

Lease Agreement

NEW YORK CITY
INDUSTRIAL DEVELOPMENT AGENCY,
as Lessor

and

ERNST & YOUNG U.S. LLP and
ERNST & YOUNG LLP

as Lessees

LEASE AGREEMENT

Dated as of July 15, 2004

New York City Industrial Development Agency
Ernst & Young U.S. LLP Project

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LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into as of the date set forth on the cover page hereof, by and between **NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York (the "Agency"), having its principal office at 110 William Street, New York, New York, party of the first part, and each of **ERNST & YOUNG U.S. LLP**, a limited liability partnership organized and existing under the laws of the State of Delaware ("E&Y US") and **ERNST & YOUNG LLP**, a limited liability partnership organized and existing under the laws of the State of Delaware ("E&Y LLP", together with E&Y US, the "Companies"), parties of the second part, each having an office at 1211 Avenue of the Americas, New York, New York 10036 (capitalized terms used but not defined in the recitals to this Lease Agreement shall have the respective meanings assigned such terms in Section 1.1 hereof):

WITNESSETH:

WHEREAS, the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, authorizes and provides for the creation of industrial development agencies in the several counties, cities, villages and towns in the State of New York (the "State") and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and furnish land, any building or other improvement, and all real and personal properties, including but not limited to machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, industrial or civic purposes, to the end that such agencies may be able to promote, develop, encourage, assist and advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their prosperity and standard of living; and

WHEREAS, pursuant to and in accordance with the provisions of the Act the Agency was established for the benefit of The City of New York (the "City") and the inhabitants thereof; and

WHEREAS, the Companies entered into negotiations with officials of the Agency with respect to the furnishing and equipping by the Agency from time to time of a project to constitute a commercial facility consisting of the acquisition of furniture, fixtures, machinery and equipment at those certain premises to be leased to and occupied by either or both of the Companies and/or their Eligible Affiliates within that building known as 5 Times Square, Manhattan, New York, such premises to constitute the corporate headquarters of the Companies (the "Project"); and

WHEREAS, the Companies submitted an Application for Financial Assistance to the Agency and advised each of the Agency and the appropriate officials of the City as follows: that the Companies currently employ, directly and indirectly, approximately 4,349 persons

within the City; that the Companies wish to invest in the furnishing and equipping of certain of their City facilities so that the Companies can continue to operate efficiently; that in the absence of Agency financial assistance, the cost of the furnishing and equipping of such facilities would prevent the Companies from undertaking their planned expansion; that the Companies must obtain Agency financial assistance in the form of a straight-lease transaction to enable the Companies to proceed with the Project and thereby remain and expand their operations in the City; and that, based upon the financial assistance to be provided through the Agency, the Companies desire to remain and proceed with the Project in the City; and

WHEREAS, to accomplish the purposes of the Act, and in furtherance of said purposes, on August 10, 1999, as amended on September 14, 1999 and on October 14, 2003, the Agency adopted resolutions authorizing, among other things, the Project; and

WHEREAS, it is intended by the Agency and the Companies that the Facility Equipment, the Leased Personalty and the Maintenance Contracts are to be leased by the Agency to the Companies pursuant to this Lease Agreement; and

WHEREAS, by resolution adopted on September 14, 1999, as amended on October 14, 2003, the Agency has authorized the execution and delivery of, among other documents, this Lease Agreement and a certain Letter of Authorization for Sales Tax Exemption dated the Lease Commencement Date;

NOW, THEREFORE, in consideration of the premises and the respective representations and agreements hereinafter contained, the parties hereto agree as follows (provided that in the performance of the agreements of the Agency herein contained, any obligation it may incur hereunder shall not subject the Agency to any pecuniary or other liability nor create a debt of the State of New York or of The City of New York, and neither the State of New York nor The City of New York shall be liable on any obligation so incurred, but any such obligation shall be payable solely out of the lease rentals payable by the Companies under this Lease Agreement):

ARTICLE I

Definitions and Representations

Section 1.1. Definitions. Terms not otherwise defined herein shall have the meanings specified below:

Acquisition shall mean any acquisition or series of acquisitions (whether by stock or asset purchase, hiring or otherwise), directly or indirectly, by an E&Y Group Entity, other than by a Merger, of a business or operation from a Foreign Entity (or Foreign Entities affiliated with each other), during any consecutive six (6) month period, which results directly in an increase in the E&Y Group's employment within the City by an aggregate of forty (40) or more Employees.

Act shall mean, collectively, the New York State Industrial Development Agency Act (constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York), as amended, and Chapter 1082 of the 1974 Laws of New York, as amended.

Advanced Growth Credits shall have the meaning ascribed thereto in Section 7.8 hereof.

An Affiliate of a Person shall mean a Person which directly or indirectly through one or more intermediaries controls, or is under common control with, or is controlled by, such Person. The term "control" (including the related terms "controlled by" and "under common control with") means (i) the possession, directly or indirectly, of the power or shared power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, (ii) the ownership, either directly or indirectly, of 50% or more of the voting stock or other equity interest of such Person, and (iii) the possession, directly or indirectly, of the power or shared power to make decisions regarding the hiring, firing, compensating and promoting of the employees of such Person.

Agency shall mean the New York City Industrial Development Agency, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State, duly organized and existing under the laws of the State, and any body, board, authority, agency or other governmental agency or instrumentality which shall hereafter succeed to the powers, duties, obligations and functions thereof.

Agency Requirements shall mean all federal, state and local laws, rules and regulations affecting the Agency or any activities of the Agency, or policies otherwise adopted by the Agency, including, but not limited to, laws, rules and regulations governing the Agency, all as in effect as of the Lease Commencement Date.

Aggregate Benefits shall mean the aggregate amount of Benefits (expressed in nominal dollars) actually received by the E&Y Group from August 10, 1999 through the date of computation thereof (or, if not so stated, the date of the most recently completed Annual Period).

Agreement shall mean this Lease Agreement, dated as of July 15, 2004, between the Agency and the Companies, and shall include any and all amendments hereof and supplements hereto hereafter made in conformity herewith.

Annual Period shall mean (i) that period commencing on August 10, 1999 and terminating on the day immediately preceding the Lease Commencement Date, which shall be the first Annual Period, (ii) that period commencing on the Lease Commencement Date and ending on June 30, 2005, which shall be the second Annual Period, (iii) thereafter, to July 1, 2021, each Fiscal Year, and (iv) that period commencing on July 1, 2021 and ending on the Project Termination Date, which shall be the final Annual Period.

Annual Period Benefits shall mean, for any Annual Period, the aggregate amount of Benefits received during such Annual Period.

Annual Period Eligible Employees shall mean, for any Annual Period, the annual average number of Eligible Employees determined by dividing (i) the sum of the number of Eligible Employees employed on the last payroll date of each month during such Annual Period, by (ii) the number of months included within such Annual Period, as calculated in accordance with Section 7.2 hereof.

Authorized Representative shall mean, (i) in the case of the Agency, the Chairman, Vice Chairman, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary, Executive Director, Deputy Executive Director, General Counsel or Vice President for Legal Affairs of the Agency, or any officer or employee of the Agency authorized to perform specific acts or to discharge specific duties, and (ii) in the case of the Companies, the Chairman, any Vice Chairman, the President, the Chief Financial Officer, the Chief Executive Officer, the Chief Administrative Officer, the Chief Operating Officer, the Secretary, any Executive Vice President, any Senior Vice President, the General Counsel, the Treasurer, any Assistant Treasurer or any Vice President of E&Y US; provided, however, that in each case for which a certification or other statement of fact or condition is required to be submitted by an Authorized Representative to any Person pursuant to the terms of this Agreement, such certificate or statement shall be executed only by an Authorized Representative in a position to know or to obtain knowledge of the facts or conditions that are the subject of such certificate or statement.

Base Employment Number shall mean, for any Annual Period, 3,503 Eligible Employees; provided, however, that for the purpose of calculating the Base Employment Reduction and the Base Employment Reduction Percentage in connection with (i) a Relocation Reduction, the Base Employment Number for such Annual Period shall be reduced by any Base Employment Reduction then existing that resulted from a Non-Relocation Reduction continuing from the immediately preceding Annual Period, and (ii) a Non-Relocation Reduction, the Base Employment Number for such Annual Period shall be reduced by any Base Employment Reduction then existing that resulted from a Relocation Reduction.

Base Employment Reduction shall mean, for any Annual Period, the difference, if any (but not less than 0), derived from subtracting the Annual Period Eligible Employees for such Annual Period from the then applicable Base Employment Number.

Base Employment Reduction Percentage shall mean the percentage derived by dividing the Base Employment Reduction by the Base Employment Number.

Benefits shall mean, collectively, and subject to the respective maximum amounts permitted therefor under this Agreement, (i) all Sales Tax Savings (including such savings availed of or to be availed of through the application of Growth Credits), and (ii) all Energy Cost Savings, each of such Savings in clause (i) or (ii) being, individually, a "Benefit", availed of and to be availed of by an E&Y Group Entity pursuant to the Sales Tax Letter or this Agreement and not repaid pursuant to this Agreement.

BIR Energy shall mean that energy which may be made available to the Energy Project Premises by Con Ed at a reduced rate pursuant to the BIR Program.

BIR Energy Load shall mean 5250 kilowatts of BIR Energy, which shall be the maximum BIR Energy demand commitment made by Con Ed to the Companies for the Energy Project Premises.

BIR Program shall mean Con Ed's Business Incentive Rate Program to provide electric power to certain eligible customers at the rates set forth in Service Classification Rider J to Service Classification Nos. 4 and 9, effective April 9, 1995, and any amendments thereof.

Business Day shall mean any day which shall not be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City are authorized by law or executive order to close.

Cap Gemini shall mean Cap Gemini Ernst & Young U.S. LLC, a limited liability company organized and existing under the laws of the State of Delaware, and its successors and assigns.

City shall mean The City of New York.

Companies shall mean E&Y LLP and E&Y US.

Company shall mean one of the Companies.

Con Ed shall mean Consolidated Edison Company of New York, Inc., a New York corporation, and its successors.

Contract Employee shall mean, with respect to an Annual Period, a natural person who is self-employed or employed by a Person (other than an E&Y Group Entity) and who provides services as an independent contractor to an E&Y Group Entity at a Project Personality Location by a direct contract with such E&Y Group Entity in connection with the E&Y Business, provided, that (i) the nature of the services provided by such person is similar to the services which would otherwise be performed in the operation of the E&Y Business by Full-Time Employees or Full-Time Equivalent Employees, (ii) such person, but for his or her status as an independent contractor, or as an employee of an independent contractor, would otherwise fall within the definition of a Full-Time Employee or Full-Time Equivalent Employee

(i.e., for part-time Contract Employees), and (iii) any such persons who are Full-Time Employees do not devote more than ten percent (10%) of the hours of their employment to providing services to Persons other than an E&Y Group Entity.

E&Y Business shall mean the use for corporate headquarters of a professional services organization providing accounting, legal, tax, consulting and assurance and advisory business services, and other similar services, to clients.

E&Y Group shall mean the Companies and the Eligible Affiliates.

E&Y Group Entity shall mean any of the Companies or any Eligible Affiliate.

E&Y LLP shall mean Ernst & Young LLP, a limited liability partnership organized and existing under the laws of the State of Delaware, and its permitted successors and assigns pursuant to Section 8.1 or 11.2 hereof.

E&Y Property shall have the meaning specified in Section 4.1(c) hereof.

E&Y US shall mean Ernst & Young U.S. LLP, a limited liability partnership organized and existing under the laws of the State of Delaware, and its permitted successors and assigns pursuant to Section 8.1 or 11.2 hereof.

Eligible Affiliate shall mean

(i) any Person “controlled” by a Company, or by all or a majority in interest of the general partners of E&Y US or of E&Y LLP. “Control” of a Person shall exist only when all three of the following criteria are met: (x) the possession, directly or indirectly, of the power or shared power to direct or cause the direction of management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise; (y) the ownership, directly or indirectly, of 50% or more of the voting stock or other equity or ownership interest of such Person; and (z) the possession, directly or indirectly, of the power or shared power to make decisions regarding the hiring, firing, compensating and promoting of the employees of such Person; or

(ii) any Person designated to the Agency in writing by an Authorized Representative of the Companies which conducts business operations formerly conducted by an E&Y Group Entity which does not qualify under clause (i) above as the result of a “spin-off” or divestiture of such entity by E&Y US or E&Y LLP, which divestiture would otherwise result in the loss of at least 100 Eligible Employees but for the provisions of this clause (ii), but only if (x) E&Y US or E&Y LLP or at least 50 of the general partners (or formerly general partners immediately prior to the creation of Ernst & Young Consulting LLC) of E&Y US or E&Y LLP are the largest private equity owners of such Person and own, directly or indirectly, no less than 25% of the equity of such Person, (y) no other Person can avail itself of discretionary economic development benefits provided by a governmental or quasi-governmental agency based on or related to the number of employees employed by such Person, and (z) such Person shall be jointly

and severally liable for all of the obligations of the Companies under this Agreement and the Sales Tax Letter.

“Eligible Affiliate” shall not mean or include Cap Gemini.

Eligible Employee shall mean an Employee of an E&Y Group Entity (i) located and employed primarily in the City, (ii) having his or her principal base of operations in the City, and (iii) with respect to whom such E&Y Group Entity is responsible for payment of unemployment insurance premiums and for reporting to the New York State Department of Labor such Employee as a City-based Employee of the E&Y Group Entity on Form IA-5 or its equivalent, but excluding any Ineligible Employee.

Employee shall mean a Contract Employee, a Full-Time Employee or a Full-Time Equivalent Employee.

Energy Cost Savings shall mean, for the period during which BIR Energy is made available to the Energy Project Premises, the positive difference, if any, between (i) the costs that would have been incurred by any E&Y Group Entity on account of energy usage at the Energy Project Premises but for the provision to it of the BIR Energy, and (ii) the actual costs incurred by any E&Y Group Entity on account of BIR Energy usage at the Energy Project Premises.

Energy Project Premises shall mean the premises in that certain building located at 5 Times Square, New York, New York, to the extent occupied and used by any E&Y Group Entity.

Event of Default shall have the meaning specified in Section 9.1 hereof.

Existing Project Personalty shall have the meaning specified in Section 4.2(a) hereof.

Facility Equipment shall mean the machinery, equipment, trade fixtures, furniture, furnishings and other tangible personal property, the title to which shall be acquired by or on behalf of the Agency for Principal Use at any of the Project Personalty Locations as part of the Project pursuant to Section 2.1 hereof (including, without limitation, computers and peripherals, personal computers, laptop computers, telecommunications equipment, business machines and software (which software is capitalized or capable of being capitalized under generally accepted accounting principles)), in each case having a useful life of one year or more, together with all repairs, replacements, improvements, substitutions and renewals thereof or therefor, and all parts, additions and accessories incorporated therein or affixed thereto. Facility Equipment shall, in accordance with the provisions of Sections 4.2 and 5.1 hereof, include all property substituted for or replacing items of Facility Equipment and exclude all items of Facility Equipment so substituted for or replaced, and further exclude all items of Facility Equipment removed (other than Temporary Removals) as provided in Section 4.2 hereof. Facility Equipment shall not include ordinary office supplies (such as pencils, paper clips and paper), decorative items (such as fine art, plants and objects d’art) and rolling stock.

Federal Bankruptcy Code shall mean the Bankruptcy Reform Act of 1978, as amended (constituting Title 11, United States Code, as amended).

Fiscal Year shall mean an annual period beginning on a July 1 through the following June 30.

Force Majeure shall have the meaning specified in Section 11.1 hereof.

Foreign Entity shall mean any Person not included within the E&Y Group.

Full-Time Employee shall mean, with respect to an Annual Period, a natural person constituting a partner of, or on the payroll of, receiving customary benefits from, and directly employed during such Annual Period by, an E&Y Group Entity (and excluding any person employed by temporary employment or similar agencies) and who works within the City for an E&Y Group Entity during such Annual Period on a "full-time basis" (i.e., working at least a 35-hour week, subject to customary vacation, holiday and sick leave).

Full-Time Equivalent Employee shall mean, with respect to an Annual Period, two (2) natural persons either constituting a partner of, or on the payroll of, an E&Y Group Entity, and in each case receiving customary benefits from, and directly employed during such Annual Period by, an E&Y Group Entity (and excluding any persons employed by temporary employment or similar agencies) and each of whom works within the City an E&Y Group Entity during such Annual Period on a "part-time basis" (i.e., working at least a 20-hour week, subject to customary vacation, holiday and sick leave).

Government Penalty Amounts shall mean any applicable interest, fines, fees, penalties or other charges as may be imposed by the Tax Collecting Entity with respect to the improper or unauthorized taking of Sales Tax Savings.

Growth Credit shall mean a credit provided to the E&Y Group for each Growth Credit Employee in an amount equal to \$790.

Growth Credit Employee, for any Annual Period, shall mean each Eligible Employee included in the positive difference between the Annual Period Eligible Employees and the Base Employment Number. Growth Credit Employees shall not include, and the E&Y Group shall not enjoy a Growth Credit for, Ineligible Employees.

Headquarters shall mean (i) the majority of the national executive offices of E&Y US or of E&Y LLP that are most closely associated with the principal decision-making with respect to the United States-based business operations of the E&Y Group, and (ii) the majority of the Employees who make the principal decisions concerning the United States-based business operations of the E&Y Group.

Ineligible Employee shall mean

(i) any Employee employed by an E&Y Group Entity as a result of an Acquisition or Merger occurring at any time during the Project Term if such Employee

was employed in the City by the Foreign Entity (or group of Foreign Entities affiliated with each other) involved in such Acquisition or Merger at any time during the one (1) month period immediately prior to and including the date on which such Acquisition or Merger occurred,

(ii) with respect to any Eligible Affiliate in which a Company owns directly or indirectly 50% of the voting stock or other equity or ownership interest of such Eligible Affiliate, 50% of the Employees of such Eligible Affiliate shall be deemed to be Ineligible Employees and shall not be included in the total Annual Period Eligible Employees for any Annual Period, except that if those Employees who are deemed to be Ineligible Employees in accordance with the preceding clause were Eligible Employees prior to being transferred to such 50%-owned entity, such Employees shall continue to constitute Eligible Employees, or

(iii) any Employee of Cap Gemini.

Lease Commencement Date shall mean July 15, 2004.

Leased Personalty shall mean one or more items of tangible personal property, including, without limitation, mainframes (and peripherals), personal computers, telecommunications equipment, equipment relating to the operation of the three foregoing categories, and software, in which the Agency shall acquire a leasehold (or subleasehold) or license (or sublicense) interest under a Qualified Personalty Lease in accordance with Section 2.1 hereof, to be used by any E&Y Group Entity for the E&Y Business at any of the Project Personalty Locations as part of the Project. Leased Personalty shall not include ordinary office supplies (such as pencils, paper clips and paper), decorative items (such as fine art, plants and objects d'art) or rolling stock.

Legal Requirements shall have the meaning specified in Section 4.6 hereof.

Liens shall have the meaning specified in Section 8.6(a) hereof.

Limited Lessee/Agent shall mean an Eligible Affiliate appointed by the Agency as its agent for the purposes and on the conditions as set forth in Section 6.4 hereof, and acting as a lessee of the Project Personalty under this Agreement and as an assuming party under each of this Agreement and the Sales Tax Letter, all as set forth in Section 6.4 hereof.

Loss Event shall have the meaning specified in Section 5.1(a) hereof.

Maintenance Contracts shall mean with respect to Facility Equipment or Leased Personalty having a useful life of one year or more, a contract (such contract may also include maintenance for other equipment of an E&Y Group Entity that is not Facility Equipment or Leased Personalty provided that proper cost allocations are made to ensure that Sales Tax Savings are only claimed with respect to maintenance of Facility Equipment or Leased Personalty) entered into by E&Y US or E&Y LLP as agent for the Agency for Qualified Maintenance.

Maximum Energy Cost Savings Amount shall mean an amount of Energy Cost Savings available to the E&Y Group during the term of this Agreement not to exceed \$4,100,000 NPV.

Maximum Growth Credit Amount shall mean \$4,500,000 NPV.

Merger shall mean a merger between an E&Y Group Entity and a Foreign Entity.

Multiplier Factor shall mean the following multiplying factors for the purpose of determining a Recapture Payment for the respective periods indicated below:

<u>Period</u> <u>(both dates inclusive)</u>	<u>Multiplier</u> <u>Factor</u>
August 10, 1999 through June 30, 2011	2.0
July 1, 2011 through June 30, 2013	1.85
July 1, 2013 through June 30, 2015	1.6
July 1, 2015 through June 30, 2017	1.45
July 1, 2017 through June 30, 2018	1.2
July 1, 2018 through March 31, 2022	1.0

Net Proceeds shall mean, when used with respect to any insurance proceeds or condemnation award, compensation or damages, the gross amount from any such proceeds, award, compensation or damages less all reasonable expenses (including reasonable attorneys' fees, reasonable adjusters' fees and other reasonable expenses of the Agency) incurred in the collection thereof.

Non-Relocation Reduction shall mean any Base Employment Reduction for any reason other than a Relocation Reduction.

NPV shall mean net present value determined as follows: when following a specified or ascertainable dollar amount, the value as of the Lease Commencement Date of a future dollar amount or amounts discounted from December 31 of the Fiscal Year in which such amounts are paid, taken, incurred or realized, at the annual compounded rate of seven and three-quarters percent (7-3/4%) per annum. NPV shall not apply to Benefits realized prior to the Lease Commencement Date.

Opinion of Counsel shall mean a written opinion of counsel who may (except as otherwise expressly provided in this Agreement) be counsel for the Companies or the Agency, as the case may be, and, if such counsel shall not be an in-house counsel of the Companies, who shall be reasonably acceptable to the Person(s) to whom the opinion is to be addressed.

Permanent Removals shall have the meaning set forth in Section 4.2(c) hereof.

Permitted Encumbrances shall mean, as of any particular time,

- (i) this Agreement;
- (ii) any mechanic's, workmen's, repairmen's, materialmen's, contractors', carriers', suppliers' or vendors' Lien or right in respect thereof if payment is not yet due and payable, all if and to the extent permitted by Section 8.6 hereof; and
- (iii) any lien, security interest, encumbrance or charge, or any conditional sale or other title retention agreement, which any creditor of a Company, any vendor of Facility Equipment or any lessor or licensor of Leased Personalty or any contractor under a Maintenance Contract may place on or with respect to the Facility Equipment, Leased Personalty or a Maintenance Contract.

Person shall mean any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof or other entity.

Principal Use when used with reference to the use of Project Personalty at any Project Personalty Location, shall mean that such Project Personalty is located, maintained and stored only at such location and at no other location, for use at such location only by an E&Y Group Entity in furtherance of the E&Y Business, subject, however, to (x) any rights of incidental use as may be granted by an E&Y Group Entity in the ordinary course of the E&Y Business to Persons not constituting an E&Y Group Entity to access electronics or telecommunications equipment constituting Facility Equipment or Leased Personalty, provided that such items of electronics or telecommunications equipment shall not have been acquired for the purpose of permitting any E&Y Group Entity to function as an equipment vendor or lessor to Persons not constituting an E&Y Group Entity, (y) the provisions of Section 4.2 hereof, and (z) the right of Eligible Employees to incidentally use personal computers at locations other than Project Personalty Locations.

Prohibited Person shall mean:

- (i) any Person (A) that is in material default or in material breach, beyond any applicable notice and/or grace period, of its obligations under any material written agreement with the City or the Agency, or (B) that directly or indirectly controls, is controlled by, or is under common control with, a Person that is in material default or in material breach, beyond any applicable notice and/or grace period, of its obligations under any material written agreement with the City or the Agency, unless such default or breach has been waived in writing by the City or the Agency, respectively;
- (ii) any Person (A) that has been convicted in a criminal proceeding for a felony or any crime involving moral turpitude or that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure,

or (B) that directly or indirectly controls, is controlled by, or is under common control with a Person that has been convicted in a criminal proceeding for a felony or any crime involving moral turpitude or that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure;

(iii) any government, or any Person that is directly or indirectly controlled (rather than only regulated) by a government, that is finally determined to be in violation of (including, but not limited to, any participant in an international boycott in violation of) the Export Administration Act of 1979, or its successor, or the regulations issued pursuant thereto, or any government that is, or any Person that, directly or indirectly, is controlled (rather than only regulated) by a government that is subject to the regulations or controls thereof; or

(iv) any government, or any Person that, directly or indirectly, is controlled (rather than only regulated) by a government, the effects of the activities of which are regulated or controlled pursuant to regulations of the United States Treasury Department or executive orders of the President of the United States of America issued pursuant to the Trading with the Enemy Act of 1917, as amended (including the Arms Export Control Act of 1979, as amended).

