HOTEL SUBLEASE

between

BPC SITE 25 ASSOCIATES, LLC
as Sublandlord

– and –

BPC HOTEL, LLC
as Subtenant.

Dated: as of November 18th, 1998

Premises:
P/O Site 25
Battery Park City
New York, New York

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HOTEL SUBLEASE

THIS HOTEL SUBLEASE (the "Sublease"), dated as of the 18th day of November, 1998, by and between BPC SITE 25 ASSOCIATES, LLC, having an office c/o Forest City Ratner Companies, One MetroTech Center North, Brooklyn, New York 11201 ("Sublandlord"), and BPC HOTEL, LLC, a New York limited liability company having offices c/o Forest City Ratner Companies, One MetroTech Center North, Brooklyn, New York 11201 ("Subtenant"). All capitalized terms used but not otherwise defined in this Sublease shall have the meanings given such terms in the Ground Lease (hereinafter defined).

WITNESSETH:

WHEREAS, pursuant to the Master Lease, Ground Lessor holds a leasehold interest in the Land described on Exhibit A annexed hereto;

WHEREAS, pursuant to the Ground Lease between Ground Lessor and Sublandlord, Sublandlord has subleased from Ground Lessor (i) the Land for the purpose of, inter alia, constructing the Building thereon and (ii) the Building;

WHEREAS, Sublandlord wishes to enter into (i) a sub-sublease with Subtenant of that portion of the Building more fully described in Exhibit B annexed hereto, together with an undivided interest (with Retail Subtenant, as hereinafter defined) in the Land and in the Common Areas (as hereinafter defined) (collectively, the "Premises" or, alternatively, the "Hotel") and (ii) a sub-sublease (as the same may be amended from time to time, the "Retail Sublease") with FC Battery Park Associates, LLC (together with its successors and permitted assigns, the "Retail Subtenant") of that portion of the Building more fully described in Exhibit B annexed hereto, together with an undivided interest (with Subtenant) in the Land and in the Common Areas (collectively, the "Retail Complex"); and

WHEREAS, Subtenant understands and acknowledges that, upon Substantial Completion of the Building, (i) as more fully provided in (and upon satisfaction of the conditions set forth in) Article 43 of the Ground Lease, (x) Sublandlord may submit its leasehold interest under the Ground Lease to a condominium regime, or (y) Subtenant shall execute and deliver, and Sublandlord shall cause Retail Subtenant to execute and deliver, a Reciprocal Easement Agreement (the "REA"), thereby submitting the Land and Building to a "common law" condominium, (ii) Sublandlord may assign its interest (as tenant) in and under the Ground Lease to Ground Lessor, which Ground Lease will not merge but shall remain in effect as a lease between BPCA, as ground lessor, and BPCA, as Sublandlord, (iii) if the assignment described in the preceding subclause (ii) occurs, this Sublease shall be as between Ground Lessor (as successor-in-interest to Sublandlord), as landlord hereunder, and Subtenant, as tenant hereunder, and (iv) this Sublease shall be amended to more accurately describe the Premises, as constructed, unless such amendment is deemed unnecessary by Sublandlord.

NOW, THEREFORE, the parties hereto, for themselves, their heirs, distributees, executors, administrators, legal representatives, trustees, successors and assigns, hereby covenant and agree as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01 Definitions. The terms defined in this Article 1 shall, for all purposes of this Sublease, have the following meanings:

"Accounting Principles" shall mean, from time to time, then current generally accepted accounting principles, consistently applied, using (unless otherwise expressly provided for herein) the accrual method of accounting and, when not consistent with such principles, by the consistent application of the system of accounting then prescribed in the Uniform System of Accounts for Hotels, Eighth Revised Edition (1986), adopted by the Hotel Association of New York City, Inc. and the American Hotel & Motel Association, as same may have been further revised.

"Adjusted Hotel Participation Gross Revenues" shall mean Hotel Participation Gross Revenues less (i) Base Rent, PILOT, Hotel Percentage Rent, Hotel Civic Facilities Payments and other payments to Sublandlord incurred by Subtenant in respect of the Hotel during the applicable calculation period and (ii) Qualified Expenses applicable to the calculation period. Any Hotel Participation Rent will not, however, be deducted in calculating Adjusted Hotel Participation Gross Revenues.

"Affiliate" shall mean (i)(a) any Person that has, directly or indirectly, an ownership interest in the aggregate of five percent (5%) or greater in Subtenant, or (b) any Person in which Subtenant or any Person described by clause (a) of this definition, has directly or indirectly an ownership interest in the aggregate of five percent (5%) or greater, and (ii) any individual who is a member of the immediate family (whether by birth or marriage) of an individual who is an Affiliate, which includes for purposes of this definition a spouse; a brother or sister of the whole or half blood of such individual or his spouse; a lineal descendant or ancestor (including an individual related by or through legal adoption) of any of the foregoing or a trust for the benefit of any of the foregoing.

"Annual Hotel Participation Rent Statement" shall have the meaning provided in Section 3.07(c).

"Annual Hotel Percentage Rent Statement" shall have the meaning provided in Section 3.05(d).

"Architect" shall mean Perkins Eastman Architects PC or another licensed architect acceptable to Sublandlord.

"Assignment Date" shall mean the date on which all of the following conditions have been satisfied: (i) Sublandlord has assigned to Ground Lessor its interest as tenant under the Ground Lease; and (ii) either (y) Sublandlord has submitted its leasehold interest (under the Ground Lease) to a condominium regime, in accordance with the provisions of Article 43 of the Ground Lease or (z) Subtenant and Retail Subtenant have executed and delivered the REA.

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

"BPCA" shall mean Battery Park City Authority.

"BSA" shall have the meaning provided in Section 23.02 hereof.

"Building" shall mean the building, including footings and foundations and other improvements and appurtenances of every kind and description hereafter erected, constructed or placed upon the Land including, without limitation, Equipment, Capital Improvements and any and all alterations and replacements, thereof, additions thereto and substitutions therefor.

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

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

"CAM Reimbursements" shall have the meaning provided in Section 3.10.

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

"Certificate of Occupancy" shall mean a certificate of occupancy (temporary or permanent) issued by the Department of Buildings of New York City pursuant to Section 645 of the New York City Charter or other similar certificate issued by a department or agency of New York City.

"Certified Public Accountant" shall mean an independent certified public accountant or accounting firm selected by Subtenant and approved by Sublandlord, which approval shall not be unreasonably withheld.

"Civic Facilities" shall have the meaning provided in Article 26 hereof.

"Commencement Date" shall mean the date on which both Sublandlord and Subtenant shall have executed and delivered of this Sublease.

"Common Areas" shall mean those portions of the Building that are designated as "Common" on the diagrams attached hereto as Exhibit B.

"Completion Guaranty" shall mean that certain Guaranty of Completion delivered by Forest City Enterprises, Inc. to Ground Lessor simultaneously herewith, as the same may be amended in accordance with its terms.

"Completion of the Hotel" shall mean the satisfaction in full of all of the following conditions: (i) Substantial Completion of the Building, (ii) the procurement by Subtenant or by Hotel Operator of all of the licenses and permits required for the occupancy of the Hotel, and delivery of copies of same to Sublandlord, and (iii) the occurrence of the Hotel Opening Date.

"Condominium Act" shall mean Article 9-B of the Real Property Law of the State of New York (as the same may be amended from time to time) or any statute in lieu thereof.

"Construction Commencement Date" shall mean the earlier to occur of (i) the date on which Commencement of Construction actually occurs or occurred, as confirmed in a writing signed by both Ground Lessor and Sublandlord, or (ii) the date which is three (3) months following the Commencement Date.

"Construction Documents" shall have the meaning ascribed to such term in the Ground Lease.

"Consumer Price Index" or "CPI" shall mean the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, New York, N.Y. - Northeastern N.J. Area, All Items (1982-84 = 100), or any successor or substitute index thereto, appropriately adjusted; provided that if there shall be no successor index and the parties shall fail to agree upon a substitute index within thirty (30) days, or if the parties shall fail to agree upon the appropriate adjustment of such successor or substitute index within thirty (30) days, a substitute index or the appropriate adjustment of such successor or substitute index, as the case may be, shall be determined by arbitration pursuant to Article 36.

"Declaration" shall mean the instrument by which Sublandlord submits Sublandlord's leasehold estate under the Ground Lease to the Condominium Act, together with all amendments, modifications and supplements thereto, which instrument shall be substantially in the form annexed to the Ground Lease.

"Declaration of Restrictions" shall mean that certain Declaration of Restrictions dated as of June 15, 1983 made by Ground Lessor, as amended by the Amendment and Restatement of Declaration of Restrictions dated as of May 18, 1995 made by Ground Lessor and certain tenants of Ground Lessor with respect to the World Financial Center, as the same may (subject to the provisions of Section 41.18 hereof) hereafter be amended, modified or supplemented.

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

"Deficiency" shall have the meaning provided in Section 24.05(b).

"Depository" shall mean (a) a Mortgagee that qualifies as an Institutional Lender, (b) if not a Mortgagee, either (y) a commercial bank or trust company or clearing company that qualifies as an Institutional Lender and that is designated by the Mortgagee holding the most senior lien, or (z) a commercial bank or trust company or clearing company that does not qualify as an Institutional Lender but that is designated by the Mortgagee holding the most senior lien and reasonably approved by Sublandlord or (c) if not a Mortgagee or an entity designated by a Mortgagee, a commercial bank or trust company (i) qualifying as an Institutional Lender and designated by Sublandlord, (ii) that has an office in the City of New York, and (iii) that has a net worth of not less than $100,000,000 and net assets of not less than $250,000,000.

"Design Guidelines" shall mean the Design Guidelines annexed hereto as Exhibit C, as the same may (subject to the provisions of Section 41.18 hereof) hereafter be amended, modified or supplemented.

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

"Environmental Statutes" shall mean all federal, state and local laws, rules and regulations, whether now existing or hereafter enacted or promulgated, regulating, relating to or imposing

liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material or the protection of the environment, including, without limitation (i) Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 et seq. (known as CERCLA or Superfund) as amended by the Superfund Amendments and Reauthorization Act of 1986 (known as SARA); (ii) Solid Waste Disposal Act, 42 U.S.C. Section 6901 et seq. (known as SWDA) as amended by Resource Conservation and Recovery Act (known as RCRA); (iii) National Environmental Policy Act, 42 U.S.C. Section 4321 et seq. (known as NEPA); (iv) Toxic Substances Control Act, 15 U.S.C., Section 2601 et seq. (known as TSCA); (v) Safe Drinking Water Act, 42 U.S.C. Section 300(f) et seq. (known as Public Health Service Act, PHSA); (vi) Refuse Act, 33 U.S.C. Section 407 et seq.; (vii) Clean Water Act, 33 U.S.C. Section 1251 et seq. (known as Federal Water Pollution Control Act, FWPCA); (viii) Clean Air Act, 42 U.S.C. Section 7401 et seq. (known as CAA); (ix) The Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. Section 1101 et seq. (known as EPCRTKA); (x) the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq. (known as OSHA); and (xi) the New York Environmental Conservation Law, Section 1-0101 et seq. (known as ECL).

"Equipment" shall mean all fixtures incorporated in the Premises, as the same may be repaired, replaced, substituted, upgraded or improved from time to time, including, without limitation, all machinery, dynamos, boilers, heating and lighting equipment, pumps, tanks, motors, air conditioning compressors, pipes, conduits, fittings, ventilating and communications apparatus, elevators, escalators, incinerators, garbage compactors, antennas, computers and sensors. "Equipment" shall not mean any fixture or utilities owned by any utility company.

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

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

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

"Expiration Date" shall have the meaning provided in Section 2.02.

"Extension Request Documentation" shall have the meaning provided in Section 24.05.

"Fair Market Rental Value" shall have the meaning provided in Section 3.08(a).

"FF&E" shall mean the furniture, furnishings, fixtures and equipment located in the Premises.

"First Permanent Mortgagee" shall have the meaning provided in Section 24.05.

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

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

"Ground Lease" shall mean that certain lease of even date herewith between Battery Park City Authority (as Ground Lessor) and Sublandlord (as Ground Lessee) and, subject to the provisions of Section 41.18(b) hereof, any amendments, modifications and supplements thereof.

"Ground Lessee" shall mean Sublandlord or any successor to its interest under the Ground Lease.

"Ground Lessor" shall have the meaning set forth in the Recitals.

"Hospitality Arbitrator" shall have the meaning provided in Section 24.05.

"Hotel" shall have the same meaning as Premises.

"Hotel Civic Facilities Payment" shall have the meaning provided in Section 26.02.

"Hotel Furnishings Reserve" shall have the meaning provided in Section 15.03.

"Hotel Opening Date" shall mean the date on which substantially all of the Hotel shall open for business to the general public.

"Hotel Operator" shall mean Promus Hotels, Inc. or such other hotel operator as is reasonably approved in advance by Sublandlord in writing, provided that such approval shall not be required if such other hotel operator (i) is financially solvent and has a net worth of not less than $100,000,000, as adjusted for increases in the CPI, and (ii) has substantial experience in the management and operation of hotels similar in size, type, amenities and reputation to the Hotel, including the ownership and/or management for at least eight (8) years of at least five (5) hotels containing at least three hundred (300) rooms each and at least two thousand (2,000) rooms in the aggregate, in which event, Sublandlord shall be conclusively deemed to have given its approval. Hotel Operator shall include any Affiliate of Promus Hotel Corporation (including Promus Hotels, Inc.) or any successor resulting from a merger or consolidation with Promus Hotel Corporation or any entity which acquires substantially all of the hotel management assets of Promus Hotel Corporation in a single or several transactions, provided that such entity meets the foregoing criteria. Notwithstanding the foregoing, and without limitation thereof, any Mortgagee (or a nominee, designee or assignee of any Mortgagee) that shall succeed to Subtenant's interest under this Sublease (by assignment, in foreclosure or otherwise) or that shall enter into a new lease pursuant to the provisions of Section 10.11 hereof shall have the right, without obtaining Sublandlord's consent, to retain as a Hotel Operator any owner (or its successor) (as opposed to a mere licensee) of, or any operating affiliate or any subsidiary of the owner (or its successor) (as opposed to a mere licensee) of, any of (A) the Marriott Suites brand, flag or franchise, (B) the Sheraton Suites brand, flag or franchise or (C) the Westin Suites brand, flag or franchise, provided that if the substitute hotel operator shall not be the owner of any such brands, flags or franchise (but a subsidiary or affiliate of such owner), then, such operating affiliate or subsidiary operates and manages a significant number of hotels on behalf of such owner (or its successor) and does not or will not delegate or contract out its managerial or operational responsibilities and duties to a third party.

"Hotel Participation Gross Revenues" shall mean all revenues, fees and income derived, and all reimbursements of Qualified Expenses received, by Subtenant or any Affiliate thereof from and

in respect of the Hotel during the applicable calculation period, including, without limitation, (i) room rents, (ii) food and beverage receipts, (iii) vending machine receipts, (iv) concession payments, (v) rental revenue received from subtenants, and (vi) the proceeds of business interruption insurance, but excluding (A) the proceeds of any sale or refinancing of, or any other borrowing relating to, the Premises, provided such sale, refinancing or borrowing could not reasonably be deemed a substitute or proxy for rent or other payments relating to the use of occupancy of rooms in the Hotel (i.e. the sale of time shares or condominium units if same would otherwise be permitted by Sublandlord) and (B) any cash or credit refunds, rebates or discounts made upon transactions included with the revenues described in the foregoing clauses (i) through (vi). Hotel Participation Gross Revenues shall also include the fair market value of (a) any complimentary rooms provided to guests to the extent that the number of complimentary rooms are in excess of one and one-half percent (1.5%) of the number of Hotel rooms (such number to be computed on an annual basis) and (b) the fair market value of goods and services received as barter for rooms or other Hotel services. Hotel Participation Gross Revenues will be determined in accordance with Accounting Principles.

"Hotel Participation Rent" shall have the meaning provided in Section 3.07.

"Hotel Participation Rent Commencement Date" shall have the meaning provided in Section 3.07(a).

"Hotel Participation Rent Statement" shall have the meaning provided in Section 3.07(b).

"Hotel Percentage Gross Revenue" shall mean, as determined in accordance with Accounting Principles, all revenues received by or on behalf of Subtenant, Hotel Operator or any Affiliate of any of the foregoing in connection with the operation of the Premises or any portion thereof, including, without limitation, the following:

(i) all revenues (in cash or in kind) from the operation of the Premises or any portion thereof or in connection with any activity conducted therein from both cash and credit transactions, including, without limitation, all revenues, including commissions, room rentals, food and beverages, room service and other service charges, non-public telephones and other telecommunications or data processing devices, bars and restaurants, vending machines, checkrooms, washrooms, cigar or newsstands, license, lease and concession fees, advertising and promotional services, banquet, conference and convention facilities, meeting rooms, flowers and entertainment, guest laundry, game rooms, sports or health facilities, swimming pool-cabanas-baths and valet or transportation services;

(ii) all revenues received by or on behalf of Subtenant, Hotel Operator or an Affiliate of any such Person (1) from a utility or other company providing telephones, other telecommunication or data processing devices or vending machines in consideration of granting such provider the right to install and maintain the same in the Premises or (2) relating to the operations conducted by such Person in any portion of the Premises occupied by such Person; (b) any interest earned on deposits, accounts, reserves or other investments maintained in connection with the operation of the Premises (provided, however, that with respect to the Hotel Furnishings Reserve and other customary reserves required by an Institutional Lender or required to be maintained under the Management Agreement, interest earned thereon shall constitute Hotel

Percentage Gross Revenues only to the extent same is paid to, or withdrawn by, Subtenant rather than held as part of the Hotel Furnishings Reserve or any such other reserves) and (c) the fair market rental value of any portion of the Premises occupied by Subtenant, Hotel Operator, or an Affiliate of Subtenant or of Hotel Operator (other than as may be directly required for Building operations) pursuant to the provisions of Section 3.06(d) hereof; and any proceeds of Business Interruption Insurance coverage pursuant to Article 7 hereof.

Notwithstanding the provisions of clauses (i) and (ii) herein, the term "Hotel Percentage Gross Revenue" shall exclude the following items:

(A) any sums received by or on behalf of Subtenant or Hotel Operator which represent reimbursement for the loss of the use or operation of all or any portion of the Premises, including the FF&E and personally used in connection with the operation or maintenance thereof, such as, but not limited to, (1) insurance proceeds (other than the proceeds of Business Interruption Insurance coverage pursuant to Article 7 hereof), (2) other proceeds on account of physical damage, or (3) condemnation proceeds;

(B) gratuities received or collected by Subtenant or Hotel Operator and paid by Subtenant or Hotel Operator, directly or indirectly, to individuals employed or retained by Subtenant or Hotel Operator for services provided or assistance rendered in connection with the operation or maintenance of the Premises;

(C) applicable sales, use, excise, hotel room, occupancy, admission or similar taxes (not including gross receipts taxes) or other similar governmental charges, which similar charges are collected directly from patrons or guests of the Premises and are separately stated;

(D) any amounts received by or on behalf of Subtenant in reimbursement for expenses payable by Subtenant in connection with the operation of the Premises or any portion thereof to third parties other than Sublandlord, including, without limitation, charges or expenses payable to any business improvement district, condominium association or board of managers or to any utility, as well as to any Person (other than Sublandlord) of common area maintenance charges or other operating expenses; provided, however, that the foregoing exclusion shall not extend to any Rent payable to Sublandlord hereunder, including, without limitation, any PILOT;

(E) leasing and brokerage commissions or management fees payable to Subtenant or any of its Affiliates, to the extent that such fees do not exceed the fees that would be paid to bona fide third parties in the marketplace; and

(F) management, incentive or other fees received by Hotel Operator or Licensor or by any Affiliate of Subtenant under the Management Agreement or the License Agreement; and

(G) except to the extent same would have been included in Hotel Percentage Gross Revenues because same could reasonably be deemed a substitute or proxy for rent or other payments relating to the use or occupancy by the payor, or an Affiliate to payor, of space in the Building, payments of principal and interest received by principals of Subtenant or any Affiliate relative to construction loans or mezzanine financing provided by any such principals or Affiliates for the construction or operation of the Building.

All revenues not herein specifically excluded from Hotel Percentage Gross Revenue shall be deemed included in Hotel Percentage Gross Revenue.

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

"Hotel Percentage Rent Commencement Date" shall have the meaning provided in Section 3.05(a).

"Hotel Proportionate Share" shall mean sixty-eight percent (68%) as of the date hereof. At all times during the Term, the sum of the Hotel Proportionate Share and the Retail Proportionate Share as defined in the Retail Sublease shall equal one hundred percent (100%). Subtenant and the Retail Subtenant may from time to time with Sublandlord's and Ground Lessor's prior written approval, not to be unreasonably withheld or delayed, adjust the Hotel Proportionate Share and the Retail Proportionate Share.

"Hotel Services Agreement" shall mean an agreement between Subtenant and the Restaurant Operator, for the provision of food and beverage services to the Hotel. The terms of the Hotel Services Agreement may be incorporated in the Kitchen Lease, in which event the references herein to a Hotel Services Agreement shall be deemed to be references to the Kitchen Lease.

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

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

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

"Institutional Lender" shall mean a savings bank, a savings and loan association, a commercial bank or trust company (whether acting individually or in a fiduciary capacity), an insurance company organized and existing under the laws of the United States or any state thereof, a real estate investment trust, a religious, educational or eleemosynary institution, a governmental agency, body or entity, an employee, benefit, pension or retirement plan or fund, a commercial credit corporation, an investment bank, a commercial bank or trust company acting as trustee or fiduciary of various pension funds or tax-exempt funds, or as trustee in connection with the issuance of any bonds or any other debt financing, or a corporation or other entity which is owned wholly by any other Institutional Lender or a trustee of any such commercial bank or trust company acting as such trustee, or any combination of the foregoing; provided, that each of the above entities, or any combination of such entities, shall qualify as an Institutional Lender for purposes of this Sublease only if (a) each such entity is unaffiliated with Subtenant or its Affiliates; (b) each such entity shall be subject to (i) the jurisdiction of the courts of the State of New York in any actions and (ii) the supervision of (A) as applicable the Comptroller of the Currency or the Department of Labor of the United States or the Federal Home Loan Bank Board or the Insurance Department or the Banking Department or the Comptroller of the State of New York, or the Board of Regents of the University of the State of New York, or the Comptroller of New York City or any successor to any of the foregoing agencies or officials, or (B) any agency or official exercising comparable functions on behalf of any other state within the United States, or (C) in the case of a commercial credit corporation or a real estate investment trust, the laws and regulations of the state of its incorporation, or (D) any federal, state or municipal agency or public benefit corporation or public authority advancing or insuring mortgage loans or making payments which, in any manner,

assist in the financing, development, operation and maintenance of improvements; and (c) each such entity, or combination of such entities, or the parent or parents of such entity or entities, shall have individual or combined assets, as the case may be, of not less than Five Hundred Million ($500,000,000) Dollars. Sublandlord hereby agrees that the following entities qualify as Institutional Lenders for all purposes of this Lease: (w) Deutsche Bank AG, (x) German American Capital Corporation, (y) Credit Lyonnais New York Branch, and (z) Bayerische Hypo-und Vereinsbank AG, acting through its New York Branch.

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

"Kitchen Lease" shall mean a lease between Subtenant and the Restaurant Operator, demising the premises shown on the diagram attached hereto as Exhibit D for the operation of a kitchen servicing the Hotel pursuant to the Hotel Services Agreement and the restaurant being operated in the premises demised under the Restaurant Lease.

"Land" shall have the meaning set forth in the Recitals.

"Landlord's Civic Facilities" shall have the meaning set forth in Section 26.01 hereof.

"Landlord's Construction Obligations" shall mean the commencement and substantial completion of the construction or installation of Landlord's Civic Facilities in accordance with the relevant provisions of the Ground Lease.

"Landlord's Maintenance Obligations" shall mean those Maintenance Obligations with respect to Landlord's Civic Facilities which, prior to the Assignment Date, the Ground Lessor shall perform and thereafter Sublandlord shall perform.

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

"License Agreement" shall mean the written agreement to be entered into by Subtenant and Hotel Operator for the licensing of the Hotel, substantially in the form of Exhibit E annexed to the Ground Lease, together with any amendments or modifications thereto, extensions thereof and any successor or subsequent agreement thereto, which successor or subsequent agreement and each such amendment, modification, extension or successor or subsequent agreement shall be subject to the reasonable approval of Sublandlord and shall provide that, in the event of Sublandlord's re-entry and repossession of the Premises following a termination of this Sublease due to an Event of Default, such agreement shall be terminable by Sublandlord on not more than thirty (30) days' written notice at no cost to Sublandlord.

"Licensee" shall mean the licensee under the License Agreement.

"Licensor" shall mean (i) Promus Hotels, Inc., for so long as it is the owner of the Embassy Suites brand (or any affiliate thereof or any successor resulting from a merger or consolidation or entity which acquires all or substantially all of Embassy Suites licenses in a single transaction or series of transactions) or (ii) if a Mortgagee (or a nominee, designee or assignee of any Mortgagee) shall succeed to Tenant's interest under this Lease (by assignment, in foreclosure or otherwise) or

shall enter into a new lease pursuant to the provisions of Section 10.11 hereof, either (y) the owner (or its successor) of any of (A) the Marriott Suites brand, flag or franchise, (B) the Sheraton Suites brand, flag or franchise and (C) the Westin Suites brand, flag or franchise, or (z) any other nationally recognized "suites hotel" brand, franchise or flag that is comparable to any of the brands enumerated in subclauses (i) or (ii)(y) of this definition and that is reasonably acceptable to Ground Lessor.

"Maintenance Obligations" shall mean, with respect to Landlord's Civic Facilities or Tenant's Civic Facilities, as the case may be, the obligation by Ground Lessor in the case of Landlord's Civic Facilities, or by Sublandlord (prior to the Assignment Date) or by Subtenant (following the Assignment Date) in the case of Tenant's Civic Facilities, to maintain the same in good and safe order and condition and free of accumulations of dirt, rubbish, snow and ice, and the performance of all repairs (including standard repairs, restorations and replacements) necessary to maintain same in first-class condition.

"Management Agreement" shall mean the written agreement to be entered into by Subtenant and Hotel Operator for management of the Hotel, substantially in the form of Exhibit F annexed to the Ground Lease, together with any amendments or modifications thereto, extensions thereof and any successor or subsequent agreement thereto, which successor or subsequent agreement and each such amendment, modification, extension or successor or subsequent agreement shall be subject to the reasonable approval of Sublandlord and shall provide that, in the event of Sublandlord's re-entry and repossession of the Premises following a termination of this Sublease due to an Event of Default, such agreement shall be terminable by Sublandlord on not more than thirty (30) days' written notice at no cost to Sublandlord.

"Manager Termination" shall have the meaning provided in Section 24.05.

"Master Development Plan" shall mean the plan annexed to the Master Lease, as superseded and modified by the Large Scale Commercial Development Plan (also annexed to the Master Lease) and amendments thereto dated as of November 9, 1992 and as of February 28, 1995, as the same may (subject to the provisions of Section 41.18 hereof) be hereafter amended, modified or supplemented.

"Master Lease" shall mean the Restated Amended Agreement of Lease, made as of June 10, 1980, between BPC Development Corporation, as Master Lessor, and Ground Lessor, as tenant, a Memorandum of which was recorded on June 11, 1980 in the Office of the City Register, New York County in Reel 527 at page 163, as amended by First Amendment to Restated Amended Lease dated as of June 15, 1983 and recorded on June 20, 1983 in said Register's Office in Reel 696 at page 424, Second Amendment to Restated Amended Lease dated June 15, 1983 and recorded on June 20, 1983 in said Register's Office in Reel 696 at page 432, Third Amendment to Restated Amended Lease dated as of August 15, 1986 and recorded on October 22, 1986 in said Register's Office in Reel 1133 at page 569 and Fourth Lease Amendment to Restated Amended Lease dated as of May 25, 1990 and recorded on May 30, 1990 in said Register's Office in Reel 1697 at page 307, as the same may (subject to the provisions of Section 41.18 hereof) be hereafter amended, modified or supplemented.

"Master Lessor", on the Commencement Date, shall mean Ground Lessor (as successor-in-interest to BPC Development Corporation), but thereafter, "Master Lessor" shall mean only the lessor at the time in question under the Master Lease.

"Memorandum of Understanding" shall mean the Memorandum of Understanding, dated as of November 8, 1979, among the Governor of the State of New York, the Mayor of New York City and the President and Chief Executive Officer of Ground Lessor, as supplemented by Letter, dated November 8, 1979, from the President and Chief Executive Officer of Ground Lessor to the Mayor of New York City, and as amended by the 1986 Supplemental Memorandum of Understanding, dated as of August 15, 1986 among the Governor of the State of New York, the Mayor of the City of New York and Ground Lessor, and the Amendment to the Memorandum of Understanding, dated as of January 9, 1995 among the Governor of the State of New York, the Mayor of the City of New York and Ground Lessor.

"Mortgage" shall mean any mortgage which constitutes a lien on Subtenant's interest in this Sublease and the leasehold estate created hereby, provided such mortgage is held by (i) an Institutional Lender or (ii) Subtenant or a Person formerly constituting Subtenant, or such Person's assignee, if such mortgage is made to such Person in connection with an assignment by Subtenant of its interest in this Sublease expressly permitted hereunder (other than an assignment by Subtenant of its interest in this Sublease to an Affiliate).

"Mortgagee" shall mean the holder of a Mortgage.

"Mortgage Foreclosure" shall have the meaning provided in Section 24.05.

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

"Outside Date" shall have the meaning provided in Section 24.05.

"Payment in lieu of Tax" or "PILOT" shall have the meaning provided in Section 3.02.

"Permanent Loan" shall have the meaning provided in Section 24.05.

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

"Premises" shall mean that portion of the Building depicted on Exhibit B annexed hereto, together with an undivided interest in the Land and Common Areas.

"Prime Rate" shall mean the prime or base rate announced as such from time to time by Citibank, N.A., or its successors, at its principal office. Any interest payable under this Sublease with reference to the Prime Rate shall be adjusted on a daily basis, based upon the Prime Rate in effect at the time in question, and shall be calculated on the basis of a three hundred and sixty (360) day year with twelve (12) months of thirty (30) days each.

"Prohibited Person" shall have the meaning provided in Section 10.01(c).

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

"Project Loans" shall mean any loans procured in connection with the financing or refinancing of Total Project Costs (regardless of priority), including any extensions, modifications or amendments thereof, to the extent that the aggregate indebtedness under such loans does not exceed one hundred percent (100%) of Total Project Costs. Where the indebtedness under such loans exceeds the maximum amount permitted by the preceding sentence, the determination of which loans shall constitute Project Loans shall be made by including as Project Loans first that loan which has the lowest interest rate, then that which has the next lowest interest rate and so on, provided that Project Loans shall include only so much of the principal of said loans as does not exceed the maximum amount set forth in the preceding sentence.

"Prudent Management Standards" shall have the meaning provided in Section 23.01.

"Qualified Expenses" shall mean, as determined in accordance with Accounting Principles, the following in respect of the Hotel, subject to the exclusions set forth in the next paragraph: the cost of operating and maintaining the Hotel (including, without limitation, salaries and wages, employee benefits, laundry, cleaning, operating supplies, linen and costs of telephone calls); general, administrative and marketing expenses (including, without limitation, (i) salaries and wages, (ii) employee benefits, (iii) professional fee expenses, (iv) executive office expenses allocable to the Hotel, and (v) the reasonable costs and expenses associated with any off-site reservations (or "centralized booking") facility and the employees performing any such off-site reservations functions, it being agreed that the costs and expenses described in (v) shall be deemed reasonable if same reflect the same rates charged and billing practices employed by the Hotel Operator or Licensor with respect to comparable hotels), but only to the extent the foregoing can be identified as pertaining to the Hotel; the franchise fee and/or license fee payable to Licensor; property operation and maintenance (POM) expenses (including, without limitation, salaries and wages, employee benefits, costs of equipment used for repair and contracts for maintenance and repair); energy and other utility costs; a management fee, incentive fee or marketing and reservations fees as and to the extent any such fee is payable under the Management Agreement or the License Agreement; insurance; the Hotel Furnishings Reserve and any other reserves established by Subtenant or Hotel Operator in their reasonable judgment to the extent such reserves are actually required by an Institutional Lender or are required under the Management Agreement; Impositions and common area maintenance charges or special assessments paid to any condominium association or board of managers with respect to the Hotel, provided such charges are based on a reasonable allocation of such charges to the Hotel; any leasing or brokerage commissions paid by Subtenant or any Affiliate in connection with the entering into of any sublease or the renewal thereof or the expansion of the demised space leased thereunder (to the extent related to any concession or retail or restaurant space forming a part of the Hotel); to the extent included in Hotel Participation Gross Revenues, the New York City hotel room occupancy taxes, VAT or other substitute or additional taxes which are collectible by Subtenant or any of Subtenant's Affiliates or Hotel Operator from patrons, guests or Sub-Subtenants and which are required to be remitted by Subtenant or any of Subtenant's Affiliates or Hotel Operator to the appropriate governmental taxing authority; gratuities paid to employees of the Hotel; to the extent included in Hotel Participation Gross Revenues, the amount of any sales tax, excise, use or similar taxes that are imposed on Hotel Participation Gross Revenues and/or sales of merchandise, collected directly from Hotel guests or licensees and which are required to be remitted by Subtenant or any of Subtenant's Affiliates or

Hotel Operator to the appropriate governmental taxing authority; the amount of any insurance premiums deposited with Landlord or any Institutional Lender; and the cost of repairs of the Building or any Equipment, if and to the extent such cost exceeds the proceeds of any insurance maintained, or if applicable, condemnation awards received, by Subtenant or any Affiliate of Subtenant with respect to the Building or such Equipment. Landlord agrees that subject to and without qualifying the maximum percentages set forth in the following paragraph, the franchise, management, incentive and marketing and reservation fees set forth in the License Agreement and Management Agreement constitute "Qualified Expenses."

Qualified Expenses shall expressly exclude: reserves other than as provided above; lease expenses (administrative fees); brokerage commissions; any franchise fee in excess of five percent (5%) of Hotel Participation Gross Revenues (or if the franchise fee is combined with fees for marketing, reservations or similar services, seven percent (7%) of Hotel Participation Gross Revenues); any management fee or incentive fee described in the preceding paragraph, to the extent any such fees, either alone or in the aggregate, exceed three percent (3%) of Hotel Participation Gross Revenues; a Hotel Furnishings Reserve in excess of four percent (4%) of Hotel Participation Gross Revenues; and, with respect to expenses paid for goods and services provided by Affiliates of Subtenant, any amount paid in excess of those amounts that would be paid for such goods and services at market rates. Debt service on Subtenant's construction loan, permanent loan and/or subordinate or "mezzanine" financing, if any, in respect of the Hotel, and depreciation shall also be excluded from Qualified Expenses. Qualified Expenses may be adjusted in accordance with the terms of Section 3.07(a) hereof.

"Quarterly Hotel Percentage Rent Statement" shall have the meaning provided in Section 3.05(a).

"REA" shall have the meaning set forth in the Recitals.

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

"Recognition Agreement" shall have the meaning provided in Section 29.02.

"Rental" or "Rent" shall have the meaning provided in Section 3.08.

"Rent Commencement Date" shall mean the Commencement Date.

"Required Operation Date" shall have the meaning provided in Section 24.05.

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

"Restaurant Lease" shall mean a lease between Retail Subtenant and the Restaurant Operator demising the premises shown on the diagram attached hereto as Exhibit D.

"Restaurant Operator" shall mean the person or entity which is (i) the tenant under both the Restaurant Lease and the Kitchen Lease and (ii) the service provider under the Hotel Services Agreement.

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

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

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

"Retail Subtenant" shall have the meaning set forth in the Recitals.

"Right of Way" shall have the meaning provided in Article 26 hereof.

"Scheduled Completion Date" shall mean that date which is thirty-six (36) months after the Construction Commencement Date, as such date may be extended for Unavoidable Delays.

"Settlement Agreement" shall mean the Settlement Agreement dated as of June 6, 1980, between the City and Ground Lessor, as supplemented by Letter, dated June 9, 1980, from Richard A. Kahan to Edward I. Koch, and amended by Amendment to Settlement Agreement dated as of August 15, 1986 between New York City and Ground Lessor; Agreement for Certain Payments dated as of June 28, 1989, between New York City and Ground Lessor; Agreement and Consent dated as of December 30, 1989, between New York City and Ground Lessor; Amendment and Agreement and Consent Pursuant to Settlement Agreement dated as of May 18, 1990 between New York City and Ground Lessor; Amendment and Agreement and Consent Pursuant to Settlement Agreement dated as of October 15, 1993 between New York City and Ground Lessor; Amendment and Agreement and Consent Pursuant to Settlement Agreement dated as of April 10, 1995 between New York City and Ground Lessor; 1996 Agreement and Consent Pursuant to Settlement Agreement dated as of October 1, 1996 between New York City and Ground Lessor; 1998 Agreement and Consent Pursuant to Settlement Agreement dated as of May 1, 1998 between New York City and Ground Lessor, and as the same may (subject to the provisions of Section 41.18 hereof) be hereafter amended, modified or supplemented.

"Storing and Staging Letter" shall mean that certain letter agreement of even date herewith between Ground Lessor and Ground Lessee regarding the storage and staging of materials in connection with the construction of the Building.

"Sublandlord" shall mean BPC Site 25 Associates, LLC, and its successors and permitted assigns, subject however to Section 2.03 hereof.

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

"Substantially all of the Premises" shall mean such portion of the Premises as when damaged or taken would leave remaining a balance of the Premises which, due either to the area damaged or taken or the location of the part damaged or taken in relation to the part not damaged or taken, would not under economic conditions, applicable zoning laws, building regulations then existing or prevailing or the Master Development Plan or Declaration of Restrictions, permit the Restoration of the Premises so as to constitute a complete and usable Hotel capable of producing a fair and reasonable net annual income proportional to the number of square feet not damaged or taken. If there be any dispute as to whether or not "Substantially all of the Premises" has been damaged or taken, such dispute shall be resolved by arbitration in accordance with the provisions of Article 36.

"Sub-Sublease(s)" shall have the meaning provided in Section 10.04.

"Sub-Subtenant(s)" shall have the meaning provided in Section 10.04.

"Taxes" shall mean the real property taxes assessed and levied against the Premises or any part thereof pursuant to the Tax Law which would otherwise be payable if the Premises or any part thereof or the owner thereof were not exempt therefrom, without exception or abatement. Notwithstanding the foregoing, subject to any governmental approvals that may be required, Subtenant shall be entitled to enjoy any exemption or abatement that is available unless such exemption or abatement is granted in connection with (x) the construction of a new building or (y) a renovation of a building in the circumstance where such building is not, or would not have been entitled to such an exemption or abatement because it had already received an exemption or abatement in connection with the connection of such building. In the event the Premises are not separately assessed from the Retail Complex, Taxes shall mean the real property taxes assessed against the Building and Civic Facilities, multiplied by the Hotel Proportionate Share, subject to exemption or abatement solely to the extent provided above in this paragraph.

"Tax Law" shall mean the provisions of Chapter 58 of the Charter of New York City and Chapter 2, Title 11, of the Administrative Code of The City of New York, as the same may now or hereafter be amended, or any statute or ordinance in lieu thereof.

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

"Tenant's Construction Obligations" shall mean the commencement and final completion of the construction or installation of Tenant's Civic Facilities in accordance with the Construction Documents and the relevant provisions of the Ground Lease.

"Tenant's Maintenance Obligations" shall mean those Maintenance Obligations to be performed by Sublandlord (prior to the Assignment Date) and by Subtenant (following the Assignment Date) with respect to Tenant's Civic Facilities.

"Term" shall have the meaning provided in Section 2.02.

"Title Matters" shall mean those matters affecting title to the Land set forth in Exhibit G hereto.

"Total Project Cost" shall mean, as determined in accordance with Accounting Principles, the cost of completing the Hotel to the extent actually incurred prior to or within the first ninety (90) days following the Hotel Opening Date, including FF&E, as certified to Ground Lessor (or after the Assignment Date to Sublandlord) by Subtenant. Total Project Cost shall expressly exclude any development fee in excess of three and one-half percent (3.5%) of Total Project Cost, and any costs paid or owing to Affiliates of Subtenant to the extent in excess of the amount that would have been paid to a non-Affiliate.

"Transfer" shall have the meaning provided in Section 10.01(a).

"Unavoidable Delays" shall mean (i) with respect to Subtenant or its obligations hereunder, delays incurred by Subtenant due to strikes, lockouts, work stoppages due to labor jurisdictional

disputes, acts of God, inability to obtain labor or materials due to governmental restrictions (other than any governmental restrictions which Subtenant is bound to observe pursuant to the terms of Article 40 of this Sublease), enemy action, civil commotion, fire, casualty or other causes beyond the control of Subtenant (but not including Subtenant's insolvency or financial condition), Ground Lessor's breach of its obligations under the Ground Lease or under any other agreement between Ground Lessor and Sublandlord now or hereafter made, Sublandlord's breach of its obligations under this Sublease or under any other agreement between Sublandlord and Subtenant now or hereafter made, or any delays or interference caused by Ground Lessor doing construction or performing development activities on sites other than the Premises, and (ii) with respect to Sublandlord or its obligations hereunder, delays incurred by Sublandlord due to strikes, lockouts, work stoppages due to labor jurisdictional disputes, acts of God, inability to obtain labor or materials due to governmental restrictions (other than any governmental restrictions which Sublandlord is bound to observe pursuant to the terms of this Sublease, the Ground Lease or otherwise), enemy action, civil commotion, fire, unavoidable casualty or other similar causes beyond the control of Sublandlord (but not including Sublandlord's insolvency or financial condition), Subtenant's breach of its obligations under the Sublease or under any other agreement between Sublandlord and Subtenant hereafter made, in each case provided such party shall have notified the other party not later than thirty (30) days after such party knows of the occurrence of same.

ARTICLE II

PREMISES AND TERM OF SUBLEASE; RIGHTS OF GROUND LESSOR

SECTION 2.01 Sublandlord does hereby demise and sublease to Subtenant, and Subtenant does hereby hire and take from Sublandlord, 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 Premises shall be delivered to Subtenant free and vacant of all improvements and equipment.

SECTION 2.02 TO HAVE AND TO HOLD unto Subtenant, its successors and permitted assigns, for a term of years (the "Term") commencing on the Commencement Date and expiring on June 16, 2069 or on such earlier date upon which this Sublease may be terminated as hereinafter provided (the "Expiration Date").

SECTION 2.03 NOTWITHSTANDING ANYTHING IN THIS SUBLEASE TO THE CONTRARY, EVEN PRIOR TO THE ASSIGNMENT DATE, GROUND LESSOR SHALL BE ENTITLED TO ALL RIGHTS AND REMEDIES OF SUBLANDLORD UNDER THIS SUBLEASE, INCLUDING WITHOUT LIMITATION, ALL RIGHTS TO RECEIVE NOTICES AND PAYMENTS DUE SUBLANDLORD (ANY SUCH PAYMENTS, LESS COSTS INCURRED BY GROUND LESSOR IN COLLECTION, PLUS INTEREST AT THE INVOLUNTARY RATE TO BE OFFSET AGAINST PAYMENTS DUE UNDER THE GROUND LEASE). FURTHER, EVEN PRIOR TO THE ASSIGNMENT DATE, GROUND LESSOR SHALL BE ENTITLED TO EXERCISE ALL CONSENT AND APPROVAL RIGHTS OF SUBLANDLORD CONTAINED IN THIS SUBLEASE, IT BEING UNDERSTOOD THAT ANY EXPRESS WRITTEN CONSENT OR APPROVAL GRANTED BY GROUND LESSOR WITH RESPECT TO A PARTICULAR MATTER UNDER THE GROUND LEASE SHALL

CONSTITUTE GROUND LESSOR'S CONSENT OR APPROVAL UNDER THIS SUBLEASE WITH RESPECT TO SUCH MATTER. IN THE EVENT THAT PRIOR TO THE ASSIGNMENT DATE SUBLANDLORD SHALL HAVE NOTICE OF A REQUEST FOR CONSENT OR APPROVAL (UNDER THIS SUBLEASE) WITH RESPECT TO A PARTICULAR MATTER NOT ADDRESSED IN THE GROUND LEASE, SUBLANDLORD SHALL NOTIFY GROUND LESSOR OF SUCH MATTER IN A WRITTEN NOTICE REQUESTING GROUND LESSOR'S CONSENT OR APPROVAL. NOTWITHSTANDING THE FOREGOING, GROUND LESSOR SHALL HAVE NO OBLIGATIONS HEREUNDER (IT BEING UNDERSTOOD THAT UNTIL THE ASSIGNMENT DATE, ALL OF GROUND LESSOR'S OBLIGATIONS SHALL BE AS SET FORTH IN THE GROUND LEASE).

ARTICLE III

RENT

SECTION 3.01 (a) For the period beginning on the Rent Commencement Date and continuing thereafter throughout the Term, Subtenant shall pay to Sublandlord, without notice or demand, the annual sums referred to below (collectively, the "Base Rent"):

(i) For each Lease Year (or portion thereof) listed on Schedule 1 hereto, up to but not including the First Appraisal Date, the annual rate set forth on Schedule 1 for such Lease Year (or portion thereof).

(ii) For the Lease Year commencing on the First Appraisal Date and continuing for a period of fifteen (15) Lease Years, an amount per annum equal to the greater of (x) six percent (6%) of the product of (A) the Fair Market Rental Value of the Land, determined as hereinafter provided, and (B) the Hotel Proportionate Share or (y) $860,500.00.

(iii) For the Lease Year commencing on the date immediately succeeding the expiration of the period referred to in Section 3.01(a)(ii) and continuing for a period of fifteen (15) Lease Years, an amount per annum equal to the greater of (x) six percent (6%) of the product of (A) the Fair Market Rental Value of the Land and (B) the Hotel Proportionate Share or (y) one hundred and twenty-five percent (125%) of the Base Rent payable in the final Lease Year of the preceding period.

(iv) For the Lease Year commencing on the date immediately succeeding the expiration of the period referred to in Section 3.01(a)(iii) and continuing for a period of fifteen (15) Lease Years, an amount per annum equal to the greater of (x) six percent (6%) of (A) the product of the Fair Market Rental Value of the Land and (B) the Hotel Proportionate Share or (y) one hundred and twenty-five percent (125%) of the Base Rent payable in the final Lease Year of the preceding period.

(v) For the Lease Year commencing on the date immediately succeeding the expiration of the period referred to in Section 3.01(a)(iv) and continuing until the Expiration Date, an amount per annum equal to the greater of (x) six percent (6%) of (A) the product of the Fair Market Rental Value of the Land and (B) the Hotel Proportionate Share or (y) one

hundred and twenty-five percent (125%) of the Base Rent payable in the final Lease Year of the preceding period.

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

(c) For the purposes of calculating Base Rent pursuant to Section 3.01(a)(ii)-(v), the Fair Market Rental Value of the Land shall be determined as of the first day of the month next succeeding the twenty-second (22nd) anniversary of the Rent Commencement Date and as of each subsequent fifteenth anniversary thereafter (such twenty-second (22nd) anniversary being referred to herein as the "First Appraisal Date", and each subsequent fifteenth anniversary being referred to herein as a "Reappraisal Date"). Such determination of Fair Market Rental Value shall be by appraisal in the manner provided in Section 3.09 hereof, unless at least twelve (12) months prior to the First Appraisal Date or any Reappraisal Date, Sublandlord and Subtenant shall have agreed upon such Fair Market Rental Value.

SECTION 3.02 Commencing on the first (1st) Lease Year and for each Lease Year through the last day of the tenth (10th) Lease Year during the Term, Subtenant shall pay to Sublandlord, without notice or demand, an annual sum (each such sum being hereinafter referred to as a "Payment in Lieu of Taxes" or "PILOT") in the amounts provided in the "Base Rent/PILOT Schedule" in Schedule 1 annexed hereto, payable in equal semi-annual installments on the first day of the first (1st) and seventh (7th) calendar month of each such Lease Year. Notwithstanding the foregoing to the contrary, however, the PILOT due for the tenth (10th) Lease Year shall include, in addition to the amount set forth in Schedule 1 for such tenth Lease Year, an additional amount equal to the amount set forth in Schedule 1 for such tenth (10th) Lease Year multiplied by a fraction, the numerator of which is the number of days from the end of such tenth (10th) Lease Year to and including the last day of the then current Tax Year and the denominator of which is 365. Thereafter, the PILOT payable by Subtenant shall be paid in equal installments before the last date or dates on which payments of Taxes, or the applicable installments thereof, are payable without interest or penalty under New York City law for such Tax Year. The amount of the PILOT payable for each Tax Year during the Term is as set forth in Schedule 1, and shall include, for the Tax Year first beginning after commencement of the eleventh (11th) Lease Year (the "Full PILOT Commencement Date") during the term hereof and for the next succeeding nine (9) Tax Years, the Recapture Amount as defined in said exhibit. Thereafter, PILOT shall be in an amount equal to Taxes. PILOT due for any period which is less than a full Tax Year shall be appropriately apportioned.

SECTION 3.03 Subtenant shall continue to pay the full amount of PILOT required under Section 3.02, notwithstanding that Subtenant may have instituted tax assessment reduction or other actions or proceedings pursuant to Section 4.06 hereof to reduce the assessed valuation of the Premises or any portion thereof. If any such assessment reduction or other action or proceeding shall result in a final determination in Subtenant's favor and if such determination is applicable to a

period after the Full PILOT Commencement Date (i) Subtenant shall be entitled to a credit against future PILOT to the extent, if any, that the PILOT previously paid for the Tax Year or Tax Years for which such final determination(s) was (or were) made exceeds the PILOT as so determined, and (ii) if such final determination is made for the then current Tax Year, future payments of PILOT for said Tax Year shall be based on the PILOT as so determined. An assessment reduction in Subtenant's favor for any Lease Year prior to the Full PILOT Commencement Date may be used to reduce the Recapture Amount, provided that Taxes used for purposes of computing the Recapture Amount shall not be below Projected Full Taxes as set forth in Schedule 1. If at the time Subtenant is entitled to receive such a credit the City of New York is paying interest on refunds of Taxes, Subtenant's credit shall include interest at the rate then being paid by the City of New York on such refunds of Taxes. In no event, however, shall Subtenant be entitled to any refund of any such excess from Sublandlord, unless Sublandlord shall have received such refund during the last Lease Year during the term hereof. In the event that Subtenant has not paid any Rent due hereunder at any time during which Subtenant is entitled to a credit under this Section 3.03, Sublandlord may offset the amount of such credit against the Rent so due.

SECTION 3.04 Subtenant shall pay to Sublandlord the Hotel Civic Facilities Payment in accordance with the provisions of Section 26.04.

SECTION 3.05 (a) For the period commencing on the twenty-second (22nd) anniversary of the Construction Commencement Date (such date being hereinafter called the "Hotel Percentage Rent Commencement Date") and for each Lease Year thereafter during the Term, Subtenant shall pay to Sublandlord, during each such Lease Year, an amount ("Hotel Percentage Rent") equal to one-half percent (0.5%) of the Hotel Percentage Gross Revenue during each such Lease Year, or portion thereof. Hotel Percentage Rent shall be computed quarterly (subject to adjustment as provided in Section 3.05(d)) and paid in the manner hereinafter set forth.

(b) For the purposes of this Section 3.05, if the Hotel Percentage Rent Commencement Date shall occur on a day other than the first day of a Lease Year, the first Lease Year shall be the period from the Hotel Percentage Rent Commencement Date through the last day of the Lease Year in which the Hotel Percentage Rent Commencement Date occurs.

(c) From and after the Hotel Percentage Rent Commencement Date, Subtenant shall deliver to Sublandlord as soon as practicable after the end of each fiscal quarter in each Lease Year, but in no event later than thirty (30) days thereafter, a statement (the "Quarterly Hotel Percentage Rent Statement") showing, in reasonable detail, Hotel Percentage Gross Revenue from the prior fiscal quarter. Based upon the Quarterly Hotel Percentage Rent Statement submitted by Subtenant to Sublandlord, Subtenant shall pay to Sublandlord the Hotel Percentage Rent. Such partial payment of Hotel Percentage Rent shall be made by Subtenant simultaneously with the submission to Sublandlord of the Quarterly Hotel Percentage Rent Statement.

(d) Subtenant shall deliver to Sublandlord as soon as practicable after the end of each Lease Year, but, in no event, later than one hundred twenty (120) days thereafter, a separate statement (the "Annual Hotel Percentage Rent Statement") for such Lease Year. If the Annual Hotel Percentage Rent Statement shall show that the sums paid by Subtenant as Hotel Percentage Rent for such Lease Year for which such Annual Hotel Percentage Rent Statement is given were less than the Hotel Percentage Rent payable by Subtenant for such Lease Year, then Subtenant shall

pay to Sublandlord, together with the delivery to Sublandlord of the Annual Hotel Percentage Rent Statement, the amount of such deficiency, and if the Annual Hotel Percentage Rent Statement shall show that the sums paid by Subtenant as Hotel Percentage Rent for such Lease Year exceeded the Hotel Percentage Rent payable by Subtenant for such Lease Year, Sublandlord shall permit Subtenant to offset the amount of such excess, without interest, against subsequent payments of Hotel Percentage Rent.

SECTION 3.06 In connection with the payment by Subtenant of Hotel Percentage Rent, the following provisions shall apply:

(a) From and after the Hotel Percentage Rent Commencement Date, Subtenant shall at all times keep and maintain at an office located in New York City books and records prepared on the basis required under Section 3.06(b), showing, in reasonable detail, the amount of Hotel Percentage Gross Revenue. Unless consented to by Sublandlord, such books and records relating to any Lease Year shall not be destroyed or disposed of for a period of four (4) years after the end of such Lease Year. Sublandlord or its representatives shall have the right during regular business hours on reasonable advance notice to examine, audit and/or photocopy all such books and records. If an audit by Sublandlord with respect to a Lease Year is not commenced within the aforesaid four (4) year period, the computation of the Hotel Percentage Rent paid by Subtenant for such Lease Year shall not thereafter be subject to Sublandlord's audit and shall conclusively be deemed correct.

(b) Each Annual Hotel Percentage Rent Statement and Quarterly Hotel Percentage Rent Statement required under this Sublease shall be (i) prepared in accordance with Accounting Principles and (ii) verified by the chief financial officer or managing partner or managing member of Subtenant, or if the managing partner or managing member of Subtenant is not an individual, by the chief financial officer of such managing partner or managing member as being true and correct to the best of his knowledge. Each Annual Hotel Percentage Rent Statement shall be certified by a Certified Public Accountant. Such certification shall include, without limitation, a statement by the Certified Public Accountant that an examination of Subtenant's books and records has been conducted by the Certified Public Accountant in accordance with generally accepted auditing standards consistently applied and that the Annual Hotel Percentage Rent Statement has been prepared in accordance with Accounting Principles.

(c) If Sublandlord shall elect to conduct an audit of Subtenant's books and records and such audit discloses an underpayment of Hotel Percentage Rent, other than due to a bona fide dispute governed by Section 3.06(e), Subtenant shall pay to Sublandlord, within ten (10) days after demand, the amount of such deficiency, plus interest thereon at the Involuntary Rate from the date upon which such sum was initially due through the date of actual payment. In addition, if such deficiency shall be in excess of five percent (5%) of the amount alleged by Subtenant to be payable, Subtenant shall pay to Sublandlord, within ten (10) days after demand, all reasonable costs incurred by Sublandlord in connection with such audit.

(d) In the event that Subtenant or any Affiliate of Subtenant (other than Hotel Operator or Licensor) shall themselves use or occupy (i) any space in the Building other than as an office for the management of the Hotel or the Building (or for purposes associated therewith) or (ii) more than 1,000 square feet of space in the Building as a management office in the portions of

the Building not associated with the operation of the Hotel, then there shall be imputed as income the fair market rental value of (y) all such space described in clause (i) and (z) all the excess space (over 1,000 square feet) described in clause (ii). Such income, to the extent attributable to space consisting of a portion of the Premises, shall be deemed to be, and construed as, Hotel Percentage Gross Revenue for all purposes of this Sublease. Fair market rental as used in this paragraph shall mean the rental which would be paid under a sublease (commencing at the same time as Subtenant's or such Affiliate's use or occupancy) with a non-related Person leasing a similar amount of space in the same Building, for the same term, for a similar purpose and in a similar location in the Building, and shall include, inter alia, all fixed, percentage and escalation rents which would be included under such sublease.

(e) If at any time and for any reason there shall be a bona fide dispute as to the determination of Hotel Percentage Gross Revenue or fair market rental value pursuant to Section 3.06(d) above, such dispute shall be determined by arbitration pursuant to Article 36 hereof. Pending resolution of the dispute, Subtenant's determination of Hotel Percentage Gross Revenue shall prevail and Subtenant shall pay Hotel Percentage Rent based upon such determination. Without limitation of the foregoing, any deficiency, interest and expenses which may be payable by Subtenant to Sublandlord following an audit conducted by Sublandlord pursuant to Section 3.06(c) shall not be payable if disputed by Subtenant unless and until determined by such arbitration. If such arbitration determines an underpayment by Subtenant, Subtenant shall, within ten (10) days from the date of such determination, pay the amount of such underpayment, plus interest thereon at the Prime Rate from the date upon which such sum was initially due until the actual date of payment. Notwithstanding the foregoing, if arbitration has determined that (i) more than one quarter in any year, or three quarters in any two year period, Subtenant has underpaid by five percent (5%) or more, or (ii) if at any time arbitration has determined that Subtenant has underpaid by ten (10%) or more, then payment shall be at the Involuntary Rate and Subtenant shall pay to Sublandlord, within ten (10) days after demand, all reasonable costs incurred by Sublandlord in connection with such arbitration. If such arbitration determines an overpayment by Subtenant, Sublandlord shall credit to Subtenant against the next payments of Hotel Percentage Rent due hereunder the amount of such overpayment.

SECTION 3.07 (a) For the period commencing on the fifteenth (15th) day following the first full fiscal quarter following the Hotel Opening Date (the "Hotel Participation Rent Commencement Date") and for each Lease Year thereafter during the Term, and subject to the further provisions of this Section 3.07, Tenant shall pay a portion of the Adjusted Hotel Gross Revenues derived from the Hotel, determined in accordance with the following formula (any such payments, "Hotel Participation Rent"): Fifteen percent (15%) of the amount, if any, by which Adjusted Hotel Gross Revenues for such Lease Year exceeds the product of (x) thirteen percent (13%) and (y) Total Project Cost. For the purposes of this Section 3.07, if the Hotel Participation Rent Commencement Date shall occur on a day other than the first day of a Lease Year, the first Lease Year shall be the period from the Hotel Participation Rent Commencement Date through the last day of the Lease Year in which the Hotel Participation Rent Commencement Date occurs.

(b) From and after the Hotel Participation Rent Commencement Date, Subtenant shall deliver to Sublandlord as soon as practicable after such date but in no event later than thirty (30) days thereafter, a statement showing, in reasonable detail, the computation of Hotel Participation Rent payments for the prior fiscal quarter (each such statement, a "Hotel Participation

Rent Statement"). Each Hotel Participation Rent payment shall be made by Subtenant simultaneously with the submission to Sublandlord of the applicable Hotel Participation Rent Statement.

(c) Subtenant shall deliver to Sublandlord as soon as practicable after the end of each Lease Year (commencing with the end of the Lease Year in which the Hotel Participation Rent Commencement Date shall occur), but, in no event, later than one hundred twenty (120) days thereafter, a separate statement (the "Annual Hotel Participation Rent Statement") for such Lease Year. If the Annual Hotel Participation Rent Statement shall show that the sums paid by Subtenant as Hotel Participation Rent for such Lease Year for which such Annual Hotel Partition Rent Statement is given were less than the Hotel Participation Rent payable by Subtenant for such Lease Year, then Subtenant shall pay to Sublandlord, together with the delivery to Sublandlord of the Annual Hotel Participation Rent Statement, the amount of such deficiency without interest (except as provided pursuant to those provisions incorporated by reference pursuant to Section 3.07(d)), and if the Annual Hotel Participation Rent Statement shall show that the sums paid by Subtenant as Hotel Participation Rent for such Lease Year exceeded the Hotel Participation Rent payable by Subtenant for such Lease Year, Subtenant shall offset the amount of such excess, without interest, against subsequent payments of Hotel Participation Rent.

(d) Subtenant shall maintain books relative to Hotel Participation Rent in the same manner as is required for Hotel Percentage Rent in Section 3.06(a), statements of Hotel Participation Rent shall be prepared and certified in the same manner as is required for Hotel Percentage Rent in Section 3.06(b), Sublandlord shall have the right to audit Subtenant's payments of Hotel Participation Rent in the same manner as is required for Hotel Percentage Rent in Section 3.06(c) (with costs being allocated as provided in said Section), fair market rental value for the purpose of determining Hotel Participation Gross Revenues shall be imputed for those portions of those Premises for which fair market rental value is imputed under Section 3.06(d), and disputes regarding Hotel Participation Rent shall be resolved in accordance with Section 3.06(e) and in the same manner as is required for disputes in respect of Hotel Percentage Rent (with costs of same being allocated as provided in said Section).

(e) Notwithstanding anything in this Sublease to the contrary, Subtenant shall be obligated to pay Hotel Participation Rent for any fiscal quarter only to the extent of any excess of Adjusted Hotel Participation Gross Revenues after deduction of an amount equal to all payments due on all Project Loans during such quarter. To the extent Adjusted Hotel Participation Gross Revenues in any fiscal quarter are insufficient to pay Hotel Participation Rent for such quarter after accrual of such amounts due on all Project Loans with respect to such quarter, payment of such deficiency shall be deferred (without interest) until Adjusted Hotel Participation Gross Revenues for any subsequent fiscal quarter during the same Lease Year exceed the sum of (i) all payments due on all Project Loans and (ii) Hotel Participation Rent (if any) due and payable for such subsequent fiscal quarter, it being understood that in no event shall any such deficiency (as opposed to any deficiency due to Subtenant's payment of amounts from Adjusted Hotel Participation Gross Revenues other than debt service) accruing in one Lease Year be carried over to another Lease Year. For purposes of the preceding subordination provision, any such Project Loan may be made by any Person other than a Prohibited Person.

(f) Notwithstanding the foregoing, in no event shall Hotel Participation Rent exceed a maximum amount of $175,000 in the first (1st) full Lease Year following the Hotel Participation Rent Commencement Date, such maximum amount increasing for each year thereafter at a rate of three percent (3%) per annum throughout the Term.

(g) If on the tenth (10th) anniversary of the Hotel Opening Date, or any anniversary of such date thereafter equal in number to a multiple of ten (10), Subtenant reasonably believes that those percentage limitations set forth in the definition of Qualified Expenses with respect to franchise, management, incentive and other fees are no longer consistent with prevailing standards in the marketplace for hotels of similar size, character and class of operation in New York City, Subtenant may, within thirty (30) days of such anniversary, cause Sublandlord to consider adjusting such percentage limitations. Promptly after receipt of such notice, Landlord shall negotiate in good faith with Subtenant regarding such adjustment in light of the standards prevailing in such marketplace. If the parties are unable to agree on such adjustment within thirty (30) days of Sublandlord's receipt of Subtenant's notice, Sublandlord and Subtenant shall submit such dispute to arbitration in accordance with the procedures set forth in Section 36.02 hereof.

SECTION 3.08 All amounts required to be paid by Subtenant pursuant to this Sublease, including, without limitation, Base Rent, PILOT, Hotel Percentage Rent, Hotel Participation Rent, Impositions, Hotel Civic Facilities Payments and CAM Reimbursements (collectively, "Rental" or "Rent"), shall constitute rent under this Sublease and shall be payable in the same manner as Base Rent. Rental shall be absolutely net to Sublandlord without any abatement, deduction, counterclaim, set-off or offset whatsoever except as specifically set forth in this Sublease, so that this Sublease shall yield, net, to Sublandlord, Rental in each year during the Term and that Subtenant shall pay all costs, expenses and charges of every kind and nature relating to the Premises (except Taxes, if any, and the cost assumed by Sublandlord of constructing and maintaining Ground Lessor's Civic Facilities and to the extent provided in Article 26, the Right of Way) which may arise or become due or payable during or after (but attributable to a period falling within) the Term.

SECTION 3.09 (a) As used herein, "Fair Market Rental Value" shall mean the fair market rental value of the Land as of the date in question, considered as unencumbered by the Master Lease, the Ground Lease, the Retail Sublease and this Sublease and as unimproved except for Ground Lessor's Civic Facilities and other site improvements made by Ground Lessor. In addition, the determination of Fair Market Rental Value shall reflect (i) any floor area ratio limitations imposed with respect to the Land under applicable zoning laws or the Declaration of Restrictions or to the extent limited by Ground Lessor or any other governmental agency and (ii) with respect to the time period from and after the last Reappraisal Date, the ability that any owner of the Land would have in financing the improvement thereof. Each determination of Fair Market Rental Value of the Land referred to in Section 3.01(a)(ii)-(v) shall be made in accordance with the procedures set forth in Article XVII of the Master Lease. Sublandlord shall permit Subtenant and Subtenant's representatives (including its Mortgagee or Mortgagees, if any) and witnesses, at Subtenant's cost and expense, to participate in such procedures. Sublandlord shall appoint as its appraiser under the Master Lease an appraiser designated by Subtenant provided that the appraiser so designated is qualified to act as such pursuant to the terms of the Master Lease and Subtenant shall pay the fees and expenses payable by Sublandlord pursuant to Section 17.02 of the Master Lease.

(b) In the event that New York City shall, for any reason, fail to determine the assessed value of the Premises for any Tax Year during the Term, such assessed value shall be determined (i) in accordance with the procedures set forth in Article XVII of the Master Lease, provided that, in making such determination, the appraisers shall take into consideration the equalization rates then applicable to comparable properties situated in the Borough of Manhattan, as well as any limitations on increases in assessed value for such comparable properties prescribed by applicable law and (ii) assuming that Subtenant's share of any Building-wide assessment shall equal the Hotel Proportionate Share.

SECTION 3.10 In the event that after the recordation of the Declaration or the REA, Subtenant has failed to pay its share of common charges or other amounts due under either the Declaration or the REA, and in the further event that Ground Lessor has cured such failure by payment of any such arrearage, Subtenant shall, within five (5) business days of receipt of Ground Lessor's request, reimburse Ground Lessor the full amount of such payments (such reimbursements, "CAM Reimbursements").

ARTICLE IV

IMPOSITIONS

SECTION 4.01 Except as otherwise specifically provided herein, Subtenant shall pay, as hereinafter provided, all of the following items (collectively, "Impositions") imposed by any Governmental Authority (other than a Governmental Authority acting either in its capacity as Ground Lessor under the Ground Lease or as Sublandlord under this Sublease and not in its governmental capacity): (a) real property assessments (not including Taxes), (b) personal property taxes, (c) occupancy and rent taxes, (d) water, water meter and sewer rents, rates and charges, (e) excises, (f) levies, (g) license and permit fees, (h) service charges with respect to police protection, fire protection, street and highway construction, maintenance and lighting, sanitation and water supply, if any, (i) fines, penalties and other similar or like governmental charges applicable to the foregoing and any interest or costs with respect thereto and (j) except for Taxes, any and all other governmental levies, fees, rents, assessments or taxes and charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, and any interest or costs with respect thereto, which at any time during the Term are, or, if the Premises or any part thereof or the owner thereof were not exempt therefrom, would have been (1) assessed, levied, confirmed, imposed upon or would have become due and payable out of or in respect of, or would have been charged with respect to, the Premises or any document to which Subtenant is a party creating or transferring an interest or estate in the Premises (excluding any transfer taxes (unless required by statute to be paid by the grantee or transferee where the grantor or transferor is exempt therefrom) or capital gains taxes imposed in connection with the execution of this Sublease), or the use and occupancy thereof by Subtenant and (2) encumbrances or liens on (i) the Premises, or (ii) the sidewalks or streets in front of or adjoining the Premises, or (iii) any vault (other than a vault in respect of which a utility company is obligated to pay any charge specified above or which is exempt from any such charge by reason of use thereof by any such utility company), passageway or space in, over or under such sidewalk or street, or (iv) any other appurtenances of the Premises, or (v) any personal property (except personal property which is not owned by or leased to Subtenant and except as otherwise specifically provided herein), equipment

or other facility used in the operation thereof, or (vi) except as otherwise specifically provided herein, the Rental (or any portion thereof) payable by Subtenant hereunder, each such Imposition, or installment thereof, during the Term to be paid not later than five (5) Business Days prior to the Due Date thereof. However, if, by law, any Imposition may at the option of the taxpayer be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Subtenant may exercise the option to pay the same in such installments and shall be responsible for the payment of such installments only, together with applicable interest, if any, provided that all such installment payments together with applicable interest, if any, relating to periods prior to the date definitely fixed in Article 2 hereof for the expiration of the Term shall be made prior to the Expiration Date. Subtenant shall promptly notify Sublandlord if Subtenant shall have elected to pay any such Imposition in installments.

SECTION 4.02 Subtenant, from time to time upon the request of Sublandlord, shall promptly furnish to Sublandlord copies of official receipts of the appropriate imposing authority, or other evidence reasonably satisfactory to Sublandlord, evidencing the payment thereof.

SECTION 4.03 (a) In no event shall Subtenant be obligated to pay Taxes, it being understood by Sublandlord that if the Premises or the Building shall at any time become subject to Taxes, prompt payment of same (and of any interest and penalties thereon) shall be the responsibility of (i) prior to the Assignment Date, Ground Lessor pursuant to the Ground Lease and (ii) following the Assignment Date, Sublandlord pursuant to this Sublease and the Retail Sublease. Following the Assignment Date, Sublandlord shall indemnify Subtenant from and against the payment of Taxes, and any interest and penalties thereon and the lien thereof.

Subtenant acknowledges Ground Lessor's right to contest the imposition of Taxes to the extent set forth in Article 4 of the Ground Lease. If Ground Lessor shall exercise its right to contest the imposition of Taxes prior to the Assignment Date, Sublandlord shall promptly notify Subtenant of such contest, and, at Subtenant's request, shall promptly deliver to Subtenant copies of all applications, protest and other documents submitted by Ground Lessor to (or received by Ground Lessor from) any Governmental Authority to the extent received from Ground Lessor. If Sublandlord (whether in its capacity as Ground Lessor or Sublandlord) shall exercise its right to contest the imposition of Taxes after the Assignment Date, Sublandlord shall promptly notify Subtenant of such contest and, at Subtenant's request, shall promptly deliver to Subtenant copies of all applications, protest and other documents submitted by Sublandlord to (or received by Sublandlord from) any Governmental Authority. Sublandlord shall not, without Subtenant's consent, consent to a settlement of any such contest if such settlement would increase the amount of PILOT payable by Subtenant under this Sublease or would alter the method for computing or affect the timing for payment of PILOT. If Ground Lessor or Sublandlord, as the case may be, shall have failed to pay the Taxes as required under the Ground Lease or this Sublease and the Retail Sublease, respectively, and shall not have timely commenced a proceeding to contest same, or shall have timely commenced a proceeding to contest the Taxes but failure to pay the Taxes during the pendency of such proceeding will result in the imminent loss or forfeiture of the Premises or the termination of Subtenant's interest under this Sublease or Subtenant would by reason thereof be subject to any civil or criminal penalty or liability (and with respect to such failure by Ground Lessor prior to the Assignment Date, such failure has not been cured by Sublandlord pursuant to the rights granted to Sublandlord in the Ground Lease), then Subtenant may on behalf of Ground Lessor (to the extent permitted by the Ground Lease) or Sublandlord, pay such unpaid Taxes

together with any interest or penalties thereon and deduct such payment from the next installment of PILOT (and, to the extent, if any, that such payment shall exceed the next installment of PILOT, from the next installment(s) of Base Rent) together with interest thereon at the Involuntary Rate. If there shall be no more remaining installments of PILOT from which Subtenant under this Sublease may make deductions permitted pursuant to the preceding sentence, Sublandlord shall deduct the aggregate of such unapplied deductions from any other amounts due from Subtenant under this Sublease. and if such amounts due Sublandlord shall be less than the aggregate amount of such unapplied deductions, shall promptly pay to Subtenant the balance of any such deductions.

(b) Other than Impositions as set forth in this Sublease, nothing herein contained shall require Subtenant to pay municipal, state or federal income, gross receipts, inheritance, estate, succession, profit or transfer taxes of Ground Lessor or Sublandlord, or any corporate franchise tax imposed upon Ground Lessor or Sublandlord or any transfer or gains tax imposed on Ground Lessor or Sublandlord.

SECTION 4.04 Any Imposition relating to a period a part of which is included within the Term and a part of which is included in a period of time before the Commencement Date or after the date fixed in Article 2 hereof for the expiration of the Term (whether or not such Imposition shall be assessed, levied, confirmed, imposed upon or in respect of or become a lien upon the Premises, or shall become payable, during the Term) shall be apportioned between Sublandlord and Subtenant as of the Commencement Date or as of the date fixed for the expiration of the Term, as the case may be, so that Subtenant shall pay that portion of such Imposition which that part of such fiscal period included in the period of time after the Commencement Date or before such date fixed in Article 2 for the expiration of the Term bears to such fiscal period, and Sublandlord shall pay the remainder thereof. Other than in respect of Impositions relating, in part, to a period of time before the Commencement Date, no such apportionment of Impositions shall be made if this Sublease is terminated prior to the Expiration Date as the result of an Event of Default.

SECTION 4.05 From and after the Assignment Date, Subtenant shall have the right to contest the amount or validity, in whole or in part, of any Imposition by appropriate proceedings diligently conducted in good faith, in which event, notwithstanding the provisions of Section 4.01 hereof, payment of such Imposition shall be postponed if, and only as long as:

(a) neither the Premises nor any part thereof, or interest therein or any income therefrom (except to the extent covered by security deposited in accordance with this Section 4.05) or any other assets of, or funds appropriated to, Sublandlord would by reason of such postponement or deferment, be, in the reasonable judgment of Sublandlord, in imminent danger of being forfeited or lost or subject to any lien, encumbrance or charge, and neither Sublandlord nor Subtenant would by reason thereof be subject to any civil or criminal liability; and Subtenant shall have deposited with Depository cash or other security satisfactory to Sublandlord in the amount so contested and unpaid, together with all interest and penalties in connection therewith and all charges that may or might be assessed against or become a charge on the Premises or any part thereof in such proceedings.

(b) Upon the termination of such proceedings, it shall be the obligation of Subtenant to pay the amount of such Imposition or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such

proceedings, together with any costs, fees (including attorneys' fees and disbursements), interest, penalties or other liabilities in connection therewith, and upon such payment, Depository shall promptly return, with interest, if any, any amount deposited with it as aforesaid, provided, however, that Depository at Subtenant's request or upon Subtenant's failure to do so in a timely manner, at Sublandlord's request, shall disburse said moneys on deposit with it directly to the Governmental Authority to whom such Imposition is payable and any remaining monies, with interest, if any, shall be returned promptly to Subtenant. If, at any time during the continuance of such proceedings, Sublandlord shall, in its reasonable opinion, deem insufficient the amount deposited as aforesaid, Subtenant, within fifteen (15) days after demand, shall make an additional deposit of such additional sums or other acceptable security as Sublandlord may request, and upon failure of Subtenant to do so, the amount theretofore deposited may be applied at the request of Sublandlord to the payment, removal and discharge of such Imposition and the interest and penalties in connection therewith and any costs, fees (including attorneys' fees and disbursements) or other liability accruing in any such proceedings, and the balance, if any, with any interest earned thereon, shall be returned to Subtenant or the deficiency, if any, shall be paid by Subtenant to Sublandlord within ten (10) days after demand.

SECTION 4.06 From and after the Assignment Date, Subtenant shall have the right to seek a reduction in the valuation of the Premises, if and to the extent the Premises are assessed for Taxes and to prosecute any action or proceeding in connection therewith, provided that no such action or proceeding shall affect Subtenant's obligation to pay any installment of PILOT.

SECTION 4.07 Sublandlord shall join and cooperate, and shall use reasonable efforts to cause BPCA (in its capacity as Master Lessor and Ground Lessor) to join and cooperate in any proceedings referred to in Section 4.05 or Section 4.06 hereof or permit the same to be brought in its name or the name BPCA but shall not be liable for the payment of any costs or expenses in connection with any such proceedings and Subtenant shall reimburse Master Lessor, Ground Lessor and Sublandlord for any and all costs or expenses which Master Lessor, Ground Lessor or Sublandlord may reasonably sustain or incur in connection with any such proceedings, including reasonable attorneys' fees and disbursements. In the event Subtenant shall institute a proceeding referred to in Section 4.05 or 4.06 hereof and no law, rule or regulation in effect at the time requires that Master Lessor, Ground Lessor or Sublandlord join in such proceedings or that such proceeding be brought by and/or in the name of Master Lessor, Ground Lessor or Sublandlord, Sublandlord, nevertheless, shall, at Subtenant's cost and subject to the reimbursement provisions herein above set forth, cooperate with Subtenant in such proceeding and shall use reasonable efforts to cause Master Lessor and Ground Lessor to cooperate with Subtenant in such proceeding, to the extent reasonably necessary.

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

ARTICLE V

DEPOSITS FOR IMPOSITIONS

SECTION 5.01 In order to assure the payment of all Impositions, Subtenant, upon the demand of Sublandlord at any time after the occurrence of an Event of Default hereunder, shall deposit with the Depository on the first day of each month during the Term, an amount equal to one-twelfth (1/12th) of the annual Impositions then in effect.

(a) If at any time the monies so deposited by Subtenant shall be insufficient to pay the next installment of Impositions then due, Subtenant shall after demand therefor by Sublandlord deposit the amount of the insufficiency with Depository to enable Depository to pay the next installment of Impositions at least thirty (30) days prior to the Due Date thereof.

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

(c) If at any time the amount of any Imposition is increased or Sublandlord receives information from the entity or entities imposing such Imposition that an Imposition will be increased, and if the monthly deposits then being made by Subtenant under this Section 5.01 would be insufficient to pay such Imposition thirty (30) days prior to the Due Date thereof, then upon notice from Sublandlord to Subtenant of such fact, the monthly deposits shall thereupon be increased and Subtenant shall deposit immediately with Depository sufficient monies for the payment of the increased Imposition. Thereafter, the monthly payments shall be adjusted so that Depository shall receive from Subtenant sufficient monies to pay each Imposition at least thirty (30) days prior to the Due Date of such Imposition.

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

(e) Notwithstanding the foregoing, (i) deposited monies may be held by Depository in a single bank account, provided such account is segregated and interest-bearing, (ii) Depository shall, at Sublandlord's option and direction and if there then be an Event of Default continuing hereunder, use any monies deposited pursuant to Article 4 or Article 5 for the payment of any Rental.

(f) If this Sublease shall be terminated by reason of any Event of Default or if dispossession occurs pursuant to Section 24.03(b), all deposited monies under this Article 5 then held by Depository, shall be paid to and applied by Sublandlord in payment of any and all sums due under this Sublease and Subtenant shall promptly pay the resulting deficiency. Otherwise, all monies deposited under this Article 5, together with interest earned thereon, if any, shall be paid to Subtenant promptly after the Expiration Date.

(g) Any interest paid on monies deposited pursuant to this Article 5 shall be applied against amounts thereafter becoming due and payable by Subtenant or returned to Subtenant, as aforesaid.

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

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

SECTION 5.02 If Sublandlord ceases to have any interest in the Premises, and provided that the Person acquiring Sublandlord's interest in the Premises agrees (in writing) to assume from and after the date of the transfer all of Sublandlord's obligations with respect to the deposits made pursuant to Section 5.01, Sublandlord promptly shall use reasonable efforts to cause the transfer to such Person of all of Sublandlord's rights with respect to such deposits. Upon such transfer and notice thereof to Subtenant, the transferor shall be released from all liability with respect thereto, the transferee shall assume from and after the date of such transfer all of Sublandlord's obligations with respect to such deposits and Subtenant shall look solely to the transferee with respect thereto. The provisions hereof shall apply to each successive transfer of the deposits.

SECTION 5.03 Sublandlord shall have no liability to Subtenant arising out of, or related to, any acts or omissions of Depository.

ARTICLE VI

LATE CHARGES

In the event that any payment of Rental shall become overdue beyond the due date thereof (or if such date cannot be determined from this Sublease, then such due date for purposes of this Article 6 shall be deemed to be three (3) days following the date upon which demand therefor is made), then, in addition to any costs and expenses incurred by Sublandlord in connection therewith (including, without limitation, reasonable attorneys' fees and disbursements) interest on the sums so overdue equal to the Involuntary Rate, for the period from the due date to the date of actual payment, shall become due and payable to Sublandlord as additional Rental to be paid under this Sublease. Said interest shall be payable by Subtenant within ten (10) days after demand. No failure by Sublandlord to insist upon the strict performance by Subtenant of its obligations to pay said

interest shall constitute a waiver by Sublandlord of its right to enforce the provisions of this Article 6 in any instance thereafter occurring. The provisions of this Article 6 shall not be construed in any way to extend the grace periods or notice periods provided for in Article 24.

ARTICLE VII

INSURANCE

SECTION 7.01 (a) Subtenant shall, at all times from and after the Assignment Date, and thereafter throughout the Term:

(i) keep or cause to be kept the Premises insured under an "All Risk of Physical Loss" form of policy, including, without limitation, coverage for loss or damage by water, flood, subsidence and earthquake (excluding, at Subtenant's option, from such coverage normal settling only) and, when and to the extent obtainable from the United States government or any agency thereof, war risks; such insurance to be written on an "Agreed Amount" basis, with full replacement cost, with the replacement value of the Premises to be determined from time to time, but not less frequently than required by the insurer and in any event at least once every three (3) years, it being agreed that no omission on the part of Sublandlord to request any such determination shall relieve Subtenant of its obligation to determine the replacement value thereof (in the absence of such valuation, the FM (Factory Mutual) or IRI (Industrial Risk Insurers) Indices will be applied).

Any "All risk" policy carried or caused to be carried by Subtenant hereunder shall state that the valuation of any loss to be determined thereunder shall be made on a replacement cost basis and also shall contain an endorsement whereby the insurer waives all coinsurance requirements. Subtenant, with the permission of Sublandlord, may arrange this "All Risk of Physical Loss" insurance policy with a deductible of no more than One Hundred Thousand ($100,000.00) Dollars for each loss;

(ii) provide and keep in force (or where applicable, cause its third party operators to provide and keep in force) commercial general liability insurance against liability for bodily injury, death and property damage, it being agreed that such insurance shall (A) be in an amount as may from time to time be reasonably required by Sublandlord, but not less than One Hundred Million Dollars ($100,000,000) combined single limit inclusive of primary, umbrella and following form excess policies for liability for bodily injury, death and property damage, (B) include the Premises, and all streets, alleys and sidewalks adjoining or appurtenant to the Premises, (C) provide blanket automatic contractual insurance covering the indemnification provisions assumed by Subtenant hereunder, including bodily injury to employees or others assumed by Subtenant under contract, which insurance shall cover all costs, expenses and/or liability (including, without limitation, attorneys' fees and disbursements) arising out of or based upon any and all claims, accidents, injuries and damages mentioned in Article 19 and required to be insured against hereunder, (D) provide for cross liability, allowing for a claim as a named insured or under contractual liability and specifically shall include Innkeeper's Legal Liability, Contractual Liability, Garage Keeper's Legal Liability, Sprinkler Leakage Legal Liability, Elevators and Escalators Liability (hereinafter described), Water Damage Legal Liability,

Safe Deposit Legal Liability, Liquor Liability, Storekeeper's Legal Liability, Care and Custody Liability, Products Liability, Malpractice coverage (if medical services are provided) and Fire Legal Liability and (E) include the following protection:

(1) Broad form liability endorsement, including (a) blanket contractual liability, (b) personal injury and advertising injury liability, (c) premises medical payments, (d) host liquor liability, (e) fire legal liability on real property, (f) broad form property damage liability, including completed operations, (g) incidental medical malpractice, (h) non-owned watercraft liability, (i) limited world-wide coverage, (j) additional interests insured, (k) extended bodily injury coverage, and (l) automatic coverage on newly-acquired organizations;

(2) Products and completed operations;

(3) Independent contractors;

(4) Blanket automatic contractual liability to include bodily injury to employees of others assumed by Subtenant; and

(5) Water damage legal liability shall not be excluded.

