
AGREEMENT OF LEASE

between

**NEW YORK CITY
EDUCATIONAL CONSTRUCTION FUND,**

Sublandlord

and

**THE CITY OF NEW YORK,
ACTING BY AND THROUGH THE BOARD OF EDUCATION
OF THE CITY OF NEW YORK,**

Subtenant

Dated as of October 1, 1996

Premises:

Site 22

Battery Park City -- North Neighborhood Residential Area
New York, New York

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AGREEMENT OF LEASE

AGREEMENT OF LEASE, dated as of September 1, 1996 (this "Lease"), between NEW YORK CITY EDUCATIONAL CONSTRUCTION FUND (the "Fund"), a corporate governmental agency constituting a public benefit corporation under the laws of the State of New York having an office at 28-11 Queens Plaza North, Long Island City, New York 11101, as sublandlord, and THE CITY OF NEW YORK, a municipal corporation of the State of New York maintaining its principal office at City Hall, New York, New York (the "Subtenant"), acting by and through the BOARD OF EDUCATION OF THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK, having an office at 110 Livingston Street, Brooklyn, New York 11201, as subtenant.

WITNESSETH:

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

ARTICLE 1.

DEFINITIONS

Section 1.01. Definitions. Except as otherwise provided in this Article 1, capitalized terms used but not otherwise defined in this Lease shall have the meanings ascribed to them in the Ground Lease (hereinafter defined), unless the context in which a term is used clearly demands another meaning, in which case such meaning shall be given effect. As used in this Lease, the following capitalized terms shall have the respective meanings set forth below:

"Administrative Expenses" shall mean Fund's expenses of carrying out and administering its powers, duties and functions in connection with School Project, as authorized by the Educational Construction Fund Act, and shall include, without limiting the generality of the foregoing: salaries, legal, accounting and consultants' services and expenses, payments to pension, retirement, health and hospitalization funds, fees and expenses of the Bond Trustee and any other fees and expenses that constitute "Administrative Expenses" within the meaning of Fund's Bond Resolution relating to the School Project.

"Advance Rental Payment" shall mean a payment of the Base Rent in respect of any or all School Project Bonds made in advance of the date or dates on which such Base Rent shall become due under this Lease.

"Authority" shall mean Battery Park City Authority, a body corporate and politic and constituting a public benefit corporation under the laws of the State of New York, or its successors or assigns.

"Base Rent" shall have the meaning provided in Section 4.01(a).

"Board of Education" shall mean the Board of Education of the City School District of The City of New York, or its successors.

"Bond Trustee" shall mean the Trustee under Fund's Bond Resolution.

"Business Day" shall mean any day which is not a Saturday, Sunday or a day observed as a holiday by any of the State of New York, the federal government, The City of New York or the state or city in which the Bond Trustee is located.

"Code" shall mean the Internal Revenue Code of 1986, as amended, and the applicable rules and regulations promulgated thereunder.

"Combined Occupancy Structure" shall mean any improvement on real property or interests therein or thereto as defined in subdivision 5 of Section 452 of the Educational Construction Fund Act.

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

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

"Educational Construction Fund Act" shall mean the New York City Educational Construction Fund Act, being and constituting Article 10 of the Education Law of the State of New York (Chapter 16 of the Consolidated Laws of the State of New York), as amended from time to time.

"Event of Default" shall have the meaning provided in Section 14.01.

"Excess Proceeds" shall mean (i) in the case of any casualty with respect to the Premises, all proceeds of insurance policies maintained with respect to the Premises in excess of the costs of the Restoration of the Premises and (ii) in the case of any taking by eminent domain or condemnation, all awards or damages in respect of the Premises in excess of the costs of the Restoration of the Premises.

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

"Fund's Bond Resolution" shall mean the Revenue Bond Resolution, adopted by Fund on March 23, 1994, as amended and supplemented to the date of this Lease and as the same may be amended and supplemented from time to time.

"Ground Lease" shall mean that certain Agreement of Lease, dated as of September 1, 1996, among the Authority, the Fund and the Subtenant, as the same may be amended and supplemented from time to time in accordance with its terms.

"Ground Lease Rental" shall mean all amounts required to be paid by the Fund, as tenant, under the Ground Lease, which are referred to collectively as the "Rental" thereunder.

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

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

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

"1996 School Project Bonds" shall mean the New York City Educational Construction Fund Junior Subordinated Revenue Bonds, Series 1996 (Battery Park City Project) issued under and secured by the Fund's Bond Resolution.

"Premises" shall mean the School Land and Buildings designed, constructed, improved and equipped in accordance with the Development Agreement.

"Rental" shall have the meaning provided in Section 4.02.

"School Land" shall mean the land described in Exhibit A attached hereto.

"School Portion" shall mean the (i) the portion of the Combined Occupancy Structure located on the School Land, (ii) the Equipment and (iii) the Tenant's Easement Equipment.

"School Project" shall mean the design, acquisition, construction, improvement and equipping of the portion of the Combined Occupancy Structure located on the School Land in accordance with the Development Agreement.

"School Project Bonds" shall mean the 1996 School Project Bonds and any additional bonds issued under and secured by Fund's Bond Resolution to finance or refinance costs of the School Project.

"Subtenant" shall mean The City of New York, New York.

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

ARTICLE 2.

PREMISES AND TERM OF LEASE

The Fund does hereby demise and sublease to the Subtenant, and the Subtenant does hereby hire and take from the Fund, the Fund's subleasehold interest in the Premises, together with all easements, appurtenances and other rights and privileges now or hereafter belonging or appertaining to the Premises, subject to the Title Matters, the terms and provisions of the Ground Lease and the terms and provisions hereof,

TO HAVE AND TO HOLD unto the Subtenant, its successors and assigns, for a term of years (the "Term") commencing on the date of the original issuance of the School Project Bonds (the "Commencement Date") and expiring on the earlier of (i) the date on which no School Project Bonds shall be Outstanding within the meaning of Fund's Bond Resolution and the Subtenant has satisfied all of its obligations hereunder or (ii) the date on which the Ground Lease expires or is terminated in

accordance with its terms, unless this Lease is sooner terminated as hereinafter provided (such date on which this Lease expires or is terminated being referred to herein as the "Expiration Date").

ARTICLE 3.

ISSUANCE OF SCHOOL PROJECT BONDS

Section 3.01. Issuance of 1996 School Project Bonds. In order to provide for the financing of the costs of the School Project, the funding of a reserve fund for the School Project Bonds and to finance part of the issuance costs relating thereto, the Fund will use its best efforts to issue, sell and deliver its 1996 School Project Bonds. The proceeds of the 1996 School Project Bonds shall be applied, in accordance with the Fund's Bond Resolution, to finance costs of the acquisition and construction of the Buildings, and to the purchase or acquisition of equipment, machinery and apparatus therefor, in accordance with the Development Agreement, to provide funds to the account within the Debt Service Reserve Fund established under the Fund's Bond Resolution securing the 1996 School Project Bonds and to pay costs relating to the issuance of the 1996 School Projects Bonds.

Section 3.02. Additional School Project Bonds.

(a) No School Project Bonds other than the 1996 School Project Bonds shall be issued by the Fund; provided, however, upon receipt by the Fund of a written request of the Subtenant (which may be signed on its behalf by a duly authorized representative of the Board of Education) for the issuance of additional School Project Bonds and written approval by the Director of Management and Budget of The City of New York of the issuance of additional School Project Bonds, additional School Project Bonds may be issued in accordance with, and subject to, Section 3.02(b) hereof.

(b) Subject to Section 3.02(a) the Fund may, but shall not be obligated to issue, sell and deliver School Project Bonds in addition to the 1996 School Project Bonds in order to provide funds for the completion of the School Project, the Restoration of the School Portion, the funding of a reserve fund for the School Project Bonds or refunding all or a portion of the School Project Bonds. The failure or inability of the Fund to issue any such additional School Project Bonds shall not in any way release the Subtenant from any provisions hereof to the extent applicable.

Section 3.03. Tax Covenants. The Subtenant, so long as it leases the Premises hereunder, (i) will take no action, or permit any action to be taken, with respect to the Premises which will impair the exclusion of interest on any School Project Bonds from gross income for purposes of federal income taxation; (ii) will not invest or otherwise use the proceeds of the School Project Bonds in a manner which would cause any School Project Bond to be an "arbitrage bond" within the meaning of Section 148(a) of the Code, and any proposed or final regulations thereunder as are applicable to any School Project Bond; and (iii) will not, nor will any "related person," as defined in Section 147(a)(2) of the Code, pursuant to an arrangement, formal or informal, purchase School Project Bonds in an amount related to the amount of any obligation to be acquired by the Fund from the Subtenant. Notwithstanding any provision of this Section or this Lease to the contrary, the covenants contained in this Section shall survive the termination or expiration of the Ground Lease and this Lease.

ARTICLE 4.

RENT

Section 4.01. Base Rent and Additional Rent.

(a) For each calendar year during the Term, the Subtenant shall pay to the Fund, without notice or demand, an amount equal to the principal of and interest on the School Project Bonds coming due in such year (the "Base Rent").

(b) The Base Rent shall be payable as follows: on or prior to each March 25, the Subtenant shall pay to the Bond Trustee with notice to the Fund, for deposit into the Debt Service Fund established under the Fund's Bond Resolution, an amount equal to (i) the principal amount of School Project Bonds coming due on the next succeeding April 1 and (ii) interest coming due on the School Project Bonds on such April 1; and on or prior to each September 25, the Subtenant shall pay to the Bond Trustee, for deposit into the Debt Service Fund established under the Fund's Bond Resolution, an amount equal to the interest coming due on the School Project Bonds on the next succeeding October 1; **provided, however**, that there shall be credited against Base Rent due hereunder in an amount equal to the moneys on deposit in said Debt Service Fund and available for application to such purposes and moneys on deposit in the Construction Fund established under the Fund's Bond Resolution representing capitalized interest to the extent that the same will be available for application to the payment of interest on the School Project Bonds on the applicable interest payment date; **provided further** that payment of the Base Rent shall not be made at any time after the date on which the principal of and premium, if any, and interest on the School Portion Bonds shall have been paid in full or provided for in accordance with Section 12.01 of the Fund's Bond Resolution. The Base Rent shall be payable by wire transfer of immediately available funds, in currency which at the time of payment is legal tender for public and private debts in the United States of America, and shall be payable to the Bond Trustee for the account of the Fund. On or prior to March 15 and September 15 of each year, the Fund shall furnish to the Subtenant a written request for payment of the Base Rent next due hereunder; **provided, however**, that any defect contained in such notice, or failure by the Fund to give such notice or by the Subtenant to receive such notice, shall not give cause for any abatement, deduction, counterclaim, set-off or offset whatsoever with respect to the Base Rent otherwise due hereunder.

(c) The Subtenant shall pay to the Fund, as additional rent, the amounts set forth below, which amounts shall be paid on or prior to the dates hereinafter provided:

(i) on the Commencement Date, an amount equal to the Administrative Expenses incurred or estimated to be incurred by the Fund, but in no case shall said amount be in excess of \$50,000 per annum in connection with the issuance of the School Project Bonds which are not paid or payable from the proceeds thereof, as certified in writing by the Fund to the Subtenant;

(ii) no more than thirty (30) days after receipt of written demand therefor from the Fund, the Administrative Expenses in connection with the School Portion for the next succeeding year as determined by the Fund and certified in writing by the Fund to the Subtenant;

(iii) not later than the dates on which Ground Lease Rentals are due and payable under the Ground Lease, the amount of such Ground Lease Rentals, unless such Ground Lease Rentals shall have been paid directly by the Subtenant to the payee thereof in accordance with the Ground

Lease (in which case the Subtenant shall provide to the Fund a certification as to such payment and the amount thereof); provided that the Fund shall furnish to the Subtenant a written request for payment of such Ground Lease Rentals not less than ten (10) days prior to the date on which such Ground Lease Rentals are due and payable; **provided, however,** that any defect contained in such notice, or failure by the Fund to give such notice or by the Subtenant to receive such notice shall not give cause for any abatement, deduction, counterclaim, set-off or offset whatsoever with respect to the payment of such Ground Lease Rentals in accordance herewith; and

(iv) no more than thirty (30) days after receipt of written demand therefor from the Fund, any amounts advanced by the Fund on behalf of the Subtenant hereunder and any costs or expenses incurred by the Fund in the performance by the Fund of the Subtenant's obligations hereunder.