The determination as to whether any Person is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure or directly or indirectly controls, is controlled by, or is under common control with a Person that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure shall be within the sole discretion of the Agency exercised reasonably and in good faith.

Project shall mean the acquisition, equipping, furnishing, leasing, subleasing, licensing, sublicensing, repair, replacement and maintenance of machinery, equipment, furniture, furnishings and other items of tangible movable personalty, each to the extent used in the E&Y Business by any E&Y Group Entity at any of the Project Personalty Locations.

Project Personalty shall mean, collectively, the Facility Equipment, the Leased Personalty and the Maintenance Contracts.

Project Personalty Locations shall mean

(i) such portion of that building known as 5 Times Square, Manhattan, New York as shall be occupied by an E&Y Group Entity engaged in the conduct of the E&Y Business; and

(ii) such other locations within the City as the Agency shall, upon written request by an Authorized Representative of the Companies, approve after the Lease Commencement Date in accordance with the requirements of the Act, such approval by the Agency to be evidenced by a writing to such effect delivered by the Agency to the Companies.

Project Personalty Registry shall mean the registry maintained by the Agency at its office of all the Project Personalty, as such registry shall be modified, amended or supplemented from time to time in accordance with Section 6.3 hereof.

Project Term shall mean the period commencing on the Lease Commencement Date and terminating on March 31, 2022.

Project Termination Date shall mean March 31, 2022.

Qualified Maintenance shall mean, with respect to any item of Facility Equipment or Leased Personalty having a useful life of one year or more, the replacement of parts (other than parts that contain materials or substances that are consumed in the operation of such property (e.g., a toner cartridge) where such parts must be replaced whenever the substance is consumed) or the making of repairs, but shall not include maintenance of the type as shall constitute janitorial services.

Qualified Personalty Lease shall mean a lease or license of one or more items of Leased Personalty to an E&Y Group Entity on behalf of and as agent for the Agency, (x) which lease or license would be characterized under the Accounting Standards of the Financial Accounting Standards Board, and is so recorded on the books and records of such E&Y Group Entity, as a "capital lease" or "capital license", or (y) pursuant to which an option to purchase the subject property of such lease or license is granted thereunder by the lessor or licensor.

Recapture Amount shall mean the Aggregate Benefits not previously recaptured, excluding from such calculation the portion of any amounts paid attributable to the application of a Multiplier Factor greater than one.

Recapture Payment shall mean any amount as shall be due and owing by the Companies pursuant to Section 1.6, 7.5 or 7.9 hereof.

Recapture Percentage shall mean, for the following periods, the applicable percentage to be used for multiplying Recapture Amounts when the Relocation Reduction in question occurs in such period:

<u>Period</u> (both dates inclusive)	<u>Recapture Percentage</u>
August 10, 1999 through June 30, 2011	100%
July 1, 2011 through June 30, 2013	80
July 1, 2013 through June 30, 2015	65
July 1, 2015 through June 30, 2017	40
July 1, 2017 through June 30, 2018	25
July 1, 2018 through June 30, 2019	15
July 1, 2019 through June 30, 2020	10
July 1, 2020 through June 30, 2021	5
July 1, 2021 through March 31, 2022	2½

Reduction shall mean a Relocation Reduction or a Non-Relocation Reduction, as the context indicates.

Relocation Reduction shall mean a Base Employment Reduction resulting from (i) any transfer or relocation of Eligible Employees to a location outside of the City, (ii) any reduction in the number of Eligible Employees resulting from the hiring of replacement or substituted employees at a location outside of the City, or (iii) any transfer, relocation or establishment of operations or facilities, including, but not limited to, the Headquarters, to a location outside of the City.

Remaining Energy Cost Savings shall mean the amount of Energy Cost Savings remaining and unutilized and calculated as equal to the positive difference derived by subtracting the Energy Cost Savings made available during the Project Term to the E&Y Group as of the end of the most recent Annual Period from the Maximum Energy Cost Savings Amount.

Reported Annual Period shall mean the immediately preceding completed Annual Period.

Retention Period shall have the meaning specified in Section 4.2(a) hereof.

Sales and Use Taxes shall mean New York City and New York State sales and/or compensating use taxes imposed pursuant to Sections 1105, 1107, 1109 and 1110 of the New York State Tax Law, as each of the same may be amended from time to time (including any successor provisions to such statutory sections).

Sales Tax Letter shall mean the Letter of Authorization for Sales Tax Exemption which the Agency shall make available to the Companies in accordance with this Agreement and substantially in the form set forth in Appendix A hereto, as the same may be amended and restated.

Sales Tax Savings shall mean the amount of Sales and Use Taxes which the E&Y Group would have otherwise have been required to pay in connection with the Project Personality but for the exemption available to the Agency under Section 874 of the New York State General Municipal Law and Section 1115 of the New York State Tax Law.

State shall mean the State of New York.

Tax Collecting Entity shall mean the New York State Department of Taxation and Finance or other appropriate governmental authority having jurisdiction with respect to the collection or payments of New York State sales and/or use taxes.

Temporary Removals shall have the meaning specified in Section 4.2(b) hereof.

term of this Agreement, when such phrase is used herein, shall mean that period commencing on the Lease Commencement Date and terminating on March 31, 2022, notwithstanding any earlier cessation of Benefits or termination of this Agreement for any reason whatsoever.

Section 1.2. Construction. In this Agreement, unless the context otherwise requires:

(a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this Agreement, refer to this Agreement, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the Lease Commencement Date.

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa.

(c) Words importing persons shall include firms, associations, partnerships (including limited partnerships), limited liability companies, trusts, corporations and other legal entities, including public bodies, as well as natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(e) Except as otherwise provided in this Agreement, all approvals, consents and acceptances required to be given or made by any Person or party hereunder shall be at the sole discretion of the Person or party whose approval, consent or acceptance is required.

Section 1.3. Representations and Warranties by Agency. The Agency makes the following representations and warranties:

(a) The Agency is a corporate governmental agency constituting a body corporate and politic and a public benefit corporation duly organized and existing under the laws of the State, and is authorized and empowered to enter into and effectuate the transactions contemplated on its part by this Agreement and the Sales Tax Letter and has taken all requisite action to carry out its obligations hereunder and thereunder. By proper action of its members, the Agency has duly authorized the execution and delivery of this Agreement and the Sales Tax Letter.

(b) The execution, delivery and performance by the Agency of this Agreement and the Sales Tax Letter and the consummation of the transactions herein and therein contemplated have been duly authorized by all requisite corporate action on its part and will not violate any provision of law, any order of any court or agency of government applicable to the Agency, or its by-laws, or any material indenture, material agreement or other material instrument to which it is a party or by which it is subject to or bound, or be in material conflict with or result in a material breach of or constitute (with due notice and/or lapse of time) a material default under any such material indenture, material agreement or other material instrument.

(c) Assuming due and proper execution hereof and thereof by all parties other than the Agency, this Agreement and the Sales Tax letter each constitutes the Agency's legal, valid and binding obligation enforceable against it in accordance with its terms, except as such validity, binding effect and enforceability may be limited by (and subject to) bankruptcy, insolvency, reorganization, rehabilitation, moratorium or other similar laws affecting the enforcement of creditors' rights from time to time in effect and general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

(d) There is no action or proceeding, of which the Agency has notice, pending or, to its best knowledge and of its officers having reason to be familiar with any such action or proceeding, threatened by or against it by or before any court or administrative agency that might adversely affect its ability to perform its obligations under this Agreement and the Sales Tax Letter, and all authorizations, consents and approvals of governmental bodies or agencies required to be obtained by it as of the date hereof in connection with the execution and delivery of this Agreement and the Sales Tax Letter or in connection with the performance of its obligations hereunder and thereunder has been obtained.

Section 1.4. Findings by Agency. The Agency, based upon the representations and warranties of the Companies contained in this Agreement and the information contained in the application and other materials heretofore submitted by or on behalf of the Companies to the Agency, hereby finds and determines that the providing of certain benefits to the Companies in connection with the Project is reasonably necessary to encourage the Companies to proceed with the Project, and is reasonably necessary to preserve the competitive position of the Companies in their industry.

Section 1.5. Representations and Warranties by the Companies. In order to induce the Agency to enter into this Agreement and the Sales Tax Letter, the Companies each make the following representations and warranties:

(a) Each is a limited liability partnership duly organized, validly existing and in good standing under the laws of the State of Delaware, is duly qualified to do business and is in good standing under the laws of the State of New York, is not in violation of any provision of its partnership agreement, and has the power and authority to own its property and assets, to carry on its business as now being conducted by it, and to execute, deliver and perform this Agreement and the Sales Tax Letter. Each is duly qualified to do business in every jurisdiction

in which the failure to so qualify would have a material adverse effect upon its properties, business, affairs, assets or condition (financial or otherwise).

(b) The execution, delivery and performance by it of this Agreement and the Sales Tax Letter and the consummation by each of the Companies of the transactions herein and therein contemplated have been duly authorized by all requisite action on its part and will not violate any provision of law, any order of any court or agency of government, its partnership agreement, or any material indenture, agreement or other instrument to which it is a party or by which it or any of its property is subject to or bound, or be in material conflict with or result in a material breach of or constitute (with due notice and/or lapse of time) a material default under any such material indenture, agreement or other instrument or result in the imposition of any lien, charge or encumbrance of any nature whatsoever other than Permitted Encumbrances.

(c) Assuming due and proper execution hereof and thereof by the Agency, this Agreement and the Sales Tax Letter each constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms, except as such validity, binding effect and enforceability may be limited by (and subject to) bankruptcy, insolvency, reorganization, rehabilitation, moratorium or other similar laws affecting the enforcement of creditors' rights from time to time in effect and by general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

(d) There is no action or proceeding pending or, to its best knowledge and of its officers having reason to be familiar with any such action or proceeding, threatened by or against it by or before any court or administrative agency that might adversely affect its ability to perform its obligations under this Agreement and the Sales Tax Letter; and all authorizations, consents and approvals of governmental bodies or agencies required to be obtained by it as of the date hereof in connection with the execution and delivery of this Agreement and the Sales Tax Letter or in connection with the performance of its obligations hereunder and thereunder has been obtained.

(e) Except as provided in this Agreement, none of the Facility Equipment, Leased Personalty or Maintenance Contracts shall be located or used at any location other than at a Project Personalty Location.

(f) No Maintenance Contracts will be entered into for any property other than for Qualified Maintenance for Facility Equipment or Leased Personalty (with respect to which a Qualified Personalty Lease shall exist); provided, however, a Maintenance Contract of a severable nature may be entered into relative to (x) Facility Equipment and/or Leased Personalty, and (y) other property (the "Non-Project Property"), to the extent that (i) no Sales Tax Savings shall be claimed with respect to maintenance of the Non-Project Property, (ii) that portion of the Maintenance Contract with respect to Non-Project Property shall not be entered into as agent on behalf of the Agency, and (iii) the Maintenance Contract has a specific reasonable good faith allocation of cost relating to each of the Non-Project Property and the Facility Equipment and/or Leased Personalty.

(g) The Project and related Benefits are reasonably necessary to induce the Companies to proceed with the Project.

(h) The Project is included within the definition of "project" under the Act.

(i) Each representation or warranty made by the Companies in the application and related materials submitted to the Agency for approval of the Project, or by the Companies in this Agreement and in the Sales Tax Letter, is true, correct and complete in all material respects as of the date made. Each representation or warranty made by it in any report, certificate, financial statement or other instrument furnished pursuant to this Agreement and or the Sales Tax Letter shall be true, correct and complete in all material respects as of the date made.

(j) No Person other than an E&Y Group Entity is or will use or operate any portion of the Project Personalty other than as permitted hereunder.

(k) The Project Personalty will be designed, and the operation of the Project Personalty will be, in compliance with all applicable Legal Requirements.

(l) The property included in the Project Personalty, other than Maintenance Contracts, is property of the character subject to the allowance for depreciation under Section 167 of the Internal Revenue Code of 1986, as amended.

(m) The Companies intend to operate the Project Personalty or cause the Project Personalty to be operated in accordance with this Agreement and as a qualified "project" in accordance with and as defined under the Act.

(n) No sales or use tax exemption has been or will be made available under the Sales Tax Letter for facilities or property that are primarily used in making retail sales to customers who personally visit such facilities and that constitute more than one third of the total Project cost. For purposes of this representation, retail sales shall mean: (i) sales by a registered vendor under article twenty-eight of the New York Tax Law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of section eleven hundred one of the New York Tax Law; or (ii) sales of a service to such customers.

(o) The Project will not result in the removal of an industrial, manufacturing, warehousing or commercial plant or facility of any E&Y Group Entity or other user or operator of any of the Project Personalty from a location outside of the City but in the State to within the City, or in the abandonment of one or more of such plants or facilities of any E&Y Group Entity or other user or operator of any of the Project Personalty located outside of the City but in the State.

(p) As of April 1, 2004, there were 3,710 Eligible Employees within the City.

Section 1.6. Acknowledgments of Consideration. It is acknowledged by the Companies that the Agency will be providing the Sales Tax Savings and other benefits specified in this Agreement and in the Sales Tax Letter principally upon the assumption and expectation that during the Project Term the Companies will (i) maintain certain minimum levels of Eligible Employees within the City, (ii) maintain their Headquarters within the City, (iii) maintain their occupancy of the building known as 5 Times Square, New York, New York until June 30, 2009, subject to Force Majeure, casualty and condemnation, and to the Companies' right to sublet, leave vacant or otherwise not occupy up to fifty percent (50%) of the rentable square footage thereof, and (iv) comply with its other covenants and agreements contained herein, and the Companies and the Agency acknowledge and agree that all such obligations, covenants and agreements set forth in clauses (i) through (iv) above are of essential importance to the Agency and are the principal basis upon which the Agency is providing and will hereafter provide the above-mentioned benefits.

If the Companies fail to satisfy their obligation set forth in clause (iii) of the first paragraph of this Section, without limiting the other remedies available to the Agency hereunder, all remaining Benefits shall permanently cease to be available to the Companies.

ARTICLE II

The Project Personalty

Section 2.1. The Project Personalty. (a) The Companies will, on behalf of the Agency, proceed with the acquisition of the Facility Equipment, the leasing of Leased Personalty and the entering into of Maintenance Contracts, all to be effected for use at Project Personalty Locations in accordance with this Agreement and the Sales Tax Letter. All contractors, materialmen, vendors, suppliers and other companies, firms or persons furnishing labor, machinery, equipment, services or materials for or in connection with the Project Personalty shall be selected by the Companies.

(b) The Companies shall be responsible for the payment of (i) all of the costs and expenses in connection with the preparation of any instruments of lease of the Project Personalty to the Agency, and the delivery of any such instruments and documents and their filing and recording, if required, (ii) all taxes and charges payable in connection with such leasing, or attributable to periods prior to such leasing, to the Agency as set forth in Section 2.1(a) hereof, and (iii) all shipping and delivery charges and all other expenses or claims incurred by or on behalf of the Companies in connection with the Project Personalty.

(c) The Agency and the Companies acknowledge and agree that the Project Personalty is to be acquired, leased (or subleased), licensed (or sublicensed), equipped, maintained, replaced and repaired for Principal Use by the E&Y Group only at a Project Personalty Location, and that the nature thereof may change from time to time over the term of this Agreement to reflect amendments, modifications, replacements, accessions to and supplements made to the Project Personalty. Upon the acquisition, leasing, subleasing, licensing, sublicensing, equipping, furnishing, maintenance, repair or replacement of the Project Personalty, such property shall become subject to the leasehold interest of this Agreement.

At the request of the Agency to the Companies, the Companies shall provide such reasonable additional information and clarifications concerning any portion of the Project Personalty to be acquired, equipped, leased, subleased, licensed, sublicensed, maintained, replaced or repaired, as shall be reasonably requested by the Agency.

All Facility Equipment, Leased Personalty and Maintenance Contracts shall be enumerated in sufficient detail for accurate identification (as to date of payment, vendor, location, physical description, serial number (if applicable and to the extent recorded and tracked by an E&Y Group Entity in the normal course of its business practices), price and the amount of sales and use tax exemptions afforded to the Companies in connection with such acquisition) in the Project Personalty Registry.

(d) The Companies will obtain or cause to be obtained all necessary approvals from any and all governmental agencies requisite to the effectuation by the Companies of the Project and the operation of the Project Personalty, all of which will be done in compliance with all applicable Legal Requirements, and with the conditions and requirements of all policies of insurance required to be maintained hereunder with respect to the Project Personalty and this

Agreement. The Companies will further obtain or cause to be obtained all necessary permits, authorizations and licenses from appropriate authorities, authorizing the operation and use of the Project Personalty for the purposes contemplated by this Agreement and shall promptly furnish copies of same to the Agency upon receipt thereof.

(e) Upon request, the Companies will extend to the Agency, or the Agency will extend to the Companies, the benefit of all vendors' warranties received by the other party (to the extent permitted under the terms of such warranties) in connection with the Project Personalty, including any warranties given by contractors, manufacturers or service organizations who perform work with respect to the Project Personalty.

(f) The Companies shall take such action and institute such proceedings as shall be reasonably necessary to cause all contractors, vendors and material suppliers to complete their contracts in accordance with the terms of said contracts, subject to the independent right of the Companies, in the exercise of their good faith business judgment, to waive or modify performance in whole or in part by any such contractor or supplier, to terminate, modify or amend said contracts or to assign said contracts such that the Agency is no longer a party to said contracts through a Company acting as agent for the Agency. The Agency will cooperate in any such action or proceeding, at the Companies' sole cost and expense, provided that the Agency shall not be required to take any action it does not deem to be reasonable. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing, after deduction of expenses incurred in such recovery, shall be paid to the Companies.

(g) Concurrently with the execution of this Agreement, the Agency shall make the Sales Tax Letter available to the Companies.

(h) Title to, or a leasehold (or subleasehold) or license (or sublicense) interest in, as appropriate, all materials, furniture, equipment, machinery and other property intended to be acquired as part of the Project Personalty (excluding the E&Y Property) shall become subject to this Agreement and vest in the Agency immediately upon the execution of a contract, lease, bill, invoice, license or purchase order therefor as agent for the Agency, delivery thereof or payment therefor, whichever shall be so provided in the related contract, lease, bill, invoice, license or purchase order. The Companies shall take all action reasonably necessary to protect such title or leasehold or license interest of the Agency against claims of any third parties.

Section 2.2. Commitment to Project. The Companies agree that they will, from time to time on behalf of the Agency, proceed with the acquisition of Facility Equipment, and with the leasing (or subleasing) or licensing (or sublicensing) of Leased Personalty and the entering into of Maintenance Contracts, all on behalf of and as agent for the Agency, all at Project Personalty Locations and all in accordance with this Agreement and the Sales Tax Letter. The costs of the Project Personalty shall be paid from funds of the Companies or funds otherwise made available to the Companies.

ARTICLE III

Lease of Project Personalty and Rental Provisions

Section 3.1. Lease of the Project Personalty. The Agency hereby leases to the Companies and the Companies hereby lease from the Agency the Project Personalty upon and subject to the terms and conditions herein set forth. The Companies shall, subject to the provisions of Sections 5.1, 8.1 and 11.2 of this Agreement, at all times during the term of this Agreement use and operate the Project Personalty as a qualified "project" for the operation of the E&Y Business in accordance with the provisions of the Act and for the general purposes specified in the recitals to this Agreement. The Companies shall not use or operate the Project Personalty or allow the Project Personalty or any part thereof to be used or operated for any unlawful purpose or in a manner which may constitute a nuisance, public or private, or make void or voidable any insurance required hereunder then in force with respect thereto.

Section 3.2. Duration of Term. The term of this Agreement shall commence on the Lease Commencement Date and shall expire (subject to the survival of certain provisions of this Agreement) on the earlier of March 31, 2022, or such earlier date as this Agreement shall be terminated as hereinafter provided. It is hereby agreed by the parties hereto that the term of this Agreement shall not terminate due solely to the expiration from time to time of all then applicable Retention Periods. The Agency hereby delivers to the Companies and the Companies hereby accept such possession of the Project Personalty as the Agency has or may have therein.

Section 3.3. Rental Provisions. (a) Base Rent. The Companies shall pay base rent to the Agency, without demand or notice, on the Lease Commencement Date in the amount of \$1.00, which shall constitute the entire amount of base rent payable hereunder.

(b) Additional Rent. Throughout the term of this Agreement, the Companies shall pay to the Agency any additional amounts required to be paid by the Companies to or for the account of the Agency hereunder, and any such additional amounts shall be paid as, and shall represent payment of, additional rent.

(c) Missed Payments. In the event the Companies should fail to make or cause to be made any of the rental payments required under the foregoing provisions of this Section, the item or installment not so paid shall continue as an obligation of the Companies until the amount not so paid has been paid in full, together with interest thereon from the date due at the applicable interest rate stated in this Agreement where so provided, or if not so provided, at eighteen percent (18%) per annum.

Section 3.4. Obligation of the Companies Unconditional. The obligation of the Companies to pay the rent and all other payments provided for in this Agreement and to maintain the Project Personalty in accordance with Section 4.1 of this Agreement shall be absolute and unconditional, irrespective of any defense or any rights of set-off, recoupment or counterclaim or deduction and without any rights of suspension, deferment, diminution or reduction they or any of them might otherwise have against the Agency or any other Person whatsoever. The Companies will not suspend or discontinue any such payment or terminate this Agreement (other

than such termination as is provided for hereunder) for any cause whatsoever, and the Companies irrevocably waive all rights now or hereafter conferred by statute or otherwise to quit, terminate, cancel or surrender this Agreement or any obligation of the Companies under this Agreement except as provided in this Agreement or to any abatement, suspension, deferment, diminution or reduction in the rentals or other payments hereunder.

Section 3.5. Rent Relating to Leased Personalty and Maintenance Contracts.

The Companies shall pay to the lessors and licensors of all Leased Personalty and to the counterparties under all Maintenance Contracts, all payments to be made by the Agency, and perform all obligations required of the Agency, under leases (or subleases) or licenses (or sublicenses) for Leased Personalty and Maintenance Contracts, as and at the times and in the amounts the same shall become payable, and as and at the times such obligations are required to be performed, under such leases (or subleases) or licenses (or sublicenses) and Maintenance Contracts.

The Companies may at their sole cost and expense contest (with written notice thereof to be sent to the Agency promptly following commencement of such contest), by appropriate action conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any payment to a vendor of any Facility Equipment or to lessors or licensors of Leased Personalty or to any counterparty under Maintenance Contracts, if (1) neither the Project Personalty nor any material portion thereof, or any interest therein, would be in any danger of being sold, forfeited or lost, and (2) such contest shall not result in any of the Companies, any Eligible Affiliate or the Agency being in any reasonable danger of any criminal liability; *provided, however*, if such contest could result in the Agency being in any reasonable danger for civil liability (including accrual of interest, fines and/or penalties), (x) the Companies shall deliver a written confirmation to the Agency that the Companies shall indemnify and hold the Agency harmless for any claims, liabilities, costs or expenses as may derive with respect thereto, and (y) the Companies shall provide to the Agency such security as the Agency may reasonably require.

