b).

"Deficiency Amount" shall have the meaning provided in Section 42.07(c).

"Initial Unit Transfer" shall mean the closing of the first transfer of a Unit (hereinafter defined) to a Qualified Unit Purchaser (hereinafter defined) pursuant to the Condominium Plan and in accordance with this Article 42.

"Initial Unit Transfers" shall mean (i) other than if in connection with an Approved Conversion, the first closings of the transfers of 35% of the Units to Qualified Unit Purchasers pursuant to the Condominium Plan and in accordance with this Article 42 and (ii) if in connection with an Approved Conversion, the first closings of the transfers of fifteen percent (15%) of the Units to Qualified Unit Purchasers pursuant to the Condominium Plan and in accordance with this Article 42.

"Landlord's Lien" shall have the meaning provided in Section 42.09(c).

"Letter of Credit" shall have the meaning provided in Section 42.05(a).

"Letter of Credit Amount" shall mean $390,000; however, in connection with an Approved Conversion pursuant to which the Initial Unit Transfer occurs on or after the date two (2) years after Completion of the Buildings, the "Letter of Credit Amount" shall mean $130,000.

"Liabilities" shall have the meaning provided in Section 42.12(g).

"Maximum Fund Requirement" shall mean $130,000.

"Partial Rental Payment" shall have the meaning provided in Section 42.07(c).

"Permitted Reduction" shall have the meaning provided in Section 42.05(d).

"Proportionate Rent" shall mean each Unit's proportionate share of Rental under this Lease in accordance with each Unit's common interest as set forth in the Declaration.

"Purchase Option" shall mean that certain agreement dated as of June 6, 1980 by and between UDC, BPC Development Corporation, Landlord and New York City and recorded in the Office of the City Register, New York County on June 11, 1980 in Reel 527 at page 153.

"Qualified Purchase Agreement" shall mean (i) a purchase agreement for the purchase of a Unit made by any Person who is not a Related Entity (hereinafter defined) substantially in the form set forth in the Condominium Plan, providing for a purchase price determined in accordance with the terms of the Condominium Plan and under which such purchase agreement such Person made all down payments required thereunder, and (ii) with respect to any Person who is a Related Entity, a purchase agreement for the purchase of a Unit made by any Person who is a Related Entity substantially in the form set forth in the Condominium Plan, providing for a purchase price determined in accordance with the terms of the Condominium Plan, under which such purchase agreement such Person made all down payments required thereunder and provided (x) such Related Entity shall not pay or have paid for any portion of the purchase price with funds advanced by or contributed or borrowed from Sponsor or any other Related Entity or (y) Sponsor or any other Related

Entity shall not have guaranteed any portion of the purchase price for such Related Entity.

"Qualified Unit Purchaser" shall mean the purchaser under a Qualified Purchase Agreement.

"Recognized Unit Mortgage" shall have the meaning provided in Section 42.11(b).

"Recognized Unit Mortgagee" shall have the meaning provided in Section 42.11(b).

"Related Entity" shall mean (i) any Person that has, directy or indirectly, a five percent (5%) or greater ownership interest in Sponsor, or any Person in which Sponsor, or any general partner of Sponsor, or any limited partner of Sponsor with a five percent (5%) or greater interest in Sponsor, or any stockholder with a five percent (5%) or greater interest in any Person that is either (x) a general partner in Sponsor or (y) a limited partner of Sponsor with a five percent (5%) or greater interest in Sponsor, has an ownership interest which, in the aggregate, is greater than five percent (5%) of such Person, and (ii) any individual who is a member of the immediate family (whether by birth or marriage) of an individual who is a Related Entity, which includes for purposes of this definition a spouse; a brother or sister of the whole or half blood of such individual or his spouse; a lineal descendant or ancestor (including an individual related by or through legal adoption) of any of the foregoing or a trust for the benefit of any of the foregoing.

"Security Fund" shall have the meaning provided in Section 42.05(b).

"Sponsor" shall mean a Person that is or was Tenant or has a contractual right to be Tenant that has submitted a Condominium Plan, and any successor thereto.

"Unit" shall have the meaning set forth in the Condominium Plan.

"Unit Assignment Agreement" shall mean the instrument by which a Unit Owner acquires its interest in a Unit and a proportionate undivided interest in the common elements appertaining to such Unit by partial assignment from Sponsor.

"Unit Mortgage" shall have the meaning provided in Section 42.11(a).

"Unit Mortgagee" shall have the meaning provided in Section 42.11(a).

"Unit Mortgagee Representative" shall have the meaning provided in Section 42.11(e).

"Unit Owner(s)" shall have the meaning set forth in the Condominium Plan.

"Unit Owner Action" shall have the meaning provided in Section 42.10(b).

"Unit Owner Default" shall have the meaning provided in Section 42.07(b).

"Unit Owner Monetary Default" shall have the meaning provided in Section 42.07(b).

"Unit Owner Non-Monetary Default" shall have the meaning provided in Section 42.07(b).

Section 42.02. Approval of Condominium Documents by Landlord.

(a) Tenant shall submit the Condominium Documents to Landlord for Landlord's approval. Landlord's approval shall be limited solely to determining, in Landlord's reasonable opinion, whether or not the Condominium Documents conform to the provisions of this Lease. If Landlord shall determine that the Condominium Documents do so conform, Landlord shall notify Tenant to that effect within fourteen (14) Business Days after Landlord's receipt of the Condominium Documents. If Landlord shall determine that the Condominium Documents do not so conform, Landlord shall so notify Tenant within such fourteen (14) Business Day period, specifying, in reasonable detail, those respects in which the Condominium Documents do not so conform and Tenant shall revise the Condominium Documents to so conform and resubmit the Condominium Documents to Landlord. Each review by Landlord of Tenant's revisions to the Condominium Documents shall be carried out within five (5) Business Days of the date of submission of the revised Condominium Documents. If Landlord shall not have notified Tenant of its determination within the periods herein set forth, Landlord shall be deemed to have determined that the Condominium Documents or revised Condominium Documents, as the case may be, do so conform.