(iii) provide and keep in force workers' compensation insurance providing statutory New York State benefits for all persons employed by Subtenant at or in connection with the Premises and employer's liability insurance in an amount not less than that required by New York State law;

(iv) provide and keep in force business interruption insurance utilizing "All Risk" coverage, including rental insurance, in an amount necessary to provide full coverage for not less than one (1) year's continuing overhead expenses (including, without limitation, Base Rent, PILOT and Hotel Civic Facilities Payments), and shall include additional coverage for contingent damages in such year ("Business Interruption Insurance");

(v) provide and keep in force or, where applicable cause its third party operators to provide and keep in force, a Policy providing Dishonesty, Disappearance and Destruction Insurance (fidelity bond), on a blanket basis, with respect to the Hotel Operator in an amount not less than One Million Dollars ($1,000,000);

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

(vii) provide and keep in force boiler and machinery insurance in an amount as may from time to time be reasonably determined by Sublandlord but not less than Ten Million Dollars ($10,000,000) per accident on a combined basis covering direct property loss and loss of income and covering all steam, mechanical and electrical equipment,

including without limitation, all boilers, unfired pressure vessels, air conditioning equipment, elevators, piping and wiring;

(viii) provide and keep in force automobile liability insurance for all owned, non-owned, leased, rented and/or hired vehicles insuring against liability for bodily injury and death and for property damage in an amount as may from time to time be reasonably determined by Sublandlord but not less than Twenty Five Million Dollars ($25,000,000) combined single limit; and

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

(b) All insurance provided by Subtenant as required by Section 7.01(a) shall name Subtenant as named insured and Sublandlord and each Mortgagee as additional insureds to the extent, where applicable, of their respective insurable interests in the Premises and shall be primary with respect to any other coverage which Sublandlord may obtain. (Ground Lessor's and Master Lessor's coverage shall be in excess of any coverage provided in favor of Sublandlord by Subtenant). The coverage provided by Subtenant as required by Sections 7.01(a)(i), (vi) and (vii) also shall name each Mortgagee as an insured under a standard mortgagee clause provided, however, any loss payable thereunder shall be payable as provided in this Sublease.

(c) Whenever Subtenant shall be required to carry insurance under this Section 7.01, Subtenant shall not be required to carry insurance in any greater amounts or against any additional hazards than at the time are commonly carried by prudent owners of like premises, provided that the types or amounts of such coverage shall never be different from or less than, as the case may be, the types or amounts specifically required hereunder unless such types or amounts are no longer available. Any dispute as to the amounts of additional insurance to be carried, or the additional kinds of hazards to be insured against, shall be resolved by arbitration pursuant to Article 36.

(d) Subtenant shall not carry separate insurance (other than personal injury liability insurance) concurrent in form or contributing in the event of loss with that required by this Sublease to be furnished by Subtenant, unless Sublandlord is included therein as additional insureds and each Mortgagee as an additional insured with loss payable as provided in this Sublease. Subtenant promptly shall notify Sublandlord of the carrying of any such separate insurance and shall cause the policies therefor or duplicate originals thereof or certificates of insurance with respect thereto together with copies of such policies to be delivered as required in this Sublease.

SECTION 7.02 (a) The loss under all policies required by any provision of this Sublease insuring against damage to the Premises by fire or other casualty shall be payable to Depository, except that, subject to the terms of any Mortgage, amounts of less than $350,000 shall be payable in trust directly to Subtenant for application to the cost of Restoration in accordance with Article 8 hereof. Such amount shall be adjusted on the fifth (5th) anniversary of the Commencement Date and on each fifth (5th) anniversary of the date on which an adjustment is made pursuant to this Section 7.02(a) by adding to $350,000 an amount equal to the product of (x)

$350,000 and (y) the percent of increase, if any, in the Consumer Price Index for the month in which the applicable anniversary date occurs over the Consumer Price Index for the month in which the Commencement Date occurs. Any dispute as to the calculation of such adjustment shall be determined by arbitration pursuant to Article 36. The rental insurance portion of the Business Interruption Insurance required pursuant to Section 7.01(a) shall be carried in favor of Sublandlord, but the proceeds thereof to the extent required hereunder shall be paid to the Depository and shall be applied to the Rental payable by Subtenant under this Sublease until completion of such Restoration by Subtenant. All insurance required by any provision of this Sublease shall be in such form and shall be issued by such responsible companies authorized to do business in the State of New York as are reasonably acceptable to Sublandlord. All policies referred to in this Sublease shall be procured, or caused to be procured, by Subtenant at no expense to Sublandlord. Subject to Section 7.04 hereof, duplicate originals of such policies or certificates of insurance with respect to such policies together with copies of such policies shall be delivered to Sublandlord promptly upon receipt from the insurance company or companies, together with proof satisfactory to Sublandlord that the then current installment of the premiums thereon have been paid, provided, that Sublandlord shall not, by reason of custody of such policies, be deemed to have knowledge of the contents thereof. Binders and certificates of insurance for renewal policies replacing any policies expiring during the Term shall be delivered within thirty (30) prior to expiration and the renewal policies or copies of such policies shall be delivered as soon as practicable after expiration, together with proof satisfactory to Sublandlord that the then current installment of the premiums thereon have been paid. Premiums on policies shall not be financed in any manner whereby the lender, on default or otherwise, shall have the right or privilege of surrendering or canceling the policies or reducing the amount of loss payable thereunder, provided, however, that premiums may be paid in installments and premium financing may be utilized if applicable policies cannot be canceled on less than thirty (30) days prior written notice to Landlord.

(b) Subtenant and Sublandlord shall cooperate in connection with the collection of any insurance moneys that may be due in the event of loss, and Subtenant and Sublandlord shall execute and deliver such proofs of loss and other instruments as may be required for the purpose of obtaining the recovery of any such insurance moneys. Subtenant shall promptly reimburse Sublandlord for any and all reasonable costs or expenses which Sublandlord may sustain or incur in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

(c) All property insurance policies as required by this Sublease shall provide in substance that all adjustments for claims with the insurers in excess of Three Hundred Fifty Thousand Dollars ($350,000) (as such amount shall be increased as provided in Section 7.02(a)) shall be made with Sublandlord, Subtenant and any Mortgagee named as additional insured and loss payee under a standard mortgagee endorsement. Subject to the terms of any Mortgage, any adjustments for claims with the insurers involving sums of less than Three Hundred Fifty Thousand Dollars ($350,000) (as such amount shall be increased as provided in Section 7.02(a)) shall be made with Subtenant.

(d) All Business Interruption Insurance shall provide in substance that all adjustments for claims with the insurers shall be made with Sublandlord and Subtenant.

(e) Subtenant shall not violate or permit to be violated any of the conditions or provisions of any insurance policy required hereunder, and Subtenant shall so perform and satisfy

or cause to be performed and satisfied the requirements of the companies writing such policies so that at all times companies of good standing, reasonably satisfactory to Sublandlord, shall be willing to write and continue such insurance.

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

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

SECTION 7.03 (a) Subtenant, on the demand of Sublandlord after the occurrence of an Event of Default hereunder, shall deposit with Depository on the first day of each month during the Term, an amount equal to one-twelfth (1/12th) of the annual insurance premiums to be paid in respect of any insurance required to be carried by Subtenant hereunder, as reasonably estimated by Sublandlord, unless such insurance premiums are deposited with a Mortgagee (provided such Mortgagee is an Institutional Lender). If at any time the insurance premiums shall be increased or Sublandlord receives information that the insurance premiums will be increased, with the result that the monthly deposits being paid by Subtenant under this Section 7.03(a) would be insufficient to pay such insurance premiums thirty (30) days prior to the due date, the monthly deposits shall thereupon be increased and Subtenant shall, within thirty (30) days prior to the due date thereof, deposit immediately with Depository sufficient monies for the payment of the increased insurance premiums. Thereafter, the monthly deposits shall be adjusted so that Depository shall receive from Subtenant sufficient monies to pay the insurance premiums at least thirty (30) days before the insurance premiums become due and payable.

(b) Anything in Section 7.03(a) to the contrary notwithstanding, if the Event of Default which gave rise to Sublandlord having demanded that Subtenant make deposits under Section 7.03(a) shall have been cured by Subtenant and if for a period of six (6) consecutive months following such cure no Default shall have occurred under this Sublease, then, at any time after the expiration of such six (6) month period, promptly upon the demand of Subtenant, provided that Subtenant is not then in Default under this Sublease, all monies deposited under Section 7.03(a)

then held by Depository, together with the interest, if any, accrued thereon, promptly shall be returned to Subtenant and Subtenant shall not be required to make further deposits under Section 7.03(a) unless and until there shall occur a subsequent Event of Default and Sublandlord shall make demand upon Subtenant to make deposits under Section 7.03(a).

(c) All monies deposited under this Section 7.03, together with interest earned thereon, if any, shall be paid to Subtenant promptly after the Expiration Date.

(d) Depository shall hold the monies deposited hereunder in a segregated, interest-bearing account (the purpose of which is to pay the charges for which such amounts have been deposited as they become due), and Depository shall apply the deposited monies for such purpose not later than the Due Date for such charges.

(e) In the event that a Mortgagee (provided such Mortgagee be an Institutional Lender) shall require Subtenant to deposit funds to insure payment of insurance premiums, any amount so deposited by Subtenant with such Mortgagee shall be credited against the amount, if any, which Subtenant would otherwise be required to deposit under this Article 7.

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

ARTICLE VIII

USE OF INSURANCE PROCEEDS

From and after the Assignment Date (before which only the relevant provisions of the Ground Lease shall govern):

SECTION 8.01 If all or any part of the Premises shall be destroyed or damaged in whole or in part by fire or other casualty (including any casualty for which insurance was not obtained or obtainable) of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, Subtenant shall give to Sublandlord immediate notice thereof, except that no notice shall be required if the estimated cost of repairs, alterations, restorations, replacements and rebuilding (collectively, "Restoration") shall be less than $100,000 (as such amount shall be increased as provided in Section 7.02(a)), and unless such casualty shall have occurred within the last five (5) years of the Term and damaged all or Substantially all of the Premises, Subtenant shall, whether or not such damage or destruction shall have been insured, and whether or not insurance proceeds, if any, shall be sufficient for the purpose of such Restoration, with reasonable diligence (subject to

Unavoidable Delays) repair, alter, restore, replace and rebuild (collectively, "Restore") the same, at least to the extent of the value and as nearly as possible to the condition, quality and class of the Premises existing immediately prior to such occurrence, with such changes or alterations as Subtenant, with the consent of Sublandlord, which consent shall not be unreasonably withheld, shall elect to make, provided that, after the Restoration, the Premises are in substantial conformity with the Master Development Plan, the Design Guidelines, the Declaration of Restrictions (if applicable) and, in the event such Restoration is commenced within ten (10) years after the date the Building has been Substantially Completed, and insofar as the Restoration relates to the exterior of the Building or any matter addressed by the Design Guidelines, the Construction Documents. If such casualty occurs within the last five (5) years of the Term and damages all or Substantially all of the Premises, this Sublease shall terminate, Subtenant shall not be obligated to Restore the Premises and Depository shall pay over to Sublandlord all Restoration Funds. Notwithstanding anything contained in this Sublease to the contrary, none of Sublandlord, Ground Lessor or Master Lessor shall in any event be obligated to Restore the Premises, or any portion of the Premises or to pay any of the costs or expenses thereof. If Subtenant shall fail or neglect to Restore with reasonable diligence (subject to Unavoidable Delays) the Premises or the portion thereof so damaged or destroyed, or having so commenced such Restoration, shall fail to complete the same with reasonable diligence (subject to Unavoidable Delays) in accordance with the terms of this Sublease, or if prior to the completion of any such Restoration by Subtenant, this Sublease or the Ground Lease or Master Lease shall expire or be terminated in accordance with their terms and, with respect to such termination, there is no non-disturbance agreement in effect pursuant to which Subtenant shall be entitled to remain in possession, Subtenant shall not be entitled to remain in possession pursuant to a non-disturbance agreement, Sublandlord may, but shall not be required to, complete such Restoration at Subtenant's expense. Each such Restoration shall be done in compliance with laws and in accordance with the provisions of this Sublease. In any case where Subtenant shall fail or neglect to Restore with reasonable diligence (subject to Unavoidable Delays) the Premises or the portion thereof so damaged or destroyed, or having so commenced such Restoration, shall fail to complete the same with reasonable diligence (subject to Unavoidable Delays) in accordance with the terms of this Sublease, or if prior to the completion of any such Restoration by Subtenant, this Sublease or the Ground Lease or Master Lease shall expire or be terminated in accordance with their terms and Subtenant shall not be entitled to remain in possession pursuant to a non-disturbance agreement, Subtenant shall account to Sublandlord for all amounts spent in connection with any Restoration which was undertaken and shall pay over to Sublandlord, within ten (10) days after demand, the remainder, if any, of the Restoration Funds previously received by it and not spent in connection with the Restoration. Subtenant's obligations under this Section 8.01 shall survive the expiration or termination of this Sublease.

SECTION 8.02 (a) Subject to the provisions of Section 8.03, Section 8.04 and, if applicable, Section 8.05, Depository shall pay over to Subtenant from time to time, upon the following terms, any monies which may be received by Depository from insurance provided by Subtenant (other than Business Interruption Insurance) or cash or the proceeds of any security deposited with Depository pursuant to Section 8.05 (collectively, the "Restoration Funds"); provided, however, that Subtenant acknowledges that Depository, before paying such moneys over to Subtenant, shall be entitled to reimburse itself, Sublandlord and any Mortgagee therefrom to the extent, if any, of the necessary, reasonable and proper expenses (including, without limitation, reasonable attorneys' fees) paid or incurred by such parties in the collection of such monies.

(b) Prior to commencing any Restoration, Subtenant shall furnish Sublandlord with an estimate of the cost of such Restoration, prepared by a licensed professional engineer or registered architect selected by Subtenant and approved by Sublandlord, which approval shall not be unreasonably withheld or delayed. Sublandlord, at Subtenant's reasonable expense, may engage a licensed professional engineer or registered architect to prepare its own estimate of the cost of such Restoration. If there is any dispute as to the estimated cost of the Restoration, such dispute shall be resolved by arbitration in accordance with the provisions of Article 36.

(c) Subject to the provisions of Section 8.03, Section 8.04 and, if applicable, Section 8.05, the Restoration Funds shall be paid to Subtenant in installments as the Restoration progresses, less retainage equal to ten percent (10%) of such installment until completion of fifty percent (50%) of the Restoration and five percent (5%) of each installment thereafter until completion of the Restoration, upon application to be submitted by Subtenant to Depository and Sublandlord showing the cost of labor and materials purchased and delivered to the Premises for incorporation in the Restoration, or incorporated therein since the last previous application, and due and payable or paid by Subtenant. If any vendor's, mechanic's, laborer's, or materialman's lien is filed against the Premises or any part thereof, or if any public improvement lien relating to the Restoration of the Premises is created or permitted to be created by Subtenant and is filed against Sublandlord or Master Lessor, or any assets of, or funds appropriated to, Sublandlord or Master Lessor, Subtenant shall not be entitled to receive any further installment until such lien is satisfied or discharged (by bonding or otherwise). Notwithstanding the foregoing, the existence of any such lien shall not preclude Subtenant from receiving any installment of Restoration Funds, provided, such lien will be discharged with funds from such installment or shall have been discharged (by bonding or otherwise).

(d) Upon completion of and payment for the Restoration by Subtenant, the balance of the Restoration Fund shall be paid over to Subtenant promptly, subject to the rights of any Mortgagee to such funds.

(e) Notwithstanding the foregoing, if Sublandlord makes the Restoration at Subtenant's expense, as provided in Section 8.01, then Depository shall pay over the Restoration Funds to Sublandlord upon request, to the extent not previously paid to Subtenant pursuant to this Section 8.02, and Subtenant shall pay to Sublandlord within ten (10) days after demand, any sums in excess of the portion of the Restoration Funds received by Sublandlord necessary to complete the Restoration. Upon completion of the Restoration, Sublandlord shall deliver to Subtenant a certificate, in reasonable detail, setting forth the expenditures made by Sublandlord for such Restoration.

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

(a) There shall be submitted to Depository and Sublandlord the certificate of the aforesaid engineer or architect approved by Sublandlord pursuant to Section 8.02(b) stating that (i) the sum then requested to be withdrawn either has been paid by Subtenant or is due and payable to contractors, subcontractors, materialmen, engineers, architects or other Persons (whose names and addresses shall be stated) who have rendered or furnished services or materials for the work and giving a brief description of such services and materials and the principal subdivisions or categories

thereof and the several amounts so paid or due to each of said Persons in respect thereof, and stating in reasonable detail the progress of the work up to the date of said certificate, (ii) no part of such expenditures has been or is being made the basis, in any previous or then pending requisition, for the withdrawal of the Restoration Funds or has been made out of the Restoration Funds previously received by Subtenant, and (iii) the engineer or architect believes that the balance of the Restoration Funds held by Depository will be sufficient to pay for the completion of the Restoration in full, and stating in reasonable detail an estimate of the cost of such completion;

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

(c) at the time of making such payment, there is no Event of Default on the part of Subtenant.

SECTION 8.04 (a) If any loss, damage or destruction occurs, the cost of Restoration of which equals or exceeds Three Hundred Fifty Thousand Dollars ($350,000) in the aggregate, determined as provided in Section 8.02(b) (as such amount shall be increased as provided in Section 7.02(a)), Subtenant shall furnish to Sublandlord the following:

(i) at least thirty (30) Business Days prior to commencement of such Restoration, complete plans and specifications for the Restoration, prepared by the Architect or by a licensed professional engineer or registered architect selected by Subtenant and approved by Sublandlord which approval shall not be unreasonably withheld or delayed, together with the approval thereof and any required permits issued by any Governmental Authority with respect to the Restoration and such plans and specifications, and, at the request of Sublandlord any other drawings, information or samples, which Sublandlord may reasonably request, all of the foregoing to be subject to Sublandlord's review and approval for substantial conformity with the Master Development Plan, the Design Guidelines and the Declaration of Restrictions (if applicable), such review and approval to be conducted by Sublandlord within the time periods and otherwise in accordance with the provisions of this Section 8.04, and, if such Restoration is commenced within ten (10) years from the date the Building shall have been Substantially Completed and insofar as the Restoration relates to the exterior of the Building or any matter addressed by the Design Guidelines, the Construction Documents;

(ii) at least ten (10) Business Days prior to commencement of such Restoration, (x) a contract or construction management agreement reasonably satisfactory to Sublandlord and in form collaterally assignable to Sublandlord (subject to any prior assignment to any Mortgagee), made with a reputable and responsible contractor or construction manager approved by Sublandlord, which approval shall not be unreasonably

withheld or delayed, providing for the completion of the Restoration in accordance with said plans and specifications, free and clear of all liens, encumbrances, security agreements, interests and financing statements relating thereto, and (y) payment and performance bonds in forms and by sureties satisfactory to Sublandlord, naming the contractor as obligor and Sublandlord and Subtenant and Mortgagee, if applicable, as obligees, each in a penal sum equal to the amount by which (A) the difference between the estimated cost of the Restoration and the amount of the insurance proceeds available for the Restoration exceeds (B) $350,000 (as such amount shall be increased as provided in Section 7.02(a)) or, in lieu thereof, such other security, but not more than the amount of such excess, as shall be reasonably satisfactory to Sublandlord;

(iii) at least ten (10) Business Days prior to commencement of such Restoration, a collateral assignment to Sublandlord (subject to any prior assignment to any Mortgagee) of the contract so furnished and the bonds, if any, provided thereunder, such assignment to be duly executed and acknowledged by Subtenant and by its terms to be effective only upon any termination of this Sublease or upon Sublandlord's re-entry upon the Premises following an Event of Default prior to the complete performance of such contract, such assignment also to include the benefit of all payments made on account of said contract including payments made prior to the effective date of such assignment; and

(iv) at least ten (10) Business Days prior to commencement of such Restoration, insurance policies issued by responsible insurers, bearing notations evidencing the payment of premiums or accompanied by other evidence satisfactory to Sublandlord of such payments, for insurance required by Section 11.03 of the Ground Lease with respect to the initial construction of the Building.

(b) Notwithstanding that the cost of Restoration is less than Three Hundred Fifty Thousand Dollars ($350,000) (as such amount shall be increased as provided in Section 7.02(a)), such cost to be determined as provided in Section 8.02(b), to the extent that any portion of the Restoration involves work on the exterior of the Building or a change in the height, bulk or setback of the Building from the height, bulk or setback existing immediately prior to the damage or destruction, or in any other manner affects compliance with the Master Development Plan, the Design Guidelines or the Declaration of Restrictions (if applicable), then Subtenant shall furnish to Sublandlord at least thirty (30) Business Days prior to commencement of the Restoration a complete set of plans and specifications for the Restoration, involving such work or such change, prepared by Architect or a licensed professional engineer or registered architect approved by Sublandlord, which approval shall not be unreasonably withheld or delayed, and, at Sublandlord's request, such other items designated in Section 8.04(a)(i), all of the foregoing to be subject to Sublandlord's review and approval as provided therein.

(c) In the event Subtenant shall desire to modify the plans and specifications which Sublandlord theretofore have approved pursuant to Section 8.04(a)(i) or Section 8.04(b) with respect to, or which will in any way affect, any aspect of the exterior of the Building or the height, bulk or setback of the Building or which will affect compliance with the Design Guidelines, the Master Development Plan or the Declaration of Restrictions (if applicable), Subtenant shall submit the proposed modifications to Sublandlord. Subtenant shall not be required to submit to Sublandlord and Sublandlord shall have no right to approve proposed modifications of the plans

and specifications which affect the interior of the Building, provided, however, that such proposed modifications would not in any manner affect compliance with the Master Development Plan, the Design Guidelines or the Declaration of Restrictions (if applicable). Sublandlord shall review the proposed changes (other than changes to the interior of the Building) for the sole purpose of determining whether or not they (i) conform to the Master Development Plan, the Design Guidelines, and the Declaration of Restrictions (if applicable) and (ii) in Sublandlord's judgment reasonably exercised, provide for design, finishes and materials which are comparable in quality to those provided for in the approved plans and specifications, and shall approve such proposed changes if they do so conform and so provide. If Sublandlord determines that the proposed changes are not satisfactory in light of the above criteria, Sublandlord shall so advise Subtenant specifying in what respect the plans and specifications, as so modified, do not conform to the Master Development Plan, the Design Guidelines, or the Declaration of Restrictions (if applicable) or do not provide for design, finishes and materials which are comparable in quality to those provided for in the approved plans and specifications. Within twenty (20) Business Days after Sublandlord shall have so notified Subtenant, Subtenant shall revise the plans and specifications so as to meet Sublandlord's objections and shall deliver same to Sublandlord for review. Each initial review by Sublandlord shall be carried out within fifteen (15) Business Days of the date of delivery of the initial plans and specifications by Subtenant, and each additional review by Sublandlord shall be carried out within ten (10) Business Days of the date of delivery of Subtenant's revisions thereto, and if Sublandlord shall not have notified Subtenant of its determination within such fifteen (15) or ten (10) Business Day period, as the case may be, it shall be deemed to have determined that the proposed changes are satisfactory. Sublandlord shall not review portions of the approved plans and specifications which Sublandlord has previously determined to be satisfactory, provided same have not been changed by Subtenant.

SECTION 8.05 If the cost of any Restoration, determined as provided in Section 8.02(b), exceeds the greater of (i) Three Hundred Fifty Thousand Dollars ($350,000) (as such amount shall be increased as provided in Section 7.02(a)) and (ii) the net insurance proceeds, then, prior to the commencement of such Restoration, unless Sublandlord has given its approval of the payment and performance bonds provided for in Section 8.04(a)(ii)(y) and the amounts thereof cover such excess, Subtenant shall deposit with Depository, as security for completion of the Restoration, a bond, cash or other security satisfactory to Sublandlord in the amount by which (A) such excess exceeds (B) $350,000 (as such amount shall be increased as provided in Section 7.02(a)), to be held and applied by Depository in accordance with the provisions of Section 8.02, as security for the completion of the Restoration.

SECTION 8.06 Subject to Section 8.01 hereof, this Sublease 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 Premises or by reason of the untenantability of the same or any part thereof, for or due to any reason or cause whatsoever, and Subtenant, notwithstanding any law or statute present or future, waives any and all rights to quit or surrender the Premises or any part thereof. Subject to the provisions of Section 8.01 hereof regarding termination of this Sublease for a casualty occurring in the last five (5) years of the Term, Subtenant expressly agrees that its obligations hereunder, including, without limitation, the payment of Rental, shall continue as though the Premises had not been damaged or destroyed and without abatement, suspension, diminution or reduction of any kind. It is the

intention of Sublandlord and 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.

SECTION 8.07 If for any completed Restoration Subtenant has not theretofore delivered same to Sublandlord, Subtenant shall deliver to Sublandlord within thirty (30) days of the completion of such Restoration, a complete set of "as built" plans thereof together with a statement in writing from a registered architect or licensed professional engineer that such plans are complete and correct.

ARTICLE IX

CONDEMNATION

From and after the Assignment Date (before which the relevant provisions of the Ground Lease shall govern, except that a termination of the Ground Lease pursuant to Section 9.01(a) of the Ground Lease shall terminate this Sublease):

SECTION 9.01 (a) If the whole or Substantially all of the Premises shall be taken (excluding a taking of the fee interest in the Premises, or any leasehold interest superior to that of the Subtenant's, if after such taking, Subtenant's rights and obligations under this Sublease are not affected) for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain, or by agreement among Sublandlord, Subtenant and those authorized to exercise such right, then this Sublease and the Term shall terminate and expire on the date of such taking and the Rental payable by Subtenant hereunder shall be equitably apportioned as of the date of such taking.

(b) If the whole or Substantially all of the Premises shall be taken or condemned as provided in Section 9.01(a), the award, awards or damages in respect thereof shall be apportioned as follows: (i) there shall first be paid to Sublandlord so much of the award which is for or attributable to the value of (A) the Land so taken, considered as encumbered by this Sublease, the Ground Lease and the Master Lease (but as unimproved, except as provided in the following subclause (B)), and (B) Landlord's Civic Facilities taken in any proceeding with respect to such taking; (ii) there shall next be paid to the Mortgagee which holds a first lien on Subtenant's interest in this Sublease, so much of the balance of such award as shall equal the unpaid principal indebtedness secured by such Mortgage with interest thereon at the rate specified therein to the date of payment, and all other amounts then due under such Mortgage; (iii) there shall next be paid to Sublandlord so much of the award which is for or attributable to the value of Sublandlord's reversionary interest in that part of the Premises and any easements granted herein and appurtenant to the Premises taken in such proceeding (it being agreed between Ground Lessor, Sublandlord and Subtenant that, notwithstanding anything herein contained to the contrary, until forty (40) years from the Scheduled Completion Date, the value of Sublandlord's reversionary interest in the Premises shall be deemed to be zero); and (iv) subject to the rights of any Mortgagees, Subtenant shall receive the balance, if any, of the award. If there be any dispute as to which portion of the award is attributable to the Land and Civic Facilities and which portion is attributable to the Premises, or as to the value of Sublandlord's reversionary interest in the Premises, such dispute shall be resolved by arbitration in accordance with the provisions of Article 36.

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

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

SECTION 9.03 If less than Substantially all of the Premises shall be so taken, this Sublease and the Term shall continue as to the portion of the Premises remaining without abatement of the Base Rent or any diminution of any of Subtenant's obligations hereunder. Subtenant, whether or not the award or awards, if any, shall be sufficient for the purpose shall (subject to Unavoidable Delays) proceed diligently to Restore any remaining part of the Premises not so taken so that the latter shall be a complete, operable, self-contained architectural unit in good condition and repair in conformity with the Master Development Plan, the Design Guidelines, the Declaration of Restrictions (if applicable) and, to the extent reasonably practicable, in the event such Restoration is commenced within ten (10) years from the date the Building is Substantially Completed, the Construction Documents. In the event of any taking pursuant to this Section 9.03, the entire award for or attributable to (A) the Land taken, considered as encumbered by the Ground Lease, the Master Lease and this Sublease (but as unimproved, except as provided in the following subclause (B)), and (B) the fair market value of Landlord's Civic Facilities in any proceeding with respect to such taking, shall be first paid to Sublandlord, and the balance of the award, if any, shall be paid to Depository, except that if such balance shall be less than Three Hundred Fifty Thousand Dollars ($350,000) (as such amount shall be increased as provided in Section 7.02(a)), such balance shall be payable, in trust, to Subtenant (provided that if the Master Lease or a Mortgage requires payment in trust to Master Lessor or a Mortgagee, such balance shall be paid as provided therein) for application to the cost of Restoration of the part of the Premises not so taken. Subject to the provisions and limitations in this Article 9, Depository shall make available to Subtenant as much of that portion of the award actually received and held by Depository, if any, less all necessary and proper expenses paid or incurred by Depository, the Mortgagee most senior in lien and Sublandlord in the condemnation proceedings, as may be necessary to pay the cost of Restoration of the part of the Premises remaining. Such Restoration shall be done in accordance with and subject to the provisions of Article 8. Payments to Subtenant as aforesaid shall be disbursed in the manner and subject to the conditions set forth in Article 8. Any balance of the award held by Depository and any cash and the proceeds of any security deposited with Depository pursuant to Section 9.04 remaining after completion of the Restoration shall (subject to the rights of Subtenant's Mortgagees) be paid to Subtenant. Each of the parties shall execute any and all documents that may be reasonably required in order to facilitate collection by them of such awards.

SECTION 9.04 With respect to any Restoration required by the terms of Section 9.03, the cost of which, as determined in the manner set forth in Section 8.02(b), exceeds both (i) Three Hundred Fifty Thousand Dollars ($350,000) (as such amount shall be increased as provided in Section 7.02(a)) and (ii) the balance of the condemnation award after payment of the expenses set forth in Section 9.03, then, prior to the commencement of such Restoration, Subtenant shall deposit with Depository a bond, cash or other security satisfactory to Sublandlord in the amount by which

(A) such excess exceeds (B) $350,000 (as such amount shall be increased as provided in Section 7.02(a)), to be held and applied by Depository in accordance with the provisions of Section 9.03, as security for the completion of the Restoration.

SECTION 9.05 If the temporary use of the whole or any part of the Premises shall be taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain or by agreement between Subtenant and those authorized to exercise such right, Subtenant shall give prompt notice thereof to Sublandlord and the Term shall not be reduced or affected in any way and Subtenant shall continue to pay in full the Rental payable by Subtenant hereunder without reduction or abatement, and Subtenant shall be entitled to receive for itself any award or payments for such use, provided, however, that:

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

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

SECTION 9.06 In case of any governmental action, not resulting in the taking or condemnation of any portion of the Premises but creating a right to compensation therefor, such as the changing of the grade of any street upon which the Building abuts, this Sublease shall continue in full force and effect without reduction or abatement of Rental and the award shall be paid to Sublandlord to the extent of the amount, if any, necessary to restore any portion of Landlord's Civic Facilities to their former condition and any balance remaining, shall (subject to the rights of Subtenant's Mortgagees) be paid by Sublandlord to Subtenant.

SECTION 9.07 In the event of a negotiated sale of all or a portion of the Premises in lieu of condemnation with the consent of Sublandlord and Subtenant, the proceeds shall be distributed as provided in cases of condemnation.

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

SECTION 9.09 Notwithstanding anything to the contrary contained in this Article 9, in the event of any permanent or temporary taking of all or any part of the Premises, Subtenant shall have the exclusive right to assert claims for any trade fixtures and personal property so taken which were the property of Subtenant and for relocation expenses of Subtenant, and all awards and damages in respect thereof shall belong to Subtenant, and Sublandlord hereby waives any and all claims to any part thereof, provided, however, that if there shall be no separate award or allocation for such trade fixtures or personal property, then such claims of Subtenant, or awards and damages, shall be subject and subordinate to, and shall not in any way diminish, Sublandlord's claims under this Article 9.

ARTICLE X

ASSIGNMENT, SUBLETTING, MORTGAGES, ETC.

SECTION 10.01 (a) Except as otherwise specifically provided in this Article 10, prior to Completion of the Building and the date on which the obligations set forth in the Completion Guaranty shall have been performed in full, neither this Sublease nor any interest of Subtenant in this Sublease, shall be sold, assigned, or otherwise transferred, whether by operation of law or otherwise, nor, if Subtenant is a corporation, shall any of the issued or outstanding capital stock of such corporation or of any corporation owning a controlling interest in Subtenant, whether held directly or indirectly, be (voluntarily or involuntarily) sold, assigned, transferred, pledged or encumbered, whether by operation of law or otherwise, if such sale, assignment, transfer, pledge or encumbrance will result in a change of the controlling stock ownership of Subtenant as held by the shareholders thereof as of the Commencement Date, nor shall any voting trust or similar agreement be entered into with respect to such stock, nor any reclassification or modification of the terms of such stock take place, nor shall there be any merger or consolidation of such corporation into or with another corporation nor shall additional stock (or any warrants, options or debt securities convertible, directly or indirectly, into such stock) in any such corporation be issued if the issuance of such additional stock (or such other securities, when exercised or converted into stock) will result in a change of the controlling stock ownership of such corporation as held by the shareholders thereof as of the Commencement Date, nor, if Subtenant is a partnership or limited liability company, shall any general partner's interest in such partnership or managing member's interest in such limited liability company, or of any partnership or limited liability company owning a controlling interest in Subtenant, whether directly or indirectly, be (voluntarily or involuntarily) sold, assigned or transferred (each of the foregoing transactions with respect to stock or other securities of a corporation or a general partner's or managing member's interest in a partnership or limited liability company, respectively, being herein referred to as a "Transfer"), nor shall Subtenant sublet the Premises as an entirety or substantially as an entirety without the consent of Sublandlord in each case, which consent shall be given or withheld in the sole and absolute discretion of Sublandlord, and the delivery to Sublandlord of the documents and information specified in Section 10.01(d) hereof. Notwithstanding the preceding sentence to the contrary, an equity interest in Subtenant (or corporation owning a controlling interest or general partner's

interest or managing member's interest or any partnership or any limited liability company owning a controlling interest in Subtenant) may be pledged or hypothecated to any lender providing financing to Sublandlord (prior to the Assignment Date) or to Subtenant in connection with the initial construction or in connection with the operation of the Building. For purposes of this Article 10, "control" or a "controlling interest" shall mean either (a) ownership of fifty percent (50%) or more of the voting interests in the subject entity or (b) the power to make management decisions on behalf of the subject entity.

(b) From and after Completion of the Building and subject to the provisions of this Section 10.01, including delivery to Sublandlord of the documents and information specified in Section 10.01(d) hereof, Subtenant shall not assign this Sublease or any interest of Subtenant in this Sublease (whether by operation of law or otherwise), sublet the Premises as an entirety or substantially as an entirety (as opposed to a Sublease for less than substantially all of the space), or enter into or effect any Transfer, without first obtaining Sublandlord's approval, which approval shall not be unreasonably withheld, delayed or conditioned, unless the assignee, sublessee or Transferee with respect to such transaction controls, is controlled by, or is under common control with, Subtenant, in which case Subtenant shall give Sublandlord prior written notice of such transaction but shall not be required to obtain the approval of Sublandlord with respect thereto. Subtenant shall not be permitted to assign this Sublease, further sublet the Premises or any portion thereof or effect any Transfer if a Default shall have occurred and then be continuing hereunder, unless such Default is cured simultaneously with such Transfer, assignment or subletting and Subtenant has obtained Sublandlord's approval as hereinabove provided.

(c) Except as otherwise specifically provided herein, in no event, whether before or after Completion of the Building, shall Subtenant make a Transfer, assign this Sublease or any portion of its interest hereunder (whether by operation of law or otherwise) or further sublet the Premises as an entirety or substantially as an entirety (whether or not for occupancy by the Subtenant thereunder) to any Person (hereinafter, a "Prohibited Person") in which an ownership interest, in the aggregate, of five percent (5%) or greater is then held, directly or indirectly, by any individual (i) who has ever been convicted of a felony, (ii) against whom any action or proceeding is pending to enforce rights of the State of New York or any agency, department, public authority or public benefit corporation thereof arising out of a mortgage obligation to the State of New York or to any such agency, department, public authority or public benefit corporation or (iii) with respect to whom any notice of substantial monetary default which remains uncured has been given by the State of New York or any agency, department, public authority or any public benefit corporation thereof arising out of a mortgage obligation to the State of New York or to any such agency, department, public authority or public benefit corporation. The determination by Sublandlord whether or not a person is a Prohibited Person shall be made within thirty (30) days after receipt of all requisite information and documentation reasonably required for such determination. If Sublandlord shall not have notified Subtenant of such determination within such period, it shall be deemed to have determined that such Person is not a Prohibited Person.

(d) In each instance wherein Subtenant desires to effect an assignment, or a sublease of the Premises as an entirety or substantially as an entirety, or a Sub-Sublease of the kitchen in the Premises, or a Transfer, then, in each such case, Subtenant shall, prior to the effective date of such transaction, notify Sublandlord of the proposed transaction and submit to Sublandlord

the following documents and information (which documents may be unexecuted but shall, in all other respects, be in substantially final form):

(i) in the case of an assignment, (A) a copy of the proposed instrument(s) of assignment, containing, inter alia, the name, address and telephone number of the assignee, (B) a copy of the proposed instrument(s) of assumption of Subtenant's obligations under this Sublease by said assignee, and (C) an affidavit of the assignee or an authorized officer or general partner thereof, setting forth (x) in the case of a partnership or limited liability company, the names and addresses of all general partners or managing members thereof and all other partners or members of the assignee having a five percent (5%) or greater ownership interest in the assignee and (y) in the case of a corporation (other than a corporation whose common stock is traded on a recognized exchange or over-the-counter exchange or is registered under the Securities Act of 1933, as amended) the names and addresses of all persons having five percent (5%) or greater record ownership of stock in, and all directors and officers of, the assignee;

(ii) in the case of a subletting of the Premises as an entirety or substantially as an entirety or in the case of a subletting of the kitchen in the Premises (except for occupancy by the Subtenant thereunder), (A) a copy of the proposed sublease, containing, inter alia, the name, address, and telephone number of the subtenant and (B) an affidavit of the subtenant or an authorized officer or general partner thereof, setting forth the same information with respect to the partners, members, shareholders, officers and directors of the subtenant as is required with respect to assignees under Section 10.01(d)(i);

(iii) in the case of a Transfer, (A) a copy of each material, proposed document by which such Transfer is to be accomplished redacted so as to conceal any confidential terms not material to consideration by Sublandlord of the proposed Transfer, and (B) an affidavit of an authorized officer or general partner of Subtenant, setting forth the same information with respect to the partners, members, shareholders, officers and directors of Subtenant as is required with respect to assignees under Section 10.01(d)(i); and

(iv) in all such cases, such other material documents and information as Sublandlord may reasonably request to permit Sublandlord to determine whether such assignment, sublease or Transfer is in accordance with the provisions of this Article 10.

In the event any of the foregoing information presented to Sublandlord is identified by Subtenant in writing as being confidential, Sublandlord shall keep such information confidential, provided that Sublandlord shall be entitled to divulge such information if required by law, or to its consultants, advisors, accountants, attorneys or other professionals, if same is otherwise material to the evaluation of such proposed transaction.

Sublandlord shall within thirty (30) days after receipt of all requisite information and documentation, notify Subtenant whether it grants its consent if such consent is required hereunder, and, where such consent may not be withheld in Sublandlord's sole and absolute discretion, specifying, in the event that Sublandlord denies its consent to such transaction or determines that any such documentation or any such information does not establish such compliance, the reason for such denial or determination. If Sublandlord shall not have notified Subtenant of such denial or

determination within such period, it shall be deemed to have consented to the proposed transaction if such consent is required and to have determined that the documents and the information submitted establish compliance with the provisions of Section 10.01(c) and Section 10.01(d). Subtenant shall promptly deliver to Sublandlord executed documents substantially the same as those previously delivered to Sublandlord for review.

(e) Subject to compliance by a Mortgagee with the provisions of Section 10.10 and Section 10.11 hereof, the foregoing requirement of consent by Sublandlord shall not apply to the acquisition of the Premises by such Mortgagee, or by any designee, nominee or assignee of such Mortgagee through the foreclosure of its Mortgage or through a deed or instrument of transfer delivered in lieu of such foreclosure, or by the winning bidder (or its designee, nominee or assignee) in a foreclosure sale by the Mortgagee of its Mortgage, so long as such Mortgagee (or designee, nominee, assignee or winning bidder or other Person) shall, in the instrument transferring to such Mortgagee the interest of Subtenant hereunder, assume and agree to perform all of the terms, covenants and conditions of this Sublease thereafter to be observed or performed by Subtenant. Each reference in this Section 10.01(e) to "Mortgagee" shall be deemed to include a wholly owned subsidiary (directly or indirectly) of such Mortgagee or of its direct parent, provided such Mortgagee has delivered to Sublandlord (and prior to the Assignment Date, Ground Lessor) a written notice advising that such a subsidiary should be so deemed and certifying (i) that such subsidiary is wholly owned (directly or indirectly) by such Mortgagee or its direct parent and (ii) that such subsidiary is authorized to act in the place and stead of such Mortgagee.

(f) Notwithstanding the foregoing or any other provision of this Sublease to the contrary, Sublandlord's consent to any assignment of this Sublease or any Transfer shall not be required (whether prior to or following Completion of the Building) if the assignee or transferee is one hundred percent (100%) owned directly or indirectly by one or more FCR Persons (as hereinafter defined), provided that Subtenant shall have given Sublandlord not less than fifteen (15) days' notice and Subtenant shall have furnished evidence reasonably satisfactory to Sublandlord that such assignee or transferee (1) is 100% owned by one or more FCR Persons, (2) is controlled by a Ratner (as hereinafter defined), meaning that one of the Ratners has the power to make decisions for such assignee or transferee whether by voting or otherwise, (3) has sufficient financial capability to perform all of the obligations of Tenant hereunder, such obligations to be assumed by such party, and (4) is not a Prohibited Person. As used in this Sublease, the term "FCR Persons" shall mean Forest City Enterprises, Inc., Forest City Rental Properties, Inc., Bruce Ratner, Albert Ratner, James Ratner, Charles Ratner, Michael Ratner (each, a "Ratner"), any parent, spouse, direct lineal or adoptive descendant, sibling, niece, nephew of a Ratner, any entity that is 100% owned and controlled by any of the foregoing Persons, and any trust established by a Ratner for the benefit of any of the foregoing individuals.

SECTION 10.02 No assignment of this Sublease, further subletting of the Premises as an entirety or substantially as an entirety or Transfer shall have any validity except upon compliance with the provisions of this Article 10.

SECTION 10.03 Any consent by Sublandlord under Section 10.01 above shall apply only to the specific transaction thereby authorized and shall not relieve Subtenant from any requirement hereunder of obtaining the consent of Sublandlord to any further sale or assignment of

this Sublease or Transfer or further subletting of the Premises as an entirety or substantially as an entirety.

SECTION 10.04 Subtenant may, without Sublandlord's consent, at any time, and from time to time, enter into agreements for the rental of space in the Premises, or the occupancy of such space pursuant to licenses or concessions for periods shorter than or equal to the remainder of the Term at the time of such agreements, provided that such rental or occupancy is not of all or substantially all of the Premises to any single Person and/or its Affiliates (all of such agreements being herein referred to collectively as "Sub-Subleases", and the occupants pursuant to Subleases as "Sub-Subtenants"). Each Sub-Sublease shall obligate the Sub-Subtenant pursuant thereto to occupy and use the premises included therein for purposes consistent with the Requirements, the Master Lease, the Ground Lease, this Sublease, the Certificate of Occupancy and the Master Development Plan. Subtenant shall, consistent with prudent business judgment, enforce all of its rights as the sub-sublandlord under all Sub-Subleases in accordance with the terms thereof, including, without limitation, those provisions regarding the use, occupancy and repair and maintenance of the subject premises, as well as the compliance of the subject premises with law and with the Design Guidelines, compliance with all of which provisions is a material inducement for Sublandlord to enter into this Sublease. Notwithstanding anything herein contained to the contrary, Sublandlord's consent shall not be required with respect to the letting of hotel rooms or suites, banquet rooms, conference rooms, concession stands and other facilities comprising the Hotel as part of the operation of the Hotel.

SECTION 10.05 The fact that a violation or breach of any of the terms, provisions or conditions of this Sublease, the Ground Lease or of the Master Lease results from or is caused by an act or omission by any Sub-Subtenant or any other occupant of the Premises shall not relieve Subtenant of Subtenant's obligation to cure the same. Subtenant shall take any and all reasonable steps necessary to prevent any such violation or breach.

SECTION 10.06 Sublandlord, after an Event of Default by Subtenant, may, subject to the rights of any Mortgagee (provided such Mortgagee is an Institutional Lender), collect subrent and all other sums due under Sub-Subleases, and apply the net amount collected to Rental, but no such collection shall be, or be deemed to be, a waiver of any agreement, term, covenant or condition of this Sublease or the acceptance by Sublandlord of any further Sub-Subtenant as tenant hereunder, or a release of Subtenant from performance by Subtenant of its obligations under this Sublease.

SECTION 10.07 To secure the prompt and full payment by Subtenant of the Rental and the faithful performance by Subtenant of all the other terms and conditions herein contained on its part to be kept and performed, Subtenant hereby assigns, transfers and sets over unto Sublandlord, subject to any assignment of Sub-Subleases and/or rents made in connection with any Mortgage (provided the Mortgagee thereunder is an Institutional Lender), all of Subtenant's right, title and interest in and to all further Sub-Subleases and hereby confers upon Sublandlord, its agents and representatives, a right of entry in, and sufficient possession of, the Premises to permit and insure the collection by Sublandlord of the rentals and other sums payable under any further Sub-Subleases. The exercise of the right of entry and qualified possession by Sublandlord shall not constitute an eviction of Subtenant from the Premises or any portion thereof and, should said right of entry and possession be denied Sublandlord, its agent or representative, to the extent permitted by applicable law, Sublandlord, in the exercise of such right, may use all requisite force to gain and

enjoy the same without responsibility or liability to Subtenant, its servants, employees, guests or invitees, or any Person whomsoever. The assignment made herein shall become operative and effective only if (a) an Event of Default shall occur and remain uncured, or (b) this Sublease and the Term shall be canceled or terminated pursuant to the terms, covenants and conditions hereof by reason of an Event of Default, or (c) there occurs repossession under a dispossess warrant or other re-entry or repossession by Sublandlord under the provisions hereof or applicable law, and then only as to such of the Sub-Subleases that Sublandlord has agreed to take over and assume.

SECTION 10.08 At any time and from time to time but not more than twice in any Lease Year, upon Sublandlord's demand, Subtenant promptly shall deliver to Sublandlord a schedule of all Sub-Subleases, setting forth the names of all Sub-Subtenants. Upon the reasonable request of Sublandlord, Subtenant shall permit Sublandlord and its agents and representatives to inspect all Sub-Subleases and, at Sublandlord's expense, to make copies thereof; provided, however, that all information furnished to Sublandlord hereunder shall be subject to the confidentiality provisions set forth in Section 41.24 hereof.

SECTION 10.09 All further Subleases shall provide that (a) they are subject to this Sublease, the Ground Lease and to the Master Lease, (b) the Sub-Subtenants will not pay rent or other sums under the Sub-Subleases for more than one (1) month in advance (excluding security and other deposits required under such Sub-Subleases), and (c) at Sublandlord's option, on the termination of this Sublease (i) the Sub-Subtenants will attorn to, or enter into a direct sublease on identical terms with, Sublandlord, and (ii) Sublandlord shall require either that Subtenant pays over the existing Sub-Subtenants' security deposits to Sublandlord, or Sub-Subtenants pay over new security deposits to Sublandlord. Notwithstanding anything in this Section 10.09 to the contrary, provided that the Restaurant Lease, the Kitchen Lease and the Hotel Services Agreement are cross-defaulted, and provided further that the Restaurant Lease, the Kitchen Lease and the Hotel Services Agreement provide that they are assignable (by Restaurant Operator) only simultaneously and to the same assignee, Sublandlord shall deliver a Non-Disturbance and Attornment Agreement in the form of Exhibit H annexed hereto to Restaurant Operator (or any substitute Restaurant Operator).

SECTION 10.10 (a) Subtenant shall have the right to mortgage or otherwise encumber Subtenant's interest in this Sublease and all Sub-Subleases. If Subtenant shall so mortgage Subtenant's interest in this Sublease to a Mortgagee, Subtenant or such Mortgagee shall give Sublandlord (and if the mortgage is granted prior to the Assignment Date, Ground Lessor) prompt notice of such Mortgage and furnish Sublandlord (and, if the mortgage is granted prior to the Assignment Date, Ground Lessor) with a complete and correct copy of each such Mortgage (and of any assignment, modification, consolidation or extension thereof), certified as such by Subtenant or such Mortgagee, together with the name and address of such Mortgagee. After receipt of the foregoing, Sublandlord shall give to such Mortgagee (and if prior to the Assignment Date, to Ground Lessor at its address set forth in the Ground Lease), at the address of such Mortgagee set forth in such notice, and otherwise in the manner provided in Article 25, a copy of each notice of Default at the same time as, and whenever, any such notice of Default shall thereafter be given by Sublandlord to Subtenant, and no such notice of Default by Sublandlord shall be deemed to have been duly given to Subtenant unless and until a copy thereof shall have been so given to each Mortgagee (and if prior to the Assignment Date, to Ground Lessor at its address set forth in the Ground Lease). Each Mortgagee (i) shall thereupon have a period of fifteen (15) Business Days more than given to Subtenant in each instance in the case of a Default in the payment of Rental and

thirty (30) days more than given to Subtenant in each instance in the case of any other Default, for remedying the Default, or causing the same to be remedied, or causing action to remedy a Default mentioned in Sections 24.01(b) or (c) to be commenced, and (ii) shall, within such periods and otherwise as herein provided, have the right to remedy such Default, cause the same to be remedied or cause action to remedy a Default mentioned in Sections 24.01(b), or (c) to be commenced. Sublandlord shall accept performance by a Mortgagee (or its designee, nominee or assignee) of any covenant, condition or agreement on Subtenant's part to be performed hereunder and the exercise by a Mortgagee (or its designee, nominee or assignee) of Subtenant's self-help remedies with the same force and effect as though performed or exercised by Subtenant. Notwithstanding the foregoing, or any other provision of this Sublease to the contrary, the amount of any Rental paid by any Mortgagee electing to cure Subtenant's Default in the payment of Rental shall be net of (and reduced by the amount of) the proceeds drawn under any letter of credit then held by Sublandlord with respect solely to such Default (and not with respect to any other damage suffered by Sublandlord); provided, however, that if Sublandlord draws on such a letter of credit and it is subsequently finally determined that Sublandlord was not entitled to draw on such letter of credit and must refund the proceeds thereof, Sublandlord's right to any Rental that would have been paid by such mortgagee, but for this sentence, shall be reinstated in full as of the date of such refund, together with interest on the amount of such Rental from the date due to the date payment of such Rental is actually made by such Mortgagee, but only to the extent that Landlord was required to disgorge and refund any interest earned on the proceeds drawn under the letter of credit.

(b) Notwithstanding the provisions of Section 10.10(a) hereof, no Default by Subtenant shall be deemed to exist as long as a Mortgagee within fifteen (15) Business Days after the expiration of the time given to Subtenant pursuant to the provisions of this Sublease to remedy the event or condition which would otherwise constitute a Default hereunder, shall have delivered to Sublandlord its written agreement to take the action described in clause (i) or (ii) herein and thereafter, in good faith, shall have commenced promptly either (i) to cure the Default and to prosecute the same to completion (subject to Unavoidable Delays), or (ii) if possession of the Premises is required in order to cure the Default (including, without limitation, in connection with Mortgagee's exercising its remedies under Section 24.04 hereof), to institute foreclosure proceedings and obtain possession directly or through a receiver, and to prosecute such proceedings with diligence (subject to Unavoidable Delays) and, upon obtaining such possession, commence promptly to cure the Default and to prosecute the same to completion with diligence (subject to Unavoidable Delays), provided that during the period in which such action is being taken (and any foreclosure proceedings are pending), all of the other obligations of Subtenant under this Sublease, to the extent they are reasonably susceptible of being performed by the Mortgagee, are being performed. However, at any time after the delivery of the aforementioned agreement, the Mortgagee may notify Sublandlord, in writing, that it has relinquished possession of the Premises or that it will not institute foreclosure proceedings or, if such proceedings have been commenced, that it has discontinued them, and in such event, the Mortgagee shall have no further liability under such agreement from and after the date it delivers such notice to Sublandlord (except for any obligations accruing prior to the date it delivers such notice), and, thereupon, Sublandlord shall have the unrestricted right to terminate this Sublease and to take any other action it deems appropriate by reason of any Default, and upon any such termination the provisions of Section 10.11 shall apply. Notwithstanding anything herein contained to the contrary, provided such Mortgagee shall have otherwise complied with the provisions of this Section 10.10, such Mortgagee shall have no obligation to cure any Defaults which are not susceptible to being cured by such Mortgagee.

(c) Except as provided in Section 10.10(b), no Mortgagee shall become liable under the provisions of this Sublease unless and until such time as it becomes, and then only for as long as it remains, the owner of the leasehold estate created hereby. In the event that a Mortgagee shall become the owner of such leasehold estate, such Mortgagee shall not be bound by any modification or amendment of this Sublease made subsequent to the date of the Mortgage and delivery to Sublandlord of the notice provided in Section 10.10(a) hereof and prior to its acquisition of such interest unless the Mortgagee shall have expressly consented to such modification or amendment in writing at the time it was made or at the time of such acquisition. In no event shall this Sublease be amended without the prior written consent of Subtenant's Mortgagees.

(d) Subtenant shall deliver a copy of any Mortgage satisfaction to Sublandlord promptly upon the execution and delivery thereof.

SECTION 10.11 (a) In the case of termination of this Sublease by reason of any Event of Default, Sublandlord shall give prompt notice thereof to each Mortgagee whose name and address Sublandlord has received pursuant to notice made in compliance with the provisions of Section 10.10(a), at the address of such Mortgagee set forth in such notice, and otherwise in the manner provided in Article 25. Sublandlord, on written request of such Mortgagee made any time within sixty (60) days after the giving of such notice by Sublandlord, shall promptly execute and deliver a new sublease of the Premises to the Mortgagee, or its designee or nominee, for the remainder of the Term upon all the covenants, conditions, limitations and agreements herein contained, provided that such Mortgagee (i) shall pay to Sublandlord, simultaneously with the delivery of such new sublease, all unpaid Rental due under this Sublease up to and including the date of the commencement of the term of such new sublease and all expenses, including, without limitation, reasonable attorneys' fees and disbursements and court costs, incurred by Sublandlord in connection with the Default by Subtenant, the termination of this Sublease and the preparation of the new sublease, and (ii) shall cure, or agree in writing within thirty (30) days from the delivery of such new sublease to cure, all Defaults existing under this Sublease which are susceptible of being cured by such Mortgagee.

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

(c) Upon the execution and delivery of a new sublease under this Section 10.11, all Sub-Subleases which theretofore have been assigned to, or made by, Sublandlord shall be assigned and transferred, without recourse, by Sublandlord to the subtenant named in such new sublease. Between the date of termination of this Sublease and the date of execution of the new sublease, if a Mortgagee shall have requested such new sublease as provided in Section 10.11(a), Sublandlord

shall not cancel any Sub-Subleases or accept any cancellation, termination or surrender thereof (unless such termination shall be effected as a matter of law on the termination of this Sublease) or enter into a new Sublease or new Sub-Subleases without the consent of the Mortgagee.

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

ARTICLE XI

CONSTRUCTION OF BUILDING

Pursuant to the Ground Lease, Sublandlord is obligated, among other things, to construct the Building (including the Hotel, the Retail Complex and the Common Areas) and Tenant's Civic Facilities. The parties acknowledge that Sublandlord may assign its interest in the Ground Lease to Ground Lessor in connection with (and only in connection with) the execution, delivery and filing of the Declaration or the REA, as more fully provided in the Ground Lease. Completion of the construction of the Building shall be performed in compliance with all applicable Requirements.

ARTICLE XII

REPAIRS

SECTION 12.01 Except to the extent any of the following constitute Landlord's Civic Facilities, Subtenant shall, at its sole cost and expense, put and keep in good condition and repair the Premises and shall put, keep and maintain the Premises in good and safe order and condition, and make all repairs therein and thereon, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, necessary or appropriate to keep the same in good and safe order and condition, and whether or not necessitated by wear, tear, obsolescence or defects, latent or otherwise, provided, however, that Subtenant's obligations with respect to Restoration resulting from a casualty or condemnation shall be as provided in Article 8 and Article 9 hereof. In addition, Subtenant shall either itself or through an entity jointly controlled by Subtenant and the Retail Subtenant (i.e., through a condominium board of managers or jointly or through an analogue to a board of managers under the REA), repair all water, sewer and gas connections and pipes and mains which are located on or service the Premises (unless the City of New York or a public utility company is obligated to maintain or repair same) and appurtenances thereto, and all sidewalks adjacent to the Premises, vaults (other than vaults which are under the control of, or are maintained or repaired by, a utility company) and all sidewalk hoists. Subtenant shall not commit or suffer, and shall use all reasonable precaution to prevent, waste, damage or injury to the Premises. When used in this Section 12.01, the term "repairs" shall include all necessary replacements, alterations and additions. All repairs made by Subtenant shall be at least equal in quality and class to the original work and shall be made free and clear of all liens and encumbrances and in compliance with (a) all Requirements (including, but not limited to, Local Law No. 5, 1973, as amended, and Local Law

58, 1988, as amended), (b) the requirements of the New York Board of Fire Underwriters or any successor thereto, and (c) the Building Code of New York City, as then in force.

SECTION 12.02 Except as otherwise specifically provided in Article 26, Subtenant, at its sole cost and expense, shall keep or cause to be kept clean and free from dirt, snow, ice, rubbish, obstructions and encumbrances, the sidewalks adjacent to the Premises, grounds, chutes and sidewalk hoists comprising, in front of, or adjacent to, the Premises.

SECTION 12.03 Except as otherwise specifically provided in Article 26, Sublandlord shall not be required to furnish any services, utilities or facilities whatsoever to the Premises, nor shall Sublandlord have any duty or obligation to make any alteration, change, improvement, replacement, Restoration or repair to, nor to demolish, the Premises. Subtenant assumes the full and sole responsibility for the condition, operation, repair, alteration, improvement, replacement, maintenance and management of the Premises and, together with the Retail Subtenant, pursuant to the Declaration or the REA, assures joint and several responsibility for the condition, operation, repair, alteration, improvement, replacement, maintenance and management of the Common Areas. Subtenant shall not clean nor require, permit, suffer nor allow any window in the Premises to be cleaned from the outside in violation of Section 202 of the Labor Law or of the rules of the Industrial Board or other state, county or municipal department board or body having jurisdiction.

ARTICLE XIII

CHANGES, ALTERATIONS AND ADDITIONS

SECTION 13.01 From and after the Assignment Date (before which only the relevant provisions of the Ground Lease shall govern) Subtenant shall not demolish, replace or materially alter the Premises or any part thereof (except as provided to the contrary with respect to Equipment in Article 15), or make any addition thereto, whether voluntarily or in connection with repairs required by this Sublease (collectively, "Capital Improvement"), unless Subtenant shall comply with the following requirements and, if applicable, with the additional requirements set forth in Section 13.02:

(a) No Capital Improvement shall be undertaken until Subtenant shall have procured from all Governmental Authorities and paid for all permits, consents, certificates and approvals for the proposed Capital Improvement which are required to be obtained prior to the commencement of the proposed Capital Improvement (collectively, "Improvement Approvals"). Sublandlord shall join or otherwise cooperate in the application for any such Improvement Approvals, provided such application is made without cost, expense or liability (contingent or otherwise) to Sublandlord. True copies of all such Improvement Approvals shall be delivered by Subtenant to Sublandlord prior to commencement of the proposed Capital Improvement.

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

(c) All Capital Improvements shall be made with reasonable diligence and continuity (subject to Unavoidable Delays) and in a good and workmanlike manner and in

compliance with (i) all Improvement Approvals, (ii) the Master Development Plan, the Design Guidelines, the Declaration of Restrictions (if applicable) and if required pursuant to Section 13.02(a) or Section 13.02(b), the plans and specifications for such Capital Improvement as approved by Sublandlord, (iii) the orders, rules, regulations and requirements of any Board of Fire Underwriters or any similar body having jurisdiction, and (iv) all other Requirements.

(d) No construction of any Capital Improvements shall be commenced until Subtenant shall have delivered to Sublandlord original insurance policies, or certificates of insurance with respect to such policies together with copies of such policies, issued by responsible insurers authorized to do business in the State of New York as are reasonably acceptable to Sublandlord, bearing notations evidencing the payment of premiums or installments thereof then due or accompanied by other evidence story to Sublandlord of such payments. If, under the provisions of any casualty, liability or other insurance policy or policies then covering the Premises or any part thereof, any consent to such Capital Improvement by the insurance company or companies issuing such policy or policies shall be required to continue and keep such policy or policies in full force and effect, Subtenant, prior to the commencement of construction of such Capital Improvement, shall obtain such consents and pay any additional premiums or charges therefor that may be imposed by said insurance company or companies.

SECTION 13.02 (a) If the estimated cost of any proposed Capital Improvement shall exceed Five Hundred Thousand Dollars ($500,000) (as such amount shall be increased as provided in Section 7.02(a)), either individually or in the aggregate with other Capital Improvements which are a related portion of a program or project of Capital Improvements constructed in any twelve (12) month period during the Term, Subtenant shall:

(i) pay to Sublandlord, within ten (10) days after demand, the reasonable fees and expenses of any architects or engineers selected by Sublandlord to review the plans and specifications describing the proposed Capital Improvement and inspect the work on behalf of Sublandlord; and

(ii) furnish to Sublandlord the following:

(w) at least forty-five (45) Business Days prior to commencement of the proposed Capital Improvement, complete plans and specifications for the Capital Improvement, prepared by a licensed professional engineer or a registered architect approved by Sublandlord, which approval shall not be unreasonably withheld, and, at the request of Sublandlord, any other drawings, information or samples which Sublandlord reasonably requests, all of the foregoing to be subject to Sublandlord's review and approval for the sole purpose of determining conformity with the Master Development Plan, the Design Guidelines, the Declaration of Restrictions (if applicable) and, in the event such Capital Improvement is commenced within ten (10) years from the date the Building shall have been Substantially Completed, the Construction Documents;

(x) at least ten (10) Business Days prior to commencement of the proposed Capital Improvement, (1) a contract or construction management agreement reasonably satisfactory to Sublandlord in form collaterally assignable to Sublandlord (subject to any prior assignment to any Mortgagee), made with a reputable and responsible

contractor or construction manager approved by Sublandlord, which approval shall not be unreasonably withheld or delayed, providing for the completion of the Capital Improvement in accordance with the schedule included in the plans and specifications, free and clear of all liens, encumbrances, security agreements, interests and financing statements, and (2) payment and performance bonds or other security, in each case satisfying the requirements of Section 8.04(a)(ii) hereof; and

(y) at least ten (10) Business Days prior to commencement of the proposed Capital Improvement, an assignment to Sublandlord (subject to any prior assignment to any Mortgagee) of the contract so furnished and the bonds or other security provided thereunder, such assignment to be duly executed and acknowledged by Subtenant and by its terms to be effective only upon any termination of this Sublease or upon Sublandlord's re-entry upon the Premises or following any Event of Default prior to the complete performance of such contract, such assignment also to include the benefit of all payments made on account of such contract, including payments made prior to the effective date of such assignment.

(b) Notwithstanding that the cost of any Capital Improvement is less than Five Hundred Thousand Dollars ($500,000) (as such amount shall be increased as provided in Section 7.02(a)), such cost to be determined as provided in Section 8.02(b), to the extent that any portion of the Capital Improvement involves structural work or work involving the exterior of the Building or a change in the height, bulk or setback of the Building from the height, bulk or setback existing immediately prior to the Capital Improvement or which in any other manner affects compliance with the Master Development Plan, the Declaration of Restrictions (if applicable) or the Design Guidelines, then Subtenant shall furnish to Sublandlord at least thirty (30) Business Days prior to commencement of the Capital Improvement, complete plans and specifications for the Capital Improvement, prepared by a licensed professional engineer or registered architect approved by Sublandlord, which approval shall not be unreasonably withheld, and, at Sublandlord's request, such other items designated in Section 13.02(a)(ii)(w) hereof, all of the foregoing to be subject to Sublandlord's review and approval as provided therein. In addition, Subtenant shall pay to Sublandlord the reasonable fees and expenses of any independent architect or engineer selected by Sublandlord to review the plans and specifications describing the proposed Capital Improvement and inspect the work on behalf of Sublandlord.

(c) Sublandlord shall notify Subtenant of Sublandlord's determination with respect to any request for approval required under this Section 13.01 within fifteen (15) Business Days of the later of (i) Sublandlord's receipt of such request from Subtenant or (ii) Sublandlord's receipt of the plans and specifications and the drawings, information or samples which Sublandlord shall have requested in accordance with Section 13.02(a)(ii)(w). Sublandlord's failure to so notify Subtenant within said time period shall be deemed to constitute approval of the proposed Capital Improvement by Sublandlord.

(d) In the event that Subtenant shall desire to modify the plans and specifications which Sublandlord theretofore has approved pursuant to Section 13.02(a)(ii)(w) or 13.02(b) with respect to, or which will in any way affect, any aspect of the exterior of the Building or the height, bulk or setback thereof or which will affect compliance with the Design Guidelines, the Declaration of Restrictions (if applicable) or the Master Development Plan, Subtenant shall submit the proposed

modifications to Sublandlord. Subtenant shall not be required to submit to Sublandlord proposed modifications of the plans and specifications which affect solely the interior of the Building or which do not affect any aspect of the exterior of the Building or the height, bulk or setback thereof or which do not affect compliance with the Design Guidelines, the Declaration of Restrictions (if applicable) or the Master Development Plan. Sublandlord shall review the proposed changes for the sole purposes of determining whether or not they (i) conform to the Master Development Plan, the Design Guidelines and the Declaration of Restrictions (if applicable) and (ii) in Sublandlord's judgment, reasonably exercised, provide for design, finishes and materials which are comparable in quality to those provided for in the approved plans and specifications and shall approve such proposed changes if they do so conform and so provide. If Sublandlord determines that the proposed changes are not satisfactory in light of the above criteria, Sublandlord shall so advise Subtenant and shall specify in what respect the plans and specifications, as so modified, do not conform to the Master Development Plan, the Design Guidelines, or the Declaration of Restrictions (if applicable) or do not provide for design, finishes and materials which are comparable in quality to those provided for in the approved plans and specifications. Within fifteen (15) Business Days after Sublandlord shall have so advised Subtenant, Subtenant shall revise the plans and specifications so as to meet Sublandlord's objections and shall deliver same to Sublandlord for review. Each initial review by Sublandlord shall be carried out within fifteen (15) Business Days of the date of initial delivery of the plans and specifications, as so revised (or one or more portions thereof), by Subtenant and such additional review by Sublandlord shall be carried out within ten (10) Business Days of the date of delivery of any revisions thereto, and if Sublandlord shall not have notified Subtenant of its determination within such periods, it shall be deemed to have determined that the proposed changes are satisfactory. Sublandlord shall not review portions of the approved plans and specifications which Sublandlord has previously determined to be satisfactory, provided same have not been changed by Subtenant.

SECTION 13.03 All Capital Improvements shall be carried out under the supervision of the Architect or an architect selected by Subtenant and approved by Sublandlord, which approval shall not be unreasonably withheld or delayed. Upon completion of any Capital Improvement, Subtenant shall furnish to Sublandlord a complete set of "as-built" plans for such Capital Improvements together with, once same is issued, a permanent Certificate of Occupancy therefor issued by the New York City Department of Building, if and to the extent a modification thereof was required.

SECTION 13.04 Title to all additions, alterations, improvements and replacements made to the Premises, including, without limitation, the Capital Improvements, shall forthwith vest in Sublandlord, without any obligation by Sublandlord to pay any compensation therefor to Subtenant.

ARTICLE XIV

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

SECTION 14.01 Except as may otherwise be specifically provided in Article 26, Subtenant promptly shall comply with any and all applicable present and future laws, rules, orders, ordinances, regulations, statutes, requirements, permits, consents, certificates, approvals, codes and

executive orders, including, without limitation, Environmental Statutes and any conditions noted on any Certificate of Occupancy or temporary Certificate of Occupancy (collectively, "Requirements") without regard to the nature or cost of the work required to be done, extraordinary, as well as ordinary, of all Governmental Authorities now existing or hereafter created, and of any and all of their departments and bureaus, of any applicable Fire Rating Bureau or other body exercising similar functions, affecting the Premises, or any street, avenue or sidewalk comprising a part or in front thereof or any vault in or under the same, or requiring the removal of any encroachment, or affecting the construction, maintenance, use, operation, management or occupancy of the Premises, whether or not the same involve or require any structural changes or additions in or to the Premises, without regard to whether or not such changes or additions are required on account of any particular use to which the Premises, or any part thereof, may be put, and without regard to the fact that Subtenant is not the fee owner of the Premises. Subtenant also shall comply with any and all provisions and requirements of any casualty, liability or other insurance policy required to be carried by Subtenant under the provisions of this Sublease. Subtenant shall have no obligation to comply with Requirements with respect to, or pay for or complete, Landlord's Civic Facilities.

SECTION 14.02 Subtenant shall have the right to contest the validity of any Requirements or the application thereof. During such contest, compliance with any such contested Requirements may be deferred by Subtenant upon the condition that, if Subtenant is not an Institutional Lender, and if the cost of compliance shall exceed $500,000 (subject to increase as provided in Section 7.02(a)), then, prior to instituting such proceeding, Subtenant shall furnish to Sublandlord a bond, cash or other security satisfactory to Sublandlord, in an amount equal to the amount by which the cost of such compliance exceeds $500,000 (subject to increase as provided in Section 7.02(a)), securing compliance with the contested Requirements and payment of all interest, penalties, fines, fees and expenses in connection therewith. Any such proceeding instituted by Subtenant shall be commenced as soon as is reasonably possible after the issuance of any such contested matters, or after actual notice to Subtenant of the applicability of such matters to the Premises, and shall be prosecuted to final adjudication with reasonable dispatch. Notwithstanding the foregoing, Subtenant promptly shall comply with any such Requirements and compliance shall not be deferred if such noncompliance shall result in the imminent loss or forfeiture of the Premises, or any part thereof, or if Sublandlord shall be in danger of being subject to civil or criminal liability or penalty by reason of non-compliance therewith.

SECTION 14.03 Subtenant shall not cause or create or permit to exist or occur any condition or event relating to the Premises which would, with or without notice or passage of time, result in an event of default under the Master Lease (as the same exists on the date hereof) or the Ground Lease (as the same exists on the date hereof) or this Sublease. Subtenant shall perform all of Ground Lessor's obligations as tenant under the Master Lease and all of Sublandlord's obligations as tenant under the Ground Lease (as the same exist on the date hereof) inasmuch as they relate to the maintenance and operation of the Premises unless, in accordance with the terms of this Sublease, Sublandlord is specifically obligated to perform any such obligation. Notwithstanding the foregoing, from and after the Assignment Date, Subtenant's obligations shall be solely as set forth herein and Subtenant shall not be required to comply with, perform or observe any obligations of Ground Lessor as tenant under the Master Lease or of Sublandlord as tenant under the Ground Lease.

ARTICLE XV

EQUIPMENT

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

SECTION 15.02 Subtenant shall keep all Equipment, to the extent same constitutes a part of the Base Building Systems serving the Premises, in good order and repair and shall replace the same when necessary with items at least equal in utility and value to the Equipment being replaced.

SECTION 15.03 Subtenant shall establish and maintain, or cause the Hotel Operator to establish and maintain, pursuant to the Management Agreement, a reserve account for the repair and replacement of furniture, fixtures, and equipment at the Hotel (the "Hotel Furnishings Reserve") in amounts comparable to furniture and fixture accounts maintained for hotels of a size and quality similar to the Hotel; provided, however, that Subtenant shall not be liable for the failure by the Hotel Operator to so establish and maintain such Hotel Furnishings Reserve.

ARTICLE XVI

DISCHARGE OF LIENS; BONDS

SECTION 16.01 Subject to the provisions of Section 16.02 hereof, except as otherwise expressly provided herein, Subtenant shall not create or permit to be created any lien, encumbrance or charge upon the Premises or any part thereof, or the Project Area or any part thereof, the income therefrom or any assets of, or funds appropriated to, Sublandlord, and Subtenant shall not suffer any other matter or thing whereby the estate, right and interest of Sublandlord in the Premises, or any part thereof, might be impaired. Subtenant may finance (and enter into equipment finance leases of) any Equipment.

SECTION 16.02 If any mechanic's, laborer's or materialman's lien (other than a lien arising out of any work performed by Sublandlord, Master Lessor, Ground Lessor or Retail Subtenant) at any time shall be filed in violation of the obligations of Subtenant pursuant to Section 16.01 against the Premises or any part thereof, or the Project Area or any part thereof, or, if any public improvement lien created or permitted to be created by Subtenant shall be filed against any

assets of, or funds appropriated to, Sublandlord, then Subtenant, within forty-five (45) days after receipt of notice of the filing thereof shall cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If Subtenant shall fail to cause such lien to be discharged of record within the period aforesaid, and if such lien shall continue for an additional ten (10) days after notice by Sublandlord to Subtenant, then, in addition to any other right or remedy, Sublandlord may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings, and in any such event, Sublandlord shall be entitled, if Sublandlord so elects, to compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest, costs and allowances. Any amount so paid by Sublandlord, including all reasonable costs and expenses incurred by Sublandlord in connection therewith including, without limitation, reasonable attorneys' fees and disbursements, together with interest thereon at the Involuntary Rate, from the respective dates of Sublandlord's making of the payment or incurring of the costs and expenses, shall constitute Rental and shall be paid by Subtenant to Sublandlord within ten (10) days after demand. Notwithstanding the foregoing provisions of this Section 16.02, Subtenant shall not be required to discharge any such lien if Subtenant is in good faith contesting the same and has furnished a cash deposit or a security bond or other such security satisfactory to Sublandlord in an amount sufficient to pay such lien with interest and penalties.

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

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

ARTICLE XVII

REPRESENTATIONS; POSSESSION

SECTION 17.01 Subtenant acknowledges that Subtenant is fully familiar with the Land, the Project Area, the physical condition thereof (including, without limitation, the fact that the Land includes substantial portions of landfill which may present special difficulties in the design, construction and maintenance of the Building and Tenant's Civic Facilities), the Title

Matters, the Master Lease, the Ground Lease, the Retail Sublease, the Declaration of Restrictions, the Master Development Plan, the Memorandum of Understanding, the Settlement Agreement and the Design Guidelines. Except for Landlord's Civic Facilities to be constructed by Ground Lessor as provided in the Ground Lease, Subtenant accepts the Land in its existing condition and state of repair, and, except as otherwise expressly set forth in this Sublease, no representations, statements, or warranties, express or implied, have been made by or on behalf of Sublandlord in respect of the Land, the Project Area, the status of title thereof, the physical condition thereof, including, without limitation, the landfill portions thereof, the zoning or other laws, regulations, rules and orders applicable thereto, Taxes, or the use that may be made of the Land, that Subtenant has relied on no such representations, statements or warranties, and that Sublandlord shall in no event whatsoever be liable for any latent or patent defects in the Land.

SECTION 17.02 Notwithstanding anything herein contained to the contrary, Sublandlord represents that the Master Lease, the Design Guidelines, the Declaration of Restrictions, the Master Development Plan, the Memorandum of Understanding, and the Settlement Agreement have not been amended, modified or supplemented, except as specifically set forth in the definitions contained in Article 1 and are in full force and effect.

SECTION 17.03 Sublandlord shall deliver possession of the Land on the Commencement Date vacant and free of occupants and tenancies, subject only to the Title Matters.

ARTICLE XVIII

SUBLANDLORD NOT LIABLE FOR INJURY OR DAMAGE, ETC.

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

SECTION 18.02 Sublandlord shall not be liable to 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 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 wrongful act of Sublandlord, its officers, agents, contractors, employees or licensees.

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

SECTION 18.04 In no event shall Subtenant be liable to Sublandlord or to any other Person for any injury or damage to Sublandlord or to such other Person happening on, in or about the Premises and its appurtenances which may be caused by Landlord's Civic Facilities or the existence on the date hereof of any hazardous, toxic or dangerous waste, substance or material in the soil or subsurface, except to the extent that the same shall have been caused in whole or in part by the negligence or wrongful act of Subtenant or any employee, agent, servant or contractor of Subtenant or any Sub-Subtenant.

ARTICLE XIX

INDEMNIFICATION OF SUBLANDLORD AND OTHERS

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

(a) any work or thing done in or on the Premises or any part thereof (except for Landlord's Civic Facilities);

(b) any use, non-use, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Premises or any part thereof or 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 Subtenant or any agent, contractor, servant or employee of Subtenant or which Subtenant is obligated to do or perform;

provided, however, such indemnity shall not relate to (i) any pre-existing environmental condition, or (ii) any hazardous materials or environmental contaminants which migrates to the Land from other sites within the Project Area (and which did not originate at the Premises following the date hereof);

(c) any negligent or tortious act or failure to act within the Project Area on the part of Subtenant or any agent, contractor, servant or employee of Subtenant;

(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 about any sidewalk or vault, unless such sidewalk or vault is solely within the control of Sublandlord or a utility company or such accident, injury or damage arises from (i) some defect in Landlord's Civic Facilities or (ii) an environmental or other condition on the Land existing as of the date hereof, or (iii) any hazardous materials or environmental contaminant which migrate to the Land from other sites within the Project Area (and which did not originate at the Premises following the date hereof);

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

(f) any lien or claim which may have arisen out of any act of Subtenant or any agent, contractor, servant or employee of Subtenant against or on the Premises or any other portion of the Project Area, or any lien or claim created or permitted to be created by Subtenant in respect of the Premises against any assets of, or funds appropriated to any of the Indemnitees under the laws of the State of New York or of any other Governmental Authority or any liability which may be asserted against any of the Indemnitees with respect thereto, except to the extent such lien or claim arises from any (i) pre-existing environmental condition or (ii) the migration to the Land of hazardous materials or environmental contaminants from other sites within the Project Area (which migration did not originate at the Premises following the date of the Ground Lease);

(g) any failure on the part of Subtenant to keep, observe and perform any of the terms, covenants, agreements, provisions, conditions or limitations contained in the Sub-subleases, if any, on Subtenant's part to be kept, observed or performed;

(h) any contest by Subtenant permitted pursuant to the provisions of this Sublease, including, without limitation, Article 4, Article 14 and Article 28 hereof, or

(i) any action taken by any Person pursuant to any Environmental Statute or under common law, pertaining to hazardous or toxic waste or other substances, or in any manner arising out of or related to the presence, use, generation, storage, disposal or transport of any hazardous materials or environmental contaminants found in, on or under, affixed to or emanating from the Premises, except to the extent that such hazardous materials or environmental contaminants were (i) present at the Land on the date hereof or (ii) migrated to the Land from other sites within the Project Area and did not originate at the Premises following the date hereof.

SECTION 19.02 The obligations of Subtenant under this Article 19 shall not be affected in any way by the absence in any case of covering insurance or by the failure or refusal of

any insurance carrier to perform any obligation on its part under insurance policies affecting the Building.

SECTION 19.03 If any claim, action or proceeding is made or brought against any of the Indemnitees by reason of any event for which Subtenant has agreed to indemnify the Indemnitees in Section 19.01, then, Subtenant shall resist or defend such claim, action or proceeding (in such Indemnitee's name, if necessary) by the attorneys for Subtenant's insurance carrier (if such claim, action or proceeding is covered by insurance maintained by Subtenant) or (in all other instances) by such attorneys as Subtenant shall select and Sublandlord shall approve, which approval shall not be unreasonably withheld or delayed. In such event, Subtenant shall control all decisions in respect of the litigation and settlement of such claims. Notwithstanding the foregoing, Sublandlord may engage their own respective attorneys to assist in their defense. Provided such claim, action or proceeding is not covered by insurance maintained by Subtenant and the attorneys engaged by Sublandlord are experienced in matters of the type in question, Subtenant shall pay the reasonable fees and disbursements of such attorneys. The indemnification obligations imposed upon Subtenant under Section 19.01 shall not apply to any settlement agreed to by Sublandlord without Subtenant's consent, or if Sublandlord retains its own attorneys and such retention will materially impair or materially diminish Subtenant's insurance coverage and Sublandlord has been so advised in writing by Subtenant's insurer.

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

ARTICLE XX

RIGHT OF INSPECTION, ETC.

SECTION 20.01 Subtenant shall permit Sublandlord and its agents or representatives to enter the Premises at all reasonable times and upon reasonable notice (except in cases of emergency) for the purpose of (a) inspecting the same, (b) determining whether or not Subtenant is in compliance with its obligations hereunder, (c) constructing, maintaining and inspecting any Civic Facilities and (d) making any necessary repairs to the Premises and performing any work therein that may be necessary by reason of Subtenant's failure to make any such repairs or perform any such work, provided that, except in any emergency, Sublandlord shall have given Subtenant notice specifying such repairs or work and Subtenant shall have failed to make such repairs or to do such work within forty-five (45) days after the receipt of such notice (subject to Unavoidable Delays), or if such repairs or such work cannot reasonably be completed during such forty-five (45) day period, to have commenced and be diligently pursuing the same (subject to Unavoidable Delays).

SECTION 20.02 Nothing in this Article 20 or elsewhere in this Sublease shall imply any duty upon the part of Sublandlord to do any work required to be performed by Subtenant hereunder and performance of any such work by Sublandlord shall not constitute a waiver of Subtenant's default in failing to perform the same. Sublandlord, during the progress of any such work, may keep and store at the Premises all necessary materials, tools, supplies and equipment. Sublandlord shall not be liable for inconvenience, annoyance, disturbance, loss of business or other damage of Subtenant, any Sub-Subtenant or other occupant of the Premises 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, provided Sublandlord shall use reasonable efforts to minimize damage resulting from Sublandlord's exercise of its rights under this Article 20, and the obligations of Subtenant under this Sublease shall not be affected thereby. To the extent that Sublandlord undertakes such work or repairs, 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 unreasonably interfere with the conduct of business in or use of such space.

ARTICLE XXI

SUBLANDLORD'S RIGHT TO PERFORM SUBTENANT'S COVENANTS

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

SECTION 21.02 All reasonable sums paid by Sublandlord and all reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by Sublandlord in connection with its performance of any obligation pursuant to Section 21.01, together with interest thereon at the Involuntary Rate from the respective dates of Sublandlord's making of each such payment or incurring of each such sum, cost, expense, charge, payment or deposit until the date of actual repayment to Sublandlord, shall be paid by Subtenant to Sublandlord within ten (10) days after Sublandlord shall have submitted to Subtenant a statement, in reasonable detail, substantiating the amount demanded by Sublandlord. Any payment or performance by Sublandlord pursuant to Section 21.01 shall not be nor be deemed to be a waiver or release of breach or Default of Subtenant with respect thereto or of the right of Sublandlord to terminate this Sublease, institute summary proceedings or take such other action as may be permissible hereunder or otherwise provided at law or in equity if an Event of Default by Subtenant shall have occurred.

ARTICLE XXII

NO ABATEMENT OF RENTAL

SECTION 22.01 Except as may be otherwise expressly provided herein, there shall be no abatement, off-set, diminution or reduction of Rental payable by Subtenant hereunder or of the other obligations of Subtenant hereunder under any circumstances.

ARTICLE XXIII

PERMITTED USE; NO UNLAWFUL OCCUPANCY

SECTION 23.01 Commencing on the date of the Completion of the Building, Subtenant shall use all commercially reasonable efforts to cause the Premises to be operated

continuously and without interruption throughout the entire Term as and for a mixed use hotel in accordance with and as permitted under this Sublease, in accordance with the Requirements and the Certificate or Certificates of Occupancy for the Premises, the Declaration of Restrictions, the Master Development Plan, the Declaration or the REA, as the case may be, and the Design Guidelines and for no other use or purposes. Such efforts shall include expeditiously replacing the Hotel Operator, if the Management Agreement shall be terminated.

