
NEW YORK CITY
INDUSTRIAL DEVELOPMENT AGENCY

AND

METROPOLITAN LIFE INSURANCE COMPANY

PROJECT AGREEMENT

Dated as of December 1, 2001

New York City Industrial Development Agency
Metropolitan Life Insurance Company Project

TABLE OF CONTENTS

Page

ARTICLE I

DEFINITIONS

| | | |
|--------------|------------------------|----|
| Section 1.1. | Definitions | 4 |
| Section 1.2. | Construction | 22 |

ARTICLE II

REPRESENTATIONS AND WARRANTIES; CONSIDERATION

| | | |
|--------------|---|----|
| Section 2.1. | Representations and Warranties by the Company | 23 |
| Section 2.2. | Representations and Warranties by Agency | 28 |
| Section 2.3. | Acknowledgments of Consideration | 29 |

ARTICLE III

SALES TAX EXEMPTIONS

| | | |
|--------------|--|----|
| Section 3.1. | Sales Tax Exemption Procedures | 31 |
| Section 3.2. | Rent Relating to Leased Personalty and Maintenance Contracts | 41 |
| Section 3.3. | Limitation on Sales Tax Exemption | 41 |
| Section 3.4. | Current Facility Equipment, Leased Personalty, Tenant Improvements and Maintenance Contracts Descriptions | 42 |
| Section 3.5. | Subtenant Survey | 42 |
| Section 3.6. | Limited Lessee/Agents; Appointment of Limited Lessee/Agents | 43 |

ARTICLE IV

NON-MERGER OF THE COMPANY AND CERTAIN OTHER COVENANTS

| | | |
|--------------|--|----|
| Section 4.1. | Dissolution or Merger of Company | 45 |
| Section 4.2. | Fees of the Agency and the PILOT Trustee | 46 |

ARTICLE V

FORFEITURE AND RECAPTURE OF BENEFITS

| | | |
|--------------|--|----|
| Section 5.1. | Benefit Limitations | 47 |
| Section 5.2. | Calculation of Eligible Employees | 48 |
| Section 5.3. | Annual Reporting | 49 |
| Section 5.4. | Prior Notice of Reductions | 49 |
| Section 5.5. | Non-Relocation Reduction of Eligible Employees | 49 |
| Section 5.6. | Relocation Reduction of Eligible Employees | 51 |
| Section 5.7. | Acquisitions and Mergers | 54 |
| Section 5.8. | Growth Credit | 56 |
| Section 5.9. | Retention of Headquarters and Designated Operations and Facilities . . . | 58 |

| | | |
|---------------|--|----|
| Section 5.10. | Casualty or Condemnation | 58 |
| Section 5.11. | Employment Information; Equal Employment Opportunities | 59 |
| Section 5.12. | Suspension of Benefits | 60 |
| Section 5.13. | Confidentiality | 61 |
| Section 5.16. | Relocation Real Estate Tax Abatement | 62 |
| Section 5.17. | Survival of Obligations | 64 |
| Section 5.18. | Replacement of Facility Realty (One Madison Avenue) | 64 |
| Section 5.19. | "In-Fill" Building | 64 |

ARTICLE VI

DEFAULT

| | | |
|--------------|---|----|
| Section 6.1. | Events of Default | 67 |
| Section 6.2. | Remedies on Default | 68 |
| Section 6.3. | Remedies Cumulative | 69 |
| Section 6.4. | No Additional Waiver Implied by One Waiver | 69 |
| Section 6.5. | Effect of Discontinuance of Proceedings. | 69 |
| Section 6.6. | Agreement to Pay Attorneys' Fees and Expenses | 70 |

ARTICLE VII

MISCELLANEOUS

| | | |
|---------------|---|----|
| Section 7.1. | Financial Statements; Annual Certificates | 71 |
| Section 7.2. | Limitations of Liability | 71 |
| Section 7.3. | Employment Information | 72 |
| Section 7.4. | Benefit, Enforcement and Binding Effect of this Agreement | 72 |
| Section 7.5. | Amendments | 72 |
| Section 7.6. | Notices | 72 |
| Section 7.7. | Prior Agreements Superseded | 73 |
| Section 7.8. | Severability | 73 |
| Section 7.9. | Option of Company to Effect Release and Conveyance of Project Property | 73 |
| Section 7.10. | Effective Date; Counterparts | 73 |
| Section 7.11. | Binding Effect | 74 |
| Section 7.12. | Law Governing | 74 |
| Section 7.13. | Waiver of Trial by Jury | 74 |
| Section 7.14. | Date of Agreement for Reference Purposes Only | 74 |

Appendices

| | |
|---|--|
| Letter of Authorization for Sales Tax Exemption | |
| Exhibit A | - Certificate of the Company |
| Exhibit B | - Certificate of an Authorized Representative of the Company, as Required by Section 5.3 of the Project Agreement |
| Schedule A | - Annual Employment Report |
| Schedule B | - Subtenant Survey |
| Assumption of Limited Lessee/Agent | |

PROJECT AGREEMENT

THIS PROJECT AGREEMENT (this "Agreement"), made and entered into as of December 1, 2001, 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"), party of the first part, and **METROPOLITAN LIFE INSURANCE COMPANY**, a corporation organized and existing under the laws of the State of New York (the "Company"), party of the second part (capitalized terms used but not defined in the recitals to this Agreement shall have the respective meanings assigned such terms in Section 1.1 hereof or in the Lease Agreements referred to herein):

W I T N E S S E T H:

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 Company advised each of the Agency and the appropriate officials of the City as follows: that the Company, which is headquartered in the City and occupies approximately 1,500,000 square feet of office space at four different locations in Manhattan, desired to reduce the costs of operating in the City; that the Company had explored several relocation options relative to its headquarters and business operations, including relocating its business operations within the City to New Jersey; that the Company employs approximately 2,612 full time and full time equivalent employees within the City; that the Company desired to enter into a lease of approximately 404,000 square feet of space at 27-01 Bridge Plaza North, Long Island City, New York, and incur significant costs to improve, equip and furnish the space, and to maintain and improve approximately 270,000 square feet of space at One Madison Avenue, New York, New York, but would do so only if Agency financial assistance in the form of sales tax exemptions, relocation real estate tax abatements, mortgage recording tax exemptions and discounted energy costs through a straight-lease project could be made available to the Company to both offset these costs and the higher costs of operating within the City; that the Company

estimated that with such benefits it would be able to retain 1,912 full time and full time equivalent employees in the City; that in the absence of Agency financial assistance, it would not be economically feasible and justifiable for the Company to continue maintaining operations in the City and execute a new lease of space in Long Island City; and that based upon the public financial incentives provided through the Agency in furtherance of the Agency's corporate purposes, the Company determined to proceed with the Project in the City; and

WHEREAS, (i) by deed delivered on the Project Commencement Date from the Company to the Agency, the Agency has acquired title (subject to a possibility of reverter) to the Initial Agency Owned Units (One Madison Avenue), (ii) pursuant to the Overlease Agreement (One Madison Avenue), the Agency has leased the Initial Agency Owned Units (One Madison Avenue) to the Company, (iii) pursuant to the Prime Lease (One Madison Avenue), the Company has subleased the Initial Agency Owned Units (One Madison Avenue) and the remainder of the Project Building (One Madison Avenue), to CSFB, (iv) pursuant to the MetLife Sublease (One Madison Avenue), CSFB has sub-subleased the Initial Agency Owned Units (One Madison Avenue) and certain other premises to the Company, (v) pursuant to the Company Lease (One Madison Avenue), the Company has sub-sub-subleased the Initial Agency Owned Units (One Madison Avenue) to the Agency, (vi) pursuant to the Lease Agreement (One Madison Avenue), the Agency has sub-sub-sub-subleased the Initial Agency Owned Units (One Madison Avenue) to the Company, and (vii) pursuant to the PILOT Agreement (One Madison Avenue), the Company has agreed to make certain payments in lieu of real estate taxes (subject to certain credits) and certain payments in lieu of CRT with respect to the Facility Realty (One Madison Avenue); and

WHEREAS, (i) by deed delivered on the Project Commencement Date from the Sublandlord (Bridge Plaza North) to the Agency, the Agency has acquired title (subject to a possibility of reverter) to the Facility Realty (Bridge Plaza North), (ii) pursuant to the Overlease Agreement (Bridge Plaza North), the Agency has leased the Facility Realty (Bridge Plaza North) to the Sublandlord (Bridge Plaza North), (iii) pursuant to the Prime Lease (Bridge Plaza North), the Sublandlord (Bridge Plaza North) has subleased the Facility Realty (Bridge Plaza North) to the Company, (iv) pursuant to the Company Lease (Bridge Plaza North), the Company has sub-subleased the Facility Realty (Bridge Plaza North) to the Agency, (v) pursuant to the Lease Agreement (Bridge Plaza North), the Agency has sub-sub-subleased the Facility Realty (Bridge Plaza North) to the Company, and (vi) pursuant to the PILOT Agreement (Bridge Plaza North), the Company has agreed to make certain payments in lieu of real estate taxes (subject to certain credits) and certain payments in lieu of CRT, if any, with respect to the Facility Realty (Bridge Plaza North); and

WHEREAS, pursuant to the Equipment Lease Agreement, the Agency has leased the Facility Equipment, Leased Personalty and Maintenance Contracts to the Company; and

WHEREAS, the Agency and the Company have agreed that the Company will receive the benefit of certain real estate tax savings, mortgage recording tax savings, energy cost

savings, sales and use tax exemptions and certain other benefits in connection with the Project from time to time as and to the extent provided herein; and

WHEREAS, the Company and the Agency wish to set forth certain agreements between them;

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 or 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):

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. Terms used herein, unless otherwise defined herein, shall have the meanings assigned to them in the Lease Agreements or in the PILOT Agreements. In addition, the following terms herein shall have the meanings assigned to them below.

Acquisition shall mean any acquisition or series of acquisitions (whether by stock or asset purchase, hiring or otherwise), directly or indirectly, other than by a Merger, by a Company Group Entity of a business or operation of 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 employment of a Company Group Entity within the City by an aggregate of ten (10) or more Employees.

Actual Real Property Taxes shall mean, for any City Tax Fiscal Year, the Real Property Taxes which would have been due and payable with respect to the Facility Realty (One Madison Avenue) or the Facility Realty (Bridge Plaza North), as applicable, calculated on the basis of the then current AV and the then current real property tax rate.

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 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, or (ii) the ownership, either directly or indirectly, of at least 51% of the voting stock or other equity interest 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 applicable federal, state and local laws, rules and regulations affecting the Agency or any activities of the Agency, or policies otherwise adopted by the Agency from time to time in effect, including, but not limited to, laws, rules and regulations governing the Agency.

Aggregate Benefits shall mean the aggregate amount of Benefits (expressed in nominal dollars) actually received by the Company Group from the Inducement Date through the date of computation thereof (or, if not so stated, the date of the most recently completed Annual Period).

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Annual Period shall mean (i) that period commencing on the Inducement Date and terminating on the day immediately preceding the Project Commencement Date, which shall be the first Annual Period, (ii) that period commencing on the Commencement Date and ending on June 30, 2002, which shall be the second Annual Period, and (iii) thereafter each annual period commencing on July 1 and ending on the next succeeding June 30, with the final annual period to commence on July 1, 2020 and end on June 30, 2021 (subject to extension pursuant to the provisions of Sections 5.10 or 5.16 hereof).

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, as determined by dividing (i) the sum of the average 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 5.2 hereof.

Approved Project Personalty Location shall mean any or all of the following locations within the City to the extent that such locations shall be occupied by the Company or any Eligible Affiliate engaged in the conduct of the Company Business:

- (i) the Facility Realty (Bridge Plaza North);
- (ii) the Facility Realty (One Madison Avenue);
- (iii) 1 Penn Plaza, Manhattan, New York;
- (iv) 200 Park Avenue, Manhattan, New York; and

such other locations within the City as the Agency shall, upon written request by an Authorized Representative of the Company, approve in accordance with the Agency Requirements, such approval by the Agency to be evidenced by a writing to such effect delivered by the Agency to the Company.

Authorized Representative shall mean, (i) in the case of the Agency, the Chairman, Vice Chairman, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary, General Counsel, Vice President for Legal Affairs, Executive Director or Deputy Executive Director 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 Company, 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 Vice President of Corporate Services, the General Counsel, the Treasurer, any Assistant Treasurer or any Vice President of the Company; 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 any Project Document, 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.

Authorizing Resolutions shall mean the resolutions of the Agency adopted on April 10, 2001, May 10, 2001, August 21, 2001 and December 11, 2001 authorizing, among other things, the execution and delivery of the Project Documents to which the Agency is a party.

Base Employment Number shall mean, for any Annual Period, 1,750 Eligible Employees; provided, however, that for the purpose of calculating the Base Employment Reduction and Base Employment Reduction Percentage in connection with a Relocation Reduction, the Base Employment Number for the applicable 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.

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 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, but subject to the respective maximum amounts permitted therefor under this Agreement, (i) all Real Property Tax Savings, (ii) all MRT Savings, (iii) all Sales Tax Savings (including such savings availed of or to be availed of through the application of Growth Credits), and (iv) all Energy Cost Savings (each of such Savings in clauses (i), (ii), (iii) or (iv) being, individually, a "Benefit"), availed of and to be availed of by a Company Group Entity pursuant to the Bridge Plaza North Mortgages, the PILOT Agreements, the Preliminary Sales Tax Letter, the Sales Tax Letter or this Agreement and not repaid pursuant to this Agreement.

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

BIR Energy Load shall mean, collectively, the BIR Energy Load (One Madison Avenue) and the BIR Energy Load (Bridge Plaza North).

BIR Energy Load (Bridge Plaza North) shall mean 1.61 megawatts of BIR Energy, which shall be the maximum BIR Energy demand commitment made by Con Ed to the Company and/or Eligible Affiliates for the BIR Premises (Bridge Plaza North), together with any BIR Energy Load (One Madison Avenue) which the Company determines should be transferred from the BIR Premises (One Madison Avenue) to the BIR Premises (Bridge Plaza North); provided, however, that any such transfers or re-allocations of BIR Energy Load (One Madison Avenue) may only be made upon the Project Commencement Date and no more than two times thereafter.

BIR Energy Load (One Madison Avenue) shall mean 1.08 megawatts of BIR Energy, which shall be the maximum BIR Energy demand commitment made by Con Ed to the Company and/or Eligible Affiliates for the BIR Premises (One Madison Avenue).

BIR Premises shall mean, collectively, the BIR Premises (Bridge Plaza North) and the BIR Premises (One Madison Avenue).

BIR Premises (Bridge Plaza North) shall mean the premises in that certain building located at 27-01 Bridge Plaza North, Long Island City, New York, to the extent occupied and used by the Company and/or Eligible Affiliates.

BIR Premises (One Madison Avenue) shall mean the premises in that certain building located at One Madison Avenue, New York, New York, to the extent occupied and used by the Company and/or Eligible Affiliates.

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.

Bridge Plaza North Mortgages shall mean, collectively, that certain Project Loan Mortgage, Assignment of Leases and Rents and Security Agreement, and that certain Building Loan Mortgage, Assignment of Leases and Rents and Security Agreement, each dated as of September 20, 2001, and each from the Sublandlord (Bridge Plaza North) and the Agency to Fleet National Bank, as mortgagee, securing indebtedness in the respective principal amounts of \$14,554,200 and \$34,720,800.

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.

City shall mean The City of New York.

Code shall mean the Internal Revenue Code of 1986, as amended, and the regulations thereunder.

Company shall mean Metropolitan Life Insurance Company, a corporation organized and existing under and by virtue of the laws of the State of New York, and its permitted successors and assigns pursuant to Section 4.1 hereof and Section 6.1 or 9.3 of the Lease Agreements.

Company Business shall mean the business of providing financial services, including, without limitation, life insurance and other insurance policies, and annuities, retirement and benefit plans for companies and individuals.

Company Group shall mean the Company and the Eligible Affiliates.

Company Group Entity shall mean the Company or any Eligible Affiliate.

Company Lease (Bridge Plaza North) shall mean the Amended and Restated Company Lease Agreement (Bridge Plaza North) dated as of even date herewith between the Company and the Agency relative to the Facility Realty (Bridge Plaza North), and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Company Lease (One Madison Avenue) shall mean the Amended and Restated Company Lease Agreement (One Madison Avenue) dated as of even date herewith between the Company and the Agency relative to the Facility Realty (One Madison Avenue), and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Company Leases shall mean, collectively, the Company Lease (Bridge Plaza North) and the Company Lease (One Madison Avenue).

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

CRT shall mean commercial rent taxes payable pursuant to Title 11, Chapter 7 of the Administrative Code of The City of New York, as the same may be amended from time to time.

CRT PILOT shall mean payments in lieu of CRT.

CSFB shall mean Credit Suisse First Boston (USA), Inc., a Delaware corporation, and its successors and assigns under the Prime Lease (One Madison Avenue) and the MetLife Sublease (One Madison Avenue).

Declaration shall have the meaning assigned to such term by the Lease Agreement (One Madison Avenue).

Designated Operations and Facilities shall mean,

- (i) for the period commencing from the Project Commencement Date or such first day upon which the Project Building (Bridge Plaza North) shall be available for occupancy, through and including March 31, 2007 (subject to extension in accordance with the provisions of Sections 5.10 or 5.16 hereof), occupancy of 404,000 rentable square feet of the Project Building (Bridge Plaza North) by the Company and/or Eligible Affiliates, subject to permitted subletting up to fifteen percent (15%) of the aggregate rentable square feet (i.e., 60,600 rentable square feet) of the Project Building (Bridge

Plaza North) if effected in accordance with Section 9.2 of the Lease Agreement (Bridge Plaza North), and

(ii) for the period commencing on April 1, 2007 through and including June 30, 2011 (subject to extension as to each such date in accordance with the provisions of Sections 5.10 or 5.16 hereof), occupancy of 404,000 rentable square feet of the Project Building (Bridge Plaza North) by the Company and/or Eligible Affiliates, subject to permitted subletting up to fifteen percent (15%) of the aggregate rentable square feet (i.e., 60,600 rentable square feet) of the Project Building (Bridge Plaza North) if effected in accordance with Section 9.2 of the Lease Agreement (Bridge Plaza North), provided, however, that, in the event the Company shall elect, in accordance with Section 9.2 of the Lease Agreement (Bridge Plaza North), to have more than fifteen percent (15%), but not more than thirty percent (30%), of the aggregate rentable square footage of the Project Building (Bridge Plaza North) occupied by Non-Qualified Users, and the In-Fill Building shall have been completed and available for occupancy by the Company Group, then, for so long as such occupancy by Non-Qualified Users shall exceed fifteen percent (15%) of the aggregate rentable square footage of the Project Building (Bridge Plaza North), the Company and/or Eligible Affiliates shall occupy an aggregate of 500,000 rentable square feet in the aggregate of the Project Building (Bridge Plaza North) and the In-Fill Building, provided, that, (x) no more than two (2) floors of the Project Building (Bridge Plaza North) are occupied by Non-Qualified Users, (y) no more than thirty percent (30%) of the aggregate rentable square feet of the Project Building (Bridge Plaza North) are occupied by Non-Qualified Users, and (z) up to fifteen percent (15%) of the 500,000 rentable square feet so covenanted above to be occupied by the Company Group (or 75,000 rentable square feet) may be occupied by Non-Qualified Users (if effected in accordance with the provisions of Section 9.2 of the Lease Agreement (Bridge Plaza North)).