ARTICLE IV

Maintenance, Taxes and Insurance

Section 4.1. Maintenance of Project Personalty. (a) During the term of this Agreement, the Companies will keep the Project Personalty in good and safe operating order and condition, ordinary wear and tear excepted, will use and operate the Project Personalty in the manner for which it was designed and intended and contemplated by this Agreement, and will make all replacements and repairs thereto (whether ordinary or extraordinary, foreseen or unforeseen) necessary to ensure the continuity of the operations of the E&Y Group at the Project Personalty Locations to the extent required and for the purposes contemplated by this Agreement. All replacements and repairs shall be performed in a good and workmanlike manner and be made in compliance with all Legal Requirements including the requirements of all governmental bodies. The Agency shall be under no obligation to replace, service, test, adjust, erect, maintain or effect replacements, renewals or repairs of any of the Project Personalty, to effect the replacement of any inadequate, obsolete, worn-out or unsuitable parts of any of the Project Personalty, or to furnish any utilities or services for any of the Project Personalty, and the Companies hereby agree to assume full responsibility therefor.

(b) The Companies shall have the right to make such alterations, replacements or repairs of, or additions to, the Project Personalty or any part thereof from time to time as they in their discretion may determine to be desirable for their uses and purposes, provided that (i) such additions, alterations, replacements or repairs are in compliance with all applicable Legal Requirements, (ii) such additions, alterations, replacements or repairs are promptly and fully paid for by the Companies in accordance with the terms of the applicable contract(s) therefor, and in order that the Project Personalty shall at all times be free of any mortgage, lien, charge, encumbrance, security interest or claim other than Permitted Encumbrances, (iii) title thereto (in the case of Facility Equipment) or a license or leasehold (in the case of Leased Personalty) interest therein shall be deemed to be vested in the Agency, and (iv) such additions, alterations, replacements or repairs do not change the nature of the Project Personalty so that it would not constitute a commercial facility and a qualified "project" as defined in the Act for use by the E&Y Group for the E&Y Business. All alterations of, substitutions for, replacements of and additions to the Project Personalty shall be deemed to constitute a part of the Project Personalty subject to this Agreement, and the Companies shall deliver or cause to be delivered to the Agency appropriate documents as may be reasonably necessary to convey title to, or license or leasehold interest in, such property to the Agency and to subject such property to this Agreement, free and clear of all liens, charges, encumbrances, security interests or claims other than Permitted Encumbrances.

(c) The Companies shall have the right to install, remove, repair, replace or finance or permit to be installed, removed, repaired, replaced or financed, at any Project Personalty Location, machinery and equipment, including, without limitation, telecommunications equipment, data processing equipment and trade fixtures installed by the Companies or any Eligible Affiliate, and all furniture, furnishings and other personal property (the "E&Y Property"), with respect to which no sales or use tax exemption shall have been received pursuant to the Sales Tax Letter or otherwise constituting Project Personalty without

conveying title to or any license or leasehold interest in such property to the Agency nor subjecting such property to this Agreement. The Agency shall not be responsible for any loss of or damage to the E&Y Property. The Companies shall have the right to create or permit to be created any mortgage, encumbrance, lien or charge on, or conditional sale or other title retention agreement with respect to, the E&Y Property.

(d) The Companies shall not create, permit or suffer to exist any mortgage, encumbrance, lien, security interest, claim or charge against the Project Personalty or any part thereof, or the interest of the Companies in the Project Personalty or this Agreement, except for Permitted Encumbrances and except as provided in Section 8.6 hereof.

Section 4.2. Removal of Project Personalty. (a) The Companies acknowledge that the Agency is providing certain sales and use tax exemptions and other benefits to the Companies for the purpose of inducing the Companies to proceed with the Project and to comply with the covenants contained in this Agreement. The aforementioned benefits are being provided solely for the purpose of establishing, maintaining, expanding and upgrading, as the case may be, the operations of the E&Y Group at the Project Personalty Locations and not for the purpose of assisting any other facility or any other Person. To this end, the Companies hereby represent, warrant and covenant to and with the Agency that none of the systems, furnishings, machinery, equipment or other property constituting part of the Project Personalty or as may be acquired by the Companies from time to time in the name of the Agency for location at a Project Personalty Location, but shall have not yet been delivered to the Project Personalty Location (the "Existing Project Personalty"), will ever be acquired, leased or licensed for any purpose other than for Principal Use by the Companies or an Eligible Affiliate in the E&Y Business at a Project Personalty Location; *provided, however*, that solely with respect to Facility Equipment constituting laptop computers, during regular business hours, such laptop computers will be primarily used by Eligible Employees at a Project Personalty Location in the E&Y Business. The Companies hereby further represent, warrant and covenant to and with the Agency that, except as permitted below in this Section 4.2, none of the Existing Project Personalty ever be removed from such Project Personalty Location (either on a temporary or permanent basis) prior to the expiration of three (3) years or, solely with respect to computers and computer software, eighteen months after the installation or location of the respective item of Existing Project Personalty at such Project Personalty Location (the "Retention Period"), unless (i) solely in the case of Facility Equipment constituting laptop computers, despite the temporary removal thereof from time to time, such laptop computers are primarily used at a Project Personalty location by Eligible Employees in the E&Y Business during regular business hours, (ii) such removal is of Leased Personalty and the Agency is no longer to be a party (through the Companies or either of them acting as agent on behalf of the Agency) to the related Qualified Personalty Lease after such removal, (iii) in the case of Facility Equipment, simultaneously with such removal either an amount equal to the sales tax that would have been payable at the original time of such purchase with respect to the purchase of such item of Facility Equipment (based upon its fair market value at the time of its removal), but for the Sales Tax Letter, shall be paid by the Companies to the Agency with respect to the item or items being removed, (iv) such removal is of Facility Equipment being returned for the purposes and on the terms set forth in Section 6.1(d)(ix) hereof, or (v) there shall be delivered to the Agency, except to the extent the provisions of Sections 4.2(b) or (c) below shall apply and have been complied

with, a certificate of an Authorized Representative of the Companies stating that such item of the Existing Project Personalty is obsolete or useless, or that the Companies have a good faith operational or business reason for such removal, in relation to the conduct of the E&Y Business by the Companies at the applicable Project Personalty Location (in which event the provisions of Sections 4.2(b) and (c) below shall be inapplicable). After the expiration of the Retention Period with respect to any item of Existing Project Personalty, such item of Existing Project Personalty shall be deemed removed from the Project Personalty Registry, title thereto shall revert to the Companies, and the Companies may remove, transfer, sell or dispose of such item of Existing Project Personalty from the Project Personalty Location; provided that Facility Equipment subject to a Maintenance Contract shall be deemed removed from the Project Personalty Registry and title thereto shall revert to the Companies upon the later of the end of the applicable Retention Period or the expiration of the applicable Maintenance Contract; provided further that such removal, transfer, sale or disposition will not violate any other covenant or agreement of the Companies hereunder or under the Sales Tax Letter.

(b) Prior to the expiration of the Retention Period as to any item of Existing Project Personalty, the Companies may remove such item from a Project Personalty Location on a temporary basis ("Temporary Removals") provided, that, no such Temporary Removal shall be effected if

(i) such Project Personalty Location ceases to be the "permanent location" to which the item of Existing Project Personalty is to be returned after its temporary off-location use or repair,

(ii) the Temporary Removal is not effected for a good faith business purpose consistent with the E&Y Business conducted by the Companies and/or any Eligible Affiliate at such Project Personalty Location, and

(iii) the item of Existing Project Personalty is to be absent from such Project Personalty Location for a period in excess of one hundred twenty (120) days, subject, however, to any delays as a result of Force Majeure.

Notwithstanding the limitations set forth in paragraph (iii) above, upon the occurrence of an unforeseen event or circumstance unrelated to the financial or economic condition of the Companies which, in the good faith business judgment of the Companies, has precipitated an emergency condition necessitating the extension of the 120-day Temporary Removal period referred to in clause (iii) above, such Temporary Removal period may be extended for thirty (30) days following the cessation of such emergency condition, provided that the Companies deliver written notice to the Agency of the event or circumstance precipitating such emergency condition, and use good faith diligent efforts to effect the return of the item of Existing Project Personalty to the applicable Project Personalty Location as expeditiously as possible under the circumstances.

(c) Prior to the expiration of the Retention Period as to any item of Existing Project Personalty, the Companies may remove, transfer, sell or otherwise dispose of such item

from a Project Personalty Location on a permanent basis (“Permanent Removals”) and thereby acquire such item of Existing Project Personalty from the Agency, provided, that,

(i) the Companies shall acquire for installation at such Project Personalty Location (not through any sales or use tax exemption pursuant to the Sales Tax Letter) a substitute or replacement item of property having equal or greater utility and capability (or having a comparable lesser utility or capability if the Companies’ business needs have diminished) as the item of Existing Project Personalty being permanently removed from the Project Personalty Location, and conveys title to such substitute or replacement item of property to the Agency as part of the Project Personalty and thereby subjects such property to the leasehold estate of this Agreement as if originally acquired as part of the Project Personalty; or

(ii) if the Companies shall seek to effect a Permanent Removal of Existing Project Personalty for reasons other than as permitted in Section 4.2(a)(iii) or 4.2(c)(i) above, and such Permanent Removal is occasioned by unforeseen circumstances but in accordance with a good faith business purpose on the part of the Companies and not as part of any systematic or programmatic transfer of Existing Project Personalty from Project Personalty Locations, the Companies may on an occasional and immaterial basis effect such Permanent Removal; provided that the Companies shall deliver to the Agency, with each certificate delivered under Section 5.1(d)(v)(A) hereof, (x) a certificate of an Authorized Representative of the Companies confirming that such Permanent Removal is being effected in a manner and for a purpose consistent with the conditions permitting such Permanent Removal as provided above in this Section 4.2(c)(ii) and not in violation of any other covenant, condition or agreement on the part of the Companies hereunder, and (y) an amount, certified as correct by an Authorized Representative of the Companies, of the sales tax that would have been payable at the time of original purchase based upon the fair market value thereof at the time of its removal.

(d) Notwithstanding the foregoing, the Companies shall effect no Temporary Removals or Permanent Removals of Existing Project Personalty from a Project Personalty Location if any such removal would change the nature of the Project Personalty as a commercial facility and a qualified “project” as defined under the Act to be used for the E&Y Business.

(e) Upon the written request of an Authorized Representative of the Companies, the Agency shall deliver to the Companies appropriate documents conveying to the Companies all of the Agency’s right, title and interest in any of the Existing Project Personalty removed from a Project Personalty Location pursuant to this Section 4.2. The Companies shall pay all reasonable costs and expenses (including reasonable counsel fees) incurred in connection with such removal and any substitution or replacement.

(f) The removal from a Project Personalty Location of any Existing Project Personalty pursuant to the provisions of this Section 4.2 shall not entitle the Companies to any abatement or reduction in the rentals and other amounts payable by the Companies under this Agreement.

Section 4.3. Taxes, Assessments and Charges. The Companies shall pay or cause to be paid when the same shall become due all taxes and assessments, general and specific, if any, levied and assessed upon or against the Project Personalty or any part thereof, this Agreement, any estate or interest of the Agency or the Companies in the Project Personalty, or the rentals or other payments hereunder during the term of this Agreement, and all governmental charges and impositions whatsoever, foreseen or unforeseen, ordinary or extraordinary, under any present or future law, and charges for public or private utilities or other charges incurred in the use, operation, maintenance or upkeep of the Project Personalty, all of which are herein called "Impositions". The Agency shall have no responsibility for the payment of any Imposition. The Companies may pay or cause to be paid any Imposition in installments if so payable by law, whether or not interest accrues on the unpaid balance.

The Companies may at their sole cost and expense and in good faith commence and prosecute proceedings to contest the amount or validity or application, in whole or in part, of any such Imposition (upon prior written notice to the Agency), provided, that, (i) if the Companies withhold payment, such proceeding shall suspend the execution or enforcement of any lien arising from the non-payment of such Imposition against the Project Personalty or any part thereof or any interest therein or in this Agreement of the Agency or any Company or against any of the rentals or other amounts payable under this Agreement, (ii) neither the Project Personalty nor any portion thereof or interest therein would be in any danger of being sold, forfeited or lost, and (iii) neither any of the Companies nor the Agency would be in any reasonable danger of any criminal liability for failure to pay such Imposition; *provided, however*, if such contest could result in the Agency being in any reasonable danger for civil liability (including accrual of interest, fines and/or penalties), (x) the Companies shall deliver a written confirmation to the Agency that the Companies shall indemnify and hold the Agency harmless for any claims, liabilities, costs or expenses as may derive with respect thereto, and (y) the Companies shall provide to the Agency such security as the Agency may reasonably require.

Section 4.4. Insurance. (a) At all times throughout the term of this Agreement, the Companies shall maintain or cause to be maintained insurance with respect to the Project Personalty, with insurance companies licensed to do business in the State, against such risks, loss, damage and liability (including liability to third parties) and for such amounts as are customarily insured against by other enterprises of like size and type as that of the Companies, including, without limitation:

(i) [Reserved]

(ii) Property damage insurance insuring the furniture, systems, machinery, equipment, fixtures and other property constituting a part of the Project Personalty against loss or damage to the Project Personalty by fire, lightning, vandalism, malicious mischief and other casualties, with standard extended coverage endorsement covering perils of windstorm, hail, explosion, aircraft, vehicles and smoke (except as limited in the standard form of extended coverage endorsement at the time in use in the State) at all times in an amount such that the proceeds of such insurance shall be sufficient to prevent the Companies or the Agency from becoming a co-insurer of any loss under the insurance policies but in any event in amounts equal to not less than 80% of the actual replacement

value of the Project Personalty; any such insurance may provide that the insurer is not liable to the extent of the first \$50,000 with the result that the Companies are their own insurer to the extent of \$50,000 of such risks;

(iii) Public liability insurance in accordance with customary insurance practices for similar operations with respect to the Project Personalty and the business conducted with respect thereto in a minimum amount of \$5,000,000 which insurance (A) will also provide coverage of the Companies' obligations of indemnity under Section 8.2 hereof (excluding, however, those obligations of the Companies (1) requiring payment of taxes, (2) set forth in Section 8.2(a)(i) or (vi) hereof and (3) under Section 8.2(c) hereof to the extent not available to the Companies or any Affiliate thereof at commercially reasonable rates), (B) may be effected under overall blanket or excess coverage policies of the Companies, provided, however, that at least \$500,000 is effected by a comprehensive liability insurance policy, and (C) shall not contain any provisions for a deductible amount;

(iv) Workers' compensation insurance, disability benefits insurance and such other forms of insurance which any of the Companies or the Agency is required by law to provide covering loss resulting from injury, sickness, disability or death of the employees of any of the Companies or any Affiliate thereof, or any contractor or subcontractor performing work with respect to the Project Personalty; the Companies shall require that all said contractors and subcontractors shall maintain all forms or types of insurance with respect to their employees required by laws; and

(v) Such other customary insurance in such amounts and against such insurable hazards as the Agency from time to time may reasonably require.

(b) All insurance required by Section 4.4(a) above shall be procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write such insurance in the State, either (i) having a "XIII/A" rating or better by A.M. Best & Co., or (ii) approved by the Agency (such approval not to be unreasonably withheld or delayed).

(c) Each of the policies or binders evidencing the insurance required above to be obtained shall

(i) designate (except in the case of workers' compensation insurance) the Companies and the Agency as additional named insureds as their respective interests may appear;

(ii) provide that all insurance proceeds with respect to loss or damage to the Project Personalty be endorsed and made payable to the Companies and shall name the Companies as a loss payee under the standard loss payee clause, which insurance proceeds shall be paid over to the Companies and applied as provided in Section 5.1 hereof;

(iii) provide that there shall be no recourse against the Agency for the payment of premiums or commissions or (if such policies or binders provide for the payment thereof) additional premiums or assessments;

(iv) provide that in respect of the interest of the Agency in such policies, the insurance shall not be invalidated by any action or inaction of the Companies or any other Person and shall insure the Agency regardless of, and any losses shall be payable notwithstanding, any such action or inaction;

(v) provide that such insurance shall be primary insurance without any right of contribution from any other insurance carried by the Agency to the extent that such other insurance provides the Agency with contingent and/or excess liability insurance with respect to its interest in the Project Personality;

(vi) provide that if the insurers cancel such insurance for any reason whatsoever, including the insured's failure to pay any accrued premium, or the same is allowed to lapse or expire, or there be any reduction in amount, or any material change is made in the coverage, such cancellation, lapse, expiration, reduction or change shall not be effective as to the Agency until at least thirty (30) days after receipt by the Agency of written notice by such insurers of such cancellation, lapse, expiration, reduction or change;

(vii) waive any right of subrogation of the insurers thereunder against the Agency, and waive any right of the insurers to any setoff or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of the Agency; and

(viii) contain such other terms and provisions as any owner or operator of facilities similar to the Project Personality would, in the prudent management of properties, require to be contained in policies, binders or interim insurance contracts with respect to facilities similar to the Project Personality owned or operated by the Companies or their Affiliates.

(d) The Net Proceeds of any insurance received with respect to any loss or damage to the property of the Project Personality shall be paid to the Companies and applied in accordance with Section 5.1 hereof.

(e) On the Lease Commencement Date, the Companies shall deliver or cause to be delivered to the Agency duplicate copies of policies or certificates of insurance evidencing compliance with the insurance requirements of this Section 4.4. At least seven (7) Business Days prior to the expiration of any such policy, the Companies shall furnish the Agency with evidence that such policy has been renewed or replaced or a certificate of an Authorized Representative of the Companies to the effect that such insurance is no longer required by this Agreement.

(f) The Companies shall, at their own cost and expense, make all proofs of loss and take all other steps necessary or reasonably requested by the Agency to collect from insurers for any loss covered by any insurance required to be obtained by this Section 4.4. The Companies shall not do any act, or suffer or permit any act to be done, whereby any insurance required by this Section 4.4 would or might be suspended or impaired.

(g) THE AGENCY DOES NOT IN ANY WAY REPRESENT THAT THE INSURANCE SPECIFIED HEREIN, WHETHER IN SCOPE OR COVERAGE OR LIMITS OF COVERAGE, IS ADEQUATE OR SUFFICIENT TO PROTECT THE BUSINESS OR INTEREST OF THE COMPANIES OR ANY AFFILIATE THEREOF.

Section 4.5. Advances by Agency. In the event any Company fails to make any payment or fail to perform or observe any obligation required of it under this Agreement or under the Sales Tax Letter, the Agency, after first delivering ten (10) days prior written notice to the Companies of any such failure (except in the event of an emergency condition which, in the reasonable judgment of the Agency, necessitates immediate action) may (but shall not be obligated to), and without waiver of any of the rights of the Agency under this Agreement or the Sales Tax Letter, make such payment or otherwise cure any failure by the Companies to perform and observe their other obligations hereunder or thereunder. All amounts so advanced therefor by the Agency shall become an additional obligation of the Companies to the Agency, which amounts, together with interest thereon at the rate of eighteen percent (18%) per annum from the date advanced, shall be paid by the Companies promptly upon demand therefor by the Agency. Any remedy herein vested in the Agency for the collection of the rental payments or other amounts due hereunder shall also be available to the Agency for the collection of all such amounts so advanced.

Section 4.6. Compliance with Law. The Companies agree that they will, throughout the term of this Agreement and at their sole cost and expense, promptly observe and comply with all Federal, State and local statutes, codes, laws, acts, ordinances, orders, judgments, decrees, rules, regulations and authorizations, whether foreseen or unforeseen, ordinary or extraordinary, which shall now or at any time hereafter be binding upon or applicable to any or all of the Companies, any owner, user or operator of the Project Personalty or any portion thereof (the "Legal Requirements"). The Companies shall indemnify and hold harmless the Agency from and against all loss, cost, liability and expense (a) in any manner arising out of or related to any violation of or failure by any or all of the Companies (or any other Person owning, operating or using the Project Personalty or any part thereof) to comply with any Legal Requirement, or (b) imposed upon any or all of the Companies or the Agency by any Legal Requirement; provided, however, the foregoing indemnifications and protections shall not extend to any loss, cost, liability or expense arising from the gross negligence or willful misconduct of the Agency. In case any action or proceeding is brought against the Agency in respect to any Legal Requirement, the Companies shall upon notice from the Agency defend such action or proceeding by counsel satisfactory to the Agency (with the counsel of the Companies' insurance carrier being deemed satisfactory to the Agency). The Agency shall promptly notify the Companies in writing of any action or proceeding brought against the Agency in which indemnity may be sought against the Companies pursuant to this Section 4.6, and such notice shall be given in sufficient time to allow the Companies to defend or participate in such action or

proceeding. However, the failure to give such notice in sufficient time shall not constitute a defense hereunder nor in any way impair the obligations of the Companies under this Section 4.6 if (x) the Agency shall not have had knowledge or notice of such action or proceeding, (y) any of the Companies or any Affiliate thereof shall have had knowledge or notice of such action or proceeding, or (z) the Companies' ability to defend such action or proceeding shall not be materially impaired thereby. In the event, however, that (i) the Agency shall not have timely notified the Companies of any such action or proceeding, (ii) neither any of the Companies nor any Affiliate thereof shall have had knowledge or notice of such action or proceeding, and (iii) the Companies' ability to defend or participate in such claim or action is materially impaired by reason of not having received timely notice thereof from the Agency, then the Companies' obligation to so defend and indemnify shall be qualified to the extent (and only to the extent) of such material impairment. The Agency shall have no right to settle any such action or proceeding in a manner which would adversely affect the Companies without the express prior written consent of the Companies, which consent shall not be unreasonably withheld.

The Companies may contest in good faith and with due diligence the validity, existence or applicability of any of the foregoing if (i) such contest shall not result in the Project Personalty or any part thereof or interest therein being in any danger of being sold, forfeited or lost, and (ii) such contest shall not result in any of the Companies or the Agency being in any reasonable danger of any criminal liability for failure to comply therewith; *provided, however*, if such contest could result in the Agency being in any reasonable danger for civil liability (including accrual of interest, fines and/or penalties), (x) the Companies shall deliver a written confirmation to the Agency that the Companies shall indemnify and hold the Agency harmless for any claims, liabilities, costs or expenses as may derive with respect thereto, and (y) the Companies shall provide to the Agency such security as the Agency may reasonably require.

ARTICLE V

Damage, Destruction and Condemnation

Section 5.1. Damage, Destruction and Condemnation.

(a) In the event that at any time during the term of this Agreement the whole or any part of the Project Personalty shall be damaged or destroyed, or taken or condemned by a competent authority for any public use or purpose, or by agreement between the Agency (with the consent of the Companies) and those authorized to exercise such right, or if the temporary use of all or any part of the Project Personalty shall be so taken by condemnation or agreement (a "Loss Event"):

(i) the Agency shall have no obligation to replace, repair or restore the Project Personalty,

(ii) there shall be no abatement, postponement or reduction in the rent or other amounts payable by the Companies under this Agreement, and

(iii) the Companies will promptly give notice of such Loss Event to the Agency, generally describing the nature and extent thereof.

(b) Upon the occurrence of a Loss Event, as between the Agency and the Companies, the Net Proceeds derived therefrom with respect to the Project Personalty shall be paid to the Companies, and the Companies shall elect (by written notice to the Agency), as to each item of damaged or destroyed Project Personalty, to either

(i) promptly and diligently replace, repair or restore the Project Personalty to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent utility, regardless of whether or not the Net Proceeds derived from the Loss Event shall be sufficient to pay the cost thereof, and the Companies shall not by reason of payment of any such excess costs be entitled to any reimbursement from the Agency or any other Person, nor shall the rent or other amounts payable by the Companies under this Agreement be abated, postponed or reduced, or

(ii) discard or otherwise dispose of such item for use other than by the Companies or Affiliates, and not replace, repair or restore the same.

(c) Any replacement, repair or restoration of the Project Personalty shall

(i) automatically be deemed a part of the Project Personalty and owned by, or leased or licensed to, the Agency, and be subject to this Agreement,

(ii) not change the nature of the Project Personalty as a qualified "project" as defined in the Act, and

(iii) be effected with due diligence in a good and workmanlike manner, in compliance in all material respects with all applicable Legal Requirements and be promptly and fully paid for by the Companies in accordance with the terms of the applicable contracts(s) therefor.