Notwithstanding the foregoing or any other provisions of this Sublease to the contrary, Subtenant or Hotel Operator may close all or a portion of the Hotel to perform alterations and refurbishments of same, provided that (a) Subtenant or Hotel Operator procures and delivers to Sublandlord a certificate from the Architect or other qualified, independent professional whereby the Architect or such professional sets forth its professional opinion as to the amount of time it would reasonably take to complete alterations or refurbishment of the Premises, (b) Subtenant commences such alterations or refurbishment reasonably promptly following the delivery of such Certificate to Sublandlord (but not before such delivery), (c) Subtenant diligently prosecutes such alterations or refurbishment to completion (subject to Unavoidable Delays), (d) such temporary closings are (i) in accordance with Prudent Management Standards (as hereinafter defined) or (ii) are being effected because of a transition from one Hotel Operator to another Hotel Operator and (e) in no event shall such cessation exceed one hundred twenty (120) days during any Lease Year (subject to Unavoidable Delays), provided, however, that Subtenant may close all or any portion of the Hotel for a period exceeding one hundred twenty (120) days in any Lease Year not more than once in any ten (10) year period. For purposes hereof, the term "Prudent Management Standards" shall mean the management standards that would be adhered to by a hotel operator in determining whether, and for how long, to keep open or to close any portion(s) of the Hotel, assuming that (a) such operator adheres to customary management standards for hotels comparable in size, type, amenities and age in determining whether, and for how long, to keep open or to close any portion(s) of the Hotel; and (b) such operator's objective in temporarily closing and refurbishing portions of the Hotel is to maximize profits from the operation of the Hotel, taking into consideration the size, type, amenities and age of the Hotel.

SECTION 23.02 Subtenant shall not use or occupy, nor knowingly permit or suffer the Premises or any part thereof to be, used or occupied for any unlawful, illegal or extra hazardous business, use or purpose, or in such manner as to constitute a nuisance of any kind (public or private) or that Sublandlord, in its reasonable judgment, deems offensive by reason of odors, fumes, dust, smoke, noise or other pollution, normal popcorn and kitchen and food preparation odors being deemed not offensive, or as a single resident occupancy hotel, or for any purpose or in any way in violation of the Certificates of Occupancy or any temporary Certificate of Occupancy or of any governmental laws, building codes, ordinances, requirements, orders, directions, rules or regulations, including, without limitation, the Design Guidelines or which may make void or voidable any insurance then in force on the Premises or, without Sublandlord's consent, for any use which requires a variance, waiver or special permit under the Zoning Resolution of New York City as then in effect, except with respect to use of the atrium contemplated at the Building, which requires a waiver from the New York City Board of Standards and Appeals ("BSA") of certain provisions of the Building Code of the City of New York pertaining to hotel corridors along an open atrium. Subtenant shall take, immediately upon the discovery of any such unpermitted, unlawful, illegal or extra hazardous use, all necessary actions, legal and equitable, to compel the discontinuance of such use. If for any reason Subtenant shall fail to take such actions, and such

failure shall continue for thirty (30) days after Subtenant's receipt of notice from Sublandlord specifying such failure, Sublandlord is hereby irrevocably authorized (but not obligated) to take all such actions necessary to remedy the situation. All reasonable sums paid by Sublandlord and all reasonable costs and expenses incurred by Sublandlord acting pursuant to the immediately preceding sentence (including, but not limited to, reasonable attorneys' fees and disbursements), together with interest thereon at the Involuntary Rate from the respective dates of Sublandlord's making of each such payment or incurring of each such cost, expense or charge until the date of receipt of repayment by Sublandlord, shall be paid by Subtenant to Sublandlord within ten (10) days after demand and shall constitute Rental under this Sublease.

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

SECTION 23.04 Subtenant shall take all such actions as Sublandlord is required to take in connection with the use and occupancy of the Premises under the terms of the Master Lease (prior to the Assignment Date), the Ground Lease (prior to the Assignment Date) and this Sublease, as the same exist on the date hereof, and Subtenant shall not (to the extent reasonably within Subtenant's control) permit any action or condition in respect of the Premises which constitutes or would, with notice or lapse of time or both, constitute an event of default under the Master Lease or Ground Lease (as each of the same exist on the date hereof). Sublandlord shall perform all of Sublandlord's obligations under the Ground Lease other than those which, prior to the Assignment Date, are the obligation of Subtenant under this Sublease, and Sublandlord shall not take or fail to take any action which constitutes or would, with notice or lapse of time or both, constitute an event of default under the Master Lease or the Ground Lease.

SECTION 23.05 Subtenant shall, following Completion of the Hotel: (a) use commercially reasonable efforts to cause the Hotel to be operated according to standards set forth in the Management Agreement or, in the absence of standards set forth in the Management Agreement, standards reasonably approved by Sublandlord; provided, however, that the Hotel may be operated only by the Hotel Operator, (b) use commercially reasonable efforts to cause the Hotel to be operated under an agreement with Licensor, and (c) cause the atrium of the Building to be open to the public as described in the Design Guidelines.

ARTICLE XXIV

EVENTS OF DEFAULT; CONDITIONAL LIMITATIONS, REMEDIES, ETC.

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

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

(b) if Completion of the Hotel shall not have occurred on or before the date which is forty-two (42) months from the Construction Commencement Date (subject to Unavoidable Delays) and such failure shall continue for thirty (30) days after written notice from Sublandlord to Subtenant;

(c) if Subtenant shall fail to observe or perform one or more of the other terms, conditions, covenants or agreements contained in this Sublease and such failure shall continue for a period of thirty (30) days after written notice thereof by Sublandlord to 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, in which case no Event of Default shall be deemed to exist as long as 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);

(d) to the extent permitted by law, if Subtenant shall admit, in writing, that it is unable to pay its debts as such become due;

(e) to the extent permitted by law, if Subtenant shall make an assignment for the benefit of creditors;

(f) to the extent permitted by law, if Subtenant shall file a voluntary petition under Title 11 of the United States Code or if such petition is filed against it, and an order for relief is entered, or if Subtenant shall file any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other statute or law, or shall seek or consent to or acquiesce in or suffer the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Subtenant, or of all or any substantial part of its properties or of the Premises, or any interest therein of Subtenant, or if Subtenant shall take any corporate action in furtherance of any action described in Sections 24.01(d), (e) or (f) hereof;

(g) to the extent permitted by law, if within ninety (90) days after the commencement of any proceeding against Subtenant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other statute or law, such proceeding shall not have been dismissed; or if, within ninety (90) days after the appointment, without the consent or acquiescence of Subtenant, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Subtenant or of all or any substantial part of its properties or of the Premises or any interest therein of Subtenant, such appointment shall not have been vacated or stayed on appeal or otherwise, or if, within (30) days after the expiration of any such stay, such appointment shall not have been vacated;

(h) if this Sublease or the estate of Subtenant hereunder shall be assigned, sub-subleased, transferred, mortgaged or encumbered, or there shall be a Transfer, without Sublandlord's approval to the extent required hereunder or without compliance with the provisions

of this Sublease applicable thereto and such transaction shall not be made to comply or voided ab initio within thirty (30) days after Subtenant receives notice thereof from Sublandlord to Subtenant;

(i) if a levy under execution or attachment (other than in connection with any foreclosure by a Mortgagee) shall be made against the Premises, and such execution or attachment shall not be vacated or removed by court order, or otherwise, or bonded within a period of thirty (30) days from the date on which Subtenant shall have received notice of same;

(j) if Subtenant shall at any time fail to maintain its existence in good standing, or to pay any franchise tax when and as the same shall become due and payable and such failure shall continue for thirty (30) days after notice thereof from Sublandlord or any governmental agency to Subtenant (unless Subtenant shall be contesting same and such contest shall not result in a forfeiture of Subtenant's estate herein or in any civil or criminal liability being imposed on Sublandlord, Subtenant or any Mortgagee);

(k) if Subtenant shall abandon the Premises;

(l) if Subtenant shall have failed to timely pay common area charges or any other amounts payable by Subtenant under either the Declaration or the REA (i) with respect to regular monthly payments, for more than three (3) months in any twelve (12) month period, or (ii) with respect to special or extraordinary payments, if the amount of such arrearage exceeds $15,000 (as such amount shall be increased in accordance with the mechanism provided in Section 7.02(a) hereof), and in either of the foregoing circumstances described in clause (i) or clause (ii), Subtenant fails to pay such arrearages within ten (10) days' written notice from Sublandlord to Subtenant; or

(m) if Forest City Enterprises, Inc.shall have breached a material representation (or failed to perform its obligations) contained in the Completion Guaranty.

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

SECTION 24.03 (a) If any Event of Default (i) described in Sections 24.01(d), (e), (f) or (g) hereof shall occur, or (ii) described in Sections 24.01(b), (c), (h), (i), (j), (k), (l) or (m) shall occur and Sublandlord, at its option, and at any time after the Event of Default(s) described in Sections 24.01(b), (c), (h), (i), (j), (k), (l) or (m) shall have occurred, gives notice to Subtenant stating that this Sublease and the Term shall expire and terminate on the date specified in such notice, which date shall be not less than ten (10) days after the giving of such notice, and if, on the date specified in such notice, Subtenant (or, in the case of the Default itemized in Section 24.01(m),

Forest City Rental Properties Corporation) shall have failed to cure the Default which was the basis for the Event of Default, then, in either of the events described in the preceding subclauses (i) or (ii) hereof, this Sublease and the Term and, except as provided in Section 24.04(a), all rights of Subtenant under this Sublease shall expire and terminate as of the date on which the Event of Default described in clause (i) above occurred or the date specified in the notice given pursuant to clause (ii) above, as the case may be, as if such date were the date herein definitely fixed for the expiration of the Term and Subtenant immediately shall quit and surrender the Premises. Anything contained herein to the contrary notwithstanding, if such termination shall be stayed by order of any court having jurisdiction over any proceeding described in Section 24.01(g) or Section 24.01(h) hereof, or by federal or state statute, then, following the expiration of any such stay, or if the trustee appointed in any such proceeding, Subtenant or Subtenant as debtor-in-possession shall fail to assume Subtenant's obligations under this Sublease within the period prescribed therefor by law or within one hundred twenty (120) days after entry of the order for relief or as may be allowed by the court, or if said trustee, Subtenant or Subtenant as debtor-in-possession shall fail to provide adequate protection of Sublandlord's right, title and interest in and to the Premises or adequate assurance of the complete and continuous future performance of Subtenant's obligations under this Sublease as provided in Section 24.15 hereof, Sublandlord, to the extent permitted by law or by leave of the court having jurisdiction over such proceeding, shall have the right, at its election, to terminate this Sublease on ten (10) days' notice to Subtenant, Subtenant as debtor-in-possession or said trustee and upon the expiration of said ten (10) day period this Sublease shall cease and expire as aforesaid and Subtenant, Subtenant as debtor-in-possession and/or trustee shall immediately quit and surrender the Premises as aforesaid.

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

SECTION 24.04 (a) Notwithstanding anything in Section 24.01(b) or in Section 24.03(a) to the contrary, if the Hotel Opening Date shall not have occurred by the date which is forty-two (42) months from the Construction Commencement Date (such date, the "Required Operation Date"), Sublandlord's right to give Subtenant a notice of its intention to terminate this Sublease on account of such failure shall be subject to the extension and cure rights hereinafter set forth of the Mortgagee that shall have provided the permanent loan (the "Permanent Loan") to refinance the eonstruction loan originally obtained by Subtenant (such Mortgagee being the "First Permanent Mortgagee"). Such extension and cure rights shall inure to the First Permanent Mortgagee but not any assignee of the First Permanent Mortgagee and shall forthwith terminate upon the sale or other transfer or assignment of the Permanent Loan by the First Permanent Mortgagee.

(b) If following the Substantial Completion of the Building and the funding of the Permanent Loan, the First Permanent Mortgagee has reason to believe that the Hotel Opening Date shall not be achieved by the Required Operation Date by reason of a failure on the part of the Hotel Operator to perform under the Management Agreement (regardless of whether such failure constitutes a default under the Management Agreement), then the First Permanent Mortgagee shall have the right to request an extension (the "Extension Request") of the Required Operation Date,

provided such request is given to Sublandlord not later than the date which is thirty-nine (39) months after the Construction Commencement Date (subject to extension by reason of Unavoidable Delay). The Extension Request must include the following material (the "Extension Request Documentation"): (i) a certification by the Hotel Operator providing a detailed explanation of why the Hotel Opening Date will not be achieved by the Required Operation Date; (ii) a description of the steps previously taken, to date, to meet the Required Operation Date deadline; (iii) a description of the steps the Hotel Operator thereafter intends to take and the additional period required to achieve the Hotel Opening Date); and (iv) a list of three disinterested and independent hospitality consultants taken from Schedule 2 attached hereto. It is understood that, notwithstanding the additional period specified in the Extension Request Documentation, the Required Operation Date shall in no event be extended to a date later than the forty-eighth (48th) month following the Construction Commencement Date.

(c) Within ten (10) Business Days following receipt of the Extension Request, Sublandlord shall retain one of the three hospitality consultants listed in the Extension Request (the "Hospitality Arbitrator") to review the Extension Request Documentation. If none of such hospitality consultants is able or willing to serve as the Hospitality Arbitrator, then Sublandlord shall apply to the New York City office of the American Arbitration Association (together with its successor in function, the "AAA") for appointment of the Hospitality Arbitrator, or, if the AAA shall not then exist or shall fail, refuse or be unable to act such that the Hospitality Arbitrator is not appointed by the AAA within 30 days after application therefor, then either party may apply to the presiding Justice of the Appellate Division of the Court for the appointment of the Hospitality Arbitrator and the other party shall not raise any question as to the Court's full power and jurisdiction to entertain the application and make the appointment. Within ten (10) Business Days of being retained, the Hospitality Arbitrator shall determine whether (1) the explanation referred to in clause (i) of the preceding paragraph is bona fide; (2) the steps referred to in clauses (ii) and (iii) of the preceding paragraph were and are, respectively, commercially reasonable; (3) the steps referred to in clause (iii) of the preceding paragraph are sufficient to achieve the Hotel Opening Date within the additional period referred to in such clause (iii); and (4) such additional period is sufficient to achieve the Hotel Opening Date or whether the steps proposed to be taken by the Hotel Operator to achieve the Hotel Opening Date should require less time than the period requested in the Extension Request Documentation.

(d) The Hospitality Arbitrator shall be required to make its determination without holding a hearing and either party shall have the right to submit any documentation or other material to the Hospitality Arbitrator in addition to the Extension Request Documentation. Such determination shall be made in a signed and acknowledged written instrument sent simultaneously to Sublandlord, Subtenant and the First Permanent Mortgagee and shall be conclusive and binding on the parties and enforceable in any court of competent jurisdiction. Subtenant shall be responsible for paying the fees and disbursements of the Hospitality Arbitrator.

(e) If the Hospitality Arbitrator determines that the above-referenced explanation is bona fide and the above-referenced steps were and are commercially reasonable and sufficient to achieve the Hotel Opening Date, then the Required Operation Date shall be extended for such additional period (or shorter period) as the Hospitality Arbitrator determines. If, however, the Hospitality Arbitrator determines that the above-referenced explanation is not bona fide or the above-referenced steps were not or are not commercially reasonable or are insufficient to achieve

the Hotel Opening Date within the additional period requested in the Extension Request Documentation, or if the Required Operation Date shall have been extended in accordance with the preceding sentence and the Hotel Opening Date shall have not been achieved by the Required Operation Date as so extended, then the failure to achieve the Hotel Opening Date by the Required Operation Date shall constitute a default hereunder. (The Required Operation Date, as the same may have been extended pursuant to this Section 24.04(e), is hereinafter referred to as the "Outside Date"). Notwithstanding anything herein to the contrary, in no event shall the Outside Date be later than the date which is forty-eight (48) months after the Construction Commencement Date.

(f) The First Permanent Mortgagee shall have the right to cure a default for the failure to achieve the Hotel Opening Date by the Outside Date, provided that within ten (10) Business Days following receipt of a notice of such default from Sublandlord the First Permanent Mortgagee exercises its rights and remedies to (A) terminate the Management Agreement with the Hotel Operator ("Manager Termination") or (B) default Subtenant under the Mortgage, and promptly thereafter diligently pursue its remedies under the Mortgage, including accelerating the maturity of the Permanent Loan and instituting foreclosure proceedings ("Mortgage Foreclosure"), and the First Permanent Mortgagee shall notify Sublandlord in writing of whether it has elected Manager Termination or Mortgage Foreclosure by notice given within the aforementioned ten (10) Business Day period. In the case of Manager Termination, the cure period shall be extended as follows: (i) until the date that is one year after the date that the applicable Management Agreement is terminated, or if the Hotel Operator contests such termination and the First Permanent Mortgagee prevails in such contest, until the date that is one year after the date that a court of competent jurisdiction issues a final non-appealable judgment terminating such Management Agreement; and (ii) if the Hotel Operator prevails in such contest, until the date that is six (6) months after the date that a court of competent jurisdiction issues a final non-appealable judgment in favor of the Hotel Operator, provided that in either case under clauses (i) and (ii) the First Permanent Mortgagee prosecutes with reasonable diligence any such contest. In the case of Mortgage Foreclosure, such cure period shall be extended as provided in Section 10.10, and Sublandlord acknowledges that the provisions of Section 10.10 shall apply to such a default.

(g) The rights and remedies contained in this Section 24.04 in favor of the First Permanent Mortgagee for the failure to achieve the Hotel Opening Date by the Outside Date shall, to the extent that the First Permanent Mortgagee has elected on or after the Outside Date to avail itself of the cure rights for Manager Termination as provided in Section 24.04(f), be in lieu of, and not in addition to, any rights and remedies contained in Section 10.10 with respect to such default. In furtherance of the foregoing, if the First Permanent Mortgagee elects on or after the Outside Date to avail itself of such cure rights for Manager Termination (whether for a Manager termination initiated prior to or after the Outside Date), it shall not have the right thereafter to elect Mortgage Foreclosure under Section 24.04(f) or to exercise remedies under Section 10.10 in connection with the same default, it being agreed, however, that no exercise of remedies by the First Permanent Mortgagee prior to the Outside Date shall preclude the First Permanent Mortgagee from electing Mortgage Foreclosure within the ten (10) Business Day period set forth in Section 24.04(f) and that nothing herein shall preclude the First Permanent Mortgagee from commencing remedies in furtherance of a foreclosure of its Mortgage prior to the Outside Date in accordance with the terms thereof. Notwithstanding any right the First Permanent Mortgagee may have under the loan documents securing the Permanent Loan to terminate one or more Hotel Operators prior to the Hotel Opening Date, the First Permanent Mortgagee shall have the benefit of the cure periods

provided in clauses (i) and (ii) of Section 24.04(f) for Manager Termination only in connection with the termination and replacement of a single Manager and only with respect to (X) a manager termination that is initiated after the Outside Date as provided in Section 24.04(f) or (Y) a manager termination and replacement that is initiated prior to the Outside Date but which is pending as of the Outside Date.

SECTION 24.05 If this Sublease shall be terminated as provided in Section 24.03(a) or Subtenant shall be dispossessed by summary proceedings or otherwise as provided in Section 24.03(b) hereof:

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

(b) Sublandlord may complete all construction required to be performed by Subtenant hereunder and may repair and alter the Premises in such manner as Sublandlord may deem necessary or advisable (and may apply to the foregoing all funds, if any, then held by Depository pursuant to Article 7, Article 8, or Article 9) without relieving Subtenant of any liability under this Sublease or otherwise affecting any such liability, and/or let or relet the Premises or any parts thereof for the whole or any part of the remainder of the Term or for a longer period, in Sublandlord's name or as agent of Subtenant, and out of any rent and other sums collected or received as a result of such reletting Sublandlord shall: (A) first, pay to itself the reasonable cost and expense of terminating this Sublease, re-entering, retaking, repossessing, completing construction and repairing or altering the Premises, or any part thereof, and the cost and expense of removing all persons and property therefrom, including in such costs brokerage commissions, legal expenses and reasonable attorneys' fees and disbursements, (B) second, pay to itself the reasonable cost and expense sustained in securing any new tenants and other occupants, including in such costs brokerage commissions, legal expenses and reasonable attorneys' fees and disbursements and other expenses of preparing the Premises for reletting, and, if Sublandlord shall maintain and operate the Premises, the reasonable cost and expense of operating and maintaining the Premises and (C) third, pay to itself any balance remaining on account of the liability of Subtenant to Sublandlord. Sublandlord in no way shall be responsible or liable for any failure to relet the Premises or any part thereof, or for any failure to collect any rent due on any such reletting, and no such failure to relet or to collect rent shall operate to relieve Subtenant of any liability under this Sublease or to otherwise affect any such liability;

(c) if Sublandlord shall not have declared all Rental due and payable pursuant to Section 24.02 hereof, Subtenant shall be liable for and shall pay to Sublandlord, as damages, any deficiency (referred to as "Deficiency") between the Rental reserved in this Sublease for the period which otherwise would have constituted the unexpired portion of the Term and the net amount, if any, of rents collected under any reletting effected pursuant to the provisions of Section 24.05(b) for any part of such period (first deducting from the rents collected under any such reletting all of the payments to Sublandlord described in Section 24.05(b) hereof); any such Deficiency shall be paid in installments by Subtenant on the days specified in this Sublease for payment of installments of Rental, and Sublandlord shall be entitled to recover from Subtenant each Deficiency installment as the same shall arise, and no suit to collect the amount of the Deficiency for any installment

period shall prejudice Sublandlord's right to collect the Deficiency for any subsequent installment period by a similar proceeding; and

(d) if Sublandlord shall not have declared all Rental due and payable pursuant to Section 24.02 hereof, and whether or not Sublandlord shall have collected any Deficiency installments as aforesaid, Sublandlord shall be entitled to recover from Subtenant, and Subtenant shall pay to Sublandlord, on demand, in lieu of any further Deficiencies, as and for liquidated and agreed final damages (it being agreed that it would be impracticable or extremely difficult to fix the actual damage), a sum equal to the amount by which the Rental reserved in this Sublease for the period which otherwise would have constituted the unexpired portion of the Term exceeds the then fair and reasonable rental value of the Premises for the same period, both discounted to present worth at the rate of eight percent (8%) per annum less the aggregate amount of Deficiencies theretofore collected by Sublandlord pursuant to the provisions of Section 24.05(c) for the same period; it being agreed that before presentation of proof of such liquidated damages to any court, commission or tribunal, if the Premises, or any part thereof, shall have been relet by Sublandlord for the period which otherwise would have constituted the unexpired portion of the Term, or any part thereof, the amount of rent reserved upon such reletting shall be deemed, prima facie, to be the fair and reasonable rental value for the part or the whole of the Premises so relet during the term of the reletting.

SECTION 24.06 No termination of this Sublease pursuant to Section 24.03(a) or taking possession of or reletting the Premises, or any part thereof, pursuant to Sections 24.03(b) and 24.05(b), shall relieve Subtenant of its liabilities and obligations hereunder, all of which shall survive such expiration, termination, repossession or reletting.

SECTION 24.07 To the extent not prohibited by law, and except as provided in this Sublease, Subtenant hereby waives and releases all rights now or hereafter conferred by statute or otherwise which would have the effect of limiting or modifying any of the provisions of this Article 24. Subtenant shall execute, acknowledge and deliver any instruments which Sublandlord may request, whether before or after the occurrence of an Event of Default, evidencing such waiver or release.

SECTION 24.08 Suit or suits for the recovery of damages, or for a sum equal to any installment or installments of Rental payable hereunder or any Deficiencies or other sums payable by Subtenant to Sublandlord pursuant to this Article 24, may be brought by Sublandlord from time to time at Sublandlord's election, and nothing herein contained shall be deemed to require Sublandlord to await the date whereon this Sublease or the Term would have expired had there been no Event of Default by Subtenant and termination.

SECTION 24.09 Nothing contained in this Article 24 shall limit or prejudice the right of Sublandlord to prove and obtain as liquidated damages in any bankruptcy, insolvency, receivership, reorganization or dissolution proceeding an amount equal to the maximum allowed by statute or rule of law governing such proceeding and in effect at the time when such damages are to be proved, whether or not such amount shall be greater than, equal to or less than the amount of the damages referred to in any of the preceding Sections of this Article 24.

SECTION 24.10 No receipt of moneys by Sublandlord from Subtenant after the termination of this Sublease, or after the giving of any notice of the termination of this Sublease (unless such receipt cures the Event of Default which was the basis for the notice), shall reinstate, continue or extend the Term or affect any notice theretofore given to Subtenant, or operate as a waiver of the right of Sublandlord to enforce the payment of Rental payable by Subtenant hereunder or thereafter falling due, or operate as a waiver of the right of Sublandlord 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 Sublease or the commencement of any suit or summary proceedings, or after a final order or judgment for the possession of the Premises, Sublandlord may demand, receive and collect any moneys due or thereafter falling due without in any manner affecting such notice, proceeding, order, suit or judgment, all such moneys collected being deemed payments on account of the use and operation of the Premises or, at the election of Sublandlord, on account of Subtenant's liability hereunder.

SECTION 24.11 Except as otherwise expressly provided herein or as prohibited by applicable law, Subtenant hereby expressly waives the service of any notice of intention to re-enter provided for in any statute, or of the institution of legal proceedings to that end, and Subtenant, for and on behalf of itself and all persons claiming through or under Subtenant, also waives any and all right of redemption provided by any law or statute now in force or hereafter enacted or otherwise, or re-entry or repossession or to restore the operation of this Sublease in case Subtenant shall be dispossessed by a judgment or by warrant of any court or judge or in case of re-entry or repossession by Sublandlord or in case of any expiration or termination of this Sublease, and Sublandlord and 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 Sublease, the relationship of Sublandlord and Subtenant, Subtenant's use or occupancy of the Premises, or any claim of injury or damage. The terms "enter", "re-enter" "entry" or "re-entry" as used in this Sublease are not restricted to their technical legal meaning.

SECTION 24.12 No failure by Sublandlord, Master Lessor, Ground Lessor or any prior landlord to insist upon the strict performance of any covenant, agreement, term or condition of this Sublease 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 Sublease to be performed or complied with by Subtenant, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by Sublandlord. No waiver of any breach shall affect or alter this Sublease, but each and every covenant, agreement, terms and condition of this Sublease shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

SECTION 24.13 In the event of any breach or threatened breach by Subtenant of any of the covenants, agreements, terms or conditions contained in this Sublease, Sublandlord 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 Sublease. To the extent permitted by law, Subtenant waives any requirement for the posting of bonds or other security in any such action.

SECTION 24.14 Each right and remedy of Sublandlord provided for in this Sublease shall be cumulative and shall be in addition to every other right or remedy provided for in this Sublease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Sublandlord of any one or more of the rights or remedies provided for in this Sublease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by Sublandlord of any or all other rights or remedies provided for in this Sublease or now or hereafter existing at law or in equity or by statute or otherwise.

SECTION 24.15 Subtenant shall pay to Sublandlord all costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by Sublandlord in any action or proceeding to which Sublandlord may be made a party by reason of any act or omission of Subtenant (excluding, however, any actions or proceeding brought by Subtenant against Sublandlord). Subtenant also shall pay to Sublandlord all costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by Sublandlord in enforcing any of the covenants and provisions of this Sublease and incurred in any action brought by Sublandlord against Subtenant on account of the provisions hereof provided that Sublandlord prevails in said 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 Sublandlord against Subtenant on or under this Sublease. All of the sums paid or obligations incurred by Sublandlord as aforesaid, with interest at the Involuntary Rate, shall be paid by Subtenant to Sublandlord within fifteen (15) days after demand by Sublandlord.

SECTION 24.16 If an order for relief is entered or if a stay of proceeding or other acts becomes effective in favor of Subtenant or Subtenant's interest in this Sublease in any proceeding which is commenced by or against Subtenant under the present or any future federal Bankruptcy Code or any other present or future applicable federal, state or other statute or law, Sublandlord shall be entitled to invoke any and all rights and remedies available to it under such bankruptcy code, statute, law or this Sublease, including, without limitation, such rights and remedies as may be necessary to adequately assure the complete and continuous future performance of Subtenant's obligations under this Sublease. Adequate protection of Sublandlord's right, title and interest in and to the Premises and the use thereof, and adequate assurance of the complete and continuous future performance of Subtenant's obligations under this Sublease, shall include, without limitation, the following requirements:

(a) that Subtenant shall comply with all of its obligations under this Sublease;

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

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

(d) that Sublandlord shall be permitted to supervise the performance of Subtenant's obligations under this Sublease;

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

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

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

(h) that Sublandlord be granted a security interest acceptable to Sublandlord in Subtenant's leasehold hereunder (which security interest shall be subordinate to any Mortgagee's security interests in Subtenant's leasehold hereunder); and

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

SECTION 24.17 Nothing contained in this Article 24 shall be deemed to modify the provisions of Sections 10.10, 10.11 or 41.06 hereof.

ARTICLE XXV

NOTICES

SECTION 25.01 Whenever it is provided in this Sublease that a notice, demand, request, consent, approval or other condition shall or may be given to or served upon either of the parties by the other, or by Sublandlord upon any Mortgagee, and whenever either of the parties shall desire to give or serve upon the other any notice, demand, request, consent, approval, or other communication with respect hereto, the Premises or the Common Areas, 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 by personal delivery or by mailing the same to Sublandlord or Subtenant, as the case may be, by reputable overnight courier or by registered or certified mail, postage prepaid, return receipt requested:

If addressed to Subtenant or to Sublandlord, prior to the Assignment Date:

c/o Forest City Ratner Companies
1 MetroTech Center North
Brooklyn, New York 11201
Attention: General Counsel

With an additional copy to:

Winthrop, Stimson, Putnam & Roberts
One Battery Park Plaza
New York, New York 10004-1490
Attention: Stephen A. Lefkowitz, Esq.

If to Sublandlord, after the Assignment Date (two copies):

Battery Park City Authority
One World Financial Center
New York, New York 10281
Attention: (1) President and (2) General Counsel

With an additional copy to:

Battle Fowler LLP
75 East 55th Street
New York, New York 10022
Attention: Michael A. Mishaan, Esq.

or to such other address(es) and attorneys as either party may from time to time designate by notice given to the other as aforesaid and, in the case of any notice required to be given to any Mortgagee pursuant to this Sublease, to each such Mortgagee at the address of such Mortgagee set forth in the notice mentioned in the first sentence of Section 10.10(a) hereof.

SECTION 25.02 Every notice, demand, request, consent, approval, or other communication hereunder shall be deemed to have been given or served when delivered in person, provided such delivery shall be prior to 5:00 p.m. on a Business Day; if such delivery be after 5:00 p.m., then such delivery shall be deemed on the next Business Day or if delivered by overnight courier, then on the next Business Day after delivery to such overnight courier, or if mailed, three (3) Business Days after the date that the same shall have been deposited in the United States mails, postage prepaid, in the manner aforesaid (except that a notice designating the name or address of a person to whom any notice or other communication, or copy thereof, shall be sent shall be deemed to have been given when same is received).

ARTICLE XXVI

MAINTENANCE OF THE CIVIC FACILITIES

SECTION 26.01 (a) The term "Civic Facilities" shall include the following improvements, whether located on the Premises or in the Project Area:

(i) (A) Electrical mains and lines bringing electrical service to the Premises, (B) the construction of an electrical transformer vault and property line box, the installation of electrical transformers under the Murray Street sidewalk adjacent to the Building and network protection equipment in a room in the Building to be constructed and equipped by Sublandlord (except for the network protection equipment and wiring between the network protection equipment and the transformer), (C) all conduit, wiring and terminations between the transformers and the primary side of the network protection equipment,(D) gas mains and (E) telephone mains;

(ii) Water mains;

(iii) Sanitary and storm sewers;

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

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

(vi) Streets immediately adjoining the Building;

(vii) Curbs;

(viii) Temporary concrete sidewalks immediately adjoining the Building;

(ix) Permanent sidewalks, including cobble strip and paving, immediately adjoining the Building;

(x) Landscaped esplanade, including appurtenances located within the pierhead line of the Project Area ("Esplanade");

(xi) Intentionally omitted;

(xii) Street trees immediately adjoining the Building; and

(xiii) through-block pedestrian right-of-way along the eastern edge of the Premises which shall be a minimum of thirty (30) feet in width, except that the right-of-way may be reduced to twenty (20) feet if a driveway, vehicular way or open space unobstructed by a building or other structure is constructed by Ground Lessor or its designee immediately east of such right-of-way (the "Right-of-Way"). A legal description of the Right-of-Way as the same may be reduced to twenty (20) feet as aforesaid, is attached hereto as Exhibit I.

(b) Except as set forth in the following sentence, Sublandlord and Subtenant acknowledge that those improvements described in subsections 26.01(a)(i)(A),(D) and (E) and 26.01(a)(ii) through (iv), (vi) through (viii) and (x) have been completed. With respect to subsection 26.01(a)(v), Sublandlord shall obtain the approval of the New York City Department of Buildings and any other agency having jurisdiction and if any modifications are required by any such agencies in order to obtain their approval, Sublandlord shall work with Ground Lessor in seeking a reconsideration if Ground Lessor so requests, and if such reconsideration is not sought or is sought but not granted,(i) prior to the Assignment Date, Sublandlord shall promptly and diligently cause Ground Lessor to perform and complete such work at Ground Lessor's sole cost and expense or after the Assignment Date, Sublandlord shall complete such work at the Sublandlord's sole cost and expense. Subject to Unavoidable Delays, (i) prior to the Assignment Date, Sublandlord shall cause Ground Lessor to perform Landlord's Construction Obligations and (ii) (x) prior to the Assignment Date, Sublandlord shall be obligated, and (y) on or following the Assignment Date, Subtenant and Retail Subtenant and Sublandlord shall be jointly and severally obligated to perform Tenant's Construction Obligations, in each case, in a good and workmanlike manner and in compliance with normal New York City construction rules and all applicable Requirements. Sublandlord and Subtenant hereby agree to coordinate performance of their work with respect to the Civic Facilities and to perform such work as efficiently as possible and so as to minimize interference with the work of each party with respect to the Civic Facilities and, prior to the Assignment Date, Sublandlord shall enforce its rights under the Ground Lease to cause Ground Lessor to do the same. Sublandlord represents that if there are any improvements required to be constructed as environmental mitigation in connection with the Project prior to the Assignment Date, Sublandlord shall cause such work to be performed by Ground Lessor at Ground Lessor's sole cost and expense and after the Assignment date, Sublandlord shall cause such work to be performed at Sublandlord's sole cost and expense.

(c) The term "Tenant's Civic Facilities" shall mean (i) those Civic Facilities identified in clauses (viii), (ix) and (xii) of subparagraph (a) hereof and (ii) only for maintenance purposes in the manner provided in Section 26.02, the Right-of-Way. The term "Landlord's Civic Facilities" shall mean all of the Civic Facilities which are not included within the definition of Tenant's Civic Facilities.

SECTION 26.02 Prior to the Assignment Date, Sublandlord shall cause Ground Lessor to take good care of and be responsible for compliance with Requirements in respect of Landlord's Civic Facilities, and shall cause Ground Lessor to comply with Landlord's Maintenance Obligations. On and following the Assignment Date, Sublandlord shall take good care of and be responsible for compliance with Requirements in respect of Landlord's Civic Facilities and shall comply with Landlord's Maintenance Obligations. Prior to the Assignment Date, Sublandlord shall

take good care of and be responsible for compliance with Requirements and Tenant's Maintenance Obligations and on or after the Assignment Date such responsibility and compliance shall be jointly and severally the responsibility of Subtenant and Retail Subtenant. Notwithstanding the preceding sentence to the contrary, prior to the Assignment Date Sublandlord shall cause Ground Lessor to, and after the Assignment Date Sublandlord itself shall, construct the Right-of-Way and to otherwise perform all repairs and to maintain the Right-of-Way at Ground Lessor's sole cost and expense (including by performing structural repairs, restorations and replacements) in a manner so as not to affect the soundness or structural integrity of the Building with the exception that prior to the Assignment Date Sublandlord, and on or after the Assignment Date Subtenant and Retail Subtenant, shall, at the sole cost and expense of Sublandlord or Subtenant and Retail Subtenant, as the case may be, and until such time as a building is built and opened for operation on the lot on which the Right-of-Way is located, keep the Right-of-Way free of accumulations of dirt, rubbish, snow and ice. If a building is built and opened for operation on the lot on which the Right-of-Way is located, the cost of such maintenance for which responsibility has not been allocated to Ground Lessor under the preceding sentence shall be borne by Sublandlord or Subtenant and Retail Subtenant, as the case may be, and the ground lessee of such lot in proportion to the relative square footage of the Building and such other building until the Assignment Date. Subtenant hereby acknowledges that the obligation of Ground Lessor or Sublandlord to perform Maintenance Obligations is expressly conditioned upon Subtenant's compliance with its obligations under Section 26.04. The parties contemplate that, after the completion of construction pursuant to the Section 26.01, and Ground Lessor's bringing the utilities identified in clauses 26.01(a)(i)-(iv) to the Building, Maintenance Obligations for the portion of the Civic Facilities identified in clause 26.01 (i) shall be performed by the appropriate utility companies and for those portions of the Civic Facilities identified in clauses 26.01(a) (ii) through (vii) shall be performed by New York City. Notwithstanding the initial sentence of this Section 26.02, Maintenance Obligations on the part of Ground Lessor in respect of any portion of the Civic Facilities identified in clauses 26.01(a) (i) through (vii) shall terminate on the date that the appropriate utility company or New York City, as the case may be, shall commence performance of Maintenance Obligations in respect of same (and shall resume on the date that the appropriate utility company or New York City, as the case may be, shall cease performance of Maintenance Obligations in respect of same). Sublandlord shall, prior to the Assignment Date, cause Ground Lessor to promptly notify Subtenant of any of the foregoing and after the Assignment Date, shall promptly notify Subtenant of any of the foregoing.

SECTION 26.03 Subtenant's sole remedies for a failure by Sublandlord, prior to the Assignment Date, to cause Ground Lessor to perform Landlord's Construction Obligations or a failure by the Sublandlord after the Assignment Date, to perform Landlord's Construction Obligations shall be (i) an extension of the Scheduled Completion Date by an amount of time equal to the time, if any, by which Sublandlord's construction of the Building has been delayed as a result of such failure, which delay shall constitute an Unavoidable Delay, and (ii) the right to engage in Self-Help, as defined in Section 26.03(b), and to receive the offset against Base Rent and Civic Facilities Payment provided for in Section 26.03(c) (collectively, the "Approved Remedies"). Sublandlord's failure, prior to the Assignment Date, to cause Ground Lessor to perform Landlord's Construction Obligations or, after the Assignment Date, to perform Landlord's Construction Obligations shall not give rise to any right or remedy except the Approved Remedies, or entitle Subtenant to any discount from or offset against any Rental except as set forth in Section 26.03(c) or to any other damages, and no delay, non-performance or part performance by Sublandlord or Ground Lessor under Section 26.01 shall release Subtenant from or modify any of its obligations

under this Lease except as provided herein. Subtenant's sole remedies against Sublandlord for (i) a failure by Sublandlord, prior to the Assignment Date, to cause Ground Lessor to perform its Maintenance Obligations in accordance with Section 26.02 or (ii) a failure by the Sublandlord to perform its Maintenance Obligations on and following the Assignment Date in accordance with Section 26.02, shall be the right to engage in Self-Help and to receive the offset against Civic Facilities Payments provided for in Section 26.03(c), and no such failure shall entitle Subtenant to any other right, remedy or damages against Sublandlord or Ground Lessor. Notwithstanding the provisions of Section 26.03(b), Subtenant shall not be entitled to exercise any of the Approved Remedies at any time that a Default exists under this Sublease. No delay, non-performance or part performance by Sublandlord or Ground Lessor under Section 26.02 shall release Subtenant from any of its obligations under this Sublease. The election by Subtenant of any remedy specified in this Section 26.03(a) shall not preclude Subtenant from pursuing any other available remedy specifically set forth in this Section 26.03(a).

(a) If (subject to Unavoidable Delays)(i) prior to the Assignment Date, Sublandlord fails to cause Ground Lessor to perform the Landlord's Construction Obligations or thereafter to substantially complete Landlord's Civic Facilities as provided in Section 26.01 with reasonable diligence (ii) prior to the Assignment Date, Sublandlord fails to cause Ground Lessor to perform any of Landlord's Maintenance Obligations, (iii) after the Assignment Date, Sublandlord fails to perform Landlord's Construction Obligations or (iv) after the Assignment Date, Sublandlord fails to perform any of Landlord's Maintenance Obligations, Subtenant (in its own name and not as agent of Landlord) shall have the right (but shall not be obligated) to undertake Landlord's Construction Obligations or Landlord's Maintenance Obligations, as the case may be ("Self-Help"), in accordance with the provisions of this Section 26.03(b). Prior to engaging in Self-Help, Subtenant shall give Sublandlord and Ground Lessor written notice specifying the nature of Sublandlord's and Ground Lessor's failure and advising of Tenant's intention to engage in Self-Help. If Sublandlord or Ground Lessor shall not have remedied the failure complained of prior to the thirtieth (30th) day after such notice, Subtenant shall be entitled to engage in Self-Help, provided that, if such failure shall be of a nature that the same cannot be completely remedied within said thirty (30) day period, Subtenant shall not be entitled to engage in Self-Help if Sublandlord or Ground Lessor commences to remedy such failure within such period and thereafter diligently and continuously proceeds to remedy same. In furtherance of Subtenant's exercise of the right of Self-Help set forth in this Section 26.03(b), Sublandlord, upon reasonable notice, shall permit, if prior to the Assignment Date, or Sublandlord shall cause Ground Lessor to permit, if after the Assignment Date, Subtenant and its agents or representatives or Mortgagees to inspect Landlord's Civic Facilities at all reasonable times for the purpose of determining whether or not Ground Lessor or Sublandlord is in compliance with Landlord's Construction Obligations and Landlord's Maintenance Obligations. Sublandlord hereby grants Subtenant (and its agents, representatives and Mortgagees) the right to enter upon Landlord's Civic Facilities in order to perform Self-Help in accordance with this Section 26.03(b). Subtenant shall not be liable for inconvenience, annoyance, disturbance, loss of business or other damage to Sublandlord or Ground Lessor by reason of Subtenant's exercise of the right of Self-Help hereunder, provided Subtenant shall use reasonable efforts to minimize damage caused by Subtenant in the exercise of its right of Self-Help.

(b) In the event Subtenant engages in Self-Help as provided in Section 26.03(b) with respect to Landlord's Construction Obligations, after submission to Sublandlord of a written statement of Subtenant's expenses with supporting documentation, Subtenant shall have the right to

offset against the next installment(s) of Base Rent and Hotel Civic Facilities Payment an amount equal to the reasonable expenses thereby incurred and/or theretofore paid by Subtenant together with interest thereon at the Involuntary Rate computed with respect to each payment made by Subtenant under this Section 26.03(c) from the date payment is made or incurred until the date(s) Subtenant effectuates the offset(s). In the event Subtenant engages in Self-Help as provided in Section 26.03(b) with respect to Landlord's Maintenance Obligations, after submission to Sublandlord of a written statement of Subtenant's expenses with supporting documentation, Subtenant shall have the right to offset against the next installment(s) of Hotel Civic Facilities Payment an amount equal to the reasonable expenses thereby incurred and/or theretofore paid by Subtenant together with interest thereon at the Involuntary Rate computed with respect to each payment made by Subtenant under this Section 26.03(c) from the date payment is made or the expense is incurred until the date(s) Subtenant effectuates the offset(s).

(c) In the event Sublandlord shall fail (i), prior to Assignment Date, to cause Ground Lessor to perform Landlord's Construction Obligations or Landlord's Maintenance Obligations, or (ii) after the Assignment Date, to perform Landlord's Construction Obligations or Landlord's Maintenance Obligations, Sublandlord shall incur no penalty or liability and Subtenant shall have no remedies or rights other than as expressly provided herein, it being agreed by the parties that Sublandlord shall not be deemed a failure by Sublandlord to perform a substantial obligation on Sublandlord's part to be performed under this Sublease.

SECTION 26.04 As its allocable share of the cost of operating, maintaining, repairing, restoring, replacing and upgrading the Civic Facilities, Subtenant, for each Lease Year or portion thereof commencing on the first day of the third Lease Year and ending on the last day of the Term, shall pay to Sublandlord an annual sum (the "Hotel Civic Facilities Payment") in an amount equal to Ninety-Six Thousand Dollars ($96,000), payable in equal monthly installments commencing on the first day of the third Lease Year and on the first day of each month thereafter during the Term. The Hotel Civic Facilities Payment shall be increased in each Lease Year to an amount which is three percent (3%) per annum in excess of the Hotel Civic Facilities Payment for the immediately prior Lease Year. It is understood and agreed by Subtenant that the Hotel Civic Facilities Payment, including the three percent (3%) annual escalation, is an agreed-upon fixed amount which does not necessarily reflect the actual costs of maintaining the Civic Facilities, the actual percentage share thereof of Subtenant or the actual annual increase in such costs, and that the Hotel Civic Facilities Payment shall neither increase nor decrease in proportion to any increases or decreases in the actual Civic Facilities costs.

SECTION 26.05 If from and after the Assignment Date (before which the relevant provisions of the Ground Lease shall control), all or any part of Landlord's Civic Facilities or Tenant's Civic Facilities, as the case may be, shall be destroyed or damaged in whole or in part by fire or other casualty of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, the party responsible for initial construction of said Civic Facilities, at no cost and expense to the other, whether or not such damage or destruction shall have been insured or insurable, and whether or not insurance proceeds, if any, shall be sufficient for the purpose shall restore or cause to be restored with reasonable diligence (subject to Unavoidable Delays) such Civic Facilities as nearly as practicable to the character and utility existing immediately prior to such occurrence and using materials of equal or better quality. Notwithstanding the foregoing to the contrary, in the event that, after the Assignment Date, such casualty to Landlord's Civic Facilities occurs at a time when there

has been a casualty to, or condemnation of all or any part of the Premises and Subtenant fails to Restore the Premises, Sublandlord shall have no obligation to restore Landlord's Civic Facilities as set forth above.

SECTION 26.06 If at any time during the Term from and after the Assignment Date (before which the relevant provisions of the Ground Lease shall control) there shall be a taking by any lawful power or authority through the exercise of the right of condemnation or eminent domain of the whole or a part of Landlord's or Tenant's Civic Facilities, as the case may be, or there shall be an agreement in lieu of a taking between Sublandlord and those authorized to exercise such right, Sublandlord shall receive the award attributable to the Civic Facilities so taken, as provided in Article 9, and at Sublandlord's sole cost and expense, whether or not the award or awards, if any, payable to Sublandlord are sufficient for the purpose, shall proceed with reasonable diligence (subject to Unavoidable Delays) to restore to the extent practicable any remaining portion of the Civic Facilities not so taken to a complete, self-contained unit. Sublandlord shall hold the award or awards received by it with respect to such taking in trust for the sole purpose of paying the cost of restoring the remaining portion of the Civic Facilities not so taken, and Sublandlord shall apply such award or awards first to the payment in full of the cost of such restoration before using any part of the same for any other purpose. Anything contained herein to the contrary notwithstanding, in no event shall Sublandlord's liability hereunder as trustee exceed the amount of the award or awards received by Sublandlord, as reduced by the portion thereof applied to the restoration. Upon completion of the restoration, Sublandlord may pay over to itself the unapplied award or awards and the trust obligations hereunder with respect to such award or awards shall terminate. Notwithstanding the foregoing to the contrary, in the event that such condemnation of Landlord's Civic Facilities occurs at a time when there has been a casualty to, or condemnation of, less than Substantially all of the Premises and Subtenant fails to Restore any remaining part of the Premises not so taken in accordance with Section 9.03 hereof, Landlord shall have no obligation to restore Landlord's Civic Facilities as set forth above.

SECTION 26.07 (a) Subtenant's use of the Premises hereunder is hereby made expressly subordinate to an easement to the public for pedestrian traffic alongside Vesey Street, as such easement is more particularly described on Exhibit A annexed hereto.

(b) Ground Lessor has granted to Sublandlord and Sublandlord hereby grants to Subtenant its interest in a non-exclusive easement for ingress and egress over the Right-of-Way. Such easement in the minimum width of 20 feet as provided in Section 26.01(a)(xiii) is to be included in a memorandum of lease to be recorded with respect to the Ground Lease. Use of the Right of Way shall be restricted to pedestrian traffic and neither party shall permit vehicular traffic or other uses thereon without the prior reasonable consent of the other party except that consent shall not be required for (a) vehicular traffic by either party or by the tenant for Site 26 to the east of the Building for emergency or routine maintenance access or (b) vehicular traffic or other uses related to the initial construction, reconstruction, restoration, repair or extraordinary maintenance of the Right of Way by or on behalf of Sublandlord or Ground Lessor upon prior written notice to Subtenant. Sublandlord and Subtenant shall keep each other and Ground Lessor (if prior to the Assignment Date) informed regarding the scheduling and extent of routine maintenance activities with respect to the Right of Way. With respect to such construction, reconstruction, restoration, repair or maintenance activities by either party (or Ground Lessor, if prior to the Assignment Date), including the work described in paragraph (c) below, such parties (or their designees) shall (i) use

all reasonable efforts to minimize interference with the operation of business in the Building or any building constructed on Site 26 to the east of the Building and perform such work in a prompt, safe and efficient manner and (ii) take such precaution as may be necessary or appropriate to prevent any damage to the Building or injury to any Persons.

(c) Upon notice from Sublandlord attaching a copy of the notice Sublandlord received from Ground Lessor (if prior to the Assignment Date or) upon notice from Sublandlord (if after the Assignment Date), Ground Lessor, Sublandlord, or their designee, as the case may be, shall have the right to attach an enclosure or other covering to the Building over the Right of Way as more fully described in the Design Guidelines and to perform such work as is necessary to attach such enclosure or covering to the Building as described in the Design Guidelines, provided that such enclosure or covering and the work necessary to construct, attach, maintain and repair same does not affect in any respect the soundness or structural integrity of the Building. Prior to the Assignment Date, Sublandlord shall cause Ground Lessor to and after the Assignment Date, Sublandlord shall itself, procure and maintain such workers' compensation, property and general liability insurance as would be maintained by a reasonably prudent person given the scope of work to be performed. Subtenant and Sublandlord hereby acknowledges that Ground Lessor, pursuant to Section 26.07(c) of the Ground Lease, has agreed to indemnify and hold harmless, Sublandlord, Subtenant, Retail Subtenant, and their respective agents, directors, officers and employees, with respect to out-of-pocket costs actually incurred by Subtenant by reason of performance of the work described in this Section 26.07(c), except to the extent that same shall have been caused in whole or in part by the negligence or wrongful act of any of the foregoing indemnitees. The design of such enclosure or covering shall be subject to and reviewed in accordance with the Design Guidelines. Maintenance and repair of such enclosure or covering shall be performed by Ground Lessor at Ground Lessor's cost and expense.

ARTICLE XXVII

STREETS

Sublandlord represents and warrants that within the Project Area, the following streets have been mapped as New York City public streets and are open for public use: North End Avenue, between North End Avenue and West Street, Warren Street, Murray Street and Vesey Street, subject to the provisions of the Storage and Staging Letter and generally applicable policies and procedures for partial closures of public streets.

ARTICLE XXVIII

STREET WIDENING

If at any time during the Term any proceedings are instituted or orders made by any Governmental Authority for the widening or other enlargement of any street contiguous to the Building requiring removal of any projection or encroachment on, under or above any such street, or any changes or alterations upon the Premises, or in the sidewalks, vaults (other than vaults which are under the control of, or are maintained or repaired by, a utility company), gutters, curbs or appurtenances, Subtenant, with reasonable diligence (subject to Unavoidable Delays) shall comply

with such requirements, and on Subtenant's failure to do so, Sublandlord may comply with the same in accordance with the provisions of Article 21. Subtenant shall be permitted to contest in good faith any proceeding or order for street widening instituted or made by any Governmental Authority, provided that during the pendency of such contest Subtenant deposits with Ground Lessor security in amount and form reasonably satisfactory to Ground Lessor for the performance of the work required in the event that Subtenant's contest should fail. In no event shall Subtenant permit Sublandlord or Ground Lessor to become liable for any civil or criminal liability or penalty as a result of Subtenant's failure to comply with reasonable diligence (subject to Unavoidable Delays) with any of the foregoing orders. Any widening or other enlargement of any such street and the award or damages in respect thereto shall be deemed a partial condemnation and be subject to the provisions of Article 9.

ARTICLE XXIX

SUBORDINATION; ATTORNMENT

SECTION 29.01 Sublandlord's interest in this Sublease, as this Sublease may be modified, amended or supplemented, shall not be subject or subordinate to, but rather shall be superior to, (a) any mortgage now or hereafter placed upon Subtenant's interest in this Sublease or (b) any other liens or encumbrances hereafter affecting Subtenant's interest in this Sublease.

SECTION 29.02 BPCA (in its capacity as landlord under the Ground Lease) and Subtenant are simultaneously herewith executing that certain Non-Disturbance and Recognition Agreement (the "Recognition Agreement"), which is binding on BPCA's successors and assigns and benefits Subtenant's successors and assigns, and which provides that if the Ground Lease is terminated, (i) BPCA (or the then holder of the reversionary interest in the premises demised by this Sublease) will recognize Subtenant under this Sublease and (ii) Subtenant will attorn to BPCA (or the then holder of the reversionary interest in the premises demised by this Sublease) and will recognize such holder as Subtenant's landlord under this Sublease. Either party shall, upon the request of the other, execute and deliver any further instrument which may be reasonably necessary or appropriate to evidence such recognition and attornment. Subtenant waives the provision of any statute or rule of law now or hereafter in effect which may give or purport to give Subtenant any right of election to terminate this Sublease or to surrender possession of the Premises in the event any proceeding is brought to terminate the Ground Lease, and agrees that this Sublease shall not be affected in any way whatsoever by any such proceeding.

SECTION 29.03 This Sublease shall be expressly subject and subordinate to all of the terms, covenants, conditions, provisions and agreements contained in the Master Lease and the Ground Lease (as in effect on the date hereof), to the extent such terms, covenants, conditions, provisions, and agreements relate to the Premises, the Civic Facilities or portions of the Building serving or affecting the Premises. Notwithstanding the foregoing to the contrary, however, the termination of the Master Lease, and after the Assignment Date, the Ground Lease, shall not result in a termination of this Sublease.

ARTICLE XXX

EXCAVATIONS AND SHORING

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

(a) shall afford to Sublandlord or, at Sublandlord's option, to the person or persons causing or authorized to cause such excavation the right to enter upon the Premises in a reasonable manner for the purpose of doing such work as may be necessary, without expense to Subtenant, to preserve any of the walls or structures of the Building from injury or damage and to support the same by proper foundations, provided that (i) such work shall be done promptly, in a good and workmanlike manner and subject to all applicable Requirements, (ii) Subtenant shall have an opportunity to have its representatives present during all such work and (iii) Subtenant shall be indemnified by Sublandlord in the event Sublandlord performs such excavation, or such other person performing such excavation, as the case may be, against any injury or damage to the Building or persons or property therein which may result from any such work, but shall not have any claim against Sublandlord for suspension, diminution, abatement, offset or reduction of Rental payable by Subtenant hereunder; or

(b) shall do or cause to be done all such work, at Sublandlord's or such other person's expense, as may be necessary to preserve any of the walls or structures of the Premises from injury or damage and to support the same by proper foundations, provided that Subtenant shall not, by reason of any such excavation or work, have any claim against Sublandlord for damages or for indemnity or for suspension, diminution, abatement, offset or reduction of Rental payable by Subtenant hereunder.

ARTICLE XXXI

CERTIFICATES BY SUBLANDLORD AND SUBT ENANT

SECTION 31.01 At any time and from time to time upon not less than ten (10) days notice by Sublandlord, Subtenant shall execute, acknowledge and deliver to Sublandlord or any other party specified by Sublandlord a statement certifying that this Sublease 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 Subtenant, Sublandlord is in default in the performance of any covenant, agreement or condition contained in this Sublease, and, if so, specifying each such default of which Subtenant may have knowledge.

SECTION 31.02 At any time and from time to time upon not less than ten (10) days notice by Subtenant or a Mortgagee, Sublandlord shall execute, acknowledge and deliver to Subtenant or such Mortgagee or any other party specified by Subtenant a statement certifying that this Sublease 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 Sublandlord, Subtenant is in Default in the performance of any covenant, agreement or condition

contained in this Sublease, and, if so, specifying each such Default of which Sublandlord may have knowledge.

SECTION 31.03 At the request of Subtenant or any Mortgagee, Sublandlord shall request a certificate in respect of the Master Lease from Master Lessor and/or a certification in respect of the Ground Lease from Ground Lessor. If Master or Ground Lessor shall fail to deliver such a certificate, then, in lieu thereof, Sublandlord shall execute, acknowledge and deliver to Subtenant a statement certifying that Sublandlord has no knowledge of any instrument modifying the Master Lease and has not executed and delivered to Ground Lessor any instrument modifying the Ground Lease (or if Sublandlord has executed or has knowledge of such an instrument, stating the modifications) and that, to the best of Sublandlord's knowledge, the Master Lease and Ground Lease are in full force and effect and no default exists thereunder.

ARTICLE XXXII

CONSENTS AND APPROVALS

SECTION 32.01 Except as otherwise expressly set forth in this Sublease, all consents and approvals which may be given under this Sublease 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 Sublease or the failure on the part of a party to object to any such action taken without the required consent or approval, shall not be deemed a waiver by the party whose consent was required of its right to require such consent or approval for any further similar act.

SECTION 32.02 If, pursuant to the terms of this Sublease, any consent or approval by Sublandlord or Subtenant is required, then unless expressly provided otherwise in this Sublease, if the party who is to give its consent or approval shall not have notified the other party within fifteen (15) Business Days or such other period as expressly specified in this Sublease 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. The foregoing deemed approval mechanism shall not be applicable or binding on the Mortgagee making the Permanent Loan, if the Mortgagee assumes Sublandlord's estate in this Lease or enters into a new lease with Sublandlord in accordance with the provisions of Section 10.11 hereof. If, pursuant to the terms of this Sublease, any consent or approval by Sublandlord or Subtenant is not to be unreasonably withheld or is subject to a specified standard, then in the event there shall be a final determination that the consent or approval was unreasonably withheld or that such specified standard has been met so that the consent or approval should have been granted, the consent or approval shall be deemed granted and such granting of the consent or approval shall be the only remedy to the party requesting or requiring the consent or approval.

SECTION 32.03 If, pursuant to the terms of this Sublease, any consent or approval by Sublandlord or Subtenant is not to be unreasonably withheld, such consent or approval shall, in addition, not be unreasonably delayed. In addition, if Sublandlord is also the landlord under the Master Lease and/or under the Ground Lease, Sublandlord's consent or approval given hereunder shall also be deemed to be the consent or approval of the landlord under the Master Lease and/or under the Ground Lease (as the case may be) if and to the extent that the consent of the landlord

under the Master Lease and/or under the Ground Lease (as the case may be) is required under either such lease.

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

ARTICLE XXXIII

SURRENDER AT END OF TERM

SECTION 33.01 On the last day of the Term or upon any earlier termination of this Sublease, or upon a re-entry by Sublandlord upon the Premises pursuant to Article 24 hereof, Subtenant shall remove its personal property and equipment and shall well and truly surrender and deliver up to Sublandlord the Premises in good order, condition and repair, reasonable wear and tear excepted, free and clear of all lettings, occupancies, liens and encumbrances, other than those, if any, which (a) exist at the date hereof, (b) are or were created by or consented to by Sublandlord or (c) by their express terms and conditions extend beyond the Expiration Date, and which Sublandlord shall have consented and agreed, in writing, may extend beyond the Expiration Date, without any payment or allowance whatever by Sublandlord. Subtenant hereby waives any notice now or hereafter required by law with respect to vacating the Premises on any such termination date.

SECTION 33.02 On the last day of the Term or upon any earlier termination of the Sublease, or upon a re-entry by Sublandlord upon the Premises pursuant to Article 24 hereof, Subtenant shall deliver to Sublandlord Subtenant's executed counterparts of all Sub-Subleases and any service and maintenance contracts then affecting the Premises for the past three (3) years, true and complete maintenance records for the Premises, all original licenses and permits then pertaining to the Premises, permanent or temporary Certificates of Occupancy then in effect for the Premises, and all warranties and guarantees then in effect which Subtenant has received in connection with any work or services performed or Equipment installed in the Building, together with a duly executed assignment thereof to Sublandlord, all financial reports, books and records required by Article 38 hereof and any and all other documents of every kind and nature whatsoever relating to the operation of the Premises.

SECTION 33.03 Any personal property of Subtenant or of any Sub-Subtenant which shall remain on the Premises for thirty (30) days after the termination of this Sublease and after the removal of Subtenant or such Sub-Subtenant from the Premises, may, at the option of Sublandlord, be deemed to have been abandoned by Sub-Subtenant or such Subtenant and either may be retained by Sublandlord as its property or be disposed of, without accountability, in such manner as Sublandlord may see fit. Sublandlord shall not be responsible for any loss or damage occurring to any such property owned by Subtenant or any Sub-Subtenant.

SECTION 33.04 The provisions of this Article 33 shall survive any termination of this Sublease.

ARTICLE XXXIV

ENTIRE AGREEMENT

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

ARTICLE XXXV

QUIET ENJOYMENT

Sublandlord covenants that Subtenant shall and may (subject, however, to the exceptions, reservations, terms and conditions of this Sublease) peaceably and quietly have, hold and enjoy the Premises for the term hereby granted without molestation or disturbance by or from Sublandlord or any Person claiming through Sublandlord and free of any encumbrance created or suffered by Sublandlord, except those encumbrances, liens or defects of title, created or suffered by Subtenant and the Title Matters.

ARTICLE XXXVI

APPRAISAL AND ARBITRATION

SECTION 36.01 In such cases where this Sublease expressly provides for the settlement of a dispute or question by appraisal, and only in such cases, Sublandlord and Subtenant shall jointly select an appraiser. If within a ten (10) day period the parties have not so agreed, then either party, on behalf of both, may apply to the Supreme Court of the State of New York, New York County, for the appointment of such appraiser and the other party shall not raise any question as to the Court's full power and jurisdiction to entertain the application and make the appointment. Any appraiser selected or appointed pursuant to this Section shall be a member of the American Institute of Real Estate Appraisers (or a successor organization), shall be an appraiser, and shall have been doing business as such in the Borough of Manhattan for a period of at least ten (10) years before the date of her/his appointment. All appraisers chosen or appointed pursuant to this Section shall be sworn to fairly and impartially perform their duties as appraisers hereunder. In the event of failure, refusal or inability of any appraiser to act, a successor shall be appointed within seven (7) days by the parties or in the event the parties shall fail so to appoint such successor, the successor shall be appointed by the Court in the manner hereinabove provided. The fees and expenses of all appraisers shall be shared jointly by the parties. Each party shall be responsible for the fees and expenses of its own attorneys and other representatives. Photocopies of the reports of all appraisers shall be provided to all the parties. The decision of the appraisers shall be binding upon the parties. In rendering its decision, the appraisers shall have no power to modify or reform any of the provisions of this Sublease. Any appraisal shall be conducted in the City and County of New York.

SECTION 36.02 In such cases where this Sublease expressly provides for the settlement of a dispute or question by arbitration, and only in such cases, the party desiring arbitration shall appoint a disinterested person as arbitrator on its behalf and give notice thereof to the other party who shall, within ten (10) days thereafter, appoint a second disinterested person as arbitrator on its behalf and give notice thereof to the first party. The two (2) arbitrators thus appointed shall together appoint a third disinterested person within ten (10) days after the appointment of the second arbitrator, and said three (3) arbitrators shall, as promptly as possible, determine the matter which is the subject of the arbitration and the decision of the majority of them shall be conclusive and binding on all parties and judgment upon the award may be entered in any court having jurisdiction. If a party who shall have the right pursuant to the foregoing to appoint an arbitrator fails or neglects to do so, then and in such event, the other party (or if the two (2) arbitrators appointed by the parties shall fail to appoint a third arbitrator when required hereunder, then either party) may apply to the American Arbitration Association (or any organization successor thereto), or in its absence, refusal, failure or inability to act, may apply for a court appointment of such arbitrator. The arbitration shall be conducted in the City and County of New York and, to the extent applicable and consistent with this Section 36.02, shall be in accordance with the Commercial Arbitration Rules then obtaining of the American Arbitration Association or any successor body. The expenses of arbitration shall be shared equally by Sublandlord and Subtenant, but each party shall be responsible for the fees and disbursements of its own attorneys and the expenses of its own proof. Sublandlord and Subtenant shall sign all documents and do all other things necessary to submit any such matter to arbitration and further shall, and hereby do, waive any and all rights they or either of them may at any time have to revoke their agreement hereunder to submit to arbitration and to abide by the decision rendered thereunder. The arbitrators shall have no power to vary, modify or reform any of the provisions of this Sublease and their jurisdiction is limited accordingly. If the arbitration concerns any Capital Improvement or Restoration, then each of the arbitrators shall be a licensed professional engineer or registered architect having at least ten (10) years' experience in the design of commercial buildings, and, to the extent applicable and consistent with this Section 36.02, such arbitration shall be conducted in accordance with the Construction Arbitration Rules then obtaining of the American Arbitration Association or any successor body of similar function.

Subtenant shall, and the Sublandlord acknowledges that Subtenant shall, send copies of requests for, and notices and correspondence in respect of, any arbitration conducted hereunder to the Mortgagees. In addition, the parties agree that any Mortgagee (or its representatives) may attend any hearing(s) conducted in the course of any such arbitration.

ARTICLE XXXVII

INVALIDITY OF CERTAIN PROVISIONS

If any term or provision of this Sublease or the application thereof to any Person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Sublease, 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 Sublease shall be valid and be enforced to the fullest extent permitted by law.

ARTICLE XXXVIII

FINANCIAL REPORTS

SECTION 38.01 Subtenant shall furnish to Sublandlord as soon as practicable after the end of each fiscal year of Subtenant, and in any event within one hundred and twenty (120) days thereafter, financial statements of operations of the Premises, for such year, setting forth in each case, in comparative form, the corresponding figures for the previous fiscal year, all in reasonable detail and accompanied by a report and opinion thereon of the Certified Public Accountant, which report and opinion shall be prepared in accordance with Accounting Principles consistently applied.

SECTION 38.02 Upon Sublandlord's request, if at any time Subtenant shall furnish to any Mortgagee operating statements or financial reports, Subtenant promptly shall furnish to Sublandlord copies of all such operating statements and financial reports. At the time at which Subtenant furnishes any such operating statements or reports, Subtenant may inform Sublandlord of its belief that the public disclosure of information contained therein or any part thereof would cause substantial injury to the competitive position of Subtenant's enterprise and request that, to the extent permitted by law, Sublandlord attempt to avoid such disclosure. In the event Subtenant makes such request, Sublandlord shall use its best efforts to avoid such disclosure (but shall incur no liability to Subtenant if Sublandlord reasonably believes it is complying with any provision of applicable law requiring such disclosure). Sublandlord shall (i) promptly notify Subtenant if it receives any request for disclosure, (ii) keep Subtenant advised of (and promptly copy Subtenant on) any communications that Sublandlord has with (or receives from) any party making the request for disclosure, (iii) notify Subtenant that it intends to make any disclosure, immediately after making any such decision and at least five (5) Business Days prior to the actual disclosure and (iv) copy Subtenant on any such disclosure.

SECTION 38.03 Subtenant shall keep and maintain at all times full and correct records and books of account of the operations of the Premises in accordance with the Accounting Principles and otherwise in accordance with any applicable provisions of each Mortgage and accurately shall record and preserve for a period of six (6) years the record of its operations upon the Premises. Within fifteen (15) days after request by Sublandlord, Subtenant shall make said records and books of account available from time to time for inspection by Sublandlord and Sublandlord's designee during reasonable business hours at a location designated by Subtenant in New York City. At any time at which Subtenant shall make said records and books of account available for inspection, it may inform Sublandlord of its belief that the public disclosure of the information contained therein or any part thereof would cause substantial injury to the competitive position of Subtenant's enterprise and request that to the extent permitted by law Sublandlord attempt to avoid such disclosure. In the event Subtenant makes such request, Sublandlord shall use its best efforts to avoid such disclosure (but shall incur no liability to Subtenant if Sublandlord reasonably believes it is complying with any provision of applicable law requiring such disclosure). Sublandlord shall, and shall use reasonable efforts to cause Ground Lessor to, (i) promptly notify Subtenant if it receives any request for disclosure, (ii) keep Subtenant advised of (and promptly copy Subtenant on) any communications that Sublandlord has with (or receives from) any party making the request for disclosure, (iii) notify Subtenant that it intends to make any disclosure, immediately after making any such decision and at least five (5) Business Days prior to the actual disclosure and (iv) copy Subtenant on any such disclosure.

ARTICLE XXXIX

RECORDING OF MEMORANDUM

Either Sublandlord or Subtenant may record a memorandum of this Sublease or any amendment or modification of this Sublease. Each shall, upon the request of the other, join in the execution of a memorandum of this Sublease or a memorandum of any amendment or modification of this Sublease in proper form for recordation.

ARTICLE XL

NO DISCRIMINATION

SECTION 40.01 Subtenant, in connection with the erection, maintenance, repair, restoration, alteration or replacement of, or addition to, the Building shall (a) not discriminate nor permit discrimination against any person by reason of race, creed, color, religion, national origin, ancestry, sex, age, disability or marital status and (b) comply with all applicable Federal, State and local laws, ordinances, rules and regulations from time to time in effect prohibiting such discrimination.

SECTION 40.02 Subtenant shall be bound by and shall include substantially the following paragraphs (a) through (e) of this Section 40.02 in all construction contracts, all service and management agreements and agreements for the purchase of goods and services (or in amendments to such contracts or agreements) relating to the operation of the Premises in such manner that these provisions shall be binding upon the parties with whom such agreements are entered into (any party being bound by such provisions shall be referred to in this Section as "Contractor"):

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

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

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

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

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

ARTICLE XLI

MISCELLANEOUS

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

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

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

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

SECTION 41.05 If more than one entity is named as or becomes Subtenant hereunder, Sublandlord may require the signatures of all such entities in connection with any notice to be given or action to be taken by Subtenant hereunder except to the extent that any such entity shall designate another such entity as its attorney-in-fact to act on its behalf, which designation shall be effective until receipt by Sublandlord of notice of its revocation. Each entity named as Subtenant shall be fully liable for all of Subtenant's obligations hereunder. Any notice by Sublandlord to any

entity named as Subtenant shall be sufficient and shall have the same force and effect as though given to all parties named as Subtenant. If all such parties designate in writing one entity to receive copies of all notices, Sublandlord agrees to send copies of all notices to that entity.

SECTION 41.06 The liability of either party hereto or of any Person who has at any time acted in the capacity of either party hereto hereunder (including, without limitation, a Mortgagee) for damages or otherwise shall be limited to such party'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 party 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 such party's interest in the Premises, and no other property or assets of such party 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 such party's remedies hereunder. Nothing contained in this Section 41.06 shall, however, (i) modify, qualify, or affect in any matter whatsoever the personal recourse undertakings, obligations or liabilities of any person, party or entity under any guaranty of payment, other guaranty or indemnification agreement hereafter executed and delivered to Sublandlord in connection with this Sublease or the transactions contemplated hereby and thereby or (ii) constitute a waiver of the right of the Sublandlord to enforce the liability and obligation of Subtenant and any party having general partner liability therefor (or any person liable under Environmental Statutes with respect to clause (C) below), by money judgment or otherwise, to the extent of any loss, damage, cost, expense, liability, claim or other obligation incurred by Sublandlord (including reasonable attorneys' fees and costs reasonably incurred) arising out of or in connection with any of the following:

(A) fraud or intentional misrepresentation by Subtenant or any guarantor in connection with this Sublease;

(B) the willful misconduct of any guarantor;

(C) the breach of any provision of Section 14.01 (only insofar as such breach pertains to compliance with Environmental Statutes) or Section 19.01(i);

(D) the misapplication or conversion by Subtenant of (A) any insurance proceeds paid by reason of any loss, damage or destruction to the Premises or any portion thereof or equipment located therein, (B) any awards or other amounts received in connection with the condemnation of the Premises or any portion thereof or equipment located therein, or (C) any Rents following an Event of Default;

(E) any security deposits collected with respect to the Premises which are not delivered to Sublandlord upon an eviction or action in lieu thereof, except to the extent any such security deposits were applied in accordance with the terms and conditions of this Sublease, or Sub-Subleases;

(F) the intentional commission of waste, or the willful failure to stop the commission of waste, by Subtenant;

(G) any representation or warranty of Subtenant or of any guarantor made in any financial certificate, report, statement or other financial information furnished in connection with this Sublease, or any guaranty or any other documents, fraudulently misrepresenting in any material respect the financial condition of Subtenant or of any guarantor when made;

(H) any part of the Premises or equipment located in the Premises or any interest of any nature whatsoever therein (whether legal or beneficial or whether held directly or indirectly) or any interest of any nature whatsoever in Subtenant (whether held directly or indirectly) being in any manner further encumbered, sold, transferred, assigned or conveyed in contravention of the provisions of this Sublease; or

(I) any damage or destruction of the Premises or any portion thereof due to fire or other casualty to the extent not covered by insurance required under this Sublease, but only to the extent same would have been covered by insurance if Subtenant had obtained and maintained the insurance required under this Sublease.

Furthermore, notwithstanding anything to the contrary in this Sublease, with respect to (i) any voluntary or involuntary bankruptcy petition filing, (ii) application for a custodian, receiver, trustee or examiner, or (iii) assignment for the benefit of creditors (whether any such action described in clauses (i) through (iii) is made with respect to Tenant or any other party), Sublandlord shall not be deemed to have waived any right which Sublandlord may have under Section 506(a), 506(b), 111(b) or any other provisions of the U.S. Bankruptcy Code to file a claim for payment in full of any amounts owing under this Sublease or to require that any guaranty securing the obligations of Subtenant hereunder shall continue to secure such obligations in accordance with the terms of this Sublease or any such guaranty.

SECTION 41.07 Except as otherwise expressly provided in this Sublease, there shall be no merger of this Sublease by reason of the same Person acquiring or holding, directly or indirectly, the lessor's and lessee's interests in this Sublease.

SECTION 41.08 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 Sublandlord and in accordance with the requirements of municipal and/or private sanitation services serving the Premises.

SECTION 41.09 Each of the parties represents to the other that it has not dealt with any broker, finder or like entity in connection with this lease transaction. If any claim is made by any Person who shall claim to have acted or dealt with Subtenant or Sublandlord in connection with this transaction, Subtenant or Sublandlord as the case may be, will pay the brokerage commission, fee or other compensation to which such Person is entitled, shall indemnify and hold harmless the other party hereto against any claim asserted by such Person for any such brokerage commission, fee or other compensation and shall reimburse such other party for any costs or expenses including, without limitation, reasonable attorneys' fees and disbursements, incurred by such other party in

defending itself against claims made against it for any such brokerage commission, fee or other compensation.

SECTION 41.10 This Sublease may not be changed, modified, or terminated orally, but only by a written instrument of change, modification or termination executed by the party against whom enforcement of any change, modification, or termination is sought. No change or modification shall be binding on a Mortgagee unless consented to in writing by such Mortgagee.

SECTION 41.11 This Sublease shall be governed by and construed in accordance with the laws of the State of New York.

SECTION 41.12 The agreements, terms, covenants and conditions herein shall be binding upon, and shall inure to the benefit of, Sublandlord and Subtenant and their respective successors and (except as otherwise provided herein) assigns.

SECTION 41.13 ll references in this Sublease to "Articles" or "Sections" shall refer to the designated Article(s) or Section(s), as the case may be, of this Sublease.

SECTION 41.14 All of Subtenant's right, title and interest in all plans and drawings required to be furnished by Subtenant to Sublandlord under this Sublease, if any, including, without limitation, the Schematics, the Design Development Plans and the Construction Documents, and in any and all other plans, drawings, specifications or models prepared in connection with construction at the Premises, any Restoration or Capital Improvement, shall become the sole and absolute property of Sublandlord upon the Expiration Date or any earlier termination of this Sublease. Subtenant shall deliver all such documents to Sublandlord promptly upon the Expiration Date or any earlier termination of this Sublease. Subtenant's obligation under this Section 41.14 shall survive the Expiration Date.

SECTION 41.15 All references in this Sublease to "licensed professional engineer", "licensed surveyor" or "registered architect" shall mean a professional engineer, surveyor or architect who is licensed or registered, as the case may be, by the State of New York. All references in this Sublease to "rentable area" or "rental square feet" shall be determined in accordance with the Standard Method of Floor Measurement for Office Buildings, as recommendation by the Real Estate Board of New York, Inc., as such recommendation exists on the date hereof. Any dispute as to such determination shall be resolved by arbitration pursuant to Article 36.

SECTION 41.16 After the Assignment Date, if Sublandlord or any successor to its interest hereunder ceases to have any interest in the Premises, the seller or transferor shall be and hereby is entirely freed and relieved of all agreements, covenants and obligations of Sublandlord hereunder to be performed on or after the date of sale or transfer, and it shall be deemed and construed without further agreement between the parties or their successors in interest or between the parties and the Person who acquires or owns the Sublandlord's interest in the Premises, that, subject to the provisions of Section 41.06, such Person (as successor Sublandlord) has assumed and agreed to carry out any and all agreements, covenants and obligations of Sublandlord hereunder accruing from and after the date of such acquisition, sale or transfer.

SECTION 41.17 Except as otherwise specifically provided herein, if the Subtenant named herein or any successor to its interest hereunder ceases to have any interest in the Premises or there is at any time or from time to time any valid sale or sales or disposition or dispositions or transfer or transfers of the Subtenant's or any successor's entire interest in the Premises in accordance with the provisions of Article 10, the Subtenant named herein or any such successor, as the case may be, shall be and hereby is entirely freed and relieved of all agreements, covenants and obligations of Subtenant hereunder to be performed on or after the date of such sale or transfer, and it shall be deemed and construed without further agreement between the parties or their successors in interest or between the parties and the Person who acquires or owns the Subtenant's interest in the Premises under this Sublease, including, without limitation, the purchaser or transferee in any such sale, disposition or transfer, that such Person has assumed and agreed to carry out any and all agreements, covenants and obligations of Subtenant hereunder to be performed from and after the date of such acquisition, sale or transfer.

SECTION 41.18 (a) Sublandlord shall not enter into or cause there to be entered into any amendment or supplement to the Master Lease, Master Development Plan, Memorandum of Understanding, Settlement Agreement, Purchase Option, Declaration of Restrictions, or the Design Guidelines which (a) increases, decreases or materially alters or otherwise materially affects Subtenant's rights or obligations under this Sublease, (b) limits or changes the permitted uses of the Premises or the Civic Facilities, (c) limits or changes Subtenant's rights under this Sublease to dispose of, or assign its interest in, the Premises or (d) decreases or alters the rights of a Mortgagee under this Sublease, unless the same is consented to by Subtenant (or, in the case of (d), by such Mortgagee) or is made subject and subordinate to this Sublease and such rights of such Mortgagee. In the event Sublandlord shall enter into or cause to be entered into an amendment or supplement to the Master Lease, Master Development Plan, Memorandum of Understanding, Settlement Agreement, Purchase Option, Declaration of Restrictions or the Design Guidelines which is not in conformity with this Section 41.18, Subtenant shall not be obligated to comply with the provisions of such amendment or supplement which do not so conform and the same shall have no force or effect with respect to Subtenant or any Mortgagee. Notwithstanding anything herein contained to the contrary, neither Subtenant nor any Mortgagee shall have any right to approve any amendment, modification or supplement to the Master Lease, Master Development Plan, Memorandum of Understanding, Purchase Option, Settlement Agreement, Declaration of Restrictions or the Design Guidelines which does not affect the Premises or Subtenant's leasehold estate in the Premises.

(b) From and after the Assignment Date, and for so long as either this Sublease or the Retail Sublease (or any new lease obtained by a mortgagee in replacement of either thereof) remains in effect, Sublandlord shall not (i) terminate, reject, void, revoke, cancel (or surrender its interest in) the Ground Lease or (ii) modify or amend the Ground Lease if such amendment or modification would or might increase the obligations of (or affect or increase or decrease any of the rights of) Subtenant hereunder or present a risk of forfeiture of any of the leasehold estates created by the Ground Lease or this Sublease.

SECTION 41.19 Nothing herein is intended nor shall be deemed to create a joint venture or partnership between Sublandlord and Subtenant, nor to make Sublandlord in any way responsible for the debts or losses of Subtenant.

SECTION 41.20 To the extent permitted by law, Subtenant shall have the right to all depreciation deductions, investment tax credits and other similar tax benefits attributable to any construction, demolition and Restoration performed by Subtenant or attributable to the ownership of the Premises. Sublandlord, from time to time, shall execute and deliver such instruments as Subtenant shall reasonably request in order to effect the provisions of this Section 41.20, and Subtenant shall pay Sublandlord's reasonable costs and expenses thereof. Sublandlord makes no representations as to the availability of any such deductions, credits or tax benefits.

SECTION 41.21 Whenever Sublandlord shall have the right to approve the architect, engineer or lawyer to be employed by Subtenant, any architect, engineer or lawyer so approved by Sublandlord at any time during the Term shall be deemed to be acceptable to Sublandlord for employment by Subtenant at any time thereafter, unless Sublandlord shall have good cause for refusing to allow the continued employment of such consultant. Whenever Subtenant is required to obtain Sublandlord's approval of an architect, engineer or lawyer, Subtenant shall notify Sublandlord if it intends to employ an architect, engineer or lawyer previously approved. In the event that Sublandlord shall refuse to approve the continued employment of such consultant, it shall so notify Subtenant, specifying the reason therefor.

SECTION 41.22 Sublandlord agrees that pursuant to Section 41.22 of the Ground Lease, Subtenant shall have the right to use the name "Battery Park City" in any advertising and promotional materials in connection with the leasing and operation of the Premises.

SECTION 41.23 Intentionally Omitted.

SECTION 41.24 Sublandlord hereby acknowledges that certain information to be provided by Subtenant to Sublandlord under the terms of this Sublease, including, without limitation, information pertaining to its subleasing activities, may contain proprietary or privileged information and, provided Subtenant indicates the confidential nature of such information to Sublandlord in writing simultaneously with the delivery thereof, Sublandlord covenants not to disclose such information to any third person other than those of its professionals, advisors and consultants who maintain confidential relationships with Sublandlord, unless such disclosure is required by law. Furthermore, Sublandlord agrees to provide Subtenant with at least five (5) Business Day's prior notice of any request for such information where Sublandlord reasonably believes such disclosure is legally required and such request is made by a party other than Sublandlord's professionals, advisors or consultants.

SECTION 41.25 From and after the Assignment Date, the Ground Lessor and the Sublandlord shall be one and the same entity.

SECTION 41.26 Subtenant shall not request or consent to a zoning change in respect of the Building or Premises without Sublandlord's prior written consent.

SECTION 41.27 SUBLANDLORD AND SUBTENANT HEREBY WAIVE, IRREVOCABLY AND UNCONDITIONALLY, TRIAL BY JURY IN ANY ACTION BROUGHT ON, UNDER OR BY VIRTUE OF OR RELATING IN ANY WAY TO THIS SUBLEASE OR ANY OF THE DOCUMENTS EXECUTED IN CONNECTION HEREWITH, THE BUILDING OR THE PREMISES, OR ANY CLAIMS, DEFENSES, RIGHTS OF SET-OFF OR OTHER

ACTIONS PERTAINING HERETO OR TO ANY OF THE FOREGOING. THE PARTIES AGREE THAT ANY TRIAL SHALL BE HELD IN NEW YORK COUNTY, NEW YORK.