Designated Operations and Facilities Covenant shall mean the covenant of occupancy by the Company Group as provided in Section 5.9 hereof.

Eligible Affiliate shall mean, to the extent such Person is engaged in the Company Business within the City, employs individuals within the City and has an office or offices in the City, any Affiliate of the Company with respect to whom the Company has the authority to influence or direct key decisions regarding personnel, including, without limitation, hiring, firing, compensating and promoting the employees of such Person.

Eligible Employee shall mean an Employee of a Company Group Entity (i) located and employed exclusively in the City, (ii) having his or her principal base of operations in the City, (iii) whose income is paid exclusively from such Company Group Entity's City-based payroll, and (iv) with respect to whom such Company 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 such Company Group Entity on Form NYS-45 or its equivalent, but excluding any Ineligible Employee. It is acknowledged and agreed by

the Agency and the Company that an Employee may be deemed "(i) located and employed exclusively in the City" notwithstanding that the responsibilities of such Employee may entail occasional and incidental business travel.

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

Employee Support Space shall mean any premises within the Facility Realty (One Madison Avenue) or the Facility Realty (Bridge Plaza North) which are dedicated exclusively to providing services (e.g., a cafeteria, a gymnasium, a medical infirmary, a company store, etc.) to Employees (including their spouses, retired Employees and invited guests, but not the general public), and to no other individuals, notwithstanding that any such services may be provided by a Non-Qualified User as an operator or contractor for the benefit of the Company Group.

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

Equipment Lease Agreement shall mean the Equipment Lease Agreement dated as of even date herewith between the Agency and the Company, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Facility Equipment shall have the meaning ascribed to such term in the Equipment Lease Agreement.

Facility Realty shall mean, collectively, the Facility Realty (Bridge Plaza North) and the Facility Realty (One Madison Avenue).

Facility Realty (Bridge Plaza North) shall have the meaning ascribed to the term "Facility Realty" in the Lease Agreement (Bridge Plaza North).

Facility Realty (One Madison Avenue) shall have the meaning ascribed to the term "Facility Realty" in the Lease Agreement (One Madison Avenue).

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.

Foreign Entity shall mean any Person not constituting a Company Group Entity.

Full-Time Employee shall mean, with respect to an Annual Period, a natural person on the payroll of, receiving customary benefits from, and directly employed during such Annual Period by, a Company Group Entity (and excluding any persons employed by temporary employment or similar agencies) and each of whom works within the City for such Company 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 on the payroll of, receiving customary benefits from, and directly employed during such Annual Period by, a Company Group Entity (and excluding any persons employed by temporary employment or similar agencies) and each of whom works within the City for such Company 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, but expressly excluding from such charges amounts payable as a direct return of claimed Sales Tax Savings.

Growth Credit shall mean a credit to the Maximum Sales Tax Savings Amount provided to the Company Group for each Growth Credit Employee in an amount equal to \$3,800 per Annual Period (for a maximum of five (5) years per Growth Credit Employee), all as provided in Section 5.8 hereof.

Growth Credit Employee, for any Annual Period, shall mean each Eligible Employee included in the excess, if any, of Annual Period Eligible Employees over the Base Employment Number; Growth Credit Employees shall not include (and the Company Group shall not enjoy a Growth Credit for) Ineligible Employees.

Headquarters shall mean (i) the executive offices that are most closely associated with the principal decision-making with respect to the business operations of the Company and (ii) those Employees who make the principal decisions concerning the business operations of the Company.

Independent Accountant shall mean (x) Richard Eisner & Co., (y) any of the "Big Five" accounting firms, or (z) an independent certified public accountant or firm of independent certified public accountants selected by the Company and approved in writing by the Agency (such approval not to be unreasonably withheld, delayed or conditioned).

Inducement Date shall mean April 10, 2001.

Ineligible Employee shall mean (a) any Employee employed by a Company Group Entity as a result of an Acquisition or Merger occurring at any time during the Term of this

Agreement, 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 twelve (12) month period immediately prior to and including the date on which such Acquisition or Merger occurred, (b) any Employee originating from an Acquisition or Merger between a Company Group Entity and a Foreign Entity occurring at any time during the Term of this Agreement, 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 twelve (12) month period immediately prior to and including the date on which such Acquisition or Merger occurred, (c) for any Annual Period, any Full-Time Equivalent Employees included in that number of Full-Time Equivalent Employees which exceed in the aggregate ten percent (10%) of the total Annual Period Eligible Employees for such Annual Period, or (d) any Sales Force Employee.

In-Fill Building shall have the meaning assigned such term by Section 5.19 hereof.

Initial Agency Owned Units (One Madison Avenue) shall have the meaning assigned to the term "Initial Agency Owned Units" under the Lease Agreement (One Madison Avenue).

Lease Agreement (Bridge Plaza North) shall mean the Amended and Restated Lease Agreement (Bridge Plaza North) dated as of even date herewith between the Agency and the Company, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Lease Agreement (One Madison Avenue) shall mean the Amended and Restated Lease Agreement (One Madison Avenue) dated as of even date herewith between the Agency and the Company, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Lease Agreements shall mean, collectively, the Lease Agreement (Bridge Plaza North), the Lease Agreement (One Madison Avenue) and the Equipment Lease Agreement.

Leased Personalty shall have the meaning assigned to that term in the Equipment Lease Agreement.

Limited Lessee/Agent shall mean an Eligible Affiliate appointed by the Agency as its agent for the purposes and on the conditions set forth in Section 3.6 hereof, and acting as a lessee of all or part of the Project Property under the related Lease Agreement(s) and as an assuming party under each of the related Lease Agreement(s), this Agreement and the Sales Tax Letter, all as set forth in Section 3.6 hereof.

Maintenance Contracts shall have the meaning assigned to that term in the Equipment Lease Agreement.

Maximum Energy Cost Savings Amount shall mean an amount of Energy Cost Savings available to the Company Group during the Term of this Agreement not to exceed \$1,675,925 NPV, subject to reduction as provided herein.

Maximum Growth Credit Amount shall mean \$3,460,000 NPV.

Maximum MRT Savings Amount shall mean an amount not to exceed \$1,675,000 (in nominal dollars) made available to the Company Group during the Term of this Agreement, subject to reduction as provided herein. To the extent used by the Company Group, the first \$1,375,000 of MRT Savings (the "Initial MRT Savings") are deducted from the Maximum Sales Tax Savings Amount and subsequent MRT, to the extent they are greater than \$1,375,000 and less than or equal to \$1,675,000 (the "Subsequent MRT Savings"), are deducted from the Relocation Real Estate Tax Abatement.

Maximum Real Property Tax Savings Amount, as earned by the Company Group in accordance herewith through the Relocation Real Estate Tax Abatement, shall mean an amount not to exceed \$10,500,000 NPV made available to the Company Group during the Term of this Agreement.

Maximum Sales Tax Savings Amount shall mean, with respect to any Sales Tax Savings realized in the aggregate by the Company Group pursuant to the Preliminary Sales Tax Letter and the Sales Tax Letter, an aggregate amount not to exceed (a) the sum of (i) \$10,722,000 NPV, and (ii) the aggregate nominal dollar amount of Growth Credits earned by the Company Group in accordance herewith, subject to the Maximum Growth Credit Amount, less (b) the Initial MRT Savings realized by the Company Group, either directly or indirectly (e.g., through a reduction in rental payments under the Prime Lease (Bridge Plaza North)); all subject to reduction as provided herein.

Merger shall mean a merger between a Company Group Entity and a Foreign Entity.

MetLife Sublease (One Madison Avenue) shall mean that certain Sublease dated as of February 22, 2001 between CSFB, as landlord, and the Company, as tenant, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Minimum Net Worth Requirement shall mean a net worth of the Company (computed in accordance with generally accepted accounting principles) of at least five hundred million dollars (\$500,000,000).

MRT shall mean the tax imposed under Article 11 of the New York State Tax Law, as the same may be amended from time to time.

MRT Savings shall mean the amount of MRT that would have been required to be paid with respect to any mortgage of all or part of the Facility Realty (Bridge Plaza North) or of the Facility Realty (One Madison Avenue) but was not required to be paid by reason of the Agency's ownership or leasehold interest therein, in an amount not to exceed the Maximum MRT Savings Amount, subject to reduction as provided herein.

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

| <u>Annual Period</u> <u>(both dates inclusive)</u> | <u>Multiplier Factor</u> |
|---|--------------------------|
| Inducement Date through June 30, 2011 | 2.0 |
| July 1, 2011 through June 30, 2013 | 1.8 |
| July 1, 2013 through June 30, 2015 | 1.7 |
| July 1, 2015 through June 30, 2016 | 1.6 |
| July 1, 2016 through June 30, 2017 | 1.5 |
| July 1, 2017 through June 30, 2018 | 1.4 |
| July 1, 2018 through June 30, 2019 | 1.3 |
| July 1, 2019 through June 30, 2020 | 1.2 |
| July 1, 2020 through June 30, 2021 | 1.1 |

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 and the Company) incurred in the collection thereof.

Non-Relocation Reduction shall mean any Base Employment Reduction in an Annual Period 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 Project 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. For purposes hereof, NPV shall not apply to Benefits realized prior to the Project Commencement Date.

Opinion of Counsel shall mean a written opinion of counsel who may (except as otherwise expressly provided in this Agreement or any other Project Document) be counsel for

the Company, including the Legal Department of the Company, and who, other than the Legal Department of the Company, shall be reasonably acceptable to the Agency.

Overlease Agreements shall mean, collectively, the Overlease Agreement (Bridge Plaza North) and the Overlease Agreement (One Madison Avenue).

Overlease Agreement (Bridge Plaza North) shall mean the Overlease Agreement (Bridge Plaza North) dated as of even date herewith between the Agency and the Sublandlord (Bridge Plaza North), and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Overlease Agreement (One Madison Avenue) shall mean the Overlease Agreement (One Madison Avenue) dated as of even date herewith between the Agency and the Company, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Permitted Encumbrances shall have the applicable meaning assigned such term by the respective Lease Agreement.

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

PILOT Agreements shall mean, collectively, the PILOT Agreement (Bridge Plaza North) and the PILOT Agreement (One Madison Avenue).

PILOT Agreement (Bridge Plaza North) shall mean the PILOT Agreement (Bridge Plaza North) dated as of even date herewith between the Agency and the Company, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

PILOT Agreement (One Madison Avenue) shall mean the PILOT Agreement (One Madison Avenue) dated as of even date herewith between the Agency and the Company, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

PILOT Trust Agreement shall mean the PILOT Trust Agreement dated as of May 17, 2000 between the Agency and the PILOT Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

PILOT Trustee shall mean The Bank of New York, New York, New York, in its capacity as PILOT Trustee under the PILOT Trust Agreement, and its successors in such capacity and their assigns hereafter appointed in the manner provided in the PILOT Trust Agreement.

Preliminary Sales Tax Letter shall mean that certain Preliminary Sales Tax Letter, dated May 31, 2001, as amended and restated by a First Amended and Restated Preliminary Sales Tax Letter dated December 1, 2001, and by a Second Amended and Restated Preliminary Sales Tax Letter dated December 31, 2001, issued by the Agency to the Company.

Prime Lease (Bridge Plaza North) shall mean that certain Net Lease dated as of May 10, 2001 between the Sublandlord (Bridge Plaza North) and the Company, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Prime Lease (One Madison Avenue) shall mean that certain Lease dated as of February 22, 2001 between the Company, as landlord, and CSFB, as tenant, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Prohibited Person shall mean:

(i) any Person (A) that is in default or in 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 material default or material 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;

(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);

(v) any Person that has received written notice of default in the payment to the City of any taxes, sewer rents or water charges and has not timely cured such default, unless such default is then being contested with due diligence in proceedings in a court or other appropriate forum; or

(vi) any Person (A) that has owned at any time in the preceding three (3) years any property which, while in the ownership of such Person, was acquired by the City by in rem tax foreclosure, other than a property in which the City has released or is in the process of releasing its interest to such Person pursuant to the Administrative Code of The City of New York, or (B) that, directly or indirectly controls, is controlled by, or is under common control with a Person that has owned at any time in the preceding (3) years any property which, while in the ownership of such Person, was acquired by the City by in rem tax foreclosure, other than a property in which the City has released or is in the process of releasing its interest to such Person pursuant to the Administrative Code of The City of New York.

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 (i) the construction and installation from time to time of Tenant Improvements (One Madison Avenue) to the Facility Realty (One Madison Avenue), (ii) the construction and installation from time to time of Tenant Improvements (Bridge Plaza North) to the Facility Realty (Bridge Plaza North), and (iii) the acquisition, leasing, subleasing, licensing, sublicensing, maintenance and repair of Facility Equipment, Leased Personalty and Maintenance Contracts for location at Approved Project Personalty Locations, all for use thereat by the Company Group in the Company Business.

Project Commencement Date shall mean December 27, 2001, that date upon which, among other things, the Agency shall acquire fee simple title to the Facility Realty, and enter into each of the PILOT Agreements and the Overlease Agreements.

Project Building (Bridge Plaza North) shall have the meaning ascribed to the term "Project Building" in the Lease Agreement (Bridge Plaza North).

Project Building (One Madison Avenue) shall have the meaning ascribed to the term "Project Building" in the Lease Agreement (One Madison Avenue).

Project Documents shall mean, collectively, the Prime Lease (One Madison Avenue), the Prime Lease (Bridge Plaza North), the MetLife Sublease (One Madison Avenue), the Declaration, the Tax Agreement (One Madison Avenue), the Company Leases, the Lease Agreements, the PILOT Agreements, this Agreement, the Preliminary Sales Tax Letter and the Sales Tax Letter.

Project Personalty shall have the meaning ascribed thereto in the Equipment Lease Agreement.

Project Property shall mean the Facility Realty (Bridge Plaza North), the Facility Realty (One Madison Avenue), the Tenant Improvements (Bridge Plaza North), the Tenant Improvements (One Madison Avenue) and the Project Personalty.

Project Property Registry shall mean the registry maintained by the Agency at its office of all the Facility Equipment, the Leased Personalty, the Maintenance Contracts and the Tenant Improvements, as such registry shall be modified, amended or supplemented from time to time in accordance with Section 3.4 hereof.

Project Term shall mean the period commencing on the Inducement Date and terminating on June 30, 2021, subject to extension pursuant to the provisions of Sections 5.10 and 5.16 hereof.

Project Term Sheet shall mean that certain Term Sheet dated April 9, 2001, between the City and the Company, describing certain of the aspects of the Project but imposing no obligations or liabilities upon the parties thereto, or the other parties mentioned therein, all such obligations, liabilities and associated rights being established and set forth herein and in the other Project Documents.

Qualified Maintenance shall have the meaning ascribed thereto in the Equipment Lease Agreement.

Qualified Maintenance Contract shall have the meaning ascribed thereto in the Equipment Lease Agreement.

Qualified Personalty Lease shall have the meaning ascribed thereto in the Equipment Lease Agreement.

Real Property Taxes shall have the meaning assigned to that term by the related PILOT Agreement.

Real Property Tax Savings shall mean the positive difference, if any, between (i) the amount of Real Property Taxes which the Company would have been required to pay (either as owner of the Facility Realty (One Madison Avenue) or as if it were the owner of the Facility

Realty (Bridge Plaza North)) with respect to the Facility Realty (Bridge Plaza North) or the Facility Realty (One Madison Avenue) but for the Agency's ownership thereof, and (ii) the payments in lieu of real estate taxes as shall be payable by the Company pursuant to the respective PILOT Agreements including RRETA (but excluding, therefrom, any CRT PILOT).

Recapture Amount shall mean the Aggregate Benefits not previously recaptured, excluding from such calculation any amounts paid by reason of the application of the Multiplier Factor.

Recapture Payment shall mean any amount as shall be due and owing by the Company pursuant to Section 5.6 or 5.9 hereof.

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

| <u>Annual Period</u> (both dates inclusive) | <u>Recapture Percentage</u> |
|--|-----------------------------|
| Inducement Date through June 30, 2011 | 100% |
| July 1, 2011 through June 30, 2013 | 85 |
| July 1, 2013 through June 30, 2015 | 75 |
| July 1, 2015 through June 30, 2016 | 65 |
| July 1, 2016 through June 30, 2017 | 55 |
| July 1, 2017 through June 30, 2018 | 45 |
| July 1, 2018 through June 30, 2019 | 35 |
| July 1, 2019 through June 30, 2020 | 25 |
| July 1, 2020 through June 30, 2021 | 20 |

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

Relocated Employee shall mean any Eligible Employee who is relocated from outside of the City (or from within the Borough of Manhattan but south of 96th Street) to the Facility Realty (Bridge Plaza North), or is replaced by another Relocated Employee or by an Eligible Employee subsequently hired by a Company Group Entity to replace such Relocated Employee.

Relocation Credit shall have the meaning assigned to such term in Section 5.16 hereof.

Relocation Real Estate Tax Abatement ("RRETA") shall mean a credit provided to the Company under the PILOT Agreements for each Relocated Employee in an amount equal to \$2,715 per Annual Period for a maximum of five (5) Annual Periods, reduced to the extent of Subsequent MRT Savings, provided that such employee continuously remains an Eligible Employee located at the Facility Realty (Bridge Plaza North), or is replaced by another Relocated Employee, such credit to be earned commencing on June 30, 2002 and not later than June 30, 2006, subject to extension in accordance with the provisions of Section 5.16 hereof.

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 Benefit 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 to the Company Group during the Term of this Agreement as of the end of the most recent Annual Period from the Maximum Energy Cost Savings Amount.

Remaining MRT Benefit the amount of MRT Savings remaining and unutilized and calculated as equal to the positive difference derived by subtracting the MRT Savings made available to the Company Group during the Term of this Agreement as of the end of the most recent Annual Period from the Maximum MRT Savings Amount.

Remaining Real Property Tax Benefit shall mean the amount of Real Property Tax Savings remaining and unutilized and calculated as equal to the positive difference derived by subtracting the Real Property Tax Savings made available to the Company Group during the Term of this Agreement as of the end of the most recent Annual Period from the Maximum Real Property Tax Savings Amount.

Remaining Sales Tax Benefit shall mean the amount of Sales Tax Savings remaining and unutilized and calculated as equal to the positive difference derived by subtracting the Sales Tax Savings made available to the Company Group during the Term of this Agreement as of the end of the most recent Annual Period from the Maximum Sales Tax Savings Amount.

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

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 Force Employee shall mean any Employee the primary purpose of whose employment is the sale of products (whether of the Company or any Affiliate or of any other Person), and who are compensated in whole or in part on a commissioned basis, together with any salaried Employee assigned to a sales office and the primary purpose of whose employment is to provide staff support for such above-referenced Employee.

Sales Tax Exemption shall mean an exemption from Sales and Use Taxes.

Sales Tax Letter shall mean the Letter of Authorization for Sales Tax Exemption, which the Agency shall make available to the Company in accordance with and substantially in the form set forth in the appendices to this Agreement, and shall include any and all amendments or restatements thereof.

Sales Tax Savings shall mean the amount of Sales and Use Taxes which a Company Group Entity would have otherwise been required to pay in connection with the acquisition or use of Project Property but for the exemption available to the Agency under Section 874 of the New York General Municipal Law and Section 1115 of the New York Tax Law, all pursuant to the Preliminary Sales Tax Letter or the Sales Tax Letter.

