

Lease Agreement

**NEW YORK CITY
INDUSTRIAL DEVELOPMENT AGENCY,**
as Lessor

AND

NYP HOLDINGS, INC.,
as Lessee

LEASE AGREEMENT (FACILITY REALTY)

Dated as of March 1, 2002

New York City Industrial Development Agency
The New York Post Project

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Description of Project
Description of Facility Realty

LEASE AGREEMENT (FACILITY REALTY)

THIS LEASE AGREEMENT (FACILITY REALTY), made and entered into as of the date set forth on the cover page hereof, by and between **NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York (the "Agency"), having its principal office at 110 William Street, New York, New York, party of the first part, and **NYP HOLDINGS, INC.**, a corporation organized and existing under and by virtue of the laws of the State of Delaware (the "Lessee"), party of the second part, having an office at 1211 Avenue of the Americas, New York, New York 10036 (capitalized terms used but not defined in the recitals to this Lease Agreement (Facility Realty) shall have the respective meanings assigned such terms in Section 1.1 hereof):

WITNESSETH:

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

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

WHEREAS, the Lessee, being the owner of The New York Post, advised the Agency and the appropriate officials of the City that it was considering relocating certain of its New York Post printing and related facilities from a location or locations in New York City to a location or locations outside of the City and State of New York, with a resultant loss to the City and State of substantial employment; and

WHEREAS, to accomplish the purposes of the Act, the appropriate officials of the Agency and the City entered into negotiations with the Lessee in order to induce the Lessee to retain such operations within the City of New York, and in furtherance of said purpose, on December 8, 1998, the Agency adopted a resolution authorizing a project for the Lessee and the provision of certain economic development benefits to the Lessee in connection therewith; and

WHEREAS, News America Incorporated, an affiliate of the Lessee ("News"), is a tenant of the Parcel under the Ground Lease between Harlem River Yard Ventures, Inc. and News; and

WHEREAS, the Company is currently a tenant at the Parcel under the Prime Lease between the Overlandlord and the Company; and

WHEREAS, the Lessee has sublet the Parcel and the all structures, foundations, related facilities, fixtures (other than trade fixtures) and improvements now or at any time made or situated thereon (collectively, the "Facility Realty") to the Agency pursuant to a certain Company Lease Agreement (Facility Realty) dated as of even date herewith between the Lessee as landlord and the Agency as tenant (the "Company Realty Lease"); and

WHEREAS, the Lessee has leased the Project Personalty to the Agency pursuant to a certain Company Lease Agreement (Project Personalty) dated as of even date herewith between the Lessee as landlord and the Agency as tenant (the "Company Personalty Lease"); and

WHEREAS, pursuant to this Lease Agreement (Facility Realty), the Facility Realty is to be subleased by the Agency to the Lessee for use by the Lessee and by Eligible Affiliates in conducting the NYPH Business; and

WHEREAS, the Project Personalty will be separately subleased by the Agency to the Lessee pursuant to an Equipment Lease Agreement, dated as of even date herewith, between the Agency and the Lessee (the "Equipment Lease Agreement"); and

WHEREAS, simultaneously with the execution of this Lease Agreement (Facility Realty), the Agency and the Lessee have entered into a Project Agreement, dated as of even date herewith (the "Project Agreement"), pursuant to which the Lessee has undertaken certain obligations, covenants and agreements with the Agency; and

WHEREAS, the Agency has authorized the execution and delivery of the Company Realty Lease, this Lease Agreement (Facility Realty), the Company Personalty Lease, the Equipment Lease Agreement, the Project Agreement and a certain Letter of Authorization for Sales Tax Exemption dated the date hereof; and

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

ARTICLE I
Definitions and Representations

Section 1.1. Definitions. Terms not otherwise defined herein shall have the same meanings as used in the Project Agreement or in the Equipment Lease Agreement as each is hereinbelow defined. The following terms shall have the meanings specified in this Lease Agreement (Facility Realty):

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

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") of a Person shall exist only when all three of the following criteria are met: (i) the possession, directly or indirectly, of the power (or, with respect to a Joint Venture, shared power) to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or other equity interests, by contract or otherwise, (ii) the ownership, either directly or indirectly, of 50% or more of the voting stock or other equity interest of such Person, and (iii) the possession, directly or indirectly, of the power (or, with respect to a Joint Venture, shared power) to make decisions regarding the hiring, firing, compensating and promoting of the employees of such Person.

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

Agency Overlease shall mean the Overlease Agreement dated as of January 5, 1999, between the Agency and HRY, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Agency Requirements shall mean all federal, state and local laws, rules and regulations affecting the Agency or any activities of the Agency, or policies otherwise adopted by the Agency in effect as of December 8, 1998, including, but not limited to, laws, rules and regulations governing the granting, utilization and reporting of Benefits (as defined in the Project Agreement).

Agreement shall mean this Lease Agreement (Facility Realty), dated as of March 1, 2002, between the Agency and the Lessee, and shall include any and all amendments hereof and supplements hereto hereafter made in conformity herewith.

Authorized Representative shall mean, (i) in the case of the Agency, the Chairman, Vice Chairman, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary, Executive Director, Deputy Executive Director, General Counsel or Vice President for Legal Affairs of the Agency, or

any officer or employee of the Agency authorized to perform specific acts or to discharge specific duties, and (ii) in the case of the Company, its Chairman, any Vice Chairman, the President, the Publisher, the Chief Financial Officer, any Secretary or Assistant Secretary, any Executive Vice President, any Senior Vice President, the Treasurer, any Assistant Treasurer or any Vice President; provided, however, that in each case for which a certification or other statement of fact or condition is required to be submitted by an Authorized Representative to any Person pursuant to the terms of this Agreement or the Interim Lease Agreement, such certificate or statement shall be executed only by an Authorized Representative in a position to know or to obtain knowledge of the facts or conditions that are the subject of such certificate or statement.

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.

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

DOT shall mean the New York State Department of Transportation.

DOT Agreement shall mean the Overlease Agreement, dated August 6, 1991, between DOT and HRY, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Event of Default shall have the meaning specified in Section 7.1 hereof.

Eligible Affiliate shall mean any Person "controlled" by the Company or by News. "Control" of a Person shall exist only when all three of the following criteria are met: (i) the possession, directly or indirectly, of the power or shared power to direct or cause the direction of management and policies of such Person, whether through the ownership of voting securities or other equity interests, by contract or otherwise; (ii) the ownership, either directly or indirectly, of 50% or more of the voting stock or other equity interest of such Person; and (iii) the possession, directly or indirectly, of the power or shared power to make decisions regarding the hiring, firing, compensating and promoting of the employees of such Person.

Equipment Lease Agreement shall mean the Equipment Lease Agreement, dated as of even date herewith, between the Agency and the Lessee, and shall include any and all amendments thereof and supplements thereto.

Facility Realty shall mean those certain premises described in the Description of Facility Realty in the appendices attached hereto and to the Company Realty Lease, together with all structures, foundations, related facilities, fixtures (other than trade fixtures) and improvements now or at any time made or situated thereon (including the Tenant Improvements made pursuant to Section 2.1 hereof), and all replacements, improvements, extensions, substitutions, restorations, repairs or additions

thereto, subject, however, to the provisions hereof providing for the release of portions of the Facility Realty.

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

Force Majeure shall have the meaning specified in Section 9.2 hereof.

Ground Lease shall mean the Sublease Agreement, dated as of January 5, 1999, between HRY and News, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

HRV shall mean Harlem River Yard Ventures, Inc., a corporation organized and existing under and by virtue of the laws of the State of New York, and its successors or permitted assigns under the Agency Overlease.

Independent Accountant shall mean (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 Lessee and approved in writing by the Agency (such approval not to be unreasonably withheld or delayed).

Joint Venture shall mean any Person qualifying as an Eligible Affiliate in which the Company or News, either directly or indirectly, owns 50% or more of the voting stock or other equity interest.

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

Lessee shall mean NYP Holdings, Inc., a corporation organized and existing under and by virtue of the laws of the State of Delaware, and its permitted successors and assigns pursuant to Sections 6.1, 6.14 or 9.2 hereof (including any surviving, resulting or transferee entity as provided in Section 6.1 hereof).

Lessee's Property shall have the meaning specified in Section 4.1(c) hereof.

Liens shall have the meaning specified in Section 6.6(a) hereof.

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

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

News shall mean News America Incorporated, a corporation organized and existing under and by virtue of the laws of the State of Delaware, and its successors and permitted assigns under the Ground Lease.

Non-Qualified User shall mean any Person other than the Lessee or Eligible Affiliates who shall use or occupy any of the Facility Realty (whether by lease, license or otherwise).

NYPH Business shall mean use for the printing, production, packaging and distribution of one or more newspapers, magazines or other publications, and ancillary and incidental uses, by the Company or any Eligible Affiliate.

Opinion of Counsel shall mean a written opinion of counsel who may (except as otherwise expressly provided in this Agreement) be counsel for the Lessee or the Agency, as the case may be, and, if such counsel shall not be an in-house counsel of the Lessee, who shall be reasonably acceptable to the Person(s) to whom the opinion is to be addressed, it being agreed that Hawkins, Delafield & Wood shall be acceptable as counsel to the Agency and Squadron, Ellenoff, Plesent & Scheinfeld shall be acceptable as counsel to the Lessee or any Eligible Affiliate.

Overlandlord shall mean the landlord under (i) the Prime Lease or (ii) any substitution or replacement for the Prime Lease conferring upon the Lessee a leasehold or other estate in the Facility Realty sufficient to permit the Company Lease and this Lease Agreement (Facility Realty) to remain in full force and effect.

