

# EXHIBIT A













**IMPORTANT - PLEASE READ**

**RULES AND REGULATIONS ATTACHED TO AND MADE A PART OF THIS LEASE IN ACCORDANCE WITH ARTICLE 23.**

1. The sidewalks, entrances, driveways, passages, courts, elevators, vestibules, stairways, corridors or halls shall not be obstructed or encumbered by Tenant, or used for any purpose other than for ingress or egress from the demised premises, and for delivery of merchandise and equipment in a prompt and efficient manner using elevators and passageways designated for such delivery by Owner. There shall not be used in any space, or in the public hall of the building, either by Tenant or by jobbers or others in the delivery or receipt of merchandise, any hand trucks, except those equipped with rubber tires and disk guards. If said premises are situated on the ground floor of the building, Tenant thereat shall further, at Tenant's expense, keep the sidewalk and curb in front of said premises clean and free from ice, snow, dirt and rubbish.
2. The water and wash closets and plumbing fixtures shall not be used for any purpose other than those for which they were designed or constructed, and no purges, rubbish, rags, acids or other substances shall be deposited therein, and the expense of any leakage, stoppage, or damage resulting from the violation of this rule shall be borne by the Tenant, whether or not caused by the Tenant, or its clerks, agents, employees or visitors.
3. No carpet, rug or other articles shall be hung or taken out of any window of the building, or on the inside of the demised premises, or permit to be swept or thrown from the demised premises any dirt or other substances into any of the corridors or halls, elevators, or out of the doors or windows or stairways of the building, and Tenant shall not use, lease or permit to be used or kept, any foul or noxious gas or substance in the demised premises, or permit or suffer the demised premises to be occupied or used in a manner offensive or objectionable to Owner or other occupants of the building by reason of noise, odors, and/or vibrations, or insofar as any in any way with other tenants or those having business therein, nor shall any bicycles, vehicles, animals, fish, or birds be kept in or about the building. Smoking or carrying lighted cigars or cigarettes in the elevators of the building is prohibited.
4. No awnings or other projections shall be attached to the outside walls of the building without the prior written consent of Owner.
5. No sign, advertisement, notice or other marking shall be exhibited, inscribed, painted or affixed by Tenant on any part of the outside of the demised premises or on the inside of the demised premises if the same is visible from the outside of the demised premises, without the prior written consent of Owner, except that the name of Tenant may appear on the entrance door of the demised premises. In the event of the violation of the foregoing by such removed to without any liability, and may charge the expense incurred by such removal to Tenant. Interior signs on doors and directory tables shall be inscribed, painted or affixed for Tenant by Owner at the expense of Tenant, and shall be of a size, color and style acceptable to Owner.
6. Tenant shall not mark, paint, drill into, or in any way deface, any part of the demised premises or the building of which they form a part. No boring, cutting or stringing of wires shall be permitted, except with the prior written consent of Owner, and as Owner may direct. Tenant shall not by hook, chain, or other similar device covering, so that the same shall come in direct contact with the floor of the demised premises, and, if hook, chain or other similar floor covering is desired to be used, an interfering building construction felt shall be first affixed to the floor, by paste or other material, soluble in water, the use of cement or other similar adhesive material being expressly prohibited.
7. No additional locks or bolts of any kind shall be placed upon any of the doors or windows by Tenant, nor shall any changes be made in existing locks or to mechanism thereof. Tenant must, upon the termination of his tenancy, restore to Owner all keys of stores, offices and toilet rooms, either furnished to, or otherwise procured by, Tenant, and in the event of the loss of any keys, so furnished, Tenant shall pay to Owner the cost thereof.
8. Freight, furniture, business equipment, merchandise and bulky material of any description shall be delivered to and removed from the demised premises only by

- the freight elevator and through the service entrance and corridors, and only during hours and in a manner approved by Owner. Owner reserves the right to inspect all freight to be brought into the building and to exclude from the building all freight which violates any of these Rules and Regulations of the lease, or which these Rules and Regulations are a part.
9. Carrying, collecting and storing in the building is prohibited and Tenant shall cooperate to prevent the same.
10. Owner reserves the right to exclude from the building all persons who do not present pass to the building issued by Owner. Owner will furnish pass to persons for whom Tenant requests same in writing. Tenant shall be responsible for all acts of such persons. Tenant shall not have a claim against Owner by reason of Owner excluding from the building any person who does not present such pass.
11. Owner shall have the right to prohibit any advertising by Tenant which in Owner's opinion, tends to impair the reputation of the building or its desirability as a building for offices, and upon written notice from Owner, Tenant shall refrain from or discontinue such advertising.
12. Tenant shall not bring or permit to be brought or kept in or on the demised premises, any inflammable, combustible, explosive, or hazardous fluid, material, chemical or substance, or gases or permit any odors of cooling or other processes, or any unusual or other objectionable odors, to permeate in, or emanate from, the demised premises.
13. If the building contains central air conditioning and ventilation, Tenant agrees to keep all windows closed at all times and to abide by all rules and regulations issued by Owner with respect to such services. If Tenant requires air conditioning or ventilation after the usual hours, Tenant shall give notice in writing to the building superintendent prior to 3:00 p.m. in the case of services required on weekdays, and prior to 3:00 p.m. on the day prior in the case of services required on maximum weekends or holidays. Tenant shall cooperate with Owner in obtaining maximum effectiveness of the cooling system by lowering and closing venetian blinds and/or drapes and curtains when the sun's rays fall directly on the windows of the demised premises.
14. Tenant shall not move any safe, heavy machinery, heavy equipment, bulky matter, or fixtures into or out of the building without Owner's prior written consent. If such safe, machinery, equipment, bulky matter or fixtures require special handling, all work in connection therewith shall comply with the Administrative Code of the City of New York and all other laws and regulations applicable thereto, and shall be done during such hours as Owner may designate.
15. Rent and expense, to comply with all present and future laws, orders, and regulations, of all state, federal, municipal, and local governments, departments, commissions and boards regarding the collection, sorting, separation and recycling of waste products, garbage, refuse and trash into such categories as provided by law. Each separately formed category of waste products, garbage, refuse and trash shall be placed in separate receptacles reasonably approved by Owner. Such receptacles may, at Owner's option, be removed from the demised premises in accordance with the collection schedule prescribed by law. Tenant shall remove, or cause to be removed by a contractor acceptable to Owner, at Owner's sole discretion, such items as Owner may expressly designate. (2) Owner's Rights in Event of Noncompliance. Owner has the option to refuse to collect or accept from Tenant waste products, garbage, refuse or trash (a) that is not separated and sorted as required by law or (b) which consists of such items as Owner may expressly designate for Tenant's removal, and to require Tenant to arrange for such collection and removal for Tenant's removal, utilizing a contractor satisfactory to Owner. Tenant shall pay all costs, expenses, fines, penalties, or damages that may be imposed on Owner or Tenant by reason of Tenant's failure to comply with the provisions of this Building Rule 15, and, at Tenant's sole cost and expense, shall indemnify, defend and hold Owner harmless (including reasonable legal fees and expenses) from and against any claims, claims and suits arising from such noncompliance, utilizing counsel reasonably satisfactory to Owner.

Address \_\_\_\_\_

Premises \_\_\_\_\_

TO \_\_\_\_\_

STANDARD FORM OF \_\_\_\_\_

Office \_\_\_\_\_

\_\_\_\_\_

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Dated \_\_\_\_\_ in the year \_\_\_\_\_

Rent Per Year \_\_\_\_\_

Rent Per Month \_\_\_\_\_

Tenant \_\_\_\_\_

From \_\_\_\_\_

To \_\_\_\_\_

Drawn by \_\_\_\_\_

Checked by \_\_\_\_\_

Entered by \_\_\_\_\_

Approved by \_\_\_\_\_

*Sigenda*  
AUGUST 24, 2003

INSERTS TO AGREEMENT OF LEASE DATED AS OF  
BETWEEN 15 EAST 26TH STREET ASSOCIATES, LLC, AS OWNER, AND EL AL  
ISRAEL AIRLINES, LTD., AS TENANT

- (1) "general, executive and administrative offices of Tenant and the occasional sale and marketing by Tenant, of airline tickets and package tours, a reservations call center, the occasional sale and marketing by Tenant, of airline cargo capacity; provided that (except as expressly provided below in this section) no retail or off-the-street sales, marketing, cargo or other business or activity, including any open to the general public, may be conducted from the Demised Premises, including the sale of tickets or the acceptance or delivery of cargo to or from customers in the space; it being understood that the Demised Premises shall not be used as a retail ticket sales office or travel agency; however, infrequent de minimis ticket sales of El Al Airlines plane tickets, without prior appointment, shall be permitted to take place at the Demised Premises provided Landlord shall have the unilateral authority to restrict and further limit access by third parties to the Demised Premises for such ticket sales in the event such sales, or related visitations by third parties, become excessive in Landlord's reasonable judgment, in light of the fact that the Demised Premises are not intended to be used for off the street retail ticket sales. Further, in no event shall Tenant permit the use or occupancy of the Demised Premises (or any part thereof) by clients, customers, invitees or others in such volume or frequency of such nature or of such duration, or permit any noise, commotion or disturbance, in excess of normal business office activity in the Building (as reasonably determined by Landlord);"
- (1)(a) "; which consent shall not be unreasonably withheld,"
- (2) "from the list of approved contractors as provided for in Article 4, or if the trade(s) in question are not on the list, then using contractors or mechanics for such trade(s) first reasonably approved in each instance by Owner."
- (3) "no later than sixty (60) days prior to the date fixed as the termination of this Lease."
- (4) "Notwithstanding the foregoing, Tenant shall not be required to remove or restore any of Landlord's Work or Landlord's Additional Work (as hereinafter defined)."
- (5)(a) "At Tenant's own cost and expense, subject to Owner's approval which shall not be unreasonably withheld, Tenant shall be entitled to install and operate in the Demised Premises such security alarms, devices, motion detectors, monitors and cameras as Tenant shall deem appropriate simultaneously with the performance by Landlord of Landlord's Work, provided same are installed and operated in accordance with all applicable law including all laws of privacy, so long as they do not involve any structural alterations or interfere with any Building systems and further provided that they otherwise comply with the requirements for all Tenant Changes, and Owner retains all rights of access to the Demised Premises. Tenant agrees, at all times during the performance of Landlord's Work, to use its best efforts to minimize any interference or annoyance with Landlord, its agents, servants, employees and contractors. In the event Landlord, in its sole reasonable discretion, believes that Tenant, its agents, servants, employees or contractors are interfering with the performance of Landlord's Work, then Tenant, its agents, servants, employees and contractors shall cease its installation of any such security alarms until further notice by Landlord."
- (5)(b) "a list of at least three (3) approved contractors per trade submitted by Owner, except in the case of fire and life safety in which case Tenant shall use the contractor determined by Landlord."
- (6) "at commercially reasonable rates (except in case of an emergency)."



- (7) "In performing any repairs, maintenance, alterations, additions or improvements in or to any portion of the Building or the Demised Premises, Owner shall use reasonable efforts (which shall not include the obligation to pay, employ or engage any contractors, vendors, suppliers or other personnel or labor (including regular staff of Owner or its property manager) at so-called over-time or other premium pay rates or to incur cost other than ordinary costs or expenses) so as to minimize interference with Tenant's business operations; and with respect to repairs, maintenance, alteration or improvements to be performed in the Demised Premises, provided the need for such repairs, maintenance, alterations or improvements is not the result of any emergency or a default by Tenant hereunder, (a) Owner shall give Tenant reasonable advance notice of the commencement of such work, and (b) Owner shall permit a representative of Tenant to accompany Owner's representative or contractor so long as Tenant's representative is available as and when the work is performed."
- (8) "In the event that, at any time during the performance of Tenant's Changes (but specifically excluding any of the same resulting from Landlord's Work), Tenant uncovers asbestos in the Demised Premises, (a) Tenant shall immediately cease continuing performance of Tenant's Changes to the extent it could affect such asbestos and (b) Owner agrees, upon notice from Tenant to such effect, to, at Owner's election, either remove or encapsulate such asbestos. Notwithstanding the foregoing, in the event that any work performed by Owner is in any way disturbed or damaged by Tenant or any person claiming through or under Tenant, or asbestos is installed in the Demised Premises by or on behalf of Tenant, or any person claiming through or under Tenant, Owner shall have no responsibility in connection therewith and no obligation to perform any work with respect thereto, but it shall be Tenant's obligation, at Tenant's expense, to remove such asbestos in accordance with all (x) applicable laws, orders, rules and regulations and (y) Landlord's instructions. In the event Tenant is required to perform such work in accordance with the provisions of this Article, then Owner, at Owner's election, shall have the option to itself perform such work and in such event, Tenant shall pay to Owner all of Owner's reasonable costs in connection therewith, as additional rent, within ten (10) days next following rendition of a statement by Owner to Tenant. In addition, Landlord shall deliver to Tenant an ACP-5 in connection with Landlord's Work.
- (9) "In the case of a temporary closing, Owner shall use reasonable efforts (excluding the obligation to expend money, commence or defend litigation or arbitration or incur any other expense, obligation or liability whatsoever) to reduce the duration of such temporary closing to the extent such reduction is permitted by applicable law."
- (10) "willful misconduct"
- (11) "Notwithstanding anything to the contrary contained in this Article 9:
- (a) As soon as reasonably practicable, but in any event no later than ninety (90) days following the date Owner has actual knowledge of any fire or other casualty rendering any portion of the Demised Premises untenable, Owner shall notify Tenant of Owner's good faith estimate of the date (the "Estimated Date") by which the repair and restoration necessary to render the Demised Premises no longer untenable can be completed ("Owner's Repair Notice"). Notwithstanding anything herein to the contrary, if, by reason of a fire or other casualty (1) which neither Tenant nor any of Tenant's employees, invitees, contractors, agents, officers, or directors caused, (2) more than fifty (50%) percent of the rentable square footage of the Demised Premises shall be damaged or destroyed and rendered untenable (or, in the case of damage or destruction to the public portions of the Building necessary for access to the Demised Premises, more than fifty (50%) percent of the rentable square footage of the Demised Premises shall be rendered untenable) and (3) the Estimated Date set forth in Owner's Repair Notice with respect to such fire or other casualty is after the date (the "Outside Repair Date")

which is the twelve (12) month anniversary of the date of such fire or other casualty (a fire or other casualty meeting the requirements of the preceding subclauses (1), (2) and (3) being a "Substantial Casualty"), then, provided Tenant is not then in default under this Lease beyond any applicable notice and grace period, Tenant shall have a one time only right (except as set forth in subsection (b) below) to terminate this Lease by notice (the "Damage Termination Notice") given to Owner within thirty (30) days following Owner's giving of Owner's Repair Notice. Such termination shall be effective as of the date which is thirty (30) days after the date the Damage Termination Notice is given, and, upon delivery of such notice and the expiration of such 30-day period, this Lease and the term hereof shall expire as fully and completely as if such date were the date originally set forth for the expiration of this Lease. Notwithstanding the foregoing, if a Substantial Casualty shall occur during the last eighteen (18) months of the term of this Lease, then for purposes of determining a Substantial Casualty occurring during such one-year period only, the Outside Repair Date shall be the date which is six (6) months after the date of such fire or other casualty. Tenant's failure to deliver the Damage Termination Notice in the time and manner required by this subsection (a) shall be deemed an irrevocable waiver of Tenant's right to terminate this Lease pursuant to this subsection (a).