State shall mean the State of New York.

Sublandlord (Bridge Plaza North) shall mean Brause Plaza LLC, a New York limited liability company, and its successors and assigns under the Overlease Agreement (Bridge Plaza North) and the Prime Lease (Bridge Plaza North).

Tax Agreement shall mean that certain letter agreement, dated as of January 3, 2002, between the Company and the City, respecting allocations of assessed value between the Units comprising the Facility Realty (One Madison Avenue) and the other Units, and other matters relating to real estate taxes affecting the Project Building (One Madison Avenue), as such letter agreement may have been or may hereafter be amended in accordance with its terms and with the consent of the Agency.

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 Use Taxes.

Tenant Improvements shall mean, collectively, the Tenant Improvements (Bridge Plaza North) and the Tenant Improvements (One Madison Avenue).

Tenant Improvements (Bridge Plaza North) shall mean all improvements, additions, renovations, system upgrades, fixtures, alterations or modifications to any of the space comprising the Facility Realty (Bridge Plaza North) for use by the Company Group in the Company Business, and for which Sales Tax Savings shall have been taken pursuant to the Preliminary Sales Tax Letter or this Agreement and the Sales Tax Letter.

Tenant Improvements (One Madison Avenue) shall mean all improvements, additions, renovations, system upgrades, fixtures, alterations or modifications to any of the space comprising the Facility Realty (One Madison Avenue) for use by the Company Group in the Company Business, and for which Sales Tax Savings shall have been taken pursuant to the Preliminary Sales Tax Letter or this Agreement and the Sales Tax Letter.

Term of this Agreement, when such phrase is used herein, shall mean that period commencing on the Project Commencement Date and terminating on June 30, 2021 (subject to extension in accordance with the provisions of Sections 5.10 and 5.16 hereof), 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 Project 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.

ARTICLE II

REPRESENTATIONS AND WARRANTIES; CONSIDERATION

Section 2.1. Representations and Warranties by the Company. In order to induce the Agency to enter into those of the Project Documents to which the Agency is to be a party, including this Agreement, the Company hereby represents and warrants as follows:

(a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of New York, is not in violation of any provision of its certificate of incorporation or by-laws, and has the corporate 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 each other Project Document to which it is a party. The Company 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 the Company of this Agreement and of each other Project Document to which it is a party 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, its certificate of incorporation or by-laws, or any material indenture, agreement (including, without limitation, the Prime Lease (One Madison Avenue), the MetLife Sublease (One Madison Avenue), the Prime Lease (Bridge Plaza North), the Bridge Plaza Mortgages and the Declaration) 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 conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any such 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) This Agreement and each other Project Document to which the Company is a party is in full force and effect and, assuming the due and proper execution hereof and thereof by all parties other than the Company, constitutes the legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, 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 the best knowledge of the Company and of those of its directors and officers having reason to be familiar with any such action or proceeding, threatened by or against the Company by or before any court or administrative agency that might adversely affect its ability to perform its obligations under this

Agreement and under each other Project Document to which it is party; and all authorizations, consents and approvals of governmental bodies or agencies required to be obtained by the Company as of the date hereof in connection with the execution and delivery of this Agreement and of each other Project Document to which it is party or in connection with the performance of its obligations hereunder or thereunder have been obtained.

(e) The Project and related Benefits were reasonably necessary to prevent the Company from removing its operations outside of the City and the State and remain competitive within its industry. The Company required the Project and such Benefits to induce the Company and its Eligible Affiliates to retain employees, headquarters and related operations within the City, in the absence of which Project and Benefits, the Company would relocate a substantial portion of its operations and divisions outside of the City, and not thereby remain and expand its operations within the City.

(f) The Project will not result in the removal of an industrial, manufacturing, warehousing or commercial plant or facility of the Company or any Affiliate thereof from outside of the City (but within the State) to within the City, or in the abandonment of one or more of such plants or facilities of the Company or any Affiliate thereof outside of the City (but within the State).

(g) The Project is included within the definition of "project" under Section 854 of the Act.

(h) Each representation or warranty made by the Company in the application and related materials submitted to the Agency for approval of the Project, or by the Company in this Agreement and in each other Project Document to which it shall be a party, is true, correct and complete in all material respects as of the date made.

(i) No Person other than

(1) the Company and its invitees,

(2) a contractor performing work at the Facility Realty (One Madison Avenue) or the Facility Realty (Bridge Plaza North),

(3) any auditors or government performing reviews of records and operations engaged in by the Company Group,

(4) any Person performing limited in duration services for the Company Group,

(5) any Person occupying or utilizing Employee Support Space, and

(6) those Non-Qualified Users occupying or utilizing approximately 6,970 rentable square feet of the Facility Realty (One Madison Avenue) as referred to in paragraph (w) below,

is in occupancy or possession of any portion of the Facility Realty (One Madison Avenue) or the Facility Realty (Bridge Plaza North).

(j) The Company intends to operate the Project Property or cause the Project Property to be operated in accordance with this Agreement and the respective Lease Agreements and as a qualified "project" in accordance with and as defined under the Act.

(k) The Prime Lease (Bridge Plaza North) is in full force and effect without material default thereunder by the Company or, to the best knowledge of the Company, by the Sublandlord (Bridge Plaza North), and the Facility Realty (Bridge Plaza North) is subject to the Overlease Agreement (Bridge Plaza North), the Prime Lease (Bridge Plaza North), the Company Lease (Bridge Plaza North) and the Lease Agreement (Bridge Plaza North).

(l) Each of the Declaration, the Prime Lease (One Madison Avenue) and the MetLife Sublease (One Madison Avenue) are in full force and effect without material default thereunder by the Company or, to the best knowledge of the Company, by CSFB, and the Facility Realty (One Madison Avenue) is subject to the Declaration, the Overlease Agreement (One Madison Avenue), the Prime Lease (One Madison Avenue), the MetLife Sublease (One Madison Avenue), the Company Lease (One Madison Avenue) and the Lease Agreement (One Madison Avenue).

(m) No part of the financial assistance to be provided by the Agency for the Project shall be with respect to facilities or property that are primarily used in making retail sales to customers who personally visit such facilities if such facilities or property 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.

(n) The Facility Realty (One Madison Avenue) constitutes a portion of the property demised to the Company under the MetLife Sublease (One Madison Avenue), and all of the Facility Realty (One Madison Avenue) has been the subject of the Environmental Report referred to in Section 6.2(c) of the Lease Agreement (One Madison Avenue).

(o) The Facility Realty (Bridge Plaza North) constitutes all of the property demised to the Company under the Prime Lease (Bridge Plaza North), and all of the Facility Realty (Bridge Plaza North) has been the subject of the Environmental Report referred to in Section 6.2(c) of the Lease Agreement (Bridge Plaza North).

(p) To the best knowledge of the Company, there is no existing violation against the Facility Realty (One Madison Avenue) filed by any court or administrative agency that would prohibit the use or operation of the Facility Realty (One Madison Avenue) for its intended purposes.

(q) To the best knowledge of the Company, there is no existing violation against the Facility Realty (Bridge Plaza North) filed by any court or administrative agency that would prohibit the use or operation of the Facility Realty (Bridge Plaza North) for its intended purposes.

(r) No sales tax exemptions have been or will be claimed by the Company under the Preliminary Sales Tax Letter or the Sales Tax Letter for any leasehold improvements or renovations other than the Tenant Improvements (Bridge Plaza North) and the Tenant Improvements (One Madison Avenue).

(s) The Project Building (Bridge Plaza North) consists of seven (7) floors containing in the aggregate approximately 404,000 rentable square feet, all of which have been leased to the Company pursuant to the Prime Lease (Bridge Plaza North).

(t) The Facility Realty (One Madison Avenue) consists of approximately 270,670 rentable square feet.

(u) The Company has subleased the Facility Realty (Bridge Plaza North) to the Agency pursuant to the Company Lease (Bridge Plaza North) for a nominal rental therefor, and the Agency has been thereby vested with a valid leasehold estate therein (to the full extent of, but not more than, the interest therein of the Company, for the full term hereof) that is free and clear of all liens, encumbrances, security interests and servitudes other than Permitted Encumbrances.

(v) The Company has subleased the Facility Realty (Bridge Plaza North) to the Agency pursuant to the Company Lease (Bridge Plaza North) for a nominal rental therefor, and the Agency has been thereby vested with a valid leasehold estate therein (to the full extent of, but not more than, the interest therein of the Company, for the full term hereof) that is free and clear of all liens, encumbrances, security interests and servitudes other than Permitted Encumbrances.

(w) The aggregate rentable square footage of the Facility Realty (One Madison Avenue) occupied (whether by lease, license, or otherwise) by Non-Qualified Users is 6,970 rentable square feet.

(x) The aggregate rentable square footage of the Facility Realty (Bridge Plaza North) occupied (whether by lease, license or otherwise) by Non-Qualified Users is -0- rentable square feet.

(y) There are no Eligible Affiliates as of the Project Commencement Date.

(z) None of the Facility Equipment, Leased Personalty or Maintenance Contracts shall be located or used at any location other than an Approved Project Personalty Location, and no Person other than a Company Group Entity is intended to use any of the Project Personalty.

(aa) No Maintenance Contracts will be entered into for any property other than Qualified Maintenance for Facility Equipment or Leased Personalty.

(ab) The number of Eligible Employees within the City, (y) as of April 9, 2001, was not less than 1,750, and (z) as of November 30, 2001, was 1,890.5. None of the Eligible Employees derive as of the Project Commencement Date from any Eligible Affiliate of the Company. As of November 30, 2001, the number of Sales Force Employees was 842.

(ac) The aggregate amount of Sales Tax Savings received by the Company Group pursuant to the Preliminary Sales Tax Letter as of November 30, 2001, was \$1,522,322.42. >

(ad) The aggregate amount of MRT Savings received or earned by the Company Group under the Prime Lease (Bridge Plaza North) or otherwise is \$1,355,062.50.

(ae) The execution, delivery and performance of the Declaration, the Overlease Agreement (One Madison Avenue), the Tax Agreement (One Madison Avenue), the Company Lease (One Madison Avenue), the PILOT Agreement (One Madison Avenue) and the Lease Agreement (One Madison Avenue) by the Company and/or the Agency does not constitute a breach, default or violation of the terms of the Prime Lease (One Madison Avenue) or the MetLife SubLease (One Madison Avenue), nor does it require any consent of CSFB which consent has not been obtained prior to the Project Commencement Date.

(af) The execution, delivery and performance of the Company Lease (Bridge Plaza North), the PILOT Agreement (Bridge Plaza North) and the Lease Agreement (Bridge Plaza North) by the Company and/or the Agency does not constitute a breach, default or violation of the terms of the Prime Lease (Bridge Plaza North) or the Bridge Plaza North Mortgages, nor does it require any consent of the Sublandlord (Bridge Plaza North) or of the mortgagee under the Bridge Plaza North Mortgages, which consent has not been obtained prior to the Project Commencement Date

(ag) To the best knowledge of the Company, the design of the Project and the renovation, equipping and operation of the Project Property will comply with all applicable Federal, State and local laws or ordinances (including rules and regulations) relating to safety and environmental quality.

(ah) The property included in the Project Property, other than Maintenance Contracts, is either land or property of the character subject to the allowance for depreciation under Section 167 of the Code.

(ai) The Tenant Improvements (One Madison Avenue) to be made to the Facility Realty (One Madison Avenue) will not cause the Facility Realty (One Madison Avenue) to be in violation of any applicable Federal, State and local laws or ordinances (including rules and regulations) relating to zoning, building, safety and environmental quality. To the actual knowledge of the Company, there is no existing violation against the Facility Realty (One Madison Avenue) filed by any court or administrative agency that may prohibit the use or operation of the Facility Realty (One Madison Avenue) for its intended purposes or for which the Company has not agreed or made arrangements to have removed and satisfied of record.

(aj) The Tenant Improvements (Bridge Plaza North) to be made to the Facility Realty (Bridge Plaza North) will not cause the Facility Realty (Bridge Plaza North) to be in violation of any applicable Federal, State and local laws or ordinances (including rules and regulations) relating to zoning, building, safety and environmental quality. To the actual knowledge of the Company, there is no existing violation against the Facility Realty (Bridge Plaza North) filed by any court or administrative agency that may prohibit the use or operation of the Facility Realty (Bridge Plaza North) for its intended purposes or for which the Company has not agreed or made arrangements to have removed and satisfied of record.

(ak) All Tenant Improvements (One Madison Avenue) to be effected by the Company within the Facility Realty (One Madison Avenue) are permitted pursuant to the Prime Lease (One Madison Avenue) and the MetLife Sublease (One Madison Avenue) or have otherwise been, or will otherwise be, consented to by CSFB.

(al) All Tenant Improvements (Bridge Plaza North) to be effected by the Company within the Facility Realty (Bridge Plaza North) are permitted pursuant to the Prime Lease (Bridge Plaza North) or have otherwise been, or will otherwise be, consented to by the Sublandlord (Bridge Plaza North).

(am) On the Project Commencement Date, the Company's Headquarters are within the City at the Project Building (One Madison Avenue).

Section 2.2. Representations and Warranties by Agency. The Agency represents and warrants that:

(a) It 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 it is authorized and empowered to enter into the transactions contemplated by this Agreement and has taken all requisite corporate action to carry out its obligations hereunder. By proper

action of its board of directors, the Agency has duly authorized the execution and delivery of this Agreement and each other Project Document to which it is a party.

(b) The execution, delivery and performance by the Agency of this Agreement and of each other Project Document to which it is a party 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, its by-laws, or any 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 conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument.

(c) Assuming due and proper execution by the Company, this Agreement and each other Project Document to which it is a party constitutes the legal, valid and binding obligation of the Agency enforceable against the Agency in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and subject to general rules 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 each other Project Document to which it is a party, 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 each other Project Document to which it is a party or in connection with the performance of its obligations hereunder and thereunder has been obtained.

Section 2.3. Acknowledgments of Consideration. It is acknowledged by the Company that the Agency will be providing the Benefits specified in this Agreement principally upon the assumption and expectation that (i) the Company Group will maintain certain minimum levels of Eligible Employees within the City during the Project Term, (ii) the Company will maintain its Designated Operations and Facilities within the City from the Project Commencement Date through June 30, 2011 (subject to extension pursuant to the provisions of Sections 5.10 and 5.16 hereof), (iii) the Company will maintain its Headquarters within the City during the Project Term, and (iv) the Company will comply with its other covenants and agreements contained herein and in each other Project Document to which the Agency is a party, and the Company 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 has provided, is providing and will hereafter provide the above-mentioned Benefits, and the Agency's agreeing to provide the Benefits described herein are the principal basis upon which the Company is agreeing to such obligations, covenants and agreements.

ARTICLE III

SALES TAX EXEMPTIONS

Section 3.1. Sales Tax Exemption Procedures. (a) After the Project Commencement Date, the Company shall proceed on behalf of and as agent for the Agency with the making of Tenant Improvements to the Facility Realty and the acquisition, leasing, subleasing, licensing, sublicensing, installation, maintenance, repair and replacement of the Facility Equipment, the Leased Personalty and the Maintenance Contracts at the Approved Project Personalty Locations, all to constitute part of the Project. The Agency and the Company acknowledge and agree that the Facility Equipment and the Leased Personalty are to be acquired, leased (or subleased), licensed, (or sublicensed), equipped, installed, maintained, replaced and repaired for use solely at an Approved Project Personalty Location, and that the nature of the Facility Equipment, the Tenant Improvements, the Maintenance Contracts and the Leased Personalty may change from time to time over the Term of this Agreement to reflect amendments, modifications, replacements, accessions to and supplements made thereto.

The Company is hereby authorized to designate the Sublandlord (Bridge Plaza North) as its agent and sub-agent of the Agency to permit the Sublandlord (Bridge Plaza North) to purchase materials to effect Tenant Improvements (Bridge Plaza North).

At the request of the Agency to the Company, the Company shall provide such additional information and clarifications concerning any portion of the Facility Equipment, Tenant Improvements, Leased Personalty and Maintenance Contracts to be acquired, renovated, improved, equipped, installed, leased, subleased, licensed, sublicensed, maintained, replaced or repaired as shall be reasonably requested by the Agency.

All Facility Equipment, Leased Personalty, Tenant Improvements and Maintenance Contracts shall be enumerated in sufficient detail for accurate identification (as to date of acquisition, as applicable, vendor, location, physical description, serial number (if applicable and to the extent available), price and the amount of Sales Tax Savings afforded to the Company Group in connection therewith) in the Project Property Registry as provided in Section 3.4 hereof.

(b) The Company, as agent 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 and until the Maximum Sales Tax Savings Amount is attained, for the exclusive use by the Company Group solely at an Approved Project Personalty Location in furtherance of the Company 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 \$25,000 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 Company 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 Company, to whom the Agency shall transfer its interest in such lease (or sublease) or license (or sublicense) or Maintenance Contract under this Agreement upon the termination of this Agreement,

(iv) any such lease (or sublease) or license (or sublicense) shall be a Qualified Personalty Lease, and any such Maintenance Contract shall only be for Qualified Maintenance, 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.

(c) The Company covenants and agrees that it 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 entered into by the Company as agent for the Agency in connection with the Project:

"This contract is being entered into by [Brause Plaza LLC, a limited liability company organized under the laws of the State of New York (the "Sub-Agent"), as sub-agent] [Metropolitan Life Insurance Company, a corporation organized under the laws of the State of New York (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 Metropolitan Life Insurance Company consisting of (x) the renovation and

improvement of (i) those certain floors leased and occupied by Metropolitan Life Insurance Company and/or Eligible Affiliates (as defined in the Project Agreement referred to below) in the building known as One Madison Avenue, New York, New York and (ii) that certain building leased to and occupied by each of Metropolitan Life Insurance Company and/or Eligible Affiliates known as 27-01 Bridge Plaza North, Long Island City, New York (the locations in clauses (i) and (ii) being, collectively, the "Project Improvement Locations"), and (y) the acquisition, equipping, installation, 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 any Approved Project Personalty Location (as defined in the Project Agreement referred to in the Letter of Authorization for Sales Tax Exemption attached hereto) by Metropolitan Life Insurance Company and/or Eligible Affiliates, all for use by Metropolitan Life Insurance Company and/or Eligible Affiliates in the Company Business (as defined in the Project Agreement). The building materials, 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 attached Letter of Authorization for Sales Tax Exemption of the Agency, and the [Agent][Sub-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 the terms and conditions set forth in this paragraph."

If the 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 the Company shall not claim any Sales Tax Savings with respect to any such lease, sublease, license, sublicense, contract, agreement, invoice, bill or purchase order until such failure shall be cured by the Company and the Company shall promptly deliver notice of same to the Agency and, if such failure shall be capable of being cured, cure such failure within sixty (60) days of delivery of such notice. If such failure shall not be capable of being cured, or if so capable and the Company shall fail to cure such failure within such sixty (60) day period, the Company shall, upon demand by the Agency, either, at the Company's option, (x)(1) pay to the Tax Collecting Entity an amount equal to the unauthorized 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 the Company 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 unauthorized Sales Tax Saving was availed of by the Company Group, over (ii) the Government Penalty Amount, or (y) pay to the Agency a return of Sales Tax Savings in an amount equal to all such unauthorized Sales Tax Savings together with interest thereon at the annual rate of twelve percent (12%) per annum (or, if the Company 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 unauthorized Sales Tax Saving was availed of by the Company Group.