(d) The Agency and the Companies shall cooperate and consult with each other in all matters pertaining to the settlement, compromise, arbitration or adjustment of any claim or demand on account of any Loss Event, but the settlement, compromise, arbitration or adjustment of any such claim or demand shall be decided by, and, as between the Agency and the Companies paid to, the Companies. The Agency shall, at the sole cost and expense of the Companies, cooperate with the Companies in the settlement, compromise, arbitration or adjustment of any such claim or demand and shall execute such documents as shall be reasonably necessary to accomplish the same.

(e) The Companies hereby waive the provisions of Section 227 of the New York Real Property Law or any law of like import now or hereafter in effect.

ARTICLE VI

SALES TAX EXEMPTIONS

Section 6.1. Sales Tax Exemption Procedures. (a) After the Lease Commencement Date, the Companies shall proceed on behalf of and as agent for the Agency with the acquisition, leasing, subleasing, licensing, sublicensing, maintenance, repair and replacement of the Facility Equipment, the Leased Personalty and the Maintenance Contracts at the Project Personalty Locations, all to constitute part of the Project. The Agency and the Companies acknowledge and agree that the Facility Equipment and the Leased Personalty are to be acquired, leased (or subleased), licensed, (or sublicensed), equipped, maintained, replaced and repaired for Principal Use in the operation of the E&Y Business at Project Personalty Locations, and that the nature of the Project Personalty may change from time to time over the term of this Agreement to reflect amendments, modifications, replacements, accessions to and supplements made thereto.

At the request of the Agency to the Companies, the Companies shall provide such additional information and clarifications concerning any portion of the Project to be acquired, equipped, leased, subleased, licensed, sublicensed, maintained, replaced or repaired as shall be reasonably requested by the Agency.

All Project Personalty shall be enumerated in sufficient detail for accurate identification (as to date of payment, as applicable, vendor, location, physical description, serial number (if applicable and to the extent recorded and tracked by an E&Y Group Entity in the normal course of its business practices), price and the amount of Sales Tax Savings afforded to the Companies in connection therewith) in the Project Property Registry as provided in Section 6.4 hereof.

(b) Any or all of the Companies, as agent(s) for the Agency, may enter into leases or licenses of Leased Personalty, as lessee (or sublessee) or licensee (or sublicensee), as the case may be, and Maintenance Contracts from time to time while the Sales Tax Letter is in effect, for the Principal Use by one or more E&Y Group Entities at a Project Personalty Location in furtherance of the E&Y Business of such items of Leased Personalty and such Maintenance Contracts; provided, that in the case of each such lease (or sublease), license (or sublicense) or Maintenance Contract:

(i) the lessor, licensor, sublessor or sublicensor thereunder or counterparty to the Maintenance Contract represents to the Agency that it is not a Prohibited Person (except that as to any such lessor, licensor, sublessor or sublicensor or counterparty entitled to receive less than an aggregate amount of \$10,000 under any and all such leases (or subleases), licenses (or sublicenses) and Maintenance Contracts, such representation may be made by an Authorized Representative of the Companies to the best of his knowledge),

(ii) such lease (or sublease), license (or sublicense) or Maintenance Contract shall recite that it is non-recourse to the Agency, and that the Agency shall have no liability for pecuniary damages or specific performance or otherwise thereunder,

(iii) such lease (or sublease), license (or sublicense) or Maintenance Contract shall recite that it is assignable at the option of the Agency (without the consent of the lessor (or sublessor), licensor (or sublicensor) or other counterparty) to the Companies or either of them, to whom the Agency may transfer its interest in such lease (or sublease) or license (or sublicense) or Maintenance Contract under this Agreement (which option the Agency shall exercise only upon the termination of this Agreement),

(iv) any such lease (or sublease) or license (or sublicense) shall be a Qualified Personalty Lease, and

(v) such lease (or sublease), license (or sublicense) or Maintenance Contract shall contain such other reasonable terms as the Agency may reasonably request in order to ensure compliance with this Agreement, with the Sales Tax Letter and with the Act, provided that such request is made in writing prior to the execution and delivery of the applicable document.

(c) The Companies covenant and agree that each shall include the following language (through an attached rider or otherwise) in and as part of each lease, sublease, license, sublicense, contract, agreement, invoice, bill or purchase order (except that if any one related bill, purchase order or other equivalent document prepared by a Company governing such transaction shall include the below referenced language, the other documents evidencing such transaction prepared by Persons other than a Company, or the preparation of which is not within the control of the Companies, need not also include such language, provided, that, none of such other documents are inconsistent with the conditions for such transaction as set forth in such below referenced language) entered into by either or both of the Companies as agent for the Agency in connection with the Project:

“This [lease, sublease, license, sublicense, contract, agreement, invoice or purchase order] is being entered into by [Ernst & Young U.S. LLP] [Ernst & Young LLP], a limited liability partnership organized under the laws of the State of Delaware (the “Agent”), as agent for and on behalf of the New York City Industrial Development Agency (the “Agency”) in connection with a certain project of the Agency for the Agent consisting of the acquisition, equipping, leasing, subleasing, licensing, sublicensing, maintenance, repair or replacement from time to time of machinery, equipment, furniture, furnishings and other tangible personal property for use at that building known as 5 Times Square, New York, New York, by the Agent or other E&Y Group

Entities in the E&Y Business, as such capitalized terms are defined in the Letter of Authorization for Sales Tax Exemption, which either is attached hereto or has been previously delivered by the Agent to the vendor, contractor, lessor, sublessor, licensor or sublicensor of such tangible personal property. The machinery, equipment, trade fixtures, furniture, furnishings and other tangible personal property to be used for the project which is the subject of this [lease, sublease, license, sublicense, contract, agreement, invoice, bill or purchase order] shall be exempt from the sales and use tax levied by the State of New York and The City of New York if effected in accordance with the terms and conditions set forth in the Letter of Authorization for Sales Tax Exemption of the Agency, and the Agent hereby represents that this [lease, sublease, license, sublicense, contract, agreement, invoice, bill or purchase order] is in compliance with the terms of the Letter of Authorization for Sales Tax Exemption. The liability of the Agency hereunder is limited as set forth in the Letter of Authorization for Sales Tax Exemption. By execution or acceptance of this [lease, sublease, license, sublicense, contract, agreement, invoice, bill or purchase order], the [vendor, contractor, lessor, sublessor, licensor or sublicensor] hereby acknowledges and agrees to the terms and conditions set forth in this paragraph.

If any Company shall fail to include, incorporate by reference or otherwise cause the above language to be included in substantially the above form in any such lease, sublease, license, sublicense, contract, agreement, invoice, bill or purchase order, such lease, sublease, license, sublicense, contract, agreement, invoice, bill or purchase order shall not be an undertaking on behalf of the Agency and shall not be entitled to any of the Sales Tax Savings able to be conferred by the Agency, and no Company shall claim any Sales Tax Savings with respect to any such lease, sublease, license, sublicense, contract, agreement, invoice, bill or purchase order and the Companies shall promptly deliver notice of same to the Agency and, if such failure shall be capable of being cured, cure such failure within thirty (30) days of delivery of such notice. If such failure shall not be capable of being cured, or if so capable and the Companies shall fail to cure such failure within such thirty (30) day period, the Companies shall, upon demand by the Agency, (1) pay to the Tax Collecting Entity an amount equal to the Sales Tax Savings together with any Government Penalty Amount payable with respect to each such unauthorized Sales Tax Saving, (2) deliver evidence reasonably satisfactory to the Agency of such payment, and (3) pay to the Agency an amount equal to the excess, if any, of (i) twelve percent (12%) per annum (or, if either Company acted with gross negligence or acted in bad faith or engaged in willful misconduct with respect to such unauthorized use, eighteen percent (18%) per annum) from the date and with respect to the dollar amount for which each such unauthorized Sales Tax Saving was availed of by a Company, over (ii) the Government Penalty Amount.

(d) Concurrently with the execution of this Agreement, the Agency shall make available to the Companies the Sales Tax Letter in substantially the form appended hereto as Appendix A. The Agency, at the sole cost and expense of the Companies, shall also execute such other authorizations, letters and documents (and such amendments to the Sales Tax Letter) as may be reasonably necessary to permit the Companies to obtain the intended benefits hereunder. Subject to the terms of this Agreement, it is intended that the aggregate scope of the Sales Tax Savings received by the Companies pursuant to the Sales Tax Letter shall be limited in amount by the earned Growth Credits:

(i) The Sales Tax Letter shall be dated the Lease Commencement Date and shall be effective for a term commencing on its date and expiring upon the earliest of (1) the termination of this Agreement, (2) March 31, 2022, (3) when the Companies have realized the Maximum Growth Credit Amount or (4) the termination of the Sales Tax Letter pursuant to Section 9.2 hereof; subject, however, to an annual renewal of the Sales Tax Letter by an Authorized Representative of the Agency as provided below. Within ten (10) Business Days after the Companies shall surrender the Sales Tax Letter to the Agency for annual renewal thereof by the Agency, the Agency shall provide such annual renewal of the Sales Tax Letter unless

(A) the Agency shall have title to or a leasehold interest in no property which constitutes Facility Equipment or Leased Personalty, in which event the Sales Tax Letter shall be terminated and surrendered for cancellation,

(B) the Companies shall be in default of any obligation under this Agreement, which default shall not have been cured within thirty (30) days after the delivery by the Agency to the Companies of notice of such default; provided, however, that if such default cannot be cured within thirty (30) days but is reasonably expected by the Companies to be cured within ninety (90) days and if the Companies shall be continually diligently seeking to cure such default, the Companies shall have ninety (90) days after the delivery by the Agency to the Companies of notice of such default to cure such default, or

(C) this Agreement shall have terminated;

provided, however, if the Companies shall dispute in good faith the occurrence of any of the events described in clause (A) or (B) above, and no other Event of Default shall exist under this Agreement, the Agency shall continue to provide such annual renewal of the Sales Tax Letter until the resolution of such dispute, but only if the Companies shall proceed with due diligence in good faith to resolve such dispute and shall deposit in escrow in an interest-bearing account with an escrow agent acceptable to the Agency an amount equal to all such Sales Tax Savings thereafter received by the Companies promptly after the receipt thereof until the earlier of the resolution of such dispute (upon which resolution such escrow agent shall pay over such amounts to the Agency or the Companies, as applicable) or the termination of this Agreement (upon

which termination, if such dispute shall not have been resolved, such escrow shall be held by such escrow agent until resolution of the dispute).

(ii) The authorizations set forth in the Sales Tax Letter shall automatically be suspended after notice to the Companies that any of the events described in clauses (A) through (C), inclusive, of Section 6.1(d)(i) hereof shall exist which, in the case of Section 6.1(d)(i)(B) above, shall not have been cured within the periods referred to therein, unless (1) the Companies shall pay any amounts due or otherwise cure such defaults with respect to the events described in such clause (i)(B) above, or (2) the Companies shall comply with the escrow provisions of Section 6.1(d)(i) above.

(iii) The Sales Tax Savings to be provided pursuant to the Sales Tax Letter

(A) shall not be available for payment of any costs or items other than Facility Equipment, Leased Personalty and Maintenance Contracts which are identified with reasonable specificity in the Project Personalty Registry by no later than the February 1 or August 1 next succeeding the end of the immediately preceding semiannual period of January 1 through June 30 or July 1 through December 31, as applicable, in which such item of Sales Tax Savings shall have been received,

(B) shall only be utilized for Facility Equipment, Leased Personalty or Maintenance Contracts, which shall be purchased, leased, subleased, licensed or sublicensed for Principal Use by the Companies and other Eligible Affiliates at a Project Personalty Location, in each case in furtherance of the E&Y Business (and not with any intention to sell, transfer or otherwise dispose of any such Facility Equipment, Leased Personalty or Maintenance Contracts to a Person as shall not constitute the Companies or an Eligible Affiliate), it being the intention of the Agency and the Companies that the Sales Tax Savings shall not be made available with respect to any item of Facility Equipment, Leased Personalty or Maintenance Contracts unless such item is for Principal Use by the Companies or an Eligible Affiliate at a Project Personalty Location in connection with the E&Y Business,

(C) shall only be available (i) if, in the case of Leased Personalty, the related lease is a Qualified Personalty Lease, and (ii) in the case of a Maintenance Contract, for the Qualified Maintenance portion of such Maintenance Contract,

(D) shall not be available for any item of (i) rolling stock, (ii) office supplies, (iii) artwork, (iv) plants, (v) labor, installation or freight costs, (vi) design fee or interior office design fee, or (vii) computer software unless the

computer software is a capital asset or capable of being capitalized in accordance with generally accepted accounting principles as a capital expenditure,

(E) shall not be available for any date subsequent to which the Sales Tax Letter shall not have been annually reconfirmed for reasons permitted in Section 6.1(d)(i) hereof (except as provided in the proviso to Section 6.1(d)(i) hereof) or shall have been suspended as provided in Section 6.1(d)(ii) hereof; provided, however, that in the event the Companies shall thereafter pay any amounts due and cure any defaults with respect to the events described in clause (i)(B) of Section 6.1(d) hereof, or the Companies shall establish and confirm the escrow deposits referred to in Section 6.1(d)(i) hereof, or the Agency shall thereafter provide such annual confirmation of the Sales Tax Letter or waive such suspension, as applicable, the Sales Tax Savings shall again continue from the date of such annual confirmation of the Sales Tax Letter or such waiver,

(F) shall not be available for or with respect to any tangible personal property having a useful life of less than one year, and shall be available only if purchased or leased by the Companies as agent for the Agency for use in the E&Y Business by the Companies or any other Eligible Affiliate at a Project Personalty Location,

(G) shall not be available for any Qualified Personalty Lease the rental payments under which shall have been structured to accelerate Sales Tax Savings,

(H) shall not be available for any cost of utilities, cleaning service or cleaning or other consumable supplies,

(I) shall not be available subsequent to the termination of this Agreement, and

(J) shall only be available for those costs set forth in Exhibit A to the Sales Tax Letter.

(iv) In the event that the Companies shall utilize the Sales Tax Savings authorization provided pursuant to the Sales Tax Letter in violation of the provisions of Section 6.1(d)(iii) hereof or the Sales Tax Letter, the Companies shall promptly deliver notice of same to the Agency after any of the Companies shall have knowledge of such violation, and, if such violation shall be capable of being cured, cure such violation within thirty (30) days of delivery of such notice. If such violation shall not be capable of being cured, or if so capable and the Companies shall fail to cure such violation within such thirty (30) day period, the Companies shall, upon demand by the Agency, (1) pay to the Tax Collecting Entity an amount equal to the Sales Tax Saving together with any applicable Government Penalty Amount otherwise payable with respect to each such

unauthorized Sales Tax Saving, (2) deliver evidence reasonably satisfactory to the Agency of such payment, and (3) pay to the Agency an amount equal to the excess, if any, of (i) twelve percent (12%) per annum (or, if any Company acted with gross negligence or acted in bad faith or engaged in willful misconduct with respect to such unauthorized use, eighteen percent (18%) per annum) from the date and with respect to the dollar amount for which each such unauthorized Sales Tax Saving was availed of by a Company, over (ii) the Government Penalty Amount.

(v) The Companies shall,



(A) on or before February 1 and August 1 of each year, commencing August 1, 2004, and ending on the February 1 or August 1 as shall next follow the termination of this Agreement, deliver to the Agency a certificate in the form of Appendix C to this Agreement, and

(B) on August 1, 2004, on every third August 1 thereafter and on the August 1 as shall immediately follow the Fiscal Year in which this Agreement is terminated, and, if the Agency shall otherwise have a good faith reason to believe that the information and certifications delivered to the Agency with respect to Sales Tax Savings is inaccurate, false or misleading in any material respect, upon written notice by the Agency to the Companies, **the Companies shall deliver to the Agency a certification of the Companies to the effect that they have audited the use by the Companies of the Sales Tax Letter for the period so requested by the Agency, and have audited the terms and provisions of the Sales Tax Letter and of this Section 6.1, and have further audited the certificates of the Companies provided in paragraph (A) above for such period, and such certificates were properly prepared and accurately reflect the matters certified therein.**

(vi) In the event that the Companies shall deliver to the Agency any of the certifications required in Section 6.1(d)(v)(A) above with incorrect information, notwithstanding the Companies' good faith efforts to supply accurate and complete information with respect to such certification, and either (x) the Companies on their own initiative discover such error and promptly communicate the existence thereof to the Agency, or (y) the Agency becomes aware of the existence of such error and communicates the existence thereof to the Companies, the same shall not constitute a default hereunder if, in either case, (1) the Companies correct such error and supply to the Agency correct information with respect thereto (in the form of an amended certification or otherwise as requested by the Agency), within thirty (30) days of the Companies' discovery thereof or of the Agency's discovery and notification to the Companies thereof, as the case may be, and (2) to the extent such error discloses Sales Tax Savings taken improperly, the Companies within such thirty (30) day period promptly pay (1) to the Tax Collecting Entity an amount equal to any amounts or refunds together with any

applicable Government Penalty Amount otherwise payable with respect to each such incorrect Sales Tax Saving, (2) deliver evidence reasonably satisfactory to the Agency of such payment, and (3) to the Agency an amount equal to the excess, if any, of (i) twelve percent (12%) per annum (or, if any Company acted with gross negligence or acted in bad faith or engaged in willful misconduct with respect thereto, eighteen percent (18%) per annum) from the date and with respect to the dollar amount for which each such incorrect Sales Tax Saving was availed of by a Company, over (ii) the Government Penalty Amount.

(vii) [Reserved]

(viii) Upon request by the Agency of, and reasonable notice to, the Companies, the Companies shall make available at reasonable times to the Agency all such books and records of the Companies and of each Eligible Affiliate and require all appropriate officers and employees of the Companies and of each Eligible Affiliate to respond to reasonable inquiries by the Agency as shall be necessary to indicate in reasonable detail those costs to which the Companies shall have utilized the Sales Tax Letter and the dates and amounts so utilized.

(ix) Any amount (excluding any interest or other Government Penalty Amount) paid to the Tax Collecting Entity or the Agency as a return of Sales Tax Savings in accordance with this Agreement shall, (i) if so paid by reason of a good faith error, in the reasonable judgment of the Agency, on the part of the Companies in the use of the Sales Tax Letter, constitute a credit to the Sales Tax Savings that are to be made available to the Companies under the Sales Tax Letter, or (ii) if so paid not by reason of such good faith error, not constitute a credit to the Sales Tax Savings that are to be made available to the Companies. Moreover, in the further narrow event that a Company shall have utilized the Sales Tax Letter in the ordinary course of its business and in good faith to acquire an item of Facility Equipment, and (x) the item shall have been returned by the Companies to the vendor thereof within one (1) year of the original date of purchase, and (y) the vendor shall have refunded in full the original purchase price to the Companies, then, upon the delivery by the Companies to the Agency of a certificate of an Authorized Representative of the Companies certifying as to the accuracy of the matters set forth above in the particular instance, and further certifying as to the Sales Tax Savings realized in connection with such purchase, the amount of such Sales Tax Savings shall constitute a credit to the Maximum Sales Tax Benefit.

(x) The Companies shall use commercially reasonable efforts to obtain covenants to the Agency from each lessor, sublessor, licensor, sublicensor, materialman, supplier, vendor or laborer to whom the Sales Tax Letter is presented by the Companies to the effect that such lessor, sublessor, licensor, sublicensor, materialman, supplier, vendor or laborer shall not utilize the Sales Tax Letter for any purpose other than for the acquisition, leasing, subleasing, licensing, sublicensing, maintenance, repair, and

replacement of Facility Equipment, Leased Personalty and Maintenance Contracts at a Project Personalty Location, in each case for Principal Use by the Companies and the other Eligible Affiliates in the conduct at a Project Personalty Location of the E&Y Business.

Section 6.2. Limitation on Sales Tax Exemption. In accordance with the requirements of Section 874(8) of the Act and the regulations thereunder, the Companies shall annually file a statement (Form ST-340 or any successor or additional mandated form) with the New York State Department of Taxation and Finance, on a form and in a manner as is prescribed by the Commissioner of the New York State Department of Taxation and Finance, of the value of all Sales Tax Savings claimed by the Companies or agents of the Companies, including, but not limited to, consultants or subcontractors of such agents, under the authority granted pursuant to the Sales Tax Letter. Should the Companies fail to comply with the foregoing requirement, the Companies shall be subject to the penalties set forth in the above-stated statutory requirement (subject to the provisions of all applicable regulations promulgated thereunder), and, to the extent that such failure shall become an Event of Default hereunder, the Companies shall be further subject to the remedies of the Agency set forth in Section 9.2 hereof.

Immediately upon becoming aware of any such failure, the Companies shall inform the Agency thereof and the Companies shall either return the Sales Tax Letter to the Agency or provide the Agency with evidence reasonably satisfactory to it that the Companies have cured such failure and are in compliance with the foregoing filing requirement.

It is the intention of the parties hereto that the Benefits contemplated herein shall be conferred upon the Companies in accordance with the terms hereof, however, nothing herein shall be construed as a representation by the Agency that any property acquired as part of the Project is, in fact, exempt from sales taxes or use taxes.

Section 6.3. Current Facility Equipment, Leased Personalty and Maintenance Contracts Descriptions. All Project Personalty shall be enumerated in sufficient detail for accurate identification (as to date of payment, vendor, location, physical description, serial number (if applicable and to the extent recorded and tracked by an E&Y Group Entity in the normal course of its business practices), price and the amount of Sales Tax Savings afforded to the Companies in connection therewith) in the Project Personalty Registry. The Agency shall maintain the Project Personalty Registry. The Project Personalty Registry shall be available for inspection during Agency regular business hours upon reasonable request therefor by the Companies. On each February 1 and August 1, commencing August 1, 2004, the Companies shall deliver to the Agency a certificate of an Authorized Representative of the Companies, substantially in the form attached hereto as Appendix C, certifying as to the removals and other updates that should be made to the Project Personalty Registry so that the Project Personalty Registry shall constitute (taking into consideration such additions and removals and all previously certified additions and removals) an accurate and complete description of the property comprising the Facility Equipment, the Leased Personalty and the Maintenance Contracts;

provided, however, that such certificate need not reflect removals of Facility Equipment due to the expiration of the Retention Period applicable thereto, which Facility Equipment shall be deemed removed from the Project Personalty Registry. At the request of the Agency to the Companies, the Companies shall provide such additional information and clarifications concerning any portion of the Project Property as shall be reasonably requested by the Agency.

Section 6.4. Limited Lessee/Agents; Appointment of Limited Lessee/Agents.

(a) From time to time during the term of this Agreement, and provided that no Event of Default shall exist hereunder, the Companies shall have the right upon ten (10) days prior written notice to the Agency (except that no such prior notice shall be required if effected on the Lease Commencement Date), to cause one or more Eligible Affiliates to become a Limited Lessee/Agent under this Agreement and the Sales Tax Letter by executing an "Assumption of Limited Lessee/Agent" in substantially the form attached as Appendix B to this Agreement.

Upon the execution and delivery to the Agency of the above-referenced Assumption by an Eligible Affiliate:

(i) such Eligible Affiliate shall be deemed a Limited Lessee/Agent for purposes of this Agreement and the Sales Tax Letter;

(ii) all Project Personalty shall be deemed leased by the Agency to such Limited Lessee/Agent (as well as to the Companies and all prior unremoved Limited Lessee/Agents) as and to the same extent and on the same terms and conditions as are provided therefor in Section 3.1 hereof; and

(iii) such Limited Lessee/Agent shall be deemed an agent of the Agency for all purposes as the Agency shall have deemed the Companies as the Agency's agents under this Agreement and the Sales Tax Letter, except that no Limited Lessee/Agent is empowered to act under the Sales Tax Letter other than by and through the Companies as agents of such Limited Lessee/Agent (and thereby also as agent of the Agency as provided in the Sales Tax Letter).