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

BPC SITE 25 ASSOCIATES, LLC

By: FC BATTERY PARK ASSOCIATES, LLC

By: RRG BATTERY PARK, LLC, its managing member

By: _____
Name:
Title:

By: BPC HOTEL, LLC

By: FCDT-BPC CORP., its managing member

By: _____
Name:
Title:

BPC HOTEL, LLC

By: FCDT-BPC CORP., its managing member

By: _____
Name:
Title:

SCHEDULE 1

HOTEL

A. Base Rent/PILOT Schedule

Lease Year	Base Rent	PILOT
1	$ -0-	$ -0-
2	$ -0-	$ -0-
3	$325,000	$885,000
4	$334,750	$885,000
5	$344,500	$933,000
6	$355,000	$933,000
7	$365,500	$975,500
8	$376,750	$975,500
9	$388,500	$1,017,500
10	$400,000	$1,017,500[1]
11	$412,000	Taxes Plus Recapture Amount[2, 3]
12	$424,000	Taxes Plus Recapture Amount
13	$436,980	Taxes Plus Recapture Amount
14	$450,000	Taxes Plus Recapture Amount
15	$463,000	Taxes Plus Recapture Amount
16	$477,000	Taxes Plus Recapture Amount
17	$491,500	Taxes Plus Recapture Amount
18	$506,000	Taxes Plus Recapture Amount
19	$521,500	Taxes Plus Recapture Amount
20	$537,000	Taxes Plus Recapture Amount
21	$553,500	Taxes
22	$569,500	Taxes
23	See Note	Taxes – applicable to the Hotel only (until the end of the Ground Lease term)

Note: Annual Base Rent for the first fifteen year period beginning with Lease Year 23 shall be an amount equal to the greater of (x) six percent (6%) of the fair market value of the Premises or (y) $860,500.

[1] The PILOT amount indicated for Lease Year 10 plus an additional pro rata amount of such payment for the period from the end of Lease Year 10 until the first day of the next succeeding Tax Year. Thereafter, PILOT shall be paid on a Tax Year basis.

[2] Capitalized terms not defined in this Schedule 1 shall have the meanings set forth in the Lease except that (a) for Tax Years 11 through 20, Taxes shall be for the entire development on Site 25, including the Hotel and the Retail Complex, less the amounts indicated on the Retail Complex PILOT Schedule as indicated in Paragraph C. below. and (b) for Tax Years after Tax Year 20, Taxes shall be as applicable to the Hotel only.

[3] Recapture Amount is defined in Paragraph B below.

B. Definitions Applicable to PILOT Payments:

"Recapture Amount" as indicated in Tax Years 11-20 in the Base Rent/PILOT Schedule in Paragraph A above shall mean the amount for each such Tax Year which shall be 1/10 of the difference between (A) the aggregate of the greater of (x) the amount of Projected Full Taxes (the total for both the Hotel and the Retail Complex) for each of Lease Years 1-10 as indicated in the table below or (y) the amount of Taxes (the total for both the Hotel and the Retail Complex) for each of Lease Years 1-10, and (B) the aggregate amount of "Deferral" PILOT for Lease Years 1-10 as indicated in the table below.

PILOT Year	Projected Full Taxes	"Deferral" PILOT
1	$700,000	$ -0-
2	700,000	$ -0-
3	$3,677,000	$ -0-
4	$3,787,000	$ 757,000
5	$3,900,000	$1,560,000
6	$4,017,000	$2,410,000
7	$4,138,000	$3,311,000
8	$4,262,000	$4,262,000
9	$4,390,000	$4,390,000
10	$4,521,000	$4,521,000

Subject to a pro rata adjustment for the period from the end of Lease Year 10 until the first day of the next succeeding Tax Year.

Example

$34,093,000: Aggregate amount of Projected Full Taxes for Lease Years 1-10

$21,212,000: Aggregate amount of "Deferral" PILOT for Lease Years 1-10

$33,686,000: Aggregate amount of Taxes for Lease Years 1-10

$34,234,000: Aggregate amount of the greater of (a) Taxes in each of Lease Years 1-10 or (b) Projected Full Taxes in each of Lease Years 1-10.

The Recapture Amount in each of Tax Years 11 through 20 is $1,301,300. The Recapture Amount is computed as follows: $34,234,000 Less $21,211,000 ÷ 10 = $1,302,300.

C. Retail Complex PILOT Schedule

Lease Year	Retail Complex PILOT
1	$ -0-
2	$ -0-
3	$1,031,000
4	$1,031,000
5	$1,374,000
6	$1,374,000
7	$1,675,500
8	$1,675,500
9	$1,975,500
10	$1,975,500
11	$2,485,600
12	$2,546,643
13	$2,609,517
14	$2,674,278
15	$2,740,981
16	$2,809,685
17	$2,880,451
18	$2,953,339
19	$3,028,414
20	$3,105,742

SCHEDULE 2

LIST OF POSSIBLE HOSPITALITY ARBITRATORS

1. InterBank/Brener Brokerage Services, Inc.
2. Price Waterhouse Coopers
3. Arthur Andersen & Co.
4. Horwath Landauer Hospitality Consulting, Inc.
5. E & Y Kenneth Leventhal
6. Insignia/ESG Hotel Partners, Inc.
7. Pinnacle Advisory Group
8. HVS (Hospitality Valuation Services International)
9. PKF Consulting

EXHIBIT A

DESCRIPTION OF LAND

EXHIBIT B

DESCRIPTION OF PREMISES, HOTEL, AND RETAIL COMPLEX

EXHIBIT C

DESIGN GUIDELINES

EXHIBIT D

DIAGRAM OF GROUND FLOOR SHOWING THE KITCHEN

EXHIBIT E

LICENSE AGREEMENT AND SIDE LETTER

EXHIBIT F

MANAGEMENT AGREEMENT

EXHIBIT G

TITLE MATTERS

EXHIBIT H

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT FOR KITCHEN

EXHIBIT I

LEGAL DESCRIPTION OF THE RIGHT-OF-WAY

EXHIBIT C

RETAIL SUBLEASE

EXHIBIT A

DESCRIPTION OF LAND AND EASEMENT

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

BEGINNING at the corner formed by the intersection of the northerly side of Vesey Street and the easterly side of North End Avenue;

THENCE RUNNING North 1 degree 52 minutes 50 seconds East along the easterly side of North End Avenue 259.15 feet to the corner formed by the intersection of the easterly side of North End Avenue and the southerly side of Murray Street;

THENCE North 72 degrees 28 minutes 00 seconds East along the southerly side of Murray Street a distance of 211.33 feet to a point;

THENCE South 17 degrees 32 minutes 00 seconds East 209.65 feet to a point,

THENCE South 1 degrees 52 minutes 50 seconds West 131.66 feet to the northerly side of Vesey Street;

THENCE North 88 degrees 07 minutes 10 seconds West along the northerly side of Vesey Street a distance of 269.00 feet to the corner, the point or place of beginning.

Together with the benefits and subject to the burdens, if any, of a 20 foot Pedestrian Way as set forth in the ground lease made between Battery Park City Authority and BPC Site 25 Associates, LLC being more particularly bounded and described:

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

BEGINNING at a point on the easterly line of the above described premises the following two (2) courses and distances from the intersection of the northerly line of Vesey Street and the easterly line of North End Avenue:

A. South 88 degrees 07 minutes 10 seconds East along the northerly line of Vesey Street 269.00 feet;

B. North 1 degree 52 minutes 50 seconds East along the easterly line of the above described premises 10 feet to the true point or place of BEGINNING:

1. RUNNING thence North 1 degree 52 minutes 50 seconds West along the easterly line of the above described premises 121.66 feet;

2. THENCE North 17 degrees 32 seconds 00 minutes West along the easterly line of the above described premises 209.65 feet to a point in the southerly line of Murray Street;

3. THENCE North 72 degrees 28 minutes 00 seconds East along the southerly line of Murray Street 20.00 feet;

4. THENCE South 17 degrees 32 minutes 00 seconds East 213.07 feet to a point;

5. THENCE South 1 degree 52 minutes 50 seconds West 125.08 feet to a point in the northerly line of the 10 foot Sidewalk easement;

6. THENCE North 88 degrees 07 minutes 10 seconds West along the northerly line of the 10 foot sidewalk easement 20.00 feet to the point or place of BEGINNING.

Subject to a 10 foot Sidewalk Easement as Set forth in the _____ between Battery Park City Authority and BPC Site 25 Associates, LLC being more particularly bounded and described:

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

BEGINNING at a point formed by the intersection of the northerly line of Vesey Street and the easterly line of North End Avenue;

1. RUNNING thence North 1 degree 52 minutes 50 seconds East along the Easterly line of North End Avenue, 10.00 feet;

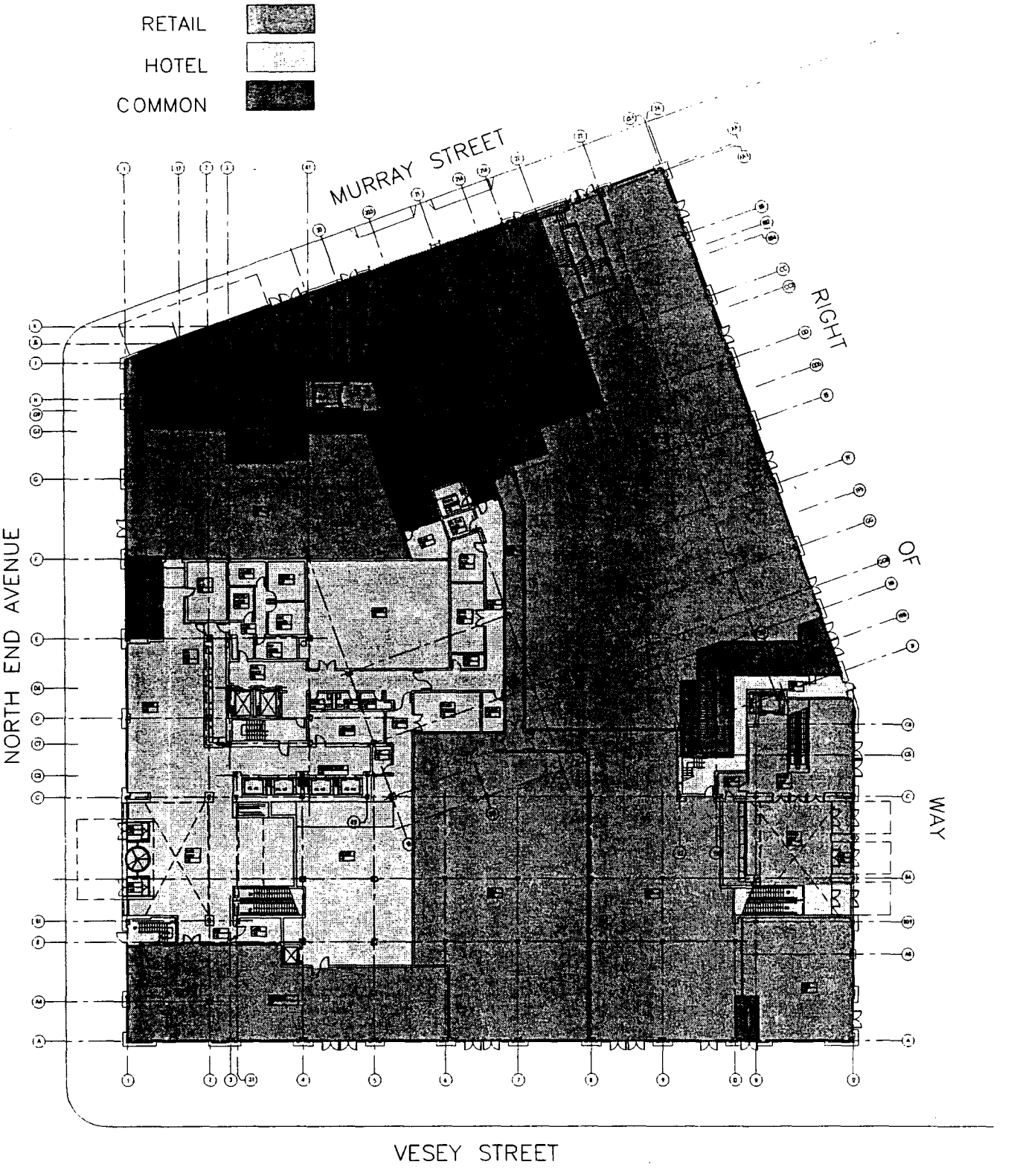
2. THENCE South 88 degrees 07 minutes 10 seconds East 269.00 feet to a point in the easterly line of first above described premises;

3. THENCE South 1 degree 52 minutes 50 seconds West along the easterly line of the first above described premises 10.00 feet;

4. THENCE North 88 degrees 07 minutes 10 seconds West along the northerly line of Vesey Street, 269.00 feet to the point or place of BEGINNING.

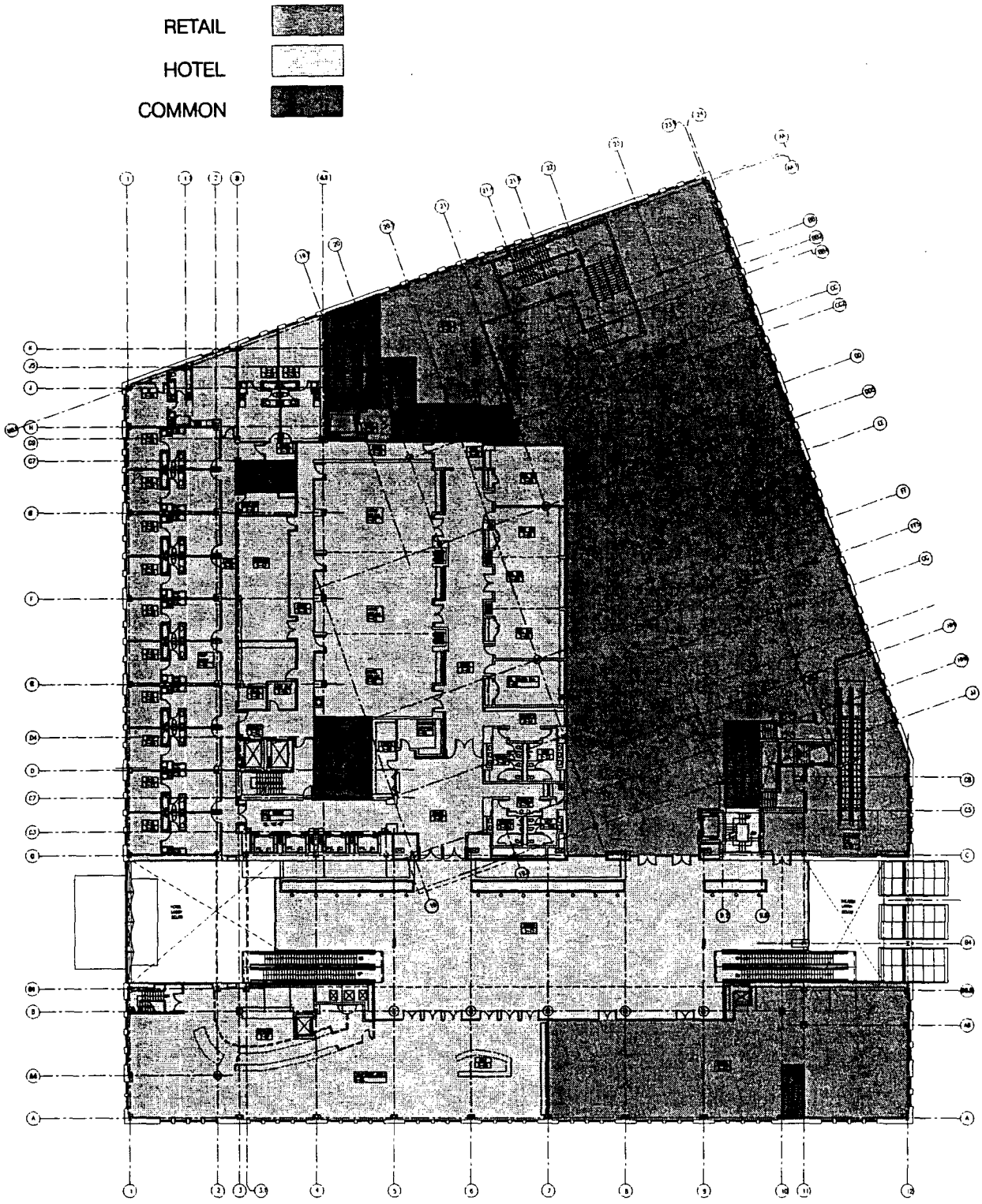
EXHIBIT B

DESCRIPTION OF PREMISES, HOTEL, AND RETAIL COMPLEX



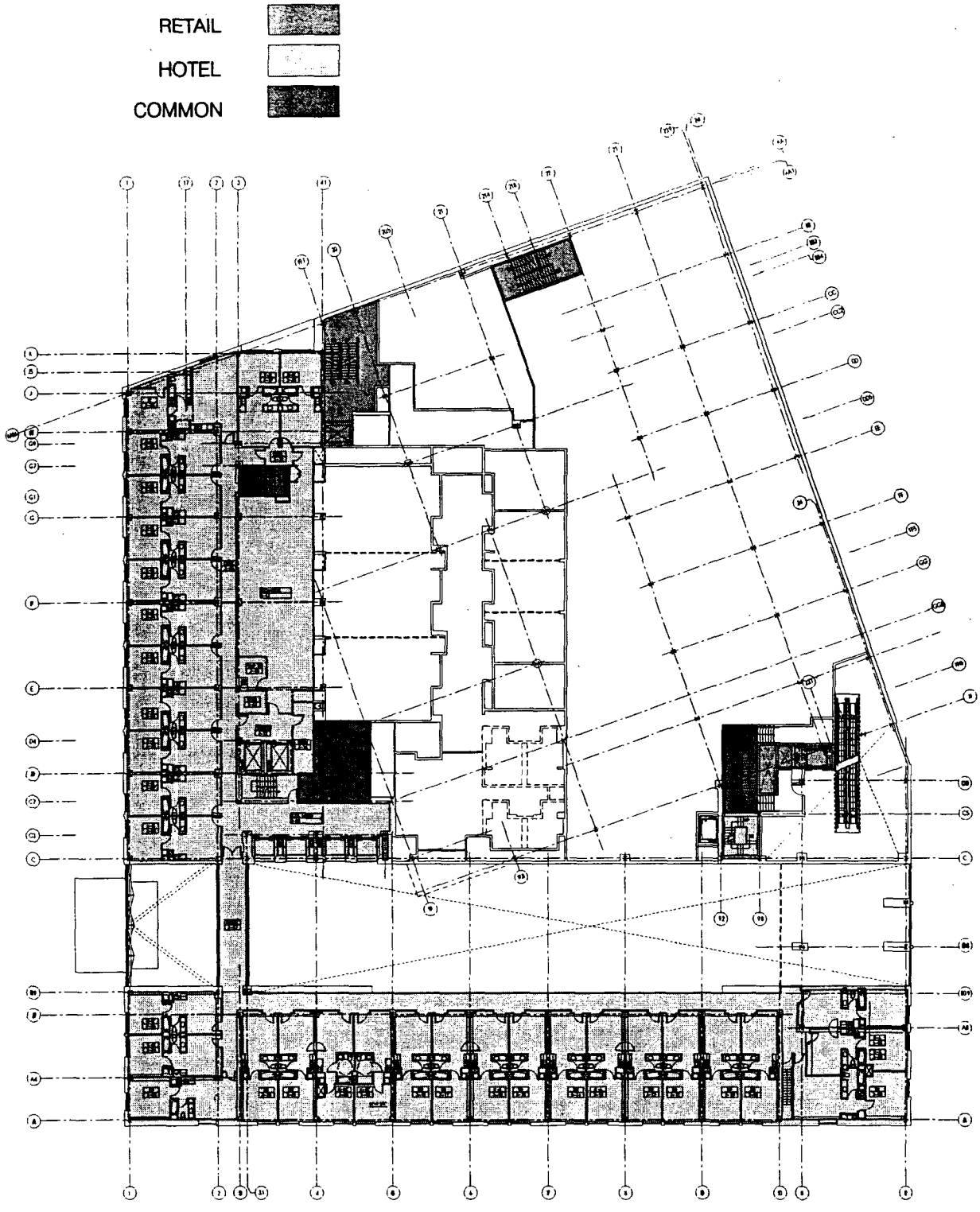
FOREST CITY RATNER
EMBASSY SUITES AT BATTERY PARK CITY

FIRST FLOOR - DESCRIPTION OF PREMISES



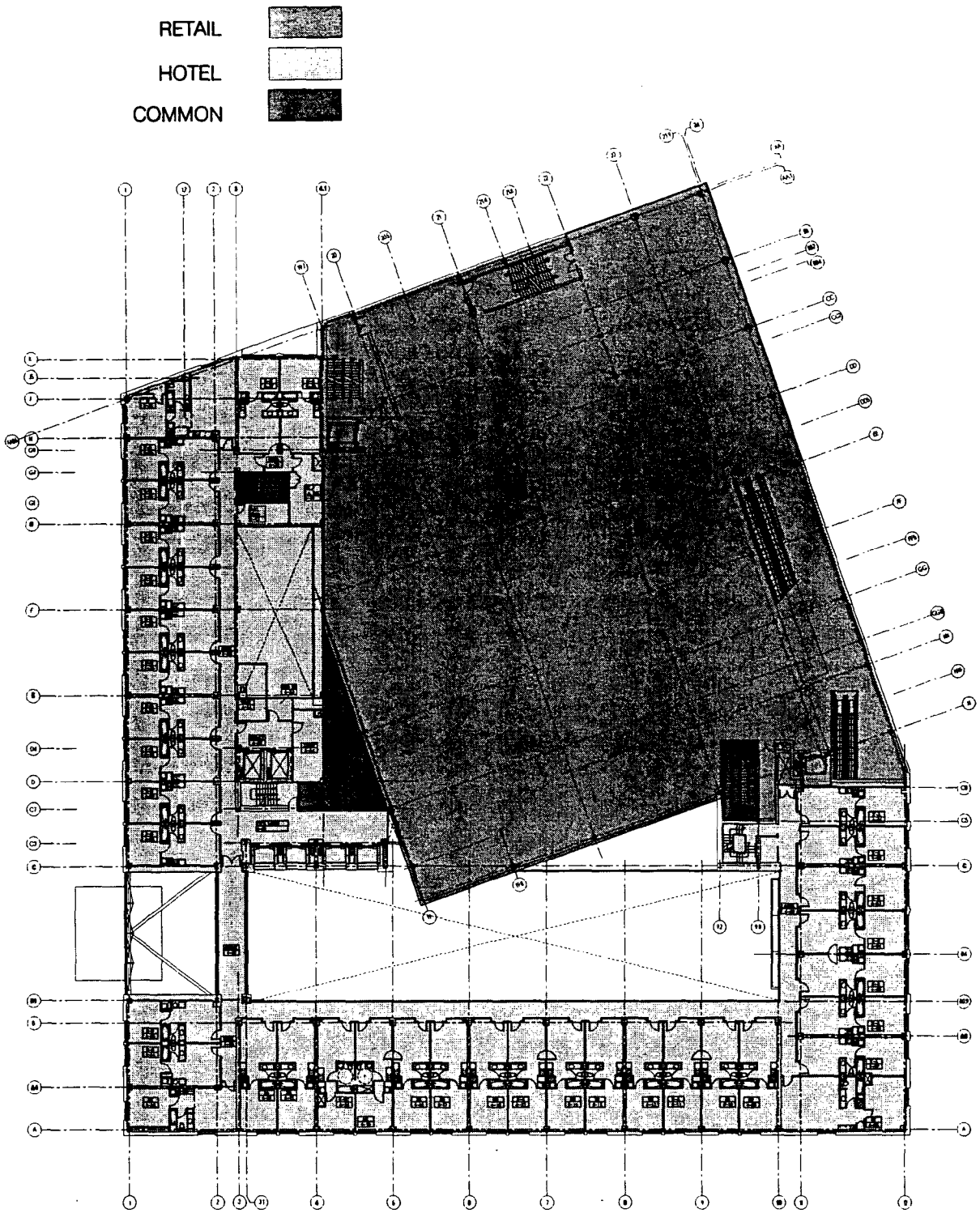
FOREST CITY RATNER
EMBASSY SUITES AT BATTERY PARK CITY

SECOND FLOOR - DESCRIPTION OF PREMISES



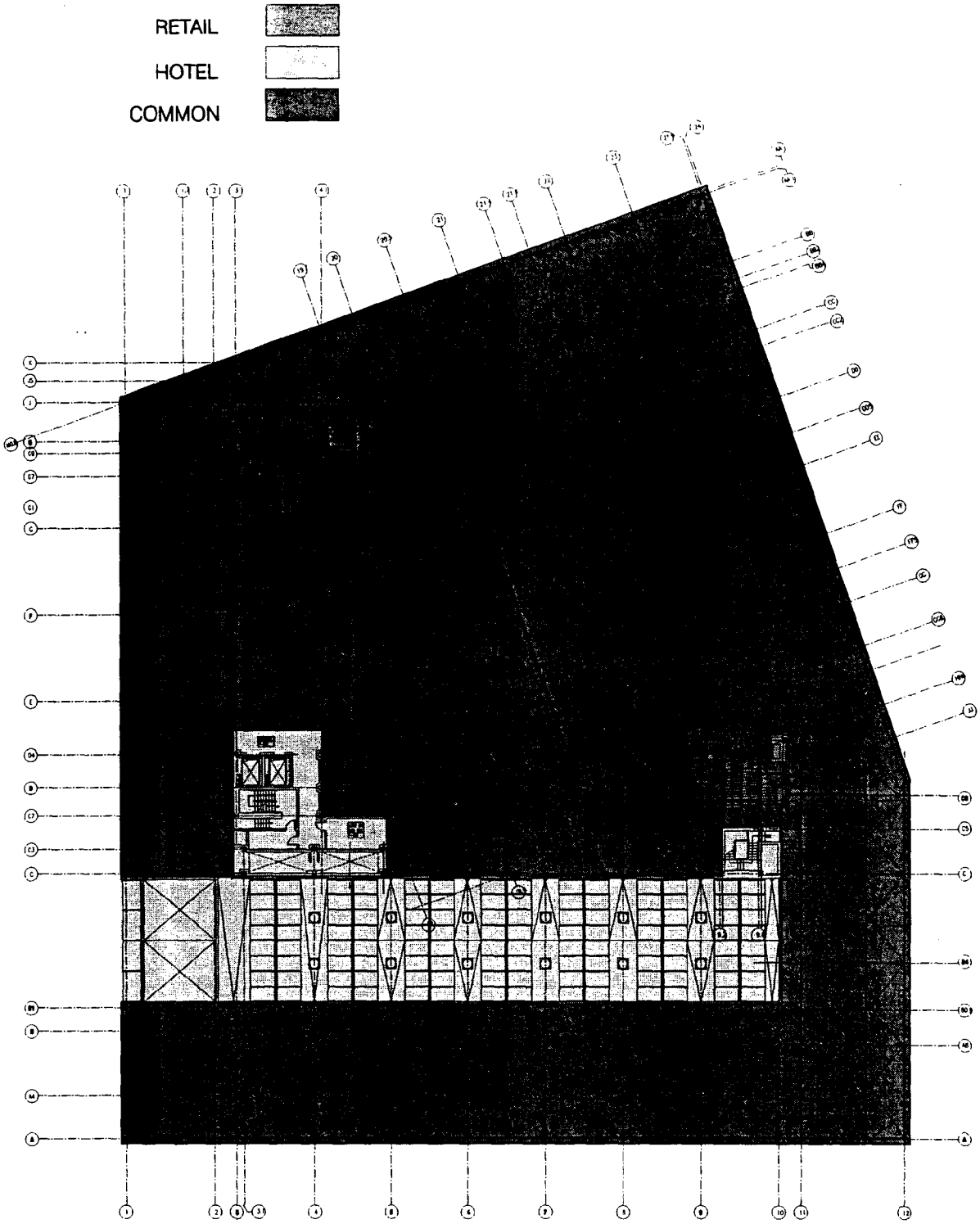
FOREST CITY RATNER
EMBASSY SUITES AT BATTERY PARK CITY

THIRD FLOOR - DESCRIPTION OF PREMISES



FOREST CITY RATNER
EMBASSY SUITES AT BATTERY PARK CITY

FOURTH TO FOURTEENTH FLOOR - DESCRIPTION OF PREMISES

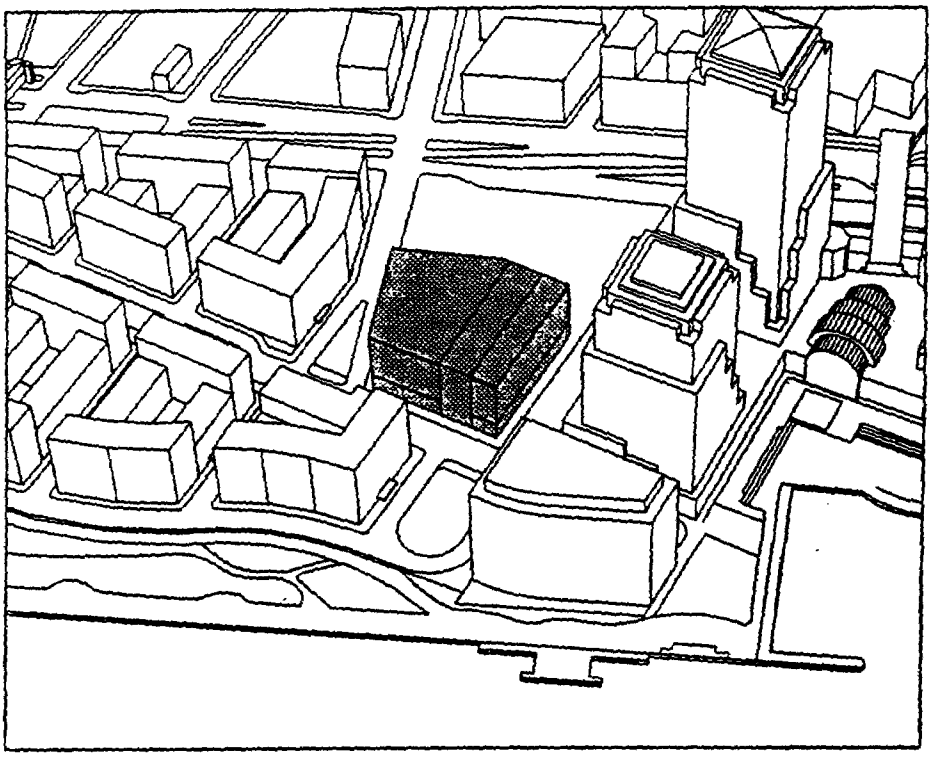


FOREST CITY RATNER
EMBASSY SUITES AT BATTERY PARK CITY

MECHANICAL PENTHOUSE - DESCRIPTION OF PREMISES

EXHIBIT C

DESIGN GUIDELINES



BATTERY PARK CITY

Design Guidelines for Site 25

OCTOBER 1998

BATTERY PARK CITY AUTHORITY

POLSHEK AND PARTNERS ARCHITECTS

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INTRODUCTION

Site 25 is bounded by Vesey Street to the south, North End Avenue to the west, Murray Street to the north, and a new pedestrian right-of-way to the east. The site acts as transition zone between the World Financial Center to the south and the future North Residential Neighborhood to the north.

The Design Guidelines for Site 25 define the urban and architectural requirements for a building on this prominent development parcel. The Design Guidelines also provide an overview of the urban conditions and infrastructure surrounding the site.

A key objective of the Design Guidelines is to provide for the development of site 25 in a manner that complements the World Financial Center. Development on Site 25 shall be in compliance with the zoning requirements contained in the Special Battery Park City District and other applicable provisions of the New York City Zoning Resolution (collectively, the "Zoning") and the Declaration of Restrictions, as amended through May 18, 1995, among the Authority and certain tenants of the World Financial Center. In some instances the Design Guidelines are more restrictive than the Zoning or the Declaration of Restrictions and in those cases the more restrictive requirements must be followed.

Figures or descriptions in these Design Guidelines of other parcels and improvements on such parcels including, but not limited to, existing structures, potential buildings or bulk models, are for illustrative purposes only and shall not be binding on the Authority.

SITE AND CONTEXT

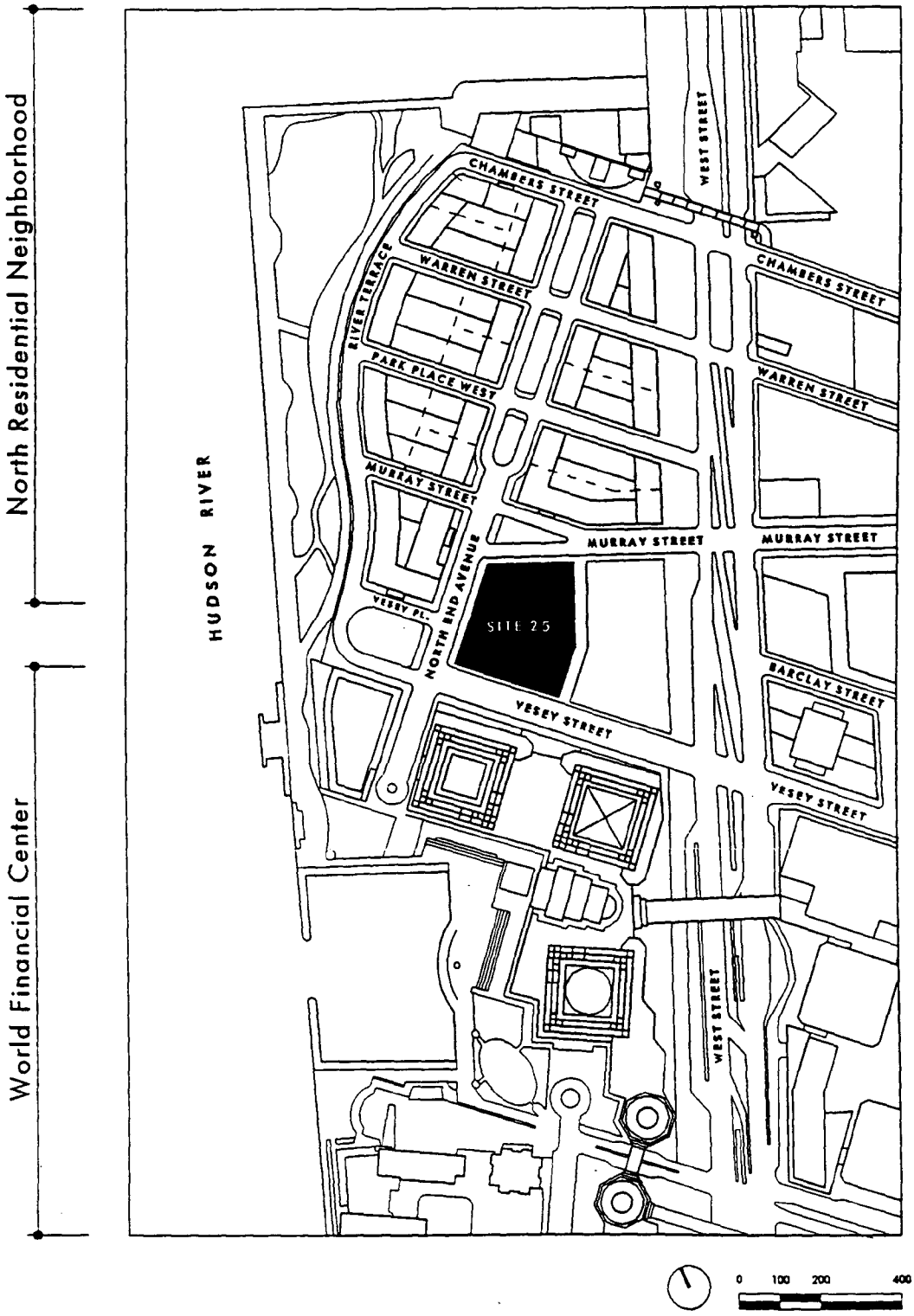


Fig. 1: Site Plan

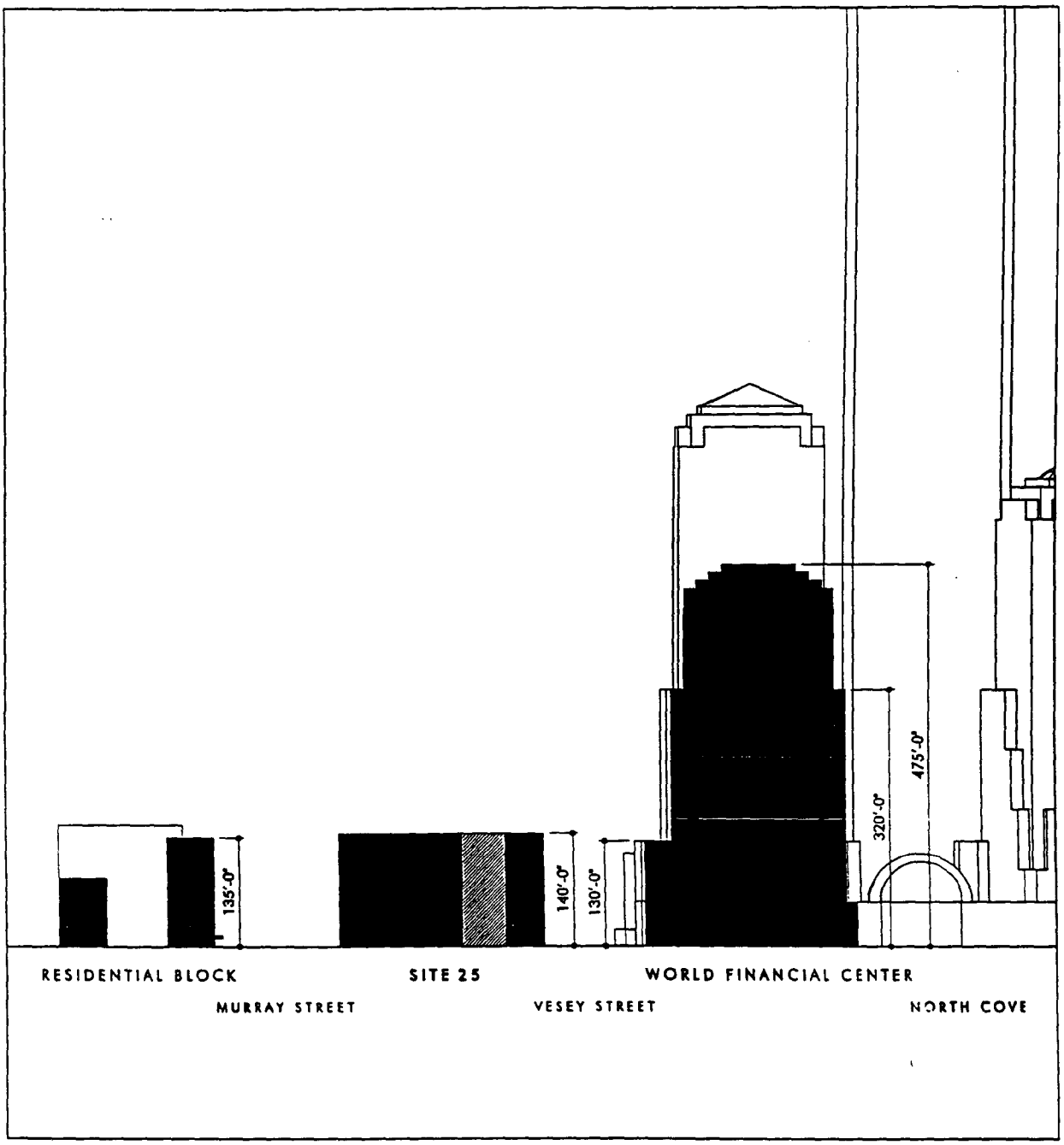
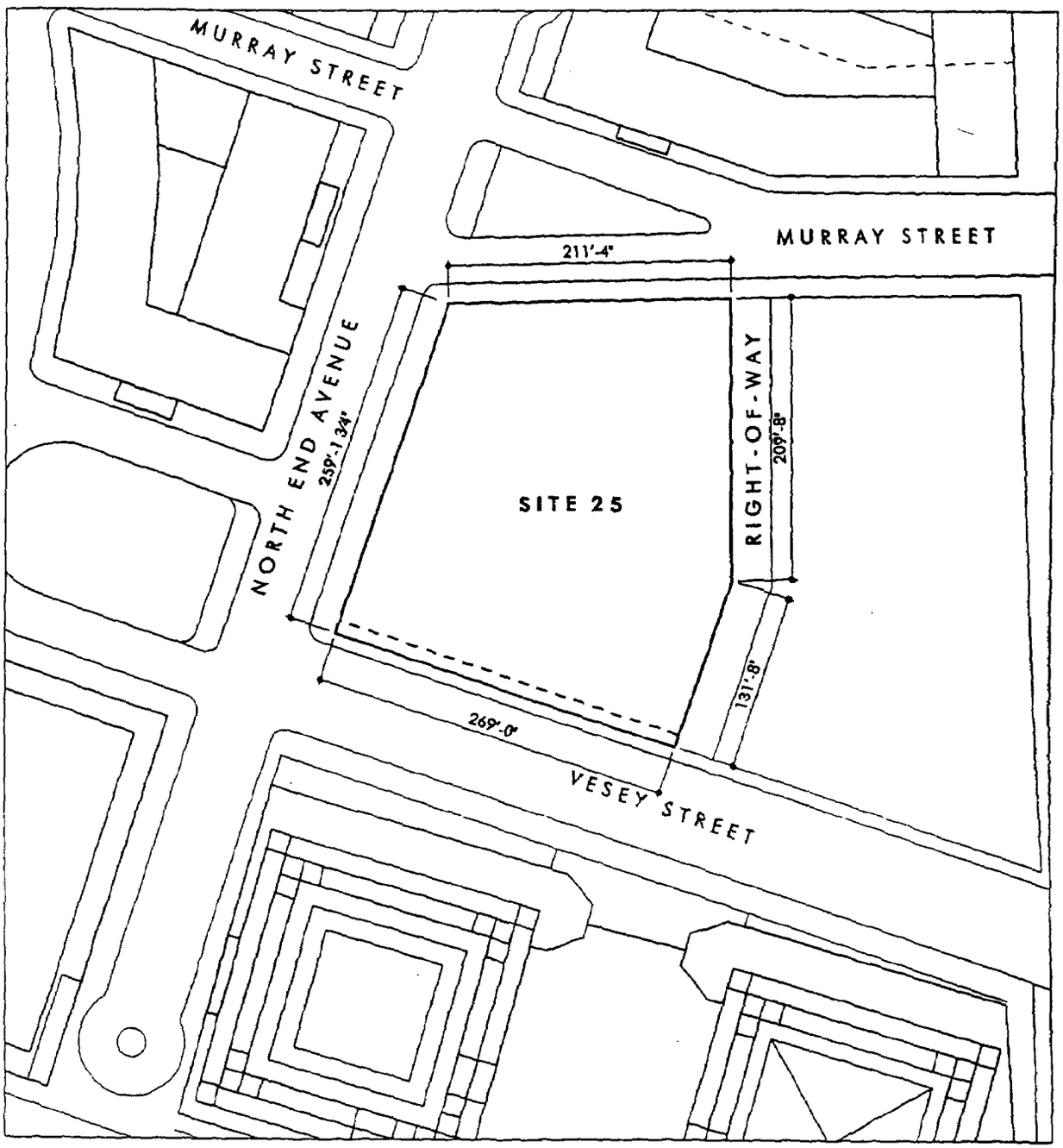
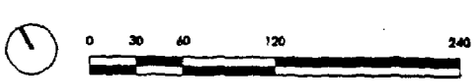


Fig.2: Site Section



Site 25 Lot Area = +/-74,717 Sq.Ft.



Note:
All dimensions are approximate.
Actual dimensions to be verified
by site survey

Fig. 3: Site Dimensions

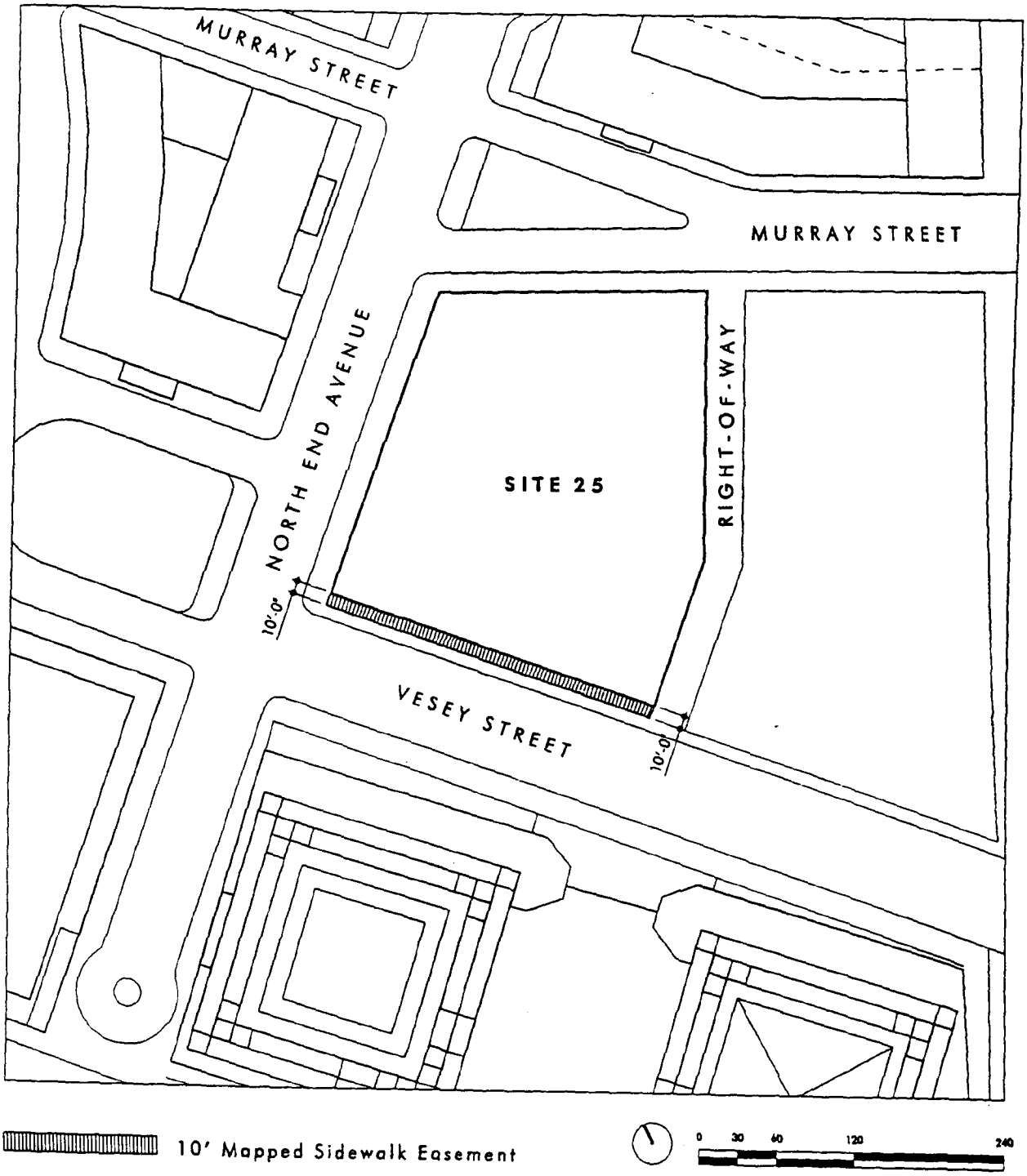
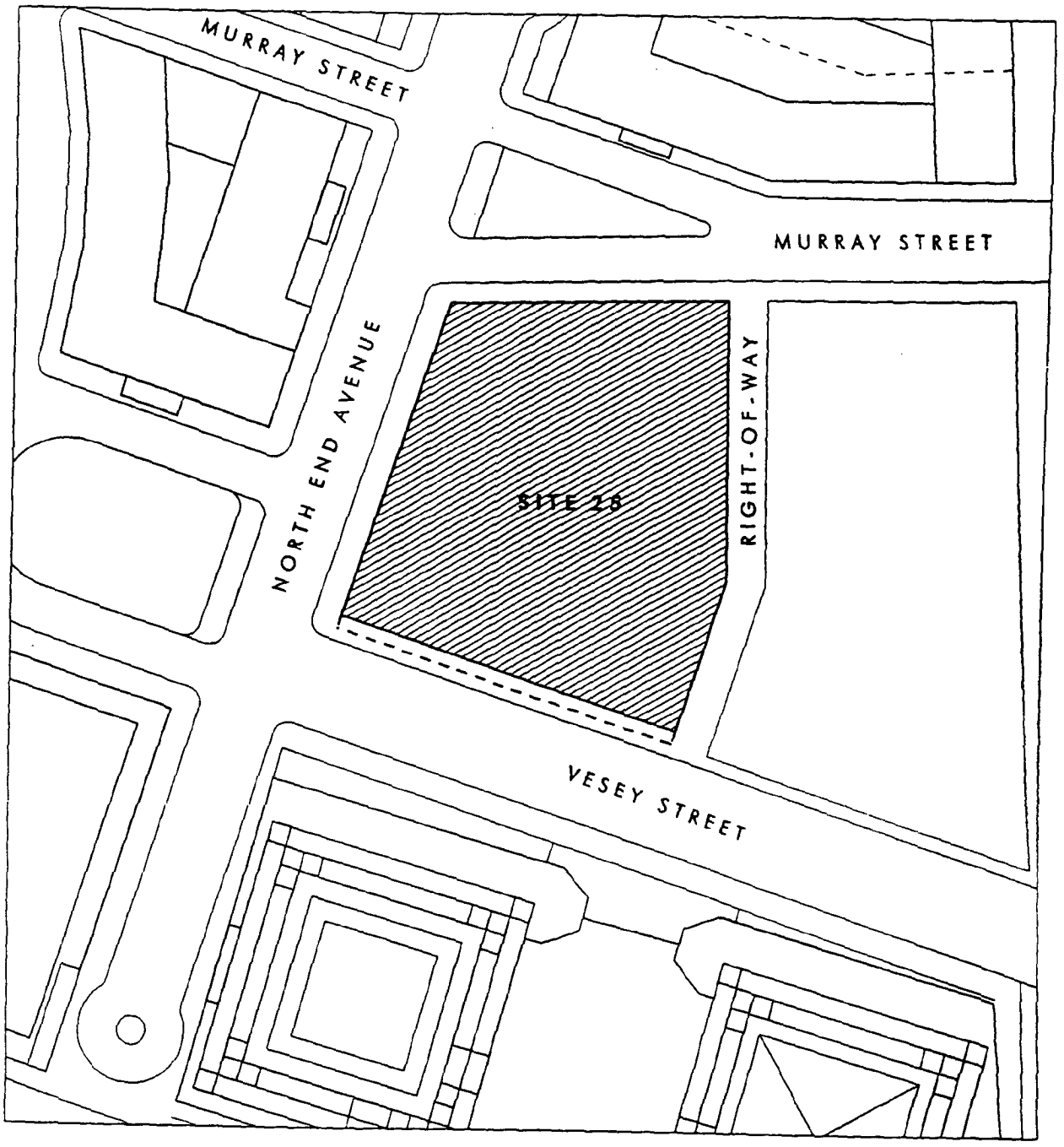


Fig.4: Site Easements



Site 25:
Approximate Allowable Ground
Floor Buildable Area = +/-72,027 Sq.Ft.

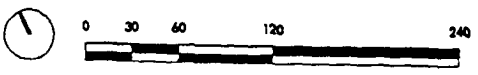


Fig.5: Buildable Area

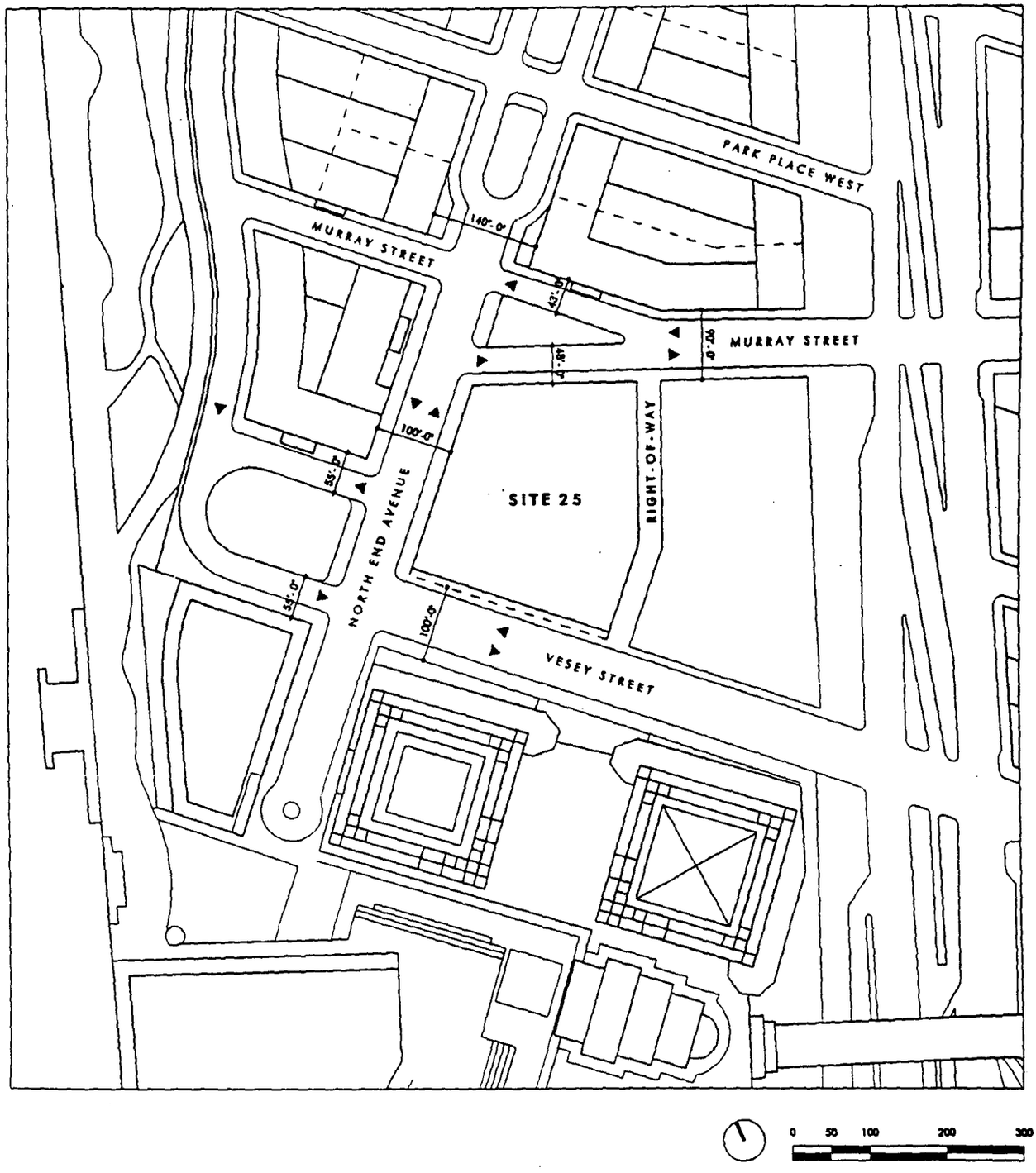
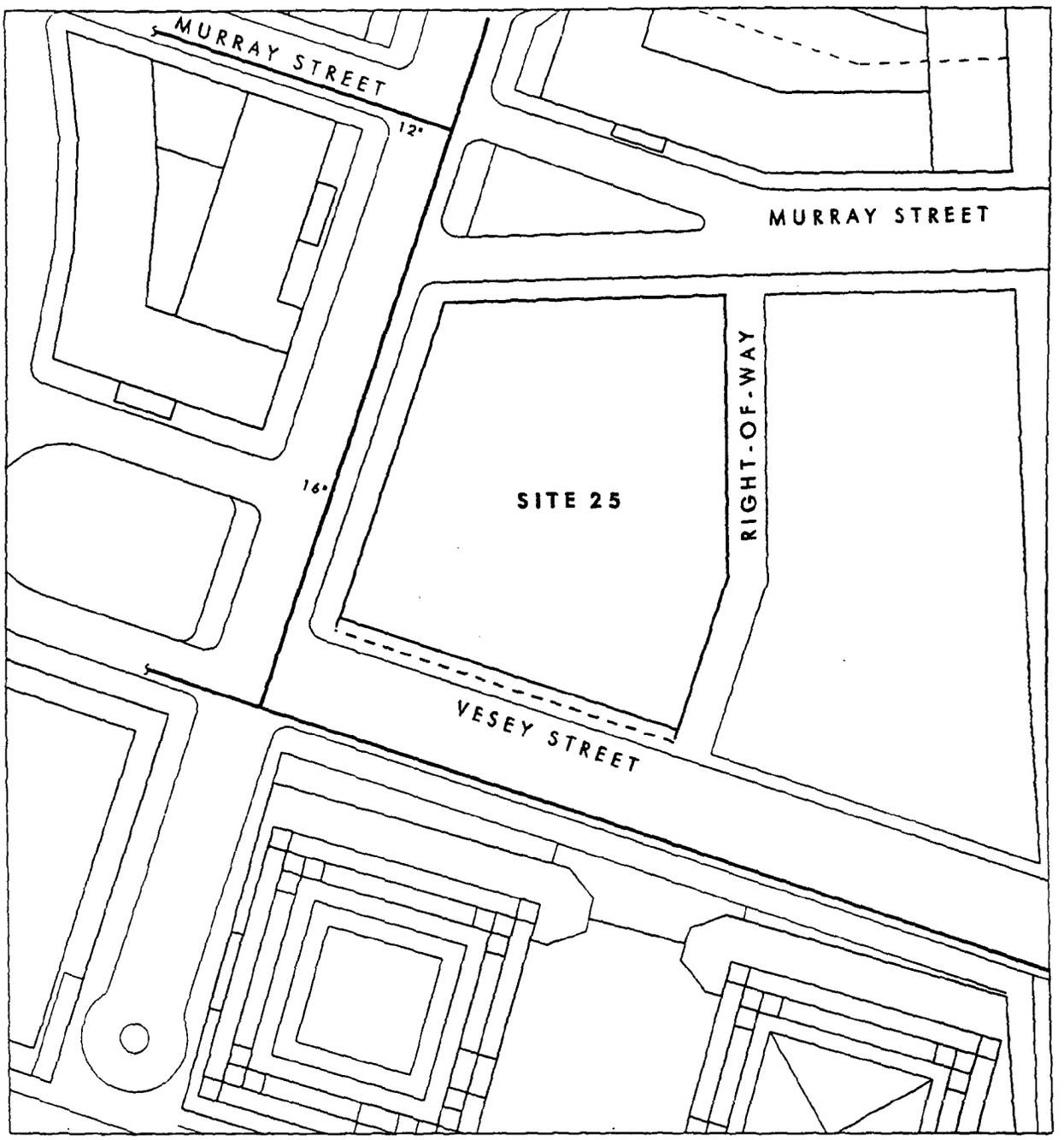


Fig.6: Street Widths



Existing Gas Main

0 30 60 120 240

Fig.7a: Gas

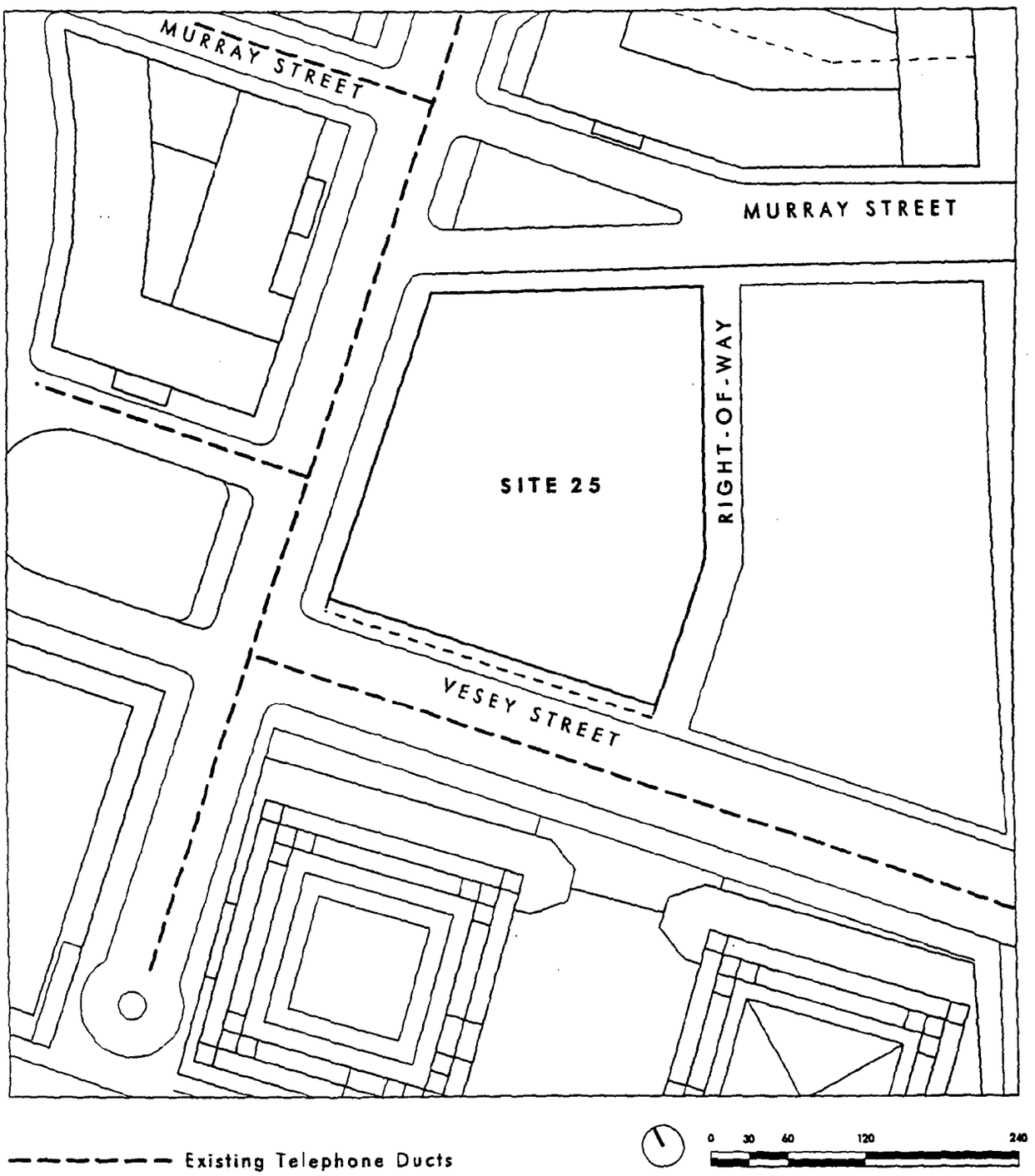
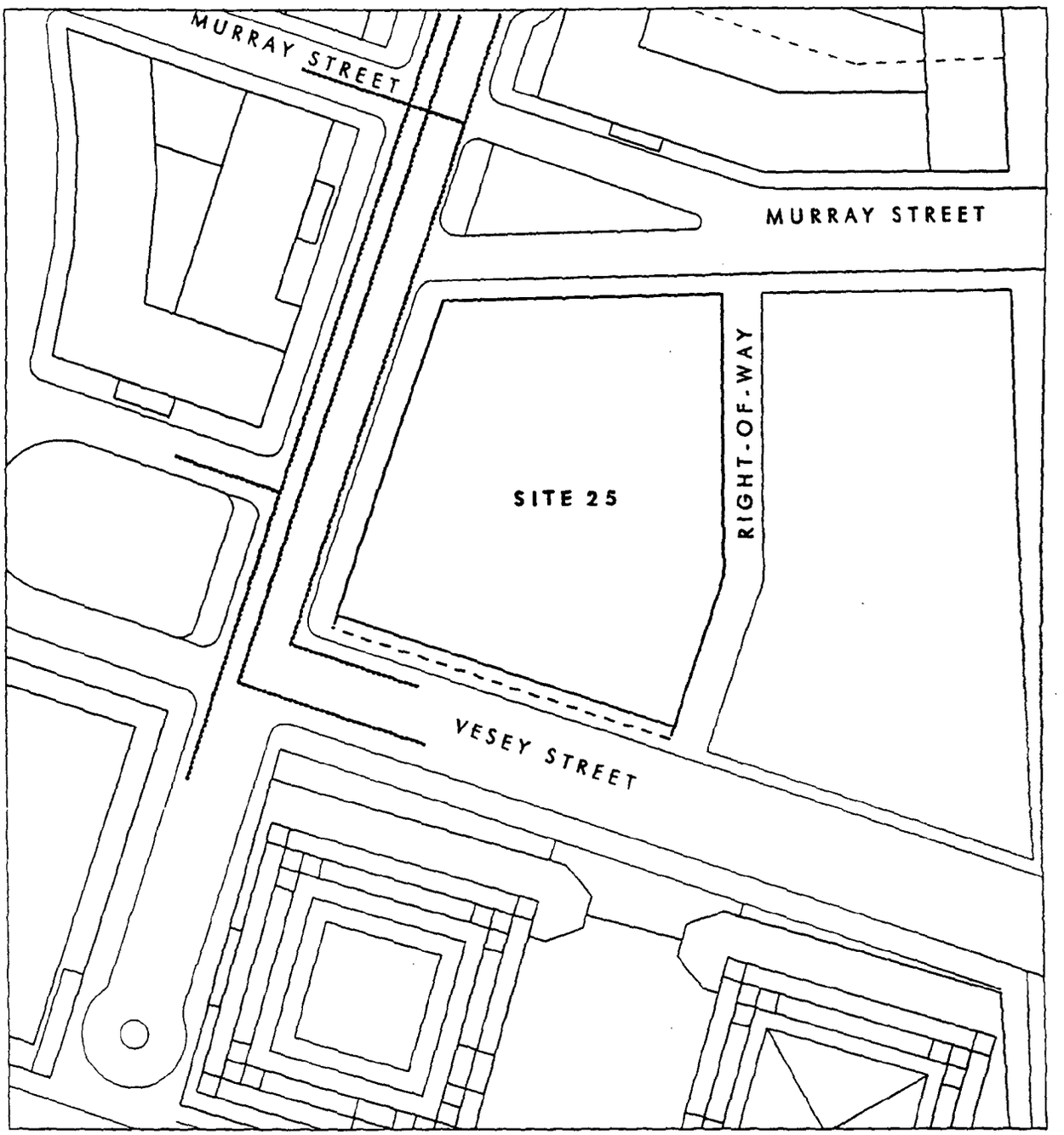


Fig.7b: ERS & Telephone Service



Existing Electric Ducts

0 30 60 120 240

Fig.7c: Electrical Service

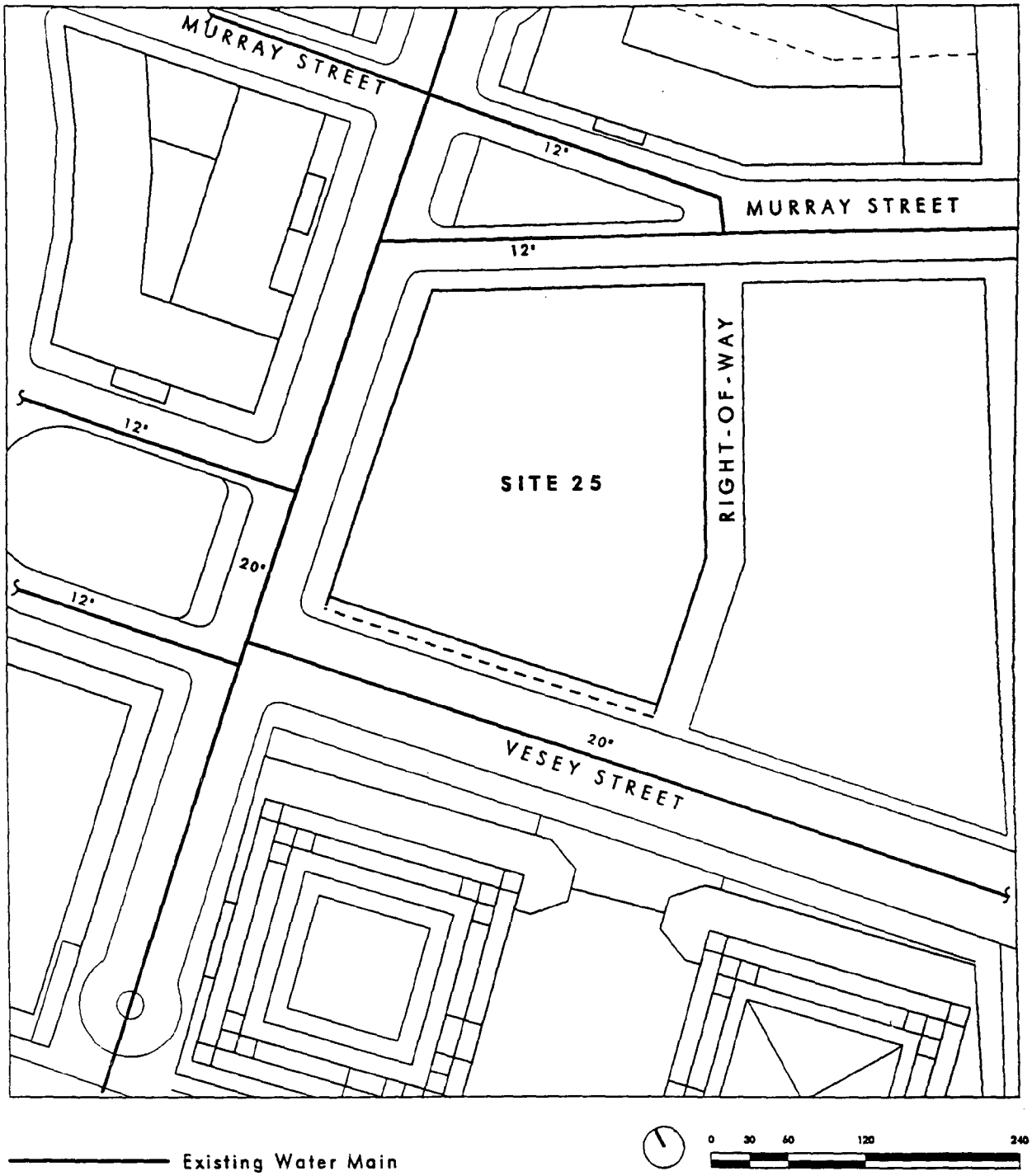
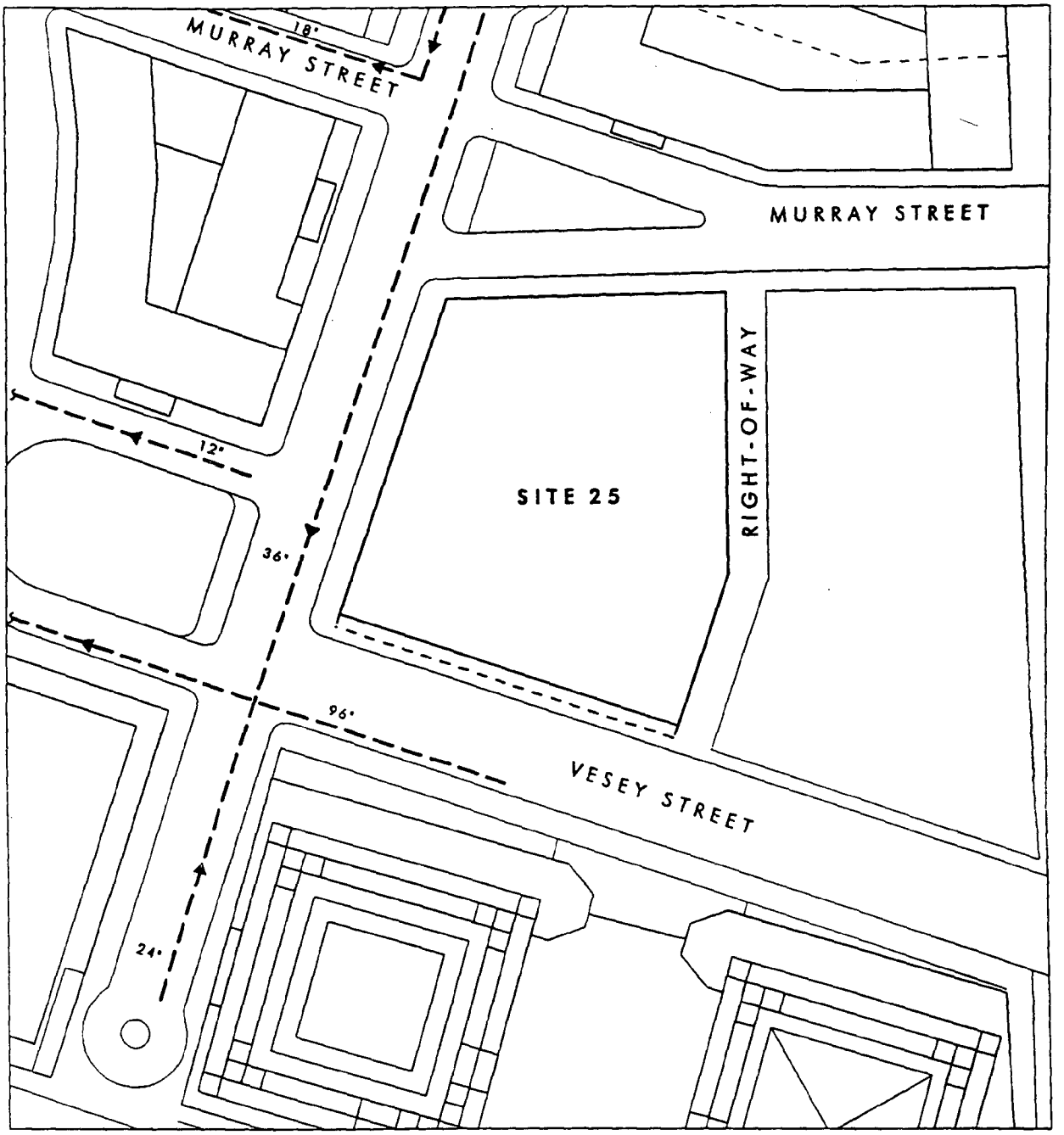


Fig.8a: Water System



Existing Storm Sewer (or combined sewer)

0 30 60 120 240

Fig.8b: Storm Sewer

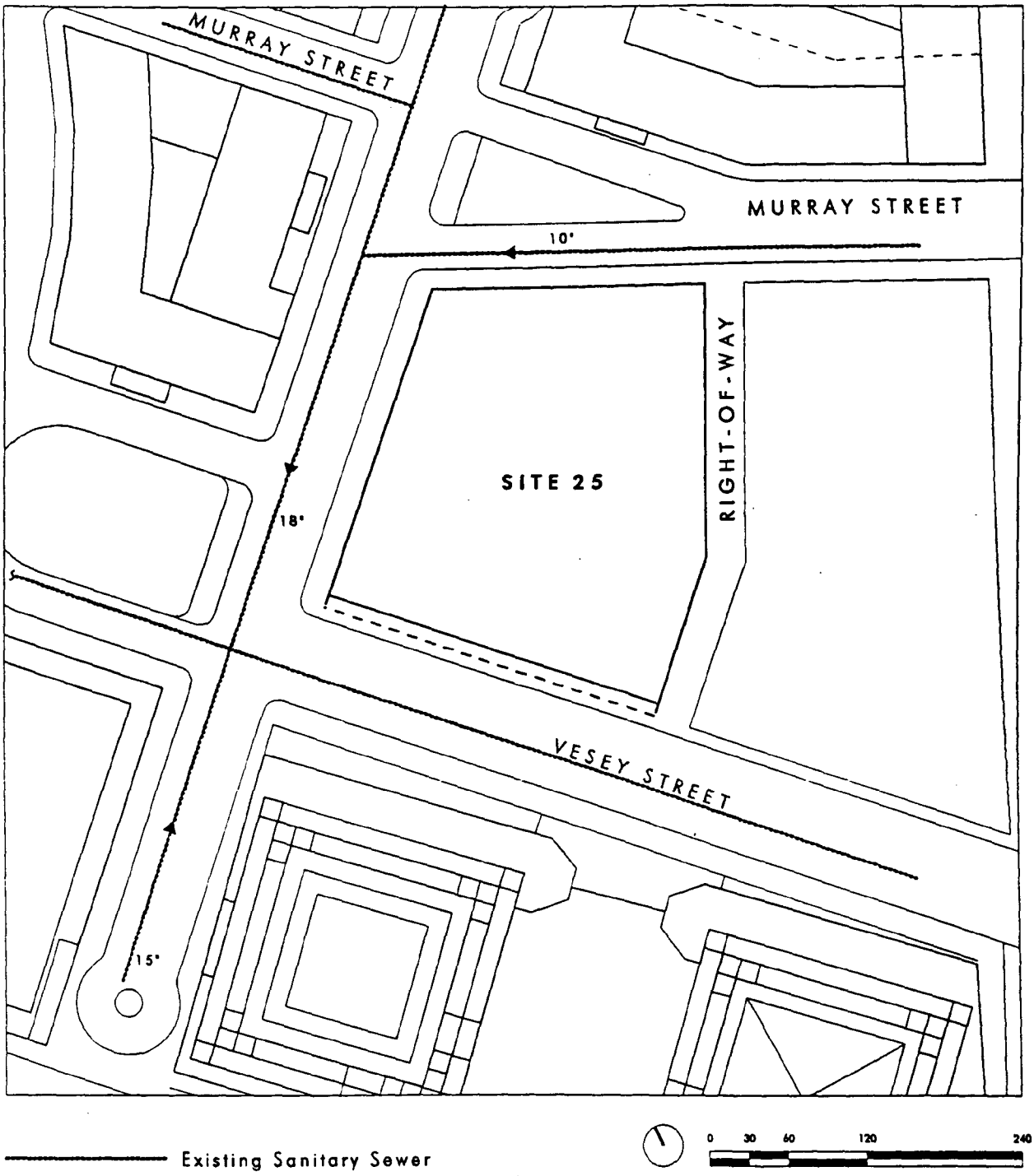


Fig.8c: Sewer System

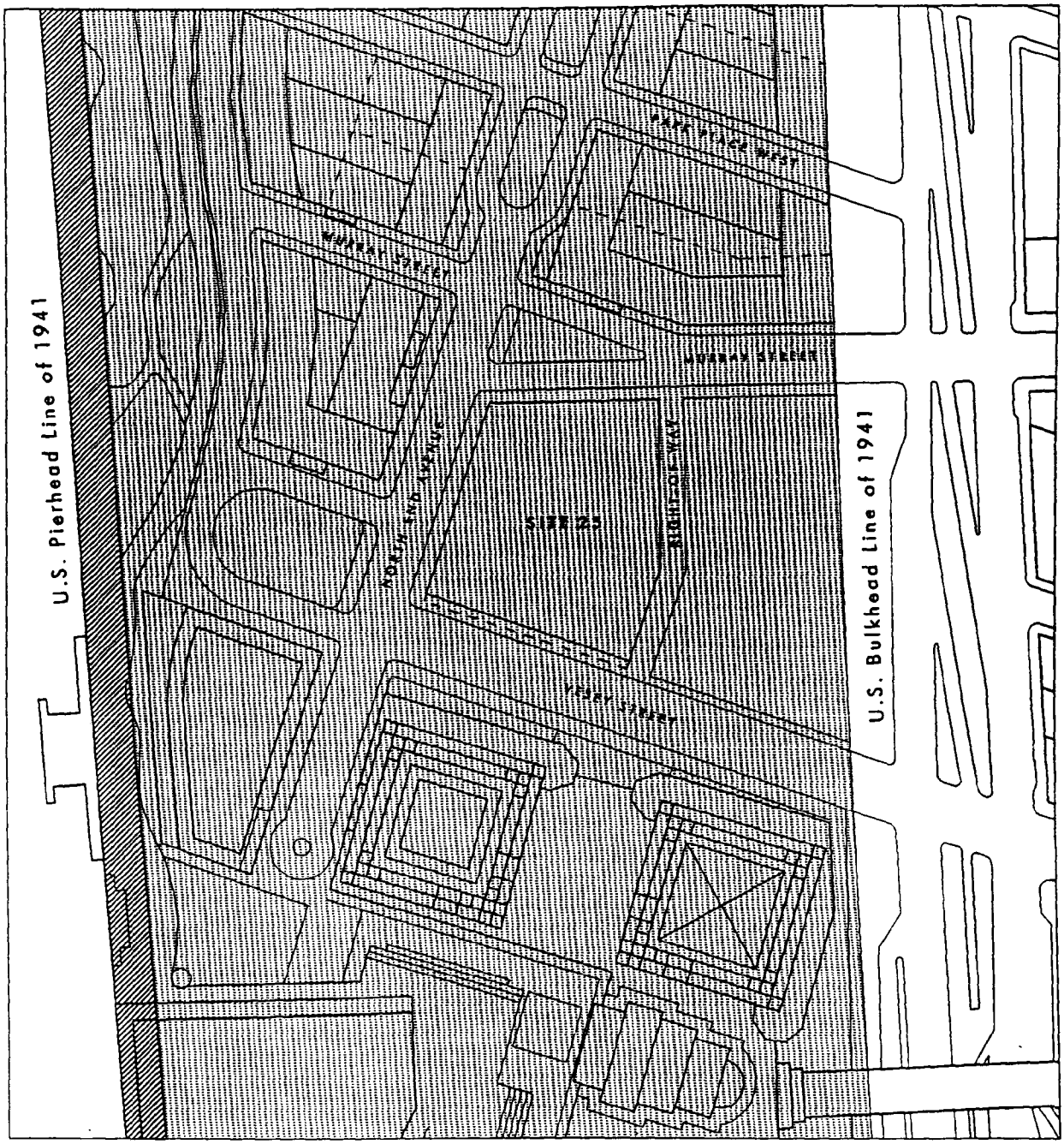


Fig.9: Soil Conditions.