(d) Concurrently with the execution of this Agreement, the Company shall deliver to the Agency for cancellation the Preliminary Sales Tax Letter in effect at such time, and the Agency shall make available to the Company the Sales Tax Letter. The Agency, at the sole cost and expense of the Company Group, 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 Company Group to obtain the intended Sales Tax Savings hereunder. Subject to the terms of this Agreement, it is intended that the aggregate scope of the Sales Tax Savings received by the Company Group pursuant to the Preliminary Sales Tax Letter and the Sales Tax Letter shall be limited in amount by the Maximum Sales Tax Savings Amount:

(i) The Sales Tax Letter shall be dated the Project 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) June 30, 2021 (subject to extension pursuant to the provisions of Section 5.10 or 5.16 hereof), (3) the termination of the Sales Tax Letter pursuant to Section 6.2 hereof, (4) the termination of all the Lease Agreements, or (5) such time as the aggregate amount of Sales Tax Savings availed of by the Company Group pursuant to the Preliminary Sales Tax Letter and the Sales Tax Letter shall equal the Maximum Sales Tax Savings Amount; subject, however, to an annual confirmation of the effectiveness of the Sales Tax Letter by an Authorized Representative of the Agency as

provided below. Within ten (10) Business Days after the Company shall surrender the Sales Tax Letter to the Agency for annual confirmation thereof by the Agency on the commencement date of the next scheduled Effective Period as set forth in Exhibit B to the Sales Tax Letter, the Agency shall provide such annual confirmation of the Sales Tax Letter unless

(A) the Agency shall no longer have title to, or a leasehold interest in, the Facility Realty (Bridge Plaza North), or the Lease Agreement (Bridge Plaza North) shall have terminated (in any which event the Sales Tax Letter shall no longer be available for Tenant Improvements (Bridge Plaza North) at the Facility Realty (Bridge Plaza North) and will be modified accordingly, and the Agency shall confirm the Sales Tax Letter as so modified and promptly deliver same to the Company),

(B) the Agency shall no longer have title to, or a leasehold interest in, the Facility Realty (One Madison Avenue), or the Lease Agreement (One Madison Avenue) shall have terminated (in any which event the Sales Tax Letter shall no longer be available for Tenant Improvements (One Madison Avenue) at the Facility Realty (One Madison Avenue) and will be modified accordingly, and the Agency shall confirm the Sales Tax Letter as so modified and promptly deliver same to the Company),

(C) the Agency shall no longer have title to any property constituting Facility Equipment, nor a leasehold interest in any property constituting Leased Personalty, in which event the Sales Tax Letter shall no longer be available for Project Personalty and will be modified accordingly, and the Agency shall confirm the Sales Tax Letter as so modified and promptly deliver same to the Company,

(D) the Agency shall no longer have title to, or a leasehold interest in, any of (1) the Facility Realty (One Madison Avenue), (2) the Facility Realty (Bridge Plaza North), (3) the Facility Equipment, or (4) the Leased Personalty, in which event the Sales Tax Letter shall be surrendered by the Company to the Agency for cancellation,

(E) the Company shall be in material default of any obligation under any of the Lease Agreements, either of the PILOT Agreements, the Tax Agreement (One Madison Avenue), the Overlease Agreement (One Madison Avenue) or this Agreement, which default shall not have been cured within thirty (30) days after the delivery by the Agency to the Company of written notice of such default; provided, however, that if such default cannot be cured within thirty

(30) days but is reasonably expected by the Company to be cured within ninety (90) days and if the Company shall be continually diligently seeking to cure such default, the Company shall have ninety (90) days after the delivery by the Agency to the Company of notice of such default to cure such default, or

(F) all of the Lease Agreements or this Agreement shall have terminated;

provided, however, if the Company shall dispute in good faith the occurrence of any of the events described in clauses (A) through (E) above, and no other Event of Default shall exist under any Lease Agreement, either PILOT Agreement or this Agreement, the Agency shall continue to provide such annual confirmation of the Sales Tax Letter until the resolution of such dispute, but only if the Company 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 Company Group 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 Company, 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 Company that any of the events described in clauses (A) through (E), inclusive, of Section 3.1(d)(i) hereof shall exist which, in the case of Section 3.1(d)(i)(E) above, shall not have been cured within the periods referred to therein, unless (1) the Company shall pay any amounts due or otherwise cure such defaults with respect to the events described in such clause (i)(E) above, or (2) the Company shall comply with the escrow provisions of Section 3.1(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 Tenant Improvements, Facility Equipment, Leased Personalty and Maintenance Contracts which are identified with reasonable specificity in the Project Property Registry by no later than the August 1 next following the immediately preceding annual period of July 1 through June 30 in which items of Sales Tax Savings shall have been received,

(B) shall only be utilized for Tenant Improvements completed for use only by the Company Group at the Facility Realty for at least three (3) years

following the effectuation of such Tenant Improvements or for Facility Equipment, Leased Personalty or Maintenance Contracts, which shall be purchased, leased, subleased, licensed, sublicensed, completed or installed for use only by the Company Group at an Approved Project Personalty Location, in each case in furtherance of the Company Business until the realization of the Maximum Sales Tax Savings Amount (and not with any intention to sell, transfer or otherwise dispose of any such Tenant Improvements, Facility Equipment, Leased Personalty or Maintenance Contracts to a Person other than the Company), it being the intention of the Agency and the Company that the Sales Tax Savings shall not be made available with respect to any item of Tenant Improvements unless such item is used solely by the Company Group at the Facility Realty in connection with the Company Business or with respect to any item of Facility Equipment, Leased Personalty or Maintenance Contracts unless such item is used solely by the Company Group at an Approved Project Personalty Location in connection with the Company Business,

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

(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 item or cost subsequent to the earlier of the conferral of the Maximum Sales Tax Savings Amount pursuant to the Preliminary Sales Tax Letter and the Sales Tax Letter pursuant hereto,

(F) 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 3.1(d)(i) hereof (except as provided in the proviso to Section 3.1(d)(i) hereof) or shall have been suspended as provided in Section 3.1(d)(ii) hereof; provided, however, that in the event the Company shall thereafter pay any amounts due and cure any defaults with respect to the events described in clause (i)(E) of Section 3.1(d) hereof, or the Company shall establish and confirm the escrow deposits referred to in Section 3.1(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,

(G) shall not be available for any improvements, additions or renovations except at the Facility Realty,

(H) 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 Company as agent for the Agency for use in the Company Business by the Company Group at an Approved Project Personalty Location,

(I) shall not be available for any Qualified Personalty Lease the rental payments under which shall have been structured for the purpose of accelerating the receipt of Sales Tax Savings,

(J) shall not be available for any tangible movable personal property (including computer software) or trade fixture for any Person other than the Company Group for use in the Company Business at an Approved Project Personalty Location,

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

(L) shall not be available subsequent to the termination of this Agreement or all the Lease Agreements, and

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

(iv) In the event that the Company shall utilize the Sales Tax Savings authorization provided pursuant to the Sales Tax Letter in violation of the provisions of Section 3.1(d)(iii) hereof or the Sales Tax Letter, the Company shall promptly deliver notice of same to the Agency, and, if such violation shall be capable of being cured, cure such violation within sixty (60) days of delivery of such notice. If such violation shall not be capable of being cured, or if so capable and the Company shall fail to cure such violation within such sixty (60) day period, the Company shall, upon demand by the Agency, either, at the Company's option, (x)(1) pay to the Tax Collecting Entity an amount equal to the unauthorized 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 the Company 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 unauthorized Sales Tax Saving was availed of by the Company Group, over (ii) the Government Penalty Amount, or (y) pay to the Agency a return of Sales Tax Savings in an amount equal to all such unauthorized Sales Tax Savings together with interest thereon at the rate of twelve percent (12%) per annum (or, if the Company 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 unauthorized Sales Tax Saving was availed of by the Company Group.

(v) The Company shall,

(A) on the Project Commencement Date and on or before August 1 of each year, commencing August 1, 2002, and on the thirtieth (30th) day as shall next follow the termination of this Agreement, deliver to the Agency a certificate in the form of Exhibit A to this Agreement, and

(B) on August 1, 2002, on every third August 1 thereafter upon the written request of the Agency and on the August 1 as shall immediately follow the Fiscal Year in which the Company Group realizes the Maximum Sales Tax Savings Amount, or 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 Company, the Company shall deliver to the Agency an opinion of an Independent Accountant to the effect that such Independent Accountant has audited the use by the Company Group of the Preliminary Sales Tax Letter and the Sales Tax Letter for the period so requested by the Agency, and has audited the terms and provisions of the Sales Tax Letter and of this Section 3.1, and has further audited the certificates of the Company 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 Company shall deliver to the Agency any of the certifications required in Section 3.1(d)(v)(A) above with incorrect information, notwithstanding the Company's good faith efforts to supply accurate and complete information with respect to such certification, and either (x) the Company on its own initiative discovers such error and promptly communicates 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 Company, the same shall not constitute a default hereunder if, in either case, (1) the Company corrects such error and supplies to the Agency correct information with respect thereto (in the form of an amended certification or otherwise as requested by the Agency), within sixty (60) days of the Company's discovery thereof or of the Agency's discovery and notification to the Company thereof, as the case may be, and (2) the Company within such sixty (60) day period promptly pays either, at the Company's option, (x)(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) pay to the Agency an amount equal to the excess, if any, of (i) twelve percent (12%) per annum (or, if the Company 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 the Company Group, over (ii) the Government Penalty Amount, or (y) to the Agency a return of Sales Tax Savings in an amount equal to all such incorrect Sales Tax Savings together with interest thereon at the rate of twelve percent (12%) per annum (or, if the Company 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 the Company Group.

(vii) Upon request by the Agency of, and reasonable notice to, the Company, the Company shall make available at reasonable times to the Agency and the Independent Accountant all such books and records of the Company Group and require all appropriate officers and employees of the Company Group to respond to reasonable inquiries by the Agency and the Independent Accountant, as shall be necessary to indicate in reasonable detail those costs to which the Company Group shall have utilized the Preliminary Sales Tax Letter or the Sales Tax Letter and the dates and amounts so utilized.

(viii) 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 a Company Group Entity in the use of the Preliminary Sales Tax Letter or the Sales Tax Letter, constitute a credit to the Maximum Sales Tax Savings Amount that is to be made available to the Company under the Preliminary Sales Tax Letter and the Sales Tax Letter, but only to the extent that the aggregate of such amounts shall not exceed \$700,000, or (ii) if so paid not by reason of such good faith error, not constitute a credit to the Maximum Sales Tax Savings Amount that is to be made available to the Company.

(ix) The Company shall use its best 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 a Company Group Entity 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, renovation, improving, leasing, subleasing, licensing, sublicensing, maintenance, repair, and replacement of Tenant Improvements at the Facility Realty or of Facility Equipment, Leased Personalty and Maintenance Contracts at an Approved Project Personalty Location, in each case for use by the Company Group in the conduct at the Facility Realty or an Approved Project Personalty Location, as applicable, of the Company Business.

Section 3.2. Rent Relating to Leased Personalty and Maintenance Contracts. The Company 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 shall perform all obligations required of the Agency, under leases and licenses (or subleases and 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), licenses (or sublicenses) and Maintenance Contracts.

The Company may at its 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) the Agency would not be in any danger of any civil liability which is not capable of being discharged through the payment of money (provided, however, that if the Agency shall reasonably deem itself to be financially insecure by reason of the potential monetary liability, and if the Company shall fail to demonstrate to the Agency that it satisfies the Minimum Net Worth Requirement, the Agency shall have the right to require that the Company post a surety or payment bond or other security reasonably satisfactory to the Agency prior to commencing such contest), and (2) the Agency would not be in any danger of any criminal liability.

Section 3.3. Limitation on Sales Tax Exemption. In accordance with the requirements of Section 874(8) of the Act and the regulations thereunder, the Company 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 Company Group or agents of a Company Group Entity, including, but not limited to, the Sublandlord (Bridge Plaza North), and consultants or subcontractors of such agents, under the authority granted pursuant to the Preliminary Sales Tax Letter or the Sales Tax Letter. Should the Company fail to comply with the foregoing

requirement, the Company shall immediately cease to be the agent for the Agency in connection with the Project (such agency relationship being deemed to be immediately revoked) without any further action of the parties. The Agency shall have no liability (whether pecuniary or otherwise) for any failure of the Company Group to realize the sales and/or use tax exemptions intended to be conferred pursuant to the Preliminary Sales Tax Letter or the Sales Tax Letter.

Immediately upon becoming aware of any such failure, the Company shall inform the Agency thereof and the Company shall return the Sales Tax Letter to the Agency. Upon receipt by the Agency of evidence reasonably satisfactory to it that the Company has cured such failure and is in compliance with the foregoing filing requirement, the Agency shall return the Sales Tax Letter to the Company and notify the Company that it may again avail itself of the agency relationship with the Agency set forth therein.

It is the intention of the parties hereto that the Benefits contemplated herein shall be conferred upon the Company Group 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 3.4. Current Facility Equipment, Leased Personalty, Tenant Improvements and Maintenance Contracts Descriptions. All Project Property 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 available), price and the amount of Sales Tax Savings afforded to the Company Group in connection therewith) in the Project Property Registry, which Project Property Registry shall be substantially in the form provided to the Company by the Agency's Compliance Department. The Agency shall maintain the Project Property Registry. The Project Property Registry shall be available for inspection during Agency regular business hours upon reasonable request therefor by the Company. On the Project Commencement Date and on each February 1 and August 1 thereafter, commencing August 1, 2002, the Company shall deliver to the Agency a certificate of an Authorized Representative of the Company certifying as to the removals and other updates that should be made to the Project Property Registry so that such 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 Tenant Improvements, the Leased Personalty and the Maintenance Contracts. At the request of the Agency to the Company, the Company shall provide such additional information and clarifications concerning any portion of the Project Property as shall be reasonably requested by the Agency.

Section 3.5. Subtenant Survey. The Company shall file with the Agency by January 1 of each year, commencing January 1, 2003, a certificate of an Authorized Representative of the Company setting forth all subtenancies with respect to the Facility Realty

(Bridge Plaza North) or the Facility Realty (One Madison Avenue) in the form attached hereto as Schedule B.

Section 3.6. 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 Company 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 Project Commencement Date), to cause one or more Eligible Affiliates to become a Limited Lessee/Agent under one or more of the Lease Agreements, this Agreement and the Sales Tax Letter by executing an "Assumption of Limited Lessee/Agent" in substantially the form attached to the appendices 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 the related Lease Agreement(s), this Agreement and the Sales Tax Letter;

(ii) all Project Property subject to such Lease Agreement(s) shall be deemed leased by the Agency to such Limited Lessee/Agent (as well as to the Company 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 of the related Lease Agreement(s); and

(iii) such Limited Lessee/Agent shall be deemed an agent of the Agency for all purposes as the Agency shall have deemed the Company as the Agency's agent under this Agreement, the related Lease Agreement(s) 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 Company as agent 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 Company Business, (i) the Company 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 Company Business, (ii) such Limited Lessee/Agent shall no longer be a lessee of any of the Project Property, all of its estate, right, title and interest under the related Lease Agreement(s) shall be terminated and the Limited Lessee/Agent shall be deemed automatically released from the related Lease Agreement(s), and (iii) such Limited Lessee/Agent shall no longer be deemed a party under this Agreement nor a Limited Lessee/Agent of the Agency (for the purposes above set forth) under the related Lease Agreement(s), this Agreement and the Sales Tax Letter.

(c) The Company reserves the right, upon ten (10) days prior written notice by the Company to the Agency, to cause any Limited Lessee/Agent to be released under the related Lease Agreement(s), this Agreement and the Sales Tax Letter with the effect as set forth in Section 3.6(b) above.

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

(i) that nothing contained in this Section 3.6 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 Company or any other obligor under any of the Project Documents, and all actions taken or failed or suffered to be taken with respect to the Project Property 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 Company,

(ii) that the Company 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 Company shall be deemed delivered to the Limited Lessee/Agents,

(iv) that any consent delivered by the Company (including, without limitation, any consent to amendment, modification or supplement to any Project Document) or action otherwise taken by the Company 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,

(v) that nothing contained in this Section 3.6 shall be deemed to limit or condition the rights and remedies of the Agency under any Project Document, and such rights may be exercised and such remedies pursued, in all cases as if the Limited Lessee/Agents were never parties to any Project Document, and

(vi) all Project Property acquired by the Company on behalf of the Limited Lessee/Agent shall, for all purposes of the related Lease Agreement(s), this Agreement and the Sales Tax Letter, be deemed Project Property acquired by the Company on its own behalf as agent of the Agency.

ARTICLE IV

NON-MERGER OF THE COMPANY AND CERTAIN OTHER COVENANTS

Section 4.1. Dissolution or Merger of Company. The Company hereby 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 or the laws of any other state of the United States and duly qualified to do business in the State, (iii) not liquidate, wind-up, 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. Notwithstanding the provisions of the immediately preceding sentence, the Company may, however, without violating the foregoing, but upon written notice to the Agency as promptly as practicable thereafter, consolidate with or merge into another corporation or other legal entity, or permit one or more corporations or other legal 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 corporation or other legal entity (and thereafter liquidate, wind-up or dissolve or not, as the Company may elect) if (i) the Company is the surviving, resulting or transferee corporation or other legal entity, as the case may be, or (ii) in the event that the Company is not the surviving, resulting or transferee corporation or other legal entity, as the case may be, such corporation or other legal entity (A) is solvent and subject to service of process in the State and duly qualified to do business in the State, (B) is not, nor is it an Affiliate of, a Prohibited Person, (C) is engaged or continues in the Company Business, (D) assumes all of the obligations of the Company contained in this Agreement and in each other Project Document to which the Company shall be a party, either in writing or by operation of law (with a confirmatory instrument in writing upon request of the Agency) and, in the Opinion of Counsel delivered to the Agency, such corporation or other legal entity shall be bound by all of the terms of this Agreement and of each other Project Document to which the Company shall be a party, and (E) in the opinion of an Independent Accountant (which may take the form of a published financial statement) delivered to the Agency, meets the Minimum Net Worth Requirement after the merger, consolidation, sale or transfer.

The Company further covenants and agrees that, at all times during the Term of this Agreement, it is and will continue to be duly qualified to do business in the State, or any corporation succeeding to the rights of the Company under this Agreement and each other Project Document shall be and continue to be duly qualified to do business in the State.

Reference is hereby made to the provisions of Section 6.2 hereof wherein it is acknowledged and agreed by the Agency that any failure of the Company to comply with the provisions of this Section 4.1 may constitute an Event of Default under this Agreement, provided, however, that such Event of Default shall not result in the Agency having as a remedy the power to prevent, limit or otherwise bar any such transaction contemplated by this Section 4.1.

Section 4.2. Fees of the Agency and the PILOT Trustee. The Company agrees to pay to the Agency a fee of \$1,195,000, representing the project fee of \$1,210,000 less \$15,000 paid by the Company as an application fee to the Agency prior to the Project Commencement Date, and an Agency counsel fee of \$25,000. The \$1,195,000 project fee shall be paid by the Company to the Agency in two (2) installments: \$598,000 on the Project Commencement Date and \$597,000 on July 1, 2002. The Agency counsel fee of \$25,000 shall be paid by the Company to the Agency on the Project Commencement Date. In addition, the Company agrees to pay an annual administrative fee of \$25,000 to the Agency, payable initially on the Project Commencement Date and on every anniversary thereof until the termination of this Agreement.