(b) In the event that any Limited Lessee/Agent shall cease to be an Eligible Affiliate engaged in the E&Y Business, (i) the Companies shall deliver written notice thereof to the Agency promptly after having notice that such Limited Lessee/Agent has ceased to be an Eligible Affiliate engaged in the E&Y Business, (ii) such Limited Lessee/Agent shall no longer be a lessee of the Project Personalty, all of its estate, right, title and interest under this Agreement shall be terminated and the Limited Lessee/Agent shall be deemed automatically released from this Agreement, and (iii) such Limited Lessee/Agent shall no longer be deemed a Limited Lessee/Agent of the Agency (for the purposes above set forth) under this Agreement or the Sales Tax Letter.

(c) The Companies reserve the right, upon ten (10) days prior written notice by the Companies to the Agency, to cause any Limited Lessee/Agent to be released under this Agreement and the Sales Tax Letter with the effect as set forth in Section 6.4(b) above.

(d) The Companies and the Limited Lessee/Agents acknowledge, covenant and agree

(i) that nothing contained in this Section 6.4 nor any action taken or omitted to be taken by any Limited Lessee/Agent shall be deemed to modify, diminish or impair any of the payments, obligations, covenants and agreements of the Companies or any other obligor hereunder or under the Sales Tax Letter, and all actions taken or failed or suffered to be taken with respect to the Project Personalty or the Sales Tax Letter by any Limited Lessee/Agent shall be deemed an action taken or failed or suffered to be taken by the Companies,

(ii) that the Companies shall cause the Limited Lessee/Agents to comply with all obligations, covenants and agreements assumed by them in the executed "Assumption of Limited Lessee/Agent",

(iii) that any notice delivered by the Agency to the Companies shall be deemed delivered to the Limited Lessee/Agents,

(iv) that any consent delivered by the Companies (including, without limitation, any consent to amendment, modification or supplement hereto or to the Sales Tax Letter) or action otherwise taken by the Companies shall be deemed binding upon the Limited Lessee/Agents to the same extent as if such consent was so delivered, or such action so taken, by the Limited Lessee/Agents, and

(v) that nothing contained in this Section 6.4 shall be deemed to limit or condition the rights and remedies of the Agency under this Agreement or the Sales Tax Letter, and such rights may be exercised and such remedies pursued, in all cases as if the Limited Lessee/Agents were never parties to this Agreement or the Sales Tax Letter.

ARTICLE VII

FORFEITURE AND RECAPTURE OF BENEFITS

Section 7.1. Benefit Limitations. (a) The Companies and the Agency covenant and agree that the amount of Sales Tax Savings that the Companies shall be entitled to receive under the Sales Tax Letter shall not exceed, in the aggregate, the Maximum Growth Credit Amount. Subject to the Companies' right to receive Advanced Growth Credits pursuant to Section 7.8 hereof, if the Companies shall have knowledge that they shall have received aggregate Sales Tax Savings in excess of the Maximum Growth Credit Amount, the Companies shall promptly deliver written notice of such fact to the Agency (which written notice shall include specific details of each such excess amount), and the Companies shall, upon demand by the Agency, (1) pay to the Tax Collecting Entity an amount equal to the Sales Tax Savings together with any applicable Government Penalty Amount otherwise payable with respect to each such excess Sales Tax Saving, (2) deliver evidence reasonably satisfactory to the Agency of such payment, and (3) pay to the Agency an amount equal to the excess, if any, of (i) twelve percent (12%) per annum (or, if any Company acted with gross negligence or acted in bad faith or engaged in willful misconduct with respect thereto, eighteen percent (18%) per annum) from the date and with respect to the dollar amount for which each such excess Sales Tax Saving was availed of by a Company, over (ii) the Government Penalty Amount. If the Companies shall fail to realize any portion of the Maximum Growth Credit Amount prior to the termination of this Agreement or the termination or surrender of the Sales Tax Letter, all unused Sales Tax Savings shall be forfeited, and the Companies shall have no right to receive compensation for such unused Sales Tax Savings.

(b) It is not the intention of the Agency or the Companies that the Companies or any Eligible Affiliate receive any additional monetary benefits other than the Benefits, and, to the extent that any such additional monetary benefit shall inure to the account of the Companies or any Eligible Affiliate solely by reason of the Agency's participation in the Project or by reason of the Agency's tax exempt status, the Companies hereby agree to waive such benefit to the extent they may lawfully do so, or, lacking such capacity to waive such benefit, such additional benefit shall be included in the "Benefits" for purposes of this Agreement and for purposes of calculating when the earned Growth Credits have been received or the Maximum Growth Credit Amount has been realized.

Section 7.2. Calculation of Eligible Employees. The number of Annual Period Eligible Employees shall be calculated by the Companies on the basis of the aggregate sum of the numbers of Eligible Employees (including Growth Credit Employees) employed on the last payroll date for each of the months (including any partial month) during such Annual Period divided by twelve (except that in the first, second and last Annual Periods, the divisor will be the number of months, including any partial month, contained in such Annual Period), based upon the certificate set forth in Section 7.3 hereof.

Section 7.3. Annual Reporting. By August 1 after the end of each Annual Period, commencing August 1, 2005 and continuing until and including August 1, 2022 with respect to the last Annual Period (notwithstanding the earlier receipt by the Companies of the Maximum Growth Credit Amount, the earlier termination of this Agreement or the cessation of Benefits for any reason), the Companies shall deliver to the Agency a certificate of an Authorized Representative of the Companies, with respect to the Reported Annual Period, in substantially the form attached as Appendix D hereto.

Section 7.4. Non-Relocation Reduction of Eligible Employees. (a) In the event by reason of a Non-Relocation Reduction occurring in a Reported Annual Period or continuing from a prior Annual Period, the Base Employment Reduction Percentage for such Annual Period shall be less than or equal to ten percent (10%), the Companies will be subject to no reduction in Benefits notwithstanding such Non-Relocation Reduction.

(b) In the event by reason of a Non-Relocation Reduction occurring in a Reported Annual Period or continuing from a prior Annual Period, the Base Employment Reduction Percentage shall be greater than ten percent (10%) but less than or equal to thirty percent (30%), the Remaining Energy Cost Savings shall be permanently reduced by an amount equal to the product of (x) the Base Employment Reduction Percentage and (y) the quotient of (1) the Maximum Energy Cost Savings Amount divided by (2) the total number of Annual Periods in the term of this Agreement. If the amount of the reduction to Remaining Energy Cost Savings so calculated shall exceed the Remaining Energy Cost Savings then available to the Companies, the Companies shall promptly pay the excess amount to the Agency.

(c) In the event by reason of a Non-Relocation Reduction occurring in a Reported Annual Period or continuing from a prior Annual Period, the Base Employment Reduction Percentage shall be greater than thirty percent (30%), at the unlimited discretion of the Agency, the Agency, in addition to the remedies specified in Section 7.4(b) above, may take or require any or all of the following actions: (1) terminate all future Benefits (including Energy Cost Savings) with the effect that all Benefits (including any Growth Credits) shall permanently cease to be available, (2) terminate this Agreement (subject in each case to the survival of those provisions herein stated to survive termination), (3) require the Companies to surrender the Sales Tax Letter to the Agency for cancellation, and/or (4) convey to the Companies all of the Agency's remaining right, title and interest in the Project Property; provided, however, that no such action taken by the Agency shall have the effect of reducing or eliminating the obligations of the Companies under Section 7.5 hereof, all of which shall continue undiminished and in full force and effect.

Section 7.5. Relocation Reduction of Eligible Employees. (a) If there shall occur in any Reported Annual Period a Relocation Reduction which results in a Base Employment Reduction Percentage of up to but not greater than two and one-half percent (2½%), there shall be no reduction in Benefits.

(b) If there shall occur in any Reported Annual Period a Relocation Reduction which results in a Base Employment Reduction percentage of greater than two and one-half percent (2½%) and less than or equal to ten percent (10%), then (i) the remaining Energy Cost Savings shall be permanently reduced by an amount equal to the product of (w) the Base Employment Reduction Percentage, (x) the Multiplier Factor applicable to such Annual Period, (y) the Recapture Percentage applicable to such Annual Period, and (z) the Remaining Energy Cost Savings, and (ii) the Companies shall immediately pay to the Agency a Recapture Payment in an amount equal to the product of (w) the Base Employment Reduction Percentage, (x) the Multiplier Factor applicable to such Annual Period, (y) the Recapture Percentage applicable to such Annual Period, and (z) the Recapture Amount.

(c) If there shall occur in any Reported Annual Period, or continue from a prior Annual Period, a Relocation Reduction which results in a Base Employment Reduction Percentage of greater than ten percent (10%), then, (i) all remaining Growth Credits shall permanently cease to be available, (ii) the Companies shall promptly pay to the Agency a Recapture Payment in an amount equal to the product of (1) the Recapture Amount, (2) the Recapture Percentage applicable to the Reported Annual Period, and (3) the Multiplier Factor applicable to such Annual Period, and (iii) at the unlimited discretion of the Agency, the Agency may take or require any or all of the following actions: (1) terminate this Agreement (subject in each case to the survival of those provisions herein stated to survive termination), (2) require the Companies to surrender the Sales Tax Letter to the Agency for cancellation, and/or (3) convey to the Companies all of the Agency's remaining right, title and interest in the Project Personalty.

(d) The provisions of this Section 7.5 relating to the obligation of the Companies to pay a Recapture Payment in the amount and under the circumstances set forth herein shall survive and continue until the earlier of (x) March 31, 2022 and (y) the date the Companies make the Recapture Payment required pursuant to Section 7.5(c) or Section 7.9 hereof, if applicable, notwithstanding the earlier termination of this Agreement or any other reason whatsoever.

Section 7.6. Acquisitions and Mergers. (a) Upon the occurrence of an Acquisition or Merger, the Companies shall deliver prompt written notice thereof to the Agency accompanied by a certificate of an Authorized Representative of the Companies certifying as to (v) the identity of each of the E&Y Group Entities and the Foreign Entity involved in the Merger or Acquisition and the details thereof, including, without limitation, the resulting changes in ownership, employment and operational structure of the E&Y Group, and the number of Eligible Employees and Ineligible Employees resulting therefrom, (w) whether the Foreign Entity constitutes a Principal Foreign Entity (as defined in Section 7.6(b) below), (x) whether the transaction was an Acquisition or Merger, (y) the number of employees of such Foreign Entity within the City (calculated in the same manner as Eligible Employees) as of the date of the Merger or Acquisition, and (z) the number of employees of the E&Y Group as shall constitute Eligible Employees and Ineligible Employees in accordance with the applicable provisions of this Agreement.

(b) If the Acquisition or Merger is with a E&Y Group Entity and a Foreign Entity who is (x) receiving discretionary economic development benefits from the City, the Agency and/or any other public entity similar to the Benefits granted herein (the "Public Benefits"), and (y) the principal entity (or one of the principal entities) with respect to which determinations of eligibility for Public Benefits and included entities under the relevant Public Benefits agreements for such Foreign Entity are based (the "Principal Foreign Entity"), such that, as a result thereof, the Principal Foreign Entity and its affiliates (hereinafter, the "Foreign Entity Group") would become Eligible Affiliates, then:

(i) if, as determined by the Agency in its reasonable discretion, the nature of the operations and the level of employment of the E&Y Group and the Foreign Entity Group, respectively, and the ownership structure between and among the entities within the E&Y Group and the Foreign Entity Group, respectively, remain substantially the same as prior to the Merger or Acquisition, then:

(A) the Foreign Entity Group shall be deemed not to be an "Eligible Affiliate" hereunder notwithstanding that by the definition of such term hereunder, such Foreign Entity Group would otherwise qualify as an Eligible Affiliate, and

(B) the calculation of entitlement to Public Benefits and employment levels shall remain separate for each of the E&Y Group (without including the Foreign Entity Group) and the Foreign Entity Group as if the Merger or Acquisition had not occurred),

or

(ii) if, as determined by the Agency in its reasonable discretion, the nature of the operations and the level of employment of the Foreign Entity Group and the E&Y Group, and the ownership structure between and among the entities within the E&Y Group and the Foreign Entity Group, respectively, do not remain substantially the same as prior to the Merger or Acquisition (e.g., if the Merger of the Principal Foreign Entity is with a E&Y Group Entity having substantial employees and operations such that the operations and employees of each merging entity are combined within the surviving entity after the Merger, and the Principal Foreign Entity's operations and employees cease to have a clearly separate distinguishable identity), then, it is the intention of the Agency and the Companies that with respect to the E&Y Group and the Foreign Entity Group as so combined (hereinafter the "Expanded Group") that:

(A) the Expanded Group receive Public Benefits which are, in the aggregate, neither more nor less but equivalent, on a per eligible employee basis, to the sum of the unrealized Benefits which were to be received by the E&Y Group prior to the Merger or Acquisition and the

unrealized Public Benefits which were to be received by the Principal Foreign Entity Group prior to the Merger or Acquisition,

(B) under no circumstances shall the Expanded Group be eligible to receive duplicate Public Benefits for a single employee,

(C) the Expanded Group shall be entitled to the unutilized Public Benefits enjoyed by the E&Y Group and the Foreign Entity Group prior to the Merger or Acquisition, provided, that, the calculation of employment levels with respect to the Public Benefits agreements existing with respect to the Foreign Entity Group and the E&Y Group shall be effected by allocating current employment and future employment growth of the Expanded Group on a pro rata basis based on the relative levels of eligible employees for the respective Public Benefits of the Foreign Entity Group and the E&Y Group at the time of the Merger or Acquisition,

(D) the Expanded Group shall, in any event, be subject to (and be the beneficiary of) all provisions relating to the transferability of Public Benefits in those agreements of the Agency, the City and/or such other public entity granting the Public Benefits to the E&Y Group and the Foreign Entity Group, respectively, and

(E) the Agency and the Companies shall use their best efforts to implement in good faith the intentions of the parties set forth above.

Nothing contained in this Section 7.6 shall be deemed to amend, modify or replace the requirements of Section 8.1 hereof with respect to any consolidation, merger or transfer.

Section 7.7. Growth Credit. Pursuant to Section 7.3 hereof, the Companies shall certify to the Agency, among other matters, on each August 1, commencing on August 1, 2004, the number (calculated in accordance with Section 7.2 hereof) of Annual Period Eligible Employees during the Reported Annual Period. For so long as no Event of Default shall exist and be continuing under this Agreement, the Companies shall be entitled to receive an annual \$790 credit in nominal value for each of five Annual Periods for each Growth Credit Employee in excess of the Base Employment Number employed in the City by any E&Y Group Entity. The Growth Credit shall be computed as follows: to the extent the number of Annual Period Eligible Employees for an Annual Period shall exceed the Base Employment Number, the Companies will receive a Growth Credit calculated as equal to \$790 in nominal value for each such Eligible Employee in excess of the Base Employment Number; provided, however, (w) the Companies shall only be entitled to a maximum of \$3,950 in nominal value in Growth Credits

(i.e., five Annual Periods of Growth Credits at \$790 in nominal value) for each such Growth Credit Employee, (x) each Growth Credit will cease to the extent such Growth Credit Employee or another Growth Credit Employee is eliminated and not replaced, (y) in no event will the Companies be entitled to more than one, 5-year Growth Credit (in the aggregate) for each Growth Credit Employee over the Base Employment Number (whether due to fluctuations in the number of Growth Credit Employees or otherwise), and (z) the aggregate amount of all Growth Credits shall never exceed the Maximum Growth Credit Amount. The aggregate Growth Credits for each Annual Period will be added to the Sales Tax Savings available to the Companies hereunder by an equivalent nominal dollar amount (subject to the Maximum Growth Credit Amount) thereby allowing the Companies to realize additional Sales Tax Savings until the termination of this Agreement; provided, however, that the dollar amount of any Growth Credit earned shall not be increased based on an NPV calculation whether or not utilized in the current or any future Annual Period. For example, if the Base Employment Number shall be 3,503 Eligible Employees and the number of Eligible Employees increases to 3,506 Eligible Employees for three consecutive Annual Periods, the Companies will receive a Growth Credit of \$2,370 (\$790 for each of the three Growth Credit Employees over the Base Employment Number) each Annual Period for the three Annual Periods as shall immediately follow each such Annual Period. If the number of Eligible Employees then falls to 3,501 for an Annual Period, the Companies will not be entitled to any Growth Credit with respect to such Annual Period. Thereafter, if the number of Eligible Employees grows to 3,512 with respect to the next five Annual Periods, the Companies will be entitled to a Growth Credit of \$790 per Growth Credit Employee for the first two of such next following Annual Periods for the first three Growth Credit Employees over the Base Employment Number (since it had previously received a Growth Credit for three Annual Periods for the first three Growth Credit Employees over the Base Employment Number) and the Companies will also be entitled to a Growth Credit for each of the five next following Annual Periods for the second six Growth Credit Employees over the Base Employment Number (i.e., the 3,507th through 3,512th Growth Credit Employees).

Any Growth Credit not realized (in whole or in part) prior to the earlier of March 31, 2022 and the termination of this Agreement will be forfeited.

Nothing contained in this Section 7.7 shall be deemed to modify the terms or application of the provisions set forth in Sections 7.4 and 7.5 hereof.

Section 7.8. Advanced Growth Credits. (a) In addition to the provisions contained in Section 7.7 hereof relating to Growth Credits, the Companies shall be entitled to utilize unearned Growth Credits in a nominal amount not to exceed \$1,500,000 at any one time (“Advanced Growth Credits”) through and including the Annual Period ending June 30, 2009; provided that the Companies shall not thereby realize Sales Tax Savings in excess of the Maximum Growth Credit Amount. In the event that the Companies shall elect to utilize such Advanced Growth Credits for an Annual Period, the Companies shall provide to the Agency, on or prior to the August 30th immediately following such Annual Period, either a cash escrow to be held by or at the direction and control of the Agency (the “Advanced Growth Credits Cash

Escrow”) or a letter of credit acceptable to the Agency (the “Advanced Growth Credits Letter of Credit”), in either case in an amount at least equal to the Advanced Growth Credits utilized (the “Advanced Growth Credits Portion”) plus an amount, if any, equal to interest on any utilized Advanced Growth Credits not offset by earned Growth Credits from December 31 of the Annual Period in which such Advanced Growth Credits were utilized to September 1 following the then current Annual Period, calculated at an annual rate of seven and three-quarters percent (7¾%) (the “Interest Portion”; together with the Advanced Growth Credits Portion, the “Stated Amount”). In no event may the Companies utilize Advanced Growth Credits in an amount greater than the Advanced Growth Credits Portion. The Companies may, from time to time, increase the Advanced Growth Credits Portion up to the Maximum Growth Credit Amount less the then aggregate amount of earned Growth Credits.

(b) The Advanced Growth Credits Letter of Credit shall be an irrevocable letter of credit that shall

(i) be payable to the Agency as the sole beneficiary thereunder;

(ii) be issued by a major money center bank whose long-term indebtedness shall be rated “A” (or the equivalent) or higher by Moody’s Investors Service, Inc. or any other nationally recognized rating agency;

(iii) provide for payments in the City conditioned only upon presentation by the Agency of its sight drafts accompanied by certifications by the Agency that it is authorized pursuant to this Agreement to draw upon such letter of credit for the amounts of such sight drafts;

(iv) permit multiple, partial drawings;

(v) be effective on the day of its delivery, and have a scheduled expiration date that shall be not earlier than the third September 1 next following its delivery;

(vi) be for the Stated Amount;

(vii) provide that its scheduled expiration date shall be automatically renewed for successive six month year periods, unless the Agency and the Companies shall each have received written notice at least ten (10) Business Days prior to the June 1 immediately preceding its scheduled expiration date (by certified mail, return receipt requested) that it shall terminate as of its scheduled expiration date; and

(viii) be in form reasonably acceptable to the Agency.

From time to time, the Agency shall promptly surrender to the Companies any Advanced Growth Credits Letter of Credit then held by it, if the Companies shall simultaneously deliver to the Agency a substitute Advanced Growth Credits Letter of Credit satisfying the foregoing

requirements or if the Companies shall have earned Growth Credits pursuant to Section 7.7 hereof in an amount equal to the Advanced Growth Credits utilized.

(c) The Agency shall, under the terms of the Advanced Growth Credits Letter of Credit, be entitled to draw down the entire amount of the Advanced Growth Credits Letter of Credit:

(i) if the issuer thereof shall have notified the Agency that the Advanced Growth Credits Letter of Credit will be terminated on its then scheduled expiration date, and if as of the date that shall be thirty (30) days after the receipt of such notice by the Agency, the Companies shall not have delivered to the Agency a substitute Advanced Growth Credits Letter of Credit satisfying the requirements of this Section 7.8; or

(ii) if the issuer of the Advanced Growth Credits Letter of Credit shall cease to satisfy the requirements of Section 7.8(b)(ii) hereof and the Companies shall fail to either deliver to the Agency a substitute Advanced Growth Credits Letter of Credit satisfying the requirements of this Section 7.8 or to fund a Cash Escrow in the Stated Amount, in either case within fifteen (15) Business Days after receipt of a notice from the Agency requesting it to do so.

If the Agency shall draw upon the Advanced Growth Credits Letter of Credit as authorized by the preceding sentence, then the proceeds thereof shall be held as security and/or retained or applied by the Agency for the purposes contemplated in this Section 7.8, until and unless a substitute Advanced Growth Credits Letter of Credit satisfying the requirements of Section 7.8(b) hereof and this Section 7.8(c) shall be tendered to the Agency by the Companies, at which time the Agency shall return such proceeds to the Companies to the extent that such proceeds shall not previously have been applied as permitted by this Section 7.8.

(d) In the event the Companies utilize Advanced Growth Credits within an Annual Period and, upon completion of such Annual Period, the Companies shall have earned Growth Credits for such Annual Period as provided in Section 7.7 hereof, the amount of earned Growth Credits shall be reduced dollar for dollar by the amount of such Advanced Growth Credits. If, on the other hand, the Companies shall utilize Advanced Growth Credits within an Annual Period with respect to which Annual Period the Companies shall not have earned Growth Credits in accordance with Section 7.7 hereof in a sufficient amount to offset the Advanced Growth Credits so utilized, then the dollar amount of Growth Credits as may be earned in subsequent Annual Periods shall be discounted back from December 31 of each Annual Period in which such Growth Credits are earned at the rate of seven and three-quarters percent (7-3/4%) per annum to December 31 of the Annual Period in which Advanced Growth Credits were first utilized and not offset, and such discounted earned Growth Credit dollars shall be reduced by the outstanding balance of Advanced Growth Credits.

(e) Notwithstanding any provision of this Section 7.8 to the contrary, all outstanding Advanced Growth Credits in excess of earned Growth Credits must be repaid by the Companies by no later than August 25 of the third Annual Period following the Annual Period in which such Advanced Growth Credits were utilized or, if later, at the sole option of the Agency, by no later than August 25, 2009, together with interest at the annual rate of seven and three-quarters percent (7-3/4%) to accrue from December 31 of each Annual Period during which the applicable outstanding Advanced Growth Credits were utilized through the date of reimbursement of such Advanced Growth Credit. Any such Advanced Growth Credits so repaid may thereafter be reutilized upon the terms and conditions, and within the time period, set forth in this Section 7.8. In the event that such reimbursement is not paid to the Agency within ten (10) days of the date upon which the Companies shall deliver to the Agency the Companies' certificate pursuant to Section 7.3 hereof indicating that the outstanding Advanced Growth Credits exceed the earned Growth Credits, the Agency shall be entitled to withdraw moneys from the Cash Escrow, or draw upon the Advanced Growth Credits Letter of Credit, in each case in an amount equal to such required reimbursement. Upon the repayment by the Companies of all amounts due under this Section 7.8, the Agency shall deliver to the Companies all amounts held under the Cash Escrow or surrender the Advanced Growth Credits Letter of Credit to the issuer thereof for cancellation, as the case may be.