(b) In addition, in the event of any Substantial Casualty, if the repair or restoration necessary to render the Demised Premises no longer untenantable is not substantially completed by the Outside Repair Date, as such Outside Repair Date shall be extended due to delays caused or occasioned by Tenant, its agents, employees, contractors, architects, engineers or servants or events of force majeure, then Tenant shall be entitled to terminate this Lease by a Damage Termination Notice given to Owner within thirty (30) days after the Outside Repair Date (as so extended) and, upon the giving of such notice, this Lease and the term hereof shall expire effective on the thirtieth (30th) day after the giving of such notice (the "Damage Termination Date"); provided, however, if Tenant delivers a Damage Termination Notice pursuant to this subsection (b) to Owner, then Owner shall have the right to suspend the occurrence of the Damage Termination Date for a period of thirty (30) days after the date of the Damage Termination Notice by delivering to Tenant, within ten (10) Business Days after Owner's receipt of such Damage Termination Notice, a certificate of Owner's contractor responsible for the repairs of such damage certifying that it is such contractor's good faith judgment that the repairs shall be substantially completed within thirty (30) days after the date of the Damage Termination Notice. If the repairs shall be substantially completed prior to the expiration of such thirty (30) day period, the Damage Termination Notice shall be null and void and of no force or effect, and this Lease shall continue, but if the repairs shall not be substantially completed within such thirty (30) day period, then this Lease shall terminate upon the expiration of such thirty (30) day period."

(12) "on oral or other reasonable notice."

(13) "To the extent Owner performs any work in connection with this Article 13, Owner shall make reasonable efforts to perform such work in a manner reasonably designed to minimize interference with Tenant's actual, normal permitted use as then conducted at the Demised Premises (however, nothing contained herein shall be deemed to impose upon Owner any obligation to pay, employ or engage any contractors, vendors, suppliers or other personnel or labor (including regular staff of Owner or Owner's property manager) at so-called overtime or other premium pay rates or to incur any expenses other than ordinary costs and expenses at regular rates)."

(14)(a) "on oral or other reasonable notice"

- (14)(b) "nine (9)"
- (15) "(or other mechanical or electronic device as necessary or appropriate in connection with any security system permitted to be installed by Tenant) or, in the event of an emergency"
- (16)(a) "abandon;"
- (16)(b) "sixty (60) days after Substantial Completion of Landlord's Work and Landlord's Additional Work (as defined in this Lease)"
- (16)(c) "thirty (30)"
- (17) "In the event of a dispute between the parties which results in litigation or arbitration, the losing party shall pay the prevailing party's reasonable attorneys' fees and litigation costs."
- (18) "provided that Tenant shall have reasonable access to the Demised Premises and the Building."
- (19) "To the extent Owner performs any work in connection with this Article 20, Owner shall make reasonable efforts to perform such work in a manner reasonably designed to minimize interference with Tenant's actual, normal permitted use as then conducted at the Demised Premises (however, nothing contained herein shall be deemed to impose upon Owner any obligation to pay, employ or engage any contractors, vendors, suppliers or other personnel or labor (including regular staff of Owner or Owner's property manager) at so-called overtime or other premium pay rates or otherwise incur any expenses other than ordinary costs and expenses at regular rates)."
- (20) "except as otherwise expressly provided in this Lease"
- (21) "or Tenant"
- (22)(a) "or the payment by Tenant"
- (22)(b) "or Tenant"
- (22)(c) "or Tenant (as the case may be)."
- (23) "Except as otherwise set forth herein, Owner shall provide Tenant with access to the Building and Demised Premises 24 hours a day, seven days per week."
- (24) "To the extent Owner stops services or performs any work in connection with this Article 29, Owner shall make reasonable efforts to restore such services and perform such work in a manner reasonably designed to minimize interference with Tenant's actual, normal permitted use as then conducted at the Demised Premises (however, nothing contained herein shall be deemed to impose upon Owner any obligation to pay, employ or engage any contractors, vendors, suppliers or other personnel or labor (including regular staff of Owner or Owner's property manager) at so-called overtime or other premium pay rates or to incur any expenses other than ordinary costs and expenses at regular rates)."
- (25) "Notwithstanding anything to the contrary in Section 6 of the Rules and Regulations, Tenant shall be permitted to appropriately attach to or hang from the walls in the Demised Premises decorative furnishings so long as the same are not unusually heavy and/or affixed in a manner which would damage the Demised Premises or the Building and Tenant repairs all damage (including holes or cracks) resulting therefrom in a first-class manner upon their removal upon the expiration or sooner termination of this Lease."
- (26) "Landlord shall furnish a certificate to Tenant upon request (but not more than twice in any twelve (12) month period) as provided in Article 62 of this Lease."

MASTER LEASE RIDER - 15 EAST 26<sup>TH</sup> STREET

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EXHIBIT A - Demised Premises  
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RIDER TO AGREEMENT OF LEASE DATED AS OF <sup>September</sup> ~~AUGUST~~ 24, 2003,  
BETWEEN 15 EAST 26<sup>TH</sup> STREET ASSOCIATES, LLC, AS OWNER, AND EL AL  
ISRAEL AIRLINES LTD., AS TENANT

THE TERMS "OWNER" AND "LANDLORD" ARE USED INTERCHANGEABLY  
AND OWNER SHALL MEAN LANDLORD AND LANDLORD SHALL MEAN  
OWNER.

IN THE EVENT OF ANY CONFLICT OR INCONSISTENCY BETWEEN ANY  
PROVISION OF THIS RIDER AND ANY PROVISION OF THE MAIN BODY OF  
THIS LEASE, THE PROVISION OF THIS RIDER SHALL GOVERN.

37. Basic Provisions: The definitions set forth above, herein and in this  
Article 37 are an integral part of this Lease and all of the terms hereof are incorporated  
into this Lease. In addition to the other terms which are elsewhere defined in this Lease  
the following capitalized terms, whenever used in this Lease, shall have the meanings set  
forth in this Article, and only such meanings, unless such meanings are expressly  
contradicted, limited or expanded elsewhere herein:

A. Base Tax Year: The twelve (12) month fiscal period  
commencing on July 1, 2003 and ending on June 30, 2004 at the tax rates applicable to  
such fiscal period.

B. "Brokers" shall mean FITRA/NY Realty Group, Inc. and  
Murray Hill Properties LLC.

C. Commencement Date: The date Landlord or Landlord's  
counsel delivers a fully executed counterpart of this Lease to Tenant (or Tenant's  
counsel).

D. Intentionally Omitted.

E. Intentionally Omitted.

F. Expiration Date: July 31, 2019.

G. Fixed Annual Rent: Tenant shall pay Fixed Annual Rent  
during the Term as follows:

(i) For the period from the Commencement Date to and  
including July 31, 2004, at an annual rate of \_\_\_\_\_ payable in equal  
monthly installments of \_\_\_\_\_

(ii) For the period from August 1, 2004 to and including  
July 31, 2005, at an annual rate of \_\_\_\_\_ payable in equal monthly  
installments of \_\_\_\_\_

(iii) For the period from August 1, 2005 to and including  
July 31, 2006, at an annual rate of \_\_\_\_\_ payable in equal monthly installments  
of \_\_\_\_\_



(iv) For the period from August 1, 2006 to and including July 31, 2007, at an annual rate of \_\_\_\_\_ payable in equal monthly installments of \_\_\_\_\_

(v) For the period from August 1, 2007 to and including July 31, 2008, at an annual rate of \_\_\_\_\_ payable in equal monthly installments of \_\_\_\_\_

(vi) For the period from August 1, 2008 to and including July 31, 2009, at an annual rate of \_\_\_\_\_ payable in equal monthly installments of \_\_\_\_\_

(vii) For the period from August 1, 2009 to and including July 31, 2010, at an annual rate of \_\_\_\_\_ payable in equal monthly installments of \_\_\_\_\_

(viii) For the period from August 1, 2010 to and including July 31, 2011, at an annual rate of \_\_\_\_\_ payable in equal monthly installments of \_\_\_\_\_

(ix) For the period from August 1, 2011 to and including July 31, 2012, at an annual rate of \_\_\_\_\_ payable in equal monthly installments of \_\_\_\_\_

(x) For the period from August 1, 2012 to and including July 31, 2013, at an annual rate of \_\_\_\_\_ payable in equal monthly installments of \_\_\_\_\_

(xi) For the period from August 1, 2013 to and including July 31, 2014, at an annual rate of \_\_\_\_\_ payable in equal monthly installments of \_\_\_\_\_

(xii) For the period from August 1, 2014 to and including July 31, 2015, at an annual rate of \_\_\_\_\_ payable in equal monthly installments of \_\_\_\_\_

(xiii) For the period from August 1, 2015 to and including July 31, 2016, at an annual rate of \_\_\_\_\_ payable in equal monthly installments of \_\_\_\_\_

(xiv) For the period from August 1, 2016 to and including July 31, 2017, at an annual rate of \_\_\_\_\_ payable in equal monthly installments of \_\_\_\_\_

(xv) For the period from August 1, 2017 to and including July 31, 2018, at an annual rate of \_\_\_\_\_

...yable in equal monthly installments of  
and

(xvi) For the period from August 1, 2018 to and including  
the Expiration Date, at an annual rate of ...payable in equal  
monthly installments of

The Fixed Annual Rent shall be paid at the times and in the manner provided for in the printed portion of this Lease. Notwithstanding anything to the contrary herein set forth but subject to the immediately subsequent sentence of this Paragraph, provided, and so long as, Tenant is not in default hereunder beyond notice and applicable cure periods, Tenant shall pay no Fixed Annual Rent for (i) the period commencing on the Commencement Date and ending on July 31, 2004; (ii) the period commencing on August 1, 2009 to and including November 30, 2009 (excluding that portion of Fixed Annual Rent attributable to the 2% per annum increase described below); and (iii) the period commencing on August 1, 2014 to and including November 30, 2014 (excluding that portion of Fixed Annual Rent attributable to the 2% per annum increase described below). The sum of said rentals for such periods, as reduced by such exclusions, shall be referred to herein as the "Abated Rent." Anything contained herein to the contrary notwithstanding, if Tenant at any time during the Term breaches any term, condition or provision of this Lease, and fails to cure such breach following notice and within any applicable cure period, and provided this Lease is terminated by Landlord because of such default then, in addition to all other damages and remedies herein provided and to which Landlord may otherwise be entitled, Landlord shall also be entitled to the repayment in full of that portion or all of the Abated Rent, as has then accrued (as the case may be) for the most recent period(s) prior to such termination by Landlord, which repayment Tenant shall make upon demand therefore.

All Fixed Annual Rent and Additional Rent payable under this Lease shall be paid by check of Tenant drawn on a bank which is a member of the New York Clearing House Association (the "NYCHA"). Failure to pay rent by such a check shall be deemed a material default by Tenant under this Lease. All amounts due pursuant to this Lease (including, without limitation, the Security Deposit (as hereinafter defined)) other than Fixed Annual Rent, shall be deemed to be additional rent, and Landlord shall have the same remedies for nonpayment of additional rent as for nonpayment of Fixed Annual Rent.

In lieu of porter-wage, operating expense or similar escalations which might otherwise be made by Tenant to Landlord, the parties have agreed that the Fixed Annual Rent has been increased by 2% per annum on a compounded basis commencing on August 1, 2005 and on each August 1 thereafter.

H. Rent Commencement Date: August 1, 2004.

I. "Tenant's Percentage" shall mean 5.3%.

### 38. Escalation Payments.

#### A. Real Estate Tax Increase Payment.

(1) For each Tax Year (hereinafter defined) during the Term, Tenant shall pay, as Additional Rent (hereinafter defined), the Tax Payment (hereinafter defined) for such Tax Year.

#### (2) Tax Definitions:

(a) The term "Real Estate Taxes" shall mean (i) the sum of the real estate taxes and assessments, water and sewer rents, Business Improvement District taxes, charges and assessments, and special assessments, ordinary or extraordinary, foreseen or unforeseen, of any kind or nature whatsoever, imposed, assessed and/or levied upon the Building and/or the plot of

land on which the Building stands (the "Land") and any rights or interests appurtenant thereto payable by Landlord during any Tax Year and (ii) reasonable attorneys' fees, court, or other administrative costs and disbursements incurred by Landlord in connection with any attempt to reduce Real Estate Taxes prior to the date such Real Estate Taxes are payable. If at any time during the Term the methods of taxation prevailing at the time of the commencement thereof shall be altered so that in lieu of or as an addition to or as a substitute for the whole or any part of the real estate taxes, assessments, levies, impositions or charges now levied, assessed or imposed, there shall be levied, assessed or imposed a tax, assessment, levy, imposition or charge wholly or partially as a capital levy or on the rents, licenses or other charges received with respect to the Demised Premises, the Land or the Building, then all such taxes, assessments, levies, impositions or charges payable shall be deemed to be included within the term "Real Estate Taxes" for the purposes hereof. A copy of the tax bill of The City of New York or other taxing authority imposing Real Estate Taxes on the Land or the Building, plus a statement by Landlord specifying any amount included pursuant to subsection (ii) hereof (if applicable), shall be sufficient evidence of the amount of Real Estate Taxes. Notwithstanding the fact that the aforesaid Additional Rent is measured by Real Estate Taxes, such amount is Additional Rent and shall be paid by Tenant as provided herein regardless of the fact that Tenant may be exempt, in whole or in part, from the payment of any Real Estate Taxes for any reason whatsoever.

(b) The term "Base Tax Year" shall have the meaning attributed to it in Section 37A.

(c) The term "Tax Year" shall mean each twelve (12) month fiscal period commencing on July 1 and ending on June 30 of the following year, any portion of which fiscal period occurs during the Term.

(d) The term "Tax Payment" shall mean Tenant's Percentage of the amount by which the Real Estate Taxes payable for a Tax Year exceed the Real Estate Taxes payable for the Base Tax Year, whether such increase results from a higher tax rate or an increase in the assessed valuation of the Land or the Building, or both, or from any other cause of reason whatsoever.