The Company further agrees to pay the fees, costs and expenses (including legal, accounting and other administrative expenses) of the Agency under any of the Project Documents, and the reasonable fees, charges and expenses of the PILOT Trustee for its services under the PILOT Agreement. The Company shall further pay the reasonable fees and disbursements incurred by the Agency's Project Counsel and General Counsel in performing services for the Agency in connection with this Agreement, the Lease Agreements, the PILOT Agreements, the Sales Tax Letter or any other Project Document.

ARTICLE V

FORFEITURE AND RECAPTURE OF BENEFITS

Section 5.1. Benefit Limitations. (a) The Company and the Agency covenant and agree that, notwithstanding the provisions of any other Project Document to the contrary, the maximum amount of Sales Tax Savings that the Company Group shall be entitled to receive under the Preliminary Sales Tax Letter and the Sales Tax Letter shall not exceed, in the aggregate, the Maximum Sales Tax Savings Amount. If the Company shall have knowledge that the Company Group shall have received aggregate Sales Tax Savings in excess of the Maximum Sales Tax Savings Amount, the Company shall promptly deliver written notice of such fact to the Agency (which written notice shall include specific details of each such excess amount), and, upon demand by the Agency, the Company shall pay excess Sales Tax Savings and interest and/or penalty pursuant to one of two alternatives, to be chosen at the Company's option:

(x)(1) pay to the Tax Collecting Entity an amount equal to the excess 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 the Company 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 the Company Group, over (ii) the Government Penalty Amount, or

(y) pay to the Agency a return of Sales Tax Savings in an amount equal to all such excess Sales Tax Savings together with interest thereon at the rate of twelve percent (12%) per annum (or, if the Company 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 the Company Group.

If the Company Group shall fail to realize any portion of the Maximum Sales Tax Savings 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 Company shall have no right to receive compensation for such unused Sales Tax Savings.

(b) The Company and the Agency further covenant and agree that, notwithstanding the provisions of any other Project Document to the contrary, the maximum amount of Energy Cost Savings, Real Property Tax Savings (including RRETA) and MRT Savings that the Company shall be entitled to receive hereunder shall not exceed, in the aggregate,

the Maximum Energy Cost Savings Amount, the Maximum Real Property Tax Savings Amount or the Maximum MRT Savings Amount, respectively. If the Company shall have knowledge that the Company or any Eligible Affiliate shall have received aggregate Energy Cost Savings in excess of the Maximum Energy Cost Savings Amount, Real Property Tax Savings in excess of the Maximum Real Property Tax Savings Amount, or MRT Savings in excess of the Maximum MRT Savings Amount, as applicable, the Company 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 Company shall, upon demand by the Agency, either, at the Company's option, (x)(1) pay to Con Ed or the applicable governmental tax collecting authority an amount equal to the excess Savings together with any applicable governmental interest, fines, fees, penalties or other charges otherwise payable with respect to each such excess 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 the Company 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 Saving was availed of by the Company Group, over (ii) the applicable governmental interest, fines, fees, penalties or other charges, or (y) pay to the Agency a return of Savings in an amount equal to all such excess Savings together with interest thereon at the rate of twelve percent (12%) per annum (or, if the Company 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 Saving was availed of by the Company Group. If the Company Group shall fail to realize any portion of the Maximum Energy Cost Savings Amount, Maximum Real Property Tax Savings Amount or Maximum MRT Savings Amount prior to the termination of this Agreement, all unused Energy Cost Savings, Real Property Tax Savings and MRT Savings shall be forfeited, and the Company shall have no right to receive compensation for any such unused Savings.

(c) It is not the intention of the Agency or the Company that the Company Group receive any additional monetary benefits other than the Benefits set forth above and, to the extent that any such additional monetary benefit shall inure to the account of the Company Group solely by reason of the Agency's participation in the Project or by reason of the Agency's tax exempt status, the Company hereby agrees to waive such benefit to the extent it 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 in the definition of Maximum Sales Tax Savings Amount for purposes of calculating when the Maximum Sales Tax Savings Amount has been received.

Section 5.2. Calculation of Eligible Employees. The number of Annual Period Eligible Employees shall be calculated by the Company 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 Period, 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 5.3 hereof.

Section 5.3. Annual Reporting. On February 15, 2002, and by August 1 after the end of each Annual Period commencing August 1, 2002, and continuing until and including the August 1 following the end of the Term of this Agreement or if earlier the thirtieth (30th) day following the termination of this Agreement (notwithstanding the earlier receipt by the Company Group of the Maximum Sales Tax Savings Amount, the Maximum Growth Credit Amount, the Maximum Energy Cost Savings Amount, the Maximum Real Property Tax Savings Amount or the Maximum MRT Savings Amount, the earlier termination of this Agreement or the cessation of Benefits for any reason), the Company shall deliver to the Agency a certificate of an Authorized Representative of the Company, with respect to the Reported Annual Period, in substantially the form attached as Exhibit B hereto.

Section 5.4. Prior Notice of Reductions. At least five (5) Business Days prior to any public or other announcement by the Company or any Eligible Affiliate of any corporate decision that would result in a Reduction or the transfer or establishment of all or a significant part of the Headquarters or the Designated Operations and Facilities to a location outside of the City, the Company covenants and agrees to deliver written notice thereof to the Agency, including all reasonable details, to the extent then known to the Company, of the number of Eligible Employees affected, the operations to be transferred or established, and the new location of such operations or facilities; provided, however, the Company shall not be required to deliver such written notice to the Agency if (y) the Agency, if so requested by the Company, shall fail to agree to treat such information as confidential to the extent permitted by applicable law, or (z) such disclosure would cause the Company to be in violation of applicable federal securities laws or other applicable laws.

Section 5.5. Non-Relocation Reduction of Eligible Employees. (a) If a Non-Relocation Reduction occurs in a Reported Annual Period or continues from a prior Annual Period and results in a Base Employment Reduction Percentage of less than or equal to six percent (6%) of the Base Employment Number, then the Company will be subject to no reduction in Benefits notwithstanding such Non-Relocation Reduction.

(b) If a Non-Relocation Reduction occurs in a Reported Annual Period or continues from a prior Annual Period and results in a Employment Reduction Percentage of greater than six percent (6%) but not more than twenty percent (20%) of the Base Employment Number, then, to the extent that Benefits shall remain available and unutilized as of the July 1 immediately following the Reported Annual Period, the Company will be subject to a permanent reduction in

(i) the Remaining Sales Tax Benefit (exclusive of earned but unutilized Growth Credits) by an amount equal to the product of (y) the Base Employment Reduction Percentage, and (z) the quotient of (A) the Maximum Sales Tax Savings Amount (exclusive of earned but unutilized Growth Credits) divided by (B) the total number of Annual Periods in the Term of this Agreement (i.e., twenty (20)) which product when so calculated shall then be subtracted from the Remaining Sales Tax Benefit (exclusive of earned but unutilized Growth Credits), provided that if the amount calculated pursuant to this clause (i) exceeds the Remaining Sales Tax Benefit (exclusive of earned but unutilized Growth Credits) available to the Company Group, the Company shall immediately pay such excess amount to the Agency. For example, if in the Annual Period that commenced July 1, 2005 and ended June 30, 2006, there occurred a Non-Relocation Reduction which results in a Base Employment Reduction Percentage equal to ten percent (10%) of the Base Employment Number, and the amount of the Remaining Sales Tax Benefit as of July 1, 2007 was \$6,000,000 NPV, then, the Company Group shall have a permanent reduction in the Remaining Sales Tax Benefit equal to the product of (y) the Base Employment Reduction Percentage or 10%, and (z) the quotient of (a) \$6,000,000 NPV, and (b) twenty (20) (i.e., twenty (20) Annual Periods in the Term of this Agreement) or \$30,000 NPV, with a resultant permanent reduction in the Remaining Sales Tax Benefit of 10% times \$30,000 NPV or \$3,000 NPV;

1500.00 (ii) the Remaining Real Property Tax Benefit by an amount equal to the product of (y) the Base Employment Reduction Percentage, and (z) the quotient of (A) the Maximum Real Property Tax Savings Amount divided by (B) the total number of Annual Periods in the Term of this Agreement (i.e., twenty (20)), which product when so calculated shall then be subtracted from the Remaining Real Property Tax Benefit, provided that if the amount calculated pursuant to this clause (ii) exceeds the Remaining Real Property Tax Benefit available to the Company Group, the Company shall immediately pay such excess amount to the Agency;

(iii) the Remaining Energy Cost Savings Benefit by an amount equal to the product of (y) the Base Employment Reduction Percentage, and (z) the quotient of (A) the Maximum Energy Cost Savings Amount divided by (B) the total number of Annual Periods in the Term of this Agreement (i.e., twenty (20)), which product when so calculated shall then be subtracted from the Remaining Energy Cost Savings Benefit, provided that if the amount calculated pursuant to this clause (iii) exceeds the Remaining Energy Cost Savings Benefit available to the Company Group, the Company shall immediately pay such excess amount to the Agency; and

(iv) the Remaining MRT Benefit by an amount equal to the product of (y) the Base Employment Reduction Percentage, and (z) the quotient of (A) the Maximum MRT Savings Amount divided by (B) the total number of Annual Periods in the Term of

this Agreement (i.e., twenty (20)), which product when so calculated shall then be subtracted from the Remaining MRT Benefit, provided that if the amount calculated pursuant to this clause (iv) exceeds the Remaining MRT Benefit available to the Company Group, the Company shall immediately pay such excess amount to the Agency.

(c) If a Non-Relocation Reduction occurring in a Reported Annual Period or continuing from a prior Annual Period results in a Base Employment Reduction Percentage that shall be greater than twenty percent (20%) of the Base Employment Number, at the unlimited discretion of the Agency, the Agency may take or require any or all of the following actions: (1) terminate all future Benefits with the effect that all Remaining Sales Tax Benefits (including any Growth Credits), Remaining Energy Cost Savings, Remaining Real Property Tax Savings (including any Relocation Credits) and Remaining MRT Savings shall permanently cease to be available, (2) terminate the Overlease Agreements, the PILOT Agreements, the Company Leases, the Lease Agreements and this Agreement (subject in each case to the survival of those provisions herein and therein stated to survive termination), (3) require the Company to surrender the Sales Tax Letter to the Agency for cancellation, (4) cause the Facility Realty (One Madison Avenue) to revert to the Company, (5) cause the Facility Realty (Bridge Plaza North) to revert to the Sublandlord (Bridge Plaza North), and/or (6) convey to the Company 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 Company under Section 5.6 or 5.9 hereof, all of which shall continue undiminished and in full force and effect.

(d) The provisions of this Section 5.5 shall remain in effect for the entire Project Term notwithstanding the earlier termination or suspension by the Agency of the Sales Tax Letter or any other Project Document.

Section 5.6. Relocation Reduction of Eligible Employees. (a) If in any Reported Annual Period a Relocation Reduction occurs which results in a Base Employment Reduction Percentage of up to but not greater than three percent (3%) of the Base Employment Number, there shall be no reduction in Benefits; provided, however, the provisions of this Section 5.6(a) shall neither limit nor impair the obligations of the Company under Section 5.5, 5.6 or 5.9 hereof.

(b) If there shall occur in any Reported Annual Period a Relocation Reduction which results in a Base Employment Reduction Percentage of more than three percent (3%) but not greater than ten percent (10%) of the Base Employment Number, then,

- (i) (1) the Remaining Sales Tax Benefit (exclusive of earned but unutilized Growth Credits) shall be permanently reduced by an amount equal to the product of (w) the Base Employment Reduction

Percentage, (x) the Multiplier Factor applicable to the Reported Annual Period; (y) the Recapture Percentage applicable to the Reported Annual Period, and (z) the Remaining Sales Tax Benefit;

(2) the Remaining Real Property Tax Benefit shall be permanently reduced by an amount equal to the product of (w) the Base Employment Reduction Percentage, (x) the Multiplier Factor applicable to the Reported Annual Period; (y) the Recapture Percentage applicable to the Reported Annual Period, and (z) the Remaining Real Property Tax Benefit;

(3) the Remaining Energy Cost Savings Benefit shall be permanently reduced by an amount equal to the product of (w) the Base Employment Reduction Percentage (x) the Multiplier Factor applicable to the Reported Annual Period; (y) the Recapture Percentage applicable to the Reported Annual Period, and (z) the Remaining Energy Cost Savings Benefit; and

(4) the Remaining MRT Benefit shall be permanently reduced by an amount equal to the product of (w) the Base Employment Reduction Percentage, (x) the Multiplier Factor applicable to the Reported Annual Period; (y) the Recapture Percentage applicable to the Reported Annual Period, and (z) the Remaining MRT Benefit; and

(ii) the Company shall immediately pay the Agency a Recapture Payment equal to the product of (1) the Base Employment Reduction Percentage, (2) the Multiplier Factor applicable to the Reported Annual Period; (3) the Recapture Percentage applicable to the Reported Annual Period, and (4) the Recapture Amount.

For example, if, in the Reported Annual Period that commenced July 1, 2006 and ended June 30, 2007, (u) there occurred a Relocation Reduction which results in a Base Employment Reduction Percentage of eight percent (8%), (v) the amount of the Remaining Sales Tax Benefit (including any earned but unutilized Growth Credits) was \$5,000,000 NPV, (w) the amount of the Remaining Red Property Tax Benefit was \$6,000,000 NPV, (x) the amount of the Remaining Energy Cost Savings Benefit was \$900,000 NPV, (y) the amount of the Remaining MRT Benefit was \$800,000 (nominal), and (z) the Recapture Amount was \$11,419,925 NPV, then:

(1) the Company Group will be subject to a permanent reduction in the Remaining Sales Tax Benefit equal to the product of (w) eight percent (8%) (the Base Employment Reduction Percentage), (x) 2.0 (the applicable Multiplier Factor), (y) 100% (the applicable Recapture Percentage) and (z) \$5,000,000 NPV (the Remaining Sales Tax Benefit), or \$800,000 NPV, and

(2) the Company Group will be subject to a permanent reduction in the Remaining Real Property Tax Benefit equal to the product of (w) eight percent (8%) (the Base Employment Reduction Percentage), (x) 2.0 (the applicable Multiplier Factor), (y) 100% (the applicable Recapture Percentage) and (z) \$6,000,000 NPV (the Remaining Real Property Tax Benefit), or \$960,000 NPV, and

(3) the Company Group will be subject to a permanent reduction in the Remaining Energy Cost Savings Benefit equal to the product of (w) eight percent (8%) (the Base Employment Reduction Percentage), (x) 2.0 (the applicable Multiplier Factor), (y) 100% (the applicable Recapture Percentage) and (z) \$900,000 NPV (the Remaining Energy Cost Savings Benefit), or \$144,000 NPV, and

(4) the Company Group will be subject to a permanent reduction in the Remaining MRT Benefit equal to the product of (w) eight percent (8%) (the Base Employment Reduction Percentage), (x) 2.0 (the applicable Multiplier Factor), (y) 100% (the applicable Recapture Percentage) and (z) \$800,000 (the Remaining MRT Benefit), or \$128,000, and

(5) the Company will promptly pay to the Agency a Recapture Payment equal to the product of (w) eight percent (8%) (the Base Employment Reduction Percentage), (x) 2.0 (the applicable Multiplier Factor), (y) 100% (the applicable Recapture Percentage) and (z) \$11,419,925 NPV (the Recapture Amount), equal to \$1,827,188 NPV.

(c) If a Relocation Reduction occurs, or continues (from a prior Annual Period), in any Annual Period, and results in a Base Employment Reduction Percentage of greater than ten percent (10%), then, (i) all remaining Benefits (and any Growth Credits and Relocation Credits) shall permanently cease to be available, (ii) the Company shall promptly pay to the Agency a Recapture Payment in an amount equal to the product of (1) the Multiplier Factor applicable to the Reported Annual Period, (2) the Recapture Amount, and (3) the Recapture Percentage applicable to the Reported 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 the Overlease Agreements, the PILOT Agreements, the Company Leases, the Lease Agreements and this Agreement (subject in each case to the survival of those provisions herein and therein stated to survive termination), (2) require the Company to surrender the Sales Tax Letter to the Agency for cancellation, (3) cause the Facility Realty (One Madison Avenue) to revert to the Company, (4) cause the Facility Realty (Bridge Plaza North) to revert to the Sublandlord (Bridge Plaza North), and/or (5) convey to the Company all of the Agency's remaining right, title and interest in the Project Property.

(d) The provisions of this Section 5.6 relating to the obligation of the Company to pay a Recapture Payment in the amount and on the circumstances set forth herein shall survive and continue until the end of the Project Term notwithstanding the earlier cessation of all

Remaining Sales Tax Benefits, Remaining Real Property Tax Savings, Remaining Energy Cost Savings and Remaining MRT Savings or the termination of the Lease Agreements or this Agreement or any other reason whatsoever.

Section 5.7. Acquisitions and Mergers. (a) Upon the occurrence of an Acquisition or Merger, the Company shall deliver prompt written notice thereof to the Agency accompanied by a certificate of an Authorized Representative of the Company certifying as to (v) the identity of each of the Company Group Entity and the Foreign Entity involved in the Merger or Acquisition and the details thereof relevant to the terms and purposes of this Agreement and the Project, including, without limitation, the resulting changes in ownership, employment and operational structure of the Company 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 5.7(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 Company 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 Company Group Entity and a Foreign Entity who is (y) 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 (z) 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 with respect to the Company, then:

(i) if the nature of the operations and the level of employment of the Company Group and the Foreign Entity Group, respectively, and the ownership structure between and among the entities within the Company 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" under the Project Documents 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 Company Group (without including the Foreign Entity Group) and the Foreign Entity Group as if the Merger or Acquisition had not occurred),

or

(ii) if the nature of the operations and the level of employment of the Foreign Entity Group and the Company Group, and the ownership structure between and among the entities within the Company 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 Company 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 Company that with respect to the Company 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 Company 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 (excluding any Ineligible Employees for purposes of determining the availability of Benefits to the Company),

(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 Company Group and the Foreign Entity Group prior to the Merger or Acquisition (subject in each case to the continuation of Benefits and Public Benefits upon the respective conditions set forth therefor), provided, that, the calculation of employment levels with respect to the Public Benefits agreements existing with respect to the Foreign Entity Group and the Company 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 Company Group at the time of the Merger or Acquisition, unless the Agency otherwise determines that the Benefits may continue to be accounted for separately as between the Company Group and the Foreign Entity Group,

(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 Company Group and the Foreign Entity Group, respectively, and

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

Nothing contained in this Section 5.7 shall be deemed to amend, modify or replace the requirements of Section 6.1 of the Lease Agreement or Section 4.1 hereof with respect to any consolidation, merger or transfer.