The additional rents referred to in (i) through (iv) of this paragraph shall be subject to audit by the Subtenant, and if such audit determines that Subtenant was overcharged, an appropriate credit shall be allowed Subtenant against the next installment of additional rent due.

(d) The Subtenant, at its option, may make Advance Rental Payments at any time for deposit into (i) if any School Project Bonds are Outstanding within the meaning of the Fund's Bond Resolution and are then subject to redemption at the election or direction of the Fund, the Redemption Account of the Debt Service Fund established under the Fund's Bond Resolution for application either to (x) the purchase of the School Project Bonds at a price not in excess of the then applicable Redemption Price (within the meaning of the Fund's Bond Resolution) of such School Project Bonds plus interest accrued and unpaid to the date of such purchase or (y) the redemption of such School Project Bonds in accordance with their terms; or (ii) a special account to be held in trust to provide for the payment of such School Project Bonds upon maturity or redemption thereof in accordance with Section 12.01 of the Fund's Bond Resolution. Any balance of such Advance Rental Payments remaining after application pursuant to clauses (i) and (ii) of the immediately preceding sentence shall be promptly returned to the Subtenant. In the event the Subtenant elects to prepay Base Rent to become due hereunder, the Subtenant shall give the Fund and the Bond Trustee written notice setting forth (i) the amount of the Advance Rental Payment to be made, and (ii) in the event the Subtenant requests application of such Advance Rental Payments to the redemption of School Project Bonds, (x) the principal amount and maturities of such School Project Bonds to be redeemed and (y) the date on which the redemption of such School Project Bonds shall occur. Such date of redemption (i) may be any date during the Term if the School Project Bonds shall be redeemed in whole or any Interest Payment Date (within the meaning of the Fund's Bond Resolution) in respect of the School Project Bonds if the School Project Bonds shall be redeemed in part; and (ii) shall be a Business Day (within the meaning of the Fund's Bond Resolution) not less than forty-five (45) days after the date on which the Subtenant duly gives notice of such prepayment to the Fund, and the Bond Trustee pursuant to this Section 4.01(d). In the event the Subtenant elects to redeem School Project Bonds, such Advance Rental Payment shall be in an amount which, when added to the amounts on deposit in the Redemption Account of the Debt Service Fund established under the Fund's Bond Resolution or otherwise held in trust pursuant to the Fund's Bond Resolution for the payment of the Redemption Price of and interest on such School Project Bonds, shall be at least sufficient to pay the Redemption Price of and interest on the School Project Bonds to be so redeemed on such date of redemption, together with all expenses of the Fund and the Bond Trustee incurred or to be incurred in connection with such redemption.

(e) The parties to this Lease acknowledge and agree that the Base Rent and all Excess Proceeds, if and to the extent payable to the Fund, shall be pledged, pursuant to Section 5.01 of the Fund's Bond Resolution, to the Bond Trustee as security for the payment of the principal, Sinking Fund Installments (within the meaning of the Fund's Bond Resolution), if any, and Redemption Price (within the meaning of the Fund's Bond Resolution) of and interest on the Bonds (within the meaning of the Fund's Bond Resolution, including, but not limited to, the School Project Bonds) issued and Outstanding (within the meaning of the Fund's Bond Resolution) under the Fund's Bond Resolution; and the Subtenant hereby consents to such pledge.

Section 4.02. Obligation to Pay Rental. All amounts required to be paid by the Subtenant to or for the benefit of the Fund pursuant to this Lease (collectively, "Rental") shall constitute rent under this Lease. Rental shall be absolutely net to the Fund without any abatement, deduction, counterclaim, set-off or offset whatsoever except as specifically set forth in this Lease, so that this Lease shall yield, net, to the Fund, Rental in each year during the Term and that the Subtenant shall pay all costs, expenses and charges of every kind and nature relating to the Premises which may arise or become due or payable during or after (but attributable to a period falling within) the Term.

ARTICLE 5.

INCORPORATION OF THE TERMS OF THE GROUND LEASE AND RIGHTS AND OBLIGATIONS OF THE FUND AND THE SUBTENANT THEREUNDER

Section 5.01. Taxes and Impositions.

(a) The terms and provisions of Article 4 of the Ground Lease are hereby incorporated by reference into this Lease, and made a part hereof, as though such terms and provisions were set forth fully in this Lease. The Subtenant hereby assumes each and every obligation of the Fund under said Article 4 of the Ground Lease, and the Fund hereby appoints, and the Subtenant hereby accepts such appointment as, the attorney-in-fact of the Fund coupled with an interest for the purpose of exercising the rights of the Fund specifically granted thereunder.

(b) Notwithstanding anything contained in said Article 4 of the Ground Lease or this Lease to the contrary, the Fund and the Subtenant each hereby represent that neither is aware of any Imposition (other than water and sewer charges) which presently is or may hereafter become applicable to the Premises.

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

Section 5.02. Insurance. The terms and provisions of Article 6 of the Ground Lease are hereby incorporated by reference into this Lease, and made a part hereof, as though such terms and provisions were set forth fully in this Lease, and the policies of insurance required to be procured and maintained thereunder shall be procured and maintained at the sole expense of the Subtenant for purposes of this Lease; provided that as Section 6.02(b), Section 6.03(c) and 6.03(f)(v) are so incorporated by reference herein, references therein to "Landlord" shall be deemed to mean "Landlord and the Fund" for purposes of this Lease. The Subtenant hereby assumes each and every obligation of the Fund under said Article 6 of the Ground Lease, and the Fund hereby appoints, and the Subtenant hereby accepts such appointment as, the attorney-in-fact of the Fund coupled with an interest for the purpose of exercising the rights of the Fund specifically granted thereunder. The parties hereto agree that the Fund may obtain and maintain in full force and effect during the entire period of this Lease said policies of insurance and that the cost of obtaining and maintaining such policies of insurance by the Fund shall be included in Administrative Expenses payable pursuant to Section 4.01(c)(ii) hereof.

Section 5.03. Restoration.

(a) The terms and provisions of Article 7 and particularly Section 7.08(c) of the Ground Lease are hereby incorporated by reference into this Lease, and made a part hereof, as though such terms and provisions were set forth fully in this Lease. The Subtenant hereby assumes each and every obligation of the Fund under said Article 7 of the Ground Lease, and the Fund hereby appoints, and the Subtenant hereby accepts such appointment as, the attorney-in-fact of the Fund coupled with an interest for the purpose of exercising the rights of the Fund specifically granted thereunder; **provided, however,** that, as shall be set forth in a certificate of an authorized representative of the Fund delivered to the Landlord and the Subtenant, the balance of any Excess Proceeds after completion of a Restoration or a Casualty Termination Restoration following any Loss or Damage by Casualty, to the extent derived from insurance proceeds payable to the "Tenant" pursuant to said Article 7 or from proceeds of School Project Bonds, shall be paid to the Fund and applied in accordance with Section 7.17(3) of the Fund's Bond Resolution and, to the extent derived from monies deposited by Subtenant or the Board of Education, shall be paid to such respective parties.

(b) This Lease shall not terminate or be forfeited or be affected in any manner, and there shall be no reduction or abatement of the Rental payable hereunder, by reason of damage to or total, substantial or partial destruction of the Buildings or any part thereof or by reason of the untenability of the same or any part thereof, for or due to any reason or cause whatsoever, and the Subtenant, notwithstanding any law or statute present or future, waives any and all rights to quit or surrender the Premises or any part thereof. The Subtenant expressly agrees that its obligations hereunder, including, without limitation, the payment of Rental and any payments to be made pursuant to Section 7.08(c) of the Ground Lease, shall continue as though the Buildings had not been damaged or destroyed and without abatement, suspension, diminution or reduction of any kind. It is the intention of the Fund and the Subtenant that the foregoing is an "express agreement to the contrary" as provided in Section 227 of the Real Property Law of the State of New York.

(c) Notwithstanding the provisions of subsection (b) above in the event that any Loss or Damage by Casualty to the Premises occurs and the estimated cost of Restoration thereof exceeds the Minimum Amount, the Subtenant, as attorney-in-fact for the Fund, may elect, pursuant and subject to Section 7.08(b) of the Ground Lease, to cause a Casualty Termination; **provided, however,** that the Subtenant shall not cause any such Casualty Termination unless upon the date on which such election shall be made the School Project Bonds shall be paid or deemed paid within the meaning of Section 12.01

of the Fund's Bond Resolution on or prior to the Casualty Termination Date, Subtenant shall surrender the Premises to the Fund and upon such surrender the Subtenant's obligations under this Lease shall terminate, except for any obligations which are stated to survive termination of this Lease.

Section 5.04. Condemnation.

(a) The terms and provisions of Article 8 of the Ground Lease are hereby incorporated by reference into this Lease, and made a part hereof, as though such terms and provisions were set forth fully in this Lease. The Subtenant hereby assumes each and every obligation of the Fund under said Article 8 of the Ground Lease, and the Fund hereby appoints, and the Subtenant hereby accepts such appointment as, the attorney-in-fact of the Fund coupled with an interest for the purpose of exercising the rights of the Fund specifically granted thereunder; **provided, however**, that, as shall be set forth in a certificate of an authorized representative of the Fund delivered to the Landlord and the Subtenant, (i) the balance of any Excess Proceeds after completion of a Restoration or a Casualty Termination Restoration in accordance with said Article 8, to the extent derived from awards or damages payable to the "Tenant" pursuant to said Article 8 in respect of any taking of all or any part of the Premises by eminent domain or by condemnation, including Condemnation Restoration Funds or from proceeds of any School Project Bonds, shall be paid to the Fund and applied in accordance with Section 7.17(3) of the Fund's Bond Resolution, and to the extent derived from monies deposited by Subtenant, shall be paid to such respective parties; **provided, further**, if the whole or substantially all of the Premises shall be taken by the exercise of the right of condemnation or eminent domain or by agreement among the Landlord, the Tenant (as defined in the Ground Lease) and such entity authorized to exercise such right (which the Fund may execute and deliver only with the prior written consent of the Subtenant) within the meaning of Section 8.01(a) of the Ground Lease, net proceeds of any award, awards or damages in respect thereof received by the Fund in accordance with Section 8.01(c) of the Ground Lease or received by the Subtenant shall be deposited with the Bond Trustee for the account of the Fund and applied in accordance with Section 7.17(3) of the Fund's Bond Resolution; and in the event that the Ground Lease shall terminate pursuant to Section 8.01 thereof and such net proceeds shall be insufficient to provide for the redemption, payment or defeasance of the School Project Bonds in accordance with Section 7.17(3) of the Fund's Bond Resolution, the Subtenant shall promptly pay to the Bond Trustee, for the account of the Fund, moneys in an amount equal to such insufficiency..

(b) Notwithstanding any provision of the Ground Lease or this Lease to the contrary, neither the Subtenant nor the Fund shall enter into any agreement with the Landlord and any governmental authority or other entity authorized to exercise the right of condemnation or eminent domain with respect to the Premises without the prior written consent of the other party to this Lease.

Section 5.05. Repairs.

(a) The terms and provisions of Article 11 of the Ground Lease are hereby incorporated by reference into this Lease, and made a part hereof, as though such terms and provisions were set forth fully in this Lease. The Subtenant hereby assumes each and every obligation of the Fund under said Article 11 of the Ground Lease, and the Fund hereby appoints, and the Subtenant hereby accepts such appointment as, the attorney-in-fact of the Fund coupled with an interest for the purpose of exercising the rights of the Fund specifically granted thereunder.

(b) The Fund shall not be required to furnish any services, utilities or facilities whatsoever to the Premises, nor shall the Fund have any duty or obligation to make any alteration, change, improvement, replacement, restoration or repair to, nor to demolish, any Buildings. The Subtenant assumes the full and sole responsibility for the condition, operation, repair, alteration, improvement, replacement, maintenance and management of the Premises.