(3) With respect to each Tax Year occurring in whole or in part during the Term, Tenant shall pay to Landlord the Tax Payment in the manner hereinafter described. At any time after the date which is sixty (60) days prior to the commencement of each Tax Year, Landlord may furnish to Tenant a written statement (a "Tax Statement") setting forth the amount of Real Estate Taxes for such Tax Year, the amount of Real Estate Taxes for the Base Tax Year and the amount of the Tax Payment for such Tax Year. Tenant shall pay the Tax Payment for each such Tax Year to Landlord as Additional Rent in one annual installment within ten (10) days after receipt by Tenant of such Tax Statement. If a Tax Statement is furnished to Tenant after the commencement of the Tax Year to which it relates, until such Tax Statement is rendered, Tenant shall pay an estimated amount (on account of the estimated Tax Payment for such Tax Year) equal to one hundred and ten percent (110%) of the amount of the Tax Payment for the immediately preceding Tax Year, within five (5) business days after the commencement of the applicable Tax Year. Upon the rendering of the applicable Tax Statement, any overpayment by Tenant shall be refunded within thirty (30) days (after such rendering) by Landlord, and any underpayment by Tenant shall be paid by Tenant to Landlord within thirty (30) days (after such rendering). Notwithstanding anything to the contrary contained herein, Landlord shall have the right, in the event a Superior Mortgagee or Superior Lessee or the taxing authority requires the Real Estate Taxes to be paid monthly, quarterly, or in other installments, to require that Tenant pay each Tax Payment in equal monthly, quarterly or other installments, and upon Landlord giving notice of such requirement, Tenant shall promptly comply with such requirement.

(4) Only Landlord shall be entitled to institute tax reduction or other proceedings to reduce the assessed valuation of the Land or the Building. Should Landlord be successful in any such reduction proceedings and obtain a rebate for any Tax Year for which Tenant has paid the Tax Payment, Landlord, after deducting the expenses

incurred in obtaining such rebate including, without limitation, attorneys' fees, court, or other administrative costs and disbursements (except to the extent Landlord has previously billed and received payment from Tenant therefor pursuant to Section 38A(2)(a)(ii)), shall, provided Tenant is not then in default hereunder beyond notice, if required, and the expiration of the applicable cure period, credit Tenant's Percentage of such rebate against the next monthly installments of the Fixed Annual Rent payable under this Lease. In the event that the assessed valuation which had been utilized in computing the Real Estate Taxes payable for the Base Tax Year is reduced (as a result of settlement, final determination of legal proceedings or otherwise) then (i) the Real Estate Taxes for the Base Tax Year shall be retroactively adjusted to reflect such reduction, (ii) all Tax Payments theretofore made by Tenant shall be recalculated based on the reduced amount of Real Estate Taxes for the Base Tax Year and (iii) all amounts due from Tenant to Landlord by reason of such recalculation shall be payable by Tenant to Landlord within ten (10) days after the rendition of a bill therefor.

(5) The benefit of any discount for any early payment or prepayment of Real Estate Taxes shall accrue solely to the benefit of the Landlord and such discount shall not be subtracted from Real Estate Taxes.

B. Intentionally Omitted.

C. All Escalation Payments.

(1) Subject to Tenant's rights as set forth in clause (4) below to dispute the correctness of any statement, bill or demand furnished by Landlord with respect to any item of Additional Rent provided for in this Article 38, Tenant's obligation to make any payment provided for in this Article 38 shall be absolute and not conditioned on the happening of any act, thing or occurrence, including without limitation the time or timeliness at or with which such statement, bill or demand is furnished to or made upon Tenant. Landlord's failure during the Term to prepare and deliver any statements or bills required to be delivered to Tenant hereunder, or Landlord's failure to make a demand under this Article 38 or under any other provisions of this Lease shall not in any way be deemed to be a waiver of, or cause Landlord to forfeit or surrender its rights to collect, any Additional Rent which may have become due pursuant to this Article 38 during the Term. Tenant's liability for the Additional Rent due under this Article 38 shall continue unabated during the remainder of the Term and shall survive the expiration or sooner termination of this Lease.

(2) In no event shall any adjustment of any payments payable by Tenant in accordance with the provisions of this Article 38 result in a decrease in Fixed Annual Rent nor shall any adjustment of any Additional Rent payable by Tenant pursuant to any provision of this Article 38 result in a decrease in any other Additional Rent payable by Tenant pursuant to any other provision of this Article 38 or any other provisions of this Lease, it being agreed and understood that the payment of Additional Rent under this Article 38 is an obligation supplemental to Tenant's obligations to pay Fixed Annual Rent and any Additional Rent pursuant to any other provision of this Lease.

(3) If a Tax Year or a lease year shall commence prior to the Commencement Date or end after the expiration or termination of the Term, the Additional Rent payable by Tenant in respect thereof shall be prorated to correspond to that portion of such year occurring within the Term, and any overpayment by Tenant payable by Landlord pursuant to Section 38.A.3 hereof shall be prorated to correspond to that portion of such year occurring within the Term, and any obligation of Landlord or Tenant with respect to the foregoing shall survive the expiration or earlier termination of this Lease.

(4) Each Tax Statement shall be conclusive and binding upon Tenant unless (i) with respect to any such Tax Statement, on or before the date which is sixty (60) days after the delivery by Landlord to Tenant of such statement, Tenant shall notify Landlord that it, in good faith, disputes the correctness thereof, specifying the particular respects in which such statement is claimed to be incorrect. Pending the determination of such dispute, Tenant shall pay any disputed portion of the

relevant Tax Payment to Landlord (as and when otherwise payable to Landlord under this Article) and Tenant shall pay any undisputed portion of the relevant Tax Payment in accordance with the applicable Tax Statement (and Landlord shall refund or credit any overpayment by Tenant following the determination of such dispute).

(5) Tenant shall pay to Landlord upon demand, as Additional Rent, any occupancy tax or rent tax now in effect or hereafter enacted, which Landlord is now or hereafter is required to pay with respect to the Demised Premises or this Lease.

### 39. Electric Current.

A. Landlord, at Landlord's expense, shall furnish electrical energy to or for the use of Tenant in the Demised Premises for the operation of lighting fixtures and Tenant's standard office equipment, or as Landlord shall otherwise permit to be installed in the Demised Premises, through the feeders, wiring installations and facilities heretofore installed in the Building and, to the extent not previously installed, shall install at least one (1) submeter to measure Tenant's consumption of electrical energy. Tenant shall pay to Landlord, as Additional Rent hereunder, on demand made from time to time but no more frequently than monthly (from and after the Commencement Date or such earlier date that Tenant takes possession of the Demised Premises if so permitted by Landlord), for its use of electrical energy in the Demised Premises as evidenced by the aforesaid submeter(s), based upon both consumption and demand factors, at the seasonally adjusted rate then payable by Landlord to the Utility Company (as defined below), plus an amount equal to five percent (5%) thereof to reimburse Landlord for its overhead, administration, and supervision in connection therewith. For purposes of this Article 39, the rate to be paid by Tenant shall include any taxes, energy charges, demand charges, fuel adjustment charges, rate adjustment charges, or other charges actually imposed in connection therewith. If any tax is imposed upon Landlord's receipts from the sale or resale of electrical energy to Tenant by any federal, state, city or local authority, the pro-rata share of such tax allocable to the electrical energy service received by Tenant shall be passed onto and paid by Tenant as Additional Rent if and to the extent permitted by law. Tenant expressly acknowledges that the electricity for the hot-water heater providing hot water to the lavatory of the Demised Premises shall be measured on Tenant's submeter(s) and, accordingly, that all electrical charges therefor shall be paid by Tenant. Under the written request of Tenant, and provided Tenant is not then in default under this Lease, Landlord shall (with respect to any demand made by Landlord of Tenant under this Section 39A) supply Tenant with the applicable Building electrical bill, the applicable submeter reading, and Landlord's consultant's determination of the amount due by Tenant hereunder.

B. If either the quantity or character of electrical service is changed by the public utility corporation supplying electrical service to the Building (the "Utility Company") or is no longer available or suitable for Tenant's requirements, no such change, unavailability or unsuitability shall constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement or diminution of rent, or relieve Tenant from any of its obligations under this Lease, or impose any liability upon Landlord or Landlord's agents unless such change, unavailability or unsuitability (i) renders the Demised Premises untenable for the use and occupancy specified in Article 2 of this Lease and (ii) is not due to acts or omissions of Tenant or Tenant's contractors, licensees, invitees, agents and employees.

C. Landlord shall provide an average of six (6) watts per rentable square foot of electrical energy demand load to the Demised Premises other than during any period it is prohibited from doing so by any laws, orders, rules and/or regulations of any applicable governmental authorities (including but not limited to the New York State Energy Conservation Construction Code), in which event the six (6) watts set forth herein shall during such period be decreased to the maximum average number of watts per rentable square foot which is permitted by any such laws, orders, rules and/or regulations. The foregoing shall be exclusive of the electrical power for the Building heating, ventilation and air conditioning systems. Tenant covenants that at no time shall the use of electrical energy in the Demised Premises exceed the capacity of the existing feeders or wiring installations then serving the Demised Premises. In furtherance of the

foregoing and to avert any possible adverse effect upon the Building's electrical system, Tenant shall not, without the prior written consent of Landlord, make or perform, or permit the making or performing of, any alteration to connections, capacity risers, switches, wiring installations or other electrical facilities in or serving the Demised Premises. If Tenant requires additional electrical capacity, Landlord shall, subject to this paragraph C and in particular to Landlord's approval, not to be unreasonably withheld, provide additional capacity at Tenant's sole cost and expense, at commercially reasonable rates (including a 5% charge on all Landlord's out-of-pocket costs to reimburse Landlord for its overhead, administrative and supervising costs and expenses) provided such additional capacity shall be permitted by all laws, rules and regulations and shall not have an adverse effect upon the Building's electrical system or the availability of adequate electrical capacity for the other occupants thereof.

D. Intentionally Omitted.

E. Provided the Utility Company or other service provider acceptable to Landlord agrees to service Tenant directly, and further provided that Landlord does so for a substantial percentage of tenants in the Building, then Landlord may, at any time, elect to discontinue the furnishing of electrical energy. In the event of any such election by Landlord (a) Landlord agrees to give not less than 60 days advance notice of any such discontinuance to Tenant unless such notice is not feasible under the circumstances in which event Landlord will give Tenant such reasonable advance notice as is possible, (b) Landlord agrees to permit Tenant to receive electrical service directly from the Utility Company supplying electrical service to the Building and to permit the existing feeders, risers, wiring and other electrical facilities serving the Premises to be used by Tenant for such purpose to the extent they are available, suitable and safely capable, (c) Landlord agrees, at Tenant's sole cost and expense, (i) to install any necessary electrical meter equipment and (ii) to perform any necessary rewiring, and (d) this Lease shall remain in full force and effect and such discontinuance shall not constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement or diminution of rent except as expressly provided in this Subsection, or relieve Tenant from any of its obligations under this Lease, or impose any liability upon Landlord.

F. Except with respect to the initial installation of such items in connection with Landlord's Work, Tenant shall purchase from Landlord all lamps (including incandescent and fluorescent), starters and ballasts used in the Demised Premises at 105% of Landlord's cost for such lamps, starters and ballasts and shall pay Landlord for the reasonable cost of installation thereof.

G. Landlord's failure during the Term to prepare and deliver any statements or bills under this Article 39 or Landlord's failure to make a demand under this Article 39 or any other provisions of this Lease, shall not in any way be deemed to be a waiver of, or cause Landlord to forfeit or surrender its rights to collect, any increase in the Fixed Annual Rent, or any amount of Additional Rent which may have become due pursuant to this Article 39 during the Term. Tenant's liability for any amounts due under this Article 39 shall continue unabated during the remainder of the Term and shall survive the expiration or sooner termination of this Lease.

H. Notwithstanding anything to the contrary contained in this Article 39, during the period in which Landlord is performing Landlord's Work, or Landlord's Additional Work, Tenant shall pay to Landlord, as Additional Rent, as reimbursement for the consumption of electricity in the Demised Premises, either (i) at the rate of \$1 per square foot (i.e., \$1,561.50 per month), if there is no submeter installed to measure electrical consumption and/or demand in the Demised Premises or (ii) in accordance with the provisions of Section 39A above, if there is a submeter installed to measure electrical consumption and/or demand in the Demised Premises.

40. End of Term.

A. Article 22 hereof is hereby amended to add the following: Should Tenant (or anyone claiming through or under Tenant) remain in possession of the Demised Premises after the Expiration Date or sooner termination of the Term, then,



Tenant shall be deemed a tenant at sufferance, and, in addition to any other rights or remedies Landlord may have hereunder or at law, and without in any manner limiting Landlord's right to demonstrate and collect any damages suffered by Landlord and arising from Tenant's (or such other party's) failure to surrender the Demised Premises as provided herein, Tenant shall pay to Landlord as liquidated damages for each month or portion of a month during which Tenant (or such other party) holds over in the Demised Premises after the Expiration Date or sooner termination of this Lease, a sum equal to one and one-half (1½) times the aggregate of that portion of the Fixed Annual Rent and Additional Rent which was payable under this Lease during the last month of the Term (which amount Landlord and Tenant presently agree is the minimum to which Landlord would be entitled and is presently contemplated by them as being fair and reasonable under such circumstances and not a penalty). In addition, in the event Tenant (or anyone holding or claiming through or under Tenant) holds over in the Demised Premises for any period of time, Tenant shall indemnify and save Landlord harmless from and against all claims, losses, out of pocket costs, expenses, or liability resulting from delay by Tenant (or anyone claiming through or under Tenant) in surrendering the Demised Premises on or prior to the Expiration Date or earlier termination of this Lease, including, without limitation, any claims made by any succeeding tenant found on such delay. Nothing herein contained shall be deemed to permit Tenant (or anyone claiming through or under Tenant) to retain possession of the Demised Premises after the Expiration Date or sooner termination of the Term, and no payment made by Tenant in connection with such period shall be deemed to be other than on account of the amount to be paid by Tenant in accordance with the provisions of this Article. Tenant agrees, in addition (and not a limitation of the foregoing), to indemnify and save Landlord harmless from and against all costs, claims, losses or liability resulting from delay by Tenant (or anyone claiming under or through Tenant) in surrendering the Demised Premises, including, without limitation, any claims made by any succeeding tenant founded on such delay. The provisions of this Article 40 shall survive the Expiration Date or sooner termination of the Lease. The preceding shall be deemed to be an "agreement expressly providing otherwise" within the meaning of Section 232-c of the Real Property Law of the State of New York.

B. Tenant expressly waives for itself and for other persons claiming through or under Tenant any rights which Tenant or any such person may have under the provisions of Section 2201 of the New York Civil Practice Law and Rules and of any similar or successor law of same import then in force, in connection with any holdover proceedings, which Landlord may institute to enforce the provisions of this Article.