Section 5.8. Growth Credit. Pursuant to Section 5.3 hereof, the Company shall certify to the Agency, among other matters, on each August 1, the number (calculated in accordance with Section 5.2 hereof) of Annual Period Eligible Employees during the Reported Annual Period. For so long as no Event of Default or default shall exist and be continuing under this Agreement, any Lease Agreement or any other Project Document to which the Agency shall be a party, the Company Group shall be entitled to receive an annual \$3,800 credit in nominal value (i.e., a "Growth Credit") for each of five Annual Periods for each Growth Credit Employee in excess of the Base Employment Number hired by a Company Group Entity. Ineligible Employees shall not be counted as Growth Credit Employees. 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 Company will receive a Growth Credit calculated as equal to \$3,800 in nominal value for each such Eligible Employee in excess of the Base Employment Number; provided, however, (w) the Company Group shall only be entitled to a maximum of \$19,000 in nominal value in Growth Credits (i.e., five Annual Periods of Growth Credits at \$3,800 in nominal value per Annual Period) 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 Company Group 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 Maximum Sales Tax Savings Amount by an equivalent nominal dollar amount (subject to the Maximum Growth Credit Amount) thereby allowing the Company Group 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 number of Eligible Employees increases to 1,753 Eligible Employees for three consecutive Annual Periods, the Company Group will receive a Growth Credit of \$11,400 (\$3,800 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 1,748 for an Annual Period, the Company Group will not be entitled to any Growth Credit with respect to such Annual Period. Thereafter, if the number of Eligible Employees grows to 1,759 with respect to the next five Annual Periods, the Company Group will be entitled to a Growth Credit of \$3,800 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 Company Group 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 1,754th through 1,759th Growth Credit Employees).

Any Growth Credit not realized (in whole or in part) prior to the earlier of the end of the Project Term and the termination of this Agreement will be forfeited.

A further example of the method of calculation of Growth Credits is set forth below:

| Base Employment Number ("BEN") of 1,750 Eligible Employees | | | |
|---|--|---|----------------------|
| <u>Annual Period</u> <u>Ending</u> <u>June 30</u> | <u>Annual Period</u> <u>Eligible</u> <u>Employees ("APEE")</u> | <u>Growth Credit</u> <u>Employees =</u> <u>APEE-BEN</u> | <u>Growth Credit</u> |
| 2003 | 1,755 | 5 | \$19,000 |
| 2004 | 1,748 | -- | 0 |
| 2005 | 1,850 | 100 | 380,000 |
| 2006 | 1,850 | 4 | 15,200 |
| 2007 | 1,755 | 5 | 19,000 |
| 2008 | 1,850 | 100 | 380,000 |
| 2009 | 1,754 | 4 | 0(1) |
| 2010 | 1,755 | 5 | 3,800(2) |
| | | TOTAL | \$817,000(3) |

- (1) Because \$15,200 in benefits was realized for each of jobs 1,751, 1,752, 1,753 and 1,754 in the Annual Periods ending June 30, 2003, 2004, 2005, 2006 and 2007, no further Growth Credits are available with respect to such jobs.
- (2) This ends the Growth Credits available for job number 1,755.
- (3) Maximum total is \$3,460,000 NPV.

Nothing contained in this Section 5.8 shall be deemed to modify the terms or application of the provisions set forth in Sections 5.5 and 5.6 hereof.

Section 5.9. Retention of Headquarters and Designated Operations and Facilities.

The Company shall, (y) throughout the Project Term maintain its Headquarters in the City at all times, and (z) comply with the Designated Operations and Facilities Covenant and maintain its Designated Operations and Facilities in the City at all times from the Project Commencement Date through June 30, 2011 (subject to extension pursuant to the provisions of Sections 5.10 and 5.16 hereof), notwithstanding in each case any earlier termination of this Agreement, until the provisions of this Section 5.9 shall have been satisfied. In the event that (i) at any time during the Project Term, the Company publicly states that it will relocate all or a portion of its Headquarters to a location outside of the City, or (ii) at any time from the Project Commencement Date through June 30, 2011 (subject to extension pursuant to the provisions of Sections 5.10 and 5.16 hereof), the Company does not occupy the Project Building (Bridge Plaza North), subject to permitted subletting pursuant to the Lease Agreement (Bridge Plaza North) and the provisions of Section 5.10 hereof, or publicly states that it will relocate its Designated Operations and Facilities to a location outside of the Project Building (Bridge Plaza North), then, from the date the public statement of the Company to so relocate is made and/or the Company fails to occupy the Project Building (Bridge Plaza North), the Agency may require as its sole remedies any of the following: that all future Benefits be forfeited, that the Company shall surrender the Sales Tax Letter to the Agency for cancellation, and that the Company shall immediately pay to the Agency a Recapture Payment equal to the product of (A) the Multiplier Factor applicable to the Annual Period of such occurrence, (B) the Recapture Percentage applicable to the Annual Period of such occurrence, and (C) the Recapture Amount. In such event, the Agency, in its absolute discretion, may also take or require all of the following actions: (i) terminate the Overlease Agreements, the PILOT Agreements, this Agreement, the Company Leases and the Lease Agreements (subject to the survival of those provisions herein and therein stated to survive termination), (ii) cause the Facility Realty (One Madison Avenue) to revert to the Company, (iii) cause the Facility Realty (Bridge Plaza North) to revert to the Sublandlord (Bridge Plaza North), and (iv) convey to the Company all of the Agency's remaining right, title and interest in the Project Property. Nothing contained in this Section 5.9, however, is intended to limit the application of, or substitute for the provisions of, Section 5.5 or 5.6 hereof (and their application for the balance of the Project Term) to the extent that any relocation of the Company's Headquarters or Designated Operations and Facilities shall also constitute a Non-Relocation Reduction or a Relocation Reduction, respectively, and any Recapture Payments made by the Company pursuant to Section 5.6 hereof shall be credited against any payments required to be made pursuant to this Section 5.9.

Section 5.10. Casualty or Condemnation. In the event that the Company shall no longer be able to occupy any portion of the Facility Realty (Bridge Plaza North) or the Facility Realty (One Madison Avenue) because of (i) casualty or condemnation occurring with respect to such Facility Realty or (ii) the termination or rescission of the related Prime Lease (Bridge Plaza North), the Prime Lease (One Madison Avenue) or the MetLife Sublease (One Madison Avenue), as applicable, then, whether or not the related Company Lease and/or the related Lease Agreement shall have been terminated, the Agency will accept from the Company an application (on the Agency's then standard project application form) for approval of an alternative New York City site proposed by the Company, the Agency shall review such application as expeditiously as

possible and use best efforts within then existing Agency Requirements to allow the Benefits to be transferred to such alternative site. In the event of such a casualty or condemnation, (x) if the Agency does not approve the transfer of the Benefits to such alternative site, no reduction of Eligible Employees in the City as a direct result of such casualty or condemnation shall be considered a Relocation Reduction within the contemplation of Section 5.6 hereof, but shall instead be deemed a Non-Relocation Reduction; (y) to the extent and for such reasonable period as the Company shall be diligently and promptly seeking to restore its Headquarters within the City, the obligation of the Company to maintain its Headquarters within the City as provided in Section 5.9 hereof shall be suspended; and (z) to the extent that the failure of the Company to comply with its covenant as provided in Section 5.9 hereof to maintain its Designated Operations and Facilities within the City shall not arise from a fault or intentional act on the part of the Company (e.g., a default under the Prime Lease (Bridge Plaza North) resulting in a termination of the Prime Lease (Bridge Plaza North)), then, if the Company shall promptly submit to the Agency in good faith an application (on the Agency's then standard project application form) for approval of an alternative New York City site outside of Manhattan proposed by the Company for its Designated Operations and Facilities, the Agency shall review such application as expeditiously as possible and use its best efforts within then existing Agency Requirements to establish a new location for the Company's Designated Operations and Facilities. For so long as the Company shall be diligently proceeding in good faith to obtain the Agency's approval for a new location for its Designated Operations and Facilities and, once approved, to commence occupancy of such location, the failure of the Company to comply with its covenant in Section 5.9 hereof shall not be deemed a breach thereof; provided, however, that the period commencing with the loss of occupancy of the Facility Realty (Bridge Plaza North) and terminating upon the commencement of occupancy by the Company of the new facility as its Designated Operations and Facilities shall extend the duration of the covenant of the Company to maintain its Designated Operations and Facilities within the City for an equivalent period. In any event, the Company shall have the right, subject to the terms and conditions set forth in the Project Documents including this Agreement and the maintaining of its Headquarters, its Designated Operations and Facilities and the required employment levels set forth herein, to continue to realize Benefits after such a casualty or condemnation or such a termination or rescission of the Prime Lease (Bridge Plaza North), the Prime Lease (One Madison Avenue) or the MetLife Sublease (One Madison Avenue), as the case may be.

Section 5.11. Employment Information; Equal Employment Opportunities.

(a) The Company shall ensure that all employees and applicants for employment with regard to the Project 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 Company Group with the New York State Department of Labor Community Services Division, and with the administrative entity of the service delivery area(s) created by the Federal Job Training Partnership Act (P.L. No. 97-300) in which the Facility Realty (Bridge Plaza North) and the Facility Realty (One Madison Avenue) are located. Except as is otherwise provided by collective

bargaining contracts or agreements, the Company agrees, where practicable, to first consider persons eligible to participate in the Federal Job Training Partnership Act (P.L. No. 97-300) 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.

(b) Annually, by August 1 of each year until the termination of this Agreement, the Company shall submit to the Agency an employment report relating to the Reported Annual Period, substantially in the form of Schedule A hereto, certified as to accuracy by the chief financial or accounting officer of the Company.

(c) 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 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 Company Group and the employees of the Company Group 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 similar applicable laws, rules or regulations. In addition, upon the Agency's request, the Company shall provide to the Agency any employment information in the possession of the Company Group which is pertinent to the Company Group and the employees of the Company Group to enable the Agency and/or EDC to comply with its reporting requirements required by said New York City Local Law 69 and any other similar 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 Company Group, 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 said New York City Local Law 69, (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 Company to violate any existing collective bargaining agreement with respect to the hiring of new employees.

(e) The Company agrees to fulfill all standard Agency Requirements, including reporting requirements relating to Benefits received, and employment opportunities created, in connection with the Project.

Section 5.12. Suspension of Benefits. If at any time during the Project Term, the total number of Eligible Employees is reduced below the Base Employment Number (other than by a reason permitted in Section 5.10 hereof), and such reduction in employment would constitute

a Relocation Reduction described in Section 5.6(c) hereof or a Non-Relocation Reduction described in Section 5.5(c) hereof, if such reduction continued for an entire Annual Period, then the Company shall immediately (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 Base Employment Number, whereupon the Agency shall return the Sales Tax Letter to the Company and notify the Company that the Company may again avail itself of the Remaining Energy Cost Savings Benefit, the Remaining Sales Tax Benefit, the Remaining Real Property Tax Savings and the Remaining Energy Cost Savings Benefit or (y) the end of such Annual Period, in which event the Company shall be subject to the application of the provisions of Section 5.5, 5.6 or 5.9 hereof, as applicable.

Section 5.13. Confidentiality. The Agency and the Company mutually covenant and agree, to the maximum extent permitted by applicable federal, state or local law or ordinance (including rules and regulations promulgated thereunder), 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 7.1(a) hereof, or the other Project Documents and the Project Term Sheet, any reports or other information supplied by the Company under this Agreement, 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 Preliminary Sales Tax Letter and the Sales Tax Letter, both of which may be exhibited to others for the purposes therein stated; provided, however, that after the Project Commencement Date, the Agency shall have the option to disclose any of the Project Agreement, the PILOT Agreements or the Project Term Sheet upon a determination by the Agency in its sole discretion that such information may be, or is required to be, disclosed under applicable federal, state or local law or ordinance (including rules and regulations promulgated thereunder), including but not limited to Article 6 - Freedom of Information Law, of the New York Public Officers Law; provided further, that the Agency shall give the Company notice of any such determination and shall cooperate with the Company in formulating any such disclosures. In the event that the Agency shall receive a request to disclose any of the Project Agreement, the PILOT Agreements or the Project Term Sheet to a Person constituting a part of the private sector, the Agency shall advise the Company of the receipt of such request, and promptly following a determination by the Agency of whether to comply with such request, advise the Company of such determination. In the event the Company shall elect to commence any legal proceeding with respect to such Agency determination, the Company shall first deliver to the Agency an unconditional indemnity by which the Company will agree to hold the Agency harmless for any costs, expenses, liability or injury as may result from any such legal proceeding.

In the further event that the Company shall elect to disclose any of the Project Agreement, the PILOT Agreements or the Project Term Sheet to any of its advisors, consultants, lenders, landlords or other Persons for a legitimate good faith commercial purpose, the Company

shall require that any such Person execute an agreement agreeing to maintain the confidentiality of any disclosed information.

Section 5.14. Late Recapture Payments. Any Recapture Payment not paid by the Company when due shall bear interest at the annual rate of eighteen percent (18%) per annum until the date paid.

Section 5.15. Energy Cost Savings. The Agency shall cause EDC to use its good faith efforts to obtain the approvals and/or authorizations, and to negotiate with Con Ed, as necessary, to obtain confirmation from Con Ed that it will make the BIR Energy Load available to the Company with respect to the BIR Premises, subject to all of the limitations, terms and conditions of the BIR Program. The BIR Energy Load shall to the extent permitted by the BIR Program be a fixed amount, and the Company shall be entitled only to the actual Energy Cost Savings realized from usage of BIR Energy subject to the BIR Energy Load, in an amount not to exceed the Maximum Energy Cost Savings Amount; provided, however, that the BIR Energy Load shall be adjusted downward, if necessary, once after one year of usage of BIR Energy (based on an energy use audit performed for the Company at its cost by consultants acceptable to the Agency) in order to achieve no more than the Maximum Energy Cost Savings Amount. To this end, the Company covenants to cause separate energy use audits to be performed (y) for the BIR Premises (One Madison Avenue) within thirty (30) days after the one year anniversary of the Project Commencement Date, and (z) within thirty (30) days after the commencement of occupancy by the Company of all or substantially all of the BIR Premises (Bridge Plaza North).

Section 5.16. Relocation Real Estate Tax Abatement. Pursuant to Section 5.3 hereof, the Company shall certify to the Agency, among other matters, on each August 1, the number of Relocated Employees during the Reported Annual Period. The number of Relocated Employees for any Annual Period shall be determined by dividing (y) the sum of the average number of Relocated Employees employed on the last payroll date of each month during such Annual Period, by (z) the number of months in such Annual Period. The Relocation Real Estate Tax Abatement shall only be with respect to Relocated Employees for the Reported Annual Periods ending June 30, 2002, June 30, 2003, June 30, 2004, June 30, 2005 and June 30, 2006 (the "Qualifying Reported Annual Periods"). For so long as no Event of Default or default shall exist and be continuing under this Agreement, any Lease Agreement or any other Project Document to which the Agency shall be a party, the Company shall be entitled to receive an annual \$2,715 credit in nominal value (i.e., a "Relocation Credit") for each Relocated Employee employed during a Qualifying Reported Annual Period for up to five (5) Annual Periods. Ineligible Employees shall not be counted as Relocated Employees. The Relocation Credit shall be computed as follows: to the extent for any Qualifying Reported Annual Period there shall be Relocated Employees, the Company will receive a Relocation Credit calculated as equal to \$2,715 in nominal value for each such Relocated Employee, provided, however, (w) the Company will only be entitled to a maximum of \$13,575 in nominal value in Relocation Credits (i.e., five (5) Annual Periods of Relocation Credits at \$2,715 in nominal value per Annual Period) for each such Relocated Employee as reported in the certificate delivered by the Company pursuant to

Section 5.3 hereof with respect to a Qualifying Reported Annual Period, (x) each Relocation Credit will cease to the extent such Relocated Employee is eliminated and not replaced, (y) in no event will the Company be entitled to more than one 5-year Relocation Credit (in the aggregate) for each Relocated Employee, and (z) the aggregate amount of all Relocation Credits (i.e., the Relocation Real Estate Tax Abatement) would not exceed \$10,500,000 NPV.

The aggregate Relocation Credits for each Qualifying Reported Annual Period (i.e., the Relocation Real Estate Tax Abatement) will be applied by an equivalent nominal dollar amount (subject to the Maximum Real Property Tax Savings Amount) as a credit to the payments to be made by the Company under the PILOT Agreements as follows: the Relocation Real Estate Tax Abatement shall be applied, first, as a credit to the PILOT Payment (but not the CRT PILOT Payment) payable under the PILOT Agreement (Bridge Plaza North) on the January 1 next following the applicable Qualifying Reported Annual Period; second, if such credit would exceed the PILOT Payment due under the PILOT Agreement (Bridge Plaza North) on such January 1, such excess shall be applied as a credit to the PILOT Payment (but not the CRT PILOT Payment) payable under the PILOT Agreement (One Madison Avenue) on the same January 1; third, if such credit exceeds the sum of both such PILOT Payments on such January 1, then such excess shall be applied (bearing interest at an annual rate of seven and three-quarters percent (7-3/4%) from such January 1 until applied as a credit), as a credit to the next following July 1 PILOT Payment under the PILOT Agreement (Bridge Plaza North); and fourth, if any excess of such credit shall still remain, shall be applied on the next succeeding January 1 PILOT Payment under first, the PILOT Agreement (Bridge Plaza North), and then, the PILOT Agreement (One Madison Avenue), and so on.

Any Relocation Real Estate Tax Abatement not realized (in whole or in part) prior to the earlier of the end of the Project Term and the termination of this Agreement will be forfeited.

In the event that (y) the completion of the Project Building (Bridge Plaza North) is delayed by at least one hundred eighty (180) days beyond March 31, 2002, the anticipated date of full occupancy by the Company of the Project Building (Bridge Plaza North), by reason of Force Majeure, or (z) there shall have occurred a Loss Event with respect to the Project Building (Bridge Plaza North) such as to have eliminated or substantially reduced the occupancy (or the ability to assume occupancy) by the Company Group of the Project Building (Bridge Plaza North) for at least one hundred eighty (180) days during the period from July 1, 2001 through June 30, 2006 (in either the case of clause (y) or (z), such period of delay or impairment of occupancy being referred to as the "Extension Period"), then, upon the delivery by the Company to the Agency of a certificate of an Authorized Representative of the Company certifying as to the basis and period for such Extension Period, then,

(i) the Qualifying Reported Annual Periods shall be extended by such Extension Period, and

(ii) the period of the covenant of the Company contained in Section 5.9 hereof (y) to maintain its Headquarters in the City, and (z) to maintain its Designated Operations and Facilities in the Project Building (Bridge Plaza North), together with the Company's covenants contained in Section 5.6 hereof, shall also be extended by such Extension Period.

Section 5.17. Survival of Obligations. Notwithstanding any provision of this Agreement, the Sales Tax Letter, the Lease Agreements or any other Project Document to the contrary, including conveyance by the Agency to the Company of its interest in the Project Property or any termination of the Lease Agreements or this Agreement, the obligations of the Company under this Article V (including, without limitation, the application of the provisions of Section 5.5, 5.6 and 5.9 hereof notwithstanding the earlier receipt by the Company of the Maximum Sales Tax Benefit, the Maximum Energy Cost Savings Benefit, the Maximum Real Property Tax Savings Amount and the Maximum MRT Savings Amount, or the cessation of future Benefits) 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 later of the end of the Project Term or the date upon which any amounts as shall have accrued hereunder on or prior to the end of the Project Term shall have been paid in full by the Company.