Section 5.06. Changes, Alterations and Additions. The terms and provisions of Article 12 of the Ground Lease are hereby incorporated by reference into this Lease, and made a part hereof, as though such terms and provisions were set forth fully in this Lease. The Subtenant hereby assumes each and every obligation of the Fund under said Article 12 of the Ground Lease, and the Fund hereby appoints, and the Subtenant hereby accepts such appointment as, the attorney-in-fact of the Fund coupled with an interest for the purpose of exercising the rights of the Fund specifically granted thereunder.

Section 5.07. Requirements of Public Authorities and of Insurance Underwriters and Policies; Compliance with Master Lease.

(a) The terms and provisions of Article 13 of the Ground Lease are hereby incorporated by reference into this Lease, and made a part hereof, as though such terms and provisions were set forth fully in this Lease. The Subtenant hereby assumes each and every obligation of the Fund under said Article 13 of the Ground Lease, and the Fund hereby appoints, and the Subtenant hereby accepts such appointment as, the attorney-in-fact of the Fund coupled with an interest for the purpose of exercising the rights of the Fund specifically granted thereunder.

(b) In the event the Subtenant does not timely perform any of the obligations of Subtenant under Section 13.04 of the Ground Lease, the Fund, after reasonable prior notice to the Subtenant, may perform said obligations at the expense of the Subtenant, and all such costs and expenses shall be payable by the Subtenant to the Fund as Rental within ten (10) days after demand therefor; and if the Landlord performs any of said obligations, any costs and expenses payable by the Fund to the Landlord pursuant to Section 13.04(d) of the Ground Lease shall be paid by the Subtenant to the Landlord within ten (10) days after the Landlord makes a demand therefor (which demand shall be given in accordance with the Ground Lease).

Section 5.08. Equipment. The terms and provisions of Article 14 of the Ground Lease are hereby incorporated by reference into this Lease, and made a part hereof, as though such terms and provisions were set forth fully in this Lease. The Subtenant hereby assumes each and every obligation of the Fund under said Article 14 of the Ground Lease.

Section 5.09. Discharge of Liens; Bonds. The terms and provisions of Article 15 of the Ground Lease are hereby incorporated by reference into this Lease, and made a part hereof, as though such terms and provisions were set forth fully in this Lease. The Subtenant hereby assumes each and every obligation of the Fund under said Article 15 of the Ground Lease, and the Fund hereby appoints, and the Subtenant hereby accepts such appointment as, the attorney-in-fact of the Fund coupled with an interest for the purpose of exercising the rights of the Fund specifically granted thereunder.

Section 5.10. Indemnification. The terms and provisions of Article 18 of the Ground Lease are hereby incorporated by reference into this Lease, and made a part hereof, as though such terms and provisions were set forth fully in this Lease. The Subtenant hereby assumes each and every obligation of the Fund under said Article 18 of the Ground Lease, and the Fund hereby appoints, and the Subtenant hereby accepts such appointment as, the attorney-in-fact of the Fund coupled with an interest for the purpose of exercising the rights of the Fund specifically granted thereunder.

The provisions of this Section 5.10 shall survive the Expiration Date with respect to actions or the failure to take any actions or any other matter arising prior to the Expiration Date.

Section 5.11. Right of Inspection, Etc. The terms and provisions of Article 19 of the Ground Lease are hereby incorporated by reference into this Lease, and made a part hereof, as though such terms and provisions were set forth fully in this Lease. The Subtenant hereby assumes each and every obligation of the Fund under said Article 19 of the Ground Lease, and the Fund hereby appoints, and the Subtenant hereby accepts such appointment as, the attorney-in-fact of the Fund coupled with an interest for the purpose of exercising the rights of the Fund specifically granted thereunder.

Section 5.12. Landlord's Right to Perform Subtenant's Covenants under Ground Lease. The terms and provisions of Article 20 of the Ground Lease are hereby incorporated by reference into this Lease, and made a part hereof, as though such terms and provisions were set forth fully in this Lease. The Subtenant hereby assumes each and every obligation of the Fund under said Article 20 of the Ground Lease.

Section 5.13. Permitted Use; No Unlawful Occupancy. The terms and provisions of Article 22 of the Ground Lease are hereby incorporated by reference into this Lease, and made a part hereof, as though such terms and provisions were set forth fully in this Lease. The Subtenant hereby assumes each and every obligation of the Fund under said Article 22 of the Ground Lease, and the Fund hereby appoints, and the Subtenant hereby accepts such appointment as, the attorney-in-fact of the Fund coupled with an interest for the purpose of exercising the rights of the Fund specifically granted thereunder.

Section 5.14. Community Facilities. The terms and provisions of Article 25 of the Ground Lease are hereby incorporated by reference into this Lease, and made a part hereof, as though such terms and provisions were set forth fully in this Lease. The Subtenant hereby assumes each and every obligation of the Fund under said Article 25 of the Ground Lease, and the Fund hereby appoints, and the Subtenant hereby accepts such appointment as, the attorney-in-fact of the Fund coupled with an interest for the purpose of exercising the rights of the Fund specifically granted thereunder.

Section 5.15. Marginal Street Playground. The terms and provisions of Article 26 of the Ground Lease are hereby incorporated by reference into this Lease, and made a part hereof, as though such terms and provisions were set forth fully in this Lease. The Subtenant hereby assumes each and every obligation of the Fund under said Article 26 of the Ground Lease, and the Fund hereby appoints, and the Subtenant hereby accepts such appointment as, the attorney-in-fact of the Fund coupled with an interest for the purpose of exercising the rights of the Fund specifically granted thereunder.

Section 5.16. Excavations and Shoring. The terms and provisions of Article 28 of the Ground Lease are hereby incorporated by reference into this Lease, and made a part hereof, as though such terms and provisions were set forth fully in this Lease. The Subtenant hereby assumes each and

every obligation of the Fund under said Article 28 of the Ground Lease, and the Fund hereby appoints, and the Subtenant hereby accepts such appointment as, the attorney-in-fact of the Fund coupled with an interest for the purpose of exercising the rights of the Fund specifically granted thereunder.

Section 5.17. Easements. The terms and provisions of Article 35 of the Ground Lease are hereby incorporated by reference into this Lease, and made a part hereof, as though such terms and provisions were set forth fully in this Lease. The Subtenant hereby assumes each and every obligation of the Fund under said Article 35 of the Ground Lease, and the Fund hereby appoints, and the Subtenant hereby accepts such appointment as, the attorney-in-fact of the Fund coupled with an interest for the purpose of exercising the rights of the Fund specifically granted thereunder.

Section 5.18. Roof of Premises. The terms and provisions of Article 36 of the Ground Lease are hereby incorporated by reference into this Lease, and made a part hereof, as though such terms and provisions were set forth fully in this Lease. The Subtenant hereby assumes each and every obligation of the Fund under said Article 36 of the Ground Lease, and the Fund hereby appoints, and the Subtenant hereby accepts such appointment as, the attorney-in-fact of the Fund coupled with an interest for the purpose of exercising the rights of the Fund specifically granted thereunder.

Section 5.19. Costs and Expenses. Notwithstanding any provisions of the Ground Lease or this Lease to the contrary, to the extent that provisions of the Ground Lease, including, without limitation, Section 23.12 thereof, obligate the Fund, as Tenant, to pay costs and expenses or other amounts to the Landlord, and to the extent the Subtenant has not otherwise assumed such obligations pursuant to this Article 5, the Subtenant hereby assumes such obligations and covenants and agrees to pay any such amounts as the same become due and payable in accordance with and subject to the applicable provisions of the Ground Lease.

Section 5.20. Ground Lease Provisions Benefitting Landlord. (a) Whenever pursuant to any provision of the Ground Lease the Fund grants any release or waiver to Landlord, Subtenant shall be deemed to have granted the same to the Landlord, and, in addition, Subtenant shall be deemed to have granted the same to the Fund and (b) whenever pursuant to any provision of the Ground Lease the Landlord, or its agents, is afforded any right of entry, access or use of the Premises, such right is also granted by Subtenant to Landlord and its agents, and, in addition, such right is granted by Subtenant to the Fund and its agents.

ARTICLE 6.

ASSIGNMENT, SUBLETTING, ETC.

Section 6.01. Restrictions on Assignments, Subletting and Transfers. Neither this Lease nor any interest of the Subtenant in this Lease shall be sold, assigned, or otherwise transferred, whether by operation of law or otherwise, nor shall the Subtenant sublet the Premises or any part thereof or, except as otherwise specifically provided herein, permit the Premises or any part thereof to be used or occupied by anyone other than the Subtenant, nor shall the Subtenant mortgage, pledge, encumber or otherwise hypothecate this Lease or the Premises or any part thereof in any manner whatsoever, without the prior written consent of the Fund in each case, which consent may be withheld by the Fund for any reason whatsoever.

ARTICLE 7.

BUILDINGS AND EQUIPMENT

Section 7.01. Construction. The Fund and the Subtenant acknowledge and agree that the Buildings shall be constructed in accordance with and subject to the provisions of the Ground Lease and the Development Agreement.

Section 7.02. Ownership of Buildings and Equipment. Pursuant to Section 10.02 of the Ground Lease, title to the Buildings, and the materials to be incorporated in the Buildings at any time, shall vest in the Fund, as tenant thereunder, subject to the terms and conditions thereof. Title to the said Buildings and materials hereby demised shall at all times during the term of this Lease remain in the Fund, except that furniture, furnishings and other items of personal property which are placed in the Premises and used by the Subtenant in connection with its use of the Premises as a public school, whether or not attached to the Premises, shall be solely property of, or under the control of, the Subtenant. The Fund and the Subtenant further agree that (i) the Fund shall not be liable in any manner for payment or otherwise to any contractor, subcontractor, laborer or supplier of materials or other Person in connection with the purchase of any such materials, (ii) the Fund shall not have any obligation to pay any compensation to the Subtenant by reason of acquisition of title to such materials and Buildings by the Subtenant and (iii) the Fund shall not have any obligation with respect to the storage or care of such materials or the Buildings.

ARTICLE 8.

NO REPRESENTATIONS BY THE FUND

Section 8.01. Condition of School Land. The Subtenant acknowledges that Subtenant is fully familiar with the School Land, the Title Matters, the Requirements, the Master Lease, the Master Development Plan, the Settlement Agreement, Ground Lease, and the Design Guidelines. Except as otherwise expressly set forth in this Lease, the Ground Lease or the Development Agreement, (i) no representations, statements or warranties, express or implied have been made by or on behalf of the Fund in respect of the School Land, the status of title thereto, the physical condition thereof, the zoning or other laws, regulations, rules and orders applicable thereto or the use that may be made of the School Land, (ii) Subtenant has relied on no such representation, statements or warranties, and (iii) the Fund shall in no event whatsoever be liable for any latent or patent defects in the Land.

Section 8.02. No Representation by the Fund. Except as otherwise expressly set forth in this Lease, the Ground Lease or the Development Agreement, no representations, statements or warranties, express or implied, have been made by or on behalf of the Fund in respect of the Premises, the Project Area, the status of title thereto, the physical condition thereof, including, without limitation, the landfill portions thereof, the zoning or other laws, regulations, rules and orders applicable thereto, or the use that may be made of the Premises. Notwithstanding any representations, statements or warranties made by the Fund relating to the Premises, the Subtenant has not relied on any such representations, statements or warranties, and the Subtenant agrees that the Fund shall in no event whatsoever be liable for any latent or patent defects in the Premises.

ARTICLE 9.

LIABILITY FOR INJURY OR DAMAGE, ETC.