#### 41. Condition of Demised Premises; Landlord's Work

A. Supplementing the provisions of Articles 15 and 21 hereof, Tenant acknowledges and represents to Landlord that it has thoroughly inspected and examined or caused to be thoroughly inspected and examined, the Demised Premises and that it is fully familiar with the physical condition and state of repair thereof, and Tenant does hereby agree to accept same in its existing condition and state of repair subject to Substantial Completion of Landlord's Work and Landlord's Additional Work (as such terms are hereinafter defined), and, otherwise, subject to any and all defects therein, latent or otherwise "As Is," it being expressly agreed that Landlord shall have no obligation to alter, improve, decorate or otherwise prepare the Demised Premises for Tenant's occupancy other than to deliver the Demised Premises to Tenant in broom clean condition and otherwise as may be expressly set forth in this Article 41. It being further agreed that the taking of possession of the Demised Premises by Tenant shall be conclusive evidence that Tenant accepted the same and that same and the Building were in good condition at the time possession was taken. Neither Landlord nor its agents or employees have made any representations with respect to the Building, and/or the Demised Premises except as expressly set forth herein and no rights, easements or licenses are acquired by Tenant by implication or otherwise except as expressly set forth herein. Except for Landlord's Work and Landlord's Additional Work, Tenant at its sole cost and expense and in compliance with all applicable requirements of insurance bodies having jurisdiction and in compliance with and subject to the provisions of Articles 3 and 42 and Exhibit H hereof, may make such other Tenant's Changes in the Demised

Premises as Tenant may consider necessary or desirable to prepare the same for Tenant's occupancy.

B. Landlord, at Landlord's expense, shall cause the items of work described on Exhibit C-1 attached hereto and made a part hereof ("Landlord's Work") and on Exhibit C-2 attached hereto and made a part hereof ("Landlord's Additional Work") to be performed. Landlord shall give Tenant a preliminary notice of the estimated date on which Landlord's Work and Landlord's Additional Work is anticipated to be Substantially Completed (as hereinafter defined); provided, however, that Tenant shall have no claim against Landlord if on the estimated date all of Landlord's Work shall not in fact be Substantially Completed. Tenant shall permit Landlord and its representatives access to the Demised Premises during Business Hours on Business Days and at all other times for the performance of Landlord's Work and Landlord's Additional Work; it being agreed that Landlord shall have no obligation to employ contractors or labor at so-called overtime or other premium rates of pay or to incur any other overtime or other than ordinary costs or expenses whatsoever. Within fifteen (15) days after Landlord's Work and Landlord's Additional Work shall have been Substantially Completed, Tenant shall deliver to Landlord a punch list of items of unfinished or improperly performed work required by this Lease to be performed by Landlord ("Tenant's Punchlist"). Landlord shall diligently complete, correct or repair the unfinished or improperly performed items of work identified in Tenant's Punchlist and Tenant shall permit access to the Demised Premises during Business Hours on Business Days and at all other times for such performance by Landlord and/or its representatives. For purposes of this Lease, Substantially Completed shall mean that stage of progress of Landlord's Work and Landlord's Additional Work as shall enable Tenant to have (a) the services to be provided by Landlord to Tenant pursuant to the Lease and (b) access to the Demised Premises to commence Tenant's use and occupancy of the same without material interference by reason of unfinished details of Landlord's Work and Landlord's Additional Work; the date or the act of the work being Substantially Completed, being referred to as the date or act of "Substantial Completion." In no event shall the failure of Landlord to complete performance of all items of Landlord's Work and Landlord's Additional Work on or prior to the Rent Commencement Date, extend the Rent Commencement Date or reduce Tenant's obligation to make payment of the Fixed Annual Rent and Additional Rent payable hereunder.

#### 42. Tenant's Changes.

A. Tenant, at its sole cost and expense, shall cause any permitted alterations, decorations, installations, additions or improvements in or about the Demised Premises ("Tenant's Changes"), to be performed in a first-class manner and with all-new Building standard materials and in compliance with all applicable legal and other requirements of insurance bodies having jurisdiction over the Building, and in compliance with and subject to the provisions of Articles 3 and 42 hereof and Exhibit H hereof and in such manner as not to interfere with, delay, or impose any additional expense upon Landlord in the maintenance or operation of the Building or the performance of Landlord's Work. Tenant, at its expense, and with diligence and dispatch, but in any event within twenty (20) days after the receipt of notice thereof, shall procure the cancellation or discharge of all notices of violation arising from or otherwise connected with Tenant's Changes which shall be issued by the Department of Buildings or any other public authority having or asserting jurisdiction over the Building.

B. Supplementing the provisions of Article 3 hereof, prior to making any proposed Tenant's Changes, Tenant, at Tenant's expense, (i) shall submit to Landlord and shall obtain Landlord's approval of detailed plans and specifications (including scaled layout, architectural, mechanical and structural drawings) in three (3) hard copies and diskette form (ii) shall obtain all permits, approvals and certifications required by any governmental authorities having jurisdiction, and (iii) shall furnish to Landlord duplicate original policies or certificates thereof of worker's compensation insurance (covering all persons to be employed by Tenant, and Tenant's contractors and subcontractors, in connection with such Tenant's Changes) and commercial general liability insurance (including premises operation, bodily injury, personal injury, death, independent contractors, products and completed operations, broad form contractual liability and broad form property damage coverages) in such form, with such companies,

and for such periods and in such amounts; as Landlord reasonably may require, and in the amounts set forth in Exhibit H annexed hereto, naming Landlord and its agents, the lessor under any Superior Lease and the holder of any Superior Mortgage, as additional insureds. Landlord, prior to the granting of its consent to any Tenant's Changes, may impose such conditions (in addition to those expressly provided in this Lease) as to guaranty of completion and payment as Landlord may consider desirable. In no event shall Landlord be required to consent to any Tenant's Changes which would physically affect any part of the Building outside of the Demised Premises, would in Landlord's judgment adversely affect the proper functioning of any of the mechanical electrical, sanitary or other service systems of the Building, or would require filing of any plans with any governmental agency (unless Tenant shall reimburse Landlord for the cost of any such filing). Tenant shall reimburse Landlord for any costs incurred by Landlord in connection with any Tenant's Changes, including, without limitation, costs incurred in connection with Landlord's review and/or approval of Tenant's plans and specifications for any Tenant Changes. In the event Tenant shall employ or otherwise engage any contractor to do any work in the Demised Premises permitted by this Lease, such contractor and any subcontractor shall agree to employ or otherwise engage only such labor who are members of Building Trades Unions and which do not result in jurisdictional disputes or strikes or result in causing disharmony with other workers employed or engaged at the Building. Tenant shall inform Landlord in writing of the names of any contractor or subcontractor(s) Tenant proposes to use in the Demised Premises at least 20 days prior to the beginning of work by such contractor or subcontractor and Landlord shall have the right to approve or reject any such contractor or subcontractor(s) in Landlord's reasonable discretion. In addition, prior to Tenant awarding any contract for any of Tenant's Changes to any contractor or subcontractor(s), Tenant shall give Landlord or an affiliate of Landlord the opportunity to bid to perform any of such Tenant's Changes or to match any bid by any contractor or subcontractor(s) for such Tenant's Changes, and in the event Landlord provides Tenant with a bid acceptable to Tenant, Tenant shall award any such contract to Landlord or Landlord's affiliate.

C. Upon completion of any of Tenant's Changes, Tenant, at Tenant's expense, shall obtain certificates of final approval of such Tenant's Changes required by any governmental authority and shall furnish Landlord with copies thereof, together with the "as-built" plans and specifications for such Tenant's Changes, which "as-built" plans shall be in hard copy and diskette form. All Tenant's Changes shall be made and performed in accordance with the plans and specifications therefor as approved by Landlord, Exhibit H hereto, all legal requirements and the Rules and Regulations. All materials and equipment to be incorporated in the Demised Premises as a result of any Tenant's Changes shall be Building standard quality and no such materials or equipment shall be subject to any lien, encumbrance, chattel mortgage, title retention or security agreement. In addition, no such changes for which the cost of labor and materials (as estimated by Landlord's architect, engineer or contractor) is in excess of Twenty-Five Thousand (\$25,000.00) Dollars, either individually or in the aggregate with any other Tenant's Changes constructed in any twelve (12) month period, shall be undertaken prior to Tenant's delivering Landlord such security for timely lien-free completion thereof as is reasonably satisfactory to Landlord, and such Tenant's Changes shall be performed only under the supervision of a licensed architect satisfactory to Landlord. In addition, all Tenant's Changes which are estimated to exceed \$25,000 shall be subject to a supervisory fee which Tenant shall pay to Landlord in full prior to the commencement of such Tenant's Changes. Such fee shall be equal to five percent (5%) of the estimated hard costs of Tenant's Changes.

D. Any modifications, changes or alterations to the Class E fire safety system of the Demised Premises (the "Fire Safety System"), including without limitation, speakers, strobes and pull stations are deemed to be a Tenant's Change. Tenant may use only the contractor or contractors designated by Landlord with respect to any Tenant's Changes to the Fire Safety System which contractor is currently TSS Integrated Systems and Landlord shall endeavor but shall not be obligated to cause its contractor to charge reasonable rates therefor. Subsequent to any Tenant's Changes to the Fire Safety System, such system shall be repaired and maintained only by the contractors designated by Landlord from time to time, at Tenant's cost. Landlord shall

make available to Tenant necessary connection points for the Fire Safety System at the DGP panel closest to the Demised Premises, provided, however, that Tenant, at its own sole cost and expense, shall install the strobes, speakers and pull stations of the Fire Safety System and shall be responsible for all tie-ins thereto, except to the extent forming a part of Landlord's Work or Landlord's Additional Work pursuant to Exhibits C-1 and C-2.

E. Anything in Article 3 or this Article 42 or Exhibit H to the contrary notwithstanding, in the event Tenant (i) fails to obtain the certificates and approvals described above in Section 42C within six (6) months following the completion of any Tenant's Changes, or (ii) fails to bond or discharge any mechanic's lien filed against the Demised Premises or the Building or Landlord's interest therein for work claimed to have been done for or materials claimed to have been furnished to Tenant in connection with any Tenant's Changes within the time period provided therefor in Article 3 above, then and in either such event, Landlord shall have the right to hire its own contractors or expeditors to obtain said certificates and/or approvals and/or to discharge such lien(s), by payment, filing of the bond required by law or otherwise and, upon Landlord's demand, Tenant shall reimburse Landlord for all costs so incurred in obtaining said certificates and approvals and/or in canceling, bonding and/or discharging such liens.

F. Anything in Article 3 to the contrary notwithstanding, in the event that Landlord elects to have Tenant remove any of Tenant's Changes from the Demised Premises (and to restore the Demised Premises to the condition existing prior to Tenant's Changes), then Tenant, at Landlord's option, shall either (i) perform said restoration at its sole cost and expense, or (ii) pay to Landlord, on or prior to the Expiration Date a sum equal to the cost and expense estimated to be required to perform said restoration, as reasonably determined by an independent contractor engaged by Landlord. Notwithstanding anything to the contrary contained in this Lease, in no event shall Tenant be required to remove Landlord's Work or Landlord's Additional Work from the Demised Premises.

G. With respect to any equipment which Tenant shall be permitted to install and operate in the Demised Premises including, without limitation, supplemental air conditioning equipment and including the water cooled unit or units installed by Landlord as part of Landlord's Additional Work, as more particularly described in item 5 on Exhibit C-2 (the "50-Ton Unit"), Tenant shall, at Tenant's expense, obtain and maintain all permits, licenses and other authorizations which are required by all applicable legal requirements in order to install, maintain and operate such equipment in the Demised Premises (it being understood for purposes of clarification that Landlord will be responsible, as part of Landlord's Additional Work, for performing (or causing the performance of) any required controlled inspections relating to the 50 Ton Unit; and Tenant will be responsible for obtaining, at its sole cost and expense, (x) the final equipment use permit for the 50 Ton Unit and (y) the final governmental sign offs). In addition, Tenant agrees, at its sole cost and expense, to maintain in full force and effect throughout the Term and, to the extent that Tenant is permitted to install any supplemental air-conditioning equipment, then from and after the installation of such supplemental air-conditioning unit(s), a maintenance agreement for the periodic maintenance of all air-conditioning units now or hereafter installed in or which serve the Demised Premises (the "A/C Units"), on customary terms with a contractor reasonably acceptable to Landlord, and to furnish a copy of said contract(s) to Landlord within ten (10) days after demand. Notwithstanding the foregoing, Landlord shall repair or replace (at Landlord's choice) any major components comprising the 50 Ton Unit, which cease to operate during the Term, unless the same results from the negligence or willful misconduct of Tenant, or anyone claiming through or under Tenant, or as a result of (or caused by) Tenant's failure to keep in full force and effect the maintenance contract required hereinabove. Upon the expiration or earlier termination of this Lease, the A/C Units, unless otherwise required by Landlord, shall be and become Landlord's property for no additional consideration and shall not be removed by Tenant.

H. (i) In the event that, at any time during the performance of Tenant's Changes, Tenant uncovers asbestos in the Demised Premises, (a) Tenant shall immediately cease continuing performance of Tenant's Changes to the extent it could

affect such asbestos and (b) Landlord agrees, upon notice from Tenant to such effect, to, at Landlord's election, either remove or encapsulate such asbestos. Notwithstanding the foregoing, in the event that any work performed by Landlord pursuant to this Paragraph or Exhibits C-1 or C-2 is in any way disturbed or damaged by Tenant or any person claiming through or under Tenant, or asbestos is installed in the Demised Premises by or on behalf of Tenant, or any person claiming through or under Tenant, Landlord shall have no responsibility in connection therewith and no obligation to perform any work with respect thereto, but it shall be Tenant's obligation, at Tenant's expense, to remove such asbestos in accordance with all (x) applicable laws, orders, rules and regulations and (y) Landlord's instructions. In the event Tenant is required to perform such work in accordance with the provisions of this Paragraph, then, Landlord, at Landlord's election, shall have the option to itself perform such work and in such event, Tenant shall pay to Landlord all of Landlord's reasonable costs in connection therewith, as additional rent, within ten (10) days next following rendition of a statement by Landlord to Tenant.

(ii) Landlord shall deliver to Tenant a form ACP-5 in connection with Landlord's Work and Landlord's Additional Work.