Section 7.9. Retention of Headquarters. Each Company shall maintain all of its Headquarters in the City at all times until the earlier of (x) March 31, 2022 and (y) the date of payment by the Companies pursuant to Section 7.5(c) hereof or this Section, if applicable, notwithstanding any earlier termination of this Agreement, until the provisions of this Section 7.9 shall have been satisfied. In the event that at any time during the term of this Agreement, any Company enters into a binding commitment to relocate all or a significant part of its Headquarters to a location outside of the City, then the Companies' ability to realize the remaining available Benefits shall be suspended and the Companies shall immediately (i) notify the Agency of such binding commitment and (ii) return to the Agency the Sales Tax Letter and cease availing themselves of Benefits. If such binding commitment is subsequently terminated other than by reason of a relocation, the Agency shall return the Sales Tax Letter to the Companies and they may again avail themselves of the Benefits in accordance with the terms hereof and the Sales Tax Letter. Upon the occurrence of such a relocation, all future Benefits (including all Energy Cost Savings) will be forfeited, the Companies shall surrender the Sales Tax Letter to the Agency and the Companies shall immediately pay to the Agency a Recapture Payment equal to the product of (A) the Multiplier Factor applicable to the date of such occurrence, (B) the Recapture Percentage applicable to the date of such occurrence, and (C) the Recapture Amount. In such event, the Agency, in its absolute discretion, may take or require all of the following actions: (i) terminate this Agreement (subject to the survival of those provisions herein stated to survive termination), and (ii) convey to the Companies all of the Agency's remaining right, title and interest in the Project Property. Nothing contained in this Section 7.9, however, is intended to limit the application of, or substitute for the provisions of, Section 7.4 or 7.5 hereof (and their application for the balance of the term of this Agreement) to the extent that any relocation of such Company's Headquarters shall also constitute a Non-Relocation

Reduction or a Relocation Reduction, respectively, and any Recapture Payments made by the Companies pursuant to Section 7.5 hereof shall be credited against any payments required to be made pursuant to this Section 7.9.

Section 7.10. Provision of BIR Energy. The BIR Energy Load shall, to the extent permitted by the BIR Program, be a fixed amount, and the Companies shall be entitled only to the actual Energy Cost Savings realized from usage of BIR Energy, subject to the BIR Energy Load and the Maximum Energy Cost Savings Amount; provided, however, that the BIR Energy Load shall be adjusted, if necessary, once after one year of usage of BIR Energy, (based on an energy use audit performed for the Companies at its cost by consultants acceptable to the Agency), in order to achieve Energy Cost Savings which will not exceed the Maximum Energy Cost Savings Amount.

The Companies agree that, to the extent that any of them shall sublet space in the Energy Project Premises to any Person not constituting an Eligible Affiliate, none of the Energy Cost Savings realized from usage of BIR Energy with respect to such sublet space shall be passed through to the sublessee of such sublet space.

Section 7.11. Employment Information; Equal Employment Opportunities.

(a) The Companies shall ensure that all employees and applicants for employment with regard to the Project Personalty Locations are afforded equal employment opportunities without discrimination. Except as is otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of the Project shall be listed by the Companies with the New York State Department of Labor Community Services Division, and with the administrative entity of the service delivery area created by the Workforce Investment Act of 1998 (P.L. No. 105-220) in which each of the Project Personalty Locations is located. Except as is otherwise provided by collective bargaining contracts or agreements, the Companies agree, where practicable, to first consider persons eligible to participate in the Workforce Investment Act of 1998 (P.L. No. 105-220) programs who shall be referred by administrative entities of service delivery areas created pursuant to such Act or by the Community Services Division of the New York State Department of Labor for such new employment opportunities. The Agency and the Companies agree that in the event a Company is found to be in breach of the provisions of this Section 7.11(a) due to a violation of Section 858-b of the New York General Municipal Law (as determined solely by any governmental, judicial, administrative, regulatory or other legal body or authority which has the authority to enforce, or standing to seek enforcement of, such statute (a "Responsible Authority")), the Agency's sole remedy, subject to the exceptions set forth below, shall be to seek specific performance by the Companies of such provisions in accordance with the requirements of any judgment, order, ruling, determination or direction issued by such Responsible Authority with respect to the Companies, except that failure of any of the Companies to comply within 180 days (or such shorter period as may be required by any such final judgment, order, ruling, determination or direction as provided below, or as may be required by any settlement agreement) with any final

judgment or any order, ruling, determination or direction of any Responsible Authority which the Companies do not contest (or for which no appeal has been taken in the time period required for such appeal) directing action required by Section 858-b of the New York General Municipal Law shall be a breach of the second and third sentences of this Section 7.11(a), which breach shall constitute an Event of Default permitting the Agency to exercise the remedies set forth in Section 9.2 (provided, however, that such remedies shall not include any recapture of Benefits under this Agreement). For purposes of this Section 7.11(a), the Agency itself shall be deemed a "Responsible Authority" if, and only if, by order, ruling, determination or direction of another Responsible Authority, the Agency is required to be such. The provisions of the second and third sentences of this Section 7.11(a) shall be effective only to the extent required by Section 858-b of the New York General Municipal Law. The parties expressly acknowledge that the provisions of this Section 7.11(a) shall not survive a termination of this Agreement.

(b) Annually, by August 1 of each year, commencing August 1, 2004, until the termination of this Agreement, the Companies shall submit to the Agency an employment report, substantially in the form of Appendix E hereto, certified as to accuracy by the chief financial or accounting officer of the Companies.

(c) The Companies hereby authorize any private or governmental entity, including but not limited to The New York State Department of Labor ("DOL"), to release to the Agency and/or the New York City Economic Development Corporation ("EDC"), and/or to the successors and assigns of either (collectively, the "Information Recipients"), any and all employment information under its control and pertinent to the Companies and the employees of the Companies to enable the Agency and/or EDC to comply with its reporting requirements required by New York City Local Law 69 of 1993 and any other applicable laws, rules or regulations. In addition, upon the Agency's request, the Companies shall provide to the Agency any employment information in the possession of the Companies which is pertinent to the Companies and the employees of the Companies to enable the Agency and/or EDC to comply with its reporting requirements required by New York City Local Law 69 of 1993 and any other applicable laws, rules or regulations. Information released or provided to Information Recipients by DOL, or by any other governmental entity, or by any private entity, or by the Companies, or any information previously released as provided by all or any of the foregoing parties (collectively, "Employment Information") may be disclosed by the Information Recipients in connection with the administration of the programs of the Agency, and/or EDC, and/or the successors and assigns of either, and/or the City, and/or as may be necessary to comply with law; and, without limiting the foregoing, the Employment Information may be included in (x) reports prepared by the Information Recipients pursuant to New York City Local Law 69 of 1993, (y) other reports required of the Agency, and (z) any other reports required by law. This authorization shall remain in effect throughout the term of this Agreement.

(d) Nothing herein shall be construed to require the Companies to violate any applicable law or any existing collective bargaining agreement with respect to the hiring of new employees.

Section 7.12. Termination of Agency Interest in Project Personality. In the event the Companies shall cease to use Project Personality at Project Personality Locations, other than in accordance with Section 4.2 hereof, then, (A) all future Benefits (including all Growth Credits and Energy Cost Savings) will permanently cease to be available, (B) the Agency will direct EDC to cause the termination of the availability of BIR Energy, (C) the Agency will terminate this Agreement (subject in each case to the survival of those provisions herein and therein stated to survive termination), (D) the Companies shall promptly surrender the Sales Tax Letter to the Agency for cancellation, (E) the Agency will convey to the Companies all of the Agency's right, title and interest in the Project Personality, (F) the Companies will promptly pay to the Agency all unpaid amounts due under this Agreement, and (G) if and to the extent any of the events described in the introductory clause above shall arise in connection with a Relocation Reduction, the Companies shall make a Recapture Payment to the Agency in accordance with Section 7.5 hereof.

Section 7.13. Suspension of Benefits. If at any time during the Project Term, the total number of Eligible Employees is reduced below the Base Employment Number, and such reduction in employment would constitute a Relocation Reduction described in Section 7.5(c) hereof or a Non-Relocation Reduction described in Section 7.4(c) hereof, if such reduction continued for an entire Annual Period, then the Companies shall promptly (i) notify the Agency of such reduction in employment, and (ii) at the Agency's written request, cease using and receiving the Benefits and surrender to the Agency the Sales Tax Letter until (x) such time during such Annual Period as the number of Eligible Employees shall be equal to or exceed the forfeiture threshold, whereupon the Agency shall return the Sales Tax Letter to the Companies and notify the Companies that the Companies may again avail itself of Remaining Energy Cost Savings and Sales Tax Benefits, or (y) the end of such Annual Period, in which event the Companies shall be subject to the application of the provisions of Section 7.4 or 7.5 hereof, as applicable.

Section 7.14. Confidentiality. The Agency and the Companies mutually covenant and agree, to the maximum extent permitted by applicable law, to maintain, and to cause each of its officers, directors, employees, agents, attorneys and advisors to maintain, the strict confidentiality of this Agreement, the information furnished to the Agency pursuant to Section 8.5 hereof, the transactions contemplated by this Agreement and the underlying Benefits and minimum Eligible Employee counts contemplated hereunder, and all other discussions, transmissions, communications, negotiations, instruments, documents and memoranda connected with the transactions contemplated hereunder and thereunder (the "Project Materials"), other than the Sales Tax Letter, which may be exhibited to others for the purposes therein stated; provided, however, that after the Lease Commencement Date, the Agency shall have the option to disclose any and all Project Materials upon a determination by the Agency in its sole discretion that such information may be, or is required to be, disclosed under applicable law, including but not limited to Article 6 - Freedom of Information Law, of the New York Public Officers Law ("FOIL"). To the extent permitted by FOIL, the Agency shall advise the Companies of any proposed disclosure response to a request for information and permit the

Companies a reasonable time within which to object or suggest a limitation to the disclosure response pursuant to FOIL and the regulations promulgated thereunder. Notwithstanding the foregoing, the Companies may disclose Project Materials to the extent required by applicable law, to the extent required in connection with any legal proceeding or if the Agency, or any Person acting on its behalf, shall have made the Project Materials generally available to the public.

Section 7.15. Survival of Obligations. Notwithstanding any provision of this Agreement or the Sales Tax Letter to the contrary, including conveyance by the Agency to the Companies of its interest in the Project Personalty or any termination of this Agreement, the obligations of the Companies under this Article VII (including, without limitation, the application of the provisions of Section 7.5 hereof) shall survive the termination of this Agreement for any reason whatsoever (including, without limitation, the termination of this Agreement by reason of a Non-Relocation Reduction) and continue until the earlier of (i) the later of March 31, 2022 or the date upon which any amounts as shall have accrued hereunder on or prior to March 31, 2022 shall have been paid in full by the Companies or (ii) the date the Companies make the Recapture Payment required pursuant to Section 7.5(c) or 7.9 hereof; if applicable.

ARTICLE VIII

Particular Covenants

Section 8.1. Dissolution or Merger of the Companies; Restrictions on the Companies. Each of the Companies covenants and agrees that at all times during the term of this Agreement, it will (i) maintain its existence, (ii) continue to be subject to service of process in the State and either be organized under the laws of the State of New York, or under the laws of any other state of the United States and duly qualified to do business in the State, (iii) not liquidate, wind-up or dissolve or otherwise dispose of all or substantially all of its property, business or assets, and (iv) not consolidate with or merge into another entity or permit one or more entities to consolidate with or merge into it. Each of the Companies may, however, without violating the foregoing, but upon written notice to the Agency, consolidate with or merge into another entity, or permit one or more entities to consolidate with or merge into it, or sell or otherwise transfer all or substantially all of its property, business or assets to another such entity (and thereafter liquidate, wind-up or dissolve or not, as such Company may elect) if (I) such Company or an Eligible Affiliate is the surviving, resulting or transferee entity, as the case may be, or (II) in the event that such Company or an Eligible Affiliate is not the surviving, resulting or transferee entity, as the case may be, such entity (A) is a solvent entity subject to service of process in the State and either organized under the laws of the State of New York, or organized under the laws of any other state of the United States and duly qualified to do business in the State, (B) is not, nor is it an Affiliate of, a Prohibited Person, (C) following the transaction is primarily engaged at the Project Personalty Locations in the E&Y Business, (D) assumes in writing all of the obligations of such Company contained in this Agreement and the Sales Tax Letter and, an Opinion of Counsel is delivered to the Agency confirming that such entity shall be bound by all of the terms applicable to the Companies of this Agreement and the Sales Tax Letter, and (E) has a net worth (as determined in accordance with generally accepted accounting principles) after the merger, consolidation, sale or transfer at least equal to \$100,000,000.

The Companies further covenant and agree that at all times during the term of this Agreement, they are and will continue to be duly qualified to do business in the State, and any entity succeeding to the rights of any Company under this Agreement shall be and continue to be duly qualified to do business in the State.

Section 8.2. Indemnity. (a) The Companies shall at all times protect and hold the Agency harmless of, from and against any and all claims (whether in tort, contract or otherwise), demands, costs, expenses (including, without limitation, court costs and attorneys' fees) and liabilities for losses, damage, injury and liability of every kind and nature and however caused, and taxes (of any kind and by whomsoever imposed), other than losses arising from the gross negligence or willful misconduct of the Agency, arising during the term of this Agreement upon, about or in connection with a Project Personalty Location or the Project Personalty or any part of either thereof or resulting from, arising out of, or in any way connected with (i) the financing of the costs of the Project Personalty or any part of either thereof, (ii) the planning,

design, acquisition, site preparation, demolition, construction, renovation, equipping, installation, maintenance, repair or replacement of a Project Personalty Location or the Project Personalty or any part of either thereof or the effecting of any work done with respect to or in or about a Project Personalty Location or the Project Personalty or any part of either thereof, (iii) any defects (whether latent or patent) in a Project Personalty Location or the Project Personalty or any part of either thereof, (iv) the maintenance, repair, replacement, restoration, rebuilding, demolition, upkeep, use, occupancy, ownership, leasing, subletting, licensing, sublicensing or operation of the Project Personalty or any part thereof, (v) any action taken or failed to be taken by a Limited Lessee/Agent in connection with any of the foregoing, or (vi) this Agreement or the Sales Tax Letter, or any other document or instrument delivered in connection herewith or therewith or the enforcement of any of the terms or provisions hereof or thereof or the transactions contemplated hereby or thereby. Such indemnification set forth above shall be binding upon the Companies for any and all claims, demands, expenses, liabilities and taxes set forth herein and shall survive the termination of this Agreement. The Agency shall not be liable for any damage or injury to the person or property of the Companies or their respective directors, officers, stockholders, members, employees, agents or servants or persons under the control or supervision of any such Person or any other Person who may be involved with a Project Personalty Location or the Project Personalty or any part of either thereof, due to any act or negligence of any Person other than the gross negligence or willful misconduct of the Agency.

(b) The Companies release the Agency from, and agree that the Agency shall not be liable for, and agree to indemnify and hold the Agency harmless against, any expense, loss, damage, injury or liability incurred because of any lawsuit commenced as a result of action taken by the Agency with respect to any of the matters set forth in subdivisions (i) through (vi) of Section 8.2(a) hereof or otherwise at the direction of any Company or any Affiliate. The Agency shall promptly notify the Companies in writing of any claim or action brought against the Agency in which indemnity may be sought against the Companies pursuant to this Section 8.2; such notice shall be given in sufficient time to allow the Companies to defend or participate in such claim or action. However, the failure to give such notice in sufficient time shall not constitute a defense hereunder nor in any way impair the obligations of the Companies under this Section 8.2, if (x) the Agency shall not have had knowledge or notice of such claim or action, (y) any Company or any Affiliate thereof shall have had knowledge or notice of such claim or action, or (z) the Companies' ability to defend such claim or action shall not be materially impaired thereby. In the event, however, that (i) the Agency shall not have timely notified the Companies of any such claim or action, (ii) neither any of the Companies nor any Affiliate thereof shall have had knowledge or notice of such claim or action, and (iii) the Companies' ability to defend or participate in such claim or action is materially impaired by reason of not having received timely notice thereof from the Agency, then the Companies' obligation to so defend and indemnify shall be qualified to the extent (and only to the extent) of such material impairment.

(c) In addition to and without limitation of all other representations, warranties and covenants made by the Companies under this Agreement or under the Sales Tax

Letter, the Companies further represent and warrant that neither any of the Companies nor any Affiliate thereof has used Hazardous Materials (as defined hereinafter) on, from, or affecting a Project Personalty Location or the Project Personalty or any portion of either thereof in any manner which violates any Legal Requirements governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials, and that, to the Companies' actual knowledge, no prior owner, user, or occupant of any Project Personalty Location or the Project Personalty or any portion of either thereof has used Hazardous Materials on, from, or affecting any Projected Personalty Location or the Project Personalty or any portion of either thereof in any manner which violates any Legal Requirements governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials. The Companies shall keep or cause the Project Personalty to be kept free of Hazardous Materials (other than materials customarily used in the conduct of the E&Y Business), except in accordance with all applicable Legal Requirements. Without limiting the foregoing, the Companies shall not cause or permit the Project Personalty or any part thereof to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in compliance with all applicable Legal Requirements, nor shall the Companies cause or permit, as a result of any intentional or unintentional act or omission on the part of the Companies or any operator, owner or user of the Project Personalty, a release of Hazardous Materials onto the Project Personalty or any portion thereof or onto any other property. The Companies shall comply with and ensure compliance by all other owners or users of the Project Personalty with all applicable Legal Requirements relating to Hazardous Materials with respect to the acquisition, leasing, subleasing, licensing, demolition, construction, renovation, improving, equipping, furnishing, installation, operation, maintenance, repair and replacement of the Project Personalty, whenever and by whomever triggered, and shall obtain and comply with, and ensure that all owners or users of the Project Personalty obtain and comply with, any and all approvals, registrations or permits required thereunder. The Companies shall (i) take all actions necessary to clean up and remove all Hazardous Materials, on, from, or affecting the Project Personalty or any portion thereof (y) in accordance with all applicable Legal Requirements, and (z) in accordance with the orders and directives of all Federal, state and local governmental authorities, and (ii) defend, indemnify, and hold harmless the Agency from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to, (1) the presence, disposal, release, or threatened release of any Hazardous Materials which are on, from, or affecting the Project Personalty or any portion thereof; (2) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials; (3) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Materials; and/or (4) any violation of Legal Requirements or demands of government authorities, which are based upon or in any way related to such Hazardous Materials including, without limitation, reasonable attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses. For purposes of this paragraph, "Hazardous Materials" includes, without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined or so

treated in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 5101 et seq.), the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sections 6901, et seq.), and in the regulations adopted and promulgated pursuant thereto, or any other Federal, state or local environmental law, ordinance, rule, or regulation. The provisions of this paragraph shall be in addition to any and all other obligations and liabilities the Companies may have to the Agency at common law or otherwise, and the indemnification provisions hereof shall survive the termination of this Agreement.

(d) The indemnifications and protections set forth in this Section 8.2 shall be extended, with respect to the Agency, to its members, directors, officers, employees, agents and servants and persons under the Agency's control or supervision.

(e) To effectuate the purposes of this Section 8.2, the Companies will provide for and insure, in the public liability policies required in Section 4.4 hereof, not only their own liability in respect of the matters therein mentioned but also the liability pursuant to this Section 8.2 (excluding, however, those obligations of the Companies (1) requiring payment of taxes, (2) set forth in Section 8.2(a)(i) or (vi) hereof, and (3) under Section 8.2(c) hereof to the extent not available to the Companies or any Affiliate thereof at commercially reasonable rates). Anything to the contrary in this Agreement notwithstanding, the indemnification covenants of the Companies contained in this Section 8.2 shall remain in full force and effect after the termination of this Agreement until the later of (i) the expiration of the period stated in the applicable statute of limitations during which a claim or cause of action may be brought and (ii) payment in full or the satisfaction of such claim or cause of action and of all expenses and charges incurred by the Agency relating to the enforcement of the provisions herein specified.

(f) For the purposes of this Section 8.2, neither any of the Companies nor any of its subsidiaries or Affiliates, nor any other Person (whether related or unrelated to the Companies) who has received "financial assistance" in connection with any other "project" (as such terms are defined in the Act) under the Act, shall be deemed an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

Section 8.3. Agency Fees; Compensation and Expenses of Agency. The Companies agree to pay to the Agency on the Lease Commencement Date a fee of \$147,000, representing the \$162,000 Project fee less \$15,000 paid by the Companies as an application fee to the Agency prior to the Lease Commencement Date, and an Agency counsel fee of \$25,000. In addition, the Companies agree to pay an administrative fee to the Agency of \$15,000 on the Lease Commencement Date and on every anniversary thereof thereafter until the termination of this Agreement.

The Companies shall further pay the reasonable costs and expenses of the Agency together with any reasonable fees and disbursements incurred by the Agency's Project Counsel and General Counsel in performing services, other than pursuant to Section 9.6 hereof, for the

Agency in connection with this Agreement or the Sales Tax Letter, provided that such services are not reasonably foreseeable on the Lease Commencement Date.

Section 8.4. Retention of Interest in Project Personalty. The Agency shall not sell, assign, encumber (other than Permitted Encumbrances), convey or otherwise dispose of its interest in the Project Personalty or any part thereof or interest therein during the term of this Agreement, except as set forth in Sections 4.2, 5.1, 9.2, 10.1 and 11.2 hereof, without the prior written consent of the Companies and any purported disposition without such consent shall be void.

Section 8.5. Annual Certificate; Financial Statements. (a) Upon the written direction of the Agency, the Companies shall deliver to the Agency a certificate of an Authorized Representative of the Companies certifying (i) that the insurance the Companies maintain complies with the provisions of Section 4.4 of this Agreement, that such insurance has been in full force and effect at all times during the preceding fiscal year of the Companies, and that duplicate copies of all policies or certificates thereof have been filed with the Agency and are in full force and effect, (ii) that the Agency has been vested with valid title to all items of Facility Equipment and has a valid leasehold or licensee interest in all other Project Personalty and that all property constituting the Project Personalty is subject to the leasehold interest of this Agreement, (iii) that no item of Existing Project Personalty has been removed from the Project Personalty Locations except in accordance with Section 4.2 or 5.1 hereof, and (iv) whether the Companies have availed themselves of the benefits of the Sales Tax Letter in compliance with the requirements of the Sales Tax Letter. In addition, upon twenty (20) days prior request by the Agency, the Companies will execute, acknowledge and deliver to the Agency a certificate of an Authorized Representative of the Companies as to whether any default shall exist on the part of the Companies in those provisions of this Agreement as shall be the subject of the request (which request must be specific in nature), and if so, the details thereof and the action proposed to be taken by the Companies to cure the same.

(b) The Companies shall promptly notify the Agency of the occurrence and continuance of any Event of Default or any event which with notice and/or lapse of time would constitute an Event of Default under this Agreement of which either of them has knowledge. Any notice required to be given pursuant to this subsection shall be signed by an Authorized Representative of the Companies and set forth a description of the default and the steps, if any, being taken to cure said default. If no steps have been taken, the Companies shall state this fact in the notice.

(c) Within thirty (30) days of a written request by the Agency, the Companies shall furnish to the Agency a statement of total assets, liabilities and revenues and a statement of current assets, liabilities and revenues for the then current and prior year with respect to each of the Companies, prepared in accordance with generally accepted accounting principles, certified by an Authorized Representative of the Companies. In addition, upon twenty (20) days prior written request by the Agency specifically citing one or more sections of this Agreement, the

Companies will execute, acknowledge and deliver to the Agency a certificate of an Authorized Representative of the Companies either stating that to his knowledge no default or breach exists under such sections hereof or describing with specificity each such default or breach of which he has knowledge.

Section 8.6. Discharge of Liens. (a) If any lien, encumbrance or charge is filed or asserted, or any judgment, decree, order, levy or process of any court or governmental body is entered and attached against any of the Project Personalty, made or issued or any claim (such liens, encumbrances, charges, judgments, decrees, orders, levies, processes and claims being herein collectively called "Liens"), whether or not valid, is made against the Project Personalty or any part thereof or the interest therein of the Agency or the Companies or against any of the rentals or other amounts payable under this Agreement or the interest of the Companies under this Agreement other than (x) Liens for Impositions (as defined in Section 4.3 hereof) not yet payable, (y) Permitted Encumbrances, or (z) Liens being contested as permitted by Section 8.6(b) hereof, the Companies forthwith upon receipt of notice of the filing, assertion, entry or issuance of such Lien (regardless of the source of such notice) shall give written notice thereof to the Agency and take all action (including the payment of money and/or the securing of a bond) at its own cost and expense as may be necessary or appropriate to obtain the discharge in full thereof and to remove or nullify the basis therefor. Nothing contained in this Agreement shall be construed as constituting the express or implied consent to or permission of the Agency for the performance of any labor or services or the furnishing of any materials that would give rise to any Lien against the Agency's interest in the Project Personalty or the rentals or other amounts payable under this Agreement.