Section 9.01. Fund Not Liable for Injuries or Damage. The Fund shall in no event whatsoever be liable for any injury or damage to the Subtenant or to any other Person happening on, in or about the Premises, the Residential Portion and its appurtenances, nor for any injury or damage to the Premises, the Residential Portion or to any property belonging to the Subtenant or to any other Person which may be caused by any fire or breakage, or by the use, misuse or abuse of the Buildings (including, but not limited to, any of the common areas within the Buildings, Equipment, elevators, hatches, openings, installations, stairways, hallways, or other common facilities), or the streets or sidewalk area within the Premises or Residential Portion or which may arise from any other cause whatsoever except to the extent any of the foregoing shall have resulted from the negligence or willful misconduct of the Fund, or its officers, agents, employees or licensees; nor shall the Fund in any event be liable for the acts or failure to act of any tenant of any premises within the Project Area other than the Premises, or of any agent, representative, employee, contractor or servant of such tenant. Notwithstanding any provision in this Lease to the contrary, in no event shall the Fund be liable for any consequential damages suffered or incurred by the Subtenant.

Section 9.02. Fund Not Liable for Utilities, Disturbances or Conditions. The Fund shall not be liable to the Subtenant or to any other Person for any failure of water supply, gas or electric current, nor for any injury or damage to any property of the Subtenant or of any other Person or to the Premises caused by or resulting from gasoline, oil, steam, gas, electricity, or hurricane, tornado, flood, wind or similar storms or disturbances, or water, rain or snow which may leak or flow from the street, sewer, gas mains or subsurface area or from any part of the Premises, or leakage of gasoline or oil from pipes, appliances, sewer or plumbing works therein, or from any other place, nor for interference with light or other incorporeal hereditaments by anybody, or caused by any public or quasi-public work except to the extent any of the foregoing shall have resulted from the negligence or willful misconduct of the Fund or its officers, agents, employees or licensees.

Section 9.03. Fund Not Liable for Damages due to Land Conditions or Any Other Cause Covered by Insurance. In addition to the provisions of Sections 9.01 and 9.02, in no event shall the Fund be liable to the Subtenant or to any other Person for any injury or damage to any property of the Subtenant or of any other Person or to the Premises, (a) arising out of any sinking, shifting, movement, subsidence, failure in load-bearing capacity of, or other matter or difficulty related to, the soil, or other surface or subsurface materials, forming part of the School Land or in the Project Area, or (b) arising out of any other cause, including the negligence or willful misconduct of the Fund or its officers, agents, employees or licensees, if and to the extent such injury or damage is covered by any insurance policy carried by the Fund.

In no event shall the Subtenant be liable to the Fund or to any other Person for any injury or damage to the Fund or to such other Person happening on, in or about the Premises and its appurtenances which may be caused by the Utilities or the construction or repair by the Fund of the School Sidewalks except to the extent that the same shall have been caused in whole or in part by the negligence or willful misconduct of the Subtenant or any employee, agent, servant or contractor of the Subtenant.

ARTICLE 10.

INDEMNIFICATION

Section 10.01. Indemnification. The Subtenant, to the fullest extent permitted by law, shall indemnify and save the Fund and its agents, directors, officers and employees (collectively, the "Indemnitees"), harmless from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including, without limitation, attorneys' fees and disbursements, which may be imposed upon or incurred by or asserted against any of the Indemnitees by reason of any of the following occurring during the Term;

- (a) any work or thing done in or on the Premises or any part thereof;
- (b) any use, non-use, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Premises or any part thereof or of any street, alley, sidewalk, curb, vault, passageway or space comprising a part of the Premises or adjacent thereto, provided such indemnity with regard to streets, alleys, sidewalks, curbs, vaults, passageways and other space is limited to an alteration, repair, condition, or maintenance of any street, alley, sidewalk, curb, vault, passageway or other space done or performed by the Subtenant or any agent, contractor, servant or employee of the Subtenant or which the Subtenant is obligated to do or perform or which results from use by the Subtenant or any agent, contractor, servant or employee of the Subtenant;
- (c) any negligent or tortious act or failure to act, while engaged in the course of employment for Subtenant by any agent, contractor, servant or employee of the Subtenant, within the Residential Portion or within the Project Area;
- (d) any accident, injury (including death at any time resulting therefrom) or damage to any Person or property occurring in or on the Premises or any part thereof or in, or on about any sidewalk or vault adjacent to the Premises unless such sidewalk or vault is solely within the control of the Landlord or a utility company;
- (e) any material failure on the part of the Subtenant to perform or comply with any of the covenants, agreements, terms or conditions contained in this Lease on its part to be performed or complied with;
- (f) any lien or claim which may have arisen out of any act of the Subtenant or any agent, contractor, servant or employee of the Subtenant against or on the Premises, the Residential Portion or any other portion of the Project Area, or any lien or claim created or permitted to be created by the Subtenant in respect of the Premises or the Residential Portion against any assets of, or funds appropriated to any of the Indemnitees under the laws of the State of New York or of any other Governmental, the Authority or any liability which may be asserted against any of the Indemnitees with respect thereto;
- (g) any failure on the part of the Subtenant to keep, observe and perform any of the terms, covenants, agreements, provisions, conditions or limitations contained in the Construction Agreements or other contracts and agreements affecting the Premises, on the Subtenant's part to be kept, observed or performed;

(h) any tax attributable to the execution, delivery or recording of this Lease other than any real property transfer gains tax or other transfer tax which may be imposed on the Fund;

(i) any contest by the Subtenant permitted pursuant to the provisions of this Lease and the Ground Lease, including, without limitation, Articles 4 and 13 of the Ground Lease;

(j) any action taken by any Person pursuant to any Environmental Law or under common law, pertaining to Hazardous Materials, or in any manner arising out of or related to the presence, use, generation, storage, disposal or transport of any Hazardous Materials found in, on or under, affixed to or emanating from the Premises; or

(k) any allegation that an official statement, prepared in connection with the issuance and sale of any School Project Bonds, or any periodic reports, notices or other documents required to be filed or given in connection therewith, contained an untrue or misleading statement of a material fact obtained from the Subtenant or the Board of Education, or omitted to state a material fact relating to The City of New York or the Board of Education of the School Portion of the combined Occupancy Structure necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading;

provided, however, that no Indemnitee shall be (x) released, indemnified or held harmless from any claim for damages, liability, loss, cost damage judgment or expense arising out of the negligence or willful misconduct of such Indemnitee or (y) released, indemnified or held harmless from any claim for damages or liability arising out of any failure by such Indemnitee to comply with the provisions hereof unless the actions taken or omitted to be taken constituting such failure were taken or omitted to be taken upon the good faith belief that such action or inaction was authorized or permitted hereunder or was approved by the Subtenant, except to the extent that the same shall have been caused in whole or in part by the negligence or willful misconduct of such Indemnitee.

Section 10.02. Indemnification Not Affected by Absence of Insurance. The obligations of the Subtenant under this Article 10 shall not be affected in any way by the absence in any case of covering insurance or by the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies affecting the Premises.

Section 10.03. Defense and Settlement of Claims, Actions and Proceedings. If any claim, action or proceeding is made or brought against any of the Indemnitees by reason of any event for which the Subtenant has agreed to indemnify the Indemnities in Section 10.01, then, upon prompt notice, the Subtenant shall resist or defend such claim, action or proceeding (in such Indemnitee's name, if necessary) by the attorneys for the Subtenant's insurance carrier (if such claim, action or proceeding is covered by insurance maintained by the Subtenant) or (in all other instances) by such attorneys as the Subtenant shall select, and the Fund shall approve, which approval shall be deemed given if such counsel is the Corporation Counsel of Subtenant. In such event, the Subtenant shall control all decisions in respect of the litigation and settlement of such claims. In the event such claim, action or proceeding is covered by insurance and the Subtenant's insurer refuses to pay all or any portion of the fees and disbursements of any attorneys separately retained by the Fund, the Fund shall pay such fees and disbursements or such portion as shall not be paid by the Subtenant's insurer. The indemnification obligations imposed upon the Subtenant under Section 10.01 shall not apply to any settlement separately agreed to by any Indemnitee without the consent of the Corporation Counsel of the Subtenant and the Comptroller of the Subtenant nor if the Fund retains its own attorneys and such retention will materially

impair or materially diminish the Subtenant's insurance coverage and the Fund has been so advised in writing by the Subtenant's insurer.

Section 10.04. Survival of Obligation. The provisions of this Article 10 shall survive the Expiration Date with respect to actions or the failure to take any actions or any other matter arising prior to the Expiration Date.

Section 10.05. Injury or Damage Covered By Insurance. Notwithstanding any term, covenant or provision contained in this Lease to the contrary, in no event shall the Subtenant be liable to the Fund for any injury or damage to any property of the Fund or of any other Person or to the Premises, arising out of any cause, including the negligence or willful misconduct of the Subtenant, its officers, agents, employees or licensees, if and to the extent such injury or damage is covered by any insurance policy.

ARTICLE 11.

RIGHT OF INSPECTION, ETC.

Section 11.01. Right of Inspection and Repair. The Subtenant shall permit the Fund and its agents or representatives to enter the Premises at all reasonable times and upon reasonable notice (except in cases of emergency, in which event the Fund shall reasonably attempt to notify the Subtenant prior to such entry) for the purpose of (a) inspecting the same, (b) determining whether or not the Subtenant is in compliance with its obligations hereunder and (c) making any necessary repairs to the Premises and performing any work therein that may be necessary by reason of the Subtenant's failure to make any such repairs or perform any such work, provided that, except in any emergency (in which event the Subtenant shall have thirty (30) days within which to perform repairs), the Fund shall have given the Subtenant notice specifying such repairs or work and the Subtenant shall have failed to make such repairs or to do such work within one hundred eighty (180) days after the giving of such notice (subject to Unavoidable Delays), or if such repairs or such work cannot reasonably be completed during such one hundred eighty (180) day period, to have commenced and be diligently pursuing the same (subject to Unavoidable Delays).

Section 11.02. Obligations of Fund as to Repairs. Nothing in this Article 11 or elsewhere in this Lease shall imply any duty upon the part of the Fund to do any work required to be performed by the Subtenant hereunder and performance of any such work by the Fund shall not constitute a waiver of the Subtenant's default in failing to perform the same. The Fund, during the progress of any such work, may keep and store at the Premises all necessary materials, tools, supplies and equipment. The Fund shall not be liable for inconvenience, annoyance, disturbance, loss of business or other damage of the Subtenant by reason of making such repairs or the performance of any such work, or on account of bringing materials, tools, supplies and equipment into the Premises during the course thereof and the obligations of the Subtenant under this Lease shall not be affected thereby. To the extent that the Fund undertakes such work or repairs, the provisions of Section 12.02 shall apply thereto, and such work or repairs shall be commenced and completed in a good and workmanlike manner, and with reasonable diligence, subject to Unavoidable Delays, and in such a manner as not to cause the Premises to be in violation of any applicable Requirements or to unreasonably interfere with the use of the Premises as a public school.

ARTICLE 12.

RIGHT TO PERFORM THE SUBTENANT'S COVENANTS

Section 12.01. Fund's Right to Perform Subtenant's Covenants. The Fund, without waiving or releasing the Subtenant from any obligation of the Subtenant contained in this Lease, may (but shall be under no obligation to) perform any obligation required to be performed by the Subtenant hereunder on the Subtenant's behalf if Subtenant at any time shall be in Default, after notice thereof and after expiration of applicable grace periods, if any, provided under this Lease for the Subtenant to cure or commence to cure the same.

Section 12.02. Reimbursement of Costs Expended by the Fund and Other Rights of the Fund. All reasonable sums paid by the Fund and all reasonable costs and expenses incurred by the Fund in connection with its performance of any obligation pursuant to Section 12.01, shall be paid by the Subtenant to the Fund within ten (10) days after demand. Any payment or performance by the Fund pursuant to Section 12.01 shall not be nor be deemed to be a waiver or release of breach or Default of the Subtenant with respect thereto or of the right of the Fund to take such remedial action as may be permissible hereunder if an Event of Default by the Subtenant shall have occurred. The Fund shall not be limited in the proof of any damages which the Fund may claim against the Subtenant arising out of or by reason of the Subtenant's failure to provide and keep insurance in force as aforesaid to the amount of the insurance premium or premiums not paid, but the Fund also shall be entitled to recover, as damages for such breach, the uninsured amount of any loss and damage and the reasonable costs and expenses of suit, including, without limitation, reasonable attorneys' fees and disbursements, suffered or incurred by reason of damage to or destruction of the Premises.