#### 43. Subordination and Attornment.

A. This Lease, and all rights of Tenant hereunder, are and shall be subject and subordinate to all ground and underlying leases now or hereafter existing (hereinafter collectively referred to as "Superior Leases"), and to all mortgages and building loan agreements including, without limitation, leasehold mortgages and building loan agreements, which may now or hereafter affect the Land or the Building or a Superior Lease (hereinafter collectively referred to as "Superior Mortgages"), to each and every advance made or hereafter to be made under Superior Mortgages and to all renewals, modifications, replacements and extensions of Superior Leases and Superior Mortgages. This Article shall be self-operative and no further instrument of subordination shall be required in confirmation of such subordination. Tenant shall promptly execute and deliver in recordable form any instrument that Landlord, the lessor of any Superior Lease or the holder of any Superior Mortgage may request to evidence such subordination, and in the event Tenant fails to execute and deliver in recordable form any such instrument within ten (10) days after request therefor, Tenant hereby constitutes and appoints Landlord attorney-in-fact, coupled with an interest, for Tenant to execute any such instrument for and on behalf of Tenant. Tenant covenants and agrees that if by reason of a default under any Superior Mortgage or Superior Lease, such Superior Mortgage is foreclosed or such Superior Lease and the leasehold estate of the Landlord in the Demised Premises is terminated, Tenant will attorn to the purchaser at the foreclosure sale (or party taking title by deed in lieu of foreclosure) or the then holder of the reversionary interest in the Demised Premises and will recognize such purchaser or holder as the Tenant's landlord under this Lease, unless the holder of such Superior Mortgage or the lessor under such Superior Lease shall, in any proceeding to foreclose such Superior Mortgage or to terminate such Superior Lease, elect to terminate this Lease and the rights of the Tenant hereunder. Tenant agrees to execute and deliver, at any time and from time to time, upon the request of Landlord, the holder of any Superior Mortgage or the lessor under any such Superior Lease, any instrument which may be necessary or appropriate to evidence such attornment and in the event Tenant fails to execute and deliver such instrument within ten (10) days after request therefor, Tenant hereby appoints Landlord or such holder or lessor the attorney-in-fact, irrevocable, of Tenant to execute and deliver for and on behalf of Tenant any such instrument. Tenant further waives the provisions of any statute or rule of law now or hereafter in effect which may give or purport to give Tenant any right of election to terminate this Lease or to surrender possession of the Demised Premises in the event any proceeding is brought by the holder of any Superior Mortgage to foreclose such Mortgage or the lessor under any Superior Lease to terminate the same, and agrees that unless and until any such holder or lessor, in connection with any such proceeding, shall elect to terminate this Lease and the rights of Tenant hereunder, this Lease shall not be affected in any way whatsoever by any such proceeding.

B. If, in connection with the procurement, continuation or renewal of any financing for which the Land or the Building or the interest of the lessee under a Superior Lease represents collateral in whole or in part, any institutional lender shall

request modifications of this Lease as a condition of such financing, Tenant will not withhold or delay its consent thereto and shall execute and deliver without charge such conforming documents therefor as such institutional lender may reasonably require, provided that such modifications do not materially increase the obligations of Tenant under this Lease or materially and adversely affect any rights of Tenant under the Lease, and in the event Tenant fails, within twenty (20) days after receipt of such conforming documents, to execute and return such documents to Landlord, Landlord shall thereafter be appointed Tenant's attorney-in-fact, coupled with an interest, for the purpose of executing and delivering (in Tenant's name) such conforming documents.

C. Provided Tenant has been given the name and address of the holder of the Superior Mortgage and/or Superior Lease, as the case may be, Tenant shall give written notice to such holder(s) of any default by Landlord hereunder, or any other event, which would give Tenant (then or thereafter with the passage of time) the right to cancel this Lease or abate rent and/or additional rent under this Lease. Further, and notwithstanding anything to the contrary contained herein, Tenant shall not exercise any of said rights unless said holder(s) fail to cure said event or default within sixty (60) days after receipt of notice thereof. Nothing herein shall, however, obligate said holder(s) to cure such event or default.

D. Landlord agrees, promptly after the execution and delivery of this Lease, to request and use commercially diligent efforts to obtain from the then holder or holders of said presently existing mortgage a subordination, non-disturbance and attornment agreement in such holder's standard form (a "SNDA"). At or about the time that Landlord executes any future mortgage, Landlord agrees to request the then holder or holders of such future mortgage to enter into a SNDA. If Landlord is unable in good faith to obtain any such SNDA from the applicable holder, neither the validity of this Lease nor the obligations of Tenant under this Lease shall be affected thereby and Landlord shall not be liable to Tenant for its failure to obtain such SNDA from the applicable holder, it being intended that Landlord's sole obligation with respect to such proposed SNDA shall be to request, in good faith, (a) promptly after the execution and delivery of this Lease (with respect to the existing mortgage) and (b) at or about the date of execution of any future mortgage (with respect to any future mortgage), that the then holder or holders of any such mortgage enter into a SNDA.

#### 44. Insurance.

A. Tenant shall obtain and keep in full force and effect during the Term at its own cost and expense (i) insurance against loss or damage by fire and other casualty to all betterments and improvements (including Tenant's Changes) and all personal property of Tenant in the Demised Premises, under then available standard forms of "all-risk" insurance policies, in an amount equal to one hundred percent (100%) of the replacement value thereof, with such commercially reasonable deductible(s), not to exceed \$10,000, as may be determined by Tenant in its reasonable discretion, (ii) commercial general liability insurance with a broad form liability endorsement including coverage for contractual liability and (iii) the Extra Insurance (as hereinafter defined). Said commercial general liability insurance shall provide coverage on an occurrence basis with a minimum limit of liability of (u) (I) \$3,000,000 per occurrence for bodily injury (including death), to any one person and (II) \$5,000,000 for bodily injury (including death) in any one occurrence; (v) \$1,000,000 for products/completed operations; (w) 1,000,000 for personal and advertising injury; (x) \$100,000 damage legal liability, (y) medical expense limit of \$10,000, and (z) \$1,000,000 per occurrence in respect of property damage (including, without limitation, water damage and sprinkler leakage legal liability). Said commercial general liability insurance and the Extra Insurance is to be written without the inclusion of any defense costs within the limit of liability, and shall name Landlord and Landlord's managing agent, Murray Hill Properties, LLC, MHP 15 East 26, LLC, MHP 15 East 26<sup>th</sup> Street Member, LLC, Asset One Securitization, LLC and any other Superior Mortgagee (which Tenant has received written notice of) as additional insureds and Tenant as insured, against any and all claims for bodily injury (including death), personal injury, or property damage occurring in, upon, adjacent to, or connected with the Demised Premises or any part thereof. Additionally, the following endorsements to said policies shall be obtained and maintained: Notice of Occurrence; Knowledge of Occurrence; and Unintentional Errors



and Omissions. All of the aforesaid insurance and the Extra Insurance coverage shall be written in form reasonably satisfactory to Landlord by one or more good and solvent insurance companies or syndicates reasonably satisfactory to Landlord, rated by A.M. Best Co., Inc., or any successor thereto (or if there be none, an organization having a national reputation) as having a "Best's Rating" of at least "A (Excellent)" and a financial size of at least "Class IX," or if not rated by A.M. Best Co., Inc., providing comparable claims payment, reserves and financial resources and conditions otherwise acceptable to Landlord in its sole discretion. Tenant shall pay all premiums and charges therefor and upon failure to do so, Landlord may, but shall not be obligated to, make such payments, in which event Tenant agrees to pay the amount thereof to Landlord on demand, as Additional Rent. An appropriate certificate evidencing the aforesaid insurance coverage and the following insurance: Excess Umbrella Liability coverage in the minimum amount of \$5,000,000 with a self-insured retention not to exceed \$10,000; Workers Compensation and Employers Liability Insurance in the statutory amounts and New York State Disability Benefits in the statutory amount (collectively, the "Extra Insurance") shall be delivered to Landlord, together with (i) evidence that such insurance is in full force and effect and the premiums therefor have been paid in full, and (ii) any endorsements thereto, simultaneously with Tenant's initial delivery to Landlord of this Lease, as executed by Tenant, and thereafter renewals or replacements thereof shall be delivered to Landlord at least 15 business days prior to the expiration of any expiring policy (in each case evidencing that all such insurance is in full force and effect and the premiums therefor have been paid in full). Such insurance policy or certificate shall contain a provision that no act or omission of Tenant or Landlord or Landlord's managing agent will affect or limit the obligation of the insurance company to pay the amount of any loss sustained and that the insurance afforded thereunder shall not be canceled, nonrenewed, modified or coverage thereunder reduced except upon thirty (30) days' prior written notice to Landlord. Such insurance policy shall also specifically provide coverage for Tenant's indemnification and hold harmless obligations set forth in Article 45 hereof which coverage shall include the entire text of the indemnity clause contained in Article 45 hereof. Any certificate delivered to Landlord shall also specifically reflect coverage of Tenant's aforementioned indemnification obligation. The proceeds of policies providing "all risk" property insurance for Tenant's property, (other than Tenant's trade fixtures, moveable office furniture and equipment which Tenant is entitled to remove under this Lease), betterments and improvements shall be payable to Landlord, Tenant and the holder of each Superior Mortgage and Superior Lease, as their interests may appear. Tenant shall cooperate with Landlord in connection with the collection of any insurance monies that may be due in the event of loss and Tenant shall promptly execute and deliver to Landlord such proofs of loss and other instruments which may be required to recover any such insurance monies. In the event Tenant shall fail to obtain such insurance, Landlord may, but shall not be obligated to, obtain the same, in which event the amount of the premium paid shall be paid by Tenant to Landlord upon demand as Additional Rent. Landlord shall also have the right, at any time and from time to time during the Term on not less than fifteen (15) days' notice to Tenant, to require that Tenant increase the amounts and/or kinds of coverage required to be maintained under this Article 44 to the amounts and/or kinds of coverages then reasonably required by Landlord of tenants entering into new leases in the Building. No insurance required to be maintained by Tenant hereunder may be covered through "blanket policies" unless approved in advance in writing by Landlord. Notwithstanding the foregoing express coverage required hereunder to be maintained by Tenant, so long as El Al Israel Airlines, Ltd. is (x) the Tenant, (y) remains an airline and (z) has not assigned this Lease, then Tenant may, in lieu of maintaining such express coverage, provide insurance in form and substance as set forth on Exhibit I annexed hereto.

B. Each party agrees to use its best efforts to include in each of its policies insuring against loss, damage or destruction by fire, a waiver of the insurer's right of subrogation against the other party in connection with any loss or damage covered by any such policy or permission to release third parties from liability resulting from such casualties. If such waiver or permission shall not be, or shall cease to be, obtainable without additional charge or at all, the insured party shall promptly so notify the other party. In any case in which such waiver or permission shall cease to be obtainable without additional charge, if the other party shall so elect and shall pay the

insurer's additional charge therefor, such waiver or permission shall be included in the policy.

C. Each party hereby releases the other party, its partners, agents and employees with respect to any claim (including a claim for negligence) which it might otherwise have against the other party, its partners, agents or employees for loss, damage or destruction with respect to its property (including rental value or business interruption) occurring during the Term but only if and to the extent to which (assuming no deductibles) such party is covered under a policy of collectible insurance containing a waiver of subrogation provision or permission as provided in Article 9 hereof or this Article 44. If notwithstanding the recovery of insurance proceeds by either party for loss, damage or destruction of its property (or rental value or business interruption) the other party is liable to the first party with respect thereto or is obligated under this Lease to make replacement, repair or restoration, then provided the first party's right of full recovery under its insurance policies is not thereby prejudiced or otherwise adversely affected, the amount of the net proceeds of the first party's insurance against such loss, damage or destruction shall be offset against the second party's liability to the first party therefor, or shall be made available to the second party to pay for replacement, repair or restoration, as the case may be.

D. The waiver of subrogation or permission referred to in subsections B and C of this Article shall extend to the partners, agents and employees of each party and, in the case of Tenant, shall also extend to all other permitted occupants of the Demised Premises; but only if and to the extent that such waiver or permission can be obtained without additional charge (unless such party shall pay such charge). Nothing contained in this Article shall be deemed to relieve either party from any duty imposed elsewhere in this Lease to repair, restore or rebuild or to nullify any abatement of Fixed Annual Rent provided for elsewhere in this Lease.

E. Any employee of the Building to whom property shall be entrusted by or on behalf of Tenant shall be deemed to be acting as Tenant's agent with respect to such property and neither Landlord nor its agents shall be liable for any damage to such property nor for the loss of or damage to any property of Tenant by theft or otherwise.

F. Anything in Sections 9(b) and (c) of this Lease to the contrary notwithstanding, Landlord's obligation to repair and restore the Demised Premises shall (I) be limited to (x) the mechanical and structural elements of the Building and the outer walls, ceiling and floor of the Demised Premises, (y) Landlord's Work in an amount not to exceed the amount of Landlord's Contribution (as hereinafter defined), and (z) Landlord's Additional Work, it being understood that (i) Tenant alone shall be required to repair and restore all betterments and improvements (including Tenant's Changes) and all personal property of Tenant in the Demised Premises, with reasonable dispatch after any casualty, and (ii) Fixed Annual Rent and Additional Rent shall cease as to all or any portion of the Demised Premises following a casualty affecting the Demised Premises only until such time as Landlord shall have repaired and restored the foregoing elements of the Demised Premises for which Landlord is responsible to the limited extent hereinabove set forth and (II) not commence until Landlord has received actual proceeds in an amount sufficient to restore the damage; provided, however that notwithstanding anything to the contrary contained herein, Tenant shall not be entitled to any abatement in the event such fire or casualty resulted from the negligence or willful misconduct of Tenant or its subtenants or either of their respective agents or employees or invitees.

#### 45. Indemnification of Landlord.

Tenant shall indemnify and save harmless Landlord and Landlord's partners, members, officers, members, agents and employees and, at Landlord's option, defend Landlord and/or Landlord's partners, members, officers, members, agents and employees against and from (i) any and all claims against Landlord or its partners, agents or employees directly or indirectly of whatever nature arising wholly or in part from any act, omission or negligence of Tenant, its subtenants, or either of their respective contractors, licensees, agents, servants, officers, employees, invitees or visitors; (ii) all claims against Landlord or its partners, agents or employees arising directly or indirectly

from any accident, injury or damage whatsoever caused to any person or to the property of any person and occurring during the term of this Lease in or about the Demised Premises, or occurring outside of the Demised Premises but anywhere within or about the Land or the Building, where such accident, injury or damage results or is claimed to have resulted wholly or in part from any act, omission or negligence of Tenant, its subtenants or invitees or visitors; (iii) any breach, violation or non-performance of any covenant, condition or agreement in this Lease set forth and contained on the part of Tenant to be fulfilled, kept, observed and performed; (iv) any breach of any representation or warranty made by Tenant herein; and (v) any cost, liability or responsibility for the payment of any sales tax with respect to any installations, furniture, furnishings, fixtures or other improvements located, installed or constructed in the Demised Premises, or the filing of any tax return in connection therewith (although Landlord agrees to execute any such return if required by law) regardless of whether such tax is imposed upon Landlord or Tenant. This indemnity and hold harmless agreement shall include indemnity from and against any and all liability, fines, suits, demands, costs, damages and expenses of any kind or nature (including without limitation attorney's and other professional fees, court costs and disbursements) incurred in or in connection with any such claims (including any settlement thereof) or proceeding brought thereon, and the defense thereof but specifically excludes any claims attributable wholly or in part from the gross negligence or willful misconduct of Landlord, or its partners, agents or employees. The provisions of this Article 45 shall survive the expiration or termination of this Lease.