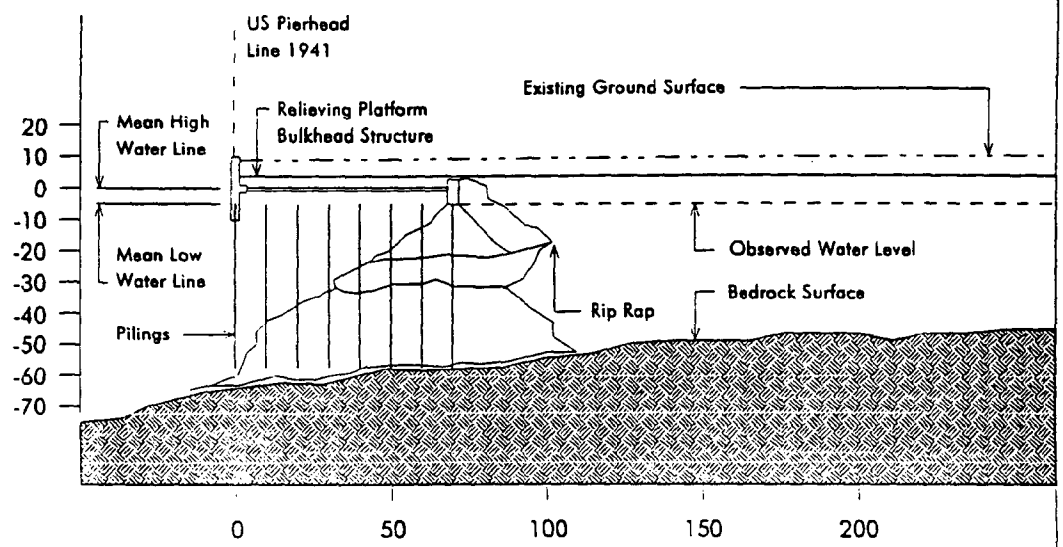
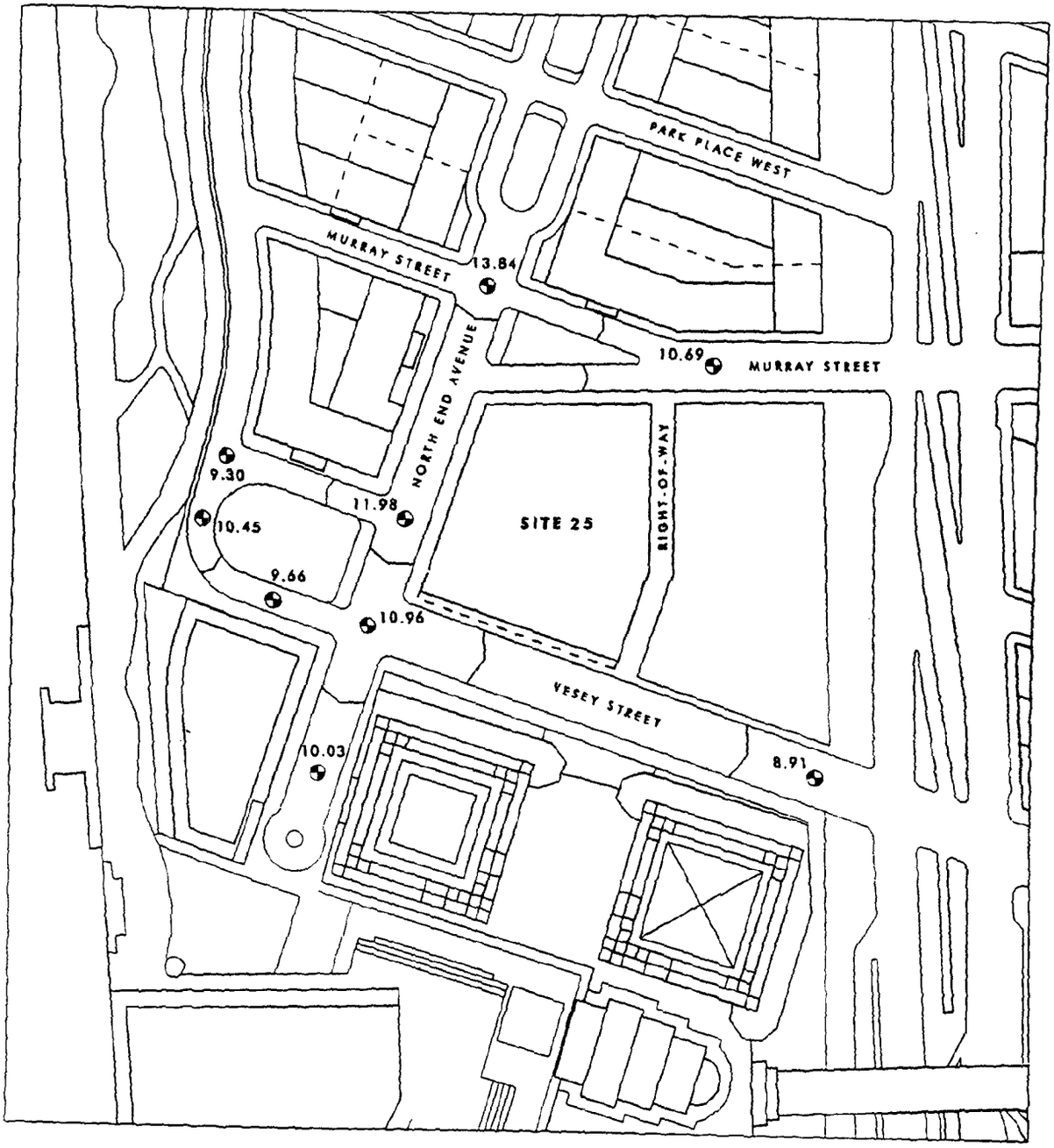


Fig.10: Section of Soil Conditions (Approximate)



Note:
All elevations to be verified by site survey

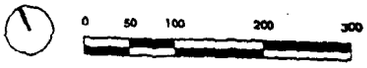


Fig.11: Street Grading

URBAN DESIGN REQUIREMENTS

Site Size and Floor Area
Site 25 Maximum Floor Area = 562,000 Sq. Ft. exclusive of Floor Area used for the Atrium at the second floor. Floor Area is as defined in the Zoning.
Maximum Buildable Site Area = 72,027 Sq. Ft.

Uses
The building which is to be constructed on Site 25 must contain hotel and theater uses and may contain retail uses. No office space is permitted (other than as accessory to permitted uses) without the express written permission of the Authority. The predominant use for the site is a transient hotel not to exceed a Floor Area of 360,000 square feet along Vesey Street and North End Avenue. Ground level uses that have public access (retail, restaurants, health clubs, etc.) are encouraged and should front along North End Avenue, Murray Street, and Vesey Street. The hotel lobby must front on North End Avenue and the theater lobby must front on the Right-of-Way (as defined in *Pedestrian Circulation and Outdoor Seating*).

Any hotel dining areas in the atrium and health clubs must be open to public use with access to facilities contained therein comparable to that for hotel guests. Appropriate fees may be charged for such public access.

Second floor and third floor uses may include all the ground floor uses plus hotel rooms, theaters and conference facilities. Except for loading docks, utility rooms and other uses specifically permitted along the building frontage by these Design Guidelines, back-of-house services may be located only in interior areas with the following exceptions: Accessory offices may be located along the perimeter of the building on the first floor along the Right-of-Way for no more than an equivalent width of one bay and on the second floor on any facade for no more than an equivalent width of the lesser of two bays or four windows.

Floors above the third floor may only contain hotel or theater uses.

The theater shall be located at the northeast portion of the site. The total number of theater seats may not exceed 4,500. The theater operator will be required to develop a program to permit occasional use of theater space for community meetings and, for a reasonable fee, for business meetings during non-peak periods.

Retail uses (not including theaters but including the public health club) shall not exceed 75,000 square feet of Floor Area, except that an additional 10,000 square feet of Floor Area may be added for retail mezzanine space, subject to the maximum Floor Area for the Site stated above. Retail uses must complement existing retail in the World Financial Center and interior finishes and display areas must be of a quality consistent with the World Financial Center. Discount clubs or warehouse stores are not permitted. Retail that would attract a large volume of vehicular traffic (such as Home Depot) is not permitted. Discount, chain department stores (such as Wal-Mart) are not permitted unless tenants agree to undertake special measures to upgrade interior finishes and all display areas to a level of quality consistent with the World Financial Center.

All retail tenants occupying areas greater than 25,000 square feet must be approved by the Authority. In the event Authority approval is required, an initial response to a request for approval will be given within 10 business days. Such

initial response may include a request for additional information. A final decision by the Authority will be given within 15 business days after receipt of all information requested by the Authority.

Above ground parking is not permitted.

All development rights to Floor Area not used for the initial construction of the project in accordance with these Design Guidelines are retained by the Authority.

Use of the 10 foot mapped sidewalk easement indicated on Fig. 4 shall be as described in *Pedestrian Circulation and Outdoor Seating* below.

Atrium and Ground Level Access

Entrances
The primary hotel entry is located on North End Avenue, and generally aligned with the northern arm of Vesey Place, which encircles the Vesey Street Turnaround. The theater entrance must be located on the Right-of-Way (Fig. 12). There must be a ground floor public lobby area of the hotel with an area of approximately 4,500 square feet. There must be a ground floor theater lobby area with an area of approximately 1,700 square feet. The hotel lobby and the theater lobby must be aligned with the atrium and all three elements must be designed as one unified space. No additional walls, partitions or roll-down security grates may be added in this space without prior approval by the Authority. All ground floor retail must have entrances directly onto the street or the Right-of-Way.

Atrium
An atrium must be included which extends from the entrance at North End Avenue to the Right-of-Way for a minimum width of approximately 40 feet, connecting the hotel lobby with the theater lobby (Fig. 12). The atrium must be a clear, unobstructed space with a floor at the second story within 36 feet of the street level, except for the hotel and theater lobbies, which must have a floor at the street level. The atrium space including the hotel lobby must extend for the full height of the building except that at the theater lobby, the atrium space may be limited to the height of the fourth floor of the hotel.

Pedestrian Circulation and Outdoor Seating
Pedestrian circulation around the site is illustrated in Fig. 12. Any special or distinctive sidewalk paving must be approved by the Authority. The Authority will construct and maintain or cause to be constructed and maintained a pedestrian right-of-way of not less than 30 feet in width (the "Right-of-Way"), except that the Right-of-Way may be reduced to the 20 feet wide area adjacent to Site 25 which shall be a pedestrian/vehicle-free zone (except for emergency or standard service and maintenance) but in no event shall the entire 30 feet width be obstructed by a building or other structure. The Right-of-Way shall be designed with trees and other plant material, lighting fixtures and other details which complement the World Financial Center and Battery Park City open spaces. The design of the Right-of-Way will be submitted to the developer for review and comment. After opening of the theater, access to entrances located on the Right-of-Way must be maintained by the Authority during the construction of the Right-of Way and any development on Site 26.

Use of the 10 foot mapped sidewalk easement indicated on Fig. 4 for any purpose other than a public pedestrian right of way, except as provided in this paragraph, shall require the express written permission of the Authority. The Authority grants permission to use certain portions of the sidewalk easement and certain portions of the Right-of-Way as indicated herein (the "Optional Easement Seating Area" and the "Optional Right-of-Way Seating Area", respectively) for seating in connection with an eating or drinking establishment subject to (i) the approval of the Authority for all outdoor furniture, signage, railings and spacing from tree pits, doors or lightposts, (ii) any applicable City approvals, requirements and standards for sidewalk cafes, (iii) any applicable approvals by tenants of the Authority and (iv) other conditions set forth below. For the Optional Easement Seating Area, such seating shall be limited to a depth of 8 feet from the building face except that a depth of up to 10 feet may be permitted until development of the parcel to the east of the Right-of-Way upon approval of the Authority.

If outdoor seating is placed in the Optional Right-of-Way Seating Area, such seating shall be limited to (x) an area not to exceed a depth of 8 feet from the building face on the Right-of-Way for a length of 45 feet from the northern boundary of the mapped sidewalk easement indicated on Fig. 4, (y) a seating area to be approved by the Authority to accommodate tables and chairs for approximately 50 customers for that portion of the Right-of-Way within 170 feet of Murray Street and (z) a period ending at the earlier of the fifth anniversary of the opening of the eating or drinking establishment associated with such seating, or the sixth anniversary of the opening of the hotel. In addition, if outdoor seating is placed in the area described in clause (y) of the preceding sentence, additional clearly separate public (non-patron) tables and seating for a minimum of 25% of the customer seating shall be provided in areas approved by the Authority, and shall be maintained, secured and stored by the eating or drinking establishment providing the customer seating. All outdoor seating shall be unenclosed.

Notwithstanding the permission granted above by the Authority with respect to the Optional Right-of-Way Seating Area, such permission may be revoked at any time if the Authority begins development of the parcel to the east of the Right-of-Way. In addition, after the opening of any outdoor seating in the Optional Right-of-Way Seating Area in connection with eating or drinking establishments, if the Authority closes such seating areas for the purpose of construction, repair or reconstruction of the Right-of-Way, the Authority will consult with the operators of such establishments and will make available alternative seating areas and/or assume reasonable additional construction or staging costs, if necessary, in order to minimize interference with such eating or drinking establishments.

Building Servicing

Except for fully-enclosed loading docks which shall be located on Murray Street, back-of-house service uses may not front on or be visible from streets or the Right-of-Way but may be located in interior areas of the ground floor. Utility rooms for electric must be located along Murray Street. A gas and water utility room may be located on North End Avenue. All utility rooms shall be the minimum size permitted by the respective utility companies. Electrical service equipment must be configured and installed consistent with utility company specifications required for equipment to be owned and maintained by such utility company. Emergency exits may open onto all streets and the Right-of-Way or as approved by the Authority.

Utility rooms shall be located behind store fronts and shall be of a minimum size as approved by the utility company.

Curb Cuts and Loading Docks
All building loading and/or parking entries and curb cuts must be located along Murray Street, within the zone shown in Fig. 13. Loading docks must be fully enclosed within the buildings. No single loading entry bay shall have a width at the masonry opening in the streetwall greater than 25 feet. There shall be no more than 6 loading docks for the project. The aggregate width of the curb cuts may not exceed 50 feet.

Building Configuration

Streetwalls and Heights

North End Avenue:
Streetwall is a maximum of 140 ft. high, a minimum of 130 ft. high, and is predominantly coincident with the lot line (Fig. 14).

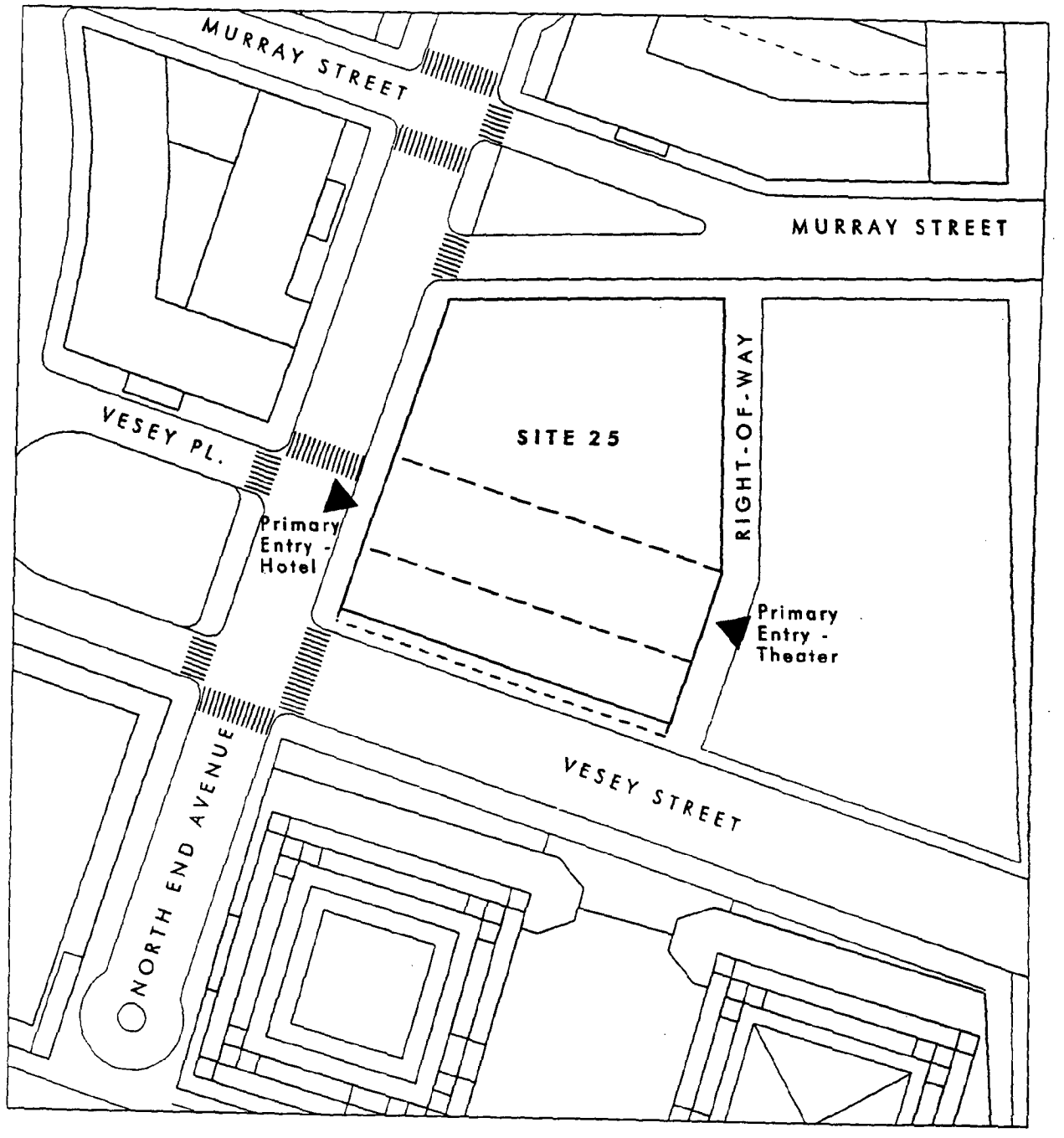
Vesey Street:
Streetwall is a maximum of 140 ft. high, a minimum of 130 ft. high, and set back 10 ft. from the lot line to allow for the mapped sidewalk easement (Fig. 14).

Murray Street:
Streetwall is predominantly coincident with the lot line, a maximum of 140 ft. high and a minimum of 130 ft. high (Fig. 15).

Right-of-Way:
Streetwall is predominantly coincident with the lot line, a maximum of 140 ft. high and a minimum of 130 ft. high (Fig. 15).

Bulkheads and other rooftop structures may rise above 140 feet if permitted by the Zoning and the Declaration of Restrictions and as approved by the Authority.

The Ground Floor must generally have a minimum floor-to-floor height of 18 feet on all frontages. Mezzanine spaces within retail areas are permitted but may not be expressed on the facade of the building.



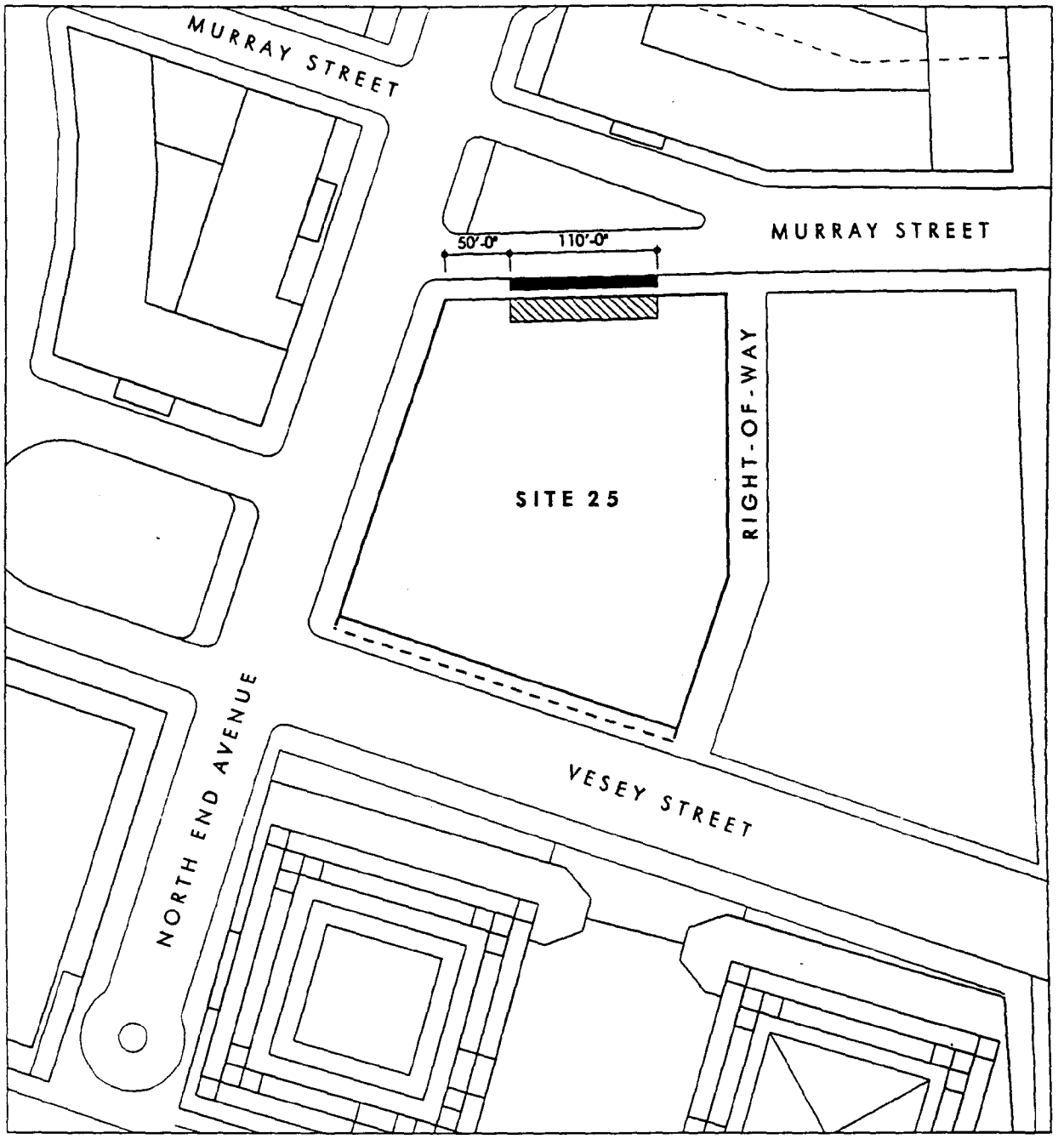
Preferred Entry Location

Crosswalk

Atrium & Lobbies

0 30 60 120 240

Fig.12: Pedestrian Circulation & Entries



Curb Cut Zone

Building Loading Zone

0 30 60 120 240

Fig.13: Curb Cuts & Loading

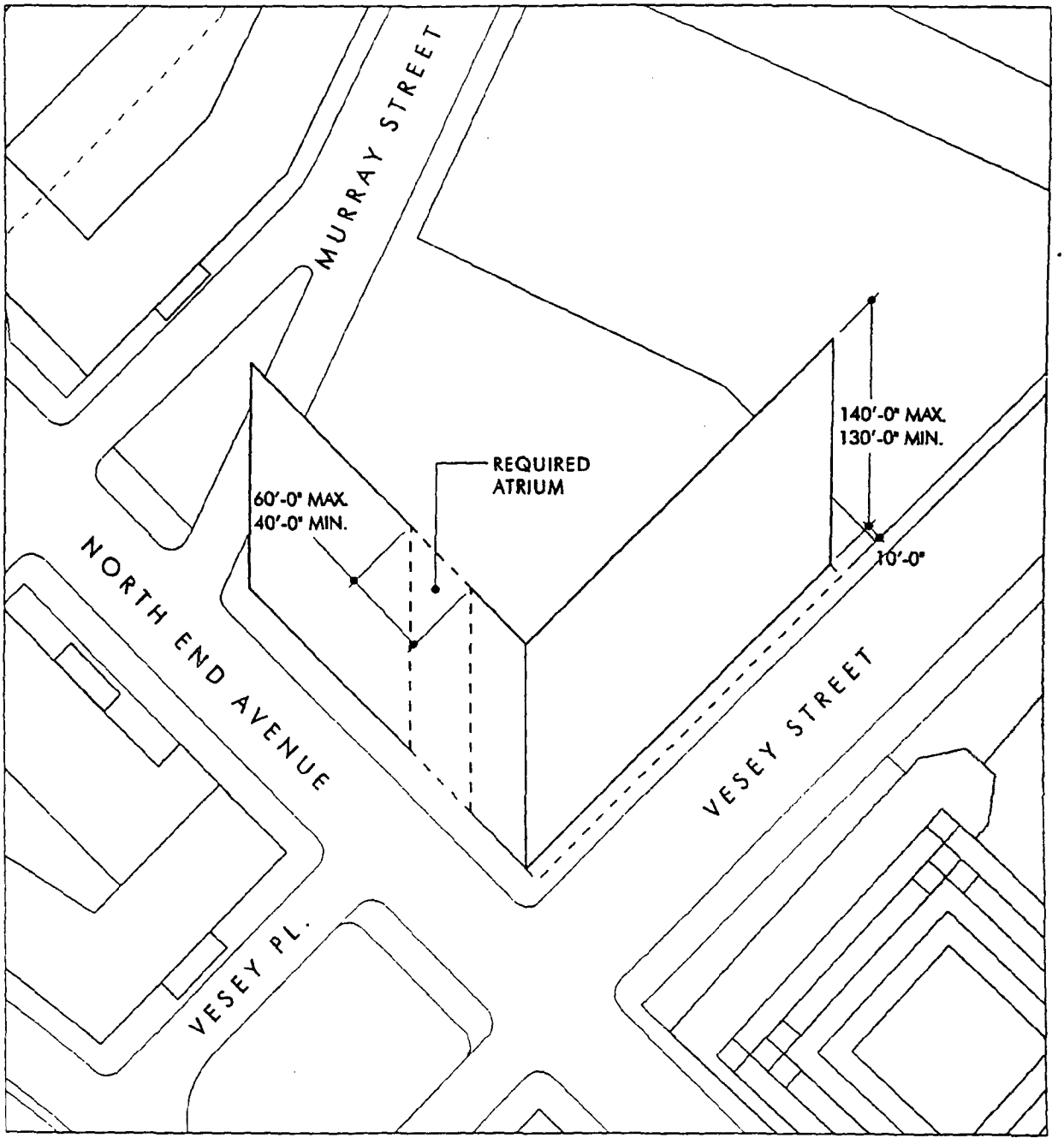


Fig.14: Streetwalls, South & West

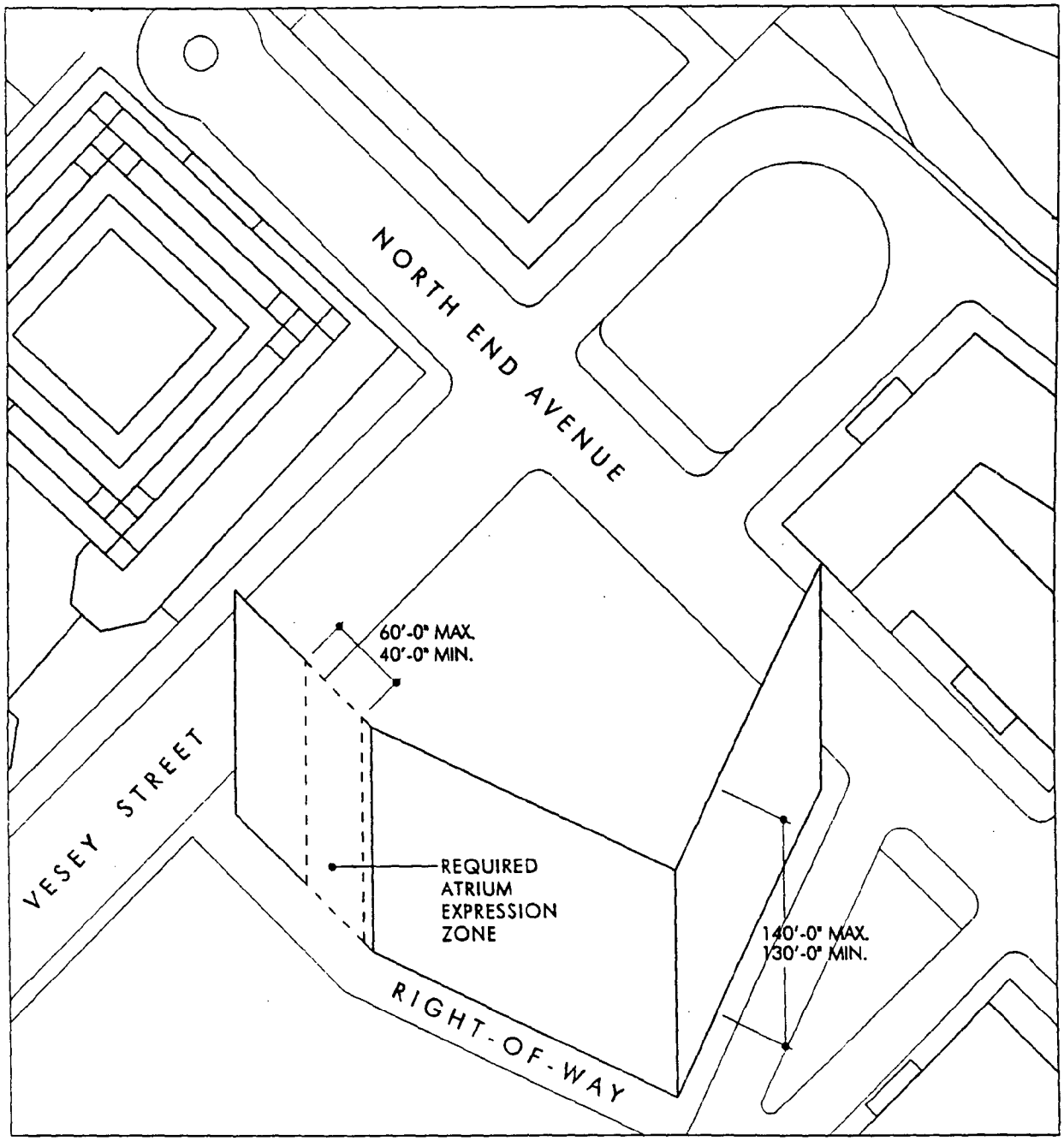


Fig.15: Streetwalls, North & East

Building Wall Materials

Base Course

A base course, except at the streetwall in front of the Atrium, is required in granite, marble, or natural stone to a minimum height of 30 ft. and a maximum height of 36 ft. on all facades which is compatible in color to the stone of the World Financial Center. The base course should be distinguished from the upper building by a change in material, color, or texture and by a greater amount of fenestration (see below).

At the height of approximately 30 ft. along the east facade, the Authority may attach an "enclosure" for the Right-of-Way, provided that the attachment of the enclosure does not adversely impact the structural integrity of the building and the facade is restored. The design and connection of the enclosure will be reviewed with the developer of Site 25 prior to installation.

Streetwalls

Unless otherwise permitted in *Atrium Expression Zone* below, streetwalls between the top of the base course and the Top Floor Expression Zone of the building must be a natural color brick or stone, sympathetic in color to the stone of the World Financial Center. The use of glazed brick or tiles is prohibited. Brick is required to be standard size (2 1/4" x 3 5/8" x 8"), Norman or such other size as is approved by the Authority. This applies to all facades of the building. A precast panel system with natural color bricks approved by the Authority may be used, subject to the Authority's approval of manufacturing and installation details and specifications and the approval of the manufacturer and installer. Streetwall requirements shall also apply to the facade on the Right-of-Way. All exterior metals and other facade materials, which are not specifically addressed in these Design Guidelines, including the base course and rooftop areas, shall be subject to the approval of the Authority.

Atrium Expression Zone

The west exterior wall of the atrium must be in transparent curtain wall glazing for the full height of the building, returning on the roof for a distance of approximately 6 feet, and must also extend to the ground level. Transparent curtainwall elements may project beyond mandatory streetwall lines if permitted by the Zoning. Window wall and metal panels are not permitted as part of west exterior atrium wall. The east exterior "Atrium Expression Zone" above the theater lobby may include spandrel glass. Substantially all of the metal on the exterior of the first and second floors shall be stainless steel unless such metal is covered by signage approved by the Authority. The roof of the Atrium between the bridges on the west and hotel rooms on the east, must be glazed for at least 50% of the roof area measuring approximately 40 feet x 185 feet area containing no single unglazed area greater than 400 square feet and articulated in a special manner so that the volume of the Atrium reads clearly and separately from the rest of the building.

Glass and Fenestration

Windows and window groupings should be organized to emphasize the structure and function of the building. Fenestration of the more public functions should be generous enough to allow the activity within the space to be seen from outside the building as well as allowing views of the river from within the space. Streetwall areas of the facades must have between 30% and 35% fenestration. The base course may have up to 50% fenestration.

Retail Expression
All ground floor retail storefronts and window display areas must be organized in a regular system of bays articulated in stone and shall complement the World Financial Center. All signage, graphics and displays shall be approved by the Authority as indicated in **Signage, Graphics and Displays** below. Signage on ground floor retail may be incorporated into the stone pillars between windows and entrances or may be incorporated into the marquees.

Theater Expression
Primary circulation to theater auditoria must generally be along the perimeter of the building wall and must be expressed with continuous transparent glass curtainwall on main levels where there is theater circulation. The curtain wall must extend from the intersection of the Right-of-Way with Murray Street along the Right-of-Way for approximately 100 feet and along Murray Street for approximately 50 feet, so that a prominent glass corner facing northeast is expressed. In addition to the requirements under **Signage, Graphics and Displays**, valances, signage, ornamental or accent lighting or other materials which are visible through the glass curtainwall must be approved by the Authority.

Streetwall fenestration requirements for Murray Street and the Right-of-Way in the Design Guidelines are waived for perimeter walls surrounding theaters. Solid perimeter walls surrounding theaters must be articulated with horizontal and vertical reveals or with patterns of different materials or bricks; the design of such solid walls must be approved by the Authority.

Interior Public Areas
Incursions into the Atrium may include bridges from circulation cores to hotel rooms, which must be as transparent as possible. Also, a projection of the theater volume above the base floor of the atrium is permitted, not to exceed 150 square feet in area at any point of such projection in plan view and not to exceed a maximum depth of 12 ft measured from the north wall of the Atrium.

The theater volume projection and recess and the hotel corridor walls and railings facing the Atrium must be composed of materials that are detailed and articulated in a manner approved by the Authority. Any code required division of the ground floor theater lobby, must be transparent to the fullest extent possible.

Landscaping and water features in the atrium must be consistent with the overall architectural image of the building.

Ground floor entry and reception areas must be spatially continuous with the atrium. The hotel lobby must extend for the full height of the atrium. The theater lobby space must extend to the height of the fourth floor of the hotel.

The Authority must approve the design and materials (including plant material, artificial or natural) of all interior public areas of the building, including hotel lobby areas, the atrium, and theater lobby areas.

The developer agrees to finance or arrange for financing and to manage an on-going public art program within the atrium to be coordinated by the Public Art Fund. The selection of art shall be made by a committee to be created which shall include the Authority as a member.

The Atrium must be open to the public at both ends during daylight hours and until midnight for at least 18 consecutive hours per day. Public restrooms with a minimum of three toilet fixtures each for men's and women's restrooms are required in the Atrium and must be open during the hours of the Atrium operation. Atrium level restaurant seating located in the atrium may only be used by patrons of eating or drinking establishments or patrons of facilities serving hotel guests during those hours in which such establishments or facilities are also open to the general public.

Up to 5 feet in depth north of the southern line of the 40 feet width of the Atrium may be allocated to restaurant/bar seating which is open to the general public at all times as hotel guests are permitted to use such seating. Such area shall be conspicuously marked by a distinctive line, a change in floor materials or such other easily visible marking approved by the Authority to indicate the Atrium restaurant zone. The configuration of such seating shall maintain a minimum 16 foot clear floor space width and be subject to the approval of the Authority. No other retail or service uses are permitted in the Atrium.

Top Floor Expression Zone
Expression lines, developed as lines or projections marked by a change in color, texture, material or fenestration, are required at the topmost floor. A prominent cornice subject to the approval of the Authority is required.

Rooftops and Bulkheads
Mechanical equipment must be completely enclosed, except for venting. Bulkheads must be set back a minimum of 10 ft. from the streetwalls. Bulkheads must be designed to minimize their size to the maximum extent possible and bulkhead walls must contain a significant percentage of the type of brick used for the streetwalls. The bulkhead design shall be approved by the Authority. Rooftop may also be used for public amenities such as restaurants, health clubs, etc. or accessory uses subject to approval by the Authority. Accessory antenna and satellite dishes are permitted subject to approval by the Authority.

Marquees
The main hotel and movie theater entrances must be covered with marquees. Marquees must be a minimum of 10 ft. above the sidewalk, be supported entirely from the building as a cantilever or with guy wires and project from the property line a minimum of 16 1/2 ft. for the hotel and 12 ft. for the theater. Substantially all of the material on the marquees must be stainless steel unless otherwise approved by the Authority. Signage and lighting on marquees must be approved by the Authority.

Signage, Graphics and Displays
Window treatments and exterior lighting and signage and interior signage within public spaces or intended to be viewed from outside the building must be approved by the Authority. Any signage on Vesey Street must be consistent with the type of signage used in the World Financial Center. For the types of retail signage, graphics and displays indicated below (not including theater signage), the following specifications are approved by the Authority:

1. Exterior Ground Floor Retail Transom Signage Panels (above storefronts)

    a. Background metal signage panel color shall be consistent in color and finish with the approved color and finish of the metal window wall and storefront system.

b. Background metal signage panel color shall be consistent in color and finish with the approved color and finish of the metal window wall and storefront system.

c. The permissible signage and graphics, for these signage panels, shall include only the representative name, in the typeface, font, style, or color, of the retail establishment. Logos or icons, representative of the establishment are acceptable, in addition, or as substitute for the name, within the dimensional parameters below. Blank panels without signage or graphics are permitted.

d. All signage and graphics to be cut-out from metal signage panel with flush (maximum ½" extension from exterior surface) insert of translucent acrylic or approved equal. Translucent material may be colored.

e. Lighting for all signage and graphics must be backlit with even white, or colored light. No moving, alternating, or flashing lighting is permissible unless approved by the Authority.

f. All signage and graphic elements shall maintain a maximum of 1'-0" and a minimum of 0"-5" in height and maintain a border, with respect to the edges of the transom panel, of 0'-6", on all sides, as approved by the Authority.

2. Interior Retail Signage, Graphics and Displays

a. All interior signage and graphics, intended to be viewed from the exterior of the building must be approved by the Authority. Permissible signage and graphics shall include only the representative name, logo or icon of the retail establishment. No permissible illuminated signage shall be moving, alternating, or flashing, unless approved by the Authority.

b. Ground Floor Retail - Permissible signage and graphics intended to be viewed from the exterior of the building shall be limited to neon signage and graphics, or signage and graphics applied to the interior storefront glass areas (including stencils or applied lettering). Notwithstanding the foregoing, all permissible signage and graphics must be approved by the Authority as to number, size and placement.

c. Second Floor Retail - Permissible signage and graphics intended to be viewed from the exterior of the building shall be limited to (i) a zone which is the smaller of "hopper" windows in the lower portion of the window opening or the lowest 0'-10" of window height, (ii) discrete letter or graphic elements (i.e., continuous stripes or other graphic or lettered elements intended to read in a connected fashion between two or more windows will require the approval of the Authority) and (iii) stencils or applied lettering with all signage and graphic elements having a maximum of 0'-8" and a minimum of 0"-4" in height, as approved by the Authority. Notwithstanding the foregoing, all permissible signage and graphics must be approved by the Authority as to number, size and placement.

d. It is recommended that, to disguise unwanted displays and retail operations, and to maintain a retail quality consistent with the World Financial Center, a "skirt" of approximately 36" above grade, may be applied to the inside of the glass, or placed within 18" of the interior of the glass storefront surface. All such "skirts" must be approved by the Authority as to whether such retail quality is maintained.

e. The backs of interior merchandise displays must not be visible from the exterior. Window displays may include merchandise only and may not include promotional materials or signage or graphics except as permitted above. If displayed, merchandise must be arranged/displayed in an attractive manner.

3. Vacant Retail Spaces

a. All exterior retail transom signage panels, at vacant retail storefront areas, shall not have signage or graphics.

b. All signage, graphics or displays at vacant retail areas, meant to be viewed from the exterior, which display information about the rental, or leasing of these areas is permissible, but must be standardized and approved by the Authority.

4. Exterior Banners

a. Exterior banners are permissible as approved by the Authority and shall be produced by a single fabricator and maintained to a uniformly high quality.

b. All permissible exterior banners shall be of a consistent graphic layout, color scheme and design and may include the name, logo or graphic representative of the retail establishment adjacent to the banner location, as well as the name, logo, or graphic of the building, as approved by the Authority.

c. All permissible exterior banners shall be located within the façade stone base, between glazed storefront, entry or service areas, and projecting perpendicular to this surface. The banner size, and the supports for such banners, shall be of a consistent size and height, and not exceed 2'-6" from the surface of the facade, and not be more than 10'-6" in vertical height, and be no less than 10-0" above grade.

d. These exterior banners may be illuminated as approved by the Authority.

e. The supports, material, fabric, and lighting of the banners shall be of a nature to withstand the particular climate of this location.

Miscellaneous

The location of any vents, louvers, mechanical equipment at the perimeter of the building must be approved by the Authority. All venting must be through the roof unless otherwise approved by the Authority. The developer must also submit for approval the means by which garbage will be stored at and removed from all facilities, including subleased retail spaces. Garbage must be stored within the building.

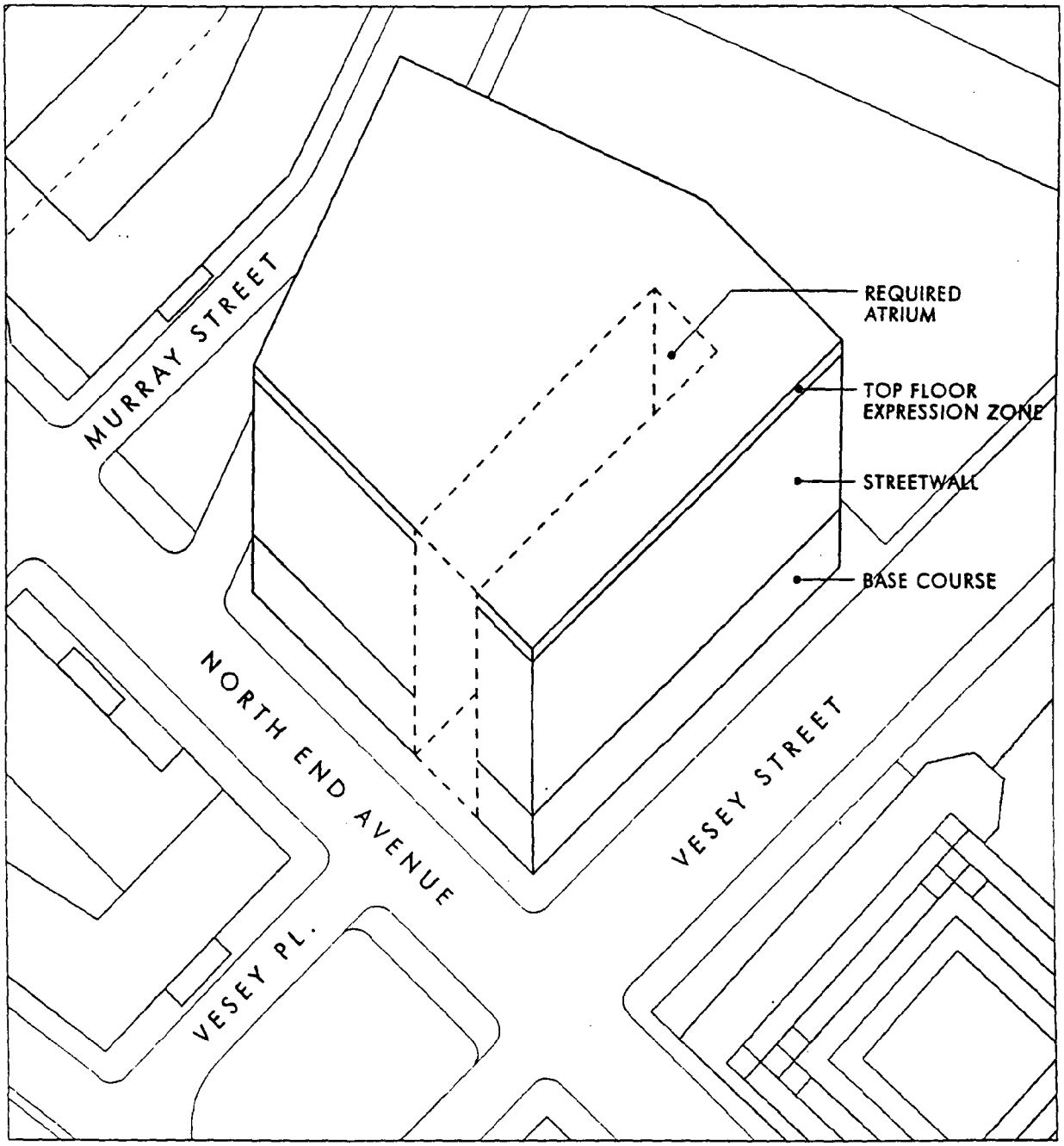


Fig.16: Site 25 Building, South & West

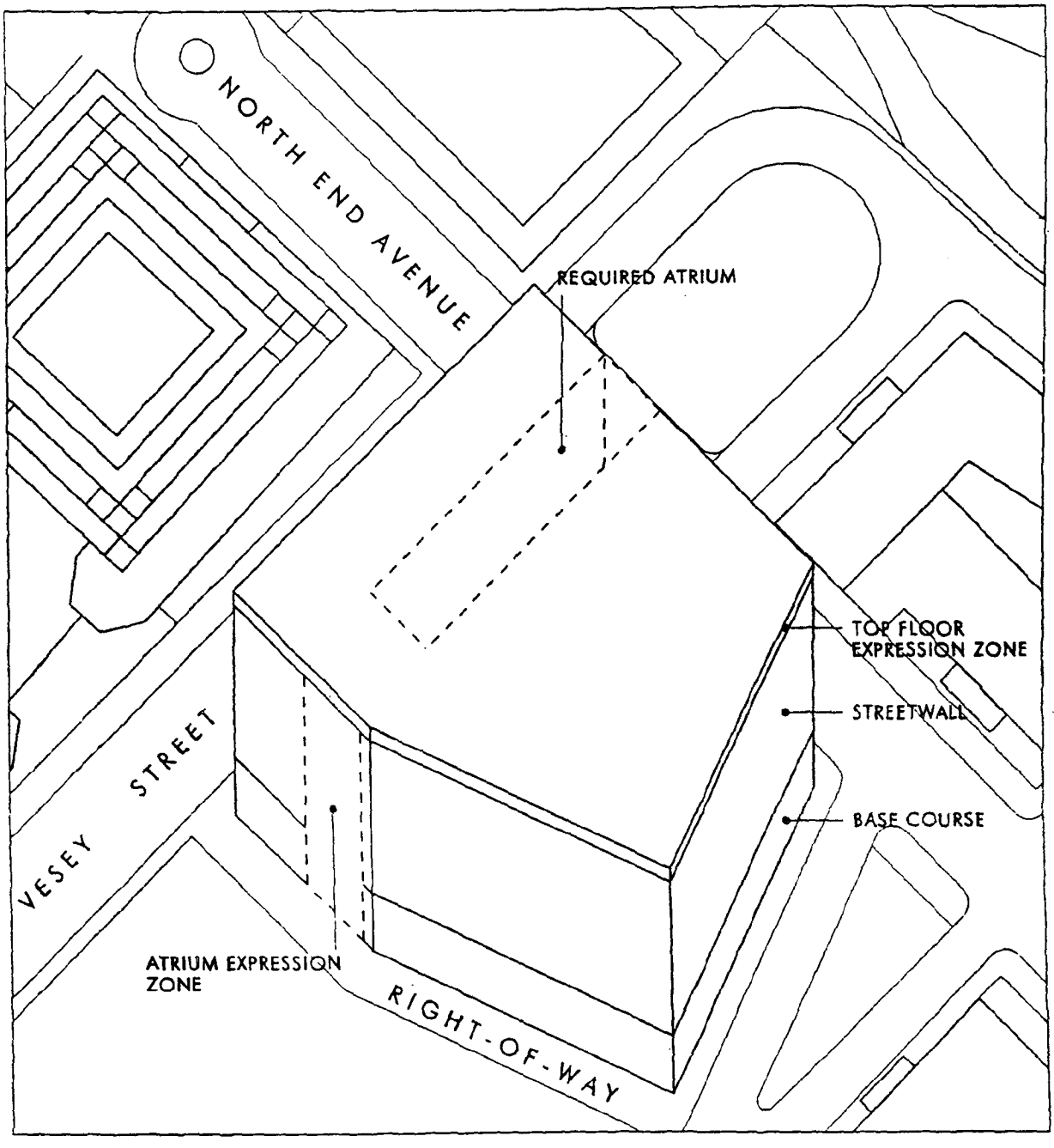


Fig.17: Site 25 Building, North & East

ADMINISTRATIVE FRAMEWORK

ADMINISTRATIVE FRAMEWORK

Before commencing construction, the developer must obtain all required governmental approvals, approvals required by the Lease and a certification from the Authority stating that the proposed development is in accordance with the Design Guidelines and the Authority's Affirmative Action program. Approval to begin construction prior to such certificates may be given by the Authority as set forth in the Lease.

1. Submission Requirements

Certification by the Authority will consist of the following:

a. Approval of Developer's Selection of Architect(s) and Engineers

b. Review and Approval of the Developer's Plan and Specifications
For each phase (Pre-Schematics, Schematics, Design Development, and Construction Documents), plans must be approved through a design review process by the Authority, with assistance from its consultants as required. Each submission must be in substantial conformance with the previously approved submission. In each subsequent submission, the architect must note any change from the previous version. In addition, the architect must include a letter that summarizes any changes.

The developer must submit information in drawings (measuring 24" x 36", bound and numbered) for each step of the review and approval process. Where alternate scales are shown, the Authority will direct which scale to use. With the exception of the Pre-Schematic submission, zoning and gross square foot calculations must be provided with each submission.

b.1 Pre-Schematics

In order to clarify basic assumptions and conceptual issues, the developer must submit the following information for review and approval prior to the Schematic date as outlined in the *Ground Lease*:

- Conceptual site plan(s).
- Conceptual ground floor plan(s) indicating uses, access, and entries.
- Conceptual elevation(s) of street facades.
- Conceptual hotel room layouts.
- Massing model.

b.2 Schematics

To verify conformance with the previously approved submission, a review and approval of the developer's Schematic submission is required. The developer must submit the following information:

- Site plan indicating building footprint, landscaping, grading and paved areas. Scale: 1" = 16' or larger.
- Ground floor, roof, and typical floor plans. Scale: 1" = 8' or 1" = 16'.
- Building elevations. Scale: 1" = 4' or 1" = 8'. Planar elevation changes are to be indicated in inches.
- Bulkhead and rooftops in elevation. Scale: 1" = 4'.
- Building sections. Scale: 1" = 8' or 1" = 16'.
- Cornice Details.
- For all buildings, front-wall elevations showing the ground through fourth floors and indicating material treatment and location of marquees are also to be drawn at 1" = 4'. Planar elevation changes shall be indicated in inches.
- Model indicating building massing, in white 'Strathmore' board, for insertion into the Battery Park City site model. Scale: 1" = 20'.
- Single-line drawings showing mechanical, electrical, and plumbing systems and connections.
- Signage Program.
- Outline specifications for basic systems and exterior materials, including colors.

b.3 Design Development

To verify conformance with the previously approved submission, a review and approval of the developer's Design Development plans and outline specifications is required. The developer must submit the following information:

- Design Development plans, elevations and details of all special features including: atrium walls west and east, theater walls north, east and interior, atrium skylights, major entrances and lobbies and loading docks - 1" = 4'.
- Floor plans, building sections and elevations. Scale: 1" = 8' or 1" = 16'. Dimensioned site plan - 1" = 50 or 1" = 20.
- Additional plans, sections, and elevations for typical exterior details, including marquees, at appropriate scale.
- Detail plans of open spaces.
- Detail plans with furniture layouts of all public spaces. Scale as appropriate.
- Samples of all materials for exterior envelope and public spaces.
- Mechanical, electrical, and plumbing drawings.
- Updated model.
- Technical specifications.
- Program description including uses (public vs. private) for all ground floor and atrium accessible spaces, hours of operation, anticipated circulation, back of house needs.
- Mock-up on site. Illustrate the use and color of brick, stone, mortar and a window unit. The mock-up must be sufficient scale to evaluate the proposed materials.
- Detailed Signage Plan including location, dimensions and graphics for all uses: theater, retail hotel on exterior and in public spaces.
- Roof plan.
- Bulkhead plans and elevations.

b.4 Construction Documents

Review and approval of the developer's final contract plans and specifications for each building or facility are required to verify conformance with previously approved submissions. The developer must submit the following information:

- Final Construction Documents, including all plans, elevations and details as previously approved and developed to a level from the project can be built.
- Updated model.
- Final specifications.
- The developer, on receipt of written approval by the Authority of these final contract plans, is responsible for obtaining all regular approvals from the Buildings Department, the Department of Transportation, the New York City Planning Commission, and other city agencies.
- Maintenance Schedule
- Quality Assurance Program

2. Changes During Construction

All changes to the final Contract Documents, including exterior materials and specifications, must be submitted by the architect of record for certification to the Authority to ensure that the changes are in accordance with the approved documents. All changes to the final Contract Documents and the above certification from the architect of record must be submitted to the Authority for approval prior to construction. In addition, bi-monthly reports must be submitted to the Authority during construction by the architect of record. These reports shall verify that the construction is proceeding in conformance with both the approved Contract Documents and the approved changes.

3. Reviews

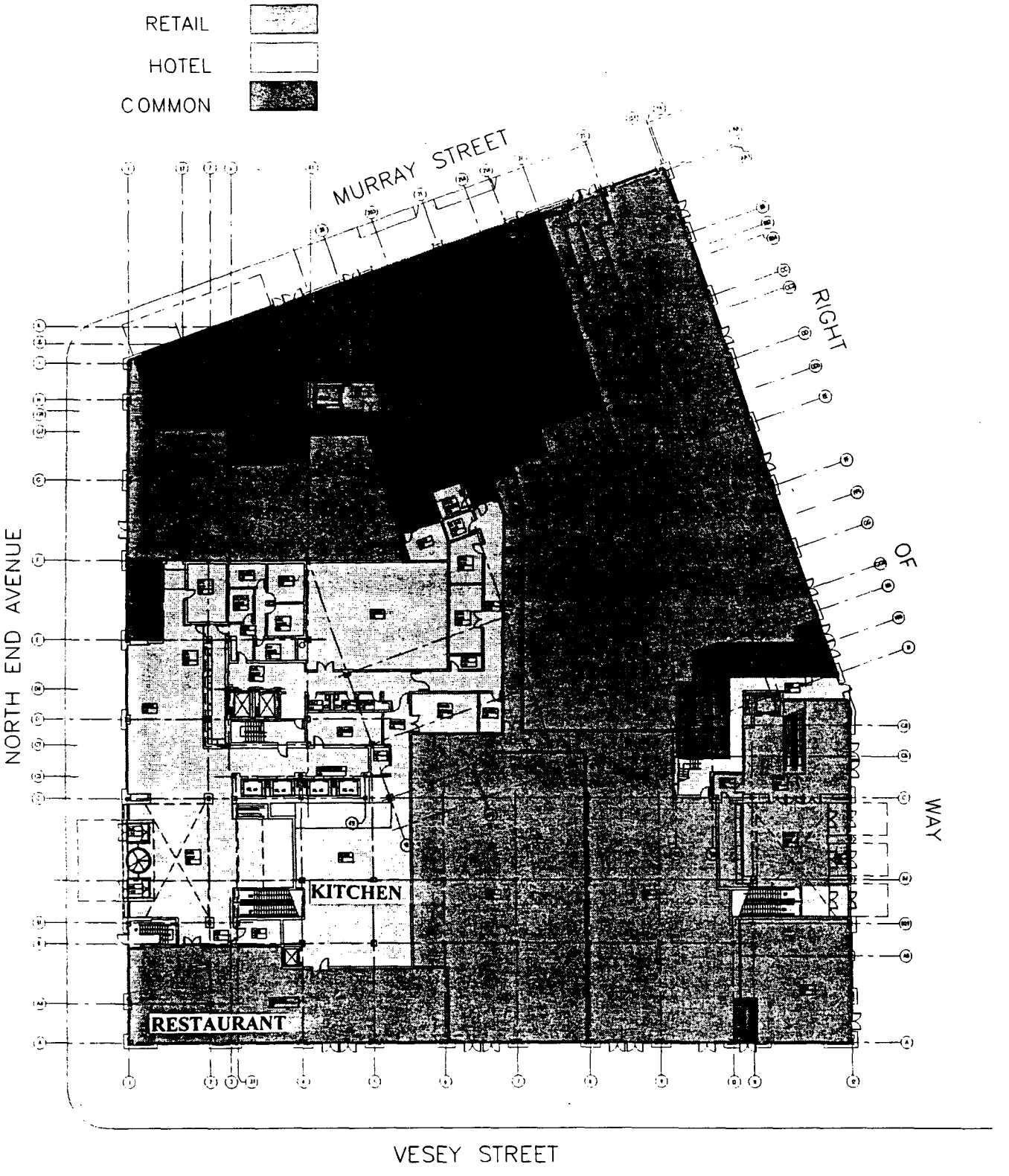
The Authority will review all submissions in a prompt and timely manner. Review periods will be as described in the Lease. Further, the Authority will maintain field personnel to observe construction methods and technologies and to verify that construction is proceeding in accordance with the official documents.

4. As-Built Drawings

Developers are required to submit a record set of building drawings in a CAD format to be designated.

EXHIBIT D

DIAGRAM OF GROUND FLOOR SHOWING THE KITCHEN



FOREST CITY RATNER
EMBASSY SUITES AT BATTERY PARK CITY

FIRST FLOOR - DESCRIPTION OF PREMISES

EMBASSY SUITES®
LICENSE AGREEMENT

Dated October 5 between PROMUS HOTELS, INC., a Delaware corporation ("Licensor"), whose address is 755 Crossover Lane, Memphis, Tennessee 38117 and BPC HOTEL, LLC, a New York limited liability company ("Licensee"), whose address is c/o Forest City Ratner Companies, 1 Metrotech Center North, Brooklyn, New York 11201.

THE PARTIES AGREE AS FOLLOWS:

1. The License.

Licensor owns, operates and licenses a system designed to provide a distinctive, high quality hotel service to the public under the name "Embassy Suites" (the "System"). High standards established by Licensor are the essence of the System. Future investments may be required of Licensee under this License Agreement (as the same may be amended from time to time, as and in the manner herein provided, the "Agreement") in order to bring the Hotel (as hereinafter defined) into compliance with System-wide standards. Licensee has independently investigated the risks of the business to be operated hereunder, including current and potential market conditions, competitive factors and risks, has read Licensor's "Franchise Offering Circular," and has made an independent evaluation of all such facts. Aware of the relevant facts, Licensee desires to enter into this Agreement in order to obtain a license to use the System in the operation of an Embassy Suites hotel located at New York (Battery Park City), New York (the "Hotel").

a. The Hotel. The Hotel comprises all structures, facilities, appurtenances, furniture, fixtures, equipment, and entry and exit and other areas from time to time located at Site 25, Battery Park City, New York, New York. No change in the number of approved guest suites ("Guest Suites") reflected on Attachment B (the "Rider") and no other significant change in the Hotel may be made without Licensor's prior approval. Redecoration and minor structural changes that comply with Licensor's standards and specifications will not be considered significant. Licensee represents that, on the date hereof, it is entitled to possession of the Hotel without restrictions that would interfere with the transactions contemplated in this Agreement.

b. The System. The System is composed of elements, as designated from time to time by Licensor, designed to identify "Embassy Suites hotels" to the consuming public and/or to contribute to such identification and its association with quality standards. The System at present includes the service marks "Embassy Suites" and such other service marks and such copyrights, trademarks and similar property rights as may be designated from time to time by Licensor to be part of the System; access to a reservation service; distribution of advertising, publicity

and other marketing programs and materials; the furnishing of training programs and materials, standards, specifications and policies for construction, furnishing, operation, appearance and service of the Hotel, and other requirements as stated or referred to in this Agreement and from time to time in the Manual (as defined herein) or in other communications to Licensee; and programs for inspecting the Hotel and consulting with Licensee. Licensor may add elements to the System or modify, alter or delete elements of the System at its sole discretion from time to time. Licensee is only authorized to use "Embassy Suites" service marks and trademarks at or in connection with the Hotel.

c. The Manual. Licensee acknowledges the receipt of a current Embassy Suites Standards Manual ("Manual"). The Manual contains, among other matters, minimum standards and requirements for constructing, equipping, furnishing, supplying, operating, maintaining and marketing the Hotel. Licensor shall have the right to change the Manual from time to time and Licensee agrees to abide by the Manual as changed. The Manual shall at all times remain the sole property of Licensor. Licensee shall use all reasonable efforts to maintain the confidentiality of the Manual. Licensee shall not make or distribute copies of the Manual or any portion thereof.

d. Application of Manual. All hotels operated within the System will be subject to the Manual, as it may from time to time be modified or revised by Licensor. Licensor may, in its sole discretion, grant limited exceptions from compliance with the Manual which may be made based on local conditions or special circumstances. Each material change in the Manual will be explained in writing to Licensee at least 30 days before it goes into effect.

2. Grant of License.

Licensor hereby grants to Licensee a nonexclusive license (the "License") to use the System only at the Hotel, only in connection with the operation of an Embassy Suites hotel, only in accordance with this Agreement and only during the "License Term" beginning with the date hereof and terminating as provided in Paragraph 13. The License applies to the location of the Hotel specified herein and no other. Licensor agrees that, for so long as this Agreement is in full force and effect, it will not, and its parent, subsidiaries, divisions, affiliates, successors (whether by consolidation, spinoff, reorganization or otherwise) or assigns (collectively, "Entities") will not, use or license for use to others, or own (directly or indirectly) any hotel which uses, the System (or any part thereof) at any location on the island of Manhattan (New York, New York) south of Canal Street. Except as provided in the previous sentence, this Agreement does not limit Licensor's right, or the rights of any of the Entities, to use or license to others the System or any part thereof or to engage in or license any business activity at any other location. Licensee acknowledges that Licensor and its Entities are and may in the future be engaged in other business activities including activities involving transient lodging and related activities which may be or may be deemed to be competitive with the System; that facilities, programs, services and/or personnel used in connection with the System may also be used in connection with such other business activities of Licensor and its Entities;

and that Licensee is acquiring no rights hereunder other than the non-exclusive right to use the System in connection with an Embassy Suites hotel as specifically defined herein in accordance with the terms of this Agreement.

In addition, Licensor acknowledges and understands that entities related to Licensee may be designated as the developer of, and may own, another hotel in Battery Park City (provided, however, that such hotel is not a direct competitor of the Hotel). In addition, Licensee agrees that, for so long as this Agreement is in full force and effect, and except as provided in the following sentence, it will not, and its parent, subsidiaries, divisions, affiliates, successors (whether by consolidation, spinoff, reorganization or otherwise) or assigns will not, develop or own, directly or indirectly, a predominantly suites hotel which competes with the Embassy Suites hotel brand at any location on the island of Manhattan (New York, New York) south of Canal Street. Notwithstanding the foregoing, Licensor and Licensee agree that Licensee (or its parent, subsidiaries, divisions, affiliates, successors (whether by consolidation, spinoff, reorganization or otherwise) or assigns) may own, directly or indirectly, a non-controlling, non-managerial beneficial interest of twenty-five percent (25%) or less of the equity in an entity which owns a predominantly suites hotel which competes with the Embassy Suites hotel brand at a location on the island of Manhattan (New York, New York) south of Canal Street.

3. Licensor's Responsibilities.

a. Training. During the License Term, Licensor will specify required and optional training programs and provide these programs at various locations. Licensee may be charged for (i) required training services and materials and (ii) for optional training services and materials if provided to Licensee. Travel, lodging and other expenses of Licensee and its employees will be borne by Licensee.

b. Reservation Services. During the License Term, so long as Licensee is in full compliance with the obligations set forth in this Agreement, Licensor will afford Licensee access to reservation services for the Hotel.

c. Consultation. Licensor will, from time to time at Licensor's sole and reasonable discretion, make available to Licensee consultation and advice in connection with operations, facilities and marketing. Licensor shall have the right to establish fees in advance for its advice and consultation on a project-by-project basis.

d. Arrangements for Marketing, Etc. Licensor will use the Marketing/Reservation Contribution for costs associated with appropriate advertising, promotion, publicity, market research and other marketing programs and related activities, including reservation programs and services. The central marketing services shall provide system-wide marketing activities for all hotels within the System and shall include national and regional advertising, sales promotion, public relations and direct selling efforts for the collective business development of all hotels within the System. The central reservations system shall provide a national toll-free system for inquiries regarding customer bookings and for making, changing and canceling reservations for the Hotel and other hotels within the System.

Licensor may enter into arrangements for development, marketing, operations, administrative, technical and support functions, facilities, programs, services and/or personnel with any other entity and may use any facilities, programs, services and/or personnel used in connection with the System in connection with any business activities of its Entities. Licensor is not obligated to expend funds for marketing or reservation services in excess of the amounts received from licensees using the System.

e. Inspections/Compliance Assistance. Licensor has the right to inspect the Hotel at any time, with or without notice to Licensee, to determine if the Hotel is in compliance with the standards and rules of operation set forth in the Manual. If the Hotel fails to comply with such standards and rules of operation, Licensor may, at its option and at Licensee's cost, require an action plan to correct the deficiencies. Licensee must then take all steps necessary to correct any deficiencies within the times reasonably established by Licensor. Licensor's approval of an action plan does not waive any rights it may have under this Agreement nor does it relieve Licensee of any obligations under this Agreement.

4. Proprietary Rights.

a. Ownership of the System. Licensee acknowledges and will not contest, either directly or indirectly, Licensor's unrestricted and exclusive ownership of the System and any element(s) or component(s) thereof, and acknowledges that Licensor has the sole right to grant licenses to use all or any element(s) or component(s) of the System. Licensee specifically agrees and acknowledges that Licensor is the owner of all right, title and interest in and to the service mark "Embassy Suites", its distinguishing characteristics, trade names, service marks, trademarks, logos, copyrights, slogans, etc., and all other marks associated with the System ("Marks") together with the goodwill symbolized thereby and that Licensee will not contest directly or indirectly the validity or ownership of the Marks either during the term of this Agreement or at any time thereafter. All improvements and additions whenever made to or associated with the System by the parties to this Agreement or anyone else, and all service marks, trademarks, copyrights, and service mark and trademark registrations at any time used, applied for or granted in connection with the System, and all goodwill arising from Licensee's use of the Marks shall inure to the benefit of and become the property of Licensor. Upon expiration or termination of this Agreement, no monetary amount shall be assigned as attributable to any goodwill associated with Licensee's use of the System or any element(s) or component(s) of the System including the name or Marks.

b. Use of Name. Licensee will not use the word "Embassy" or any similar word(s) in its corporate, partnership, business or trade name or authorize (or knowingly permit) the use of the word "Embassy" or any similar word(s) to be used other than as provided in this Agreement.

5. Trademark and Service Mark.

a. Trademark Disputes. Licensor will have the sole right and responsibility to handle disputes with third parties concerning use of all or any part of the System, and Licensee will, at its reasonable expense and provided Licensee does not thereby assume any liability or obligation (financial or otherwise), extend its full cooperation to Licensor in all such matters. All recoveries made as a result of disputes with third parties regarding use of the System or any part thereof shall be for the account of Licensor. Licensor need not initiate suit against alleged imitators or infringers and may settle any dispute by grant of a license or otherwise. Licensee will not initiate any suit or proceeding against alleged imitators or infringers or any other suit or proceeding to enforce or protect the System.

b. Protection of Names and Marks: Both parties will make every effort consistent with the foregoing to protect and maintain the Marks and name "Embassy Suites" and its distinguishing characteristics as standing for the System and only the System; provided, however, both parties acknowledge that Licensor may allow certain hotels which had written franchise commitments or licenses in the Granada Royale Hotel franchise system to use the name "Embassy Suites" and other related marks of the System. Licensee agrees to execute any documents deemed reasonably necessary by Licensor or its counsel to obtain protection for Licensor's Marks or to maintain their continued validity and enforceability (provided that Licensee does not thereby assume any financial or other liability or obligation which is not as set forth in this Agreement. Licensee agrees to use such names and Marks only in connection with the operation of an Embassy Suites hotel and in the manner authorized by Licensor. Licensee acknowledges that any unauthorized use of the names or Marks shall constitute infringement of Licensor's rights. Licensee must notify Licensor immediately, in writing, of any infringement or challenge to Licensee's use of the Marks or of any unauthorized use or possible misuse of Licensor's Marks or Licensor's proprietary information of which Licensee has actual knowledge.

6. Licensee's Responsibilities.

a. Operational and Other Requirements. During the License Term, Licensee will:

(1) promptly pay to Licensor all amounts due Licensor and its Entities as royalties or fees or for goods or services purchased by Licensee;

(2) maintain the Hotel in a clean, safe and orderly manner and in first class condition;

(3) provide efficient, courteous and high quality service to the public;

(4) operate the Hotel 24 hours a day, every day, except as otherwise permitted by Licensor based on special circumstances;

(5) comply in all respects with the Manual and with all other policies, procedures and reasonable requirements of Licensor which may be from time to time communicated to Licensee;

(6) comply with Licensor's reasonable requirements to protect the System and the Hotel from unreliable sources of supply;

(7) comply with Licensor's reasonable requirements as to:

(a) the types of services and products that (i) must be used, promoted or offered at the Hotel and (ii) may be used at the Hotel;

(b) use, display, style and type of signage;

(c) directory and reservation service listings of the Hotel;

(d) training of persons to be involved in the operation of the Hotel;

(e) participation in all marketing, reservation service, advertising, training and operating programs designated by Licensor as System-wide (or area-wide) programs in the best interests of hotels using the System;

(f) maintenance, appearance and condition of the Hotel; and

(g) quality and type of service offered to customers at the Hotel.

(8) use such automated guest service and/or hotel management and/or telephone system(s) which Licensor deems to be in the best interests of the System, including any additions, enhancements, supplements or variants thereof which may be developed during the term hereof;

(9) participate in and use those reservation services which Licensor deems to be in the best interests of the System, including any additions, enhancements, supplements or variants thereof which may be developed during the term hereof;

(10) adopt improvements or changes to the System as may be from time to time designated by Licensor;

(11) comply with all governmental requirements, including the filing and maintenance of any required trade name or fictitious name registrations required under law to be filed or maintained by Licensee, paying all taxes, and maintaining all governmental licenses and permits necessary to operate the Hotel in accordance with the System;

(12) permit inspection of the Hotel by Licensor's representatives at any time and give them free lodging for such time as may be reasonably necessary

to complete their inspections (such free lodging to be made available subject to room availability (i.e., on the express condition that hotel guests would not thereby be precluded from staying at the hotel));

(13) upon request by Licensor, provide to Licensor statistics on Hotel operations in the form specified by Licensor and using definitions specified by Licensor;

(14) promote the Hotel on a local or regional basis subject to Licensor's reasonable requirements as to form, content and prior approvals;

(15) insure that no part of the Hotel or the System is used to further or promote a competing business or other lodging facility, except as Licensor may approve for those competing businesses or lodging facilities owned, licensed, operated or otherwise approved by Licensor or its Entities;

(16) use every reasonable means to encourage use of Embassy Suites facilities everywhere by the public;

(17) in all respects use Licensee's best efforts to reflect credit upon and create favorable public response to the name "Embassy Suites"; and

(18) comply with Licensor's requirements concerning confidentiality of information, as set forth in this Agreement.

b. Upgrading of the Hotel. Licensor may at any time during the License Term require substantial modernization, rehabilitation and other upgrading of the Hotel. Limited exceptions from those standards may be made by Licensor based on local conditions or special circumstances. If the upgrading requirements contained in this Paragraph 6.b. cause Licensee undue hardship, Licensee may terminate the Agreement and, concurrently with any such termination, pay to Licensor the liquidated damages described in Paragraph 13.f. hereof.

c. Staff and Management. Licensee must at all times retain and exercise direct management control over the Hotel's business. Licensee shall not enter into any lease, management agreement or other similar arrangement for the operation of the Hotel or any part thereof with any entity without the prior written consent of Licensor.

7. Fees.

a. Commencing on the Hotel Opening Date (as defined in Paragraph N. of Attachment A annexed hereto) and continuing for the full term of this Agreement, for each month (or part of a month), Licensee will pay to Licensor by the 15th of the following month:

(1) a royalty fee equal to 4 percent of the gross room revenues (i.e., revenues attributable to or payable for rental of Guest Suites at the Hotel) with

deductions for (i) credits or refunds made to customers, guests or patrons; and (ii) any sales taxes, excise taxes, gross receipt taxes, rooms taxes, entertainment taxes, tourist taxes or charges ("Gross Suites Revenue"); and

(2) a "Marketing/Reservation Contribution" equal to (i) during the first (1st) full year commencing on the Hotel Opening Date, 2% of Gross Suites Revenues, (ii) during the second full year commencing on the one (1) year anniversary of the Hotel Opening Date, 2½% of Gross Suites Revenues, and (iii) for each year thereafter, commencing on the two (2) year anniversary of the Hotel Opening Date, 3.5% of Gross Suites Revenues; and

(3) any amounts for the cost, installation or maintenance of reservation services equipment or training and all amounts due Licensor for any other miscellaneous fees or invoices for goods or services requested by Licensee and provided by Licensor; and

(4) an amount equal to any sales, gross receipts or similar tax imposed on Licensor for the receipt of the payments required in (1), (2) and (3) of this Paragraph above, unless the tax is an optional alternative to an income tax otherwise payable by Licensor.

b. Licensee will operate the Hotel so as to maximize Gross Suites Revenue consistent with sound marketing and industry practice and will not engage in any conduct which is likely to reduce Gross Suites Revenue in order to further other business activities.

c. Royalties may be charged on revenues (or upon any other basis, if so determined by Licensor) from any activity conducted at the Hotel if added by mutual agreement and if: (i) not now offered at hotels within the System generally and is likely to benefit significantly from or be identified significantly with the Embassy Suites name or other aspects of the System or (ii) designed or developed by or for Licensor.

d. Licensor may charge for optional products or services requested and accepted by Licensee from Licensor either in accordance with current practice or as developed in the future.

e. Local and regional marketing programs and related activities may be conducted by Licensee, but only at Licensee's expense and subject to Licensor's reasonable requirements. Reasonable charges may be made by Licensor for optional advertising materials ordered from Licensor for such programs and activities.

f. Licensee shall participate in Licensor's travel agent commission program(s) as it may be modified from time to time and shall reimburse Licensor on or before the 15th of each month for travel agent commissions paid by Licensor, provided that

Licensee has received a reasonably detailed invoice for same at least ten (10) days prior to the due date.

g. Each payment under this Paragraph 7 shall be accompanied by the monthly statement referred to in Paragraph 8. Licensor may apply any amounts received under this Paragraph 7 to any amounts due under this Agreement. If any amounts are not paid when due, such non-payment shall constitute a breach of this Agreement and, in addition, such unpaid amounts will accrue interest beginning on the first day of the month following the due date at 1½ percent per month but not to exceed the maximum interest permitted by applicable law.

8. Records and Audits.

a. Daily and Monthly Reports. At the request of Licensor, Licensee shall prepare and deliver daily reports to Licensor, which reports will contain information reasonably requested by Licensor on a daily basis, such as daily rate and room occupancy, and which may be used by Licensor for its reasonable purposes. At least monthly, Licensee shall prepare a statement which will include all information concerning Gross Suites Revenue, other revenues generated at the Hotel, suite occupancy rates, reservation data and other information reasonably required by Licensor that may be useful in connection with marketing and other functions of Licensor and its Entities (the "Data"). The Data shall be the property of Licensor for use by it and Licensee shall not disclose or disseminate the Data to any Person except to any advisor, consultant or attorney of Licensee administering or interpreting this Agreement (or unless (x) such disclosure is required by law or court order or (y) the Data is already otherwise available to the general public or (z) Licensor agrees to such disclosure). The Data will be permanently recorded and retained as may be reasonably required by Licensor. By the 15th of each month, Licensee will submit to Licensor a statement setting forth the Data for the previous month and reflecting the computation of the amounts then due under Paragraph 7. The statement will be in such form and detail as Licensor may reasonably request from time to time, and may be used by Licensor for its reasonable purposes.

b. Maintenance of Records. Licensee shall, in a manner and form reasonably satisfactory to Licensor and utilizing accounting and reporting standards as reasonably required by Licensor, prepare on a current basis (and preserve for no less than four years), complete and accurate records concerning Gross Suites Revenue and all financial, operating, marketing and other aspects of the Hotel, and maintain an accounting system which fully and accurately reflects all financial aspects of the Hotel and its business. Such records shall include books of account, tax returns, governmental reports, register tapes, daily reports, and complete quarterly and annual financial statements (profit and loss statements, balance sheets and cash flow statements).

c. Audit. Licensor may, at Licensor's cost and expense except as herein provided, require Licensee to have the Gross Suites Revenue or other monies due hereunder

computed and certified as accurate by a certified public accountant. During the License Term and for two years thereafter, Licensor and its authorized agents shall have the right to verify information required under this Agreement by requesting, receiving, inspecting and auditing, at all reasonable times, any and all records referred to above wherever they may be located (or elsewhere if reasonably requested by Licensor). If any such inspection or audit discloses a deficiency in any payments due hereunder, Licensee shall immediately pay to Licensor (i) the deficiency, (ii) interest thereon as provided in Paragraph 7.g., and (iii) all reasonable inspection and audit costs (including travel, lodging, meals, salaries and other expenses of the inspecting or auditing personnel). Licensor's acceptance of Licensee's payment of any deficiency as provided for herein shall not waive Licensor's right to terminate this Agreement as provided for herein in Paragraph 13. If the audit discloses an overpayment, Licensor shall refund the overpayment to Licensee within 30 days.

d. Annual Financial Statements. Licensee will submit to Licensor complete year-end financial statements for the Hotel and Licensee as soon as available but not later than 120 days after the end of Licensee's fiscal year. Licensee will certify them to be true and correct and to have been prepared in accordance with generally accepted accounting principles consistently applied, and any false certification will be a breach of this Agreement.

9. Indemnity.

Licensee will indemnify, during and after the term of this Agreement, Licensor and its Entities and their officers, directors, employees, agents, predecessors, successors and assigns ("Indemnified Parties') against, hold them harmless from, and promptly reimburse them for, all payments of money (fines, damages, legal fees, expenses, etc.) by reason of any claim, demand, tax, penalty, or judicial or administrative investigation or proceeding arising from, as a result of or in connection with (i) the construction of the Hotel, (ii) any damage to property or personal injury occurring at the Hotel, or (iii) any failure by Licensee to comply with the provisions of Paragraphs 4 and 5 hereof, excepting however, in any event and in any such case, any liability or damage caused by or arising from or resulting from any negligence of Licensor, its Entities or any of the Indemnified Parties.

Licensee will defend Licensor and/or its Entities and/or their Indemnified Parties against any such claim using a counsel of its choice, which counsel shall be subject to the reasonable approval of Licensor, or a counsel selected by Licensee's insurer. Licensor may engage separate counsel, at its expense, to participate in any such defense by Licensee. Notwithstanding anything herein to the contrary, Licensee shall not be entitled to control the defense of any such action, suit or proceeding if Licensor can demonstrate to the reasonable satisfaction of Licensee that there is a reasonable possibility that such action, suit or proceeding would, if determined adversely to Licensor, its Entities or Indemnified Parties, have a material adverse impact on the business of Licensor, or if such action, suit or proceeding involves the potential imposition of criminal liability on Licensor, its Entities or any Indemnified Party, or if there exists a material conflict of

interest between Licensee and Licensor, its Entities or any Indemnified Party such that it is advisable for Licensor to retain control of such proceeding. In any of the foregoing events, Licensor shall control such action, suit or proceeding with counsel selected by it, which shall be subject to the reasonable approval of Licensee.

Licensee will also reimburse Licensor for all expenses, including attorneys' fees and court costs reasonably incurred by Licensor to protect itself and/or its Entities and/or their Indemnified Parties from, or to remedy, Licensee's defaults or to collect any amounts due under this Agreement.

The provisions of this Paragraph 9 shall survive the termination or expiration of this Agreement.

10. Insurance.

a. Licensee will comply with Licensor's specifications for insurance as to amount and type of coverage as may be reasonably specified by Licensor from time to time in writing and will in any event maintain as a minimum the following insurance underwritten by an insurer approved by Licensor:

(1) employer's liability and workers' compensation insurance as prescribed by applicable law; and

(2) liquor liability insurance, if applicable, naming Licensor and its then current Entities and their predecessors, successors and assigns as additional insureds with single-limit coverage for personal and bodily injury and property damage of at least $10,000,000 for each occurrence; and

(3) commercial general liability insurance (with products, completed operations and independent contractors coverage) and comprehensive automobile liability insurance, all on an occurrence and per location basis naming Licensor, its Entities and their predecessors, successors and assigns as additional insureds and underwritten by an insurer approved by Licensor, with single-limit coverage for personal and bodily injury and property damage of at least $10,000,000 for each occurrence; and

(4) in connection with all construction at the Hotel during the License Term, Licensee will cause the general contractor to maintain with an insurer approved by Licensor commercial general liability insurance (with products, completed operations, and independent contractors coverage including workers' compensation and automobile liability insurance for such independent contractors) in at least the amount of $10,000,000 for each occurrence for personal and bodily injury and property damage with Licensor. its Entities and their predecessors, successors and assigns as additional insureds.

b. Evidence of insurance/Changes. This coverage shall be evidenced by original certificates of insurance submitted to Licensor simultaneously herewith, annually hereafter and each time a change is made in any insurance or insurance carrier, Licensee will furnish to Licensor certificates of insurance including the term and coverage of the insurance in force, the persons insured, and a statement that the coverage may not be cancelled, altered or permitted to lapse or expire without 30 days advance written notice to licensors Licensor will send Licensee notice of any policy or coverage which Licensor, in its sole discretion, finds unacceptable and upon receipt of such notice, Licensee will promptly undertake to change such policy or coverage.

c. If Licensee fails or neglects to obtain or maintain the insurance or policy limits required by this Agreement, Licensor shall have the option, without notice, to obtain and maintain such insurance for Licensee, and Licensee shall pay immediately upon demand therefore, the premiums and the cost incurred by Licensor in taking such action.

11. Transfer.

a. Transfer by Licensor. Licensor shall have the right to transfer or assign this Agreement or any of Licensor's rights or obligations under this Agreement to any person or legal entity.

b. Transfers by Licensee. This License is not transferable and to change the License holder a new License must be approved by Licensor and, if approved, executed by the new licensee. Licensee understands and acknowledges that the rights and duties set forth in this Agreement are personal to Licensee, and that Licensor has entered into this Agreement in reliance on the business skill, financial capacity, and personal character of Licensee (if Licensee is an individual), and that of the partners, members, or stockholders of Licensee (if Licensee is a partnership, company, corporation, or other legal entity). Accordingly, neither Licensee nor any immediate or remote successor to any part of Licensee's interest in this Agreement, nor any individual, partnership, company, corporation, or other legal entity which directly or indirectly owns an Equity Interest (as defined herein) in Licensee shall sell, assign, transfer, convey, pledge, mortgage, encumber, or give away ("Transfer") any direct or indirect interest in this Agreement or Equity Interest in Licensee, except as provided in this Agreement.

(1) Any purported transfer, by operation of law or otherwise, of any interest in this Agreement or any Equity Interest in Licensee not in accordance with the provisions of this Agreement shall be null and void and shall constitute a material breach of this Agreement, for which Licensor may terminate this Agreement upon notice without opportunity to cure pursuant to Paragraph 13.d.

(2) References in this Agreement to "Equity Interests" shall mean (i) any direct or indirect beneficial interest in Licensee; (ii) any stock,

membership or partnership interest in Licensee, or (iii) any stock, membership or partnership interest in any corporation, partnership, company, or other legal entity which is a partner, member or stockholder of Licensee. In addition, "publicly-traded equity interest" shall mean any Equity Interest which is traded on any securities exchange or is quoted in any publication or electronic reporting service maintained by the National Association of Securities Dealers, Inc. or any of its successors. In computing changes of Equity Interests limited partners will not be distinguished from general partners, and Licensor's judgment will be final if there is any question as to the definition of Equity Interest or as to the computation of relative Equity Interests, the principal considerations being: direct and indirect (i) power to exercise control over the affairs of Licensee; (ii) right to share in Licensee's profits; and (iii) exposure to risk in the Licensee's business.

(3) Licensee represents that the Equity Interests are directly and (if applicable) indirectly owned as shown on the Rider.

c. Transfer of Equity Interests. The following situations are permitted Transfers of Equity Interests:

(1) Equity Interests may be Transferred as follows, with Licensor's prior written consent, which will not be unreasonably withheld, provided at all times adequate provision is made for management of the Hotel:

(a) Equity Interests which are not publicly-traded may be Transferred, if after the transaction, 50 percent or less of all Equity Interests will have changed hands since the date of this Agreement.

(b) Equity Interests which require registration under any federal or state securities law may be Transferred provided that Licensee (i) at least 45 days prior to the proposed registration submits a request for Licensor's consent accompanied by a non-refundable payment of $10,000, and (ii) reimburses Licensor for expenses in excess of $10,000 incurred in connection with the review of the materials concerning the proposed registration, including Licensor's attorneys' fees and travel expenses.

(c) Licensee and all participants in any proposed offering (including the sale of partnership or membership interests) must also agree to fully indemnify Licensor in connection with the registration; furnish Licensor all information requested by Licensor; avoid any implication of Licensor's participating in or endorsing the offering and use Licensor's service marks and trademarks only as directed by Licensor.

(d) Publicly-traded equity interest may be Transferred without Licensor's consent if such transfer is exempt from registration under federal securities law and if immediately before and after the Transfer, the transferor and transferee respectively each own less than 25 percent of the Equity Interests in Licensee,

(2) Permitted Transferees/Licensee's Death.