Permitted Encumbrances shall mean, as of any particular time:

(i) the DOT Agreement, the Ground Lease, the Prime Lease (or any substitution or replacement for the Prime Lease conferring upon the Lessee a leasehold or other estate in the Facility Realty sufficient to permit the Company Realty Lease and this Agreement to remain in full force and effect), the Company Lease and this Agreement;

(ii) liens for real estate taxes, assessments, levies and other governmental charges and impositions, and any liens for water and sewer rents and taxes, each to the extent not yet due and payable;

(iii) such minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on title as normally exist with respect to property similar in character to the Leased Premises and as do not, either singly or in the aggregate, materially impair the use of the property affected thereby for the purpose for which it was leased by the Lessee under this Agreement;

(iv) any mechanic's, workmen's, repairmen's, materialmen's, contractors', warehousemen's, carriers', suppliers' or vendors' lien or right in respect thereof if payment is not yet due and payable, or otherwise permitted by Section 6.5 hereof;

(v) all title exceptions (including leases) to which the Facility Realty is subject;

(vi) any mechanic's lien imposed on the Facility Realty which arises from work performed for any tenant of the Facility Realty other than the Lessee or any Affiliate of the Lessee, or any judgment lien imposed on the Facility Realty and which arises from a judgment against any tenant of the Facility Realty other than the Lessee or any Affiliate of the Lessee, or any lien or encumbrance

of any nature whatsoever which is imposed on the Facility Realty and which is not the responsibility of the Lessee or any Affiliate of the Lessee to remove, bond or dispose of;

(vii) all liens, encumbrances and matters to which the Prime Lease (or any substitute or replacement for the Prime Lease) is now or hereafter shall be subject or subordinate;

(viii) any mortgages, security interests, liens or encumbrances of any kind (a) to which any estate, superior to this Agreement, in or to the Facility Realty shall be subject or subordinate, or (b) placed upon land, improvements or equipment by DOT, HRY, News, the Lessee, any Eligible Affiliate or the Overlandlord and for which the Agency has no legal responsibility; and

(ix) all liens, encumbrances and security interests created by or at the request of the Overlandlord in connection with the Prime Lease and the documents, instruments and agreements executed and delivered in connection therewith or contemplated thereby.

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

Preliminary Sales Tax Letter shall mean that certain Preliminary Sales Tax Letter, dated January 5, 1999, issued by the Agency to the Lessee, with respect to Project costs incurred prior to the date of execution hereof, and expiring on the date of execution hereof.

Prime Lease shall mean the agreement of sublease, dated July 12, 2000, between News America Incorporated, as landlord, and the Lessee, as tenant, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith, which agreement of sublease demises the Facility Realty.

Prohibited Person shall mean:

(i) any Person (A) that is in material default or in material breach, beyond any applicable notice and/or grace period, of its obligations under any material written agreement with the City or the Agency, or (B) that directly or indirectly controls, is controlled by, or is under common control with, a Person that is in material default or in material breach, beyond any applicable notice and/or grace period, of its obligations under any material written agreement with the City or the Agency, unless such default or breach has been waived in writing by the City or the Agency, respectively;

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

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

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

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

Project shall mean (y) the construction of an approximately 500,000 square foot building and related facilities and structures, and (z) the purchase and/or lease of (and maintenance, service or repair contracts relative to) machinery, equipment, furniture, furnishings and other items of personal property, each to the extent used in the NYPH Business at the Project Personalty Locations by the Lessee and/or Eligible Affiliates.

Project Agreement shall mean the Project Agreement, dated as of even date herewith, between the Lessee and the Agency, and shall include any and all modifications thereof and amendments thereto hereafter made in accordance therewith.

Project Documents shall mean, collectively, this Agreement, the Ground Lease, the Agency Overlease, Prime Lease (or any substitution or replacement for the Prime Lease conferring upon the Lessee a leasehold or other estate in the Facility Realty sufficient to permit the Company Lease and this Lease Agreement (Facility Realty) to remain in full force and effect), the Company Realty Lease, the Lease Agreement (Facility Realty), the Company Personalty Lease, the Sales Tax Letter and the Project Agreement.

Project Personalty Locations shall mean 900 East 132nd Street, in the Harlem River Yard, Bronx, New York (to the extent that such locations shall be occupied by the Lessee and/or Eligible Affiliates engaged in the conduct of the NYPH Business), and such other locations within the City as the Agency shall, upon written request by an Authorized Representative of the Lessee, approve in accordance with the requirements of the Act, such approval by the Agency to be evidenced by a writing to such effect delivered by the Agency to the Lessee.

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

Project Property shall mean, collectively, the Facility Realty 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 the Project Agreement.

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

State shall mean the State of New York.

Tenant Improvements shall mean all improvements, additions, fixtures, alterations or modifications to any of the space comprising the Facility Realty, for use by the Lessee and/or Eligible Affiliates, and for which sales or use tax exemptions shall have been taken pursuant to the Preliminary Sales Tax Letter or the Sales Tax Letter.

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

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

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

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

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

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

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

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

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

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

(d) There is no action or proceeding, of which the Agency has notice, pending or, to its best knowledge and of its officers having reason to be familiar with any such action or proceeding, threatened by or against it by or before any court or administrative agency that might adversely affect its ability to perform its obligations under this Agreement and 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 1.4. Findings by Agency. The Agency, based upon the representations and warranties of the Lessee contained in this Agreement and the information contained in the application and other materials heretofore submitted by or on behalf of the Lessee to the Agency, hereby finds and determines that the providing of certain benefits to the Lessee in connection with the Project is reasonably necessary to encourage the Lessee to proceed with the Project.

Section 1.5. Representations and Warranties by Lessee. In order to induce the Agency to enter into those Project Documents to which the Agency is a party, the Lessee makes the following representations and warranties:

(a) It is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, is not in violation of any provision of its certificate of incorporation or by-laws, is in good standing and qualified to do business under the laws of the State, 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 Project Document to which it is a party. It is duly qualified to do business in every jurisdiction in which the failure to so qualify would have a material adverse effect upon its properties, business, affairs, assets or condition (financial or otherwise).

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

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

(d) There is no action or proceeding pending or, to its best knowledge and of its officers having reason to be familiar with any such action or proceeding, threatened by or against it by or before any court or administrative agency that might adversely affect its ability to perform its obligations under this Agreement and 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 of 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.

(e) Except as provided in this Agreement, none of the Tenant Improvements shall be located or used at any location other than with respect to the Facility Realty.

(f) The Project and related Benefits (as defined in the Project Agreement) are reasonably necessary to induce the Lessee to proceed with the Project.

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

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

(i) No Person other than the Lessee or an Eligible Affiliate is or will be in occupancy or possession of any portion of the Facility Realty other than as permitted hereunder.

(j) The design, construction and operation of the Facility Realty will be in compliance with all applicable Federal, State and local laws or ordinances (including rules and regulations) relating to safety and environmental quality.

(k) The property included in the Facility Realty, including the Tenant Improvements, is either land or property of the character subject to the allowance for depreciation under Section 167 of the Internal Revenue Code of 1986, as amended.

(l) The Lessee intends to operate the Facility Realty or cause the Facility Realty to be operated in accordance with this Agreement and as a qualified "project" in accordance with and as defined under the Act.

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

(n) To the best knowledge of the Lessee, there is no existing violation against the Facility Realty filed by any court or administrative agency that may prohibit the use or operation of the Facility Realty for its intended purposes.

(o) The Prime Lease is in full force and effect and the Company has no knowledge of any breach or default on its part thereunder which, if uncured, might cause an Event of Default (as defined in the Prime Lease) under the Prime Lease.

(p) The Leased Premises are demised to the Company under the Prime Lease.

(q) The Lessee has subleased the Facility Realty to the Agency pursuant to the Company Realty Lease for a nominal rental therefor, and the Agency has been thereby vested with a valid subleasehold estate therein, free and clear of all liens, encumbrances, security interests and servitudes other than Permitted Encumbrances.

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

(s) The execution, delivery and performance of this Agreement and of the Company Realty Lease by the Lessee do not constitute a breach, default or violation of the terms of the Prime Lease, nor do they require any consent of News or the Overlandlord which consent has not been obtained prior to the date hereof.

ARTICLE II
The Project

Section 2.1. The Project. (a) The Lessee will, on behalf of the Agency, proceed with the making of the Tenant Improvements for or with respect to the Facility Realty, all to be effected in accordance with this Agreement, the Sales Tax Letter and the Project Agreement. All contractors, materialmen, vendors, suppliers and other companies, firms or persons furnishing labor, machinery, equipment, services or materials for or in connection with the Facility Realty shall be selected by the Lessee.

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

(c) A leasehold interest in all materials and other property intended to be incorporated or installed as part of the Tenant Improvements (excluding the Lessee's Property) shall vest in the Agency automatically and immediately upon installation or incorporation into the Facility Realty or payment therefor, whichever shall first occur, and the same shall automatically become subject to the provisions of the Company Realty Lease and this Agreement. The Agency and the Lessee acknowledge and agree that the Tenant Improvements may change from time to time over the term of this Agreement to reflect amendments, modifications, replacements, accessions to and supplements made to the Facility Realty.

At the request of the Agency to the Lessee, the Lessee shall provide such reasonable additional information and clarifications concerning any portion of the Tenant Improvements, as shall be reasonably requested by the Agency.

(d) The Lessee will obtain or cause to be obtained all necessary approvals (to the extent that the Lessee has standing to obtain, give or cause to be obtained) from any and all governmental agencies requisite to the effectuation by the Lessee of the Tenant Improvements and the operation of the Facility Realty, all of which will be done in compliance with all federal, State and local laws, ordinances and regulations applicable thereto, and with the conditions and requirements of all policies of insurance required to be maintained hereunder with respect to the Facility Realty and this Agreement. The Lessee will further obtain or cause to be obtained all necessary permits, authorizations and licenses from appropriate authorities, authorizing the operation and use of the Facility Realty for the purposes contemplated by this Agreement and shall promptly furnish copies of same to the Agency upon receipt thereof.

(e) Upon request, the Lessee will extend to the Agency, or the Agency will extend to the Lessee, the benefit of all vendors' warranties received by the other party (to the extent permitted under the terms of such warranties) in connection with the Facility Realty, including any warranties

given by contractors, manufacturers or service organizations who perform work with respect to the Facility Realty.

(f) The Lessee shall take such action and institute such proceedings as shall be reasonably necessary to cause all contractors and material suppliers to complete their contracts in accordance with the terms of said contracts (subject to the independent right of the Lessee, in the exercise of its good faith business judgment, to waive or modify performance in whole or in part by any such contractor or supplier, provided, however, that the Lessee shall not waive any requirement that such contractor or supplier comply with applicable laws and regulations). The Agency will cooperate in any such action or proceeding, at the Lessee's sole cost and expense, provided that the Agency shall not be required to take any action it does not deem to be reasonable. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing, after deduction of expenses incurred in such recovery, shall be paid to the Lessee.