#### 46. Additional Rent; Late Charges.

A. As used in this Lease, "Additional Rent" (whether capitalized or not) shall be and consist of all sums of money, costs, expenses, or charges of any kind or amount whatsoever (other than Fixed Annual Rent) which become due and payable by Tenant to Landlord pursuant to this Lease. Additional Rent shall be due and payable on demand or together with the next succeeding installment of the Fixed Annual Rent, whichever shall first occur. If Tenant fails to pay any Additional Rent, Landlord shall have the same rights and remedies under this Lease as in the case of non-payment of Fixed Annual Rent. Tenant shall pay to Landlord upon demand, as Additional Rent, any occupancy tax or rent tax now in effect or hereinafter enacted, which Landlord is now or hereafter is required to pay with respect to the Demised Premises or this Lease.

B. In every case in which Tenant is required by the terms of this Lease to pay to Landlord a sum of money and payment is not made within ten (10) days after the same becomes due, Tenant shall pay to Landlord on demand (i) a fee equal to six (6) cents for each dollar outstanding for the first month that any such amount is outstanding and (ii) interest on the amount outstanding from the date it initially becomes due until it is paid at an annual rate (hereinafter, the "default rate") which shall be equal to the lesser of (i) eighteen percent (18%) and (ii) the highest rate of interest permissible to be charged under the laws of the State of New York. The foregoing provision for such payments shall not be construed to extend the date for payment of any sums required to be paid by Tenant hereunder or to relieve Tenant of its obligations to pay all such sums at the time or times herein stipulated and, accordingly, notwithstanding the imposition of such payments, Tenant shall be in default under this Lease if any or all payments required to be made by Tenant are not made at the time herein stipulated, and neither the demand for, nor collection by Landlord of, such payments shall be construed as a curing of such default on the part of Tenant.

C. The provisions of this Article 47 shall survive the expiration or termination of this Lease.

47. Liability of Landlord. Tenant shall look only to Landlord's estate and interest in the Land and Building for the satisfaction of any judgment in the event of any default by Landlord under this Lease, and no other property or assets of Landlord or any member or partner thereof shall be subject to levy, execution or other enforcement procedure for the satisfaction of same. Neither the members or partners comprising Landlord (the "Landlord Parties"), nor the partners, members, shareholders, directors or

officers of Landlord or the Landlord Parties shall be liable for the performance of Landlord's obligations under this Lease.

48. Assignment, Mortgaging, Subletting, Etc.

A. Tenant covenants and agrees for Tenant and its successors, assigns and legal representatives, that neither this Lease nor the term and estate hereby granted, nor any part hereof or thereof, will be assigned, mortgaged, pledged, encumbered or otherwise transferred (whether voluntarily, involuntarily, by operation of law, or otherwise), and that neither the Demised Premises, nor any part thereof, will be encumbered in any manner by reason of any act or omission on the part of Tenant, or will be used or occupied, or permitted to be used or occupied, or utilized for desk space or for mailing privileges or as a concession, by anyone other than Tenant, or for any purpose other than as hereinbefore set forth, or will be sublet, without the prior written consent of Landlord in every case.

B. If at any time during the Term, Tenant desires to assign this Lease or to sublet fifty percent (50%) or more of the Demised Premises, Tenant shall notify Landlord in writing of such desire and shall offer to vacate the entire Demised Premises and to surrender this Lease to Landlord as of a date specified in said offer (the "Surrender Date"), which date shall be the last day of any calendar month during the Term and not earlier than sixty (60) days and not later than one hundred eighty (180) days after the giving of such notice by Tenant. Landlord may accept such offer by notice to Tenant given within thirty (30) days after the receipt of such notice from Tenant. Failure of Landlord to so notify Tenant within said thirty (30) day period, time being of the essence as to such date, shall be deemed to be a rejection by Landlord of such offer. If Landlord accepts such offer, Tenant shall vacate and surrender to Landlord all of Tenant's right, title and interest in and to the entire Demised Premises, on the Surrender Date, and the same shall be delivered to Landlord in broom clean condition, free and clear of all tenancies and occupancies. Upon such vacating and surrender by Tenant, this Lease shall be canceled and terminated as of the Surrender Date with the same force and effect as if the Surrender Date were the date hereinbefore specified for the expiration of the term of this Lease.

C. In the event Landlord does not accept the offer of Tenant referred to in Article 48B hereof, then and in either such event, Landlord agrees not to unreasonably withhold or delay its consent to such proposed assignment or a subletting regardless of the size, provided, however, that Landlord shall not in any event be obligated to consent to any such proposed assignment or subletting unless:

(i) the proposed assignee, or subtenant is a reputable party of a financial standing which, in Landlord's reasonable judgment, will allow such proposed assignee or subtenant to meet its obligations under this Lease, or under such sublease, as the case may be, as they become due (and (x) audited, if available, or otherwise unaudited financial statements of such proposed assignee or subtenant, certified by an independent certified public accountant and (y) a D&B Business Information Report of said assignee or subtenant, shall be delivered by Tenant to Landlord together with Tenant's notice described in the first sentence of Article 48B hereof); the nature and character of the proposed subtenant or assignee, its business activities and intended use of the Demised Premises are in keeping with the use permitted hereunder and the then standards of the Building; and the proposed assignment or subletting does not violate any negative covenants as to use contained in any other lease made with any other tenant(s) of the Building;

(ii) neither the proposed assignee, or subtenant, nor any corporation or other entity which controls or is controlled by such assignee or subtenant or is under common control with such assignee or subtenant, is then a tenant or occupant of any part of the Building (collectively "Building Tenant") or a person or entity then (or has been in the immediately prior six (6) months) negotiating with Landlord to lease space in any portion of the Building;

(iii) Tenant shall pay to Landlord a sum equal to fifty percent (50%) of (a) any rent or other consideration paid to Tenant (or any affiliate,

parent or subsidiary or principal of Tenant) by any subtenant (or any affiliate, parent, subsidiary or principal of subtenant) (including, without limitation, rent for furniture, fixtures or leasehold improvements) which is in excess of the Fixed Annual Rent and Additional Rent then being paid by Tenant to Landlord pursuant to the terms of this Lease (which is allocable to the space being sublet), and (b) any other profit or gain realized by Tenant (or any affiliate, parent or subsidiary or principal of Tenant) from any such assignment or subletting, whether for the sale of this Lease or by way of sale of furniture, fixtures or leasehold improvements to the extent that the price thereof received, however the same shall be designated, exceeds Tenant's depreciated or amortized tax basis for such furniture, fixtures or leasehold improvements or otherwise for federal income tax purposes, but less reasonable attorneys' fees and brokerage or leasing commissions incurred by Tenant in connection with such assignment or subletting. All sums payable hereunder by Tenant shall be paid to Landlord as Additional Rent immediately upon receipt thereof by Tenant (or any affiliate, parent or subsidiary or principal of Tenant) and if requested by Landlord, Tenant and the assignee or subtenant, as the case may be, shall promptly enter into a written agreement with Landlord setting forth the amount of Additional Rent to be paid to Landlord pursuant to this Section 48. For the purposes hereof, if only part of the Demised Premises is sublet, then the rent then being paid therefor by Tenant to Landlord shall be deemed to be only that fraction thereof that the area of said sublet space bears to the entire Demised Premises. Notwithstanding the foregoing, Landlord may elect in its discretion (but shall not be obligated) to receive payment of any such excess consideration directly from such subtenant, and in such case to the extent it is actually received by Landlord, it shall reduce Tenant's obligation therefor;

(iv) there shall be no default by Tenant under any of the terms, covenants and conditions of this Lease at the time that Landlord's consent to any such assignment or subletting is requested and on the effective date of the assignment or the proposed sublease which has continued beyond the applicable grace period thereof;

(v) the proposed assignee or subtenant shall not be (a) a government or any subdivision or agency thereof, (b) a school, college, university or educational institution of any type, whether for profit or non-profit, (c) an employment agency, (d) a provider of medical services of any kind, (e) a provider of stock brokerage, underwriting or banking services except as general and executive offices and not as a branch open to the public or (f) any not-for-profit institution;

(vi) Tenant shall reimburse Landlord for any expenses that may be incurred by Landlord in connection with the proposed assignment or sublease, including without limitation the reasonable costs of making investigations as to the acceptability of a proposed assignee or subtenant and legal fees and disbursements incurred in connection with the requested consent to the assignment or sublease (whether or not such consent is granted), including, without limitation, legal fees of Landlord's counsel, legal fees of counsel to the holder of any Superior Mortgage and/or Superior Lease to the extent their consent to such proposed assignment or sublease is required under the Superior Mortgage or Superior Lease, and fees charged by the holder of any Superior Mortgage or Superior Lease;

(vii) the Demised Premises shall not, without Landlord's prior consent, have been publicly listed or publicly advertised for subletting at a rental rate less than the prevailing rental rate set by Landlord for similar-sized space and remaining term in the Building;

(viii) such proposed subletting shall not result in there being more than three (3) occupants in the Demised Premises (including Tenant) at any one time, and Tenant shall be responsible for making any alterations to the Demised Premises to comply with the Americans with Disabilities Act (the "ADA"), as a result of such subletting;

(ix) a copy of the proposed Sublease Agreement or Assignment and Assumption shall be delivered to Landlord and shall be in form and substance reasonably acceptable to Landlord; and

(i) "In the event of a default under any underlying lease of all or any portion of the premises demised hereby which results in the termination of such lease, or if the lessor under any such underlying lease shall exercise any right to cancel or terminate such underlying lease, the subtenant hereunder shall, at the option of the lessor under any such lease, attorn to and recognize such lessor as Landlord hereunder and shall, promptly upon such lessor's request, execute and deliver all instruments necessary or appropriate to confirm such attornment and recognition. The subtenant hereunder hereby waives all rights under present or future law to elect, by reason of the termination of such underlying lease, to terminate such sublease or surrender possession of the premises demised hereby. If the lessor under such underlying lease does not exercise the aforesaid option, the term of this sublease shall terminate simultaneously with the term of the underlying lease and subtenant hereby agrees to vacate the premises subleased on or before the effective date of termination of the underlying lease.

(ii) This sublease may not be assigned or the sublet premises further sublet, in whole or in part, without the prior written consent of the lessor under any underlying lease of all or any portion of the premises demised hereby."

J. If this Lease is assigned by Tenant and Landlord consents to such assignment, Tenant covenants and agrees that the terms, covenants and conditions of this Lease may be changed, altered or modified in any manner whatsoever by Landlord and the assignee (and/or any subsequent assignee) without the prior written consent of Tenant and that no such change, alteration or modification shall release Tenant from the performance by it of any of the terms, covenants and conditions on its part to be performed under this Lease (except in the case of an assignment to an unrelated third party, in which case, solely to the extent of any increased obligations of the Tenant with respect thereto).

K. The consent by Landlord to any assignment, subletting, or occupancy shall not in any wise be construed to relieve Tenant from obtaining the express consent, in writing, of Landlord to any further assignment, subletting, subletting, or occupancy, which consent Landlord shall have the right to withhold for any reason whatsoever.

L. (i) For the purposes of this Lease, an "assignment" prohibited by this Article 48 shall be deemed to include, in addition, the following: if Tenant is a partnership, a withdrawal or change (voluntary, involuntary, by operation of law) of any one or more of the partners thereof, if such withdrawal represents twenty-five (25%) or more of the partners in the partnership as then constituted, or the dissolution of the partnership; or, if Tenant consists of more than one person, a purported assignment, transfer, mortgage or encumbrance (voluntary, involuntary, by operation of law or otherwise) from one thereof to the other or other thereof, or to any third party; or, if Tenant is a corporation or limited liability company, any dissolution, merger, consolidation or other reorganization of Tenant, or any change in the ownership (voluntary, involuntary, by operation of law, creation of new stock or otherwise) of fifty percent (50%) or more of its capital stock from the ownership existing on the date of execution hereof, or the sale of fifty percent (50%) of the value of the assets of Tenant. Notwithstanding anything to the contrary contained in the foregoing, Landlord shall consent to Tenant assigning this Lease or subletting all or a portion of the Demised Premises (but Landlord shall receive no less than ten (10) business day's prior written notice along with the financial information referred to in Article 48(C)(1) for both Tenant and the affiliate, subsidiary, parent, merged or consolidated company) to an affiliate, subsidiary or parent of Tenant, a company into or with which Tenant is merged or consolidated or to a company which purchases all or substantially all of Tenant's assets. For purposes hereof: (i) an affiliate of Tenant shall mean any entity which is directly controlled by or is under common control with Tenant ("control" being interpreted for purposes of this Article 48L as the ownership of fifty-one percent (51%) or more of the interests in such entity and possession of the power to direct the management and policies of such entity and the distribution of its profits); (ii) a subsidiary of Tenant shall mean an entity which is controlled by Tenant; (iii) a parent of Tenant shall mean an entity which has ownership of fifty-one percent (51%) or more of the interests of Tenant and possession of the power to direct the management and policies of Tenant and the



distributions of Tenant's profits; (iv) an entity in which or with which Tenant is merged or consolidated shall mean an entity which is subject to the jurisdiction of the courts of the State of New York and which succeeds Tenant in accordance with applicable statutory provisions for merger or consolidation of entities and which, by operation of law or by effective provisions contained in the instruments of merger or consolidation fully assumes the liabilities of the entities participating in such merger or consolidation and which has, on the completion of such merger or consolidation, a net worth equal to or greater than Tenant's net worth immediately prior to such merger or consolidation (the "Net Worth Test"); and (v) an entity which purchases all or substantially all of Tenant's assets shall mean an entity which: (A) is unrelated to Tenant or any affiliate, subsidiary or parent of Tenant; (B) is subject to the jurisdiction of the courts of the State of New York; (C) fully assumes the liabilities and the obligations of Tenant under this Lease; (D) purchases such assets pursuant to a bona fide, arm's length sale that is not consummated for the purpose of circumventing the restrictions set forth in this Article; and (E) has, on the completion of such sale, a net worth equal to or greater than Tenant's net worth immediately prior to such sale. In connection with this Article, Landlord shall have the right, at any reasonable time and from time to time, to examine such books and records of Tenant as may be necessary to establish that such entity, subtenant, occupant or assignee remains a related/affiliated entity of Tenant. No such subletting, occupancy or assignment shall relieve, release, impair or discharge any of Tenant's obligations hereunder. In addition, a transfer of control of Tenant to any corporation whose securities are traded on a public securities exchange or the redemption or issuance of additional stock of any class shall not be deemed to be an assignment of this Lease, provided that upon the completion of said transaction(s) the transferee entity passes the Net Worth Test, and Landlord's consent to such assignment or subletting shall not be required (provided prior written notice, along with delivery of the required materials as to financial status, etc., is given to Landlord).