ARTICLE 13.

NO ABATEMENT OF RENTAL

Section 13.01. No Abatement of Rental. Except as may be otherwise expressly provided herein, there shall be no abatement, off-set, diminution or reduction of Rental payable by the Subtenant hereunder or of the other obligations of the Subtenant hereunder under any circumstances.

ARTICLE 14.

EVENTS OF DEFAULT; CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 14.01. Events of Default. Each of the following events shall be an "Event of Default" hereunder:

(a) if the Subtenant shall fail to pay any installment of Base Rent when the same shall become due and payable and such failure shall continue for five (5) days after notice from the Fund to the Subtenant;

(b) if the Subtenant shall fail to pay any installment of Rental other than Base Rent, or any part thereof, when the same shall become due and payable and such failure shall continue for thirty (30) days after notice from the Fund to the Subtenant;

(c) if this Lease or the estate of the Subtenant hereunder shall be assigned, subleased, transferred, mortgaged or encumbered without the consent of the Fund;

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

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

(f) if the Subtenant shall abandon the Premises; or

(g) if an Event of Default within the meaning of the Ground Lease shall occur and be continuing.

Notwithstanding anything contained in this Section 14.01 to the contrary but subject to the provision of Section 14.03 and Section 14.04 herein, a failure by the Subtenant to pay when due any payment hereunder or a failure by the Subtenant to observe and perform any covenant, condition or agreement on its part to be performed hereunder which in either case results from a failure by the Subtenant to appropriate sufficient moneys for such purposes shall not constitute an Event of Default hereunder.

Section 14.02. Remedies. If an Event of Default shall occur, the Fund may proceed by appropriate judicial proceedings, either at law or in equity, to enforce performance or observance by the Subtenant of the applicable provisions of this Lease and/or to recover damages for breach thereof.

Section 14.03. Termination. If any Event of Default shall occur or the Subtenant shall fail to appropriate moneys for the payment in full of amounts payable by the Subtenant hereunder when due and the Fund, at any time thereafter, at its option, gives notice to the Subtenant stating that this Lease and the Term shall expire and terminate on the date specified in such notice, which date shall be not less than ten (10) days after the date of such notice (except that if in accordance with the Ground Lease the Landlord at its option elects to terminate the Ground Lease, this Lease and the Term shall expire and terminate on the date on which the Ground Lease expires and terminates), then this Lease shall expire and terminate as of the date specified in the notice given pursuant to this Section, as if the same were the date herein definitively fixed for the expiration of the Term and Subtenant shall immediately quit and surrender the Premises.

Section 14.04. Payment of Rental Upon Termination. If this Lease shall be terminated as provided in Section 14.03, the Subtenant shall pay to the Fund all Rentals payable by the Subtenant to the Fund under this Lease to the date upon which this Lease and the Term shall have been so terminated.

Section 14.05. Effect of Termination on Obligation. Notwithstanding anything contained in this Lease to the contrary, no termination of this Lease pursuant to Section 14.03 shall relieve the Subtenant of its liabilities and obligations under Article 5 to restore the Premises, or Article 10 to indemnify the Fund and other Indemnitees, and to pay all other Rentals hereunder, all of which shall survive such expiration, termination, repossession or reletting.

Section 14.06. Suits for Damages. Suit or suits for the recovery of damages, or for a sum equal to any installment or installments of Rental payable hereunder or other sums payable by the Subtenant to the Fund pursuant to this Article 14, may be brought by the Fund from time to time at the election of the Fund, and nothing herein contained shall be deemed to require the Fund or the Bond trustee to await the date whereon this Lease or the Term would have expired had there been no Event of Default by the Subtenant and termination.

Section 14.07. Right to Receive, and Effect of, Payments After Commencement of Action. No receipt of moneys by the Fund from the Subtenant after the termination of this Lease, or after the giving of any notice of the termination of this Lease (unless such receipt prior to such termination cures the Event of Default which was the basis for the Event of Default on which such termination is predicated), shall reinstate, continue or extend the Term or affect any notice theretofore given to the Subtenant, or operate as a waiver of the right of the Fund to enforce the payment of Rental payable by the Subtenant hereunder or thereafter falling due, or operate as a waiver of the right of the Fund to recover possession of the Premises by proper remedy, except as herein otherwise expressly provided, it being agreed that after the service of notice to terminate this Lease or the commencement of any suit or summary proceedings, or after a final order or judgment for the possession of the Premises, the Fund may demand, receive and collect any moneys due or thereafter falling due without in any manner affecting such notice, proceeding, order, suit or judgment, all such moneys collected being deemed payments on account of the Subtenant's liability hereunder, and shall be applied, in order of priority, first, to pay or provide for the payment of the principal of and interest on the School Project

Bonds in accordance with Section 12.01 of the Fund's Bond Resolution, and ,then, to pay the balance of Rental due hereunder.

Section 14.08. Waiver of Jury Trial. Except as otherwise expressly provided herein or as prohibited by applicable law, the Fund and the Subtenant waive and shall waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matter whatsoever arising out of or in any way connected with this Lease, the relationship of the Fund and the Subtenant, the Subtenant's use or occupancy of the Premises, or any claim of injury or damage.

Section 14.09. Waiver. No failure by the Fund to insist upon the strict performance of any covenant, agreement, term or condition of this Lease, or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial Rental during the continuance of any such breach, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No covenant, agreement, term or condition of this Lease to be performed or complied with by the Subtenant, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by the Fund. No waiver of any breach shall affect or alter this Lease, but each and every covenant, agreement, term and condition of this Lease still continue in full force and effect with respect to any other than existing or subsequent breach thereof.

Section 14.10. Injunctive and Other Relief and Remedies. In the event of any breach or threatened breach by the Subtenant of any of the covenants, agreements, terms or conditions contained in this Lease, the Fund shall be entitled to enjoin such breach or threatened breach and shall have the right to invoke any rights and remedies allowed at law or in equity or by statute or otherwise as though re-entry, summary proceedings, and other remedies were not provided for in this Lease. To the extent permitted by law, the Subtenant waives any requirement for the posting of bonds or other security in any such action.

Section 14.11. Remedies Cumulative. Each right and remedy of the Fund provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Article 14 or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by the Fund of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the Fund of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

Section 14.12. Agreement to Pay Attorneys' Fees and Expenses. The Subtenant shall pay to the Fund all reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by the Fund or the Bond trustee, as applicable, in any action or proceeding to which the Fund may be made a party by reason of any act or omission of the Subtenant. The Subtenant also shall pay to the Fund all reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by the Fund in enforcing any of the covenants and provisions of this Lease and incurred in any action brought by the Fund against the Subtenant on account of the provisions hereof, if and to the extent that the Fund shall prevail in any such action and all such costs, expenses, and reasonable attorneys' fees and disbursements may be included in and form a part of any judgment entered in any proceeding brought by the Fund against the Subtenant on or under this Lease. All of the sums paid or obligations incurred by the Fund as aforesaid shall be paid by the Subtenant to the Fund within thirty (30) days after demand by the Fund.

Section 14.13. Effect of Discontinuance of Legal Proceedings. In case any proceeding taken by the Fund under this Lease on account of any Event of Default hereunder shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Fund, then, and in every such case, the Fund and the Subtenant shall be restored to their respective former positions and rights hereunder, and all rights, remedies, powers and duties of the Fund and the Subtenant, as the case may be, under this Lease shall continue as in effect prior to the commencement of such proceedings.

ARTICLE 15.

NOTICES

Section 15.01. Notices. Whenever it is provided in this Lease that a notice, demand, request, consent, approval or other communication shall or may be given to or served upon the Fund, the Subtenant or the Bond Trustee by any other of such Persons, and whenever any of such Persons shall desire to give or serve upon any other such Person any notice, demand, request, consent, approval, or other communication with respect to this Lease, each such notice, demand, request, consent, approval, or other communication shall be in writing and, any law or statute to the contrary notwithstanding, shall be effective for any purpose if given or served as follows:

(i) if to the Subtenant, by delivery or by mailing the same to the Subtenant by registered or certified mail, postage prepaid, return receipt requested, addressed to the Subtenant at 110 Livingston Street, Brooklyn, New York 11201, Attention: Secretary, Board of Education, with a copy thereof to Chief Executive, Division of School Buildings, 28-11 Queens Plaza North, Long Island City, New York 11101, or to such other address(es) and attorneys as the Subtenant may from time to time designate by notice given to the Fund and the Bond Trustee as provided herein;

(ii) if to the Fund, by delivery or by mailing the same to the Fund by registered or certified mail, postage prepaid, return receipt requested, addressed to the Fund at 28-11 Queens Plaza North, Long Island City, New York 11101, Attention: Executive Director, or to such other address(es) and attorneys as the Fund may from time to time designate by notice given to the Subtenant and the Bond Trustee as provided herein; and

(iii) if to the Bond Trustee, by delivering or by mailing the same to the Bond Trustee by registered or certified mail, postage prepaid, return receipt requested, addressed to The Bank of New York at 101 Barclay Street, New York, New York 10286, Attention: Corporate Trust Department, or to such other address as the Bond Trustee may from time to time designate by notice given to the Fund and the Subtenant as provided herein.

Section 15.02. Manner of Providing Notices. Every notice, demand, request, consent, approval, or other communication hereunder shall be deemed to have been given or served when delivered, or if mailed in the United States mails, postage prepaid, in the manner aforesaid (except that a notice designating the name or address of a person to whom any notice or other communication, or copy thereof, shall be sent shall be deemed to have been given when same is received) upon receipt.

ARTICLE 16.

SUBORDINATION; ATTORNMENT

Section 16.01. No Subordination. The terms, provisions and conditions of this Lease, as modified, amended or supplemented from time to time, shall not be subject or subordinate to (a) any mortgage now or hereafter placed upon the Subtenant's interest in this Lease or (b) any other liens or encumbrances hereafter affecting the Subtenant's interest in this Lease.

Section 16.02. Attornment. If by reason of (i) a default under the Master Lease, or (ii) a termination of the Master Lease pursuant to the terms of the Settlement Agreement, the Fund, as lessee under the Ground Lease attorns to the then holder of the reversionary interest in the premises demised by the Ground Lease and recognizes such holder as the Landlord under the Ground Lease, the Subtenant also will attorn to such holder and will recognize such holder as the Landlord under the Ground Lease. The Subtenant shall execute and deliver, at any time and from time to time, upon the request of the Fund, the Landlord or of the Master Landlord any further instrument which may be reasonably necessary or appropriate to evidence such attornment. The Subtenant waives the provision of any statute or rule of law now or hereafter in effect which may give or purport to give the Subtenant any right of election to terminate this Lease or to surrender possession of the Premises in the event any proceeding is brought by the Master Landlord or the Landlord to terminate the same, and agrees that this Lease shall not be affected in any way whatsoever by any such proceeding.

ARTICLE 17.

CERTIFICATES BY THE FUND AND THE SUBTENANT

Section 17.01. No Default, Etc. Certificate by Subtenant. At any time and from time to time upon not less than ten (10) days notice by the Fund, the Subtenant shall execute, acknowledge and deliver to the Fund or any other party reasonably specified by the Fund a statement certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same, as modified, is in full force and effect and stating the modifications) and the date to which each obligation constituting Rental has been paid, and stating whether or not, to the best knowledge of the Subtenant, the Fund is in default in performance of any covenant, agreement or condition contained in this Lease, and, if so, specifying each such default of which the Subtenant may have knowledge.

Section 17.02. No Default, Etc. Certificate by Fund. At any time and from time to time upon not less than ten (10) days notice by the Subtenant, the Fund shall execute, acknowledge and deliver to the Subtenant or any other party reasonably specified by the Subtenant a statement certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same, as modified, is in full force and effect and stating the modifications) and the date to which each obligation constituting Rental has been paid, and stating whether or not to the best knowledge of the Fund, the Subtenant is in Default in the performance of any covenant, agreement or condition contained in this Lease, and, if so, specifying each such Default of which the Fund may have knowledge.

ARTICLE 18.