(a) Licensee, if a natural person, may transfer the License to one or more of Licensee's spouse, parents, siblings, nephews, descendants or spouses descendants or to a corporation entirely owned by Licensee ("Permitted Transferees') provided (i) the Permitted Transferee promptly executes a new license agreement (and guaranty, if applicable) on Licensor's then current license agreement form for the unexpired term of this Agreement and (ii) Licensee guarantees, in Licensor's usual form, the performance of the Permitted Transferee's obligations under the newly executed license agreement.

(b) If Licensee is a natural person, upon the Licensee's death, the License will pass in accordance with Licensee's will, or, if Licensee dies intestate, in accordance with laws of intestacy governing the distribution of the Licensee's estate, as the case may be, provided the transferee is one or more of the decedent's Permitted Transferee's (excluding corporations formerly owned by the Licensee) and provided the Permitted Transferee promptly executes a new license agreement (and guaranty, if applicable) on Licensor's then current license agreement form for the unexpired term of this Agreement.

(c) If an Equity Interest is owned by a natural person, the transfer provisions of Paragraph 11.c.(2)(a) and (b) above will apply to the Transfer of such Equity Interests to a Permitted Transferee.

(3) Financing. The construction and/or operation of the Hotel may not be financed by a public offering of any right, title or interest in the Hotel, the property upon which it is built or the receipts from its operation without the prior review and approval of the applicable documentation by Licensor. Licensee shall submit a non-refundable $10,000 fee with said documentation.

(4) Change of Ownership.

(a) This License is not transferable. If Licensee (i) receives an offer to purchase or lease the Hotel or any portion thereof, (ii) desires to sell or lease the Hotel or any portion thereof, (iii) wishes to convey the Hotel, Hotel site, or any Equity Interest in the Hotel, Licensee

shall give prompt written notice thereof to Licensor, stating the identity of the prospective transferee, purchaser or lessee and the terms and conditions of the conveyance, including a copy of any proposed agreement and all other information with respect thereto, which Licensor may reasonably require.

(b) Under the provisions of this Agreement, (i) any Transfer of Equity Interests (other than a permitted Transfer) or (ii) Transfer of all or a substantial part of the Hotel or Hotel site (if the Hotel or Hotel site is owned directly or indirectly by Licensee), to a new owner who desires to operate the Hotel as an Embassy Suites hotel, shall constitute a change of ownership requiring submittal of an application for a new license.

(c) Licensor shall process such change of ownership application in good faith and in accordance with Licensor's then current procedures, criteria and requirements regarding fees, upgrading of the Hotel, credit, operational abilities and capabilities, prior business dealings, market feasibility and other factors deemed relevant by Licensor. If such change of ownership application is approved, Licensor and the new owner shall, upon surrender of this Agreement, enter into a new license agreement. The new license agreement shall be on Licensor's then current form and contain Licensor's then current terms (except for duration), and if applicable, the new license agreement will contain specified upgrading and other requirements.

(d) If a change of ownership application for the proposed new owner is not approved by Licensor and the conveyance of the Hotel or Equity Interests to the proposed new owner occurs, then this Agreement shall terminate pursuant to Paragraph 13.d hereof and Licensor shall be entitled to all of its remedies.

12. Condemnation and Casualty.

a. Condemnation. Licensee shall, at the earliest possible time, give Licensor notice of any proposed taking by eminent domain. If the Hotel (or any portion thereof) is in fact condemned, and the lease pursuant to which Licensee has possession of the Hotel (such lease, as the same may be amended from time to time, the "Hotel Sublease") terminates, this Agreement shall terminate as of the date of such termination (without the payment of any Termination Fee (as hereinafter defined)).

b. Casualty. If the Hotel is damaged by fire or other casualty, Licensee will expeditiously repair the damage. If the damage or repair requires closing the Hotel, Licensee will immediately notify Licensor, will repair or rebuild the Hotel according to Licensor's standards, will commence reconstruction within four

months after closing, and will reopen the Hotel for continuous business operations as soon as practicable (but in any event within one year after the closing of the Hotel), giving Licensor ample advance notice of the date of reopening. If the Hotel is not reopened according to this Paragraph, this Agreement will terminate immediately, upon notice thereof by Licensor to Licensee, with the payment of liquidated damages as calculated in Paragraph 13.f.

c. No Extensions of Term. Licensee shall not be required to make any payments pursuant to Paragraph 7 for periods during which the Hotel is closed by reason of condemnation or casualty.

13. Termination.

a. Expiration of Term. Unless terminated earlier, this Agreement will expire without notice fifteen (15) years after the date on which (x) 100% of the guest rooms and all of the public spaces of (and contained within) the Hotel are substantially completed and ready for lawful use and occupancy for the lodging of guests, (y) the kitchen (on the ground floor of the Hotel) has been completed and (z) the restaurant operator is ready to provide food and beverage services to the Hotel pursuant to a hotel services agreement to be entered into between Licensee and such restaurant operator (the date on which such conditions are all met being hereinafter referred to as the "Full Opening Date"). Licensee may, at its option, renew this Agreement for one additional term of five (5) years, provided that at the end of the initial term the following conditions are satisfied:

(1) Licensee shall not then be in default and no uncured breach on the part of Licensee shall then exist under this Agreement or under any other agreement between Licensee and Licensor or its affiliates;

(2) Licensee shall have satisfied all accrued but unpaid monetary obligations owed by Licensee to Licensor and its subsidiaries and affiliates, and has timely met these obligations throughout the term of this Agreement.

(3) Not less than 12 months prior to the end of the initial term, Licensee shall notify Licensor in writing, if Licensee intends to renew this Agreement upon the same terms and conditions of this Agreement.

b. Permitted Termination Prior to Expiration of Term. If Licensee sells the Hotel at any time after the tenth (10th) anniversary of the Hotel Opening Date, then Licensee may terminate this Agreement in connection with such sale by providing to Licensor (y) a written notice of its election to terminate effective as of the later to occur of (i) the closing of such sale and (ii) thirty (30) days after such notice and (z) if the closing occurs during the initial 15-year term, a termination fee of $8,000,000 (the "Termination Fee"), in immediately available funds; provided, however, that if the Management Agreement between Licensor and Licensee of even date herewith has been terminated by Licensee pursuant to the provisions of Section 3.05 thereof, including without limitation upon payment of the sums

required to be paid thereunder upon any such termination, then the Termination Fee shall not be due and payable hereunder. The closing of such sale and Licensor's receipt of the Termination Fee shall be conditions precedent to the termination of this Agreement (as described in this subparagraph b.) In no event shall the Termination Fee be payable if the sale occurs during any renewal term of this Agreement.

Prior to the tenth (10th) anniversary of the Hotel Opening Date, this Agreement may not be terminated by Licensee by reason of a sale of the Hotel.

c. Termination or Suspension by Licensor on Advance Notice. (1) This Agreement may be terminated if Licensee fails to satisfy any obligations under, or fails to comply with any of the requirements and conditions or terms as set forth in, Attachment A or this Agreement, or breaches any of the provisions of this Agreement relating to any transfer, any representation or warranty, any fee obligation, or any certification of financial statements, and, in any such case, Licensee fails to cure such default (i) within fifteen (15) days following receipt of notice from Licensor, if such default is a monetary default, or (ii) if such default is a non-monetary default and is susceptible of cure, within sixty (60) days following receipt of notice from Licensor, provided, however, that if the default described in this subclause (ii) cannot be cured within such sixty (60) day period, Licensee shall have such additional period of time as shall be reasonably necessary to cure such default provided that Licensee commences to effect a cure within such sixty (60) day period and diligently prosecutes such cure to completion. Any default described above, which is not cured within the applicable notice and grace period described above, shall become an "Event of Default". Notwithstanding anything herein to the contrary, a breach of the provisions of this Agreement relating to transfer shall not require notice and shall automatically constitute an Event of Default upon the occurrence of the transfer.

(2) Notice of termination shall be adequate, if (i) mailed the number of days in advance of the termination date as Licensor shall determine in its sole discretion, or (ii) mailed the number of days in advance of the termination date as required by applicable state law. If no notice is required by applicable state law, Licensor may, in its sole discretion, terminate this Agreement immediately. Notwithstanding the foregoing, Licensor's failure to terminate this Agreement immediately shall not waive any of Licensor's termination rights under this Agreement.

(3) Licensor's notice of termination shall not relieve Licensee of its obligations under this Agreement or Attachment A.

(4) As a result of Licensee's efforts to comply with the terms and conditions contained on Attachment A and elsewhere in this Agreement, Licensee will incur substantial expense and expend substantial time and effort. Licensee acknowledges and agrees that Licensor shall have no liability or obligation to Licensee for any losses, obligations, liabilities or expenses

incurred by Licensee if (i) Licensee commits an Event of Default as described in Paragraph 13.c(l); or (ii) this Agreement is terminated because Licensee has not complied with the terms and conditions of this Agreement.

(5) Notwithstanding the foregoing, following an Event of Default, Licensor may at any time, in its sole discretion, suspend its obligations under this Agreement (including reservation services).

d. Immediate Termination by Licensor. Notwithstanding the foregoing, this Agreement may be immediately terminated (or terminated at the earliest time permitted by applicable law) if one or more of the following material breaches to this Agreement or any Attachment occur:

(1) Any Event of Default where a prior Event of Default had also occurred during the preceding 12 months, but the License was not terminated because Licensee cured the prior Event of Default;

(2) Any Event of Default where the Licensor in its reasonable judgment believes that even if the Licensee were to cure such Event of Default the relationship between the parties has been irreparably damaged and cannot be satisfactorily restored;

(3) Licensee (or any guarantor of Licensee's obligations hereunder) shall:

(a) generally not pay its debts as they become due or shall admit in writing its inability to pay its debts, or shall make a general assignment for the benefit of creditors; or

(b) commence any case, proceeding or other action seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property; or

(c) take any corporate or other action to authorize any of the actions set forth above in Paragraphs (a) or (b); or

(4) Any case, proceeding or other action against Licensee or any such guarantor shall be commenced seeking to have an order for relief entered against it as debtor, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property, and such case, proceeding or other action (i) results in the entry of an order for

relief against it which is not fully stayed within seven business days after the entry thereof or (ii) remains undismissed for a period of 45 days; or

(5) an attachment remains on all or a substantial part of the Hotel or of Licensee's or any such guarantor's assets for 30 days; or

(6) Licensee or any such guarantor fails within 60 days of the entry of a final judgment against Licensee in any amount exceeding $100,000 to discharge, vacate or reverse the judgment, or to stay execution of it, or if appointed, to discharge the judgment within 30 days after a final adverse decision in the appeal; or

(7) Licensee loses possession or the right to possession of all or a significant part of the Hotel or Hotel site; or

(8) Licensee fails to continue to identify the Hotel to the public as an Embassy Suites hotel: or

(9) Licensee contests in any court or proceeding Licensor's ownership of the System or any part of the System, or the validity of any service marks or trademarks associated with Licensor's business; or

(10) Any action is taken toward dissolving or liquidating Licensee or any such guarantor, if it is a corporation or partnership, except for death of a partner; or

(11) Licensee or any of its principals is, or is discovered to have been convicted of a felony (or any other offense if it is likely to adversely reflect upon or affect the Hotel, the System, the Licensor and/or its Entities in any way; or

(12) Licensee maintains false books and records of accounts or submits false reports or information to Licensor.

e. De-identification of Hotel Upon Termination. Upon termination or expiration of the term, Licensee will take whatever action is necessary to assure that no use is made of any part of the System at or in connection with the Hotel or otherwise. Licensee shall return to Licensor the Manual and all other proprietary materials, remove all distinctive System features of the Hotel, including the primary freestanding sign down to the structural steel, and take all other actions ("De-identification Actions") required to preclude any possibility of confusion on the part of the public that the Hotel is still using all or any part of the System or is otherwise holding itself out to the public as an Embassy Suites hotel. If within 30 days after termination of this Agreement Licensee fails to comply with this Paragraph, Licensor or its agents at Licensee's expense, may enter the premises of the Hotel to perform the De-identification Actions. The preceding sentence shall not in any way limit Licensor's other rights or remedies under this Agreement.

f. Liquidated Damages. The parties recognize the difficulty of ascertaining damages to Licensor resulting from premature termination of this Agreement, and have provided for liquidated damages, which liquidated damages represent the parties' best estimate as to the damages arising from the circumstances in which they are provided and which are only damages for the premature termination of this Agreement, and not as a penalty or as damages for breaching this Agreement or in lieu of any other payment. If this Agreement is terminated pursuant to Paragraphs 6.b., 12.b., 13.c., or 13.d., Licensee will pay Licensor, within 10 days of termination, an amount equal to the amount payable under Paragraph 7 for the three years prior to termination. If the Hotel has been open for less than three years, Licensee will pay Licensor, within 10 days of termination, an amount equal to the greater of: (i) 36 times the monthly average payable under Paragraph 7, or (ii) 36 times the amount payable under Paragraph 7 for the last full month prior to termination.

14. Renewal.

Except as provided in Paragraph 13(a) hereof, this Agreement is non-renewable.

15. Relationship of Parties.

a. No Agency Relationship. Licensee is an independent contractor. Neither party is the legal representative or agent of, or has the power to obligate (or has the right to direct or supervise the daily affairs of) the other for any purpose whatsoever. Licensor and Licensee expressly acknowledge that no partnership, joint venture, agency, fiduciary or employment relationship is intended or created by reason of this Agreement.

b. Licensee's Notices to Public Concerning Independent Status. Licensee will take all necessary steps including those reasonably requested by Licensor to minimize the chance of a claim being made against Licensor for anything that occurs at the Hotel, or for acts, omissions or obligations of Licensee or anyone associated or affiliated with Licensee or the Hotel. Such steps may, for example, include giving notice in Guest Suites, public rooms and advertisements, on business forms and stationery, etc., making clear to the public that Licensor is not the owner or operator of the Hotel and is not accountable for what happens at the Hotel. Unless required by law, Licensee will not use the words "Embassy", "Embassy Suites" or any other names or mark associated with the System to incur any obligation or indebtedness on behalf of Licensor. Licensee shall not enter into or execute any contracts in the name "Embassy Suites hotel", and all contracts for the Hotel's operations and services at the Hotel shall be in the name of Licensee or Licensee's management company. Likewise, the words "Embassy", "Embassy Suites", or any similar words will not be used to name or identify developments adjacent to or associated with the Hotel, nor will Licensee use such names in its general business in any manner separated from the business of the Hotel.

16. Miscellaneous.

a. Severability and Interpretation. The remedies provided in this Agreement are not exclusive. If any provision of this Agreement is held to be unenforceable, void or voidable as being contrary to the law or public policy of the jurisdiction entitled to exercise authority hereunder, all remaining provisions shall nevertheless continue in full force and effect unless deletion of such provision(s) impairs the consideration for this Agreement in a manner which frustrates the purpose of the parties or makes performance commercially impracticable. The provisions of this Agreement shall be interpreted based on the reasonable intention of the parties in the context of this transaction without interpreting any provision in favor of or against any party whether or not such party was the drafting party or by such party's position relative to the other party. Any covenant, term or provision of this Agreement which, in order to effect the intent of the parties, must survive the termination of this Agreement, shall survive any such termination.

b. Binding Effect. This Agreement shall become valid when signed by the parties hereto. It shall be deemed made and entered into in the State of Tennessee and shall be governed and construed under and in accordance with the laws of the State of Tennessee. In entering into this Agreement, Licensee acknowledges that it has sought, voluntarily accepted and become associated with Licensor who is headquartered in Memphis, Tennessee, and that this Agreement contemplates and will result in business relationships with Licensor's headquarter's personnel. The choice of law designation permits, but does not require that all suits concerning this Agreement be filed in the State of Tennessee.

c. Exclusive Benefit. This Agreement is exclusively for the benefit of the parties hereto, and it may not give rise to liability to a third party, except as otherwise specifically set forth herein. No agreement between Licensor and anyone else is for the benefit of Licensee.

d. Entire Agreement. Neither Licensor nor Licensee wishes to enter into a business relationship with the other in which any terms or obligations are the subject of alleged oral statements or in which oral statements serve as the basis for creating rights or obligations different than or supplementary to the rights and obligations set forth in this Agreement. Accordingly, Licensor and Licensee agree that this Agreement and any Attachments hereto and the documents referred to herein, shall be construed together and shall supersede and cancel any prior discussions (whether described as representations, inducements, promises, agreements or any other term) between Licensor or anyone acting on its behalf and Licensee or anyone acting on his, her or its behalf, which might be taken to constitute agreements, representations, inducements, promises or understandings (or any equivalent to such terms) with respect to this Agreement or the relationship between the parties and Licensor and Licensee each agree that they have placed, and will place, no reliance on any such discussions. No future license or offer of a license for additional locations or any other business activity have been promised to Licensee and no such license or offer shall come into existence,

except by means of a separate writing, executed by Licensor's officer or such other entity granting the license and specifically identified as a License Agreement. No change, modification, amendment or waiver of any of the provisions of this Agreement will be effective and binding upon the parties unless it is in writing, specifically identified as an amendment to this Agreement and signed by Licensor and Licensee.

e. Consents. Licensor may withhold its consent, wherever required under this Agreement, if any default or breach by Licensee exists under this Agreement. Approvals and consents by Licensor will not be effective unless evidenced by a writing duty executed on behalf of Licensor.

f. Notices. All consents, approvals, notices or other communications provided for in this Agreement shall be in writing and shall be deemed delivered when personally served at, or sent by reputable overnight delivery service or by postage prepaid Registered or Certified Mail to the respective addresses set forth on page 1 of this Agreement, until such time as written notice, as provided hereby, of a change of address with a new address to be used thereafter is delivered to the other party. All notices to Licensor shall be addressed to the attention of Promus Hotels, Inc., 755 Crossover Lane, Memphis, Tennessee 38117, Attention: General Counsel and all notices to Licensee shall be addressed to BPC Hotel, LLC, c/o Forest City Ratner Companies, One MetroTech Center North, Brooklyn New York 11201, Attention: General Counsel. Copies of all notices to Licensor shall be given to Dewey Ballantine, LLP, 1301 Sixth Avenue, New York, New York 10019-6092, Attention: Graham R. Hone, Esq., and copies of all notices to Licensee shall be given to Winthrop, Stimson, Putnam & Roberts, One Battery Park Plaza, New York, New York 10004-1490, Attention: Stephen Lefkowitz, Esq., in the manner set forth in this subparagraph f..

g. Descriptive Headings. The descriptive headings in this Agreement are for convenience only and shall not control or affect the meaning or construction of any provision in this Agreement.

h. Including. Including shall mean including, without limitation.

i. Counterparts. This Agreement may be executed in counterparts, and each copy so executed and delivered shall be deemed an original.

j. Performance Requirements/Responsibilities. Attachment A is hereby incorporated by reference and made a part of this Agreement to set forth certain of Licensee's performance conditions and requirements.

17. Expiration of Agreement. This Agreement constitute an offer which must by accepted by Licensee by dating, executing and returning to Licensor two copies hereof (and all attachments hereto, including, if required, the Guaranty).

18. No Personal Liability of Licensee. No partner, shareholder, member, director or officer of Licensee shall have any direct or personal liability for the performance of Licensee's

obligations under this Agreement, and Licensor shall look solely to Licensee's interest in the Hotel (and shall not look to any other property or assets of Licensee) to enforce Licensor's rights hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first stated above.

LICENSEE:	LICENSOR:
BPC HOTEL, LLC	PROMUS HOTELS, INC.
By: FCDT-BPC Corp.	
By:_____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Witness:_____	Witness: _____
Date: _____	Date: _____

GUARANTY

Location: New York (Battery Park City), New York

As an inducement to Promus Hotels, Inc. ("Licensor") to execute the above License Agreement, the undersigned, jointly and severally, hereby unconditionally warrant to Licensor and its successors and assigns that all of Licensee's representations in the License Agreement and the application submitted by Licensee to obtain the License Agreement are true and guarantee that all of Licensee's obligations under the above License Agreement, including any amendments thereto whenever made (the "Agreement"), will be punctually paid and performed.

Upon default by Licensee or notice from Licensor, the undersigned will immediately make each payment and perform each obligation required of Licensee under the Agreement. Without affecting the obligations of the undersigned under this Guaranty, Licensor may without notice to the undersigned extend, modify or release any indebtedness or obligation of Licensee, or settle, adjust or compromise any claims against Licensee. The undersigned waive notice of amendment of the Agreement and notice of demand for payment or performance by Licensee.

Upon the death of an individual guarantor, the estate of such guarantor will be bound by this Guaranty but only for defaults and obligations hereunder existing at the time of death, and the obligations of the other guarantors will continue in full force and effect.

The Guaranty constitutes a guaranty of payment and performance and not of collection, and each of the guarantors specifically waives any obligation of Licensor to proceed against Licensee on any money or property held by Licensee or by any other person or entity as collateral security, by way of set off or otherwise. The undersigned further agree that this Guaranty shall continue to be effective or be reinstated as the case may be, if at any time payment or any of the guaranteed obligations is rescinded or must otherwise be restored or returned by Licensor upon the insolvency, bankruptcy or reorganization of Licensee or any of the undersigned, all as though such payment has not been made.

This Guaranty shall be governed and construed under and in accordance with the laws of the State of Tennessee.

IN WITNESS WHEREOF, each of the undersigned has signed this Guaranty as of the date of the above Agreement.

Witnesses:	Guarantors:
_____	_____(Seal)
_____	_____(Seal)
_____	_____(Seal)

ATTACHMENT A - PERFORMANCE CONDITIONS
NEW DEVELOPMENT

A. Consultation. Licensee or its representative(s) shall meet with Licensor at a location selected by Licensor, within 30 days following the date of Licensee's receipt of a request from Licensor for consultation and coordination with the project manager assigned to Licensee by Licensor.

B. Approval of Architect/Engineer/Contractors. Prior to submission of Plans (as hereinafter defined) to Licensor, Licensee shall furnish Licensor with resumes of the architect and/or the engineer whom Licensee desires to retain to prepare such Plans and such additional information and detail concerning their training, experience and financial responsibility as Licensor may request. The Plans shall not be approved and Construction Work (as defined herein) shall not commence until Licensor has approved the architect and/or engineer who is to prepare the Plans. Prior to commencement of Construction Work, Licensee shall submit to Licensor a resume of the general contractor and/or any major subcontractors for the Construction Work, and such additional information concerning their experience and financial responsibility as Licensor shall request. Construction Work shall not commence until Licensor has approved such contractors, which approval may be conditioned on bonding of such contractors. Licensor acknowledges that it has approved Licensee's architects, engineers, construction managers and contractors.

C. Approval of Plans. On or before the Plans submission date specified on the Rider, Licensee shall submit to Licensor, Licensee's plans and specifications for the Hotel, including its proposed furnishings, fixtures, equipment, signs, design and development of the Hotel (collectively, "Plans"). Construction Work shall not begin unless and until Licensor has approved the Plans. Licensor does not in any manner warrant the depth of its analysis or assume any responsibility for the efficacy of the Plans or the resulting Construction Work. Licensor acknowledges that it has approved the Plans. Licensee shall cause the Hotel to be constructed as shown on the Plans.

D. The Construction Work. Licensee agrees to take such action necessary to perform the development and construction of the Hotel, renovation, furnishing, equipping, acquisition of supplies and the implementation of the Plans ("Construction Work"). Licensee shall be solely responsible for obtaining all necessary licenses, permits and zoning variances required for the Construction Work at the Hotel. Prior to commencement of Construction Work, Licensee shall submit to Licensor, copies of applicable permits, licenses and zoning variances.

E. Commencement; Completion. Construction Work shall commence on or before the date specified on the Rider. Commencement of the construction portion of the Construction Work shall mean excavation of and poured footings and once commenced, such work shall continue uninterrupted (except for interruption by reason of events constituting force majeure) until it is completed. Notwithstanding the occurrence of any events constituting force majeure, or any other cause, Construction Work shall be completed and the Hotel shall be furnished, equipped, and shall otherwise be prepared to be opened in

accordance with this Agreement as and when provided in the Ground Lease between Battery Park City Authority and BPC Site 25 Associates, LLC (the "Ground Lease").

F. Inspection. During the course of Construction Work, Licensee shall and shall cause the architect, engineer, contractors, and subcontractors to cooperate fully with Licensor for the purpose of permitting Licensor to inspect the Hotel site and the course of Construction of the Hotel, and the Hotel in order to determine whether Construction Work is proceeding in accordance with this Agreement, the approved Plans and the Manual. Without limiting the generality of the foregoing, Licensee, the contractors, architect and engineer shall supply Licensor with samples of construction materials, test borings, corings, supplies, equipment, materials and reports as Licensor may request and afford the representatives of Licensor access to the Hotel site and Construction Work in order to permit Licensor to carry out its inspections.

G. Progress Reports. Licensee shall submit to Licensor each month after the date hereof (or more frequently if Licensor shall so request) a report showing progress made toward fulfilling the terms of this Agreement.

H. Acquisition of Equipment, Furnishings, and Supplies. Licensee shall order, purchase and/or lease and install all fixtures, equipment, furnishings, furniture, signs, computer terminals and related equipment, supplies and other items required by Licensor, this Agreement, the approved Plans, and the Manual in order to prepare the Hotel to be opened as and when provided in the Ground Lease.

I. Staffing. Prior to opening, Licensee shall cause to be hired a staff to operate the Hotel, and all such personnel shall be trained in accordance with the Manual and such other instructions as are furnished to Licensee by Licensor. All costs and expenses incurred directly or indirectly in hiring and training such staff shall be paid by Licensee, except as expressly provided otherwise in the Manual.

J. Costs of Constructing and Equipping. Licensee shall bear the entire cost of the Construction Work, including the cost of the Plans, professional fees, licenses, permits, equipment, furniture, furnishings and supplies.

K. Limitation of Liability. Notwithstanding the right of Licensor to approve the Plans, the architect, engineer and certain contractors, and to inspect the Construction Work and the Hotel, Licensor shall have no liability or obligation with respect to design and construction of the Hotel, as the rights of Licensor are being exercised solely for the purpose of assuring compliance with the terms and conditions of this Agreement. Licensor does not undertake to approve the Hotel as complying with governmental requirements or as being safe for guests or other third parties. Licensee should not rely upon Licensor's approval for any purpose whatsoever except compliance with Licensor's then prevailing standards and requirements of the Manual.

L. Insurance During Construction. In addition to the insurance coverage required in Paragraph 10, during the course of Construction Work, Licensee shall maintain or shall cause the general contractor to maintain Builder's Risk coverage for the replacement

value of the Hotel with Licensor and its then current Entities named as additional insureds. This coverage shall be evidenced by an original certificate of insurance, submitted to Licensor at least 30 days prior to commencement of Construction Work and thereafter any time a change is made in the coverage. Prior to opening, Licensee shall submit to Licensor, a certificate of insurance evidencing the types of insurance and the amounts set forth in Paragraph 10 of this Agreement.

M. Trademarks. During the planning and Construction Work phases of the Hotel, Licensee shall have the right, so long as this Agreement is in effect: (i) to place a sign on the Hotel site, advising the general public that an Embassy Suites hotel is under construction: (ii) to advertise and promote the development and opening of Licensee's Embassy Suites hotel in the media; (iii) to purchase, from vendor(s) reasonably approved by Licensor, operating supplies and equipment bearing the Marks required for the operation of the Hotel; and (iv) to purchase, from vendor(s) reasonably approved by Licensor, and install the permanent Embassy Suites signage required for the operation of the Hotel. Once the Hotel is opened, Licensee may use the Marks and the System in relation to and in the operation of the Hotel consistent with the terms and conditions of this Agreement. Licensee shall only use the Marks and the System for the purposes set forth above and in accordance with the standards set forth in the Manual.

N. Hotel Opening Date. The Hotel will be considered open for business when (i) not less than 75% of the guest rooms (together with all public areas, facilities and amenities supporting such required guest rooms, other than conference or meeting rooms) are completed, furnished and equipped substantially in accordance with the Plans and Specifications (as defined in the Hotel Sublease) and otherwise in accordance with the provisions of the Hotel Sublease and Management Agreement, excepting, however, such minor punch list items the completion of which shall not unreasonably interfere with the ability of Hotel guests to occupy such rooms and/or utilize the public facilities supporting such rooms (excepting, again, for such purpose, the conference or meeting rooms), (ii) a temporary certificate of occupancy has been issued permitting the use and occupancy of not less than 75% of the guest rooms (together with all public areas, facilities and amenities supporting such required guest rooms, other than conference or meeting rooms), (iii) the kitchen (on the ground floor of the Hotel) has been completed, (iv) the restaurant operator is ready to provide food and beverage services to the Hotel pursuant to a hotel services agreement to be entered into between Licensee and such restaurant operator, and (v) all commercial space which is visible from the atrium and not yet fully constructed or fitted out is separated from the atrium in a commercially reasonable manner so as not to unreasonably interfere with the ability of Hotel guests to occupy their rooms and/or use the atrium (it being specifically agreed by Licensor that temporary storefronts and screens, provided same would separate retail spaces from the atrium in a commercially reasonable and safe manner, would be acceptable to Licensor). The date on which all such conditions are met is referred to as the "Hotel Opening Date". The Hotel Opening Date shall be confirmed in writing by Licensor and Licensee.

O. Performance of Agreement. Licensee agrees to satisfy all of the terms and conditions of this Agreement, to equip, supply, staff the Hotel, and to cooperate with Licensor in connection therewith. As a result of Licensee's efforts to comply with the terms and

conditions of this Agreement, Licensee will incur substantial expense and expend substantial time and effort. Licensee acknowledges and agrees that Licensor shall have no liability or obligation to Licensee for any losses, obligations, liabilities or expenses incurred by Licensee if this Agreement is terminated because Licensee has not complied with the terms and conditions of this Agreement.

P. Termination Prior to opening. Licensee's failure to commence or complete construction or Construction Work in accordance with the Plans, the Manual and Licensor's requirements shall constitute a breach of Licensee's obligations under this Agreement, entitling Licensor to terminate this Agreement as provided in Paragraph 13.c. of this Agreement.

ATTACHMENT B
RIDER TO LICENSE AGREEMENT

Name and Address of Licensee:	BPC Hotel, LLC
Location of Hotel:	Site 25, Battery Park City, New York, New York
Number of Approved Guest Suites:	463
Term of License to Expire:	15 years from the Full Opening Date
Plans submission date:	Done
Preliminary Plans.	Done
Final Plans and Specifications:	Done
Construction or Work commencement date:	As provided in the Ground Lease
Construction or Work Completion date:	As provided in the Ground Lease
Additional Requirements:	None
Ownership of Licensee:	Two members, FCDT-BPC Corp. and BPC Hotel Member, LLC

October 5, 1998

BPC Hotel, LLC
c/o Forest City Ratner Companies
One MetroTech Center North
Brooklyn, New York 11201

Re: Embassy Suites License Agreement of even date herewith between us, as licensor, and you, as licensee (the *"License Agreement"*; capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the License Agreement) with respect to Site 25 in Battery Park City, New York, New York (the *"Site"*)

Gentlemen:

We acknowledge the occurrence of the following actions prior to or simultaneously with the execution of the License Agreement:

(i) the undersigned and FC BPC Hotel Member, LLC (*"Forest City"*) formed BPC Hotel Member, LLC (*"Hotel Member"*) pursuant to that certain operating agreement dated as of the date hereof (as the same may be amended from time to time, the *"Operating Agreement"*) for the purpose of setting forth the terms and conditions on which Hotel Member will conduct its business;

(ii) Hotel Member and FCDT-BPC Corp., a wholly-owned subsidiary of Hotel Member, formed you pursuant to that certain operating agreement dated as of the date hereof (as the same may be amended from time to time, the *"Owner's Agreement"*);

(iii) FC Battery Park Associates, LLC (*"Retail Tenant"*) and you formed BPC Site 25 Associates, LLC, a New York limited liability company (such entity, the *"Ground Tenant"*), to *inter alia*, (i) lease the Site from Battery Park City Authority (together with its successors in function, *"BPCA"*) and (ii)

develop a hotel and retail complex (to include a multiplex movie theater) at the Site (such building, the *"Building"*);

(iv) BPCA and Ground Tenant have entered, or will enter, into a ground lease, dated on or about the date hereof (as the same may be amended from time to time, the *"Ground Lease"*), relative to the Site and the construction of the Building;

(v) Ground Tenant has subleased, or will sublease, the retail portion of (and an undivided interest in the "common elements" of) the Building to Retail Tenant and has subleased, or will sublease, the Hotel (and an undivided interest in the "common elements" of the Building) to you (such sublease of the Hotel, as the same may be amended from time to time, the *"Hotel Sublease"*);

(vi) Ground Tenant has caused plans and specifications to be developed for the construction of the Building. Prior to the date of this letter, Licensor has received, reviewed and approved such plans and specifications (collectively, the *"Plans"*);

(vii) BPCA, Ground Tenant, Retail Tenant and you have agreed that, and we understand that, following "Substantial Completion of the Building" (as such term is defined in the Ground Lease), (x) either (i) Ground Tenant will subject its leasehold interest in the Site and Building to a condominium regime, substantially in accordance with the provisions of the condominium declaration and by-laws which are attached to the Ground Lease (collectively, and as the same may be amended from time to time, the *"Condominium Declaration"*), or (ii) Retail Tenant and you will subject your interests in the Building to the provisions of a reciprocal easement agreement (an *"REA"*), providing for the same control, management and other pertinent provisions set forth in (and modeled in large measure on the provisions set forth in) the Condominium Declaration, (y) Ground Tenant will assign its tenant's interest in the Ground Lease to BPCA, and the Ground Lease (which provides that it does not merge under such a circumstance) will continue as between BPCA, as landlord, and BPCA, as tenant, and (z) BPCA and you will amend the Hotel Sublease to more accurately describe the Hotel, once fully constructed; and

(viii) we, in our capacity as manager, and you, as owner, have entered into that certain Management Agreement dated as of the date hereof (as the same may be amended from time to time, the *"Management Agreement"*), pursuant to which we have agreed, *inter alia*, to operate and manage the Hotel on your behalf.

We acknowledge that we have received, reviewed and approved the Operating Agreement, the Owner's Agreement, the Ground Lease and the Hotel Sublease, as the same are in effect on the date hereof, and the Condominium Declaration in the form attached to the Ground Lease.

Further, this letter will confirm certain understandings and interpretations with respect to, and agreements in respect of, the License Agreement:

(i) For so long as we (or any one of our Entities) are managing the Hotel under the Management Agreement (we or any such Entity, as manager of the Hotel under the Management Agreement, being hereinafter referred to as *"Manager"*), we shall not have the right to terminate the License Agreement, or claim that you are in default under the License Agreement, or exercise any right or remedy that we have under the License Agreement unless (a) you have failed to provide the funds contemplated under the Approved Budget (as defined in the Management Agreement) when and to the extent provided in the Management Agreement, with the result that Manager is unable to operate and maintain the Hotel in accordance with the System-wide standards required in the License Agreement and this letter, or (b) the Approved Budget is inadequate with the result that the Manager is unable to operate and maintain the Hotel in accordance with the System-wide standards required in the License Agreement and this letter, or (c) you breach the provisions of Paragraphs 6.a.(12), 13.d.(8) or 13.d.(9) of the License Agreement, or (d) you fail to pay to us any indemnity payment required under the License Agreement and this letter within fifteen (15) days after the entry of a final non-appealable judgment in respect thereof, or (e) a transfer of the Hotel or the beneficial interests therein (whether directly or indirectly) occurs which is not permitted under the terms and provisions of the License Agreement as modified by this letter. Notwithstanding the foregoing, but only for so long as we (or any one of our Entities) are managing the Hotel under the Management Agreement, we agree that you shall not be in default under the License Agreement (and that we shall not have the right to exercise any rights or remedies under or terminate the License Agreement) if we (or any one of our Entities) fail to provide funds under the Operating Agreement in respect of any Approved Budget;

(ii) With respect to the provisions of the second sentence of Paragraph 1.a. of the License Agreement, we agree that if we (or any one of our Entities) is managing the Hotel, and if we (or any such Entity, as Manager of the Hotel) approves, requests or implements a change in the number of Guest Suites or any other significant change in the Hotel, then, notwithstanding any provision of the License Agreement to the contrary, we shall be deemed to have approved those changes under the License Agreement;

(iii) With respect to the third sentence of the first full paragraph of Paragraph 1 of the License Agreement relating to your obligation to make future investments in the Hotel, with respect to the third sentence of each of Paragraphs 1.b. and 1.c. of the License Agreement, with respect to each other reference in the License Agreement to amendments or modifications of or additions to the Manual or the System (or to the Manual, as modified, or the System, as modified, or words of similar effect), and with respect to any reference in the License Agreement to your having to comply with or implement any policies which we may require or implement, notwithstanding any provision of the License Agreement to the contrary, we agree that (a) you will have no obligation to make

any future investments or to implement or comply with any amendments or modifications of or additions to the Manual or the System or any policies which, in any such case, would require you to make structural changes to the Hotel, provided, however, that the foregoing shall not affect your obligation to make all repairs to the Hotel (structural or otherwise), and (b) you will have no obligation to make any capital improvements to the Hotel or the fixtures therein during the first three years and last three years of the term of the License Agreement (as the same may be extended), other than technology related capital improvements then being required on a System-wide basis which do not require rewiring of the Hotel or modification of a major mechanical system. Notwithstanding the foregoing, we agree that you shall not be required to make any capital improvement to the Hotel (whether in the nature of a technology related improvement or otherwise) if we or any one of our Entities (in our or its capacity as a member under the Operating Agreement) fails to provide funds in respect thereof as and when required under the Operating Agreement. In addition, we agree that you shall have such period of time as is being afforded other licensees in the System (on a "most favored nations" basis) and, subject to the foregoing provision regarding timing, as is reasonable under the circumstances within which to implement any capital improvement (as described above) or any System-wide change which is not a structural change. The provisions of this section (iii) shall apply and be in force whether or not we (or any one of our Entities) are managing the Hotel under the Management Agreement;

(iv) With respect to the provisions of Paragraph 6.b. of the License Agreement, given that the Hotel is new construction and thus constitutes for purposes of the License Agreement "special circumstances", we hereby agree that, notwithstanding any provision of the License Agreement to the contrary, no modernization, rehabilitation or other upgrading of any structural components of the Hotel shall be required during the term of the License Agreement (as the same may be extended in accordance with its terms), other than in connection with repairs or defects in original construction. The provisions of this section (iv) shall apply and be in force whether or not we (or any one of our Entities) are managing the Hotel under the Management Agreement;

(v) With respect to the provisions of Paragraph 11.a. of the License Agreement, your consent shall be required to any transfer or assignment of the License Agreement or our obligations thereunder, provided, however, that no such consent shall be required in connection with a transfer or assignment to any person or legal entity to whom the Management Agreement may be transferred without your consent as provided in Article 21 of the Management Agreement (irrespective of the termination of the Management Agreement) but subject to compliance with the then operative terms and provisions of said Article 21;

(vi) With respect to the provisions of Paragraph 11.b. of the License Agreement and notwithstanding any provision of the License Agreement to the contrary:

(a) we hereby agree that, in addition to the Transfers of Equity Interests permitted under the License Agreement, the transfers permitted under Section 17.04 of the Management Agreement or under Section 7.1(d) of the Operating Agreement shall be (and be deemed to be) Transfers permitted under the License Agreement and hereunder and, so long as an FCR Person (as defined in the Operating Agreement) controls the licensee under the License Agreement and Hotel Member, the terms and provisions of this letter shall continue in full force and effect (for purposes of this letter "control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the person in question);

(b) so long as we are a member in Hotel Member and the right of first offer set forth in Section 7.3 of the Operating Agreement has been complied with by Forest City in connection with Forest City's transfer of all or any portion of its membership interests in Hotel Member, we agree that any such Transfer of Equity Interests shall be permitted under the License Agreement and hereunder, provided, however, that if following any such transfer an FCR Person does not control you or Hotel Member, the terms and provisions of this letter shall terminate and be of no further force or effect;

(c) if we are not a member in Hotel Member, we agree, in connection with Forest City's transfer all or any portion of its membership interests in Hotel Member, that so long as the conditions set forth in Section 17.05(a) of the Management Agreement (whether or not then in effect) are satisfied, any such Transfer of Equity Interests shall be permitted under the License Agreement and hereunder, provided, however, that, if following any such transfer an FCR Person does not control the licensee under the License Agreement, this letter shall terminate and be of no further force or effect; or

(d) in the event of a transfer of the Hotel which will not result in the termination of the Management Agreement, so long as the conditions set forth in Section 17.05(a) of the Management Agreement are satisfied, including, but not limited to the assumption of the obligations of owner under the Management Agreement, we agree that our acceptance of the change in ownership application submitted in connection with a transfer of the Hotel to any such new owner as contemplated in the first sentence of Paragraph 11.c.(4)(c) of the License Agreement shall only be subject to the further conditions of our receipt of the application fee then currently being charged by us and to such new owner's agreement in its new license agreement to any upgrading or product improvement plan then required to bring the Hotel into compliance with System-wide standards, provided, however, that in connection with a transfer described in this clause (d) it is understood that this letter shall terminate and be of no further force or effect,

provided, further, however, that if either (x) any mortgagee (or its wholly-owned subsidiary) acquires title to the Hotel through foreclosure, deed-in-lieu or other transfer following, and in connection with, the acceleration of its mortgage or (y) BPCA (or its wholly-owned subsidiary) terminates the Hotel Sublease (any such mortgagee, BPCA or their respective wholly-owned subsidiary, herein referred to as *"Senior Owner"*) and as a result thereof becomes the owner of the Hotel, there shall be no application fee payable to us in connection with any such Transfer and we further agree that the license agreement to be executed by a Senior Owner in such circumstances shall be in the same form and on the same terms and conditions as the License Agreement and if, and only if, such Senior Owner continues to retain us (or our affiliate) as manager pursuant to the Management Agreement, the Senior Owner shall be entitled to all the benefits of the terms and provisions of this letter. Any further Transfer by a Senior Owner to another entity that is not the original mortgagee (or its wholly-owned subsidiary) or BPCA (or its wholly-owned subsidiary) shall be without the benefits contained in the last proviso of immediately preceding sentence. In the event the provisions of Paragraph 13.d.(7) of the License Agreement apply and Senior Owner does not become the owner of the hotel with us as licensor, the License Agreement and this letter shall terminate and be of no further force and effect. Any other transfer not described above will require compliance with the terms and provisions of the License Agreement and this letter shall terminate and be of no further force or effect;

(vii) With respect to Paragraph 12.b. of the License Agreement, we agree that if a casualty occurs in respect of the Hotel which damages all or substantially all of the Hotel and the Hotel Sublease is not terminated as a result thereof (a) you shall have the right to terminate both the Management Agreement and the License Agreement in connection with such casualty by providing to us written notice of your election to terminate prior to the commencement of construction and payment of the Termination Fee simultaneously with such notice of termination or (b) if you do not exercise your right to terminate, notwithstanding anything in the License Agreement to the contrary, Licensee shall restore the Hotel (in the manner and as and when provided in the Hotel Sublease) and will reopen the Hotel as soon as practicable, subject to the foregoing provision regarding the manner and timing required by the Hotel Sublease. The provisions of subclause (vii)(b) above shall apply and be in force whether or not we (or any one of our Entities) are managing the Hotel under the Management Agreement;

(viii) With respect to the provisions of Paragraph 13.c.(2) of the License Agreement, we agree that any notice of termination delivered by us under such Paragraph shall be mailed not less than seven (7) business days prior to the termination date set forth in such notice;

(ix) With respect to the provisions of Paragraph 13.f. of the License Agreement and notwithstanding any provision of the License Agreement to the contrary, we agree that the only circumstances under which we shall be entitled to

the liquidated damages specified in Paragraph 13.f. of the License Agreement are (i) Forest City's failure to provide capital contributions under the Operating Agreement in respect of an Approved Budget and we, as a member in you, have contributed the amount required to be contributed by us under the Operating Agreement in respect of such Approved Budget and (ii) as a result of such failure by Forest City, we have exercised our right to terminate the License Agreement and, in such event and notwithstanding any provisions of the License Agreement to the contrary, the amount of the liquidated damages shall be $8,000,000;

(x) We agree, notwithstanding any provision of the License Agreement or Management Agreement to the contrary, if there shall occur a default by Licensor or Manager under the License Agreement or the Management Agreement, respectively, which is not cured after notice, if any, and the expiration of any applicable grace period, if any, under the License Agreement or the Management Agreement, as applicable, it shall be an event of default under the License Agreement or the Management Agreement, as the case may be, entitling you, as licensee or as owner, as applicable, to simultaneously terminate the License Agreement or the Management Agreement, as applicable; and

(xi) We agree that:

(A) (1) the License Agreement may be terminated if we fail to satisfy any obligations under, or comply with any of the requirements and conditions or terms as set forth in, this letter, Attachment A to the License Agreement or the License Agreement, and, in any such event, we fail to cure such default (i) within fifteen (15) days following receipt of notice from you, if such default is a monetary default, or (ii) if such default is a non-monetary default and is susceptible of cure, within sixty (60) days following receipt of notice from you, provided, however, that if the default described in this subclause (ii) cannot be cured within such sixty (60) day period, we shall have such additional period of time as shall be reasonably necessary to cure such default provided that we commence to effect a cure within such sixty (60) day period and diligently prosecute such cure to completion. Any default described above, which is not cured within the applicable notice and grace period described above, shall become a "Licensor Event of Default";

(2) Notice of termination shall be adequate, if mailed not less than seven (7) business days in advance of the termination date. Notwithstanding the foregoing, your failure to terminate the License Agreement shall not waive any of your termination rights under this letter; and

(3) Your notice of termination shall not relieve us of our obligations under this letter, the License Agreement or Attachment A to the License Agreement.

(B) Notwithstanding the foregoing paragraph, the License Agreement may be immediately terminated (or terminated at the earliest time permitted by applicable law) if one or more of the following material breaches to this letter, the License Agreement or any Attachment to the License Agreement occur:

(1) Any Licensor Event of Default where a prior Licensor Event of Default had also occurred during the preceding twelve (12) months, but the License Agreement was not terminated because we cured the prior Licensor Event of Default;

(2) Any Licensor Event of Default where you in your reasonable judgment believe that even if we were to cure such Licensor Event of Default the relationship between the parties has been irreparably damaged and cannot be satisfactorily restored;

(3) We shall:

(a) generally not pay our debts as they become due or shall admit in writing our inability to pay our debts, or shall make a general assignment for the benefit of creditors; or

(b) commence any case, proceeding or other action seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of us or our debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for us or for all or any substantial part of our property; or

(c) take any corporate or other action to authorize any of the actions set forth above in subparagraphs (xi)(B)(3)(a) or (xi)(B)(3)(b) above; or

(4) Any case, proceeding or other action against us shall be commenced seeking to have an order for relief entered against us as debtor, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of us or our debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for us or for all or any substantial part of our property, and such case, proceeding or other action (i) results in the entry of an order for relief against us which is not fully stayed within seven (7) business days after the entry thereof or (ii) remains undismissed for a period of forty-five (45) days; or

(5) An attachment remains on all or a substantial part of our assets for thirty (30) days; or

(6) We fail within sixty (60) days of the entry of a final judgment against us in any amount exceeding $5,000,000 to discharge, vacate or reverse the judgment, or to stay execution of it, or if appointed, to discharge the judgment within thirty (30) days after a final adverse decision in the appeal; or

(7) Any action is taken toward dissolving or liquidating us; or

(8) For so long as we are a member in you, we are or become a "Prohibited Person" (as defined in the Ground Lease) and as a result thereof a default occurs under the Ground Lease and we fail to cure such default as contemplated under Section 13.1 of the Operating Agreement.

Lastly, both of you and we hereby agree to the following matters:

(i) in the event that we enter into a license agreement (or any amendment to or modification of any license agreement) which provides that the licensee thereunder is obligated to pay less than 3.5% of Gross Suites Revenues (disregarding lower fees in connection with startup operations) in respect of Marketing/Reservations Contributions, then, we agree that we shall promptly notify you of such fact and we shall amend the License Agreement so that you pay the same Marketing/Reservations Contributions as such other licensee from the date such reduced fee becomes operative;

(ii) we acknowledge that any representation or statement made by you in the License Agreement regarding your title to or rights of occupancy in the Hotel are subject in all respects to the provisions of the Ground Lease and the Hotel Sublease and that you intend to encumber your title to and rights of occupancy in the Hotel to mortgage financing. In addition, we acknowledge that the Ground Lease and Hotel Sublease provisions regarding signage and design shall govern in all respects and shall be in lieu of any contrary or inconsistent provisions of the License Agreement, the Manual or the System;

(iii) we agree that in the event of any inconsistency between the provisions of this letter and the provisions of the License Agreement, the provision of this letter shall govern and be controlling;

(iv) this letter may be amended, modified, altered, supplemented or, terminated only by a written instrument signed by all the parties hereto;

(v) notices under this letter shall be sent to the parties at their respective addresses, and in the manner, set forth in the License Agreement;

(vi) for so long as we (or any one of our Entities) are managing the Hotel under the Management Agreement, subclauses (ii) and (iii) of the first sentence of Paragraph 9 of the License Agreement shall not operate and shall be superseded by the indemnity provisions set forth in the Management Agreement; and

(vii) we are both entering into this letter for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged.

Except as otherwise specifically provided herein, the provisions of this letter are not transferable and are exclusively for the benefit of the addressee hereof. Each of us agrees that the terms and conditions of this letter will, except to the extent required to be disclosed to or filed with a governmental authority pursuant to applicable legal requirements, be maintained in strictest confidence and shall not be disclosed or disseminated to any other person, other than to our respective attorneys, accountants and other independent advisors who have been advised of the provisions of this paragraph.

This letter shall be governed by and interpreted, construed and enforced in accordance with the laws of the State of Tennessee but we agree, and by your acceptance of this letter you agree, that the state and federal courts located in the County and State of New York shall have exclusive jurisdiction and venue over any judicial action between the parties arising out of this letter, except that the foregoing shall not prohibit either of the parties from joining the other as an additional party to an action brought elsewhere by an unrelated third party.

Very truly yours,

PROMUS HOTELS, INC.

By Ronald Halpern
Name: Ronald Halpern
Title: Senior Vice President

EXHIBIT F

HOTEL MANAGEMENT AGREEMENT

MANAGEMENT AGREEMENT

FOR THE

EMBASSY SUITES HOTEL - BATTERY PARK CITY/SITE 25

NEW YORK, NEW YORK

Date: October 5, 1998

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MANAGEMENT AGREEMENT

EXHIBIT 1

Reference Data

Embassy Suites - Site 25, Battery Park City
New York, New York

Execution Date:	October 5, 1998
Owner:	BPC Hotel LLC a New York limited liability company c/o Forest City Ratner Companies One Metrotech Center North Brooklyn, New York 11201
Manager:	Promus Hotels, Inc. a Delaware corporation c/o Promus Hotel Corporation 755 Crossover Lane Memphis, Tennessee 38117
Tradename:	Embassy Suites
Article 1.01(d)	Number of Suites: approximately 463.
Article 1.01(h)	Index City: New York
Article 2.04(c)	Deficit Loan: Amounts to be advanced by Manager as set forth in Article 2.04(c).
Article 2.03	Mezzanine Loan: $15,000,000 to be funded as set forth in Article 2.03.
Article 2.03	Manager's Equity Investment: To be funded as set forth in Article 2.03.
Article 3.01	Commencement Date: As defined in Section 3.01 at 11:59 p.m.
Article 3.02	Initial Term: The Initial Term shall expire 15 years after 100% of the guest rooms, all of the public spaces of the Hotel are substantially completed and ready for lawful use and occupancy for the lodging of guests and the kitchen has been completed and the restaurant operator is ready to provide food and beverage

services to the Hotel pursuant to a hotel services agreement to be entered into between Owner and such restaurant operator.

Article 3.03 — Extension Terms: Owner shall have the option to extend the term of this Agreement for one additional five-year period.

Article 3.04 — Owner's Performance Termination Right: As set forth in Article 3.04.

Article 8.06(b) — Replacement Reserve Commencement Date: First full calendar month after the Commencement Date.

Replacement Reserve Percentage: Monthly deposits into the Replacement Reserve Fund shall be an amount equal to the following monthly percentages of Total Sales (which term, for this purpose only, shall not include any parking revenues) for the preceding month: 2% for the first Fiscal Year beginning on the Commencement Date; 3% for the second Fiscal Year of operations; and 4% thereafter.

Article 11.01(a) — Base Management Fee: 1/2 of 1% of Total Sales for the first Fiscal Year beginning on the Commencement Date; 1% of Total Sales for the second Fiscal Year of operations; 1-1/2% of Total Sales for the third Fiscal Year of operations; and 2% of Total Sales for each Fiscal Year of operations thereafter, subject to possible reduction pursuant to Article 11.01(a).

Article 11.01(b) — Incentive Management Fee: 25% of Excess Cash Flow, but not to exceed 1.5% of Total Sales for any one Fiscal Year.

Article 18.01 — Principal Contact Persons:

For Owner: Forest City Ratner Companies
One Metrotech Center North
Brooklyn, New York 11201
Attention: Mr. Bruce C. Ratner

with a copy to: Mr. James Ratner
Forest City Rental Properties Corporation
1160 Terminal Tower
50 Public Square
Cleveland, Ohio 44113

For Manager: Mr. Richard M. Kelleher
Promus Hotel Corporation
755 Crossover Lane
Memphis, Tennessee 38117

Article 18.01 Attorneys for Copies of Notices:

For Owner: Forest City Enterprises, Inc.
1160 Terminal Tower
50 Public Square
Cleveland, Ohio 44113
Attention: General Counsel

with a copy to: Forest City Ratner Companies
One Metrotech Center North
Brooklyn, New York 11201
Attention: General Counsel

For Manager: M. Ronald Halpern, Esquire
Vice President and Deputy General Counsel
Promus Hotel Corporation
755 Crossover Lane
Memphis, Tennessee 38117

with a copy to: Graham R. Hone, Esquire
Dewey Ballantine LLP
1301 Avenue of the Americas
New York, New York 10019-6092

MANAGEMENT AGREEMENT

THIS AGREEMENT is dated effective as of the Execution Date, by and between the Owner and the Manager set forth in Exhibit 1. Each reference in this Agreement to any of the terms and titles contained in any Exhibit attached to this Agreement shall be deemed and construed to incorporate the data stated under that term or title in such Exhibit.

WITNESSETH:

WHEREAS, Owner intends to develop the Hotel (as defined below) in New York, New York; and

WHEREAS, Owner desires to have Manager provide certain services in connection with the development of the Hotel and to have Manager operate the hotel; and

WHEREAS, Manager is experienced in the equipping, management and operation of hotels;

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, Owner and Manager agree as follows:

ARTICLE 1

DEFINITIONS

1.01. Definitions. As used herein the following terms shall have the respective meanings indicated below:

Affiliate - any corporation or other entity controlled by, controlling or under common control with such corporation or other entity. The words "control," "controlled" and "controlling" mean ownership, directly or indirectly, of 50% or more of the legal or beneficial ownership interest of such corporation or other entity.

Affiliated Hotels - all hotels that are (i) managed by Manager or its Affiliates, (ii) are not Branded Hotels, and (iii) are provided by Manager with sales, promotion and reservations services within the "Embassy Suites" system.

Branded Hotels - all hotels operating under the tradename Embassy Suites and/or any other tradename(s) now or hereafter utilized by Manager or its Affiliates in substitution or replacement of the foregoing brands, regardless of whether such hotels are operated by Manager or its Affiliates, or are operated by others under franchise arrangements with Manager or its Affiliates.

Budgeted Senior Debt Amount - an amount equal to the maximum stated principal amount of the Construction Loan, as defined in the Venture Agreement, plus any increases in the principal sum advanced under the First Mortgage to

finance major capital improvements, alterations or additions in the nature of scope changes approved by the members of Hotel Member pursuant to the Venture Agreement.

Building - limited to that portion of the buildings, structures and improvements to be constructed within the Site and all fixtures and equipment to be attached to, forming a part of and necessary for the operation of such portion of such buildings, structures or improvements as a hotel (including, without limitation, heating, lighting, plumbing, sanitary system, air-conditioning, laundry, refrigeration, kitchen, elevators and similar items), all as leased to Owner pursuant to the Ground Lease, and (i) restaurants, bars and banquet, meeting and other public areas, (ii) commercial space, including concessions and shops (other than the newsstand and any other retail space in the ground floor lobby area), (iii) garage and parking space, if any, (iv) storage and service areas, (v) recreational facilities and areas, (vi) permanently affixed signage identifying the Hotel (but no other building signage), (vii) other facilities and appurtenances designated as part of the Hotel in the Schematic Plans listed on Exhibit A attached hereto, (viii) the Number of Suites, and (ix) any property rights appurtenant to the Site as set forth in the REA (with respect to the items described in clauses (i)-(v) limited solely to those areas within the portion of the building leased to Owner pursuant to the Ground Lease).

Cash Flow Available for Owner's Return - with respect to any Fiscal Year during the Term, the excess, if any, of Gross Operating Profit over the sum of (i) Specified Fixed Charges, (ii) the Senior Debt Service Component, and (iii) the amount of all required payments of principal and interest under the Mezzanine Loan.

Common Expense Charges - the share of maintenance and repair of exterior shared elements, exterior and loading dock security, and other expenses equitably allocable to the Building pursuant to the REA.

Competitive Hotels - initially the hotels listed on Exhibit C, as said list shall be revised once every three (3) years during the Term by mutual agreement of Owner and Manager, each acting reasonably (or, failing such mutual agreement, as determined by arbitration pursuant to Article 22.01(a)), based on the hotels in Manhattan most closely similar to the Hotel in terms of market niche, size, quality, location, amenities and physical condition.

Excess Cash Flow - with respect to each Fiscal Year during the Term, an amount equal to the excess, if any, of Cash Flow Available for Owner's Return, minus Owner's Return, determined on an annual, non-cumulative basis.

FF&E - all fixtures, furniture, furnishings and equipment (excepting Operating Equipment and Operating Supplies) required for the operation of the Hotel in accordance with the standards set forth in this Agreement, including, without limitation, (i) office furnishings and equipment, (ii) specialized hotel equipment necessary for the operation of any portion of the Hotel, including

equipment for kitchens, bars, restaurants and public rooms all to the extent in the Building, and (iii) all other furnishings and equipment necessary or desirable for the operation of the Hotel in accordance with the standards set forth in this Agreement.

First Mortgage - the allocable portion of the mortgage or mortgages entered into to secure indebtedness incurred for the construction and development of the Hotel, and all refinancings thereof as permitted under the Venture Agreement.

Fixed Charges - the exclusions from Operating Costs as specified in the definition of Operating Costs.

Gross Operating Profit - with respect to any Fiscal Year during the Term, the excess of (i) Total Sales minus (ii) Operating Costs. In computing Gross Operating Profit, there shall be excluded from Operating Costs all expenses for gratuities, service charges, sales and gross receipts taxes and other similar taxes and assessments to the extent that receipts in respect thereof are excluded from Total Sales pursuant to the definition of Total Sales.

Gross Rooms Sales - that portion of Total Sales which is derived solely from the sale or rental of guest rooms and suites.

Ground Lease - the lease or sublease with Ground Lessor to be entered into by Owner, as tenant, substantially on the terms set forth in the draft thereof dated August 24, 1998, a copy of which has been provided by Owner to Manager.

Ground Lessor - BPC Site 25 Associates LLC and following the Assignment Date, as defined in the Ground Lease, Battery Park City Authority.

Hotel - a collective term for the Building, the FF&E, the Operating Equipment and the Operating Supplies.

Index - the Consumer Price Index for Urban Wage Earners and Clerical Workers -- Series A (1982-84 = 100) as published by the United States Bureau of Labor Statistics for the Index City. If the compilation and/or publication of such Index shall be discontinued or transferred to any other governmental department or bureau or agency, Manager shall (subject to Owner's approval, which shall not be unreasonably withheld) fix an alternate index or method to implement the parties' intention that the purchasing power of the amounts to be adjusted by reference to the Index (as hereinafter provided in this Agreement) shall be the same as the purchasing power of the stated amounts as of the Execution Date (as hereinafter defined). Likewise, if such Index shall be modified as to components, computing methods or otherwise, then (subject to Owner's approval, which shall not be unreasonably withheld) Manager may fix an alternate index or method, as aforesaid, or Manager may utilize an appropriate conversion factor so as to achieve substantially the same result as would have been obtained if the Consumer Price Index in effect and as computed, calculated and constituted on the Execution Date were still then in effect.

License Agreement - the Embassy Suites® License Agreement dated the date hereof between Promus Hotels, Inc., as licensor, and Owner, as licensee, as modified by the side letter of even date herewith between the parties thereto, and as the same may hereafter be amended or modified from time to time.

Manager's Interest Rate - the per annum rate equal to 100 basis points in excess of the rate being charged from time to time to Manager and its Affiliates under their senior corporate debt facility, adjusted monthly. Manager shall certify its rate to Owner from time to time promptly upon request.

Manager's Loans - collective reference to the Mezzanine Loan and the Deficit Loan.

Mortgagee - the holder of the First Mortgage.

Operating Costs - the entire cost and expense of maintaining, operating and supervising the operation of the Hotel, all in accordance with the terms of this Agreement. Subject to the previous sentence, Operating Costs shall be the sum of such costs and expenses, determined on an accrual basis, which are normally charged as a cost of operation under the Uniform System of Accounts (as hereinafter defined), including, without limitation, the following costs of the Hotel:

(i) the cost of Operating Supplies and Operating Equipment;

(ii) wages, salaries, employee fringe benefits, payroll taxes, bonuses and other costs related to employees of the Hotel, in accordance with the terms of this Agreement;

(iii) all fees, assessments and charges due and payable under the License Agreement (collectively, the "License Fees");

(iv) utility and energy costs, costs of operating licenses and permits;

(v) all expenditures made for maintenance and repairs to keep the Hotel in good condition and repair;

(vi) the Base Management Fee provided for in Article 11.01(a);

(vii) all reimbursable expenses due Manager, to the extent authorized under the terms of this Agreement;

(viii) liability insurance premiums and premiums for other insurance to be carried by Manager pursuant to the requirements of Article 13 and the Insurance Schedule referred to therein;

(ix) reasonable reserves for uncollectible accounts receivable as set forth in the Approved Budgets;

(x) credit card, travel agent commissions and other third-party reservation fees and charges;

(xi) all parking charges and other expenses associated with revenues received by the Hotel related to parking operations including valet services; and

(xii) Common Expense Charges.

There shall be expressly excluded from Operating Costs the following, which shall be defined as "Fixed Charges":

A. depreciation of the Building, FF&E and Operating Equipment, and amortization of financing costs, pre-opening expenses, organizational and other costs;

B. debt service (whether interest or principal) on the First Mortgage and on Manager's Loans;

C. legal and other professional fees, other than those properly included in Operating Costs under the Uniform System of Accounts;

D. other recurring and non-recurring ownership costs, such as partnership administration and servicing fees;

E. the Incentive Management Fee provided for in Article 11.01(b);

F. Specified Fixed Charges; and

G. capital repairs and other cash expenditures which are normally treated as a capital expenditure under the Uniform System of Accounts or generally accepted accounting principles.

Operating Deficit - the amount, if any, by which for any Fiscal Year (a) the sum of (i) Operating Costs (adjusted as set forth in the definition of Gross Operating Profit), (ii) Specified Fixed Charges, and (iii) required payments of principal and interest under the First Mortgage (but excluding any portion of such payments allocable to principal outstanding under the First Mortgage in excess of $73,950,000, exceeds (b) Total Sales. For purposes of this definition, the first Fiscal Year shall not be deemed to commence until 100% of the guest rooms, all of the public spaces of the Hotel are substantially completed and ready for lawful use and occupancy for the lodging of guests and the kitchen has been completed and the restaurant operator is ready to provide food and beverage services to the Hotel pursuant to a hotel services agreement to be entered into between Owner and such restaurant operator. Any required payments under the Mezzanine Loan shall not be taken into consideration in the calculation of Operating Deficit.

Operating Equipment - all operating equipment required for the operation of the Hotel, including chinaware, glassware, linens, silverware, utensils, uniforms and all other similar items.

Operating Supplies - food and beverages and other consumable items used in the operation of a hotel, such as fuel, soap, cleaning materials, matches, stationery and all other similar items.

Operations Test - this test shall be satisfied with respect to a Fiscal Year if, for that Fiscal Year, the RevPar of the Hotel is equal to or greater than the average, weighted based on the number of rooms in each hotel, of the RevPars of each of the Competitive Hotels.

Owner's Equity - the difference of (a) $123,250,000 plus the cost of subsequent major capital improvements, additions or alterations in the nature of scope changes approved by the members of Hotel Member pursuant to the Venture Agreement, minus (b) the sum of: (i) the maximum stated principal amount of the Construction Loan, and (ii) $15,000,000, representing the amount of the Mezzanine Loan.

Owner's Return - with respect to each Fiscal Year, a sum equal to twelve percent (12%) of Owner's Equity, calculated on an annual, non-cumulative basis, pro-rated for any partial Fiscal Year. For purposes of determining Excess Cash Flow in the calculation of the Incentive Management Fee, but not for purposes of determining whether the Yield Test is satisfied, Owner's Return for Fiscal Years after the first Fiscal Year shall be adjusted based on changes in the Index, determined by reference to the Index in effect on January 1 of the relevant Fiscal Year as compared to the first day of the previous Fiscal Year.

Portfolio Hotels - collectively, the Branded Hotels and the Affiliated Hotels and all other hotels managed by Manager as part of the Embassy Suites system (regardless of tradename).

REA - the Declaration and REA, as defined in the Ground Lease, as applicable.

RevPar - revenues per available room, as determined in accordance with hotel industry standards and as published by the STAR Research Report of Smith Travel Research or, if such publication is no longer in existence, as determined in a manner mutually acceptable to Owner and Manager based on the most reputable and accepted means of publishing such data under then current industry practices. If no such report is then published and the parties cannot agree on a substitute method, the dispute shall be resolved by arbitration pursuant to Article 22.

Sale - any sale, transfer or conveyance of the Hotel, or of all of the equity interests in Owner, or any lease of all or substantially all of the Hotel, in an arms' length transaction to a party that is not an Affiliate of Owner or of any member of Owner, but specifically excluding (i) any permitted transfer pursuant to Article 17.04, and (ii) any transfer by foreclosure or deed in lieu of foreclosure.

Senior Debt Service Component - an annual amount equal to twelve times the monthly payment of principal and interest that would be payable on a mortgage loan, assuming (i) a principal amount equal to the Budgeted Senior Debt Amount, (ii) an interest rate equal to the fair market interest rate for an institutional senior permanent loan for similar transactions closing at or about the time of the Commencement Date, (iii) equal monthly installments of principal and interest in an amount adequate to fully amortize all principal and interest over a 25-year term. The annual amount so determined shall be the Senior Debt Service Component for each Fiscal Year (pro-rated for any partial fiscal year), regardless of actual debt service payments from time to time under any mortgage loan or refinancing thereof throughout the Term.

Site - the land that is to be demised to Ground Lessor pursuant to the ground lease between Battery Park City Authority and Ground Lessor and on which the Building is to be constructed, known as Site 25, Battery Park City, in the City of New York, New York, and more particularly described on Exhibit "B".

Specified Fixed Charges - The following cash expenditures made in connection with the operation of the Hotel:

(1) real estate taxes and assessments and payments in lieu of such taxes and assessments as may be required pursuant to the Ground Lease (including payments to tax or PILOT escrow accounts, but without duplication with respect to taxes subsequently paid out of such tax or PILOT escrow accounts);

(2) fire, casualty and extended coverage insurance premiums consistent with the requirements of Article 13, and premiums for any other insurance to be carried by Owner pursuant to Article 13 and the Insurance Schedule referred to in Article 13;

(3) payments pursuant to any equipment leases or installment sales contracts for items and amounts that are consistent with prudent industry standards;

(4) rental payments (including, without limitation, base rent and additional rent and percentage rent) pursuant to the Ground Lease;

(5) the cost of the annual audits of the Hotel operations, as described in Article 9.01(b) below; and

(6) payments into the Replacement Reserve Fund.

Total Sales - all revenues and income of any nature derived from the Hotel or from the use or operation thereof, including total room sales, food and beverage sales (excluding food and beverage revenues received by a lessee or other third-party, except to the extent of any rent, percentage rent or other sum payable to Owner or Manager on account thereof), telephone, telegraph,

telecopier and telex revenues, in-room video and dry cleaning and laundry service receipts, overnight parking charges (but only to the extent processed as part of the guest folio of a hotel guest), valet parking charges, if any, and revenues received from valet parking operations serving the Hotel, and rental or other payments from lessees and sublessees, if any, (but not the gross receipts of such lessees and sublessees). If Manager itself operates any facilities instead of having them operated by a lessee, such as a newsstand, gift shop or other store, the gross receipts of such facility or store shall also be included in Total Sales. There shall be excluded from Total Sales: (i) any gratuities or service charges added to a customer's bill and subsequently distributed to Hotel employees; (ii) any credits or refunds made to customers, guests or patrons; (iii) any sums and credits received by Owner for lost or damaged merchandise; (iv) any sales taxes, excise taxes, gross receipt taxes, rooms taxes (including surcharges and assessments imposed on hotel room charges by a governing authority) admission taxes, entertainment taxes, tourist taxes or charges; (v) any proceeds from the sale or other disposition of the Hotel, FF&E, or other capital assets; (vi) any interest paid with respect to the Replacement Reserve Fund; (vii) any fire and extended coverage insurance proceeds; (viii) any condemnation awards; (ix) any proceeds of financing or refinancing of the Hotel; (x) any funds advanced under any of the Manager's Loans; and (xi) revenues from any non-Hotel building signage. Total Sales shall be determined on an accrual basis and in accordance with the Uniform System of Accounts or generally accepted accounting principles, consistently applied. Total Sales shall exclude non-cash items except as otherwise provided in this Agreement or in the Uniform System of Accounts.

Uniform System of Accounts - the Uniform System of Accounts for Hotels, Eighth Revised Edition, 1986, as published by the Hotel Association of New York City, Inc., as the same may be further revised from time to time.

Yield Test - this test shall be satisfied with respect to a Fiscal Year if the Cash Flow Available for Owner's Return is equal to or greater than Owner's Return for such Fiscal Year.

1.02. Other Definitions. As used herein, the following terms have the meanings set forth in the respective Articles or Exhibits indicated below:

Additional Services	Article 10.01
Annual Business Plan	Article 9.02(b)(1)
Approved Budget	Article 9.02(b)(1)
Bank Account	Article 9.03(a)
Base Management Fee	Article 11.01(a)
Beneficial Owner	Article 17.04
Capital Repairs	Article 8.08(a)
Capital Repairs Budget	Article 8.09
Commencement Date	Article 3.01
Competitive Standards	Article 6.01
Defaulting Party	Article 16.02(a)
Deficit Loan	Article 2.04

Event of Default	Article 16.01
Execution Date	Exhibit 1
Executive Employees	Article 14.01(d)
Extension Term	Article 3.03
Extension Term Option	Article 3.03
Fiscal Year	Article 9.01(c).
FF&E Replacement Budget	Article 8.09
FF&E Replacements	Article 8.06(a)
Hotel Member	Article 2.03(a)
Incentive Management Fee	Article 11.01(b)(i)
Index City	Exhibit 1
Initial Term	Article 3.02
Interested Persons	Article 25.06
Loan Agreement	Article 2.03
Manager	Exhibit 1
Mezzanine Lender	Article 2.03(b)
Mezzanine Loan	Article 2.03(b)
Minimum Balance	Article 2.04(b)
Number of Keyed Guest Rooms	Exhibit 1
Non-Defaulting Party	Article 16.02(a)
Operating Budget	Article 9.02(b)(1)
Owner	Exhibit 1
Permitted Encumbrances	Article 4.01
Pre-Opening Budget	Article 2.05(b)
Pre-Opening Services	Article 2.05(b)
Replacement Reserve Commencement Date	Exhibit 1
Replacement Reserve Fund	Article 8.06(b)
Replacement Reserve Percentage	Exhibit 1
Reserve for FF&E Replacements	Article 8.06(b)
Term	Article 3.03
Tradename	Article 7.01
Uncured Deficit	Article 2.04(c)
Venture Agreement	Article 2.03(a)

ARTICLE 2

SCOPE OF AGREEMENT; DEVELOPMENT OF THE HOTEL; SOURCE OF FUNDS

2.01. Subject Matter. The subject matter of this Agreement is the Hotel referred to in Exhibit 1.

2.02. Grant to Manager. Owner hereby grants to Manager the sole and exclusive right for the term of this Agreement (as said term may be extended pursuant to this Agreement) to supervise and direct the management and operation of the Hotel for the account of Owner, and Manager hereby accepts said grant and agrees that it will supervise and direct the management and operation of the Hotel, all pursuant to the

terms of this Agreement, subject to the Approved Budget and in accordance with the standards set forth in Article 6.01. Owner agrees that it will cooperate with Manager in every reasonable and proper way to permit and assist Manager to carry out its duties hereunder. To the extent Manager enters into contracts and takes actions on behalf of Owner within the scope of its authority pursuant to this Agreement, Manager shall act as the agent of Owner; such agency is coupled with an interest, in view of Manager's equity interest under the Venture Agreement, and is irrevocable except in the case of a termination of this Agreement as permitted herein. Owner and Manager further agree that this Agreement provides for management in respect of the Hotel, that Owner and Manager do not intend, nor does this Agreement grant or create, a franchise within the meaning of the Federal Trade Commission Act, any rule or regulation promulgated thereunder, or any other applicable law, rule, regulation or judicial decision.

2.03. Manager's Equity Investment in Owner; Mezzanine Loan.

(a) Manager is the holder of an equity interest in BPC Hotel Member LLC ("Hotel Member"), a member of Owner, pursuant to the Operating Agreement of Hotel Member executed on the Execution Date (as amended from time to time, the "Venture Agreement"). Pursuant to the Venture Agreement, Manager is making contributions to the capital of Hotel Member in the amounts set forth therein.

(b) Pursuant to that certain Loan Agreement of even date herewith, as amended from time to time (the "Loan Agreement"), between Promus Hotels, Inc. ("Mezzanine Lender"), as lender, and Hotel Member, as borrower, and subject to the terms thereof, Mezzanine Lender shall advance to Owner the sum of $15,000,000 (the "Mezzanine Loan"), secured solely by a pledge of Hotel Member's membership interests in Owner and of the issued and outstanding shares of capital stock of FCDT-BPC Corp., to finance in part the costs of development, construction and furnishing of the Hotel.

2.04. Funding; Manager's Deficit Loan.

(a) With the exception of the funds to be advanced by Manager under Manager's Loans, Owner agrees to provide all funds, both initially and throughout the term of this Agreement, as shall be necessary to pay for all Operating Costs and Fixed Charges relating to the Hotel, and to perform and satisfy Owner's covenants and responsibilities under this Agreement. The performance of all activities by Manager hereunder shall be for the account of Owner.

(b) Upon the Commencement Date, Owner shall deposit in the Bank Account, and throughout the term of this Agreement Owner shall maintain, a minimum balance in the Bank Account (the "Minimum Balance") as agreed upon by Owner and Manager from time to time, giving consideration to the working capital required for the efficient operation of the Hotel. The Minimum Balance shall serve as working capital for Hotel operations. Owner shall furnish Manager from time to time, within seven (7) days of Manager's request therefor and Manager's funding its share thereof if and to the extent required under the Venture Agreement, sufficient funds to make up any deficiency in the Minimum Balance.

(c) If, with respect to any Fiscal Year through and including the fourth Fiscal Year, but not thereafter, an Operating Deficit exists and the amount of such Operating Deficit is greater than the reduction in the Base Management Fee pursuant to the terms of Article 11.01(a) (the amount of such Operating Deficit in excess of the reduction in Base Management Fee being referred to in this Agreement as an "Uncured Deficit"), Manager shall advance to Hotel Member, for contemporaneous advance to Owner, the amount of such Uncured Deficit in the form of a loan (the "Deficit Loan") subject to and in accordance with the terms of this Article 2.04(c); provided, however, that the total of all principal advances thereunder required to be made by Manager during the Term shall be limited to $5,000,000, based on the amount outstanding at the end of any Fiscal Year after taking into account the year-end reconciliations set forth below in this paragraph (c). At no time shall the outstanding principal balance under the Deficit Loan be greater than $5,000,000. The Deficit Loan shall be advanced on a monthly basis during the relevant Fiscal Year, in an amount equal to the actual deficit for the preceding calendar month, subject to quarterly adjustment based on year-to-date results and subject to final year-end reconciliation based on the audited results for such Fiscal Year. If such year end audit shows that the amounts advanced by Manager during such Fiscal Year exceeded the actual Uncured Deficit for such Fiscal Year, the excess shall be promptly paid by Owner to Hotel Member, for contemporaneous repayment to Manager, and any such excess so repaid shall not be deemed to have been advanced for purposes of calculating the $5,000,000 maximum; if, on the other hand, the year-end audit shows that the total advances made by Manager for such Fiscal Year were less than the actual Uncured Deficit for such Fiscal Year, Manager shall promptly advance the difference, subject to the $5,000,000 maximum set forth above. Any Uncured Deficits that exist at a time when the principal balance outstanding under the Deficit Loan is $5,000,000 shall be funded by Owner. Interest on the Deficit Loan shall accrue at Manager's Interest Rate. The Deficit Loan shall be secured by the same security documents and instruments securing the Mezzanine Loan, unless prohibited by the terms of the First Mortgage documents. Payments of interest and principal on the Deficit Loan shall be made in each Fiscal Year in an amount equal to the lesser of (x) the total outstanding principal and interest outstanding under the Deficit Loan, or (y) 50% of the amount by which the Cash Flow Available for Owner's Return for such Fiscal Year, minus the Incentive Fee paid to Manager for such Fiscal Year, exceeds 13% of Owner's Equity. Upon a termination of this Agreement based on Manager's performance pursuant to Article 3.04 or based on Manager's default or Owner's default pursuant to Article 16.02, the Deficit Loan shall be deemed to be a part of the Mezzanine Loan and shall be governed for all purposes by the terms of the Loan Documents applicable to the repayment of the Mezzanine Loan upon the occurrence of such termination events. Upon any termination or expiration of this Agreement other than as set forth in the preceding sentence, the Deficit Loan, and all interest thereon, shall be immediately due and payable. Hotel Member has joined in the execution of this Agreement for the purpose of agreeing to be bound by the terms of this Article 2.04(c).

2.05. Development of the Hotel; Pre-Opening Services.

(a) Development of the Hotel. As of the Execution Date of this Agreement, Owner is in the course of developing the Hotel, and intends shortly to commence construction thereof, all in accordance with the standards of an Embassy

Suites hotel, pursuant to the Venture Agreement. Pursuant to the Venture Agreement and subject to the terms thereof, Manager is obligated to cause the Hotel to be "Fully Opened", as defined in the Venture Agreement by the later to occur of the Anticipated Closing Date, as defined in the Venture Agreement, as extended in accordance with the provisions of the Venture Agreement, and the date of Completion of Construction, as defined in the Venture Agreement. Manager shall cause the Hotel to be opened for business on such date regardless of whether a liquor license has been obtained for the Hotel's food and beverage operations. Owner and Manager shall cooperate in good faith in all activities and efforts necessary for the opening of the Hotel, consistent with the respective financial obligations of the parties as set forth in the Venture Agreement.

(b) Pre-Opening Services. During the period between the Execution Date of this Agreement and the Commencement Date, Owner hereby appoints and employs Manager to recruit all personnel for the operation of the Hotel, to establish and implement training programs for such personnel, to advertise and market the Hotel, to coordinate with Owner the planning and implementation of opening ceremonies and to provide agreed upon management services in connection with preparing the Hotel for opening (the "Pre-Opening Services"). Owner and Manager have agreed upon the pre-opening budget attached hereto as Exhibit D (the "Pre-Opening Budget"), which sets forth the estimated costs of providing the Pre-Opening Services. With the exception of sums paid out of Manager's own funds, Manager agrees not to expend amounts for Pre-Opening Services in excess of the Pre-Opening Budget without the consent of Owner, such consent not to be unreasonably withheld or delayed. Owner shall pay Manager, as a fee for the performance of the Pre-Opening Services, the Pre-Opening Fee set forth in the Pre-Opening Budget, payable in twelve equal monthly installments each on the first day of each month, commencing on a date projected by Owner to be approximately one year before the Commencement Date.

2.06. Relationship with Ground Lessor and Mortgagee.

(a) The rights of Manager under this Agreement shall be subject and subordinate to the rights of Ground Lessor under the Ground Lease. Manager shall attorn to and recognize Ground Lessor as the Owner under this Agreement.

(b) Manager shall, at the request of Owner and Mortgagee, execute and deliver such instruments as may be requested by Mortgagee to evidence the subordination of this Agreement and the right of Mortgagee to terminate this Agreement upon a foreclosure or deed in lieu of foreclosure of the First Mortgage, or upon Mortgagee's entering into possession of the Hotel, provided that such instrument is commercially reasonable.

ARTICLE 3

TERM AND EXTENSIONS; CERTAIN TERMINATION RIGHTS

3.01. Commencement Date. The Commencement Date of the Initial Term hereunder shall be the date on which the Hotel first opens for business to the public for the lodging of guests.

3.02. Initial Term. The initial term (the "Initial Term") of this Agreement shall begin on the Commencement Date and shall end, unless sooner terminated as provided in this Agreement, on the fifteenth anniversary of the date on which 100% of the guest rooms, all of the public spaces of the Hotel are substantially completed and ready for lawful use and occupancy for the lodging of guests and the kitchen has been completed and the restaurant operator is ready to provide food and beverage services to the Hotel pursuant to a hotel services agreement to be entered into between Owner and such restaurant operator. Notwithstanding that the Initial Term does not commence until the Commencement Date, this Agreement shall be binding and enforceable immediately upon execution by both parties hereto, except for those obligations which expressly or by their nature are not to be performed until the opening of the Hotel for the lodging of guests.

3.03. Extension Term. Owner shall have one option (the "Extension Term Option") to extend this Agreement for five years (the "Extension Term", and together with the Initial Term, the "Term") upon the same terms and conditions as provided for herein with respect to the Initial Term, except that there shall be no further right to extend the term of this Agreement. The Extension Term shall be effective immediately following the Initial Term. The Extension Term Option shall be exercisable by Owner by giving written notice to Manager at least ninety (90) days prior to the expiration of the Initial Term.

3.04. Owner's Termination Right Based Upon Performance.

(a) Commencing after the third full Fiscal Year of Hotel operation, Owner shall have the right, at its sole election, to terminate this Agreement (subject to the terms of this Article 3.04, including Manager's cure right as set forth below) on sixty days' prior written notice, without the payment of any termination fee or other compensation (without affecting, however, Owner's obligation to repay Manager's Loans after such termination, as required elsewhere in this Agreement or in the documents evidencing and securing the Manager's Loans, or any rights of the parties or their Affiliates under the Venture Agreement), if for each of any two consecutive Fiscal Years starting no earlier than the second full Fiscal Year of Hotel operation, the Hotel fails to satisfy the Yield Test and fails to satisfy the Operations Test.

(b) The Owner's right to terminate shall be valid only if exercised within 120 days after the expiration of the applicable two consecutive Fiscal Year measurement period; provided, however, that if Manager shall have failed to provide the annual operating statement with respect to the second of such two Fiscal Years timely as required under Article 9.01 below, the 120-day time period as aforesaid shall be extended for such number of days as Manager shall have been delinquent in providing such operating statement; and provided further that if upon the conclusion of such 120-day period any good faith dispute exists between Owner and Manager with respect to the determination of whether the Yield Test and/or the Operations Test have been satisfied, the 120-day period shall be extended until the resolution of such dispute, up to an additional 120 days, or (if later) the date of conclusion of any arbitration proceedings pending between the parties with respect thereto. The failure by Owner to terminate this Agreement at the conclusion of any Fiscal Year in which Owner is permitted to do so

hereunder shall not prevent Owner from including such Fiscal Year in the two-year measuring period under paragraph (a) above with respect to the subsequent Fiscal Year.