(ii) Notwithstanding anything to the contrary contained in this Lease, but solely in connection with the privatization of Tenant by the Israeli government, any dissolution, merger, consolidation or other reorganization or sale of interests of Tenant in connection with such privatization, shall not be deemed an assignment of this Lease.

M. If this Lease is sublet or assigned without Landlord's consent, such subletting or assignment shall be void and of no force or effect.

For the purposes of this Article 48, the direct or indirect transfer of a controlling ownership interest in Tenant, by merger, consolidation, transfer of shares, interests or units, as the case may be, of Tenant, sale of all or substantially all of the assets of Tenant or otherwise, whether effected in single transaction or series of transactions, shall be deemed an assignment of this Lease and shall be subject to all of the provisions of this Article 48, including, without limitation, the requirement that Tenant obtain Landlord's prior consent thereto.

#### 49. Overtime Air Conditioning and Other Services.

The Fixed Annual Rent does not reflect or include any charge to Tenant for the furnishing of any necessary freight elevator facilities or heating, ventilation and/or air-conditioning ("HVAC") to the Demised Premises during periods ("Overtime Periods") other than (a) from May 15<sup>th</sup> through September 30<sup>th</sup> on Business Days from 8:00 a.m. to 6:00 p.m. ("Business Hours"), when seasonally required in respect of the air conditioning portion of HVAC, (b) when seasonally required on Business Days during Business Hours in respect of the heating portion of HVAC, and (c) on Business Days from 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m. in respect of freight elevator facilities. Accordingly, if Landlord furnishes any such freight elevator facilities or HVAC to the Demised Premises at the request of Tenant during Overtime Periods, Tenant shall pay Landlord Additional Rent for such services, on demand, at Landlord's then established rates for the Building. As of the date hereof, Landlord's established charges for the provision of freight elevator facilities and/or HVAC during Overtime Periods are set forth in Exhibit E annexed hereto and made a part hereof, but such charges shall be subject to increase, from time to time, to reflect any increases in the then established rates

charged by Landlord to other tenants of the Building. Landlord shall not be required to furnish any such services during any Overtime Periods unless Tenant shall notify Landlord in writing of its requirement for such services not less than 48 hours prior to the time upon which such services are requested (or 72 hours in the case of a requested Sunday usage, provided further that the date the request is made shall be a Business Day). The failure by Landlord to furnish or distribute any services during non-Overtime Periods and/or during Overtime Periods shall not constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement or diminution of rental, or relieve Tenant from any of its obligations under this Lease, or impose any liability upon Landlord or its agents by reason of inconvenience or annoyance to Tenant, or injury to or interruption of Tenant's business or otherwise. Anything hereinabove to the contrary notwithstanding, Landlord will not be required to provide any such services during Overtime Periods if Tenant is then in default under the terms of this Lease. As used in this Lease, the term "Business Days" shall mean any day excluding Saturdays, Sundays and all days observed as holidays by either the federal or New York State governments and/or any of the labor unions servicing the Building, from time to time. At its own cost and expense, Tenant shall be entitled to install and operate in the Demised Premises supplemental air conditioning for use at such times (including but not limited to Overtime Periods) as Tenant shall desire, provided such installation shall be subject to all of the provisions of this Lease with respect to Tenant's Changes, and provided that such supplemental air conditioning shall not burden or otherwise interfere with the HVAC to the Demised Premises or any other portion of the Building or any Building electrical, mechanical, plumbing or other systems.

#### 50. Compliance with Laws.

Supplementing the provisions of Article 6 hereof, Tenant shall give prompt notice to Landlord of any notice it receives of the violation of any law or requirement of any public authority with respect to the Demised Premises or the use or occupation thereof. Tenant shall promptly comply with all present and future laws, orders and regulations of all state, federal, municipal and local governments, departments, commissions and boards or any direction of any public officer pursuant to law, and all orders, rules and regulations of the New York Board of Fire Underwriters or any similar body which shall impose any violation, order or duty upon Landlord or Tenant with respect to the Demised Premises, including any objection under the ADA (in which event Tenant shall effect such compliance at its sole cost and expense) or the Building (in which event, notwithstanding anything herein to the contrary, Landlord shall effect such compliance at its sole cost and expense unless arising out of Tenant's use or manner of use of the Demised Premises or the Building, in which latter event, Landlord shall effect such compliance at the sole cost and expense of Tenant).

#### 51. Brokerage.

Tenant represents and warrants that the sole brokers with whom it has dealt in connection with this Lease were the Brokers (as defined in Section 37B), whose commission Landlord agrees to pay, pursuant to a separate agreement(s). Tenant does hereby agree to indemnify and hold Landlord harmless of and from any and all loss, costs, damage or expense (including, without limitation, attorneys' fees, court costs and disbursements) incurred by Landlord by reason of any claim of or liability to any broker other than the Brokers who shall claim to have dealt with Tenant in connection with the negotiation or consummation of this Lease. Landlord agrees to give reasonable notice to Tenant of its receipt of any such claim for which it claims indemnity. Tenant, at its own cost and expense, shall be entitled to defend Landlord against any such claim with reputable and experienced counsel of Tenant's choosing reasonably acceptable to Landlord (which counsel are not and have not represented any interests adverse to Landlord during the three (3) years prior to the claim), subject to Landlord's right to participate fully in such defense with counsel of its own choosing, at its own cost and expense. Landlord shall be responsible for all Landlord's attorneys' fees and expenses incurred by Landlord after such time as Tenant assumes the defense of Landlord (except that Tenant shall pay the fees and expenses of Landlord's counsel during the transition to counsel engaged by Tenant).

52. Miscellaneous.

A. Tenant shall not at any time prior to or during the Term either directly or indirectly (i) use any contractors or labor or materials whose use in Landlord's sole judgment would create or creates any difficulty with other contractors or labor employed by Tenant or Landlord or others in the construction, maintenance or operation of the Demised Premises or the Building and/or (ii) advertise, or otherwise publicize Tenant's address at the Building in any advertising (in any medium) relating to Tenant or Tenant's business or otherwise except that Tenant shall have the right to include Tenant's address in its letterhead, on its business cards and in phone directories (including the yellow pages).

B. If more than one person executes this Lease as Tenant, each of them understands and hereby agrees that the obligations of each of them under this Lease are and shall be joint and several, that the term "Tenant" as used in this Lease shall mean and include each of them jointly and severally and that the act of or notice from, or notice or refund to, or the signature of any one or more of them with respect to the tenancy of this Lease, including, but not limited to, any renewal, extension, expiration, termination or modification of this Lease shall be binding upon each and all of the persons executing this Lease as Tenant with the same force and effect as if each and all of the persons executing this Lease had so acted or so given or received such notice or refund or so signed.

C. As of the Commencement Date, this Lease supersedes all prior leases between Landlord and Tenant with respect to any of the space included within the Demised Premises.

D. This Lease may not be extended, renewed, terminated or otherwise modified except by an instrument in writing signed by the party against whom enforcement of any such modification is sought.

E. Wherever in this Lease it is provided that either party shall not unreasonably withhold consent or approval or shall exercise its judgment reasonably, and if no specific time period is given, such consent or approval or exercise of judgment shall also not be unreasonably delayed.

F. This Lease is offered to Tenant for signature with the understanding that it shall not be binding upon Landlord unless and until (i) Landlord shall have executed and unconditionally delivered to Tenant a fully executed copy of this Lease and (ii) all monies delivered by Tenant to Landlord on account of this Lease (which are required to be delivered upon Tenant's execution of this Lease) have cleared and are no longer subject to collection.

G. Tenant hereby irrevocably waives any and all right(s) it may have in connection with any zoning lot merger or transfer or development rights with respect to the Demised Premises including, without limitation, any rights it may have to be a party to, to contest, or to execute, any Declaration of Restrictions (as such term is defined in Section 12-10 of the Zoning Resolution of the City of New York effective December 15, 1961, as amended) with respect to the Demised Premises, which would cause the Demised Premises to be merged with or unmerged from any other zoning lot pursuant to such Zoning Resolution or to any document of a similar nature and purpose, and Tenant agrees that this Lease shall be subject and subordinate to any Declaration of Restrictions or any other document of similar nature and purpose now or hereafter affecting the Land or the Building. In confirmation of such subordination and waiver, Tenant shall execute and deliver promptly any certificate or instrument that Landlord reasonably may request and, in connection therewith, Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's attorney-in-fact, coupled with an interest, to execute any such certificate or instrument for and on behalf of Tenant.

H. Supplementing Article 18 of the printed form, instead of the liquidated damages determined pursuant to Article 18(c), Landlord may, at its election, recover from Tenant as liquidated damages an amount determined pursuant to Article 16(b).

I. Intentionally Omitted.

53. Real Property Law Section 223-a.

Tenant expressly waives any right to rescind this Lease under Section 223-a of the New York Real Property Law or under any present or future statute of similar import then in force and further expressly waives the right to recover any damages which may result from Landlord's failure to deliver possession of the Demised Premises in accordance with the terms hereof. Tenant agrees that the provisions of this Paragraph and Paragraph 24 are intended to constitute "an express provision to the contrary" within the meaning of said Section 223-a.

54. Legal Rent Restrictions.

If any of the rents payable under the terms of this Lease shall be or become uncollectible, reduced or required to be refunded because of any applicable law, ordinance, order, rule, requirement or regulation, Tenant shall enter into such agreement(s) and take such other steps (without additional expense to Tenant) as Landlord may request and as may be legally permissible to permit Landlord to collect the maximum rents which from time to time during the continuance of such legal rent restriction may be legally permissible (and not in excess of the amounts reserved therefor under this Lease). Upon the termination of such legal rent restriction, (a) the rents shall become and thereafter be payable in accordance with the amounts reserved herein for the periods following such termination and (b) Tenant shall pay to Landlord, to the maximum extent legally permissible, an amount equal to (i) the rents which would have been paid pursuant to this Lease but for such legal rent restriction less (ii) the rents paid by Tenant during the period such legal rent restriction was in effect.

55. Right to Cure Defaults.

If Tenant shall fail to comply fully with any of its obligations under this Lease (including, without limitation, its obligations to make repairs, maintain public liability and other insurance and comply with all legal requirements), Landlord, without thereby waiving such default and without liability to Tenant, may, but shall not be obligated to, perform the same for the account and at the expense of Tenant without notice in case of emergency and upon ten (10) days' prior notice in all other cases. Landlord may enter the Demised Premises at any time to cure any default. Bills for expenses incurred by Landlord in connection with any such performance or involved in collecting or endeavoring to collect rent or enforcing or endeavoring to enforce any rights against Tenant under or in connection with this Lease or pursuant to law, including any costs, expense and disbursement involved in instituting and prosecuting summary proceedings, as well as bills for any property, material, labor or services provided, furnished or rendered, including reasonable attorneys' fees and disbursements, together with interest on the amount of such costs, expenses and disbursements at the highest rate permitted by law, shall be paid by Tenant as Additional Rent on demand.

56. Consents. Wherever in this Lease Landlord's consent or approval is required and Landlord has agreed therein that such consent or approval shall not be unreasonably withheld, if Landlord shall refuse such consent or approval (in such cases) Tenant in no event shall be entitled to and shall not make any claim, and Tenant hereby waives any claim, for money damages (nor shall Tenant claim any money damages by way of set-off, counterclaim or defense) based upon any assertion by Tenant that Landlord unreasonably withheld or unreasonably delayed its consent or approval. Tenant's sole remedy in such circumstance shall be an action or proceeding to enforce any such provision by way of specific performance, injunction or declaratory judgment.

57. Cleaning. In furtherance of Article 29 of this Lease, provided Tenant shall, at Tenant's expense, keep the Demised Premises in order, Landlord shall, at Landlord's sole cost and expense, provide cleaning services to the Demised Premises in accordance with Exhibit G which is attached hereto and made a part hereof. All portions of the Demised Premises used for the storage, preparations, service or consumption of food or beverages shall be cleaned daily at Tenant's sole cost and expense and

exterminated at Tenant's sole cost and expense against infestation by vermin, roaches and rodents regularly and, in addition, whenever there shall be evidence of any infestation.

58. Notices. Except as otherwise expressly provided in this Lease, every notice, demand, consent, approval, request or other communication (collectively, "notices") which may be or is required to be given under this Lease or by law shall be in writing and shall be personally delivered or sent by United States certified or registered mail, postage prepaid, return receipt requested and shall be addressed:

A. If intended for Landlord, to Landlord's address set forth on the cover page hereof (or to such other address or addresses as may from time to time hereafter be designated by Landlord by like notice) with a copy to Landlord's attorney:

Kleinberg, Kaplan, Wolff & Cohen, P.C.  
551 Fifth Avenue  
New York, New York 10176  
Attention: Andrew M. Chonoles, Esq.

B. If intended for Tenant, to Tenant's address set forth on the cover page hereof until the date that Tenant occupies the Demised Premises for the conduct of its business, and thereafter at the Demised Premises (or to such other address or addresses as may from time to time hereafter be designated by Tenant by like notice) with a copy to:

Biedermann Hoenig Massamillo & Ruff  
90 Park Avenue  
New York, New York 10016  
Attention: Lawrence Mentz, Esq.

C. Except as otherwise provided herein, all such notices shall be deemed to have been served or delivered on the next Business Day following the date personal delivery is made or three (3) Business Days after being deposited in the United States Mail. A notice given by counsel for Landlord or by counsel for Tenant shall be deemed a valid notice if addressed and sent in accordance with the provisions of this Article. Each of the parties hereto waives personal or any other service other than as provided for in this Article. Notwithstanding the foregoing, either party hereto may give the other party oral notice of the need for emergency repairs.

Either party may change its address for notices by giving notice to the other party hereto thereof in accordance with the terms of this Article 58.