CONSENTS AND APPROVALS

Section 18.01. Prior Written Consent Requirement. All consents and approvals which may be given under this Lease shall, as a condition of their effectiveness, be in writing. The granting of any consent or approval by a party to perform any act requiring consent or approval under the terms of this Lease, or the failure on the part of a party to object to any such action taken without the required consent or approval, shall not be deemed a waiver by the party whose consent was required of its right to require such consent or approval for any further similar act.

Section 18.02. Consents Deemed Given Under Certain Conditions. If, pursuant to the terms of this Lease, any consent or approval by the Fund or the Subtenant is not to be unreasonably withheld or is subject to a specified standard, then (i) unless expressly provided otherwise in this Lease, if the party who is to give its consent or approval shall not have notified the other party within thirty (30) Business Days or such other period as expressly specified in this Lease after receiving such other party's request for a consent or approval that such consent or approval is granted or denied, and if denied, the reasons therefor in reasonable detail, such consent or approval shall be deemed granted, and (ii) if upon notice that a consent or approval is denied, the notified party contests such denial in accordance with this Lease and a final determination that the consent or approval was unreasonably withheld or that such specified standard has been met so that the consent or approval should have been granted, the consent or approval shall be deemed granted and such granting of the consent or approval shall be the only remedy to the party requesting or requiring the consent or approval.

Section 18.03. Consents Not to be Unreasonably Delayed. If, pursuant to the terms of this Lease, any consent or approval by the Fund or the Subtenant is not to be unreasonably withheld, such consent or approval shall, in addition, not be unreasonably delayed.

Section 18.04. No Conditional Fees or Charges. Except as specifically provided herein, no fees or charges of any kind or amount shall be required by either party hereto as a condition of the grant of any consent or approval which may be required under this Lease.

ARTICLE 19.

EXECUTORY NATURE OF LEASE

Section 19.01. Executory Nature of Lease. Any agreement of The City of New York contained in this Lease shall be deemed executory to the extent of the monies available to New York City therefor, and no liability on account thereof shall be incurred by The City of New York beyond the monies available for the purpose of this Lease. In accordance with Section 14.01 hereof, a failure by the Subtenant to pay when due any payment hereunder or a failure by the Subtenant to observe and perform any covenant, condition or agreement on its part to be performed hereunder which in either case results from a failure by the Subtenant to appropriate sufficient moneys for such purposes shall not constitute an Event of Default hereunder; however, in accordance with Section 14.03 hereof, upon the failure by the Subtenant to appropriate moneys for the payment in full of amounts payable by the Subtenant when due and the giving of due notice by the Fund, this Lease shall expire and terminate pursuant to Section 14.03.

ARTICLE 20.

ENTIRE AGREEMENT

Section 20.01. Entire Agreement. This Lease, together with the Exhibits hereto, contains all the promises, agreements, conditions, inducements and understandings between the Fund and the Subtenant relating to the sublease of the Premises by the Fund to the Subtenant, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, expressed or implied, among them other than as herein set forth.

ARTICLE 21.

QUIET ENJOYMENT

Section 21.01. Covenant of Quiet Enjoyment. The Fund covenants that, so long as this Lease remains in full force and effect, the Subtenant shall and may, subject to the terms and conditions of this Lease, peaceably and quietly have, hold and enjoy the Premises for the term hereby granted without molestation or disturbance by or from the Fund or any Person claiming through the Fund and free of any encumbrance created or suffered by the Fund, except those encumbrances, liens or defects of title, created or suffered by the Subtenant, the Ground Lease and the Title Matters.

ARTICLE 22.

INVALIDITY OF CERTAIN PROVISIONS

Section 22.01. Severability of Invalid Provisions. If any term or provision of this Lease or the application thereof to any Person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

ARTICLE 23.

RECORDING OF MEMORANDUM

Section 23.01. Recordation of Memorandum of Lease. Either the Fund or the Subtenant may record this Lease or any amendment or modification of this Lease. Each shall, upon the request of the other, join in the execution of a memorandum of this Lease or a memorandum of any amendment or modification of this Lease in proper form for recordation.

ARTICLE 24.

MISCELLANEOUS

Section 24.01. Captions for Reference Only. The captions of this Lease are for convenience of reference only and in no way define, limit or describe the scope or intent of this Lease or in any way affect this Lease.

Section 24.02. Table of Contents for Reference Only. The Table of Contents is for the purpose of convenience of reference only and is not to be deemed or construed in any way as part of this Lease or as supplemental thereto or amendatory thereof.

Section 24.03. Interpretation of Pronouns and Other Terms. The use herein of the neuter pronoun in any reference to the Fund or the Subtenant shall be deemed to include only the Fund or the Subtenant, and the use herein of the words "successors and assigns" or "successors or assigns" of the Fund or the Subtenant shall be deemed to include the heirs, legal representatives and assigns of any individual the Fund or the Subtenant, as applicable.

Section 24.04. Limitation on Liability. The liability of the Fund or of any Person who has at any time acted as the Fund hereunder for damages or otherwise shall be limited to the Fund's interest in the Premises, including, without limitation, the rents and profits therefrom, the proceeds of any insurance policies covering or relating to the Premises, any awards payable in connection with any condemnation of the Premises or any part thereof, and any other rights, privileges, licenses, franchises, claims, causes-of action or other interests, sums or receivables appurtenant to the Premises. Neither the Fund nor any such Person nor any of the members, directors, officers, employees, agents or servants of either shall have any liability (personal or otherwise) hereunder beyond the Fund's interest in the Premises, and no other property or assets of the Fund or any such Person or any of the members, directors, officers, employees, agents or servants of either shall be subject to levy, execution or other enforcement procedure for the satisfaction of the Subtenant's remedies hereunder.

Section 24.05. No Merger of Estates. Except as otherwise expressly provided in this Lease, there shall be no merger of this Lease or the leasehold estate created hereby with the fee estate in the Premises or any part thereof by reason of the same Person acquiring or holding, directly or indirectly, this Lease or the leasehold estate created hereby or any interest in this Lease or in such leasehold estate as well as the fee estate in the Premises.

Section 24.06. Storage of Refuse. The Subtenant shall store all refuse from the Premises off the streets in an enclosed area on the Premises, and in a manner reasonably satisfactory to the Landlord and in accordance with the requirements of municipal and/or private sanitation services serving the Premises.

Section 24.07. Amendments. (a) This Lease may not be changed, modified, or terminated orally, but only by a written instrument of change, modification or termination executed by the parties to this Lease, subject to the prior written consent of the Landlord, and may only be changed, modified or terminated if such change, modification or termination is in compliance with the Fund's Bond Resolution.

(b) The Fund covenants and agrees that it shall not change, modify or terminate the Ground Lease in any way whatsoever without the consent of the Subtenant and, if required by the Fund's Bond Resolution, the consent of the Bond Trustee.

Section 24.08. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of New York.

Section 24.09. Binding Effect and Inurement of Benefits. The agreements, terms, covenants and conditions herein shall be binding upon, and shall inure to the benefit of, the Fund, the Subtenant and, to the extent specifically provided for herein, the Landlord and the Bond Trustee, and their respective successors and (except as otherwise provided herein) assigns.

Section 24.10. Subtenant's Obligations with Respect to Fund's Bond Resolution. The Subtenant hereby agrees, upon request of the Fund, to do all reasonable acts, or to refrain from acts, within its power or control in order to enable the Fund to comply with its obligations under the Fund's Bond Resolution to the extent the provisions thereof require the Subtenant to act, or to refrain from acting, in a manner necessary to permit the Fund to perform its obligations thereunder.

Section 24.11. Investment of Moneys under Fund's Bond Resolution. The Subtenant acknowledges and agrees that the Fund, in its sole discretion, may invest or direct the investment of certain moneys held under the Fund's Bond Resolution as provided therein, including proceeds of the School Project Bonds and Base Rent and other moneys paid hereunder for deposit into the funds and accounts established thereunder, and no representation or warranty has been made or is made by the Fund or the Bond Trustee as to the value of such investments; and neither the Fund nor the Bond Trustee or any their respective members, directors, officers, agents, servants or employees shall be liable to the Subtenant or any other Person for any depreciation in value of any such investment or for any loss, direct or indirect, resulting from any such investment.

Section 24.12. References to Articles and Sections. Except as otherwise provided herein, all references in this Lease to "Articles" or "Sections" shall refer to the designated Article(s) or Section(s), as the case may be, of this Lease.

Section 24.13. Title to Plans, Drawing, Specifications and Models. The parties to this Lease acknowledge that all plans, drawings, specifications or models prepared in connection with any Restoration or Capital Improvement, in the possession of and available to the Subtenant, shall become the sole and absolute property of the Landlord to the extent provided in the Ground Lease.

Section 24.14. No Joint Venture or Partnership. Nothing herein is intended nor shall be deemed to create a joint venture or partnership between or among the Fund or the Subtenant or any combination thereof, nor to make the Fund in any way responsible for the debts or losses of the Subtenant.

Section 24.15. Cooperation relating to State School Aid. The Fund agrees to cooperate with the Subtenant (or any agency or authority acting on its behalf) and to provide such documents as the Subtenant (or any agency or authority acting on its behalf) may reasonably request, in connection with applying for or obtaining State educational aid relating to the construction, renovation or operation of the School Portion.

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

**NEW YORK CITY EDUCATIONAL
CONSTRUCTION FUND**

By: *Danica Zdzalis*
Title: Executive Director

**THE CITY OF NEW YORK ACTING BY AND
THROUGH THE BOARD OF EDUCATION**

By: _____
Title: _____

APPROVED AS TO FORM:

Corporation Counsel
of The City of New York

APPROVED:

**THE BOARD OF EDUCATION
OF THE CITY SCHOOL DISTRICT
OF THE CITY OF NEW YORK**

By: Chancellor of the Board of Education
of the City School District
of The City of New York

By: _____
Title: _____

APPROVED:

BATTERY PARK CITY AUTHORITY


By: _____
Title: _____

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

**NEW YORK CITY EDUCATIONAL
CONSTRUCTION FUND**

By: _____
Title: Executive Director

**THE CITY OF NEW YORK ACTING BY AND
THROUGH THE BOARD OF EDUCATION**

By: 
Title: _____

APPROVED AS TO FORM:

Corporation Counsel
of The City of New York

APPROVED:

**THE BOARD OF EDUCATION
OF THE CITY SCHOOL DISTRICT
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BATTERY PARK CITY AUTHORITY

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Title: _____

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**NEW YORK CITY EDUCATIONAL
CONSTRUCTION FUND**

By: _____
Title: Executive Director

**THE CITY OF NEW YORK ACTING BY AND
THROUGH THE BOARD OF EDUCATION**

By: _____
Title: _____

APPROVED AS TO FORM:

Corporation Counsel
of The City of New York

APPROVED:

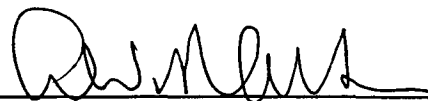
**THE BOARD OF EDUCATION
OF THE CITY SCHOOL DISTRICT
OF THE CITY OF NEW YORK**

By: Chancellor of the Board of Education
of the City School District
of The City of New York

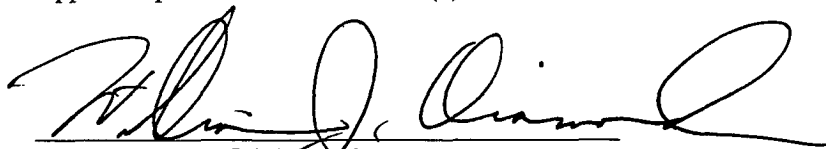
By: _____
Title: _____

APPROVED:

BATTERY PARK CITY AUTHORITY

By: 
Title: *Acting President*

Approved pursuant to subdivision (4) of Section 460 of the Education Law:

A handwritten signature in black ink, appearing to read 'William J. Diamond', written over a horizontal line.