(b) If at any time after Landlord shall have approved the Condominium Documents Tenant shall desire to amend, modify or supplement any Condominium Document, Tenant shall, except as otherwise provided herein, submit such proposed amendment, modification or supplement to Landlord for Landlord's approval, which approval shall be limited solely to determining whether or not such amendment, modification or supplement conforms to the provisions of this Lease. Each review by Landlord shall be performed in the manner

provided in Section 42.02(a) within five (5) Business Days after submission to Landlord. Notwithstanding the foregoing, Tenant shall have no obligation to submit to Landlord and Landlord shall have no right to approve, any proposed amendment, modification or supplement (i) to change the price (including without limitation the terms of sale and manner of payment of the purchase price) or layout of, or number of rooms in, any Unit, (ii) to change the size and/or number of Units by subdividing one or more Units into separate Units, combining separate Units into one or more Units, or otherwise, (iii) to re-apportion among the Units affected by any such change, subdivision, combination or alteration their appurtenant interests in the common elements and (iv) to any of the following provisions in the Condominium Plan: budget, composition and identity of the officers of the Board of Managers, closing costs, fees and procedures for purchasing a Unit, tax benefits, permitted occupancy of Units, policies relating to the offering, financing of Units, non-residential leases and agreements, description of Premises, location and area information, information set forth on price schedules, utility cost schedules, control by sponsor and working capital and other funds (excluding the Security Fund).

(c) Landlord shall approve any reasonable amendment to this Article 42 as may be requested by the New York State Department of Law. In the event there is a dispute as to reasonableness of such request by the New York State Department of Law, Landlord shall appoint a representative to meet with Tenant's counsel and a representative of the New York State Department of Law to resolve the dispute. In no event however shall Landlord be obligated to approve any amendment modifying Section 42.02(d) or (e) hereof.

(d) The responsibility to assure that the Condominium Documents comply with all applicable Requirements of Governmental Authorities, including without limitation, the rules and regulations of the New York State Department of Law, shall be Tenant's; Landlord's determination that the Condominium Documents conform to the provisions of this Lease shall not be, nor shall it be construed to be or relied upon by Tenant, any Unit Owner, any Unit Mortgagee or any other Person as a determination that the Condominium Documents comply with all applicable Requirements of Governmental Authorities, including without limitation, the rules and regulations of the New York State Department of Law.

(e) Landlord's determination that the Condominium Documents conform to the provisions of this Lease shall not be, nor shall it be construed to be or relied upon by Tenant, any Unit Owner, any Unit Mortgagee or any other Person as a determination that Landlord has approved the offering of Units pursuant to the Condominium Plan.

Section 42.03. Conditions to Recording Declaration and Closing of the Initial Unit Transfer.

(a) Subject to compliance with the provisions of this Section 42.03, Tenant may submit Tenant's leasehold estate in the Premises to the provisions of the Condominium Act by recording the Declaration as required by the Condominium Act.

(b) Provided the conditions hereinafter set forth shall have been satisfied by Tenant (or waived by Landlord in accordance with Section 42.03(d)), Landlord shall (i) execute the Declaration for the purpose of evidencing its consent to the submission of Tenant's leasehold estate in the Premises to the Condominium Act, provided such consent be in form and substance reasonably satisfactory to Landlord or (ii) if required by applicable law or the New York State Department of Law, join in the execution of the Declaration for the sole purpose of submitting its leasehold estate in the Premises (but, in no event, its fee estate in the Premises) to the Condominium Act.

(c) Landlord shall have no obligation to consent to the recording of the Declaration or join in the execution of the Declaration, as the case may be, and Tenant shall not (x) record the Declaration or (y) consummate the Initial Unit Transfer unless the following conditions shall have been satisfied:

(i) The Condominium Documents shall have been approved, or deemed to have been approved, by Landlord in accordance with the provisions of Section 42.02(a).

(ii) The Condominium Plan shall have been accepted for filing by the New York State Department of Law and a true and correct copy of the letter issued by the New York State Department of Law evidencing such acceptance shall have been delivered to Landlord.

(iii) The Condominium Documents shall not have been amended, modified or supplemented unless Landlord shall have approved or shall be deemed to have approved such amendment, modification or supplement, if such approval was required, in accordance with the provisions of Section 42.02(b).

(iv) There shall be in full force and effect Qualified Purchase Agreements for the purchase of at least 35% of the Units (provided, however, that with respect to an Approved Conversion such percentage shall be 15%), true and correct copies of such purchase agreements shall have been delivered

to Landlord and Tenant shall have delivered to Landlord Tenant's certification that (x) each such purchase agreement is a Qualified Purchase Agreement, (y) all conditions contained in each such purchase agreement have been (or, to the reasonable expectation of Tenant, will at closing be) satisfied and (z) the closings of the transfers of such Units pursuant to such purchase agreements are scheduled to occur within sixty (60) days after the date of the Initial Unit Transfer. If Landlord shall not have notified Tenant of its objections as to the correctness of Tenant's certification within five (5) Business Days after delivery by Tenant of its certification to Landlord, Landlord shall be deemed to have determined that each such purchase agreement is a Qualified Purchase Agreement.

(v) The Condominium Plan shall have been declared effective in accordance with its terms and a true and correct copy of the letter issued by the New York State Department of Law evidencing acceptance of an amendment declaring the Condominium Plan effective shall have been delivered to Landlord.

(vi) No Event of Default shall have occurred and be continuing under this Lease.

(vii) The Buildings shall have been Substantially Completed.

(viii) Tenant shall have complied with the provisions of Section 3.05(b)(ii) hereof.

Landlord shall cooperate with Tenant, at no expense to Landlord, in connection with the submission of any forms and information required pursuant to Article 31-B of the New York Tax Law, provided Landlord shall have no liability as a result thereof and no obligation to pay any tax pursuant thereto.

(d) In the event that, at any time prior to the recording of the Declaration, (i) Landlord makes payment of the Indebtedness (as defined in the Purchase Option), (ii) New York City shall exercise its right under the Purchase Option to repay the Indebtedness, or (iii) Landlord agrees to convey the Premises or assign its right, title and interest as tenant under the Master Lease or as Landlord under this Lease to New York City or any other Person, Landlord shall give Tenant notice thereof within five (5) Business Days after the occurrence of such event. In such event, the provisions of subparagraphs (i) (as to approval of the Condominium Plan), (ii), (iii) (as to approval of amendments,

sign, sublet, mortgage or otherwise transfer its interest in a Unit without Landlord's consent or approval.