(b) The Companies may at their sole cost and expense contest (after prior written notice to the Agency), by appropriate action conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Lien, if (1) such proceeding shall suspend the execution or enforcement of such Lien against the Project Personalty or any portion thereof or interest therein or against the Agency or any of the Companies or against any of the rentals or other amounts payable under this Agreement, (2) neither the Project Personalty nor any portion thereof or interest therein would be in any danger of being sold, forfeited or lost, and (3) neither any of the Companies nor the Agency would be in any reasonable danger of any criminal liability for failure to comply therewith; *provided, however*, if such contest could result in the Agency being in any reasonable danger for civil liability (including accrual of interest, fines and/or penalties), (x) the Companies shall deliver a written confirmation to the Agency that the Companies shall indemnify and hold the Agency harmless for any claims, liabilities, costs or expenses as may derive with respect thereto, and (y) the Companies shall provide to the Agency such security as the Agency may reasonably require.

Section 8.7. Agency's Authority. Covenant of Quiet Enjoyment. The Agency covenants and agrees that it has full right and lawful authority to enter into this Agreement for the full term hereof, and that, subject to Permitted Encumbrances, so long as an Event of Default

shall not exist hereunder, the Companies shall have, hold and enjoy, during the term hereof, peaceful, quiet and undisputed possession of the Project Personalty without molestation or disturbance by or from the Agency or any Person claiming through the Agency, subject to Permitted Encumbrances.

Section 8.8. No Warranty of Condition or Suitability. THE AGENCY HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, FITNESS, DESIGN, OPERATION OR WORKMANSHIP OF ANY PART OF THE PROJECT PERSONALTY, ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OR CAPACITY OF THE MATERIALS IN THE PROJECT PERSONALTY, OR THE SUITABILITY OF THE PROJECT PERSONALTY FOR THE PURPOSES OR NEEDS OF THE COMPANIES OR ANY OTHER PERSON. THE COMPANIES ACKNOWLEDGE THAT THE AGENCY IS NOT THE MANUFACTURER OF THE FACILITY EQUIPMENT OR THE OTHER PROJECT PERSONALTY NOR THE MANUFACTURER'S AGENT NOR A DEALER THEREIN. NEITHER ANY OF THE COMPANIES NOR ANY PERSON OR AFFILIATE UNDER THE CONTROL OF ANY OF THE COMPANIES SHALL ASSERT A CLAIM AGAINST THE AGENCY ON THE BASIS THAT THE PROJECT PERSONALTY IS NOT SUITABLE OR FIT FOR ITS PURPOSES. THE AGENCY SHALL NOT BE LIABLE IN ANY MANNER WHATSOEVER TO THE COMPANIES OR ANY AFFILIATE THEREOF OR OTHER PERSON UNDER THE CONTROL OF EITHER OF THE COMPANIES FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED, DIRECTLY OR INDIRECTLY, BY THE PROJECT PERSONALTY OR THE USE OR MAINTENANCE OF ANY THEREOF OR THE FAILURE OF OPERATION OF ANY THEREOF, OR THE REPAIR, SERVICE OR ADJUSTMENT OF ANY THEREOF, OR BY ANY DELAY OR FAILURE TO PROVIDE ANY SUCH MAINTENANCE, REPAIRS, SERVICE OR ADJUSTMENT, OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE OF ANY THEREOF OR FOR ANY LOSS OF BUSINESS HOWSOEVER CAUSED.

Section 8.9. Further Assurances. The Companies covenant and agree that they will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such further reasonable acts, instruments, conveyances, transfers and assurances, at the sole cost and expense of the Companies, as the Agency reasonable deems necessary or advisable for the implementation, effectuation, correction, confirmation or perfection of this Agreement and any rights of the Agency hereunder or under the Sales Tax Letter.

The Agency covenants and agrees that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such further reasonable acts, instruments, conveyances, transfers and assurances, at the sole cost and expense of the Companies, as the Companies may reasonably request as necessary or advisable for the implementation, effectuation, correction, confirmation or perfection of this Agreement and any rights of the Companies hereunder or under the Sales Tax Letter.

Section 8.10. Third Party Financing of Project Personalty. Notwithstanding any provision of this Agreement, the Companies shall have the right to obtain third party financing for any item(s) of Project Personalty secured by the interest of the Agency and/or Company in such item(s) of property being financed, and, in the event of any foreclosure of any such security interest, the Agency and the Companies agree that all right, title and interest of the Agency and Companies in such item(s) of Project Personalty shall be released pursuant to such foreclosure sale, free and clear of any lien or security interest created pursuant to this Agreement; provided, however, no such security interest or other related documentation shall obligate the Agency to take or omit to take any action, or otherwise impose or seek to impose a pecuniary liability on the Agency, or otherwise result in any liability to the Agency whatsoever, and such security interest, pledge, lien or charge shall, in the case of the Agency, expressly recite that the same is limited in recourse solely to the interest of the Agency in the property subject thereto.

Upon the written request of an Authorized Representative of the Companies to the Agency, and at the sole cost and expense of the Companies, the Agency shall execute such security agreement and Uniform Commercial Code financing statements (and continuation statements) as shall be necessary or desirable to grant to a lender and perfect a security interest in the Project Personalty being financed; provided, however, that no such document executed by the Agency shall be inconsistent with the terms and conditions set forth therefor in the immediately preceding paragraph.

The Agency acknowledges and agrees that no security interest has been granted to it in any of the Project Personalty.

ARTICLE IX

Events of Default; Remedies

Section 9.1. Events of Default. Any one or more of the following events shall constitute an "Event of Default" hereunder:

(a) Failure of the Companies to pay any amount that has become due and payable hereunder, or failure of any Company to observe and perform any covenant, condition or agreement on its part to be performed under Section 3.5, 4.2, 4.3, 4.4, 4.6, 8.2, 8.3 or 11.2 (except with respect to assignments or transfers of this Agreement) hereof, and continuance of such failure for a period of thirty (30) days after receipt by the Companies of notice specifying the nature of such default from the Agency;

(b) Failure of either of the Companies to observe and perform any covenant, condition or agreement on its part to be performed under clauses (i) and (iii) of the first sentence of Section 8.1 or under Section 11.2 (as to transfers or assignments) hereof;

(c) Failure of either of the Companies to pay any amount or to observe and perform any covenant, condition or agreement hereunder on its part to be performed (except as set forth in Section 9.1(a) or (b) above) and (1) continuance of such failure for a period of thirty (30) days after receipt by the Companies of notice specifying the nature of such default from the Agency, or (2) if by reason of the nature of such default the same can be remedied, but not within the said thirty (30) days, the Companies fail to proceed with reasonable diligence after receipt of said notice to cure the same or fail to continue with reasonable diligence their efforts to cure the same;

(d) Either of the Companies shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, liquidator, custodian or trustee of itself or of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts generally become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, rehabilitation, winding-up, or composition or adjustment of debts, (vi) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under such Bankruptcy Code (or under any other laws referenced in clause (v) above, (vii) take any action for the purpose of effecting any of the foregoing, or (viii) be adjudicated a bankrupt or insolvent by any court of competent jurisdiction;

(e) A proceeding or case shall be commenced, without the application or consent of the affected Company, in any court of competent jurisdiction, seeking, (i) liquidation, reorganization, dissolution, winding-up or composition or adjustment of debts, (ii) the

appointment of a trustee, receiver, liquidator, custodian or the like of such Company or of all or any substantial part of its assets, or (iii) similar relief under any law relating to bankruptcy, insolvency, rehabilitation, reorganization, winding-up or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of ninety (90) days; or a Company shall acquiesce in writing to any of the foregoing; or any order for relief against a Company shall be entered in an involuntary case under the Federal Bankruptcy Code; the terms "dissolution" or "liquidation" of the Companies as used above shall not be construed to prohibit any action otherwise permitted by Section 8.1 hereof;

(f) Any material representation or warranty made (i) by or on behalf of the Companies in the application and related materials submitted to the Agency for approval of the Project, (ii) by the Companies herein, or (iii) by the Companies in any report, certificate, financial statement or other instrument furnished pursuant hereto, shall in any case prove to be knowingly false, misleading or incorrect in any material respect as of the date made, and (x) if the damage resulting therefrom shall be capable of being cured, and such damage shall not in fact be cured within thirty (30) days after receipt by the Companies of notice of the false, misleading or incorrect representation or warranty, or, if such damage can reasonably be remedied over a reasonable period of time, but not within the said thirty (30) days, the Companies fail to proceed with reasonable diligence after receipt of said notice to cure the same or fail to continue with reasonable diligence their efforts to cure the same; or (y) shall not have been made in good faith; or

(g) Any Company or any Affiliate shall be a Prohibited Person.

Section 9.2. Remedies on Default. Whenever any Event of Default referred to in Section 9.1 hereof shall have occurred and be continuing, the Agency may take any one or more of the following remedial steps:

(a) The Agency may terminate this Agreement, in which case this Agreement and all of the right, title and interest herein granted or vested in the Companies shall cease and terminate (with the effect that the term of this Agreement shall be deemed to have expired on such date of termination as if such date were the original expiration date of the term of this Agreement), except for the Companies' rights under Section 10.1 hereof, unless prior to such termination all accrued and unpaid payments shall have been paid and all such other defaults shall have been fully cured. No such termination of this Agreement shall relieve the Companies of their liabilities and obligations hereunder and such liabilities and obligations shall survive any such termination; and

(b) The Agency may (i) bring an action for damages (but in no event punitive, consequential or special damages), injunction or specific performance, and/or (ii) convey all of the Agency's right, title and interest in the Project Personalty to the Companies, suspend or terminate the Sales Tax Letter or not re-confirm the Sales Tax Letter on any annual confirmation

date and/or require the Companies to surrender the Sales Tax Letter to the Agency for cancellation, and/or (iii) take whatever action at law or in equity as may appear necessary or desirable to collect payment of amounts due under this Agreement, or to enforce performance or observance of any obligations, agreements or covenants of the Companies under this Agreement.

In the event that the Companies fail to make any payment required under this Agreement, the payment so in default shall continue as an obligation of the Companies until the amount in default shall have been fully paid and bear interest at the annual rate of eighteen percent (18%) per annum until the date payment is made.

The Agency acknowledges that the Companies' liability pursuant to or in connection with Agreement and/or the Sales Tax Letter shall be limited to the indemnification obligations, payment obligations, obligation to return the Sales Tax Letter to the Agency when required, and obligations to reimburse any amounts expended by the Agency as a result of an Event of Default, or any event that with the passage of time and/or the giving of notice may become an Event of Default, hereunder, in each case to the extent expressly set forth herein.

No action taken pursuant to this Section 9.2 (including termination of this Agreement pursuant to this Section 9.2 or by operation of law or otherwise) shall, except as expressly provided herein, relieve the Companies from their obligations hereunder, all of which shall survive any such action.

Section 9.3. Remedies Cumulative. The rights and remedies of the Agency under this Agreement shall be cumulative and shall not exclude any other rights and remedies of the Agency allowed by law with respect to any default under this Agreement. Failure by the Agency to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon default by the Companies hereunder shall not be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce by mandatory injunction, specific performance or other appropriate legal remedy a strict compliance by the Companies with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such default by the Companies be continued or repeated.

Section 9.4. No Additional Waiver Implied by One Waiver. In the event any covenant or agreement contained in this Agreement should be breached by any party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver shall be binding unless it is in writing and signed by the parties making such waiver. No course of dealing between the Agency and the Companies or any delay or omission on the part of the Agency in exercising any rights hereunder or under the Sales Tax Letter shall operate as a waiver.

Section 9.5. Effect of Discontinuance of Proceedings. In case any proceeding taken by the Agency under this Agreement or under the Sales Tax Letter on account of any

Event of Default hereunder shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Agency, then, and in every such case, the Agency shall be restored to its former position and rights hereunder and thereunder, and all rights, remedies, powers and duties of the Agency shall continue as in effect prior to the commencement of such proceedings.

Section 9.6. Agreement to Pay Attorneys' Fees and Expenses. If (x) there shall occur an Event of Default hereunder or (y) the Companies shall default under any of the provisions of this Agreement and fail to proceed to cure such default after written notice thereof shall have been given by the Agency, and the Agency should employ outside attorneys or incur other out-of-pocket expenses for the collection of rentals or other amounts payable hereunder or the enforcement of performance or observance of any obligation or agreement on the part of herein contained, the Companies will on demand therefor pay to the Agency the reasonable fees and disbursements of such attorneys and such other reasonable expenses so incurred.

ARTICLE X

Options

Section 10.1. Option to Terminate Agreement. (a) The Companies shall have the option to terminate this Agreement on any date during the term hereof by paying all payments due hereunder. The Companies shall exercise such option by delivering to the Agency a written notice of an Authorized Representative of the Companies stating that the Companies have elected to exercise their option to terminate this Agreement and the date on which such termination is to be made.

(b) The Companies shall terminate this Agreement by paying all amounts due and payable under this Agreement, and by giving the Agency notice in writing of such termination and thereupon such termination shall forthwith become effective, subject, however, to the survival of the obligations of the Companies under Sections 8.2 and 11.11 hereof.

Section 10.2. Conveyance on Exercise of Option. Upon the termination of this Agreement, the parties acknowledge and agree that all of the Agency's right, title and interest in the Project Personalty shall automatically be conveyed to the Companies, without further act or delivery of any instrument whatsoever, and, upon written request of the Companies to the Agency, the Agency will deliver or cause to be delivered to the Companies, at the sole cost and expense of the Companies, documents (the form of which may be provided by the Companies so long as the Agency shall make no covenants nor warranties thereunder nor have any liability by reason of such documents) releasing and conveying to the Companies all of the Agency's right, title and interest in and to Project Personalty and to any rights of action (except under Sections 8.2 and 11.11 hereof), or any insurance proceeds (other than liability insurance proceeds for the benefit of the Agency) or condemnation award, with respect to the Project Personalty, and documents terminating this Agreement.

Notwithstanding any provision of this Agreement to the contrary, the obligations of the Companies under Sections 8.2 and 11.11 hereof shall survive any termination of this Agreement.

ARTICLE XI

Miscellaneous

Section 11.1. Force Majeure. In case by reason of force majeure either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement, then except as otherwise expressly provided in this Agreement, if such party shall give notice and full particulars of such force majeure to the other party within a reasonable time after occurrence of the event or cause relied on, the obligations of the party giving such notice (other than the obligations of the Companies to make the rental payments or other payments required under the terms hereof, or to comply with Sections 3.5, 4.2, 4.3, 4.4, 4.6, 8.1, 8.2, 8.3 and 11.2 hereof), so far as they are affected by such force majeure, shall be suspended during the continuance of the inability then claimed which shall include a reasonable time for the removal of the effect thereof, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "force majeure", as employed herein, shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States or of the State or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrest, restraining of government and people, civil disturbances, explosions, partial or entire failure of utilities, shortages of labor, material, supplies or transportation, or any other similar or different cause not reasonably within the control of the party claiming such inability. The settlement of existing or impending strikes, lockouts or other industrial disturbances shall be entirely within the discretion of the party having the difficulty and the above requirements that any force majeure shall be reasonably beyond the control of the party and shall be remedied with all reasonable dispatch shall be deemed to be fulfilled even though such existing or impending strikes, lockouts and other industrial disturbances may not be settled but could have been settled by acceding to the demands of the opposing person or persons.

The Companies shall promptly notify the Agency upon the occurrence of each force majeure, describing such force majeure and its effects in reasonable detail. The Companies shall also promptly notify the Agency upon the termination of each such force majeure occurrence. The information set forth in any such notice shall not be binding upon the Agency, and the Agency shall be entitled to dispute the existence of any force majeure and any of the contentions contained in any such notice received from the Companies.

Section 11.2. Assignment or Sublease. (a) Except as otherwise permitted pursuant to Section 8.1 hereof, the Companies shall not at any time assign or transfer this Agreement, or sublet all or part of the Project Personalty to any Person other than an Eligible Affiliate, without in each case the prior written consent of the Agency (which consent may be unreasonably withheld); provided, that, in the event the Agency shall provide such consent, (i) the Companies shall nevertheless remain liable to the Agency for the payment of all rent and for the full performance of all of the terms, covenants and conditions of this Agreement and the Sales Tax Letter, (ii) any assignee or transferee of the Companies, or sublessee of all or

substantially all of the Project Personalty, shall have executed and delivered to the Agency an instrument, in form for recording, in and by which the assignee, transferee or sublessee shall have assumed in writing and have agreed to keep and perform all of the terms of this Agreement on the part of the Companies to be kept and performed, shall be jointly and severally liable with the Companies for the performance thereof, shall be subject to service of process in the State, and, if a corporation, shall be qualified to do business in the State, (iii) in the Opinion of Counsel, such assignment or transfer shall not cause the obligations of the Companies for the payment of all rents nor for the full performance of all of the terms, covenants and conditions of this Agreement to cease to be legal, valid and binding on and enforceable against the Companies, (iv) any assignee, transferee or sublessee shall utilize the Project Personalty as a qualified "project" as defined in the Act and for the general purposes specified in the recitals to this Agreement, (v) such assignment or transfer shall not violate any provision of this Agreement, (vi) such assignment or transfer shall in no way diminish or impair the Companies' obligation to carry the insurance required under Section 4.4 of this Agreement and the Companies shall furnish written evidence satisfactory to the Agency that such insurance coverage shall in no manner be limited by reason of such assignment or transfer, and (vii) each such assignment, transfer or sublease contains such other provisions as the Agency may reasonably require. The Companies shall furnish or cause to be furnished to the Agency a copy of any such assignment, transfer or sublease in substantially final form at least fifteen (15) days prior to the date of execution thereof.

(b) Any consent by the Agency to any act of assignment or transfer of this Agreement, or sublease in whole or in part of the Project Personalty, shall be held to apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver of the duty of the Companies, or the successors or assigns of any of the Companies, to obtain from the Agency consent to any other or subsequent assignment or transfer of this Agreement, or sublease in whole or in part of the Project Personalty, or as modifying or limiting the rights of the Agency or the obligations of the Companies under this Section 11.2.

Section 11.3. Notices. All notices, certificates, requests, approvals, consents or other communications hereunder shall be in writing and shall be sent by registered or certified United States mail, postage prepaid, or by hand delivery (receipt acknowledged), telefacsimile (receipt acknowledged) (or other medium of electronic communication), Federal Express or other nationally recognized overnight courier service, addressed:

(a) if to the Agency, to the General Counsel, New York City Industrial Development Agency, 110 William Street, New York, New York 10038, with a copy to the Executive Director of the Agency at the same address; and

(b) if to the Companies, to Ernst & Young US LLP, Five Times Square, New York, New York 10036, Attention: General Counsel, with a copy to Skadden, Arps, Slate, Meaghen & Flom, LLP, Four Times Square, New York, New York, 10036, Attention: Neil L. Rock, Esq.

The Agency and the Companies may, by like notice, designate any further or different persons or addresses to which subsequent notices, certificates, requests, approvals, consents or other communications shall be sent. Any notice, certificate, requests, approvals, consents or other communication hereunder shall, except as may expressly be provided herein, (i) if delivered by hand or by Federal Express (or other nationally recognized overnight courier servicer) shall be deemed to have been delivered or given as of the date received or delivery rejected as indicated on the return receipt, or (ii) if delivered by mail, shall be deemed to have been received on the third day after mailing.

Section 11.4. Prior Agreements Superseded. This Agreement shall completely and fully supersede all other prior understandings or agreements, both written and oral, between the Agency and the Companies relating to the Project Personalty with respect to the subject matter hereof, other than the Sales Tax Letter being executed contemporaneously herewith.

Section 11.5. Severability. If any clause, provision or section of this Agreement be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or section shall not affect any of the remaining provisions hereof.

Section 11.6. Inspection of the Project Personalty. The Companies will permit the Agency, or its duly authorized agents, at all reasonable times upon reasonable notice to enter upon Project Personalty Locations but solely for the purpose of assuring that (x) the Companies are operating the Project Personalty, or are causing the Project Personalty to be operated, as a qualified "project" under the Act consistent with the purposes set forth in the recitals to this Agreement and with the public purposes of the Agency, or (y) ascertaining whether or not a Relocation Reduction or a Non-Relocation Reduction has occurred; but not for any purpose of assuring the proper maintenance or repair of the Project Personalty as such latter obligation is and shall remain solely the obligation of the Companies.

Section 11.7. Joint and Several Liability of the Companies. All obligations, covenants, agreements, promises and liabilities of the Companies hereunder shall be joint and several obligations of the Companies in all respects.

Section 11.8. E&Y US to Act as Agent of Companies. In all actions, consents, requests, directions, notices and other matters required to be taken by or given to the Companies, consents, requests, directions, notices or other matters delivered by or to E&Y US (in accordance with Section 11.3 hereof) shall be deemed delivered by or to the Companies.

Section 11.9. Effective Date; Counterparts. This Agreement shall become effective upon its delivery. It may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.10. Binding Effect. This Agreement shall be binding upon the Agency and the Companies and their respective successors and assigns, and inure to the benefit of the Agency and to no other Person.

Section 11.11. Law Governing. This Agreement shall be governed by, and construed in accordance with, the internal laws of the State, without regard to conflict of law principles.

Section 11.12. Tax Credits and Deductions. It is the intention of the parties that any tax credit or comparable credit, and all deductions from income taxes attributable to the Project Personalty, which may ever be available accrue to the benefit of the Companies and the Companies shall, and the Agency upon advice of counsel (at the sole cost of the Companies) may, make any election and take other action in accordance with the Internal Revenue Code of 1986, as amended, and the Treasury Regulations applicable thereunder, as may be necessary to entitle the Companies to have such benefit.

Section 11.13. Waiver of Trial by Jury. The parties do hereby expressly waive all rights to trial by jury on any cause of action directly or indirectly involving the terms, covenants or conditions of this Agreement or the Project Personalty or any matters whatsoever arising out of or in any way connected with this Agreement.

The provision of this Agreement relating to waiver of a jury trial shall survive the termination or expiration of this Agreement.

Section 11.14. Non-Discrimination. (a) At all times during the term of this Agreement, the Companies shall comply with all federal, state and local laws relating to non-discrimination, and the Companies shall not discriminate against any employee or applicant for employment because of race, color, creed, age, sex or national origin. The Companies shall use their best efforts to ensure that employees and applicants for employment with the Companies and Affiliates at Project Personalty Locations are treated without regard to their race, color, creed, age, sex or national origin. As used herein, the term "treated" shall mean and include, without limitation, the following: recruited, whether by advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; downgraded; demoted; transferred; laid off; and terminated.

(b) The Companies shall, in all solicitations or advertisements for employees placed by or on behalf of the Companies, state that all qualified applicants will be considered for employment without regard to race, color, creed or national origin, age or sex, and state that the Companies are equal opportunity employers.

(c) The Companies shall furnish to the Agency all information reasonably required by the Agency pursuant to this Section and will reasonably cooperate with the Agency for the purposes of investigation to ascertain compliance with this Section.

(d) Nothing herein shall be construed to require the Companies to violate any applicable law.

Section 11.15. No Recourse under This Agreement. All covenants, stipulations, promises, agreements and obligations of the Agency contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency, and not of any member, director, officer, employee or agent of the Agency in his individual capacity, and no recourse shall be had for any claim based thereon or hereunder against any member, director, officer, employee or agent of the Agency.

All covenants, stipulations, promises, agreements and obligations of the Companies contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Companies, and not of any partner, member, shareholder, director, officer, employee or agent of any Company or any other E&Y Group Entity in his individual capacity, and no recourse shall be had for any claim based thereon or hereunder against any partner, member, shareholder, director, officer, employee or agent of any Company or any other E&Y Group Entity.

Section 11.16. Amendments. This Agreement may be amended only with the consent of the Agency and the Companies and only if the Agency and the Companies shall assume in writing the obligations of such amended Agreement.

Section 11.17. Date of Agreement for Reference Purposes Only. The date of this Agreement shall be for reference purposes only and shall not be construed to imply that this Agreement was executed on the date first above written. This Agreement was executed and delivered on the Lease Commencement Date.

IN WITNESS WHEREOF, the Agency has caused its name to be hereunto subscribed by its duly authorized Executive Director and the Companies have caused their name to be subscribed hereto by duly authorized representatives thereof, all being done as of the year and day first above written.

NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY

By Barbara Basser-Bigio
Barbara Basser-Bigio,
Executive Director

ERNST & YOUNG U.S. LLP,
as lessee

By _____
Name:
Title:

ERNST & YOUNG LLP,
as lessee


By _____
Name:
Title:

IN WITNESS WHEREOF, the Agency has caused its name to be hereunto subscribed by its duly authorized Executive Director and the Companies have caused their name to be subscribed hereto by duly authorized representatives thereof, all being done as of the year and day first above written.

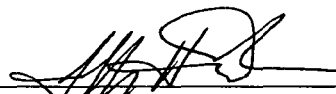
NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY

By _____
Barbara Basser-Bigio,
Executive Director

ERNST & YOUNG U.S. LLP,
as lessee

By 
Name: *JEFFREY H. SWERUNEK*
Title: *VICE CHAIR - FINANCE & ADMIN.*

ERNST & YOUNG LLP,
as lessee

By 
Name: *JEFFREY H. SWERUNEK*
Title: *VICE CHAIR - FINANCE & ADMIN.*

STATE OF NEW YORK)

:SS.:

COUNTY OF NEW YORK)

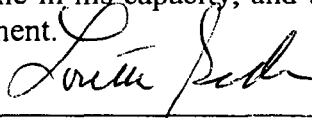
On the 30th day of ~~July~~ ^{JUNE}, in the year two thousand four, before me, the undersigned, a Notary Public/~~Commissioner of Deeds~~ in and for said State/~~The City~~ of New York, personally appeared Barbara Basser-Bigio, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that her signature on the instrument, the individual executed the instrument.

Carol M. Hyde
Notary Public/~~Commissioner of Deeds~~

CAROL M. HYDE
Notary Public, State of New York
No. 4977270
Qualified in Queens County
Commission Expires Jan. 28, 2007

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

On the 15th day of July, in the year two thousand four, before me, the undersigned, a Notary Public in and for said State, personally appeared JEFFREY H. DWORIKEN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual executed the instrument.

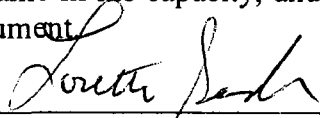


Notary Public

LORETTA SEDA
Notary Public, State of New York
No. 31-3579135
Qualified in New York County
Commission Expires Feb. 28, ~~1998~~ 2006

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

On the 15th day of July, in the year two thousand four, before me, the undersigned, a Notary Public in and for said State, personally appeared JEFFREY H. DWORIKEN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual executed the instrument.



Notary Public

LORETTA SEDA
Notary Public, State of New York
No. 31-3579135
Qualified in New York County
Commission Expires Feb. 28, ~~2008~~ 2006

APPENDICES

LETTER OF AUTHORIZATION FOR SALES TAX EXEMPTION

EXPIRATION DATE: June 20, 2005

**ELIGIBLE LOCATIONS FOR PROJECT
MOVABLE PROPERTY:**

1. 5 Times Square
Manhattan, New York

**ELIGIBLE LOCATIONS FOR PROJECT
TENANT IMPROVEMENTS:**

Not Applicable

July __, 2004

TO WHOM IT MAY CONCERN

Re: New York City Industrial Development Agency
Ernst & Young U.S. LLP Project

Gentlemen:

The New York City Industrial Development Agency (the "Agency"), by this notice, hereby advises you as follows:

1. The Agency constitutes a corporate governmental agency and a public benefit corporation under the laws of the State of New York, and therefore, in the exercise of its governmental functions, including the issuance of its bonds or notes, is exempt from the imposition of any sales and use tax. As an exempt governmental entity, no exempt organization identification number has been issued to the Agency nor is one required.

2. Pursuant to a public hearing held on September 13, 1999 and a resolution adopted by the Agency on September 14, 1999, as amended on October 14, 2003, the Agency has authorized Ernst & Young U.S. LLP, a limited liability partnership organized pursuant to the laws of the State of Delaware ("E&Y US"), and Ernst & Young LLP, a limited liability partnership also organized pursuant to the laws of the State of Delaware ("E&Y", and, together with E&Y US, the "Companies"), to act as its agents to, among other things, acquire, renovate,

improve, lease, license, equip and maintain certain commercial facilities in The City of New York consisting of, among other things the acquisition, equipping, leasing, subleasing, licensing, sublicensing and maintenance of machinery, equipment, furniture, trade fixtures, furnishings and other items of tangible movable personalty for location at that building known as 5 Times Square, New York, New York (the "Project Premises") (the "Project Personalty Location"), all as generally described in and limited in scope as set forth in Exhibit A attached hereto, to the extent used by the Companies and/or Eligible Affiliates in the E&Y Business (as defined below) (the "Project"). "E&Y Business" shall mean use as corporate headquarters of a professional services organization providing accounting, legal, tax, consulting and assurance and advisory business services to clients.

3. In connection with such resolutions and the Lease Agreement, dated as of July 15, 2004, between the Agency and the Companies (the "Lease Agreement"), and pursuant to the authority therein granted, the Agency authorizes each of the Companies to act as its agent in connection with the acquisition, equipping, leasing, subleasing, licensing, sublicensing and maintenance of the Project and authorizes the Companies to use this letter only for the payment of the costs of such acquisition, equipping, leasing, subleasing, licensing, sublicensing and maintenance of the Project. Pursuant to the Lease Agreement, the Agency may appoint, from time to time, Eligible Affiliates, who shall have executed the "Assumption of Limited Lessee/Agent" form attached to the Lease Agreement and who shall continue to be such, to act as the Agency's limited agent in connection with the acquisition, renovation, equipping, furnishing, leasing, subleasing, licensing, sublicensing and maintenance of the Project, except that such agents (the "Limited Lessees/Agents") shall only act as such through their appointment by a Company as its agent for the above purposes. The Limited Lessees/Agents are enumerated or otherwise identified on Exhibit B attached hereto.

4. As agent for the Agency, the Companies agree that each lease, sublease, license, sublicense, contract, invoice, bill or purchase order (except that if any one related bill, purchase order or other equivalent document prepared by a Company governing such transaction shall include the below referenced language, the other documents evidencing such transaction prepared by Persons other than a Company, or the preparation of which is not within the control of the Companies, need not also include such language, provided, that, none of such other documents are inconsistent with the conditions for such transaction as set forth in such below referenced language) entered into by a Company as agent for the Agency for the acquisition, equipping, leasing, subleasing, licensing, sublicensing, repair, replacement and maintenance of the Project shall include language in substantially the following form:

"This [lease, sublease, license, sublicense, contract, agreement, invoice or purchase order] is being entered into by [Ernst & Young U.S. LLP] [Ernst & Young LLP], a limited liability partnership organized under the laws of the State of Delaware (the "Agent"), as agent for and on behalf of the New York City Industrial Development Agency (the "Agency") in connection with a certain project of the Agency for the Agent consisting of the acquisition,

equipping, leasing, subleasing, licensing, sublicensing, maintenance, repair or replacement from time to time of machinery, equipment, furniture, furnishings and other tangible personal property for use at that building known as 5 Times Square, New York, New York, by the Agent or other E&Y Group Entities in the E&Y Business, as such capitalized terms are defined in the Letter of Authorization for Sales Tax Exemption, which either is attached hereto or has been previously delivered by the Agent to the vendor, contractor, lessor, sublessor, licensor or sublicensor of such tangible personal property. The machinery, equipment, trade fixtures, furniture, furnishings and other tangible personal property to be used for the project which is the subject of this [lease, sublease, license, sublicense, contract, agreement, invoice, bill or purchase order] shall be exempt from the sales and use tax levied by the State of New York and The City of New York if effected in accordance with the terms and conditions set forth in the Letter of Authorization for Sales Tax Exemption of the Agency, and the Agent hereby represents that this [lease, sublease, license, sublicense, contract, agreement, invoice, bill or purchase order] is in compliance with the terms of the Letter of Authorization for Sales Tax Exemption. The liability of the Agency hereunder is limited as set forth in the Letter of Authorization for Sales Tax Exemption. By execution or acceptance of this [lease, sublease, license, sublicense, contract, agreement, invoice, bill or purchase order], the [vendor, contractor, lessor, sublessor, licensor or sublicensor] hereby acknowledges and agrees to the terms and conditions set forth in this paragraph.

5. The acquisition, leasing, subleasing, licensing, sublicensing, equipping, furnishing and maintenance from time to time of furnishings, furniture, equipment, machinery and other items of tangible movable personalty constituting a part of the Project shall be exempt from the sales and use tax levied by the State of New York and The City of New York on the condition that (i) any such capital machinery, equipment or other tangible personal property shall have a useful life of one year or more, shall be for the Principal Use (as defined in the Lease Agreement) of the Companies and/or any Eligible Affiliate at any of the Project Personalty Locations, and shall be effected by and at the sole cost of the Companies or an Eligible Affiliate, (ii) in the case of rental arrangements, such arrangements either (x) provide for a purchase option on the part of a Company, or (y) constitute a capital lease, and (iii) any maintenance contracts shall only be with respect to Project property having a useful life of one year or more, the replacement of parts (other than parts that contain materials or substances that are consumed in the operation of such property where such parts must be replaced whenever the substance is consumed) or the making of repairs but shall not include maintenance of the type as shall constitute janitorial services.

6. The Agency shall have no liability or performance obligations under any such lease, sublease, license, sublicense, contract, invoice, bill or purchase order; the Companies shall be the sole parties liable thereunder.

7. By the execution of its acceptance of the terms of this letter, the Companies agree to accept the terms hereof and represents and warrants to the Agency that the use of this letter by the Companies is and will be strictly for the purposes above stated.

8. Accordingly, until the earlier of (i) the Expiration Date set forth on the cover page of this letter, (ii) March 31, 2022 and (iii) the conferral of Sales Tax Savings in an amount equal to the Maximum Growth Credit Amount, and subject to the continued annual renewal by the Agency of this letter, all vendors, lessors, contractors and subcontractors are hereby authorized to rely on this letter (or on a photocopy or fax of this letter) as evidence that purchases and leases of, and maintenance contracts relating to, the Project property, to the extent effected by the Companies (or by a contractor or subcontractor engaged by the Companies) as agent for the Agency, are exempt from all New York State and New York City sales and use taxes.

The signature of a representative of the Companies where indicated below, which may be on a counterpart page, will indicate that the Companies have accepted the terms hereof.

NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Barbara Basser-Bigio,
Executive Director

ACCEPTED AND AGREED TO BY:

ERNST & YOUNG U.S. LLP

By: _____
Name:
Title:

ERNST & YOUNG LLP

By: _____
Name:
Title:

EXHIBIT A

Exemptions from sales or use tax relating to the following categories:

(1) the acquisition, maintenance, repair and replacement of machinery, equipment, furniture, furnishings, trade fixtures and other tangible personal property for use at any of the Project Personalty Locations, including mainframe computers (and peripherals), personal computers, telecommunications equipment, business machines and software, but excluding fine art, plants, objects d'art and other similar decorative items, and ordinary office supplies such as pencils, paper clips and paper;

(2) the leasing or subleasing of machinery, equipment, furniture, furnishings, trade fixtures and other tangible personal property (including the maintenance, repair, replacement, enhancement and addition with respect to such items) for use at any of the Project Personalty Locations, including mainframe computers (and peripherals), personal computers, telecommunications equipment, business machines and software;

(3) maintenance, repair and service contracts for the maintenance of machinery, equipment, computers, software, telecommunications equipment and other personalty used at any of the Project Personalty Locations;

(4) the acquisition and replacement of mainframe computers (and peripherals), personal or other computers, telecommunications equipment, equipment relating to the operation of all the foregoing categories and software and all located at any of the Project Personalty Locations; and

(5) the leasing or subleasing of mainframe computers (and peripherals), personal computers, telecommunications equipment, equipment relating to the operation of all the foregoing categories and software for use at any of the Project Personalty Locations in connection with the foregoing equipment;

provided, however, that the purchase of any software under any of the above five categories may only be effected if such software shall be capitalized or capable of being capitalized under generally accepted accounting principles, and any maintenance shall only be for "Qualified Maintenance". "Qualified Maintenance" shall mean, with respect to any of the above categories of property having a useful life of one year or more, the replacement of parts (other than parts that contain materials or substances that are consumed in the operation of such property (e.g., a toner cartridge) where such parts must be replaced whenever the substance is consumed) or the making of repairs, but shall not include maintenance of the type as shall constitute janitorial services.

EXHIBIT B

LIMITED LESSEES/AGENTS

Name

Legal Entity

State of Organization

and any other Eligible Affiliate who shall have executed the "Assumption of Limited Lessee/Agent" form attached to the Lease Agreement and who shall continue to be such.

ASSUMPTION OF LIMITED LESSEE/AGENT

In consideration for the appointment by the New York City Industrial Development Agency (the "Agency") of the undersigned as a "Limited Lessee/Agent" under each of

(i) a certain Lease Agreement, dated as of July 15, 2004 (as the same has been and may hereafter be amended and supplemented, the "Lease Agreement"), between the Agency and Ernst & Young U.S. LLP, a Delaware limited liability partnership, and Ernst & Young LLP, also a Delaware limited liability partnership (collectively, the "Companies"); and

(ii) a certain Letter of Authorization for Sales Tax Exemption, dated July 15, 2004 (as the same has been and may hereafter be amended and supplemented, the "Sales Tax Letter"), from the Agency to the Companies;

(capitalized terms used but not defined herein shall have respective meanings assigned to such terms in the Lease Agreement)

the undersigned DOES HEREBY (for the benefit of the Agency, in the case of the Lease Agreement and the Sales Tax Letter)

1. CERTIFY THAT it is an Eligible Affiliate, and that it is of the type of legal entity organized under that jurisdiction as is set forth in the signature block below,

2. ASSUME all rights, obligations, covenants and agreements under each of the Lease Agreement and the Sales Tax Letter as shall be expressly set forth in each of those agreements as applicable to Limited Lessee/Agents,

3. COVENANT AND AGREE to take no action with respect to the Project Personalty or any part thereof which the Companies could not take under any of the Lease Agreement or the Sales Tax Letter, and

4. ASSUME (jointly and severally with the Companies and with all other Limited Lessee/Agents) UNDER THE LEASE AGREEMENT the obligations, covenants and agreements (but not the payments) of the Companies under the Lease Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto executed this instrument
this ____ day of _____, ____.

_____,
a _____ organized under
the laws of the State of _____

By _____
Name:
Title:

SEMIANNUAL CERTIFICATE OF THE COMPANIES

The undersigned DOES HEREBY CERTIFY THAT he/she is an Authorized Representative of Ernst & Young U.S. LLP, a Delaware limited liability partnership, and of Ernst & Young LLP, also a Delaware limited liability partnership (collectively, the "Companies"), and has knowledge or access to that knowledge necessary to deliver this certificate, and this certificate is being delivered in accordance with the provisions of Sections 6.1(d)(v)(A) and 6.3 of that certain Lease Agreement, dated as of July 15, 2004 (the "Lease Agreement"), by and between the New York City Industrial Development Agency and the Companies, and does hereby further certify as follows with respect to the period which commenced [_____] [January 1] [July 1], _____ and ended [June 30][December 31] [March 31], _____ (the "Reported Period") (all capitalized terms used but not defined herein shall have the respective meanings assigned to such terms in the Lease Agreement):

1. For the Reported Period, Schedule I attached hereto sets forth each Sales Tax Saving availed of by the Companies pursuant to the Sales Tax Letter, the dollar amount of same, the date availed of, meaning the date of payment (although with respect to each item of Leased Personalty, the Sales Tax Saving shall be deemed availed of on each lease payment date under the related Qualified Personalty Lease), and the specific items of Project Personalty costs to which each shall relate.

2. All of the Sales Tax Savings described in Schedule I were availed of by the Companies in compliance with the provisions of the Sales Tax Letter and the Lease Agreement, and no Person other than the Companies and the Limited Lessee/Agents realized any such Sales Tax Savings.

3. The NPV dollar amount of all Sales Tax Savings availed of by the Companies from and after the Lease Commencement Date to the end of the Reported Period (including Sales Tax Savings availed of as a result of there being Leased Personalty during such immediately preceding period) is \$ _____.

4. The NPV dollar amount of all Energy Cost Savings availed of by the Companies during the Reported Period is \$ _____.

5. Attached hereto as Schedule II are all deletions and additions necessary to cause the Project Personalty Registry to be an accurate and complete description of the property comprising the Facility Equipment, the Leased Personalty and the Maintenance Contracts.

6. As of the end of the Reported Period and at all times during the Reported Period, the Companies were not in default under any of the provisions which relate to the Companies in the Lease Agreement. To the extent that the Authorized Representative of the Companies shall have obtained knowledge or notice of any such default, the certificate shall disclose such default(s) or notice thereof and the nature thereof, whether or not the same shall

constitute an Event of Default under the Lease Agreement, and the action proposed to be taken by the Companies with respect thereto.

7. No item of Facility Equipment or Leased Personalty has been removed from a Project Personalty Location prior to the expiration of the Retention Period for such item, except in accordance with Section 4.2 of the Lease Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this _____ day of _____.

ERNST & YOUNG U.S. LLP

By _____
Name:
Title:

ERNST & YOUNG LLP

By _____
Name:
Title:

Schedule I

Description of Item (incl. serial #, if maintained by <u>the Companies</u>)	<u>Location of Item Savings</u>	<u>Dollar Amount</u>	<u>Date of Vendor</u>	<u>Sales Tax Payment</u>	<u>Total Savings</u>
--	--	-----------------------------	----------------------------------	-------------------------------------	---------------------------------

Schedule II

Deletions and Additions to Project Personalty Registry

**CERTIFICATE OF AN AUTHORIZED REPRESENTATIVE OF THE COMPANY,
AS REQUIRED BY SECTION 7.3 OF THE LEASE AGREEMENT**

The undersigned does hereby certify that he/she is an Authorized Representative of Ernst & Young U.S. LLP, a Delaware limited liability partnership, and of Ernst & Young LLP, also a Delaware limited liability partnership (collectively, the "Companies"), and has the knowledge necessary to deliver this certificate, and this certificate is being delivered pursuant to Section 7.3 of the Lease Agreement, dated as of July 15, 2004 (the "Lease Agreement"), made by the New York City Industrial Development Agency and the Companies, and does hereby further certify as follows with respect to the Annual Period which commenced _____, ____ and ended _____, ____ (the "Reported Annual Period") (all capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Lease Agreement):

(1) The number of Annual Period Eligible Employees for the Reported Annual Period was _____, and the respective number of Eligible Employees employed during such Annual Period as constituted Full-Time Employees, Full-Time Equivalent Employees and Contract Employees was _____, _____ and _____, respectively.

(2) The number of Growth Credit Employees, if any, for the Reported Annual Period was _____.

(3) The Companies are entitled to a Growth Credit of \$_____ for the Reported Annual Period, and the basis for calculation thereof is as follows:

(4) There was (an increase) (a decrease) in the number of Annual Period Eligible Employees between the Reported Annual Period and the Annual Period immediately preceding the Reported Annual Period, and the amount of such (increase) (decrease) was _____.

(5) The aggregate amount of rentable square feet of the building known as 5 Times Square, New York, New York leased during the Reported Annual Period to Non-Qualified Users was _____, and attached hereto is a true, correct and complete schedule indicating the name and business operation of each such tenant, the term of each such lease, and the percentage of aggregate rentable square feet of the building known as 5 Times Square, New York, New York so leased to Non-Qualified Users.

(6) The aggregate amount of Growth Credits used by the Companies as Sales Tax Savings for the Reported Annual Period was \$_____.

(7) The number of Ineligible Employees for the Reported Annual Period was _____.

(8) No Acquisition or Merger occurred in the Reported Annual Period, or, if it did, the following are the relevant reasonable details and effect thereof:

(9) No E&Y Group Entity has transferred or established during the Reported Annual Period any Eligible Employees outside of the City, or, if it did, the following are the details thereof: _____

(10) No Base Employment Reduction occurred in the Reported Annual Period, or, if it did, the following are the details thereof (including, without limitation, whether such Reduction was a Non-Relocation Reduction or a Relocation Reduction, and supporting information and evidence regarding the operations and employment of the E&Y Group Entity), and the calculation of any amount to be repaid or reduction in future Sales Tax Savings:

(11) During the Reported Annual Period, no transaction of the type described in Section 8.1 of the Lease Agreement occurred, or, if it did, the following are the details thereof:

(12) During the Reported Annual Period, none of the circumstances of the type described in Section 7.12 of the Lease Agreement occurred, or if it did, the following are the details thereof: _____

(13) The amount of all Advanced Growth Credits utilized by the Companies in the Reported Annual Period with respect to which Growth Credits have not been offset in accordance with Section 7.8 of the Lease Agreement was \$_____.

(14) The aggregate amount of all Advanced Growth Credits utilized by the Companies with respect to which Growth Credits have not been offset in accordance with Section 7.8 of the Lease Agreement is \$_____.


IN WITNESS WHEREOF, the undersigned has hereunto set its hand this

ERNST & YOUNG U.S. LLP

By _____
Name:
Title:

ERNST & YOUNG LLP

By _____
Name:
Title:

	New York City Industrial Development Agency	<h2 style="text-align: center;">Annual Employment Report</h2> <p style="text-align: center;">For the year ending June 30, ____</p>
---	--	--

In order to comply with Local and State employment reporting requirements, the New York City Industrial Development Agency must require all of its project companies to complete and return the Report to the Agency no later than July 10, ____.

«COMPANY»
 «ADDRESS»
 «CITY »
 «NAME»

Telephone # _____

Tax ID # _____

Please provide information as of June 30th of jobs at the Project Location(s). Do not include any subcontractors and consultants. Include only employees and owners/principals on your payroll at the Project Location.

Number of existing **FULL TIME JOBS** _____

Number of existing **PART TIME JOBS** _____

Certification: I, the undersigned, hereby certify to the best of my knowledge and belief, that all information contained in this report is true and complete, and that I understand it is submitted pursuant to agreement. The Company hereby authorizes any private or governmental entity, including but not limited to The New York State Department of Labor (“DOL”), to release to the New York City Industrial Development Agency (the “Agency”) and/or to the New York City Economic Development Corporation (“EDC”), and/or to the successors and assigns of either (collectively, the “Information Recipients”), any and all employment information under DOL’s control which is pertinent to the Company and the Company’s employees. In addition, upon the Agency’s request, the Company shall provide to the Agency any employment information in the Company’s possession which is pertinent to the Company and the Company’s employees. Information released or provided to Information Recipients by DOL, or by any other governmental entity, or by any private entity, or by the Company itself, or any information previously released as provided by all or any of the foregoing parties (collectively, “Employment Information”) may be disclosed by the Information Recipients in connection with the administration of the programs of the Agency, and/or EDC, and/or the successors and assigns of either, and/or The City of New York, and/or as may be necessary to comply with law; and, without limiting the foregoing, the Employment Information may be included in (x) reports prepared by the Information Recipients pursuant to New York City Local Law 69 of 1993, (y) other reports required of the Agency, and (z) any other reports required by law. This authorization shall remain in effect through the term of this transaction.

Principal/Owner/Chief Financial Officer

(please print)

Signature _____

Date _____

QUESTIONS: Please call the IDA
Compliance Helpline at (212) 312-3963.
 • 110 William Street, New York, NY 10038• 212.619.5000