By: William J. Diamond

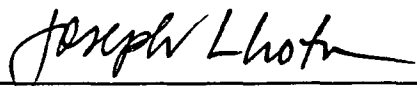
Title: Commissioner
Department of Citywide Administrative Services

By: Joseph J. Lhotta

Title: Director of Management and Budget

Approved pursuant to subdivision (4) of Section 462 of the Education Law:

By: William Diamond
Title: Commissioner of Citywide Administration


By: Joseph J. Lhotka
Title: Director of Management and Budget

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

On the 9th day of October in the year 1996 before me personally came Patricia Zedalis to me known, who, being by me duly sworn, did depose and say that she resides in NEW YORK; that she is the Executive Director of the New York City Educational Construction Fund, the public benefit corporation described in and which executed the above instrument; and that she signed her name thereto by order of the Board of Trustees of said corporation.



Notary Public

GLADYS KATZ
Notary Public, State of New York
No. 24-4850157
Qualified in Kings County
Commission Expires March 3, 1998

DESCRIPTION OF
PART OF PARCEL 22
-- LEASE AREA FOR SCHOOL --

Battery Park City Authority
(Reputed Owner)

All that certain plot, piece or parcel of land situate, lying and being in the Borough of Manhattan, City of New York and State of New York, and being a part of Battery Park City North, and more particularly bounded and described as per the following four inclusive levels:

Level A (School 1st Floor)

Being limited in the vertical plane, the lower limit being at -4.25 feet and the upper limit being at 15.38 feet, and more particularly bounded and described as follows:

BEGINNING at the intersection of the southerly line of Chambers Street and the easterly line of North End Avenue;

1. thence S 88°07'10" E along the southerly line of Chambers Street, a distance of 105.79 feet to the point of intersection of the westerly line of Marginal Street, Wharf or Place and the southerly line of Chambers Street;

2. thence S 18°36'00" E along the westerly line of Marginal Street, Wharf or Place, forming an interior angle of 110°28'50" from the preceding course, a distance of 26.21 to a point;

3. thence S 19°10'32" E continuing along the westerly line of Marginal Street, Wharf or Place, forming an interior angle of 180°34'32" from the preceding course, a distance of 69.63 feet to a point;

4. thence S 18°42'43" E still continuing along the westerly line of Marginal Street, Wharf or Place, forming an interior angle of 179°32'11" from the preceding course, a distance of 113.73 feet to the point of intersection of the westerly line of Marginal Street, Wharf or Place and the northerly line of Warren Street;

5. thence N 88°07'10" W along the northerly line of Warren Street, forming an interior angle of 69°24'27" from the preceding course, a distance of 92.45 feet to a point;

6. thence N 1°52'50" E through Parcel 22, forming an interior angle of 90°00'00" from the preceding course, a distance of 35.88 feet to a point;

7. thence N 88°07'10" W continuing through Parcel 22, forming an interior angle of 270°00'00" from the preceding course, a distance of 11.20 feet to a point;

8. thence N 1°52'50" E still continuing through Parcel 22, forming an interior angle of 90°00'00" from the preceding course, a distance of 6.67 feet to a point;

9. thence N 88°07'10" W still continuing through Parcel 22, forming an interior angle of 270°00'00" from the preceding course, a distance of 43.90 feet to a point;

10. thence N 1°52'50" E still continuing through Parcel 22, forming an interior angle of 90°00'00" from the preceding course, a distance of 93.71 feet to a point;

11. thence N 88°07'10" W still continuing through Parcel 22, forming an interior angle of 270°00'00" from the preceding course, a distance of 30.04 feet to a point;

12. thence S 1°52'50" W still continuing through Parcel 22, forming an interior angle of 270°00'00" from the preceding course, a distance of 0.92 feet to a point;

13. thence N 88°07'10" W still continuing through Parcel 22, forming an interior angle of 90°00'00" from the preceding course, a distance of 2.40 feet to the point of intersection of the easterly line of North End Avenue;

14. thence N 1°52'50" E along the easterly line of North End Avenue, forming an interior angle of 90°00'00" from the preceding course, a distance of 60.66 feet to the Point of Beginning, containing 21,337 square feet or 0.490 acres more or less.

Level B (School 2nd-5th Floor)

Being limited in the vertical plane, the lower limit being at 15.38 feet and the upper limit being at 77.53 feet, and more particularly bounded and described as follows:

BEGINNING at the intersection of the southerly line of Chambers Street and the easterly line of North End Avenue;

1. thence S 88°07'10" E along the southerly line of Chambers Street, a distance of 105.79 feet to the point of intersection of the westerly line of Marginal Street, Wharf or Place and the southerly line of Chambers Street;

2. thence S 18°36'00" E along the westerly line of Marginal Street, Wharf or Place, forming an interior angle of 110°28'50" from the preceding course, a distance of 26.21 to a point;

3. thence S 19°10'32" E continuing along the westerly line of Marginal Street, Wharf or Place, forming an interior angle of 180°34'32" from the preceding course, a distance of 69.63 feet to a point;

4. thence S 18°42'43" E still continuing along the westerly line of Marginal Street, Wharf or Place, forming an interior angle of 179°32'11" from the preceding course, a distance of 113.73 feet to the point of intersection of the westerly line of Marginal Street, Wharf or Place and the northerly line of Warren Street;

5. thence N 88°07'10" W along the northerly line of Warren Street, forming an interior angle of 69°24'27" from the preceding course, a distance of 106.48 feet to a point;

6. thence N 1°52'50" E through Parcel 22, forming an interior angle of 90°00'00" from the preceding course, a distance of 2.59 feet to a point;

7. thence S 88°07'10" E continuing through Parcel 22, forming an interior angle of 90°00'00" from the preceding course, a distance of 2.33 feet to a point;

8. thence N 1°52'50" E still continuing through Parcel 22, forming an interior angle of 270°00'00" from the preceding course, a distance of 17.78 feet to a point;

9. thence S 88°07'10" E still continuing through Parcel 22, forming an interior angle of 90°00'00" from the preceding course, a distance of 0.50 feet to a point;

10. thence N 1°52'50" E still continuing through Parcel 22, forming an interior angle of 270°00'00" from the preceding course, a distance of 22.17 feet to a point;

11. thence N 88°07'10" W still continuing through Parcel 22, forming an interior angle of 270°00'00" from the preceding course, a distance of 43.90 feet to a point;

12. thence N 1°52'50" E still continuing through Parcel 22, forming an interior angle of 90°00'00" from the preceding course, a distance of 93.71 feet to a point;

13. thence N 88°07'10" W still continuing through Parcel 22, forming an interior angle of 270°00'00" from the preceding course, a distance of 30.04 feet to a point;

14. thence S 1°52'50" W still continuing through Parcel 22, forming an interior angle of 270°00'00" from the preceding course, a distance of 0.92 feet to a point;

15. thence N 88°07'10" W still continuing through Parcel 22, forming an interior angle of 90°00'00" from the preceding course, a distance of 2.40 feet to the point of intersection of the easterly line of North End Avenue;

16. thence N 1°52'50" E along the easterly line of North End Avenue, forming an interior angle of 90°00'00" from the preceding course, a distance of 60.66 feet to the Point of Beginning, containing 21,755 square feet or 0.499 acres more or less.

Level C (School Roof Structures)

Being limited in the vertical plane, the lower limit being at 77.53 feet and the upper limit being at 84.50 feet, and more particularly bounded and described as follows:

COMMENCING at the intersection of the southerly line of Chambers Street and the easterly line of North End Avenue;

1. thence S 88°07'10" E along the southerly line of Chambers Street, a distance of 50.67 feet to the POINT OF BEGINNING;

2. thence continuing S 88°07'10" E along the southerly line of Chambers Street, a distance of 55.12 feet to the point of intersection of the westerly line of Marginal Street, Wharf or Place and the southerly line of Chambers Street;

3. thence S 18°36'00" E along the westerly line of Marginal Street, Wharf or Place, forming an interior angle of 110°28'50" from the preceding course, a distance of 26.21 to a point;

4. thence S 19°10'32" E continuing along the westerly line of Marginal Street, Wharf or Place, forming an interior angle of 180°34'32" from the preceding course, a distance of 69.63 feet to a point;

5. thence S 18°42'43" E still continuing along the westerly line of Marginal Street, Wharf or Place, forming an interior angle of 179°32'11" from the preceding course, a distance of 48.91 feet to a point;

6. thence N 88°07'10" W through Parcel 22, forming an interior angle of 69°24'27" from the preceding course, a distance of 21.44 feet to a point;

7. thence N 1°52'50" E continuing through Parcel 22, forming an interior angle of 90°00'00" from the preceding course, a distance of 4.00 feet to a point;

8. thence N 88°07'10" W still continuing through Parcel 22, forming an interior angle of 270°00'00" from the preceding course, a distance of 85.08 feet to a point;

9. thence N 1°52'50" E still continuing through Parcel 22, forming an interior angle of 90°00'00" from the preceding course, a distance of 131.33 feet to the Point of Beginning, containing 10,600 square feet or 0.243 acres more or less.

Level D (School 6th Floor and Boiler Room)

Being limited in the vertical plane, the lower limit being at 77.53 feet and the upper limit being at 98.40 feet above grade, and more particularly bounded and described as follows:

COMMENCING at the intersection of the southerly line of Chambers Street and the easterly line of North End Avenue;

1. thence S 88°07'10" E along the southerly line of Chambers Street, a distance of 105.79 feet to the point of intersection of the westerly line of Marginal Street, Wharf or Place and the southerly line of Chambers Street;

2. thence S 18°36'00" E along the westerly line of Marginal Street, Wharf or Place, forming an interior angle of 110°28'50" from the preceding course, a distance of 26.21 to a point;

3. thence S 19°10'32" E continuing along the westerly line of Marginal Street, Wharf or Place, forming an interior angle of 180°34'32" from the preceding course, a distance of 69.63 feet to a point;

4. thence S 18°42'43" E still continuing along the westerly line of Marginal Street, Wharf or Place, forming an interior angle of 179°32'11" from the preceding course, a distance of 48.91 feet to the POINT OF BEGINNING;

5. thence continuing S 18°42'43" E still along the westerly line of Marginal Street, Wharf or Place, a distance of 64.82 feet to the point of intersection of the westerly line of Marginal Street, Wharf or Place and the northerly line of Warren Street;

6. thence N 88°07'10" W along the northerly line of Warren Street, forming an interior angle of 69°24'27" from the preceding course, a distance of 60.23 feet to a point;
7. thence N 1°52'50" E through Parcel 22, forming an interior angle of 90°00'00" from the preceding course, a distance of 19.56 feet to a point;
8. thence N 88°07'10" W continuing through Parcel 22, forming an interior angle of 270°00'00" from the preceding course, a distance of 8.43 feet to a point;
9. thence N 1°52'50" E still continuing through Parcel 22, forming an interior angle of 90°00'00" from the preceding course, a distance of 11.99 feet to a point;
10. thence N 88°07'10" W still continuing through Parcel 22, forming an interior angle of 270°00'00" from the preceding course, a distance of 12.13 feet to a point;
11. thence N 1°52'50" E still continuing through Parcel 22, forming an interior angle of 90°00'00" from the preceding course, a distance of 4.28 feet to a point;
12. thence N 88°07'10" W still continuing through Parcel 22, forming an interior angle of 270°00'00" from the preceding course, a distance of 18.35 feet to a point;
13. thence N 1°52'50" E still continuing through Parcel 22, forming an interior angle of 90°00'00" from the preceding course, a distance of 26.28 feet to a point;
14. thence S 88°07'10" E still continuing through Parcel 22, forming an interior angle of 90°00'00" from the preceding course, a distance of 2.91 feet to a point;
15. thence N 1°52'50" E still continuing through Parcel 22, forming an interior angle of 270°00'00" from the preceding course, a distance of 2.55 feet to a point;
16. thence S 88°07'10" E still continuing through Parcel 22, forming an interior angle of 90°00'00" from the preceding course, a distance of 52.00 feet to a point;
17. thence S 1°52'50" W still continuing through Parcel 22, forming an interior angle of 90°00'00" from the preceding course, a distance of 4.00 feet to a point;
18. thence S 88°07'10" E still continuing through Parcel 22, forming an interior angle of 270°00'00" from the preceding course, a distance of 21.44 feet to the Point of Beginning, containing 4,330 square feet or 0.099 acres more or less.