(g) Concurrently with the execution of this Agreement, the Lessee will surrender the Preliminary Sales Tax Letter to the Agency for cancellation, and the Agency shall make the Sales Tax Letter available to the Lessee.

(h) A leasehold (or subleasehold) interest in, as appropriate, all material and other property intended to be incorporated or installed as Tenant Improvements and thereby part of the Facility Realty (excluding the Lessee's Property) shall vest in the Agency immediately upon payment therefor. The Lessee shall take all action reasonably necessary to protect such leasehold interest of the Agency against claims of any third parties. Notwithstanding the Agency's legal title to or leasehold interest in the Tenant Improvements, it is the intention of the Agency and the Lessee that by virtue of the terms of the Prime Lease and the Lessee's leasehold interest hereunder, at all times while the Prime Lease is in effect the Overlandlord (or its assignee) is and shall be the beneficial owner of the Tenant Improvements and shall enjoy all of the burdens and benefits of ownership of the Tenant Improvements. This Lease Agreement (Facility Realty) is and shall be subject and subordinate to the Prime Lease and to all substitutes and replacements therefor (and to all matters to which the Prime Lease or any such substitutes or replacements shall be subject and subordinate).

Section 2.2. Commitment to Project. The Lessee agrees that it will, on behalf of the Agency, proceed with the Tenant Improvements, all on behalf of and as agent for the Agency, and all in accordance with this Agreement, the Sales Tax Letter and the Project Agreement. The costs of the Project shall be paid from funds of the Lessee or funds otherwise made available to the Lessee. In the event that borrowed moneys are not sufficient to pay the costs necessary to complete the Tenant Improvements in full, the Lessee shall pay or cause to be paid that portion of such costs of the Tenant Improvements as may be in excess of the moneys derived from such borrowing and shall not be entitled to any reimbursement therefor from the Agency, nor shall the Lessee be entitled to any diminution of the payments to be made under this Agreement or the Project Agreement.

Section 2.3. Title Report. The Lessee has heretofore obtained a leasehold title report (together with municipal searches) with respect to the Agency's leasehold interest in the Facility Realty. The Agency makes no representation or warranty that it has been vested with or continues to have a valid leasehold interest in the Facility Realty.

Section 2.4. Limitation on Tenant Improvements. Neither the Preliminary Sales Tax Letter nor the Sales Tax Letter will be made available with respect to facilities or property that are primarily used in making retail sales to customers who personally visit such facilities which facilities constitute more than one third of the total project cost. For purposes of this paragraph, 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.

ARTICLE III
Sublease of the Facility Realty and Rental Provisions

Section 3.1. Sublease of the Facility Realty. The Agency hereby subleases to the Lessee, and the Lessee hereby subleases from the Agency, the Facility Realty, upon and subject to the terms and conditions herein set forth. The Lessee shall, subject to the provisions of Sections 5.1, 6.1, 6.12, 6.13, 9.1 and 9.2 of this Agreement, at all times during the term of this Agreement use and operate the Facility Realty as a qualified "project" for the operation of the NYPH Business in accordance with the provisions of the Act and for the general purposes specified in the recitals to this Agreement. The Lessee shall not use or operate the Facility Realty or allow the Facility Realty or any part thereof to be used or operated for any unlawful purpose or in a manner which may constitute a nuisance, public or private, or make void or voidable any insurance required hereunder then in force with respect thereto.

Section 3.2. Duration of Term. The term of this Agreement shall commence on March 25, 2002 and expire on the earliest of (i) June 30, 2048, (ii) the expiration or earlier termination of the Company Realty Lease, (iii) the assignment by the Lessee of its interest in the Prime Lease to a Person as shall not constitute an Eligible Affiliate, or (iv) such earlier date as this Agreement shall be terminated as hereinafter provided. The Agency hereby delivers to the Lessee and the Lessee hereby accepts such possession of the Facility Realty as the Agency has or may have therein.

Notwithstanding any provision of this Agreement or the Company Realty Lease or any of the other Project Documents to the contrary, the following shall not be deemed (a) to cause the expiration or sooner termination of the Company Realty Lease or this Agreement or any of the other Project Documents, (b) to cause a default or event of default under the Company Realty Lease or this Agreement or any of the other Project Documents, or (c) otherwise to constitute a violation of any provision of the Company Realty Lease or this Agreement or any of the other Project Documents:

- (1) any assignment or transfer of the interest of News in the Ground Lease and/or of the interest of the Overlandlord in the Prime Lease to one or more investors in connection with any modification or restructuring of the Prime Lease or any alternative financing arrangement in connection therewith;
- (2) any sale and leaseback arrangement entered into in substitution for the Prime Lease;
- (3) any other extension, modification, replacement, supplement or amendment of the Prime Lease; and
- (4) any substitution or replacement for the Prime Lease conferring upon the Lessee a leasehold or other estate in the Facility Realty sufficient to permit the Company Realty Lease and this Agreement to remain in full force and effect.

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

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

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

Section 3.4. Obligation of Lessee Unconditional. The obligation of the Lessee to pay the rent and all other payments provided for in this Agreement and to maintain the Facility Realty in accordance with Section 4.1 of this Agreement shall be absolute and unconditional, irrespective of any defense or any rights of set-off, recoupment or counterclaim or deduction and without any rights of suspension, deferment, diminution or reduction they or any of them might otherwise have against the Agency or any other Person whatsoever. The Lessee will not suspend or discontinue any such payment or terminate this Agreement (other than such termination as is provided for hereunder) for any cause whatsoever, and the Lessee irrevocably waives all rights now or hereafter conferred by statute or otherwise to quit, terminate, cancel or surrender this Agreement or any obligation of the Lessee under this Agreement except as provided in this Agreement or to any abatement, suspension, deferment, diminution or reduction in the rentals or other payments hereunder or under the Project Agreement.

ARTICLE IV
Maintenance, Taxes
and Insurance

Section 4.1. Maintenance, Alterations and Improvements. (a) During the term of this Agreement, the Lessee will keep the Facility Realty, or cause the Facility Realty to be kept, in good and safe operating order and condition, ordinary wear and tear excepted, will use and operate the Facility Realty, or cause the Facility Realty to be used and operated, in the manner for which it was designed and intended and contemplated by this Agreement and the Project Agreement, and will make or cause to be made all replacements and repairs thereto (whether ordinary or extraordinary, foreseen or unforeseen, structural or non-structural) necessary to ensure the continuity of the operations of the Lessee and Eligible Affiliates at the Facility Realty for the purposes contemplated by this Agreement and the Project Agreement. All replacements and repairs shall be performed in a good and workmanlike manner and be made and installed in compliance with all Legal Requirements including the requirements, if any, of all governmental bodies. The Agency shall be under no obligation to replace, service, test, adjust, erect, maintain or effect replacements, renewals or repairs of the Facility Realty, to effect the replacement of any inadequate, obsolete, worn-out or unsuitable parts of the Facility Realty, or to furnish any utilities or services for the Facility Realty and the Lessee hereby agrees to assume full responsibility therefor.

(b) The Lessee shall have the right to make such alterations, replacements or repairs of, or additions to, the Facility Realty or any part thereof from time to time as it in its discretion may determine to be desirable for its uses and purposes, provided that (i) such additions, alterations, replacements or repairs are in compliance with all applicable Legal Requirements, (ii) a leasehold interest therein shall be deemed to be vested in the Agency, and (iii) such additions, alterations, replacements or repairs do not change the nature of the Facility Realty so that it would not constitute a commercial facility and a qualified "project" as defined in the Act for use for the NYPH Business. All alterations of, substitutions for, replacements of and additions to the Facility Realty shall be deemed to constitute a part of the Facility Realty subject to the Company Realty Lease and this Agreement, and the Lessee shall deliver or cause to be delivered to the Agency appropriate documents as may be reasonably necessary to convey a leasehold interest in such property to the Agency and to subject such property to the Company Realty Lease and this Agreement, free and clear of all liens, charges, encumbrances, security interests or claims other than Permitted Encumbrances.

(c) The Lessee shall have the right, subject to the Equipment Lease Agreement and the Project Agreement, to install, remove, repair, replace or finance or permit to be installed, removed, repaired, replaced or financed, at the Facility Realty, machinery and equipment, including, without limitation, telecommunications equipment, data processing equipment and trade fixtures installed by the Lessee or any Eligible Affiliate, and all furniture, furnishings and other personal property (the "Lessee's Property"), with respect to which no sales or use tax exemption shall have been received pursuant to the Preliminary Sales Tax Letter or the Sales Tax Letter without conveying any leasehold interest in such property to the Agency nor subjecting such property to the Company Realty Lease and this Agreement. The Agency shall not be responsible for any loss of or damage to the Lessee's Property. The Lessee shall have the right to create or permit to be created any mortgage,

encumbrance, lien or charge on, or conditional sale or other title retention agreement with respect to, the Lessee's Property.

(d) The Lessee shall not create, permit or suffer to exist any mortgage, encumbrance, lien, security interest, claim or charge against the Facility Realty or any part thereof, or the interest of the Lessee in the Facility Realty, the Company Realty Lease or this Agreement, except for Permitted Encumbrances and except as provided in Section 6.6 hereof.

(e) The Lessee 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 contractor installing Tenant Improvements or making renovations to the Facility Realty, if (1) neither the Facility Realty nor any material portion thereof, or any interest therein, would be in any danger of being sold, forfeited or lost, and (2) such contest shall not result in any of the Lessee, any Eligible Affiliate or the Agency being in any danger of any civil or criminal liability.