(c) Immediately following the Initial Unit Transfers, Landlord shall execute, acknowledge and deliver to Sponsor or any Person specified by Sponsor, a statement in writing certifying that 35% of the Units (or, with respect to an Approved Conversion, 15% of the Units) have been sold pursuant to Qualified Purchase Agreements.

Section 42.05. Security Fund.

(a) To secure the obligations of Tenant and each Unit Owner under this Lease, Sponsor shall deliver or cause to be delivered to Landlord, immediately prior to the Initial Unit Transfer, a clean, irrevocable letter of credit (the "Letter of Credit") in the Letter of Credit Amount drawn in favor of Landlord and having a term of not less than one (1) year, payable upon presentation of sight draft in United States dollars, issued by and drawn on a commercial bank or trust company which is a member of the New York Clearing House Association satisfactory to Landlord and in form and substance satisfactory to Landlord.

(b) The Letter of Credit, the proceeds thereof and any interest or income earned thereon are hereinafter referred to as the "Security Fund". The Security Fund shall be retained by Landlord or the Condominium Depository, as the case may be, and disbursed only in accordance with the provisions of this Article 42.

(c) In the event Landlord shall present the Letter of Credit for payment in accordance with the provisions of this Article 42, Landlord shall promptly deposit the Letter of Credit Amount with a commercial bank or trust company which is a member of the New York Clearing House Association designated by Landlord (the "Condominium Depository"). All monies deposited with the Condominium Depository shall be deposited in one or more insured interest-bearing accounts or invested by the Condominium Depository in bank certificates of deposit or United States treasury bills. Landlord shall promptly notify the Board of Managers of the designation of the Condominium Depository and shall cause the Condominium Depository to furnish the Board of Managers with any information reasonably requested by the Board of Managers with respect to such deposit. The fees of the Condominium Depository, if any, shall be paid from the Security Fund.

(d) Provided Landlord shall not have applied the Letter of Credit Amount or any portion thereof in accordance with the provisions of Section 42.06, Sponsor or any Person designated by Sponsor in the Condominium Plan shall have the right to reduce the Letter of Credit as follows: (x) upon

the closings of sale of 45% of the Units, the Letter of Credit Amount shall be reduced by 10%, (y) upon the closings of sale of 60% of the Units, the Letter of Credit Amount shall be reduced by an additional 50% and (z) upon the closings of sale of 75% of the Units, the Letter of Credit Amount shall be reduced to $130,000 (each such reduction of the Letter of Credit Amount is hereinafter referred to as a "Permitted Reduction"). In the event Landlord shall have applied the Letter of Credit Amount or a portion thereof in accordance with the provisions of Section 42.06, Landlord shall have no obligation to accept a reduction of the Letter of Credit or cause the Condominium Depository to make a refund in accordance with this Section 42.05(d) unless and until all Deficiency Amounts shall have been paid in full to Landlord. Upon receipt of such Deficiency Amount(s), Landlord shall cause the Condominium Depository to promptly refund to Sponsor or any Person designated by Sponsor in the Condominium Plan an amount equal to such Permitted Reduction. In the event the Letter of Credit shall have been presented by Landlord pursuant to Section 42.05(e), upon the satisfaction by Tenant of the conditions set forth in this Section 42.05(d), Landlord shall cause the Condominium Depository to promptly refund to Sponsor or any Person designated by Sponsor in the Condominium Plan an amount equal to each such Permitted Reduction.

(e) Subject to the provisions of Section 42.05(d), at the expiration of eleven and one-half (11-1/2) months from the date of the Initial Unit Transfer, if Landlord shall not have previously presented the Letter of Credit for payment, Landlord shall, prior to the expiration date of the Letter of Credit, present the Letter of Credit for payment, in which event, Landlord shall promptly deposit the proceeds thereof with the Condominium Depository as provided in Section 42.05(c). Notwithstanding the foregoing, Landlord shall return the Letter of Credit to Sponsor provided Sponsor shall have delivered to Landlord, at least fifteen (15) days prior to the expiration date of the Letter of Credit, cash in an amount equal to the then Letter of Credit Amount. In such event, Landlord shall promptly deposit such monies with the Condominium Depository as provided in Section 42.05(c).

(f) Commencing on the tenth (10th) anniversary of the date of the Initial Unit Transfer and on each succeeding annniversary of such date, Landlord shall cause the Condominium Depository to disburse the amount by which the Security Fund then exceeds the Maximum Fund Requirement to the Board of Managers.

(g) If not previously applied by Landlord in accordance with this Article 42, Landlord shall cause the Condominium Depository to disburse to the Board of Managers the Security Fund on the Expiration Date.

Section 42.06. Application of Security Fund.

(a) In the event any item of Rental shall not have been paid to Landlord in full when the same shall become due and payable and such failure shall continue for twenty (20) days after notice from Landlord to the Board of Managers, Landlord may, at its election and without further notice to the Board of Managers or any Unit Owner and without waiving any right or remedy granted to Landlord pursuant to any provision of this Lease, present the Letter of Credit for payment, if such Letter of Credit be outstanding and pay to itself from the proceeds of the Letter of Credit an amount equal to the Deficiency Amount or, if the Letter of Credit shall no longer be outstanding, cause the Condominium Depository to pay to Landlord an amount equal to the Deficiency Amount. In the event Landlord presents the Letter of Credit for payment, any proceeds in excess of the Deficiency Amount shall be promptly deposited with the Condominium Depository and disbursed in accordance with Section 42.05(d). In either event, Landlord shall, within ten (10) days thereafter, so notify the Board of Managers, which notice shall set forth the amount disbursed to Landlord from the Security Fund. Such disbursement from the Security Fund shall not constitute a waiver by Landlord of any Unit Owner Default or Board of Managers Failure to Act or prohibit Landlord from exercising any right or remedy granted to Landlord pursuant to the provisions of this Lease against any Defaulting Unit Owner.

(b) Upon payment by (i) the Board of Managers to Landlord of the Deficiency Amount or any lesser amount collected by the Board of Managers, as the case may be, as provided in Section 42.07(c) or (ii) a Defaulting Unit Owner or such Defaulting Unit Owner's Recogized Unit Mortgagee of the Deficiency Amount as provided in Section 42.09(f) or 42.09(g), Landlord shall either (x) promptly deposit such amount with the Condominium Depository for deposit in the Security Fund if Landlord shall have withdrawn an amount equal to the Deficiency Amount from the Security Fund or (y) apply such amount to the unpaid item of Rental if Landlord shall not have withdrawn an amount equal to the Deficiency Amount from the Security Fund.