#### 59. Security Deposit.

A. Supplementing Article 34, Tenant shall, upon the execution of this Lease, deliver as the security stated in Article 34 (the "Security Deposit") an irrevocable letter of credit (the "Letter of Credit") in the amount of the Security Deposit issued or confirmed by a New York City commercial bank acceptable to Landlord in its reasonable discretion, and in substantially the form of the letter of credit annexed hereto as Exhibit B, to be held by Landlord as the Security Deposit in accordance with Article 34 and this Article 59. The Letter of Credit shall (i) initially expire not less than one (1) year from the Commencement Date, (ii) provide for automatic renewals for periods of not less than one (1) year unless notice of non-renewal is given to Landlord at least sixty (60) days prior to the expiration date thereof, and (iii) have a final expiration date not less than four (4) months after the Expiration Date. Tenant shall pay to Landlord, on demand and as additional rent hereunder, all fees and charges paid by Landlord to the bank issuing the Letter of Credit in connection with the transfer of same to any future owner of the Building or of the lessee's interest under any Superior Lease. In the event of a monetary default by Tenant (including, but not limited to, the failure to timely pay Fixed Annual Rent, Additional Rent and, if applicable, Abated Rent, or the failure to pay any damages due to Landlord hereunder), Landlord shall be permitted to draw down any portion or the entire amount of the Letter of Credit and apply the proceeds or any part thereof in accordance with Articles 34 and 59 of this Lease and retain the balance for the Security Deposit. For the purposes of this Article 59, if Landlord expends or may be required to

expend any money or incur any financial cost, damages or loss in connection with or to cure a non-monetary default or breach of Tenant under this Lease, such non-monetary default or breach shall be deemed a monetary default or breach under this Lease such that Landlord shall be permitted to draw down any portion or the entire amount of the Letter of Credit with respect thereto; provided, however, that in any event Landlord shall be permitted to draw down any portion or the entire amount of the Letter of Credit upon any termination of this Lease for any default of Tenant whatsoever. Landlord shall also have the right to draw down any portion or the entire amount of the Letter of Credit if Landlord receives notice that the date of expiry will not be extended by the issuing bank and if a replacement letter of credit meeting the requirements of this Article is not delivered by Tenant to Landlord within five (5) Business Days thereafter, and may retain the proceeds for the Security Deposit. If Landlord shall have drawn against the Letter of Credit or any cash security then being held by Landlord and applied all or any portion thereof, then Tenant shall deposit with Landlord, within 5 days of demand therefor, a new or amended Letter of Credit in a face amount sufficient to bring the balance of the monies (and/or remaining portion of the Letter of Credit) held by Landlord to the amount of the Security Deposit then required to be maintained by Tenant hereunder.

B. Landlord shall deposit the Security Deposit, if at any time in cash, in an interest-bearing account. Provided that Tenant is not then in default hereunder, Landlord will cause the accrued interest on any such cash Security Deposit, less the lesser of (i) such accrued interest and (ii) one (1%) percent per annum, as and for an administrative fee (computed on the amount of the Security Deposit, not on the interest thereon), to be paid to Tenant promptly following the Expiration Date.

C. Tenant will be permitted to reduce the amount of the Security Deposit to \$900,000 on August 1, 2006, to \$800,000 on August 1, 2008, and to \$250,000 on August 1, 2010; provided, however and notwithstanding anything to the contrary contained herein, no reduction in the Security Deposit shall be permitted unless on the date of the reduction no default shall then exist and be continuing hereunder (including compliance with the provisions of Section 59A). If the Security Deposit is in cash, Landlord will pay to Tenant the amount of any applicable reduction within fifteen (15) Business Days after Tenant's request therefor provided no default by Tenant exists under this Lease on the date of Tenant's request or at any time prior to the date Landlord so delivers the cash to Tenant. If the Security Deposit is a Letter of Credit, Landlord will accept a Letter of Credit in the proper reduced amount in exchange for the existing Letter of Credit, or, at the sole cost and expense of Tenant, will enter into an amendment of the Letter of Credit reducing the amount thereof to the proper reduced amount.

60. Intentionally Omitted.

61. Change of Location.

A. Tenant covenants and agrees that at any time during the Term, Landlord shall have the absolute and unqualified right upon not less than thirty (30) days prior notice to Tenant (the "Substitution Notice"), to designate as a substitute for the Demised Premises the whole or that part of any higher floor or floors in the Building which has the same or substantially the same usable square footage as the Demised Premises (the "Substitute Space"), provided that as a consequence of such substitution of the Substitute Space only the date for Substantial Completion is not materially delayed. The Substitute Space shall be deemed to have "substantially the same" usable square footage as the premises demised hereunder if it has not less than 95% of the usable area of the Demised Premises, as in effect on the date of such Substitution Notice. The Substitution Notice shall specify and designate the Substitute Space. Notwithstanding such substitution of space, this Lease and all the terms, provisions, covenants and conditions contained in this Lease shall remain and continue in full force and effect, except that, from and after the date Landlord delivers possession of the Substitute Space to Tenant, (i) Tenant shall immediately vacate the Demised Premises and remove all of its property therein and (ii) the Demised Premises shall be and be deemed to be the Substitute Space, with the same force and effect as if the Substitute Space were originally specified in this Lease as the premises demised hereunder.

B. In the event of the substitution of space as above provided;

(i) if the Substitute Space has a rentable area less than the rentable area of the Demised Premises, the Fixed Annual Rent and Tenant's Percentage shall each be decreased to reflect the lesser number of rentable square feet in the Substitute Space.

(ii) Landlord shall, at Landlord's expense, prepare the Substitute Space (including Landlord's Work and Landlord's Additional Work, to the extent necessary) in substantially the same manner as Tenant has prepared the Demised Premises or caused the same to be prepared and shall have the right to remove any floor covering, wall covering, cabinet work and any other decoration or installation, including but not limited to alarm, security system and devices, but not all telephone lines or any other communication lines serving the Demised Premises and relocate same in the Substitute Space, provided that Landlord shall use reasonable efforts (which shall not include the obligation to pay, employ or engage any contractors, vendors, suppliers or other personnel or labor (including regular staff of Landlord or its property manager) at so-called overtime or other premium pay rates or to incur any costs other than ordinary costs or expenses) so as to minimize interference with Tenant's actual, normal permitted business operations as then conducted at the Demised Premises.

C. Following any such substitution of space, Landlord and Tenant shall, promptly at the request of either party, execute and deliver an agreement in form reasonably satisfactory to Landlord setting forth such substitution of space and the changes (if any) in the Fixed Annual Rent, Tenant's Percentage, Electric Inclusion Factor and Electric Inclusion Multiple in the appropriate places in this Lease.

D. Notwithstanding anything to the contrary contained in this Article 61, in the event Landlord delivers a Substitution Notice to Tenant prior to the commencement of Landlord's Work, Landlord shall incur no cost or expense in connection with such substitution of space, and any costs resulting therefrom shall be the responsibility of Tenant except to the extent Landlord is obligated to incur costs as more specifically set forth in this Article 61; provided, further, that any relocation performed pursuant to this Section 61 D shall also solely be to other space in the Building having the same floor plate as the Demised Premises and, therefore, notwithstanding anything to the contrary contained above in this Article 61, said Substitution Space shall in such case also have the same rentable and useable square footage as the Demised Premises.

#### 62. Certificate of Tenant.

Tenant shall, without charge, at any time and from time to time, within ten (10) days after request by Landlord, the lessor under any Superior Lease and/or the holder of a Superior Mortgage, as the case may be, execute, acknowledge and deliver to Landlord or any other person, firm or corporation specified by Landlord, a written instrument (an "Estoppel Certificate") in the form attached hereto as Exhibit D, having attached thereto a copy of this Lease and all amendments hereto, if any, or such other form as may be required by Landlord, the lessor under any such Superior Lease and/or the holder of any such Superior Mortgage. Upon request (but no more than twice in any twelve month period), Landlord agrees to provide Tenant with a similar certificate, certified to Tenant only, as to Landlord's knowledge, with respect to items (a)-(h) in the Estoppel Certificate.

#### 63. Miscellaneous.

A. The default by Tenant (or any affiliate of Tenant) under any other lease for premises in the Building shall be deemed a default by Tenant hereunder.

B. (i) In the event Tenant shall make default in the payment of the Fixed Annual Rent reserved herein, or any item of Additional Rent herein mentioned, or any part of either, or in making any other payment herein required for a total of two (2) months, whether or not consecutive, in any twelve (12) month period, and Landlord shall have served upon Tenant petitions and notices of petition to dispossess Tenant by summary proceedings in each such instance, then, notwithstanding that such default may have been cured prior to the entry of a judgment against Tenant, any further default during such twelve (12) month period in the payment of any money due Landlord

hereunder shall be deemed to be deliberate and Landlord may serve a written three (3) days' notice of cancellation of this Lease upon Tenant, and upon the expiration of said three (3) days, this Lease and the Term thereunder shall end and expire as fully and completely as if the expiration of such three (3) day period were the day herein definitely fixed for the end and expiration of this Lease and the Term thereof, and Tenant shall then quit and surrender the Demised Premises to Landlord, but Tenant shall remain liable as elsewhere provided in this Lease.

(ii) This Lease and the Term and estate hereby granted are subject to the limitation that if any event shall occur or any contingency shall arise whereby this Lease or the estate hereby granted or the unexpired balance of the Term would, by operation of law or otherwise, devolve upon or pass to any person, firm or corporation other than Tenant except to the extent expressly permitted under Section 62(B)(iii) below, then in any of said events Landlord may give to Tenant notice of intention to end the Term at the expiration of three (3) days from the date of the giving of such notice, and, in the event such notice is given, this Lease and the Term and estate hereby granted (whether or not the Term shall have commenced) shall terminate upon the expiration of said three (3) days with the same effect as if that day were the expiration date, but Tenant shall remain liable for damages as provided in this Lease.

(iii) Supplementing the provisions of Article 16, if the Lease is not terminated under Article 16 and is assigned to any person or entity pursuant to the provisions of the Bankruptcy Code, 11 U.S.C. " 101 et seq. (the "Bankruptcy Code"), any and all monies or other consideration payable or otherwise to be delivered in connection with such assignment shall be paid or delivered to Landlord, shall be and remain the exclusive property of Landlord and shall not constitute property of Tenant or of the estate of Tenant within the meaning of the Bankruptcy Code. Any and all monies or other consideration constituting Landlord's property under the preceding sentence not paid or delivered to Landlord shall be held in trust for the benefit of Landlord and be promptly paid to or turned over to Landlord. Any monies received by Landlord or on behalf of Tenant during the pendency of any proceeding in bankruptcy shall be deemed paid as compensation for the use and occupation of the Demised Premises and the acceptance of any such compensation by Landlord shall not be deemed an acceptance of rent or a waiver on the part of Landlord of any rights under this Lease.

C. This Lease contains the entire agreement between the parties hereto and all prior negotiations and agreements are merged in this Lease. This Lease may not be changed, modified or discharged, in whole or in part, except by a written instrument executed by the party against whom enforcement of the change, modification or discharge is sought.

D. Neither (i) the performance by Landlord, Tenant or others of any decorations, repairs, alterations, additions or improvements in or to the Building or the Demised Premises, nor (ii) the failure of Landlord or others to make any such decorations, repairs, alterations, additions or improvements, nor (iii) any latent defect in the Building or in the Demised Premises, nor (iv) any inconvenience or annoyance to Tenant or injury to or interruption of Tenant's business by reason of any of the events or occurrences referred to in the foregoing subclauses (i) through (iv) shall constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement or diminution of rent, or relieve Tenant of any of its obligations under this Lease, or impose any liability upon Landlord, or Landlord's agents, other than such liability as may be imposed upon Landlord by law for Landlord's negligence or the negligence of Landlord's agents in the operation or maintenance of the Building or for the breach by Landlord of any express covenant of this Lease on Landlord's part to be performed. The foregoing shall not limit Landlord's agreement as otherwise provided in this Lease to use reasonable efforts to minimize interference with Tenant's actual, normal permitted use as then conducted at the Demised Premises.

E. Tenant represents that it is a corporation duly formed and validly existing in good standing under the laws of Israel, duly authorized to transact business, and in good standing, in the State of New York and the party executing this Lease on its behalf is authorized to so execute this Lease and bind Tenant.



F. Tenant covenants and agrees that it shall not permit any materials to be used in the Demised Premises (or brought into or removed from the Building) in violation of any applicable environmental law, and Tenant hereby indemnifies Landlord for any loss incurred by Landlord as a result of the breach of the foregoing covenant and agreement. Tenant hereby agrees promptly to notify Landlord in the event that it becomes aware of any violation of any applicable environmental law affecting the Demised Premises. The indemnity set forth in this Article shall survive the expiration or earlier termination of this Lease.

G. Tenant shall be permitted to install a sign with its name on the entry door to the Demised Premises, subject to Landlord's prior written consent, which consent shall not be unreasonably withheld. Any such sign installed by (or at the direction of) Tenant shall be removed by Tenant on or prior to the expiration or earlier termination of this Lease. The installation and removal shall be done at Tenant's sole cost and expense, and any damages caused thereby shall be immediately repaired by Tenant, at Tenant's sole cost and expense.

H. Tenant shall be entitled to ten (10) listings in the Building's directory. Landlord shall install such initial listings at Landlord's sole cost. Any subsequent changes to those listings which Tenant desires to make shall be subject to Landlord's approval. If such desired changes are approved, Landlord shall implement such changes at Tenant's cost, which Tenant shall pay to Landlord, as additional rent, within ten (10) days after receipt of written demand therefor.

I. In construing and interpreting this Lease, no consideration or weight shall be given to any prior version of this Lease and/or to any strikeouts or deletions contained in any such prior versions.

J. Each party irrevocably consents to the exclusive jurisdiction of the courts in the State of New York and agrees that venue in the Borough of Manhattan shall be proper in all actions, claims or proceedings with or with respect to this Lease (whether in contract, tort or otherwise), and each party waives any right to claim that the City of New York is an inconvenient forum. This Lease shall be governed solely by the internal laws of the State of New York without reference to principles of conflict of laws. Tenant hereby (i) appoints Biedermann, Hoenig, Massamillo & Ruff, located at 90 Park Avenue, New York, New York, 10016 as its agent for service of process, which appointment Tenant may upon notice to Landlord modify with a replacement agent for service of process as long as said replacement agent is located in, and shall accept service in, New York City, New York, and (ii) waives any and all of its right under the Foreign Sovereign Immunities Act (as heretofore or hereafter amended) in connection with any claims arising under or related to this Lease, and/or Tenant's (or any of its subtenants or assigns) use or occupancy of all or any portion of the Demised Premises.

[remainder of page blank]

[signature page follows]

IN WITNESS WHEREOF the parties hereto have duly executed this Lease as of the day and year first above written.

LANDLORD

15 EAST 26<sup>TH</sup> STREET ASSOCIATES, LLC

By: MHP 15 East 26 LLC,  
its managing member

By: Murray Hill Properties,  
its managing member

By: *[Signature]*  
Name: Michael D. Green  
Title: President

TENANT

*[Signature]*  
EL AL ISRAEL AIRLINES, LTD. AMOS SHAPIRA  
NISSIM MALIK, CFO. PRESIDENT  
Vice President Name: *[Signature]*  
Title: *[Signature]*  
Taxpayer Identification Number: 13-1626747



~~Yoram Kedem, Adv.  
Legal Affairs~~