(c) Notwithstanding the foregoing, upon receipt of any such written notice of termination from Owner, Manager shall have the right to nullify such termination and cure the circumstances resulting therein, by paying to Owner a non-reimbursable sum equal to, at Manager's election, either of the following two amounts, each determined with respect to the most recent of the two consecutive Fiscal Years that are the subject of such termination notice: (i) the incremental amount of Cash Flow Available for Owner's Return that would have been necessary to satisfy the Yield Test for such Fiscal Year, or (ii) the incremental amount of Gross Operating Profit that would have been necessary to satisfy the Operations Test for such Fiscal Year. Notwithstanding Manager's making of such cure as permitted in this paragraph, the second of the two Fiscal Years that were the subject of Owner's attempted termination shall continue to be eligible to be considered in any termination by Owner in the subsequent Fiscal Year pursuant to this Article 3.04.

3.05. Termination on Sale; Conversion to License Agreement.

(a) Upon the occurrence of any Sale after the third anniversary of the Commencement Date, Owner shall have the right to terminate this Agreement, effective as of the closing of such Sale, by providing written notice of termination to Manager and complying with the following: (A) Owner shall have paid to Manager a termination payment of $8,000,000, the receipt of which by Manager shall be a condition precedent to the termination of this Agreement; provided, however, that no such payment shall be required in connection with a sale of the Hotel to Manager or any Affiliate of Manager or its designee pursuant to the provisions of Article 17 below, and no such payment shall be required after the expiration of the Initial Term; (B) Owner shall have complied with the right of first refusal as set forth in Article 17 below and Manager shall have waived or be deemed to have waived its purchase rights pursuant to that Article; (C) Owner's transferee shall agree to enter into a license agreement with Manager, effective as of such termination date, the execution of which shall be a condition to termination of this Agreement, providing for the continued operation of the Hotel by Owner's transferee under the Tradename, providing for the same royalty fee, marketing and central reservations contributions and other fees and costs as are set forth in the License Agreement, having a term equal to what would have been the remaining balance of the term of the License Agreement, and being otherwise substantially on the form of the License Agreement, except that licensor under the new license agreement shall receive an application fee in an amount then currently being charged by such licensor and the Owner's transferee shall agree to perform any upgrading or product improvement plan then required to bring the Hotel into compliance with any system-wide standards; and (D) Owner shall have complied with the provisions of Article 3.06 below with respect to Manager's Loans. Owner shall have no right to terminate this Agreement on a Sale occurring prior to the third anniversary of the Commencement Date.

(b) Upon the occurrence of a Sale after the tenth anniversary of the Commencement Date, Owner shall have the right to terminate this Agreement effective as of the closing of such Sale, by providing written notice of termination to Manager and

complying with the following: (A) Owner shall have paid to Manager a termination payment of $8,000,000, the receipt of which by Manager shall be a condition precedent to the termination of this Agreement; provided, however, that no such payment shall be required in connection with a Sale of the Hotel to Manager or any Affiliate of Manager or its designee pursuant to the provisions of Article 17 below and no such payment shall be required after the expiration of the Initial Term; and provided further, that no such payment shall be required if Owner or its predecessor shall have previously paid such sum pursuant to a termination of this Agreement under paragraph (a) above; and (B) Owner shall have complied with the provisions of Article 3.06 below with respect to Manager's Loans.

3.06. Termination Provisions Relating to Manager's Loans. Notwithstanding anything to the contrary contained in this Agreement, it shall be a condition precedent to the effectiveness of the expiration of the Term or the termination of this Agreement or Manager's rights hereunder for any reason whatsoever, that (a) all sums then outstanding under Manager's Loans (with Owner entitled to an off-set for any sums owing by Manager to Owner hereunder) be paid in full, except as otherwise set forth in the Loan Documents, and (b) Hotel Member, or its successor as member of Owner, shall have complied with the provisions of the Venture Agreement governing the rights and duties of the members upon termination of this Agreement. If such sums are not paid in full (subject to the reductions and off-sets as aforesaid and except as aforesaid) or such obligations are not performed, this Agreement and Manager's right to operate and possess the Hotel shall continue in full force and effect until such sums are so repaid.

3.07. Termination - Loan Default. In the event that, in connection with any First Mortgage (a) the Mortgagee exercises any right, following a default and subsequent acceleration of the loan secured by the First Mortgage, to terminate this Agreement, and (b) Owner's interest in the premises encumbered by the First Mortgage is not, prior to the expiration of the Termination Period, transferred or terminated in connection with the foreclosure of the First Mortgage, a deed-in-lieu of foreclosure or a termination in connection with or as a result of, or following the appointment of a receiver, or otherwise transferred to the Mortgagee or its nominee or designee (the retention by Owner of a non-economic interest only in the premises being deemed a termination of Owner's interest in the Premises), then Manager shall be entitled to receive as a termination fee an amount equal to $5,000,000. The termination fee shall be paid thirty (30) days after the later to occur of (i) one year after the termination of this Agreement as contemplated in this Section 3.07, or (ii) the expiration or termination of any provision of the First Mortgage which provides that payment of the termination fee contemplated in this Section 3.07 constitutes a violation of the provisions of the First Mortgage or (iii) the transfer by Owner of its interest in said premises. The one year period contemplated in clause (i) above shall be tolled during any period of time during which the Mortgagee is pursuing the enforcement of any of its remedies under the First Mortgage. Notwithstanding anything contained herein to the contrary, no termination fee shall be payable to Manager if the termination is a result of any failure of Manager to perform its obligations in accordance with the Management Agreement. The "Termination Period" is the period ending on the date that is twelve (12) full months after the termination of the Management Agreement as contemplated in this Section 3.07.

ARTICLE 4

TITLE TO HOTEL

4.01. Ownership. Owner represents that it holds a subground leasehold estate in the Site, subject only to the First Mortgage, the Ground Lease, following the Assignment Date, the REA, and such matters as are referred to in the Ground Lease, all taxes and assessments which are a lien thereon and other instruments of record (collectively, the "Permitted Encumbrances").

4.02. Covenants of Title. Provided Manager is not in default hereunder and subject to the provisions of this Agreement regarding subordination, Owner covenants during the term hereof that Manager shall and may peaceably and quietly have the right to operate the Hotel in accordance with the terms of this Agreement, free from eviction and disturbance by Owner or by any person through whom Owner shall derive its title to or right to occupy and use the Hotel or by any other person or persons claiming by, through or under Owner. Owner covenants that throughout the term of this Agreement, it will pay, keep, observe and perform in all respects all payments, terms, covenants, conditions and obligations to be made, kept, observed or performed by Owner under the Permitted Encumbrances and under any lease, concession or other agreement, mortgage or security agreement in respect of the Hotel, and will provide all funds as set forth in the Approved Budget and/or as required by this Agreement as shall be necessary to perform Owner's obligations hereunder. Owner further covenants, at its own expense, to undertake and prosecute or to permit Manager (with Owner's prior written approval) to undertake and prosecute all appropriate actions, judicial or otherwise, required to assure such quiet and peaceable right to operation by Manager. Owner also covenants and agrees to pay, prior to delinquency, all taxes and assessments which may become a lien on or are assessed against the Hotel or any component thereof and which may be due and payable during the term hereof, unless payment thereof is in good faith being contested by Owner, enforcement is stayed or the amount so contested is escrowed or guaranteed in a form satisfactory to Manager. Notwithstanding the foregoing, no provisions of this Article 4 or of this Agreement shall be construed to make Owner or any of its partners personally liable to pay any mortgage encumbering the Hotel or to expand upon the non-recourse liability of Owner and its partners under any such mortgage. Any default under the Ground Lease or under the Permitted Encumbrances occasioned by an act or omission by Manager shall not be deemed to be a breach by Owner of the foregoing obligations.

ARTICLE 5

INTENTIONALLY OMITTED

ARTICLE 6

STANDARDS AND MANAGER'S CONTROL

6.01. Operational Standards. Manager shall operate the Hotel at the expense of Owner in accordance with the provisions of this Agreement and in compliance with the Ground Lease, the REA, the First Mortgage, Permitted Encumbrances, all applicable laws and ordinances, and in compliance with the requirements set forth in the Ground Lease. In complying with the Ground Lease, REA, First Mortgage and Permitted Encumbrances, Manager shall be entitled to rely on the advice or directives of Owner. Manager further agrees that it will, to the extent economically and legally possible and within the parameters of the Approved Budget, operate the Hotel as a first-class hotel in a manner commensurate with the Competitive Standards. As used herein, the "Competitive Standards" shall mean those standards generally in effect, as of the date of this Agreement, for the Competitive Hotels identified on Exhibit C, recognizing the physical and geographic differences among them. Owner has informed Manager that it presently intends to engage a restaurant operator who shall lease that portion of the Building which comprises the kitchen and provide the food and beverage services to the Hotel and that the Retail Unit Owner (as defined in the Venture Agreement) will engage the same restaurant operator to lease the restaurant located in the Retail Unit (as defined in the Venture Agreement). Manager agrees that if (x) not less than ninety (90) days prior to the Anticipated Opening Date (as defined in the Venture Agreement) or (y) in the event the Hotel opens with a restaurant operator, at any time during the term of this Agreement, Owner delivers a written notice to Manager requesting Manager to provide food and beverage service to the Hotel (which notice in the case of the circumstances described in clause (y) shall be delivered not less than ninety (90) days prior to the date on which Manager is to provide such services), Manager shall provide food and beverage service to the Hotel consistent with operating standards for food and beverage services employed by Manager at hotels it manages in the northeast under the "Embassy Suites" brand name, so long as on the date Manager is to provide such services it has free and unfettered access to the portions of the Building constituting the kitchen. In the event Manager is to provide the food and beverage services in accordance with the foregoing, (i) Manager further agrees that, so long as the agreement between Owner and Manager regarding such services so contemplates, if Owner subsequently obtains a restaurant operator reasonably acceptable to Manager, it shall cease performing such food and beverage service upon not less than thirty (30) days' prior written notice to Manager from Owner and (ii) Owner agrees to (a) pay any costs and expenses necessary to bring the kitchen to an operational status sufficient for Manager to perform in accordance with the foregoing provisions and (b) negotiate in good faith the economic terms of any such food and beverage service to be provided by Manager and the terms of any cessation in its providing such services as contemplated in clause (i) above. Manager further agrees (x) that if requested by Owner to commence such services at an earlier date than that contemplated above, it shall endeavor to do so but without any liability on its part if it fails to provide such services by such earlier date and (y) to similarly negotiate in good faith the terms contemplated in clause (ii)(b) above.

6.02. Manager Control. Manager shall have the right in its sole discretion to determine operating policy, standards of operation, quality of service and

any other matters affecting customer relations or the efficient management and operation of the Hotel, in all cases consistent with the Approved Budget and Section 6.01; provided, however, that with respect to determining whether and for how long to keep open or to close any portion of the Hotel, Manager shall (a) adhere to prudent hotel industry standards as in effect at the Competitive Hotels, and (b) act so as to maximize profits and minimize losses from the operation of the Hotel. Without limiting the foregoing, Manager shall have absolute discretion in determining the terms of guest admittance to the Hotel, use of rooms for commercial purposes, policies relating to entertainment, labor policies (upon good faith consultation with Owner), charges for rooms and commercial space, credit policies, food and beverage services, menu prices and other guest charges, receipt, holding and disbursement of funds (subject to the terms of this Agreement and of the First Mortgage, provided that the relevant terms of the First Mortgage do not materially inhibit the standard operating procedures utilized by Manager), maintenance of bank accounts (subject to the terms of this Agreement and of the First Mortgage, provided that the relevant terms of the First Mortgage do not materially inhibit the standard operating procedures utilized by Manager), and, from Owner's funds, the procurement of inventories, supplies and services, promotion and publicity, including without limitation, the right to provide complimentary or discounted food, beverages, rooms and the use of other Hotel facilities to existing or potential customers, employees and others. In setting all material policies relating to the Hotel, Manager shall give due consideration to the input of Owner, but Owner will not materially interfere or involve itself in any way with the day-to-day operation of the Hotel. Owner shall also be entitled to have reasonable access to the Hotel and the right to inspect the Hotel, subject to the rights of guests and the non-interference covenant of the previous sentence. Representatives of Manager and Owner shall meet on a quarterly basis at the Hotel to discuss the year-to-date operations of the Hotel and such other matters as may be appropriate relating to the operations of the Hotel. Manager shall have the right to institute legal proceedings with regard to the Hotel or its operations in its own name, without the consent of Owner; provided that Owner's consent shall be required as to any such legal proceeding that involves an amount in controversy in excess of $25,000.

6.03. Contractual Authority. Subject to the limitations contained elsewhere in this Agreement (including, without limitation, the Approved Budget limitations), Manager is and shall be authorized to make, enter into and perform in the name of, for the account of, on behalf of and at the expense of Owner any contracts and agreements deemed necessary by Manager to carry out and place in effect the terms and conditions of this Agreement, including the execution by Manager in Owner's name of equipment leases and the like relating to the Hotel. Manager agrees that if First New York Management, an entity affiliated with Forest City, as defined in the Venture Agreement, or an affiliate thereof (collectively, "First Management"), provides or in the future provides, repair, maintenance, security and other building services but not hotel management services as described in this Agreement, so long as the quality of such service is consistent with industry standards, as reasonably determined by Manager, and the terms of any contract or agreement to be entered into with First Management are fair and reasonable to Owner and are not less favorable than could be obtained in arm's-length negotiations with unrelated third parties for similar services, Manager shall enter into a contract or agreement with First Management for the relevant services. Provided, however, Manager shall not, without Owner's prior approval, execute any contract in

Owner's name which (a) is not provided for in the Approved Budget; (b) extends beyond one (1) year and is not cancelable by Owner without penalty thereafter upon sixty (60) days notice or less; or (c) provides for aggregate payments by Owner over the life of the contract (taking into account Owner's early termination rights, if any) in excess of $25,000 (which figure shall be adjusted annually hereafter to reflect increases in the Index).

6.04. Handling of Claims, Casualties, etc. Manager shall handle complaints and requests from hotel guests, tenants, concessionaires and licensees and promptly notify Owner of any major complaint made by a hotel guest, tenant, concessionaire or licensee which could have a material economic impact on the Hotel and in all cases where Owner could be made a party to any material litigation, or of any major defective condition in the Hotel which Manager discovers or of any failure to comply with any governmental requirements remaining uncured for a period of ten (10) days after service of notice thereof (together with copies of supporting papers); notify Owner of any fire or other material damage within the coverage of any insurance policies thereon, and notify the insurance carrier promptly in accordance with the requirements of the insurance policies and within such time that an insurance adjuster may view the damage before any repairs are started (except in the event of any emergency requiring repairs immediately); and, if directed by Owner, complete customary loss reports in connection with fire or other damage to the Hotel.

ARTICLE 7

INTENTIONALLY OMITTED

ARTICLE 8

OPERATION OF THE HOTEL

8.01. Permits. To the extent not previously obtained by Owner, Manager shall in cooperation with Owner, apply for, process and take all necessary steps to procure (in Owner's name and/or in Manager's name if required by local authority, and at Owner's sole cost) all licenses and permits required for the operation of the Hotel and related facilities; provided, however, it is understood and agreed that Owner shall be responsible for obtaining at Owner's sole cost and expense liquor licenses for the sale of alcoholic beverages at all restaurants, bars and lounges in the Hotel and in all banquet, meeting and guest rooms on the Hotel premises. Manager and Owner agree to cooperate in good faith in all efforts to obtain said liquor licenses. Manager undertakes to comply with any conditions set out in any such licenses and permits and at all times to operate and manage the Hotel in accordance with such conditions and any other legal requirements.

8.02. Equipment and Supplies. After the Commencement Date, Manager shall procure at Owner's expense all Operating Supplies and Operating Equipment as Manager deems necessary to the normal and ordinary course of operation

of the Hotel and to operate the Hotel in accordance with the Competitive Standards, and consistent with the Approved Budget.

8.03. Personnel.

(a) All personnel employed at the Hotel shall at all times be the employees of Manager or of an Affiliate of Manager. If any other employee of Manager or an Affiliate of Manager is assigned temporarily or on a part-time basis to perform services at the Hotel, the temporary employee's salary and a pro-rata share of a part-time employee's salary (including employee benefits) and actual expenses incurred traveling to and from the Hotel shall be reimbursed to Manager by Owner, and such employees will be entitled to free room, board and use of Hotel facilities while performing such services. Manager shall comply with all laws relating to employment. Manager shall have absolute discretion to hire, discharge, promote, supervise, direct and train all employees at the Hotel, to fix their compensation and fringe benefits, subject to the limitations provided in the Approved Budget, and, generally, to establish and maintain all policies relating to employment and employment benefits; provided, however, that (i) Owner shall have the right to approve the hiring of all Executive Employees (which approval shall not be unreasonably withheld or delayed); (ii) Manager shall consult with Owner and seek Owner's input with respect to any transfers or terminations of Executive Employees (the final decision regarding such transfers and terminations being within Manager's discretion following such consultation); (iii) Manager may provide lodging at the Hotel to any temporary employees subject to room availability, but may not do so if the result is to turn away potential hotel guests, except with the approval of Owner; (iv) any services provided by temporary or part-time employees pursuant to the second sentence of this paragraph (a) shall not be duplicative of services provided by employees already on the payroll of the Hotel; (v) Owner shall have the right to approve all severance plans and all bonuses beyond the then current company-wide standard bonus program generally utilized by Manager and its Affiliates; and (vi) as part of the Annual Budget, Manager will report on the then current bonus program and relocation cost policy as then in effect throughout Manager's system. All costs of every kind and nature pertaining to all employees at the Hotel arising out of the employer-employee relationship, including, without limitation, salaries, fringe benefits, bonuses, relocation costs, employment-related legal costs (subject to Owner's reasonable input regarding choice of counsel and amount of legal costs), costs incurred in connection with governmental laws and regulations and insurance rules, and such other expenses as Manager, in its reasonable discretion, may deem appropriate (e.g., costs of defense of employees charged with a crime in connection with the performance of their duties at the Hotel and costs of defending claims brought by Hotel employees against Owner, Manager or the Hotel) shall be an Operating Cost of the Hotel, and Owner shall reimburse, indemnify and hold harmless Manager from all costs, expenses, liabilities and claims incurred in connection therewith.

(b) If any member of Manager's home office personnel shall, at any time, be assigned to and engaged in duties at the Hotel which are the usual duties of personnel engaged in the operation of the Hotel, the salary and related costs of such member (including, but not limited to, employment taxes and costs of insurance, retirement and other fringe benefits) shall constitute an Operating Cost of the Hotel (and

Manager shall be reimbursed therefor), provided, however, that such costs shall not exceed the costs which would have been paid to personnel usually assigned to such duties.

(c) At expiration or earlier termination of this Agreement, an escrow fund shall be established from Total Sales (or, if Total Sales are not sufficient, with funds provided by Owner) to reimburse Manager for all costs and expenses incurred by Manager such as severance pay, accrued vacation pay and other employee liability costs arising out of the termination of Hotel employees, to the extent such costs are within the Approved Budget or are otherwise permitted under this Agreement.

(d) Manager shall, using the advice of competent counsel reasonably acceptable to Owner (Owner acknowledging that Manager's current labor counsel as of the date of execution hereof is acceptable), negotiate with any labor union entitled to represent the Hotel employees. All collective bargaining agreements or labor contracts resulting therefrom shall be first approved by Owner.

8.04. Sales, Marketing and Advertising.

(a) Manager shall arrange, contract for and carry out such advertising and promotion of the Hotel as Manager shall deem advisable and reasonably consistent with the Approved Budget. Funds for advertising and promotion of the Hotel may be expended exclusively for or with respect to the Hotel or in conjunction with the advertising or promotion of other Portfolio Hotels, and in either case may be administered (and in the latter case, coordinated) at and through Manager's regional or home office which shall use all reasonable efforts to ensure that the Hotel shall receive an equitable share of the benefit of the cooperative advertising and promotion reasonably commensurate with its contribution to the costs thereof. In the case of any such joint or cooperative advertising or promotion approved by Owner and in which Owner elects to participate (or other joint or cooperative efforts approved by Owner and in which Owner elects to participate, such as development and/or publication of standardized directories for hotel rooms), the costs thereof shall be equitably allocated by Manager between the Hotel and any other Portfolio Hotels participating therein. Upon Owner's request, Manager shall provide reasonable back-up documentation to support such equitable allocation. The word "equitable" as used in this Article 8.04 shall connote consistency with the then current standards applicable and being followed with respect to the Portfolio Hotels.

(b) Manager shall also coordinate with tour programs marketed by airlines, travel agents and government tourist departments when Manager deems the same to be advisable. Manager, in its discretion, may cause the Hotel to participate in sales and promotional campaigns and activities involving complimentary rooms, food and beverages to bona fide travel agents, tourist officials and airline representatives where such is customary in the travel industry or in Manager's practice and policy, subject to the Approved Budget.

8.05. Trades; Treatment Accorded. Subject to the Approved Budget, Manager shall use diligent efforts to make trades of goods and/or services

(including, but not limited to, room/suite occupancy, food, beverages, incidental charge items and taxes relating to any thereof) furnished or to be furnished to others at the Hotel, for goods and/or services (including, but not limited to, advertising, air and ground transportation, rental vehicles and taxes relating to any thereof) furnished or to be furnished to or for the benefit of the Hotel or Manager. In such event, if the goods and/or services received in a particular trade are, to any extent, for the use or benefit of Manager and/or any other hotel or activity (and not exclusively for the benefit of the Hotel), Manager shall pay to the Hotel the usual charges for the goods and/or services given by the Hotel in such trade (and such payment shall be included in Total Sales), and if any of the goods or services so received are used by or for the benefit of the Hotel, the entire amount so paid by Manager shall be equitably allocated among the Hotel and all other hotels or activities benefitting therefrom in a manner similar to the allocation of costs of marketing, and the portion thereof fairly allocable to the Hotel shall be reimbursed to Manager as an Operating Cost of the Hotel. The extent of such goods and services to be granted or received in trades shall be indicated in the Annual Business Plan.

8.06. FF&E Replacements Reserve Fund.

(a) Owner recognizes the necessity of replacement of FF&E due to age, wear, condition or obsolescence ("FF&E Replacements"). Owner agrees, subject to the Approved Budget, to expend such amounts for FF&E Replacements as shall be required in the normal and ordinary course of operation of the Hotel, to operate the Hotel in accordance with the Operational Standards. Design and installation of FF&E Replacements shall be under Manager's supervision, subject to Owner's approval, for which Manager may be entitled to additional compensation as provided in Article 10.04(a) below.

(b) It is recognized that expenditures of any given sum for FF&E Replacements may not be required in any given year. However, there shall be paid over into the Replacement Reserve Fund in cash in each month beginning on the Replacement Reserve Commencement Date, the Replacement Reserve Percentage (as defined on Exhibit 1) of Total Sales to pay for FF&E Replacements. The amounts so deducted shall be recorded on the Hotel's books of account as "Reserve for FF&E Replacements." Each month the amount so deducted shall be placed into an interest-bearing account (the "Replacement Reserve Fund") established in Owner's name in accordance with Article 9.03 below, with a designee of Owner and a designee of Manager being the only authorized signatories on said account, subject to the requirements of the First Mortgage. Any expenditures for FF&E Replacements during any Fiscal Year which are provided for in the Approved Budget may be made without Owner's approval and, to the extent available, shall be made by Manager from the Replacement Reserve Fund (including accrued interest and unused accumulations from earlier years). Any amounts remaining in the Replacement Reserve Fund at the close of each Fiscal Year shall be carried forward and retained in the Replacement Reserve Fund until fully used as herein provided. Manager shall not make any additional expenditures from the Replacement Reserve Fund after receipt of any notice from Owner terminating this Agreement as permitted herein.

(c) To the extent the Replacement Reserve Fund is insufficient at a particular time or to the extent the Replacement Reserve Fund plus anticipated contributions for the ensuing year is below the amount provided therefor in the Approved Budget for the ensuing year, then in either such event, Owner shall supply the necessary funds by deposit to the Replacement Reserve Fund within thirty (30) days of delivery of notice to that effect from Manager.

(d) All proceeds from the sale or other disposition of FF&E no longer needed for the operation of the Hotel shall be deposited to the Replacement Reserve Fund, and the amount thereof shall be credited against the required payment into the Replacement Reserve Fund for the relevant Fiscal Year. Sale of such items shall be at the discretion of Manager, subject to the Approved Budget. Upon notice of termination of this Agreement for whatever reason, Manager's right to expend any unused portion of the Replacement Reserve Fund shall terminate and the balance of the fund shall, subject to the requirements of the First Mortgage, be paid over to Owner.

8.07. Routine Maintenance and Repairs. Subject to the availability of sufficient funds therefor and to the limitations of the Approved Budget, Manager shall maintain the Hotel in good repair and condition and in conformity with the Operational Standards set forth in Section 6.01 and applicable laws and regulations, and shall make or cause to be made such routine maintenance, repairs and minor alterations, the cost of which shall be expensed under generally accepted accounting principles, as Manager, from time to time, deems necessary for such purposes, consistent with the Approved Budget. The cost of such maintenance, repairs and alterations shall be paid from Total Sales and shall be treated as an Operating Cost of the Hotel; to the extent that Hotel revenues are insufficient therefor, Owner shall, upon Manager's request, provide sufficient funds to pay for such costs when due. Expenditures under this Article 8.07 shall not be paid from the Replacement Reserve Fund. The determination of whether an expenditure is for an FF&E Replacement under Article 8.06 or, in the alternative, for repairs and maintenance under this Article 8.07 shall be made in accordance with this Agreement and the Uniform System of Accounts. If and to the extent that the Uniform System of Accounts does not address and resolve the categorization of an expenditure, the determination shall be made in the reasonable judgment of Manager.

8.08. Capital Repairs. In addition to routine repairs and maintenance under Article 8.07, and subject to the limitations of the Approved Budget, Manager shall have the further right to make, at Owner's expense, such Capital Repairs as Manager reasonably deems to be beneficial to the Hotel or its operation or which Manager reasonably determines to be necessary in order to maintain the Hotel's competitive position or to maintain the Hotel in accordance with the Competitive Standards, or to comply with requirements of law or of the Ground Lease; provided, however, that Manager shall not make any capital repair having a cost in excess of $25,000 (as adjusted based on changes in the Index), unless such Capital Repair has either been specifically approved in writing by Owner or is specifically approved in the then current Approved Budget. Expenditures under this Article 8.08 may be paid from the Replacement Reserve Fund, as long as the amounts remaining in the Replacement Reserve Fund are reasonably adequate for the then anticipated FF&E Replacements under the then current Approved Budget. The determination of whether an expenditure is

for an FF&E Replacement under Article 8.06 or, in the alternative, for a Capital Repair under this Article 8.08 shall be made in accordance with this Agreement and the Uniform System of Accounts. If and to the extent that the Uniform System of Accounts does not address and resolve the categorization of an expenditure, the determination shall be made in the reasonable judgment of Manager. As used herein, "Capital Repairs" shall mean and include repairs, alterations, improvements, renewals and replacements (other than FF&E Replacements) to the Hotel which are normally capitalized under generally accepted accounting principles, including, without limitation, repairs, alterations, improvements, renewals or replacements to the Building's structure or to its mechanical, electrical, heating, ventilating, air conditioning, plumbing or vertical transportation systems, exterior and major interior repainting, and resurfacing building walls, floors and roofs. To the extent any of the foregoing systems or components are shared between the Hotel and other portions of the Project, all Capital Repairs thereto shall not be performed by Manager but shall be performed by Owner and/or by the owner or owners of such other portions of the Project, with the portion thereof allocable to the Hotel being treated as a Capital Repair hereunder. Owner and Manager acknowledge and agree that their rights and obligations relating to Capital Repairs shall be governed by the terms of the Ground Lease.

8.09. FF&E and Capital Repairs Estimates. Manager shall prepare estimates of the expenditures necessary for (a) FF&E Replacements (the "FF&E Replacement Budget") and (b) Capital Repairs (the "Capital Repairs Budget") during each ensuing Fiscal Year, and shall submit such FF&E Replacement Budget and Capital Repairs Budget to Owner for approval as a part of the Annual Business Plan described in Article 9.02.

8.10. Emergency Repairs; Repairs Required by Law.

(a) In the event a condition should exist in, on or about the Hotel of an emergency nature, including Capital Repairs, which requires immediate action to preserve and protect the Hotel, to assure its continued operation, or to protect Hotel guests or employees, Manager, on behalf of and at the expense of Owner, is authorized, upon reasonable notice to Owner to the extent possible under the circumstances, to take all steps and to make all expenditures necessary to repair and correct any such condition, whether or not provisions have been made in the Approved Budget for any such emergency expenditures. Provided, however, Manager shall not expend more than $25,000 (which figure shall be adjusted annually hereafter to reflect increases in the Index) on any one occasion pursuant to this Article 8.10(a) without Owner's prior approval, unless Manager determines that the emergency condition constitutes an immediate threat to the life or safety of Hotel guests or employees; and in any event, Manager shall advise Owner as promptly as possible of any expenditures made or to be made under this Article 8.10(a). Expenditures under this Article 8.10(a) may be paid from the Replacement Reserve Fund, as long as the amounts remaining in the Replacement Reserve Fund are reasonably adequate for the then anticipated FF&E Replacements under the then current Approved Budget.

(b) In the event that, at any time during the term of this Agreement, repairs to or additions, changes or corrections in the Hotel of any nature shall be required

by reason of any laws, ordinances, rules or regulations now or hereafter in force, or by order of any governmental or municipal power, department, agency, authority or officer, or in order to comply with the terms of the Ground Lease, the REA, the First Mortgage or the Permitted Encumbrances, whether such repairs, etc. are Capital Repairs or otherwise, such repairs, additions, changes or corrections shall be made at the direction of Manager and paid for by Owner, unless (and except for so long as) compliance therewith is in good faith being contested by Owner, enforcement is stayed and an amount of money sufficient to effect such compliance is escrowed or guarantied in a form satisfactory to Manager.

ARTICLE 9

FISCAL MATTERS

9.01. Accounting Matters and Fiscal Periods.

(a) Manager shall maintain true and correct books and records reflecting the Hotel operations, at Owner's expense, in accordance with the Uniform System of Accounts and/or, at Manager's option, in accordance with generally accepted accounting principles, consistently applied. Such books and records for the Hotel shall be maintained either at the Hotel, at the principal office of Manager or at a regional accounting office, at Manager's option. Owner, the Mortgagee(s), and the independent accounting firms of Owner, the Mortgagee(s) and Manager shall each have the right and privilege of examining said books and records at any reasonable time. No part of Manager's corporate accounting (as opposed to accounting for individual hotels performed at corporate, central or regional offices) shall be charged to the Hotel or included as a cost of Chain Services. Manager shall permit Ground Lessor to audit the books and records of the Hotel, if and to the extent required under the provisions of the Ground Lease.

(b) As a Specified Fixed Charge of the Hotel, a certified audit of the Hotel operations shall be performed annually (and upon termination hereof if not coincident with a Fiscal Year end) by a nationally recognized, independent Certified Public Accounting firm appointed by Owner.

(c) Unless and until Owner and Manager otherwise agree, the Fiscal Year of the Hotel shall be February 1 to January 31. The first Fiscal Year shall be the period from the Commencement Date through the next following January 31. On or before the fifteenth (15th) day of each month, Manager shall furnish Owner with a detailed operating statement setting forth the results of Hotel operations for the preceding month and for the current Fiscal Year through the end of the preceding month, together with a material variance explanation and a monthly cash forecast. Manager shall also provide Owner with additional operating financial data as Owner may reasonably request, the cost of providing said additional data to be an Operating Cost of the Hotel.

9.02. Annual Business Plan.

(a) With respect to the Fiscal Year consisting of the time period between the Commencement Date and January 31 of the fiscal year in which the Commencement Date occurs, Manager shall submit to Owner a proposed "stub-year" operating budget on or before the date which is ninety (90) days prior to the scheduled Commencement Date (as reasonably determined by Owner and communicated to Manager). The approval process for the initial budget for such stub-year period will be pursuant to (b) below.

(b) (1) No later than November 1 of the year immediately prior to the commencement of each subsequent Fiscal Year, Manager shall submit to Owner an annual forecast for the operation of the Hotel for such Fiscal Year containing detailed revenue projections and budgets of expenses (the "Operating Budget"). The Operating Budget shall be substantially in form consistent with the Uniform System of Accounts as revised or replaced from time to time in accordance with policies relating to other Affiliated Hotels. Manager shall also submit to Owner a Marketing Plan (including sales and marketing strategy), a Human Resources Compensation Plan, the FF&E Replacement Budget and the Capital Repairs Budget, which, together with the Operating Budget, will comprise the "Annual Business Plan." Preliminary drafts of the final Operating Budget and the Marketing Plan shall be forwarded by Manager to Owner no later than September 1 of the year immediately prior to the commencement of each Fiscal Year. Manager shall provide Owner on request additional detail, information and assumptions used in preparation of the Annual Business Plan. The Annual Business Plan for each Fiscal Year shall be subject to Owner's approval and shall be submitted to Owner no later than October 1. Manager shall review the Annual Business Plan with Owner, and subject to Owner's approval, Manager shall implement such Annual Business Plan during the successive Fiscal Year (during which it shall be referred to as the "Approved Budget"). Owner shall approve the proposed Annual Business Plan or state its specific objections thereto (or to any specific item or items therein) within (30) days after the final Annual Business Plan is submitted by Manager to Owner. In the event Owner declines to approve the Annual Business Plan or any specific item or items of the Annual Business Plan prior to commencement of the Fiscal Year in question, pending resolution thereof, the final Annual Business Plan or the specific item or items of expense (not revenue) shall be suspended and replaced for the Fiscal Year in question by an amount equal to those contained in the Approved Budget for the most recent period for which an Approved Budget was in effect. If at any time the Annual Business Plan cannot be agreed to by the parties, then Manager and Owner shall meet to review, and endeavor in good faith to resolve, all disputes, and if after such good faith efforts the parties are unable to resolve their differences, the position of Owner shall prevail. Manager makes no assurances that the actual performance of the Hotel shall correspond to the estimates set forth in the Approved Budgets. Manager agrees to use all reasonable efforts to operate the Hotel within the Approved Budget. The License Fees shall be included in the Operating Budget, as part of each Approved Budget, but shall not be subject to Owner's approval.

(2) Notwithstanding the provisions of Article 9.02(b)(1) or anything to the contrary contained elsewhere in this Agreement: Manager may, without

Owner's approval but upon prompt notice to Owner, make expenditures in any year under the following circumstances:

A. as the result of increased costs due to increases in the volume of Total Sales (by reason of increased occupancy rates or otherwise) over the Total Sales projected in the Approved Budget; provided, however, that the total expenditures in each Department that Manager may make without Owner's approval are limited to the following percentages of the total increase in (x) actual Total Sales from such Department over (y) the Total Sales from such Department per the Approved Budget: Rooms Department - 20%; Food and Beverage - 80%; Telephone - 50%; Other - 50%; or

B. as the result of uncontrollable expenditures for which no contingency or reserve is provided in the Approved Budget, such as insurance, real estate taxes, weather-related costs, and increases in the cost of utilities based upon utility rates; and expenditures pursuant to Article 8.10.

References in this Agreement to the limitations imposed by the Approved Budget (and phrases of similar import) shall be deemed to incorporate Manager's authority to expend funds in excess of the Approved Budget as set forth in this Article 9.02(b)(2).

(3) In addition to the additional amounts Manager may expend pursuant to subparagraph (2) above, Owner and Manager acknowledge and agree that there may occur from time to time unpredicted significant changes beyond the control of Manager, variables or events affecting the operation of the Hotel, including unanticipated changes in occupancy rates, market conditions, or additional unanticipated items of income or expense. In such event, Manager may request variance(s) from the Approved Budget which are reasonable and necessary to continue to operate the Hotel in accordance with the Competitive Standards. Owner's approval of such a request shall not be unreasonably withheld. Any such request by Manager shall be submitted to Owner in writing with an explanation thereof and shall be accompanied by supporting information for the request. Owner shall respond to any such request within fifteen (15) days of the receipt thereof.

(c) At the time of the review by Owner with Manager of the Annual Business Plan and at any additional meetings during the Fiscal Year reasonably called by Owner or Manager (but in no event less frequently than once per calendar quarter), Manager shall consult with Owner on matters of policy concerning management, sales, room rates, wage scales, personnel, general overall operating procedures, economics and operation and other matters affecting the operation of the Hotel. The books and records of the Hotel shall be available to Owner at the Hotel upon prior notice to Manager.

9.03. Bank Accounts.

(a) Manager shall establish such account(s) in Owner's name at a bank to be designated by Owner (collectively, the "Bank Account") as are necessary for the operation of the Hotel. The Bank Account shall be separate and distinct from any other accounts, reserves or deposits required by this Agreement and Manager's designees shall

be the only parties authorized to draw upon such Account, subject to the requirements of the First Mortgage, provided that the relevant terms of the First Mortgage do not materially inhibit the standard operating procedures utilized by Manager. Manager shall appoint at least two such designees, which designees shall be bonded or otherwise insured as Owner and Manager shall mutually agree, and the signature of two of such co-signers shall be required on all checks drawn on such Account. Checks or other items of withdrawal shall be signed only by such designees, acting singly or jointly. The Bank Account, the Replacement Reserve Fund, and all accounts utilized under this Agreement shall be held in interest-bearing accounts in responsible financial institutions at all times. Manager shall send to Owner copies of all monthly bank statements relating to such accounts.

(b) Manager shall have absolute control of the Bank Account, subject to any requirements of the First Mortgage, provided that the relevant terms of the First Mortgage do not materially inhibit the standard operating procedures utilized by Manager and this Agreement. All sums received from the operation of the Hotel and any and all items paid by Manager arising by virtue of management of the Hotel shall pass through the Bank Account. In addition, reasonable petty cash funds shall be maintained at the Hotel.

(c) In addition to the Bank Account, a payroll account shall be established by Manager which shall be under the sole ownership and control of Manager. Amounts disbursed by Manager from its payroll account shall be transferred by Manager from the Bank Account. Such transfer of funds may occur either prior to or subsequent to disbursement by Manager from its payroll account.

(d) All payments made by Manager hereunder shall be made from authorized bank accounts and petty cash funds. Manager shall not be required to make any advance or payment to or for the account of Owner except out of such funds, and Manager shall not be obligated to incur any liability or obligation for Owner's account without assurances that necessary funds for the discharge thereof will be provided by Owner. Reasonable debts and liabilities incurred by Manager in the normal course of its operation and management of the Hotel pursuant to the terms hereof, whether asserted before or after termination of this Agreement, will be paid by Owner to the extent funds are not available for that purpose from the operation of the Hotel.

9.04. Reimbursement of Out-of-Pocket Expenses. It is agreed that Owner, subject to the Approved Budget, shall reimburse Manager and its Affiliates for actual and reasonable out-of-pocket costs incurred by them in the performance of this Agreement as an Operating Cost of the Hotel. Such costs shall include, but not be limited to, reasonable travel (limited to coach airfare), entertainment, telephone, telegraph, electronic communication, postage, air express, costs of recruitment (including applicable agent's fee) and other incidental expenses. It is agreed that Manager shall be entitled to reimbursement of these expenses directly from the Hotel at the time incurred. Such reimbursements shall be in addition to the Base Management Fee and the Incentive Management Fee, and other fees and charges due hereunder, and shall be subject to the Approved Budget.

ARTICLE 10

ADDITIONAL SERVICES

10.01. Additional Services. Manager will cause to be available to the Hotel the additional services (collectively, "Additional Services") described in Article 10.04.

10.02. Intentionally Omitted.

10.03. Intentionally Omitted.

10.04. Other Services.

(a) Manager will not furnish, and Owner will not be charged for, direction and administration of Hotel renovation projects, other planning, design, concept development and implementation, management information systems and accounting services for specific renovation or other projects, and related project management services which the Hotel may require (collectively, "Project Services"), unless the same are provided for in an Approved Budget (as part of the FF&E Replacement Budget and/or the Capital Repairs Budget, as the case may be) or otherwise approved by Owner. In such event, Manager may use the services of its Affiliates to perform Project Services, in which case, Project Services shall be furnished to Owner on commercially reasonable terms and conditions that are comparable to those available from a competitive outside source.

(b) In purchasing goods, supplies, equipment and services for the Hotel after the Commencement Date, including, without limitation, Operating Supplies, Operating Equipment, insurance and long distance telephone services, Manager may, subject to Owner's approval (either through the Annual Business Plan approval or otherwise), utilize procurement services of Affiliates of Manager and/or other group buying techniques involving other Portfolio Hotels, provided that the cost thereof (including such reasonable mark-up, fee or other compensation charged or retained by Manager or its Affiliates) shall be competitive with that which would be charged by non-affiliated third party vendors in an arms-length transaction. In such event, such Affiliates and/or Manager (as the case may be) may mark up their costs or receive and retain a fee or other compensation from vendors and service providers for their services in making the benefit of volume purchases available to the Hotel or negotiating and implementing the arrangements with such vendors or providers, provided that the total cost thereof (including such reasonable mark-up, fee or other compensation charged or retained by Manager or its Affiliates) shall be disclosed in advance to Owner and shall be competitive as aforesaid. At Owner's request, Manager will furnish to Owner reasonable supporting documentation to establish that the materials and supplies so purchased are the best value and cost available in the market for comparable volume purchases, failing which, Owner shall have the right to compel Manager to use an outside source. Notwithstanding anything contained herein to the contrary, Manager shall provide cooperation and services in connection with the construction of the Hotel customarily provided by Manager in connection with the construction of a hotel other than

purchasing, without cost, and will provide purchasing service if requested, at competitive cost.

(c) No charge made under this Article 10.04 shall exceed the charges generally made to other Portfolio Hotels for similar products and services.

ARTICLE 11

FEES TO MANAGER

11.01. Management Fees. In consideration of the management of the Hotel by Manager, Owner agrees to pay to Manager the Base Management Fee and the Incentive Management Fee, each as hereinafter defined.

(a) Base Management Fee. The "Base Management Fee" shall mean and refer to a fee payable with respect to each month during the term of this Agreement for each Fiscal Year commencing with the first Fiscal Year in which the Commencement Date occurs equal to the amount set forth on Exhibit 1 with respect to the Fiscal Year in question; provided, however, that if an Operating Deficit exists with respect to any Fiscal Year through and including the fourth Fiscal Year, but not thereafter, the Base Management Fee with respect to such Fiscal Year shall be reduced by an amount equal to the lesser of: (i) the amount of the Operating Deficit with respect to such Fiscal Year, or (ii) 1% of Total Sales for such Fiscal Year, but not below zero. In implementation of the foregoing, the Base Management Fee shall be paid monthly to Manager from the Bank Account in the percentage of Total Sales set forth on Exhibit 1 for the immediately preceding month, reduced by 1/12th of any Operating Deficit projected for such Fiscal Year in the Approved Budget, subject to the proviso of the immediately preceding sentence and final year-end reconciliation based on the actual Operating Deficit, if any, as ultimately determined in the year-end audit. The obligations of Owner and Manager to make such reconciliation shall survive the termination or expiration of this Agreement.

(b) Incentive Management Fee. The "Incentive Management Fee" shall mean and refer to a fee, payable for each Fiscal Year commencing with the first Fiscal Year in which the Commencement Date occurs, equal to the amount set forth on Exhibit 1 with respect to such Fiscal Year. The calculation of Incentive Management Fee shall be made annually, at the conclusion of each Fiscal Year, based upon the Excess Cash Flow for such Fiscal Year, and payment thereof shall be made to Manager upon the submission of the annual financial statement pursuant to Article 9.01(b). The Incentive Management Fee shall be computed separately for each Fiscal Year.

ARTICLE 12

DISBURSEMENTS

12.01. Disbursement of Funds. All funds derived from the operation of the Hotel shall be deposited in the Bank Account created pursuant to the requirements of Article 9.03. On a monthly basis no later than the date required for the delivery of the monthly detailed operating statements pursuant to Article 9.01(c) above, subject to the

Approved Budget, Manager shall disburse, for and on behalf of Owner, funds from the Bank Account towards the following items to the extent available (with appropriate reserves established to cover items payable less frequently than monthly) in the following order of priority:

(a) all Hotel Operating Costs, including the Base Management Fee, the License Fees, charges for Additional Services, and all reimbursable expenses due Manager;

(b) Specified Fixed Charges;

(c) required payments of principal, interest and other sums due or otherwise required to be paid or deposited under the First Mortgage;

(d) required payments of principal, interest and other sums payable under the Mezzanine Loan;

(e) the Incentive Management Fee as provided in Section 11.01(b);

(f) capital expenditures made pursuant to this Agreement if and to the extent not paid out of the Replacement Reserve Fund; and

(g) the balance, if any, to Owner, to be applied by Owner pursuant to the Venture Agreement.

12.02. Adjustment to Bank Account. After the disbursements pursuant to Article 12.01, any excess funds remaining in the Bank Account over the Minimum Balance shall be disbursed monthly to Owner, as set forth in Article 12.01(g) above. Correspondingly, any deficiency in said Bank Account shall promptly be provided by Owner as required in Article 2.04(b). Notwithstanding that Manager is authorized to and shall make the hereinabove described disbursements to the extent funds are available, Owner solely will be liable for (i) all Operating Costs, Specified Fixed Charges and other Fixed Charges and (ii) all sales taxes, excise taxes, or other taxes which may be assessed by any taxing authority against or upon Manager with respect to any payments, receipts or earnings received by Manager pursuant to this Agreement, including without limitation the fees received by Manager pursuant to Article 11, excluding in any case, however, any federal, state or local income taxes levied against Manager.

ARTICLE 13

INSURANCE

13.01. Insurance Coverage. Owner agrees to procure and maintain, at its expense as a Specified Fixed Charge, and at all times during the term hereof, such casualty and other insurance coverage as is set forth under "Responsibilities of Owner" in Exhibit E attached hereto and incorporated by reference as a part hereof (the "Insurance Schedule"). Manager agrees to procure and maintain, as an Operating Cost of the Hotel,

such comprehensive general liability insurance and other insurance coverage as is set forth under "Responsibilities of Manager" in said the Insurance Schedule. In connection with all significant construction at the Hotel, Owner or Manager (whichever is the contracting party) will cause the general contractor to maintain with a reputable insurer comprehensive general liability insurance (with products, completed operations and independent contractors coverage) in at least the amount of $20,000,000. Notwithstanding the provisions of this Article 13 or of the Insurance Schedule to the contrary: (a) all policies of insurance maintained by Owner or Manager shall name as additional insureds the Ground Lessor, the First Mortgagee and any other parties required under the terms of the Ground Lease; (b) if any one or more of the REA, the Ground Lease or the First Mortgage requires any additional insurance coverages or any increased amounts of insurance coverage than those set forth in this Agreement, Manager and Owner shall comply with the most comprehensive insurance requirements as among this Agreement and such other agreements; and (c) the disposition of any casualty proceeds shall be governed by the provisions of the First Mortgage, the Ground Lease and REA, and (to the extent not inconsistent therewith) by the terms of this Agreement.

13.02. Insurance Policies.

(a) All insurance provided for under this Article shall be effected by policies issued by insurance companies of good reputation and of sound financial responsibility and shall be subject to Owner's approval, but in no event rated less than A-/VII in the then most current edition of Best's Insurance Report. Such insurance may be carried under blanket policies covering the Hotel and other locations provided such policies otherwise comply with all of the requirements of the Insurance Schedule.

(b) Certificates of insurance shall be delivered to Owner and Manager on or before the Commencement Date. All insurance policies shall be renewed, and proof of such renewals shall be delivered to Owner and Manager at least ten (10) days prior to their respective expiration dates.

(c) All insurance policies procured by Owner shall be written in the name of Owner, with Manager, Ground Lessor and any Mortgagee being named thereon as additional insureds (as their respective interests may appear). All insurance policies procured by Manager shall be written in the name of Manager, and shall name as an additional insured Owner, Ground Lessor and any Mortgagee being named thereon as additional insureds (as their respective interests may appear).

(d) All casualty insurance policies shall be endorsed specifically to the effect that the proceeds of any building, contents or business interruption losses shall be made payable to Owner, Ground Lessor and the Mortgagee as their interests may appear. All such policies of insurance shall also be endorsed specifically to the effect that such policies shall not be canceled or materially changed without at least thirty (30) days' prior written notice to Owner, the Mortgagee, Ground Lessor and Manager. Each party shall cause any policy which it is responsible to obtain under the Insurance Schedule to provide that the insurer shall not have any rights of subrogation to any claim which either party hereto may have or acquire against the other. Neither Owner nor Manager shall have any claim against the other with respect to the failure of any insurance carrier to

provide the coverage or protection placed with such carrier as contemplated by this Agreement.

(e) Certificates of insurance shall be sent to Manager and to Owner at their respective addresses set forth in Exhibit 1 and to the Mortgagee at such address(es) as the Mortgagee shall designate.

(f) All coverage limits and deductible amounts set forth in the Insurance Schedule shall be reviewed by Owner and Manager from time to time for the purpose of determining the coverage limits and deductible amounts then appropriate for properties similar in type and construction to the Hotel and for the nature of the business being conducted. Manager and Owner shall cooperate in good faith to arrive at an agreement on such matters.

(g) As part of the annual process of review and approval of the Annual Business Plan as set forth in Article 9.01 above, Owner shall have the reasonable right to approve all insurance coverages and carriers and the ratings of all carriers, and all pricing plans and deductibles.

13.03. Manager's Blanket Insurance Coverage. Manager may, at its option (but shall not be obligated to) make available to Owner the opportunity to participate in blanket insurance policies carried by Manager for other properties, including, without limitation, other Portfolio Hotels, and which cover all or any portion of the insurance coverage specified in the Insurance Schedule (including all or any portion of that insurance required to be procured and maintained by Owner under Article 13.01). If Manager makes such policies available and Owner agrees to participate therein, then, notwithstanding the provisions of Article 13.01, Manager shall be responsible for procuring and maintaining, at the expense of Owner, all insurance coverage represented by such blanket policies.

ARTICLE 14

RESPONSIBILITY FOR CLAIMS, ETC.

14.01. Scope.

(a) Owner shall indemnify and hold harmless Manager and its officers, directors, partners and employees from and against all claims, damages, liabilities, demands, actions, suits, proceedings, costs and expenses (including, without limitation, attorneys' fees and costs of litigation actually incurred) arising from or related to (i) Owner's gross negligence or willful misconduct, a breach of the terms of this Agreement by Owner or the failure of Owner to comply with any legal requirements with which Owner is obligated to comply under this Agreement; and (ii) the performance by Manager of its obligations under this Agreement, including the employment and discharge of employees, except to the extent caused by or resulting from (A) the gross negligence or willful misconduct of Manager or an Affiliate of Manager (excluding acts or omissions of Hotel employees other than Executive Employees (as defined below), provided Manager or its Affiliate is not grossly negligent in the hiring, training,

supervision or retaining of such employees), (B) a breach of the terms of this Agreement by Manager, (C) the failure of Manager to comply with any legal requirements (provided, however, that non-compliance with legal requirements relating to employer liability to employees shall be an Operating Cost), or (D) any action taken by Manager outside the scope of its authority under this Agreement.

(b) Manager shall indemnify and hold harmless Owner, its Affiliates and officers, directors, partners and employees of any of them from and against all claims, damages, liabilities, demands, actions, suits, proceedings, costs and expenses (including, without limitation, attorneys' fees and costs of litigation) arising from or related to (i) gross negligence or willful misconduct of Manager or an Affiliate (excluding acts or omissions of Hotel employees other than Executive Employees, provided Manager or its Affiliate is not grossly negligent in the hiring, training, supervision or retaining of such employees), (ii) a breach of the terms of this Agreement by Manager or an Affiliate or (iii) the failure of Manager or an Affiliate to comply with an legal requirement with which Manager is obligated to comply under this Agreement (provided, however, that non-compliance with legal requirements relating to employer liability to employees shall be an Operating Cost).

(c) The provisions of this Section 14.01 shall survive expiration or termination of this Agreement.

(d) As used herein and elsewhere in this Agreement, "Executive Employees" shall mean and include the General Manager, Controller, Rooms Manager, Chief Engineer, Food and Beverage Manager, Director of Marketing, and Human Resources Director, and any other personnel with responsibility substantially equivalent to any of the above.

(e) No person or entity shall be deemed to be a third party beneficiary of any term of provision of this Agreement, including, without limitation, the terms and provisions of this Article 14.01, and no person or entity shall have any rights of subrogation or similar rights under this Article 14.01, other than Affiliates of Owner and Manager, respectively, entitled to indemnification pursuant to the provisions of this Article 14. All indemnification obligations under this Agreement and the provisions of this Article 14 shall survive the expiration and any termination of this Agreement.

ARTICLE 15

CASUALTY AND CONDEMNATION

15.01. Casualty.

(a) If, during the term hereof, the Hotel incurs damage by fire, casualty or other cause that does not (in Owner's reasonable determination) materially and adversely affect the operation of the Hotel, Owner shall, at its cost and expense and with all reasonable diligence, repair or replace the damaged portion of the Hotel to the same condition as existed previously. To the extent available and to the extent permitted by the holders of the First Mortgages and the Ground Lessor proceeds from the insurance

described in Article 13 shall be applied to such repairs or replacements. Notwithstanding the foregoing, beginning with the thirteenth anniversary of the Commencement Date (if Owner has not exercised the Extension Term Option) or the eighteenth anniversary thereof (if Owner has exercised the Extension Term Option), Owner shall have the right to elect not to restore the Hotel.

(b) In the event damage or destruction to the Hotel from any cause materially and adversely affects the operation of the Hotel (in Owner's reasonable determination), Owner shall, within 180 days after the damage, determine whether or not to restore, and if Owner elects to restore Owner shall promptly commence and complete repairing, rebuilding or replacement of the same to substantially the same character as existed prior to the damage or destruction, provided that (i) replacement is justified in comparison to the anticipated profitability of the Hotel during the remaining term of this Agreement, (ii) the available insurance proceeds (plus the amount of the deductible with respect thereto) permit such repair, rebuilding or replacement, (iii) the Mortgagee and the Ground Lessor permit the utilization of the insurance proceeds for such repair, re-building or replacement, and (iv) the damage or destruction does not occur in the last 24 months of the Term of this Agreement. In the event Owner chooses not to undertake the repairs, rebuilding or replacements specified above, Manager or Owner may terminate this Agreement upon sixty (60) days' advance written notice, respectively, to Owner or Manager, and there shall be no termination fee payable with respect to such termination. Any termination pursuant to this Article shall, however, be subject to the provisions of Article 3.06 above. Owner agrees that if it terminates this Agreement pursuant to this Article 15.01(b), it shall not reopen the Hotel as a hotel within two years after the date of such casualty, without reinstating this Agreement with Manager.

15.02. Condemnation.

(a) In the event all or substantially all of the Hotel shall be taken in any eminent domain, condemnation, compulsory acquisition, or similar proceeding by any competent authority for any public or quasi-public use or purpose, or in the event a portion of the Hotel shall be so taken, but the result is that it would not be economically feasible (in Owner's reasonable discretion) to continue to operate a Hotel at the site, this Agreement shall terminate at the written election of either Owner or Manager, after Owner has made such determination. Owner and Manager shall each have the right to initiate such proceedings as they deem advisable to recover any damages to which they may be entitled; provided that Manager will not have the right to pursue or receive any awards would diminish the amount of award to which Owner is entitled.

(b) In the event a portion of the Hotel shall be taken by the events described in Article 15.02(a) or the entire Hotel is affected but on a temporary basis, and this Agreement is not terminated pursuant to (a) above, this Agreement shall remain in effect, and, provided that Owner determines that the cost of repair, rebuilding or replacement is justified in comparison to the anticipated profitability of the Hotel during the remaining term of this Agreement, and provided that the Mortgagee and Ground Lessor permit the utilization of the condemnation awards for restoration of the Hotel, so much of any award for any such partial taking or condemnation as shall be necessary to render the Hotel equivalent to its condition prior to such event shall be used for such

purpose; the balance of such award, if any, shall be paid to Owner. Any termination pursuant to this Article shall also be subject to the provisions of Article 3.06 above.

(c) The disposition of condemnation awards shall be subject to the terms of the First Mortgage, the REA and the Ground Lease and (to the extent not inconsistent therewith) the terms of this Agreement.

15.03. Business Interruption Insurance. Subject to the terms of the First Mortgage and the Ground Lease, any proceeds from business interruption insurance payable to Owner or Manager hereunder shall be fairly and equitably apportioned between Owner and Manager in accordance with their respective interests and equities to the end that the fair value of Manager's expectable compensation under this Agreement for the period covered by such business interruption insurance shall be paid to Manager.

ARTICLE 16

DEFAULT AND REMEDIES

16.01. Events of Default. It shall be an event of default hereunder (an "Event of Default") if any one or more of the following events shall occur:

(a) If a party fails to perform any of its obligations and agreements under this Agreement;

(b) In the case of Owner, if an Event of Default occurs under the Note, Loan Agreement, or Security Agreement evidencing and securing the Mezzanine Loan, or in case of Manager, if Mezzanine Lender fails within ten (10) days after written notice to advance any portion of the Mezzanine Loan as and when required under such documents; or

(c) If a party shall (i) voluntarily or involuntarily be dissolved (except that if either party is a partnership and is dissolved solely by reason of the death, insanity, disappearance, bankruptcy or lack of legal capacity of one or more of its general partners and its remaining partners, within 60 days, elect, pursuant the partnership agreement of such partnership to continue such partnership's business, then such party shall not be considered as "dissolved" for the purposes hereof); (ii) apply for or consent to the appointment of a receiver, trustee or liquidator of all or a substantial part of its assets; (iii) file a voluntary petition in bankruptcy or otherwise voluntarily avail itself of any federal or state laws for the relief of debtors; (iv) admit in writing its inability to pay its debts as they become due; (v) make a general assignment for the benefit of creditors; (vi) file a petition or an answer seeking reorganization or arrangement with creditors or to take advantage of any insolvency law or file an answer admitting the material allegations of any petition filed against it in any bankruptcy, reorganization or insolvency proceeding; or (vii) be the subject of an order, judgment or decree entered by any court of competent jurisdiction, in the application of any one or more creditors of such party adjudicating it a bankrupt or insolvent or approving a petition seeking

reorganization or appointing a receiver, trustee or liquidator of all or a substantial part of its assets, and such order, judgment or decree shall become final.

16.02. Termination Based on Default.

(a) Upon the occurrence of any Event of Default under Article 16.01 by or with respect to one of the parties hereto (the "Defaulting Party"), the other party hereto (the "Non-Defaulting Party") shall have the right (exercisable by the giving of notice to the Defaulting Party) to terminate this Agreement if the Defaulting Party fails to remedy such Event of Default within ten (10) business days after its receipt of notice to remedy if such default relates to the payment of a sum of money and, in all other cases, within thirty (30) days after its receipt of notice to remedy; provided that if such Event of Default be of a non-monetary nature and if it cannot reasonably be remedied within said thirty (30) day period, then such thirty (30) day period shall be deemed to be extended for such additional period (but in no event beyond a total of 90 days) as may reasonably be required to remedy the same if the Defaulting Party shall promptly commence to remedy upon receipt of notice from the Non-Defaulting Party and shall continue therewith with due diligence. If such termination is due to an Event of Default on the part of Manager, no termination fees shall be payable to Manager, but the provisions of Article 3.06 above shall nevertheless apply.

(b) The terms of this Agreement shall not be deemed to impair the right of any party to exercise any right or remedy, whether for damages, injunctions, specific performance or otherwise, upon any breach or termination hereof.

ARTICLE 17

SALE OR LEASE OF HOTEL

17.01. Offering Notice. If Owner wishes at any time to terminate this Agreement in connection with a Sale of the Hotel pursuant to Article 3.05, Owner shall, before consummating any such Sale or entering any agreement to do so (except for an agreement which is expressly subject to the rights of Manager under this Article), obtain a firm, unconditional offer (the "Offer") from an unaffiliated third-party (the "Offeror") setting forth the price and terms on which the Offeror offers to purchase the Hotel, which Offer shall not include or be conditioned on the purchase of any assets other than the Hotel and shall not provide for any consideration other than cash, assumption of the existing Mortgage and/or non-recourse purchase money indebtedness secured only by the Hotel. Thereupon Owner shall give notice (the "Offering Notice") to Manager stating that Owner intends to terminate this Agreement in connection with a Sale of the Hotel, forwarding a true and complete copy of the Offer, identifying the Offeror and all persons and entities holding a direct or indirect controlling interest therein, and containing information reasonably sufficient to apprise Manager of the financial capability and hotel ownership experience, if any, of the Offeror.

17.02. Acceptance of Offer. Manager shall have the right to notify Owner in writing within thirty (30) days after the date of receipt of the Offering Notice that Manager elects to purchase the Hotel upon the price and terms set forth in the Offer,

including (without limitation) the payment of any deposit required therein. Upon such acceptance, Owner shall be bound to sell or lease (as the case may be) to Manager and Manager shall be bound to purchase or lease (as the case may be) the Hotel in accordance with the terms set forth in the Offer. Under no circumstances shall Manager's rights as set forth in this Article 17.01 above be effective after the expiration or termination of the Term of this Agreement.

17.03. Right to Sell or Lease to Third Party. If Manager has not elected to purchase the Hotel under the terms of the Offer within the time limits set forth in Article 17.02, the Offer shall be deemed to have been declined by Manager and Owner shall be free for one hundred eighty (180) days to consummate the Sale of the Hotel to the Offeror or its Affiliates at a price or rental and upon terms and conditions not less favorable to Owner than those set forth in the Offering Notice. If in any instance Manager elects not to exercise its rights hereunder or waives, or is deemed to have waived, such rights, such election shall not constitute a waiver of Manager's right to an Offering Notice if Owner or its successors wishes to engage in a Sale of the Hotel at any subsequent time. If the Sale of the Hotel is not consummated within one hundred eighty (180) day time period set forth in this Article 17.03, any future Sale of the Hotel shall then again become subject to all the provisions of this Article 17.

17.04. Permitted Transfers. The terms of Article 17.01 shall not apply to a transfer or transfers by gift, inheritance or will, nor to a bona fide transfer of interests in Owner to any original member, stockholder or other holder of a beneficial interest in Owner (a "Beneficial Owner"), or to the spouse or issue of any original Beneficial Owner, or to an Affiliate of any original Beneficial Owner, or to a trust for the benefit of one or more of the foregoing; provided, however, that:

(a) any such trust shall be deemed for the benefit of any one or more of the foregoing only if, and only for so long as, one or more of the foregoing are entitled to more than 50% of the beneficial interests in such trust, and

(b) if any such Affiliate or trust shall, while it owns any such interest in Owner, cease to be an Affiliate or, in the case of a trust, cease to meet the requirements of subparagraph (a) of this Article 17.04, as applicable, there shall be deemed to have occurred a transfer of the interests in Owner in violation of Article 17.01 at the time of such cessation, and

(c) the transferee shall expressly assume the obligations of Owner hereunder pursuant to an instrument as described in Article 17.05(a)(iv) above.

17.05. Assignment of this Agreement by Owner.

(a) If Owner desires to engage in a Sale of the Hotel without terminating this Agreement, Owner shall have the right to do so, provided that the following conditions are satisfied:

(i) Owner shall have provided reasonable advance notice thereof to Manager and shall have provided to Manager in good faith an opportunity to bid for such Sale except where Owner determines reasonably and in good faith that

doing so would materially adversely affect Owner's ability to sell the Hotel and one or more other hotels not managed by Manager or its Affiliates in a combined transaction;

(ii) Owner shall provide to Manager information reasonably sufficient to apprise Manager of the financial capability of the proposed transferee. Manager shall, within ten (10) days after receipt thereof, either approve the transferee or specify in reasonable detail any objections to the financial capability of the transferee. The transferee shall be deemed approved as to its financial ability in the event any one of the following conditions is met: (i) Owner fails to approve or reject the transferee within ten (10) days in accordance with the provisions of this Section 17.05, (ii) the transferee has a net worth that is equal to or greater than the net worth of Owner, or (iii) the transferee has a net worth which, either alone or when aggregated with financial assurance provided by the proposed transferee (in form reasonably satisfactory to Manager), is equal to or greater than $5,000,000.

(iii) neither the proposed purchaser or lessee, nor any Affiliate thereof, has been convicted of a felony; and

(iv) on the date of the Sale, and as a condition thereof, the purchaser or lessee shall execute and deliver to Manager a written agreement pursuant to which it shall assume and agree to perform all the obligations of the Owner under this Agreement. After such Sale, the Manager shall have the same rights granted in this Agreement to Manager with respect to any further Sale of the Hotel by the purchaser or lessee. Notwithstanding the foregoing, Owner shall not engage in a Sale of the Hotel prior to the third anniversary of the Commencement Date without obtaining the prior written consent of Manager, which shall not be unreasonably withheld.

(b) From and after such time, if ever, when neither Manager nor any of its Affiliates holds an equity interest in Owner or Hotel Member: (i) an Owner Control Transfer (as defined below) shall be treated as a Sale of the Hotel solely for the purposes of this Article 17.05, and (ii) the party or parties controlling Owner following such a transaction shall be deemed to be the "transferee" for the purposes of 17.05(a) above. As used herein, an "Owner Control Transfer" shall mean any event or transaction, or series of events or transactions, which results in the direct or indirect management control of Owner being held by a person or entity who would not be a permitted transferee of BPC Hotel Member LLC pursuant to Section 7.1(d) of the Venture Agreement as in effect on the date hereof (regardless of whether the Venture Agreement is then in existence or in effect). The provisions of this paragraph (b) shall not apply for so long as Manager or any of its Affiliates holds an equity interest in Owner or Hotel Member.

ARTICLE 18

NOTICES

18.01. Procedure. All consents, approvals, notices or other communications provided for in this Agreement shall be in writing and shall be deemed delivered when personally served at, or sent by reputable overnight delivery service or by postage prepaid Registered or Certified Mail to, the respective addresses for Owner and Manager set forth in Exhibit 1, until such time as written notice, as provided hereby, of a change of address with a new address to be used thereafter is delivered the other party. Upon request a party shall send copies of any notice or communication by ordinary mail as instructed by the other party. All notices shall be directed to the attention of the principal contact parties set forth in Exhibit 1, and those parties shall be the principal points of contact for consents, approvals and other material communications between the parties, subject to changes in the designation of such individuals, which changes shall be effected by written notice given as aforesaid. Copies of all notices shall be given to the attorneys set forth on Exhibit 1.

ARTICLE 19

RELATIONSHIP, AUTHORITY AND FURTHER ACTIONS

19.01. Relationship. Manager and Owner shall not be construed as joint venturers or partners of each other and neither shall have the power to bind or obligate the other except as set forth in this Agreement.

19.02. Further Actions. Owner agrees to execute all contracts, agreements and documents, and to take all actions, necessary to comply with the provisions of this Agreement and the intent hereof.

ARTICLE 20

APPLICABLE LAW

20.01. Scope. The interpretation, validity and performance of this Agreement shall be governed by the laws of the State or Commonwealth in which the Hotel is located. In the event any court or appropriate judicial authority shall hold or declare that the law of another jurisdiction is applicable, this Agreement shall remain enforceable under the laws of that jurisdiction. If any of the terms and provisions hereof shall be held invalid or unenforceable for any reason, such invalidity or unenforceability shall in no event affect any of the other terms or provisions hereof, all such other terms and provisions to be valid and enforceable to the fullest extent permitted by law.

ARTICLE 21

SUCCESSORS AND ASSIGNS

21.01. Assignment by Manager.

(a) Manager, without the consent of Owner, shall not have the right to assign this Management Agreement or its rights and interests hereunder except as follows:

(i) Subject to obtaining any necessary consent from Ground Lessor under the Ground Lease, and from the Mortgagee under the Mortgage, Manager may from time to time assign this Agreement and its rights hereunder to any successor or assignee of Manager which may result from any merger, consolidation or reorganization with, or any sale or assignment to, any corporation, individual, partnership or other entity which shall acquire all or substantially all of the Promus hotel management business, or any Affiliate or successor thereof; provided that such successor and its Affiliates collectively: (A) operate, franchise or are otherwise affiliated with at least 75% of the hotels operated or franchised by or affiliated with Manager immediately prior to such merger, consolidation or other assignment, (B) are of good business reputation, (C) are first-class operators of hotels and provide substantially the same quality of national reservations system and other system-wide benefits as are provided by Manager and its Affiliates prior to such transaction, and (D) are financially capable of fulfilling Manager's obligations under this Agreement.

(ii) Subject to obtaining any necessary consent from Ground Lessor under the Ground Lease, and from the Mortgagee under the Mortgage, Manager may also transfer from time to time this Management Agreement and its rights and interests hereunder without the consent of Owner to any Affiliate of Manager; provided, however, that no such assignment to an Affiliate shall be permitted if it would result in a material change in the executive management of Manager or a material adverse change in the quality of the hotel system, reservations system or other centralized services of Manager or in the financial ability of Manager to comply with its obligations hereunder.

(b) Any assignee as permitted above shall agree to be bound by the terms and conditions of this Agreement. Upon any such permitted assignment and assumption, the assignor shall have no further obligation to Owner as Manager hereunder and shall have no further liability with respect to Manager's obligations arising from and after the date of such assignment, and all such obligations and liabilities of the Manager hereunder shall be and become those of the assignee. No assignment, however, shall release any guarantor of the obligations of Manager hereunder.

(c) Any sale or transfer of a controlling interest in Manager shall be treated as an assignment of this Management Agreement by Manager and shall be governed by subsection (a) above.

21.02. Binding Effect. Subject to the restrictions on assignment set forth elsewhere in this Agreement, shall be binding upon and inure to the benefit of Owner and its successors and assigns, and shall be binding upon and inure to the benefit of Manager and its successors and permitted assigns.

ARTICLE 22

ARBITRATION PROCEDURES

22.01. Arbitration Procedures.

(a) Any dispute between Owner and Manager with respect to the determination of the Competitive Hotels or the determination of whether the Operations Test or the Yield Test has been satisfied shall be resolved by arbitration, which shall commence as soon as possible but not more than fifteen (15) days after such need is determined hereunder. The arbitration shall be held at the Hotel in accordance with the rules of the American Arbitration Association but not under the authority of that Association. The arbitration shall be conducted by an arbitrator named by one of the following accounting firms (selected in the order named) who shall be an employee or partner of such firm experienced in the work the firm does for the hotel industry in New York City: PKF Consulting; KPMG Peat Marwick; and Coopers & Lybrand or such other firm on which the parties shall mutually agree. If none of the named firms or their successor firms are in existence at the time of a request for arbitration, the parties shall agree on a similarly experienced accounting firm which shall name the arbitrator and if the parties are unable to agree, then the arbitrator shall be chosen by the presiding judge of the highest trial court in the County in which the Hotel is located. The decision of the arbitrator shall be binding upon the parties and no appeal of any kind of the decision shall be made by either party. The non-prevailing party shall pay the fees and expenses of the arbitrator and the attorneys' fees of the other party in the amount fixed by the arbitrator.

(b) Any dispute between Owner and Manager other than as set forth in Article 22.01(a) above shall be resolved by arbitration before the American Arbitration Association, or its successor, in New York, New York. If the American Arbitration Association or its successor is not in existence at the time of a need for arbitration, the parties shall agree on a similar forum for dispute resolution and if the parties are unable to agree the arbitration forum shall be chosen by the presiding judge of the highest trial court in the county in which the Hotel is located. The arbitration shall be conducted in accordance with the expedited procedures of the American Arbitration Association and under procedures permitting the parties to conduct discovery in preparation for arbitration. The decision of the arbitrator shall be binding upon the parties and no appeal of any kind of the decision shall be made by either party. The non-prevailing party shall pay the fees and expenses of the arbitrator and the attorneys' fees of the other party in the amount fixed by the arbitrator.

ARTICLE 23

FORCE MAJEURE

23.01. Operation of Hotel. If at any time during the term hereof it becomes necessary in Manager's reasonable opinion to cease operation of the Hotel in order to protect the Hotel and/or the health, safety and welfare of the guests and/or employees of the Hotel for reasons of force majeure such as, but not limited to, acts of war, insurrection, civil strife and commotion, labor unrest or acts of God, then in such event Manager may close and cease operation of all or part of the Hotel, reopening and commencing operation when Manager deems that such may be done without jeopardy to the Hotel, its guests and employees.

23.02. Extension of Time. With respect to any obligation to be performed by a party during the term of this Agreement, such party shall in no event be liable for failure so to do when prevented by any force majeure cause beyond the reasonable control of such party such as strike or lockout (unless caused by the party seeking an extension of time to perform), breakdown, accident, order or regulation of or by any governmental authority, failure of supply or inability, by the exercise of reasonable diligence, to obtain supplies, parts or employees necessary to perform such obligation, or war or other emergency. The time within which such obligation shall be performed shall be extended for a period of time equivalent to the delay from such cause.

ARTICLE 24

GENERAL PROVISIONS

24.01. Authorization. Owner represents that it has full power and authority to execute this Agreement and to be bound by and perform the terms hereof. Manager represents that it has full power and authority to execute this Agreement and to be bound by and perform the terms hereof, and that it is qualified to conduct business in New York. On request each party shall furnish the other evidence of such authority.

24.02. Interest. Any amount payable to Manager or Owner which shall not be paid when due shall accrue interest at the lesser of: (a) the highest legal limit, or (b) four percent (4%) over the rate of interest announced by The Chase Manhattan Bank, or its successor, as its prime rate or base rate, as the same may be changed from time to time.

24.03. Formalities. This Agreement sets forth all of the terms and understandings between the parties, and any and all prior agreements and understandings shall be merged herein. Any change to or modification of this Agreement must be in writing signed by both parties hereto. This Agreement shall be executed in one or more counterparts, each of which shall be deemed an original. The captions for each Article are intended for convenience only.

24.04. Documents. Throughout the term hereof, Owner shall, promptly after request therefor, furnish Manager copies of all property tax and insurance

statements, all financing documents including notes and mortgages (all of which financing documents shall be kept confidential by Manager) relating to the Hotel and such other documents pertaining to the Hotel as Manager shall reasonably request.

24.05. Consents. Except as otherwise expressly provided in this Agreement, wherever in this Agreement it is provided that an act or proposed act of Owner or Manager is subject to the consent or approval of the other, such consent or approval shall not be unreasonably withheld. If, pursuant to this Agreement, the approval or consent ("consent") of one party hereto is required for any act or matter contemplated by the other party, the party desiring such consent may give to the party whose consent is desired, notice specifying in reasonable detail, the matter to which consent is requested.

24.06. Estoppel Certificate. Either party shall, at any time and from time to time, upon not less than ten (10) days prior written request from the other, execute, acknowledge and deliver to the requesting party, in form reasonably satisfactory to the requesting party, a written statement certifying (if true) (i) that this Agreement is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications); (ii) that there is no outstanding notice of an Event of Default hereunder and, to the best of such party's knowledge, no event has occurred or condition exists which, with the giving of notice or the passage of time or both, would constitute an Event of Default hereunder, and (iii) such other accurate information as may be reasonably requested by the requesting party or by any of the Interested Persons (as hereinafter defined). It is intended that any such statement delivered pursuant to this Article 24.06 may be relied upon by the requesting party, any current or prospective Mortgagee or Ground Lessor or other party providing financing to Owner or Manager (as the case may be), a prospective transferee in connection with a Sale of the Hotel, or a permitted assignee of Owner's or Manager's rights and interests hereunder, and the respective successors and assigns of any of the foregoing (the "Interested Persons").

24.07. Extension of Date of Termination. Notwithstanding any contrary provision of this Agreement, the date of termination of this Agreement, other than upon expiration pursuant to Article 3.02, shall be extended so that the date of termination after notice of termination is given to or by Manager shall be on a date which is not earlier than fifteen (15) days plus the number of days, if any, Manager is required to give its employees advance notice of termination of employment as required by the Worker Adjustment and Retraining Act, 29 U.S.C., §2101 et seq. (the "WARN ACT"), as hereafter amended, or any similar federal or state statute; if and to the extent such statues apply to the termination.

24.08. Hotel Reservations Honored. Upon termination of this Agreement for any reason, Owner agrees that Hotel reservations for dates not more than two (2) years after the date of termination made by Manager in the ordinary course of business prior to termination (provided Manager has delivered a list of such reservations to Owner) shall be honored and remain in effect after the date of termination of this Agreement. Manager shall not be entitled to any fees with respect to revenues received after termination of this Agreement.

24.09. No Representations.

(a) Owner and Manager acknowledge there have been no representations, inducements, promises or agreements made by Manager or Owner other than those specifically set forth herein.

(b) Financial projections, budgets or similar forecasts as may have been prepared or in the future are prepared by Manager or its Affiliates do not take into account, nor make provisions for, any rise or decline in local or general economic conditions or other factors beyond the control of Manager. Manager and its Affiliates cannot and do not warrant or guaranty in any way said financial projections, budgets or other forecasts. Any financial projections, budgets or forecasts provided have been prepared on the basis of information available at the time of such preparation and Manager's and its Affiliate's experience in the hotel industry. Manager has prepared such projections in good faith based on its experience in the hotel management industry but Owner hereby acknowledges that Owner shall not have any legal recourse against Manager (except as expressly stated to the contrary herein) with respect to any projection of earnings, statements as to the possibility of future success, or other similar information which may have been prepared by Manager or its Affiliates. Owner further understands and acknowledges that no guaranty is made or implied by Manager or its Affiliates as to the cost, or the future financial success or profitability, of the Hotel.

24.10. Post-Termination Matters; Reimbursements to Manager. Upon any termination or expiration of this Agreement for any reason whatsoever, Owner expressly agrees that Manager may remove any documents which are proprietary to Manager (such as employee records, operating manuals, controller's manuals, proprietary software programs and internal correspondence of a proprietary nature). Owner further agrees that within thirty (30) days of billing therefor (which billing shall be forwarded to Owner within six (6) months after termination), Owner shall reimburse Manager for (i) any unpaid management fees and other charges and reimbursements due Manager hereunder, less any sums due to Owner from Manager, and (ii) except in connection with a termination due to a default by Manager hereunder, actual termination-related expenses up to $75,000 (as adjusted by the Index), including sick, vacation, pension, bonus and termination payments to employees, to the extent reasonable and consistent with Manager's standard practices and industry standards. Subject to the foregoing, upon any termination or expiration of this Agreement, Manager shall forthwith (a) surrender and deliver to Owner possession of the Hotel in good order and condition (reasonable wear and tear and damage by casualty excepted), and all rents and income of the Hotel and other monies of Owner on hand and in any bank account (including the Bank Account), reduced by an amount reasonably estimated by Owner and Manager to cover sums payable thereafter by Manager under this Agreement, (b) deliver to Owner as received any monies due Owner under this Agreement but received after such termination, (c) deliver to Owner all materials and supplies, keys, lock and safe combinations, reservation lists, ledgers, bank statements, budgets, accounting books and records, insurance policies, licenses, permits, warranties, contracts and documents, and such other accountings, papers and records belonging to Owner as Owner shall request, (d) assign to Owner (and Owner shall assume) any existing contracts relating to the operation and maintenance of the Hotel, and (e) cooperate with Owner to effect an orderly transition of management for

the Hotel to a replacement operator of Owner's selection, in order that operation of the Hotel shall continue without interruption; and this covenant is made by Manager not for the benefit of Owner alone but also for the benefit of any Mortgagees and the Ground Lessor. In the event that this Agreement is terminated, Manager shall (to the extent that the same are assignable), immediately following the termination, assign to Owner (or at Owner's cost take such reasonable steps as are required to permit Owner or a subsequent operator to obtain in its own name), any licenses and permits for the operation of the Hotel (including, without limitation, liquor licenses, food service licenses, entertainment licenses and cabaret licenses) which have been procured in Manager's name. Termination of this Agreement under any of the provisions of this Agreement shall not release Manager from liability for failure to perform any of the duties or obligations as expressed herein and required to be performed prior to such termination. This Article 24.10 shall survive the expiration or sooner termination of this Agreement.

24.11. Memorandum of Agreement. At the request of either party, Owner and Manager shall subject to any approval required under a First Mortgage execute and deliver a short-form Memorandum of this Agreement for recordation in the appropriate land records.

24.12. Waiver of Jury Trial. Manager and Owner hereby jointly waive their right to a trial by jury of any dispute arising hereunder.

24.13. Limited Liability. Notwithstanding anything to the contrary contained herein, the liability of Owner shall be limited to the ownership interests of Owner in and to the Hotel and the Site and shall not extend to any other assets of Owner. Furthermore, except pursuant to any express guaranty instrument, under no circumstances shall either of the parties hereto have any recourse to the assets of any direct or indirect shareholder, partner, member, manager, officer, director, employee, trustee or beneficiary of the parties hereto and their respective direct or indirect members, shareholders, partners or Affiliates.

24.14. Jurisdiction and Venue. Without limiting the arbitration provisions of Article 22, Owner and Manager agree that the state and federal courts located in the State and County of New York shall have exclusive jurisdiction and venue over any judicial action between the parties arising out of this Agreement, except that the foregoing shall not prohibit either of the parties from joining the other as an additional party to an action brought elsewhere by an unrelated third party.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Agreement effective the day and year first above written.

OWNER:

BPC HOTEL, LLC

By: FCDT-BPC Corp., its managing member

By: _____
Name: BRUCE RATNER
Title: President

MANAGER:

PROMUS HOTELS, INC.

By: _____
Name: RONALD HALPERN
Title: SENIOR VICE PRESIDENT

JOINDER OF HOTEL MEMBER

BPC Hotel Member LLC hereby joins in this Agreement for the sole purpose of agreeing to be bound by the terms of Article 2.04(c) above.