Section 42.07. The Board of Managers.

(a) Commencing on the date of the Initial Unit Transfer and continuing throughout the Term, all Unit Owners hereby constitute and appoint the Board of Managers their true and lawful attorney-in-fact coupled with an interest for the purposes of paying, performing and observing all of the terms, covenants and conditions of this Lease on Tenant's part to be paid, performed and observed.

(b) Commencing on the date of the Initial Unit Transfer and continuing throughout the Term, the Board of Managers, on behalf of all Unit Owners, shall, subject to the provisions of this Section 42.07, pay, perform and observe all of the terms, covenants and conditions of this Lease on Tenant's part to be paid, performed and observed. If the Board of Managers does not so pay, perform or observe any term, covenant or condition of this Lease because of a failure by a Unit Owner (hereinafter, a "Defaulting Unit Owner") to pay, perform or observe any term, covenant or condition under such Defaulting Unit Owner's Unit Assignment Agreement, the By-Laws or any other Condominium Document (a failure by a Unit Owner to pay Common Charges or any assessment adopted by the Unit Owners being hereinafter referred to as a "Unit Owner Monetary Default" and any other failure by a Unit Owner being hereinafter referred to as a "Unit Owner Non-Monetary Default"; collectively, a "Unit Owner Default"), the Board of Managers shall deliver to Landlord, within forty-five (45) days after such Rental shall have become due and payable, a certificate, in reasonable detail, specifying (x) the name and Unit of such Defaulting Unit Owner, (y) the nature of such Unit Owner Default and, if such Unit Owner Default be a Unit Owner Monetary Default, the amount thereof and (z) the name and address of the Recognized Unit Mortgagee, if any (such certificate being hereinafter referred to as a "Default Certificate") and, except as otherwise provided in Section 42.09(a), within ninety (90) days after such Rental shall have become due and payable, commence and diligently and continuously prosecute all of the rights and remedies of the Board of Managers under the By-Laws, the Declaration and as provided in the Condominium Act against such Defaulting Unit Owner.

(c) If, because of a Unit Owner Monetary Default, the Board of Managers does not pay, at the time and in the manner provided in this Lease, any item of Rental, the Board of Managers shall pay, at the time and in the manner provided in this Lease, so much of such item allocable to Rental as shall have been collected by the Board of Managers from all other Unit Owners (such payment being hereinafter referred to as a "Partial Rental Payment"). In the event the Board of Managers shall thereafter obtain payment from the Defaulting Unit Owner or such Defaulting Unit Owner's Unit Mortgagee of such Unit Owner Monetary Default, the Board of Managers shall, within twenty (20) days thereafter, pay to Landlord the amount so obtained, but in no event, shall such amount be in excess of the Deficiency Amount. As used herein, "Deficiency Amount" shall mean an amount equal to the difference between such item of Rental and the Partial Rental Payment. The Deficiency Amount shall be applied by Landlord in accordance with Section 42.06(b).

(d) At the request of Landlord, the Board of Managers shall prepare and deliver to Landlord, within twenty

(20) days after demand, a true and correct schedule of the names of all Unit Owners and the Units owned by such Unit Owners and copies of any other documents reasonably requested by Landlord. Landlord and Landlord's designee, at Landlord's expense, shall have the right, as provided in Section 38.03, to examine the records and books of account maintained by the Board of Managers and any managing agent appointed by the Board of Managers with respect to the Premises at a location designated by the Board of Managers in New York City.

(e) The Board of Managers may appoint a managing agent of the Premises for the management and operation thereof, maintenance and repair of the common elements and collection, custody and payment for Unit Owners of all Common Charges and other charges.

(f) No member of the Board of Managers shall have any personal liability under this Lease with respect to any act or omission of the Board of Managers or of any managing agent in connection with the terms, covenants and conditions on Tenant's part to be observed and performed under this Lease.

Section 42.08. Effect of Unit Owner Default on Lease; Obligations of Other Unit Owners.

(a) The failure of the Board of Managers to pay, in full, any item of Rental or part thereof when the same shall become due and payable because of a Unit Owner Monetary Default or to perform or observe any other term, covenant or condition of this Lease because of a Unit Owner Non-Monetary Default shall not constitute a Default under this Lease.

(b) Except as otherwise specifically provided herein, no Unit Owner, Tenant, Sponsor or the Board of Managers shall be obligated to pay to Landlord any sums to replenish the Security Fund in the event the Board of Managers does not recover the Deficiency Amount or any portion thereof from a Defaulting Unit Owner or such Defaulting Unit Owner's Unit Mortgagee as provided in Section 42.07.

(c) Any Unit Owner Default shall not constitute a Default under this Lease and, notwithstanding anything contained in this Lease, including, without limitation, this Article 42 to the contrary, Landlord shall not, nor shall it have the right to, terminate this Lease because of any Unit Owner Default.

Section 42.09. Landlord's Remedies with Respect to Unit Owner Defaults.

(a) Provided the Board of Managers shall have delivered a Default Certificate to Landlord in accordance with

Section 42.07(b), Landlord shall, within ten (10) days thereafter, notify the Board of Managers whether or not Landlord intends to exercise the remedies granted to Landlord under this Section 42.09 with respect to such Defaulting Unit Owner. In the event Landlord shall have elected to exercise such remedies and shall have so notified the Board of Managers within such ten (10) day period, the Board of Managers may, but shall not be obligated, at any time thereafter to commence any action against such Defaulting Unit Owner as provided in Section 42.07(b). In the event Landlord shall not have so notified the Board of Managers, the Board of Managers shall commence action against such Defaulting Unit Owner in accordance with Section 42.07(b). Provided the Board of Managers shall timely commence such action and diligently prosecute such action in accordance with Section 42.07(b), Landlord shall not, during the pendency of such action and except as otherwise provided in Section 42.09(d), commence any action against such Defaulting Unit Owner. In the event the Board of Managers shall fail to deliver the Default Certificate as provided in Section 42.07(b), Landlord may commence any action against such Defaulting Unit Owner at any time subsequent to the date that such Default Certificate should have been so delivered to Landlord.

(b) In the event Landlord shall have elected to exercise its remedies against a Defaulting Unit Owner in accordance with the provisions of Section 42.09(a), if at the expiration of sixty (60) days after such Rental shall have been due and payable a Defaulting Unit Owner shall not have paid its Proportionate Rent, Landlord shall so notify such Defaulting Unit Owner and if such Unit Owner does not pay such Proportionate Rent within thirty (30) days after such notice from Landlord, Landlord shall, subject to the rights granted to Recognized Unit Mortgagees pursuant to Section 42.11, commence and diligently prosecute an action against such Defaulting Unit Owner for such unpaid Proportionate Rent and, in connection with such action, may without further notice, re-enter and repossess the Unit of such Defaulting Unit Owner using such force for that purpose as may be necessary without being liable to indictment, prosecution or damages therefor and may dispossess such Defaulting Unit Owner by summary proceedings or otherwise and exercise such other rights and remedies granted to Landlord at law or in equity, and whether or not Landlord shall have theretofore obtained payment of such unpaid Proportionate Rent from the Security Fund pursuant to Section 42.06(a).

(c) In addition to the rights and remedies granted to Landlord pursuant to the provisions of this Lease, each Unit Owner hereby grants to Landlord, effective only upon the occurrence of a Unit Owner Default and continuing until

the payment to Landlord of the Deficiency Amount, a lien on such Unit (a "Landlord's Lien"), which Landlord's Lien shall be prior to all other liens on such Unit (including without limitation, the lien of any Unit Mortgage or Recognized Unit Mortgage of record), except for Taxes, Impositions, the lien granted to the Board of Managers pursuant to the Condominium Act and liens granted to Governmental Authorities which, pursuant to applicable law, are granted a priority. Such Landlord's Lien shall be enforceable by Landlord only if Landlord shall have elected, in accordance with Section 42.09(a), to pursue its rights and remedies against such Defaulting Unit Owner.

(d) Notwithstanding anything herein contained to the contrary, Landlord shall, subject to the rights granted to Recognized Unit Mortgagees pursuant to Section 42.11, have the right to commence and prosecute an action against any Defaulting Unit Owner for a Unit Owner Non-Monetary Default if, by reason of such Unit Owner Non-Monetary Default, (i) Landlord's interest in the Premises, or any part thereof, shall be in imminent danger of being forfeited or lost, (ii) Landlord shall be in imminent danger of being subjected to criminal and/or civil liability or penalty, or (iii) Landlord would, in Landlord's reasonable judgment, be in default under the Master Lease as a result of such Unit Owner Non-Monetary Default.

(e) Prior to commencing any action against a Defaulting Unit Owner under this Section 42.09 Landlord shall so notify the Board of Managers and shall keep the Board of Managers reasonably informed as to the status of such action. The Board of Managers shall cooperate with Landlord, and, upon Landlord's request, shall promptly furnish to Landlord such information and documentation as may be reasonably requested by Landlord.

(f) If, during the pendency of any such action by Landlord against a Defaulting Unit Owner, either the Board of Managers, such Defaulting Unit Owner or such Defaulting Unit Owner's Recognized Unit Mortgagee shall have remedied such Unit Owner Default, Landlord shall cause such action to be discontinued with prejudice provided such Defaulting Unit Owner or such Defaulting Unit Owner's Recognized Unit Mortgagee shall have reimbursed Landlord for Landlord's costs and expenses incurred in connection with such action (including reasonable attorneys fees) together with interest thereon at the Involuntary Rate.

(g) In the event Landlord shall have obtained a judgment against a Defaulting Unit Owner and shall have recovered such judgment from such Defaulting Unit Owner or such Defaulting Unit Owner's Recognized Unit Mortgagee prior

to payment to Landlord of the Deficiency Amount by the Board of Managers pursuant to Section 42.07(c), Landlord shall apply the amount so collected, after deducting therefrom Landlord's reasonable costs and expenses incurred in connection with such action to the extent not previously recovered by Landlord, in payment of the Deficiency Amount for such Unit and Landlord shall so notify the Board of Managers, whereupon the obligations of the Board of Managers to Landlord with respect to payment of such Deficiency Amount shall cease.

(h) If, as a result of any action by Landlord against a Defaulting Unit Owner, Landlord or any nominee or designee of Landlord shall become the owner of such Defaulting Unit Owner's Unit, Landlord or such nominee or designee shall, upon Landlord's or such nominee's or designee's acquisition of such Unit, promptly pay to the Board of Managers an amount equal to the difference between all accrued but unpaid Common Charges with respect to such Unit and the Deficiency Amount for such Unit. The obligations of the Board of Managers to Landlord with respect to payment of any Deficiency Amount with respect to such Unit Owner Default shall cease. During the period that Landlord or such nominee or designee shall be the owner of a Unit, Landlord or such nominee or designee shall comply with all of the terms, covenants and conditions of the By-Laws and the Unit Assignment Agreement for such Unit, including without limitation, the payment of Common Charges for such Unit.

Section 42.10. Landlord's Remedies for Board of Managers Failure to Act.

In the event that the Board of Managers shall not have (x) paid to Landlord a Partial Rental Payment as provided in Section 42.07(c) or any Deficiency Amount or lesser amount obtained by the Board of Managers as provided in Section 42.07(c) or (y) performed or observed on behalf of the Unit Owners any term, covenant or condition of this Lease on Tenant's part to be performed or observed, which failure to perform or observe is not the direct result of a Unit Owner Default (hereinafter, a "Board of Managers Failure to Act"), the following provisions shall be applicable:

(a) Landlord shall give notice to the Board of Managers, all Unit Owners and Recognized Unit Mortgagees specifying the nature of the Board of Managers Failure to Act.

(b) Within forty-five (45) days after Landlord shall have given such notice (i) the Board of Managers, any Unit Owner(s) or Recognized Unit Mortgagee(s) shall cause such Board of Managers Failure to Act to be remedied or (ii) if the curing of such Board of Managers Failure to Act re-

quires the imposition of an assessment or special meeting of Unit Owners for such purpose and/or special meeting of Unit Owners in order to replace the Board of Managers or work to be performed, acts to be done or conditions to be removed which cannot by their nature or because of Unavoidable Delays reasonably be repaired, done or removed, as the case may be, within such forty-five (45) day period (collectively, "Unit Owner Action"), the Board of Managers or the Unit Owner(s) shall have commenced such Unit Owner Action within such forty-five (45) day period and shall thereafter (subject to Unavoidable Delays) diligently prosecute such Unit Owner Action to completion and promptly thereafter cause the Board of Managers Failure to Act to be remedied, provided any Board of Managers Failure to Act which can be remedied with the payment of money shall be so remedied within one hundred and eighty (180) days after the date of Landlord's notice.

(c) If a Board of Managers Failure to Act shall not have been remedied in accordance with Section 42.10(b), such unpaid Partial Rental Payment, Deficiency Amount or other unpaid item of Rental shall constitute Proportionate Rent and each Unit Owner shall be obligated to pay to Landlord its share of such Proportionate Rent in accordance with each Unit's common interest in the Premises as set forth in the Declaration. The failure of a Unit Owner to make such payment of Proportionate Rent shall constitute a Unit Owner Monetary Default, such Unit Owner shall be deemed to be a Defaulting Unit Owner and Landlord shall have the right, subject to the rights granted to Recognized Unit Mortgagees pursuant to Section 42.11, to pursue the rights and remedies granted to Landlord pursuant to Section 42.09 against such Defaulting Unit Owner for a Unit Owner Monetary Default.

Section 42.11. Unit Mortgages.

(a) Any Unit Owner shall have the right to mortgage its interest in a Unit to any Person (such mortgage being hereinafter referred to as a "Unit Mortgage" and the holder of such Unit Mortgage being hereinafter referred to as a "Unit Mortgagee").

(b) Prior to commencing any action against a Defaulting Unit Owner pursuant to Section 42.09, Landlord shall give to each Unit Mortgagee who shall have furnished Landlord with a true and correct copy of such Unit Mortgagee's Unit Mortgage together with the name and address of such Unit Mortgagee (such Unit Mortgagee being hereinafter referred to as a "Recognized Unit Mortgagee" and such Recognized Unit Mortgagee's Unit Mortgage being hereinafter referred to as a "Recognized Unit Mortgage") notice of such

Unit Owner Default. Each Recognized Unit Mortgagee shall have a period of twenty (20) days more than is given to a Defaulting Unit Owner within which to pay to Landlord an amount equal to such Unit Owner Monetary Default and thirty (30) days more than is given to a Defaulting Unit Owner within which to remedy any Unit Owner Non-Monetary Default or causing action to remedy such Unit Owner Non-Monetary Default to be commenced. Provided such Unit Owner Monetary Default shall be so remedied, Landlord shall not take any action against the Defaulting Unit Owner and the Recognized Unit Mortgagee shall, subject to the terms of its Recognized Unit Mortgage, have the right to institute and thereafter prosecute foreclosure proceedings. With respect to a Unit Owner Non-Monetary Default, so long as a Recognized Unit Mortgagee, in good faith, shall have commenced to cure such Unit Owner Non-Monetary Default within such thirty (30) day period and shall prosecute the same to completion or if possession of the Unit is required to cure such Unit Owner Non-Monetary Default, to institute foreclosure proceedings and obtain possession directly or through a receiver and to prosecute such proceedings with diligence and continuity and, upon obtaining such possession, to commence promptly to cure such Unit Owner Non-Monetary Default and to prosecute the same to completion with diligence and continuity, Landlord shall not take any action against the Defaulting Unit Owner. In the event such Recognized Unit Mortgagee shall have failed to so remedy such Unit Owner Default as hereinabove provided, Landlord may commence any action against such Defaulting Unit Owner without any further notice to such Recognized Unit Mortgagee. If, with respect to any Unit, there is more than one Recognized Unit Mortgagee, Landlord shall recognize the Recognized Unit Mortgagee whose Recognized Unit Mortgage is senior in lien as the Recognized Unit Mortgagee entitled to the rights afforded by this Section 42.11(b). Notwithstanding anything herein contained to the contrary, provided such Recognized Unit Mortgagee shall have otherwise complied with the provisions of this Section 42.11(b), such Recognized Unit Mortgagee shall have no obligation to cure any Unit Owner Default which is not susceptible to being cured by such Recognized Unit Mortgagee.

(c) Landlord shall accept performance by a Recognized Unit Mortgagee of any covenant, condition or agreement on a Unit Owner's part to be performed with the same force and effect as though performed by such Unit Owner.

(d) Landlord shall have no obligations hereunder and no Unit Mortgagee shall have any rights hereunder unless such Unit Mortgagee shall be a Recognized Unit Mortgagee.

(e) In the event either the Board of Managers or the Recognized Unit Mortgagees shall have designated a representative (the "Unit Mortgagee Representative") and shall have notified Landlord of such fact, the Unit Mortgagee Representative shall have the right to participate, to the same extent as a Mortgagee, in any arbitration or other proceedings, including, without limitation, condemnation proceedings and insurance adjustment proceedings, provided for in this Lease and shall be entitled to exercise any rights afforded to Mortgagees in such arbitration or other proceedings.

Section 42.12. Miscellaneous.

(a) In the event that Taxes are assessed and levied by New York City against the Units, payment by the Unit Owners of such Taxes to New York City shall be credited against the next ensuing payments of PILOT required to be paid under this Lease.

(b) Notwithstanding anything contained in this Lease, including, without limitation, Article 16 to the contrary, the Board of Managers shall be entitled to maintain its lien for unpaid Common Charges as provided in the Condominium Act.

(c) Except as otherwise specifically provided in this Lease, all notices, demands, requests, consents, approvals or other communications (collectively, a "notice") provided in this Lease to be given by Landlord to Tenant shall be effective for any purpose if addressed to the Board of Managers on behalf of all Unit Owners and given or served as provided in Article 25, except any notice relating solely to a Unit Owner or such Unit Owner's Unit shall be effective only if addressed to the relevant Unit Owner and given or served as provided in Article 25.

(d) Subsequent to the recording of the Declaration, the aggregate tax assessments for all Units shall be the basis for calculating PILOT payments under Section 3.02 hereof.

(e) (i) Notwithstanding anything contained in this Lease, including, without limitation, Article 21 to the contrary, Landlord may (but shall be under no obligation to) perform an obligation of a Defaulting Unit Owner without waiving or releasing the Defaulting Unit Owner from any obligation contained in this Lease, after notice to the Defaulting Unit Owner and after applicable grace

periods provided hereunder for the Defaulting Unit Owner, the Board of Managers, and a Recognized Unit Mortgagee respectively to cure or commence to cure a Unit Owner Default.

(ii) All reasonable sums paid by Landlord and all reasonable costs and expenses incurred by Landlord in connection with its performance of any obligation of a Defaulting Unit Owner as provided herein, together with interest thereon at the Involuntary Rate from the respective dates of Landlord's making each such payment until the date of actual repayment to Landlord, shall be paid by the Defaulting Unit Owner to Landlord on demand. Landlord shall look only to the Defaulting Unit Owner for such recovery or to the Security Fund, if any. Any payment or performance by Landlord of an obligation of a Defaulting Unit Owner shall not be nor be deemed to be a waiver or release of breach or a Unit Owner Default by the Defaulting Unit Owner, or of the right of Landlord to institute summary proceedings or take such other action as may be provided herein against such Defaulting Unit Owner.

(f) Notwithstanding anything contained in this Lease, including, without limitation, Article 13 to the contrary, a Unit Owner may make any changes, alterations or additions to the interior of its Unit and may combine two or more Units without Landlord's consent.

(g) Notwithstanding anything contained in this Lease, including, without limitation, Article 19 to the contrary, subsequent to the date of the Initial Unit Transfer a Unit Owner shall be obligated to indemnify and save the Indemnitees harmless from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including without limitation engineers', architects' and reasonable attorneys' fees and disbursements (collectively the "Liabilities") which may be imposed upon or incurred by or asserted against any of the Indemnitees only if such Liabilities arise by reason of the occurrence of any of those matters specifically set forth in Article 19 in connection with the Unit owned by such Unit Owner; provided however, that each Unit Owner shall pay its proportionate share, in accordance with its Unit's common interest as set forth in the Declaration, of the Liabilities if such Liabilities arise by reason of the occurrence of any of those matters specifically set forth in Article 19 and only as such Liabilities may pertain to the common elements as defined in the Declaration.

(h) The Introduction section of the Condominium Plan shall contain the following disclaimer:

> "DETERMINATION BY BATTERY PARK CITY AUTHORITY THAT THIS PLAN AND THE DECLARATION AND BY-LAWS OF THE CONDOMINIUM CONFORM TO THE PROVISIONS OF THE LEASE DOES NOT MEAN THAT BATTERY PARK CITY AUTHORITY HAS APPROVED THIS OFFERING."

Notwithstanding the foregoing, in the event the New York State Department of Law advises Tenant that such disclaimer may not appear in the Condominium Plan, Tenant shall not be required to delay the acceptance for filing of the Condominium Plan and shall be entitled to remove said language from the Condominium Plan. Such advice from the New York State Department of Law shall not reduce or diminish the obligation of Landlord to approve the Condominium Documents in accordance with the provisions of Section 42.02.

Any revision of the disclaimer set forth above or any additional disclaimer which Landlord requests to be incorporated in the Condominium Plan shall first be approved by the New York State Department of Law, which approval is to be obtained by Landlord at its sole cost and expense; provided, however, that (i) Tenant shall not be required to delay the preparation or submission to the New York State Department of Law of the Condominium Plan due to any such request of Landlord and (ii) the failure or refusal of the New York State Department of Law to approve any disclaimer which Landlord requests shall not reduce or diminish the obligation of Landlord to approve the Condominium Documents in accordance with the provisions of Section 42.02.

Landlord shall not take any action against the New York State Department of Law which would prevent, restrain or enjoin the New York State Department of Law from accepting the Condominium Plan for filing on the basis of the New York State Department of Law's determination that the disclaimer set forth above, or any other disclaimer pertaining to Landlord, may not appear in the Condominium Plan.

(i) Nothing in this Article 42 shall be deemed to grant to Landlord the right to (x) require inclusion in the Condominium Documents of any provision which is not required by the express terms of this Article 42, or (y) delay or withhold its approval of the Condominium Documents pursuant to Section 42.02 as a result of Tenant's refusal to include in the Condominium Documents any provision which is not required by the express terms of this Article 42.

Section 42.13. Applicability.

To the extent the provisions of this Article 42 shall conflict with any other provision of this Lease, the provisions of this Article 42 shall govern.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the day and year first above written.

BATTERY PARK CITY AUTHORITY

By: _____
President

RECTOR PLACE L ASSOCIATES L.P.,
a Delaware limited partnership

By: The Related Companies, Inc.,
a general partner

By: _____
Its: _____

By: RPL Innovations, Inc.,
a general partner

By: _____
Its: _____

By: Related Site L L.P., a
general partner

By: The Related Companies,
Inc.

By: _____
Its: _____

By: Place L Innovations L.P., a
general partner

By: RPL Innovations, Inc.

By: _____
Its: _____

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

On this 20th day of December, 1984, before me personally came Meyer S. Frucher, to me known, who, being by me duly sworn, did depose and say that he resides at 324 West 101st Street, New York, New York, that he is the President of BATTERY PARK CITY AUTHORITY, the public benefit corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the members of said corporation; and that he signed his name thereto by like order.

Augustine A. Arena
Notary Public

86

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

On this 20TH day of December, 1984, before me personally appeared PETER D. JOSEPH, to me known, who, being by me duly sworn, did depose and say that he resides at 26 GREENWAY TERRACE, FOREST HILLS NY, that he is the SENIOR VICE PRESIDENT of The Related Companies, Inc., the corporation described in the foregoing instrument and which executed the same as a general partner in the Delaware limited partnership known as RECTOR PLACE L ASSOCIATES L.P., and that he signed his name thereto by order of the board of directors of said corporation.

Augustine A. Arena
Notary Public

AUGUSTINE A. ARENA
Notary Public, State of New York
No. [illegible]
Qualified in Bureau County
Commission Expires March 30, 19 86

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

On this 20TH day of December, 1984, before me personally appeared E ANTHONY MACKALL, to me known, who, being by me duly sworn, did depose and say that he resides at 110 WEST END AVENUE, NEW YORK, NY, that he is the PRESIDENT of RPL Innovations, Inc., the corporation described in the foregoing instrument and which executed the same as a general partner in the Delaware limited partnership known as RECTOR PLACE L ASSOCIATES L.P., and that he signed his name thereto by order of the board of directors of said corporation.

Augustine A. Arena
Notary Public

AUGUSTINE A. ARENA
Notary Public, State of New York
No. 4F [illegible]
Qualified in Nassau County
Commission Expires March 30, [illegible] 86

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

On this 20TH day of December, 1984, before me personally appeared E ANTHONY MACKALL, to me known, who, being by me duly sworn, did depose and say that he resides at 110 WEST END AVENUE, NEW YORK, NY, that he is the PRESIDENT of RPL Innovations, Inc., the corporation described in the foregoing instrument and which executed the same as a general partner in the Delaware limited partnership known as Place L Innovations L.P., which partnership is a general partner in the Delaware limited partnership known as RECTOR PLACE L ASSOCIATES L.P., and that he signed his name thereto by order of the board of directors of said corporation.

Augustine A. Arena
Notary Public

AUGUSTINE A ARENA
Notary Public, State of New York
No 4519801
Qualified in Putnam County
Commission Expires March 30 19

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

On this 20TH day of December, 1984, before me personally appeared PETER D JOSEPH, to me known, who, being by me duly sworn, did depose and say that he resides at 26 GREENWAY TERRACE, FOREST HILLS, NY, that he is the SENIOR VICE PRESIDENT of The Related Companies, Inc., the corporation described in the foregoing instrument and which executed the same as a general partner in the Delaware limited partnership known as Related Site L L.P., which partnership is a general partner in the Delaware limited partnership known as RECTOR PLACE L ASSOCIATES L.P., and that he signed his name thereto by order of the board of directors of said corporation.

Augustine A. Arena
Notary Public

AUGUSTINE A. ARENA
Notary Public State of New York
No. 45138[illegible]
Qualified in Putnam County
Commission Expires March 30, 19

SITE L

Schedule 1

Rent Schedule

Lease Year	Column I	Column II
1 12/20/84 - 12/19/85	146,000	106,509
2 12/20/85 - 12/19/86	148,000	106,234
3 12/20/86 - 12/19/87	281,000	552,911
4 12/20/87 - 12/19/88	281,000	554,812
5 12/20/88 - 12/19/89	290,000	594,329
6 12/20/89 - 12/19/90	290,000	598,752
7 12/20/90 - 12/19/91	306,000	638,684
8 12/20/91 - 12/19/92	306,000	646,124
9 12/20/92 - 12/19/93	320,000	696,482
10 12/20/93 - 12/19/94	320,000	707,512
11 12/20/94 - 12/19/95	334,000	767,436
12	334,000	782,713
13	350,000	851,487
14	350,000	871,767
15	356,000	887,061
16	356,000	909,420
17	364,000	924,897
18	364,000	949,548
19	370,000	969,432
20	370,000	996,609
21	378,000	1,017,146
22	378,000	1,049,159
23	386,000	1,074,773
24	386,000	1,110,068
25 - First Appraisal Date	392,000	1,141,127

Schedule 2

Substitute Rent Schedule

Lease Year	Column I	Column II
1	177,015	75,494
2	177,015	77,219
3	754,881	79,030
4	754,881	80,931
5	754,881	129,448
6	754,881	133,871
7	754,881	189,803
8	754,881	197,243
9	754,881	261,601
10	754,881	272,631
11	754,881	346,555
12	754,881	361,832
13	754,881	446,606
14	754,881	466,886
15	754,881	488,180
16	754,881	510,539
17	754,881	534,016
18	754,881	558,667
19	754,881	584,551
20	754,881	611,728
21	754,881	640,265
22	754,881	640,265
23	754,881	640,265
24	754,881	640,265
25- First Appraisal Date	754,881	640,265

Exhibit A

PARCEL L

ALL that certain lot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly side of Rector Place with the westerly side of South End Avenue;

RUNNING THENCE South 83 degrees 11 minutes 50 seconds West along the southerly side of Rector Place, 171.37 feet;

THENCE South 6 degrees 48 minutes 10 seconds East, 83 feet;

THENCE North 83 degrees 11 minutes 50 seconds East, 20 feet;

THENCE south 6 degrees 48 minutes 10 seconds East, 81.58 feet to the northerly side of Thames Street;

THENCE due east along the northerly side of Thames Street, 130.81 feet to the corner formed by the intersection of the northerly side of Thames Street with the westerly side of South End Avenue;

THENCE due north along the westerly side of South End Avenue, 181.35 feet to the point or place of BEGINNING.

Bearings are in the same system used on the Borough Survey, Borough President's Office, Borough of Manhattan.

EXHIBIT "B"

TITLE MATTERS

1. Terms, covenants and conditions of Agreement of Lease between the City of New York, as landlord, and Landlord, as tenant, dated November 24, 1969, recorded December 26, 1969, in Reel 161, page 1, as amended by Amendment of Lease, dated October 19, 1971, by Second Amendment of Lease, dated June 18, 1974, by Third Amendment of Lease, dated October 24, 1974, by Fourth Amendment of Lease, dated October 24, 1974, and by Fifth Amendment to Lease, dated September 10, 1979, and as further amended and superseded by the Master Lease.

2. The Settlement Agreement.

3. Memorandum of Understanding, dated as of November 8, 1979, among the Governor of the State of New York, the Mayor of the City of New York and the President and Chief Executive Officer of UDC and Landlord, as supplemented by letter, dated November 8, 1979, from the President and Chief Executive Officer of UDC and Landlord to the Mayor of the City of New York.

4. Option to Purchase, dated as of June 6, 1980, among UDC, BPC Development Corporation, Landlord and the

City of New York, recorded June 11, 1980, in Reel 527, page 153, in the Office of the Register of New York City (New York County).

5. Terms, covenants and conditions of Agreement between BPC Development Corporation, Landlord and the City of New York, dated as of April 23, 1982, recorded October 27, 1982, in Reel 646, page 700, in the Office of the Register of New York City (New York County).

6. Zoning Lot Declaration.

7. State of facts shown on survey by Earl B. Lovell - S.P. Belcher, Inc., No. LB 83B, dated October 11, 1984.

8. Terms, covenants and conditions of Declaration of Covenants and Restrictions made by Battery Park City Authority dated March 15, 1984, recorded March 21, 1984, in Reel 776, page 360, in the Office of the Register of New York City (New York County).

9. Easements and terms, covenants, conditions and agreements of Declaration of Easements made among BPC Development Corporation, Battery Park City Authority and the City of New York dated May 18, 1982 and recorded on October 15, 1982 in Reel 644, page 480, in the Office of the Register of New York City (New York County).

10. Zoning and other governmental laws, ordinances, regulations, orders and requirements pertaining to the Premises or this transaction.