Section 5.18. Replacement of Facility Realty (One Madison Avenue). In the event that neither the Company nor any of its Eligible Affiliates shall occupy any portion of the Project Building (One Madison Avenue) by reason of the sale or lease of the Project Building (One Madison Avenue) by the Company, then, the Agency will accept from the Company an application (on the Agency's then standard project application form) for approval of an alternative New York City site proposed by the Company. The Agency shall review such application as expeditiously as possible and use its best efforts within then existing Agency Requirements to allow the Benefits to be transferred to such alternative site, provided, that, if the alternative site is located in New York County, south of 96th Street, the Agency shall not take title to more than 270,670 rentable square feet at such alternative site.

Section 5.19. "In-Fill" Building. Prior to the Project Commencement Date, the Company has advised the Agency of the Company's desire to explore whether the Benefits pursuant to this Agreement may be "spread" to include an anticipated approximately 280,000 square foot building (the "In-Fill Building") adjacent to, and to be interconnected and integrated with, the Project Building (Bridge Plaza North). The In-Fill Building would be owned by the Sublandlord (Bridge Plaza North) or an Affiliate and would be leased in its entirety to the Company. In order for the "Benefits" to be "spread" to extend to the In-Fill Building, it would require the parties hereto to agree that

(i) title to the In-Fill Building would be conveyed by the owner thereof (the "Sublandlord (In-Fill Building)") to the Agency pursuant to a deed (with a possibility

of reverter) similar in substance to the deed conveying the Facility Realty (Bridge Plaza North) to the Agency on the Project Commencement Date,

(ii) the Agency would lease the In-Fill Building to the Sublandlord (In-Fill Building) pursuant to an Overlease Agreement similar in substance to the Overlease Agreement (Bridge Plaza North),

(iii) the Sublandlord (In-Fill Building) would lease the In-Fill Building to the Company,

(iv) the Company would sublease the In-Fill Building to the Agency pursuant to a Company Lease Agreement similar in substance to the Company Lease Agreement (Bridge Plaza North),

(v) the Agency would sub-sublease the In-Fill Building to the Company pursuant to a Lease Agreement similar in substance to the Lease Agreement (Bridge Plaza North),

(vi) the Sales Tax Letter would be amended to extend its application to the In-Fill Building,

(vii) the Agency, the Company and the PILOT Trustee would enter into a PILOT Agreement with respect to the In-Fill Building similar in substance to the PILOT Agreement (Bridge Plaza North),

(viii) the aggregate Benefits and maximum Amounts of the constituent Benefits would not be increased,

(ix) the Designated Operations and Facilities covenant of the Company set forth in Section 5.9 hereof would be extended to the end of the Project Term, and

(x) the Project Documents would be amended accordingly.

The inclusion of the In-Fill Building and the other actions noted above are all subject to the approval of such matters by the Agency pursuant to the Act and actions to be taken by the Agency's Board of Directors subsequent to the Project Commencement Date, and the agreement by the Agency and the Company to all of the terms, conditions and agreements related to such inclusion of the In-Fill Building. No assurance or warranty by the Agency is hereby given

to the Company that any such approvals will be forthcoming, and the purpose of this Section 5.19 is merely to recite the agreements which would be required of the parties if such approvals are obtained. Nothing contained herein shall be construed as binding either the Company or the Agency to any additional obligation hereunder or with regard to the In-Fill Building without the express agreement thereto of the Agency and the Company.

ARTICLE VI

EVENTS OF DEFAULT

Section 6.1. Events of Default. The occurrence of any of the following events shall be an "Event of Default" hereunder:

(a) Failure of the Company to pay any amount that has become due and payable by the terms hereof or to deliver the certificates required under Section 5.3 hereof, in each case ten (10) days after receipt by the Company of written notice from the Agency;

(b) Failure of the Company to observe and perform any covenant, condition or agreement on its part to be performed under Section 4.1 hereof;

(c) Failure of the Company to observe and perform any covenant, condition or agreement hereunder on its part to be performed (except as set forth in Section 6.1(a) or (b) above) and (1) continuance of such failure for a period of thirty (30) days after receipt by the Company of written 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 Company fails to proceed with reasonable diligence after receipt of said notice to cure the same or fails to continue with reasonable diligence its efforts to cure the same;

(d) The Company 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, 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;

(e) A proceeding or case shall be commenced, without the application or consent of the 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 the Company or of all or any substantial part of its assets, or (iii) similar relief under any law relating to bankruptcy, insolvency, 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 the Company shall acquiesce in writing to any of the foregoing; or any order for relief against the Company shall be entered in an involuntary case under such Bankruptcy Code; the terms "dissolution" or "liquidation" of the Company as used above shall not be construed to prohibit any action otherwise permitted in Section 6.1 of the Lease Agreements, or Section 4.1 or Article V hereof;

(f) Any representation or warranty made (i) by the Company in the application and related materials submitted to the Agency for approval of the Project or in any Project Document, or (ii) by the Company herein, or (iii) in any report, certificate, financial statement or other instrument furnished pursuant hereto or any of the foregoing, shall in any case prove to be false, misleading or incorrect in any material respect as of the date made;

(g) An Event of Default under any Lease Agreement or either PILOT Agreement shall occur and be continuing; or

(h) The termination for any reason of (y) the Lease Agreement (Bridge Plaza North) or (z) all of the Lease Agreements.

It is acknowledged and agreed by the Agency and the Company that the failure of the Company (i) to maintain its Headquarters within the City during the Project Term, (ii) to maintain its Designated Operations and Facilities within the City for the term specified in this Agreement, or (iii) to maintain certain minimum number of Eligible Employees within the City, does not, in and of itself, constitute an Event of Default under this Agreement absent the Company's failure to make the payments required of it under this Agreement as a result thereof.

Section 6.2. Remedies on Default. Whenever any Event of Default referred to in Section 6.1 hereof shall have occurred and be continuing, the Agency, without the consent of any other Person, may proceed to enforce its rights under this Agreement by (i) terminating this Agreement (without relieving the Company of its liabilities and obligations under this Agreement, which liabilities and obligations shall survive such termination), and/or (ii) suspending and/or terminating or not annually re-confirming the Sales Tax Letter, or requiring the Company to surrender the Sales Tax Letter to the Agency for cancellation, and/or terminating all Sales Tax Savings, and/or (iii) terminating all Energy Cost Savings, and/or (iv) terminating all Real Property Tax Savings, and/or (v) terminating all MRT Savings, and/or (vi) terminating any or all of the Overlease Agreements, the PILOT Agreements, the Company Leases, the Lease Agreements and/or this Agreement (subject to the survival of those provisions herein and therein stated to survive such termination), and/or (vii) cause the Facility Realty (One Madison Avenue) to revert to the Company, and/or (viii) cause the Facility Realty (Bridge Plaza North) to revert to the Sublandlord (Bridge Plaza North), and/or (ix) conveying all of the Agency's remaining right, title and interest in the Project Property to the Company, and/or (x) taking whatever action at law or in equity as may appear necessary or desirable to collect payment of amounts due under

this Agreement, and/or (xi) enforcing performance or observance of any obligations, covenants or agreements of the Company under this Agreement.

Notwithstanding the foregoing or any other provision of this Agreement, it is acknowledged and agreed by the parties hereto that (y) the Company makes no commitment to maintain any number of Eligible Employees within the City (except as a condition to receipt of Benefits hereunder) nor to maintain any particular operation within the City, and that the sole remedy of the Agency, in the event of a Non-Relocation Reduction or a Relocation Reduction, or a relocation of the Company's Headquarters or Designated Operations and Facilities, is the reduction and recapture of Benefits as provided herein, and (z) although any failure by the Company to comply with the provisions of Section 4.1 hereof may constitute an Event of Default under this Agreement, such Event of Default shall not result in the Agency having as a remedy the power to prevent, limit or otherwise bar any transaction contemplated by the Company as described in Section 4.1 hereof.

Section 6.3. Remedies Cumulative. Except as may be specifically provided in this Agreement, 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 hereunder. 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 Company 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 Company with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such default by the Company be continued or repeated.

Section 6.4. No Additional Waiver Implied by One Waiver. In the event any covenant or agreement contained in this Agreement should be breached by the Company and thereafter waived by the Agency, 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 Agency. No course of dealing between the Agency and the Company or any delay or omission on the part of the Agency in exercising any rights hereunder or under any other Project Document shall operate as a waiver.

Section 6.5. Effect of Discontinuance of Proceedings. In case any proceeding taken by the Agency under this Agreement or under any other Project Document on account of any Event of Default hereunder or thereunder 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 6.6. Agreement to Pay Attorneys' Fees and Expenses. In the event the Company should default under any of the provisions of this Agreement, and the Agency should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligation or agreement on the part of the Company herein contained, the Company will promptly after demand therefor pay to the Agency the reasonable fees and disbursements of such attorneys and such other reasonable expenses so incurred.

ARTICLE VII

MISCELLANEOUS

Section 7.1. Financial Statements; Annual Certificates. (a) Upon written request of the Agency, the Company shall furnish to the Agency, as soon as such information is made available pursuant to the appropriate filing with the United States Securities and Exchange Commission after the close of the prior fiscal year of the Company, a copy of the annual audited consolidated financial statements of the Company (including balance sheet, net worth, financial position, earnings and retained earnings statements) for the most recently completed fiscal year, prepared in accordance with generally accepted accounting principles, certified by an Independent Accountant. In addition, upon twenty (20) days prior written request by the Agency, the Company will execute, acknowledge and deliver to the Agency a certificate of an Authorized Representative of the Company 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.

(b) The Company shall promptly notify the Agency of the occurrence and continuance of any Event of Default or any event that, with notice and/or lapse of time, would constitute an Event of Default under any Project Document of which it has knowledge. Any notice required to be given pursuant to this subsection shall be signed by an Authorized Representative of the Company and shall 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 Company shall state this fact in the notice.

Section 7.2. Limitations of Liability. (a) Any 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 the payment of any claim based thereon against any member, director, officer, employee or agent of the Agency.

(b) No obligation or agreement of the Agency contained herein shall constitute or give rise to an obligation or indebtedness of the State or of the City, and neither the State nor the City shall be liable thereon or hereunder. Furthermore, no such obligation or agreement shall constitute or give rise to a general obligation or pecuniary or other liability of the Agency.

(c) Any covenants, stipulations, promises, agreements and obligations of the Company contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Company, and not of any shareholder, partner, managing director, director, officer, employee or agent of the Company in his individual capacity, and no recourse shall be had for the payment of any claim based thereon against any shareholder, partner, managing director, director, officer, employee or agent of the Company.

Section 7.3. Employment Information. The Company agrees that, upon request of the Agency, the Company shall furnish to the Agency such information as the Agency shall reasonably request with respect to past, present and future employment of the Company Group both within and outside the City, including, without limitation, information with respect to the number of Eligible Employees at the Facility Realty (One Madison Avenue), the Facility Realty (Bridge Plaza North) and other locations both within and outside of the City, and the number of employees of the Company Group as constitute women, minorities, executive and administrative personnel and other categories reasonably requested by the Agency at each location. Upon request by the Agency, the Company shall submit to the Agency copies of Form EEO-1 and Form IA-5 or the equivalent and/or such other reports or filings concerning the affirmative action and minority programs of the Company Group, with respect to the facilities of the Company Group within the City, as are required to be prepared and filed with Federal or State authorities pursuant to applicable law.

Section 7.4. Benefit, Enforcement and Binding Effect of this Agreement. This Agreement is executed in part to induce the Agency to enter into the Overlease Agreements, the PILOT Agreements, the Company Leases, the Lease Agreements, this Agreement and the other Project Documents to which the Agency is a party, and to issue the Sales Tax Letter, and, accordingly, all covenants and agreements on the part of the Agency and the Company as set forth in this Agreement are hereby declared to be for the benefit of the Agency and the Company, to be enforced as provided herein and in the other Project Documents.

Section 7.5. Amendments. This Agreement may be amended only with the consent of the Agency and the Company and only if the Agency and the Company shall assume in writing the obligations of such amended Agreement.

Section 7.6. Notices. Any notice, demand, direction, certificate, Opinion of Counsel, request, instrument or other communication authorized or required by this Agreement to be given to or filed with the Agency or the Company shall be delivered or sent by hand delivery (receipt acknowledged) or by registered or certified mail, return receipt requested, postage prepaid:

(a) To the Agency, to the Chairman, 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.

(b) To the Company, to Metropolitan life Insurance Company, One Madison Avenue, New York, New York 10010, Attention: Tax Director, with a copy to the Chief of the Corporate Section of the Law Department at the same address. A copy of each default notice to the Company shall also be sent to the Company's counsel, Stadtmauer Bailkin LLP, 850 Third Avenue, New York, New York 10022, Attention: Steven P. Polivy, Esq.

The Agency and the Company may, by like notice, designate any further or different addresses to which subsequent notices, demands, directions, certificates, Opinions of Counsel, requests, instruments or other communications hereunder shall be sent. Any notice, demand, direction, certificate, Opinion of Counsel, request, instrument or other communication hereunder shall, except as may otherwise expressly be provided herein, be deemed to have been delivered or given as of the date received or delivery rejected as indicated on the return receipt.

Section 7.7. 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 Company relating to the subject matter hereof (other than any Project Document or other document being executed contemporaneously herewith) with respect to the subject matter hereof.

Section 7.8. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under the present or future laws effective during the Term of this Agreement, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and that is legal, valid, and enforceable.

Section 7.9. Option of Company to Effect Release and Conveyance of Project Property. Notwithstanding any provision of this Agreement or any other Project Document to the contrary, and irrespective of whether there shall occur and be continuing an Event of Default hereunder, the Company shall have the option, upon written notice to the Agency, to cause the Agency to convey to the Company all of the Agency's right, title and interest in any Project Property to which the Company shall otherwise have a right, and upon receipt of such notice, and payment by the Company to the Agency of any fees, costs, taxes or expenses incurred or to be incurred thereby, the Agency shall effect such conveyance.

Section 7.10. Effective Date; Counterparts. This Agreement shall become effective upon its delivery. It may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 7.11. Binding Effect. This Agreement shall be binding upon the Agency and the Company and their respective successors and permitted assigns.

Section 7.12. Law Governing. This Agreement shall be governed by, and construed in accordance with, the laws of the State.


Section 7.13. 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 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 7.14. 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 Project Commencement Date.

IN WITNESS WHEREOF, each of the undersigned by their representatives duly authorized have executed and delivered this Agreement as of the date hereof.

**NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY**

By 

Carolyn A. Edwards,
Deputy Executive Director

**METROPOLITAN LIFE INSURANCE
COMPANY**

By 

Name: Joseph Reali
Title: SVP

LETTER OF AUTHORIZATION FOR SALES TAX EXEMPTION

January 3, 2002

TO WHOM IT MAY CONCERN

Re: New York City Industrial Development Agency
Metropolitan Life Insurance Company 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, 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 May 7, 2001 and resolutions adopted by the Agency on April 10, 2001, May 10, 2001, August 21, 2001 and December 11, 2001, and a Project Agreement dated as of December 1, 2001 (the "Project Agreement") between the Agency and Metropolitan Life Insurance Company, a corporation organized pursuant to the laws of the State of New York (the "Company"), the Agency has authorized the Company to act as its agent to acquire, improve, renovate, lease, sublease, license, sublicense, install, equip and maintain two certain commercial facilities in The City of New York consisting of (y) the renovation and improvement (i) of those certain floors owned, subleased and occupied by the Company in the building known as One Madison Avenue, New York, New York, and (ii) of that certain building leased to the Company (the "LIC Building") known as 27-01 Bridge Plaza North, Long Island City, New York (the locations in clauses (i) and (ii) being collectively, the "Project Improvement Locations"), and (z) the acquisition, equipping, installation, leasing, subleasing, licensing, sublicensing, repair, replacement and maintenance of machinery, equipment, furniture, trade fixtures, furnishings and other items of tangible movable personalty for installation at either Project Improvement Location or any other location so approved for such purpose by the Agency (collectively, an "Approved Project Personalty Location"), all as generally described in and

limited in scope as set forth in Exhibit A attached hereto (the "Project"), to the extent used by the Company and its Eligible Affiliates (as defined in the Project Agreement) as offices for its headquarters or business operations relating to the provision of financial services, including, without limitation, life insurance and other insurance policies, and annuities, retirement and benefit plans for companies and individuals (the "Company Business").

3. In connection with such resolutions and the Project Agreement, and pursuant to the authority therein granted, the Agency authorizes the Company to act as its agent in connection with the acquisition, equipping, installation, improvement, renovation, leasing, subleasing, licensing, sublicensing, repair, replacement and maintenance of the Project and authorizes the Company to use this letter only for the payment of the costs of such acquisition, equipping, installation, improvement, renovation, leasing, subleasing, licensing, sublicensing, repair, replacement and maintenance of the Project.

4. The Company is hereby authorized to designate Brause Plaza LLC, a New York limited liability company, and its successors and assigns as owner of the LIC Building, as its agent and the sub-agent of the Agency (the "Sub-Agent") hereunder to permit the Sub-Agent to purchase materials to be installed as repairs, capital improvements and renovations to the LIC Building, but for this purpose only. The Agency acknowledges and agrees that the Sub-Agent shall have no liability or obligations to the Agency by reason of the designation of Sub-Agent under this letter. The foregoing acknowledgment and agreement of the Agency set forth in the immediately preceding sentence shall not relieve the Sub-Agent from liability to the Agency which may arise from any improper use of this letter by the Sub-Agent.

5. As agent and sub-agent for the Agency, respectively, each of the Company and the Sub-Agent agrees that each lease, sublease, license, sublicense, contract, agreement, invoice, bill or purchase order entered into by the Company as agent for the Agency, or the Sub-Agent as sub-agent for the Agency, for the acquisition, equipping, installation, improvement, renovation, leasing, subleasing, licensing, sublicensing, repair, replacement and maintenance of the Project shall include language in substantially the following form:

"This contract is being entered into by [Brause Plaza LLC, a limited liability company organized under the laws of the State of New York (the "Sub-Agent"), as sub-agent] [Metropolitan Life Insurance Company, a corporation organized under the laws of the State of New York (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 Metropolitan Life Insurance Company consisting of (x) the renovation and improvement of (i) those certain floors leased and occupied by Metropolitan Life Insurance Company and/or Eligible Affiliates (as

defined in the Project Agreement referred to below) in the building known as One Madison Avenue, New York, New York and (ii) that certain building leased to and occupied by each of Metropolitan Life Insurance Company and/or Eligible Affiliates known as 27-01 Bridge Plaza North, Long Island City, New York (the locations in clauses (i) and (ii) being, collectively, the "Project Improvement Locations"), and (y) the acquisition, equipping, installation, 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 any Approved Project Personalty Location (as defined in the Project Agreement referred to in the Letter of Authorization for Sales Tax Exemption attached hereto) by Metropolitan Life Insurance Company and/or Eligible Affiliates, all for use by Metropolitan Life Insurance Company and/or Eligible Affiliates in the Company Business (as defined in the Project Agreement). The building materials, 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 attached Letter of Authorization for Sales Tax Exemption of the Agency, and the [Agent][Sub-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 the terms and conditions set forth in this paragraph."

6. The acquisition, renovation, improvement, leasing, subleasing, licensing, sublicensing, equipping, furnishing, installation, maintenance, repair and replacement from time to time of facilities, capital improvements, systems, trade fixtures, 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 construction materials, capital improvements or

renovations shall have a useful life of one year or more, and shall be solely for the use of the Company in the Company Business at either Project Improvement Location, and for no other entity and at no other location, (ii) such capital machinery, equipment or other tangible personal property shall not be incorporated as part of realty nor otherwise constitute construction materials, shall have a useful life of one year or more, and shall solely be for the use of the Company in the Company Business at the Approved Project Personalty Locations, and for no other entity and at no other location, (iii) in the case of rental arrangements, such arrangements either (x) provide for a purchase option on the part of the Company or (y) such arrangements constitute a capital lease, and (iv) 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.