Section 4.2. Removal of Tenant Improvements. The Lessee acknowledges that the Agency is providing certain sales and use tax exemptions and other benefits to the Lessee for the purpose of inducing the Lessee to proceed with the Project and the making of Tenant Improvements with respect to the Facility Realty and to comply with the covenants contained in this Agreement and the Project Agreement. The aforementioned benefits are being provided solely for the purpose of maintaining, expanding and upgrading, as the case may be, the operations of the Lessee and the Eligible Affiliates at the Facility Realty and not for the purpose of assisting any other facility or any other Person. To this end, the Lessee hereby represents, warrants and covenants to and with the Agency that none of the property constituting part of the Tenant Improvements or as may be acquired by the Lessee from time to time in the name of the Agency for installation or location at the Facility Realty but shall have not yet been delivered to and installed at the Facility Realty will ever be acquired for any purpose other than for installation and use at or location in the Facility Realty by the Lessee and Eligible Affiliates for use in the NYPH Business nor will any of the Tenant Improvements ever be removed from the Facility Realty (either on a temporary or permanent basis) for utilization by any other facility by the Lessee, any Eligible Affiliate or by any other Person.

Section 4.3. Taxes, Assessments and Charges. The Lessee shall pay or cause to be paid when the same shall become due all taxes and assessments, general and specific, if any, levied and assessed upon or against the Facility Realty, the Company Realty Lease, this Agreement, any estate or interest of the Agency or the Lessee in the Facility Realty, or the rentals or other payments hereunder during the term of this Agreement, and all water and sewer charges, special district charges, assessments, Business Improvement District charges and other governmental charges and impositions whatsoever, foreseen or unforeseen, ordinary or extraordinary, under any present or future law, and charges for public or private utilities or other charges incurred in the occupancy, use, operation, maintenance or upkeep of the Facility Realty, all of which are herein called "Impositions". The Agency shall have no responsibility for the payment of any Imposition. The Lessee may pay or cause to be paid any Imposition in installments if so payable by law, whether or not interest accrues on the unpaid balance. The Lessee acknowledges that the provisions of section 412-a of the New York Real

Property Tax Law and section 874 of the New York General Municipal Law do not entitle the Agency to exemption from water and sewer charges, special assessments and special ad valorem levies.

The Lessee may at its sole cost and expense and in good faith commence and prosecute proceedings to contest the amount or validity or application, in whole or in part, of any such Imposition (upon prior written notice to the Agency), provided, that, (i) if the Lessee withholds payment, such proceeding shall suspend the execution or enforcement of any lien arising from the non-payment of such Imposition against the Facility Realty or any part thereof or any interest therein or in the Company Realty Lease or this Agreement of the Agency or the Lessee or against any of the rentals or other amounts payable under this Agreement or the Project Agreement, (ii) neither the Facility Realty nor any portion thereof or interest therein would be in any danger of being sold, forfeited or lost, and (iii) neither the Lessee nor the Agency would be in any danger of any civil penalty or any criminal liability for failure to pay such Imposition.

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

(i) [RESERVED];

(ii) Builders' All Risk Insurance written on "100% builders' risk completed value, non-reporting form" including coverage therein for "completion and/or premises occupancy" during any period of construction or reconstruction, improvement or renovation of the Facility Realty, and at all other times coverage for property damage insurance, all of which insurance shall include coverage for removal of debris, insuring the buildings, structures, improvements (including the Tenant Improvements), systems and other property constituting a part of the Facility Realty against loss or damage by fire, lightning, vandalism, malicious mischief and other casualties, with standard extended coverage endorsement covering perils of windstorm, hail, explosion, aircraft, vehicles and smoke (except as limited in the standard form of extended coverage endorsement at the time in use in the State) at all times in an amount such that the proceeds of such insurance shall be sufficient to prevent the Lessee or the Agency from becoming a co-insurer of any loss under the insurance policies but in any event in amounts equal to not less than 80% of the actual replacement value of the Facility Realty; any such insurance may provide that the insurer is not liable to the extent of the first \$100,000 with the result that the Lessee is its own insurer to the extent of \$100,000 of such risks;

(iii) Public liability insurance in accordance with customary insurance practices for similar operations with respect to the Facility Realty and the business thereby conducted in a minimum amount of \$25,000,000 (or such greater amount as may then be required under the Prime Lease), which insurance (A) will also provide coverage of the Lessee's obligations

of indemnity under Section 6.2 hereof (excluding, however, those obligations of the Lessee (1) requiring payment of taxes, (2) set forth in Section 6.2(a)(i) or (v) hereof, and (3) under Section 6.2(c) hereof to the extent not available to the Lessee or any Affiliate thereof at commercially reasonable rates), (B) may be effected under overall blanket or excess coverage policies of the Lessee, provided, however, that at least \$500,000 is effected by a comprehensive liability insurance policy, and (C) shall not contain any provisions for a deductible amount in excess of \$100,000;

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

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

To the extent that any of the insurance required by Section 4.4(a) above shall be procured and maintained pursuant to the Equipment Lease Agreement, such procurement and maintenance of insurance shall be deemed to satisfy the foregoing requirements of this Section 4.4(a).

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

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

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

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

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

(iv) provide that in respect of the interest of the Agency in such policies, the insurance shall not be invalidated by any action or inaction of the Lessee or any other Person

and shall insure the Agency regardless of, and any losses shall be payable notwithstanding, any such action or inaction;

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

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

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

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

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

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

(f) Upon each exercise by the Lessee in accordance with Section 6.13 hereof of its option to cause additional portions of the premises within the Project Building to be made subject to the Company Realty Lease and this Agreement, the Lessee shall, on or prior to the addition of such premises, cause such additional premises to be covered by the types of insurance required under this Section 4.4 as part of the Facility Realty.

(g) The Lessee shall, at its own cost and expense, make all proofs of loss and take all other steps necessary or reasonably requested by the Agency to collect from insurers for any loss covered by any insurance required to be obtained by this Section 4.4. The Lessee shall not do any act,

or suffer or permit any act to be done, whereby any insurance required by this Section 4.4 would or might be suspended or impaired.

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

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

Section 4.6. Compliance with Law. The Lessee agrees that it will, throughout the term of this Agreement and at its sole cost and expense, promptly observe and comply with all Federal, State and local statutes, codes, laws, acts, ordinances, orders, judgments, decrees, rules, regulations and authorizations, whether foreseen or unforeseen, ordinary or extraordinary, which shall now or at any time hereafter be binding upon or applicable to the Lessee, any owner, occupant, user or operator of the Facility Realty or any portion thereof (including without limitation those relating to zoning, land use, building codes, environmental protection, air, water and land pollution, asbestos removal, toxic wastes, hazardous wastes, solid wastes, wetlands, health, safety, equal opportunity, minimum wages, and employment practices) (the "Legal Requirements"), and will observe and comply with all conditions, requirements, and schedules necessary to preserve and extend all rights, licenses, permits (including, without limitation, zoning variances, special exception and non-conforming uses), privileges, franchises and concessions. The Lessee shall indemnify and hold harmless the Agency from and against all loss, cost, liability and expense (a) in any manner arising out of or related to any violation of or failure by the Lessee (or any other Person owning, occupying, operating or using the Facility Realty or any part thereof) to comply with any Legal Requirement, or (b) imposed upon the Lessee or the Agency with respect to the Facility Realty or the Project by any Legal Requirement; provided, however, the foregoing indemnifications and protections shall not extend to any loss, cost, liability or expense arising from the gross negligence or willful misconduct of the Agency. In case any action or proceedings is brought against the Agency in respect to any Legal Requirement, the Lessee shall upon notice from the Agency defend such action or proceeding by counsel satisfactory to the Agency.

The Lessee may contest in good faith the validity, existence or applicability of any of the foregoing if (i) such contest shall not result in the Facility Realty or any part thereof or interest therein being in any danger of being sold, forfeited or lost, and (ii) such contest shall not result in the Lessee or the Agency being in any danger of any civil penalty or criminal liability for failure to comply therewith.

ARTICLE V
Damage, Destruction and Condemnation

Section 5.1. Damage, Destruction and Condemnation.

(a) In the event that at any time during the term of this Agreement the whole or any part of the Facility Realty shall be damaged or destroyed, or taken or condemned by a competent authority for any public use or purpose, or by agreement between the Ground Lessor or the Prime Landlord and those authorized to exercise such right, or if the temporary use of the Facility Realty shall be so taken by condemnation or agreement (a "Loss Event"):

(i) the Agency shall have no obligation to replace, repair or restore the Facility Realty,

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

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

(b) Upon the occurrence of a Loss Event (except to the extent provided in Section 5.1(e) hereof), the Lessee shall either (x) cause that portion of the Facility Realty as shall be the subject of the Loss Event (or so much thereof not to be rebuilt, replaced, repaired or restored as provided in clause (y) below) to be released from the Company Realty Lease and this Agreement, or (y) promptly and diligently rebuild, replace, repair or restore the Facility Realty, or cause the Facility Realty to be promptly and diligently rebuilt, replaced, repaired or restored, to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent utility, value, operating efficiency and function, regardless of whether or not the Net Proceeds derived from the Loss Event shall be sufficient to pay the cost thereof, and the Lessee shall not by reason of payment of any such excess costs be entitled to any reimbursement from the Agency or any other Person, nor shall the rent or other amounts payable by the Lessee under this Agreement, the Project Agreement or any other Project Document be abated, postponed or reduced.

(c) Any rebuilding, replacement, repair or restoration of the Facility Realty shall

(i) automatically be deemed a part of the Facility Realty to which the Agency shall have a leasehold interest, and be subject to the Prime Lease, this Agreement and the Company Realty Lease,

(ii) not change the nature of the Facility Realty as a qualified "project" as defined in and as contemplated by the Act or change the general purposes of the Facility Realty from those specified in the recitals to this Agreement, and

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

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

(e) If all or substantially all of any portion of the Facility Realty shall be damaged or destroyed or taken or condemned, or if the casualty, taking or condemnation renders such portion of the Facility Realty unsuitable for use by the Lessee as contemplated herein, the Lessee shall within ninety (90) days after the Loss Event deliver written notice to the Agency as to whether the Lessee intends (i) to rebuild, replace, repair or restore such portion of the Facility Realty and continue its occupancy and use, or (ii) to abandon such portion of the Facility Realty, in which latter event such portion of the Facility Realty shall be released from the Company Realty Lease and this Agreement as provided in Section 6.12 hereof.

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

ARTICLE VI
Particular Covenants

Section 6.1. Dissolution or Merger of Lessee; Restrictions on Lessee. The Lessee covenants and agrees that at all times during the term of this Agreement, it will (i) maintain its corporate existence, (ii) continue to be subject to service of process in the State and either be organized under the laws of the State of New York, or under the laws of any other state of the United States and duly qualified to do business in the State, (iii) not liquidate, wind-up or dissolve or otherwise dispose of all or substantially all of its property, business or assets, and (iv) not consolidate with or merge into another entity or permit one or more entities to consolidate with or merge into it. The Lessee may, however, without violating the foregoing, but upon prior written notice to the Agency, consolidate with or merge into another entity, or permit one or more entities to consolidate with or merge into it, or sell or otherwise transfer all or substantially all of its property, business or assets to another such entity (and thereafter liquidate, wind-up or dissolve or not, as the Lessee may elect) if (I) the Lessee is the surviving, resulting or transferee entity, as the case may be, or (II) in the event that the Lessee is not the surviving, resulting or transferee entity, as the case may be, such entity (A) is a solvent entity subject to service of process in the State and either organized under the laws of the State of New York, or organized under the laws of any other state of the United States and duly qualified to do business in the State, (B) is not, nor is it an Affiliate of, a Prohibited Person, (C) following the transaction is engaged at the Project Personalty Locations primarily in the NYPH Business, (D) assumes in writing all of the obligations of the Lessee contained in this Agreement and the other Project Documents to which the Lessee shall be a party and, in the Opinion of Counsel delivered to the Agency, such entity shall be bound by all of the terms applicable to the Lessee of this Agreement and the other Project Documents to which the Lessee shall be a party, and (E) either (1) in the opinion of an Independent Accountant delivered to the Agency, or as shown on audited financial statements, has a net worth (as determined in accordance with generally accepted accounting principles and on a consolidated basis with all affiliated entities) after the merger, consolidation, sale or transfer at least equal to the lesser of (y) \$50,000,000, and (z) that of the Lessee immediately prior to such merger, consolidation, sale or transfer, or (2) pursuant to documentation reasonably satisfactory in form and substance to the Agency, all pecuniary obligations of the Lessee contained in this Agreement and the other Project Documents to which the Lessee shall be a party are guaranteed by a Person (other than a Prohibited Person) who, in the opinion of an Independent Accountant delivered to the Agency, or as shown on audited financial statements, has a net worth (as determined in accordance with generally accepted accounting principles and on a consolidated basis with all affiliated entities) at least equal to the lesser of (y) \$50,000,000, and (z) that of the Lessee immediately prior to such merger, consolidation, sale or transfer.

The Lessee 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, and any entity succeeding to the rights of the Lessee under this Agreement shall be and continue to be duly qualified to do business in the State.

Section 6.2. Indemnity. (a) The Lessee shall at all times protect and hold the Agency harmless of, from and against any and all claims (whether in tort, contract or otherwise), demands, costs, expenses (including, without limitation, court costs and attorneys' fees) and liabilities for losses, damage, injury and liability of every kind and nature and however caused, and taxes (of any kind and

by whomsoever imposed), other than losses arising from the gross negligence or willful misconduct of the Agency, arising during the term of this Agreement upon, about or in connection with the Facility Realty or any part thereof or resulting from, arising out of, or in any way connected with (i) the financing of the costs of the Facility Realty, (ii) the planning, design, acquisition, site preparation, demolition, construction, renovation, equipping, installation, maintenance, repair or replacement of the Facility Realty or any part thereof or the effecting of any work done with respect to or in or about the Facility Realty or any part thereof, (iii) any defects (whether latent or patent) in the Facility Realty or any part of either thereof, (iv) the maintenance, repair, replacement, restoration, rebuilding, demolition, upkeep, use, occupancy, ownership, leasing, subletting, licensing, sublicensing or operation of the Facility Realty or any part of either thereof, or (v) this Agreement, the Project Agreement, either Sales Tax Letter, the Preliminary Sales Tax Letter, the Company Realty Lease or any other document or instrument delivered in connection herewith or therewith or the enforcement of any of the terms or provisions hereof or thereof or the transactions contemplated hereby or thereby. Such indemnification set forth above shall be binding upon the Lessee for any and all claims, demands, expenses, liabilities and taxes set forth herein and shall survive the termination of this Agreement. The Agency shall not be liable for any damage or injury to the person or property of the Lessee or its directors, officers, stockholders, members, employees, agents or servants or persons under the control or supervision of any such Person or any other Person who may be involved with the Facility Realty or any part thereof, due to any act or negligence of any Person other than the gross negligence or willful misconduct of the Agency.

(b) The Lessee releases the Agency from, and agrees that the Agency shall not be liable for, and agrees to indemnify and hold the Agency harmless against, any expense, loss, damage, injury or liability incurred because of any lawsuit commenced as a result of action taken by the Agency with respect to any of the matters set forth in subdivisions (i) through (v) of Section 6.2(a) hereof or otherwise at the direction of the Lessee. The Agency shall promptly notify the Lessee in writing of any claim or action brought against the Agency in which indemnity may be sought against the Lessee pursuant to this Section 6.2; such notice shall be given in sufficient time to allow the Lessee to defend or participate in such claim or action, but the failure to give such notice in sufficient time shall not constitute a defense hereunder nor in any way impair the obligations of the Lessee under this Section 6.2 if (x) the Agency shall not have had knowledge or notice of such claim or action, (y) the Lessee or any Eligible Affiliate shall have had notice of such claim or action, or (z) the Lessee's ability to defend such claim or action shall not thereby be materially impaired.

(c) In addition to and without limitation of all other representations, warranties and covenants made by the Lessee under this Agreement, the Lessee further represents, warrants and covenants that the Lessee has not used Hazardous Materials (as defined hereinafter) on, from, or affecting the Project Property in any manner which violates Federal, state or local laws, ordinances, rules or regulations governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials, and that, to the Lessee's knowledge, except as set forth in Environmental Reports (defined hereinbelow), the Project Property do not contain any Hazardous Materials which are or have been used in any manner which violates Federal, State or local laws, ordinances, rules or regulations governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials. Without limiting the foregoing, the Lessee shall not cause or permit the Project Property or any part thereof to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process

Hazardous Materials, except in compliance with all applicable Federal, state and local laws or regulations, nor shall the Lessee cause or permit, as a result of any intentional or unintentional act or omission on the part of the Lessee or any tenant or subtenant of the Lessee, a release of Hazardous Materials onto the Project Property or any portion thereof or onto any other property from the Project Property except in compliance with all applicable Federal, state and local laws or regulations. The Lessee shall comply with, and exercise good faith diligent efforts to ensure compliance by all tenants or subtenants of the Lessee at the Project Property with all applicable Federal, State and local laws, ordinances, rules and regulations as may relate to the Project Property, whenever and by whomever triggered, and shall obtain and comply with, and exercise good faith diligent efforts to ensure that all tenants or subtenants of the Lessee at the Project Property obtain and comply with, any and all approvals, registrations or permits required thereunder. The Lessee shall (i) take such action as is necessary to clean up and remove all Hazardous Materials, on, from, or affecting the Project Property (y) in accordance with all applicable Federal, State and local laws, ordinances, rules and regulations, and (z) in accordance with the orders and directives of all Federal, State and local governmental authorities, and (ii) defend, indemnify, and hold harmless the Agency from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to, (w) the presence, disposal, release, or threatened release of any Hazardous Materials which are on, from, or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise; (x) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials; (y) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Materials, and/or (z) any violation of laws, orders, regulations, requirements or demands of government authorities, or any requirements of the Agency, which are based upon or in any way related to such Hazardous Materials including, without limitation, reasonable attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses. For purposes of this paragraph, "Hazardous Materials" includes, without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et. seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), and in the regulations adopted and publications promulgated pursuant thereto, or any other Federal, state or local environmental law, ordinance, rule, or regulation. The provisions of this paragraph shall be in addition to any and all other obligations and liabilities the Lessee may have to the Agency at common law. As used in this Section 6.2, the term "Environmental Reports" shall mean:

- (1) "Phase I Environmental Site Assessment Report; Metropolitan Transit Authority; Walnut Depot; Bronx, New York" dated December 8, 1998 and prepared for the Empire State Development Corporation;
- (2) "Geotechnical Investigation: New York Post Printing Plant; Bronx, New York for the McClier Corporation" dated August 4, 1998 and prepared by Converse Consultants East, P.C. (Project No. 97-67130-01);
- (3) Soil sample test results performed on the Metropolitan Transit Authority; Walnut Depot; Bronx, New York property that were enclosed in a letter dated September 23, 1998 from David W. Levinson to John Cahill;

- (4) "Underground Storage Tank Closure Report" dated July 1997 and prepared by URS Greiner, Inc.;
- (5) Supplemental "Underground Storage Tank Closure Report" dated May 1998 and prepared by URS Greiner, Inc.; and
- (6) "Remedial Investigation Report" dated November 1993 and prepared by URS Greiner, Inc.

(d) The indemnifications and protections set forth in this Section 6.2 shall be extended, with respect to the Agency, to its members, directors, officers, employees, agents and servants and persons under the Agency's control or supervision.

(e) To effectuate the purposes of this Section 6.2, the Lessee will provide for and insure, in the public liability policies required in Section 4.4 hereof, not only its own liability in respect of the matters therein mentioned but also the liability pursuant to this Section 6.2 (excluding, however, those obligations of the Lessee (1) requiring payment of taxes, (2) set forth in Section 6.2(a)(i) or (v) hereof, and (3) under Section 6.2(c) hereof to the extent not available to the Lessee or any Affiliate thereof at commercially reasonable rates). Anything to the contrary in this Agreement notwithstanding, the indemnification covenants of the Lessee contained in this Section 6.2 shall remain in full force and effect after the termination of this Agreement until the later of (i) the expiration of the period stated in the applicable statute of limitations during which a claim or cause of action may be brought and (ii) payment in full or the satisfaction of such claim or cause of action and of all expenses and charges incurred by the Agency relating to the enforcement of the provisions herein specified.

(f) For the purposes of this Section 6.2, neither the Lessee nor any of its subsidiaries or Affiliates, nor any other Person (whether related or unrelated to the Lessee) who has received "financial assistance" in connection with any other "project" (as such terms are defined in the Act) under the Act, shall be deemed an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

(g) Notwithstanding any provision herein to the contrary, the indemnifications and protections set forth in this Section 6.2 shall not extend to an indemnified party if and to the extent that the loss, damage, injury or liability arises or shall have arisen from the gross negligence or willful misconduct of such indemnified party.

(h) The Agency acknowledges and agrees that if any claim is made against or involving the indemnified parties or if any suit is commenced which names the indemnified parties as defendant(s) or co-defendant(s) or joins the indemnified parties as necessary party(ies), which in either case gives rise to the Lessee's indemnity as more fully provided in this Section 6.2, then, the Lessee's obligation to indemnify the indemnified parties and to hold the indemnified parties harmless from and against any such claim or liability as more fully provided in this Section 6.2 shall be fully satisfied if the Overlandlord or the insurance carrier for the Overlandlord pays any such claim or liability or undertakes and conducts the defense of any such suit and thereafter pays any such claim or liability, if any. The Agency further acknowledges and agrees that if any of the indemnified parties incurs any expense or is found liable in connection with any claim or suit (regardless of who conducts the defense

of such claim or suit), and if such liability is the subject of the indemnity set forth in this Section 6.2, then, prior to and as a condition to the Lessee's making any payment to the indemnified party(ies), the indemnified party(ies) shall assign to the Lessee any claim (or right or remedy) that it (or they) may have against any party (including the Overlandlord under the Prime Lease) in respect of such claim, suit or expense (so that the Lessee shall succeed to any such claim, right or remedy).

Section 6.3. Compensation and Expenses of Agency. The Lessee shall pay the reasonable fees, costs and expenses (including legal, accounting and other administrative expenses) of the Agency related to the Project. The Lessee shall further pay the reasonable costs and expenses of the Agency together with any reasonable fees and disbursements incurred by the Agency's Bond Counsel and General Counsel in performing services for the Agency in connection with this Agreement, the Company Realty Lease, the Project Agreement, the Sales Tax Letter or any other Project Document.

Section 6.4. Retention of Interest in Facility Realty. The Agency shall not sell, assign or encumber its interest in the Facility Realty or any part thereof or interest therein during the term of this Agreement to any Person (other than the Lessee as provided in Section 7.2 hereof) without the prior written consent of the Lessee and any purported disposition without such consent shall be void.

Section 6.5. Annual Certificate. (a) Upon the written direction of the Agency, the Lessee shall deliver to the Agency a certificate of an Authorized Representative of the Lessee certifying (i) that the insurance the Lessee maintains complies with the provisions of Section 4.4 of this Agreement, that such insurance has been in full force and effect at all times during the preceding fiscal year of the Lessee, and that duplicate copies of all policies or certificates thereof have been filed with the Agency and are in full force and effect, (ii) that the Agency has a valid leasehold interest in the Facility Realty and that all property constituting the Facility Realty is subject to the leasehold interest of the Company Realty Lease and this Agreement, (iii) as to whether any portion of the Facility Realty shall be used or occupied by Non-Qualified Users, (iv) as to the percentage of the total rentable square footage of the Project Building as shall be used or occupied by Non-Qualified Users, (v) whether an "event of default" exists under the Prime Lease or written notice of an uncured default has been received by the Lessee under the Prime Lease, and (vi) whether the Lessee has availed itself of the benefits of the Sales Tax Letter (Tenant Improvements) in compliance with the requirements of the Sales Tax Letter (Tenant Improvements) and the Project Agreement. In addition, upon twenty (20) days prior request by the Agency, the Lessee will execute, acknowledge and deliver to the Agency a certificate of an Authorized Representative of the Lessee as to whether any default shall exist on the part of the Lessee in those provisions of this Agreement or the Project Agreement as shall be the subject of the request (which request must be specific in nature), and if so, the details thereof and the action proposed to be taken by the Lessee to cure the same.

(b) The Lessee shall promptly notify the Agency of the occurrence and continuance of any Event of Default or any event which with notice and/or lapse of time would constitute an "event of default" under the Prime Lease or an Event of Default under this Agreement or any other 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 Lessee and set forth a description of the default and

the steps, if any, being taken to cure said default. If no steps have been taken, the Lessee shall state this fact in the notice.

Section 6.6. Discharge of Liens. (a) If any lien, encumbrance or charge is filed or asserted, or any judgment, decree, order, levy or process of any court or governmental body is entered and attached against any of the Facility Realty, made or issued or any claim (such liens, encumbrances, charges, judgments, decrees, orders, levies, processes and claims being herein collectively called "Liens"), whether or not valid, is made against the Facility Realty or any part thereof or the interest therein of the Agency or the Lessee or against any of the rentals or other amounts payable under this Agreement or the Company Realty Lease or the Project Agreement or the interest of the Lessee under this Agreement or under any other Project Document other than (x) Liens for Impositions (as defined in Section 4.3 hereof) not yet payable, (y) Permitted Encumbrances, or (z) Liens being contested as permitted by Section 6.6(b) hereof, the Lessee forthwith upon receipt of notice of the filing, assertion, entry or issuance of such Lien (regardless of the source of such notice) shall give written notice thereof to the Agency and take all action (including the payment of money and/or the securing of a bond) at its own cost and expense as may be necessary or appropriate to obtain the discharge in full thereof and to remove or nullify the basis therefor. Nothing contained in this Agreement shall be construed as constituting the express or implied consent to or permission of the Agency for the performance of any labor or services or the furnishing of any materials that would give rise to any Lien against the Agency's interest in the Facility Realty or the rentals or other amounts payable under this Agreement or any other Project Document.

(b) The Lessee may at its sole cost and expense contest (after prior written notice to the Agency), by appropriate action conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Lien, if (1) such proceeding shall suspend the execution or enforcement of such Lien against the Facility Realty or any portion thereof or interest therein or against the Agency or the Lessee or against any of the rentals or other amounts payable under this Agreement or any other Project Document, (2) neither the Facility Realty nor any portion thereof or interest therein would be in any danger of being sold, forfeited or lost, and (3) neither the Lessee nor the Agency would be in any danger of any civil penalty or criminal liability for failure to comply therewith.

(c) At the written request of the Agency, the Lessee shall provide to the Agency all reasonable information as may be requested with respect to any Lien (as described in Section 6.6(a) hereof), the status thereof, the amount in dispute, and the action taken or proposed to be taken by the Lessee in connection therewith.

Section 6.7. Agency's Authority; Covenant of Quiet Enjoyment. The Agency covenants and agrees that it has full right and lawful authority to enter into this Agreement for the full term hereof, and that, subject to the terms and provisions of the Indenture and other Permitted Encumbrances (and any other title defects not disclosed in the title insurance report delivered pursuant to Section 2.3 hereof), so long as an Event of Default shall not exist hereunder, the Lessee shall have, hold and enjoy, during the term hereof, peaceful, quiet and undisputed possession of the Facility Realty without molestation or disturbance by or from the Agency or any Person claiming through the Agency, subject to Permitted Encumbrances.

Section 6.8. No Warranty of Condition or Suitability. THE AGENCY HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, FITNESS, DESIGN, OPERATION OR WORKMANSHIP OF ANY PART OF THE FACILITY REALTY, ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OR CAPACITY OF THE MATERIALS IN THE FACILITY REALTY, OR THE SUITABILITY OF THE FACILITY REALTY FOR THE PURPOSES OR NEEDS OF THE LESSEE OR ANY OTHER PERSON. NEITHER THE LESSEE NOR ANY PERSON OR AFFILIATE UNDER THE CONTROL OF THE LESSEE SHALL ASSERT A CLAIM AGAINST THE AGENCY ON THE BASIS THAT THE FACILITY REALTY IS NOT SUITABLE OR FIT FOR ITS PURPOSES. THE AGENCY SHALL NOT BE LIABLE IN ANY MANNER WHATSOEVER TO THE LESSEE OR ANY AFFILIATE THEREOF OR OTHER PERSON UNDER THE CONTROL OF THE LESSEE FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED, DIRECTLY OR INDIRECTLY, BY THE FACILITY REALTY OR THE USE OR MAINTENANCE OF ANY THEREOF OR THE FAILURE OF OPERATION OF ANY THEREOF, OR THE REPAIR, SERVICE OR ADJUSTMENT OF ANY THEREOF, OR BY ANY DELAY OR FAILURE TO PROVIDE ANY SUCH MAINTENANCE, REPAIRS, SERVICE OR ADJUSTMENT, OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE OF ANY THEREOF OR FOR ANY LOSS OF BUSINESS HOWSOEVER CAUSED.

Section 6.9. Enforcement of Rights Against Overlandlord. The Lessee covenants and agrees that to the extent that the Overlandlord is obligated to the Lessee under the Prime Lease to comply with all Legal Requirements (the foregoing covenants of the Overlandlord being the "Overlandlord Covenants"), the Company shall not amend, waive or modify, or permit the amendment, waiver or modification of, any of the Overlandlord Covenants, and upon the direction of the Agency, the Lessee shall promptly exercise good faith diligent efforts to enforce the Overlandlord Covenants against the Overlandlord.

Section 6.10. Further Assurances. The Lessee covenants and agrees that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such further reasonable acts, instruments, conveyances, transfers and assurances, at the sole cost and expense of the Lessee, as the Agency reasonably deems necessary or advisable for the implementation, effectuation, correction, confirmation or perfection of this Agreement and any rights of the Agency hereunder or under any other Project Document.

Section 6.11. Right to Cure Agency Defaults. The Agency hereby grants the Lessee full authority for the account of the Agency to perform any covenant or obligation the non-performance of which is alleged to constitute a default, in the name and stead of the Agency, with full power of substitution.

Section 6.12. Release of Portions of the Facility Realty. (a) Upon at least ten (10) days prior written notice by the Lessee to the Agency, the Lessee shall have the right, exercised in good faith, to cause the release from this Agreement, and from the Company Realty Lease, of any portion of the Facility Realty, provided that no such release shall diminish or impair the obligations of the Lessee under this Agreement (including, without limitation, the indemnifications, releases and hold harmless provisions contained in Sections 4.6 and 6.2 hereof) or the Company Realty Lease.

(b) In the event that any portion of the Facility Realty shall be used or occupied by Persons constituting Non-Qualified Users (whether by sublease or otherwise), the Lessee shall promptly deliver written notice to such effect to the Agency, and the Agency in its sole discretion, may elect that this Agreement and the Company Realty Lease shall be deemed terminated with respect to those portions of the Facility Realty so used or occupied as if the term of this Agreement and of the Company Realty Lease with respect to such portion of the Facility Realty had expired with respect thereto, and the Lessee shall, at its sole cost and expense, take such action to effectuate such termination as the Agency may reasonably request, including, without limitation, the entering into of such amendments to this Agreement and the Company Realty Lease as the Agency may reasonably require to effect such termination.

(c) Notwithstanding the foregoing, in the event the use or possession of any portion of the Facility Realty shall at any time be for a purpose or by a Person which is not a qualified "project" as defined in the Act, the Lessee shall promptly deliver written notice to such effect to the Agency, and the Lessee shall, upon receipt of written notice from the Agency to such effect, proceed with diligent good faith efforts to cause such use or possession to be for a purpose and by a Person within the definition of qualified "project" as defined in the Act, or failing that, to cause such portion of the Facility Realty so used or possessed to no longer be included in the leasehold estates of the Company Realty Lease and of this Agreement. The Agency shall cooperate with the Lessee and execute such documents or other such instruments, at the sole cost and expense of the Lessee, as the Lessee shall reasonably request, to effect such release.

Section 6.13. Covenants with Respect to the Prime Lease and the Ground Lease.

(a) The Lessee covenants and agrees that it shall not enter into or permit an amendment, supplement or modification to the Prime Lease or the Ground Lease which would adversely affect the interests of the Agency under the Project Documents. Promptly following the execution thereof, the Lessee shall furnish (or cause to be furnished) copies of any amendment, supplement or modification to the Prime Lease or the Ground Lease to the Agency.

(b) The Lessee agrees to observe and comply with all of its payments and all of its material obligations, covenants and agreements set forth in the Prime Lease and further agrees to promptly transmit to the Agency copies of any termination or default notice it shall receive from, or deliver to, the Overlandlord under the Prime Lease.

Section 6.14. Assignment of Prime Lease. Subject to the provisions of this Section 6.14, the Lessee shall have the right, without the consent of the Agency, to assign or transfer its interest in the Prime Lease and this Agreement to any Eligible Affiliate, and each such Eligible Affiliate, in turn, may assign or transfer its interest in the Prime Lease and this Agreement to the Lessee or any other Eligible Affiliate without the consent of the Agency. In the event the Lessee (or any Eligible Affiliate) shall at any time or for any reason assign its interest in the Prime Lease to an Eligible Affiliate, such assignor shall also assign its interest in this Agreement and in the Company Realty Lease to such assignee and cause such assignee to assume in writing all of the obligations of the Lessee contained in this Agreement, the Company Realty Lease and the Project Agreement jointly and severally with the Lessee and deliver to the Agency an opinion of counsel to the Lessee to the effect

that such assignee shall be bound jointly and severally with the Lessee by all of the terms applicable to the Lessee under this Agreement, the Company Realty Lease and the Project Agreement.

ARTICLE VII
Events of Default; Remedies

Section 7.1. Events of Default. Any one or more of the following events shall constitute an "Event of Default" hereunder:

(a) Failure of the Lessee to pay any amount that has become due and payable hereunder, or to observe and perform any covenant, condition or agreement on its part to be performed under Sections 4.2, 4.3, 4.4, 4.6, 4.7, 6.2, 6.3, 6.12, 6.13 or 9.2 (except with respect to assignments or transfers of this Agreement) hereof, and continuance of such failure for a period of thirty (30) days after receipt by the Lessee of notice specifying the nature of such default from the Agency;

(b) Failure of the Lessee to observe and perform any covenant, condition or agreement on its part to be performed under Section 6.1, 6.14 or 9.2 (as to transfers or assignments) hereof;

(c) Failure of the Lessee to pay any amount or to observe and perform any covenant, condition or agreement hereunder on its part to be performed (except as set forth in Section 7.1(a) or (b) above) and (1) continuance of such failure for a period of thirty (30) days after receipt by the Lessee of notice specifying the nature of such default from the Agency, or (2) if by reason of the nature of such default the same can be remedied, but not within the said thirty (30) days, the Lessee 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 Lessee 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 to pay its debts as such debts generally become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, rehabilitation, winding-up, or composition or adjustment of debts, (vi) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under such Bankruptcy Code (or under any other laws referenced in clause (v) above, (vii) take any action for the purpose of effecting any of the foregoing, or (viii) be adjudicated a bankrupt or insolvent by any court of competent jurisdiction;

(e) A proceeding or case shall be commenced, without the application or consent of the Lessee, 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 Lessee or of all or any substantial part of their respective assets, or (iii) similar relief under any law relating to bankruptcy, insolvency, rehabilitation, reorganization, winding-up or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of ninety (90) days; or the Lessee shall acquiesce in writing to any of the foregoing; or any order for relief against the Lessee shall be

entered in an involuntary case under the Federal Bankruptcy Code; the terms "dissolution" or "liquidation" of the Lessee as used above shall not be construed to prohibit any action otherwise permitted by Section 6.1 hereof or Section 4.1 of the Project Agreement;

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

(g) The Lessee shall be a Prohibited Person; or

(h) An "Event of Default" under the Project Agreement or any other Project Document shall occur and be continuing.

Section 7.2. Remedies on Default. Whenever any Event of Default referred to in Section 7.1 hereof shall have occurred and be continuing, the Agency may take any one or more of the following remedial steps:

(a) The Agency may terminate the Company Realty Lease and this Agreement, in which case this Agreement and all of the right, title and interest herein granted or vested in the Lessee shall cease and terminate (with the effect that the term of this Agreement shall be deemed to have expired on such date of termination as if such date were the original expiration date of the term of this Agreement), unless prior to such termination all accrued and unpaid payments shall have been paid and all such defaults shall have been fully cured. No such termination of this Agreement shall relieve the Lessee of its liabilities and obligations hereunder and such liabilities and obligations shall survive any such termination; and

(b) The Agency may (i) bring an action for damages, injunction or specific performance, and/or (ii) convey all of the Agency's right, title and interest in the Facility Realty to the Lessee, suspend or terminate the Sales Tax Letter or not re-confirm the Sales Tax Letter on any annual confirmation date and/or require the Lessee to surrender the Sales Tax Letter to the Agency for cancellation, and/or (iii) take whatever action at law or in equity as may appear necessary or desirable to collect payment of amounts due under this Agreement, or to enforce performance or observance of any obligations, agreements or covenants of the Lessee under this Agreement.

In the event that the Lessee fails to make any payment required under this Agreement, the payment so in default shall continue as an obligation of the Lessee until the amount in default shall

have been fully paid and bear interest at the annual rate of eighteen percent (18%) per annum until the date payment is made.

No action taken pursuant to this Section 7.2 (including termination of this Agreement pursuant to this Section 7.2 or by operation of law or otherwise) shall, except as expressly provided herein, relieve the Lessee from its obligations hereunder, all of which shall survive any such action.

Section 7.3. Remedies Cumulative. The rights and remedies of the Agency under this Agreement shall be cumulative and shall not exclude any other rights and remedies of the Agency allowed by law with respect to any default under this Agreement. Failure by the Agency to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon default by the Lessee 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 Lessee with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such default by the Lessee be continued or repeated.

Section 7.4. No Additional Waiver Implied by One Waiver. In the event any covenant or agreement contained in this Agreement should be breached by any party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver shall be binding unless it is in writing and signed by the parties making such waiver. No course of dealing between the Agency and the Lessee 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 7.5. Effect of Discontinuance of Proceedings. In case any proceeding taken by the Agency under this Agreement or any other Project Document on account of any Event of Default hereunder or under any other Project Document 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 7.6. Agreement to Pay Attorneys' Fees and Expenses. If there shall occur an Event of Default hereunder, and if 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 Lessee herein contained (all in accordance with and subject to the provisions of Section 7.2 hereof), the Lessee 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 VIII
Termination of this Agreement

Section 8.1. Option to Terminate this Agreement. (a) The Lessee shall have the option to terminate this Agreement on any date during the term hereof by paying all payments due hereunder. The Lessee shall exercise such option by delivering to the Agency a written notice of an Authorized Representative of the Lessee stating that the Lessee has elected to exercise its option to terminate this Agreement and the date on which such termination is to be made.

(b) The Lessee shall terminate this Agreement by paying to the Agency all amounts due and payable under this Agreement, the Project Agreement, and the other Project Documents (other than the Prime Lease or any replacements therefor) to which the Lessee is a party, and by giving the Agency notice in writing of such termination and thereupon such termination shall forthwith become effective, subject, however, to the survival of the obligations of the Lessee under Sections 6.2 and 9.11 hereof.

(c) Upon termination of this Agreement, the Agency, upon the written request and at the sole cost and expense of the Lessee, shall execute such instruments as the Lessee may reasonably request to discharge this Agreement as a document of record with respect to the Facility Realty.

ARTICLE IX
Miscellaneous

Section 9.1. Force Majeure. In case by reason of force majeure either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement, then except as otherwise expressly provided in this Agreement, if such party shall give notice and full particulars of such force majeure to the other party within a reasonable time after occurrence of the event or cause relied on, the obligations of the party giving such notice (other than the obligations of the Lessee to make the rental payments or other payments required under the terms hereof, or to comply with Sections 4.2, 4.3, 4.4, 4.6, 6.1, 6.2, 6.3, 6.12, 6.14 or 9.2 hereof), so far as they are affected by such force majeure, shall be suspended during the continuance of the inability then claimed which shall include a reasonable time for the removal of the effect thereof, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "force majeure", as employed herein, shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States or of the State or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrest, restraining of government and people, civil disturbances, explosions, partial or entire failure of utilities, shortages of labor, material, supplies or transportation, or any other similar or different cause not reasonably within the control of the party claiming such inability. The settlement of existing or impending strikes, lockouts or other industrial disturbances shall be entirely within the discretion of the party having the difficulty and the above requirements that any force majeure shall be reasonably beyond the control of the party and shall be remedied with all reasonable dispatch shall be deemed to be fulfilled even though such existing or impending strikes, lockouts and other industrial disturbances may not be settled but could have been settled by acceding to the demands of the opposing person or persons.