BPC HOTEL MEMBER, LLC

By: FC BPC Hotel Member, LLC, its managing member

By: BR BPC Hotel, LLC

By: BCR-BPC, LLC

By: _____
Name: BRUCE RATNER
Title: President

EXHIBIT A
(Article 1.01)

LIST OF SCHEMATIC PLANS

EMBASSY SUITES @ BATTERY PARK CITY – SITE # 25

List of Drawings, Specifications, and Supplemental Scope

ARCHITECTURAL DOCUMENTS as prepared by PerkinsEastman Architects PC

Drawing Number	Drawing Title	Drawing Date
ARCHITECTURAL		
A-001	ABBREVATIONS, SYMBOLS & DRA	8/13/98
A-002	GENERAL NOTES	8/13/98
A-003	SITE SURVEY	4/ 2/98
A-005	ZONING CALCULATIONS	3/11/98
A-006	ZONING ANALYSIS SITE PLAN & ELEVATIONS	3/10/98
A-015	KEY PLANS 1ST- 8TH FLOORS	8/13/98
A-016	KEY PLANS 9TH - ROOF PLAN	8/13/98
A-017	BUILDING GRID PLAN	8/13/98
A-018	BUILDING GRID PLAN	8/13/98
A-101N	1ST FLOOR PLAN- NORTH	8/28/98
A-101S	1ST FLOOR PLAN- SOUTH	8/28/98
A-102N	2ND FLOOR PLAN- NORTH	8/13/98
A-102S	2ND FLOOR PLAN- SOUTH	8/13/98
A-103N	3RD FLOOR PLAN- NORTH	8/13/98
A-103S	3RD FLOOR PLAN- SOUTH	8/13/98
A-104N	4TH FLOOR PLAN – NORTH	8/28/98
A-104S	4TH FLOOR PLAN – SOUTH	8/13/98
A-105N	5TH FLOOR PLAN – NORTH	8/28/98
A-105S	5TH FLOOR PLAN – SOUTH	8/13/98
A-106N	6TH FLOOR PLAN – NORTH	8/28/98
A-106S	6TH FLOOR PLAN – SOUTH	8/13/98
A-107N	7TH FLOOR PLAN – NORTH	8/28/98
A-107S	7TH FLOOR PLAN – SOUTH	8/13/98
A-108N	8TH FLOOR PLAN – NORTH	8/28/98
A-108S	8TH FLOOR PLAN – SOUTH	8/13/98
A-109N	9TH FLOOR PLAN – NORTH	8/28/98
A-109S	9TH FLOOR PLAN – SOUTH	8/13/98
A-110N	10TH FLOOR PLAN – NORTH	8/28/98
A-110S	10TH FLOOR PLAN – SOUTH	8/13/98
A-111N	11TH FLOOR PLAN – NORTH	8/28/98
A-111S	11TH FLOOR PLAN – SOUTH	8/13/98
A-112N	12TH FLOOR PLAN – NORTH	8/28/98
A-112S	12TH FLOOR PLAN – SOUTH	8/13/98
A-113N	13TH FLOOR PLAN – NORTH	8/28/98
A-113S	13TH FLOOR PLAN – SOUTH	8/13/98
A-114N	14TH FLOOR PLAN – NORTH	8/28/98
A-114S	14TH FLOOR PLAN – SOUTH	8/13/98
A-115N	MECH. PENTHOUSE PLAN- NORTH	8/13/98
A-115S	MECH. PENTHOUSE PLAN- SOUTH	8/28/98
A-116N	ROOF SPLINE NORTH	8/13/98
A-116S	ROOF SPLINE SOUTH	8/13/98
A-117N	MECH. PENTHOUSE ROOF PLAN NORTH	8/13/98
A-117S	ROOF PLAN SOUTH	8/13/98
A-200	BUILDING AXONOMETRICS	8/13/98
A-201	BUILDING KEY ELEVATIONS	8/13/98
A-202	PANEL SYSTEM	8/13/98
A-203	BUILDING SECTIONS	8/13/98
A-204	BUILDING SECTIONS	8/13/98

ARCHITECTURAL DOCUMENTS as prepared by PerkinsEastman Architects PC

Drawing Number	Drawing Title	Drawing Date
ARCHITECTURAL		
A-205	BUILDING SECTIONS	8/13/98
A-206	NORTH END AVENUE ELEVATION	8/13/98
A-207	MURRAY STREET ELEVATION	8/13/98
A-208	RIGHT OF WAY ELEVATION 1	8/13/98
A-209	RIGHT OF WAY ELEVATION 2	8/13/98
A-210	VESEY STREET ELEVATION	8/28/98
A-211	PENTHOUSE ELEVATION	8/13/98
A-211.1	PENTHOUSE SECTIONS	8/13/98
A-212	UTILITY SPLINE	8/13/98
A-213	TYPICAL PARTIAL ELEVATIONS	8/13/98
A-214	TYPICAL PARTIAL ELEVATIONS	8/13/98
A-215	TYPICAL PARTIAL ELEVATIONS	8/13/98
A-216	ATRIUM WALL ELEVATION, SECT	8/13/98
A-217	ATRIUM WALL ELEVATION, SECT	8/13/98
A-218	TYPICAL WALL DETAILS	8/13/98
A-219	TYPICAL WALL SECTIONS	8/13/98
A-220	TYPICAL WALL SECTIONS	8/13/98
A-221	PENTHOUSE WALL DETAILS	8/13/98
A-222	PENTHOUSE WALL DETAILS	8/13/98
A-223	PLAN DETAILS	8/13/98
A-224	PLAN DETAILS	8/13/98
A-225	PLAN DETAILS	8/13/98
A-226	MISC. DETAILS	8/13/98
A-227	DETAILS ATRIUM WALL	8/13/98
A-228	SKYLIGHT DETAILS	8/13/98
A-229	MISCELLANEOUS DETAILS	8/13/98
A-230	WALL SECTIONS	8/13/98
A-231	ROOF DETAILS	8/13/98
A-232	MECHANICAL EQUIPMENT ROOF D	8/13/98
A-233	GLASS ENTRY LOBBY (HOTEL)	8/13/98
A-234	THEATRE ENTRY VESTIBULE & C	8/13/98
A-235	HOTEL ENTRANCE MARQUEE	8/13/98
A-236	THEATRE MARQUEE & RETAIL CA	8/13/98
A-237	THEATRE ENTRY TYPICAL DETAI	8/13/98
A-301	CORE PLANS PE#1-4, SE#1,2 H	8/13/98
A-302	CORE PLANS PE#1-4, SE#1,2 H8	8/13/98
A-303	CORE PLANS PE#5,6. ESCL#5,6	8/13/98
A-304	CORE PLANS PE#5,6. ESCL#5,6	8/13/98
A-307	HOTEL STAIR#1 PLANS & SECTI	8/13/98
A-308	HOTEL STAIR#2 PLANS & SECTI	2/17/98
A-309	HOTEL STAIR#3 PLANS & SECT	8/13/98
A-310	HOTEL STAIR#4 & 5 PLANS & S	8/13/98
A-311	THEATER STAIR#7 PLANS	8/28/98
A-312	THEATER STAIR#7 SECTIONS AN	8/28/98
A-312.1	SERVICE ELEVATOR#3PLANS & S	8/13/98
A-313	THEATER STAIR#8 PLANS	8/13/98
A-313.1	THEATER STAIR#8 PLANS	8/28/98
A-314	THEATER STAIR#8 SECTIONS	8/28/98

ARCHITECTURAL DOCUMENTS as prepared by PerkinsEastman Architects PC

Drawing Number	Drawing Title	Drawing Date
ARCHITECTURAL		
A-315	THEATER STAIR#9 PLANS	8/13/98
A-315A	THEATER STAIR#9 SECTION	8/13/98
A-316	STAIR DETAILS	8/13/98
A-317	ESCALATOR DESIGN REQUIREMEN	2/17/98
A-318	ESCALATORS #1 & 2 PLANS & S	8/13/98
A-319	ESCALATORS #5,6,7 & 8 PLANS	8/13/98
A-320	ESCALATORS #9,10,11 & 12 PL	8/13/98
A-325	ELEVATOR SECTIONS PE#1-4, S	8/13/98
A-326	ELEVATOR SECTIONS PE#5, PE	8/13/98
A-327	OBSERVATION ELEVATOR	8/13/98
A-328	MISC. CORE DETAILS	2/17/98
A-330	MISC. ELEVATOR CORE DETAILS	8/13/98
A-335	ELEVATOR DESIGN REQUIREMENT	2/17/98
A-336	ELEVATOR DESIGN REQUIREMENT	2/17/98
A-337	ELEVATOR DESIGN REQUIREMENT	2/17/98
A-401N	1ST FLOOR REFLECTED CEILING	8/13/98
A-401S	1ST FLOOR REFLECTED CEILING	8/13/98
A-402N	2ND FLOOR REFLECTED CEILING	8/13/98
A-402S	2ND FLOOR REFLECTED CEILING	8/13/98
A-403S	3RD FLOOR REFLECTED CEILING	8/13/98
A-404N	4TH FLOOR-TYP. REFLECTED CE	8/13/98
A-404S	4TH FLOOR-TYP. REFLECTED CE	8/13/98
A-405S	5TH FLOOR REFLECTED CEILING	8/13/98
A-414N	14TH FLOOR REFLECTED CEILIN	8/13/98
A-414S	14TH FLOOR REFLECTED CEILIN	8/28/98
A-416	TYPICAL HOTEL SUITES – RCP	8/13/98
A-417	BACK OF HOUSE PARTIAL RCP D	8/13/98
A-418	CEILING DETAILS	8/13/98
A-610	INT'R ELEVATIONS: ATRIUM	8/13/98
A-611	INT'R ELEVATIONS: ATRIUM	8/13/98
A-612	INT'R ELEVATIONS: ATRIUM	8/13/98
A-613	INT'R ELEVATIONS: ATRIUM	8/13/98
A-614	INT'R ELEVATIONS: HOTEL LOB	8/13/98
A-615	INT'R ELEVATIONS: THEATER L	8/13/98
A-616	PARTIAL INT'R ELEVATIONS: A	8/13/98
A-617	INTERIOR ELEVATIONS	8/13/98
A-618	CONFERENCE CENTER ELEVATION	8/13/98
A-620	PUBLIC TOILETS DETAILS	8/13/98
A-622	ATRIUM WALL SECTIONS & DETA	8/13/98
A-623	ATRIUM DETAILS	8/13/98
A-624	ATRIUM BRIDGES ELEVATION, P	8/13/98
A-625	MISC. INTERIOR DETAILS	8/13/98
A-626	HOTEL LOBBY DETAILS	8/13/98
A-628	INTERIOR DETAILS	8/13/98
A-630	PUBLIC/STAFF TOILETS – PLAN	8/13/98
A-631	PUBLIC/STAFF TOILETS – ELEV	8/13/98
A-632	PUBLIC/STAFF TOILET ELEVATI	8/13/98

EMBASSY SUITES @ BATTERY PARK CITY – SITE # 25

List of Drawings, Specifications, and Supplemental Scope .

ARCHITECTURAL DOCUMENTS as prepared by PerkinsEastman Architects PC

Drawing Number	Drawing Title	Drawing Date
ARCHITECTURAL		
A-633	LOADING DOCK PLAN DETAIL	8/13/98
A-634	LOADING DOCK SECTION & DET	8/13/98
A-660	PLANS TYPICAL HOTEL SUITES	8/13/98
A-661	ELEVATIONS TYPICAL HOTEL SU	8/13/98
A-662	BATHROOM CORES TYPICAL HOTE	8/13/98
A-663	BATHROOM CORES ACCESSORY PL	8/13/98
A-663.1	HANDICAPPED BATHROOM SUITE	8/13/98
A-664	DETAILS TYPICAL HOTEL SUITE	8/13/98
A-664.1	DETAILS 2 HOTEL SUITES	8/13/98
A-701	PARTITION TYPES	8/28/98
A-701A	PARTITION TYPES	8/13/98
A-702	PARTITION DETAILS & TYPES	8/13/98
A-711	DOOR FRAME TYPES	8/13/98
A-712	DOOR & FRAME DETAILS	8/13/98
A-801N	1ST FLOOR FINISH PLAN – NOR	8/13/98
A-801S	1ST FLOOR FINISH PLAN – SOU	8/13/98
A-802N	2ND FLOOR FINISH PLAN – NOR	8/13/98
A-802S	2ND FLOOR FINISH PLAN – SOU	8/13/98
A-821	FURNITURE PLANS - HOTEL SUI	8/13/98
A-822	BACK OF HOUSE FURNITURE PLA	8/13/98
BD-1	LIFE SAFETY FIRST FLOOR	8/13/98
BD-2	LIFE SAFETY SECOND FLOOR	8/13/98
BD-3	LIFE SAFETY THIRD FLOOR	8/13/98
BD-4	LIFE SAFETY FOURTH FLOOR	8/13/98
BD-5	LIFE SAFETY FIFTH FLOOR	8/13/98
BD-6	LIFE SAFETY SIXTH FLOOR	8/13/98
BD-7	LIFE SAFETY SEVENTH FLOOR	8/13/98
BD-8	LIFE SAFETY EIGHTH FLOOR	8/13/98
BD-9	LIFE SAFETY NINTH FLOOR	8/13/98
BD-10	LIFE SAFETY TENTH FLOOR	8/13/98
BD-11	LIFE SAFETY ELEVENTH FLOOR	8/13/98
BD-12	LIFE SAFETY TWELFTH FLOOR	8/13/98
BD-13	LIFE SAFETY THIRTEENTH FLOO	8/13/98
BD-14	LIFE SAFETY FOURTEENTH FLOO	8/13/98
BD-15	LIFE SAFETY FIFTEENTH FLOOR	8/13/98
F-131N	1ST FLOOR TEL./POWER PLAN -	8/13/98
F-131S	1ST FLOOR TEL./POWER PLAN -	2/12/98
F-132N	2ND FLOOR TEL./POWER PLAN -	8/13/98
F-132S	2ND FLOOR TEL./POWER PLAN -	8/13/98
F-134N	4TH FLOOR TYP;TEL./POWER PL	8/13/98
F-134S	4TH FLOOR TYP;TEL./POWER PL	8/13/98
F-141	TELEPHONE & POWER PLANS TYP	8/13/98
F-142	BACK OF HOUSE TEL./POWER PL	8/13/98
GL-1	LOBBY LEVEL SIGN LOCATIONS	2/12/98
GL-2	2ND LEVEL SIGN LOCATIONS PL	2/12/98
L-100A	BUILDERS PAVEMENT PLANS	8/13/98
L-100B	BUILDERS PAVEMENT PLANS	8/13/98

EMBASSY SUITES @ BATTERY PARK CITY – SITE # 25

List of Drawings, Specifications, and Supplemental Scope

ARCHITECTURAL DOCUMENTS as prepared by PerkinsEastman Architects PC

Drawing Number	Drawing Title	Drawing Date
ARCHITECTURAL		
L-100C	BUILDERS PAVEMENT PLANS	8/13/98
L-101	BUILDERS PAVEMENT PLAN PROF	8/13/98
L-102	BUILDERS PAVEMENT PLAN PROF	2/17/98
L-103	INTERIOR PLANTING PLAN & DE	8/13/98
L-104	STREETSCAPE DETAILS	8/13/98

M.E.P. DOCUMENTS **as prepared by EDWARDS & ZUCK**

Drawing Number	Drawing Title	Drawing Date
ELECTRICAL		
E-101	ELECTRICAL NOTES AND SYMBOL	8/27/98
E-301N	1ST FLOOR POWER PLAN-NORTH	8/27/98
E-301S	1ST FLOOR POWER PLAN-SOUTH	8/27/98
E-302N	2ND FLOOR POWER PLAN-NORTH	8/27/98
E-302S	2ND FLOOR POWER PLAN-SOUTH	8/27/98
E-303N	3RD FLOOR POWER PLAN-NORTH	8/27/98
E-303S	3RD FLOOR POWER PLAN-SOUTH	8/27/98
E-304N	4TH FLOOR POWER PLAN-NORTH	8/27/98
E-304S	4TH FLOOR POWER PLAN-SOUTH	8/27/98
E-305N	5TH FLOOR POWER PLAN-NORTH	8/27/98
E-305S	5TH FLOOR POWER PLAN-SOUTH	8/27/98
E-306N	6TH FLOOR POWER PLAN-NORTH	8/27/98
E-306S	6TH FLOOR POWER PLAN-SOUTH	8/27/98
E-307N	7TH FLOOR POWER PLAN-NORTH	8/27/98
E-307S	7TH FLOOR POWER PLAN-SOUTH	8/27/98
E-308N	8TH FLOOR POWER PLAN-NORTH	8/27/98
E-308S	8TH FLOOR POWER PLAN-SOUTH	8/27/98
E-309N	9TH FLOOR POWER PLAN- NORT	8/27/98
E-309S	9TH FLOOR POWER PLAN-SOUTH	8/27/98
E-310N	10TH FLOOR POWER PLAN- NOR	8/27/98
E-310S	10TH FLOOR POWER PLAN- SOU	8/27/98
E-311N	11TH FLOOR POWER PLAN- NOR	8/27/98
E-311S	11TH FLOOR POWER PLAN- SOU	8/27/98
E-312N	12TH FLOOR POWER PLAN- NOR	8/27/98
E-312S	12TH FLOOR POWER PLAN- SOU	8/27/98
E-313N	13TH FLOOR POWER PLAN- NOR	8/27/98
E-313S	13TH FLOOR POWER PLAN- SOU	8/27/98
E-314N	14TH FLOOR POWER PLAN- NOR	8/27/98
E-314S	14TH FLOOR POWER PLAN- SOU	8/27/98
E-315N	MECH. ROOM POWER PLAN- NORT	8/27/98
E-315S	MECH. ROOM POWER PLAN- SOUT	8/27/98
E-316	MECH. ROOM POWER PLAN	8/27/98
E-317	LEVEL 16TH POWER PLAN	8/27/98
E-401N	1ST FLOOR LIGHTING PLAN-NOR	8/27/98
E-401S	1ST FLOOR LIGHTING PLAN-SOU	8/27/98
E-402N	2ND FLOOR LIGHTING PLAN-NOR	8/27/98
E-402S	2ND FLOOR LIGHTING PLAN-SOU	8/27/98
E-403N	3RD FLOOR LIGHTING PLAN-NO	8/27/98
E-403S	3RD FLOOR LIGHTING PLAN-SO	8/27/98
E-404N	4TH FLOOR LIGHTING PLAN-NO	8/27/98
E-404S	4TH FLOOR LIGHTING PLAN-SO	8/27/98
E-405N	TYPICAL LIGHTING PLAN 5th-1	8/27/98
E-405S	TYPICAL LIGHTING PLAN 5th-1	8/27/98
E-414N	14TH FLOOR LIGHTING PLAN -	8/27/98
E-414S	14TH FLOOR LIGHTING PLAN -	8/27/98
E-415N	MECH ROOM LIGHTING PLAN –N	8/27/98
E-415S	MECH ROOM LIGHTING PLAN –S	8/27/98
E-416	EXTERIOR LIGHTING PLAN	8/27/98

M.E.P. DOCUMENTS as prepared by EDWARDS & ZUCK

Drawing Number	Drawing Title	Drawing Date
ELECTRICAL		
E-501	ELECTRICAL RISER DIAGRAM	8/27/98
E-502	ELECTRICAL SINGLE LINE DIAG	8/27/98
E-503	FIRE ALARM RISER DIAGRAM	8/27/98
E-504	FIRE ALARM RISER DIAGRAM	8/27/98
E-601	PANEL SCHJEDULES	8/27/98
E-602	PANEL SCHJEDULES	8/27/98
E-603	PANEL SCHJEDULES	8/27/98
E-604	PANEL SCHJEDULES	8/27/98
E-605	PANEL SCHJEDULES	8/27/98
E-606	PANEL SCHJEDULES	8/27/98
E-607	PANEL SCHJEDULES	8/27/98
E-608	PANEL SCHJEDULES	8/27/98
E-609	PANEL SCHJEDULES	8/27/98
E-701	ELECTRIC CLOSET PART PLANS	8/27/98
E-702	ELECTRICAL PART PLANS	8/27/98
E-703	TYPICAL SUITES PART PLANS	8/27/98
E-704	BACK OF HOUSE PART PLANS	8/27/98
E-705	STAIRWELL LIGHTING PART PL	8/27/98
E-706	STAIRWELL LIGHTING PART PL	8/27/98
E-707	STAIR LIGHTING PART PLANS	8/27/98
E-708	ELEVATOR MACHINE ROOM PART	8/27/98
E-709	BACK OF HOUSE TEL/POWER PL	8/27/98
E-710	HEAT TRACE DETAILS AND SPEC	8/27/98
E-711	TRANSFORMER VAULT PART PLAN	8/27/98
FIRE ALARM		
FA-301	1ST FLOOR FIRE ALARM PLAN	8/27/98
FA-302	2ND FLOOR FIRE ALARM PLAN	8/27/98
FA-303	3RD FLOOR FIRE ALARM PLAN	8/27/98
FA-304	4TH FLOOR FIRE ALARM PLAN	8/27/98
FA-305	5TH FLOOR FIRE ALARM PLAN	8/27/98
FA-306	6TH FLOOR FIRE ALARM PLAN	8/27/98
FA-307	7TH FLOOR FIRE ALARM PLAN	8/27/98
FA-308	8TH FLOOR FIRE ALARM PLAN	8/27/98
FA-309	9TH FLOOR FIRE ALARM PLAN	8/27/98
FA-310	10TH FLOOR FIRE ALARM PLAN	8/27/98
FA-311	11TH FLOOR FIRE ALARM PLAN	8/27/98
FA-312	12TH FLOOR FIRE ALARM PLAN	8/27/98
FA-313	13TH FLOOR FIRE ALARM PLAN	8/27/98
FA-314	14TH FLOOR FIRE ALARM PLAN	8/27/98
FA-315	15TH FLOOR FIRE ALARM PLAN	8/27/98

EMBASSY SUITES @ BATTERY PARK CITY – SITE # 25

List of Drawings, Specifications, and Supplemental Scope .

M.E.P. DOCUMENTS as prepared by EDWARDS & ZUCK

Drawing Number	Drawing Title	Drawing Date
FIRE PROTECTION		
FP-101	FIRE PROTECTION NOTES	8/27/98
FP-301N	FIRE PROTECTION 1ST FL. PLA	8/27/98
FP-301S	FIRE PROTECTION 1ST FL. PLA	8/27/98
FP-302N	FIRE PROTECTION 2ND FL. PL	8/27/98
FP-302S	FIRE PROTECTION 2ND FL. PL	8/27/98
FP-303N	FIRE PROTECTION 3RD FL. PL	8/27/98
FP-303S	FIRE PROTECTION 3RD FL. PL	8/27/98
FP-304N	FIRE PROTECTION 4TH FL. PL	8/27/98
FP-304S	FIRE PROTECTION 4TH FL. PL	8/27/98
FP-305N	FIRE PROTECTION 5TH FL. PL	8/27/98
FP-305S	FIRE PROTECTION 5TH FL. PL	8/27/98
FP-306N	FIRE PROTECTION 6TH FL. PL	8/27/98
FP-306S	FIRE PROTECTION 6TH FL. PL	8/27/98
FP-307N	FIRE PROTECTION 7TH FL. PL	8/27/98
FP-307S	FIRE PROTECTION 7TH FL. PL	8/27/98
FP-308N	FIRE PROTECTION 8TH FL. PL	8/27/98
FP-308S	FIRE PROTECTION 8TH FL. PL	8/27/98
FP-309N	FIRE PROTECTION 9TH FL. PL	8/27/98
FP-309S	FIRE PROTECTION 9TH FL. PL	8/27/98
FP-310N	FIRE PROTECTION 10TH FL. P	8/27/98
FP-310S	FIRE PROTECTION 10TH FL. P	8/27/98
FP-311N	FIRE PROTECTION 11TH FL. P	8/27/98
FP-311S	FIRE PROTECTION 11TH FL. P	8/27/98
FP-312N	FIRE PROTECTION 12TH FL. P	8/27/98
FP-312S	FIRE PROTECTION 12TH FL. P	8/27/98
FP-313N	FIRE PROTECTION 13TH FL. P	8/27/98
FP-313S	FIRE PROTECTION 13TH FL. P	8/27/98
FP-314N	FIRE PROTECTION 14TH FL. P	8/27/98
FP-314S	FIRE PROTECTION 14TH FL. P	8/27/98
FP-315N	FIRE PROTECTION 15TH FL. P	8/27/98
FP-401	FIRE PROTECTION DETAILS	8/27/98
FP-402	FIRE PROTECTION DETAILS	8/27/98
FP-501	FIRE PROTECTION RISER DIAGR	8/27/98
FP-701	FIRE PROTECTION PART PLANS	8/27/98

M.E.P. DOCUMENTS **as prepared by EDWARDS & ZUCK**

Drawing Number	Drawing Title	Drawing Date
MECHANICAL		
M-101	MECHANICAL SYMBOLS AND NOTE	8/27/98
M-301N	MECHANICAL 1ST FL.PLAN - NO	8/27/98
M-301S	MECHANICAL 1ST FL.PLAN – SO	8/27/98
M-302N	MECHANICAL 2ND FL.PLAN - NO	8/27/98
M-302S	MECHANICAL 2ND FL.PLAN – SO	8/27/98
M-303N	MECHANICAL 3RD FL.PLAN - NO	8/27/98
M-303S	MECHANICAL 3RD FL.PLAN - SO	8/27/98
M-304N	MECHANICAL 4TH FL.PLAN - NO	8/27/98
M-304S	MECHANICAL 4TH FL.PLAN – SO	8/27/98
M-305N	MECHANICAL 5TH FL.PLAN - NO	8/27/98
M-305S	MECHANICAL 5TH FL.PLAN - SO	8/27/98
M-306N	MECHANICAL 6TH FL.PLAN - NO	8/27/98
M-306S	MECHANICAL 6TH FL.PLAN - SO	8/27/98
M-307N	MECHANICAL 7TH FL.PLAN - NO	8/27/98
M-307S	MECHANICAL 7TH FL.PLAN - SO	8/27/98
M-308N	MECHANICAL 8TH FL.PLAN - NO	8/27/98
M-308S	MECHANICAL 8TH FL.PLAN - SO	8/27/98
M-309N	MECHANICAL 9TH FL.PLAN - NO	8/27/98
M-309S	MECHANICAL 9TH FL.PLAN - SO	8/27/98
M-310N	MECHANICAL 10TH FL.PLAN - N	8/27/98
M-310S	MECHANICAL 10TH FL.PLAN - S	8/27/98
M-311N	MECHANICAL 11TH FL.PLAN - N	8/27/98
M-311S	MECHANICAL 11TH FL.PLAN - S	8/27/98
M-312N	MECHANICAL 12TH FL.PLAN - N	8/27/98
M-312S	MECHANICAL 12TH FL.PLAN - S	8/27/98
M-313N	MECHANICAL 13TH FL.PLAN - N	8/27/98
M-313S	MECHANICAL 13TH FL.PLAN - S	8/27/98
M-314N	MECHANICAL 14TH FL.PLAN - N	8/27/98
M-314S	MECHANICAL 14TH FL.PLAN - S	8/27/98
M-315N	MECHANICAL - PENTHOUSE PLAN	8/27/98
M-315S	MECHANICAL - PENTHOUSE PLAN	8/27/98
M-316	MECHANICAL - PENTHOUSE PIPI	8/27/98
M-317	MECHANICAL - PENTHOUSE PIPI	8/27/98
M-401	MECHANICAL DETAILS	8/27/98
M-402	MECHANICAL DETAILS	8/27/98
M-403	MECHANICAL DETAILS	8/27/98
M-404	MECHANICAL DETAILS	8/27/98
M-405	MECHANICAL DETAILS	8/27/98
M-501	SCHEMATIC WATER FLOW DIAGRA	8/27/98
M-502	SCHEMATIC RISER DIAGRAM	8/27/98
M-503	SCHEMATIC AIR RISER DIAGRA	8/27/98
M-504	MECHANICAL CONTROL DIAGRAMS	8/27/98
M-505	MECHANICAL CONTROL DIAGRAMS	8/27/98
M-601	MECHANICAL SCHEDULES	8/27/98
M-602	MECHANICAL SCHEDULES	8/27/98
M-701	MECHANICAL SECTIONS	8/27/98

M.E.P. DOCUMENTS as prepared by EDWARDS & ZUCK

Drawing Number	Drawing Title	Drawing Date
PLUMBING		
P-001	SITE CONNECTION PLAN PLUMBI	8/27/98
P-101	PLUMBING NOTES	8/27/98
P-300N	PLUMBING FOUNDATION PLAN	8/27/98
P-300S	PLUMBING FOUNDATION PLAN-SO	8/27/98
P-301N	PLUMBING 1ST FL. PLAN-NORTH	8/27/98
P-301S	PLUMBING 1ST FL. PLAN-SOUTH	8/27/98
P-302N	PLUMBING 2ND FL. PLAN-NORT	8/27/98
P-302S	PLUMBING 2ND FL. PLAN-SOUT	8/27/98
P-303N	PLUMBING 3RD FL. PLAN-NORT	8/27/98
P-303S	PLUMBING 3RD FL. PLAN-SOUT	8/27/98
P-304N	PLUMBING 4TH FL. PLAN-NORT	8/27/98
P-304S	PLUMBING 4TH FL. PLAN-SOUT	8/27/98
P-305N	PLUMBING 5TH FL. PLAN-NORT	8/27/98
P-305S	PLUMBING 5TH FL. PLAN-SOUT	8/27/98
P-306N	PLUMBING 6TH FL. PLAN-NORT	8/27/98
P-306S	PLUMBING 6TH FL. PLAN-SOUT	8/27/98
P-307N	PLUMBING 7TH FL. PLAN-NORT	8/27/98
P-307S	PLUMBING 7TH FL. PLAN-SOUT	8/27/98
P-308N	PLUMBING 8TH FL. PLAN-NORT	8/27/98
P-308S	PLUMBING 8TH FL. PLAN-SOUT	8/27/98
P-309N	PLUMBING 9TH FL. PLAN-NORT	8/27/98
P-309S	PLUMBING 9TH FL. PLAN-SOUT	8/27/98
P-310N	PLUMBING 10TH FL. PLAN-NOR	8/27/98
P-310S	PLUMBING 10TH FL. PLAN-SOU	8/27/98
P-311N	PLUMBING 11TH FL. PLAN-NOR	8/27/98
P-311S	PLUMBING 11TH FL. PLAN-SOU	8/27/98
P-312N	PLUMBING 12TH FL. PLAN-NOR	8/27/98
P-312S	PLUMBING 12TH FL. PLAN-SOU	8/27/98
P-313N	PLUMBING 13TH FL. PLAN-NOR	8/27/98
P-313S	PLUMBING 13TH FL. PLAN-SOU	8/27/98
P-314N	PLUMBING 14TH FL. PLAN-NOR	8/27/98
P-314S	PLUMBING 14TH FL. PLAN-SOU	8/27/98
P-315N	PLUMBING-PENTHOUSE FLOOR PL	8/27/98
P-315S	PLUMBING-PENTHOUSE FLOOR PL	8/27/98
P-316N	PLUMBING-PENTHOUSE ROOF PLA	8/27/98
P-316S	PLUMBING-PENTHOUSE ROOF PLA	8/27/98
P-401	PLUMBING DETAILS	8/27/98
P-402	PLUMBING DETAILS	8/27/98
P-501	PLUMBING SANITARY RISER DIA	8/27/98
P-502	PLUMBING SANITARY RISER DIA	8/27/98
P-503	PLUMBING SANITARY RISER DIA	8/27/98
P-504	PLUMBING SANITARY RISER DIA	8/27/98
P-505	PLUMBING SANITARY RISER DIA	8/27/98
P-506	PLUMBING SANITARY RISER DIA	8/27/98
P-507	PLUMBING DOMESTIC WATER RIS	8/27/98
P-508	PLUMBING DOMESTIC WATER RIS	8/27/98
P-509	PLUMBING DOMESTIC WATER RIS	8/27/98

M.E.P. DOCUMENTS **as prepared by EDWARDS & ZUCK**

Drawing Number	Drawing Title	Drawing Date
PLUMBING		
P-510	PLUMBING DOMESTIC WATER RIS	8/27/98
P-511	PLUMBING DOMESTIC WATER RIS	8/27/98
P-512	PLUMBING STORM RISER DIAGRAM	8/27/98
P-513	GAS RISER DIAGRAM	8/27/98

STRUCTURAL DOCUMENTS as prepared by THORNTON TOMASETTI

Drawing Number	Drawing Title	Drawing Date
STRUCTURAL		
S-001	GENERAL NOTES	6/29/98
S-100N	FOUNDATION PLAN -NORTH	6/29/98
S-100S	FOUNDATION PLAN -SOUTH	6/29/98
S-101N	1ST FLOOR FRAMING PLAN-NORT	6/29/98
S-101NA	1ST FLOOR SLAB ELEVATIONS-N	6/29/98
S-101S	1ST FLOOR FRAMING PLAN-SOUT	6/29/98
S-101SA	1ST FLOOR SLAB ELEVATIONS-S	6/29/98
S-102N	2ND FLOOR FRAMING PLAN-NORT	6/29/98
S-102S	2ND FLOOR FRAMING PLAN-SOUT	6/29/98
S-103N	3RD FLOOR FRAMING PLAN-NORT	6/29/98
S-103S	3RD FLOOR FRAMING PLAN-SOUT	6/29/98
S-104N	4TH FLOOR FRAMING PLAN-NORT	6/29/98
S-104S	4TH FLOOR FRAMING PLAN-SOUT	6/29/98
S-105N	5TH FLOOR FRAMING PLAN-NORT	6/29/98
S-105S	5TH FLOOR FRAMING PLAN-SOUT	6/29/98
S-106N	6TH FLOOR FRAMING PLAN-NORT	6/29/98
S-106S	6TH FLOOR FRAMING PLAN-SOUT	6/29/98
S-107N	7TH FLOOR FRAMING PLAN-NORT	6/29/98
S-107S	7TH FLOOR FRAMING PLAN-SOUT	6/29/98
S-108N	8TH FLOOR FRAMING PLAN-NORT	6/29/98
S-108S	8TH FLOOR FRAMING PLAN-SOUT	6/29/98
S-109N	9TH FLOOR FRAMING PLAN-NORT	6/29/98
S-109S	9TH FLOOR FRAMING PLAN-SOUT	6/29/98
S-110N	10TH FLOOR FRAMING PLAN-NOR	6/29/98
S-110S	10TH FLOOR FRAMING PLAN-SOU	6/29/98
S-111N	11TH FLOOR FRAMING PLAN-NOR	6/29/98
S-111S	11TH FLOOR FRAMING PLAN-SOU	6/29/98
S-112N	12TH FLOOR FRAMING PLAN-NOR	6/29/98
S-112S	12TH FLOOR FRAMING PLAN-SOU	6/29/98
S-113N	13TH FLOOR FRAMING PLAN-NOR	6/29/98
S-113S	13TH FLOOR FRAMING PLAN-SOU	6/29/98
S-114N	14TH FLOOR FRAMING PLAN-NOR	6/29/98
S-114S	14TH FLOOR FRAMING PLAN-SOU	6/29/98
S-115N	ROOF FRAMING PLAN-NORTH	6/29/98
S-115S	ROOF FRAMING PLAN-SOUTH	6/29/98
S-116	PENTHOUSE ROOF FRAMING PLAN	6/29/98
S-201	TYPICAL FOUNDATION DETAILS	6/29/98
S-202	TYPICAL FOUNDATION DETAILS	6/29/98
S-203	TYPICAL CONCRETE DETAILS 1	6/29/98
S-204	TYPICAL CONCRETE DETAILS 11	4/ 2/98
S-205	TYPICAL STEEL DETAILS	4/ 2/98
S-206	TYPICAL SLAB ON METAL DECK	6/29/98
S-207	TYPICAL PRECAST DETAILS	6/29/98
S-208	TYPICAL MASONRY DETAILS	4/ 2/98
S-209	TYPICAL JOIST DETAILS	4/ 2/98
S-301	SECTIONS AND DETAILS 1	6/29/98
S-302	SECTIONS AND DETAILS 11	6/29/98

EMBASSY SUITES @ BATTERY PARK CITY – SITE # 25

List of Drawings, Specifications, and Supplemental Scope.

STRUCTURAL DOCUMENTS as prepared by THORNTON TOMASETTI

Drawing Number	Drawing Title	Drawing Date
STRUCTURAL		
S-303	SECTIONS AND DETAILS 111	6/29/98
S-401	STAGGERED TRUSS ELEVATIONS	6/29/98
S-402	STAGGERED TRUSS ELEVATIONS	6/29/98
S-403	STAGGERED TRUSS DETAILS	6/29/98
S-404	TRUSS ELEVATIONS AND DETAIL	6/29/98
S-405	BRACING ELEVATIONS & DETAIL	6/29/98
S-406	BRACING ELEVATIONS & DETAIL	6/29/98
S-501	COLUMN SCHEDULE 1	6/29/98
S-502	COLUMN SCHEDULE 11	9/ 8/98

SPECIFICATIONS DOCUMENTS

Section Number	Drawing Title	Date
SPECIFICATIONS		
01010	SUMMARY OF WORK	8/13/98
01041	PROJECT COORDINATION	8/13/98
01045	CUTTING AND PATCHING	8/13/98
01050	FIELD ENGINEERING	8/13/98
01300	SCHEDULES AND REPORTS	8/13/98
01310	SUMITTALS	8/13/98
01380	CONSTRUCTION PHOTOGRAPHS	8/13/98
01400	QUALITY CONTROL SERVICES	8/13/98
01421	REFERENCE STANDARDS AND DEF	8/13/98
01500	TEMPORARY FACILITIES	8/13/98
01600	MATERIALS AND EQUIPMENT	8/13/98
01631	PRODUCT SUBSTITUTIONS	8/13/98
01700	PROJECT CLOSEOUTS	8/13/98
01740	WARRANTIES	8/13/98
02100	SITE PREPARATION	8/13/98
02200	EARTHWORK	8/13/98
02363	STEEL PIPE PILES	8/13/98
02511	HOT-MIX ASPHALT PAVING PATC	8/13/98
02514	UNIT PAVERS	8/13/98
02525	STREETSCAPE	8/13/98
02870	LANDSCAPE ACCESSORIES	8/13/98
02951	STREET TREE PLANTINGS	8/13/98
02954	INTERIOR PLANT MATERIALS	8/13/98
03100	CONCRETE FORMWORK	8/13/98
03200	CONCRETE REINFORCEMENT	8/13/98
03300	CAST-IN-PLACE CONCRETE	8/13/98
03350	CONCRETE TOPPINGS	8/13/98
03390	GLASS FIBER REINFORCED CEME	8/13/98
03419	STRUCTURAL PRECAST CONCRETE	8/13/98
03450	ARCHITECTURAL PRECAST CONCR	8/13/98
04200	UNIT MASONRY	8/13/98
04400	EXTERIOR STONE CLADDING	8/13/98
05100	STRUCTURAL STEEL	8/13/98
05220	STEEL OPEN WEB JOISTS	8/13/98
05300	METAL DECKING	8/13/98
05400	COLD FORMED METAL FRAMING	8/13/98
05500	METAL FABRICATIONS	8/13/98
05510	STEEL PAN STAIRS	8/13/98
05700	ORNAMENTAL METALWORK	8/13/98
05720	ORNAMENTAL HANDRAILS AND RA	8/13/98
05730	MARQUEES AND AWNINGS	8/13/98
06100	ROUGH CARPENTRY	8/13/98
06400	ARCHITECTURAL WOODWORK	8/13/98
07110	SHEET WATERPROOFING	8/13/98
07110	SHEET WATERPROOFING	8/13/98
07145	CAPILLARY WATERPROOFING	8/13/98
07160	BITUMINOUS DAMPROOFING	8/13/98

SPECIFICATIONS DOCUMENTS

Section Number	Drawing Title	Date
SPECIFICATIONS		
07200	BUILDING INSULATION	8/13/98
07210	EXTERIOR BUILDING INSULATION	8/13/98
07241	EXTERIOR INSULATION AND FIN	8/15/98
07250	FIREPROOFING	8/13/98
07270	FIRESTOPPING	8/13/98
07412	METAL PANELS	8/13/98
07415	MANUFACTURED WALL PANEL SYS	8/13/98
07530	SINGLE PLY MEMBRANE ROOFING	8/15/98
07561	FLUID APPLIED MEMBRANE ROOF	8/15/98
07600	FLASHING AND SHEET METAL	8/13/98
07700	ROOF ACCESSORIES	8/13/98
07810	SKYLIGHT ASSEMBLIES	8/13/98
07900	JOINT SEALERS	8/13/98
07920	EXTERIOR BUILDING SEALANTS	8/13/98
08110	STEEL DOORS AND FRAMES	8/13/98
08210	WOOD DOORS	8/13/98
08305	ACCESS DOORS	8/13/98
08330	OVERHEAD COILING DOORS	8/13/98
08340	OVERHEAD COILING GRILLES	8/13/98
08400	ENTRANCES AND STOREFRONTS	8/13/98
08470	REVOLVING DOORS	8/13/98
08520	ALUMINUM WINDOWS	8/13/98
08710	FINISH HARDWARE	8/13/98
08800	GLASS AND GLAZING	8/13/98
08920	GLAZED ALUMINUM CURTAIN WAL	8/13/98
08975	TRUSS CURTAIN WALLS	8/13/98
09000	INTERIOR MATERIALS INDEX &	8/13/98
09100	FINISH INDEX	8/13/98
09215	VENEER PLASTER	8/13/98
09220	GLASS FIBER REINFORCED GYPS	8/13/98
09250	GYPSUM DRYWALL	8/13/98
09310	TILE	8/13/98
09511	ACOUSTICAL PANEL CEILINGS	8/13/98
09600	INTERIOR STONEWORK	8/13/98
09650	RESILIENT FLOORING	8/13/98
09680	CARPET	8/13/98
09705	SEAMLESS FLOORING	8/13/98
09900	PAINTING	8/13/98
09950	WALL COVERING	8/13/98
09960	FIRE RESISTANT COATINGS	8/13/98
10155	TOILET COMPARTMENTS	8/13/98
10200	LOUVERS AND VENTS	8/13/98
10260	CORNER GUARDS	8/13/98
10440	GRAPHICS PROGRAM	8/13/98
10500	METAL LOCKERS	8/13/98
10522	FIRE EXTINGUISHERS AND CABI	8/13/98
10655	FOLDING PANEL PARTITIONS	8/13/98

SPECIFICATIONS DOCUMENTS

Section Number	Drawing Title	Date
SPECIFICATIONS		
10800	TOILET AND BATH ACCESSORIES	8/13/98
11132	PROJECTION SCREENS	8/13/98
11160	LOADING DOCK EQUIPMENT	8/13/98
11900	MISCELLANEOUS EQUIPMENT	8/13/98
12690	ENTRANCE MATS	8/13/98
14240	HYDRAULIC ELEVATORS	8/13/98
14245	TRACTION ELEVATORS	8/13/98
14460	LINEN CHUTE	8/13/98
14700	ESCALATORS	8/13/98
15300	GENERAL REQUIREMENTS FOR FI	8/27/98
15301	MISCELLANEOUS FIRE PROTECTION	8/27/98
15302	FIRE PROTECTION MATERIALS	8/27/98
15306	WET FIRE STANDPIPE SYSTEM	8/27/98
15315	WET FIRE SPRINKLER SYSTEM	8/27/98
15316	DRY PIPE SPRINKLER SYSTEM	8/27/98
15336	NOISE AND VIBRATION CONTROL	8/27/98
15400	GERERAL REQUIREMENTS FOR PL	8/27/98
15401	MISCELLANEOUS PLUMBING WORK	8/27/98
15402	PLUMBING MATERIALS AND INST	8/27/98
15410	SANITARY DRAINAGE AND VENT	8/27/98
15417	STORM WATER DRAINAGE SYSTEM	8/27/98
15425	DOMESTIC COLD WATER, HOT WATER	8/27/98
15430	FUEL GAS DISTRIBUTION SYSTEM	8/27/98
15445	NON-CONDUCTIVE COVERING WOR	8/27/98
15450	PLUMBING FIXTURE WORK AND T	8/27/98
15465	NOISE AND VIBRATION CONTROL	8/27/98
15485	EXCAVATION, BACKFILL AND RE	8/27/98
15504	HVAC GENERAL PROVISIONS	8/27/98
15510	PIPING	8/27/98
15512	SHEETMETAL WORK	8/27/98
15514	INSULATION	8/27/98
15516	THERMOMETERS AND GAUGES	8/27/98
15518	NOISE AND VIBRATION CONTROL	8/27/98
15520	MOTORS, CONTROLLERS AND MOTORS	8/27/98
15521	VARIABLE FREQUENCY DRIVES	8/27/98
15525	AIR HANDLING EQUIPMENT	8/27/98
15526	AIR DISTRIBUTION	8/27/98
15530	CONDENSER WATER SYSTEMS	8/27/98
15531	REFRIGERATION PLANT	8/27/98
15532	HEATING PLANT	8/27/98
15534	WATER TREATMENT	8/27/98
15536	EMERGENCY DIESEL GENERATOR	8/27/98
15538	DUCT MOUNTED SMOKE DETECTIO	8/27/98
15540	BTU MEASUREMENT SYSTEMS	8/27/98
15550	AUTOMATIC TEMPERATURE CONTR	8/27/98
16000	GENERAL REQUIREMENTS FOR EL	8/27/98
16040	TESTS AND ACCEPTANCE	8/27/98

SPECIFICATIONS DOCUMENTS

Section Number	Drawing Title	Date
SPECIFICATIONS		
16050	RACEWAYS	8/27/98
16060	WIRE AND CABLE	8/27/98
16070	BOXES, CABINETS AND ENCLOSU	8/27/98
16080	SUPPORTS AND FASTENINGS	8/27/98
16090	CONNECTION EQUIPMENT	8/27/98
16100	IDENTIFICATION AND MOUNTING	8/27/98
16180	EMPTY CONDUIT SYSTEMS	8/27/98
16240	EMERGENCY/ STANDBY POWER SY	8/27/98
16260	AUTOMATIC TRANSFER SWITCHES	8/27/98
16300	SWITCHBOARDS	8/27/98
16320	DISCONNECT SWITCHES	8/27/98
16340	TRANSFORMERS	8/27/98
16360	PANELBOARDS	8/27/98
16370	OVERCURRENT PROTECTIVE DEVI	8/27/98
16380	MOTOR WIRING AND CONTROLS	8/27/98
16390	ELECTRIC MOTOR DRIVEN EQUIP	8/27/98
16400	GROUNDING	8/27/98
16410	SWITCHES, RECEPTACLES AND D	8/27/98
16500	LIGHTING FIXTURES	8/27/98
16700	FIRE DETECTION SYSTEM	8/27/98
16960	UNIT PRICES	8/27/98
16980	TEMPORARY LIGHT AND POWER	8/27/98

Supplemental Scope

Section Number	Drawing Title	Date

Supplemental Scope

1. Furnish and install architectural / interior finishes, including MEP work within the laundry and main kitchen areas - such as:

    a) Quarry tile flooring

    b) Ceilings

    c) Plumbing; including roughing, floor drains, etc.

    d) Special fire protection

    e) Electrical; including roughing, light fixtures, etc.

2. Furnish and install one (1) complete window washing rig assembly.

3. Furnish and install a four (4) pipe fan coil system for all typical suites in lieu of a two (2) pipe fan coil system

4. Furnish and install Sidewalk Granite Pavers at Hotel Entrance in lieu of concrete

EXHIBIT B
(Article 1.01)

LEGAL DESCRIPTION OF THE SITE

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

BEGINNING at the corner formed by the intersection of the northerly side of Vesey Street and the easterly side of North End Avenue;

THENCE RUNNING northerly along the easterly side of North End Avenue 259.15 feet to the corner formed by the intersection of the easterly side of North End Avenue and the southerly side of Murray Street;

THENCE easterly along the southerly side of Murray Street a distance of 211.33 feet to a point;

THENCE southerly 209.65 feet to a point;

THENCE southerly 131.66 feet to the northerly side of Vesey Street;

THENCE westerly along the northerly side of Vesey Street a distance of 269.00 feet to the corner, the point or lace of beginning.

NOTE: Upon receipt of a final survey Schedule A will be amended accordingly.

EXHIBIT C
(Article 1.01)

COMPETITIVE HOTELS

Marriott World Trade Center

Marriott World Financial Center

Millenium Hotel

EXHIBIT D
(Article 2.05)

PRE-OPENING BUDGET

PROMUS
HOTEL CORPORATION

September 30, 1998

Matthew Messinger
Forest City Ratner
1 MetroTech Center North
Brooklyn, NY 11201

Dear Matt,

The following documents relate to the agreed upon pre-opening budgets for both properties, allocations for operating supplies and food and beverage service wares for 42nd street and an estimate of food and beverage service wares for the leased tenant at the Battery Park Embassy Suites.

- Pre-opening budget Embassy Suites - Battery Park

We have revised the pre-opening budget to enable the funding of $600,000 for operating supplies. With the required $500,000 of working capital, the pre-opening budget is $3,250,000 as agreed in the term sheets. Note that this budget includes F&B service wares for providing the complimentary breakfast and beverage. This budget does not provide for any kitchen or restaurant furnishings or equipment which is the restaurant lessee's responsibility.

- Pre-opening budget for 42nd Street Doubletree.

The pre-opening budget totals $2,500,000 plus working capital of $500,000 for a combined pre-opening and working capital budget of $3,000,000 as agreed in the term sheets. Not included in this budget are:

1. 42nd Street operating supplies budget totaling $519,000 as outlined in Dave Sherf's letter of August 19th which you have agreed to fund 50%.

2. 42nd Street food and beverage service wares budget. This amount is estimated at $368,000 which should be in the owner's budget.

Agreed to $350,000

Sincerely,

John S. Hamilton
Vice President
Managed Development

cc: Dave Sherf
Ron Halpern

09:07 AM

EMBASSY SUITES BATTERY PARK CITY
NEW YORK CITY, NEW YORK
OPENING DATE TARGET: 1/1/00

ACC #	DESCRIPTION	PROJECT BUDGET	16 MO.	14 MO.	13 MO.	12 MO.	11 MO.	10 MO.	9 MO.	8 MO.	7 MO.	6 MO.	5 MO.	4 MO.	3 MO.	2 MO.	1 MO.	TTL I.S. EXPENSE
102	PAYROLL-SALARY	608,449	0	0	0	0	0	0	0	15,773	29,293	44,184	62,372	75,441	95,621	99,776	185,009	608,449
101	PAYROLL-HOURLY	288,000															288,000	288,000
103	P.T.E.& B. (35%)	313,757	0	0	0	0	0	0	0	5,521	10,253	15,457	21,830	26,404	33,817	34,922	165,553	313,757
	TOTAL PAYROLL	1,210,206	0	0	0	0	0	0	0	21,294	39,546	59,621	84,202	101,845	130,438	134,698	638,562	1,210,206
202	CONTRACT SVCS.	0																0
203	DUES/SUBSCRIPT.	8,000								1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	8,000
204	EMPL TRAIN/MOTIV.	19,000										1,000	1,000	2,000	2,000	3,000	10,000	19,000
205	EMPL RELOCATION	56,000								7,000	7,000	7,000	7,000	7,000	7,000	7,000	7,000	56,000
206	ENTERTAIN.- F&B	27,500								750	750	2,000	2,000	4,000	6,000	6,000	6,000	27,500
207	EQUIP. RENTAL	8,000								1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	8,000
208	FOOD TESTING	0																0
209	INTERIM SIGNS	0																0
210	LEGAL FEES - UNION	50,000											10,000	10,000	10,000	10,000	10,000	50,000
211	MAINTENANCE	0																0
212	MENU PRODUCT.	8,000														3,000	5,000	8,000
213	OFFICE RENTAL	80,000								10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	80,000
214	OFFICE SUPPLIES	20,000								1,000	1,000	2,000	2,000	3,000	3,000	4,000	4,000	20,000
215	PRE/OPEN PARTIES	50,000															50,000	50,000
216	POSTAGE/FREIGHT	16,000								1,000	1,000	1,000	1,000	2,000	2,000	3,000	5,000	16,000
217	RECRUITING EXP.	31,000								1,000	2,000	2,000	2,000	4,000	4,000	8,000	8,000	31,000
218	SECURITY	0																0
219	TASK FORCE EXP.	35,000														5,000	30,000	35,000
220	TELEPHONE	22,500								750	750	2,000	2,000	3,000	4,000	5,000	5,000	22,500
221	TRAVEL/LODGING	86,000								3,000	3,000	5,000	5,000	5,000	10,000	15,000	40,000	86,000
	TOTAL OTHER	517,000	0	0	0	0	0	0	0	26,500	27,500	34,000	44,000	52,000	60,000	81,000	192,000	517,000
301	AD/COLLAT. PROD.	32,000								4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	32,000
303	AGENCY FEES	0																0
304	MEDIA - F& B	0																0
306	MEDIA - ROOMS	120,000											5,000	5,000	10,000	20,000	80,000	120,000
307	PR PROJECTS	25,000													5,000	10,000	10,000	25,000
308	CONC. SALES EFFORT	20,000															20,000	20,000
	TOTAL MARKETING	197,000	0	0	0	0	0	0	0	4,000	4,000	4,000	9,000	9,000	19,000	34,000	114,000	197,000
401	OP. RESERVE	105,794															105,794	105,794
	CATEGORIES 7&8,+CO	600,000															600,000	600,000
	WORKING CAPITAL	500,000															500,000	500,000
403	PROMUS SUPVR. FEES	120,000				10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	120,000
	TOTAL	2,650,000	0	0	0	10,000	10,000	10,000	10,000	61,794	81,046	107,621	147,202	172,845	219,438	259,698	1,560,356	3,250,000

NOTES:

1) OPERATIONAL RESERVE COVERS ALL UNBUDGETED ITEMS/EXPENSES THAT OCCUR PRIOR TO OPENING.
2) ALL LICENSE COSTS TO BE HANDLED BY OUTSIDE OF INITIAL SERVICES BUDGET
3) TRAVEL, LODGING, & BUSINESS ENTERTAINMENT ACCOUNTS INCLUDE OUT-OF-POCKET INITIAL EXPENSES FOR ON SITE PEOPLE AND CORPORATE PERSONNEL.
4) CORPORATE PLANNING AND STAFFING COMMITMENTS ARE BASED ON A 8 MONTH PRE-OPENING PERIOD. IF CONSTRUCTION AND OPENING ARE DELAYED, SOME BUDGET CATEGORIES MAY BE EXCEEDED.
5) WORKING CAPITAL OF $500,000 IS INCLUDED IN THE INITIAL SERVICES BUDGET.
6) HOURLY-PAYROLL IS BASED ON 200 EMPLOYEES @ 60 HOURS @ $16.00/HR.
7) OPERATING SUPPLIES CATEGORIES 7 & 9, AND F&B WARES FOR COMP. SERVICES ONLY ARE INCLUDED IN THE INITIAL SERVICES BUDGET AT $600,000.

30-Sep-98
09:02 AM

INITIAL SERVICES BUDGET
EMBASSY SUITES BATTERY PARK CITY
NEW YORK CITY, NEW YORK
OPENING DATE TARGET: 1/1/00

SS	POSITION	SALARY	15 MO.	14 MO.	13 MO.	12 MO.	11 MO.	10 MO.	9 MO.	8 MO.	7 MO.	6 MO.	5 MO.	4 MO.	3 MO.	2 MO.	1 MO.	TTL IS EXPENSE
0	DIR. MARKETING	0																0
60	DIR. SALES	97,344								8,112	8,112	8,112	8,112	8,112	8,112	8,112	8,112	64,896
55	SR SALES MGR	59,484								4,957	4,957	4,957	4,957	4,957	4,957	4,957	4,957	39,656
40	SALES MANAGER	43,260										3,605	3,605	3,605	3,605	3,605	3,605	21,630
40	SALES MANAGER	43,260										3,605	3,605	3,605	3,605	3,605	3,605	21,630
40	SALES MANAGER (2)	86,520												3,605	3,605	3,605	3,605	14,420
30	SALES/CATERING SEC.	32,448													7,210	7,210	7,210	21,630
30	SALES/CATERING SEC.	32,448								2,704	2,704	2,704	2,704	2,704	2,704	2,704	2,704	21,632
30	SALES/CATERING SEC.	32,448										2,704	2,704	2,704	2,704	2,704	2,704	16,224
120	GENERAL MGR.	129,792													2,704	2,704	2,704	8,112
30	EXEC SECRETARY	32,448									10,816	10,816	10,816	10,816	10,816	10,816	10,816	75,712
55	ASST. GM	59,484									2,704	2,704	2,704	2,704	2,704	2,704	2,704	18,928
65	CONTROLLER	70,308										4,957	4,957	4,957	4,957	4,957	4,957	29,742
40	ACCT. MGR	43,260											5,859	5,859	5,859	5,859	5,859	29,295
58	H/R DIRECTOR	62,736													3,605	3,605	3,605	10,815
0	ASST. H/R DIR.	0											5,228	5,228	5,228	5,228	5,228	26,140
29	H/R SECRETARY	31,368																0
0	PURCH. MGR.	0											2,614	2,614	2,614	2,614	2,614	13,070
35	NIGHT MGR.	37,880																0
50	ROOMS DIR.	54,084															3,155	3,155
40	F.O. MANAGER	43,260											4,507	4,507	4,507	4,507	4,507	22,535
35	ASST. F.O. MGR.	37,880													3,605	3,605	3,605	10,815
35	ASST. F.O. MGR	37,880														3,155	3,155	6,310
35	GUEST SVCS MGR.	37,880															3,155	3,155
40	RESERVATION MGR.	43,260															3,155	3,155
45	EXEC HOUSEKEEPER	48,672												3,605	3,605	3,605	3,605	14,420
32	ASST HSPR. (2)	69,216													4,058	4,058	4,058	12,168
65	DIR. OF ENGR.	70,308															5,768	5,768
0	ASST ENGINEER	0												5,859	5,859	5,859	5,859	23,436
0	SECURITY MGR.	0																0
																		0
0	F & B MANAGER	0																0
0	REST MANAGER	0																0
0	ASST REST MGR	0																0
0	EXEC CHEF	0																0
0	REST. CHEF	0																0
0	SOUS CHEF(2)	0																0
0	BANQUET CHEF	0																0
0	EXEC STEWARD	0																0
0	DIR. OF CATERING	0																0
0	CAT/SALES MGR.	0																0
0	CAT/SALES MGR.	0																0
0	BANQUET MGR.	0																0
0	ASST BANQ. MGR	0																0
0	CONV SERV MGR.	0																0
	MANAGEMENT BONUSES																70,000	70,000
	TOTAL SALARIES	1,380,108	0	0	0	0	0	0	0	15,773	29,293	44,164	62,372	76,441	96,621	99,776	186,009	606,449

EXHIBIT E
(Article 13.01)

SCHEDULE OF REQUIRED INSURANCE

I. Responsibilities of Owner.

A. At all times during the term of this Management Agreement, as the same may be extended pursuant to Article 3.03 hereof (the "Operating Term"), Owner shall procure and maintain or cause to be maintained, upon all buildings and improvements now existing or hereafter erected upon or above the Site, and all equipment, fixtures, motors, machinery, furnishings and furniture installed and owned or leased by Owner and used in connection with the Site or with the buildings and improvements upon or above the Site, including all alterations, rebuildings, replacements and additions thereto, so-called "all risk" property damage insurance in an amount equal to the "Full Insurable Value" thereof (as hereinafter defined), subject to commercially reasonable deductibles, but in any event in an amount not less than that required to avoid the operation and effect of any co-insurance provisions in said policies; provided, however, that flood and earthquake insurance shall be for the maximum economically available amounts and need not be for 100% of the "Full Insured Value." Fire insurance policies written with no co-insurance clause will be acceptable to Manager and Owner. If an insurer, or any governmental agency or authority having jurisdiction over the Site, shall at any time require that the foundations be insured in order to relieve the insured from the responsibility as a coinsurer or for any other purpose, the obligations with respect to insurance herein shall thenceforth be increased to the extent so required. All buildings and improvements now existing or hereafter erected upon or above the Site and all other property required to be covered by fire insurance in accordance with this paragraph A shall be covered by flood insurance in an amount at least equal to the Full Insurable Value thereof (or such lesser amount of flood insurance as may be obtainable at commercially reasonable rates). The term "Full Insurable Value" shall mean actual replacement cost (exclusive of cost of excavation, foundations and footings below the lowest basement floor).

B. At all times during the Operating Term, Owner shall procure and maintain boiler and machinery insurance, in the amount of not less than the Full Insurable Value thereof, on all steam boilers and high pressure boilers, if any, or such other apparatus as Owner may reasonably deem necessary to be covered by such insurance, installed within any building on or above the Site.

C. At all times during the Operating Term, Owner shall procure and maintain Business Interruption Insurance providing coverage for a period of

business interruption of no less than one year, in an amount mutually satisfactory to Manager and Owner.

D. At all times during the Operating Term, Owner shall procure and maintain or cause to be maintained such other insurance (other than insurance to be provided by Manager pursuant to Section II below) in such amounts as may from time to time be mutually satisfactory to Owner, Manager and the Mortgagee against other insurable hazards which, arising from building ownership and are normally insured against by owners of similar premises and improvements, similarly situated, due regard being given to the height and type of buildings and improvements on and above the Site, their location, construction, use and occupancy.

E. At all times during the Operating Term, Owner shall procure and maintain Commercial General Liability insurance in such amounts as may be from time to time mutually satisfactory to Owner, Manager and Mortgagee insuring against such insurable hazards which, arising from building ownership and are normally insured against by owners of similar premises and improvements, similarly situated, due regard being given, as appropriate, to the type and characteristics of the buildings, improvements, facilities and amenities located on the Site, their location, construction, use and occupancy.

II. Responsibilities of Manager.

At all times during the Operating Term, Manager shall procure and maintain, as an Operating Cost of the Hotel, the following insurance coverages which shall be primary and noncontributing to any coverages carried by Owner:

A. Workers' compensation as may be required under applicable laws covering all of Manager's and its Affiliates' employees employed at the Hotel.

B. Employer's liability insurance in an amount not less than generally provided at other hotels managed by Manager and its Affiliates, but in no event less than $1,000,000.

C. Fidelity bonds, with reasonable limits and deductibles approved by Owner, covering employees at the Hotel in job classifications normally bonded in the other Portfolio Hotels or as otherwise required by law, and comprehensive crime insurance.

D. Commercial general liability insurance against claims for bodily injury, death or property damage arising from the operations of the Hotel and occurring on, in or about the Hotel, and automobile insurance on vehicles operated in conjunction with the Hotel, with a combined single limit for each occurrence for personal injury, death and property damage, including but not limited to innkeepers liability and garagekeepers liability coverage, all in amounts which are not less than that generally provided with respect

to the Portfolio Hotels and which have been accepted and approved by Owner, but in no event less than $10,000,000, naming Owner and all Mortgagees as additional insureds.

E. Liquor Liability Insurance. Manager shall maintain and keep in full force and effect throughout the Term or any renewal thereof, liquor liability insurance in an amount not less than $1,000,000 written on a combined single limit per occurrence basis, naming Owner and all Mortgagees as additional insureds.

F. Environmental Impairment Liability Insurance. If Manager uses, stores, handles, processes or disposes of hazardous materials, not including hazardous materials in ordinary amounts used in cleaning or maintenance, then Manager shall maintain in full force and effect through the Term and or any renewal thereof, environmental impairment liability insurance with limits of not less than $1,000,000, providing coverage for bodily injury, property damage or injury or damage of actual, alleged or threatened emission, hazardous materials, discharge, dispersal, seepage, release or escape of including any loss, cost or expense incurred as a result of any cleanup of hazardous materials or in the investigation, settlement or defense of any claim, suit or proceedings against the property owner or management company arising from the Manager's use, storage, handling, processing or disposal of hazardous materials, naming Owner and all Mortgagee as additional insureds.

G. Such other insurance in amounts as Manager and Owner, in their reasonable judgment, deem advisable for protection against claims, liabilities and losses arising out of or connected with the operation of the Hotel, naming Owner and all Mortgagee as additional insureds.

EXHIBIT G

TITLE MATTERS

EXHIBIT ____

TITLE MATTERS

All capitalized terms not otherwise defined herein shall have the meanings provided in the Ground Lease dated _____, 1998 between Battery Park City Authority (hereinafter "BPCA"), as Landlord, and BPC Site 25 Associates, LLC, as Tenant.

1. Restated Amended Agreement of Lease ("Master Lease") dated June 10, 1980, between BPC Development Corporation, as landlord, and BPCA, as tenant, a Memorandum of which was recorded on June 11, 1980 in the Office of the City Register, New York County in Reel 527 at page 163, as amended by First Amendment to Restated Amended Lease dated June 15, 1983 recorded on June 20, 1983 in said Register's Office Reel 696, at page 424, Second Amendment to Restated Amended Lease dated June 15, 1983, recorded on June 20, 1983 in said Register's Office in Reel 696, Page 432 in the Office of the Register of New York City (New York County), as amended by Third Amendment to Restated Amended Lease dated August 15, 1986, recorded on October 22, 1986 in said Register's Office in Reel 1133 at page 569, and Fourth Amendment to Restated Amended Lease dated as of May 25, 1990 and recorded on May 30, 1990 in said Register's Office in Reel 1697 at page 307, as the same may (subject to the provisions of Section 41.18 of the Ground Lease) be hereafter amended, modified or supplemented.

2. Settlement Agreement dated as of June 6, 1980, between the City and BPCA, as supplemented by Letter, dated June 9, 1980, from Richard A. Kahan to Edward I. Koch, and amended by Amendment to Settlement Agreement dated as of August 15, 1986 between New York City and Landlord; Agreement for Certain Payments dated as of June 28, 1989, between New York City and BPCA; Agreement and Consent dated as of December 30, 1989, between New York City and BPCA; Amendment and Agreement and Consent Pursuant to Settlement Agreement dated as of May 18, 1990 between New York City and BPCA; Amendment and Agreement and Consent Pursuant to Settlement Agreement dated as of October 15, 1993 between New York City and BPCA; Amendment and Agreement and Consent Pursuant to Settlement Agreement dated as of April 10, 1995 between New York City and BPCA; 1996 Agreement and Consent Pursuant to Settlement Agreement dated as of October 1, 1996 between New York City and BPCA; 1998 Agreement and Consent Pursuant to Settlement Agreement dated as of May 1, 1998 between New York City and BPCA, and as the same may be (subject to the provisions of Section 41.18 of the Ground Lease) hereafter amended, modified or supplemented.

3. Declaration of Restrictions dated June 15, 1983 made by BPCA recorded on June 20, 1983 in reel 696 page 551 and reel 776 page 360 as amended and restated by Amendment and Restatement of Declaration of Restrictions dated as of May 18, 1995 recorded May 31, 1995 in reel 2211 page 1414.

4. Memorandum of Understanding dated as of November 8, 1979, among the Governor of the State of New York, the Mayor of New York City and the President and Chief

Executive Officer of BPCA, as supplemented by Letter, dated November 8, 1979, from the President and Chief Executive Officer of BPCA to the Mayor of New York City, and as amended by the 1986 Supplemental Memorandum of Understanding, dated as of August 15, 1986 among the Governor of the State of New York, the Mayor of the City of New York and BPCA, and the Amendment to the Memorandum of Understanding, dated as of January 9, 1995 among the Governor of the State of New York, the Mayor of the City of New York and BPCA.

5. Sidewalk Easement as indicated on the City Map (described in Item 7 below) and described in the Design Guidelines.

6. Option to Purchase dated as of June 6, 1980 among New York State Urban Development Corporation, 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 reel 1697, page 294 in said Register's Office.

7. The City Map of the City of New York as modified by a Map Showing a Change in the City Map, dated January 15, 1987, corrected September 10, 1993 and certified by the Secretary to the City Planning Commission on November 5, 1995 and as the City Map may be otherwise modified.

8. Mapping Agreement between the City of New York and BPCA made as of October 3, 1991.

9. The state of facts shown on the survey dated September 28, 1998, prepared by Vollmer Associates LLP, and any additional state of facts a visual inspection would reveal.

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

11. Rights of Federal Government to enter upon and take possession of lands, now or formerly lying below the high water mark of the Hudson River.

EXHIBIT H

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT FOR KITCHEN

EXHIBIT __

SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT (KITCHEN)

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement"), made as of the ___ day of _____, 1998, among BATTERY PARK CITY AUTHORITY, a body corporate and politic constituting a public benefit corporation of the State of New York having an office at One World Financial Center, New York, New York 10281 ("Ground Lessor"); BPC SITE 25 ASSOCIATES, LLC, a New York limited liability company having an office c/o Forest City Ratner companies, 1 MetroTech Center North, Brooklyn, New York 11201 ("Ground Lessee"); BPC Hotel, LLC, a New York limited liability company having an office c/o Forest City Ratner Companies, 1 MetroTech Center North, Brooklyn, New York 11201 ("Hotel Subtenant"); and [Larry Forgione entity], a [legal structure, i.e., corporation, partnership] having an office at [address] ("Tenant").

WITNESSETH:

WHEREAS, pursuant to that certain Ground Lease dated as of November _____, 1998 between Ground Lessor and Ground Lessee (such lease, as the same may be assigned, amended or restated from time to time, the "Ground Lease"), Ground Lessor leased to Ground Lessee the land described in Schedule A attached hereto and the improvements to be constructed thereon (collectively, the "Ground Lease Premises");

WHEREAS, pursuant to that certain Hotel Sublease dated as of November _____, 1998 between Ground Lessee and BPC Hotel, LLC (the "Hotel Subtenant"; and such lease, as the same may be amended or restated from time to time, the "Hotel Sublease"), Ground Lessee leased to Hotel Subtenant that portion of the Ground Lease Premises which is described in Schedule B attached hereto (the "Hotel");

WHEREAS, pursuant to that certain Lease dated as of _____, 19__ between Hotel Subtenant and Tenant (such lease, as the same may be amended or restated from time to time, the "Kitchen Lease"), Hotel Subtenant leased to Tenant that portion of the Hotel which is described in Schedule C attached hereto (such premises, the "Kitchen");

WHEREAS, pursuant to that certain Hotel Services Agreement dated as of _____, 19__ between Hotel Subtenant and Tenant (as the same may be amended or restated from time to time, the "Hotel Services Agreement"), Tenant has agreed to provide certain food and beverage services for the Hotel in accordance with (and subject to the standards set forth in) said Hotel Services Agreement;

WHEREAS, pursuant to that certain Management Agreement dated as of October ___, 1998 between Promus Hotels, Inc. (together with its successors and permitted assigns, the "Hotel Manager") and Hotel Subtenant (such agreement, as the same may be amended or restated from time to time, the "Hotel Management Agreement"), Hotel Manager has agreed to

manage and operate the Hotel in accordance with (and subject to the provisions of) said Hotel Management Agreement;

WHEREAS, the Ground Lease provides (and Ground Lessor and Ground Lessee contemplate) that, following substantial completion of construction of the building of which the Kitchen is a part (the "Building"), Ground Lessee will condominiumize (or effect a "common law" condominium of) the Building and assign its tenant's interest under the Ground Lease to Ground Lessor, with the result that (i) the Ground Lease (which provides that it will not merge if Ground Lessee assigns its tenant's estate to Ground Lessor) shall be between Ground Lessor, as landlord, and Ground Lessor, as tenant, and (ii) the Hotel Sublease shall be between Ground Lessor (as successor in interest to Ground Lessee), as landlord, and Hotel Subtenant, as tenant; and

WHEREAS, Tenant has requested and the Ground Lessor, Ground Lessee, and Hotel Subtenant have agreed, that this Agreement be executed and delivered in consideration for Tenant's execution and delivery of the Kitchen Lease.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration the receipt and sufficiency of which are hereby conclusively acknowledged, the parties hereto agree as follows:

1. The agreements and obligations of Ground Lessee (or of Ground Lessor, as successor-in-interest to Ground Lessee as tenant under the Ground Lease) set forth herein shall be of no force or effect until (and are expressly contingent upon the occurrence of): (x) Substantial Completion of the Building (as defined in the Ground Lease), (y) delivery of the Premises by Hotel Subtenant to Tenant and (z) completion by (or on behalf of) Hotel Subtenant of all work required under the Lease to be performed by the date on which the Premises are delivered by Hotel Subtenant to Tenant (in accordance with the relevant provisions of the Lease).

2. Tenant covenants and agrees that the Kitchen Lease is, and shall at all times continue to be, subject and subordinate in each and every respect to the Ground Lease and the Hotel Sublease. Tenant, upon request, shall execute and deliver any certificate or other instrument which the Ground Lessor, Ground Lessee or Hotel Subtenant may reasonably request to confirm said subordination by Tenant.

3. Tenant hereby certifies to Ground Lessor, Ground Lessee and Hotel Subtenant as follows: (a) that the Kitchen Lease, a true and correct copy of which is annexed hereto in Schedule D, is in full force and effect and, except as provided in Schedule D annexed hereto, the Kitchen Lease is unmodified; (b) that no [fixed rent – reference lease's defined terms] payable thereunder has been paid more than one (1) month in advance of its due date; (c) that, except as provided in Schedule D annexed hereto, no default of Tenant exists under the Kitchen Lease which has continued beyond the expiration of any applicable notice and grace period; and (d) that, except as provided in Schedule D annexed hereto, no default of Hotel Subtenant exists under the Kitchen Lease which has continued beyond the expiration of any applicable notice and grace period.

4. If any act or omission of Hotel Subtenant would give Tenant the right, immediately or after lapse of a period of time, to cancel or terminate the Kitchen Lease, or to abate or offset against the payment of [fixed rent, percentage rent, additional rent or charges –

reference lease's defined terms], or to claim a partial or total eviction, or to exercise any right of self-help under the Kitchen Lease, Tenant shall not exercise such right until (a) it has given written notice of such act or omission to Ground Lessee (or to Ground Lessor, as successor-in-interest to Ground Lessee's interest under the Ground Lease) and (b) a reasonable period for remedying such act or omission shall have elapsed following the giving of such notice. Said reasonable period of time shall include a reasonable period of time for Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee's interest under the Ground Lease) to become entitled under the Hotel Sublease to remedy Hotel Subtenant's act or omission, but shall in no event be less than the period to which Hotel Subtenant would be entitled under the Kitchen Lease or otherwise, after similar notice, to effect such remedy, plus thirty (30) days.

5. Provided that (x) Tenant shall not be in default beyond the expiration of any applicable grace period in the payment of rent or additional rent or in the performance of any of the other material terms, covenants, conditions, and provisions on its part to be performed under the Kitchen Lease, (y) Tenant shall not be in default beyond the expiration of any applicable grace period in the payment of any sums due or in the performance of any of the other material terms, covenants, conditions, and provisions on its part to be performed under the Hotel Services Agreement, and (z) either (A) Hotel Manager shall continue operating the Hotel following a termination of the Hotel Sublease pursuant to the Hotel Management Agreement, (B) neither Hotel Manager nor any substitute hotel manager (any such manager, a "Substitute Hotel Manager") shall be operating the Hotel (i.e., the Hotel shall be "dark") following a termination of the Hotel Sublease, or (C) Tenant and a Substitute Hotel Manager shall recognize (or keep in place) the Kitchen Sublease and Hotel Services Agreement or shall agree on and enter into amendments to such documents or additional or new agreements (requiring, for example, that Tenant comply with additional or substitute standards for the provision of food and beverage services to the Hotel), then, (a) in the event of the termination of the Hotel Sublease, or in the event of the termination of the Hotel Sublease and the Ground Lease (in each case, whether by surrender, cancellation, default, or for any other reason other than a termination in connection with any cancellation right granted to the landlord under the Hotel Sublease or the Ground Lease in connection with a casualty or condemnation), such termination shall not result in the cancellation or termination of the Kitchen Lease, and, except as may be necessary to fulfill any legal requirements, Tenant will not be named or joined in connection with any action or proceeding by Ground Lessee (or Ground Lessor, as its successor-in-interest) to terminate or enforce the Hotel Sublease or by Ground Lessor to terminate or enforce the Ground Lease, (b) no default under the Hotel Sublease and no action or proceeding by Ground Lessee (or by Ground Lessor, as its successor-in-interest) that shall result in a cancellation or termination of the Hotel Sublease will disturb Tenant's possession under the Kitchen Lease, and the Kitchen Lease will not be cut off or affected thereby and (c) no default under the Ground Lease, and no action or proceeding by Ground Lessor that shall result in a cancellation or termination of the Ground Lease will disturb Tenant's possession under the Kitchen Lease, and the Kitchen Lease will not be cut off or be affected thereby. With regards to the condition set forth in subclause (z) of this paragraph 5, the parties specifically understand and agree that if, at any time during the term of the Lease, (i) the Hotel Sublease is terminated, (ii) Hotel Manager is no longer managing the Hotel pursuant to the Hotel Management Agreement, (iii) a Substitute Hotel Manager is managing the Hotel and (iv) the Substitute Hotel Manager and Tenant do not recognize or keep in place the Kitchen Sublease and Hotel Services Agreement or are unable to agree on and enter into amendments to such documents or new or additional documents

(requiring, for example, that Tenant comply with additional or substitute standards for the provision of food and beverage services to the Hotel), then, the Kitchen Lease (and Tenant's tenancy thereunder) shall not be non-disturbed and the protections set forth in this Agreement for Tenant (including those set forth in clauses (a) through (c) of this Paragraph 5) shall no longer apply.

6. If Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee following the assignment by Ground Lessee to Ground Lessor of Ground Lessee's tenant's interest under the Ground lease) succeeds to the interest of landlord under the Kitchen Lease (by reason of a termination of the Hotel Sublease or otherwise), Tenant shall attorn to and recognize Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) as the landlord under the Kitchen Lease, and Ground Lessee or Ground Lessor, as successor-in-interest to Ground Lessee as the case may be, shall recognize such attornment, all upon all of the executory terms, covenants and conditions of the Kitchen Lease for the balance of the term thereof, subject, however, to the provisions of paragraphs 7 and 8 hereof. The attornment under this Paragraph 6 shall be effective and self-operative without the execution of any further instruments, upon such termination of the Hotel Sublease. Tenant, upon request, shall execute and deliver any certificate or other instrument which the Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) may reasonably request to confirm such attornment by Tenant. Tenant and Ground Lessee hereby waive the provisions of any statute or rule of law now or hereafter in effect that may give or purport to give Tenant any right or election to terminate or otherwise adversely affect the Kitchen Lease or the obligations of Tenant thereunder by reason of any termination of the Hotel Sublease.

7. Notwithstanding the aforesaid agreement of Ground Lessee (or of Ground Lessor, as successor-in-interest to Ground Lessee, as aforesaid) to recognize the Kitchen Lease upon a termination of the Hotel Sublease, and notwithstanding the aforesaid agreement of Tenant to attorn to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be), the parties hereto agree that Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) shall not be:

(1) liable for any previous act or omission of any prior landlord under the Kitchen Lease (each, a "Prior Landlord");

(2) responsible for any monies owing by any Prior Landlord to the credit of Tenant;

(3) subject to any offsets, claims, counterclaims, demands or defenses which Tenant may have against any Prior Landlord;

(4) bound by any payments of rent, additional rent or other charges which Tenant might have made for more than one (1) month in advance to any Prior Landlord;

(5) bound by any covenant in the Kitchen Lease to either (i) undertake or complete any construction of, in or about the Building (or any part thereof) or the Kitchen (or any part thereof), other than with respect to any obligation to restore the Kitchen in the event of casualty or condemnation, in which case Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) shall be so obligated provided each

of the conditions set forth in Schedule E hereof has been satisfied; provided if Ground Lessee or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be, fails to restore the Kitchen following any casualty or condemnation for any reason, then Tenant shall have the right to terminate the Kitchen Lease and Ground Lessor or Ground Lessee shall pay to Tenant, promptly following such termination, the unamortized value (determined using the shortest amortization schedule permitted by the generally accepted accounting principles applicable to such property) of the tenant improvements lost in such casualty or condemnation; or (ii) provide any money or credit or concession, by way of an allowance to Tenant or otherwise, to or for any such construction;

(6) required to account for any security deposit other than the unapplied portion of any security deposit actually delivered to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be);

(7) bound by any amendment, or modification or surrender of the Kitchen Lease, made after the date hereof, to which Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) shall not have given its consent in writing; and

(8) required to remove any person occupying the Kitchen (or any part thereof).

8. If Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) shall succeed to the interest of the landlord under the Kitchen Lease by reason of a termination of the Hotel Sublease pursuant to the terms thereof, then, from and after such termination and the attornment pursuant to Paragraph 6 hereof throughout the balance of the term of the Kitchen Lease, including any renewals, Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) shall not be bound by (or have any obligation or liability in respect of) any terms and provisions of the Kitchen Lease which grant Tenant any rights or impose upon the landlord under the Kitchen Lease any obligations, which, in either case, involve any property other than the Kitchen or any portions of the Building serving the Kitchen, whether or not Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) has legal access and control over such areas.

9. Tenant, upon receipt of notice from Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) of Hotel Subtenant's default under the Hotel Sublease, shall pay all Rents (as defined in the Kitchen Lease) to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be). Tenant shall have the right to rely upon any such notice of Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be), without any obligation to inquire as to the actual existence of the default, notwithstanding any claim of Landlord to the contrary. Landlord shall have no claim against Tenant for any Rent paid by Tenant to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be). If, as and when all defaults of Hotel Subtenant under the Hotel Sublease shall be cured, Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) shall give Tenant written notice of such cure and, thereafter, until further notice from Ground Lessee (or Ground Lessor,

as successor-in-interest to Ground Lessee, as the case may be), Tenant shall pay the Rent to Hotel Subtenant.

10. Upon the due execution and delivery of this Agreement by the parties hereto, all conditions and requirements in the Kitchen Lease relating to the granting of a non-disturbance agreement shall be satisfied.

11. This Agreement may not be modified except by an agreement in writing signed by the parties or their respective successors in interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto, and their respective successors and assigns.

12. All notices, demands or requests made pursuant to, under, or by virtue of this Agreement must be in writing and delivered to the party to whom the notice, demand or request is being made by personal delivery with receipt acknowledged or by mailing the same by certified mail, postage prepaid, return receipt requested, or by Federal Express or other reputable national overnight courier service: (a) if to Ground Lessor, at the address set forth above, with a copy to Battle Fowler LLP, 75 East 55th Street, New York, New York 10022, Attention: Michael A. Mishaan, Esq.; (b) if to Ground Lessee or Hotel Subtenant, at the address set forth above, Attention: General Counsel, with a copy to Winthrop Stimson Putnam & Roberts, One Battery Park Plaza, New York, New York 10004, Attention: Stephen A. Lefkowitz, Esq.; (c) if to Tenant, at address set forth above, Attention: [ ], with a copy to [Legal Counsel]; or to such other address as any party may from time to time designate by notice given to the other parties in the manner herein provided at least fifteen (15) days prior to such address becoming effective.

13. This Agreement shall be governed by the laws of the State of New York. If any term of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable of such term to any person or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each term of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14. Unless otherwise indicated, all capitalized terms used herein which are not herein defined shall have the meanings ascribed thereto in the Kitchen Lease.

15. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same Agreement.

16. All capitalized terms used herein which are not herein defined shall have the meanings ascribed thereto in the Lease.

IN WITNESS WHEREOF, the parties hereto have hereunto caused this Agreement to be duly executed as of the day and year first above written.

BATTERY PARK CITY AUTHORITY

By: _____
Name:
Title:

BPC SITE 25 ASSOCIATES, LLC

By: FC Battery Park Associates, LLC

By: RRG Battery Park, LLC

By: _____
Name: Bruce Ratner
Title:

By: BPC Hotel, LLC

By: FCDT-BPC Corp.

By: _____
Name: Bruce Ratner
Title:

[LARRY FORGIONE ENTITY]

By: _____
Name:
Title:

SCHEDULE A

Description of Ground Lease Premises

SCHEDULE B

Description of Hotel

SCHEDULE C

Description of Kitchen

SCHEDULE D

Lease, Lease Modification(s), Prepayment and Defaults

SCHEDULE E

Conditions to Restoration Obligation

1. Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) actually receives sufficient insurance proceeds or condemnations awards to pay for such restoration.

2. Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) elects to perform restoration of the Hotel pursuant to the Hotel Sublease and the Hotel Manager (or the substitute Hotel manager then managing the Hotel) agrees to operate (or, as the case may be, continue to operate) the Hotel upon restoration.

3. Such restoration is not prohibited or restricted under any law or regulation, including applicable zoning requirements.

4. Such casualty or condemnation occurring not later than thirty-six (36) months prior to the date set forth in the Kitchen Lease for the expiration of the terms.

5. The deposit by Tenant with a depository reasonable satisfactory to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) of funds equal to the replacement cost of all improvements made by Tenant as of the date of the casualty or condemnation.

6. A written reaffirmation addressed to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) by Tenant of all of its obligations under the Kitchen Lease and the delivery of evidence to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) of the continued creditworthiness of Tenant and any guarantor of the Kitchen Lease to the reasonable satisfaction of Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be).

7. Notwithstanding the satisfaction of the conditions listed in Nos. 1 through 6 above, the election by Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) to proceed with such restoration rather than pay to Tenant the difference between the unamortized value of Tenant's improvements lost in such casualty or condemnation and the insurance proceeds or condemnation award applicable to Tenant's improvements and received by Tenant therefor.

EXHIBIT I

LEGAL DESCRIPTION OF THE RIGHT-OF-WAY

Together with the benefits and subject to the burdens, if any, of a 20 foot Pedestrian Way as set forth in the ground lease made between Battery Park City Authority and BPC Site 25 Associates, LLC being more particularly bounded and described:

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

BEGINNING at a point on the easterly line of the above described premises the following two (2) courses and distances from the intersection of the northerly line of Vesey Street and the easterly line of North End Avenue:

A. South 88 degrees 07 minutes 10 seconds East along the northerly line of Vesey Street 269.00 feet;

B. North 1 degree 52 minutes 50 seconds East along the easterly line of the above described premises 10 feet to the true point or place of BEGINNING:

1. RUNNING thence North 1 degree 52 minutes 50 seconds West along the easterly line of the above described premises 121.66 feet;

2. THENCE North 17 degrees 32 seconds 00 minutes West along the easterly line of the above described premises 209.65 feet to a point in the southerly line of Murray Street;

3. THENCE North 72 degrees 28 minutes 00 seconds East along the southerly line of Murray Street 20.00 feet;

4. THENCE South 17 degrees 32 minutes 00 seconds East 213.07 feet to a point;

5. THENCE South 1 degree 52 minutes 50 seconds West 125.08 feet to a point in the northerly line of the 10 foot Sidewalk easement;

6. THENCE North 88 degrees 07 minutes 10 seconds West along the northerly line of the 10 foot sidewalk easement 20.00 feet to the point or place of BEGINNING.