7. Pursuant to the Project Agreement, the Agency has further appointed, and may further appoint from time to time, Eligible Affiliates, who shall have executed the "Assumption of Limited Lessee/Agent" form attached to the Project Agreement and who shall continue to be such, to act as the Agency's limited agent in connection with the acquisition, renovation, improving, equipping, furnishing, installation, leasing, subleasing, licensing, sublicensing, repair, replacement and maintenance of the Project, except that such agents (the "Limited Lessees/Agents") shall only act as such through their appointment of the Company as their agent for the above purposes. The Limited Lessee/Agents are enumerated or otherwise identified on Exhibit C attached hereto.

8. The Agency shall have no liability or performance obligations under any such lease, sublease, license, sublicense, contract, agreement, invoice, bill or purchase order entered into by the Company as agent for the Agency or by the Sub-Agent as sub-agent for the Agency. The Agency shall not be liable, either directly or indirectly or contingently, upon any such lease, sublease, license, sublicense, contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever, and the Company shall be the sole party liable thereunder.

9. By execution by the Company and the Sub-Agent of their acceptance of the terms of this letter, the Company and the Sub-Agent agree to accept the terms hereof and represent and warrant to the Agency that the use of this letter by the Company and the Sub-Agent is strictly for the purposes above stated.

10. Accordingly, until the earlier of (i) June 30, 2021 (or such later date as may be provided pursuant to the Project Agreement), and (ii) the conferral of the Maximum Sales Tax Savings Amount (as defined in the Project Agreement), and subject to the continued annual confirmation by the Agency as to the effectiveness of this letter as provided in Exhibit B attached

hereto and made a part hereof, 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, leases and licenses of, and improvement, installation and maintenance contracts relating to, the Project property, to the extent effected by the Company (or by a contractor or subcontractor engaged by the Company) as agent for the Agency, or by the Sub-Agent as sub-agent of the Agency, are exempt from all New York State and New York City sales and use taxes.

The signature of a representative of the Company and of the Sub-Agent where indicated below will indicate that the Company and the Sub-Agent have accepted the terms hereof.

NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Carolyn A. Edwards,
Deputy Executive Director

ACCEPTED AND AGREED TO BY:

METROPOLITAN LIFE INSURANCE
COMPANY

By: _____
Name:
Title:

BRAUSE PLAZA LLC

By: _____
Name:
Title:

EXHIBIT A

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

1. the acquisition, leasing, subleasing, licensing, sublicensing, maintenance, repair, replacement and installation of machinery, equipment, furniture, furnishings, trade fixtures and other tangible and intangible personal property for use at an Approved Project Personalty Location, including computers (and peripherals), telecommunications equipment, business machines and software, but excluding art, plants, objects d'arte and other similar decorative items, rolling stock and ordinary office supplies such as pencils, paper clips and paper;

2. the leasing, subleasing, licensing or sublicensing of machinery, equipment, furniture, furnishings, trade fixtures and other tangible and intangible personal property (including the maintenance, repair, replacement, enhancement and addition with respect to such items) for use at an Approved Project Personalty Location, including computers (and peripherals), 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 an Approved Project Personalty Location;

4. the acquisition, leasing, subleasing, licensing, sublicensing, replacement and installation of computers (and peripherals), telecommunications equipment, equipment relating to the operation of all the foregoing categories and software located at an Approved Project Personalty Location;

5. the leasing, subleasing, licensing or sublicensing of computers (and peripherals), telecommunications equipment, equipment relating to the operation of all the foregoing categories and software for use at an Approved Project Personalty Location in connection with the foregoing equipment; and

6. the acquisition of building materials for improvements, renovations and system upgrades at the Project Improvement Locations;

provided, however, that (i) the purchase, leasing, subleasing, licensing or sublicensing 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 (ii) any maintenance shall be only 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 institute janitorial services.

EXHIBIT B

**ANNUAL CONFIRMATION BY AGENCY OF
EFFECTIVENESS OF SALES TAX LETTER**

Effective Period
(but not later than that date
determined in accordance with
paragraph 10 of this letter)

Confirming Agency Signature

January __, 2002 through June 30, 2002

July 1, 2002 through June 30, 2003

July 1, 2003 through June 30, 2004

July 1, 2004 through June 30, 2005

July 1, 2005 through June 30, 2006

July 1, 2006 through June 30, 2007

July 1, 2007 through June 30, 2008

July 1, 2008 through June 30, 2009

July 1, 2009 through June 30, 2010

July 1, 2010 through June 30, 2011

July 1, 2011 through June 30, 2012

July 1, 2012 through June 30, 2013

July 1, 2013 through June 30, 2014

July 1, 2014 through June 30, 2015

July 1, 2015 through June 30, 2016

July 1, 2016 through June 30, 2017

July 1, 2017 through June 30, 2018

July 1, 2018 through June 30, 2019

July 1, 2019 through June 30, 2020

July 1, 2020 through June 30, 2021

EXHIBIT C

LIMITED LESSEE/AGENTS

| <u>Name</u> | <u>Legal Entity</u> | <u>State of Organization</u> |
|-------------|---------------------|----------------------------------|
|-------------|---------------------|----------------------------------|

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

EXHIBIT A

CERTIFICATE OF THE COMPANY

The undersigned DOES HEREBY CERTIFY THAT he/she is an Authorized Representative of Metropolitan Life Insurance Company, a New York corporation (the "Company"), 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 Section 3.1(d)(v)(A) of that certain Project Agreement, dated as of December 1, 2001 (the "Project Agreement"), by and between the New York City Industrial Development Agency and the Company (all capitalized terms used but not defined herein shall have the respective meanings assigned to such terms in the Project Agreement or in the Lease Agreements referred to in the Project Agreement):

1. For the immediately preceding twelve-month period ending June 30, _____ (or for the immediately prior period, if this certificate relates to the period from April 10, 2001 through the Project Commencement Date), Schedule I attached hereto sets forth for such preceding twelve-month (or such other) period each Sales Tax Saving availed of by the Company Group or by the Sublandlord (Bridge Plaza North) pursuant to the Preliminary Sales Tax Letter or 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), the NPV of such dollar amounts, and the specific items of Project costs to which each shall relate.

2. All of the Sales Tax Savings described in Schedule I were availed of by the Company Group or by the Sublandlord (Bridge Plaza North) in compliance with the provisions of the Preliminary Sales Tax Letter, the Sales Tax Letter and the Project Agreement, and no Person other than the Company Group realized any such Sales Tax Savings.

3. The nominal dollar amount of Project costs paid during the period referred to in paragraph 1 above with respect to which the Company Group received Sales Tax Savings was \$ _____.

4. Attached hereto as Schedule II are all deletions and additions necessary to cause the Project Property Registry to be an accurate and complete description of the property comprising the Tenant Improvements (Bridge Plaza North), the Tenant Improvements (One Madison Avenue), the Facility Equipment, the Leased Personalty and the Maintenance Contracts.

5. For the immediately preceding twelve-month period ending June 30, _____ (or for the immediately prior period, if this certificate relates to the period from April 10, 2001 through the Project Commencement Date), the NPV dollar amount of all Sales Tax Savings availed of by the Company Group (or by the Sublandlord (Bridge Plaza North)), including Sales

Tax Savings availed of as a result of there being Leased Personalty during such immediately preceding period, was \$ _____ NPV.

6. The aggregate NPV dollar amount of all Sales Tax Savings availed of by the Company Group (or by the Sublandlord (Bridge Plaza North)) from April 10, 2001 through the last day of the immediately preceding twelve-month (or other) period is \$ _____ NPV.

7. For the immediately preceding Annual Period ending June 30, _____, the NPV dollar amount of Growth Credits earned was \$ _____ NPV, of which \$ _____ were applied to realize Sales Tax Savings.

8. The aggregate NPV dollar amount of Growth Credits earned by the Company Group from and after April 10, 2001 through the end of the immediately preceding Annual Period was \$ _____, and \$ _____ NPV is the remaining NPV dollar amount of Growth Credits which may be earned by the Company Group under the Maximum Growth Credit Amount of \$3,460,000 NPV.

9. The Remaining Sales Tax Savings Amount (including any earned but unutilized Growth Credit Amounts) as of the immediately preceding June 30, _____ is \$ _____ NPV.

10. For the immediately preceding twelve-month period ending June 30, _____ (or for the immediately prior period, if this certificate relates to the period from April 10, 2001 through the Project Commencement Date), the NPV dollar amount of all Real Property Tax Savings availed of by the Company Group was \$ _____ NPV, of which \$ _____ NPV was with respect to the Facility Realty (Bridge Plaza North) and \$ _____ NPV was with respect to the Facility Realty (One Madison Avenue).

11. The aggregate NPV dollar amount of all Real Property Tax Savings availed of by the Company Group from April 10, 2001 through the last day of the immediately preceding twelve-month (or other) period is \$ _____ NPV, of which \$ _____ NPV was with respect to the Facility Realty (Bridge Plaza North) and \$ _____ NPV was with respect to the Facility Realty (One Madison Avenue).

12. For the immediately preceding Annual Period ending June 30, _____, the NPV dollar amount of Relocation Real Estate Tax Abatements earned was \$ _____ NPV, of which \$ _____ were applied to realize Real Property Tax Savings, and of such \$ _____ so applied, \$ _____ NPV was with respect to the Facility Realty (Bridge Plaza North) and \$ _____ NPV was with respect to the Facility Realty (One Madison Avenue).

13. The aggregate NPV dollar amount of all Real Property Tax Savings availed of by the Company Group from April 10, 2001 through the last day of the immediately preceding twelve-month (or other) period is \$ _____ NPV, of which \$ _____ NPV was with respect to the Facility Realty (Bridge Plaza North) and \$ _____ NPV was with respect to the Facility Realty (One Madison Avenue), and \$ _____ is the remaining NPV dollar

amount of Relocation Real Estate Tax Abatements which may be earned by the Company Group under the Maximum Real Property Tax Savings Amount of \$10,500,000 NPV.

14. The Remaining Real Property Tax Savings Amount as of the immediately preceding June 30, ____ is \$ _____ NPV.

15. For the immediately preceding twelve-month period ending June 30, ____, the aggregate NPV dollar amount of Energy Cost Savings realized by the Company Group was \$ _____. The NPV dollar amount of all Energy Cost Savings availed of by the Company Group from and after April 10, 2001 through the end of the immediately preceding twelve-month (or such other) calendar period is \$ _____ NPV. The Remaining Energy Cost Savings Amount as of the immediately preceding June 30, ____ is \$ _____ NPV.

16. For the immediately preceding twelve-month period ending June 30, ____, the aggregate nominal dollar amount of all MRT Savings realized or earned directly or indirectly by the Company Group was \$ _____. The nominal dollar amount of all MRT Savings availed of or realized by the Company Group from and after April 10, 2001 through the end of the immediately preceding twelve-month (or such other) calendar period is \$ _____ NPV. An MRT Saving will be deemed availed of or realized on the date that it is earned or the right to receive the benefits of it is vested with the Company Group. The Remaining MRT Savings Amount as of the immediately preceding June 30, ____ is \$ _____.

17. For the immediately preceding twelve-month period ending June 30, ____, the aggregate NPV dollar amount of all Benefits realized by the Company Group (including any Sales Tax Savings realized by the Sublandlord (Bridge Plaza North)) to the end of the immediately preceding twelve-month (or such other) calendar period is \$ _____ NPV.

18. The aggregate NPV dollar amount of all Benefits realized by the Company Group from and after April 10, 2001 to the end of the immediately preceding twelve-month (or such other) calendar period is \$ _____.

19. As of the end of the immediately preceding twelve-month (or other) calendar period and at all times during such twelve-month (or other) calendar period, the Company was not in default under any of the provisions which relate to the Company in any Project Document to which the Company is a party. [To the extent that the Authorized Representative of the Company 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 any of the Project Documents, and the action proposed to be taken by the Company with respect thereto.]

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

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

METROPOLITAN LIFE INSURANCE
COMPANY

By _____
Name:
Title:

Schedule I

Description of
Item (incl.
serial #, if
maintained by
the Company)

Location
of Item

Dollar
Amount

Vendor

Date of
Payment

NPV
Sales Tax
Saving

Total NPV
Sales Tax
Savings

Schedule II

Deletions and Additions to Project Property Registry

NONE

EXHIBIT B

**CERTIFICATE OF AN AUTHORIZED REPRESENTATIVE OF THE COMPANY,
AS REQUIRED BY SECTION 5.3 OF THE PROJECT AGREEMENT**

The undersigned does hereby certify that he/she is an Authorized Representative of Metropolitan Life Insurance Company, a New York corporation (the "Company"), and has the knowledge necessary to deliver this certificate, and this certificate is being delivered pursuant to Section 5.3 of the Project Agreement, dated as of December 1, 2001 (the "Project Agreement"), made by the New York City Industrial Development Agency and the Company, 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 Project Agreement):

(1) The Annual Period Benefits for the Reported Annual Period was \$ _____ NPV, and the portion thereof NPV that constituted Sales Tax Savings was \$ _____, that which constituted Energy Cost Savings was \$ _____, that which constituted Real Property Tax Savings was \$ _____, and that which constituted MRT Savings was \$ _____.

(2) The aggregate amount NPV of all Energy Cost Savings provided to the Company Group prior to and including the Reported Annual Period is \$ _____, and the amount NPV remaining of the Maximum Energy Cost Benefit is \$ _____.

(3) The aggregate amount NPV of all Sales Tax Savings provided to the Company Group prior to and including the Reported Annual Period is \$ _____, and the amount NPV remaining of the Maximum Sales Tax Savings Amount is \$ _____.

(4) The aggregate amount NPV of Sales Tax Savings applied by the Company Group prior to and including the Reported Annual Period as a Growth Credit is \$ _____.

(5) The aggregate amount NPV of Real Property Tax Savings provided to the Company Group prior to and including the Report Annual Period is \$ _____, and the amount NPV remaining of the Maximum Real Property Tax Savings Amount is \$ _____.

(6) The aggregate amount NPV of Real Property Tax Savings applied by the Company Group prior to and including the Reported Annual Period as a Relocation Real Estate Tax Abatement is \$ _____.

(7) The aggregate amount of MRT Savings provided to or earned by the Company Group prior to and including the Reported Annual Period is \$ _____, and the amount remaining of the Maximum MRT Savings Amount is \$ _____.

(8) 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 and Full-time Equivalent Employees were _____ and _____, respectively.

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

(10) The number of Relocated Employees, if any, for the Reported Annual Period was _____.

(11) To the best of the Company's knowledge, no Person other than a Company Group Entity has realized any Sales Tax Savings under the Preliminary Sales Tax Letter or the Sales Tax Letter.

(12) The Company Group is entitled to a Growth Credit of \$ _____ for the Reported Annual Period, and the basis for calculation thereof is as follows: _____.

(13) The Company Group is entitled to a Relocation Real Estate Tax Abatement of \$ _____ for the Reported Annual Period, and the basis for calculation thereof is as follows: _____.

(14) 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 _____.

(15) The aggregate amount of rentable square feet of the Facility Realty (Bridge Plaza North) leased during the Reported Annual Period to Non-Qualified Users (other than for Employee Support Space) 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 Facility Realty (Bridge Plaza North) so leased to Non-Qualified Users.

(16) The aggregate amount of rentable square feet of the Facility Realty (Bridge Plaza North) made available for Employee Support Space was _____, and the use of such Space was as follows: _____.

(17) The aggregate amount of rentable square feet of the Facility Realty (One Madison Avenue) leased during the Reported Annual Period to Non-Qualified Users (other than for Employee Support Space) 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 Facility Realty (One Madison Avenue) so leased to Non-Qualified Users.

(18) The aggregate amount of rentable square feet of the Facility Realty (One Madison Avenue) made available for Employee Support Space was _____, and the use of such Space was as follows: _____.

(19) The number of Ineligible Employees for the Reported Annual Period was _____, of whom _____ were Sales Force Employees.

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

(21) The aggregate dollar amount of Project costs made during the Reported Annual Period for which Sales Tax Savings were claimed by a Company Group Entity or by the Sublandlord (Bridge Plaza North) was \$ _____.

(22) Neither the Company nor any Eligible Affiliate 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: _____.

(23) 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 Company Group), and the calculation of any amount to be repaid or reduction in future Benefits:
_____.

(24) During the Reported Annual Period, the Company Group did not transfer or establish its Headquarters or any part or all of its Designated Operations and Facilities to a location outside of the City, or, if it did, the following are the details thereof:
_____.

(25) During the Reported Annual Period, no transaction of the type described in Section 6.1 of the Lease Agreements or Section 4.1 of the Project Agreement occurred in the Reported Annual Period, or, if it did, the following are the details thereof:
_____.

(26) The net worth of the Company (as determined in accordance with generally accepted accounting principles) is in excess of \$500,000,000, or, if not, such net worth is \$ _____.

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

METROPOLITAN LIFE INSURANCE
COMPANY

By _____
Name:
Title:



New York City
Industrial Development Agency

Annual Employment Report

For the year ending June 30, ____

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.

PLEASE FAX YOUR RESPONSE TO 212-312-3918

SCHEDULE B

SUBTENANT SURVEY

IMPORTANT: Failure to supply this information will constitute an Event of Default pursuant to Section 3.5 of the Project Agreement and the Company may be subject to termination of Benefits.

BUILDING ADDRESS: _____

BUILDING TOTAL SQUARE FOOTAGE _____ **SQ. FT.**

Please list all subtenants occupying space in your facility and the corresponding information in complete form.

| <u>SUBTENANT</u> | <u>FLOOR</u> | <u>SQUARE FEET LEASED</u> | <u>LEASE BEGINS</u> | <u>LEASE ENDS</u> |
|------------------|--------------|-------------------------------|-------------------------|-----------------------|
|------------------|--------------|-------------------------------|-------------------------|-----------------------|

I, the undersigned, hereby certify to the best of my knowledge and belief, that the information reported above is true and complete. I understand that this information is submitted pursuant to the requirements of the Project Agreement.

Name: _____

Title: _____

Signature: _____

Date: _____

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 December 1, 2001 (as the same may hereafter be amended and supplemented, the "Lease Agreement"), between the Agency and Metropolitan Life Insurance Company, a corporation organized and existing under the laws of the State of New York (the "Lessee"),

(ii) a certain Project Agreement, dated as of December 1, 2001, between the Agency and the Lessee (as the same has been and may hereafter be amended and supplemented, the "Project Agreement"), and

(iii) a certain Letter of Authorization for Sales Tax Exemption dated January 3, 2002 (as the same has been and may hereafter be amended and supplemented, the "Sales Tax Letter") from the Agency to the Lessee,

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

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

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, the Project 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 Property or any part thereof which the Lessee could not take under any of the Lease Agreement, the Project Agreement or the Sales Tax Letter,

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

5. ASSUME (jointly and severally with the Lessee and with all other Limited Lessee/Agents) UNDER THE PROJECT AGREEMENT the obligations, covenants and agreements of the Lessee under the Project 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: