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AGREEMENT OF SEVERANCE LEASE

between

BATTERY PARK CITY AUTHORITY,
Landlord

and

OLYMPIA & YORK BATTERY PARK COMPANY,
Tenant

Premises

Parcel A
Battery Park City--Commercial Center
New York, New York

Dated as of June 15, 1983

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AGREEMENT OF LEASE, made as of the 15 day of June, 1983, between BATTERY PARK CITY AUTHORITY ("Landlord"), a public benefit corporation under the laws of the State of New York, having an office at 40 West Street, New York, New York 10006, and OLYMPIA & YORK BATTERY PARK COMPANY ("Tenant"), a partnership under the laws of the State of New York, having an office at 245 Park Avenue, New York, New York 10167.

RECITALS

A. Landlord, as successor in title to BPC Development Corporation, is the owner of certain real property located in the City, County and State of New York generally consisting of ninety-two (92) acres of land located on the west side of lower Manhattan, bounded by Pier A to the South, the westerly prolongation of Reade Street to the North, the United States Bulkhead Line to the East, and the United States Pierhead Line to the West ("Battery Park City").

B. BPC Development Corporation, as predecessor in title to Landlord, leased Battery Park City to Landlord by that certain Restated Amended Agreement of Lease dated as of June 10, 1980, between BPC Development Corporation as landlord and Landlord as tenant, for the development by Landlord, in stages and by parcels, of a mixed use community consisting of residential, office, commercial and recreational space with related public infrastructure and amenities. A memorandum of such Restated Amended Agreement of Lease was recorded on

June 11, 1980, in Reel 527, Page 163, in the Office of the Register of New York City (hereinafter defined) (New York County).

C. Landlord, as tenant under the aforesaid Restated Amended Agreement of Lease, leased to Tenant by the Agreement of Lease dated as of September 1, 1981, as amended by the First Amendment of Lease between Landlord, as tenant under such Restated Amended Agreement of Lease, and Tenant dated as of September 9, 1982 (the "Master Sublease"), a portion of Battery Park City consisting of the Parcels (hereinafter defined) and the buildings to be constructed on such Parcels by Tenant pursuant to the Master Sublease. A memorandum of the Master Sublease was recorded on November 6, 1981, in Reel 591, Page 158, in the Office of the Register of New York City (New York County).

D. The Master Sublease contemplated, pursuant to Section 10.16 thereof, the severance of each Parcel under a separate lease (a "Severance Lease") substantially in the form of the Master Sublease. Notwithstanding anything which may have been to the contrary in the Master Sublease, Landlord, as fee owner, and Tenant desire to enter into a Severance Lease for Parcel A (such Severance Lease and all amendments, modifications, extensions and renewals thereof being hereinafter referred to as the "Lease") at this time on the terms, covenants and conditions set forth herein.

E. Simultaneously herewith, (a) Landlord as fee owner and Tenant are entering into Severance Leases for,

respectively, Parcels B, C and D, (b) Landlord, as tenant under the aforesaid Restated Amended Agreement of Lease, and Tenant are entering into a termination agreement with respect to the Master Sublease, and (c) Landlord, as both landlord and tenant under such Restated Amended Agreement of Lease, is entering into a First Amendment of Master Lease which subordinates such Restated Amended Agreement of Lease to each Severance Lease for as long as such Severance Lease remains in force. Landlord and Tenant intend to record such termination agreement, such First Amendment of Master Lease, a memorandum of this Lease and a memorandum of each of the other Severance Leases in the Office of the Register of New York City (New York County).

ACCORDINGLY, 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 shall, for all purposes of this Lease, have the following meanings.

1.01 "Abatement Base" shall mean the difference between (i) the final assessed value of the Premises (hereinafter defined) (or undivided portion thereof), obtained as provided in Section 41.10 and exclusive of any easement areas which are located on, over, under or through the Premises (or undivided portion thereof) and are either reserved by Landlord (hereinafter defined) or granted to the Port Authority or PATH (as those terms are hereinafter defined) under the Port Authority Easement Agreement (hereinafter defined) (if such easement areas are separately assessed), on the PILOT Commencement Date (hereinafter defined), as such assessed value may increase or decrease from time to time, and (ii) the final assessed value

of the Premises (or undivided portion thereof), obtained as provided in Section 41.10 and exclusive of any easement areas which are located on, over, under or through the Premises (or undivided portion thereof) and are either reserved by Landlord or granted to the Port Authority or PATH under the Port Authority Easement Agreement (if such easement areas are separately assessed), on the date of Commencement of Construction (hereinafter defined).

1.02 "Acceptable Securities" shall have the meaning provided in Section 11.10(c).

1.03 "Additional Retail Use Allocation" shall have the meaning provided in Section 23.04.

1.04 "Affiliate" shall mean in the case of any Person (hereinafter defined), a corporation, partnership, tenancy-in-common 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. Notwithstanding the foregoing, if Olympia & York Battery Park Company is Tenant (hereinafter defined), for purposes of the definition of Permitted Assignee (hereinafter defined), "Affiliate" shall mean (i) Guarantor (hereinafter defined), (ii) any corporation which owns at least ninety percent (90%) of the authorized and outstanding voting stock of Guarantor, (iii) any corporation at least ninety percent (90%) of whose authorized and outstanding voting stock is owned by Guarantor or a corporation referred to in clause (ii), or (iv) any partnership with respect to whose profits and losses Guarantor or a corporation referred to in clause (ii) or (iii) above has at least a ninety percent (90%) interest as the managing general partner.

1.05 "Alternate PILOT Commencement Date" shall have the meaning provided in Section 11.06(c).

1.06 "Annual Percentage Rent Statement" shall have the meaning provided in Section 3.04(e).

1.07 "Base Lease Year" shall have the meaning provided in Section 3.04(a).

1.08 "Base Rent" shall have the meaning provided in Section 3.01.

1.09 "Basic Other Rent" shall have the meaning provided in Section 3.05(b).

1.10 "Basic Retail Rent" shall have the meaning provided in Section 3.05(a).

1.11 "Battery Park City" shall have the meaning provided in Recital A.

1.12 "Board of Estimate Resolution" shall mean the Resolution of the Board of Estimate of New York City dated January 13, 1983 (Cal. No. 88), a copy of which is annexed hereto as Exhibit "K" and made a part hereof.

1.13 "BPC Development Corporation" shall mean BPC Development Corporation, a subsidiary of UDC (hereinafter defined).

1.14 "Buildings" shall mean all the buildings (including, without limitation, 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) or within the easements granted to Tenant by Landlord pursuant to this Lease or the Easement and Restrictive Covenant Agreement (hereinafter defined) for the improvement, use or enjoyment of the Premises and any and all alterations and replacements thereof, additions thereto and substitutions therefor, excluding, however, (i) the Civic Facilities (hereinafter defined) and (ii) the improvements and appurtenances erected, constructed or placed by the Port Authority or PATH within the easements created under the Port Authority Easement Agreement.

1.15 "Building Standard Improvements" shall mean the leasehold improvements generally provided by Tenant from time to time to Subtenants (hereinafter defined) under Subleases (hereinafter defined) of office, Retail (hereinafter defined) or Other (hereinafter defined) space, as the case may be, at the Buildings, but in no event less than the leasehold improvements then generally provided by landlords of office buildings in New York City to their subtenants of office, Retail or Other space, as the case may be.

1.16 "Buildings Scheduled Completion Date" shall mean December 31, 1984, without consideration of any extension or extensions of that date by reason of Unavoidable Delays (hereinafter defined).

1.17 "Business Days" shall mean all days which are not a Saturday, Sunday or a day observed as a holiday by either the State of New York or the federal government,

or, as long as Olympia & York Battery Park Company or an Affiliate or Permitted Assignee of Olympia & York Battery Park Company is the Tenant, the following Jewish holidays: Rosh Hashanah (both days), Yom Kippur, Succoth (first two (2) days), Shmini Atzereth, Simchas Torah, Passover (first two (2) days and last two (2) days) and Shavuoth (both days).

1.18 "C.P.A." shall have the meaning provided in Section 3.06(b).

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

1.20 "Central Plant" shall have the meaning provided in the Project Operating Agreement (hereinafter defined).

1.21 "Certificate of Occupancy" shall mean a certificate of occupancy issued by the Department of Buildings of New York City pursuant to Section 1804 of the New York City Charter or any successor statute of similar import, or other similar certificate issued by a department or agency of New York City.

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

1.23 "Civic Facilities Construction Agreement" shall mean the agreement defined in Section 26.01(b), as said agreement may be hereafter amended.

1.24 "Civic Facilities Development Schedule" shall mean the schedule set forth in Exhibit "E-2" annexed hereto and made a part hereof.

1.25 "Civic Facilities Drawings and Specifications" shall mean the preliminary drawings and specifications and outline specifications for the Civic Facilities identified in Exhibit "E-1" annexed hereto and made a part hereof.

1.26 "Civic Facilities Maintenance Agreement" shall mean the agreement described in Section 26.02(e), as said agreement may be hereafter amended.

1.27 "Commencement Date" shall mean the date of commencement of the Term (hereinafter defined) as set forth in Article 2.

1.28 "Commencement of Construction" shall mean, with respect to the Premises, the date upon which Tenant commences on-site construction of the foundations of the Buildings, including excavation and pile driving, and thereafter proceeds to complete the Buildings without interruption, sub-

ject to Unavoidable Delays; provided, however, that Tenant shall be deemed to have proceeded to complete the Buildings without interruption as required above if Substantial Completion (hereinafter defined) of the Buildings shall occur by the Scheduled Completion Date (hereinafter defined).

1.29 "Construction Agreements" shall mean agreements for construction, Restoration (hereinafter defined), Capital Improvement, rehabilitation, alteration, conversion, extension, repair or demolition performed pursuant to this Lease, other than the Civic Facilities Construction Agreement and any Subcontracts and Purchase Orders (as those terms are defined in the Civic Facilities Construction Agreement) entered into by the contractor thereunder.

1.30 "Construction Contract" shall mean the Construction Agreement with respect to Parcel C dated as of the date hereof between Olympia & York Battery Park Company, as contractor, and American Express Company, Shearson/American Express, Inc., American Express International Banking Corporation and American Express Travel Related Services Company, Inc., as owner, as said agreement may hereafter be amended in accordance with Article 15 thereof.

1.31 "Construction Laws" shall have the meaning provided in Section 11.01(a).

1.32 "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 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.

1.33 "Cross-Default Provisions" shall have the meaning provided in Section 42.04(a).

1.34 "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).

1.35 "Defaulting Party" shall have the meaning provided in Section 24.15.

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

1.37 "Depository" shall mean any Person who would qualify as an Institutional Lender (hereinafter defined) having an office in the Borough of Manhattan, who is qualified to do business in the State of New York and who is designated from time to time by Tenant to serve as Depository pursuant to this Lease.

1.38 "Design Guidelines" shall mean the POD III Infrastructure Drawings and Specifications, consisting of the Esplanade Drawings and Specifications, dated September 11, 1981, prepared by Cooper, Eckstut Associates, and the Albany Street and South End Avenue Drawings and Specifications, dated May 20, 1981, as revised through September 11, 1981, prepared by Vollmer Associates, Inc.

1.39 "Development Guidelines" shall mean the guidelines set forth in Exhibit "G" annexed hereto and made a part hereof.

1.40 "Easement and Restrictive Covenant Agreement" shall mean the Easement and Restrictive Covenant Agreement, dated as of the date hereof, between Landlord and Tenant, intended to be recorded in the Office of the Register of New York City (New York County).

1.41 "Easement Plan" shall mean the survey labelled LB-45-BX1, prepared by Benjamin D. Goldberg, Licensed Land Surveyor, State of New York, Earl B. Lovell - S.P. Belcher, Inc., dated December 13, 1982 and last amended June 13, 1983, which survey has been initialled by Landlord and Tenant.

1.42 "E.I.S." shall have the meaning provided in Section 11.02(a).

1.43 "Equipment" shall mean all fixtures and personal property incorporated in or attached to and used or usable in the operation of the Premises, including, without limitation, all machinery, apparatus, devices, motors, dynamos, engines, compressors, pumps, boilers and burners; heating, lighting, plumbing, ventilating, air cooling and air conditioning equipment; chutes, ducts, pipes, tanks, fittings, conduits and wiring; incinerating equipment; elevators, escalators and hoists; partitions, doors, cabinets, hardware; floor, wall and ceiling coverings of the public areas only; washroom, toilet and lavatory equipment; lobby decorations; windows; window washing hoists and equipment; communications equipment; fire prevention and extinguishing equipment; and all additions thereto and replacements thereof; excluding, however, any of the foregoing which are (a) owned by occupants of the Premises

who are not also Tenant or an Affiliate of Tenant, or contractors engaged in maintaining the same, (b) Civic Facilities, or (c) property owned by the Port Authority or PATH and located within the easements created under the Port Authority Easement Agreement.

1.44 "Escrow Agent" shall mean any independent public accounting firm having at least ten (10) partners and from time to time designated by Landlord.

1.45 "Escrow Agreement" shall mean (i) the Agreement, dated as of the date as of which this Lease is made, among Landlord, Tenant and Escrow Agent, the form of which Agreement is annexed hereto and made a part hereof as Exhibit "J", and (ii) any successor agreement thereto, as contemplated by the Escrow Agreement.

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

1.47 "Expiration Date" shall mean the date of the expiration of the Term as set forth in Article 2.

1.48 "Final Completion" shall mean, with respect to the Buildings, that (i) there shall have been issued one (1) or more permanent Certificates of Occupancy for the whole of each of the Buildings, (ii) there shall have been completed all interior work to be performed by Tenant under Subleases with Persons who are not Affiliates of Tenant or Permitted Assignees for not less than fifty percent (50%) of the Net Rentable Square Feet (hereinafter defined) of the Buildings, and (iii) not less than fifty percent (50%) of the Net Rentable Square Feet of the Buildings shall be leased to and occupied by Subtenants who are not Affiliates of Tenant or Permitted Assignees. The conditions set forth in clauses (ii) and (iii) shall be deemed satisfied if Tenant (or if Tenant consists of more than one entity, one or more of the entities constituting Tenant) shall occupy, for the conduct of its or their own businesses, in the aggregate not less than fifty percent (50%) of the Net Rentable Square Feet of the Buildings and the interior work to be performed with respect to such occupancy shall have been completed for not less than fifty percent (50%) of the Net Rentable Square Feet of the Buildings.

1.49 "Final Plans" shall have the meaning provided in Section 11.03(b).

1.50 "Fiscal Year" shall mean each twelve (12) month period commencing July 1 and ending June 30, any portion of which occurs during the Term, or such other twelve (12) month period from time to time selected by Tenant in

connection with an assignment of this Lease to a Person who is not a Permitted Assignee.

1.51 "Fully Enclosed" shall mean, with respect to the Buildings, that (i) construction of the entire supporting structure of the Buildings shall have been completed, (ii) all fenestration shall be substantially in place, and (iii) the skin and roof shall have been substantially completed.

1.52 "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.

1.53 "Gross Other Revenue" shall mean for the applicable period, (i) all revenues to Tenant (determined in accordance with generally accepted accounting principles consistently applied) from, in connection with or arising out of the use and occupancy of space in the Buildings which is being used for Other purposes, including, without limitation, base rent, fixed rent, percentage rent, additional rent, debt service and all other income, sums and charges, whether payable under a Sublease or otherwise, less (ii) the Gross Revenue Exclusion (hereinafter defined) and any reimbursements paid by a Subtenant to Tenant with respect to amounts paid by Tenant to Landlord pursuant to Section 3.05(b) on account of Tenant's Sublease with such Subtenant.

1.54 "Gross Retail Revenue" shall mean for the applicable period, (i) all revenues to Tenant (determined in accordance with generally accepted accounting principles consistently applied) from, in connection with or arising out of the use and occupancy of space in the Buildings which is being used for Retail purposes, including, without limitation, base rent, fixed rent, percentage rent, additional rent, debt service and all other income, sums and charges, whether payable under a Sublease or otherwise, less (ii) the Gross Revenue Exclusion and any reimbursements paid by a Subtenant to Tenant with respect to amounts paid by Tenant to Landlord pursuant to Section 3.05(a) on account of Tenant's Sublease with such Subtenant.

1.55 "Gross Revenue Exclusion" shall mean debt service on a loan made by Tenant to a Subtenant of office, Retail or Other space, as the case may be, to finance the initial leasehold improvements for such Subtenant in excess of the then Building Standard Improvements, which loan shall be evidenced by a promissory note made by such Subtenant to Tenant, provided, however, that if prior to Tenant and such Subtenant entering into such Sublease, Landlord and Tenant shall agree on the amount by which the cost per square foot per annum

of the initial leasehold improvements for such Subtenant exceeds the cost per square foot per annum of the Building Standard Improvements, such debt service may be included as part of the rental under the Sublease with such Subtenant, and "Gross Revenue Exclusion" shall mean such part of such rental, and such loan need not be evidenced by a promissory note.

1.56 "Guarantor" shall mean O&Y Equity Corp., a New York corporation.

1.57 "Guaranty" shall mean the Guaranty and Consent to Service, dated as of September 1, 1981, and the First Amendment to Guaranty and Consent to Service, dated as of the date hereof, executed and delivered by Guarantor in favor of Landlord guaranteeing Tenant's performance under this Lease and the performance of the tenants under the other Severance Leases, the forms of which Guaranty and Consent to Service and First Amendment to Guaranty and Consent to Service are annexed hereto as Exhibit "F-1" and Exhibit "F-2", respectively, and made a part hereof.

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

1.59 "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 or under the laws of Canada, a real estate investment trust sponsored by an Institutional Lender (which is not another real estate investment trust), a religious, educational or eleemosynary institution, a union, federal, state, municipal or secular employee's welfare, benefit, pension or retirement fund 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, or submit itself, to the jurisdiction of the courts of the State of New York in any actions arising out of this Lease, (b) be subject to the supervision of 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 New York City or any federal, state or municipal agency or public benefit corporation or public authority advancing or assuring mortgage loans or making payments which, in any manner, assist in the financing, development, operation and maintenance of improvements, or, in the case of a secular employee's welfare, benefit, pension or retirement fund, be the subject of a then current favorable Determination Letter from the Internal Revenue Service pursuant to Sections 401 and 501 of the Internal Revenue Code, and (c) have net assets of not less than $500,000,000; provided, however, that (i) a commercial bank organized and existing under the laws of Canada or any of its provinces, or the New York agency of such bank, (ii)

a commercial bank, a trust company (whether acting individually or in a fiduciary capacity) or an insurance company organized under the laws of a state other than New York, or (iii) a state employee's pension or retirement fund of a state other than New York, which is not supervised by any of the entities set forth in clause (b) above, shall be deemed an Institutional Lender if it is otherwise in compliance with this Section 1.59.

1.60 "Land" shall mean the land denominated Parcel A in Exhibit "A" annexed hereto and made a part hereof.

1.61 "Landlord", on the date as of which this Lease is made, shall mean Battery Park City Authority, but thereafter, "Landlord" shall mean only the fee owner of the Premises at the time in question, so that if Battery Park City Authority or any successor to its interest hereunder ceases to have any fee title interest in the Premises as the result of a permitted sale or sales or transfer or transfers of Landlord's fee title interest in the Premises, then 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, any remaining liability of such seller or transferor to be subject to the provisions of Section 43.01 hereof, and it shall be deemed and construed without further agreement between the parties or their successors in interest and the Person who then acquires or owns fee title to the Premises, including, without limitation, the purchaser or transferee in any such permitted sale or transfer, that such Person has assumed and agreed to carry out, subject to the provisions of Section 43.01 hereof, any and all agreements, covenants and obligations of Landlord hereunder accruing on or after the date of the aforesaid sale or transfer.

1.62 "Landlord's Unavoidable Delays" shall mean delays incurred by Landlord due to (i) strikes, lockouts, acts of God, enemy action, civil commotion, or the inability to obtain labor or materials due to governmental restrictions, (ii) the wrongful failure of Tenant (as determined by arbitration pursuant to this Lease) to grant any consent or approval to Landlord, (iii) fire or other casualty or other causes beyond the control of Landlord (not including Landlord's insolvency or financial condition), (iv) the breach or default of Tenant in the performance of its obligations under this Lease, or of the tenant under any other Severance Lease or the contractor under the Civic Facilities Construction Agreement or the contractor under the Civic Facilities Maintenance Agreement, provided that such contractor is Olympia & York Battery Park Company or a Permitted Assignee of the same, (v) the wrongful denial or withholding of approval by the Port Authority or PATH arising under the Port Authority Easement Agreement,

(vi) the failure of the Port Authority or PATH to obtain the approvals required under Section 5(h) of the Port Authority Easement Agreement, (vii) the obtaining of an injunction by the Port Authority or PATH in connection with the Port Authority Easement Agreement if it is determined, beyond the right of judicial appeal, that the Port Authority or PATH, as the case may be, was not entitled to such injunction, (viii) a work stoppage or slow-down which is required in order not to unreasonably interfere with the Work of Others (hereinafter defined), which for purposes of this Section 1.62 shall include, without limitation, the construction activities of Tenant under this Lease or the tenant under any other Severance Lease, (ix) interruption of, or substantial interference with, access to the Civic Facilities or an area at Battery Park City at which the Civic Facilities are to be constructed, resulting from the construction of Westway (hereinafter defined) or (x) a delay in the design of Westway; provided that in each instance Landlord shall have notified Tenant thereof not later than ten (10) Business Days after the incident causing the delay shall have occurred.

1.63 "Late Charge Rate" shall have the meaning provided in Article 6.

1.64 "Lease" shall have the meaning set forth in Recital D.

1.65 "Lease Year" shall mean each Fiscal Year during the Term commencing on or after Substantial Completion of the Buildings, except as otherwise provided in Section 3.04(b).

1.66 "Liberty Street Bridge" shall mean the north-south pedestrian bridge to be constructed across Liberty Street as shown on the Site Plans (hereinafter defined), including, without limitation, the entrances, supports, heating, ventilating and air-conditioning systems thereof, the utility pipes and lines on, over, through or attached to such bridge, and the steps, ramps, escalators and elevators leading thereto.

1.67 "Management Committee" shall have the meaning provided in the Project Operating Agreement.

1.68 "Master Development Plan" shall mean the plan annexed to the Master Lease (hereinafter defined) as Schedule A, as supplemented by the Large-Scale Commercial Development Plan annexed to the Master Lease as Schedule B.

1.69 "Master Lease" shall mean the Restated Amended Agreement of Lease referred to in Recital B, as amended by (a) the First Amendment of Master Lease referred to in Recital E and (b)

the Second Amendment of Master Lease entered into by Landlord, as both landlord and tenant under the Restated Amended Agreement of Lease, dated as of the date hereof and intended to be recorded in the Office of the Register of New York City (New York County), and as the Restated Amended Agreement of Lease, as so amended, may hereafter be amended.

1.70 "Master Sublease" shall have the meaning provided in Recital C. The Master Sublease has been terminated by the termination agreement referred to in Recital E.

1.71 "Memorandum of Understanding" shall mean the Memorandum of Understanding, dated as of November 8, 1979, among the Governor of the State of New York, the Mayor of New York City and the President and Chief Executive Officer of UDC and of Battery Park City Authority, as supplemented by Letter, dated November 8, 1979, from the President and Chief Executive Officer of UDC and Battery Park City Authority to the Mayor of New York City.

1.72 "Mortgage" shall mean a mortgage which constitutes a lien on Tenant's interest in this Lease and the leasehold interest created hereby, provided such mortgage is held by (i) an Institutional Lender (or a Person which qualified as an Institutional Lender when such mortgage was made) or its assignee or (ii) a Person formerly constituting Tenant, or such Person's assignee, if such mortgage is made to such Person in connection with (x) an assignment by it of its interest in the Lease, (y) a transfer of partnership interests in a partnership which is Tenant or (z) a transfer of stock in a corporation which is Tenant.

1.73 "Mortgagee" shall mean the holder of a Mortgage.

1.74 "Net Fixed Rent" shall mean for the applicable period, (i) all revenues to Tenant (determined in accordance with generally accepted accounting principles consistently applied) from, in connection with or arising out of the use and occupancy of all space in the Buildings which is permitted to be used for office purposes (except to the extent deemed space used for Retail uses in accordance with Section 23.04(i)) or the parking of vehicles in accordance with the Certificates of Occupancy for the Buildings, including, without limitation, base rent, fixed rent, percentage rent, additional rent, debt service and all other income, sums and charges, whether payable under a Sublease or otherwise, less (ii) the aggregate of (x) the Gross Revenue Exclusion, (y) an amount equal to a fraction multiplied by Operating Costs (hereinafter defined), said fraction having a numerator equal to the number of Net Rentable Square Feet in the Buildings which are permitted to be used for office purposes in accordance with the Certificates of Occupancy for such Buildings, and a denominator equal to the number of Net Rentable Square Feet in the Buildings, and (z)

the aggregate amount of the reimbursements, if any, paid by Subtenants to Tenant with respect to amounts paid by Tenant to Landlord pursuant to Section 3.04 on account of Tenant's respective Subleases with such Subtenants.

1.75 "Net Rentable Square Feet" shall mean the aggregate floor area of the spaces within the Buildings (excluding 40,000 square feet in the Buildings located at or below the lobbies located at level +32 of the Buildings, if such space is used as storage space, and excluding all driveways and space used for the parking of vehicles) measured from the interior side of all window glass, excluding common elevator shafts, fire tower and other common stairwells, shafts connected to the central heating, ventilating and air conditioning system of the Buildings, and their enclosing walls, but including columns and other structures not expressly excluded. From and after Substantial Completion of the Buildings, the number of Net Rentable Square Feet for any purpose under this Lease shall be calculated and certified on the basis of "as-built" drawings for the Buildings prepared by a licensed professional engineer or registered architect approved by Landlord, such approval not to be unreasonably withheld or delayed. Prior to Substantial Completion, any necessary calculations and certifications shall be made on the basis of the Final Plans for the Buildings.

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

1.77 "Non-Defaulting Party" shall have the meaning provided in Section 24.15.

1.78 "Non-Office Rent Statement" shall have the meaning provided in Section 3.05(e).

1.79 "North Cove" shall mean the inlet of the Hudson River as shown on the Easement Plan.

1.80 "Northern Parcel" shall mean the land described as such parcel in Exhibit "I" annexed hereto and made a part hereof.

1.81 "Northern Pedestrian Bridge" shall mean the east-west Pedestrian Bridge (hereinafter defined) connecting Parcel B to the easterly side of West Street.

1.82 "Notice" shall have the meaning provided in Section 25.01.

1.83 "Operating Costs" shall mean for the applicable period, all reasonable costs and expenses incurred by Tenant (determined in accordance with generally accepted accounting

principles consistently applied) in connection with the use, operation and maintenance of the Premises, including, without limitation, Rental (hereinafter defined) (other than Percentage Rent, Retail Rent and Other Rent (as those terms are hereinafter defined)), but excluding depreciation, amortization of any indebtedness, the cost of any items for which Tenant is reimbursed by insurance proceeds or condemnation awards (except to the extent such reimbursements were included by Tenant in income for the purposes of calculating Net Fixed Rent), and the cost, whether or not amortized, of any alterations, additions, changes, replacements, improvements, repairs or other items (i) which, under generally accepted accounting principles consistently applied, are properly classified only as capital expenditures and not as items which can be expensed, or (ii) for which Tenant is reimbursed by way of the Gross Revenue Exclusion. For the purpose of calculating Operating Costs, subleasing expenses, other than leasehold improvements for Subtenants, shall be amortized over the original term of the Sublease in question. Operating Costs which are incurred in connection with the Premises and property of Tenant which is not part of the Premises shall be equitably allocated among the Premises and such other property.

1.84 "Option to Purchase" shall mean the Option to Purchase described in paragraph 4 of Exhibit "B" annexed hereto and made a part hereof.

1.85 "Other" shall mean any use other than office or Retail, it being expressly understood, however, that space used for the parking of vehicles shall not constitute "Other" space for any purpose under this Lease.

1.86 "Other Percentage Rent" shall have the meaning provided in Section 3.05(b).

1.87 "Other Rent" shall have the meaning provided in Section 3.05(b).

1.88 "Parcel" shall mean any one of the specific portions of land individually described by metes and bounds in Exhibit "A" to each of the Severance Leases and denominated respectively as Parcel A, Parcel B, Parcel C and Parcel D, as the metes and bounds of Parcel B, Parcel C and Parcel D may hereafter be adjusted in accordance with Section 11.05(b) of the Severance Lease covering the Parcel in question, together with the buildings and improvements located on such Parcel and any easements over other Parcels or over the Civic Facilities granted by Landlord to the tenant of the Parcel in question pursuant to the Severance Lease for such Parcel or the Easement and Restrictive Covenant Agreement, for the improvement, use or enjoyment of such Parcel.

1.89 "Parcel Lines Easement Plan" shall mean the survey labelled LB-45-BZ, prepared by Benjamin D. Goldberg, Licensed Land Surveyor, State of New York, Earl B. Lovell - S. P. Belcher, Inc., dated February 23, 1983 and last amended June 13, 1983, which survey has been initialled by Landlord and Tenant.

1.90 "PATH" shall mean the Port Authority Trans-Hudson Corporation, a subsidiary of the Port Authority.

1.91 "Payments in Lieu of Taxes" shall have the meaning provided in Section 3.02(a).

1.92 "Pedestrian Bridges" shall mean the two (2) east-west bridges identified in the Civic Facilities Drawings and Specifications (including, without limitation, the entrances, doors, revolving doors and enclosures therefor, terminals, supports, heating, ventilating and air-conditioning systems thereof, and the steps, ramps, escalators and elevators leading thereto), one (1) of said bridges being the Northern Pedestrian Bridge and the other the Southern Pedestrian Bridge (hereinafter defined).

1.93 "Percentage Rent" shall have the meaning provided in Section 3.04(a).

1.94 "Permitted Assignee" shall have the meaning provided in Section 10.01(a).

1.95 "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, authority or agency thereof.

1.96 "PILOT" shall have the meaning provided in Section 3.02(a). 7/1/31/85

1.97 "PILOT Commencement Date" shall mean the date which is the later of (i) the July 1 next succeeding the Buildings Scheduled Completion Date, and (ii) the first day of the calendar month next succeeding the calendar month in which the date of Substantial Completion of the Buildings occurs, provided, however, that if Substantial Completion of the Buildings occurs prior to the Buildings Scheduled Completion Date, PILOT Commencement Date shall mean the July 1 next succeeding the date on which Substantial Completion of the Buildings occurs. For purposes of this definition and Section 3.02(b), "Substantial Completion" shall be deemed to mean the earlier of "Substantial Completion" as defined in Section 1.132 and the first anniversary of the date that the first temporary or permanent Certificate of Occupancy — 7/1/85

shall have been obtained with respect to space which may be used for office purposes in the Buildings, which first anniversary shall be postponed by the aggregate number of days of any Unavoidable Delays which delay Tenant in obtaining temporary Certificate(s) of Occupancy for the whole of the Buildings.

1.98 "Pledge Agent" shall mean any Person who would qualify as an Institutional Lender having an office in the Borough of Manhattan and who is designated from time to time by Landlord to serve as Pledge Agent pursuant to this Lease.

1.99 "Pledge Agent Agreement" shall mean (i) an agreement, in form and substance reasonably satisfactory to the parties thereto, among Landlord, Tenant and Pledge Agent in connection with any pledge by Tenant to Landlord of cash and/or Acceptable Securities pursuant to Section 11.10(b) hereof, and (ii) any successor agreement thereto, as contemplated by the Pledge Agent Agreement.

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

1.101 "Port Authority Easement Agreement" shall mean the Port Authority Easement Agreement, described in paragraph 5 of Exhibit "B", as the same may be hereafter amended.

1.102 "Preliminary Plans" shall mean the progress drawings and specifications referred to in Section 11.03(a).

1.103 "Premises" shall mean the Land and Buildings, together with the easements granted to Tenant pursuant to this Lease or the Easement and Restrictive Covenant Agreement.

1.104 "Prime Rate" shall mean the average, from time to time, of the last published annual interest rates at which Citibank, N.A., Manufacturers Hanover Trust Company and Chemical Bank or their respective successors will lend money for a period of ninety (90) days to their most creditworthy commercial borrowers, without security.

1.105 "Project Operating Agreement" shall mean the Project Operating Agreement dated as of the date hereof, among Battery Park City Authority, Olympia & York Battery Park Company, and American Express Company, Shearson/American Express, Inc., American Express International Banking Corporation, and American Express Travel Related Services Company, Inc., intended to be recorded in the Office of the Register of New York City (New York County).

1.106 "Project Scheduled Completion Date" shall have the meaning provided in Section 11.06(b).

1.107 "Readily Marketable Securities" shall mean securities (i) which are at the time listed and traded on the New York Stock Exchange, the American Stock Exchange or the Automated Quotation System of the National Association of Securities Dealers, Inc., and (ii) which may then be sold by the holder thereof, at its option, without legal restriction as to volume, manner of sale or use of proceeds and without the requirement of the filing or effectiveness of any registration statement, including, without limitation, a registration statement under the Securities Act of 1933, as amended.

1.108 "Rental" shall have the meaning provided in Section 3.09.

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

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

1.111 "Restoration Funds" shall have the meaning provided in Section 8.02.

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

1.113 "Retail" shall mean, (i) except as otherwise provided in clause (ii) of this Section 1.113, all retail establishments referred to in the Zoning Resolution (hereinafter defined), and (ii) for purposes of determining Retail Rent, all retail and personal service establishments referred to in said Zoning Resolution and all establishments listed in paragraph numbered 1 in the Board of Estimate Resolution, excluding, however, art galleries operated on a not-for-profit basis, post offices, meeting halls, telegraph offices, telephone exchanges or other communications equipment structures, non-commercial clubs without restrictions on activities or facilities, blueprinting, photostating and printing establishments not providing any services to the public, performing arts studios not charging admission to the public, trade or other schools, and gymnasia and physical culture or health establishments as those terms are used in the Zoning Resolution; it being expressly understood, however, that space used for the parking of vehicles shall not constitute "Retail" space for any purpose under this Lease.

1.114 "Retail Percentage Rent" shall have the meaning provided in Section 3.05(a).

1.115 "Retail Rent" shall have the meaning provided in Section 3.05(a).

1.116 "Retail Use Allocation" shall have the meaning provided in Section 23.04.

1.117 "Scheduled Completion Date" shall have the meaning provided in Section 11.05.

1.118 "Semi-Annual Percentage Rent Statement" shall have the meaning provided in Section 3.04(d).

1.119 "SEQRA" shall mean the New York State Environmental Quality Review Act (Article 8 of the New York State Environmental Conservation Law) and the applicable regulations (set forth in 6 NYCRR Part 617) with respect thereto, as said Act or the regulations may be hereafter amended or supplemented.

1.120 "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 the President and Chief Executive Officer of UDC and Battery Park City Authority to the Mayor of New York City.

1.121 "Severance Lease" shall have the meaning provided in Recital D.

1.122 "Site Plans" shall mean the site plans and elevation drawings for the Parcels identified in Exhibit "D" annexed hereto and made a part hereof, and initialled by Landlord and Tenant, as such plans and/or drawings may be hereafter amended or supplemented.

1.123 "Southern Pedestrian Bridge" shall mean the east-west Pedestrian Bridge connecting Parcel A to the easterly side of West Street.

1.124 "Southern Portion Declaration of Easements" shall mean the Declaration of Easements, dated May 18, 1982, among BPC Development Corporation, Landlord and New York City, and recorded on October 15, 1982 in Reel 644, Page 480, in the Office of the Register of New York City (New York County).

1.125 "Special Events" shall mean those events which, if occurring in a public park or any other public place owned or leased by New York City, would require the issuance of a permit by New York City or an agency or department thereof.

1.126 "Special PILOT Abatement" shall mean, with respect to the Premises (or undivided portion thereof), a real property tax abatement for ten (10) years (except as other-

wise provided in Section 3.02 or 11.06(c)) which shall commence on the PILOT Commencement Date and which, except as otherwise provided in Section 11.06(c), shall be in an initial amount of seventy-five percent (75%) of the Abatement Base multiplied by the Tax Rate (hereinafter defined), which percentage shall decrease by seven and one-half (7.5) percentage points commencing on the first day of the Tax Year (hereinafter defined) next succeeding the Tax Year in which the PILOT Commencement Date occurs (except as otherwise provided in Section 3.02 or 11.06(c)), and annually on the first day of each succeeding Tax Year thereafter.

1.127 "Special Sublease" shall have the meaning provided in Section 3.06(d).

1.128 "State D.O.T." shall mean the Department of Transportation of the State of New York.

1.129 "Street Mapping Agreement" shall mean the Agreement, dated as of April 23, 1982, among BPC Development Corporation, Battery Park City Authority and New York City, recorded on October 27, 1982 in Reel 646 at Page 700 in the Office of the Register of New York City (New York County).

1.130 "Sublease (Subleases)" shall have the meaning provided in Section 10.04.

1.131 "Subsidiary" shall have the meaning provided in Section 28.02(c).

1.132 "Substantial Completion" or "substantially complete(d)" shall mean that there shall have been issued one (1) or more temporary Certificates of Occupancy or permanent Certificates of Occupancy for the whole of each of the Buildings, except as otherwise provided in Section 1.97.

1.133 "Substitute PILOT" shall have the meaning provided in Section 11.06(a).

1.134 "Subtenant (Subtenants)" shall have the meaning provided in Section 10.04.

1.135 "Tax Equivalent" shall mean the product obtained by multiplying (i) the total assessed value of the Premises (or undivided portion thereof), obtained as provided in Section 41.10, exclusive of any easement areas which are located on, over, under or through the Premises (or undivided portion thereof) and are either reserved by Landlord or granted to the Port Authority or PATH under the Port Authority Easement Agreement (if such easement areas are separately assessed), for the tax fiscal year of New York City (or the portions of

each such tax fiscal year falling within each Tax Year) by (ii) the Tax Rate.

1.136 "Tax Rate" shall mean, for a tax fiscal year of New York City (or portion thereof), the tax rate then applicable to commercial real property situated in the Borough of Manhattan.

1.137 "Tax Year" shall mean the twelve-month period commencing on July 1, 1982 and ending on June 30, 1983, and each succeeding twelve-month period or portion thereof during the Term.

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

1.139 "Tenant" shall mean Olympia & York Battery Park Company, provided, however, that whenever this Lease and the leasehold estate hereby created shall be assigned or transferred in accordance with the terms of and in the manner specifically permitted by this Lease, then from and after the date of such assignment or transfer and until the next permitted assignment or transfer, the term "Tenant" shall mean the permitted assignee or transferee, except that, subject to the provisions of Section 43.02, the assignor shall continue to be deemed "Tenant" with respect to any agreements or covenants required to be performed or observed by Tenant, or obligations or liabilities of Tenant arising or accruing, prior to the date of such assignment or transfer. Notwithstanding the foregoing, if Olympia & York Battery Park Company assigns or otherwise transfers its interest in this Lease prior to Substantial Completion of the Buildings, then until Substantial Completion of the Buildings, Olympia & York Battery Park Company nevertheless shall remain personally liable, jointly and severally with the assignee or transferee and any other Person who shall or may thereafter become Tenant under this Lease, for the due performance and observance of all of the obligations of Tenant under this Lease.

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

1.141 "Total Severance Date" shall have the meaning provided in Section 42.04(a).

1.142 "UDC" shall mean the 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.

1.143 "Unavoidable Delays" shall mean delays incurred by Tenant due to (i) strikes, lockouts, acts of God,

enemy action, civil commotion, or the inability to obtain labor or materials due to governmental restrictions, (ii) the wrongful failure of Landlord (as determined by arbitration pursuant to this Lease) to grant any consent or approval to Tenant, (iii) fire or other casualty or other causes beyond the control of Tenant (not including Tenant's insolvency or financial condition), (iv) the breach or default of Landlord in the performance of its obligations under this Lease, (v) the failure of Landlord to enforce the provision in future leases entered into by Landlord with other developers (excluding any tenant under another Severance Lease) at Battery Park City that such developers use reasonable efforts to coordinate their construction activities at Battery Park City with those of Tenant, (vi) the wrongful denial or withholding of approval by the Port Authority or PATH arising under the Port Authority Easement Agreement, (vii) the failure of the Port Authority or PATH to obtain the approvals required under Section 5(h) of the Port Authority Easement Agreement, (viii) the obtaining of an injunction by the Port Authority or PATH in connection with the Port Authority Easement Agreement if it is determined, beyond the right of judicial appeal, that the Port Authority or PATH, as the case may be, was not entitled to such injunction, (ix) a work stoppage or slow-down requested by Landlord in order not to unreasonably interfere with the Work of Others, which for purposes of this Section 1.143 shall include, without limitation, the construction activities of Landlord under this Lease, (x) interruption of, or substantial interference with, access to the Premises resulting from the construction of Westway, (xi) a delay in the design of Westway, provided that in each instance Tenant shall have notified Landlord thereof not later than ten (10) Business Days after the incident causing the delay shall have occurred, or (xii) a delay in the issuance of a permanent (but not a temporary) Certificate of Occupancy for the Buildings resulting from the failure of the Department of Buildings of the City of New York or successor body of similar function to issue the same, provided that a registered architect reasonably satisfactory to Landlord certifies in writing to Landlord that Tenant has completed all work necessary to obtain such permanent Certificate of Occupancy.

1.144 "Unexpended Contract Sum" shall have the meaning provided in Section 26.07.

1.145 "Western Parcel" shall mean the land described as such parcel in Exhibit "I" annexed hereto and made a part hereof.

1.146 "Westway" shall mean the vehicular roadway presently being contemplated for construction on, over or under the street known as West Street and as a substitute for the highway known as the West Side Highway.

1.147 "Westway Agreement" shall have the meaning provided in Section 28.02(b).

1.148 "Westway Commission" shall mean, on the date as of which this Lease is made, the State D.O.T., but thereafter "Westway Commission" shall mean the governmental authority or authorities now existing or hereafter created having jurisdiction over the construction, operation and maintenance of Westway.

1.149 "Westway Interface Plans" shall have the meaning provided in Section 28.02(a).

1.150 "Westway Wall" shall have the meaning provided in Section 28.02(c).

1.151 "Work of Others" shall mean any design, development or construction which is currently under way or may be undertaken in the future at Battery Park City by Persons other than Tenant or a Permitted Assignee or any tenant under another Severance Lease, pursuant to existing or future construction or lease agreements between Landlord and Persons other than Tenant or a Permitted Assignee.

1.152 "Zoning Resolution" shall mean the Zoning Resolution of New York City, as the same may be amended from time to time.

ARTICLE 2

PREMISES AND TERM OF LEASE

Landlord does hereby demise and lease to Tenant, and Tenant does hereby hire and take from Landlord (a) all those certain plots, pieces and parcels of land located in the City, County, and State of New York, more particularly described as Parcel A in Exhibit "A" annexed hereto and made a part hereof, and (b) all Buildings now or hereafter erected thereon, together with those certain easements described in Exhibit "A" and subject to and together with those matters set forth in Exhibit "B" annexed hereto and made a part hereof.

TO HAVE AND TO HOLD unto Tenant, its successors and assigns, for a term of years (the "Term") commencing on the

date hereof (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. Tenant shall pay to Landlord, without notice or demand, the annual sums set forth below (collectively, "Base Rent") for the period commencing on the date hereof and continuing thereafter throughout the Term.

(a) Four Hundred Thousand Dollars ($400,000) per annum for the period from the date hereof up to but not including September 1, 1984.

(b) Six Hundred Thousand Dollars ($600,000) per annum for the period from September 1, 1984 up to but not including September 1, 1987.

(c) Eight Hundred Thousand Dollars ($800,000) per annum, commencing on September 1, 1987, which sum thereafter shall increase by Two Hundred Thousand Dollars ($200,000) per annum on each September 1st thereafter through September 1, 1999, so that commencing on September 1, 1999 Base Rent payable by Tenant shall be Three Million Two Hundred Thousand Dollars ($3,200,000) per annum.

(d) Three Million Four Hundred Thousand Dollars ($3,400,000) per annum, commencing on September 1, 2000 and thereafter during the remainder of the Term.

87 - 800 94-2,200
88 - 1,000 95-2,400
89 - 1,200 96-2,600 ✓
90 - 1,400 97-2,800
91 - 1,600 98-3,000
92 - 1,800 99-3,2000 + 1588,920
93 - 2,000 00-4,988,920

(e) Tenant shall pay additional Base Rent of One Million Five Hundred Eighty-Eight Thousand Nine Hundred Twenty Dollars ($1,588,920) per annum for the period from September 1, 1999 up to but not including September 1, 2014. Notwithstanding the preceding sentence, if prior to December 31, 1992, Tenant shall assign all or more than fifty percent (50%) of its interest in this Lease in one or more transactions to a Person or Persons which is not a Permitted Assignee, then the additional Base Rent payable pursuant to the preceding sentence shall be adjusted as set forth below. If such assignment is with respect to all of Tenant's interest in the Lease, the annual additional Base Rent payable pursuant to the first sentence of this Section 3.01(e) shall be Two Million Seventy-One Thousand One Hundred Sixteen Dollars ($2,071,116) but no additional Base Rent shall be payable on or after September 1, 2009. If such assignment is with respect to less than all but more than fifty percent (50%) of Tenant's interest in this Lease, the annual additional Base Rent payable pursuant to the first sentence of this Section 3.01(e) shall be the sum of (1) the product of One Million Five Hundred Eighty-Eight Thousand Nine Hundred Twenty Dollars ($1,588,920) and the percentage of the direct and indirect interest of Tenant in the Lease which remains immediately after such assignment, and (2) only up to but not including September 1, 2009, the product of Two Million Seventy-One Thousand One Hundred Sixteen Dollars ($2,071,116) and the percentage

of the direct or indirect interest in the Lease which has been acquired as the result of such assignment by the Person or Persons which is not a Permitted Assignee. The three preceding sentences shall not apply to an assignment of this Lease given as collateral security for a Mortgage or the debt secured thereby. Base Rent (including the additional Base Rent from and after the date it becomes payable) shall be due and payable in equal monthly installments in advance commencing on the date hereof and on the first day of each month thereafter during the Term. Base Rent shall be payable by good checks drawn against an account at a bank which is a member of the New York Clearing House Association (or any successor body of similar function) or 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 at the office of Landlord set forth above or at such other place in New York City as Landlord shall direct by notice to Tenant.

Section 3.02.

(a) Tenant shall pay to Landlord, without notice or demand, in equal quarterly installments in advance, commencing on the PILOT Commencement Date and thereafter on the first day of each July, October, January and April during the Term, the Tax Equivalent less the Special PILOT Abatement. Such payments are referred to in this Lease as "Payments in Lieu of Taxes" or "PILOT."

(b) Subject to the provisions of Section 11.06(c), if Substantial Completion shall not have occurred on or before the July 1 next succeeding the Buildings Scheduled Completion Date, the Special PILOT Abatement shall be subject to reduction as follows: (i) if the period from the PILOT Commencement Date through the last day of the Tax Year in which the PILOT Commencement Date occurs shall include six (6) full calendar months or more, then commencing on the first day of the Tax Year next succeeding the Tax Year in which the PILOT Commencement Date occurs, the percentage of tax abatement to which Tenant shall be entitled and the number of years for which such abatement shall run shall be determined as if the entire period for the tax abatement had commenced on the first day of the Tax Year in which the PILOT Commencement Date occurs, and (ii) if the period from the PILOT Commencement Date through the last day of the Tax Year in which the PILOT Commencement Date occurs shall include less than six (6) full calendar months, then commencing on the first day of the Tax Year next succeeding the Tax Year in which the PILOT Commencement Date occurs, the percentage of tax abatement to which Tenant shall be entitled and the number of years for which such abatement shall run shall be determined as if the entire period for the tax abatement had commenced on the first day of the Tax Year next succeeding the Tax Year in which the PILOT Commencement Date occurs.

(c) If the PILOT Commencement Date occurs on a day other than the first day of July, October, January or April,

then the amount of PILOT payable on the PILOT Commencement Date shall be the prorated portion of the quarterly installment for the period from the PILOT Commencement Date through the last day of the then current quarter.

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. If there shall be a final determination in Tenant's favor of any such tax reduction or other action or proceeding, Landlord shall permit Tenant to offset the amount of any such excess, together with interest, if any, for the same period, and at the same rate which would have accrued on such offset, as if the same were a refund of New York City real estate taxes, against Base Rent, Payments in Lieu of Taxes, Substitute PILOT, Percentage Rent, Retail Rent and Other Rent thereafter payable to Landlord.

Section 3.04.

(a) For the period commencing with the twelfth Lease Year and for each Lease Year thereafter during the Term through and including the Lease Year ending in the year 2016, subject to extension of said year as provided in Section 3.04(b) hereof, Tenant shall pay to Landlord, in addition to Base Rent and Payments in Lieu of Taxes, an amount ("Percentage Rent") equal to five percent (5%) of the amount

by which Net Fixed Rent during each such Lease Year exceeds Net Fixed Rent during the eleventh Lease Year (the "Base Lease Year"). Percentage Rent shall be computed semi-annually (subject to adjustment as provided in Section 3.04(e)) and paid in arrears as hereinafter set forth.

(b) For the purposes of this Section 3.04, if Substantial Completion of the Buildings shall occur on a day other than the first day of the Fiscal Year, the first Lease Year shall be the period from the date of Substantial Completion of the Buildings through the last day of the Fiscal Year in which the date of Substantial Completion of the Buildings occurs, unless such period shall be less than six (6) full calendar months, in which event such first Lease Year shall be the first full Fiscal Year next succeeding the date on which Substantial Completion of the Buildings occurs. In addition, if Substantial Completion of the Buildings does not occur by the Buildings Scheduled Completion Date, then the year 2016, for the purposes of Section 3.04(a), shall be extended one (1) year for each full year or portion thereof in excess of six (6) full calendar months that Substantial Completion of the Buildings is delayed beyond the Buildings Scheduled Completion Date.

(c) Tenant shall deliver to Landlord as soon as practicable after the end of the Base Lease Year, but in no event later than one hundred twenty (120) days thereafter,

a separate statement for the Premises showing in reasonable detail Net Fixed Rent for the Base Lease Year.

(d) Commencing with the twelfth Lease Year, Tenant shall deliver to Landlord as soon as practicable after the end of the second fiscal quarter in each Lease Year, but in no event later than sixty (60) days thereafter, a separate statement for the Premises ("Semi-Annual Percentage Rent Statement") showing in reasonable detail Net Fixed Rent from the beginning of such Lease Year to the end of such second quarter. Based upon the Semi-Annual Percentage Rent Statement submitted by Tenant to Landlord, Tenant shall pay to Landlord five percent (5%) of the amount, if any, by which Net Fixed Rent as shown on the Semi-Annual Percentage Rent Statement exceeds fifty percent (50%) of the Net Fixed Rent for the Base Lease Year. Such partial payment of Percentage Rent shall be made by Tenant simultaneously with the submission to Landlord of the Semi-Annual Percentage Rent Statement.

(e) Commencing with the twelfth Lease Year, Tenant shall deliver to Landlord as soon as practicable after the end of each Lease Year, but in no event later than one hundred twenty (120) days thereafter, a separate statement ("Annual Percentage Rent Statement") for the Premises showing in reasonable detail Net Fixed Rent for such Lease Year. If the Annual Percentage Rent Statement shall show that the sums paid by Tenant as Percentage Rent for such Lease Year were less than the Percentage Rent payable by Tenant for such Lease

Year, then Tenant shall pay to Landlord, together with the delivery to Landlord of the Annual Percentage Rent Statement, the amount of such deficiency, and if the Annual Percentage Rent Statement shall show that the sums paid by Tenant as Percentage Rent for such Lease Year exceeded the Percentage Rent payable by Tenant for such Lease Year, Landlord shall permit Tenant to offset the amount of such excess, without interest, against subsequent payments of Percentage Rent, Base Rent, Payments in Lieu of Taxes, Retail Rent and Other Rent thereafter payable to Landlord.

(f) If during the Base Lease Year the average percentage of occupancy for office use of the Buildings is less than the average percentage of occupancy for office use of the Buildings during the three (3) Lease Years immediately preceding the Base Lease Year, the Net Fixed Rent for the Base Lease Year shall be computed as if during the Base Lease Year the Buildings had the average percentage of occupancy for office use during the three (3) Lease Years immediately preceding the Base Lease Year. Accordingly, for purposes of determining the revenue, Gross Revenue Exclusion and Operating Costs components of Net Fixed Rent as provided in Section 1.74, the revenue, Gross Revenue Exclusion and Operating Costs shall each be multiplied by a fraction, the numerator of which shall be the product of (i) the aforesaid average percentage of occupancy for office use of the Buildings during the three (3) Lease Years immediately pre-

ceding the Base Lease Year, and (ii) the number of Net Rentable Square Feet in the Buildings permitted to be used for office purposes in accordance with the Certificates of Occupancy for the Buildings, and the denominator of which shall be the average number of Net Rentable Square Feet in the Buildings which are occupied for office use during the Base Lease Year under Subleases pursuant to which rent is being paid or is to be imputed as provided in Section 3.06(e) or (f) hereof.

(g) In connection with an assignment of Tenant's interest in this Lease prior to the eleventh Lease Year to an assignee whose books are maintained on a different fiscal year than that of Tenant, the first Lease Year, and accordingly the Base Lease Year, shall be determined as if the fiscal year of the assignee were the Fiscal Year of the Tenant on the date of Substantial Completion of the Buildings. In connection with an assignment of Tenant's interest in this Lease after the end of the Base Lease Year to an assignee whose books are maintained on a different fiscal year from those of Tenant, (i) the Lease Year immediately preceding the assignment shall end on the day immediately preceding the effective date of the assignment, and (ii) the following Lease Year shall commence on the effective date of the assignment and shall end on the next succeeding last day of the assignee's fiscal year. The assignee shall pay Percentage Rent for both such Lease Years, but shall be entitled to a credit for all

sums paid by the assignor to Landlord prior to the effective date of the assignment on account of Percentage Rent for the Lease Year ending on the day immediately preceding the effective date of such assignment. The assignee and Tenant shall be jointly and severally responsible for any deficiency in Percentage Rent for any Lease Year preceding the effective date of the assignment. The assignee also shall be entitled to the offset, if any, allowed pursuant to Section 3.04(e) in the event of any overpayment to Landlord of Percentage Rent for the Lease Year ending on the day immediately preceding the effective date of the assignment. Percentage Rent payable by Tenant and the assignee, respectively, for each such Lease Year shall be computed by (i) deducting from the Net Fixed Rent for the particular Lease Year that portion of the Net Fixed Rent for the Base Lease Year which the number of days in the particular Lease Year bears to 365, and (ii) multiplying the aforesaid difference by five percent (5%). If the first semi-annual payment on account of Percentage Rent pursuant to Section 3.04(d) for the Lease Year commencing on the effective date of the assignment shall be for less than six (6) full calendar months, then, in such event, Percentage Rent payable by Tenant for such partial semi-annual period shall be computed by (i) deducting from the Net Fixed Rent for such partial period that portion of the Net Fixed Rent for the Base Lease Year which the number of days in such partial period bears to 365, and (ii) multiplying the aforesaid difference by five

percent (5%). Any assignment occurring after the determination of the Base Lease Year shall not cause a change in the Base Lease Year or in the Net Fixed Rent for the Base Lease Year. If as a result of a change in Tenant's Fiscal Year there is an inaccurate reflection of the amount of Percentage Rent which would have been payable to Landlord pursuant to this Section 3.04 if Tenant's Fiscal Year had remained unchanged throughout the portion of the Term during which Percentage Rent is payable, then the amount of Percentage Rent payable by Tenant to Landlord shall be adjusted to reflect the appropriate amount which would otherwise have been so payable.

Section 3.05.

(a) Tenant shall pay to Landlord, in addition to Base Rent, PILOT, if any, Substitute PILOT, if any, and Percentage Rent, if any, the following annual sums ("Retail Rent"):

(i) with respect to each Fiscal Year or portion thereof during the Term prior to the date on which Substantial Completion of the Buildings shall occur, an amount equal to the greater of (x) One and 50/100 Dollars ($1.50), as such amount shall be adjusted as provided in Section 3.05(c), multiplied by the number of Net Rentable Square Feet from time to time being used for Retail purposes in the Buildings, and (y) ten percent (10%) of the Gross Retail Revenue from each Sublease of Retail space up to and including Forty Dollars ($40) of Gross Retail Revenue per Net Rentable Square Foot under each such

Sublease, plus thirteen and one-half percent (13-1/2%) of the Gross Retail Revenue from each Sublease in excess of Forty Dollars ($40) of Gross Retail Revenue per Net Rentable Square Foot ("Retail Percentage Rent"); and

(ii) with respect to each Fiscal Year or portion thereof during the Term from and after the date on which Substantial Completion of the Buildings shall occur, an amount equal to the greater of (x) One and 50/100 Dollars ($1.50), as such amount shall be adjusted as provided in Section 3.05(c), multiplied by the greater of (a) the number of Net Rentable Square Feet from time to time being used for Retail purposes in the Buildings and (b) the Retail Use Allocation for the Buildings, plus, after the issuance of the certification of the Chairman of the City Planning Commission required pursuant to Section 23.04(ii), the Additional Retail Use Allocation for the Buildings, and (y) Retail Percentage Rent.

In determining Retail Percentage Rent, the calculation provided in clause (y) of Section 3.05(a)(i) and in clause (y) of Section 3.05(a)(ii) shall be separately made for each Sublease. If, with respect to a Fiscal Year for which Retail Rent is payable under Section 3.05(a)(i) or Section 3.05(a)(ii), a Sublease is not in effect for the entirety of such Fiscal Year, the Forty Dollars ($40) referred to in clause (y) of Section 3.05(a)(i) shall be prorated for the number of days such Sublease is in effect during such Fiscal Year. For

purposes of this Lease, the term "Basic Retail Rent" shall mean the amount set forth in clause (x) of Section 3.05(a)(i) or in clause (x) of Section 3.05(a)(ii), as the case may be.

(b) Tenant shall pay to Landlord for each Fiscal Year or portion thereof during the Term, in addition to Base Rent, PILOT, if any, ~~Substitute~~ PILOT, if any, Percentage Rent, if any, and Retail Rent, if any, an amount ("Other Rent") equal to the greater of (i) Seventy-five Cents ($.75), multiplied by the number of Net Rentable Square Feet in the Buildings which from time to time are being used for Other purposes ("Basic Other Rent"), and (ii) ten percent (10%) of the Gross Other Revenue ("Other Percentage Rent").

(c) The amount of One and 50/100 Dollars ($1.50) set forth in clauses (i) and (ii) of Section 3.05(a) shall be increased on the first day of the first full Fiscal Year following the earlier of (i) the effective date of the first Sublease for Retail space in the Buildings, or (ii) the date of Substantial Completion of the Buildings, and on the first day of each Fiscal Year thereafter by adding to One and 50/100 Dollars ($1.50) an amount equal to the product of (i) One and 50/100 Dollars ($1.50), and (ii) seven and one-half percent (7.5%) multiplied by the number of full Fiscal Years, or partial Fiscal Years containing at least six (6) full calendar months, which shall have elapsed beyond the effective date of such first Sublease or such date of Substantial Completion, as the case may be.

(d) Retail Rent and Other Rent, if any, shall be payable in monthly installments in advance commencing on the first day of the first Fiscal Year and on the first day of each month thereafter during the Term. Each monthly installment of Retail Rent payable (i) with respect to each Fiscal Year or portion thereof during the Term prior to the date on which Substantial Completion of the Buildings shall occur, shall be in an amount equal to (x) the product of one-twelfth (1/12) and One and 50/100 Dollars ($1.50), as One and 50/100 Dollars ($1.50) may be adjusted as provided in Section 3.05(c), multiplied by (y) the number of Net Rentable Square Feet in the Buildings which are then being used for Retail purposes, and (ii) with respect to each Fiscal Year or portion thereof during the Term from and after the date on which Substantial Completion of the Buildings shall occur, shall be in an amount equal to (x) the product of one-twelfth (1/12) and One and 50/100 Dollars ($1.50), as One and 50/100 Dollars ($1.50) may be adjusted as provided in Section 3.05(c), multiplied by (y) an amount which is equal to the greater of (1) the number of Net Rentable Square Feet in the Buildings which are then being used for Retail purposes, and (2) the Retail Use Allocation for the Buildings. Each monthly installment of Other Rent shall be in an amount equal to Six and 25/100 Cents ($.0625) multiplied by the number of Net Rentable Square Feet in the Buildings which are then being used for Other purposes. Tenant shall deliver to Landlord, together with

each monthly payment of Retail or Other Rent, the certificate of Tenant's chief financial officer and in connection with the first certification and any change in the number of Net Rentable Square Feet being used for Retail or Other purposes, as the case may be, a statement from a licensed professional engineer or registered architect approved by Landlord, which approval shall not be unreasonably withheld or delayed, certifying the number of Net Rentable Square Feet then being used for Retail or Other purposes, as the case may be. If any space at the Premises shall begin to be used for Retail or Other purposes on a day other than the first day of a calendar month, then together with the next monthly installment of Basic Retail Rent or Basic Other Rent, as the case may be, Tenant shall pay the Basic Retail Rent or Basic Other Rent, as the case may be, applicable to such space for the prior month, prorated for the number of days such space was so used during such prior month. Any dispute as to the number of Net Rentable Square Feet at any time being used for Retail or Other purposes shall be determined by arbitration pursuant to Article 36.

(e) As soon as practicable after the end of each Fiscal Year commencing with the first Fiscal Year for which Retail Rent or Other Rent is payable, but in no event later than one hundred twenty (120) days thereafter, Tenant shall deliver to Landlord a separate statement ("Non-Office Rent Statement") for the Premises showing in reasonable detail the

Gross Retail Revenue and Gross Other Revenue for such Fiscal Year. If the Non-Office Rent Statement shall show that the Retail Percentage Rent for such Fiscal Year is greater than the Basic Retail Rent for such Fiscal Year, Tenant shall pay to Landlord, together with Tenant's delivery of the Non-Office Rent Statement, the difference between the Retail Percentage Rent and the Basic Retail Rent for such Fiscal Year. If the Non-Office Rent Statement shall show that the Other Percentage Rent for such Fiscal Year is greater than the Basic Other Rent for such Fiscal Year, Tenant shall pay to Landlord, together with Tenant's delivery of the Non-Office Rent Statement, the difference between the Other Percentage Rent and the Basic Other Rent for such Fiscal Year.

(f) In connection with an assignment of Tenant's interest in this Lease to an assignee whose books are maintained on a different fiscal year from that of Tenant, (i) the Fiscal Year immediately preceding the assignment shall end on the day immediately preceding the effective date of the assignment, and (ii) the following Fiscal Year shall commence on the effective date of the assignment and shall end on the next succeeding last day of the assignee's fiscal year. The assignee shall pay Retail Rent and Other Rent for both such Fiscal Years, but shall be entitled to a credit for all sums paid by the assignor to Landlord prior to the effective date of the assignment on account of Retail Rent or Other Rent, as the case may be, for the Fiscal Year ending on the day immedi-

ately preceding the effective date of such assignment. The assignee and Tenant shall be jointly and severally responsible for any deficiency in Retail Rent or Other Rent for any Fiscal Year preceding the effective date of the assignment. If as a result of a change in Tenant's fiscal year there is an inaccurate reflection of the amount of Retail Rent or Other Rent which would have been payable to Landlord pursuant to this Section 3.05 if Tenant's fiscal year had remained unchanged throughout the portion of the Term during which Retail Rent and Other Rent is payable, then the amount of Retail Rent or Other Rent, as the case may be, payable by Tenant to Landlord shall be adjusted to reflect the appropriate amount which would otherwise have been so payable.

Section 3.06. In connection with the payment by Tenant of Percentage Rent, Retail Rent and Other Rent, the following provisions shall apply:

(a) Tenant shall at all times keep and maintain at an office located in New York City books and records prepared on the basis required under this Article 3, showing in reasonable detail the amount of Net Fixed Rent, Gross Retail Revenue and Gross Other Revenue. Unless consented to by Landlord, such books and records relating to any Fiscal Year shall not be destroyed or disposed of for a period of four (4) years after the end of such Fiscal Year. Landlord or its representatives shall have the right during regular business hours, on not less than ten (10) days' notice to

Tenant, to examine, audit and/or photocopy all such books and records. If an audit by Landlord with respect to a Fiscal Year is not commenced within the aforesaid four (4) year period, the computation of Net Fixed Rent, Gross Retail Revenue and Gross Other Revenue and the Percentage Rent, Retail Rent and Other Rent paid by Tenant for such Fiscal Year shall not thereafter be subject to Landlord's audit and shall conclusively be deemed correct.

(b) Each Annual Percentage Rent Statement, Semi-Annual Percentage Rent Statement and Non-Office Rent Statement required under this Lease shall be (i) prepared in accordance with generally accepted accounting principles consistently applied, with such modifications as may be provided in this Lease, and (ii) verified by the chief financial officer or the managing partner of Tenant, or if the managing partner of Tenant is not an individual, by the chief financial officer of such managing partner, as being true and correct to the best of his knowledge. Each Annual Percentage Rent Statement and Non-Office Rent Statement shall be certified by an independent public accounting firm (the "C.P.A.") which is either (x) an accounting firm having at least ten (10) partners, or (y) a firm approved by Landlord, which approval shall not be unreasonably withheld. Such certification shall include, without limitation, a statement by the C.P.A. that an examination of Tenant's books and records has been conducted by the C.P.A. in accordance with generally accepted

auditing standards consistently applied and that the Annual Percentage Rent Statement or Non-Office Rent Statement has been prepared in accordance with generally accepted accounting principles consistently applied, with such modifications as may be provided in this Lease and such general exceptions as may be customary for such certifications.

(c) If Landlord shall elect to conduct an audit of Tenant's books and records and such audit discloses an underpayment of Percentage Rent, Retail Rent or Other Rent, subject to Section 3.06(g), Tenant shall pay to Landlord on demand the amount of such deficiency, plus interest thereon at the Late Charge Rate from the date upon which such sum became due to the date of actual payment. In addition, if such deficiency (i) with respect to Percentage Rent, shall be in excess of three and one-half percent (3.5%) of the amount alleged by Tenant to be payable, or (ii) with respect to Retail Rent or Other Rent, shall be in excess of the greater of (x) Five Thousand Dollars ($5,000), or (y) three and one-half percent (3.5%) of the amount alleged by Tenant to be payable, Tenant shall pay to Landlord on demand all reasonable costs incurred by Landlord in connection with such audit.

(d) If Tenant or any Subtenant which is an Affiliate of Tenant shall as sublandlord enter into (i) a Sublease of (x) all or substantially all of the Premises, or (y) a substantial portion (which shall be at least twenty-five percent (25%)) of the Net Rentable Square Feet which are available for office use

at the Premises, pursuant to which Sublease the Subtenant thereunder assumes, directly or indirectly, responsibility for all or substantially all of the expenses relating to the use, operation and maintenance of the Premises or such space, as the case may be, provided that the foregoing shall not be construed to mean and include a Sublease under which the Subtenant is required to pay to the sublandlord escalations over base amounts with respect to the expenses relating to the use, operation and maintenance of the Premises or such space, or (ii) a Sublease of space constituting at least twenty-five percent (25%) of, as the case may be, (x) the Net Rentable Square Feet at the Premises which are available for Retail or Other use or (y) the space at the Premises which is available for garage use, then, for the purposes of calculating Net Fixed Rent, Gross Retail Revenue and Gross Other Revenue for any Lease Year, Landlord, at its election, may look to the Net Fixed Rent, Gross Retail Revenue and Gross Other Revenue of the Subtenant under such Sublease, or of any Subtenant of such Subtenant with respect to the same space which is an Affiliate of such Subtenant, rather than to that of Tenant. If there shall exist any Subtenant to which Landlord, pursuant to the foregoing provision of this Section 3.06(d), would have been entitled to look for the determination of Net Fixed Rent, Gross Retail Revenue or Gross Other Revenue but for any requirement contained in clause (i) or (ii) of the preceding sentence that such Sub-

tenant's Sublease cover a minimum amount of Net Rentable Square Feet in the Premises (any such Subtenant's Sublease being hereinafter referred to as a "Special Sublease"), Landlord, nevertheless, may look to such Subtenant for the determination of Net Fixed Rent, Gross Retail Revenue or Gross Other Revenue, as the case may be, with respect to the portion(s) of the Premises demised to such Subtenant under any Special Sublease(s) if the Net Rentable Square Feet demised under the Special Sublease in question, when added to the aggregate Net Rentable Square Feet demised under all other Subleases to such Subtenant or any Affiliate thereof, equals or exceeds (1) in the case of office space, twenty-five percent (25%) of the Net Rentable Square Feet which are available for office use at the Premises, (2) in the case of Retail or Other space, twenty-five percent (25%) of the Net Rentable Square Feet at the Premises which are available for the use in question, or (3) in the case of garage space, such percent of the garage space which is available for such use. Tenant shall cause each such Subtenant to which Landlord shall be so looking to comply with the provisions of Sections 3.04, 3.05 and 3.06 regarding the furnishing of statements to Landlord, the provisions of Section 3.06 regarding the maintaining of books and records and the permitting of audits of the same by Landlord, the provisions of Section 3.04 regarding the payment of Percentage Rent, the provisions of Section 3.05 regarding the payment of Retail Rent and Other Rent, and the provisions of Section 3.06(c)

regarding the payment of any deficiency in Percentage Rent, Retail Rent or Other Rent, and Tenant shall provide or cause to be provided in each such Sublease that the Subtenant thereunder shall be subject to the provisions of Sections 3.04, 3.05 and 3.06 and that Landlord may proceed directly against each such Subtenant to determine and recover Percentage Rent and the payments of Retail Rent and Other Rent payable pursuant to this Lease. Any default by any such Subtenant under the provisions of Section 3.04, 3.05 or 3.06 beyond any applicable grace period shall be deemed to be an Event of Default by Tenant hereunder, unless (i) Tenant shall proceed with due diligence and continuity to enforce or cause to be enforced the rights and remedies of the sublandlord under such Sublease with respect to such default, and such rights and remedies of the sublandlord are substantially similar to those which Landlord has under this Lease for a similar default, (ii) such default is cured within sixty (60) days after the occurrence thereof, or such Sublease or the Subtenant's right of possession thereunder is terminated within said sixty (60) day period, and (iii) in all events, the applicable Percentage Rent, Retail Rent and Other Rent is paid by the last day of said sixty (60) day period.

(e) If Tenant, an Affiliate of Tenant or a Permitted Assignee (or a Subtenant to which Landlord, as provided in Section 3.06(d), shall be looking for the deter-

mination of Net Fixed Rent, Gross Retail Revenue or Gross Other Revenue) shall themselves use or occupy any portion of the Buildings, there shall be imputed as income the fair market rental value of the portion of the Buildings so occupied by Tenant, an Affiliate of Tenant, a Permitted Assignee or such Subtenant, as the case may be. Fair market rental value as used in this Lease, except as hereinafter provided with respect to Subleases of space for Retail use, shall mean the rental which would be paid under a lease (commencing at the same time as the use or occupancy of Tenant or such Affiliate, Permitted Assignee or Subtenant) with a non-related Person leasing a similar amount of space in the same Buildings, for the same term, for a similar purpose and in a similar location in the Buildings, and shall include, inter alia, all fixed, percentage and escalation rents which would be included under such lease. Fair market rental value as used in this Lease with respect to a Sublease of space for Retail use shall mean the rental which would be paid under a lease (commencing at the same time as the use or occupancy of Tenant or such Affiliate, Permitted Assignee or Subtenant) with a non-related Person leasing a similar amount of space at the premises covered by this Lease or the other Severance Leases, for the same term, for a similar type of Retail use and in a similar location at such premises, and shall include, inter alia, all fixed, percentage and escalation rents which would be included under such lease. Furthermore, if any cost or

expense incurred shall represent an amount paid or payable to a related Person, there shall only be included in Operating Costs an amount which would have been paid or would be payable in the absence of such relationship.

(f) Tenant agrees that the rental under each Sublease shall in no event be less than ninety-five percent (95%) of the fair market rental value for the sublet space determined as of the date of the execution of the Sublease. If the rental under any Sublease shall be less than ninety-five percent (95%) of the fair market rental value for the sublet space determined as aforesaid, there shall be imputed as income, for the purposes of computing Net Fixed Rent, Gross Retail Revenue and Gross Other Revenue, for any period for which Percentage Rent, Retail Rent or Other Rent is payable during the term of the Sublease, the difference between ninety-five percent (95%) of such fair market rental value and the rental being charged under such Sublease. Nothing contained in this Section 3.06(f) shall limit or modify the provisions of Section 3.06(e).

(g) If at any time and for any reason there shall be a dispute as to the determination of Net Fixed Rent, Operating Expenses, Gross Retail Revenue, Gross Other Revenue, the Gross Revenue Exclusion, Building Standard Improvements, or fair market rental value, such dispute shall be determined by arbitration pursuant to Article 36 hereof. Pending resolution of the dispute, Tenant's determination of Net Fixed Rent, Operating Expenses, Gross Retail Revenue, Gross Other Revenue,

the Gross Revenue Exclusion, Building Standard Improvements or fair market rental value shall prevail and Tenant shall pay Percentage Rent, Retail Rent and Other Rent, as the case may be, based upon such determination. Without limitation of the foregoing, any deficiency, interest and expenses which may be payable by Tenant to Landlord pursuant to Section 3.06(c) shall not be payable if disputed by Tenant unless and until determined by such arbitration. If such arbitration determines an underpayment by Tenant, Tenant shall pay the amount of such underpayment, plus interest thereon at the Late Charge Rate, on demand.

(h) For purposes of Sections 3.04, 3.05 and 3.06, (i) storage space located at or above level +12.5 and at or below level +32 which is leased to a Subtenant of office space shall be characterized as office space, (ii) all other storage space used for storage shall be deemed Other space if located at or above level +12.5 and at or below level +32, and (iii) storage space shall not be deemed office, Retail or Other space if located below level +12.5. Tenant agrees that the rental under each Sublease for storage space entered into with a Subtenant of Retail or Other space shall be not more than the fair market rental value for such storage space determined as of the date of the execution of such Sublease. If the rental under any such Sublease for storage space shall exceed the fair market rental value for such space, such excess shall

be deemed added to the rental under the Sublease with the Subtenant for the Retail or Other space, as the case may be.

Section 3.07. Landlord and Tenant agree that the Base Rent, Payments in Lieu of Taxes, Substitute PILOT, Percentage Rent, Retail Rent and Other Rent shall be absolutely net to Landlord without any abatement, deduction, counterclaim, set-off or offset whatsoever, except as provided in Sections 3.03, 3.04(e), 4.03(a), 11.06(e), and 30.01(b) of this Lease and Sections 6.03(g) and 17.03 of the Project Operating Agreement, so that this Lease shall yield, net, to Landlord, the Base Rent, Payments in Lieu of Taxes, Substitute PILOT, Percentage Rent, Retail Rent and Other Rent payable in each year during the Term and that, except as otherwise expressly provided in this Lease and except for (i) Taxes, if any, and (ii) debt service on any indebtedness of Landlord, Tenant shall pay all costs, expenses and charges of every kind and nature relating to the Premises which may arise or become due or payable during or after (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. Tenant's liability for the payment of Rental which shall become payable after the Term as aforesaid is hereby expressly provided to survive the Term.

Section 3.08. Tenant shall pay all Impositions in accordance with Article 4 hereof.

Section 3.09. All amounts payable by Tenant pursuant to this Lease, including, without limitation, Base Rent, Payments in Lieu of Taxes, Substitute PILOT, Percentage Rent, Retail Rent, Other Rent and Impositions (collectively, "Rental"), shall constitute rent under this Lease and shall be payable in the same manner as Base Rent. In the event of Tenant's failure to pay any part of the Rental after Landlord shall have given Tenant the notice, if any, required to be given under Article 24 and the applicable cure period shall have expired, Landlord (in addition to all other rights and remedies) shall have all of the rights and remedies provided for in this Lease or at law or in equity in the case of nonpayment of rent. It is understood and agreed that, except as specifically provided in this Lease, Tenant's obligation to pay Rental hereunder shall not terminate prior to the Expiration Date, notwithstanding the exercise by Landlord of any or all of its rights under Article 24 hereof.

ARTICLE 4

IMPOSITIONS

Section 4.01. Tenant covenants and agrees to pay or cause to be paid, as hereinafter provided, all of the following items ("Impositions") imposed by any entity other than Battery Park City Authority or any corporate successor to or subsidiary of Battery Park City Authority and which are not solely applicable to Battery Park City or properties which are exempt from the payment of Taxes, or to lessees of the

foregoing: (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 maintenance, construction 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 prior to or during the Term are, or, if the Premises or any part thereof or the owner thereof were not exempt therefrom, would be (1) assessed, levied, confirmed, imposed upon, or would grow or become due and payable out of or in respect of, or would be 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, the use and occupancy thereof by Tenant, or this transaction, and (2) encumbrances or liens on (i) the Premises, or (ii) any vault, passageway or space in or under the sidewalks or streets in front of or adjoining the Premises which is not a Civic Facility, an easement created under the Port Authority Easement Agreement, or a portion

of Westway, or (iii) any other appurtenances of the Premises, or (iv) any personal property, Equipment or other facility used in the operation thereof, or (v) the Rental (or any portion thereof) payable by Tenant hereunder, each such Imposition, or installment thereof, during the Term to be paid before the last day the same may be paid without fine, penalty, interest or additional cost; 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, provided that all such installment payments relating to periods prior to the date definitely fixed for the expiration of the Term shall be made prior to the Expiration Date. Anything contained herein to the contrary notwithstanding, Tenant shall not be required to pay any charges or taxes, or any fines, penalties or other similar or like governmental charges applicable thereto, which are imposed in lieu of real property taxes specifically against properties which are exempt from the payment of real property taxes.

Section 4.02. Tenant, from time to time upon the request of Landlord, shall furnish to Landlord, within the earlier of (i) ninety (90) days after the date when an Imposition is due and payable under this Lease, or (ii) thirty (30) days after the date when an official receipt of the appropriate imposing authority

is received, such official receipt or, if no such receipt has been received by Tenant, other evidence reasonably satisfactory to Landlord, evidencing the payment of the Imposition.

Section 4.03.

(a) "Taxes" shall mean (i) 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, (ii) charges imposed in lieu of the taxes described in clause (i) only against Battery Park City or properties including the Premises which are exempt from the payment of such taxes, or the lessees of either of the foregoing, and (iii) fines, penalties and other similar or like governmental charges applicable to the foregoing real property taxes or charges and any interest or costs with respect thereto. Landlord shall pay all Taxes which are due and payable with respect to the Premises before the last day the same may be paid without fine, penalty, interest or additional cost. Landlord shall have the right, at its own cost and expense, to contest the imposition of Taxes, and pending the resolution of such contest Landlord shall not be required to pay the Taxes being so contested, unless failure to pay same shall result in the immediate loss or forfeiture of the Premises and the termination of Tenant's interest under this

Lease. 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, protests and other documents submitted by Landlord to any Governmental Authority or court in connection with such contest. 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 will result in the immediate loss or forfeiture of the Premises and the termination of Tenant's interest under this Lease, then Tenant may pay such unpaid Taxes and deduct such payment from the next installment(s) of Base Rent, Retail Rent, Other Rent, PILOT, Substitute PILOT and Percentage Rent payable under this Lease, together with interest thereon at the Late Charge 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, inheritance, estate, succession, transfer or gift taxes of Landlord, or any corporate franchise tax imposed upon Landlord.

Section 4.04. Any Imposition, relating to a fiscal period of the imposing authority, a part of which period is included within the Term and a part of which is included in

a period of time 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 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 before such date definitely fixed for the expiration of the Term bears to such fiscal period, and Landlord shall pay the remainder of such Imposition.

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, but only after payment of such Imposition, unless such payment would operate as a bar to such contest or interfere materially with the prosecution thereof, 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, would, by reason of such postponement or deferment, be, in the reasonable judgment of Landlord, in danger of being forfeited or lost; and

(b) Tenant shall have deposited with, at Tenant's option, either Landlord or Depository cash or other security

approved by Landlord in the amount so contested and unpaid, together with all interest and penalties in connection therewith and all charges that may 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 attorneys' 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 any interest accrued thereon, any amount deposited with it with respect to such Imposition as aforesaid, provided, however, that Landlord or Depository, as the case may be, if requested by Tenant, shall disburse said moneys on deposit with it directly to the imposing authority to whom such Imposition is payable. If, at any time during the continuance of such proceedings, Landlord shall reasonably 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 or Depository, as the case may be, to the payment, removal and discharge of such Imposition and the interest and penalties in connection therewith

and any costs, fees (including attorneys' fees and disbursements) or other liability accruing in any such proceedings, and the balance, if any, shall be returned to Tenant or the deficiency, if any, shall be paid by Tenant on demand. Nothing contained in this Section 4.05 or elsewhere in this Lease shall be deemed to limit Tenant's obligation to make the deposits provided for in Article 5 hereof.

Section 4.06. Tenant shall have the right to seek a reduction in the valuation of the Premises assessed for real property tax purposes and to prosecute any action or proceeding in connection therewith. If Tenant is not entitled to seek such reduction in the same manner as lessees of non-exempt real property in the County of New York because the Premises are wholly or partially exempt from such taxes, then Tenant may commence a proceeding in the Supreme Court, New York County (or any successor court of similar jurisdiction) to determine whether such a reduction would have been appropriate in the absence of such exemption. Tenant shall join the taxing authority and Landlord, at no cost or expense to Landlord, as parties in that proceeding, but any judgment or decree in that proceeding beyond the right of appeal, shall be binding and conclusive upon Landlord and Tenant whether or not the taxing authority is removed as a party to that proceeding by order of that or any superior court.

Section 4.07. Landlord shall not be required to join in any proceedings referred to in Section 4.05 or 4.06 hereof

(other than the proceeding referred to in the last sentence of Section 4.06) unless the provisions of any law, rule or regulation at the time in effect shall require that such proceedings be brought by and/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 reasonable costs or expenses which Landlord may sustain or incur in connection with any such proceedings.

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 therein.

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, subject to Section 5.01(h), 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 Impositions then in ef-

fect, as reasonably estimated by Landlord. 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.

(b) 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 last day on which any such charges may be paid without penalty or interest.

(c) If, at any time, the amount of any Imposition is increased or Landlord receives information 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, Tenant shall, on Landlord's demand, 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.

(d) 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.

(e) Notwithstanding the foregoing, it is understood and agreed that (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 there shall be an Event of Default with respect to any payment required under this Lease, use monies so deposited to make the payment which is in default.

(f) If this Lease shall be terminated by reason of any Event of Default, 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.

(g) 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.

(h) 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.

Section 5.02. If Landlord ceases to have any interest in the Premises as fee owner thereof, or in the event of a sale or transfer by Landlord of its fee 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 and Tenant agrees to look solely to the transferee with respect thereto, and the provisions hereof shall apply to each successive transfer of Landlord's rights with respect to the deposits.

ARTICLE 6

LATE CHARGES

In the event that payment of Base Rent, Payments in Lieu of Taxes, Percentage Rent, Substitute PILOT, Retail Rent, Other Rent or other Rental shall become overdue for ten (10) days beyond the due date thereof pursuant to this

Lease (or if no such due 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 greater of eighteen percent (18%) per annum or the Prime Rate (the "Late Charge 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) Upon Substantial Completion of the Buildings, Tenant at its sole cost and expense shall:

(i) keep the Buildings, or cause the Buildings to be kept insured under an "All Risk of Physical Loss" form of policy, also providing coverage for loss or damage by water, flood, subsidence and earthquake, with such sublimits as are reasonably required by Landlord, and excluding from such coverage normal

settling only, and including war risks when and to the extent obtainable from the United States government or an agency thereof; such insurance to be in the amount set forth in the "agreed amount clause" endorsement to the policy in question, which endorsement shall be attached to the policy, provided that such amount shall be (x) sufficient to prevent Landlord and Tenant from becoming co-insurers under provisions of applicable policies of insurance, and (y) not less than the greatest amount required by the holder of a Mortgage; and in the absence of such "agreed amount clause" endorsement, such insurance shall meet the requirements of clauses (x) and (y) of this Section 7.01(a)(i) and shall be in an amount not less than ninety percent (90%) of the actual replacement value of the Buildings, such replacement value to be determined from time to time, but not less frequently than annually, and approved by the insurers, it being agreed that no omission on the part of Landlord to request any such determination shall relieve Tenant of its obligation to have such replacement value determined as aforesaid;

(ii) provide and keep, or cause to be provided and kept in force general comprehensive public liability insurance against liability for bodily injury and death and property damage, it being agreed that such insurance shall be in an amount as may from time to time be reasonably required by Landlord, but not less than $100,000,000 combined single limit for liability for bodily injury, death and property damage, that it shall include the Premises and all sidewalks adjoining or appurtenant to the Premises, that such insurance shall contain blanket contractual coverage and shall also provide the following protection:

(1) completed operations;

(2) personal injury protection (exclusions a and c of current forms deleted);

(3) sprinkler leakage-water damage legal liability;

(4) fire legal liability, if not otherwise covered under the comprehensive form of public liability insurance; and

(5) employees as additional insured coverage;

Tenant also shall provide and keep, or cause to be provided and kept in force automobile liability and property damage insurance for all owned, non-owned and hired vehicles insuring against liability for bodily injury and death and for property damage in an amount of not less than $5,000,000 combined single limit, such insurance to contain the so-called "occurrence clause";

(iii) provide and keep, or cause to be provided and kept in force workers' compensation providing statutory New York State benefits for all persons employed by Tenant at or in connection with the Premises;

(iv) provide and keep, or cause to be provided and kept in force rent insurance on an "All Risk of Physical Loss" basis in an amount equal to one (1) year's current Base Rent, PILOT, Substitute PILOT, if any, and Basic Retail Rent;

(v) if a sprinkler system shall be located in any portion of the Buildings, provide and keep, or cause to be provided and kept in force sprinkler leakage insurance in amounts reasonably required by Landlord;

(vi) provide and keep, or cause to be provided and kept in force boiler and machinery insurance in an amount not less than $10,000,000 per accident on a combined basis covering direct property loss and loss of income and providing for all steam, mechanical and electrical equipment, including without limitation,

all boilers, unfired pressure vessels, piping and wiring; and

(vii) provide and keep, or cause to be provided and kept in force such other insurance in such amounts as may from time to time be reasonably required by Landlord or a holder of a first Mortgage against such other insurable hazards as at the time are commonly insured against in the case of prudent owners of like buildings and improvements.

(b) All insurance provided or caused to be provided by Tenant as required by this Section 7.01 (except the insurance under Section 7.01(a)(iii)) shall name Tenant and, at Tenant's option, any Subtenant of all or substantially all of the Buildings as a named insured and Landlord and, at Tenant's option, any Subtenant of all or substantially all of the Buildings as additional insureds. The coverage provided or caused to be provided by Tenant as required by Sections 7.01(a)(i), (iv), (v), (vi) and (vii) may also name each Mortgagee as an insured under a standard mortgagee clause. In any case where Landlord is required pursuant to Section 7.01(a) hereof to be reasonable in requiring a type or amount of insurance, any dispute as to the reasonableness of Landlord's requirement shall be determined by arbitration pursuant to Article 36.

(c) If any of the insurance required under this Section 7.01 shall, after diligent efforts by Tenant, be unobtainable from domestic carriers customarily insuring like buildings and improvements through no act or omission on the part of Tenant, then Tenant shall promptly notify Landlord of Tenant's inability to obtain or cause to be obtained such

insurance and Landlord shall have the right to arrange for Tenant to obtain such insurance. If Landlord shall be able to arrange for Tenant to obtain the insurance, Tenant shall obtain or cause to be obtained same up to the maximum limits provided for herein. If Landlord is unable to arrange for Tenant to obtain the insurance required hereunder, Tenant promptly shall obtain or cause to be obtained the maximum insurance obtainable, and the failure of Tenant to carry the insurance which is unobtainable shall not be a Default hereunder for as long as such insurance shall remain unobtainable. For purposes of this Section 7.01(c), insurance of the type required by Landlord pursuant to Section 7.01(a)(vii) shall be deemed unobtainable (even if arranged for by Landlord) if Tenant shall be required to pay for such insurance at rates which are substantially greater than the rates for such insurance commonly charged to owners of like buildings and improvements. Any dispute as to whether insurance is obtainable shall be determined 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

(i) to Tenant, or any Subtenant of all or substantially all of the Buildings, as trustee, subject to the superior right of any Mortgagee to act as such

trustee, if the amount thereof is less than $1,000,000, or

(ii) to Depository, if the amount thereof is $1,000,000 or more.

Such amount shall be adjusted on September 1, 1986 and on each fifth (5th) anniversary of such date by adding to $1,000,000 an amount equal to the product of (x) $1,000,000 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 of September, 1981. Any dispute as to the calculation of such adjustment shall be determined by arbitration pursuant to Article 36. If a loss shall be payable to Tenant, or such Subtenant, as trustee, Tenant, or such Subtenant, (1) shall hold the insurance proceeds with respect to such loss in trust for the sole purpose of paying the cost of the Restoration, and (2) shall apply such proceeds first to the payment in full of the cost of the Restoration before using any part of the same for any other purpose. Anything contained herein to the contrary notwithstanding, in no event shall Tenant's or such Subtenant's liability as trustee exceed the amount of the proceeds received by Tenant, or such Subtenant, as reduced by the portion thereof applied for the Restoration, but nothing contained herein shall limit the obligation of Tenant or such Subtenant to Restore the Premises as provided in Section 8.01. Tenant shall give to Landlord notice of completion of the Restoration. If Land-

lord makes no claim or objection with respect to such proceeds or their disposition within ninety (90) days after such notice is given, then Tenant or such Subtenant may pay over to itself the unapplied proceeds and the trust obligations hereunder with respect to such proceeds shall terminate. Any failure of such Subtenant to comply with the obligations of Tenant hereunder with respect to such proceeds or their disposition shall be deemed a Default by Tenant, and in addition to any rights or remedies which Landlord may have against Tenant by reason of such Default, Landlord, at Landlord's option, may enforce such obligations directly against such Subtenant in Tenant's name or Landlord's name.

(b) Rent insurance required by any provision of this Lease shall be carried in favor of Landlord and Tenant, as their respective interests appear, and may name any Mortgagee as its interest may appear, and, at Tenant's option, any Subtenant of all or substantially all of the Buildings as an additional insured, but the proceeds thereof shall be paid (i) to Tenant, or such Subtenant, as trustee, subject to the superior right of any Mortgagee to act as such trustee, if the amount thereof is less than $1,000,000, or (ii) to Depository, if the amount is $1,000,000 or more. Such $1,000,000 limits shall be increased in the same manner as the limits in Section 7.02(a). The rent insurance proceeds shall be applied to Base Rent, PILOT, Substitute PILOT, if any, and Basic Retail Rent payable by Tenant under this Lease during

the period from the occurrence of the damage or destruction until completion of the Restoration, and, until completion of the Restoration and the payment of Base Rent, PILOT, Substitute PILOT, if any, and Basic Retail Rent payable through such completion, the proceeds shall not be applied for any other purpose. If a loss shall be payable to Tenant, or such Subtenant, as trustee, Tenant, or such Subtenant, shall hold the insurance proceeds with respect to such loss in trust solely for the purpose set forth in this Section 7.02(b). Anything contained herein to the contrary notwithstanding, in no event shall Tenant's or such Subtenant's liability as trustee exceed the rent insurance proceeds received by Tenant, or such Subtenant, as reduced by the portion thereof as applied in accordance with the terms hereof. If Landlord makes no claim or objection with respect to such proceeds or their disposition within one hundred eighty (180) days after Tenant, or such Subtenant, notifies Landlord of the completion of the Restoration, then, subject to the rights of Mortgagees, Tenant, or such Subtenant, may pay over to itself the unapplied proceeds and the trust obligations hereunder with respect to such proceeds shall terminate. Any failure of such Subtenant to comply with the obligations of Tenant hereunder with respect to such proceeds or their disposition shall be deemed a Default by Tenant, and in addition to any rights or remedies which Landlord may have against Tenant by reason of such Default, Landlord, at Landlord's

option, may enforce such obligations directly against such Subtenant in Tenant's name or Landlord's name.

(c) 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. Any insurance company rated by Bests Insurance Reports (or any successor publication of comparable standing) as A XII or better (or the then equivalent of such rating) shall be deemed a responsible company and 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. A photocopy of each such policy, certified by the insurer to be a true copy thereof, shall be delivered to Landlord immediately upon receipt from the insurance company or companies, except that if any insurance carried by Tenant is effected by one or more blanket policies, then with respect to such insurance, certified abstracted policies relating to the Premises shall be so delivered to Landlord. Certified copies, or certified abstracted policies in the case of blanket policies, of new or renewal policies replacing any policies expiring during the Term shall be delivered as aforesaid at least thirty (30) days before the date of expiration, together with proof reasonably satisfactory to Landlord that the full premiums have been paid for at least the first year of the term

of such policies. During the term of such policies, at least thirty (30) days before each anniversary of the effective date of the policy, Tenant shall deliver or cause to be delivered to Landlord proof reasonably satisfactory to Landlord that the full premiums have been paid for at least the next year of the term of the policy. 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 or requesting the surrender or cancellation of the policies, on less than ten (10) days' notice to Landlord. Tenant shall cause the lender to give Landlord a copy of each default notice given by the lender to Tenant and/or to the insurer.

(d) Tenant and Landlord shall, and Tenant shall cause any Subtenant of all or substantially all of the Buildings who is named as an insured or additional insured to, 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, and Tenant shall cause such Subtenant to execute and deliver, such proofs of loss and other instruments which may be required for the purpose of obtaining the recovery of any such insurance moneys.

(e) Tenant shall not carry separate insurance concurrent in form or contributing in the event of loss with that required by this Lease to be furnished by Tenant, unless Landlord and each Mortgagee are included therein as additional insureds 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 same to be delivered as required in this Lease.

(f) All property insurance policies as required by this Lease shall provide in substance that:

(i) all adjustments for claims with the insureds for $1,000,000 or more, as such amount shall be increased as provided in Section 7.02(a), shall be made with Landlord, Tenant (or Subtenant of all or substantially all of the Buildings) and any Mortgagee named as an insured or additional insured; and

(ii) subject to the rights of any Mortgagee named as an insured, all adjustments for claims with insurers for less than $1,000,000, as such amount may be increased as provided in Section 7.02(a), shall be made with Tenant and such Subtenant only.

(g) All rent insurance policies as required by this Lease shall provide in substance that all adjustments for claims with the insurers shall be made with Landlord and Tenant except that, subject to the rights of any Mortgagee named as an insured, during the period that Olympia & York Battery Park Company or any Permitted Assignee shall be the Tenant under this Lease, all adjustments for claims with the insurers may be made only with Tenant or, at Tenant's option, any Subtenant of all or substantially all of the Buildings.

(h) If the parties shall be unable to mutually determine in advance of an adjustment whether or not the loss shall be less than $1,000,000, as such amount shall be increased as provided in Section 7.02(a), then the cost of the Restoration, as estimated under Section 8.02, shall be conclusive for the purpose of determining with whom the adjustment will be made. All loss proceeds, however, subject to the rights of any Mortgagee named as an insured, shall be payable to Tenant or, at Tenant's option, any Subtenant of all or substantially all of the Buildings, or Depository as provided in Section 7.02(a) based upon the actual amount of the loss which shall have been determined by adjustment.

(i) 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 (as provided in Section 7.02(c) hereof), shall be willing to write and continue such insurance.

(j) Each policy of insurance required to be obtained or caused to be obtained by Tenant as herein provided and each certificate or memorandum therefor issued by the insurer shall contain (i) a provision that no act or omission of Tenant or any Subtenant of all or substantially all of the Buildings which is named as an additional insured shall affect or limit

the obligation of the property insurance company to pay Landlord or any Mortgagee 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, and (iii) a waiver of subrogation by the insurers of any right to recover the amount of any loss resulting from the negligence of Landlord, its agents, employees or licensees.

Section 7.03.

(a) Tenant, on the written demand of Landlord after the occurrence of an Event of Default hereunder, shall deposit with Landlord on the first day of each and every month during the Term, an amount equal to one-twelfth (1/12th) of the total annual premiums payable on account of the policies of insurance required to be carried by Tenant hereunder, as estimated by Landlord, unless such insurance premiums are required to be deposited with a Mortgagee. 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 Section 7.03(a) 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, on Landlord's demand, deposit immediately with Landlord sufficient monies for the payment of the increased insurance premiums. Thereafter, the monthly deposits shall be adjusted so that Landlord 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 Landlord, 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 and/or umbrella policies issued to Tenant covering the Premises and other properties owned or leased by Tenant, provided that the policies otherwise comply with the provisions of this 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 (except with respect to partial damage the reasonably estimated cost of repair of which shall be less than $100,000, as such amount shall be increased as provided in Section 7.02(a), except that $100,000 shall be substituted for $1,000,000 everywhere $1,000,000 appears in said Section), and, except as otherwise expressly provided in Section 8.06(a) hereof, Tenant, at its sole cost and expense, whether or not such damage or destruction shall have been insured or insurable, and whether or not insurance proceeds, if any, shall be sufficient for the purpose, and whether or not the Mortgagee shall permit such insurance proceeds to be used for repairs, alterations, restorations, replacements and rebuilding (collectively, "Restoration"), with reasonable diligence (subject to Unavoidable Delays), shall repair, alter, restore, replace and rebuild (collectively, "Restore") or cause to be Restored the same, at least to the extent of the value and as nearly as practicable to the character of the Buildings existing immediately prior to such occurrence and otherwise in substantial conformity with the Final Plans or the Development Guidelines, 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. If Tenant shall

fail or neglect to Restore or cause to be Restored 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 or cause to be completed the same with reasonable diligence (subject to Unavoidable Delays) in accordance with the terms of this Lease, Landlord may complete such Restoration at Tenant's expense. Upon Landlord's election to so complete the Restoration, Tenant immediately shall pay or cause to be paid to Landlord all insurance proceeds which shall have been received by Tenant, or any Subtenant of all or substantially all of the Buildings named as an insured or additional insured, minus those amounts, if any, which Tenant or such Subtenant shall have applied to the Restoration, and if such sums are insufficient to complete the Restoration, Tenant, on demand, shall pay or cause to be paid the deficiency to Landlord. Each Restoration shall be done in accordance with the provisions of this Lease.

Section 8.02. Subject to the provisions of Section 8.03, Depository shall pay over to Tenant, or at Tenant's option, any Subtenant of all or substantially all of the Buildings named as an insured or additional insured, from time to time, upon the following terms, any monies which may be received by Depository from insurance provided by Tenant or such Subtenant (other than rent insurance) or cash or the proceeds of any security deposited with Depository pursuant to Section 8.05 (collectively, the "Restoration

Funds"); provided, however, that Depository, before paying such monies over to Tenant, or such Subtenant, shall be entitled to reimburse itself, the Mortgagee most senior in lien and Landlord to the extent, if any, of the reasonable expenses paid or incurred by Depository, said Mortgagee or Landlord in the collection of such monies. Depository shall pay to Tenant or such Subtenant, as hereinafter provided, the Restoration Funds, for the purpose of Restoration to be made by Tenant or such Subtenant 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(d). Prior to the making of any Restoration (except with respect to partial damage the reasonably estimated cost of Restoration of which shall be less than $100,000, as such amount shall be increased as provided in Section 7.02(a), except that $100,000 shall be substituted for $1,000,000 everywhere $1,000,000 appears therein), 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, 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. The Restoration Funds shall be paid to Tenant or at Tenant's election, to any Subtenant of all or substantially all of the Premises named as an insured or additional insured, from time to time thereafter in installments as the Restoration progresses, upon application to be submitted from time to time by Tenant or such Subtenant to Depository and Landlord showing the cost of work, labor, services, materials, fixtures and equipment incorporated in the Restoration, or incorporated therein since the last previous application, and paid for by Tenant or such Subtenant or then due and owing. 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 is created or caused to be created by Tenant or such Subtenant and is filed against Landlord, or any assets of, or funds appropriated to, Landlord relating to Battery Park City, Tenant or such Subtenant shall not be entitled to receive any further installment until such lien is satisfied or otherwise discharged. The amount of any installment to be paid to Tenant or such Subtenant shall be such portion of the total Restoration Funds as the cost of work, labor, services, materials, fixtures and equipment theretofore incorporated by Tenant or such Subtenant in the Restoration bears to the total estimated cost of the Restoration by Tenant or such Subtenant, less (a) all payments theretofore made

to Tenant or such Subtenant out of the Restoration Funds, and (b) ten percent (10%) of the amount so determined. Upon completion of and payment for the Restoration by Tenant or such Subtenant, the balance of the Restoration Funds shall be paid over to Tenant or such Subtenant, subject to the rights of any Mortgagee named as an insured. In the event that the Restoration Funds are insufficient for the purpose of paying for the Restoration, Tenant nevertheless shall be required to make the Restoration or cause it to be made, and pay or cause to be paid any additional sums required for the Restoration. If Landlord makes the Restoration at Tenant's expense, as provided in Section 8.01, then, as provided above with respect to Tenant or such Subtenant, Depository shall pay over the Restoration Funds to Landlord, from time to time, upon Landlord's application accompanied by a certificate containing the statements required under clauses (i), (ii) and (iii) of Section 8.03(a), to the extent not previously paid to Tenant or such Subtenant pursuant to this Section 8.02, and Tenant shall pay to Depository, on demand, any sums which Landlord certifies to be an estimate of the amount necessary to complete the Restoration, less the undisbursed Restoration Funds.

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

(a) there shall be submitted to Depository and Landlord the certificate of the aforesaid engineer or architect stating (i) that the sum then requested to be withdrawn either has been paid by Tenant or such Subtenant or is justly due to contractors, subcontractors, materialmen, engineers, architects or other Persons (whose names and addresses shall be stated) who have rendered or furnished work, labor, services, materials, fixtures or equipment for the work and giving a brief description of such work, labor, services, materials, fixtures or equipment 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 Restoration 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 request, for the withdrawal of insurance money or has been made out of the proceeds of insurance received by Tenant or such Subtenant; (iii) that the sum then requested does not exceed the value of the work, labor, services, materials, fixtures and equipment 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 created or caused to be created by Tenant or such Subtenant in connection with work done, authorized or incurred at or relating to Battery Park City and affecting Landlord, or the assets of, or funds appropriated to, Landlord, which has not been discharged of record, 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 $1,000,000 in the aggregate, determined as provided in Section 8.02 (as such amount shall be increased as provided in Section 7.02(a)), Tenant shall furnish to Landlord at least ten (10) days before the commencement of any Restoration, the following:

(i) 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 reasonable approval of Landlord, and, at the request of Landlord, any other drawings, in-

formation and/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 Final Plans or the Development Guidelines;

(ii) a stipulated sum or cost plus with upset price contract, in form assignable to Landlord, made with a reputable and responsible contractor, providing in substance for (x) the completion of the Restoration with reasonable diligence, subject to Unavoidable Delays, in accordance with said plans and specifications, free and clear of all liens, encumbrances, security agreements, interests and financing statements, and (y) a payment and performance bond by sureties reasonably satisfactory to Landlord, naming the contractor as principal, in a penal sum equal to the amount of such contract, or a clean irrevocable negotiable letter of credit or other security reasonably satisfactory to Landlord in an amount equal to the amount of such contract; and

(iii) an assignment to Landlord of the contract so furnished and the bond, letter of credit or other security so provided, such assignment to be duly executed and acknowledged by Tenant (and if required, by any Subtenant of all or substantially all of the Buildings) and by its terms to be effective only upon any termination of this Lease or upon Landlord's re-entry 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 $1,000,000, such cost to be determined as provided in Section 8.02 (as such amount shall be increased as provided in Section 7.02(a)), to the extent that any portion of the Restoration involves work which may change the appearance of the exterior of the Buildings or may change the height, bulk or setback of the Buildings from the height, bulk or setback existing immediately prior to the loss, damage or destruction, then Tenant shall furnish to Landlord at least ten (10) days before the commencement of the Restoration a complete set of plans and specifications for the Restoration of the Buildings, prepared by a licensed professional engineer or registered architect whose qualifications shall meet with the reasonable approval of Landlord, 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 in clause (i) of Section 8.04(a) hereof.

Section 8.05. If the estimated cost of any Restoration, determined as provided in Section 8.02, (i) is equal to or greater than $1,000,000, as such amount shall be increased as provided in Section 7.02(a), and (ii) exceeds the

net insurance proceeds, then, prior to the commencement of such Restoration or thereafter if it is determined that the cost to complete the Restoration exceeds the unapplied portion of such insurance proceeds, Tenant shall deposit with Depository a bond, cash, irrevocable letter of credit 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 8.02, as security for the completion of the work, free of public improvement, vendors', mechanics', laborers' or materialmen's statutory or other similar liens.

Section 8.06. (a) If there shall be damage to or destruction of the Buildings by fire or other casualty (i) within the five (5) years prior to June 17, 2069 so as to render twenty percent (20%) or more of the Net Rentable Square Feet of the Buildings untenantable, or (ii) within the two (2) years prior to June 17, 2069 so as to render ten percent (10%) or more of the Buildings untenantable or such that the Buildings cannot be Restored within such two (2) year period, then Tenant may elect to terminate this Lease by giving Landlord notice to that effect at any time within sixty (60) days of such damage or destruction, which notice shall be accompanied by a certificate of an independent licensed professional engineer or registered architect approved by Landlord, which approval shall not be unreasonably withheld or delayed, certifying that the condition to such termination set forth in

this Section 8.06(a) shall have been satisfied. In such event, this Lease shall terminate as of the date set forth in Tenant's notice, which date shall not be later than the ninetieth (90th) day after such damage or destruction. Tenant shall pay, or cause Depository to pay, to Landlord all insurance proceeds received in connection with the damage or destruction, and if such sums are insufficient to complete the Restoration, Tenant (i) shall pay to Landlord any additional sums required therefor, as certified by an independent licensed professional engineer or registered architect approved by Landlord, which approval shall not be unreasonably withheld or delayed, and (ii) shall have the right to (x) approve the settlement of Landlord's claim for the aforesaid insurance proceeds, which approval shall not be unreasonably withheld or delayed, and (y) participate, at its own cost and expense, in any litigation which may arise in connection with such claim. Upon the making of the payments required pursuant to this Section 8.06(a), neither party shall have any further rights or obligations to the other hereunder arising or accruing after such termination, except those expressly stated to survive the termination of this Lease, and the Rental payable hereunder shall be apportioned as of the effective date of such termination. Any dispute arising under this Section 8.06(a) shall be settled by arbitration pursuant to Article 36.

(b) Except as otherwise expressly provided in Section 8.06(a), 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; and 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.

Section 8.07. Anything herein contained to the contrary notwithstanding, to the extent that any procedure for the payment of insurance proceeds to or on behalf of Tenant for the Restoration of the Premises which may be required by any Mortgage held by an Institutional Lender or its assignee shall be inconsistent with any procedure provided for in this Lease, the procedures required by such Mortgage shall take precedence over and be in lieu of the conflicting procedure provided for in this Lease, provided that such Mortgage procedures are more restrictive with respect to the

payment of insurance proceeds to or on behalf of Tenant than the procedures provided for in this Lease.

Section 8.08. If there is more than one Mortgage, Landlord shall recognize the Mortgagee whose Mortgage is senior in lien as the Mortgagee having priority as to the rights of a Mortgagee under this Article 8.

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 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 apportioned as of the date of such taking. A taking of the whole or substantially all of the Premises, as provided in this Section 9.01(a) shall be deemed to have occurred if there shall be a taking 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 au-

thorized to exercise such right, of (i) the easements of access located off the Premises, or (ii) the Central Plant, provided that in each case a court of competent jurisdiction shall deem such action to be the equivalent of a taking of the whole or substantially all of the Premises.

(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, readily accommodate a new building or buildings of a nature similar to the Buildings existing at the date of such taking, and capable of producing a proportionately (i.e., proportional to the number of square feet not so taken) fair and reasonable net annual income. The average net annual income produced by the Buildings during (i) the period commencing on the first (1st) anniversary of the PILOT Commencement Date and ending on the last anniversary of that date which preceded the taking, or (ii) the last five (5) full Fiscal Years of Tenant which elapsed prior to the taking, whichever is shorter, shall be deemed to constitute a fair and reasonable net annual income

for the purpose of determining what is a proportionately 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 in accordance with the provisions of Article 36.

(c) If the whole or substantially all of the Premises shall be taken as provided in this Article 9, (i) there shall first be paid to Landlord the entire award for or attributable to the value of that part of the Land and the Civic Facilities thereon, if any, taken in any proceeding with respect to such taking, without deduction therefrom for any estate vested in Tenant by this Lease, and Tenant shall receive no part of such award, and (ii) subject to the rights of the 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 such Civic Facilities, if any, and which portion is attributable to 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 and deliver any and all documents that may be reasonably required in order to facilitate collection by them of such awards in accordance with the provisions of this Article 9.

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 on 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.

(a) If (i) within the five (5) years prior to June 17, 2069, twenty percent (20%) or more of the Net Rentable Square Feet of the Buildings shall be taken as provided in this Article 9, or (ii) within the two (2) years prior to June 17, 2069, ten percent (10%) or more of the Buildings shall be so taken or the taking shall be of such a nature that the remaining Buildings cannot be Restored to complete, rentable, self-contained architectural units in good condition and repair within such two (2) year period, then Tenant may elect to terminate this Lease by giving Landlord notice to that effect at any time within sixty (60) days of such taking, which notice shall be accompanied by a certificate of an independent licensed professional engineer or registered architect approved by Landlord, which approval shall not be unreasonably withheld or delayed, certifying that the condition to such termination set forth in this Section 9.03(a) shall have been satisfied. In such event, this Lease shall terminate as of the date set forth in Tenant's notice, which date shall not

be later than the ninetieth (90th) day after the date of such taking. Tenant shall pay, or cause Depository to pay, to Landlord the entire award received by either Tenant or Depository, as the case may be, and if the award is insufficient to complete the Restoration, Tenant (x) shall pay to Landlord any additional sums required therefor, as certified by an independent licensed professional engineer or registered architect approved by Landlord, which approval shall not be unreasonably withheld or delayed, and (y) shall have the right to (1) approve the settlement of such taking, which approval shall not be unreasonably withheld or delayed, and (2) participate, at its own cost and expense, in any litigation which may arise in connection with such taking. Upon the aforesaid payments, neither party shall have any further rights or obligations to the other hereunder arising or accruing after such termination, except those expressly stated to survive the termination of this Lease, and the Rental payable hereunder shall be apportioned as of the effective date of such termination. Any dispute arising under this Section 9.03(a) shall be settled by arbitration pursuant to Article 36.

(b) If less than substantially all of the Premises shall be taken as provided in this Article 9, then, except as expressly otherwise provided in Section 9.03(a) hereof, this Lease and the Term shall continue without abatement of the Rental or diminution of any of Tenant's obligations hereunder. Tenant, at its sole cost and expense, whether or not

the award or awards, if any, shall be sufficient for the purpose and whether or not the Mortgagees shall permit the award or awards to be used for the Restoration, shall proceed with reasonable diligence (subject to Unavoidable Delays) to Restore or cause to be Restored any remaining part of the Buildings not so taken so that the latter shall be complete, rentable, self-contained architectural units in good condition and repair. In the event of any taking of the nature described in this Section 9.03, the entire award for or attributable to the Land and the Civic Facilities on the Premises taken in any proceeding with respect to such taking, without deduction for any estate vested in Tenant by this Lease, shall be first paid to Landlord, and the balance of the award, if any, shall be paid to Depository if the cost of Restoration is $1,000,000 or more, or, subject to the rights of Mortgagees, to Tenant or, at Tenant's option, any Subtenant of all or substantially all of the Premises designated by Tenant if such cost is less than $1,000,000, as such amount shall be increased as provided in Section 7.02(a). Subject to the provisions and limitations in this Article 9, Depository shall make available to Tenant or such Subtenant as much of that portion of the award actually received and held by Depository, if any, less all reasonable 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,

the estimated cost thereof, the payments to Tenant or such Subtenant on account of the cost thereof, Landlord's right to perform the same and Tenant's or such Subtenant's obligation with respect to condemnation proceeds held by it, shall be done, determined, made and governed in accordance with and subject to the provisions of Articles 8 and 13. 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 or such Subtenant, subject to the rights of Mortgagees. Each of the parties agrees to execute and deliver and Tenant shall cause any Subtenant to execute and deliver any and all documents that may be reasonably required in order to facilitate collection of the 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 or cause to be made the Restoration and pay or cause to be paid any additional sums required for the Restoration.

Section 9.04. If the estimated cost of any Restoration required by the terms of this Article 9, as determined in the manner set forth in Section 8.02, (i) is equal to or greater than $1,000,000, as such amount shall be increased in the same manner as set forth in Section 7.02(a), and (ii) exceeds the condemnation award (after deducting the expenses of collection, which deductions shall be limited in the same

manner as expenses of collecting insurance proceeds are limited under Section 8.02), then, prior to the commencement of such Restoration or thereafter if it is determined that the cost to complete the Restoration exceeds the unapplied portion of such award, Tenant shall deposit with Depository a bond, cash, irrevocable letter of credit 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 work, 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 hereunder 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, and if the same is

$1,000,000 or more, as such amount shall be increased in the same manner as set forth in Section 7.02(a), the same shall be paid to and held by Depository as a fund which Depository shall apply from time to time first to the payment of the Rental payable by Tenant hereunder for the period in question and any balance remaining shall be paid to Tenant or any Subtenant of all or substantially all of the Premises designated by Tenant. Notwithstanding the foregoing, 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 equal to the cost of the Restoration (determined as provided in Section 8.02) shall be 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; 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 Tenant's share thereof, if paid less frequently than in monthly installments, and if the same is $1,000,000 or more, as such amount shall be increased in the same manner as set forth in Section 7.02(a), shall be paid 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 Restoration of the Buildings which has not been previously

applied for that purpose shall be paid over to Landlord if this Lease shall expire prior to the Restoration of the Buildings to their former condition.

Section 9.06. In case of any governmental action, not resulting in the taking or condemnation of any portion of the Premises or the Civic Facilities but creating a right to compensation therefor, such as the changing of the grade of any street upon which the Premises abut, then, except as otherwise provided in Section 9.01, 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 damaged thereby to their former condition, and any balance remaining shall be paid to Tenant.

Section 9.07. If there is more than one Mortgage, Landlord shall recognize the Mortgagee whose Mortgage is senior in lien as the Mortgagee having priority as to the rights of a Mortgagee under this Article 9.

Section 9.08. Anything contained herein to the contrary notwithstanding, Landlord shall not settle or compromise any taking or other governmental action creating a right to compensation in Tenant as provided in this Article 9 without the prior consent of Tenant if the settlement or compromise adversely affects Tenant's right to compensation for such taking.

ARTICLE 10

ASSIGNMENT, SUBLETTING AND MORTGAGES

Section 10.01.

(a) Except as hereinafter specifically provided to the contrary, prior to Substantial Completion of the Buildings, (i) this Lease and the interest of Tenant in this Lease shall not be sold, assigned, or otherwise transferred, whether by operation of law or otherwise, (ii) the issued or outstanding capital stock of any corporation which, directly or indirectly, is Tenant under this Lease or is a general partner of any partnership that is Tenant under this Lease shall not be sold, assigned or transferred, (iii) additional stock in any such corporation shall not be issued if the issuance of additional stock will result in a change of the controlling stock ownership of such corporation as held by the shareholders thereof when such corporation became Tenant under this Lease, (iv) no general partner's interest in a partnership which is Tenant under this Lease shall be sold, assigned or transferred, and (v) Tenant shall not sublet the Premises as an entirety or substantially as an entirety, without the prior written consent of Landlord in each of the aforesaid cases of assignment or subletting and the delivery to Landlord of the executed documents described in clauses (i), (ii), (iii) and (iv) of Section 10.01(c). Anything contained in this Section 10.01(a) to the contrary notwithstanding, at any time and from time to time (x) provided that the provisions

of Sections 10.11 and 10.12 shall be satisfied, Tenant may subject Tenant's interest in this Lease and the leasehold interest created hereby to one or more Mortgages without the consent of Landlord and may at any time assign this Lease to any Mortgagee as collateral security, and (y) provided that Tenant shall comply with the provisions of this Article 10 with respect to a permitted assignment (including, but not limited to, the provisions of Section 10.01(c)), Tenant may assign this Lease without Landlord's consent to the following Persons (each such Person herein referred to as a "Permitted Assignee"): (1) one or more Affiliates of Tenant, (2) a Person or Persons in each of which Tenant and/or one or more Affiliates of Tenant have in the aggregate at least a ninety percent (90%) interest and in which the remaining interests are owned by the officers, directors and/or employees of Tenant or of any of such Affiliates of Tenant, or (3) a joint venture (which term shall include a partnership or tenancy-in-common) in which Tenant and/or one or more Affiliates of Tenant have in the aggregate at least a fifty percent (50%) interest and are the managing joint venturers. From and after an assignment of this Lease by Tenant to a Permitted Assignee until Substantial Completion of the Buildings, the Tenant hereunder must continue to qualify as a Permitted Assignee in accordance with the foregoing requirements.

(b) From and after Substantial Completion of the Buildings, and provided that Tenant shall comply with the pro-

visions of this Article 10 with respect to a permitted assignment or subletting, as the case may be (including, but not limited to, the provisions of Section 10.01(c)), and shall not be in Default under this Lease, Tenant may assign this Lease or sublet the Premises as an entirety or substantially as an entirety as aforesaid without the consent of Landlord.

(c) If Landlord shall consent to an assignment or subletting as aforesaid, or if no consent is required, Landlord shall be given ten (10) days' advance notice of the effective date of such assignment or subletting, provided, however, that no such assignment or Sublease shall be effective for any purpose unless and until there shall have been delivered to Landlord (i) an executed counterpart of the instrument(s) of assignment of this Lease or of the Sublease, containing, inter alia, the name and address of the assignee or Subtenant, (ii) in the case of an assignment, an executed instrument of the assumption by said assignee of Tenant's obligations under this Lease first arising or accruing on or after the effective date of the assignment, such assumption to be in form and substance reasonably satisfactory to Landlord, subject to the limitation of liability provided in Section 43.02 of this Lease, (iii) in the case of a corporate assignee or Subtenant whose shares are not registered on any trading exchange, an affidavit of the assignee or Subtenant or the principal officer thereof, setting forth the names and addresses of all Persons having interests in, and all direc-

tors and officers of, the assignee or Subtenant, and (iv) in the case of a partnership assignee or Subtenant, an affidavit of the assignee or Subtenant or general partner thereof, setting forth the names and addresses of all Persons having interests in the assignee or Subtenant.

(d) Anything contained in this Lease to the contrary notwithstanding, Tenant, without the consent of Landlord, shall have the right at any time to (i) assign any or all Subleases to any Mortgagee as collateral security for the obligations of Tenant under a Mortgage made in accordance with this Article 10, and (ii) enter into Subleases of portions of the Premises for actual occupancy.

Section 10.02. No assignment of this Lease or subletting of the Premises as an entirety or substantially as an entirety shall have any validity except upon compliance with the provisions of this Article 10.

Section 10.03. Any consent by Landlord under Section 10.01(a) above shall apply only to the specific transaction thereby authorized and shall not relieve Tenant from the requirement of obtaining any prior consent of Landlord which may be required under this Article 10 to any further sale or assignment of this Lease or transfer of stock or subletting of the Premises as an entirety or substantially as an entirety.

Section 10.04. Tenant shall make reasonable efforts to cause the subtenants, undertenants, operators, licensees, concessionaires and other occupants of the Buildings (individ-

ually, a "Subtenant" and collectively, "Subtenants") to comply with their obligations under their subleases, occupancy, operating, license and concession agreements (individually, a "Sublease" and collectively, "Subleases") and Tenant shall enforce with reasonable diligence, subject to Unavoidable Delays, all of its rights as the landlord thereunder in accordance with the terms of each of the Subleases.

Section 10.05. The fact that a violation or breach of any of the terms, provisions or conditions of this 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.

Section 10.06. Landlord, after an Event of Default, may collect rent 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 (i) the conditions hereinafter set forth in this Section 10.07 and (ii) as long as this

Lease shall be in effect, Mortgages and any collateral assignments of Subleases made in connection with Mortgages, 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; provided, however, that such assignment shall become operative and effective only if (a) an Event of Default shall occur, 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 judgment, order or decree of a court of competent jurisdiction and then only as to such of the Subleases that Landlord may elect to take over and assume.

Section 10.08.

(a) Tenant shall deliver to Landlord at the times described in Section 38.01(b) for the delivery of annual financial statements, a schedule of all Subleases which shall include the names of all Subtenants, a description of the space sublet, expiration dates, renewal options and any other information (other than the financial terms of such Subleases) which Landlord reasonably requests.

(b) Tenant shall deliver to Escrow Agent at the times described in Section 38.01(b) for the delivery of annual financial statements, a schedule of all Subleases which shall include, in addition to the information on the schedule to be delivered to Landlord pursuant to Section 10.08(a), the rentals under such Subleases and any additional information that Landlord may reasonably request. Tenant shall furnish Escrow Agent with true copies of all Subleases promptly after execution.

(c) In addition to the schedules and statements referred to in Sections 10.08(a) and (b) and any other materials and statements with respect to Subleases which Tenant may be required to furnish to Escrow Agent and/or Landlord under any other provisions of this Lease, until the Buildings are ninety percent (90%) occupied, Tenant shall furnish to Landlord, promptly after execution thereof, a true copy of each Sublease which (a) with respect to office space, covers at least one full floor of the Building and (b) with respect to Retail space, satisfies the requirement set forth in clause (ii) of Section 10.10(b).

Section 10.09. Tenant covenants and agrees that each Sublease affecting the Premises shall provide that (a) it is subject to this Lease, (b) the Subtenant will not pay rent or other sums under the Sublease for more than one (1) month in advance, (c) on the termination of this Lease pursuant to Article 24, upon Landlord's request the Subtenant

will promptly deliver to Landlord "as-built" drawings of any construction, alteration, renovation and/or Restoration work such Subtenant performed or caused to be performed in the space demised under such Subtenant's Sublease, and (i) if any construction, alteration, renovation and/or Restoration work by such Subtenant with respect to such space is then proposed or in progress, such Subtenant's drawings and specifications, if any, for such work, and (ii) if any construction, alteration, renovation and/or Restoration work by Tenant for such Subtenant with respect to such space was performed or is then proposed or in progress, the "as-built" drawings, if any, or the drawings and specifications, if any, as the case may be, for such work in such Subtenant's possession, and (d) at Landlord's option, on the termination of this Lease pursuant to Article 24, the Subtenant will attorn to, or enter into a direct lease on identical terms with, Landlord for the balance of the unexpired term of the Sublease.

Section 10.10.

(a) Landlord covenants and agrees, for the benefit of any bona fide Subtenant which is neither an Affiliate of Tenant nor a Permitted Assignee, that Landlord shall recognize the Subtenant as the direct tenant of Landlord upon the termination of this Lease pursuant to any of the provisions of Article 24 and the termination of any other Sublease superior to the Sublease of such Subtenant, if (i) each Mortgagee shall have agreed in writing substantially to the effect that

it will not join the Subtenant as a party defendant in any foreclosure action or proceeding which may be instituted or taken by the Mortgagee, nor evict the Subtenant from the portion of the Premises demised to it, except by reason of the Subtenant's default under its Sublease, nor affect any of the Subtenant's rights under its Sublease by reason of any default under its Mortgage, or (ii) Tenant shall deliver to Landlord a certificate of an independent real estate appraiser who is a member of the American Institute of Appraisers, or such other similar organization, reasonably satisfactory to Landlord, certifying that the rent payable under the Sublease, after taking into account any credits, offsets or deductions to which the Subtenant may be entitled thereunder, constitutes not less than the then fair market rental value of the space demised thereunder; provided, however, that at the time of the termination of this Lease (x) no default exists under the Subtenant's Sublease which would then permit the landlord thereunder to terminate the Sublease or to exercise any dispossess remedy provided for therein, and (y) the Subtenant will deliver to Landlord an instrument confirming the agreement of the Subtenant to attorn to Landlord and to recognize Landlord as the Subtenant's landlord under the Sublease, which instrument shall provide that neither Landlord nor anyone claiming by, through or under Landlord, shall be:

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

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

(3) bound by any payment of rent which the Subtenant might have made for more than one (1) month in advance to any prior landlord (including, without limitation, the then defaulting landlord),

(4) bound by any covenant to undertake or complete any construction of the Premises or any portion thereof demised by said Sublease,

(5) bound by any obligation to make any payment to the Subtenant, except for services, repairs, maintenance and restoration provided for under the Sublease to be performed after the date of such termination of this Lease and which landlords of like properties ordinarily perform at the landlord's expense, and, with respect to tenants of Retail space, merchants' association contributions or the equivalent provided for under the Sublease and first becoming due after the date of such termination of this Lease, it being expressly understood, however, that Landlord shall not be bound by any obligation to make payment to a Subtenant with respect to construction

performed by or on behalf of such Subtenant at the subleased premises, or

(6) bound by any modification of the Sublease which reduces the basic rent, additional rent, supplemental rent or other charges payable under the Sublease (except to the extent equitably reflecting any reduction in the space covered by the Sublease), or shortens the term thereof, or otherwise materially adversely affects the rights of the landlord thereunder, made without the written consent of Landlord.

(b) If a Subtenant entitled to such recognition, or Tenant on behalf of such Subtenant, shall so request, Landlord shall execute and deliver an agreement, in form and substance reasonably satisfactory to Landlord, Tenant and such Subtenant, confirming that, subject to the provisions of clauses (x) and (y) of Section 10.10(a), such Subtenant is entitled to such recognition, provided that (i) such Subtenant is leasing not less than an entire floor in the Buildings, or (ii) if such Subtenant is leasing Retail or Other space in the Buildings, such Subtenant represents, which representation shall be supported by a reasonable estimate prepared by a licensed professional engineer or registered architect, that it will incur not less than $500,000 in fixturing costs at the subleased premises, as such $500,000 amount shall be increased as provided in Section 7.02(a), except that $500,000 shall be substituted for $1,000,000 everywhere $1,000,000 appears therein.

(c) The recognition and nondisturbance granted by Landlord to a Subtenant pursuant to Sections 10.10(a) and (b) shall be applicable to, and enforceable by, a mortgagee of such Subtenant who has foreclosed or obtained an assignment in lieu of foreclosure, or has obtained a receiver, or is in possession with the permission of such Subtenant.

Section 10.11. No Mortgage or any extension thereof made by Tenant shall be a lien or encumbrance upon the estate or interest of Landlord, as fee owner or tenant under the Master Lease, in and to the Premises or any part thereof.

Section 10.12. No Mortgage shall be valid or of any force or effect unless and until (a) a true copy of the original of each instrument creating and effecting such Mortgage, certified by the Mortgagee to be a true copy of such instrument, and written notice containing the name and post office address of the Mortgagee, shall have been delivered to Landlord, and (b) the Mortgage shall contain in substance the following provisions:

"(1) This mortgage is executed upon the condition that no purchaser at any foreclosure sale or assignee under an assignment in lieu of foreclosure shall acquire any right, title or interest in or to the lease hereby mortgaged, unless the said purchaser or assignee, or the person, firm or corporation to whom or to which such purchaser's or assignee's right has been assigned, shall (a) in the instrument transferring to such purchaser or to such assignee the interest

of tenant under the lease hereby mortgaged, assume and agree to perform all of the terms, covenants and conditions of that lease thereafter to be observed or performed on the part of such tenant, subject to the limitation of liability provided in Section 43.02 of that lease, that no further or additional mortgage or assignment of the lease hereby mortgaged shall be made except in accordance with the provisions contained in Article 10 of that lease, and that a duplicate original of said instrument containing such assumption agreement, duly executed and acknowledged by such purchaser or such assignee and in recordable form, shall be delivered to the landlord under the hereby mortgaged lease immediately after the consummation of such sale, or, in any event, prior to taking possession of the premises demised thereby, and (b) agree in an amendment to the lease hereby mortgaged that such lease shall not be assigned or the entire or substantially the entire premises demised thereunder be sublet to Olympia & York Battery Park Company or any Affiliate (as defined in the lease hereby mortgaged) of Olympia & York Battery Park Company if (i) there exists a Default or an Event of Default (as such terms are defined in the lease hereby mortgaged) under any of the Severance Leases (as defined in the lease hereby mortgaged) under which Olympia & York Battery Park Company or an Affiliate thereof is a tenant or there exists an event which but for the provisions of Section 10.13(b) of any such Severance Lease would constitute a Default or an Event of Default

thereunder, (ii) any Severance Lease shall have been terminated by reason of the Default of Olympia & York Battery Park Company or an Affiliate thereof as the tenant thereunder, or (iii) a mortgagee, by receiver or otherwise, or its designee or nominee or the purchaser from any of the same at a foreclosure sale or by assignment in lieu of foreclosure shall have obtained possession of any Parcel (as defined in the lease hereby mortgaged) from Olympia & York Battery Park Company or an Affiliate thereof by reason of a default under the terms of a mortgage.

(2) The mortgagee waives all right and option to retain and apply the proceeds of any insurance or the proceeds of any condemnation award toward payment of the sum secured by this mortgage to the extent such proceeds are required for the demolition, repair or restoration of the mortgaged premises in accordance with the provisions of the lease hereby mortgaged."

Section 10.13.

(a) If Tenant shall mortgage this Lease in compliance with the provisions of Sections 10.11 and 10.12, Landlord shall give to each Mortgagee, at the address of such Mortgagee set forth in the notice mentioned in clause (a) of Section 10.12, and otherwise in the manner provided by Article 25, a copy of each notice of Default by Tenant and each notice of termination of this Lease at the same time as, and whenever, any such notice of Default or notice of termination shall thereafter be given by Landlord to Tenant, and no such notice

of Default or notice of termination 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. Provided that a Mortgagee is not prohibited from curing a Default pursuant to the terms of this Lease, each Mortgagee (i) shall thereupon have a period of ten (10) days more in the case of a Default in the payment of Base Rent, PILOT, Substitute PILOT, Percentage Rent, Retail Rent or Other Rent, and twenty (20) days more in the case of any other Default, after notice of such Default is given to Mortgagee, for curing the Default, or causing the same to be cured by Tenant or otherwise, or causing action to cure a Default mentioned in Section 24.01(c) to be commenced, than is given Tenant after such notice is given to it, and (ii) shall, within such period and otherwise as herein provided, have the right to cure such Default, cause the same to be cured by Tenant or otherwise or cause action to cure a Default mentioned in Section 24.01(c) 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 10.13 (a) hereof, no Event of Default shall be deemed to exist as long as a Mortgagee, in good faith, (i) shall have commenced promptly to cure the Default in question (provided the Mortgagee is not prohibited from curing such Default pursuant

to the terms of this Lease) and prosecutes the same to completion with reasonable diligence and continuity, subject to Unavoidable Delays, which for the purposes of this Section 10.13(b) shall include causes beyond the control of such Mortgagee instead of causes beyond the control of Tenant, or (ii) if possession of the Premises is required in order to cure the Default in question and Mortgagee is not prohibited from curing such Default pursuant to the terms of this Lease, Mortgagee (x) shall have entered into possession of the Premises with the permission of Tenant for such purpose or (y) shall have notified Landlord of its intention to institute foreclosure proceedings to obtain possession directly or through a receiver, and within fourteen (14) days of the giving of such notice commences such foreclosure proceedings, and thereafter (1) prosecutes such proceedings with reasonable diligence and continuity (subject to Unavoidable Delays) or (2) receives an assignment of this Lease in lieu of foreclosure from Tenant, and, upon obtaining possession pursuant to clause (x) or (y), commences promptly to cure the Default in question and prosecutes the same to completion with reasonable diligence and continuity (subject to Unavoidable Delays); provided that the Mortgagee shall have delivered to Landlord, in writing, its agreement to take the action described in clause (i) or (ii) herein and shall have assumed the obligation to cure the Default in question 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 susceptible of being performed by the Mortgagee, are being duly performed within any applicable grace periods. 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 assumed by the Mortgagee and 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 10.14 shall apply. Anything contained in this Section 10.13(b) to the contrary notwithstanding, the provisions of this Section 10.13(b) shall not apply in the case of a Mortgagee which is not an Institutional Lender unless such Mortgagee shall provide Landlord with security for the performance of the assumed obligation in amount and form reasonably satisfactory to Landlord, during the period that such Mortgagee is taking the required action to cure the Default in question.

(c) Landlord and Tenant agree that, from and after the date upon which Landlord receives the notice and documents mentioned in clause (a) of Section 10.12, they shall not modify or amend this Lease in any respect or cancel or terminate this Lease other than as provided herein without the prior written consent of the Mortgagees which have given such notice.

(d) Except as provided in Section 10.13(b) and Section 42.04, 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.

(e) For purposes of the rights of Mortgagees set forth in Sections 10.13(a) and (b), the terms "Default" and "Event of Default" in such Sections shall mean and include, without limitation, a Default or an Event of Default which is deemed to exist under this Lease solely by reason of the occurrence of a Default under another Severance Lease with which this Lease is then cross-defaulted pursuant to Article 42, except that, notwithstanding anything to the contrary in Section 10.13(a) or (b), a Mortgagee shall not have the right to cure a Default or cause the same to be cured if such Default (i) is deemed to exist under this Lease solely by reason of the occurrence of a Default under another Severance Lease with which this Lease is then cross-defaulted pursuant to Article 42 and (ii) such Default cannot be cured by the payment of money or the delivery of a document, but the foregoing

shall not be deemed to impair in any way the right of such Mortgagee to a new lease for the Premises under Section 10.14 if this Lease is terminated by reason of a Default described by clauses (i) and (ii) of this Section 10.13(e), and such Mortgagee is otherwise entitled to receive a new lease as provided in Section 10.14.

Section 10.14.

(a) In case of termination of this Lease by reason of any Event of Default or for any other reason, Landlord, subject to the provisions of Section 10.14(e) hereof, shall give prompt notice thereof to each Mortgagee under a Mortgage made in compliance with the provisions of Sections 10.11 and 10.12, which notice shall be given as provided in Section 10.13(a) hereof. 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 within thirty (30) days thereafter a new lease of the Premises to the Mortgagee, or its designee or nominee, for the remainder of the Term, upon (except as otherwise provided in Section 10.14(f)) all the covenants, conditions, limitations and agreements herein contained (including, without limitation, any easements granted herein which were terminated pursuant to the terms of this Lease upon the termination of this Lease), 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 deliver to Landlord a statement, in writing, acknowledging that Landlord, by entering into a new lease with the Mortgagee, shall not have or be deemed to have waived any rights or remedies with respect to Defaults existing under this Lease, notwithstanding that any such Defaults existed prior to the execution of the new lease, and that the breached obligations which gave rise to the Defaults and which are susceptible of being cured by Mortgagee are also obligations under said new lease, but such statement shall be subject to the proviso that the applicable grace periods, if any, provided under the new lease for curing such obligations shall begin to run as of the first day of the term of said new lease. Notwithstanding anything to the contrary in this Section 10.14(a), it shall also be a condition to Landlord's execution and delivery of said new lease that (x) such new lease shall contain a provision which prohibits the tenant thereunder from assigning such lease or subletting the entire or substantially the entire premises thereunder to Olympia & York Battery Park Company or any Affiliate of Olympia & York Battery Park Company if (1) there exists a Default or an Event of Default (as such terms are defined in the Severance Lease in question) under

any of the Severance Leases under which Olympia & York Battery Park Company or an Affiliate thereof is a tenant or there exists an event which but for the provisions of Section 10.13(b) of any such Severance Lease would constitute a Default or an Event of Default thereunder, (2) any Severance Lease shall have been terminated by reason of the Default (as defined therein) of Olympia & York Battery Park Company or an Affiliate thereof as the tenant thereunder, or (3) a Mortgagee, by receiver or otherwise, or its designee or nominee or the purchaser from any of the same at a foreclosure sale or by assignment in lieu of foreclosure shall have obtained possession of any Parcel from Olympia & York Battery Park Company or an Affiliate thereof by reason of a default under the terms of a Mortgage, and (y) the requirements set forth in Section 42.04 shall have been satisfied, in which case (r) Landlord shall deliver together with such new lease an estoppel certificate certifying to the tenant thereunder that the conditions set forth in Section 42.04 have been satisfied, provided that if the Mortgagee is the Mortgagee of all of the Parcels, the requirements set forth in Section 42.04 need not be satisfied if the Mortgagee enters into a new lease with Landlord for each of the four Parcels pursuant to Section 10.14 of the Severance Lease for each such Parcel, in which case Landlord shall not deliver such certificate, and (s) Landlord shall be deemed to have waived its rights and remedies with respect to Defaults under this Lease existing solely by reason of the

occurrence of a Default under another Severance Lease to which this Lease was crossdefaulted pursuant to Article 42 prior to the termination of this Lease. It is expressly understood and agreed that if a Mortgagee of all of the Parcels obtains a new lease pursuant to the provisions of this Section 10.14, which new lease is cross-defaulted to one or more of the new leases covering any of the Parcels, Landlord shall not be deemed to have waived any of its rights under the Cross-Default Provisions of the new lease issued pursuant to the provisions of this Section 10.14.

(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 or any other lien, charge or encumbrance 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, without limitation, (i) subrents collected under Section 10.06 which have not been applied or are not being held for application to Rental and the costs incurred by Landlord to operate, maintain and repair the Premises and (ii) insurance and condemnation proceeds which have not been applied or are not being held for application to the costs incurred by Landlord to Restore the Premises, 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 or Landlord's exercise of its rights upon the occurrence of an Event of Default, 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 10.14, all Subleases which theretofore may have been assigned to Landlord thereupon shall be assigned and transferred, without recourse, representation or warranty, by Landlord to the tenant named in such new lease. Between the date of termination of this Lease and the date of execution and delivery of the new lease, if a Mortgagee shall have requested such new lease as provided in paragraph (a) of this Section 10.14, Landlord shall not enter into any new Subleases, cancel or modify any then existing 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 written consent of the Mortgagee, except as permitted in the Subleases.

(d) Anything contained in this Section 10.14 to the contrary notwithstanding, a Mortgagee shall have no obligation to cure any Default of Tenant under this Lease occurring pursuant to Section 24.01(e), (f), (g) or (h) of this Lease or occurring by reason of a Default under such sections of another Severance Lease with which this Lease is then cross-defaulted pursuant to Article 42.

(e) If there is more than one Mortgage, Landlord shall recognize the Mortgagee whose Mortgage is junior in lien

as the Mortgagee entitled to the rights afforded by Sections 10.13, 10.14 and 10.15 (unless a Mortgage senior in lien requires that the holder thereof have a superior entitlement to such rights, in which event such recognition shall be of the holder of that Mortgage), provided that such Mortgagee shall have complied with the provisions of Sections 10.11 and 10.12.

(f) The following shall be omitted from any new lease delivered pursuant to this Section 10.14:

(i) Exhibits "F-1" and "F-2" and all references to the documents set forth therein and to the Guarantor, provided that if (x) at the time such new lease is entered into, Substantial Completion of the Buildings has not occurred, and (y) the tenant under the new lease is not an Institutional Lender, then the obligation of the tenant under the new lease shall be guaranteed, until Substantial Completion of the Buildings, by an Institutional Lender or another Person satisfactory as a guarantor to Landlord, by a guaranty on substantially the same terms and conditions as the Guaranty, and in such case Exhibit "F-1" shall not be omitted but such new guaranty shall be substituted for the Guaranty therein, and the references to the Guarantor shall not be omitted and such term shall mean and refer to the guarantor under such new guaranty.

(ii) Section 43.02(b).

(g) If the tenant under a new lease delivered pursuant to this Section 10.14 is an Institutional Lender, and at the time such new lease is delivered the Buildings are not substantially complete, then such new lease shall provide that notwithstanding anything to the contrary contained in Section 1.139 or 43.02 of this Lease or the new lease, if such Institutional Lender assigns or otherwise transfers its interest in such new lease prior to the Substantial Completion of Buildings, then until the Substantial Completion of the Buildings such Institutional Lender shall be and remain personally liable, jointly and severally, with the assignee or transferee and any other Person who shall or may thereafter become the tenant under such new lease, for the due performance and observance of all of the obligations of the tenant under such new lease, except as provided to the contrary in Section 10.17 hereof.

Section 10.15. 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 10.12(a), notice of any demand by Landlord for any arbitration, and Landlord shall recognize the Mortgagee entitled to the rights afforded hereunder in accordance with Section 10.14(e) as the only proper party to participate in the arbitration, if such Mortgagee elects to participate in the arbitration. In such case, Tenant agrees not to participate in such arbitration.

Section 10.16. If Tenant shall sublet all or substantially all of the Premises to a Person which is not an Affiliate of Tenant in accordance with the applicable provisions of this Article 10, Landlord shall accept the performance by such Subtenant of any obligation of Tenant under this Lease within the applicable grace period, if any, as if such obligation were performed by Tenant, without thereby being deemed to be in privity with such Subtenant or to have accepted such Subtenant as an assignee of Tenant's interest under this Lease.

Section 10.17. If an Institutional Lender becomes Tenant under this Lease or under a new lease delivered pursuant to Section 10.14 hereof, the Institutional Lender shall have the right to assign or transfer its interest as tenant, provided however, that if the assignment or transfer is made prior to the Substantial Completion of the Buildings, such Institutional Lender shall remain personally liable as provided in Section 10.14, unless said assignment or transfer is to a Person whose principals satisfy the requirements of (a), (b), (c) and (d) below, or if such Person intends to occupy substantially all of the Buildings, whose principals satisfy the requirements of (a), (b) and (c) below and the principals of the contractor employed by such Person to complete construction of the Buildings satisfy the requirements of (d) below:

(a) has never been convicted of a felony;

(b) no 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 against said principals or a Person in which said principals are principals arising out of a mortgage obligation to the State of New York or any agency, department, public authority or public benefit corporation thereof;

(c) no notice of substantial monetary default has been given by the State of New York or any agency, department, public authority or public benefit corporation thereof to said principals or to a Person in which said principals are principals arising out of a mortgage obligation to the State of New York or any agency, department, public authority or public benefit corporation thereof; and

(d) said principals or a Person in which said principals are principals has constructed a high-rise office building of at least 500,000 rentable square feet in a metropolitan area of more than 1,000,000 people.

For purposes of this Section 10.17 principals shall not include non-controlling stock holders of publically held corporations or limited partners in a limited partnership.

ARTICLE 11

CONSTRUCTION OF BUILDINGS

Section 11.01.

(a) Tenant covenants and agrees, at its sole cost and expense, to develop the Land by the Scheduled Completion Date, in substantial conformity with the Final Plans, and in compliance with the applicable laws, rules, regulations, codes and requirements of New York City and other Governmental Authorities (collectively, the "Construction Laws"), including, but not limited to (i) Local Law No. 5 of 1973, as then in force, and (ii) the Building Code of New York City, as then in force, but excluding the Zoning Resolution of New York City, as then in force. Tenant shall obtain all necessary permits, consents, certificates and approvals for the construction of the Buildings required under the Construction Laws. Landlord, at no cost or expense to it, shall 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 in addition to those set forth in the Construction Laws or vary or modify the rights and obligations of the parties under this Lease.

(b) Except as otherwise provided in Section 11.03(c), construction of the Buildings shall not be commenced unless and until (i) Tenant shall have obtained and delivered to Landlord copies of the permits, consents, certificates and approvals for the Buildings required pursuant to Section 11.01(a), (ii) Landlord shall have reviewed the Final Plans for the Buildings for the purposes set forth in Section 11.03(b) and it has been ascertained or is deemed to have been ascertained pursuant to said Section that the Final Plans are in substantial conformity with the Site Plans, the Preliminary Plans and the Development Guidelines, and (iii) Tenant shall have delivered to Landlord Tenant's plan for financing the construction of the Buildings, showing the source of all funds therefor.

(c) The parties acknowledge that a letter has been obtained from the Chairman of the City Planning Commission to the effect that the proposed construction as set forth in the Site Plans is in substantial conformity with the Master Development Plan and the Battery Park City Commercial Center Development Guidelines, dated October, 1980, prepared by Alexander Cooper Associates. Said letter was based on review by the

City Planning Commission of drawings preliminary to the Site Plans. Landlord acknowledges that it has determined that the Site Plans (i) contain only non-material revisions to such drawings and substantially conform to the suggestions made by the City Planning Commission in said letter, and (ii) are in compliance with the applicable provisions of the Memorandum of Understanding and the Settlement Agreement. Landlord shall obtain any confirmation of such determination which may be required under the Memorandum of Understanding or the Settlement Agreement, if such determination is disputed by any Governmental Authority in connection with the issuance of the permits, consents, certificates and approvals described in Section 11.01(a). The Site Plans may be amended with respect to Retail space only upon (x) Landlord's prior approval, which approval shall not be unreasonably withheld, and (y) certification from the Chairman of the City Planning Commission that such amendment complies with the conditions set forth in the Board of Estimate Resolution. The Site Plans may only be otherwise amended or supplemented with (1) Landlord's prior approval, which approval shall not be unreasonably withheld, and (2) the approval of the Chairman of the City Planning Commission, if Landlord reasonably determines that such amendment or supplement is sufficiently material to require such approval. The term "Site Plans" as used in this Lease shall include all amendments and supplements pursuant to the preceding two sentences. Upon Tenant's request from

time to time, Landlord, at Tenant's cost and expense, shall proceed with reasonable diligence to obtain the aforesaid certification or approval, as the case may be, of the Chairman of the City Planning Commission.

Section 11.02.

(a) The parties acknowledge that Landlord, as the agency having authority under SEQRA, has issued its statement of findings required under Section 8-0109 of SEQRA with respect to the Environmental Impact Statement for Battery Park City dated August 1981, and the Supplement thereto dated November 1981, both prepared by Landlord (collectively, the "E.I.S."). If, with respect to any approved Preliminary Plans or Final Plans, Landlord, in its reasonable judgment as the agency having authority under SEQRA to make the determination, determines that SEQRA requires a further supplement to the E.I.S., Landlord, at Tenant's sole cost and expense, shall prepare and process with reasonable diligence (subject to Landlord's Unavoidable Delays) such further supplement. For purposes of this Lease, the term "E.I.S." does not include such further supplements.

(b) At Landlord's request, representatives of Tenant shall appear at any public hearings which in any manner relate to the E.I.S. or any further supplements to the E.I.S.

Section 11.03.

(a) Tenant shall submit to Landlord all progress drawings and specifications prepared by Tenant for any element

of the Buildings (other than for any improvements to prepare any portion of the Buildings for occupancy by Tenant or any Subtenant which do not affect the structure, central systems, shell and core of the Buildings) and any additional progress drawings and specifications reasonably required by Landlord. All progress drawings and specifications shall be scaled and dimensioned and prepared by a registered architect or licensed professional engineer (the progress drawings and specifications submitted to Landlord being referred to in this Lease collectively as the "Preliminary Plans") and shall substantially conform to the Site Plans and the Development Guidelines. Landlord shall review the Preliminary Plans only to ascertain whether the Preliminary Plans do so conform. Within fifteen (15) Business Days after the Preliminary Plans are submitted to Landlord for review, Landlord shall notify Tenant in what respects, if any, Landlord claims that the Preliminary Plans do not substantially conform to the Site Plans or the Development Guidelines. If Landlord claims that the Preliminary Plans do not substantially so conform, then, subject to Section 11.16 hereof, Tenant shall revise the Preliminary Plans and submit the revisions to Landlord for its approval as aforesaid. If Landlord shall fail or refuse to give the aforesaid notice within the aforesaid period, it shall be deemed that the Preliminary Plans do so conform. The provisions of this Section 11.03(a) shall apply to any amendment or revision of the Preliminary Plans, except that Landlord's right of review thereof shall

only be with respect to those portions of the Preliminary Plans or amendments or revisions thereto which have not been previously reviewed and determined or deemed to substantially conform to the Site Plans and the Development Guidelines.

(b) Tenant shall submit to Landlord with respect to any element of the Buildings (other than for any improvements to prepare any portion of the Buildings for occupancy by Tenant or any Subtenant which do not affect the structure, central systems, shell and core of the Buildings), completed filing drawings and specifications prepared by a registered architect or licensed professional engineer (collectively, the "Final Plans") which shall substantially conform to the Site Plans, the Development Guidelines and the Preliminary Plans approved by Landlord. Landlord shall review the Final Plans only to ascertain whether the Final Plans do substantially conform to the Site Plans, the Development Guidelines and the Preliminary Plans approved by Landlord. Within fifteen (15) Business Days after the Final Plans are submitted to Landlord for review, Landlord shall notify Tenant in what respects, if any, Landlord claims that the Final Plans do not substantially conform to the Site Plans, the Development Guidelines or the Preliminary Plans approved by Landlord. If Landlord claims that the Final Plans do not substantially conform to the Site Plans, the Development Guidelines or the Preliminary Plans approved by Landlord, then, subject to Section 11.16 hereof, Tenant shall revise the Final Plans and sub-

mit the revisions to Landlord for its approval as aforesaid. If Landlord shall fail or refuse to give such notice within that period, it shall be deemed that the Final Plans do so conform. The provisions of this Section 11.03(b) shall apply to any amendment or revision of the Final Plans, except that Landlord's right of review thereof shall only be with respect to those portions of the Final Plans or amendments or revisions thereto which have not been previously reviewed and determined or deemed to substantially conform to the Site Plans, the Development Guidelines, and the Preliminary Plans approved by Landlord.

(c) Anything contained in Sections 11.01(b)(ii), 11.03(a) and 11.03(b) to the contrary notwithstanding, (i) Tenant may pile, excavate and pour footings and foundations, sub-basements and basements for the Buildings prior to fulfilling all of the requirements of said provisions, provided that Tenant shall have obtained and delivered to Landlord copies of all permits, consents, certificates and approvals necessary for such work, and (ii) Tenant may commence construction of any portion of the Buildings located at or below level +32 as shown on the elevation drawings forming a part of the Site Plans provided that Tenant shall have obtained and delivered to Landlord copies of all permits, consents, certificates and approvals necessary for such work, the Final Plans for that portion of the Buildings as to which construction is then to be commenced shall have been submitted to

Landlord for review, and Landlord shall have ascertained or shall be deemed to have ascertained that such Final Plans are in substantial conformity with the Site Plans, the Preliminary Plans approved by Landlord for such portion of the Buildings and the Development Guidelines, it being agreed that the Preliminary Plans and Final Plans submitted to Landlord prior to commencement of construction of a portion of the Buildings located at or below level +32 need only relate to that portion of the Buildings as to which construction is then to be commenced. Construction of any portion of the Buildings located above level +32 shall not commence until Tenant shall have obtained and delivered to Landlord copies of all permits, consents, certificates and approvals necessary for such work, the Final Plans for the whole of the Buildings shall have been submitted to Landlord for review and Landlord shall have ascertained or shall be deemed to have ascertained that such Final Plans are in substantial conformity with the Site Plans, the Preliminary Plans approved by Landlord and the Development Guidelines. The parties acknowledge that Tenant has obtained the permits, consents, certificates and approvals referred to in clause (i) of this Section 11.03(c) and that the construction work referred to in such clause has commenced with respect to the Buildings.

(d) In addition to the documents referred to in Section 11.01 and in clauses (a) and (b) of this Section

11.03, Tenant shall submit to Landlord samples of all materials which are subject to the Development Guidelines and are to be used on exterior surfaces and same shall be subject to Landlord's approval for substantial conformity with the Development Guidelines.

(e) Landlord's representatives shall have the right from time to time to inspect the construction of the Buildings in accordance with Article 20 for the sole purpose of ascertaining whether such construction is proceeding in substantial conformity to the Final Plans for the Buildings.

Section 11.04.

(a) Tenant covenants and agrees that, prior to the commencement of any construction at the Premises, Tenant 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, until Substantial Completion of the Buildings, the following at no cost or expense to Landlord:

(i) comprehensive general liability insurance, naming Tenant and, at Tenant's option, any Subtenant of all or substantially all of the Buildings, as the insured and Landlord and, at Tenant's option, any Subtenant of all or substantially all of the Buildings, as additional insureds, such insurance to insure against liability for bodily injury and death and for property damage in an amount as may from time to time be reasonably required by Landlord, but in an amount not less

than $100,000,000 combined single limit, such insurance to include operations-premises liability, contractor's protective liability on the operations of all subcontractors, completed operations, broad form contractual liability (designating the indemnity provisions of the Construction Agreements if such coverage is provided by a contractor), 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 and property damage insurance for all owned, non-owned and hired vehicles insuring against liability for bodily injury and death and for property damage in an amount not less than $5,000,000 combined single limit and naming Tenant and, at Tenant's option, any Subtenant of all or substantially all of the Buildings, as the insured and Landlord and, at Tenant's option, any Subtenant of all or substantially all of the Buildings, as additional insureds;

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

(iv) builder's all-risk insurance written on a completed value basis with limits as provided in Section 7.01(a)(i), naming Tenant and, at Tenant's option, any Subtenant of all or substantially all of the Build-

ings, as the insured and Landlord and any contractor or subcontractor designated by Tenant and, at Tenant's option, any Subtenant of all or substantially all of the Buildings, as additional insureds, and also naming any Mortgagee designated by Tenant as an insured under a standard mortgagee clause. In addition, such insurance (x) shall contain an acknowledgment by the insurance company that its rights of subrogation have been waived and an endorsement stating that "permission is granted to complete and occupy", and (y) if any offsite storage location listed with Tenant's insurer is used, shall cover, for full insurable value, all materials and equipment which have been delivered to and are stored at any such offsite storage location and which are intended for use with respect to the Premises.

Any proceeds received pursuant to the insurance coverage required under Section 11.04(a)(iv) shall be paid to Depository or to Tenant in accordance with the provisions of Sections 8.02 and 8.03.

(b) Tenant further covenants and agrees that:

(i) no construction shall be commenced until Tenant shall have delivered to Landlord a certified copy or abstract of each policy required by this Section 11.04, as more fully provided in Section 7.02(c); and

(ii) Tenant shall comply with the provisions of Sections 7.01(b) and 7.02(c) with respect to the policies required by this Section 11.04.

(c) Tenant and Landlord shall cooperate, and Tenant shall cause any Subtenant of all or substantially all of the Premises who has been named as an insured or additional insured to 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 which may be required for the purpose of obtaining the recovery of any such insurance moneys.

(d) The insurance required by this Section 11.04, at the option of Tenant, may be effected by blanket and/or umbrella policies issued to Tenant, or any Subtenant of all or substantially all of the Buildings, covering the Premises and other properties owned or leased by Tenant or such Subtenant, provided that the policies otherwise comply with the provisions of this Section 11.04.

(e) From and after Substantial Completion of the Buildings, Tenant covenants and agrees to provide and maintain the insurance required by Article 7 and Section 13.01(d).

Section 11.05. If one or more Unavoidable Delays shall occur during construction of the Buildings, the "Scheduled Completion Date" shall be the date determined by adding to the Buildings Scheduled Completion Date the aggregate number of days of Unavoidable Delays which have occurred with

respect to the Buildings. Upon Substantial Completion of the Buildings, Tenant, at its sole cost and expense, shall furnish Landlord with (i) a certificate from a licensed professional engineer or registered architect certifying that the Buildings have been completed substantially in accordance with the Final Plans, (ii) a true copy of the temporary or permanent Certificates of Occupancy for the Buildings, and (iii) a complete set of "as built" drawings and a survey of the Buildings. Tenant agrees that within one (1) year, subject to Unavoidable Delays, of the date of issuance of a temporary Certificate of Occupancy for the whole of the Buildings, Tenant shall furnish Landlord with a duly issued permanent Certificate of Occupancy for the whole of the Buildings. Except as otherwise provided in Section 11.06, Tenant's failure to meet the Buildings Scheduled Completion Date, or, if Unavoidable Delays shall have occurred, the Scheduled Completion Date, shall be deemed an Event of Default giving rise to the remedies described in Article 24, including, without limitation, Landlord's right to terminate this Lease.

Section 11.06.

(a) If for any reason whatsoever Substantial Completion of the Buildings shall not have occurred by the Scheduled Completion Date, Tenant shall not be in Default hereunder by reason thereof provided that Tenant shall make payments ("Substitute PILOT") in an amount equal to the greater of (i) the amounts, as shown on Exhibit "H" annexed hereto and made a

part hereof, for each Tax Year, or portion thereof, in which Substitute PILOT payments are payable, and (ii) PILOT for the applicable period, if PILOT is then payable under the terms of this Lease. Substitute PILOT shall be payable commencing on the later of (x) the July 1 next succeeding the Buildings Scheduled Completion Date, or (y) the first day of the calendar month next succeeding the calendar month in which the Scheduled Completion Date occurs, and shall be payable through the last day of the calendar month in which the date of Substantial Completion of the Buildings shall occur. If Substitute PILOT shall be payable hereunder commencing on a date other than July 1, the amount set forth on Exhibit "H" for the subject Tax Year shall be prorated for purposes of calculating the amount under clause (i) of this Section 11.06(a) to cover the portion of such Tax Year from the date on which Substitute PILOT shall become payable through the last day of such Tax Year. Substitute PILOT shall be payable in quarterly installments in advance commencing on the date required pursuant to this Section 11.06(a) and thereafter on the first day of each July, October, January and April during the period that Substitute PILOT is payable hereunder.

(b) If for any reason whatsoever Substantial Completion of the Buildings shall not have occurred by December 31, 1987, as such date may be extended by Unavoidable Delays (such date, as so extended, being referred to in this Lease as the "Project Scheduled Completion Date"), then, provided

that there shall not otherwise be an Event of Default under this Lease, Tenant shall have paid Substitute PILOT as required under Section 11.06(a), and the Buildings shall have been Fully Enclosed by the Project Scheduled Completion Date, Tenant shall be entitled to an additional four (4) years, as same may be extended by Unavoidable Delays, to effect Substantial Completion of the Buildings, provided that during such additional period, as so extended, (i) Tenant shall be proceeding with the construction of the Buildings in a manner such that at each point in time during such additional period, as so extended, it is reasonably possible for Tenant, using construction practices usual in New York City (including, without limitation, "fast track" construction methods), to substantially complete construction of the Buildings by the end of such period, as so extended, and (ii) Tenant shall pay Substitute PILOT as required pursuant to the provisions of Section 11.06(a).

(c) If Substitute PILOT shall have become payable under this Section 11.06, commencing on the date (the "Alternate PILOT Commencement Date") which is the first day of the calendar month next succeeding the calendar month in which the date of Substantial Completion of the Buildings occurs, PILOT shall be payable as provided in Section 3.02, except that the Special PILOT Abatement applicable to the Premises shall be adjusted as follows:

(i) If Substantial Completion of the Buildings shall not have occurred within one (1) year after the Scheduled Completion Date, then commencing on the Alternate PILOT Commencement Date and continuing for the period from the Alternate PILOT Commencement Date through the last day of the Tax Year next succeeding the Tax Year in which the Alternate PILOT Commencement Date occurs (unless the Alternate PILOT Commencement Date occurs on a July 1, in which event the aforesaid period shall be from the Alternate PILOT Commencement Date through the last day of the Tax Year in which the Alternate PILOT Commencement Date occurs) the percentage of abatement of the Abatement Base to which Tenant shall be entitled under the Special PILOT Abatement shall be (x) the initial seventy-five percent (75%) less (y) the product of (1) the number of years or portions thereof which shall have elapsed beyond the first (1st) anniversary of the Scheduled Completion Date and prior to the date of Substantial Completion of the Buildings, and (2) the seven and one-half (7.5) percentage points that such abatement is scheduled to decrease annually. The percentage of such abatement to which Tenant shall be entitled for each Tax Year thereafter shall be the percentage of such abatement for the Tax Year immediately preceding the Tax Year in question less the seven and one-half (7.5) percentage points that such abatement is

scheduled to decrease annually, and when the percentage of tax abatement reaches zero percent (0%), the period of the Special PILOT Abatement shall end.

(ii) If Substantial Completion of the Buildings shall have occurred on or before the first anniversary of the Scheduled Completion Date, then commencing on the Alternate PILOT Commencement Date and continuing for the period from the Alternate PILOT Commencement Date through the last day of the Tax Year next succeeding the Tax Year in which the Alternate PILOT Commencement Date occurs (unless the Alternate PILOT Commencement Date occurs on a July 1, in which event the aforesaid period shall be from the Alternate PILOT Commencement Date through the last day of the Tax Year in which the Alternate PILOT Commencement Date occurs) Tenant shall be entitled to the initial seventy-five percent (75%) of the Abatement Base under the Special PILOT Abatement. The percentage of such abatement to which Tenant shall be entitled for each Tax Year thereafter shall be the percentage of such abatement for the Tax Year immediately preceding the Tax Year in question less the seven and one-half (7.5) percentage points that such abatement is scheduled to decrease annually, and when the percentage of such abatement reaches zero percent (0%), the period of the Special PILOT Abatement shall end.

(iii) Anything contained in this Section 11.06(c) to the contrary notwithstanding, if Substantial Completion of the Buildings shall have occurred prior to the date which is two (2) full calendar months after the Scheduled Completion Date, then the Special PILOT Abatement applicable to the Premises shall be subject to reduction as follows: (x) if the period from the Alternate PILOT Commencement Date through the last day of the Tax Year in which the Alternate PILOT Commencement Date occurs shall include six (6) full calendar months or more, then commencing on the first day of the Tax Year next succeeding the Tax Year in which the Alternate PILOT Commencement Date occurred, the percentage of abatement of the Abatement Base to which Tenant shall be entitled and the number of years for which such abatement shall run shall be determined as if the entire period for the Special PILOT Abatement had commenced on the first day of the Tax Year in which the Alternate PILOT Commencement Date occurred, and (y) if the period from the Alternate PILOT Commencement Date through the last day of the Tax Year in which the Alternate PILOT Commencement Date occurs shall include less than six (6) full calendar months, then commencing on the first day of the Tax Year next succeeding the Tax Year in which the Alternate PILOT Commencement Date occurred, the percentage of such abatement to which Tenant shall be enti-

tled and the number of years for which such abatement shall run shall be determined as if the entire period for the Special PILOT Abatement had commenced on such first day of the Tax Year next succeeding the Tax Year in which the Alternate PILOT Commencement Date occurred.

(d) Tenant's failure to effect Substantial Completion of the Buildings by the fourth (4th) anniversary, as same may be extended by Unavoidable Delays, of the Project Scheduled Completion Date, shall be deemed an Event of Default giving rise to the remedies described in Article 24, including, without limitation, Landlord's right to terminate this Lease.

(e) Pending determination in accordance with Section 11.16 hereof of any dispute arising under this Section 11.06, Tenant shall pay to Landlord Substitute PILOT in accordance with Landlord's determination of the issue or issues in dispute. If the final determination, however, is not in Landlord's favor, Tenant may deduct from the next installment(s) of Base Rent, Percentage Rent, Retail Rent, Other Rent, Substitute PILOT or PILOT thereafter payable to Landlord, the amount of the excess Substitute PILOT paid by Tenant during the arbitration proceeding, and interest on such amount at the Late Charge Rate.

Section 11.07. Tenant agrees that, 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, as provided in Section 16.02, except that the foregoing shall not modify Tenant's right to make a Mortgage in accordance with the provisions of Sections 10.11 and 10.12 hereof.

Section 11.08.

(a) Tenant agrees that 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 that 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, and (ii) Landlord shall have no obligation to pay any compensation to Tenant by reason of its acquisition of title to such materials and Buildings.

(b) Tenant covenants and agrees that all Construction Agreements made in connection with the construction contemplated by this Article 11 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 Buildings (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 [insert name of Landlord], 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; and [contractor] [subcontractor] [materialman] shall look solely to [Tenant] [contractor] [subcontractor] for payment in connection with the purchase of any such materials, it being expressly understood that [insert name of Landlord] 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 [insert name of Landlord] shall have no obligation to pay any compensation to [contractor] [subcontractor] [materialman] by reason of such materials becoming the sole property of [insert name of Landlord]; provided, however, that nothing contained herein shall prejudice any rights which contractor may have under the Lien Law of the State of New York."

(c) The parties acknowledge that by reason of the ownership by Landlord of the Buildings and all materials incorporated therein, sales and compensating use taxes will not be payable in connection with the purchase or incorporation of materials, fixtures and equipment for the construction of the Buildings pursuant to this Article 11. In furtherance thereof, Landlord shall execute and deliver, at no cost or liability to it, such documents or instruments as may then

be required by the appropriate Governmental Authorities as a condition for or to evidence entitlement to such exemption, provided, however, that nothing contained herein shall require Landlord to make any application for a ruling with respect to such exemption. Notwithstanding the ownership by Landlord of the Buildings and all materials incorporated therein, except in connection with the construction of the Buildings pursuant to this Article 11 and the construction work required for the initial occupancy of any portion of the Buildings by Tenant, its Affiliates and/or Subtenants for the conduct of its or their businesses, Tenant shall pay to the Governmental Authority or Authorities having jurisdiction over sales and compensating use taxes, amounts equal to the amounts of all sales and compensating use taxes which would be payable, but for such ownership, on the materials, fixtures and equipment purchased for incorporation into or work performed on the Buildings in connection with the maintenance of and repairs, Restorations, additions, alterations, improvements and replacements, including, without limitation, Capital Improvements, to the Buildings. Such amounts shall be payable at the times such sales and use taxes would be payable but for such ownership.

Section 11.09. Upon the request of Landlord, Tenant, at its sole cost and expense, shall furnish and install a project sign, designed, and with such text as shall be required, by Landlord, at a location on the Premises reasonably satisfactory to Landlord. Tenant also shall extend to Landlord

and any of its designee(s), the privilege of being the featured participants in opening ceremonies to be held at such time and in such manner as Landlord shall reasonably approve.

Section 11.10.

(a) Tenant agrees that at all times during the period of construction of the Buildings, it will secure its obligations hereunder (and secure the obligations of the tenants under the other Severance Leases until such time as the Cross-Default Provisions are rendered void and of no force or effect pursuant to Section 42.05 of this Lease) by depositing with Landlord a clean irrevocable letter (or letters) of credit, having a term of not less than one (1) year (except that the letter or letters of credit deposited simultaneously with the execution hereof may have a term of less than one (1) year, provided that such term shall not expire earlier than September 1, 1983), payable in United States Dollars, issued by and drawn on a recognized commercial bank or trust company which qualifies as an Institutional Lender organized and existing under the laws of Canada or any of its provinces having an office in the Borough of Manhattan, or any other commercial bank or trust company which qualifies as an Institutional Lender having its principal office in the Borough of Manhattan, in form and content reasonably acceptable to Landlord, for the account of Landlord. Further, each letter of credit shall provide (i) that it is transferable to Landlord's permitted successors in interest under this

Lease and the trustee(s) from time to time under the General Bond Resolution establishing and creating an issue of Battery Park City Authority Bonds and the Series A Resolution adopted pursuant to said General Bond Resolution, respectively adopted May 5, 1972, as the same may have been or may hereafter be amended from time to time, and any future Series Resolutions adopted pursuant to said General Bond Resolution, as any such Series Resolutions may thereafter be amended from time to time, and (ii) that acceptance of the letter (or letters) of credit by said trustee(s) shall constitute an agreement by said trustee(s) to deal with the letter (or letters) of credit in accordance with the terms and conditions of this Lease relating thereto as if said trustee(s) were permitted successors to Landlord's interest under the Lease. If any letter (or letters) of credit deposited by Tenant under this Lease shall be drawn on a bank organized under the laws of Canada or any of its provinces, Tenant shall deliver to Landlord, together with the letter (or letters) of credit, the undertaking of such bank to give Landlord and Tenant sixty (60) days' notice prior to the closing of its office in New York. Upon receipt by Tenant of notice to such effect and at least fifteen (15) days prior to the closing of said office, Tenant shall substitute for the letter (or letters) of credit then on deposit hereunder a letter (or letters) of credit complying with the requirements for, and in the amount of, the letter (or letters) of credit being replaced. The initial

letter (or letters) of credit shall be deposited with the execution of this Lease, and the letter (or letters) of credit shall be renewed each and every year until Final Completion of the Buildings. The amount of the initial letter (or letters) of credit shall be equal to the aggregate Base Rent from the date hereof through the Project Scheduled Completion Date. The letter (or letters) of credit shall be renewed by Tenant each and every year as provided herein. The amount of each letter of credit renewed prior to the Project Scheduled Completion Date shall be equal to the Base Rent thereafter payable until the Project Scheduled Completion Date. If Substantial Completion of the Buildings shall not have occurred by the Project Scheduled Completion Date, then on such date Tenant shall substitute a letter (or letters) of credit for the letter (or letters) of credit then outstanding in an amount equal to the aggregate of (x) the Base Rent payable over the next four (4) years and (y) the Substitute PILOT payable during such four (4) year period as provided in Section 11.06(b) hereof, and such letter (or letters) of credit shall be renewed annually from and after the Project Scheduled Completion Date until Final Completion of the Buildings. The amount of each such renewed letter of credit shall be equal to the aggregate of the Base Rent and Substitute PILOT, if any, provided for in Section 11.06(b) thereafter payable from the date of such renewal until the fourth (4th) anniversary, as same may be extended by Unavoidable Delays, of the Project Scheduled Com-

pletion Date, if the Buildings shall not have been substantially completed by the Project Scheduled Completion Date and Final Completion of the Buildings shall not have occurred at the time of such renewal. If Substantial Completion of the Buildings shall have occurred by the fourth (4th) anniversary, as same may be extended by Unavoidable Delays, of the Project Scheduled Completion Date, then from and after said fourth (4th) anniversary, as same may be extended by Unavoidable Delays, of the Project Scheduled Completion Date, the letter (or letters) of credit shall be renewed annually until Final Completion of the Buildings, and such letter (or letters) of credit shall be in the amount of one (1) year's Base Rent payable for the next succeeding year. Each renewed letter of credit shall be delivered to Landlord not less than fifteen (15) days before the expiration of the then current letter of credit. Failure of Tenant to provide the initial substitute letter of credit in accordance with this Section 11.10(a) shall be deemed an Event of Default giving rise to the remedies described in Article 24. Upon failure of Tenant to renew or substitute any letter (or letters) of credit in accordance with this Section 11.10(a), or upon any Event of Default by Tenant under this Lease (including, without limitation, an Event of Default due solely to an event of default under another Severance Lease with which this Lease is then cross-defaulted pursuant to Article 42), Landlord shall have the right, without any notice to Tenant, to present

for payment the letter (or letters) of credit Landlord is then holding pursuant to this Section 11.10(a). If Landlord presents a letter (or letters) of credit for payment upon Tenant's failure to renew the letter (or letters) of credit as required by the provisions of this Section 11.10(a), the amount of each succeeding letter of credit required to be deposited by Tenant under this Section 11.10(a) shall be reduced by the amount of the letter (or letters) of credit theretofore presented by Landlord for payment, paid to Landlord and not applied by Landlord pursuant to this Lease. If the amount realized by Landlord upon presenting a letter (or letters) of credit for payment, less any portion thereof which Landlord shall have applied pursuant to this Lease, shall be less than the amount of any succeeding letter (or letters) of credit required to be deposited by Tenant hereunder or the amount then required to be on deposit under this Section 11.10(a), failure of Tenant to deposit a letter (or letters) of credit in the amount of such deficiency within five (5) Business Days after notice thereof shall be deemed an Event of Default giving rise to the remedies described in Article 24. If, after Landlord shall have presented a letter (or letters) of credit for payment and received payment thereon, Tenant shall furnish Landlord with a letter (or letters) of credit in the amount then required to be on deposit under this Section 11.10(a), Landlord shall return to Tenant the sums received by Landlord upon presenting the letter (or

letters) of credit, less any sums which Landlord shall have applied pursuant to this Lease. Tenant shall be entitled to substitute for any letter of credit deposited by Tenant pursuant to this Section 11.10(a), a letter (or letters) of credit and/or cash and/or Acceptable Securities in an aggregate amount which is the same amount as the letter of credit being replaced, provided that any such substitute letter (or letters) of credit shall comply with the requirements of this Section 11.10(a) and any such cash or Acceptable Securities shall comply with the requirements of Section 11.10(b).

(b) In lieu of or in addition to a letter (or letters) of credit, Tenant may pledge or cause to be pledged to Landlord, and grant or cause to be granted to Landlord a first security interest in, cash and/or Acceptable Securities. The Acceptable Securities shall have an aggregate market value in United States Dollars of (i) the amount of the letter (or letters) of credit required to be on deposit with Landlord as provided in Section 11.10(a), less (ii) the portion of such amount which is on deposit under Section 11.10(a) in the form of a letter (or letters) of credit or on deposit under this Section 11.10(b) in the form of cash, which Acceptable Securities shall be delivered to the Pledge Agent which in receiving and holding same shall be acting solely on behalf of Landlord as its pledge agent in accordance with the provisions of this Section 11.10(b) and the Pledge Agent Agreement. From time to time, but not less frequently than once each calendar

quarter, Landlord shall reassess the valuation of the Acceptable Securities. If it is determined upon such reassessment that the valuation of the Acceptable Securities is in excess of (x) the amount of the letter (or letters) of credit then required to be on deposit with Landlord as provided in Section 11.10(a), less (y) the portion, if any, of such amount which is on deposit under Section 11.10(a) in the form of a letter (or letters) of credit or on deposit under this Section 11.10(b) in the form of cash, and provided that at the time in question there is no deficiency in the amount of the security which Landlord is entitled to hold under Section 11.10 of any other Severance Lease (unless the Cross-Default Provisions are void and of no force or effect at such time pursuant to Section 42.05 of this Lease), then Tenant and Landlord shall instruct the Pledge Agent to transfer to Tenant or its designee a portion of the securities designated by Tenant and having a market value equal to such excess, or Tenant may substitute a letter (or letters) of credit for the letter (or letters) of credit, if any, then on deposit under Section 11.10(a), in a reduced amount, which, when added to the cash and the value of the Acceptable Securities on deposit under this Section 11.10(b), results in there remaining on deposit the sum required under Section 11.10(a). If it is determined upon such reassessment that the valuation of the Acceptable Securities is less than (1) the amount of the letter (or letters) of credit then required to be on deposit with Landlord

as provided in Section 11.10(a), less (2) the portion, if any, of such amount which is on deposit under Section 11.10(a) in the form of a letter (or letters) of credit or on deposit under this Section 11.10(b) in the form of cash, then Tenant immediately shall pledge or cause to be pledged to Landlord, and grant or cause to be granted to Landlord a security interest in, and deliver to the Pledge Agent to hold on Landlord's behalf, additional Acceptable Securities having a market value at least equal to the deficiency, and/or deliver to the Pledge Agent a sufficient amount of cash and/or deliver to Landlord a letter (or letters) of credit of the type provided for under Section 11.10(a) in an amount sufficient for there to be on deposit the sum required under Section 11.10(a). If, at any time, all or a portion of the Acceptable Securities which were Readily Marketable Securities no longer constitute such type of securities, Tenant immediately shall replace such securities by pledging or causing to be pledged to Landlord, and granting or causing to be granted to Landlord a security interest in, Acceptable Securities, and/or by delivering to the Pledge Agent cash and/or by delivering to Landlord a letter (or letters) of credit complying with the requirements of Section 11.10(a) in an amount sufficient for there to be on deposit the then required amount of security. Upon receipt of such substitute Acceptable Securities and/or cash and/or a letter (or letters) of credit, the Pledge Agent shall return to Tenant the securities on deposit which had

become non-Readily Marketable Securities. The Acceptable Securities when delivered to the Pledge Agent shall be in bearer form or shall be registered in the name of the Pledge Agent or any of the Pledge Agent's nominees as the Pledge Agent may direct (which nominee (r) shall be an entity controlled by Pledge Agent or by officers or directors of Pledge Agent, (s) shall qualify as an Institutional Lender, or (t) shall be a member of the New York Stock Exchange), subject only to the terms of the Pledge Agent Agreement, any pledge agreement then in effect with respect to the Acceptable Securities and the applicable provisions of this Lease. Failure of Tenant within five (5) days after notice thereof to deposit a sufficient amount of Acceptable Securities, cash or a letter (or letters) of credit as required by this Section 11.10(b) shall be deemed an Event of Default giving rise to the remedies described in Article 24 and thereupon, or upon any other Event of Default by Tenant under this Lease, Landlord may obtain delivery of all securities and cash held by the Pledge Agent, and Landlord shall have the right to present the letter (or letters) of credit, then on deposit under this Section 11.10, and the Landlord is hereby given full power and authority to sell, assign, transfer, and deliver the whole or, from time to time, any part of the interest in the securities, at public or private sale or at the national securities exchange on which the securities are traded or at any other exchange or broker's board, at such prices as Landlord may

deem best, and, at the option of Landlord, either for cash or on credit or for future delivery and if any such property or interest therein is disposed of at private sale, Landlord shall be relieved of all liability or claim for inadequacy of price. At any such sale, Landlord may itself purchase the whole or any part of the securities, and the securities shall be sold free of any right of redemption on the part of Tenant, which right of redemption is hereby waived and released. In the event of any sale of the securities, Landlord shall first apply the proceeds of the sale to the payment of Landlord's expenses in connection with the sale, including brokerage fees and stock transfer stamps, and the remainder shall be applied as provided in Section 11.11 hereof.

(c) "Acceptable Securities" shall mean United States Treasury Bills, Bonds or Notes, Certificates of Deposit issued by banks organized and existing under the laws of the United States having an office in the Borough of Manhattan and constituting Institutional Lenders, and/or Readily Marketable Securities. Any Acceptable Securities pledged to Landlord under this Lease shall be pledged by the owner thereof, which owner shall be either (i) Tenant, (ii) a Person owning directly or indirectly not less than ninety percent (90%) of the authorized and outstanding voting stock of Tenant, if Tenant is a corporation, (iii) a Person who directly or indirectly is entitled to not less than ninety percent (90%) of the profits and losses of Tenant, if Tenant is not a corpora-

tion, or (iv) such other Person acceptable to Landlord in Landlord's sole discretion. Any delivery of Acceptable Securities under this Lease shall be accompanied by (x) a certificate of Tenant to the effect that any portion thereof constituting Readily Marketable Securities in fact constitutes Readily Marketable Securities, and (y) a supporting opinion of counsel to the effect that (1) the Acceptable Securities are validly pledged to Landlord as security for Tenant's obligations hereunder and that such pledge is enforceable by Landlord as provided herein, in the Pledge Agent Agreement and in any pledge agreement executed in connection with such pledge, and (2) the requirements of clause (ii) of the definition (as set forth in Section 1.107) of any Readily Marketable Securities which constitute a portion of the Acceptable Securities are satisfied, which opinion shall be in form and substance and from a law firm reasonably satisfactory to Landlord. All valuations of securities shall be based on the last sale price of such security on the largest national United States securities exchange on which the particular securities are traded, if any, or if there is composite reporting of transactions as to such security on more than one such exchange, the last sale price of such security in such composite reporting, employing the same procedure in determining such values on any particular date as is prescribed from time to time by the United States Treasury regulations with respect to the valuation of securities of a decedent for federal estate tax

purposes, provided, however, that the market value of the securities shall in each case be deemed to be ninety-five and twenty-four one-hundredths percent (95.24%) of the valuation of the securities of a decedent for federal estate tax purposes, so as to maintain, for valuation purposes, securities having a value of one hundred and five percent (105%) of the cash amount for which they serve as security.

(d) All security held by Landlord pursuant to Sections 11.10(a), (b) and (c) shall be subject to the relevant provisions of Sections 7-103 and 7-105 of the General Obligations Law of the State of New York.

Section 11.11. At any time and from time to time during the Term, if there shall be any existing and unremedied Event of Default under this Lease, whether or not this Lease is thereby terminated, Landlord is hereby authorized by Tenant, without any notice to Tenant, to apply all or a portion of the security deposited under Section 11.10 and Article 42 to the payment of any sums then due or thereafter becoming due hereunder and/or to the payment of any damages resulting from such Event of Default. In furtherance of the foregoing, and not in limitation thereof, if any of the events described in clause (e), (f), (g), (h) or (k) of Section 24.01 shall occur, then to the extent permitted by law, the amounts deposited under Section 11.10, at all times, shall remain subject to the provisions of such Section and this Section 11.11. Notwithstanding anything which may be

to the contrary in this Lease or in New York General Obligations Law Sections 7-103 and 7-105, at any time and from time to time until the Cross-Default Provisions are rendered of no force or effect pursuant to Section 42.04 or void and of no force or effect pursuant to Section 42.05 of this Lease, if there shall be any existing and unremedied Event of Default under another Severance Lease with which this Lease is then cross-defaulted, Landlord is hereby authorized by Tenant to apply all or a portion of the security deposited under Section 11.10 to the payment of any sums then due or thereafter becoming due under such Severance Lease and/or to the payment of any damages resulting from such Event of Default. If all or any portion of the security deposited under Section 11.10 shall have been applied by Landlord as permitted hereunder, and if the Lease shall not have been terminated, Tenant immediately shall restore the security to its then required amount.

Section 11.12. Except with respect to fill which Tenant shall reuse for construction at the Premises or permit to be reused at the other Parcels or in connection with the construction of the Civic Facilities pursuant to the Civic Facilities Construction Agreement, Tenant, at its sole cost and expense, shall cause all fill excavated from the Premises which Landlord elects to keep at Battery Park City to be placed in an area designated by Landlord at Battery Park City off the Premises but reasonably close thereto and such fill shall

be and remain the sole property of Landlord. Tenant, at its sole cost and expense, shall remove from Battery Park City all other fill excavated from the Premises.

Section 11.13.

(a) Tenant shall use reasonable efforts to coordinate its construction activities at the Premises with the construction activities occurring in the other areas of Battery Park City and with construction of the Civic Facilities. Landlord (i) shall use reasonable efforts to cause other developers under existing leases for portions of Battery Park City (excluding any tenant under another Severance Lease) to coordinate their construction activities with those of Tenant so as not to interfere unreasonably with the construction activities of Tenant at the Premises, and (ii) shall provide in future leases to be entered into by Landlord with other developers for portions of Battery Park City, a requirement that such developers use reasonable efforts to coordinate their construction activities at Battery Park City with those of Tenant so as not to interfere unreasonably with the construction activities of Tenant at the Premises.

(b) Tenant shall use reasonable efforts to cause its contractors and all other workers at the Premises connected with Tenant's construction to work harmoniously with each other and Tenant shall not engage in or permit, and shall use reasonable efforts not to suffer, any conduct which may disrupt such harmonious relationship.

(c) Tenant shall install fencing around the Premises so as to separate the Premises from all other portions of Battery Park City. Upon completion of construction at the Premises, Tenant may remove such fencing.

(d) Landlord hereby grants to Tenant, its Subtenants and any Governmental Authorities and public utility companies requiring the same, and to their respective contractors, subcontractors and materialmen, during the period of construction of the Buildings, subject to the terms of the Port Authority Easement Agreement, a nonexclusive easement and right-of-way for pedestrians and vehicles over (i) the portions of Vesey Street, South End Avenue (south of the southerly line of West Thames Street) and North End Avenue located in Battery Park City, subject to the rights, if any, of New York City under the Street Mapping Agreement and the Southern Portion Declaration of Easements and the right of Landlord under Sections 26.01 and 26.07 hereof to construct such streets and avenues and the utilities thereunder, (ii) those portions of Battery Park City on which the plaza portion of the Civic Facilities will be constructed, except any portion thereof on or about which construction is in progress or finishing work has commenced or on which Landlord advises Tenant that construction is to promptly commence, and (iii) such other areas in Battery Park City as are mutually acceptable to Tenant and Landlord, so that Tenant, its Subtenants and any Governmental Authorities and public utility companies requiring the same, and their respective

contractors, subcontractors and materialmen, shall have reasonable access to and from the Premises at all times during construction of the Buildings, provided that with respect to the easements granted pursuant to clause (iii) above, such easements shall be on such terms and conditions as are mutually acceptable to Landlord and Tenant. In addition, Landlord hereby grants Tenant during the period of construction of the Buildings, a nonexclusive easement and right of way through the North Cove for access to and from the Premises until the North Cove is used for the purposes permitted under Section 26.03.

(e) Tenant shall exercise the benefits of the easements granted in Section 11.13(d) hereof and shall cause any and all work which Tenant is required to or does perform pursuant to this Lease on, under or adjacent to any of the streets, avenues or roadways located in Battery Park City to be done in a manner which will minimize, to the extent reasonably practicable, any obstruction of ingress or egress to and from any portion of Battery Park City, and in such manner that such streets and roadways shall remain open to an extent sufficient to ensure that pedestrians and vehicles are not prevented from having reasonable access to and from other portions of Battery Park City at all times. All such work shall be subject to the terms of the Port Authority Easement Agreement.

(f) All utility lines, other than those which are part of the Civic Facilities, installed by Tenant off the Premises but within Battery Park City, whether such lines be

the main utility lines or branch lines, shall be supported in a manner reasonably acceptable to Landlord.

Section 11.14.

(a) Landlord hereby grants to Tenant, and its contractors, subcontractors and materialmen, the right, during the period of construction of the Buildings, (i) to store its construction materials and equipment, and (ii) to allow personnel involved in construction of the Buildings to park their vehicles, on the portions of Battery Park City on which the Civic Facilities are to be constructed, the Western Parcel and such other portions of Battery Park City located adjacent to and north of the Premises as are mutually acceptable to Landlord and Tenant. If (i) Landlord determines that storage of such materials and equipment or the parking of such vehicles on the portions of Battery Park City on which the Civic Facilities are to be constructed shall interfere with construction of the Civic Facilities, or (ii) Landlord intends to commence development at or near the Western Parcel or any of such other off-Premises storage or parking locations north of the Premises, then, in either event, at Landlord's request, Tenant shall remove, or cause the removal of, such materials and equipment then being stored, and the vehicles then parked, at the Western Parcel or such other off-Premises location, as the case may be, and shall not thereafter be entitled to use such areas for storage or parking. In either event, Landlord shall provide Tenant, and its contractors, subcontractors

and materialmen, with (i) an alternate storage or parking area or areas located in reasonably close proximity (taking into consideration the development activities at Battery Park City) to the Premises and of sufficient size to accommodate such materials and equipment or vehicles, as the case may be, and (ii) a reasonable means of access to and from the Premises from and to each of such areas. Upon Tenant no longer being entitled to use an off-Premises location for storage or parking under this Section 11.14, Tenant shall restore the area or areas thereof which were theretofore used by Tenant for storage or parking to their condition existing immediately prior to such use by Tenant, except to the extent that Tenant, with the consent of Landlord, shall have permanently improved the grade or condition of such areas during the period of such use.

(b) Tenant acknowledges that Landlord has granted to the tenants under the other Severance Leases, pursuant to Article 11 of each such Severance Lease, similar rights to those granted to Tenant under Section 11.13(d) and Section 11.14(a), and that from time to time in the future Landlord may grant to other Persons engaged in the development or construction of Battery Park City or any part thereof similar rights to those granted under Section 11.13(d), and to other tenants of the Parcels and their contractors, subcontractors and materialmen, similar rights to those granted under Section 11.14(a). Tenant agrees that Landlord shall not be responsible for the activities and actions of such tenants or other

Persons in exercising such rights as provided in such Sections, or the consequences thereof.

Section 11.15. Tenant shall do all things necessary to fully protect the Civic Facilities, including the streets and avenues set forth in Section 11.13(d) and the utilities constructed or to be constructed thereunder, the Western Parcel, the off-Premises storage and parking areas provided under Section 11.14, the North Cove and the Port Authority and PATH facilities from damage or destruction which may result from (i) Tenant's construction activities, (ii) the easements granted in Section 11.13(d) for ingress or egress to or from the Premises, or (iii) Tenant's storage of construction materials or equipment or parking of vehicles thereat, and Tenant shall repair any damage or destruction to any of said areas or facilities resulting from any of the foregoing.

Section 11.16. Any dispute arising under this Article 11 shall be determined by arbitration pursuant to Article 36 and the applicable provisions of this Article 11. If Tenant shall suspend construction of the Buildings pending resolution of a dispute over Landlord's failure to approve the Preliminary Plans or the Final Plans, any delay in construction of the Buildings resulting from such suspension shall be deemed an Unavoidable Delay for all purposes under this Lease other than for determining whether Tenant shall have substantially completed the Buildings by the Scheduled Completion Date for purposes of determining whether

Tenant is required to make Substitute PILOT payments pursuant to Section 11.06 hereof; provided, however, that if it is finally determined by arbitration that (i) the Preliminary Plans or the Final Plans, as the case may be, were so lacking in conformity to the Development Guidelines or the plans previously approved by Landlord that Tenant's submitting such Preliminary Plans or Final Plans, as the case may be, to Landlord for approval constituted arbitrary and capricious behavior on Tenant's part, or (ii) Tenant's suspension of performance was arbitrary and capricious, then the delay in construction of the Buildings resulting from such suspension shall in no event be or be deemed to be an Unavoidable Delay.

ARTICLE 12

REPAIRS

Section 12.01. Tenant, at its sole cost and expense, throughout the Term, shall take good care of the Premises, including, without limiting the generality of the foregoing, the Buildings, roofs, foundations and appurtenances thereto, all sidewalks, vaults, sidewalk hoists and curbs in front of or adjacent to the Premises, all water, sewer and gas connections, pipes and mains which service the Premises and which neither New York City nor a utility company is obligated to repair and maintain, exclusive of any portion of the Civic Facilities except as provided in the Project Operating Agreement, and all Equipment, and shall put, keep and maintain the Buildings in good and safe order

and working condition (Tenant's obligations, however, with respect to the repair or Restoration of the Premises required by any casualty or taking by condemnation or eminent domain shall be as provided under Articles 8 and 9 hereof), and make all repairs therein and thereon, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, necessary to keep the same in good and safe order and working condition and to comply with all applicable laws, ordinances, orders, rules, regulations and requirements of New York City (including, but not limited to, Local Law No. 5 of 1973, as then in force) and all other Governmental Authorities, howsoever the necessity or desirability of such repairs may occur, and whether or not necessitated by wear and tear, obsolescence or defects, latent or otherwise. The necessity and adequacy of repairs made shall be measured by standards which are appropriate for New York City office buildings of similar age, construction and use. 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 Lease, the term "repairs" shall include all alterations, additions, installations, replacements, removals, renewals and restorations. All repairs made by Tenant shall be at least equal in quality and class to the original work and shall be made in compliance with (a) all rules, orders, regulations and requirements of the New York Board of Fire Underwriters or any successor

thereto, and (b) the Construction Laws, as then in force, and shall substantially conform to the Development Guidelines.

Section 12.02. Tenant, at its sole cost and expense, shall clean the public portions of the Premises as necessary and keep clean and free from dirt, snow, ice, rubbish, obstructions and encumbrances, the sidewalks, grounds, vaults, chutes, sidewalk hoists, and curbs on, in front of or adjacent to the Premises, and the parking facilities and plazas on the Land, exclusive of any portion of the Civic Facilities, except as provided in the Project Operating Agreement.

Section 12.03. Except as provided in Sections 11.13 and 11.14 and Articles 26 and 27 hereof, and in the Easement and Restrictive Covenant Agreement, 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, or to demolish, any buildings or other improvement presently or hereafter located on the Premises. Tenant assumes the full and sole responsibility for the condition, operation, repair, alteration, improvement, replacement, maintenance and management of the Premises. Particularly, but without limitation of the provisions in the preceding sentence, Tenant shall not clean or require, permit, suffer or 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 or asserting jurisdiction, as then in force.

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, or construct any additional Building, whether voluntarily or in connection with a repair or Restoration 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) Each Capital Improvement, when completed, shall be of such a character as not to reduce the value of the Premises below its value immediately before the making of such Capital Improvement.

(b) Each Capital Improvement shall be made with reasonable diligence (subject to Unavoidable Delays) and in a good and workmanlike manner and in compliance with (i) all applicable permits and authorizations and building and zoning laws, (ii) all other applicable laws, ordinances, orders, rules, regulations and requirements of all Governmental Authorities, and (iii) the orders, rules, regulations and requirements of any Board of Fire Underwriters having

jurisdiction or any similar body exercising similar functions; and each Capital Improvement shall substantially conform to the plans and specifications for the Capital Improvement, as the same may be approved pursuant to Section 13.02(a)(i), or if Section 13.02(a)(i) is not applicable, the Final Plans or the Development Guidelines.

(c) The cost of each Capital Improvement shall be paid in cash or its equivalent, so that 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.

(d) No Capital Improvement shall be undertaken until Tenant shall have delivered to Landlord insurance policies or abstracts 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 11.04 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 shall obtain such consents and pay any additional premiums or charges therefor that may be imposed by said insurance company or companies.

(e) No Capital Improvement shall be undertaken until Tenant shall have procured and paid for, insofar as the same may be required from time to time, all permits and authorizations for such Capital Improvement of all Governmental Authorities. Landlord shall not unreasonably refuse to join in the application for such permit or authorization, provided it is made without cost or expense to Landlord. Copies of all required permits and authorizations, certified to be true copies thereof by Tenant, shall be delivered to Landlord prior to the commencement of any Capital Improvement.

Section 13.02.

(a) If the reasonably estimated cost of any proposed Capital Improvement (exclusive of any non-structural interior work performed to prepare, alter or renovate any portion of the Buildings for or in connection with the occupancy thereof by Tenant or a Subtenant), as such cost is determined as provided in Section 8.02, equals or exceeds $1,000,000, as such amount shall be increased as provided in Section 7.02(a), either individually or in the aggregate with other Capital Improvements in any twelve (12) month period during the Term, Tenant shall furnish to Landlord at least ten (10) days before the commencement of such Capital Improvement, the following:

(i) complete plans and specifications for the Capital Improvement, prepared by a licensed professional engineer or a registered architect whose qualifi-

cations shall meet with the reasonable approval of Landlord and, at the request of Landlord, any other drawings, information and/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 Final Plans or the Development Guidelines;

(ii) a stipulated sum or cost plus with upset price contract, in form assignable to Landlord, made with a reputable and responsible contractor, providing in substance for (x) the completion of the Capital Improvement with reasonable diligence, subject to Unavoidable Delays, free and clear of all liens, encumbrances, security agreements, interests and financing statements, and (y) a payment and performance bond satisfying the requirements of Section 8.04(a)(ii) hereof, or a clean irrevocable negotiable letter of credit or other security reasonably satisfactory to Landlord; and

(iii) an assignment to Landlord of the contract so furnished and the bond, letter of credit 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 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 such con-

tract, including payments made prior to the effective date of such assignment.

(b) Notwithstanding that the cost, as aforesaid, of any Capital Improvement is less than $1,000,000, as such amount shall be increased as provided in Section 7.02(a), to the extent that any portion of the Capital Improvement involves work which may change the appearance of the exterior of the Buildings or may change the height, bulk or setback of the Buildings from the height, bulk or setback existing immediately prior to the Capital Improvement, then Tenant shall furnish to Landlord at least ten (10) days before the commencement of the Capital Improvement, a complete set of plans and specifications for the Capital Improvement, prepared by a licensed professional engineer or registered architect whose qualifications shall meet with the reasonable approval of Landlord, and, at Landlord's request, such other items designated in clause (i) of Section 13.02(a) hereof, all of the foregoing to be subject to Landlord's review and approval as provided in clause (i) of Section 13.02(a) hereof.

Section 13.03.

(a) Title to all additions, alterations, improvements and replacements made to the Buildings, including, without limitation, Capital Improvements, shall vest in Landlord as provided in Section 11.08, without any obligation by Landlord to pay any compensation therefor to Tenant.

(b) Notwithstanding the ownership by Landlord of the Buildings and all materials incorporated therein, except in connection with the construction of the Buildings pursuant to Article 11 and the construction work required for the initial occupancy of any portion of the Buildings by Tenant, its Affiliates and/or Subtenants for the conduct of its or their businesses, Tenant shall pay to the Governmental Authority or Authorities having jurisdiction over sales and compensating use taxes, amounts equal to the amounts of all sales and compensating use taxes which would be payable, but for such ownership, on the materials, fixtures and equipment purchased for incorporation into or work performed on the Buildings in connection with the maintenance of and repairs, Restorations, additions, alterations, improvements and replacements to the Buildings, including, without limitation, Capital Improvements. Such amounts shall be payable at the times such sales and compensating use taxes would be payable but for such ownership.

Section 13.04. Any disputes arising under the provisions of this Article 13 shall be determined by arbitration in accordance with Article 36.

ARTICLE 14

REQUIREMENTS OF PUBLIC AUTHORITIES AND OF INSURANCE UNDERWRITERS AND POLICIES

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, resolutions (but only resolutions which in the absence of this Lease would be binding on the Premises) and executive orders, including, but not limited to Local Law No. 5 of 1973, of New York City, as then in force, without regard to the nature of the work required to be done, extraordinary, as well as ordinary, and the Board of Estimate Resolution to the extent, if any, the same is applicable to the Premises, of federal, state, city, county or other 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 (collectively, "Requirements") affecting the Premises or any sidewalk comprising a part or in front thereof and/or any vault in or under the same, of requiring the removal of any encroachment, or affecting the maintenance, use or occupation 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 surety company bond, a cash deposit 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 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 at any time the Premises, or any part thereof, shall be in danger of being forfeited or lost or if Landlord shall be in danger of being subject to criminal and/or civil liability or penalty by reason of noncompliance 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.

ARTICLE 15

EQUIPMENT

Section 15.01. Tenant shall not have the right, power or authority to, and shall not, remove any Equipment from the Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed, unless such Equipment is promptly replaced by Equipment of at least equal utility and value as of the date the Equipment so removed was originally installed at the Premises. Tenant, however, without Landlord's consent, may remove Equipment at any time and from time to time for repairs, cleaning or other servicing, provided that Tenant shall return or reinstall same to or in the Premises with reasonable diligence.

Section 15.02. Tenant shall keep all Equipment in good order and repair and shall replace the same when necessary with items of at least equal utility and value as of the date such Equipment was originally installed at the Premises.

ARTICLE 16

DISCHARGE OF LIENS; BONDS

Section 16.01. Except for any Mortgage, Sublease or assignment of leases and/or rents or any security interests in Equipment collateral to a Mortgage, and except for the additional easements required to be granted by Tenant under the Project Operating Agreement, Tenant shall not create or cause to be created any lien, encumbrance or charge upon Tenant's leasehold estate in the Premises or any part

thereof or upon the income therefrom. Tenant shall not create or cause to be created any lien, encumbrance or charge upon or any assets of, or funds appropriated to, Landlord, or upon the estate, rights or interest of Landlord in the Premises or any part thereof as fee owner or tenant under the Master Lease.

Section 16.02. If any mechanic's, laborer's or materialman's lien at any time shall be filed against the Premises or any part thereof or, if any public improvement lien created or caused to be created by Tenant shall be filed against any assets of, or funds appropriated to, Landlord, then Tenant, within thirty (30) days after actual notice of the filing thereof, or such shorter period as may be required by the 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 of record or 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 costs and expenses

incurred by Landlord in connection therewith, together with interest thereon at the Late Charge Rate, from the respective dates of Landlord's making of the payment or incurring of the costs and expenses, shall constitute 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 of record any such lien if Tenant is in good faith contesting the same and has furnished a cash deposit, an irrevocable letter of credit or a surety 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 the Premises 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, to the extent enforceable under New York

law, Landlord shall not be liable for any work performed or to be performed at the Premises for Tenant or any Subtenant or 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 any interest of Landlord in the Premises as fee owner thereof or tenant under the Master Lease, but nothing contained in this Section 16.04 shall affect Tenant's right to let contracts for the construction of, and Restorations, Capital Improvements or other alterations, repairs, replacements or additions to, the Premises in accordance with the applicable provisions of this Lease.

ARTICLE 17

NO REPRESENTATIONS BY LANDLORD

Section 17.01. Tenant acknowledges that Tenant is fully familiar with the Premises, the physical condition thereof and the items set forth in Exhibit "B". Subject to Landlord's obligations under Article 26 hereof, Tenant accepts the Premises in the 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, the zoning or other laws, regulations, rules and orders applicable thereto, Taxes, or the use that may be made of the Premises, 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 Premises.

Section 17.02. 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 with respect to the laws applicable to this transaction, Landlord or the Premises, that Tenant has relied on no such representations, statements or warranties and that Landlord shall not in any event whatsoever be liable by reason of any claim of representation or misrepresentation or breach of warranty with respect thereto. The foregoing shall not affect Tenant's rights or remedies with respect to any opinion letter given to Tenant by Landlord's counsel.

Section 17.03. Landlord will deliver possession of the Premises on the Commencement Date vacant and free of occupants and tenancies, other than those created or permitted by Tenant.

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 any other Person which may be caused by any fire or breakage, or by the use, misuse or abuse 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, unless caused by the negligence or wrongful act of Landlord, its officers, agents, employees or licensees.

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 there-

in, 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, unless any of the foregoing results from the negligence or wrongful act of Landlord, its officers, agents, employees or licensees. Nothing contained herein shall affect, limit, modify or expand Landlord's obligations or liabilities under Article 26.

ARTICLE 19

INDEMNIFICATION OF LANDLORD

Section 19.01. Tenant shall not do or permit any act or thing to be done upon the Premises which may subject 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 of a legal requirement of any Governmental Authority, and Tenant shall exercise such control over the Premises so as to fully protect Landlord against any such liability. Tenant shall indemnify and save Landlord harmless from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including, without limitation, reasonable engineers' architects' and attorneys' fees and disbursements, which may be imposed upon or incurred by or asserted against Landlord by reason of any of the following occurring during the Term, unless caused by the negligence or wrongful act of Landlord or its officers, agents, employees or licensees:

(a) construction of the Buildings or any other work or thing done in, on or about 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 sidewalk, curb or vault adjacent thereto;

(c) any act or failure to act on the part of Tenant or any Subtenant or any of its or their respective officers, agents, employees or licensees;

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

(e) any failure on the part of Tenant to pay Rental or to perform or comply with any of the covenants, agreements, terms or conditions contained in this Lease, in the Escrow Agreement, the Pledge Agent Agreement or any agreement pursuant to which Tenant pledges or purports to pledge Acceptable Securities to Landlord pursuant to this Lease, on Tenant's part to be performed or complied with and the proper exercise by Landlord of any remedy provided in this Lease with respect thereto;

(f) any lien or claim which may be alleged to have arisen against or on the Premises, or any lien or claim which may be alleged to have arisen out of this Lease and created or permitted to be created by Tenant against any assets of, or funds appropriated to, Landlord under the laws of the State

of New York or of any other Governmental Authority or any liability which may be asserted against Landlord with respect thereto;

(g) any failure on the part of Tenant to keep, observe or 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;

(h) any act or failure to act on the part of Tenant with respect to its obligations under the Port Authority Easement Agreement or in connection with its construction, ownership, use and operation of the Premises which results in a default by Landlord under the Port Authority Easement Agreement in its capacity as fee owner and as the tenant under the Master Lease;

(i) any tax attributable to the execution, delivery or recording of this Lease;

(j) any contest permitted pursuant to the provisions of Articles 4, 14 and 28;

(k) any failure on the part of a pledgor under a pledge agreement, pursuant to which such pledgor pledges or purports to pledge Acceptable Securities on behalf of Tenant to Landlord as security for Tenant's obligations under this Lease, to comply with any of the terms, covenants, agreements

or conditions contained therein on such pledgor's part to be kept, observed or performed; or

(l) any claim for brokerage commissions, fees or other compensation by any Person who shall allege to have acted or dealt with Tenant in connection with this transaction.

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 Landlord against which Landlord is indemnified pursuant to Section 19.01 hereof, then, upon demand by Landlord, Tenant, at its sole cost and expense, shall resist or defend such claim, action or proceeding in Landlord's name, if necessary, by the attorneys for Tenant's insurance carrier (if such claim, action or proceeding is covered by insurance), otherwise by such attorneys as Landlord shall approve, which approval shall not be unreasonably withheld or delayed. The foregoing notwithstanding, Landlord may engage its own attorneys to defend it or to assist in its defense and Tenant shall pay the reasonable fees and disbursements of such attorneys.

Section 19.04. The provisions of this Article 19 shall survive the Expiration Date with respect to any liability, suit, obligation, fine, damage, penalty, claim, cost,

charge or expense arising out of or in connection with any action or failure to take action or any other matter occurring prior to the Expiration Date.

Section 19.05. Nothing contained in this Article 19 shall affect, limit, modify or expand Landlord's obligations or liabilities under Article 26.

ARTICLE 20

RIGHT OF INSPECTION

Section 20.01. Tenant shall permit Landlord and Landlord's agents or representatives to enter the Premises at all reasonable times (subject to the reasonable requirements of Tenant as to any portion of the Premises which Tenant is itself occupying, and of any Subtenant as to any portion of the Premises which the Subtenant in question is occupying) for the purpose of (a) inspecting the Premises, (b) determining whether or not Tenant is in compliance with its obligations hereunder, and/or (c) in the case of an emergency (i.e., a condition presenting imminent danger to the health or safety of persons or to property), or following an Event of Default, making any necessary repairs to the Premises and/or performing any work therein, provided that in the case of an emergency Landlord shall make a reasonable attempt to communicate with Tenant or any Subtenant of all or substantially all of the Buildings to alert Tenant and such Subtenant to the necessary repair.

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, except as otherwise expressly provided in Article 26 hereof, and performance of any 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, subject to the reasonable requirements of Subtenants, 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 and such work or repairs shall require interruption of any services to or access of a Subtenant or the entry into any space covered by a Sublease, such work or repairs shall be commenced and completed with reasonable diligence, subject to Unavoidable Delays, and in such a manner as not to unreasonably interfere with the conduct of business in such space.

ARTICLE 21

EACH PARTY'S RIGHT TO PERFORM THE OTHER PARTY'S COVENANTS

Section 21.01. If there shall be an Event of Default under this Lease, then 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 obligations on Tenant's behalf.

Section 21.02. All sums paid by Landlord and all costs and expenses incurred by Landlord in connection with the performance of any such obligation, together with interest thereon at the Late Charge 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 the foregoing provisions of this Article 21 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 and/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 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 which damage or destruction was required to be insured against hereunder.

Section 21.03. Tenant, together with the tenants under the other Severance Leases, acting through the Management Committee, shall have the right of self-help provided in Section 6.03(g) of the Project Operating Agreement if Landlord shall have failed to make payments required to be made by it pursuant to the Civic Facilities Construction Agreement or the Civic Facilities Maintenance Agreement to the contractor thereunder, or, subject to the provisions of Sections 26.02(e) and 26.08 hereof, if Landlord shall have failed to observe or perform its obligations under Section 26.02 to operate, maintain and repair the Civic Facilities.

ARTICLE 22

NO ABATEMENT OF RENTAL

Except as may be otherwise expressly provided in this Lease and in Sections 6.03(g) and 17.03 of the Project Operating Agreement, there shall be no abatement, 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; OPERATION OF THE PREMISES

Section 23.01. Subject to the provisions of law and this Lease, Tenant shall occupy the Premises in accordance with the Certificates of Occupancy for the Premises in

effect from time to time during the Term, and in accordance with Section 23.04 hereof, and for no other use or purpose.

Section 23.02. Tenant shall not use or occupy the Premises or any part thereof, or permit or suffer the Premises or any part thereof to be used or occupied, without the prior written consent of the Mayor of New York City as a trading floor or headquarter facilities for the New York Stock Exchange or for any purpose whatsoever by the Federal Reserve Bank of New York, nor shall it use or occupy, or suffer the Premises or any part thereof to be used or occupied for any unlawful business, use or purpose, or in such manner as to constitute in law or in equity a nuisance of any kind (public or private), or for any dangerous or noxious trade or business, or for any purpose or in any way in violation of the Certificates of Occupancy for the Premises in effect from time to time during the Term or of any Requirements (not including Requirements of Landlord, other than New York City, except as otherwise expressly provided in this Lease), or which may make void or voidable any insurance then in force on the Premises. Tenant shall take, immediately upon the discovery of any such prohibited use, all necessary steps, legal and equitable, to compel the discontinuance of such use and Tenant shall exercise all of its rights and remedies against any Subtenants responsible for such use.

Section 23.03. Tenant shall not suffer or permit the Premises or any portion thereof to be used by the public

without restriction or 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, and in furtherance thereof, Tenant shall have the right to close any or all of the public areas of the Premises to the public for one (1) day in each calendar year, such day to be a holiday observed by both the State of New York and the federal government. Notwithstanding the foregoing, and except for such closing, Tenant shall provide pedestrian circulation through the Premises in accordance with Paragraph 3(D) of the Development Guidelines.

Section 23.04. Tenant shall use the Premises for those uses permitted under district C-6 plus Use Group 14 of the Zoning Resolution, subject to the following limitations:

(i) Not more than one million one hundred seventy-one thousand (1,171,000) Net Rentable Square Feet of space in the Buildings shall be used for office space, other than space used for office uses which under the Zoning Resolution are considered retail uses, which shall be deemed space used for Retail uses for purposes of clause (ii) of this Section 23.04 and Section 3.05.

(ii) Not more than eighteen thousand (18,000) Net Rentable Square Feet of space in the Buildings (the "Retail Use Allocation") shall be used for Retail uses un-

less otherwise agreed to in writing by the Mayor of New York City, provided that, upon certification by the Chairman of the City Planning Commission pursuant to the Board of Estimate Resolution, an additional thirty-five thousand (35,000) Net Rentable Square Feet of space in the Buildings (the "Additional Retail Use Allocation") may be used for the Retail uses specified in such Resolution subject, however, to the conditions set forth in paragraphs numbered 1 through 7, inclusive, of such Resolution being satisfied at the Parcels, it being understood and acknowledged by Tenant that Tenant's rights to all or any portion of the Additional Retail Use Allocation hereunder may not arise or may otherwise be adversely affected if such conditions are not so satisfied; and

(iii) Neither the Premises, nor any part thereof, shall be used, without the prior consent of Landlord, for any purpose which would require a "special permit" as such term is defined in the Zoning Resolution, provided, however, that a use by Tenant if Tenant is itself occupying any portion of the Premises or any Subtenant, the assignees of such Subtenant's interest in its Sublease and the subtenants of any of the foregoing may be continued by Tenant or such Subtenant, the assignees of such Subtenant's interest in its Sublease and the Subtenants of any of the foregoing if such use was permitted without a special permit at the time such use commenced, and notwithstanding that such use may have been interrupted temporarily by any Capital Improvement, Restoration

or repair whether undertaken in connection with a casualty or taking or otherwise. Nothing contained in this Section 23.04 shall limit or modify Tenant's right and obligation pursuant to the provisions of Articles 8 and 9 to Restore the Premises following any casualty or taking.

Section 23.05. The Premises shall be operated in accordance with the Development Guidelines, including, without limitation, Paragraphs 3 and 6 thereof.

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 Base Rent, Retail Rent, Other Rent, Payments in Lieu of Taxes, Substitute PILOT or Percentage Rent, or any part thereof, when the same shall become due and payable, except that for the first such Default in any calendar year Tenant shall be entitled to notice thereof from Landlord and a period of ten (10) days after such notice to cure such Default;

(b) if Tenant shall fail to make any other payment of Rental required to be paid by Tenant hereunder, for a period of ten (10) days after notice thereof from Landlord to Tenant;

(c) if Tenant shall fail to observe or perform one or more of the other terms, conditions, covenants or agreements of this Lease and such failure shall continue for a period of thirty (30) days after written 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 either by their nature or by reason 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 prosecute the same to completion with reasonable diligence, subject to Unavoidable Delays);

(d) except as otherwise expressly provided in Section 11.06(a), if Tenant shall fail to substantially complete construction of the Buildings by the Scheduled Completion Date;

(e) to the extent permitted by law, if Tenant, or Guarantor (for as long as the Guaranty remains in force), shall admit, in writing, that it is unable to pay its debts as such debts become due;

(f) to the extent permitted by law, if Tenant, or Guarantor (for as long as the Guaranty remains in force), shall make an assignment for the benefit of creditors;

(g) to the extent permitted by law, if Tenant, or Guarantor (for as long as the Guaranty remains in force), shall file a voluntary petition under Title 11 of the United States Code or if such petition is filed against either, and an order for relief is entered, or if either shall file any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under present or any future federal bankruptcy code or any 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 Guarantor, or of all or any substantial part of their properties or of the Premises or any interest therein of Tenant or Guarantor, or if Tenant, or Guarantor (for as long as the Guaranty remains in force), shall take any corporate action in furtherance of any action described in Section 24.01(e), (f) or (g) hereof;

(h) to the extent permitted by law, if within sixty (60) days after the commencement of any proceeding against Tenant, or against Guarantor (for as long as the Guaranty remains in force), 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 one hundred twenty (120) days after the appointment, without the consent or acquiescence of Tenant or Guarantor, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Tenant or Guarantor or of all or any substantial part of their properties or of the Premises or any interest therein of Tenant or Guarantor, such appointment shall not have been vacated or stayed on appeal or otherwise, or if, within one hundred twenty (120) days after the expiration of any such stay, such appointment shall not have been vacated;

(i) if Tenant shall abandon the Premises or any substantial portion thereof;

(j) if this Lease or the estate of Tenant hereunder shall be assigned, subleased, transferred, mortgaged or encumbered 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;

(k) if a levy under execution or attachment shall be made against Tenant or its interest in the Premises or any part thereof and such execution or attachment shall not be vacated or removed by court order, bonding or otherwise within a period of one hundred twenty (120) days;

(l) if at any time during which the Guaranty remains in force, Guarantor shall be in default under the Guaranty beyond the applicable grace periods, if any, provided therein;

(m) if Olympia & York Battery Park Company shall fail to observe or perform one or more of the terms, conditions, covenants or agreements on its part to be observed or performed under that certain agreement known as the Westway Costs Agreement, dated as of the date hereof, between Landlord and Olympia & York Battery Park Company, and such failure shall continue for a period of thirty (30) days after written notice thereof by Landlord to Olympia & York Battery Park Company and Tenant (if Tenant is a Person other than Olympia & York Battery Park Company) specifying such failure (unless such failure requires work to be performed, acts to be done or conditions to be removed which cannot either by their nature or by reason of Unavoidable Delays reasonably be performed, done or removed, as the case may be, within such thirty (30) day period, in which case no default shall be deemed to exist as long as Olympia & York Battery Park Company shall have commenced curing the same within such thirty (30) day period and shall prosecute the same to completion with reasonable diligence, subject to Unavoidable Delays), provided that the provisions of this Section 24.01(m) shall be of no force or effect, or void and of no force or effect, as the case may be, from and after the date that the Cross-Default Provisions are rendered of no force or effect, or void and of no force or effect, as the case may be, pursuant to, respectively, Section 42.04 or Section 42.05 of this Lease;

(n) if the Management Committee pursuant to Section 6.03(f) or 17.01 of the Project Operating Agreement or Tenant pursuant to Section 17.02 of the Project Operating Agreement shall have elected to assume the obligations of Landlord under Article 26 of this Lease to operate, maintain, repair and Restore any portion or portions of the Civic Facilities consisting of the Pedestrian Bridges, the plaza or esplanade,

and if Tenant shall fail to perform such obligations in accordance with the applicable provisions of the Project Operating Agreement and such failure shall continue for a period of thirty (30) days after written 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 either by their nature or by reason 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 prosecute the same to completion with reasonable diligence, subject to Unavoidable Delays); or

(o) if (i) the Management Committee pursuant to Sections 17.01 and 17.04 of the Project Operating Agreement, (ii) Tenant pursuant to Sections 17.02 and 17.04 of the Project Operating Agreement, or (iii) Tenant pursuant to Section 26.09 of this Lease shall exercise the right to patrol a Pedestrian Bridge, and shall violate the restrictions with respect to the manner of patrolling set forth in Section 17.04 of the Project Operating Agreement and Section 26.09 of this Lease, and shall continue such violation for a period of thirty (30) days after written notice thereof from Landlord to Tenant specifying such violation.

Section 24.02. If an Event of Default shall occur, Landlord may elect to proceed by appropriate judicial proceedings, either at law or in equity, to enforce the 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 Section 24.01(e), (f), (g) or (h) hereof shall occur, or (ii) described in Section 24.01(c), (d), (i), (j), (k), (l), (m), (n) or (o) 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 ten (10) 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 if 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 Section 24.01(g) or (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 24.16 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 five (5) days' notice to Tenant, Tenant as debtor-in-possession or said trustee and upon the expiration of said five (5) day period this Lease shall cease and expire as aforesaid and Tenant, Tenant as debtor-in-possession and/or said trustee shall immediately quit and surrender the Premises as aforesaid.

(b) If an Event of Default described in Section 24.01(a) or (b) shall occur, or this Lease shall be terminated as provided in Section 24.03(a), Landlord, without notice, may dispossess Tenant by summary proceedings or otherwise.

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

(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 without relieving Tenant of any liability under this Lease or otherwise affecting any such lia-

bility, 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 of and repairing and/or altering the Premises, or any part thereof, and the reasonable cost and expense of removing all persons and property therefrom, including in such costs reasonable brokerage commissions, legal expenses and 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 reasonable brokerage commissions, legal expenses and attorneys' fees and disbursements and other expenses of preparing the Premises for relletting, and, if Landlord shall maintain and operate the Premises, the 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) Tenant shall be liable for and shall pay to Landlord, as damages, any deficiency ("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 (after 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) 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 four percent (4%) 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 substantial 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 (b), and no taking possession of and/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, nor relieve Guarantor of any obligation under the Guaranty except as specifically provided therein, all of which shall survive such expiration, termination, repossession or reletting except as otherwise specifically provided.

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. The Rental payable by Tenant hereunder and each and every installment thereof, and all reasonable costs (excluding attorneys' fees and disbursements) and other expenses which may be incurred by Landlord in enforcing the provisions of this Lease or on account of any delinquency of Tenant in carrying out the provisions of this Lease shall be and they hereby are declared to constitute a valid lien upon the interest of Tenant in this Lease and in the Premises.

Section 24.08. 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 by 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 24.09. 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 a 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 24.10. No receipt of moneys by Landlord from Tenant or Guarantor 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 enforce 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 occupation of the Premises or, at the election of Landlord, on account of Tenant's liability hereunder.

Section 24.11. 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 24.12. No failure by either party to insist upon the strict performance by the other party of any covenant, agreement, term or condition of this Lease or to exercise any right or remedy consequent upon a breach thereof, and no payment or 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 either party, and no breach

thereof, shall be waived, altered or modified except by a written instrument executed by the other party. 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 then existing or subsequent breach thereof.

Section 24.13. Subject to Sections 43.01 and 43.02, in the event of any breach or threatened breach by either party of any of the covenants, agreements, terms or conditions contained in this Lease, the other party 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.

Section 24.14. Subject to Sections 43.01 and 43.02, each right and remedy of Landlord and Tenant 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 a party 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 such party 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 24.15. A party (the "Defaulting Party") shall pay to the other party (the "Non-Defaulting Party") all costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by the Non-Defaulting Party in any action or proceeding to which the Non-Defaulting Party may be made a party arising by reason of any act or omission of the Defaulting Party which is negligent, wrongful or which is a Default under this Lease.

Section 24.16.

(a) If an order for relief is entered or if a stay of proceeding or other acts becomes effective in favor of Landlord or Landlord's interest in this Lease in any proceeding which is commenced by or against Landlord under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other statute or law, Tenant shall be entitled to invoke any and all rights and remedies available to it under such bankruptcy code, statute, law or this Lease.

(b) If an order for relief is entered or if a stay of proceeding or other acts becomes effective in favor of Tenant, Guarantor or Tenant's interest in this Lease, in any proceeding which is commenced by or against Tenant or Guarantor, 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 protect Landlord's right, title and interest in and to the Premises or any part thereof and/or 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:

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

(ii) that Tenant shall pay to Landlord, on the first day of each month occurring subsequent to the entry of such order or 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;

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

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

(v) 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;

(vi) that Tenant 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 in an amount acceptable to Landlord, but in no event less than the Rental payable hereunder for the then current lease year;

(vii) 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;

(viii) that Landlord be granted a security interest acceptable to Landlord in property of Tenant to secure the performance of Tenant's obligations under this Lease; and

(ix) 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, Tenant or Tenant as debtor-in-possession, 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 24.17. If this Lease shall terminate as a result of or while there exists an Event of Default, any funds (including the interest, if any, accrued thereon) then held by Depository in which Tenant has an interest may be applied by Landlord to any damages payable by Tenant (whether provided for herein or by law or in equity) as a result of such termination or Event of Default, and the balance remaining, if any, shall be paid to Tenant, subject to the rights of Mortgagees,

if Tenant would be entitled to receive same but for such termination or Event of Default.

Section 24.18. Nothing contained in this Article 24 shall be deemed to modify the provisions of Section 10.12, 10.13 or 10.14 hereof.

ARTICLE 25

NOTICES

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

(a) if by Landlord, by mailing the same to Tenant by certified or registered mail, postage prepaid, return receipt requested, addressed to Tenant at 245 Park Avenue, New York, New York 10167, Att: Executive Vice President, O&Y Battery Park Corp., with a copy thereof (i) to Messrs. Kaye, Scholer, Fierman, Hays & Handler, 425 Park Avenue, New York, New York 10022, Att: Martin S. Saiman, Esq., (ii) to Olympia & York Developments Limited, One First Canadian Place, Toronto, Ontario M5X1B5, Telex No. 06524728 Att: Mr. Paul Reichmann, and/or to such other address(es) and attorneys as Tenant may from time to time designate by Notice given to Landlord by certified or registered mail as aforesaid, except that at no time shall Landlord be required to give, in the aggregate, more than four Notices or copies thereof; and

(b) if by Tenant, by mailing the same to Landlord by certified or registered mail, postage prepaid, return receipt requested, addressed to Landlord, 40 West Street, New York, New York 10006, Att: President, with a copy thereof to Messrs. Weil, Gotshal & Manges, 767 Fifth Avenue, New York,

New York 10153, Att: Lawrence J. Lipson, Esq. and/or to such other address(es) and attorneys as Landlord may from time to time designate by Notice given to Tenant by certified or registered mail as aforesaid, except that at no time shall Tenant be required to give, in the aggregate, more than four Notices or copies thereof.

If Tenant shall designate the holder of any Mortgage as a party to whom Notices shall be sent, such designation shall be irrevocable during the term of such Mortgage, except that such Mortgagee may change its address by Notice given to Landlord.

Section 25.02. Every Notice shall be deemed to have been given or served on the first Business Day after the same shall have been deposited in the United States mails, postage prepaid, in the manner aforesaid. In the event a postal strike shall be in progress at the time a Notice is given or served, such Notice shall not be deemed given or served unless and until copies thereof are personally delivered to and receipted by the parties entitled thereto or, in the case of a Notice to a party having an address outside New York City, unless and until a copy thereof is sent by telex to such party, at the telex number provided by such party.

ARTICLE 26

CONSTRUCTION AND MAINTENANCE OF THE CIVIC FACILITIES

Section 26.01.

(a) Except as otherwise provided in this Lease, Landlord, at its sole cost and expense, shall undertake, or cause to be undertaken, the design and construction of the Civic Facilities, in substantial conformity with (i) the

Civic Facilities Drawings and Specifications, (ii) the Civic Facilities Development Schedule, subject to Landlord's Unavoidable Delays, (iii) the Development Guidelines, and (iv) the Design Guidelines, but only to the extent and for purposes of establishing and setting forth the minimum standards for design, quantity, quality and standard of workmanship and fixtures, materials, supplies and equipment required to be incorporated into the work comprising the Civic Facilities, as distinguished from specific design, which are not covered in sufficient detail by the Development Guidelines or the Civic Facilities Drawings and Specifications. The design and construction of the Civic Facilities as aforesaid shall also be in compliance with the applicable laws, rules, regulations, codes and requirements of Governmental Authorities (the definition of which is hereinafter modified for purposes of this Article 26) and the applicable public utility company requirements. Landlord shall obtain and maintain in force all required permits, consents, certificates and approvals for the construction of the Civic Facilities. If there are any inconsistencies between the Development Guidelines and the Design Guidelines relative to any component of the work which is not covered in sufficient detail by the Civic Facilities Drawings and Specifications, the terms of the Development Guidelines shall govern. For purposes of this Article 26, the term "Governmental 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 Civic Facilities or any portion thereof, not including Landlord (other than New York City).

(b) Olympia & York Battery Park Company and Landlord have entered into an agreement dated as of September 1, 1981 and amended by such parties as of the date hereof (the "Civic Facilities Construction Agreement") pursuant to which Olympia & York Battery Park Company, as contractor, has undertaken the design and construction of the Civic Facilities in accordance with the terms of said Agreement. Except as otherwise provided in Section 26.07 or the Civic Facilities Construction Agreement, or except if Landlord shall default under the Civic Facilities Construction Agreement so as to relieve Olympia & York Battery Park Company or its successors or assigns of any further obligations thereunder, Landlord shall have no obligations under Section 26.01(a) or to insure the Civic Facilities pursuant to Section 26.02(c) during construction thereof, and Tenant shall have no claim against Landlord and Landlord shall not be responsible for any matter or thing relating to the design or construction of the Civic Facilities, including, without limitation, any delays, defects (to the extent that under the Civic Facilities Construction Agreement Olympia & York Battery Park Company, or its successors or assigns, shall have assumed the obligation to repair defects), or non-completion thereof.

(c) The term "Civic Facilities" shall mean the following improvements more particularly described in the Civic Facilities Drawings and Specifications:

(i) electrical, gas, water and telephone mains and branches;

(ii) sanitary and storm sewers;

(iii) fire hydrants and street fire alarms;

(iv) street lighting;

(v) temporary access improvements;

(vi) temporary landscaping on Marginal Street, the Western Parcel and the Northern Parcel;

(vii) a landscaped esplanade and plaza;

(viii) streets, curbs and sidewalks;

(ix) the Pedestrian Bridges; and

(x) supporting platforms and foundations required for the foregoing improvements.

Upon (x) dedication of all or a portion of the Civic Facilities to New York City, (y) acceptance by the appropriate utility company of the maintenance responsibilities therefor, or (z) the assumption of responsibility for the operation, maintenance and repair of certain portions of the Civic Facilities by the Management Committee under the Project Operating Agreement, Tenant, the tenant under the Severance Lease for Parcel B, or the tenant under the Severance Lease for Parcel C, as the case may be, pursuant to Section 6.03(f) and Article 17 of the Project Operating Agreement and Section 26.04 hereof, the term

"Civic Facilities" for all purposes of this Lease (except Section 26.09 with respect to clause (z) above, Article 9 with respect to clauses (y) and (z) above and Section 26.01(d) with respect to clauses (x), (y) and (z) above) shall mean the Civic Facilities, less any portions thereof as to which (1) New York City shall have accepted dedication, (2) the appropriate utility company shall have accepted maintenance responsibilities, or (3) the Management Committee, Tenant, the tenant under the Severance Lease for Parcel B or the tenant under the Severance Lease for Parcel C, as the case may be, shall have assumed responsibility for operation, maintenance and repair pursuant to Article 17 of the Project Operating Agreement. Upon commencement of construction on the Western Parcel or the Northern Parcel, as the case may be, the Civic Facilities shall no longer include any landscaping on said Parcels, and for as long as there is off-Premises storage or parking pursuant to Section 11.14 on portions of the Western Parcel or the Northern Parcel, the Civic Facilities shall not include any landscaping on such portions of said Parcels. In addition, for purposes of Landlord's obligations under Section 26.02, the term "Civic Facilities" shall mean the Civic Facilities, excluding the sidewalks in front of or adjacent to the Premises and the other Parcels, and excluding the areas within certain of the Civic Facilities granted by Landlord as exclusive easements for the benefit of the Parcels pursuant to the Easement and Restrictive Covenant Agreement.

(d) Tenant agrees that Landlord and its designees (including, without limitation, New York City from and after dedication of the Southern Pedestrian Bridge) shall have and Landlord hereby expressly reserves (i) the right to construct, install, own, operate, maintain, repair, Restore, control and use on, over, under and through the Premises in the area generally designated as Easement no. 2 on the Easement Plan, pipes, conduits, mains, lines, bridge supports, connections, staircases, escalators, elevators and other facilities which are part of the Southern Pedestrian Bridge, and (ii) the right to reconstruct, install, own, operate, maintain, repair, Restore, control and use on, over, under and through the Premises in the area generally designated as Easement no. 1, an existing sewer line and storm outfall, together with, in the case of each of such Landlord's easements, a right of access on, over, under and through the Premises as may be necessary for the foregoing purposes. Tenant acknowledges that pursuant to Section 41.07 of this Lease and the Severance Leases for Parcel B, Parcel C and Parcel D, and subject to the respective terms and conditions thereof, Landlord has granted to Tenant and the tenants under the Severance Leases for Parcel B, Parcel C and Parcel D, and its and their respective Subtenants, invitees and licensees, a nonexclusive easement and right-of-way for the passage of pedestrian traffic over and through the facilities located in Easement no. 2, by

reason of such facilities being a portion of the Southern Pedestrian Bridge, and Tenant further acknowledges that pursuant to the Master Development Plan and the Development Guidelines, the facilities located in Easement no. 2 shall be subject to public use. Landlord may adjust the areas covered by the aforesaid easements to the extent that Landlord reasonably requires such adjustments, provided that such adjustments do not materially adversely affect Tenant's construction, use or operation of the Premises. Upon substantial completion (which shall mean that temporary or permanent Certificate(s) of Occupancy shall have been issued for the Civic Facilities in question, or, in the case of Civic Facilities of the type for which Certificates of Occupancy are not issued, that such Civic Facilities shall have been completed to the extent that they may be put into service for their intended use) of the Civic Facilities area designated as Easement no. 2 on the Easement Plan (x) Landlord shall furnish Tenant with "as-built" surveys respectively designating the metes and bounds and elevations (which shall refer to the New York City Datum Plane) of such Civic Facilities, and (y) Landlord's reserved rights under clause (i) of this Section 26.01(d) shall be limited to the areas actually occupied by such Civic Facilities as shown on the "as-built" surveys therefor. Landlord agrees that any work it performs in accordance with the rights granted to it under this Section 26.01(d) on, over, under or through the Premises shall be performed with reasonable diligence, subject to Landlord's Unavoidable Delays, in a good and workmanlike manner and so as not to unreasonably interfere with Tenant's and Subtenants'

use and occupancy of the Premises. If Landlord, while exercising any of its rights under this Section 26.01(d), causes injury or damage to the Premises, Landlord, at its sole cost and expense, shall repair such injury or damage so that the injured or damaged portion of the Premises shall be restored as nearly as practicable to the condition it was in immediately prior to such injury or damage. Landlord shall indemnify and hold Tenant harmless from and against any loss, cost, damage or expense (including, without limitation, reasonable engineers' architects' and attorneys' fees and disbursements) incurred by Tenant by reason of any injury or damage to any Person or property occurring in, on or about the Premises by reason of the exercise by Landlord of any of its rights under this Section 26.01(d). The obligations of Landlord set forth in the foregoing two sentences shall terminate and be of no force or effect with respect to any easement reserved by Landlord pursuant to this Section 26.01(d) from and after the date that the Civic Facilities located in such easement are dedicated to New York City, provided that such termination shall not relieve Landlord of any obligations first arising or accruing prior to such date.

(e) Tenant acknowledges that Landlord has obtained such easements, licenses and authorizations as may be necessary to permit the easterly terminal (including, without limitation, the entrances, doors, revolving doors and enclosures therefor,

supports, heating, ventilating and air conditioning systems thereof, and the steps, ramps, escalators and elevators leading thereto) of, respectively, the Southern Pedestrian Bridge and the Northern Pedestrian Bridge to be constructed, installed, owned, operated, maintained, repaired, Restored, controlled and used in compliance with Landlord's obligations under Section 26.01(a). Tenant acknowledges that all such necessary authorizations have been granted with respect to the easterly terminal of the Northern Pedestrian Bridge pursuant to the Port Authority Easement Agreement, and with respect to the easterly terminal of the Southern Pedestrian Bridge pursuant to the Street Mapping Agreement.

Section 26.02.

(a) Except as otherwise provided in this Lease, Landlord, at its sole cost and expense, shall (i) operate the Civic Facilities or cause the same to be operated; (ii) put, keep and maintain the Civic Facilities in good and safe order and working condition; and (iii) make all repairs thereto, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, necessary to keep same in good and safe order and working condition, howsoever the necessity or desirability therefor may occur, and whether or not necessitated by wear and tear, obsolescence or defects, latent or otherwise. All repairs made to the Civic Facilities shall be at least equal in utility and class to the original work and shall be made in compliance with all applicable Requirements of Governmental Authorities and shall substantially

conform to the Development Guidelines, the Final Drawings and Specifications (as defined in the Civic Facilities Construction Agreement) or any other drawings and specifications approved by Landlord pursuant to which the Civic Facilities were initially constructed or thereafter repaired. Landlord also shall keep free from dirt, snow, ice, rubbish, obstructions and encumbrances, those portions of the Civic Facilities consisting of streets, sidewalks, grounds, plazas, esplanades, promenades, the Pedestrian Bridges, gutters, alleys and curbs, and shall clean the same as necessary. Landlord also shall obtain and maintain in force all required permits, consents, certificates and approvals for the operation, maintenance and repair of the Civic Facilities.

(b) Except as otherwise provided in this Lease, Landlord, at its sole cost and expense, from and after the date a portion of the Civic Facilities is put into use for its intended purpose, shall:

> (i) keep same insured under an "All Risk of Physical Loss" form of policy, also providing coverage for loss or damage by water, flood, subsidence and earthquake, with such limits as are reasonably determined by Landlord, and excluding from such coverage normal settling only, and including war risks when and to the extent obtainable from the United States government or an agency thereof; such insurance to be in the amount set forth in the "agreed amount clause" endorsement to the policy in question, which endorsement shall be attached to the policy, provided that such amount shall be sufficient to prevent Landlord from becoming a coinsurer under the provisions of applicable policies of insurance; and in the absence of such "agreed amount clause" endorsement, such insurance shall be in an amount not less than ninety percent (90%) of the actual replacement value of the insured Civic Facilities, such replacement value to be determined from time to time, but not less frequently than annually, and approved by the insurers;

(ii) provide and keep in force general comprehensive public liability insurance against liability for bodily injury and death and property damage, it being agreed that such insurance shall be in an amount as may from time to time be reasonably determined by Landlord, but not less than $100,000,000 combined single limit for bodily injury, death and property damage, that such insurance shall contain blanket contractual coverage and shall also provide the following protection:

(1) completed operations;

(2) personal injury protection (exclusions a and c of current forms deleted);

(3) sprinkler leakage - water damage legal liability with respect to the Pedestrian Bridges;

(4) fire legal liability, if not otherwise covered under comprehensive form of public liability insurance; and

(5) employees as additional insured coverage;

(iii) provide and keep in force workers' compensation providing statutory New York State benefits for all Persons employed by Landlord in connection with the operation, maintenance and repair of the Civic Facilities; and

(iv) provide and keep in force automobile liability and property damage insurance for all owned, non-owned and hired vehicles insuring against liability for bodily injury and death and for property damage in an amount reasonably determined by Landlord, but not less than $5,000,000 combined single limit, such insurance to contain the so-called "occurrence clause."

Any loss paid under any property insurance policy carried by Landlord under Section 26.02(b) or (c) hereof shall be payable to Landlord and Landlord shall hold the insurance proceeds received by it with respect to such loss in trust for the sole purpose of paying the cost of repairing or restoring the Civic

Facilities so damaged or destroyed, and Landlord shall apply such proceeds first to the payment in full of the cost of such repair or Restoration before using any part of the same for any other purpose. Anything contained herein to the contrary notwithstanding, in no event shall Landlord's liability hereunder as trustee exceed the amount of the proceeds received by Landlord, as reduced by the portion thereof applied to the repair or Restoration. Upon completion of the repair or Restoration, Landlord may pay over to itself the unapplied proceeds and the trust obligations hereunder with respect to such proceeds shall terminate. The insurance required by Section 26.02(b) or (c) hereof, at the option of Landlord, may be effected by blanket and/or umbrella policies issued to Landlord covering the Civic Facilities and other properties owned or leased by Landlord, provided that the policies otherwise comply with the provisions of Sections 26.02(b) and (c) hereof. Tenant shall be named as an additional insured under the comprehensive public liability insurance policies required under this Section 26.02(b) and Section 26.02(c), provided that no additional premium is required to be paid therefor, unless Tenant shall pay such additional premium.

(c) During the period that the Civic Facilities are being constructed and at any time that the Civic Facilities are undergoing repairs (if the cost of such repairs is in excess of $200,000, as such amount shall be increased as provided in Section 7.02(a), except that $200,000 shall be substituted for $1,000,000 everywhere $1,000,000 appears therein), Landlord, except as otherwise provided in this Lease, 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, until the construction or repair, as the case may be, is substantially completed, the following:

(i) comprehensive general liability insurance, such insurance to insure 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 in an amount not less than $50,000,000, combined single limit, such insurance to include operations-premises liability, contractor's protective liability on the operations of all subcontractors, completed operations, broad form contractual liability (designating the indemnity provisions of construction agreements if such coverage is provided by a contractor), 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 and property damage insurance for all owned, non-owned and hired vehicles insuring against liability for bodily injury and death and for property damage in an amount reasonably determined by Landlord, but not less than $5,000,000 combined single limit, such insurance to contain the so-called "occurrence clause";

(iii) workers' compensation providing statutory New York State benefits for all Persons employed by

Landlord in connection with the operation, maintenance and repair of the Civic Facilities; and

(iv) builder's all-risk insurance written on a completed value basis with limits as provided in Section 26.02(b)(i).

(d) If New York City or any agency or department thereof shall become Landlord under this Lease, as long as any such entity shall remain Landlord hereunder and elects to self-insure against risks relating to the Civic Facilities, Landlord shall not be required to carry any of the insurance required under Section 26.02(b) or (c).

(e) Olympia & York Battery Park Company and Landlord have entered into an agreement dated as of September 1, 1981 and amended by such parties as of the date hereof (the "Civic Facilities Maintenance Agreement") pursuant to which Olympia & York Battery Park Company, as contractor, is undertaking to perform Landlord's obligations under Section 26.02(a) and, at Landlord's option, Sections 26.02(b) and (c) in accordance with the terms of such Agreement. Except as otherwise provided in Section 26.08 hereof or in the Civic Facilities Maintenance Agreement or except if Landlord shall be in default under the Civic Facilities Maintenance Agreement so as to relieve Olympia & York Battery Park Company or its successors and assigns of any further obligations thereunder, as long as Olympia & York Battery Park Company or any successor or assignee is responsible for operating, maintaining and repairing the Civic Facilities pursuant to the Civic Facilities Maintenance Agreement, as same may be amended or supplemented

from time to time, Tenant shall have no claim against Landlord, and Landlord shall have no responsibility, for the operation, maintenance or repair of the Civic Facilities.

Section 26.03. Landlord agrees that during the Term it will not cause or permit landfill to be placed in the North Cove or, except as hereinafter provided, construct any permanent structure therein. Landlord, however, may permit the North Cove to be used for any recreational or entertainment purposes which are permitted in waterfront areas in New York City, including, without limitation, marinas and floating restaurants, and Landlord may construct or permit to be constructed in the North Cove all such improvements as may be necessary or desirable to implement the foregoing permitted uses, including, without limitation, docks, pilings, and moorings. Landlord agrees to submit to Tenant for Tenant's review and comment Landlord's proposals for the use to be made of, and improvements to be placed in, the North Cove.

Section 26.04. Landlord agrees that prior to December 31, 1987 it will not dedicate for public use those portions of the Civic Facilities consisting of the Pedestrian Bridges, the plaza or esplanade. Thereafter, subject to the rights of the tenants under the Severance Leases pursuant to Section 6.03(f) and Article 17 of the Project Operating Agreement to prevent such dedication, Landlord may dedicate such Civic Facilities, or any portion thereof, to New York City. If (a) pursuant to Sections 6.03(f) and 17.01 of the Project

Operating Agreement, the Management Committee, or (b) pursuant to Section 17.02 of the Project Operating Agreement, a tenant under a Severance Lease, assumes Landlord's obligations as aforesaid with respect to such Civic Facilities or any portion thereof, Landlord shall no longer be required under this Lease to operate, maintain, repair or Restore such Civic Facilities or portion thereof, and Sections 26.02(a), (b) and (c), 26.05, 26.06 and 26.08 of this Lease thereupon shall become inapplicable to such Civic Facilities or portion thereof. If (i) the Management Committee makes the election referred to in clause (a) hereof, Tenant shall jointly and severally with the tenants under the Severance Leases for Parcels B, C and D, or (ii) Tenant makes the election referred to in clause (b) hereof, Tenant itself shall operate, maintain, repair and Restore such Civic Facilities or portion thereof until the dedication thereof.

Section 26.05. If all or any part of the Civic Facilities shall be destroyed or damaged in whole or in part by fire or other casualty of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, Landlord, at its sole cost and expense, whether or not such damage or destruction shall have been insured or insurable, and whether or not insurance proceeds, if any, shall be sufficient for the purpose, shall Restore or cause to be Restored with reasonable diligence (subject to Landlord's Unavoidable Delays) such Civic

Facilities as nearly as practicable to the character and utility existing immediately prior to such occurrence, and otherwise in substantial conformity with the final plans and specifications approved by Landlord pursuant to which the Civic Facilities were initially constructed or thereafter repaired or Restored, or the Development Guidelines.

Section 26.06.

(a) If at any time during the Term there shall be a taking by any lawful power or authority through the exercise of the right of condemnation or eminent domain of the whole or a part of the Civic Facilities or there shall be an agreement in lieu of a taking between Landlord and those authorized to exercise such right, Landlord shall receive the award attributable to the Civic Facilities so taken, as provided in Article 9, and Landlord, at Landlord's sole cost and expense, whether or not the award or awards, if any, payable to Landlord are sufficient for the purpose, shall proceed with reasonable diligence (subject to Landlord's Unavoidable Delays) to Restore to the extent practicable any remaining portion of the Civic Facilities not so taken to a complete, self-contained unit, and otherwise in substantial conformity with the final plans and specifications approved by Landlord pursuant to which the Civic Facilities were initially constructed or thereafter repaired or Restored, or the Development Guidelines. Landlord shall hold the award or awards received by it with respect to such taking in trust for the sole purpose of paying

the cost of Restoring the remaining portion of the Civic Facilities not so taken, and Landlord shall apply such award or awards first to the payment in full of the cost of such Restoration before using any part of the same for any other purpose. Anything contained herein to the contrary notwithstanding, in no event shall Landlord's liability hereunder as trustee exceed the amount of the award or awards received by Landlord, as reduced by the portion thereof applied to the Restoration. Upon completion of the Restoration, Landlord may pay over to itself the unapplied award or awards and the trust obligations hereunder with respect to such award or awards shall terminate.

(b) Except as otherwise provided in Section 28.02(d) (excluding the last sentence thereof), Landlord agrees not to consent to any taking or enter into any agreement in lieu of a taking with respect to the Civic Facilities with any entity, other than the federal government or any agency or department thereof, if such consent or agreement would result in a taking of (i) the Pedestrian Bridges, (ii) any of the utilities servicing the Premises to the extent that such taking would materially adversely affect Tenant's use of the Premises, or (iii) any street access to and from the Premises to the extent that such taking would materially adversely affect Tenant's access to or use of the Premises, unless, in all events, Tenant, at no cost or expense to it, is provided with alternate bridge access, utility service or street access substantially equivalent to that so taken.

Section 26.07. Anything contained in this Article 26 to the contrary notwithstanding, if Landlord shall terminate the Civic Facilities Construction Agreement by reason of a default of Olympia & York Battery Park Company or any successor or assignee of Olympia & York Battery Park Company thereunder, Landlord shall design and construct or cause to be designed and constructed such portion of the Civic Facilities as Landlord reasonably can design and construct or cause to be designed and constructed for the aggregate of (a) Forty-five Million Dollars ($45,000,000), and (b) the proceeds of any security deposited by Olympia & York Battery Park Company or any successor or assignee of Olympia & York Battery Park Company under the Civic Facilities Construction Agreement to secure its obligations thereunder to the extent that such security is then on deposit under said Agreement, less all payments theretofore made by Landlord under the Civic Facilities Construction Agreement and all reasonable costs and expenses (including, without limitation, attorneys' fees and disbursements) incurred by Landlord in connection with such default (the "Unexpended Contract Sum"), provided that the amount referred to in clause (b) above shall not be included in the calculation of the Unexpended Contract Sum if and for so long as such amount is unavailable to Landlord by reason of an order of a court of competent jurisdiction or the refusal of the bank or other entity holding the same to release it to Landlord. Landlord, at its option, may redesign

all or any portion of the Civic Facilities if Landlord, in its reasonable judgment, determines that such redesign would enable Landlord to construct a greater portion of the Civic Facilities than it would be able to construct for the Unexpended Contract Sum if the Civic Facilities were constructed substantially in accordance with the Civic Facilities Drawings and Specifications, provided that the Civic Facilities shall be constructed in substantial conformity with the Development Guidelines. Landlord shall be entitled to a reasonable period of time after termination of the Civic Facilities Construction Agreement as aforesaid to make the necessary determinations as to how it will proceed with construction of the Civic Facilities, to perform or cause to be performed redesign work, if any, prepare design and construction contracts, prepare bid documents and let contracts for the work. Landlord shall construct the Civic Facilities, or cause the same to be constructed with reasonable diligence, subject to Landlord's Unavoidable Delays, it being expressly agreed that Landlord shall not be required to perform such construction in accordance with the Civic Facilities Development Schedule. If Landlord fails to perform its obligations under this Section 26.07, Tenant, together with the tenants under the other Severance Leases, acting jointly through the Management Committee, shall have the right of self-help provided in Sections 6.03(g) and 17.03 of the Project Operating Agreement.

Section 26.08. Anything contained in this Article 26 to the contrary notwithstanding, if the Civic Facilities Maintenance Agreement shall terminate or expire, Landlord shall operate, maintain and repair, or cause to be operated, maintained and repaired, the Civic Facilities in accordance with Section 26.02 hereof. Landlord shall be entitled to a reasonable period of time after termination of the Civic Facilities Maintenance Agreement to prepare the necessary contract and bid documents and to let contracts for the work. If Landlord fails to comply with its obligations under Section 26.02 and this Section 26.08, Tenant, together with the tenants under the other Severance Leases, acting jointly through the Management Committee, shall have the right of self-help provided in Sections 6.03(g) and 17.03 of the Project Operating Agreement. Landlord agrees that if the Civic Facilities Maintenance Agreement shall have been terminated or expired, other than by reason of a default by Olympia & York Battery Park Company or its successors or assigns thereunder, Tenant, provided that Tenant at the time in question is Olympia & York Battery Park Company or any of its Affiliates; shall be notified of and may (but shall not be obligated to) participate in the bidding process conducted by Landlord for the selection of a contractor for the operation, maintenance and repair of the Civic Facilities.

Section 26.09.

(a) With respect to those portions of the Civic Facilities which shall not have been dedicated to New York

City for public use, Landlord (excluding New York City) shall establish a system for issuing permits for Special Events similar to the system used by the New York City Department of Parks for issuing permits for events involving public assembly, and Landlord (excluding New York City) shall make reasonable efforts to enforce its system. Landlord agrees that its determination of whether to issue a permit for a Special Event shall be based upon consideration of (i) State and Federal constitutional requirements, (ii) the standards usually followed by the New York City Department of Parks in connection with its issuance of permits for events involving public assembly, and (iii) Tenant's and Subtenants' quiet enjoyment of the Premises, provided, however, that Landlord shall not be required to take into consideration Tenant's or Subtenants' quiet enjoyment other than in connection with Special Events taking place on Business Days between the hours of 8:00 A.M. and 6:00 P.M.

(b) Tenant acknowledges that (i) Landlord has granted to the tenant under the Severance Lease for Parcel B and the tenant under the Severance Lease for Parcel C, pursuant to and for the purpose set forth in Section 26.09 of their respective Severance Leases, the right to patrol, or cause to be patrolled, the Northern Pedestrian Bridge, until the earlier of the date that the same is dedicated to New York City or becomes an Elected Civic Facility (as such term is defined in the Project Operating Agreement) pursuant to Article 17 of the

Project Operating Agreement, and (ii) Landlord has agreed in the Project Operating Agreement that after the date the Southern Pedestrian Bridge or the Northern Pedestrian Bridge becomes an Elected Civic Facility, the tenants under the Severance Leases, acting jointly through the Management Committee, if the Pedestrian Bridge in question is elected pursuant to Section 17.01 of such Agreement, or the electing tenant (which may be Tenant) if the Pedestrian Bridge in question is elected pursuant to Section 17.02 of such Agreement, shall have the right to patrol, or cause to be patrolled, the Pedestrian Bridge in question. Tenant shall look only to such tenants for any damages which Tenant may suffer due to the activities and actions of such tenants in patrolling such Pedestrian Bridges, or the consequences thereof, Landlord shall not be responsible for such activities and actions, and Tenant hereby releases Landlord from liability with respect thereto.

(c) Notwithstanding anything to the contrary in Section 26.09(b), until the earlier of the date that the Southern Pedestrian Bridge is dedicated to New York City or becomes an Elected Civic Facility (as such term is defined in the Project Operating Agreement), Tenant may, but shall not be obligated to, patrol the Southern Pedestrian Bridge, or cause the same to be patrolled, for the purpose of deterring or preventing the use thereof for any purpose other than ingress and egress to, from and across Battery Park City. In

connection with its rights under this Section 26.09(c), Tenant may place, operate and maintain a closed circuit television system on the Southern Pedestrian Bridge, provided that, at Landlord's request in connection with a dedication of the Southern Pedestrian Bridge, Tenant shall remove such television system and repair any damage caused thereby if such removal or repair is a condition of acceptance by New York City of the Southern Pedestrian Bridge for dedication. The personnel employed by Tenant for the purpose of patrolling the Southern Pedestrian Bridge shall be unarmed and not accompanied by dogs or other animals. Such personnel, and if such personnel shall be from an agency, such agency, shall be subject to the prior approval of Landlord, which approval shall not be unreasonably withheld or delayed. In addition to any other obligations hereunder, at law or in equity, Tenant shall indemnify Landlord and hold Landlord harmless from and against, any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses (including, without limitation, reasonable attorneys' fees and disbursements) which may be imposed upon or incurred by or asserted against Landlord by reason of any act or failure to act, or any accident, injury (including death at any time resulting therefrom), damage or other liability to any Person or property, arising out of or in connection with Tenant's exercise of its rights under this Section 26.09(c). Notwithstanding anything to the contrary contained in this Lease or other-

wise, the tenants under the Severance Leases for, respectively, Parcel B, Parcel C and Parcel D shall be third-party beneficiaries of Tenant's agreement contained in the foregoing provisions of this Section 26.09(c) with respect to the manner of patrolling the Southern Pedestrian Bridge by Tenant until the earlier of the date (i) the same is dedicated to New York City, (ii) the date the same becomes an Elected Civic Facility pursuant to Article 17 of the Project Operating Agreement, or (iii) this Lease is terminated, provided that such third-party beneficiary rights of the tenants of Parcels B, C and D shall be enforceable only against Tenant and not against Landlord, and Tenant acknowledges that pursuant to Section 26.09(c) of the Severance Lease for Parcel B or Parcel C, as the case may be, Tenant has been made a third-party beneficiary of the provisions of Section 26.09(c) of the Severance Lease for (x) Parcel B with respect to the manner of patrolling the Northern Pedestrian Bridge by the tenant of Parcel B, and (y) Parcel C with respect to the manner of patrolling the Northern Pedestrian Bridge by the tenant of Parcel C, until the date of the dedication of the Northern Pedestrian Bridge to New York City or the date the same becomes an Elected Civic Facility pursuant to Article 17 of the Project Operating Agreement or the date the Severance Lease for Parcel B or the Severance Lease for Parcel C, as the case may be, terminates.

Section 26.10. A default by Olympia & York Battery Park Company under the Civic Facilities Construction Agreement

or by Olympia & York Battery Park Company under the Civic Facilities Maintenance Agreement shall not be, or be deemed to be, a default by Tenant under this Lease, nor shall it affect Tenant's rights and remedies under this Lease, except as otherwise expressly provided herein.

ARTICLE 27

PORT AUTHORITY EASEMENT AGREEMENT

Section 27.01. Tenant acknowledges that its leasehold estate and its rights under this Lease are subject to the terms of the Port Authority Easement Agreement and the rights granted the Port Authority and its designees thereunder, pursuant to which Agreement Tenant has been designated as a third party beneficiary of the rights of Landlord thereunder. Tenant hereby covenants and agrees that, to the extent it seeks to benefit from any rights provided for under or arising out of the Port Authority Easement Agreement, including but not limited to the right to receive any sums provided for thereunder, it shall enforce its right as third party beneficiary under such Agreement and shall not look to Landlord to obtain, or cause to be obtained, any such benefits for Tenant.

Section 27.02. Tenant further covenants and agrees that it shall comply with all of the terms, covenants and conditions pertaining or relevant to the construction at and use, ownership, operation and maintenance of the Premises, contained in the Port Authority Easement Agreement which are required thereunder to be observed or performed by Landlord or by the

Developer (as defined in said Agreement), including, without limitation, the Developer's obligations to bear all costs and execute all documents as are required to be borne or executed, as the case may be, by such Developer and obtain any and all approvals as may be required pursuant to said Agreement, in connection with the construction at or use, ownership, operation or maintenance of the Premises. In furtherance, and not in limitation, of the foregoing, Tenant acknowledges that (i) to the extent it connects the storm and/or HVAC discharge water drains as provided in Paragraph 9 of said Agreement, Tenant shall bear the costs and expenses in connection therewith and such other costs and expenses provided for under said Paragraph 9 other than those to be borne by the Port Authority, (ii) Tenant shall pay to Landlord the costs and expenses of the Port Authority provided for under Paragraph 10(b) of said Agreement which relate to documents or work of, meetings with, or access or information furnished to, Tenant in connection with work performed or desired to be performed by Tenant pursuant to this Lease, the Civic Facilities Construction Agreement, the Civic Facilities Maintenance Agreement or any easement agreements provided for under this Lease, and (iii) Tenant shall bear the costs and expenses provided for under Paragraph 14(u) of said Agreement arising out of any of Tenant's activities as described therein. Landlord shall cooperate with Tenant in Tenant's dealings with the Port Authority and PATH and, to the extent necessary, shall submit to the Port Authority or PATH on Tenant's be-

half Tenant's plans and specifications and other documents required to be so submitted, all at no cost or expense to Landlord. Landlord also shall furnish Tenant with copies of any notices given or plans and specifications submitted by the Port Authority or PATH to Landlord relating to the Civic Facilities. Tenant shall do all things requested by Landlord if Landlord shall have agreed under the Port Authority Easement Agreement to do or cause the Developer to do same, provided that same are applicable to Tenant's construction at or use, ownership, operation or maintenance of the Premises. Further, Tenant agrees to cooperate with all of the parties to the Port Authority Easement Agreement in the carrying out of the terms, provisions and agreements thereunder, such cooperation to include, but not be limited to, reviewing for approval plans and specifications submitted by the Port Authority or PATH to Tenant, meeting and participating in discussions with the parties to the Port Authority Easement Agreement, and executing all documents required to be executed by Tenant as the Developer thereunder. If under the terms of the Port Authority Easement Agreement the consent or approval of Tenant as the Developer is required and it is provided that such consent or approval is not to be unreasonably withheld or delayed or is subject to any other specified standard, Tenant shall not unreasonably withhold or delay its consent or approval, or shall comply with such other standard specified in the Port Authority Easement Agreement, as the case may be. Tenant hereby agrees that it will not take, or cause to be

taken, any action, or do or fail to do, or cause to be done or not done, anything which is either an obligation of the Developer under the Port Authority Easement Agreement or relates to the use, ownership, operation or maintenance of the Premises, which may cause Landlord to be in default under the Port Authority Easement Agreement. Tenant agrees to execute and deliver, at any time and from time to time, upon the request of Landlord or the Port Authority, any further instrument which may be necessary or appropriate to evidence Tenant's subordination to the rights of the Port Authority or its designees under the Port Authority Easement Agreement.

Section 27.03. Except as specifically provided in the Port Authority Easement Agreement, Landlord shall not change or modify, or cause or permit to be changed or modified, the Port Authority Easement Agreement in any manner which will materially increase Tenant's obligations under said Agreement, unless such change or modification is consented to by Tenant or is contemplated by said Agreement. Landlord shall designate the address of Tenant set forth in Section 25.01(a) hereof, as same may be changed from time to time, as an additional address to which notices given to Landlord under the Port Authority Easement Agreement also are to be delivered.

ARTICLE 28

STREET WIDENING

Section 28.01. Except as otherwise provided in Section 28.02, if at any time during the Term any proceedings

are instituted or orders made by any 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 any part thereof, or the curbs and sidewalks adjacent thereto, Tenant, at Tenant's sole cost and expense, promptly shall comply with such requirements, and on Tenant's failure to do so, Landlord may comply with the same, and the amount expended therefor, and any interest, fines, penalties, reasonable engineers', architects' and attorneys' fees or other expenses incurred by Landlord in effecting such compliance or by reason of the failure of Tenant so to comply, shall be deemed to be Rental and shall be payable by Tenant on demand. Tenant shall be permitted to contest in good faith any proceeding or order for such 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 and/or civil 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. Except as otherwise provided in Section 28.02, any taking by a Governmental Authority for a street widening or

enlargement shall be deemed a partial condemnation and be subject to the provisions of Sections 9.03, 9.08 and 26.06 hereof.

Section 28.02.

(a) Landlord and Tenant acknowledge that the proposed construction of Westway may necessitate the accommodation of a Westway vent duct, a portion of the Westway roadway and sidewalk, and a cutoff wall in subgrade portions of the eastern perimeter of the Land within areas on which the Buildings are to be constructed by Tenant as shown on the Site Plans. Battery Park City Authority, Olympia & York Battery Park Company and the Westway Commission have agreed to the design scope and criteria for the construction of certain subgrade portions of the Buildings so that the Buildings, if designed and constructed in accordance therewith, will accommodate and not unreasonably interfere with the construction, operation and maintenance of the vent duct, such portion of the roadway and sidewalk, and such cutoff wall. Such design scope and criteria are indicated in drawings numbered SK-BPC-1, 2 and 3 and SK-BPC-X 1, 2, 3 and 4 prepared by the State of New York, Department of Transportation and dated August 21, 1981, and revised to October 23, 1981. Tenant has prepared plans and specifications for those portions of the Buildings which interface with the cutoff wall, vent duct, roadway and sidewalk (the "Westway Interface Plans"), which Westway Interface Plans are consistent with such drawings, have been approved by Landlord and the Westway Commission, and are more

particularly described in Exhibit "B" to the Westway Agreement. Anything contained in Article 11 to the contrary notwithstanding, the Buildings shall be built substantially in accordance with the Westway Interface Plans, provided, however, that to the extent the Buildings are not constructed strictly in accordance with the Westway Interface Plans, the Buildings shall not adversely affect the construction, operation or maintenance of the vent duct, such portion of the roadway and sidewalk, and such cutoff wall.

(b) Landlord and Tenant acknowledge that, in connection with the matters referred to in Section 28.02(a), Landlord has entered into an agreement dated as of December 8, 1981, among the Westway Commission, Landlord and BPC Development Corporation, as amended by said parties by an amendment dated September 9, 1982 and an amendment of even date herewith between the Westway Commission and Landlord (collectively, the "Westway Agreement") consistent with (i) the letter, dated August 10, 1981, from Michael J. Cuddy to Landlord and Olympia & York Properties, (ii) the letter from William C. Hennessy to Richard A. Kahan, countersigned by Richard A. Kahan on October 26, 1981, and (iii) this Section 28.02, and otherwise containing terms and conditions reasonably satisfactory to Olympia & York Battery Park Company, and that Olympia & York Battery Park Company has been made a third party beneficiary under the Westway Agreement so that it may enforce the rights of Landlord thereunder.

(c) Olympia & York Battery Park Company represents that it has entered into a contract with O&Y Battery Construction Corp. (the "Subsidiary"), in accordance with and pursuant to Section 28.02(d) of the Master Sublease, to act as construction manager with respect to the construction of the cutoff wall referred to in Section 28.02(a), except within those areas of the Premises, if any, which are over the relieving platforms for the railroad tubes owned by PATH (the cutoff wall exclusive of such excluded portions being hereinafter called the "Westway Wall"), and to supervise all of the contractors in the performance of such work, and that such contract with the Subsidiary is in full force and effect. Landlord and Tenant acknowledge that the Subsidiary has caused the completion of the construction of the Westway Wall pursuant to the plans and specifications for the Westway Wall provided by the Westway Commission and referred to in Exhibit A to the Westway Agreement. Tenant shall have no liability for any breach or default by the Subsidiary or any contractor which participated in the construction of the Westway Wall and shall have no obligation to correct any defects in workmanship or materials in the Westway Wall (latent or otherwise) or to pay any damages resulting therefrom, it being agreed that the Westway Commission and Landlord shall (1) look only to the contractors and the Subsidiary for the performance of such work, the correction of such defects and the payment of any damages resulting therefrom, and (2) be responsible for the correction of any errors or omissions in the plans and specifi-

cations for the Westway Wall referred to in this Section 28.02(c), provided, however, that nothing contained herein shall relieve Tenant from any liability for a breach or default by Tenant of its obligations under this Section 28.02.

(d) At the request of Landlord made at any time during the Term, Tenant shall surrender to Landlord so much of the subgrade portion of the eastern perimeter of the Land as may be required by the Westway Commission for the construction, operation and maintenance of Westway (including the Westway Wall). Such surrender shall be made pursuant to an amendment to this Lease in recordable form and otherwise reasonably satisfactory to the parties. Such amendment shall exclude from such surrender those portions of the Land which are occupied by the Buildings or which will be occupied by the Buildings upon completion of construction thereof in accordance with the Westway Interface Plans, and such amendment shall provide that such surrender shall be subject to Tenant's rights to enter such portions of the Land for the purpose of constructing, maintaining, repairing and Restoring the Buildings and exercising its rights and performing its obligations under the Port Authority Easement Agreement, provided, however, that any such entry shall be upon such terms and at such times as shall be reasonably satisfactory to the Westway Commission. Upon such surrender, Landlord shall grant to the Westway Commission an easement for the construction, operation, repair, restoration and maintenance of Westway and the Westway Wall, subject

to the rights of the Tenant under the amendment referred to above and consistent with the rights and obligations of the parties with respect to the Civic Facilities and the improvements to be constructed by Olympia & York Battery Park Company, its successors and assigns, pursuant to the Easement and Restrictive Covenant Agreement and under the Civic Facilities Construction Agreement, and consistent with the rights and obligations of the parties under the Civic Facilities Maintenance Agreement and the Port Authority Easement Agreement. Such easement shall provide that the Westway Commission may not commence construction of the vent duct or such portion of the roadway or sidewalk within the easement area prior to September 1, 1983. If the said easement is not granted to Westway and there shall be a taking by the Westway Commission or any other Governmental Authority of any subgrade space to accommodate Westway, such taking shall be deemed a partial condemnation and, to the extent applicable, be governed by the provisions of Sections 9.03, 9.08 and 26.06 hereof.

(e) Anything contained in this Section 28.02 to the contrary notwithstanding, for all of the purposes of this Lease, no portion of Westway, the Westway vent duct or the cutoff wall, as the same are shown on or contemplated by the Westway Interface Plans, shall be deemed part of the Premises, except that any portions of the Buildings which are located on the Land and are in or a part of any portion of Westway, the Westway vent duct or the cutoff wall shall be part of the Premises.

(f) Tenant agrees that in the exercise by Tenant of its rights, and the performance by Tenant of its obligations, under Articles 8, 9, 11, 12, 13 and 26 of this Lease and the Easement and Restrictive Covenant Agreement, and its rights and obligations, if any, as Contractor under the Civic Facilities Construction Agreement and the Civic Facilities Maintenance Agreement, Tenant shall not unreasonably interfere with the operation, maintenance, Restoration and repair of the cutoff wall, the vent duct or such portion of the roadway and sidewalk within such easement.

(g) Landlord and Tenant agree that the provisions of Section 40.04 of this Lease and the Affirmative Action Program for the Premises, a copy of which is annexed hereto as Exhibit "C", shall not apply to construction of the Westway Wall.

ARTICLE 29

SUBORDINATION

Section 29.01. Landlord's interest in this Lease, as this Lease may be modified, amended or renewed, shall not be subject or subordinate (a) to any mortgage now or hereafter placed upon Tenant's interest in this Lease, or (b) to any other liens or encumbrances hereafter affecting Tenant's interest in this Lease. Tenant's interest in this Lease, as the same may be modified, amended or renewed, shall not be subject or subordinate to any liens or encumbrances hereafter affecting Landlord's interest in (i) the fee title to Battery Park City or any part thereof, (ii) this Lease, (iii) the

Premises, or (iv) the Master Lease, except as otherwise provided in Section 29.02.

Section 29.02. Except as otherwise provided in this Lease, including, without limitation, in Article 26, Section 27.01 and Section 28.02, or in the Option to Purchase, the Easement and Restrictive Covenant Agreement or the Port Authority Easement Agreement, Landlord agrees that (a) it will not make or cause there to be made any mortgage of or other encumbrance against its interest in (i) the fee title to the Premises or any of the other Parcels, (ii) the tenant's leasehold estate under the Master Lease as applicable to the Premises and the other Parcels, (iii) the Civic Facilities, or (iv) this Lease, and (b) it will not sell, convey, assign or otherwise transfer or relinquish its interest in (i) the fee title to the Premises or any of the other Parcels, (ii) the tenant's leasehold estate under the Master Lease as applicable to the Premises and the other Parcels, (iii) the Civic Facilities, or (iv) this Lease, except to (x) UDC or any subsidiary thereof organized under the New York Business Corporation Law, (y) the State of New York or a bureau or department thereof, or (z) a public benefit corporation, agency or authority of the State of New York, provided, however, that Landlord shall not sell, convey, assign or otherwise transfer or relinquish its interest in (i) the fee title to the Premises or any of the other Parcels, (ii) the tenant's leasehold estate under the Master Lease as applicable to the Premises and

the other Parcels, (iii) the Civic Facilities, or (iv) this Lease, to any of the entities described in the foregoing clauses (x), (y) and (z) if as a result thereof Taxes would become payable with respect to the Premises, or sales or compensating use taxes would become payable in connection with the purchase of materials, fixtures and equipment to be incorporated into the Premises (title to which immediately vests in Landlord) in connection with the construction of the Buildings pursuant to Article 11 or the construction work required for the initial occupancy of any portion of the Buildings. Nothing herein contained shall be deemed to prohibit Landlord from selling, conveying, assigning or otherwise transferring or relinquishing its right to receive the Rental payable under this Lease, subject to the rights of offset expressly provided in this Lease, provided that Taxes shall not become payable with respect to the Premises, or sales or compensating use taxes shall not become payable in connection with the purchase of materials, fixtures and equipment to be incorporated into the Premises (title to which immediately vests in Landlord) in connection with construction of the Buildings pursuant to Article 11 or the construction work required for the initial occupancy of any portion of the Buildings. In addition, nothing herein contained shall prohibit Landlord from granting to others rights with respect to the Civic Facilities which are similar to and not inconsistent with the rights granted to Tenant hereunder.

ARTICLE 30

EXCAVATIONS AND SHORING

Section 30.01. Except as otherwise expressly provided in Article 28, if any excavation shall be made or contemplated to be made for construction or other purposes upon property adjacent to the Premises, Tenant shall have the following options:

(a) Tenant shall afford to the Person or Persons causing or authorized to cause such excavation (including Landlord) the right to enter upon the Premises at reasonable times, subject to the reasonable requirements of Tenant as to any portion of the Premises which Tenant is itself occupying, and of any Subtenants as to any portion of the Premises which the Subtenant in question is occupying, for the purpose of doing such work as may be necessary to preserve any of the walls or structures of the Premises from injury or damage and to support the same by proper foundations, and, if so requested by Tenant, such entry and work shall be done in the presence of a representative of Tenant, provided that such representative is available when the entry and work are scheduled to be done, and in all events such work shall be performed with reasonable diligence, subject to Unavoidable Delays, in accordance with and subject to the provisions of Section C26-70.0 of the Administrative Code of New York City, as then in force; or

(b) Tenant shall do or cause to be done all such work, at Tenant's expense, as may be necessary to preserve

any of the walls or structures of the Premises from injury or damage and to support the same by proper foundations, provided, however, that if such work is necessary due to excavation work being or to be undertaken by Landlord on the adjacent property, then the reasonable amounts expended by Tenant to do the aforesaid work may be credited against the next installment(s) of Base Rent, Retail Rent, Other Rent, Percentage Rent, PILOT and Substitute PILOT.

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 (a) there is a continuing default by Landlord in the performance or observance of any covenant, agreement or condition contained in this Lease to be performed or observed by Landlord, or (b) there shall have occurred any event which, with the giving of notice or passage of time or both, would become such a default, and, if so, specifying each such default or occurrence of which Ten-

ant may have knowledge. Such statement shall be binding upon Tenant and may be relied upon by any prospective successor to Landlord's interest in this Lease and by the then fee owner of Battery Park City or any portion thereof, and any prospective successor to such fee owner.

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 there are (a) any continuing Defaults or Events of Default and, if so, specifying each such Default and Event of Default of which the signer may have knowledge, (b) any obligations or liabilities of Tenant incurred under the Master Sublease on or after November 3, 1981 and outstanding and unsatisfied on the day preceding the date hereof, and if so, specifying each such obligation or liability of which the signer may have knowledge and (c) any claims, actions or proceedings pending, against which Landlord is indemnified pursuant to Article 19 of this Lease, and if so, specifying each such claim, action or proceeding of which the signer may have knowledge. Such statement shall be binding upon Landlord

and may be relied upon by any then existing or prospective (i) Mortgagee, Subtenant, assignee or purchaser of all or a portion of Tenant's interest in this Lease, (ii) purchaser of a partnership interest in Tenant (if Tenant is a partnership), (iii) purchaser of all or a portion of the stock of Tenant (if Tenant is a corporation) and (iv) purchaser of all or a portion of the stock of a corporation or the partnership interest in a partnership which is a partner of Tenant (if Tenant is a partnership).

ARTICLE 32

CONSENTS AND APPROVALS

Section 32.01.

(a) 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, and each party hereby expressly covenants and warrants that as to all matters requiring the other party's consent or approval under the terms of this Lease, the party requiring the consent or approval shall secure such consent or approval for each and every happening of the event requiring such consent or approval, and

shall not claim any waiver on the part of the other party of the requirement to secure such consent or approval.

(b) If, pursuant to the terms of this Lease, any consent or approval by Landlord or Tenant is not to be unreasonably withheld or delayed or is subject to a specified standard, 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 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 had 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. If it is so determined that Landlord shall have unreasonably withheld its consent or approval of any plans, specifications or other drawings submitted by Tenant to Landlord under Article 8, 11 or 13 hereof, including, without limitation, the Preliminary Plans and the Final Plans, then, anything herein contained to the contrary notwithstanding,

Tenant may commence an action against Landlord in the Supreme Court of the State of New York in New York County for damages caused by such unreasonable withholding or delay of consent or approval, but Landlord shall not be liable for any damages unless it is determined in such action that Landlord arbitrarily and capriciously withheld such consent or approval. Any liability of Landlord in such action shall be subject to the provisions of Section 43.01.

(c) Any matter or thing which is required under this Lease to be done "satisfactorily" or to the "satisfaction" of a party need only be done "reasonably satisfactorily" or to the "reasonable satisfaction" of that party.

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, good and working condition and good repair, ordinary wear and tear excepted, and, to the extent that Tenant is required under this Lease but, despite reasonable diligence, has been unable to Restore the Premises, damage by fire or other casualty or condemnation or other taking excepted (provided that all insurance and/or condemnation proceeds which have not been applied to such Restoration shall have been paid to Landlord), free and clear

of all lettings, occupancies, liens and encumbrances other than those, if any, existing at the date hereof, created 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, 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 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.

ARTICLE 34

ENTIRE AGREEMENT

This Lease contains all of 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 expressly 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, if and as long as Tenant shall faithfully perform the agreements, terms, covenants and conditions hereof, Tenant and any Person claiming through or under Tenant shall and may (subject, however, to the provisions, 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 or under Landlord and free of any encumbrance created or suffered by Landlord, except those encumbrances created or suffered by Tenant and those matters set forth in Exhibit "B". The foregoing does not, and shall not be deemed to, create or give to any Person claiming through or under Tenant or to any other Person any claim or right of action against Landlord.

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. 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 any court of competent jurisdiction to appoint 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 respon-

sible 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 office 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. If at the time an arbitration takes place pursuant to this Article 36 there is a Subtenant of all or substantially all of the Premises, then at Tenant's option such Subtenant may participate in the arbitration and may offer its own proof, provided that such Subtenant bears the fees and other expenses of its counsel and proof. Furthermore, at Tenant's option, such Subtenant may exercise all of Tenant's rights under this Article 36 with respect to the appointment of arbitrators.

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. In addition to the statements and schedules Tenant is required by Sections 3.04, 3.05 and 10.08 to furnish to Landlord or Escrow Agent, as the case may be, Tenant, from and after the date upon which any portion of the Premises is leased, or rents or other charges are received by Tenant for the use or occupancy thereof, shall furnish to Escrow Agent the following:

(a) commencing upon Substantial Completion of the Buildings, on or before the last day of the month next succeeding the end of each quarterly fiscal period of each Fiscal Year, Tenant shall furnish to Escrow Agent a vacancy report/leasing status report for the Buildings as of the end of each such quarterly period; and

(b) as soon as practicable after the end of each Fiscal Year, and in any event within one hundred twenty (120) days thereafter, Tenant shall furnish to Escrow Agent a financial statement of the 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 C.P.A., which report and opinion shall be prepared in accordance with generally accepted auditing standards relating to reporting, subject to the general exceptions usually taken with respect to such reports and opinions.

Section 38.02. If at any time Tenant shall furnish to any Mortgagee operating statements, financial reports or any other statements or reports with respect to the Premises or the operation or leasing thereof in addition to those required to be furnished by Tenant to Escrow Agent pursuant to Section 38.01, Tenant promptly shall furnish to Escrow Agent copies of all such additional operating statements and financial reports.

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 generally accepted accounting principles consistently applied throughout the periods involved 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 of the Premises. Upon written request by Landlord giving Tenant at least ten (10) days' notice, Tenant shall make said records and books of account available from time to time for inspection by Escrow Agent during reasonable business hours. Nothing contained in this Section 38.03 shall limit the rights granted to Landlord and its representatives under Section 3.06(a) to examine, audit and/or photocopy Tenant's books and records.

Section 38.04. Landlord and Tenant shall cause Escrow Agent to hold the documents received by Escrow Agent in accordance with the terms and provisions of the Escrow Agreement and upon an Event of Default shall cause Escrow Agent to deliver the documents in its possession to Landlord in accordance with the terms and provisions of the Escrow Agreement. Landlord and Tenant shall comply with all of the terms and provisions of the Escrow Agreement on their part to be performed and shall cause Escrow Agent, at no cost or expense to Landlord, to comply with all of the terms and provisions of the Escrow Agreement on the Escrow Agent's part to be performed. If Escrow Agent shall look to Tenant for indemnification pursuant to Tenant's indemnity set forth in the Escrow Agreement, Tenant may look to Landlord for contribution to the same extent as if Landlord and Tenant were joint indemnifiers of Escrow Agent under the Escrow Agreement.

Section 38.05. The obligations of Landlord and Tenant hereunder, subject to the provisions of Sections 43.01 and 43.02, respectively, shall survive the Expiration Date.

ARTICLE 39

RECORDING OF MEMORANDUM

Landlord and Tenant, each upon the written request of the other or any Mortgagee, shall execute, acknowledge and deliver a memorandum of this Lease, and of each modification of this Lease, in proper form for recordation. Either party, at its sole cost and expense, may at any time record this Lease and any amendments hereto.

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, the Buildings (a) it shall not discriminate or 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 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 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 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 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. Notwithstanding the provisions of Article 24, if Tenant fails or refuses to comply with its obligations under Section 40.01 or 40.02, Landlord's sole remedies shall be to apply to a court of competent jurisdiction for such equitable relief as may be available to secure the performance thereof by Tenant or to take such other action as may be provided by law.

Section 40.04. Tenant has reviewed and participated in the development of the Affirmative Action Program for the Premises, a copy of which is annexed hereto as Exhibit "C". 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 obli-

gations under this Section 40.04 or under Exhibit "C", Landlord's sole remedies shall be as provided in Exhibit "C".

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. Tenant agrees to pay any and all charges of Depository and Pledge Agent in connection with any services rendered by Depository or Pledge Agent pursuant to the provisions of this Lease, but the same shall be deemed an Operating Cost for purposes of computing Net Fixed Rent.

Section 41.05. If more than one Person is named as or becomes Landlord or Tenant hereunder, the other party

may require the signatures of all such Persons in connection with any notice to be given or action to be taken by that party hereunder. Each Person constituting Tenant or Landlord (other than a limited partner, if any such Person is a limited partnership) shall be fully liable for all of that party's obligations hereunder, subject to Sections 43.01 and 43.02. Any notice by a party to any Person named as the other party and designated in Section 25.01 (or in any notice given pursuant to that Section) as an addressee of notices shall be sufficient and shall have the same force and effect as though given to all Persons named as such other party.

Section 41.06. If Tenant shall consist of more than one Person, each Person constituting Tenant shall have joint and several liability with respect to Tenant's obligations under this Lease to the extent of Tenant's liability therefor under the terms of this Lease, subject to the provisions of Section 43.02.

Section 41.07. (a) In addition to the rights granted to Tenant under Article 11 and the Easement and Restrictive Covenant Agreement, (i) until the streets, avenues, sidewalks and curbs adjacent to the Parcels and providing access to and from the Premises shall have been dedicated to New York City for public use, Landlord grants to Tenant, its Subtenants, invitees and licensees, a nonexclusive easement and right-of-way for the passage of pedestrian and vehicular traffic over all such completed streets, avenues, sidewalks and curbs, in-

cluding, without limitation, South End Avenue (south of the southerly line of West Thames Street) and portions of Vesey Street and North End Avenue shown on the Easement Plan and more particularly described in Exhibit "A", subject to such reasonable rules and regulations as may from time to time be enacted by Landlord and which are uniformly applicable to all developers of Battery Park City and their subtenants, invitees and licensees, and a nonexclusive easement under the same for structural support; (ii) until each of the following portions of the Civic Facilities, to wit: the esplanade and, as shown on the Easement Plan and more particularly described in Exhibit "A", the plaza and Pedestrian Bridges, as the case may be, shall have been dedicated to New York City for public use, Landlord grants to Tenant, its Subtenants, invitees and licensees, a nonexclusive easement and right-of-way for the passage of pedestrian traffic over such portions of the Civic Facilities and, with respect to the plaza, a nonexclusive easement under tne same for structural support; (iii) until the portion of the Civic Facilities constructed in the areas designated on the Easement Plan as Easement no. 9 and Easement no. 11 and more particularly described in Exhibit "A" shall have been dedicated to New York City for public use, Landlord grants to Tenant, its Subtenants, invitees and licensees, a nonexclusive easement on and over such portions of the Civic Facilities for vehicular and pedestrian traffic; (iv) until the maintenance responsibilities for each of the following portions of the

Civic Facilities, to wit: the electrical, gas and telephone mains and branches, as the case may be, shall have been accepted by the appropriate public utility company, Landlord grants to Tenant, its Subtenants, invitees and licensees, a nonexclusive right to use and connect to such mains and branches, but if the capacity of such mains or branches is insufficient to service the Premises and other portions of Battery Park City, Tenant shall have the superior right (except that such right shall not be superior to, and shall be joint and of equal priority with, such right of each tenant under a Severance Lease) to use and connect to such mains and branches to the extent required for the operation and construction of the Premises and, to the extent reasonably required to accommodate such right, use of such mains and branches to service other portions of Battery Park City (other than the Parcels covered by the other Severance Leases) shall be excluded; and (v) until each of the following portions of the Civic Facilities, to wit: the water mains and branches and sanitary and storm sewers shall have been dedicated to New York City for public use, Landlord grants to Tenant, its Subtenants, invitees and licensees, a nonexclusive right to use and connect to such water mains and branches and sanitary and storm sewers, but if the capacity of such mains, branches or sewers is insufficient to service the Premises and other portions of Battery Park City, Tenant shall have the superior right (except that such right shall not be superior to, and shall be joint and of equal priority

with, such right of each tenant under a Severance Lease) to use and connect to such mains, branches and sewers to the extent required for the operation and construction of the Premises, and, to the extent reasonably required to accommodate such right, use of such mains, branches and sewers to service other portions of Battery Park City (other than the Parcels covered by the other Severance Leases) shall be excluded. The easements and rights granted in clauses (ii) through (v) of this Section 41.07(a) shall be subject to such reasonable rules and regulations as may from time to time be enacted by Landlord, which, with respect to the water mains and branches, shall be no more onerous than the rules and regulations from time to time of New York City with respect to similar facilities, and with respect to the other portions of the Civic Facilities referred to above, shall be no more onerous than the rules and regulations of Landlord with respect to similar facilities elsewhere in Battery Park City. The easements and rights granted in clauses (i) and (ii) shall be subject to the rights, if any, of the Port Authority under the Port Authority Easement Agreement. The easements and rights granted in clauses (i), (ii), (iv) and (v) shall be subject to the rights, if any, of New York City under the Street Mapping Agreement and the Southern Portion Declaration of Easements. Landlord may adjust the areas covered by the aforesaid Easement no. 9 and Easement no. 11 to the extent that Landlord reasonably requires such adjustments, provided that such adjustments do not materially adversely

affect Tenant's construction, use or operation of the Premises. Upon substantial completion (which shall mean that temporary or permanent Certificate(s) of Occupancy shall have been issued for the Civic Facilities in question, or, in the case of Civic Facilities of the type for which Certificates of Occupancy are not issued, that such Civic Facilities shall have been completed to the extent that they may be put into service for their intended use) of the Civic Facilities in the areas of such Easement no. 9 and Easement no. 11, (x) Landlord shall furnish Tenant with "as-built" surveys respectively designating the metes and bounds and elevations (which shall refer to the New York City Datum Plane) of such Civic Facilities, and (y) Tenant's rights under clause (iii) of this Section 41.07(a) shall be limited to the areas actually occupied by such Civic Facilities as shown on the "as-built" surveys therefor.

(b) The easements and rights with respect thereto granted to Tenant by Landlord pursuant to this Lease shall terminate upon the expiration or earlier termination of this Lease, to the extent, if any, that such easements and rights have not been terminated earlier pursuant to the terms of this Lease.

(c) Landlord and Tenant agree that Landlord shall have, and Landlord expressly reserves, an exclusive easement located in the northern face of the Buildings in the area shown in Easement No.3 on the Easement Plan as the southerly terminal of the Liberty Street Bridge (which Easement No.3 is more particularly described in Attachment I to Exhibit "B"), for the construction,

installation, ownership, operation, repair, maintenance, restoration, control and use in such easement area of such terminal, together with nonexclusive easements for (x) support therefor in the northern portion of the Premises and (y) access thereto through the Premises, provided that to the extent such access easement is used for pedestrian ingress to and egress from the Liberty Street Bridge, such easement shall be limited to the public portions of the Premises. Landlord may adjust the area covered by the aforesaid easement to the extent that Landlord reasonably requires such adjustments, provided that such adjustments do not materially adversely affect Tenant's construction, use or operation of the Premises. Upon substantial completion of the facilities in the easement areas in question, (1) Landlord shall furnish Tenant with an "as-built" survey respectively designating the metes and bounds and elevations (which shall refer to the New York City Datum Plane) of such easement area, and (2) Landlord's reserved rights under this Section 41.07(c) shall be limited to the areas actually occupied by such facilities as shown on the "as-built" surveys therefor. Such exclusive easement area shall be used and any work which Landlord performs or causes to be performed in, on, about, or with respect to such exclusive easement area, shall be performed in accordance with the applicable provisions of this Lease. Such work shall also be performed with reasonable diligence, subject to Landlord's Unavoidable Delays, in a good and workmanlike manner and so that such work does not unreasonably interfere with the construction,

development, ownership, operation, maintenance, repair, Restoration, control or use of the Premises. Subject to the provisions of the last sentence of this Section 41.07(c), Landlord shall indemnify and save Tenant harmless from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including, without limitation, reasonable engineers', architects' and attorneys' fees and disbursements, which may be imposed upon or incurred by or asserted against Tenant by reason of (r) a breach by Landlord in the performance of its obligations under this Section 41.07(c) or (s) any of Landlord's activities in, on, about or with respect to such easement area, including, without limitation, the construction, installation, ownership, operation, maintenance, repair, replacement, Restoration, control and use of the Liberty Street Bridge. Tenant acknowledges that Landlord has granted such easement and its rights hereunder with respect to such easement to the tenant under the Severance Lease for Parcel B, and has imposed its obligations hereunder with respect thereto upon such tenant pursuant to the terms of the Severance Lease for Parcel B. Tenant shall be and have the rights of a third-party beneficiary with respect to the performance by such tenant of such obligations under the Severance Lease for Parcel B, Tenant shall look solely to the tenant under the Severance Lease for Parcel B (or to the tenant of any new Severance Lease for Parcel B under which such tenant is granted such easements and rights) for the performance of Landlord's obligations under this Section 41.07(c) with respect

to such easement, and Landlord shall have no liability to Tenant, and Tenant shall make no claim against Landlord, with respect to such obligations, except for claims and liabilities that arise during any period in which a Severance Lease is not in effect for Parcel B.

Section 41.08. 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 41.09. Tenant shall store all refuse from the Premises off the streets in an enclosed area, and in a manner satisfactory to Landlord.

Section 41.10. Tenant promptly shall apply to the appropriate authorities to obtain a separate real estate tax lot designation for the Premises, and shall reapply as and when appropriate if such separate designation has not been obtained, and the tax assessment for such tax lot shall be the basis for calculating PILOT payments under Section 3.02 hereof and Substitute PILOT payable under Section 11.06. If required by such authorities, Landlord shall join, at no cost or expense to it, in any such application. If Tenant shall not have been able to obtain a separate tax lot designation, Landlord and Tenant shall cooperate to obtain for the Premises a separate, undivided tax

assessment for the 1982-83 Tax Year and for each Tax Year thereafter for which a separate tax lot designation was not obtained. If New York City shall fail to determine either divided or undivided separate assessments, the assessed value of the Premises shall be determined in the manner provided in Article XVII of the Master Lease, provided that in making such determination there shall be taken into consideration the equalization rates then applicable to office buildings situated in the Borough of Manhattan. Landlord shall permit Tenant and Tenant's representatives, witnesses and Mortgagees, at Tenant's own cost and expense, to participate in such procedure for making such determination, which participation shall not include selection of Landlord's appraiser.

Section 41.11. Landlord represents and warrants that as of the date of execution of this Lease, the Settlement Agreement, the Memorandum of Understanding and the Option to Purchase have not been amended or supplemented, and Landlord shall not enter into or cause there to be entered into any amendment or supplement thereof which adversely affects Tenant's rights with respect to the Premises or the Civic Facilities, the Western Parcel or the Northern Parcel, unless same is consented to by Tenant or is made subject and subordinate to this Lease.

Section 41.12. Each of the parties represents and warrants to the other that it has not dealt with any broker, other than officers, directors or employees of Tenant and Affiliates of Tenant who are also brokers, in connection

with this lease transaction. Tenant covenants and agrees that if any claim is made by any broker, licensed or otherwise, including, without limitation, any officer, director or employee of Tenant or an Affiliate of Tenant, who shall claim to have acted or dealt with Tenant in connection with this transaction, Tenant will pay the brokerage commission, fee or other compensation to which such broker is entitled.

Section 41.13. 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 41.14. This Lease shall be governed by and construed in accordance with the laws of the State of New York.

Section 41.15. 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 41.16. 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 41.17. All plans, drawings, specifications and models required to be furnished by Tenant to Landlord under this Lease, including, without limitation, the Site Plans, the Preliminary Plans and the Final Plans, and all plans, drawings, specifications or models prepared in connection with any Restora-

tion or Capital Improvement, shall become the sole and absolute property of Landlord upon the Expiration Date or any earlier termination of this Lease, it being agreed by Landlord that, except as otherwise provided in the Project Operating Agreement, Landlord shall use same only in connection with the use, ownership, operation and maintenance of the Premises. 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 41.17 shall survive the Expiration Date.

Section 41.18. All references in this Lease to "licensed professional engineer" or "registered architect" shall mean a professional engineer or architect who is licensed or registered, as the case may be, by the State of New York.

Section 41.19. This Lease shall not be construed to create a partnership or joint venture between the parties, it being the intention of the parties only to create a landlord and tenant relationship.

Section 41.20. If there shall be any conflict or variation between this Lease and any of the other Severance Leases, the provisions of this Lease shall prevail with respect to the Premises.

Section 41.21. All references in this Lease to "levels" shall mean the number of feet above ("+") or below ("-") the elevation datum used by the Topographical Bureau, Borough of Manhattan, which is 2.75 feet above the elevation

datum used by the United States Coast and Geodetic Survey, mean sea level, Sandy Hook, New Jersey.

ARTICLE 42

CROSS-DEFAULT

Section 42.01. Simultaneously herewith the parties have entered into a Severance Lease for each of the other Parcels. Except as otherwise expressly provided in this Article, (a) a Default under any of the other Severance Leases shall be deemed a Default under this Lease, (b) Landlord shall give Tenant and each Mortgagee required to be given notices of Default under this Lease, a true copy of the notice of such Default, if any, required under such Severance Lease, concurrently with the notice given to the tenant under such Severance Lease and (c) an Event of Default with respect to such Severance Lease resulting from such Default shall be deemed an Event of Default under this Lease, giving rise to the remedies described in Article 24, including, without limitation, Landlord's right to terminate this Lease. For the purposes of this Article, the terms "Default" and "Event of Default" when applied to a Severance Lease shall have the same meaning as is provided for those terms under such Severance Lease.

Section 42.02. If an event has occurred which would constitute a Default or an Event of Default under any of the other Severance Leases but under the terms of the Severance Lease in question such event is not deemed to be a Default or an Event of Default because (a) the mortgagee of such Sever-

ance Lease has foreclosed or has taken possession by receiver of the premises demised thereunder and (b) such mortgagee is proceeding to cure such Default or Event of Default, then such event shall nonetheless be deemed an Event of Default under this Lease, giving rise to the remedies described in Article 24, including, without limitation, Landlord's right to terminate this Lease.

Section 42.03. It shall be an Event of Default hereunder if the buildings on two or more Parcels (which may include the Premises) containing at least 2,700,000 Net Rentable Square Feet in the aggregate, shall not be Fully Enclosed on or before December 31, 1987, as such date may be extended by Unavoidable Delays, as defined in the Severance Lease in question. Such Event of Default shall give rise to the remedies described in Article 24, including, without limitation, Landlord's right to terminate this Lease.

Section 42.04. (a) If Tenant shall be a Mortgagee or its designee or nominee, or any of their respective successors to title to the leasehold estate created by this Lease, then provided such Mortgagee or its designee or nominee, or any such successor in title, is not Olympia & York Battery Park Company or an Affiliate of Olympia & York Battery Park Company, the provisions of Sections 42.01, 42.02 and 42.03 (the "Cross-Default Provisions") shall be of no force and effect (but only as long as Olympia & York Battery Park Company or an Affiliate of Olympia & York Battery Park Company is not Tenant)

from and after the earliest date (the "Total Severance Date") that all of the following conditions are concurrently satisfied:

(i) If the Cross-Default Provisions of the Severance Lease for Parcel C have not been rendered of no force or effect pursuant to Section 42.04 thereof, one or more letters of credit in the aggregate sum of Fifty Million Dollars ($50,000,000) remain on deposit with Landlord under this Section 42.04(a)(i) or under the Severance Lease for Parcel C, in addition to any other security deposited or required to be deposited under Article 11 of this Lease or under Article 11 of the Severance Lease for Parcel C, or if the Cross-Default Provisions of the Severance Lease for Parcel C have been rendered of no force or effect pursuant to Section 42.04 thereof, then one or more letters of credit in the aggregate amount of One Hundred Million Dollars ($100,000,000) remain on deposit with Landlord under this Section 42.04(a)(i) and/or Article 42 of the Severance Lease for Parcel C. Such letter (or letters) of credit shall comply with the requirements of Section 42.08. Landlord and Tenant acknowledge that a letter of credit in the amount of Fifty Million Dollars ($50,000,000) and complying with the requirements of Section 42.08 was deposited with Landlord under the Severance Lease for Parcel C simultaneously with the execution thereof and that the tenant thereunder is required to keep such letter of credit on deposit with Landlord and renew the same in accordance with the provisions of Section 42.08 of the Severance Lease for Parcel C.

(ii) A construction loan agreement has been entered into between Tenant and one or more Institutional Lenders and the principal amount thereof which has not then been advanced is in an amount at least equal to the estimated cost of (x) completing the construction of the Buildings, including, without limitation, any work, labor, services, fixtures, materials and equipment required to be performed, rendered or installed by the Sublessor as a condition of the commencement of the term of the Sublease referred to in Section 42.04(a)(xii), (y) completing the Central Plant to the extent required to provide chilled water from the Central Plant to the Premises in accordance with Exhibit F of the Project Operating Agreement, to the extent that the estimated cost therefor has not been included in the construction loan referred to in Section 42.04(a)(vi), and (z) related development expenses, including, without limitation, reasonably estimated fees and disbursements of architects, engineers, accountants and attorneys, mortgage and title insurance premiums, surveys, commitment fees, "points", interest and other charges payable under the loan documents, mortgage taxes and recording fees, brokers' and finders' fees and commissions, and Rental during the construction period, except to the extent, if any, that such related development expenses have been paid prior to the execution and delivery of such construction loan agreement or are paid concurrently therewith, and less the sum of (1) the estimated amount of the rents and additional rents from Subten-

ants during the period of the loan referred to herein and (2) the estimated amount of the recoveries, if any, of such related development expenses from third parties (which recoveries shall in no event include advances made pursuant to any loan agreement or other financing with respect to the Premises). The estimated cost of completing the construction referred to in clause (x) above shall be the amount certified as such by HRH Construction Corp. or any other reputable and experienced general contractor designated by Olympia & York Battery Park Company and approved by Landlord. The estimated cost of the related development expenses referred to in clause (z) above, the estimated amount of the rents and additional rents referred to in clause (1) above, and the estimated amount of the recoveries referred to in clause (2) above, shall each be the amount certified as such by a senior financial officer of Guarantor, provided that if Landlord disagrees with any such amount, such estimated amount shall be determined by arbitration pursuant to Article 36. The form and substance of such construction loan agreement shall be subject to Landlord's approval.

(iii) There is no default by the borrower under the construction loan agreement referred to in Section 42.04(a)(ii) and such agreement shall be in full force and effect and shall not have been amended except for amendments approved by Landlord (which approval Landlord shall not unreasonably withhold provided that such amendments do not reduce the amount which the lender is obligated to lend under such loan

agreement or change any of the conditions precedent to the obligation of the lender to make any advances under such loan agreement), as evidenced by an estoppel certificate from the lender in form and substance reasonably satisfactory to Landlord and dated not more than thirty (30) days before the Total Severance Date.

(iv) One or more advances aggregating at least Fifteen Million Dollars ($15,000,000) have been made pursuant to the construction loan agreement referred to in Section 42.04(a)(ii).

(v) The Construction Contract with respect to the construction of the improvements on Parcel C and certain improvements on Parcels B and D, as the same may have been assigned in accordance with the terms thereof, shall be in full force and effect and shall not have been amended except as provided in Article 15 thereof, and neither the contractor nor the owner thereunder shall be in default thereunder, as evidenced by estoppel certificates from, respectively, such contractor and owner, in form and substance reasonably satisfactory to Landlord and dated not more than thirty (30) days before the Total Severance Date, provided that the provisions of this Section 42.04(a)(v) shall be of no force or effect if American Express Company and one or more of its Affiliates are Tenant and Tenant or the lender referred to in Section 42.04(a)(vi) has agreed in writing to be personally liable for the due performance and observance of all the obligations

of Tenant under this Lease to the extent provided in Section 43.03(b) of the Severance Lease for Parcel C.

(vi) A construction loan agreement has been entered into between the tenant under the Severance Lease for Parcel C and/or the contractor under the Construction Contract and one or more Institutional Lenders and the principal amount thereof which has not then been advanced is in an amount at least equal to (w) the estimated cost of completing the construction of (1) Contractor's Work (as defined in the Construction Contract), (2) the Central Plant (as defined in the Project Operating Agreement), in accordance with the requirements of Sections 8(f)(xi) and (xix) of the Construction Contract, (3) the parking garage and loading docks on Parcel D, to the extent required to provide the parking spaces and loading docks and access thereto referred to in Sections 8(f)(v) and (xii) of the Construction Contract, and (4) the Winter Garden, to the extent required under Section 8(f)(xv) of the Construction Contract, (x) the aggregate amount of all other sums payable by the contractor under the Construction Contract (other than payments required to be made pursuant to Section 4(l) thereof), (y) the estimated cost of related development expenses, including, without limitation, reasonably estimated fees and disbursements of architects, engineers, accountants and attorneys, mortgage and title insurance premiums, surveys, commitment fees, "points", interest and other charges payable under the loan documents, mortgage taxes and

recording fees, and brokers' and finders' fees and commissions, except to the extent, if any, that such related development expenses have been paid prior to the execution and delivery of such construction loan agreement or are paid concurrently therewith, and less the sum of (1) the estimated amount of the net Additional Payments (as such term is defined in the Construction Contract) received during the period of the loan referred to herein and (2) the estimated amount of the recoveries, if any, of such related development expenses from third parties (which recoveries shall in no event include the payment of the Contract Price (as defined in the Construction Contract) by the owner under the Construction Contract or advances made pursuant to any loan agreement or other financing with respect to Parcel C), and (z) the aggregate of payments to be made pursuant to Section 4(1) of the Construction Contract which have not theretofore been paid. The estimated cost of completing the construction referred to in clauses (w) and (x) above shall be the amount certified as such by HRH Construction Corp. or any other reputable and experienced general contractor designated by Olympia & York Battery Park Company and approved by Landlord. The estimated cost of the related development expenses referred to in clause (y) above, the estimated amount of the net Additional Payments referred to in clause (y)(1) above, and the estimated amount of recoveries referred to in clause (y)(2) above shall each be the amount certified as such by a senior financial officer

of Guarantor, provided that if Landlord disagrees with any such amount, such estimated amount shall be determined by arbitration pursuant to Article 36. The amount of the payments referred to in clause (z) above shall be certified by a senior financial officer of the owner under the Construction Contract. The form and substance of such construction loan agreement shall be subject to Landlord's approval.

(vii) There is no default by the borrower under the construction loan agreement referred to in Section 42.04(a)(vi) and such agreement shall be in full force and effect and shall not have been amended except for amendments approved by Landlord (which approval Landlord shall not unreasonably withhold provided that such amendments do not reduce the amount which the lender is obligated to lend under such loan agreement or change any of the conditions precedent to the obligation of the lender to make any advances under such loan agreement), as evidenced by an estoppel certificate from the lender in form and substance reasonably satisfactory to Landlord and dated not more than thirty (30) days before the Total Severance Date.

(viii) One or more advances aggregating at least Fifteen Million Dollars ($15,000,000) have been made pursuant to the construction loan agreement referred to in Section 42.04(a)(vi).

(ix) A permanent loan commitment has been entered into between Tenant and one or more Institutional Lenders, in

an amount at least equal to the principal amount of the loan referred to in Section 42.04(a)(ii), the commitment shall be in full force and effect and shall not have been amended except for amendments approved by Landlord as provided hereinbelow, and to the best of the knowledge of the officer or officers signing the same, Tenant shall not be in default thereunder, as evidenced by an estoppel certificate from the lender in form and substance reasonably satisfactory to Landlord and dated not more than thirty (30) days before the Total Severance Date. The form and substance of such permanent loan commitment shall be subject to Landlord's approval and any amendment thereof shall be subject to Landlord's approval, which approval shall not be unreasonably withheld with respect to amendments thereof, provided that such amendments do not reduce the amount which the lender is obligated to lend under such loan commitment or change any of the conditions precedent to the obligation of the lender to fund the loan.

(x) An agreement has been entered into between the lender or lenders referred to in Section 42.04(a)(ii) and the lender or lenders referred to in Section 42.04(a)(ix), pursuant to which the former shall sell and the latter shall purchase for an agreed price, all of the interest of the seller(s) in the loan documents referred to in Section 42.04(a)(ii) upon Substantial Completion of the Buildings in accordance with the plans therefor or, at the option of the purchaser(s), upon the occurrence of certain earlier events described in

such agreement, provided that such agreement is a condition to the making of any of the advances to be made under the construction loan agreement referred to in Section 42.04(a)(ii). If such agreement is not a condition to the making of any such advances, the provisions of this Section 42.04(a)(x) shall be of no force or effect. The form and substance of any agreement required under this Section 42.04(a)(x) and any amendment thereof shall be subject to Landlord's approval, which approval shall not be unreasonably withheld with respect to amendments, provided that such amendments do not change the obligation, or any of the conditions precedent to the obligation, of the lender referred to in Section 42.04(a)(ix) to purchase the loan documents referred to in Section 42.04(a)(ii) or the obligation, or any of the conditions precedent to the obligation, of the lender referred to in Section 42.04(a)(ii) to sell such loan documents.

(xi) If the agreement referred to in Section 42.04(a)(x) is required under the terms of such Section, there is no default by the parties under such agreement, and such agreement shall be in full force and effect and shall not have been amended except for amendments approved by Landlord as provided in Section 42.04(a)(x), as evidenced by estoppel certificates from, respectively, the seller(s) and the purchaser(s) referred to in that Section, in form and substance reasonably satisfactory to Landlord and dated not more than thirty (30) days before the Total Severance Date, provided that such

estoppel certificate may be from only one of (x) such sellers if it is binding upon all of such sellers and (y) such purchasers if it is binding upon all of such purchasers.

(xii) The lease between Olympia & York Battery Park Company, as landlord, and The Home Insurance Company and City Investing Company, as tenant, dated September 23, 1981, as supplemented by a Leasehold Improvements Agreement dated September 23, 1981 and modified by a letter agreement dated September 23, 1981 and three amendments dated as of December 1, 1981 as to the first such amendment, November 10, 1982 as to the second such amendment, and as of the date hereof as to the third such amendment, shall be in full force and effect and shall not have been amended except for amendments which are binding on Landlord pursuant to the terms of the Non-disturbance, Recognition and Attornment Agreement of even date herewith between Landlord and such tenant, and neither the landlord nor the tenant shall be in default thereunder, as evidenced by estoppel certificates from, respectively, the landlord and the tenant which shall include a statement (x) on the part of the tenant that, to the best knowledge of the person making such statement, the tenant has no claims or offsets against the landlord and no event has occurred which, with the giving of notice or passage of time or both, would give such tenant the right or option to terminate or shorten the term of such lease, and (y) on the part of the landlord that, to the best knowledge of the person making such statement, the landlord

has no claims against the tenant and no event has occurred which, with the giving of notice or passage of time or both, would give the landlord the right to terminate or shorten the term of such lease, which certificates shall otherwise be in form and substance reasonably satisfactory to Landlord and dated not more than thirty (30) days before the Total Severance Date.

(b) Notwithstanding anything which may be to the contrary in Section 42.04(a), if a Default exists under this Lease pursuant to Section 42.01 or 42.02 on the Total Severance Date, such Default shall be deemed waived by Landlord if the Total Severance Date occurs within any grace or notice period applicable to such Default, including, without limitation, any grace or notice periods with respect thereto provided under Section 10.13.

(c) Notwithstanding anything to the contrary in Section 42.04(a), the rights of approval granted to Landlord with respect to certain documents pursuant to clauses (ii), (iii), (vi), (ix), (x) and (xi) hereinabove shall cease from and after the date that the sums advanced to Olympia & York Battery Park Company pursuant to the loan agreement referred to in clause (ii) of Section 42.04(a) equal in the aggregate at least Fifty Million Dollars ($50,000,000) and pursuant to the loan agreement referred to in clause (vi) of Section 42.04(a) equal in the aggregate at least Fifty Million Dollars ($50,000,000).

Section 42.05. (a) To the extent that (i) the Cross-Default Provisions have not previously been rendered of no force or effect, such Provisions shall be rendered void and of no force or effect, and (ii) the letter (or letters) of credit (or the proceeds thereof) deposited pursuant to Section 42.04(a)(i) have not previously been returned by Landlord to the party or parties which deposited the same, or their assignees (less any amount of security applied by Landlord pursuant to Article 11 of this Lease or any of the other Severance Leases or Section 42.08 of this Lease or the Severance Lease for Parcel C and not restored as required thereunder), such letter (or letters) of credit (or the proceeds thereof) shall be so returned by Landlord as follows:

(x) When (1) the Buildings constructed pursuant to this Lease are substantially complete, (2) the Buildings on Parcel C are substantially complete, and (3) the Buildings on Parcels B and D are each Fully Enclosed (as the terms "Buildings", "substantially complete" and "Fully Enclosed" are defined in the Severance Lease for the Parcel in question), then (r) the Cross-Default Provisions shall be rendered void and of no force or effect, and (s) the letter (or letters) of credit (or the proceeds thereof) deposited pursuant to Section 42.04(a)(i) shall be returned by Landlord to the party or parties which deposited the same, or their assignees (less any amount of security applied by Landlord pursuant to Article 11 of this Lease or any of the other Severance

Leases or Section 42.08 of this Lease or the Severance Lease for Parcel C and not restored as required thereunder).

(y) When (1) the Buildings constructed pursuant to this Lease are substantially complete, (2) the Buildings on Parcel C are substantially complete, and (3) the Buildings on either Parcel B or Parcel D are Fully Enclosed (as the terms "Buildings", "substantially complete" and "Fully Enclosed" are defined in the Severance Lease for the Parcel in question), then (r) the Cross-Default Provisions shall be rendered void and of no force or effect, and (s) the letter (or letters) of credit (or the proceeds thereof) in the amount of Fifty Million Dollars ($50,000,000) deposited with Landlord pursuant to Section 42.04(a)(i) of this Lease shall be returned by Landlord to the party or parties which deposited the same under this Lease or their assignees (less any amount of security applied by Landlord pursuant to Article 11 of this Lease or any of the other Severance Leases or Section 42.08 of this Lease or the Severance Lease for Parcel C and not restored as required thereunder), provided that a letter (or letters) of credit (or the proceeds thereof) in the amount of Fifty Million Dollars ($50,000,000) shall remain on deposit with Landlord pursuant to Section 42.04(a)(i) of this Lease or Sections 42.04(a)(i) or 42.04(b) of the Severance Lease for Parcel C, exclusive of any amounts deposited pursuant to Article 11 thereof, or (t) at the option of the tenant under the Severance Lease for Parcel C, provided that a letter (or

letters) of credit (or the proceeds thereof) in the amount of Fifty Million Dollars ($50,000,000) shall remain on deposit with Landlord pursuant to this Article 42, exclusive of any amounts deposited pursuant to Article 11 hereof, the letter (or letters) of credit (or the proceeds thereof) in the amount of Fifty Million Dollars ($50,000,000) deposited with Landlord pursuant to Section 42.04(a)(i) of this Lease shall be returned by Landlord to the party or parties which deposited the same, or their assignees (less any amount of security applied by Landlord pursuant to Article 11 of this Lease or any of the other Severance Leases or Section 42.08 of this Lease or the Severance Lease for Parcel C and not restored as required thereunder).

(b) To the extent that the Cross-Default Provisions have not previously been rendered of no force or effect, such provisions shall be rendered void and of no force or effect when (i) the Buildings constructed pursuant to this Lease are substantially complete and (ii) the Buildings on Parcel C are substantially complete, even if neither the Buildings on Parcel B nor the Buildings on Parcel D are Fully Enclosed (as the terms "Buildings", "substantially complete" and "Fully Enclosed" are defined in the Severance Lease for the Parcel in question), provided that a letter (or letters) of credit (or the proceeds thereof) in the aggregate amount of One Hundred Million Dollars ($100,000,000) (exclusive of any amounts deposited pursuant to Article 11 of the Severance Lease in ques-

tion) shall remain on deposit with Landlord pursuant to this Article 42 and/or Article 42 of the Severance Lease for Parcel C or is deposited with Landlord under any of the Severance Leases.

(c) Notwithstanding anything to the contrary hereinabove, as soon as the Cross-Default Provisions have been rendered void and of no force or effect pursuant to (i) Section 42.05(a)(y), the letter (or letters) of credit (or the proceeds thereof) remaining on deposit as provided in such Section shall be deemed deposited under the Severance Lease for Parcel D by the tenant thereunder, or (at the option of the tenant under the Severance Lease for Parcel D) the Severance Lease for Parcel B by the tenant thereunder, or (ii) Section 42.05(b), the letter (or letters) of credit (or the proceeds thereof) remaining on deposit as provided in such Section shall be deemed deposited under the Severance Leases for Parcels B and D by the tenants thereunder in the amount of Fifty Million Dollars ($50,000,000) for each such Severance Lease.

(d) Nothing contained in this Section 42.05 shall be construed or deemed to give any right, as third party beneficiary or otherwise, to (i) the tenants under the Severance Leases for, respectively, Parcel B, C or D to enforce any of the provisions of this Section 42.05, or (ii) Tenant to enforce any of the provisions of Section 42.05 of the Severance Lease for Parcel C.

Section 42.06. Any dispute under this Article 42 shall be determined by arbitration pursuant to Article 36.

Section 42.07. The Tenant under this Lease shall not assign or otherwise transfer the leasehold estate in this Lease to Olympia & York Battery Park Company or any of its Affiliates if (a) there exists a Default or an Event of Default (as such terms are defined in the Severance Lease in question) under any of the Severance Leases under which Olympia & York Battery Park Company or an Affiliate thereof is the tenant, or an event which, but for the provisions of Section 10.13(b) of any of the Severance Leases, would constitute a Default or an Event of Default under any of such Severance Leases, (b) any Severance Lease shall have been terminated by reason of the Default (as defined therein) of Olympia & York Battery Park Company or an Affiliate thereof as the tenant thereunder, or (c) a Mortgagee by receiver or otherwise or its designee or nominee or the purchaser from any of the same at a foreclosure sale or by assignment in lieu of foreclosure shall have obtained possession of any Parcel from Olympia & York Battery Park Company or an Affiliate thereof by reason of a default under the terms of a Mortgage.

Section 42.08. (a) Each letter of credit deposited with Landlord pursuant to this Article 42 shall be a clean, irrevocable letter of credit, having a term of not less than one (1) year, payable in United States Dollars, issued by and

drawn on a commercial bank, having an office in the Borough of Manhattan, which is a member of the New York Clearing House Association or any successor body of similar function, in form and content reasonably satisfactory to Landlord, for the account of Landlord. Further, each letter of credit shall provide (i) that it is transferable to Landlord's permitted successors in interest under this Lease and the trustee(s) from time to time under the General Bond Resolution establishing and creating an issue of Battery Park City Authority Bonds and the Series A Resolution adopted pursuant to said General Bond Resolution, respectively adopted May 5, 1972, as the same may have been or may hereafter be amended from time to time, and any future Series Resolutions adopted pursuant to said General Bond Resolution, as any such Series Resolutions may thereafter be amended from time to time, and (ii) that acceptance of the letter (or letters) of credit by said trustee(s) shall constitute an agreement by said trustee(s) to deal with the letter (or letters) of credit in accordance with the terms and conditions of this Lease relating thereto as if said trustee(s) were permitted successors to Landlord's interest under the Lease. Each letter of credit deposited under this Article 42 shall be renewed annually until such time as Landlord shall be required to return such letter of credit pursuant to Section 42.05. Each renewed letter of credit shall be delivered to Landlord not less than fifteen (15) days before the expiration of the then current letter of credit. Failure of

Tenant to provide, or cause to be provided, the renewed letter (or letters) of credit in accordance with this Section 42.08 shall be deemed an Event of Default giving rise to the remedies described in Article 24. Upon failure of Tenant to renew, or cause to be renewed, any letter (or letters) of credit in accordance with this Section 42.08, or upon any Event of Default under this Lease or any other Severance Lease (other than a Severance Lease as to which the Cross-Default Provisions have been rendered void and of no force or effect pursuant to Section 42.05 thereof in the case of the Severance Lease for Parcel C, or Section 42.04 thereof in the case of the Severance Lease for Parcel B or Parcel D), regardless of whether at the time in question this Lease is then cross-defaulted with such Severance Lease pursuant to the terms of this Article 42, Landlord shall have the right, without any notice to Tenant, to present for payment the letter (or letters) of credit Landlord is then holding pursuant to this Article 42, and to apply the proceeds thereof as provided in Section 42.08(b). If Landlord presents a letter (or letters) of credit for payment upon Tenant's failure to renew or cause the renewal of the letter (or letters) of credit as required by the provisions of this Section 42.08(a), the amount of each renewal letter of credit required to be deposited under this Section 42.08(a) shall be reduced by the amount of the letter (or letters) of credit theretofore presented by Landlord for payment, paid to Landlord and not applied by Landlord as permitted by Section

42.08(b). If the amount realized by Landlord upon presenting a letter (or letters) of credit for payment, less any portion thereof which Landlord shall have so applied, shall be less than the amount then required to be on deposit under this Article 42, failure of Tenant to deposit or cause to be deposited a letter (or letters) of credit in the amount of such deficiency within five (5) Business Days after notice thereof shall be deemed an Event of Default giving rise to the remedies described in Article 24. If, after Landlord shall have presented a letter (or letters) of credit for payment and received payment thereon, Tenant shall furnish or cause to be furnished to Landlord a letter (or letters) of credit in the amount then required to be on deposit under this Article 42, Landlord shall return to Tenant or the party or parties (if such party is not Tenant) which deposited the letter (or letters) of credit in question the sums received by Landlord upon presenting such letter (or letters) of credit, less any sums which Landlord shall have applied pursuant to Section 42.08(b). Tenant or the party (if such party is not Tenant) which deposited any letter of credit pursuant to this Article 42 shall be entitled to substitute for the same a letter (or letters) of credit (and/or cash as provided in Section 42.09) in the same amount as the security being replaced, provided that such substitute letter (or letters) of credit shall comply with the requirements of this Section 42.08(a).

(b) At any time and from time to time prior to the return of the letter (or letters) of credit (or the proceeds thereof) as provided in Section 42.05, if there shall be any existing and unremedied Event of Default under this Lease or any other Severance Lease (other than a Severance Lease as to which the Cross-Default Provisions have been rendered void and of no force or effect pursuant to Section 42.05 thereof in the case of the Severance Lease for Parcel C, or Section 42.04 thereof in the case of the Severance Lease for Parcel B or Parcel D), whether or not this Lease is thereby terminated, Landlord is hereby authorized by Tenant, without any notice to Tenant, to apply all or a portion of the proceeds of any such letter (or letters) of credit and/or the proceeds of any letter (or letters) of credit or other security deposited under Article 11 of this Lease, to the payment of any sums then due or thereafter becoming due under this Lease or such other Severance Lease and/or to the payment of any damages resulting from such Event of Default, and Landlord may draw on any of the foregoing security in such order as Landlord, in its sole discretion, chooses. In furtherance of the foregoing, and not in limitation thereof, if any of the events described in clause (e), (f), (g), (h) or (k) of Section 24.01 shall occur, then to the extent permitted by law, the amounts deposited under this Article 42 at all times shall remain subject to the provisions of Section 24.01 and this Section 42.08. The letters (or letters) of credit (or the

proceeds thereof) held by Landlord pursuant to this Section 42.08 shall be subject to the relevant provisions of Sections 7-103 and 7-105 of the General Obligations Law of the State of New York, except that at any time and from time to time if there shall be any existing and unremedied Event of Default under another Severance Lease (other than a Severance Lease as to which the Cross-Default Provisions have been rendered void and of no force or effect pursuant to Section 42.05 thereof in the case of the Severance Lease for Parcel C, or Section 42.04 thereof in the case of the Severance Lease for Parcel B or Parcel D), whether or not such Severance Lease is thereby terminated, Landlord is hereby authorized by Tenant to apply all or a portion of the letter (or letters) of credit (or the proceeds thereof) deposited under this Article 42 to portion of the security deposited under this Article 42 shall have been applied by Landlord as permitted under this Section 42.08(b), and if this Lease shall not have been terminated, Tenant immediately shall restore, or cause the restoration of, the security to its then required amount.

Section 42.09. In lieu of or in addition to any letter (or letters) of credit required to be deposited with Landlord under this Article 42 or Article 42 of the Severance Lease for Parcel C (including, without limitation, a renewed letter of credit pursuant to Section 42.08(a)), Tenant may deposit cash. If pursuant to the preceding sentence, Tenant shall deposit any cash with Landlord, Landlord, at Tenant's

direction, shall promptly in the name of and for the benefit and account of Landlord, invest such cash in certificates of deposit, having maturities designated by the Person depositing such cash, issued by one or more commercial banks designated by such Person, which are members of the New York Clearing House Association or any successor body of similar function, provided that such certificate(s) of deposit are payable on demand without forfeiture of principal. Provided that there shall exist no Event of Default under this Lease or any other Severance Lease (other than a Severance Lease as to which the Cross-Default Provisions have been rendered void and of no force or effect pursuant to Section 42.05 thereof in the case of the Severance Lease for Parcel C, or Section 42.04 thereof in the case of the Severance Lease for Parcel B or Parcel D), and there is no deficiency in the amount of security which Landlord is entitled to hold under Section 11.10 or Article 42 of this Lease or any other Severance Lease, Landlord shall remit promptly to the Person depositing the cash with which such certificates of deposit were purchased, all interest accrued and paid on such certificates. Any and all such certificates of deposit may be presented by Landlord for payment at the same time and under the same conditions as Landlord would have been entitled to present for payment any letters of credit deposited with Landlord pursuant to this Article 42, and the proceeds of any such certificates of deposit may be applied by Landlord for the same pur-

poses and in such manner as Landlord would have been entitled to apply the proceeds of any such letters of credit. Provided there exists no Event of Default under this Lease or any Severance Lease (other than a Severance Lease as to which the Cross-Default Provisions have been rendered void and of no force or effect pursuant to Section 42.05 thereof in the case of the Severance Lease for Parcel C, or Section 42.04 thereof in the case of the Severance Lease for Parcel B or Parcel D), as each such certificate of deposit matures from time to time, the proceeds thereof, excluding accrued interest and any portion of such proceeds not so applied by Landlord, shall be invested upon the same terms and conditions set forth in the foregoing provisions of this Section 42.09. All references to the proceeds of letters of credit in this Article 42 shall mean and include, in addition to such proceeds, (i) any cash deposited with Landlord pursuant to this Section 42.09 which has not yet been invested in certificates of deposit, and (ii) the proceeds of any certificate(s) of deposit in which Landlord has invested cash deposited pursuant to this Section 42.09. Landlord shall have no liability to Tenant, and Tenant shall make no claim against Landlord, if for any reason the bank issuing any certificate of deposit purchased by Landlord pursuant to this Section 42.09 shall become insolvent or shall refuse to pay all or any portion of the principal or interest of such certificate of deposit or if the value of any such certificate of deposit shall be less than the prin-

cipal amount thereof, it being understood and agreed that Tenant shall bear the risk of loss with respect to any certificate of deposit purchased by Landlord pursuant to this Section 42.09. In addition, if for any reason the bank issuing any certificate of deposit purchased by Landlord pursuant to this Section 42.09 shall fail or refuse to pay the same or the value of any such certificate of deposit shall be less than the principal amount thereof, Tenant shall immediately deliver to Landlord in replacement of such certificate either (x) a letter of credit in an amount equal to the principal amount of such certificate and otherwise complying with the requirements of Section 42.08, or (y) an amount of cash equal to the principal amount of such certificate. Upon delivery of such replacement letter of credit or cash deposit, Landlord shall transfer to Tenant such certificate for which the letter of credit or cash has been substituted. The failure of Tenant within five (5) Business Days after the notice to replace any such certificate with cash or a letter of credit as aforesaid, shall be deemed an Event of Default under this Lease. Notwithstanding anything which may be to the contrary in this Lease, if at the time Landlord is required to return security under this Lease, the security to be returned is in the form of certificates of deposit which have not yet matured, Landlord shall hold such certificates in trust for the Person to whom such security is to be returned until such certificates mature, whereupon Landlord shall promptly redeem such certificates and remit the proceeds thereof to such Person.

Section 42.10. At such time as the Cross-Default Provisions are rendered of no force or effect pursuant to Section 42.04 hereof or at such time as such provisions are rendered void and of no force or effect pursuant to Section 42.05 hereof, Landlord shall execute and deliver to the then Tenant under this Lease a recordable instrument, in form and substance reasonably satisfactory to such Tenant, acknowledging that such provisions are of no force or effect, or void and of no force or effect, as the case may be, with respect to such Tenant and its successors and assigns, except as otherwise provided in Section 42.04 with respect to Olympia & York Battery Park Company and its Affiliates.

Section 42.11. Landlord's approval of any document required to be approved by or be satisfactory to Landlord pursuant to any of the provisions of this Article 42 shall be deemed to constitute approval solely for purposes of this Article 42 and shall not be construed (a) so as to effect any modification of any of the terms, covenants and conditions of this Lease, (b) as an approval or recognition by Landlord of any of the rights granted to any party in such document, or (c) as a waiver by Landlord of the obligation of Tenant to comply with all the terms, covenants and conditions of this Lease. In addition, if there shall exist any inconsistency or conflict between the terms of any such document approved by Landlord and the terms of this Lease, the terms of this Lease shall be controlling with respect to the rights and obligations of Landlord and Tenant under this Lease.

ARTICLE 43

LIMITATION OF LIABILITY

Section 43.01. (a) The liability of Landlord hereunder for damages or otherwise shall be limited to Landlord's interest in the Premises and this Lease, including, without limitation, (i) the rents, issues and profits thereof, (ii) the proceeds of any insurance policies covering or relating to the Premises, (iii) any awards payable in connection with any condemnation of the Premises or any part thereof, (iv) the amounts received or receivable by Landlord in connection with a sale, transfer or assignment of Landlord's interest in the Premises or this Lease to the extent that such amounts have not been distributed by Landlord, and (v) any other rights, privileges, licenses, franchises, claims, causes of action or other interests, sums or receivables appurtenant to the Premises, provided, however, that all of the foregoing shall be subject to the General Bond Resolution establishing and creating an issue of Battery Park City Authority Bonds and the Series A Resolution adopted pursuant to said General Bond Resolution, respectively adopted May 5, 1972, as the same may have been or may hereafter be amended from time to time, and any future Series Resolutions adopted pursuant to said General Bond Resolution, as any such Series Resolutions may thereafter be amended from time to time, except that Tenant's rights under this Section 43.01(a) shall not be subject to any future amendment to said Bond Resolution or Series A Resolution or any future Series Resolution to the extent that the same further limits such rights with respect to Landlord's

interest in the Premises and this Lease, as distinguished from Landlord's interest in the monetary items referred to in clauses (i) through (v) hereinabove. Neither Landlord nor any of the directors, officers, employees, agents or servants of Landlord shall have any liability (personal or otherwise) hereunder beyond Landlord's interest in the Premises and this Lease, and no other property or assets of Landlord or any of the directors, officers, employees, agents or servants of Landlord shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies hereunder; provided, however, that the foregoing limitation of Landlord's liability shall not apply to any liabilities that Landlord may incur by reason of any conveyance, lien or encumbrance made or caused by it in violation of the provisions of Section 29.02.

(b) If Tenant's right to use and occupy the Premises or any portion thereof in accordance with the terms of this Lease is adversely affected by the enforcement of a Requirement by any Governmental Authority in its capacity as the Governmental Authority charged with the enforcement of such Requirement (as distinguished from its capacity as Landlord if such Governmental Authority is also Landlord), Landlord (as Landlord and not as the Governmental Authority enforcing such Requirement if such Governmental Authority is also Landlord) shall not be deemed responsible for any such adverse effect, Tenant shall not assert any claim against Landlord (as Landlord and not as the Governmental Authority enforcing such Requirement if such Governmental Authority is also Landlord) with respect thereto, and Tenant hereby releases Landlord (as Landlord and not as the Governmental Authority enforcing

such Requirement if such Governmental Authority is also Landlord) from liability with respect thereto.

Section 43.02. (a) From and after Substantial Completion of the Buildings, the liability of Tenant hereunder for damages or otherwise shall be limited to Tenant's interest in the Premises and this Lease, including, without limitation, the rents, issues 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, the amounts received or receivable by Tenant in connection with a sale, transfer or assignment of Tenant's interest in the Premises or this Lease to the extent that such amounts have not been distributed by Tenant, and any other rights, privileges, licenses, franchises, claims, causes of action or other interests, sums or receivables appurtenant to the Premises. From and after Substantial Completion of the Buildings, neither Tenant nor any partners, venturers or tenants-in-common comprising Tenant shall have any liability (personal or otherwise) hereunder beyond Tenant's aforesaid interest in the Premises and this Lease, and no other property or assets of Tenant or any of the aforesaid Persons shall be subject to levy, execution or other enforcement procedure for the satisfaction of Landlord's remedies herunder. At no time shall (i) any limited partners, stockholders, directors, officers, employees, agents or servants of Tenant or of any Person comprising Tenant, or (ii) if Tenant is a

general partnership, any Person who is a minority partner of Tenant, provided that (x) all Persons who are minority partners of Tenant are (or if any such Person is a partnership, all of the partners of such Person are, or if any such Person in a corporation, all of the stockholders of such corporation are) officers, directors and/or employees of Tenant or of an Affiliate of Tenant, (y) all minority partners of Tenant maintain in the aggregate not more than a ten (10%) percent interest in Tenant, and (z) O&Y Battery Park Corp. or an Affiliate thereof is the managing partner of Tenant and maintains not less than a ninety (90%) percent interest in Tenant, have any liability (personal or otherwise) hereunder beyond Tenant's interest in the Premises and this Lease, and no other property or assets of such Persons shall be subject to levy, execution or other enforcement procedure for the satisfaction of Landlord's remedies under this Agreement or at law or in equity. Anything contained herein to the contrary notwithstanding, the non-recourse provisions of this Section 43.02 shall not apply to Tenant's liability under this Lease for Rental payable after the Term attributable to a period falling within the Term.

(b) Landlord and Tenant acknowledge that pursuant to the termination agreement of even date herewith with respect to the Master Sublease, Landlord and Tenant have released each other, and their respective successors and assigns, from all claims, demands, actions, causes of action, obligations and liabilities of every kind and nature whatsoever arising out

of the Master Sublease, except for (i) as to either party, any obligation or liability first incurred under the Master Sublease on or after November 3, 1981 and outstanding and unsatisfied on the date of such termination agreement, or (ii) as to Tenant, any claim, demand, action, cause of action or liability which accrues on or after the date hereof by reason of the occurrence or non-occurrence on or after November 3, 1981 and prior to the date hereof of any act, omission, matter or thing as to which Tenant indemnified Landlord pursuant to Article 19 of the Master Sublease. Accordingly, subject to Section 43.02(a), Tenant shall be liable for the due performance and observance of any and all obligations of the tenant under the Master Sublease which were not released or discharged pursuant to such termination agreement.

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

OLYMPIA & YORK BATTERY PARK COMPANY

By: O&Y BATTERY PARK CORP., General Partner

By: _____
Executive Vice-President

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

On this 15 day of June, 1983, before me personally came BARRY E. LIGHT to me known, who, being by me duly sworn, did depose and say that he has an address at 345 West 88th 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 the order of the members of said corporation; and that he signed his name thereto by like order.

Frank Laghezza Jr.
Notary Public

FRANK LAGHEZZA, JR.
Notary Public, State of New York
No. 41-4750849
Qualified in Queens County
Commission Expires March 30, 1985

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

On this 15 day of June, 1983, before me personally came MICHAEL DENNIS to me known, who, being by me duly sworn, did depose and say that he has an address at 14 Langley Avenue, Toronto, Ontario, Canada, that he is the Executive Vice President of O&Y BATTERY PARK CORP., the corporation described in the foregoing instrument and which executed same as partner of OLYMPIA & YORK BATTERY PARK COMPANY, a New York partnership; 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 the order of the board of directors of said corporation; and that he signed his name thereto by like order.

Frank Laghezza Jr.
Notary Public

FRANK LAGHEZZA, JR.
Notary Public, State of New York
No. 41-4750849
Qualified in Queens County
Commission Expires March 30, 1985

EXHIBIT "A" TO THE LEASE

DESCRIPTION OF LAND

Street lines noted in the descriptions of Parcel A and Easement no. 9 are in accordance with Map No. Acc. 30071 adopted by the New York City Board of Estimate on November 13, 1981. Street lines noted in the descriptions of part of Vesey Street and part of North End Avenue are in accordance with map being prepared by New York City, said map has not been adopted by the Board of Estimate as yet.

Elevations refer to datum used by the Topographical Bureau, Borough of Manhattan which is 2.75 feet above datum used by the United States Coast and Geodetic survey, mean sea level, Sandy Hook, New Jersey.

Bearings noted herein are in the system used on the Borough Survey, President's office, Manhattan.

The following eight descriptions are based upon the information shown on the Easement Plan.

Parcel A

All that certain plot, piece or parcel of land situate, lying and being in the City, County and State of New York, described as follows:

BEGINNING at the intersection of the southerly line of Liberty Street with the westerly line of Marginal Street, Wharf or Place and The United States Bulkhead Line approved by The Secretary of War, July 31, 1941:

The following 6 courses run along the aforesaid westerly line of Marginal Street, Wharf or Place and The United States Bulkhead line approved by The Secretary of War, July 31, 1941:

1. Running thence south 16°-57'-30" east, 26.88 feet;
2. thence south 16°-41'-08" east, 50.95 feet;
3. thence south 13°-48'-10" east, 104.47 feet;
4. thence south 11°-56'-14" east, 51.60 feet;
5. thence south 12°-19'-00" east, 160.79 feet;
6. thence south 12°-49'-00" east, 27.69 feet;
7. thence south 77°-31'-29" west, along the northerly line of Albany Street, 213.66 feet;

8. thence north 12°-28'-31" west, along the easterly line of South End Avenue, 467.75 feet;

9. thence due east, along the southerly line of Liberty Street, 211.14 feet to the point or place of BEGINNING.

Together with the following nonexclusive easements, on the terms and subject to the conditions set forth with respect thereto in Section 41.07 of the Lease:

EASEMENT NO. 9
VEHICULAR ACCESS

All that portion of the parcel below described lying between a lower horizontal plane drawn at elevation -50.0 feet and an upper horizontal plane drawn at elevation 29.5 feet bounded and described as follows:

BEGINNING at a point in the northerly line of Liberty Street, distant 216.96 feet westerly from the intersection of the northerly line of Liberty Street with the westerly line of Marginal Street, Wharf or Place and The United States Bulkhead Line approved by The Secretary of War, July 31, 1941;

1. Running thence due west, along the northerly line of Liberty Street, 92.18 feet;

2. thence north 12°-28'-31" west, 105.56 feet;

3. thence north 73°-04'-45" east, 90.27 feet;

4. thence south 12°-28'-31" east, 132.47 feet to the point or place of BEGINNING.

EASEMENT NO. 11
TURNING CIRCLE AREA

All that portion of the parcel below described lying between a lower horizontal plane drawn at elevation -50.0 feet and an upper horizontal plane drawn at elevation 29.5 feet bounded and described as follows:

BEGINNING at a coordinate north 4370.933, west 10580.253;

1. Running thence north 12°-28'-31" west, 55.48 feet;

2. thence southeasterly, curving to the right on the arc of a circle whose radial line bears south 51°-43'-54" west, having a radius of 63.75 feet and a central angle of 51°-35'-11", 57.40 feet to the point or place of BEGINNING.

PART OF VESEY STREET

BEGINNING at the intersection of the southerly line of Vesey Street and the westerly line of Marginal Street, Wharf or Place and The United States Bulkhead Line approved by The Secretary of War, July 31, 1941:

1. Running thence north 88°-07'-10" west, along the southerly line of Vesey Street, 693.61 feet;

2. thence north 1°-52'-50" east, 100.00 feet, to the northerly line of Vesey Street;

3. thence south 88°-07'-10" east, along the northerly line of Vesey Street, 655.68 feet, to the westerly line of Marginal Street, Wharf or Place and The United States Bulkhead Line approved by The Secretary of War, July 31, 1941;

4. thence south 18°-56'-00" east, along the westerly line of Marginal Street, Wharf or Place and The United States Bulkhead Line approved by The Secretary of War, July 31, 1941, 94.24 feet to an angle point therein;

5. thence south 18°-34'-07" east, still along the westerly line of Marginal Street, Wharf or Place and The United States Bulkhead Line approved by The Secretary of War, July 31, 1941, 12.71 feet to the point or place of BEGINNING.

PART OF NORTH END AVENUE

BEGINNING at the intersection of the southerly line of Vesey Street and the easterly line of North End Avenue:

1. Running thence south 1°-52'-50" west, along the easterly line of North End Avenue, 355.00 feet, to the southerly line of North End Avenue;

2. thence north 88°-07'-10" west, along the southerly line of North End Avenue, 100.00 feet, to the westerly line of North End Avenue;

3. thence north 1°-52'-50" east, along the westerly line of North End Avenue, 355.00 feet, to the

northerly line of North End Avenue which is coincident with a portion of the southerly line of Vesey Street;

4. thence south 88°-07'-10" east, along the northerly line of North End Avenue which is coincident with a portion of the southerly line of Vesey Street, 100.00 feet, to the point or place of BEGINNING.

PLAZA

Line of Liberty Steet is in accordance with Map No. ACC. 30071 adopted by the New York City Board of Estimate, November 13, 1981.

Line of North End Avenue is in accordance with map being prepared by New York City, said map has not been adopted by the Board of Estimate as yet.

BEGINNING at a point in the northerly line of Liberty Street distant 216.96 feet westerly from the intersection of the northerly line of Liberty Street with the westerly line of Marginal Street, Wharf or Place and The United States Bulkhead Line approved by The Secretary of War, July 31, 1941:

1. Running thence due west, along the northerly line of Liberty Street, 412.64 feet;

2. thence north 73°-04'-45" east, 78.82 feet;

3. thence north 18°-36'-20" west, 463.95 feet;

4. thence south 71°-07'-33" west, 194.68 feet to a point of curvature;

5. thence westerly, on a curve to the right having a radius of 1880.08 feet, a central angle of 3°-01'-26" and a distance of 99.23 feet;

6. thence north 1°-52'-50" east, 143.14 feet;

7. thence south 88°-07'-10" east, along the southerly line of North End Avenue, 100.00 feet;

8. thence north 1°-52'-50" east, along the easterly line of North End Avenue, 61.29 feet;

9. thence due east, 354.87 feet;

10. thence due south, 343.47 feet;

11. thence due east, 72.58 feet;

12. thence south 12°-28'-31" east, 108.28 feet;

13. thence north 77°-31'-29" east, 86.50 feet;

14. thence south 16°-55'-15" east, 38.01 feet;

15. thence north 73°-04'-45" east, 86.27 feet;

16. thence south 12°-28'-31" east, 132.47 feet to the point or place of BEGINNING.

NORTHERN PEDESTRIAN BRIDGE

As shown on Map No. ACC. 30079 adopted by the New York City Board of Estimate, December 16, 1982.

SOUTHERN PEDESTRIAN BRIDGE

As shown on Map No. ACC. 30071 adopted by the New York City Board of Estimate, November 13, 1981.

EXHIBIT "B" TO THE LEASE

TITLE MATTERS

1. Subject to the reservations by Landlord of the easements in the areas designated as Easement no. 1 and Easement no. 2 on the Easement Plan, as more particularly described in Attachment I to this Exhibit "B", in accordance with the terms and conditions set forth in Section 26.01(d) of the Lease, and subject to the reservation by Landlord of the easement with respect to the southerly terminal of the Liberty Street Bridge, which Liberty Street Bridge is in the area designated as Easement no. 3 on the Easement Plan and more particularly described in Attachment I to this Exhibit "B", in accordance with the terms and conditions set forth in Section 41.07(c) of the Lease.

2. The Memorandum of Understanding, except as otherwise expressly provided in the Lease.

3. The Settlement Agreement, except as otherwise expressly provided in the Lease.

4. The Option to Purchase, dated as of June 6, 1980, granted by UDC, BPC Development Corporation, Landlord and New York City, and recorded on June 11, 1980 in Reel 527, Page 153, in the Office of the Register of New York City (New York County).

5. The Port Authority Easement Agreement, dated as of September 1, 1981, among the Port Authority, the Port Authority Trans-Hudson Corporation, BPC Development Corporation and Landlord, recorded on October 27, 1981, in Reel 589, Page 868, in the Office of the Register of New York City (New York County) as amended by said parties by an Amendment dated February 8, 1982.

6. State of facts shown on the Easement Plan, the Parcel Lines Easement Plan and the survey labelled LB-70-A, prepared by Benjamin D. Goldberg, Licensed Land Surveyor, State of New York, Earl B. Lovell - S.P. Belcher, Inc., dated April 19, 1983 and last amended June 13, 1983, and initialled by Landlord and Tenant, and any state of facts an accurate update of the Easement Plan, the Parcel Lines Easement Plan or such survey or an inspection of the Premises would show.

7. Subject to the rights of the federal government to enter upon and take possession of lands, now or formerly lying below the high water mark of the Hudson River, whether or not the Federal Government is required to compensate Landlord or Tenant for such entry and taking possession.

8. The Easement and Restrictive Covenant Agreement.

9. Together with the Declaration of Restrictions, made as of the date hereof, by Battery Park City Authority, to be recorded in the Office of the Register of New York City (New York County).

10. The Project Operating Agreement.

11. Subject the Southern Portion Declaration of Easements to the extent, if any, the same affects the Parcel and the easements granted by Landlord to Tenant pursuant to the Lease and the Easement and Restrictive Covenant Agreement.

12. Subject to the Street Mapping Agreement to the extent, if any, the same affects the Parcel and the easements granted by Landlord to Tenant pursuant to the Lease and the Easement and Restrictive Covenant Agreement.

13. Subject to that certain lease between Olympia & York Battery Park Company, as landlord, and The Home Insurance Company and City Investing Company, as tenant, dated September 23, 1981, as supplemented by a Leasehold Improvements Agreement dated September 23, 1981 and modified by a letter agreement dated September 23, 1981 and three amendments dated as of December 1, 1981 as to the first such amendment, November 10, 1982 as to the second such amendment, and as of the date hereof as to the third such amendment.

ATTACHMENT I
TO EXHIBIT "B"

Street lines are in accordance with Map No. ACC. 30071 adopted by the New York City Board of Estimate on November 13, 1981.

Elevations refer to datum used by the Topographical Bureau, Borough of Manhattan which is 2.75 feet above datum used by the United States Coast and Geodetic survey, mean sea level, Sandy Hook, New Jersey.

Bearings are in the system used on the Borough Survey, President's office, Manahattan.

The following three descriptions are based upon the information shown on the Easement Plan.

EASEMENT NO. 1
SEWER LINE

All that portion of the parcel below described lying between a lower horizontal plane drawn at elevation -50.0 feet and an upper horizontal plane drawn at elevation 24.0 feet bounded and described as follows:

BEGINNING at the intersection of the westerly line of Marginal Street, Wharf or Place and The United States Bulkhead Line approved by The Secretary of War, July 31, 1941, and the northerly line of Albany Street:

1. Running thence south 77°-31'-29" west, along the northerly line of Albany Street, 25.00 feet;

2. thence north 12°-49'-00" west, 25.00 feet;

3. thence north 77°-31'-29" east, 25.00 feet;

4. thence south 12°-49'-00" east, along the westerly line of Marginal Street, Wharf or Place and The United States Bulkhead Line approved by The Secretary of War, July 31, 1941, 25.00 feet to the point or place of BEGINNING.

EASEMENT NO. 2
SOUTH BRIDGE

All that portion of the parcel below described lying between a lower horizontal plane drawn at elevation -70.0 feet and an upper horizontal plane drawn at elevation 65.0 feet bounded and described as follows:

BEGINNING at a point in the westerly line of Marginal Street, Wharf or Place and The United States Bulkhead Line approved by The Secretary of War, July 31, 1941, distant 38.48 feet southerly from the intersection of the westerly line of Marginal Street, Wharf or Place and The United States Bulkhead Line approved by The Secretary of War, July 31, 1941, and the southerly line of Liberty Street as measured along the westerly line of Marginal Street, Wharf or Place and The United States Bulkhead Line approved by The Secretary of War, July 31, 1941:

1. Running thence south 16°-41'-08" east, along the westerly line of Marginal Street, Wharf or Place and the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, 35.58 feet;

2. thence south 88°-39'-37" west, 81.70 feet;

3. thence north 3°-59'-16" west, 35.03 feet;

4. thence north 88°-39'-37" east, 73.88 feet to the point or place of BEGINNING.

EASEMENT NO. 3
LIBERTY STREET BRIDGE

All that portion of the parcel below described lying between a lower horizontal plane drawn at elevation 26.6 feet and an upper horizontal plane drawn at elevation 61.6 feet bounded and described as follows:

BEGINNING at a point in the northerly line of Liberty Street, distant 87.11 feet westerly from the intersection of the northerly line of Liberty Street with the westerly line of Marginal Street, Wharf or Place and The United States Bulkhead Line approved by The Secretary of War, July 31, 1941:

1. Running thence south 3°-59'-16" east, 100.24 feet;

2. thence due west, along the southerly line of Liberty Street, 40.10 feet;

3. thence north 3°-59'-16" west, 100.24 feet;

4. thence due east, along the northerly line of Liberty Street, 40.10 feet to the point or place of BEGINNING.

EXHIBIT "C" TO THE LEASE

AFFIRMATIVE ACTION PROGRAM FOR THE PREMISES

This Affirmative Action Program has been adopted by Battery Park City Authority ("BPCA") in order to assist the tenants under the leases to Parcels A, B, C and D of the Battery Park City Commercial Center, their contractors, subcontractors and suppliers (collectively, "Contractors") and all other persons participating in the development, construction, operation and maintenance of the Battery Park City Commercial Center ("Commercial Center") to comply with their respective affirmative action obligations relating to the Commercial Center, and to permit BPCA to carry out its affirmative action obligations under applicable laws and regulations.

1. Definitions. As used in this Program, the following terms shall have the following respective meanings:

Approved MBE Contract: each Contract between Tenant or its Contractors and an eligible MBE approved by BPCA which has been entered into in accordance with this Program.

Buildings: as defined in each Lease.

Contract: as defined in Section 2.

Contract Value: the total contract price of all Contracts let to MBEs by Tenant or its Contractors pursuant to Approved MBE Contracts less the total contract price of all work let to MBEs by other MBEs, provided that (a) where an MBE subcontracts (other than through supply contracts) more than 50% of its work, the contract price of the work let to such MBE shall be deemed to equal the excess, if any, of the work let to such MBE over the contract price of the work subcontracted by such MBE, (b) where materials are purchased from an MBE which acts merely as a conduit for goods manufactured or produced by a non-MBE, the price paid by the MBE to the manufacturer or producer shall be deducted from such total contract price and (c) where a contractor or subcontractor is a joint venture including one or more MBEs, such joint venture shall be treated as an MBE only to the extent of the percentage of the joint venture's profits which are to accrue to the MBE joint venturer under the terms of the joint venture arrangement.

Lease: that Severance Lease, of even date herewith, to which this Program is annexed between BPCA and Tenant, as amended and supplemented from time to time.

MBE: a business owned, operated and controlled by one or more Minority (hereinafter defined) persons. "Owned", for purposes of this definition, shall mean that one or more Minority persons owns more than fifty percent (50%) of each class of stock and is entitled to receive

more than fifty percent (50%) of the net profits (or losses) of the business. "Operated and controlled," for purposes of this definition, shall mean that one or more Minority persons has the day-to-day responsibility for running and making all important decisions affecting the business enterprises.

Minority or Minorities: (a) Black persons having origins in any of the Black African racial groups not of Hispanic origin;

(b) Hispanic persons of Mexican, Puerto Rican, Cuban, Central or South American culture or origin, regardless of race;

(c) Asian or Pacific Island persons or persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands; and

(d) American Indian or Alaskan Native persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification.

Minority Workforce Participation: the number of person-hours of training and employment in each trade of Minority workers (including supervisory personnel) used by Contractors in the construction of the Buildings.

Project: The development, construction, operation and maintenance of Parcel A, B, C or D, respectively, by Tenant.

Tenant: The tenant under the Lease to which this Program is annexed.

Total Construction Costs: the total contract price of all Contracts awarded by Tenant for the furnishing of labor, materials or services for inclusion in the Project plus the cost of all general conditions work applicable to the Project and not included in such Contracts.

2. Compliance with Lease and Contract Obligations. Tenant shall (a) comply with all of its non-discrimination and affirmative action obligations as set forth in the Lease, and (b) cause each of its Contractors to comply with all of such Contractor's non-discrimination and affirmative action obligations as set forth in the construction contract or other instrument (collectively, "Contract") pursuant to which such Contractor furnishes materials or services for the Project.

3. Minority Workforce Participation. (a) Tenant shall, and shall cause its Contractors to, afford priority in the construction of the Project to Minority group workers, provided that such obligation shall be deemed to have been fulfilled when the Minority Workforce Participation equals the specified percentages set forth in Schedule 1 to this

Program for each of the trades listed in such Schedule. Tenant and BPCA have, after reviewing the work to be included in the Project and the qualifications and availability of Minority group workers for participation in such work, determined that such Schedule is reasonably attainable.

(b) In order to assist Tenant in carrying out the provisions of paragraph (a) above, Tenant shall, and shall cause its Contractors to, participate in an on-the-job training program of the type known as the "New York Plan" or, if neither BPCA nor any other entity shall continue to sponsor such a program in New York City for any trade included in construction of the Project, such other or successor program as shall be generally applicable to public construction in New York.

4. MBE Participation. Tenant shall, and, when contemplated by the applicable Contract bid package, shall cause its Contractors to, afford priority in the construction of the Project to MBEs, provided that such obligation shall be deemed to have been fulfilled when the total Contract Value of Approved MBE Contracts shall equal that share of Total Construction Costs which BPCA shall find is necessary to eliminate the effects on the Project of discrimination in the construction industry. In order to fulfill its obligations hereunder:

(a) Tenant shall, during the Construction Period (which shall mean the period commencing at the Commencement of Construction of the first Building and terminating, as to each Building, twenty-four months after Substantial Completion of such Building, as such terms are defined in the Lease), enter into, or cause its Contractors to enter into, Approved MBE Contracts for its respective Parcel, having an aggregate Contract Value as follows:

-- Parcel A - at least $5,000,000.
-- Parcel B - at least $7,500,000.
-- Parcel C - at least $7,500,000.
-- Parcel D - at least $5,000,000.

The unawarded portion of such Contract Values shall be increased for each year subsequent to 1982 to reflect the percentage increase for such year in the United States Consumer Price Index maintained by the United States Department of Commerce, or any successor index maintained by such Department or any comparable Federal agency, over such Index on January 1, 1982. After reviewing the work to be included in the Project, Tenant and BPCA have identified portions of such work for which, in their judgment, qualified MBE's are expected to be available and have set forth the estimated Contract Value thereof above.

(b) In further fulfillment of its obligations under this Section 4, Tenant shall, with BPCA's assistance, throughout the Construction Period, (i) conduct a thorough and diligent search for qualified MBEs to carry out addi-

tional portions of the construction of the Buildings, (ii) review the qualifications of each MBE suggested to Tenant by BPCA, and (iii) enter into, or cause its Contractors to enter into, Approved MBE Contracts with all qualified and available MBEs in accordance with and subject to the procedures set forth in Section 5 hereof.

5. Procedures. Tenant and BPCA shall observe the following procedures throughout the Construction Period:

(a) Tenant shall advise BPCA promptly of Tenant's proposed design and construction schedule for the Buildings and afford BPCA's Affirmative Action Officer a reasonable opportunity to become familiar with the proposed scope, nature and scheduling of Tenant's major Contracts. As promptly as practicable, but in any event at least 60 days before issuing requests for proposals or invitations to bid for any Contracts, Tenant shall furnish BPCA with a projected schedule (the "Contract Schedule") of such Contracts, broken down by trade. Tenant will update or amend the Contract Schedule as required to reflect any changes in Tenant's proposed Contracts for the Buildings. The Contract Schedule will set forth the anticipated times at which invitations to bid or requests for proposals are to be issued for work in each trade, the scope of such work and the estimated contract value or range of values of such work. In formulating the Contract Schedule, Tenant will, with BPCA's assistance, identify those portions of the work which can be divided into

separate contract packages or which can be subcontracted, so as to maximize opportunities for participation in the work by MBEs.

(b) BPCA will review the Contract Schedule as promptly as practicable, and, within 30 days of receipt, will advise Tenant whether and how, in BPCA's judgment and consistent with the method of construction utilized on the Project, the work can be further divided or subcontracted so as to maximize opportunities for participation by MBEs. To the extent practicable and consistent with such method of construction, Tenant will prepare contract packages which will provide maximum opportunity for those MBEs found qualified and available hereunder to participate in the work, provided that, with respect to the Parcels A, B, C and D, collectively, of the Commercial Center, all tenants collectively shall not be required to award more than 30 Contracts for $1,000,000 or less (including no more than 15 Contracts for $500,000 or less) for construction work which would, in the absence of this Program, otherwise have been awarded through individual Contracts exceeding $1,000,000 in value. If the Lease is assigned in accordance with the provisions of Article 10 thereof, the assignee of the Lease shall not be required to award more than 10 Contracts for $1,000,000 or less (including no more than 5 Contracts for $500,000 or less) for construction work, which in the absence of this

Program, otherwise would have been awarded through individual Contracts exceeding $1,000,000 in value, provided that the foregoing limitations shall not apply to Contracts for general conditions work on the Commercial Center.

(c) Concurrently, BPCA and Tenant will review the availability and qualifications of MBEs to determine the extent to which qualified MBEs are available to perform all or portions of the work identified in the contract packages. In general, an MBE will be deemed to be qualified to perform work if its personnel have successfully performed work of a similar nature in the past and demonstrate the present ability, after giving effect to the assistance which Tenant will provide under paragraph (f) of this section, to organize, supervise and perform work of the kind and quality contemplated for the Project. In determining whether an MBE meets these standards, BPCA and Tenant shall consider experience in the trade, technical competence, organizational and supervisory ability and general management capacity. An MBE shall not be considered unqualified to perform work on the Project (i) because such MBE (A) cannot obtain bonding or (B) cannot obtain commercial credit or cannot obtain such credit on normal terms or (ii) solely because such MBE (A) does not have the capacity to perform work of the nature and scope required without the assistance to be made available by Tenant under paragraph (f) of this section or (B) has not previously performed work equal in scope or magnitude to such work.

(d) Tenant and BPCA shall agree on those MBEs which are qualified and available to perform work on the Project. In the event of any failure to agree, BPCA's determination with respect to any MBE's availability and qualifications to perform the work contemplated by any contract package shall be final and binding for purposes of the Contract in question, unless Tenant shall, within 20 days after the date of BPCA's written notice of such determination, request that the matter be determined by arbitration pursuant to paragraph (h) below, in which event such MBE's availability and qualifications shall be determined as provided in such paragraph.

(e) Tenant shall invite, and, where contemplated by a bid package, shall cause its Contractors to invite, all MBEs found qualified and available hereunder to submit proposals for work required to be performed under Tenant's contract packages (including both contracts and subcontracts). Tenant shall award, and shall cause its Contractors to award, Contracts to the MBE which submits the lowest bid or proposal submitted by MBEs in response to such request, provided that such MBE's proposal is responsive to the Contract requirements and its proposed Contract price is fair and reasonable.

(f) In order to assist MBEs in submitting informed and responsive bid proposals, Tenant will pay to BPCA the sum of $30,000 to be used by BPCA to retain the ser-

vices of professional estimators and other qualified personnel to review bid proposals prepared by MBEs. Tenant shall have the right to approve the consultants retained by BPCA. Payment shall be made by Tenant to BPCA, from time to time, as needed to pay for such services. Neither Tenant, any of its Contractors, nor any MBE shall have any interest in such fund, which shall be administered by BPCA in such manner as BPCA shall from time to time determine to be appropriate in order to carry out the purposes thereof. In addition, Tenant will provide financial assistance to an MBE to which a contract or subcontract is to be awarded and which is unable to obtain credit or financing on normal terms by (i) guaranteeing payment to suppliers, subject to obtaining an appropriate security interest in the materials paid for, (ii) making progress payments for work performed more frequently than the normal one-month cycle, and (iii) paying for reasonable mobilization costs in advance of the commencement of construction, or guaranteeing payment to banks for funds advanced to an MBE for such costs, subject to Tenant's obtaining an appropriate security interest in any materials or equipment paid for with such advances and mobilization costs. Tenant shall also waive bonds where MBEs are unable to obtain the same, shall make available to MBEs technical assistance to conform to the method of construction of the Project, shall provide supervision consistent with the MBE's experience and capacity and shall conduct periodic job meetings with each

MBE at reasonable intervals to review the progress of such MBE's job performance and suggest appropriate action to remedy any deficiency in such performance. As may be necessary to carry out this Program, Tenant shall offer to provide the foregoing assistance to MBEs prior to their submission of bid proposals and, wherever practicable, at the time of Tenant's request for such proposals.

(g) The determination of whether a business enterprise is an eligible MBE hereunder shall be made by BPCA, and such determination shall be conclusive for purposes of this Program, provided that, where (i) BPCA determines that a proposed Contractor is not an eligible MBE, (ii) neither Tenant nor BPCA has identified any other eligible MBE which is qualified and available to carry out such proposed Contract and (iii) Tenant thereafter enters into a Contract with such proposed Contractor, Tenant may request that the question of such Contractor's eligibility as an MBE be submitted to arbitration as provided in paragraph (h) below.

(h) In the event that Tenant shall demand arbitration as to the question of the qualifications or availability of any MBE pursuant to paragraph (d) above, or the eligibility of any proposed MBE pursuant to paragraph (g) above, such question shall be determined by three arbitrators, one of whom shall be appointed by BPCA, one by Tenant and the third by agreement of the two arbitrators appointed by the parties (or failing such agreement, the third arbitrator

shall be appointed by the American Arbitration Association), in accordance with the rules of the American Arbitration Association, provided that, anything to the contrary contained in such rules notwithstanding, (i) Tenant shall, together with such demand for arbitration, submit in writing to such arbitrators and BPCA its reasons, if any, for its disagreement with BPCA's determination on such question, (ii) BPCA shall, within five (5) days after its receipt of such written statement from Tenant, submit to such arbitrators and Tenant the reasons for such challenged determination and (iii) such arbitrators shall, after such hearing, if any, as they may deem appropriate, render their decision within ten (10) days after receipt of such written statement from BPCA. Such decision shall be conclusive for all purposes of this Program, provided that, anything to the contrary contained herein notwithstanding, any decision that an MBE is or is not available or qualified to perform work on a particular Contract shall not preclude a later determination by Tenant, BPCA or the arbitrators to the contrary in light of changed or different circumstances. Tenant and BPCA shall each bear its own costs and attorney's fees in connection with such arbitration and shall share equally the costs of such arbitration (including the arbitrators' fees).

(i) Tenant shall maintain complete and accurate written records of (i) its efforts to identify and contract with MBEs, (ii) the reasons, if applicable, for any

determination by Tenant that an MBE is not qualified or available to perform work on the Project, (iii) the assistance offered or provided to MBEs in accordance with paragraph (f) hereof, (iv) the reasons, if applicable, why contracts or subcontracts were not awarded to MBEs found qualified hereunder, and (v) total Contracts and Approved MBE Contracts awarded on the Project, including without limitation, the dollar value of such awards and a description of the scope of the work awarded. Such records shall be furnished to BPCA quarterly and at such other times as BPCA may reasonably request, provided that only the aggregate amount of the Contract prices of non-minority Contracts need be furnished to BPCA.

(j) Prior to the issuance by Tenant of any letter of intent to a Contractor which will be entering into subcontracts with MBEs in accordance with Sections 5(b), (e) and (k) of this Program, Tenant shall provide to BPCA a written list of specific affirmative action measures which such Contractor will undertake in complying with this Program, including a list of MBEs to which subcontracts are to be let.

(k) Tenant shall not enter into any Contract, nor permit its Contractors to enter into any Contract, except in accordance with the requirements of this Program. Each Contract entered into by Tenant shall (i) contain such nondiscrimination provisions as shall be required by the Lease,

(ii) require the Contractor thereunder to comply with the applicable Minority Workforce requirements of Section 3 of this Program and (iii) where contemplated by the contract package for such Contract, require such Contractor to comply with the applicable provisions of Sections 4 and 5 of this Program with respect to any Contracts awarded by such Contractor. Tenant shall promptly furnish BPCA with the name of each Contractor to which Tenant (or its Contractors) awards a Contract, together with, in the case of each Approved MBE Contract, a summary of the scope of services to be performed under such Contract and the Contract Price thereof, as the same may be amended from time to time.

(l) Tenant shall from time to time designate an affirmative action officer, satisfactory to BPCA, with full authority to act on behalf of and to represent Tenant in all matters relating to this Program. Tenant hereby designates, and BPCA hereby approves, Otto Blau as such affirmative action officer.

6. Subsequent Construction. After the Construction Period, in connection with all subsequent construction work on the Project, including interior improvements, alterations, capital improvements, structural repairs, Restoration (as defined in the Lease), replacement of, or additions to, any Building or any portion thereof, undertaken by Tenant, whether on its own behalf or on behalf of its subtenants, Tenant shall, and shall cause its Contractors to, afford

priority in such work to qualified, available MBEs which submit competitive proposals for such work. Tenant and BPCA shall annually agree on a goal for MBE participation in such work. In setting such goals, Tenant and BPCA will consider the availability of qualified MBEs to perform such work and the customary practice of building owners to employ a limited number of contractors to work on the building systems. In order to meet the goals to be established under this Section 6, Tenant shall, and shall cause its Contractors to (a) conduct a thorough and diligent search for qualified MBEs, (b) review the qualifications of each MBE suggested to Tenant by BPCA and (c) afford an opportunity to submit proposals for the work to those MBEs found qualified. Tenant shall meet periodically with BPCA to review the operations and status of the Program, and Tenant shall submit quarterly reports to BPCA setting forth the nature and scope of construction work carried out during the preceding quarter, all efforts made by Tenant and its Contractors to employ qualified MBEs in performing the work and all contracts let to MBEs. The obligations under this Section 6 shall continue until the Members of BPCA find that this Program is no longer necessary to remedy the effects on the Project of discrimination in the construction industry.

7. Project Management. In connection with the management and operation of each Building, Tenant shall, and

shall cause such persons as it may employ to manage and operate the Buildings (collectively, the "Operator"), to:

(i) make good faith efforts to include Minority group members in such work in the proportion that Minorities bear to the total New York City workforce;

(ii) in the event of lay-offs, make good faith efforts to maintain the same proportion of Minority employees in Tenant's (or Operator's, as the case may be) workforce as existed immediately prior to commencement of such lay-offs;

(iii) make good faith efforts to seek and to include MBEs in all service and management agreements, agreements for the purchase of goods and services and other agreements relating to the operation of the Buildings;

(iv) advise BPCA a reasonable time in advance of each service, management or purchase agreement exceeding $50,000 in amount, which Tenant or Operator proposes to execute, so that BPCA may furnish Tenant or Operator, as the case may be, with a list of MBEs which may be capable of performing the work called for by such proposed agreement; and

(v) meet with BPCA's Affirmative Action

Officer on a periodic basis, but not less than quarterly, to review employment needs and practices of Tenant or Operator, to review Tenant's and Operator's compliance with this Section 7 and to determine specific contracting opportunities where Minority workforce or MBE participation in the management and operation of the Project might be encouraged.

8. Non-Compliance. (a) Tenant acknowledges that the percentages of Minority Workforce Participation set forth in Schedule 1 and the aggregate Contract Value set forth in Section 4(a) above with respect to its Parcel, represent reasonable estimates of Tenant's ability to afford priority to Minority workers and MBEs, respectively, during the Construction Period. Tenant recognizes and acknowledges that the purpose of this affirmative action program and of Tenant's and BPCA's undertakings hereunder is to redress the effects of past discrimination in the construction industry by affording Minority workers and MBEs an opportunity to participate in the construction of the Project, to the end that such Minority workers and MBEs can share in economic benefits from which they have heretofore been excluded by such discrimination and also can gain necessary training, experience and other benefits, including increased financial resources, which will facilitate their full participation in

the construction industry hereafter. Tenant recognizes and acknowledges that its failure to afford priority in construction of the Project to such Minority workers and MBEs, as provided herein, will result in substantial damage to BPCA's affirmative action program, as well as to Minority workers and MBEs who will be denied an opportunity to share in the economic benefits provided by the construction work and who will be denied the training, experience and other benefits which participation in the Project would provide. Tenant further recognizes and acknowledges that the damage referred to above cannot be readily quantified, but that the amounts set forth below are reasonable in light of the magnitude of the harm which would result from its non-compliance hereunder, and that payments made for the purposes of the Minority Workers Training Fund and the MBE Assistance Fund, referred to in paragraph (c) below, are a reasonable means of compensating for that harm.

(b) In the case of Tenant's failure to afford priority in the construction of the Project to Minority workers and MBEs, respectively (other than failure resulting directly from any order of judicial authorities having jurisdiction over the Project or this Program), Tenant shall pay to BPCA compensatory damages (such damages, together with the relief provided in paragraph (e) below, constituting BPCA's exclusive remedies hereunder), in the following liquidated amounts:

(i) in the event that during the Con-

struction Period Tenant fails to employ, or cause it Contractors to employ, Minority group workers in any trade equal to the percentages set for such trade in Schedule 1 hereto, fifty percent of the hourly wages that would have been paid (a) to the minority group workers who were made available to, but not hired by, Tenant or its Contractors by the unions representing workers in each trade under applicable collective bargaining agreements, and (b) to the trainees made available to, but not hired by, Tenant or it Contractors under the "New York Plan" or any successor or comparable training program operating in New York City;

(ii) in the event that during the Construction Period, Tenant fails to enter into, or cause its Contractors to enter into, an Approved MBE Contract for work on the Project with any MBE found to be qualified and available to perform such work for a fair and reasonable price, in accordance with and subject to the provisions of Section 4 and 5 hereof, 12.5% of the Contract Price at which such MBE was willing to perform such work but in no event less $50,000 for each such Contract, provided that, if such failure is either

willful or a result of a pattern of continuing violation of Tenant's obligations hereunder after notice by BPCA to Tenant that BPCA believes such a pattern to exist, then such damages shall equal 20% of such Contract Price but in no event less than $100,000 for each such Contract; and

(iii) in the event that during the Construction Period, Tenant fails to enter into, or cause its Contractors to enter into, Approved MBE Contracts having an aggregate Contract Value at least equal to the amount specified for Tenant's Parcel in Section 4(a) above ("Specified Amount"), 12.5% of the amount by which the Specified Amount exceeds the aggregate Contract Value of Approved MBE Contracts actually entered into by Tenant and its Contractors during such Period, provided that (A) if such failure is either willful or a result of a pattern of continuing violation of Tenant's obligations hereunder after notice by BPCA to Tenant that BPCA believes such a pattern to exist, such damages shall equal 20% of the amount by which the Specified Amount exceeds the aggregate Contract Value of such Approved MBE Contracts and (B) Tenant shall,

in any event, be entitled to credit against any sums payable under this paragraph (iii) all payments theretofore made by Tenant pursuant to paragraph (ii) above. Notwithstanding the foregoing, Tenant shall not be liable for damages under this paragraph (iii) if and to the extent that Tenant can demonstrate (A) that it has fully and diligently performed all of its obligations under this Program and diligently complied with each and every provision hereof and (B) that, notwithstanding such efforts, it was unable to locate additional, qualified MBEs with which to contract in accordance with and subject to the procedures set forth in Sections 4 and 5 of this Program.

(c) Payments made by Tenant under paragraph (b)(i) hereof shall be used by BPCA for the purposes of a Minority Workers Training Fund to provide job training and other assistance to Minority Workers as BPCA shall determine to be useful in enabling such workers to overcome the effects of past discrimination and to participate more fully in the construction industry. Payments made by Tenant under paragraphs (b)(ii) and (b)(iii) hereof shall be used by BPCA for the purposes of an MBE Assistance Fund to provide such financial, technical and other assistance to MBEs as BPCA shall determine to be useful in enabling MBEs to overcome the ef-

fects of past discrimination and to participate more fully in the construction industry.

(d) Anything to the contrary contained herein notwithstanding, (i) the aggregate damages payable by Tenant with respect to its Parcel pursuant to paragraph (b)(i) of this Section 8 shall in no event exceed the following:

-- Parcel A - $2,000,000.
-- Parcel B - $3,000,000.
-- Parcel C - $3,000,000.
-- Parcel D - $2,000,000.

and (ii) the aggregate damages payable by Tenant with respect to its Parcel pursuant to paragraphs (b)(ii) and (iii) of this Section 8 shall in no event exceed the following:

-- Parcel A - $2,000,000.
-- Parcel B - $3,000,000.
-- Parcel C - $3,000,000.
-- Parcel D - $2,000,000.

(e) In the event Tenant fails to fulfill any of its obligations hereunder, BPCA may, in addition to assessing damages as provided in paragraph (b) above, (i) advise Tenant that except for completion of the Project and the exercise of its rights under the Lease, Tenant shall be ineligible to participate in any work on Battery Park City or any other BPCA project and (ii) apply to any court of competent jurisdiction for such declaratory and equitable relief as may be available to BPCA to secure the performance by Tenant of its obligations hereunder, provided that such equitable relief shall not include enjoining or restraining the performance of any Contract which Tenant has previously

entered into or of which Tenant has given BPCA notice pursuant to Section 5(k) hereof.

9. Confidentiality. BPCA acknowledges that the information to be furnished by Tenant hereunder concerning Tenant's Contracts and bidding procedures constitutes information which, if disclosed, could impair present or imminent Contract awards, is maintained for the regulation of Tenant's commercial enterprise and could, if disclosed, cause substantial injury to the competitive position of that enterprise. Accordingly, BPCA will, in accordance with and subject to applicable law, treat such information as confidential and use its best efforts to prevent the unauthorized disclosure thereof, except to the extent that (a) BPCA and Tenant shall agree is necessary in connection with the recruitment of qualified MBEs to perform work on the Project, (b) BPCA may determine to use such information, without identifying such individual Contracts, as part of BPCA's overall assessment of the effectiveness of this Program in overcoming the effects of discrimination in the construction industry or (c) is otherwise necessary in connection with the enforcement of this Program in accordance with the provisions hereof. BPCA and Tenant shall agree on measures to be taken by them to protect the confidentiality of information furnished by Tenant.

10. No BPCA Liability. No act of, nor failure to act by, BPCA hereunder shall create or result in any lia-

bility on the part of BPCA to Tenant or to any other party, nor give rise to any claim by Tenant or any other party against BPCA, whether for delay, for damages or for any other reason, provided that nothing contained herein shall preclude Tenant from challenging any such act or failure to act as unreasonable, arbitrary or capricious.

11. Performance under Lease. No requirement of this Program, nor the assumption or performance by Tenant of any obligation hereunder, shall excuse Tenant from the performance of any of its obligations under the Lease, nor constitute a defense to any claim by BPCA under the Lease, whether for default, rental, damages or otherwise, except as may be specifically provided therein.

12. Persons Bound. This Program and the Schedule and Side Letters hereto, including any amendments thereto, shall be binding upon and inure to the benefit of BPCA and Tenant and their respective legal representatives, successors and permitted assigns. Tenant shall require its successors or assigns to confirm and agree in writing to all terms and conditions of this Program.

13. Women. Consistent with its other obligations hereunder, Tenant shall use good faith efforts to (a) employ, and cause its Contractors to employ, qualified women workers in all trades during the construction of the Project; (b) request proposals from and employ qualified construction

firms which are owned and operated by women; and (c) utilize the services of women workers and service and management firms owned and operated by women in connection with the operation and management of the Project. In the event that legislation is enacted which authorizes or directs BPCA to carry out additional affirmative action programs with respect to women workers or business firms owned and operated by women, BPCA reserves the right to take such measures as may be necessary or appropriate to implement such programs.

14. Separability. If any provision of this Program shall for any reason be held unenforceable or invalid, neither the enforceability nor the validity of any other provision of this Program shall be affected thereby.

15. Governing Law. This Program shall be construed and enforced in accordance with the laws of the State of New York.

Dated: New York, New York
As of , 1983

ACCEPTED AND AGREED:

TENANT

OLYMPIA & YORK BATTERY PARK COMPANY

By: O&Y BATTERY PARK CORP., General Partner

By:_____
Executive Vice President

Schedule 1

MINORITY WORKFORCE PARTICIPATION

Trade	Percentage
Electricians	17.5
Carpenters	30.0
Steamfitters	17.5
Metal Lathers	30.3
Painters	35.5
Op. Engineers	25.8
Plumbers	17.5
Iron Workers (structural)	29.0
Iron Workers (ornamental)	29.0
Elevator Constructors	13.0
Bricklayers	30.0
Asbestos Workers	30.0
Roofers	14.0
Cement Masons	30.0
Glazers	22.5
Plasterers	30.0
Teamsters	27.5
Boilermakers	17.5
Laborers*	35.0
All other	22.5

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* Applicable to Contracts entered into pursuant to invitations to bid or requests for proposals issued after the date of this Program.

EXHIBIT "D" TO THE LEASE

SITE PLANS

Drawings prepared by O&Y Construction Corp., numbered and dated as follows:

Z0.	6/19/81
Z1.	6/19/81
Z2.	6/19/81
Z2a.	6/19/81
Z2b.	6/19/81
Z3.	6/19/81
Z4.	6/19/81
Z5.	6/19/81
Z6.	6/19/81
Z7.	6/19/81
Z8.	6/19/81, revised 9/18/81
Z9.	6/19/81
Z10.	6/19/81, revised 9/18/81
Z11.	6/19/81
Z12.	6/19/81, revised 9/18/81
Z13.	6/19/81, revised 9/18/81
Z14.	6/19/81
Z15.	6/19/81, revised 9/18/81
Z16.	6/19/81

EXHIBIT "E-1" TO THE LEASE

CIVIC FACILITIES DRAWINGS
AND SPECIFICATIONS

A. Drawings Prepared by Flack & Kurtz:

ZCI-P-1	rev. 9/8/81	ZCI-P-4	rev. 8/3/81
ZCI-P-2	rev. 8/3/81	ZCI-P-5	rev. 9/3/81
ZCI-P-3	rev. 9/8/81		
ZCI-E-1	rev. 9/8/81	ZCI-E-4	rev. 8/3/81
ZCI-E-2	rev. 9/8/81	ZCI-E-5	rev. 8/25/81
ZCI-E-3	rev. 9/8/81	ZCI-E-6	rev. 8/3/81

Outline of Proposed Mechanical & Electrical Dry Utilities prepared by Flack & Kurtz, revised 9/25/81, consisting of title page and nine (9) pages.

B. Drawings Prepared by Mueser, Rutledge, Johnston & DeSimone:

ZBOY-2	rev. 8/24/81		
ZCI-B-1	rev. 8/24/81	ZCI-B-13	rev. 8/24/81
ZCI-B-4	rev. 8/24/81	ZCI-B-14	rev. 8/3/81
ZCI-B-5-6-7-8	rev. 8/24/81	ZCI-B-15	rev. 8/3/81
ZCI-B-9	rev. 8/24/81	ZCI-B-16	rev. 8/3/81
ZCI-B-10	rev. 8/24/81	ZCI-B-17	rev. 8/3/81
ACI-B-11	rev. 8/24/81	ZCI-B-18	rev. 8/3/81
ACI-B-12	rev. 8/24/81		
ZCI-CE-SK-1	rev. 8/3/81	ZWS-3	rev. 8/3/81
ZCI-SE-SK-2	rev. 8/3/81	ZWS-4	rev. 8/3/81

Technical Specifications prepared by Mueser, Rutledge, Johnston & DeSimone covering Excavation, Piling, Platforms, Concrete & Demolition, revised 9/25/81 consisting of title page and twenty-five (25) pages.

C. Drawings Prepared by Ysrael A. Seinuk, PC:

ZCI-F-1	dtd. 8/27/81
ZCI-F-2	dtd. 8/27/81
ZCI-F-3	dtd. 8/27/81

D. Drawings Prepared by Lev Zetlin Associates:

ZCI-S-1	rev. 8/26/81
ZCI-S-2	rev. 8/26/81

E. Drawings Prepared by Haines Lundberg Waehler:

ZCI-A-1 rev. 8/26/81

F. Specifications prepared by Coombes/Kirkland/Berridge dated 10/14/81 consisting of title page and seven (7) pages entitled Outline Specifications for Easterly Terminals of Pedestrian Bridges, and one (1) additional page listing the following drawings prepared by O&Y Construction Corp./Coombes/Kirkland/Berridge:

ZA-1	dtd. 8/31/81	ZB-1	dtd. 8/31/81
ZA-2	dtd. 8/31/81	ZB-2	dtd. 8/31/81
ZA-3	dtd. 8/31/81	ZB-3	dtd. 8/31/81
ZC-1	dtd. 8/31/81	ZD-1	dtd. 8/31/81
ZC-2	dtd. 8/31/81	ZD-2	dtd. 8/31/81
ZC-3	dtd. 8/31/81		

G. Drawings Prepared by Vollmer Associates:

ZCI-R-1'	rev. 9/24/81	ZCI-R-5	rev. 8/31/81
ZCI-R-1	rev. 9/8/81	ZCI-R-6	rev. 9/8/81
ZCI-R-2	rev. 9/25/81	ZCI-R-7	rev. 8/31/81
ZCI-R-3	rev. 9/8/81	ZCI-R-8	rev. 8/31/81
ZCI-R-4	rev. 8/31/81	ZCI-R-9	rev. 8/31/81
		ZCI-R-16	rev. 8/3/81
ZCI-U-1	rev. 8/31/81	ZCI-U-5	rev. 8/3/81
ZCI-U-3	rev. 8/31/81	ZCI-U-6	rev. 8/3/81
ZCI-U-4	rev. 8/31/81		

Technical Specifications for Construction of Utilities & Streets prepared by Vollmer Associates revised 9/25/81 consisting of title page and one hundred five (105) pages.

H. Drawings Prepared by M. Paul Friedberg Associates:

ZCI-L-1 rev. 9/21/81

Site Improvements and Landscaping Specifications revised 9/25/81 consisting of title page and one hundred fourteen (114) pages.

EXHIBIT "E-2" TO THE LEASE

CIVIC FACILITIES DEVELOPMENT SCHEDULE

	Date of Substantial Completion
I. STREETS	
A. All subsurface work, including platforms, utilities, concrete street bases and 1/2" asphalt surface	
1. Albany Street, South End Avenue and Liberty Street complete by Access to POD III, consisting of both (a) pedestrian traffic and (b) two lanes of vehicular traffic on either Albany Street or Liberty Street must be continuously maintained commencing March 31, 1982, but said pedestrian access shall not include or require completed sidewalks earlier than as required under Section I.B. below.	December 31, 1982 [Completed]
2. Vesey Street, North End Avenue and Marginal Street	December 31, 1983
B. Finish treatments, sidewalks, paving curbs, street furniture and landscaping	
Earlier of	180 days after Substantial Completion of the individual Building adjacent to the street, or
1. Albany Street, South End Avenue and south side of Liberty Street (except that portion affected by Liberty Street Bridge)	June 30, 1985
2. North side, Liberty Street	June 30, 1987
3. Vesey Street at Parcel C	June 30, 1986
4. Vesey Street at Parcel D and North End Avenue	June 30, 1988

5. Marginal Street

(a) Albany Street to Liberty Street----------June 30, 1985

(b) Parcel B, except Winter Garden---June 30, 1987

(c) Parcel C----------June 30, 1986

(d) Winter Garden----------December 31, 1987

II. PLAZA

A. Subsurface work (Piling and Platforms)

1. Esplanade and Plaza----------December 31, 1983

B. Utilities, finish treatment, paving, walls, steps, furniture and landscaping

1. Esplanade----------April 30, 1985

2. Plaza

(a) At Parcel C to a line parallel to the north face of Parcel C

Earlier of----------180 days after (i) Substantial Completion of the Building on Parcel C shall have occurred, and (ii) the Building on Parcel B (exclusive of the Winter Garden) shall have been Fully Enclosed

or

December 31, 1987

(b) Balance of Plaza

Earlier of----------180 days after Substantial Completion of the Building on Parcel D

or

June 30, 1988

III. BRIDGES

A. Southern Pedestrian Bridge

Earlier of----------180 days after Substantial Completion of the Building on Parcel A

or

December 31, 1984, unless final approved location of (a) center supports and (b) easterly bridge termination point is given after December 31, 1982, in which event Substantial Completion of such bridge shall be achieved within 24 months after such final approval date.

B. Northern Pedestrian Bridge

Earlier of----------180 days after the earlier of Substantial Completion of the Building on Parcel B (exclusive of the Winter Garden) or the Building on Parcel C,

or

June 30, 1986, unless final approved location of (a) center supports and (b) easterly bridge termination point is given after December 31, 1983, in which event Substantial Completion of such bridge shall be achieved within 30 months after such final approved date.

EXHIBIT "F-1" TO THE LEASE

GUARANTY AND CONSENT TO SERVICE

Guaranty and consent, dated as of September 1, 1981, by and between O&Y EQUITY CORP. ("Guarantor"), a New York corporation having an office at 245 Park Avenue, New York, New York 10017, and BATTERY PARK CITY AUTHORITY ("Landlord"), a New York public benefit corporation having an office at 40 Rector Street, New York, New York 10006.

RECITALS:

A. OLYMPIA & YORK BATTERY PARK COMPANY ("Tenant") is simultaneously entering into an agreement of lease ("Development Lease") for a portion of the project located at Battery Park City ("Project") known as the commercial core ("Demised Premises"). Pursuant to the Development Lease and the Severance Leases (as defined and provided for in the Development Lease), Tenant is obligated, among other things, to construct certain buildings (collectively, "Buildings") on the "Parcels" (as defined in the Development Lease) comprising the Demised Premises.

B. Tenant is simultaneously entering into a contract with Landlord ("Contract") for the construction of the "Civic Facilities" (as such term is defined in the Development Lease).

C. Landlord has required and Guarantor has agreed that simultaneously with the execution of the Development Lease and the Contract, Guarantor shall execute and deliver to Landlord a guaranty of performance by Tenant under the

Development Lease and the Contract and of performance by the tenants under the Severance Leases.

W I T N E S S E T H :

In consideration of, and as an inducement to, Landlord executing and delivering the Development Lease and the Contract and for the further consideration of $10.00 and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Guarantor and Landlord agree as follows:

1. Guarantor absolutely, unconditionally and irrevocably guarantees to Landlord the full and timely performance of all obligations of Tenant (whether monetary or non-monetary) under the Development Lease and the Contract and of all obligations of the tenants under the Severance Leases, including without limitation, payment of any damages owing by Tenant or the tenants under the Severance Leases resulting from an Event of Default under the Development Lease, the Contract or the Severance Leases, in accordance with and pursuant to this Guaranty and Consent. Guarantor expressly acknowledges and agrees that its liability under this Guaranty is not in any manner limited by the non-recourse provision of the Development Lease set forth in Section 41.06(b) thereof, or by any corresponding provision of a Severance Lease, it being agreed that the obligations and liabilities being guaranteed by Guarantor hereunder are those which Tenant has under the

Development Lease and the Contract and which the tenants under the Severance Leases have thereunder, without regard to any exculpation of liability provided for under any of such instruments.

2. This Guaranty and Consent is an absolute and unconditional guaranty of performance and not merely of collection. Guarantor acknowledges and agrees that its liability hereunder shall be primary and that in any right of action which shall accrue to Landlord under the Development Lease, the Contract or any of the Severance Leases, Landlord may, at its option, proceed against Guarantor and Tenant or the tenant under the Severance Lease in question, jointly and severally, and Landlord may proceed against Guarantor under this Guaranty and Consent without commencing any suit or proceeding of any kind or nature whatsoever against Tenant or the tenant under the Severance Lease in question, or without having obtained any judgment against Tenant or the tenant under the Severance Lease in question, and without any presentment and demand for payment, notice of non-payment, notice of dishonor, protest, notice of protest, non-performance or non-observance (except copies of any notice of default Landlord gives under the Development Lease, the Contract or the Severance Leases), or of any notice of acceptance of this Guaranty and Consent or of any other notice or demand to which Guarantor might otherwise be entitled, all of which Guarantor hereby expressly waives.

3. Anything contained herein to the contrary notwithstanding, Landlord and Guarantor acknowledge and agree that, with respect to each Parcel, all obligations or liabilities hereunder shall continue unaffected until (i) the earlier of the issuance of a temporary or permanent Certificate of Occupancy for the whole of each of the Buildings located on such Parcel (except that in the case of Parcel B, as defined in the Development Lease, the Buildings shall not include the Winter Garden), (ii) the completion by Tenant of all interior work to be performed by Tenant under Subleases with Persons who are not Affiliates or Permitted Assignees of Tenant for not less than fifty percent (50%) of the Net Rentable Square Feet of such Buildings, (iii) the leasing of not less than fifty percent (50%) of the Net Rentable Square Feet of such Building to Subtenants who are not Affiliates or Permitted Assignees of Tenant and who shall have taken occupancy of such space, and (iv) if the Parcel in question is not the only parcel then covered by the Development Lease, the execution and delivery of a Severance Lease for such Parcel, and upon the occurrence of the events set forth in the aforesaid clauses (i) through (iii), and, if applicable, (iv) Guarantor shall not be liable for any of the obligations or liabilities hereunder arising thereafter (but shall continue to be liable for all such obligations and liabilities which arose or accrued prior to that date), except for Tenant's obligation under the Development Lease

to complete construction of the Winter Garden and to obtain a duly issued permanent Certificate of Occupancy for the Buildings located on a Parcel (including the Winter Garden) and any liabilities or damages incurred by Landlord by reason of the failure of Tenant or Guarantor to complete such construction or to obtain such Certificate of Occupancy as provided in the Development Lease. The terms "Certificate of Occupancy", "Winter Garden", "Subleases", "Persons", "Affiliates", "Permitted Assignee", "Net Rentable Square Feet" and "Subtenant" as used in this Paragraph 3 each shall have the meaning accorded to it in the Development Lease.

4. Guarantor expressly agrees that the validity of this Guaranty and Consent and the obligations of Guarantor hereunder shall in no way be terminated, affected, diminished or impaired by reason of (a) the assertion of or the failure by Landlord to assert against Tenant or the tenants under the Severance Leases any of the rights or remedies reserved to Landlord pursuant to the terms, covenants and conditions contained in the Development Lease, the Contract or the Severance Leases, (b) the non-liability of Tenant under the Development Lease, the Contract or of any tenant under a Severance Lease by reason of any bankruptcy, insolvency reorganization, arrangement, assignment for the benefit of creditors, receivership or trusteeship affecting Tenant, such tenants or their respective successors or assigns, whether or not notice thereof is given to Guarantor, (c) the limitation on the liability of

Tenant pursuant to Section 41.06(b) of the Development Lease and the corresponding non-recourse provision under a Severance Lease, or (d) any other circumstance or condition that may grant or result in a discharge, limitation or reduction of liability of a surety or guarantor.

5. Guarantor acknowledges and agrees that, subject to the provisions of Section 3, this Guaranty and Consent shall be a continuing guaranty and the liability of Guarantor hereunder shall in no way be affected, modified or diminished by reason of (a) any subletting of all or a portion of the Parcel or any assignment or other transfer of Tenant's interest in the Development Lease or the Contract or of the interest of a tenant under a Severance Lease, (b) any modification, renewal or extension of the Development Lease, the Contract or any Severance Lease, (c) any consent, indulgency or other action, inaction or omission under or concerning the Development Lease, the Contract or any Severance Lease, (d) any dealings or transactions or matter or thing occurring between Landlord and Tenant or any tenant under a Severance Lease, or (e) any bankruptcy, insolvency, reorganization, arrangement, assignment for the benefit of creditors, receivership or trusteeship affecting Tenant or the tenant under any Severance Lease or their respective successors or assigns, whether or not notice thereof is given to Guarantor.

6. No delay on the part of Landlord in exercising any right, power or privilege under this Guaranty and Consent

nor any failure to exercise the same shall operate as a waiver of or otherwise affect any right, power or privilege, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

7. Guarantor agrees that whenever at any time or from time to time Guarantor shall make any payment to Landlord on account of Guarantor's liability under this Guaranty and Consent, Guarantor shall notify Landlord that the payment being made is for that purpose. Guarantor waives any and all rights of subrogation to the rights of Landlord or Tenant or the tenants under the Severance Lease, contractual, statutory or otherwise, arising out of the performance of Guarantor's obligations hereunder.

8. Landlord and Guarantor shall each, at any time and from time to time, within ten (10) Business Days (as defined in the Development Lease) following the request by the other, execute, acknowledge and deliver to the other a statement certifying that this Guaranty and Consent is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating such modifications) and that to the best of the certifying party's knowledge, Guarantor is not in default hereunder (or if there is such a default, describing such default in reasonable detail).

9. Guarantor represents and warrants that it is not entitled to immunity from judicial proceedings and agrees that, in the event Landlord brings any suit, action or proceeding in New York or any other jurisdiction to enforce any obligation or liability of Guarantor arising, directly or indirectly, out of or relating to this Guaranty and Consent, no immunity from such suit, action or proceeding will be claimed by or on behalf of Guarantor.

10. Guarantor acknowledges and agrees that all disputes arising, directly or indirectly, out of or relating to this Guaranty and Consent may be adjudicated in the state courts of New York sitting in New York County or the federal courts sitting in New York County and hereby expressly and irrevocably submits the person of Guarantor to the in personam jurisdiction of those courts in any suit, action or proceeding arising, directly or indirectly, out of or relating to this Guaranty and Consent. To the extent permitted under applicable law, this consent to personal jurisdiction shall be self-operative and no further instrument or action, other than service of process in one of the manners specified in this Guaranty and Consent or as otherwise permitted by law, shall be necessary in order to confer jurisdiction upon the person of Guarantor in any such court.

11. To the fullest extent permitted under applicable law, Guarantor irrevocably waives and agrees not to assert, by way of motion, as a defense or otherwise, any objection which

it may now or hereafter have to the laying of the venue of any such suit, action or proceeding brought in such a court referred to in Section 10, any claim that any such suit, action or proceeding brought in such a court has been brought in an inconvenient forum, or any claim that it is not personally subject to the jurisdiction of any such court. Provided that service of process is effected upon Guarantor in one of the manners hereafter specified or as otherwise permitted by law, Guarantor agrees that any final judgment in any suit, action or proceeding brought in such a court of competent jurisdiction from which Guarantor has not appealed or is not permitted to appeal further, shall be conclusive and binding upon Guarantor and, so far as is permitted under applicable law, shall be enforced in the courts of Canada and in any other courts to the jurisdiction of which Guarantor is subject, by a suit upon such judgment and that Guarantor shall not assert any defense in any such suit upon such judgment.

12. Guarantor hereby irrevocably designates and appoints Olympia & York Properties ("Agent"), having an office at 245 Park Avenue, New York, New York 10167, or such other office in New York City as Guarantor shall hereafter designate by notice to Landlord, as its authorized agent to accept and acknowledge on its behalf service of any and all process which may be served in any suit, action or proceeding of the nature referred to in this Guaranty and Consent in any state court of New York or federal court sitting in New York. By

executing this Guaranty and Consent, Agent irrevocably consents to and accepts its designation and appointment for service of process upon Guarantor. This designation and appointment shall be irrevocable until the date upon which Landlord shall either (a) approve a designated replacement pursuant to Section 13 or (b) deliver to Agent Landlord's written termination of Guarantor's responsibility hereunder.

13. Agent covenants and agrees that it shall not cease so to act unless and until Guarantor shall have irrevocably designated and appointed another agent or agents satisfactory to Landlord and Guarantor shall have delivered to Landlord evidence in writing of the other agent's unconditional acceptance of such appointment and any attempt by Agent to cease to so act shall be ineffective and without force or effect unless the foregoing provisions of this Section 13 or Section 12(b) shall be fully complied with.

14. Guarantor shall from time to time execute, acknowledge, deliver and file all further instruments necessary under the laws of the State of New York or the United States of America, to make effective (a) the appointment of Agent, (b) the consent of Guarantor to jurisdiction of the state courts of New York and the federal courts sitting in New York and (c) the other provisions of this Guaranty and Consent.

15. By the execution of this Guaranty and Consent, Guarantor consents to process being served in any suit, action

or proceeding of the nature referred to in this Guaranty and Consent either (a) by the mailing of a copy thereof by registered or certified mail, postage prepaid, return receipt requested, addressed to Guarantor at 245 Park Avenue, New York, New York 10167, attention: Executive Vice President; with a copy thereof by telex, also mailing a copy of that telex by registered or certified air mail, postage prepaid, return receipt requested, to Guarantor at One First Canadian Place, Toronto, Ontario M5X1B5 (Telex No. 06524728), attention: Mr. Paul Reichmann, with a further copy to Kaye, Scholer, Fierman, Hays & Handler, 425 Park Avenue, New York, New York 10022, attention: Martin S. Saiman, Esq., or to any other address or telex number Guarantor shall designate by notice to Landlord, provided that Landlord shall not be required to send such copies to more than an aggregate of four addresses and telex numbers, or (b) by (i) personally serving a copy thereof upon Agent at Agent's address set forth above, and (ii) by telex, also mailing a copy of that telex by registered or certified mail, postage prepaid, return receipt requested, to Guarantor at One First Canadian Place, Toronto, Ontario M5X1B5 (Telex No. 06524728), attention: Mr. Paul Reichmann, with a further copy to Kaye, Scholer, Fierman, Hays & Handler, 425 Park Avenue, New York, New York 10022, attention: Martin S. Saiman, Esq., or to any other address or telex number Guarantor shall designate by notice to Landlord, provided that Landlord shall not be required to personally serve or

send such copies to more than an aggregate of four addresses and telex numbers. To the fullest extent permitted under applicable law, Guarantor agrees that such service shall be deemed in every respect effective service of process upon Guarantor in any such suit, action or proceeding and be taken and held to be valid personal service upon and personal delivery to Guarantor.

16. Nothing in this Guaranty and Consent shall affect the right of Landlord to serve process in any other manner permitted by law or limit the right of Landlord or any of its successors or assigns to bring proceedings against Guarantor in any other courts having jurisdiction over the parties.

17. As a further inducement to Landlord to execute and deliver the Development Lease and in consideration thereof, Landlord and Guarantor covenant and agree that in any action or proceeding brought on, under or by virtue of this Guaranty and Consent, Landlord and Guarantor shall and do waive trial by jury.

18. Guarantor represents to Landlord that:

18.1 Guarantor has full power, authority and legal right to execute, deliver, perform and observe the provisions of this Guaranty and Consent, including without limitation, the payment of all moneys hereunder.

18.2 The execution, delivery and performance by Guarantor of this Guaranty and Consent has been duly authorized by all necessary corporate action.

18.3 This Guaranty and Consent constitutes the legal, valid and binding obligation of Guarantor enforceable in accordance with its terms.

18.4 Guarantor, as of the date of the execution of this Guaranty and Consent, is not in violation of any decree, ruling, judgment, order or injunction applicable to it nor any law, ordinance, rule or regulation of whatever nature nor are there any actions, proceedings or investigations pending or threatened against or affecting Guarantor (or any basis therefor known to Guarantor) before or by any court, arbitrator, administrative agency or other governmental authority or entity, any of which, if adversely decided, would materially and adversely affect its ability to carry out any of the terms, covenants and conditions of this Guaranty and Consent.

18.5 No authorization, approval, consent or permission (governmental or otherwise) of any court, agency, commission or other authority or entity is required for the due execution, delivery, performance or observance by Guarantor of this Guaranty and Consent or for the payment of any sums hereunder. Guarantor covenants that if any such authorization, approval, consent, filing or permission shall be required in the future in order to permit or effect performance of the obligations of Guarantor under this Guaranty and Consent, Guarantor shall promptly inform Landlord or its successors or

assigns and shall use its best efforts to obtain promptly such authorization, approval, consent, filing or permission.

18.6 Guarantor, as of the date of the execution of this Guaranty and Consent, is not in default in the observance or performance of the terms and conditions of any loan agreement to which it is a party or by which it is bound, which default might materially and adversely affect its ability to carry out any of the terms, covenants or conditions of this Guaranty and Consent.

18.7 Neither the execution and delivery of this Guaranty and Consent, nor the consummation of the transactions herein contemplated, nor compliance with the terms and provisions hereof, conflict or will conflict with or result in a breach of any of the terms, conditions or provisions of the certificate of incorporation or by-laws of Guarantor, or similar documents of Guarantor, or of any law, order, writ, injunction or decree of any court or governmental authority, or of any agreement or instrument to which Guarantor is a party or by which it is bound, or constitutes or will constitute a default thereunder.

18.8 Guarantor owns one hundred percent (100%) of the authorized and outstanding voting stock of O&Y Battery Park Corp., and O&Y Battery Park Corp. is a partner of Tenant which is entitled to ninety-seven percent (97%) of Tenant's profits and losses.

19. In the event Landlord shall be obligated by any bankruptcy, insolvency or other legal proceedings to repay to Guarantor or pay to Tenant, the tenant under any Severance Lease or to any trustee, receiver or other representative of either of them, any amounts previously paid by Guarantor pursuant to this Guaranty and Consent, this Guaranty and Consent shall be deemed reinstated to the extent of that repayment made by Landlord. Landlord shall not be required to litigate or otherwise dispute its obligation to make such repayments if it is in good faith and on the advice of counsel believes that such obligation exists.

20. Guarantor acknowledges and agrees that it shall be deemed in default under this Guaranty and Consent if at any time during the duration of this Guaranty and Consent any of the following shall occur:

20.1 If, after notice to Guarantor of a default under the Development Lease, the Contract or any Severance Lease, Guarantor shall fail to perform or cause the performance of Tenant's obligations under the Development Lease, the Contract or such Severance Lease, as the case may be, or if Guarantor shall otherwise default in the performance of its obligations under this Guaranty and Consent and such default shall continue for ten (10) days after Landlord notifies Guarantor thereof.

20.2 If any of the representations made by Guarantor in this Guaranty and Consent shall be untrue in any material respect.

21. No waiver or modification of any provision of this Guaranty and Consent nor any termination of this Guaranty and Consent shall be effective unless in writing and signed by the party against which the waiver, modification or termination is sought to be enforced; nor shall any waiver be applicable except in the specific instance for which it is given.

22. The validity and enforcement of this Guaranty and Consent shall be governed by and construed in accordance with the internal laws of the State of New York without regard to principles of conflicts of law.

23. All notices, demands, requests, consents, approvals or other communications (collectively, "Notices") desired or required to be given under this Guaranty and Consent shall be in writing, and, any law or statute to the contrary notwithstanding, shall be effective for any purpose if given or served by prepaid certified or registered mail, return receipt requested addressed as follows:

23.1 If to Guarantor, to it at:

245 Park Avenue
New York, New York 10167

Attention: Executive Vice-President

with a copy to:

Kaye, Scholer, Fierman, Hays & Handler
425 Park Avenue
New York, New York 10022

Attention: Martin S. Saiman, Esq.

and

with a copy by telex, and a copy of such telex by mail as aforesaid to:

Olympia & York Developments Limited
One First Canadian Place
Toronto, Ontario M5X1B5
(Telex No. 06524728)

Attention: Mr. Paul Reichmann

23.2 If to Landlord, to:

Battery Park City Authority
1515 Broadway
New York, New York 10036

Attention: Office of the President

with a copy to:

Weil, Gotshal & Manges
767 Fifth Avenue
New York, New York 10153

Attention: Lawrence J. Lipson, Esq.

23.3 If to Agent, to it at:

245 Park Avenue
New York, New York 10167

Attention: Executive Vice-President

with a copy to:

Kaye, Scholer, Fierman, Hays & Handler
425 Park Avenue
New York, New York 10022

Attention: Martin S. Saiman, Esq.

and

with a copy by telex, and a copy of such telex by mail as aforesaid to:

Olympia & York Developments Limited
One First Canadian Place
Toronto, Ontario M5X1B5
(Telex No. 06524728)

Attention: Mr. Paul Reichmann

All Notices shall be deemed given or served on the Business Day after being deposited in the United States mails, postage prepaid in the manner previously specified. In the event a postal strike shall be in progress at the time a Notice is given or served, that Notice shall not be deemed given or served unless and until a copy thereof is personally delivered to the addressee or, in the case of a Notice to an addressee having an address outside New York City, until a copy thereof is sent by telex to the addressee at the telex number provided by such addressee. Any party to this Guaranty and Consent may change the address to which Notices shall be delivered to it and its representatives by notice in accordance with this Section, except that at no time shall any party to this Guaranty and Consent be required to give, in the aggregate, more than four Notices or copies thereof.

24. This Guaranty and Consent shall be binding upon and inure to the benefit of Guarantor and Landlord and their respective successors and permitted assigns.

25. All remedies afforded to Landlord by reason of this Guaranty and Consent are separate and cumulative remedies and it is agreed that no one remedy, whether exercised

by Landlord or not, shall be deemed to be in exclusion of any other remedy available to Landlord and shall not limit or prejudice any other legal or equitable remedy which Landlord may have.

26. If any provision of this Guaranty and Consent or the application thereof to any person or circumstance shall to any extent be held void, unenforceable or invalid, then the remainder of this Guaranty and Consent or the application of such provision to persons or circumstances other than those as to which it is held void, unenforceable or invalid, shall not be affected thereby and each provision of this Guaranty and Consent shall be valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, Guarantor has caused this Guaranty and Consent to be duly executed the day and year first above written.

O&Y EQUITY CORP., Guarantor

By: /s/ Michael Dennis
Executive Vice President

OLYMPIA & YORK PROPERTIES, Agent

By: /s/ Michael Dennis
Executive Vice President

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

On this 3rd day of November, 1981 before me personally came MICHAEL DENNIS to me known, who, being by me duly sworn, did depose and say that he resides at 14 Langley Avenue, Toronto, Ontario, that he is an Executive Vice President of O&Y EQUITY CORP., the 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 the order of the members of said corporation, and that he signed his name thereto by like order.

/s/ Frank W. Kosman
Notary Public

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

On this 3rd day of November, 1981 before me personally came MICHAEL DENNIS to me known, who, being by me duly sworn, did depose and say that he resides at 14 Langley Avenue, Toronto, Ontario, that he is an Executive Vice President of OLYMPIA & YORK PROPERTIES, an unincorporated association described in and which executed the foregoing instrument; and that he signed his name thereto by like order of the members thereof.

/s/ Frank W. Kosman
Notary Public

EXHIBIT "F-2" TO THE LEASE

FIRST AMENDMENT TO

GUARANTY AND CONSENT TO SERVICE

AGREEMENT dated as of June __, 1983 by and between O&Y EQUITY CORP. ("Guarantor"), a New York corporation having an office at 245 Park Avenue, New York, New York 10167 and BATTERY PARK CITY AUTHORITY ("Landlord"), a New York public benefit corporation having an office at 40 West Street, New York, New York 10006.

RECITALS

A. Guarantor executed and delivered to Landlord a certain Guaranty and Consent to Service dated as of September 1, 1981 (the "Guaranty") with respect to the obligations of OLYMPIA & YORK BATTERY PARK COMPANY ("Tenant") under (i) the Agreement of Lease between Landlord as lessor and tenant as lessee, dated as of September 1, 1981, which lease as amended by an agreement between the lessor and the lessee dated as of September 9, 1982, is referred to herein as the "Development Lease", and (ii) the Civic Facilities Construction Agreement between Landlord as owner and Tenant as contractor, dated as of September 1, 1981, which agreement as amended by an agreement between the owner and the contractor, dated as of the date hereof, is referred to herein as the "CFCA".

B. By deed dated December 28, 1982, BPC DEVELOPMENT CORPORATION conveyed to Landlord the grantor's interest in the entire project known as Battery Park City, of which the

premises covered by the Development Lease are a part, and thereafter Landlord, as landlord and tenant, amended that certain Restated Amended Agreement of Lease dated as of June 10, 1980, between BPC Development Corporation as landlord and Landlord as tenant (the "Master Lease") by the First Amendment of Master Lease and the Second Amendment of Master Lease, each of even date herewith.

C. Simultaneously herewith, Landlord and Tenant are entering into Severance Leases (as defined and provided for in the Development Lease) for each of the Parcels (as defined in the Development Lease) covered by the Development Lease and the Development Lease is being terminated. Each Severance Lease will be a direct lease from Landlord, as fee owner of the Parcels, to Tenant. Under each Severance Lease, Tenant is obligated, among other things, to construct certain buildings ("Buildings") on the Parcel covered by such Severance Lease.

D. By assignment of even date herewith, Tenant has assigned the Severance Lease for Parcel C (as defined in the Development Lease) to American Express Company, Shearson/ American Express, Inc., American Express International Banking Corporation, and American Express Travel Related Services Company, Inc. (collectively, "Amex") and Amex has entered into a construction contract of even date herewith with Tenant for the construction of the shell, core and central systems of the Buildings on Parcel C and certain other work

(the "Construction Contract").

E. Under the Guaranty, Guarantor has guaranteed all of the monetary and non-monetary obligations of Tenant under each Severance Lease and under the CFCA.

F. The parties wish to confirm that notwithstanding the conveyance of the fee interest in the Parcels to Landlord, the amendments to the Master Lease, the termination of the Development Lease, and the amendment of the CFCA, the Guaranty, as hereby amended, shall continue in force with respect to each of the Severance Leases, the CFCA and all other obligations of the Guarantor under the terms of the Guaranty as amended hereby.

Therefore, in consideration of and as an inducement to terminate the Development Lease and execute and deliver the Severance Leases and for the further consideration of $10.00 to each in hand paid and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor and Landlord agree as follows:

1. Notwithstanding the conveyance of the fee interest in the Parcels to Landlord, the amendments to the Master Lease, the termination of the Development Lease, and the amendment of the CFCA, the Guaranty, as hereby amended, shall continue in full force and effect with respect to each of the Severance Leases, the CFCA, and all other obligations of the Guarantor under the terms of the Guaranty as amended hereby.

2. Section 3 of the Guaranty shall be deleted in its entirety and the following shall be substituted in its place:

> "3. Anything contained herein to the contrary notwithstanding, Landlord and Guarantor acknowledge and agree that, with respect to each Parcel, all obligations or liabilities hereunder shall continue unaffected until (i) the earlier of the issuance of a temporary or permanent Certificate of Occupancy for the whole of each of the Buildings located on such Parcel (except that in the case of Parcel B, the Buildings shall not include the Winter Garden), (ii) the completion by Tenant of all interior work to be performed by Tenant under Subleases with Persons who are not Affiliates or Permitted Assignees of Tenant for not less than fifty percent (50%) of the Net Rentable Square Feet of such Buildings, (iii) the leasing of not less than fifty percent (50%) of the Net Rentable Square Feet of such Building to Subtenants who are not Affiliates or Permitted Assignees of Tenant and who shall have taken occupancy of such space, and (iv) the Cross-Default Provisions of the Severance Lease for the Parcel in question have been rendered void and of no force or effect pursuant to Section 42.05 of such Severance Lease in the case of Parcel A or Parcel C, or Section 42.04 in the case of Parcels B or D, and upon the occurrence of the events set forth in the aforesaid clauses (i) through (iv), Guarantor shall not be liable for any of the obligations or liabilities hereunder arising thereafter (but shall continue to be liable for all such obligations and liabilities which arose or accrued prior to that date), except for Tenant's obligation to complete construction of the Winter Garden under the Severance Lease for Parcel B and to obtain a duly issued permanent Certificate of Occupancy for the whole of each of the Buildings located on a Parcel (including the Winter Garden), and any liabilities or damages incurred by Landlord by reason of the failure of Tenant or Guarantor to complete such construction or to obtain such Certificate of Occupancy as provided in the respective Severance Leases. Notwithstanding anything to the contrary hereinabove, the conditions set forth in clauses (ii) and (iii) hereinabove shall be deemed satisfied if the tenant under the Severance Lease for the Parcel in question (or if such tenant consists of more than one entity, one or more of the entities constituting such tenant)

shall occupy, for the conduct of its (or their) own businesses, in the aggregate not less than fifty percent (50%) of the Net Rentable Square Feet of the Buildings on such Parcel and the interior work to be performed with respect to such occupancy shall have been completed for not less than fifty percent (50%) of the Net Rentable Square Feet of the Buildings. The terms "Certificate of Occupancy", "Winter Garden", "Subleases", "Persons", "Affiliates", "Permitted Assignee", "Net Rentable Square Feet" and "Subtenant" as used in this Paragraph 3 each shall have the meaning accorded to it in the Severance Lease in question."

3. The Guarantor's absolute and unconditional guaranty of performance and not merely of collection set forth in the Guaranty shall cover and apply to, in addition to all of the obligations and matters provided in the Guaranty, the following:

a. The obligations and liabilities of Tenant under the Master Sublease which were not released under the terms of the agreement entitled "Termination of Master Sublease" between Landlord and Tenant dated as of the date hereof.

b. Tenant's obligations and liabilities under that certain letter from Tenant to Landlord dated as of the date hereof pertaining to certain construction warranties given by Tenant to Landlord with respect to Shared Expense Areas (as defined in the Project Operating Agreement).

c. The obligations of Tenant and its Permitted Assignees, if any, under Section 4.04(a) of the Project Operating Agreement to reimburse each Tenant (as such term is defined in the Project Operating Agreement) which is not BPCA or O&Y for each portion of BPCA's Common Area Share, Loading

Dock Share and PILOT Share, if any, paid by such Tenant pursuant to, respectively, Section 4.04(a) or Section 4.10 of the Project Operating Agreement (as the terms "BPCA," or "O&Y," "Common Area Share," "Loading Dock Share" and "PILOT Share" are defined in the Project Operating Agreement).

4. If, pursuant to Section 42.08 (a) of the Severance Lease for Parcel C, the Tenant under such Lease is relieved of the obligation thereunder to restore security deposited with Landlord under Section 42.04 of such Lease to the extent Landlord applied such security to cure a Default or Event of Default under any other Severance Lease with which such Lease was not then cross-defaulted pursuant to the terms of Article 42 of such Lease, then Guarantor shall restore such security to the extent so applied.

5. Sections 12 and 13, clause (a) of Section 14 and Section 23.3 of the Guaranty shall be deleted in their entirety. The word "Guarantor" shall be substituted for the word "Agent" in clause (b) (i) of Section 15 of the Guaranty.

6. Copies of all notices given to Guarantor under the Guaranty, as hereby amended, shall be given in the same manner to each lessee under a Severance Lease and each Mortgagee thereof, at the address for notices to be given to such lessee under the Severance Lease and at the address for such Mortgagee furnished to Landlord under Article 10 of such Severance Lease.

7. Any capitalized term not defined herein shall have the meaning given such term in the applicable Severance Lease.

8. As amended by this Agreement, the Guaranty shall be and remain in full force and effect.

IN WITNESS WHEREOF, Landlord and Guarantor have caused this Agreement to be duly executed as of the day and year first above written.

O&Y EQUITY CORP.,
Guarantor

By: _____
Executive Vice-President

BATTERY PARK CITY AUTHORITY

By: _____
President

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

On this ____ day of June, 1983, before me personally came MICHAEL DENNIS to me known, who, being by me duly sworn, did depose and say that he resides at 14 Langley Avenue, Toronto, Ontario, that he is an Executive Vice President of O&Y EQUITY CORP., the 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 the order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

Notary Public

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

On this ____ day of June, 1983, before me personally came BARRY E. LIGHT to me known, who, being by me duly sworn, did depose and say that he has an address at 345 West 88th 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 the order of the members of said corporation, and that he signed his name thereto by like order.

Notary Public

EXHIBIT "G" TO THE LEASE

DEVELOPMENT GUIDELINES

As part of the 1979 Master Plan for Battery Park City, a design concept and a Large-Scale Commercial Development Plan were developed for the Parcels. The essential elements of that concept and of that Plan are the following:

(a) integrated development of the separate Buildings on each Parcel;

(b) grouping of towers around a plaza bordering the North Cove; and

(c) use of upper level enclosed walkway systems connecting the Buildings and the World Trade Center.

In order to promote and facilitate superior site planning and to allow flexibility while at the same time ensuring density, bulk, circulation and open space consistent with these elements and safeguarding the present and contemplated uses of the surrounding areas, the following Guidelines were formulated to implement those design principles in connection with the development and operation of the Parcels.

1. Density. The total area of the commercial center to be developed is approximately 16.5 acres of land. Approximately seven million one hundred thousand square feet (as such term is used in the New York City Zoning Resolution) of commercial space may be developed at the Parcels in the aggregate. Parcel A may be developed with approximately

1,361,456 square feet of commercial space, Parcel B with 2,197,816 square feet, Parcel C with 2,040,658 square feet and Parcel D with 1,508,070 square feet. Landlord shall permit the adjustment and redistribution of commercial space among Parcels A, B, C and D upon the request of the tenants under the Severance Leases covering the affected Parcels (and the concurrence of BPCA if there is then no Severance Lease in effect for an affected Parcel), provided that the commercial space on Parcel C shall not exceed 2,040,658 square feet and the aggregate commercial space on Parcels A, B, and D shall not exceed 5,067,342 square feet. Such adjustment and redistribution shall be set forth in an amendment, in form and substance reasonably satisfactory to Landlord, to the Severance Lease for each of the affected Parcels (or if there is then no Severance Lease in effect for an affected Parcel, in a written consent of Landlord with respect to such Parcel).

2. Bulk.

A. General. For development purposes, the Parcels shall be considered as one zoning lot.

Building bulk permissible in a C-6 district has been combined and may be distributed in a flexible manner among the Parcels. The Building on any one Parcel may exceed the Floor Area Ratio (FAR) of 15, but the aggregate bulk for all Buildings may not exceed the maximum overall

density of FAR 15, excluding those areas designated for street or public open space usage.

The overall physical character of the Parcels will be that of a unified development of Buildings. Since the Parcels are immediately adjacent to the World Trade Center, they may not diminish nor conflict with its Twin Towers. Buildings must be designed in such a way as to define the spaces of the streets, reinforce the setting for pedestrian activities, and articulate the transition between the pedestrian-scaled environment and the scale of the Towers. The massing of Buildings must step up in height from the waterfront to the World Trade Center, thereby placing maximum density closest to the public transportation centers and reinforcing the Lower Manhattan grid orientation. The distribution of bulk should in general reflect the pattern described in Attachments 1 and 2.

B. Coverage. Total coverage of the Parcels by the Buildings, 140' above the street, cannot exceed 30% of the Commercial Center. Parcel A may have coverage 140' above the street of approximately 46 percent, Parcel B, 30 percent, Parcel C, 57 percent and Parcel D, 58 percent. Landlord shall permit the adjustment and redistribution of such coverage among Parcels A, B, C and D upon the request of the tenants under the Severance Leases for the affected Parcels (and the concurrence of BPCA if there is then no Severance Lease in effect for an affected Parcel), provided that the coverage of Parcel C 140' above the street shall not exceed

57 percent, and the coverage 140' above the street of Parcels A, B and D, collectively, shall not exceed approximately 26.5 percent of the area of the commercial center after subtracting the area of Parcel C from the total area of the commercial center. Such adjustment and redistribution shall be set forth in an amendment, in form and substance reasonably satisfactory to Landlord, to the Severance Lease for each of the affected Parcels (or if there is then no Severance Lease in effect for an affected Parcel, in a written consent of Landlord with respect to such Parcel).

C. Street Walls. In order to define important streets, all Buildings must front on the perimeter streets and along the North Cove plaza frontage, approximately as shown in Attachment 3.

D. Setbacks.

(i) Street wall setbacks:

Along the perimeter streets of the Parcels, West, Vesey and Liberty Streets, Buildings may rise on their street line without setbacks for a height of 140 feet. (See section "Street wall height.") They must then set back from the street line no less than 15 feet for their remaining height. If a Building provides an initial setback of 20 feet or greater from the street line, no additional setback is required.

(ii) Tower setbacks:

When additional tower setbacks are provided, they should relate to surrounding conditions. The

following approximate heights will act as a guideline:

(a) Waterfront Plaza Frontage

+320

+175

+60

(b) Perimeter Street Frontage

+320

+140

+60

E. Heights.

(i) Street wall heights:

The following represents the approximate heights (in feet above the street) for Building walls to perimeter streets and to the North Cove plaza:

Vesey St.	West St.	Liberty St.	North Cove Plaza
			minimum 60'
60'	140'	140'	maximum 175'

(ii) Tower heights:

In order to maintain the stepped formation of Buildings as shown in Attachments 1 and 2, the following represent approximate stories and heights of the uppermost habitable floors by tower:

	# of stories	Elevation (in feet)
A	39	520
B	43	570
C	50	660
D	33	440

F. Distance Between Buildings. The minimum distance between Buildings above a base height of +140 above street level shall be no less than 100 feet, measured from the center point of facing walls.

G. Grades. The Parcels have been graded to permit first floor Building elevations to be set at an elevation range of +10.0 to +13.0. The elevation along the western bulkhead and esplanade is set at +7 and elevations along the eastern line of Battery Park City are compatible with the elevations of the proposed Westway service road.

The approximate grading of all streets is shown in the figure titled "Surface Elevations." (See Attachment 4.)

Basements and sub-basements can be constructed below the first floor elevation. Except for the areas containing the relief platform structures over the PATH Tubes and to the extent that such may exist, the Port Authority easements, basements can be built to any desired elevation.

3. Circulation.

A. Vehicular. Vehicular traffic will circulate at ground level using West, Liberty, and Vesey Streets and South End and North End Avenues. The surface streets have been aligned to follow the direction of the existing streets east of Battery Park City. Their widths have been set to carry projected pedestrian and vehicular traffic and are designed to accommodate private automobiles, taxis, service vehicles and buses. Separate vehicle access points are to

be provided for ground level lobbies and for parking and Building services. Private drop offs, frontage roads and service streets must be provided where appropriate.

B. Parking. Below-grade parking and a limited amount of parking at street level may be provided within each Parcel. However, the total number of spaces among the Parcels may not exceed 1000. Parcel A may have up to 150 spaces, Parcel B, 90 spaces, Parcel C, 29 spaces and Parcel D, 731 spaces. Landlord shall permit the adjustment and redistribution of parking spaces among Parcels A, B, C and D upon the request of the tenants under the Severance Leases covering the affected Parcels (and the concurrence of BPCA if there is then no Severance Lease in effect for an affected Parcel), provided that the aggregate number of spaces at the Parcels shall not exceed 1000. Such adjustment and redistribution shall be set forth in an amendment, in form and substance reasonably satisfactory to Landlord, to the Severance Lease for each of the affected Parcels (or if there is then no Severance Lease in effect for an affected Parcel, in a written consent of Landlord with respect to such Parcel). Drop-off lanes should be included in the street design in front of each Building for short-term convenience.

C. Service Areas. Curb cuts are prescribed within certain zones within the Parcels. Several guidelines are to be followed:

(i) no service areas or parking entrances are permitted within approximately 200 feet of the water edge;

(ii) no curb cuts are permitted within approximately 100 feet of a major street intersection, except for Albany Street and North End Avenue where approximately 85' is permissible;

(iii) no service/parking entry areas may exceed 60 feet in length along any Building frontage; and

(iv) all Buildings must be serviced by off-street loading docks.

D. Pedestrian Circulation. The design concept for the Parcels provides an integrated system of pedestrian access and spaces. The pedestrian system includes ground level sidewalks and Building lobbies, and, at +32 level, Building elevator lobbies, a weather-enclosed walkway system and bridge connections between Buildings and between the Parcels and the east side of West Street. The following shall be incorporated into each development:

(i) Street Level Elements:

(a) ground floor Building lobbies; and

(b) direct access, via escalator, and elevator for handicapped, to the elevator lobby of each Building at the +32 level.

(ii) +32 Level Elements:

(a) lobbies of the Buildings, including elevator banks for the office towers; and

(b) a weather-protected walkway system available to the public shall connect the Buildings to each other, to the Winter Garden and thence to the North Cove plaza, to the Northern Pedestrian Bridge and to the bridge over Liberty Street. Walkway system requirements are:

(1) Location: generally on the southern and western sides of the Parcels as indicated on Attachment 5.

(2) Size: at level +32, approximately 30' wide for primary walkways; approximately 20 foot clear height. This general height may be varied to achieve particular design objectives.

(3) At least one principal entrance to each Building lobby from the walkway.

(4) Building lobbies, walkway and bridge connections at elevation +32.

(5) Elevator lobbies separated from the walkway system for security reasons and visible from the walkway system.

(6) Exterior wall of walkway system (facing the North Cove plaza) shall be transparent to the maximum practicable extent.

(7) The walkway system shall be accessible to the handicapped.

(8) The walkway system shall be accessible to the public during the hours indicated on Attachment 5 which shows essential connections to be accomplished. In addition, waterfront views should be provided from the walkway system where possible.

The focus of the elevated pedestrian circulation system will be the Winter Garden, a year-round, climate-controlled activity space for pedestrians. It is essential that all plans for development of the Parcels provide for access to and integration with the Winter Garden. In addition, the Courtyard between Parcels C and D will provide public access from Vesey Street to the Plaza. In accordance with the particular concern with the appropriate functioning of the Winter Garden and the Courtyard, the following controls shall apply:

1. The central portion of the Winter Garden is an east-west alignment which shall provide public access between the landing of the Northern Pedestrian Bridge and the public plaza and waterfront promenade or esplanade. To that end, the central portion of the space, 65 feet wide between column lines, shall be devoted to public use with an average aggregate unobstructed width of 30 feet for pedestrian access and circulation and with at least one major pedestrian route having a clear path of not less than 15 feet. Permitted obstructions, within the 65 foot wide space, but not infringing upon the 30 foot wide public pedestrian path(s) and in addition to the small, movable, income-producing retail (as defined in

the Zoning Resolution) uses and display uses such as fountains and reflecting pools, sculpture and other works of art, shall not occupy more than 10 percent of said space.

2. In the remaining central space, small, movable, income-producing retail (as defined in the Zoning Resolution) or display uses may be permitted, but in no event shall the total area occupied by such uses exceed eight percent of the area of the space within the column line.

3. Free public seating shall be provided in the central space of the Winter Garden.

4. Physically and visually uninterrupted access, including access for the handicapped, shall be provided from the west elevation of the Winter Garden to the public plaza and promenade or esplanade.

5. The central portion of the Courtyard (the public space, open to the sky, located between Parcel C and Parcel D) in a north-south alignment, shall provide public access between the extension of Vesey Street and the public plaza and waterfront promenade or esplanade. To that end, the central bay of the Courtyard, 25 feet wide between column lines, shall be devoted to public use. Within this space there shall be an average, aggregate circulation path of not less than 15 feet. Permitted obstructions, within the 25 foot wide space, but not infringing upon the 15 foot wide public pedestrian path, shall be limited to fountains and reflecting pools, sculpture and other works of art, seating

and trees and planting beds flush with grade. These permitted obstructions shall, however, occupy no more than 10 percent of the public access area, between the columns.

6. Physically and visually uninterrupted access and egress, including access and egress for the handicapped, shall be provided through the open-air Courtyard to the public plaza and waterfront promenade or esplanade, to the south, and the extension of Vesey Street to the north.

4. Construction Features.

A. Space Location.

(i) The elevator lobby floor of each Building will be at the +32 level. Primary office uses could begin above the +32 level.

(ii) Retail and other permitted C-6 non-office uses shall generally be provided at street level (+10) and the +32 level.

B. Building Services. Building services may be located below grade, at street level, at +32 level and on upper floors as required.

C. Building Exteriors. New Buildings should be distinct from but not conflict with the expression of the Twin Towers at the World Trade Center. The exterior of the Buildings should be generally neutral, avoiding undue emphasis on either a vertical or horizontal expression of the exterior skin and shall not detract from the visual image of the Towers

of the World Trade Center. This principle is illustrated in Attachment 6.

In order to promote and facilitate unified treatment of street walls and buildings, the following materials and colors are acceptable and preferred, subject to market conditions.

(i) Materials:

(a) Base course: Utilize polished granite.

(b) Street walls: Utilize granite.

(c) Towers: Utilize metal, granite and glass.

(ii) Colors (The following are the preferred selections; other colors may be considered and utilized subject to approval by Landlord):

(a) Granite: grey, warm grey or red (light to medium).

(b) Glass and Metal: light to medium tone.

5. Graphics. A visually coherent system shall prevail to achieve clarity and an aesthetically pleasing environment.

A. Lighting.

(i) All lighting of public areas shall be coordinated and appropriate to the character of the Parcels.

(ii) Lighting shall be provided in the public walkways on an 18-hour basis.

(iii) Night-time illumination of Building exteriors, if provided, shall be agreed upon by the Landlord and the tenants under the Severance Leases.

B. Exterior Signage: It is important that exterior signs be designed and coordinated so as to be consistent with the overall architecture of the Commercial Center and with the character of the public plaza around the North Cove. Any illuminated, protruding, flashing, rooftop or exceptionally large signs will be subject to the reasonable approval of the Landlord.

6. Public Open Space. Attachment 7 shows an outline of the design of areas surrounding the North Cove. In reviewing the detailed design of the public open space, the Landlord will be governed by the following principles. The principles are derived from and illustrated by Attachment 8.

A. There will be emphasis on public use, activity and accessibility.

B. The plaza will have formal, simple geometry with predominantly hard surfaces.

C. The building walls that define the plaza at the ground and +32 levels should have a predominantly transparent facade.

D. Shade trees may be provided. Their selection to be guided by both visual interest and minimum main-

tenance requirements. Planting tubs are to be avoided.

E. The design of the plaza is to be unified, as far as is reasonable, with the landscaping planned for the southern edge of Liberty Street.

F. The plaza will be multi-levelled, stepping down from a level of 12 to 13 feet to approximately 7 feet at the water edge. A lower elevation on the east side of the North Cove is acceptable, if it should be feasible to achieve during the design development phase of the work. The purposes are to focus attention on the North Cove and river and to unify visually the water edge esplanade and the plaza.

G. The plaza should generally be hard-paved with granite pavers.

H. Amenities such as benches, drinking fountains, bollards, lights, kiosks, telephones and trash receptacles will be provided. In addition to normal considerations of cost effectiveness, quality and appearance, it is desirable, when designing these amenities, to consider the historic use of materials, finishes, details and forms which are associated with the City of New York in general and either lower Manhattan or Battery Park in particular. These fixtures and furnishings should not call undue attention to themselves. In some cases, however, special features that speak of civic pride and beauty, such as fountains and sculpture, could be appropriate. Selection of such features is subject to the approval of Landlord.

I. Two considerations will guide the design of the water-edge area of the plaza.

(1) It is part of a continuous esplanade walkway which will extend along the entire river frontage of Battery Park City at approximate elevation +7, from Battery Park to the westerly extension of Chambers Street. The general design of the Battery Park esplanade has been established and the first element is to be constructed along the river edge adjacent to POD III. The design of the esplanade in the North Cove area should clearly read as a continuation and part of this walkway as a distinct system. Materials, walls, furnishings and fixtures should be consistent with those that have been designed for the esplanade.

(2) It is also recognized that the North Cove plaza is a distinct public space and will be the major formal waterfront plaza in Manhattan. This fact, plus specific programmatic requirements (such as boating or performance activities), suggest variations to the esplanade design in the North Cove plaza area, while maintaining the continuity and consistency outlined above. The esplanade in the North Cove plaza area, north, east and south sides, should be designed as a unified whole.

J. In addition to normal access and circulation routes provided by streets and sidewalks, all portions of the open space, including the waterfront esplanade and the commercial center plaza, shall be made accessible to physically handicapped

people. All elements of the project, including the Winter Garden, walkway system at elevation +32 and the pedestrian bridges shall be made accessible to the handicapped in a convenient and safe manner. In addition, all publicly accessible areas of the Buildings at street level and at elevation +32 must meet federal requirements as promulgated in National Standard Specifications for Making Buildings and Facilities Accessible to and Useable by Physically-Handicapped People. ANSI (A117.1-1980).

An emergency vehicle route for police and fire vehicles shall be provided from the end of Liberty Street, west to the waterfront esplanade, north and then west around the North Cove and north again to the west end of Vesey Street, as shown in Attachment 9. A secondary route shall be provided from the north side of the North Cove to the south end of North End Avenue.

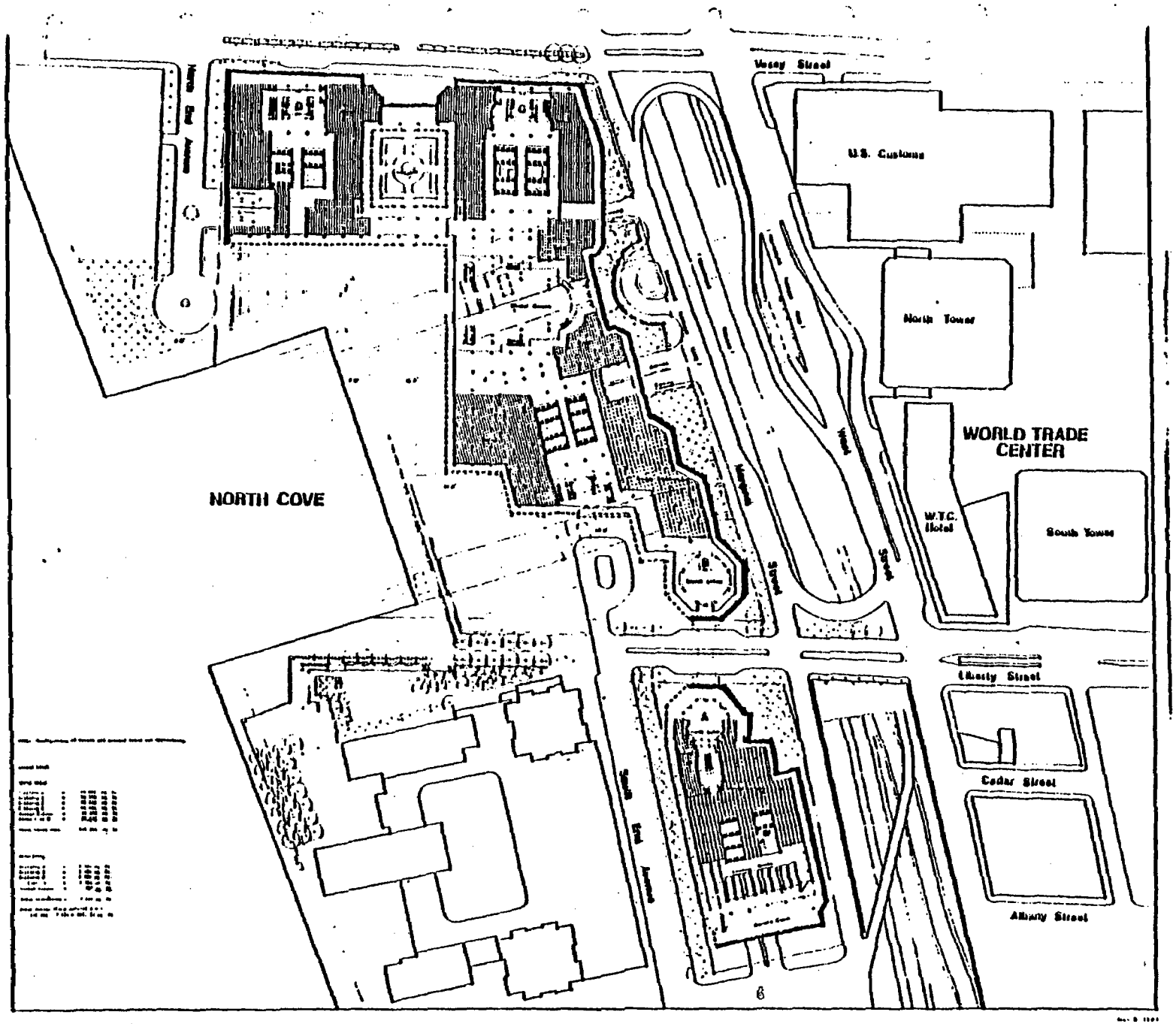
K. The area of each Parcel that is beyond the Building line and fronts onto the public open space shall be incorporated and designed as an integral part of the public open space, without physical barriers separating the two. Portions of the Buildings may be built to cover up to 50 percent of this area, but to cover more than this percentage of area, approval of the Landlord will be required. Tables and chairs may be located within this area of each Parcel to serve as an extension of restaurant uses within the Buildings. Access across and along the area to the public walkway system within the Buildings will be provided during the hours in

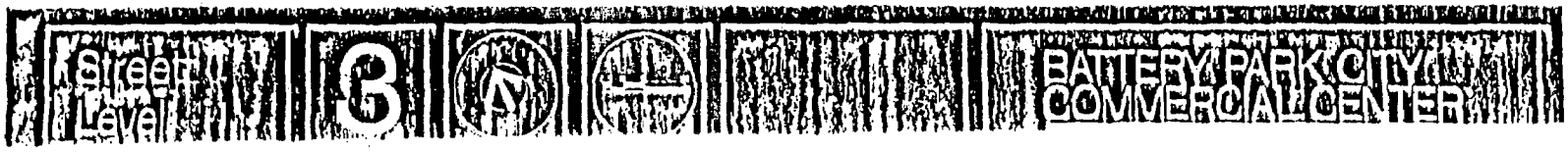
which the walkway system is open to the public, as shown in Attachment 5.

G - ATTACHMENT 1

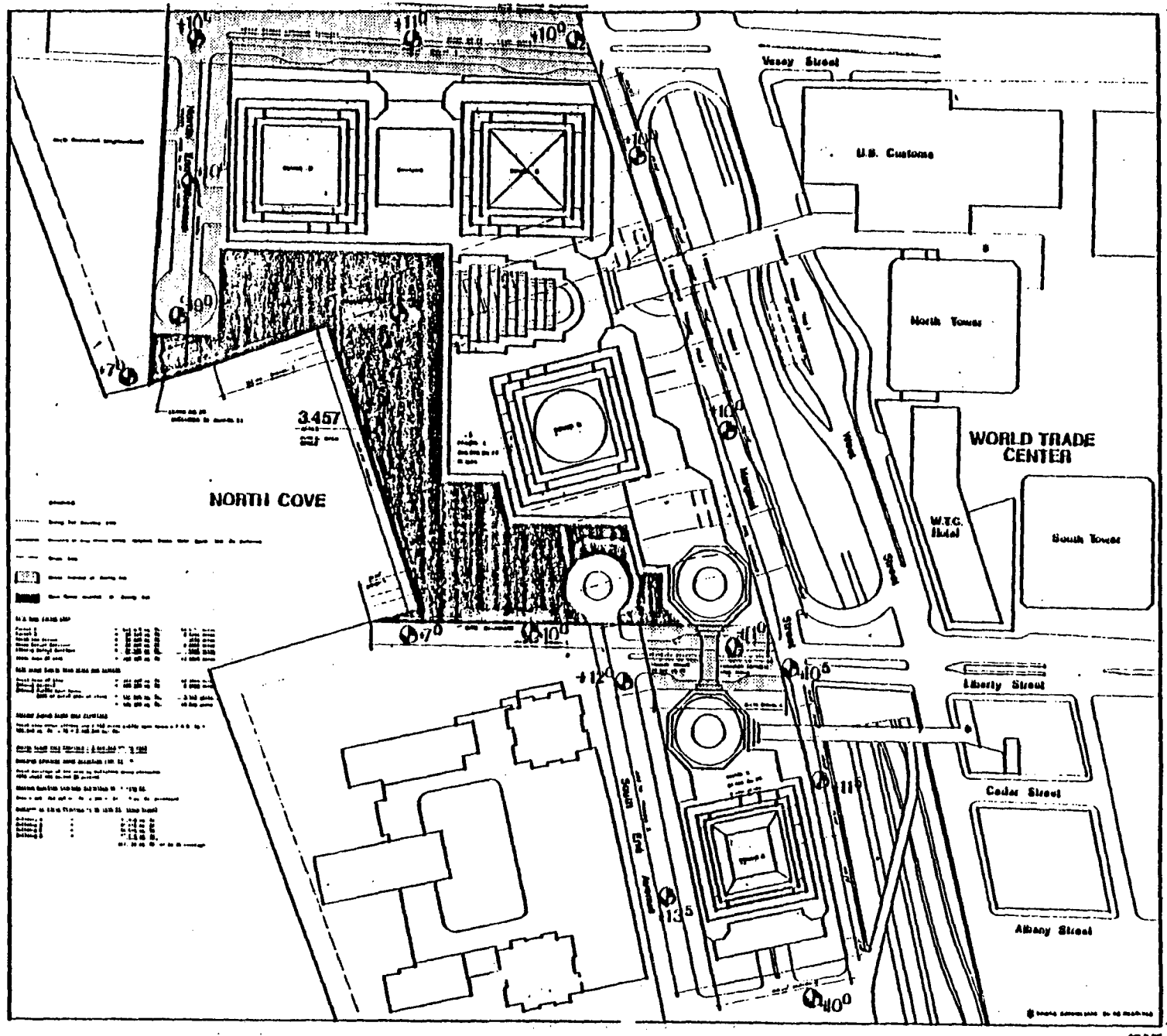
G - ATTACHMENT 2

G - ATTACHMENT 3





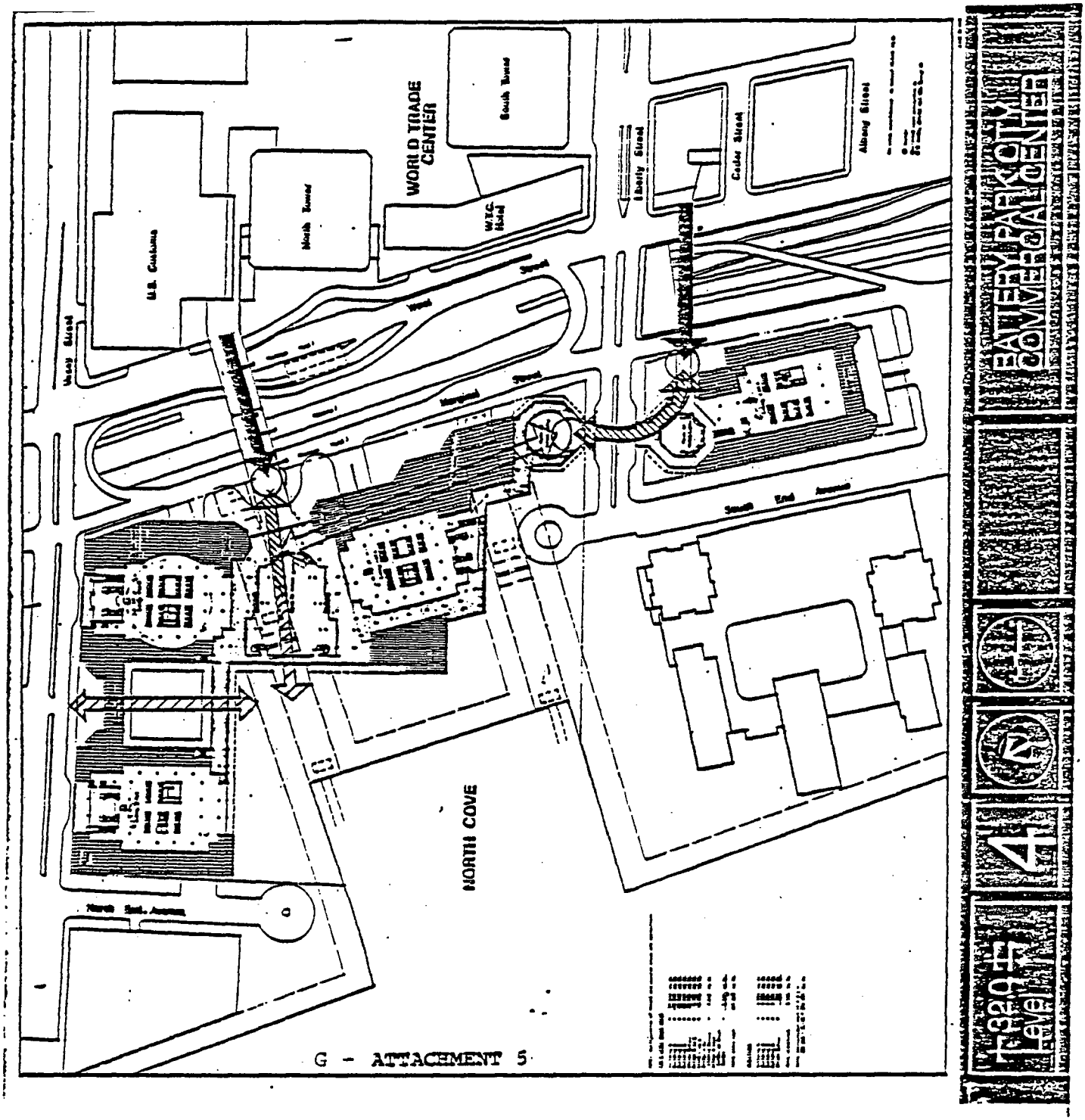
2



Roof Plan

PLAZA

BATTERY PARK CITY COMMERCIAL CENTER



G - ATTACHMENT 5

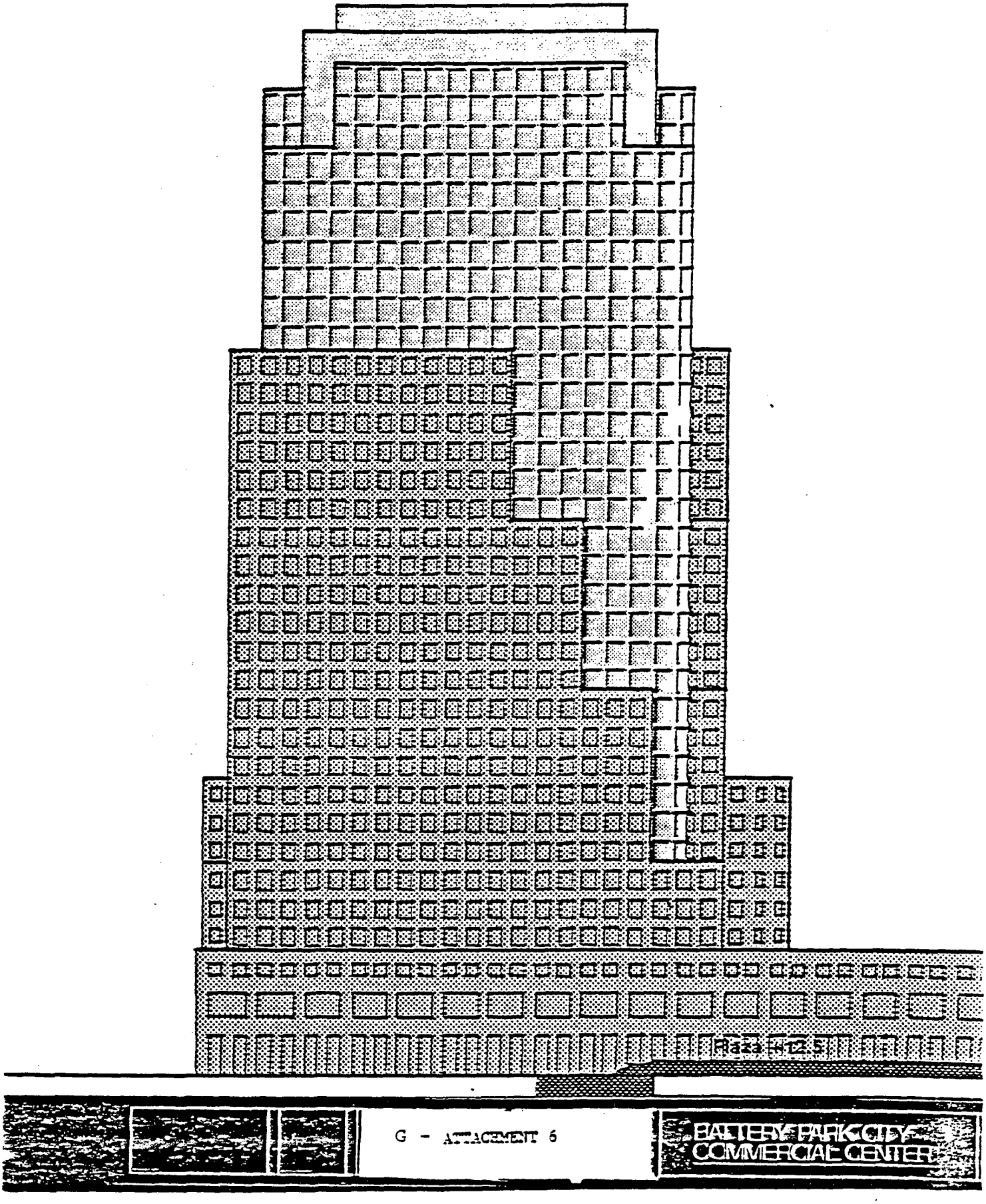
24 HOUR ACCESS AT +32 LEVEL

18 HOUR ACCESS AT +32 LEVEL

18 HOUR ACCESS AT STREET LEVEL

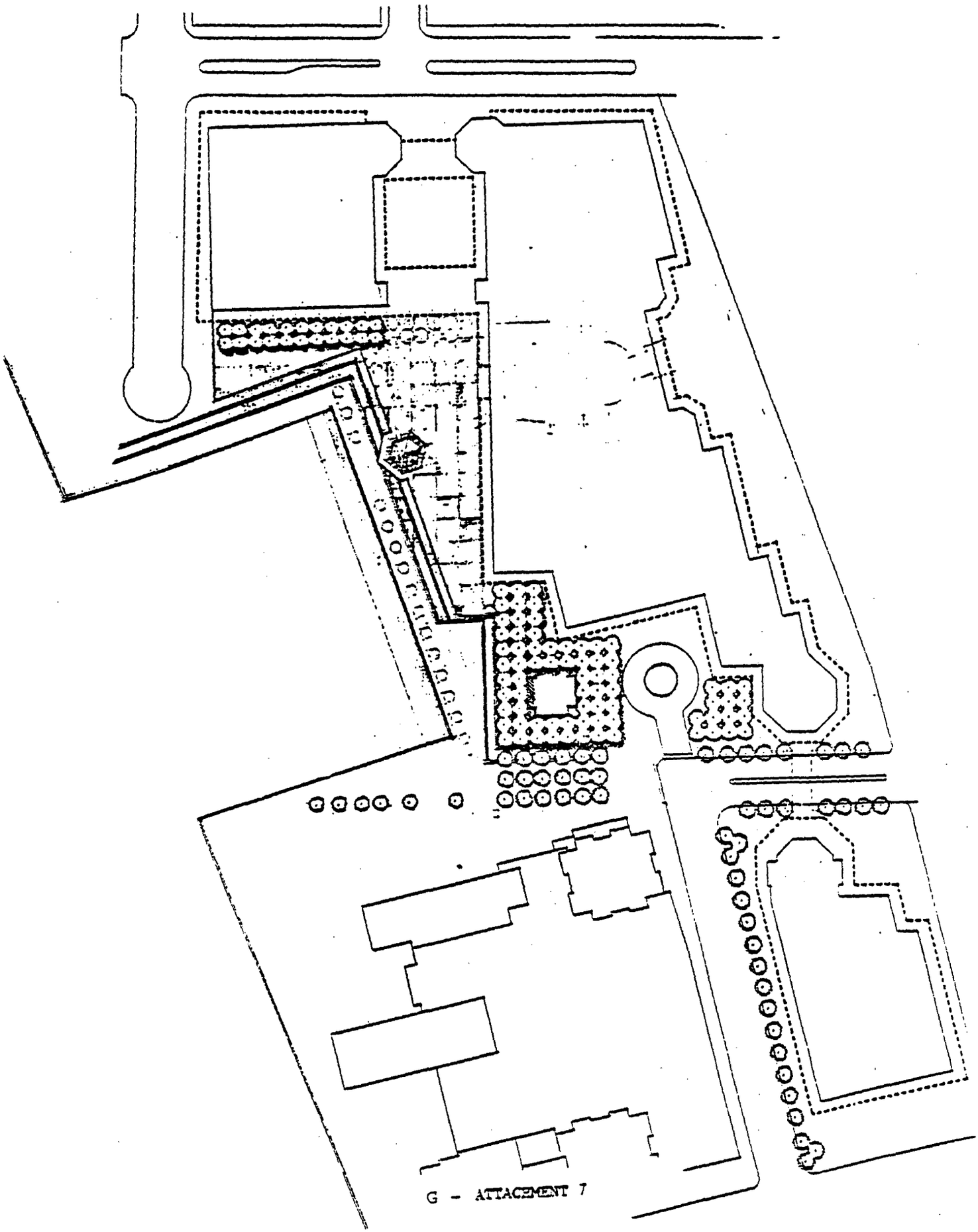
BUSINESS HOURS ACCESS AT +32 LEVEL

VERTICAL CIRCULATION BETWEEN STREET AND +32 LEVELS

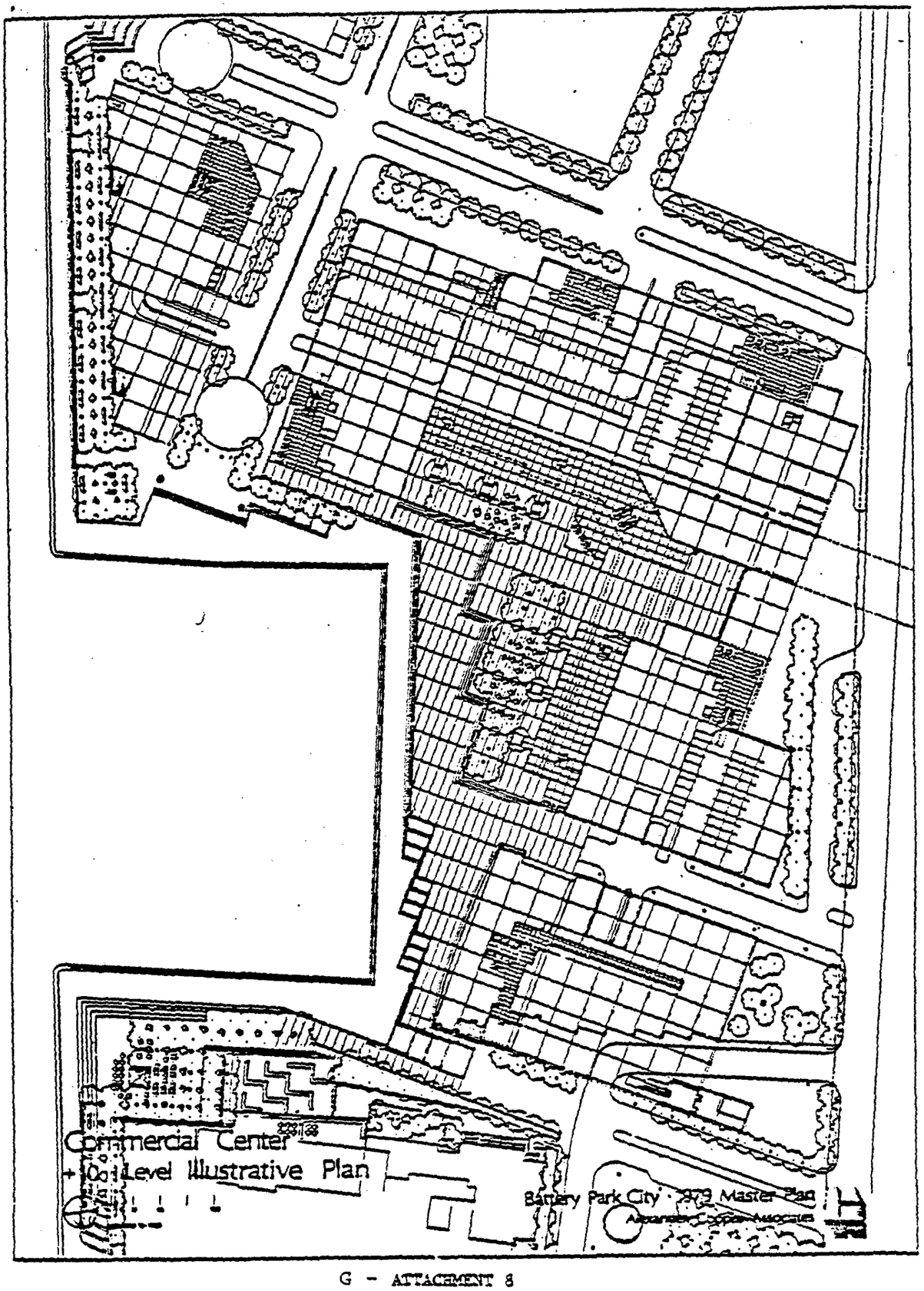


G - ATTACHMENT 6

BATTERY PARK CITY
COMMERCIAL CENTER



G - ATTACHMENT 7



G - ATTACHMENT 8

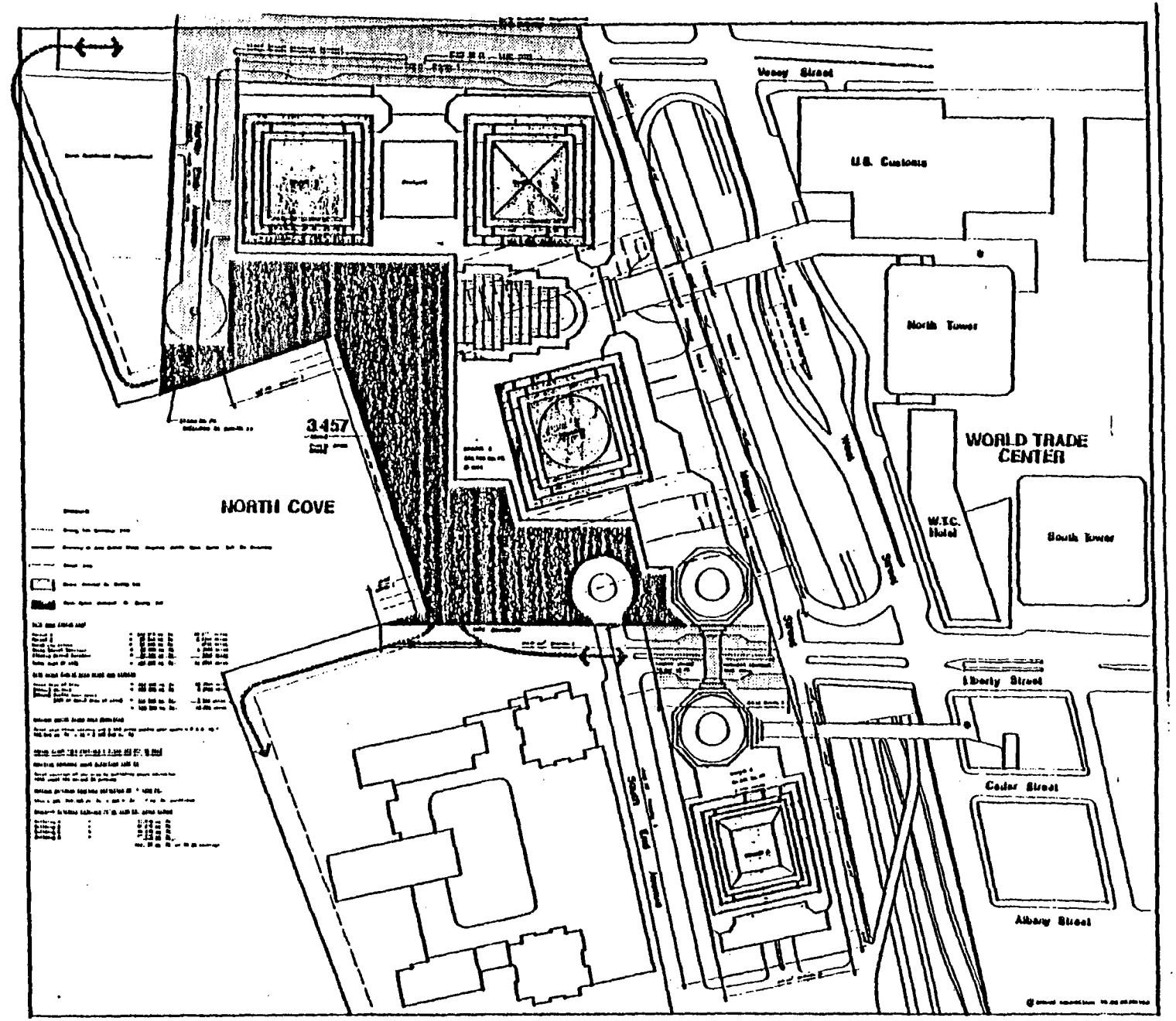

Vesey Street
U.S. Customs
North Tower
WORLD TRADE CENTER
W.T.C. Hotel
South Tower
NORTH COVE
3457
Liberty Street
Cedar Street
Albany Street
Roof Plan
BATTERY PARK CITY
COMMERCIAL CENTER

EXHIBIT "H" TO THE LEASE

SECTION 11.06 SCHEDULE

(numbers are in millions, 000's omitted)

7-1-85/ 6-10-86	7-1-86/ 6-30-87	7-1-87/ 6-30-88	7-1-88/ 6-30-89	7-1-89/ 6-30-90	7-1-90/ 6-30-91
$1,500	$2,068	$2,698	$3,396	$4,165	$5,018

7-1-91/ 6-30-92	7-1-92/ 6-30-93	7-1-93/ 6-30-94	7-1-94/ 6-30-95	7-1-95/ 6-30-96	7-1-96/ 6-30-97	7-1-97/ 6-30-98
$5,956	$6,994	$8,129	$9,380	$10,740	$11,388	$12,072

EXHIBIT "I" TO THE LEASE

DESCRIPTION OF THE WESTERN PARCEL AND THE NORTHERN PARCEL

The following descriptions are based upon the information shown on the survey labelled LB-26-DZ, prepared by Benjamin D. Goldberg, Licensed Land Surveyor, State of New York, Earl B. Lovell - S.P. Belcher, dated October 27, 1976, last revised June 13, 1983.

Street lines noted herein are in accordance with map being prepared by New York City, said map has not been adopted by the Board of Estimate as yet.

Elevations refer to datum used by the Topographical Bureau, Borough of Manhattan which is 2.75 feet above datum used by the United States Coast and Geodetic survey, mean sea level, Sandy Hook, New Jersey.

Bearings noted herein are in the system used on the Borough Survey, President's office, Manhattan.

WESTERN PARCEL

BEGINNING at the intersection of the southerly line of proposed Vesey Street with the westerly line of proposed North End Avenue, said point having a coordinate of north 5193.927, west 11318.128:

1. running thence south 1°-52'-50" west, along the westerly line of proposed North End Avenue, 355.00 feet;

2. thence north 88°-07'-10" west, 66.13 feet;

3. thence north 21°-01'-53" west, 385.41 feet to the southerly line of proposed Vesey Street;

4. thence south 88°-07'-10" east, along the southerly line of proposed Vesey Street, 216.17 feet to the point or place of BEGINNING.

NORTHERN PARCEL

BEGINNING at the intersection of the westerly line of Marginal Street, Wharf or Place which line is also the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, with the northerly line of proposed Vesey Street, said intersection having a coordinate of north 5272.355, west 10659.520:

1. running thence north 88°-07'-10" west, along the northerly line of proposed Vesey Street, 914.12 feet;

2. thence north 21°-01'-53" west, 525.69 feet;

3. thence south 87°-24'-30" east, 940.73 feet to a point in the aforesaid United States Bulkhead Line;

4. thence south 18°-50'-14" east, along the aforesaid United States Bulkhead Line, 62.09 feet to an angle point therein;

5. thence south 18°-21'-20" east, along the aforesaid United States Bulkhead Line, 69.61 feet to an angle point therein;

6. thence south 18°-47'-10" east, along the aforesaid United States Bulkhead Line, 187.86 feet to an angle point therein;

7. thence south 18°-49'-55" east, along the aforesaid United States Bulkhead Line, 67.32 feet to an angle point therein;

8. thence south 18°-56'-00" east, along the aforesaid United States Bulkhead Line, 118.12 feet to the point or place of BEGINNING.

EXHIBIT "J" TO THE LEASE

ESCROW AGREEMENT

ESCROW AGREEMENT, dated as of June ___, 1983, among BATTERY PARK CITY AUTHORITY ("Landlord"), a public benefit corporation having an office at 40 West Street, New York, New York 10006, OLYMPIA & YORK BATTERY PARK COMPANY ("Tenant"), a New York partnership having an office at 245 Park Avenue, New York, New York 10167, and ERNST & WHINNEY ("Agent"), an Ohio partnership having an office at 153 East 53rd Street, New York, New York.

W I T N E S S E T H :

WHEREAS, as of the date as of which this Agreement is made, Landlord and Tenant are entering into an Agreement of Severance Lease (the "Lease") for a portion of the commercial core of Battery Park City known as Parcel A (the "Premises"), which Premises are more particularly described in the Lease; and

WHEREAS, Article 38 of the Lease provides, inter alia, for Tenant to prepare and deliver to a designated escrow agent certain periodic financial reports; and

WHEREAS, Article 38 of the Lease also provides for Tenant periodically to prepare and deliver to the escrow agent a report referred to as a vacancy report/leasing status report relating to the occupancy of the Premises; and

WHEREAS, Article 38 of the Lease further requires Tenant to deposit with the escrow agent copies of all additional operating statements, financial reports and any other

statements or reports furnished by Tenant to its mortgagees with respect to the Premises or the operation or leasing thereof which are not otherwise required to be furnished to Landlord in accordance with the terms of the Lease; and

WHEREAS, Section 10.08 of the Lease requires Tenant to deposit with the escrow agent documents setting forth specified information regarding Tenant's subleases; and

WHEREAS, Landlord and Tenant have agreed that all of the foregoing reports, documents and statements deposited with the designated escrow agent (hereinafter referred to collectively as the "Reports") are to be held in escrow unless and until an Event of Default, as defined in the Lease, has occurred; and

WHEREAS, Agent has agreed to hold the Reports as escrow agent for Landlord and Tenant in accordance with the terms of this Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein contained, the parties hereby agree as follows:

1. Tenant shall deposit the Reports with Agent at the intervals required under the Lease. Agent shall hold the Reports in a location in New York City and shall retain possession of each Report for four (4) years from the date Agent receives such Report and shall thereafter promptly return such Report to Tenant unless, prior to the expiration of such four (4) year period, Agent shall have received a

notice from Landlord certifying either (i) that an Event of Default has occurred and directing Agent to deliver all Reports in its possession to Landlord, or (ii) that the Lease has terminated and directing Agent to dispose of the Reports in the manner directed by Landlord. Agent, upon receipt of a notice pursuant to clause (i) or (ii) of this Paragraph 1, shall honor Landlord's direction therein contained, and in the case of a notice pursuant to clause (i), shall deliver to Landlord all Reports thereafter deposited with Agent until such date that Agent receives notice from Landlord that the Event of Default has been cured.

2. Agent promptly shall notify Landlord of Tenant's failure to deposit with Agent any Report required to be deposited pursuant to the provisions of the Lease or this Agreement.

3. Agent shall keep the Reports and all information contained therein confidential until such time as it delivers or disposes of the same in accordance with the provisions of this Agreement or by order of a court of competent jurisdiction. Except for such delivery or disposition, Agent shall not (i) cause, suffer or permit the Reports to be reproduced or examined in whole or in part or (ii) disclose, or suffer or permit the disclosure of, any information contained in the Reports. This provision shall survive the termination of this Agreement.

4. It is agreed that the duties of the Agent are only as herein specifically provided, that Agent is acting solely as the custodian of the Reports, and that Agent shall be entitled to rely on all statements contained in any notice to it by Landlord or Tenant without any obligation to make any inquiry as to the accuracy of the matters therein contained, and that Agent shall incur no liability whatsoever except for its willful misconduct. Landlord and Tenant each releases Agent from liability for any act done or omitted to be done by Agent in the good faith performance of its duties hereunder, absent willful misconduct, and Tenant agrees to indemnify and hold Agent harmless from any loss, claim, damage or other liability incurred in connection with Agent's performance of such duties.

5. Agent shall be compensated by Tenant for the services performed in fulfillment of Agent's duties under this Agreement with an annual payment of ONE THOUSAND FIVE HUNDRED DOLLARS ($1,500), subject to a reasonable annual adjustment by Agent for each calendar year following the first full calendar year during which this Agreement is in effect, which fee shall be payable in quarterly installments on the first day of each calendar quarter.

6. Landlord, in its sole discretion, may elect to terminate this Agreement and direct Agent to deliver the Reports to another escrow agent, as such term is defined in the Lease (the "Successor Agent"). Agent may elect to

resign hereunder and terminate this Agreement by giving Landlord and Tenant ninety (90) days Notice of such resignation and termination. In the event of any termination of this Agreement, Landlord shall appoint a Successor Agent and at Landlord's direction Agent shall deliver the Reports to such Successor Agent. Until such time as such delivery has been made to a Successor Agent, Agent shall remain subject to all of the terms of this Agreement. In the event of any termination of this Agreement, Landlord and Tenant shall enter into an agreement with the Successor Agent substantially similar to this Agreement, except that when the substance of Paragraph 4 of this Agreement shall be incorporated into such successor agreement it shall be to the effect that the Successor Agent shall incur liability for its gross negligence as well as willful misconduct. Such successor agreement shall provide that Tenant shall compensate Successor Agent for the reasonable value of the Successor Agent's services thereunder.

7. Any notice, demand, consent or other communication required or desired to be given with respect to this Agreement (collectively "Notices" and individually a "Notice") to Agent shall be in writing and shall be sufficient only if received by Agent within the applicable time periods set forth herein, if any. Notices to Agent shall be mailed to it at its address set forth in this Agreement or such other address as Agent shall have last designated by notice in

accordance with the provisions of this Paragraph 7, or served personally upon Agent with receipt acknowledged in writing by a partner of Agent. Notices from Agent to Tenant or Landlord shall be mailed to them at their respective addresses set forth in this Agreement, or at such other address as the party in question shall have last designated by notice to Agent. All mailings of Notices shall be by registered or certified mail, return receipt requested. A Notice shall be deemed given on the first Business Day (as defined in the Lease) after mailing.

8. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns. Agent may not assign its interest in this Agreement. Except in connection with an assignment by Landlord or Tenant of its respective interests under the Lease, neither Landlord nor Tenant may assign its rights under this Agreement. Landlord and Tenant shall assign their rights under this Agreement to the assignee of their respective interests in the Lease.

9. This Agreement may not be changed, modified or terminated orally, but only by a written instrument of change, modification or termination executed by all of the parties hereto.

10. This Agreement constitutes the entire agreement between the parties and incorporates all prior understandings in connection with the subject matter hereof.

11. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties as of the day and year first above written.

BATTERY PARK CITY AUTHORITY

By:_____

OLYMPIA & YORK BATTERY PARK COMPANY

By: O&Y BATTERY PARK CORP., General Partner

By:_____

ERNST & WHINNEY

By:_____
Partner

EXHIBIT "K" TO THE LEASE

BOARD OF ESTIMATE RESOLUTION

(Cal. No. 88)

WHEREAS, the Board of Estimate adopted a resolution on January 10, 1980 (Cal. No. 78) (the "Resolution"), approving the Memorandum of Understanding among the Governor of the State of New York, the Mayor, and the President of the New York State Urban Development Corporation and the Battery Park City Authority ("BPCA"), dated as of November 8, 1979 (the "Memorandum"); and

WHEREAS, Exhibit A to the Memorandum set forth a large-scale commercial development plan (the "Plan") for the commercial center (as described in said exhibit) of Battery Park City in the Borough of Manhattan (the "Project Area"); and

WHEREAS, the Board of Estimate, in adopting the Resolution, approved the Plan, but added to its approval a qualification limiting retail uses in the Project Area, as well as other qualifications limiting the extent and configuration of retail space within the Project Area; and

WHEREAS, May 22, 1981, BPCA submitted to the City Planning Commission (the "Commission") a development plan for the Project Area; and

WHEREAS, in a letter dated June 15, 1981, the Chairman of the Commission (the "Chairman") certified BPCA's development plan as substantially complying with the Plan; and

WHEREAS, on June 1, 1982, BPCA applied to the Chairman for an amendment to the Plan, which amendment would increase the permissible amount of retail space for the Project Area; and

WHEREAS, the Commission in a report dated December 8, 1982 (N790764CMM(A)), approved BPCA's application to amend the Plan subject to approval by the Board of Estimate; and

WHEREAS, since BPCA's development plan creates additional space which may be usefully devoted to restricted retail purposes in the Project Area without creating competition for regional shopping centers located elsewhere in the City

NOW THEREFORE BE IT

RESOLVED, that the Plan as set forth in Exhibit A to the Memorandum and as approved by resolution dated January 10, 1980 (Cal. No. 78), is amended by increasing the amount of permissible retail space from 100,000 to 283,000 square feet subject to the following conditions stated in a report of the Commission, dated December 8, 1982 (N790764COMM(A)) (the "Report):

1) The retail uses in the large scale commercial development plan for Battery Park City shall be limited to establishments that serve only the commercial center; retail space shall be distributed in a shallow linear configuration; 100,000 square feet of general retail (Use Groups 6-12 and special services and facilities for boating and related activities in Use Group 14) shall be limited to 10,000 square feet, per establishment; the remaining 183,000 square feet of retail space shall be limited to the following uses in Use Group 6:

6A. Convenience Retail or Service Establishments

1. Bakeries
2. Barber shops
3. Beauty parlors
4. Drug stores
5. Drycleaning or clothes pressing establishment
6. Eating and drinking places
7. Food stores, including - delicatessen stores
8. Hardware stores
9. Package liquor stores
10. Post offices
11. Shoe or hat repair shops

6B. Offices

1. Offices, business, professional or governmental

6C. Retail or Service Establishments

1. Art galleries, commercial
2. Artists' supply stores
3. Banks
4. Book stores
5. Candy or ice cream stores
6. Cigar or tobacco stores
7. Florist shops
8. Gift shops
9. Loan offices
10. Locksmith shop

11. Medical or orthopedic applicance stores

12. Meeting halls

13. Music stores

14. Newsstands, open or enclosed

15. Optician or optometrist establishments

16. Pet shops

17. Photographic studios

18. Picture framing shops

19. Record stores

20. Stamp or coin stores

21. Telegraph offices

22. Travel bureaus

6D. Public Service Establishments

1. Telephone exchanges or other communications equipment structure.

6E. Clubs

1. Non-commercial clubs without restrictions on activities or facilities.

6F. Accessory Uses

Further, eating and drinking establishments, meeting halls, public service establishments, non-commercial clubs and theatres, offices located on the ground (+12.5') level may exceed the limit of 10,000 square feet per establishment (for the purpose of this resolution, Use Group 6B "offices" shall be restricted

to offices that deal directly with the public, such as but not limited to, stockbrokers, OTB, real estate, insurance and professional offices); and in no event shall the total retail space exceed 283,000 square feet.

2) The central portion of the Wintergarden in an east-west alignment shall provide public access between the landing of the North Bridge and the public plaza and waterfront promenade or esplanade. To that end, the central portion of the space, 65 feet wide between column lines, shall be devoted to public use with an average aggregate unobstructed width of 30'-0" for pedestrian access and circulation, and with at least one major pedestrian route having a clear path of not less than 15'-0". Permitted obstructions, within the 65 foot wide space, but not infringing upon the 30 foot wide public pedestrian path(s), and in addition to the small, movable, income producing retail and display uses, such as fountains and reflecting pools, sculpture and other works of art, shall not occupy more than 10% of said space.

3) In the remaining central space, small, movable, income producing retail or display uses may be permitted, but in no event shall the total area occupied by such uses exceed 8% of the area of the space within the column line. The City Planning Commission will be concerned specifically with the size and number of such movable elements.

4) Free public seating shall be provided in the central space of the Wintergarden. The City Planning Commission will be looking for public seating throughout that space, in addition to the seating permitted on the grand staircase.

5) Physically and visually uninterrupted access, including access for the handicapped, shall be provided from the west elevation of the Wintergarden to the public plaza and promenade or esplanade. The City Planning Commission, in its subsequent review, will be looking for adequate provision of access and appropriate signage, as specified in the June 15, 1981 Letter of Certification.

6) The central portion of the Courtyard (the public space, open to the sky, located between Tower C and Tower D) in a north-south alignment, shall provide public access between the extention of Vesey Street and the public plaza and waterfront promenade or esplanade. To that end, the central bay of the Courtyard, 25 feet wide between column lines, shall be devoted to public use. Within this space there shall be an average, aggregate circulation path of not less than 15'-0". Permitted obstructions, within the 25 foot wide space, but not infringing upon the 15 foot wide public pedestrian path, shall be limited to fountains and reflecting pools, sculpture and other works of art, seating, and trees and planting beds flush with grade. These permitted obstructions shall, however, occupy no more than 10% of the public access area, between the columns.

7) Physically and visually uninterrupted access and egress, including access and egress for the handicapped, shall be provided through the open-air courtyard to the public plaza and waterfront promenade or esplanade, to the south, and the extension of Vesey Street, to the north. The City Planning Commission, in its subsequent review, will be looking for adequate provision of access and appropriate signage, as specified in the June 15, 1981 Letter of Certification; and

RESOLVED, that the Plan shall be further amended by incorporating in it the foregoing conditions; and

RESOLVED, that the Plan as so amended shall also be subject to the following additional conditions as stated in the Report:

1) This amendment in no way affects the plans as approved in the letter of June 15, 1981, by the Chairman of the Department of City Planning to the President and Chief Executive Officer of Battery Park City Authority certifying substantial compliance with the Large Scale Commercial Development Plan with the exception of the content of this amendment.

2) Any modification in accordance with this amendment of the plans as approved on June 15, 1981, shall be subject to certification of compliance by the Chairman of the Department of City Planning with the condition set forth below, in accordance with the plans filed with this amendment; and

BE IT FURTHER

RESOLVED, that the Mayor or his designee is hereby authorized to take such action and to execute such documents as may be necessary to effectuate said amendments as authorized herein.

A TRUE COPY OF RESOLUTION ADOPTED BY THE BOARD OF ESTIMATE ON JAN 13 1983

Theodore T. Mackinnon

Secretary