Horizontal Dimensions and Vertical Datum referenced to set of drawings for Site 22 School as prepared by CK Architect P.C. on 5/1/96. On said drawings, elevation 0.0 is equal to 13.06 feet in Manhattan Borough Presidents Datum.

E/2/96

EXHIBIT B

TITLE MATTERS

All capitalized terms not otherwise defined herein shall have the meanings provided in the Agreement of Lease ("Ground Lease") dated as of October 1, 1996 between Battery Park City Authority, New York City Educational Construction Fund ("ECF") and the City of New York ("City").

1. Master Lease.
2. Settlement Agreement.
3. Landlord's easements granted in Article 35 of the Ground Lease.
4. Memorandum of Understanding.
5. Option to Purchase dated as of June 6, 1980 among UDC, BPC Development Corporation, BPCA and the City of New York and recorded on June 11, 1980 in Reel 527, page 153 in the Office of the Register of New York City (New York County), as amended by Amendment to Option to Purchase dated as of August 15, 1986 between BPCA and the City of New York and recorded on October 22, 1986 in Reel 1133, page 582 in said Register's Office; and further amended by Second Amendment to Option to Purchase dated as of May 18, 1990 between BPCA and the City of New York and recorded on May 30, 1990 in Real 1697, page 294 in said Register's Office.
6. The state of facts shown on the survey dated October 5, 1989 prepared by Lockwood, Kessler & Bartlett, Inc., and last revised on December 4, 1995 and any additional state of facts a visual inspection would reveal.
7. Zoning and other laws, ordinances, governmental regulations, orders and requirements pertaining to the Premises.
8. Rights of the Federal Government to enter upon and take possession of lands, now or formerly lying below the high water mark of the Hudson River.

**CITY OF NEW YORK
CALENDAR NO. 21**

WHEREAS, (a) a sublease from the New York City Educational Construction Fund (the "ECF") to the City of New York (the "City"), as subtenant, acting by and through the Board of Education (the "Board") of the City of New York, and (b) a lease from the Battery Park City Authority (the "Authority") to the City to be effective after the expiration of the sublease described in the preceding clause (a), both the sublease and lease to be of a five floor facility with approximately 103,000 rentable square feet located on Site 22 in Battery Park City (Block 16 Lot 220, formerly part of Lot 3), in the Borough of Manhattan, for the Board, to be used as an elementary/intermediate school, or such other public school as may be determined;

WHEREAS, the proposed use was approved by the City Planning Commission pursuant to City Charter Section 197c on June 21, 1995 (Cal. No. 28 - ULURP No. C950180 PQM) and authorized by the City Council on July 18, 1995 (Resolution No. 1142);

WHEREAS, a combined occupancy structure (the "Combined Occupancy Structure") which will contain a 25 floor, 151 unit residential facility (the "Site 22 Residential Building") and the above mentioned school facility (the "School Portion") is expected to be constructed on Site 22. The Authority will own and manage the Site 22 Residential Building. The School Portion will be immediately adjacent and connected to the Site 22 Residential Building, and a portion of the Site 22 Residential Building will be constructed over the School Portion. The School Portion will be constructed in accordance with a development agreement among the Authority, ECF, Board and City under which the Authority will act on behalf of ECF in overseeing such construction;

WHEREAS, the School Portion will initially be leased from the Authority by ECF (the "ECF Lease") and will be subleased from ECF by the City, acting by and through the Board, (the "City Sublease"). ECF expects to issue its revenue bonds (the "ECF Bonds") to finance the construction of the School Portion. Upon the date on which no ECF Bonds are outstanding, the ECF Lease will terminate and thereupon the City will lease the School Portion directly from the Authority for a term scheduled to expire on June 17, 2069, subject to earlier termination or extension as provided in the such lease;

WHEREAS, the proposed ECF Lease shall commence on the date of the original issuance of the ECF Bonds and expire on the earlier of (i) the date on which no ECF Bonds are outstanding and the subtenant has satisfied all of its obligations thereunder or (ii) the date on which the ECF Lease expires or is terminated in accordance with its terms, unless the sublease is sooner terminated. The annual base rent payable to the Authority from ECF under the ECF Lease is \$1.00 per year from the date of execution and delivery of the ECF Lease through the expiration date. The annual base rent payable to ECF from the City, acting by and through the Board under the City Sublease is an amount equal to the principal and interest on the ECF Bonds coming due in such year;

WHEREAS, pursuant to the City Sublease, ECF shall require the City to pay all impositions, keep the premises and contents thereof insured, and take good care of the premises as described in Articles 4, 6 and 11 respectively, of the ECF Lease. The City will be responsible for payment of certain other costs and expenses payable by ECF under the ECF Lease and payment of its own gas and electricity consumption directly to the public utility company;

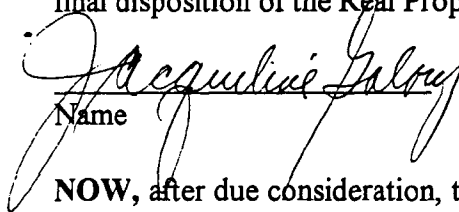
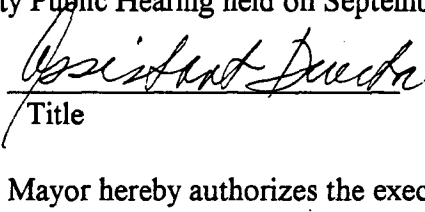
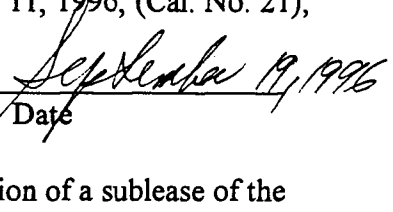
WHEREAS, there is no City-owned property or space in buildings under lease or license to the City that can be utilized to provide the space required by this Agency and the rent is fair and reasonable;

WHEREAS, the Office of Management and Budget has notified the Department of Citywide Administrative Services that funds for the rental of these premises will be provided when needed;

WHEREAS, as certified below, a duly noticed Real Property Public Hearing in the matter of a sublease pursuant to Section 1602 of the City Charter, was held and closed by the Mayor on September 11, 1996, (Cal. No. 21). At such hearing no testimony was offered;

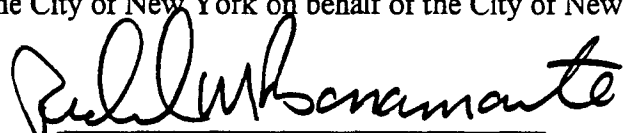
WHEREAS, the Hearing was closed without amendment;

CERTIFICATION by the Mayor's Office of Contracts/Public Hearing Unit of the actions at and final disposition of the Real Property Public Hearing held on September 11, 1996, (Cal. No. 21);

		
Name	Title	Date

NOW, after due consideration, the Mayor hereby authorizes the execution of a sublease of the property described herein in accordance with the terms of the sublease described in the Calendar of Public Hearings on Real Property Acquisition and Disposition dated September 11, 1996, (Cal. No. 21). The relevant portions of the Calendar are annexed hereto. Execution of the sublease shall be by the Board of Education of the City of New York on behalf of the City of New York.

Date: 9/19/96



Richard Bonamarte, Director
Mayor's Office of Contracts

BOROUGH OF MANHATTAN

No. 21

R-14798

PUBLIC HEARING, pursuant to the provisions of Section 1602 of the New York City Charter, as submitted by the Department of Citywide Administrative Services, Division of Real Estate Services, hereby authorizes (a) a sublease from the New York City Educational Construction Fund (the "ECF") to the City of New York (the "City"), as subtenant, acting by and through the Board of Education (the "Board") of the City of New York, and (b) a lease from the Battery Park City Authority (the "Authority") to the City to be effective after the expiration of the sublease described in the preceding clause (a), both the sublease and lease to be of a five floor facility with approximately 103,000 rentable square feet located on Site 22 in Battery Park City (Block 16, Lot 220, formerly part of Lot 3), in the Borough of Manhattan, for the Board, to be used as an elementary/intermediate school, or such other public school as may be determined.

The proposed use was approved by the City Planning Commission pursuant to City Charter Section 197c on June 21, 1995 (Cal. No. 28 - ULURP No. C950180 PQM) and authorized by the City Council on July 18, 1995 (Resolution No. 1142).

A combined occupancy structure (the "Combined Occupancy Structure") which will contain a 25 floor, 151 unit residential facility (the "Site 22 Residential Building") and the above mentioned school facility (the "School Portion") is expected to be constructed on Site 22. The Authority will own and manage the Site 22 Residential Building. The School Portion will be immediately adjacent and connected to the Site 22 Residential Building, and a portion of the Site 22 Residential Building will be constructed over the School Portion. The School Portion will be constructed in accordance with a development agreement among the Authority, ECF, Board and City under which the Authority will act on behalf of ECF in overseeing such construction.

The School Portion will initially be leased from the Authority by ECF (the "ECF Lease") and will be subleased from ECF by the City, acting by and through the Board, (the "City Sublease"). ECF expects to issue its revenue bonds (the "ECF Bonds") to finance the construction of the School Portion. Upon the date on which no ECF Bonds are outstanding, the ECF Lease will terminate and thereupon the City will lease the School Portion directly from the Authority for a term scheduled to expire on June 17, 2069, subject to earlier termination or extension as provided in the such lease.

The proposed ECF Lease shall commence on the date of the original issuance of the ECF Bonds and expire on the earlier of (i) the date on which no ECF Bonds are outstanding and the subtenant has satisfied all of its obligations thereunder or (ii) the date on which the ECF Lease expires or is terminated in accordance with its terms, unless the sublease is sooner terminated. The annual base rent payable to the

Authority from ECF under the ECF Lease is \$1.00 per year from the date of execution and delivery of the ECF Lease through the expiration date. The annual base rent payable to ECF from the City, acting by and through the Board under the City Sublease is an amount equal to the principal and interest on the ECF Bonds coming due in such year.

Pursuant to the City Sublease, ECF shall require the City to pay all impositions, keep the premises and contents thereof insured, and take good care of the premises as described in Articles 4, 6 and 11 respectively, of the ECF Lease. The City will be responsible for payment of certain other costs and expenses payable by ECF under the ECF Lease and payment of its own gas and electricity consumption directly to the public utility company.

Close the Hearing.

No. 22

R-14796

PUBLIC HEARING, pursuant to the provisions of Section 1602 of the New York City Charter, as submitted by the Department of Citywide Administrative Services, Division of Real Estate Services, hereby authorizes a lease for the City of New York, as tenant, of approximately 38,996 rentable square feet of space on the first and third through fifth floors in a building located at 309 East 94th Street (Block 1557, & Lot 8) in the Borough of Manhattan, for the Income Maintenance and Custodial Programs of the Human Resources Administration to use as an administrative office, or for such other use as the Commissioner of the Department of Citywide Administrative Services may determine.

The proposed lease shall be for a period of fifteen (15) years and 18 days from March 14, 1995, the "Commencement Date". The rental for 38,221 square feet shall be \$25,867.10 (\$14.84 per square foot) from the Commencement Date until March 30, 1995, and thereafter, the rental for 38,996 square feet shall be \$578,255.44 (\$14.84 per square foot) per annum from April 1, 1995 to Substantial Completion, \$603,973 (\$15.50 per square foot) per annum for the remainder of the first five years, \$678,008.40 (\$17.40 per square foot) per annum for the following five years and \$750,095.50 (\$19.45 per square foot) per annum for the last five years, payable in equal monthly installments at the end of each month.

The lease may be terminated by the Tenant, in whole or in part, effective as of the second (2nd) anniversary of the Commencement Date, or at any time thereafter, provided the Tenant gives the Landlord 180 days prior written notice. In the event that the lease is terminated by the Tenant, the Tenant shall pay to the Landlord the unamortized portion of Landlord's cost for the alterations and improvements with respect to the space to be relinquished.

The Landlord shall, in accordance with timeframes to be contained in the lease, prepare final architectural plans and engineering plans and make alterations