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

Section 9.2. Assignment or Sublease. (a) The Lessee shall not at any time assign or transfer this Agreement, or sublet all or part of the Facility Realty to any Person other than to an Eligible Affiliate, without in each case the prior written consent of the Agency (which consent may be unreasonably withheld); provided, that, in the event the Agency shall provide such consent, (i) the Lessee shall nevertheless remain liable to the Agency for the payment of all rent and for the full performance of all of the terms, covenants and conditions of this Agreement and of any other Project Document to which they shall be a party, (ii) any assignee or transferee of the Lessee, or sublessee of all or substantially all of the Facility Realty, shall have executed and delivered to the Agency an instrument, in form for recording, in and by which the assignee, transferee or sublessee shall have assumed in writing and have agreed to keep and perform all of the terms of this Agreement (and of each other Project Document to which the Lessee shall be a party) on the part of the Lessee to be kept and performed, shall be jointly and severally liable with the Lessee for the performance thereof, shall

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

(b) Any consent by the Agency to any act of assignment or transfer of this Agreement, or sublease in whole or in part of the Facility Realty, shall be held to apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver of the duty of the Lessee, or the successors or assigns of the Lessee, to obtain from the Agency consent to any other or subsequent assignment or transfer of this Agreement, or sublease in whole or in part of the Facility Realty, or as modifying or limiting the rights of the Agency or the obligations of the Lessee under this Section 9.2.

Section 9.3. Notices. All notices, certificates or other communications hereunder shall be sufficient if sent by registered or certified United States mail, postage prepaid, or by hand, addressed, if to the Agency, to the Chairman, New York City Industrial Development Agency, 110 William Street, New York, New York with a copy to the Executive Director of the Agency at the same address, and if to the Company, to NYP Holdings, Inc., c/o News Corporation Limited, 1211 Avenue of the Americas, New York 10036, Attention: Group General Counsel. A copy of each default notice to the Company shall also be sent to the Pillsbury Winthrop LLP, One Battery Park Plaza, New York, New York 10004-1490, Attention: Stephen A. Lefkowitz, Esq., and to Hogan & Hartson L.L.P., 551 Fifth Avenue, New York 10176, Attention: Mitchell R. Lubart, Esq. The Agency and the Company may, by like notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice, certificate or other communication hereunder shall, except as may expressly be provided herein, be deemed to have been delivered or given as of the date it shall have been mailed, or if delivered, on the date actually received or the date on which receipt is refused.

Section 9.4. Prior Agreements Superseded. This Agreement shall completely and fully supersede all other prior understandings or agreements, both written and oral, between the Agency and the Lessee relating to the Facility Realty with respect to the subject matter hereof, other than (x) any Project Document or other document being executed contemporaneously herewith, or (y) the Preliminary Sales Tax Letter (including the Sales Tax Savings received thereunder) and related Indemnification Agreement.

Section 9.5. Severability. If any clause, provision or section of this Agreement be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or section shall not affect any of the remaining provisions hereof.

Section 9.6. Inspection of the Facility Realty. The Lessee will permit the Agency, or its duly authorized agents, at all reasonable times upon reasonable notice to enter upon the Facility Realty but solely for the purpose of assuring that (x) the Lessee is operating the Facility Realty, or is causing the Facility Realty to be operated, as a qualified "project" under the Act consistent with the purposes set forth in the recitals to this Agreement and with the public purposes of the Agency, or (y) ascertaining whether or not a Recapture Event (as defined in the Project Agreement) has occurred; but not for any purpose of assuring the proper maintenance or repair of the Facility Realty as such latter obligation is and shall remain solely the obligation of the Lessee.

Section 9.7. Effective Date; Counterparts. This Agreement shall become effective upon its delivery. It may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9.8. Binding Effect. This Agreement shall be binding upon the Agency and the Lessee and their respective successors and assigns, and inure to the benefit of the Agency and to no other Person.

Section 9.9. Law Governing. This Agreement shall be governed by, and construed in accordance with, the internal laws of the State, without regard to conflict of law principles.

Section 9.10. Tax Credits and Deductions. It is the intention of the parties that any tax credit or comparable credit, and all deductions from income taxes attributable to the Facility Realty, which may ever be available accrue to the benefit of the Lessee and the Lessee shall, and the Agency upon advice of counsel (at the sole cost of the Lessee) may, make any election and take other action in accordance with the Internal Revenue Code of 1986, as amended, and the Treasury Regulations applicable thereunder, as may be necessary to entitle the Lessee to have such benefit.

Section 9.11. Waiver of Trial by Jury. The parties do hereby expressly waive all rights to trial by jury on any cause of action directly or indirectly involving the terms, covenants or conditions of this Agreement or the Facility Realty 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 9.12. Non-Discrimination. (a) At all times during the term of this Agreement, the Lessee shall comply with all federal, state and local laws relating to non-discrimination, and the Lessee shall not discriminate against any employee or applicant for employment because of race, color, creed, age, sex or national origin. The Lessee shall use its best efforts to ensure that employees and applicants for employment with the Lessee and Affiliates at the Facility Realty are treated without regard to their race, color, creed, age, sex or national origin. As used herein, the term "treated" shall

mean and include, without limitation, the following: recruited, whether by advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; downgraded; demoted; transferred; laid off; and terminated.

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

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

Section 9.13. No Recourse under This Agreement. All covenants, stipulations, promises, agreements and obligations of the Agency contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency, and not of any member, director, officer, employee or agent of the Agency in his individual capacity, and no recourse shall be had for any claim based thereon or hereunder against any member, director, officer, employee or agent of the Agency.

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

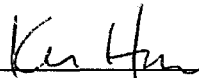
Section 9.14. This Agreement is Subject to the Prime Lease. This Agreement is and shall be subject and subordinate in all respects to the Prime Lease and to all the matters to which the Prime Lease is subject and subordinate.

Section 9.15. 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 March 25, 2002.

IN WITNESS WHEREOF, the Agency has caused its corporate name to be hereunto subscribed by its duly authorized Deputy Executive Director and attested under the seal of the Agency by an Assistant Secretary and the Lessee has caused its name to be subscribed hereto by an authorized representative, all being done as of the year and day first above written.

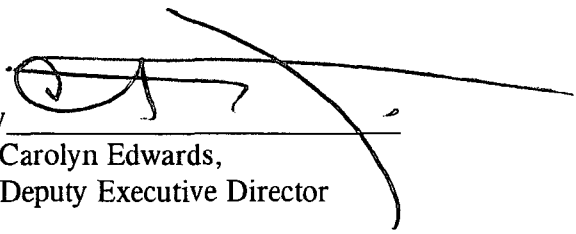
(SEAL)

Attest:



Assistant Secretary

NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY

By 

Carolyn Edwards,
Deputy Executive Director

NYP HOLDINGS, INC.,
as Lessee

By _____
Name:
Title:

IN WITNESS WHEREOF, the Agency has caused its corporate name to be hereunto subscribed by its duly authorized Deputy Executive Director and attested under the seal of the Agency by an Assistant Secretary and the Lessee has caused its name to be subscribed hereto by an authorized representative, all being done as of the year and day first above written.

(SEAL)

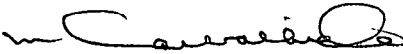
NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY

Attest:

Assistant Secretary

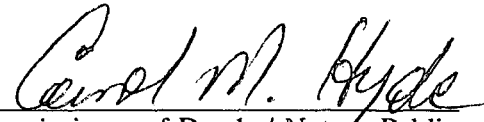
By _____
Carolyn Edwards,
Deputy Executive Director

NYP HOLDINGS, INC.,
as Lessee

By 
Name: Michael Carvalhido
Title: VP Finance

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

On the 30th day of ~~March~~ APRIL, in the year two thousand two, before me, the undersigned, a ~~Commissioner of Deeds~~ / Notary Public in and for ~~The City of New York~~ / said State, personally appeared Carolyn A. Edwards, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that her signature on the instrument, the individual executed the instrument.


~~Commissioner of Deeds~~ / Notary Public

CAROL M. HYDE
Notary Public, State of New York
No. 4977270
Qualified in Queens County
Commission Expires Jan. 28, 2003

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

On the 35th day of March, in the year two thousand two, before me, the undersigned, a ~~Commissioner of Deeds /~~ Notary Public in and for ~~The City of New York /~~ said State, personally appeared Michael Carvalho, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~ executed the same in his/~~her~~ capacity, and that by his/~~her~~ signature on the instrument, the individual executed the instrument.

Angela D. Weissert
~~Commissioner of Deeds /~~ Notary Public

Angela D. Weissert
Notary Public, State of New York
No. 41-49581
Qualified in Nassau
Commission Exp. Sept 11, 2005

APPENDICES

DESCRIPTION OF PROJECT

The construction of an approximately 500,000 square foot building and related facilities and structures, and the purchase and/or lease of (and maintenance, service or repair contracts relative to) machinery, equipment, furniture, furnishings and other items of personal property, each to the extent used in the printing, production, packaging and distribution of one or more newspapers, magazines or other publications, and ancillary and incidental uses.

DESCRIPTION OF FACILITY REALTY

Lot 30

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

BEGINNING at a point on the southerly side of East 132nd Street, (60 feet wide) distant 17.73 feet from the point where the westerly line of Locust Avenue as projected southerly across East 132nd Street intersects said southerly line of East 132nd Street;

RUNNING THENCE from said point or place of beginning south 17degrees 30 minutes 42 seconds west, 604.56 feet to a point of curvature;

THENCE southwesterly on a curve to the right having a radius of 703.74 feet, and arc length of 82.78 feet to a point of compound curvature;

THENCE southwesterly on a curve to the right having a radius of 349.27 feet and arc length of 317.86 feet to a point;

THENCE south 76 degrees 35 minutes 54 seconds west 63.65 feet to a point of curvature;

THENCE on a curve to the right having a radius of 666.79 feet an arc length of 159.14 feet to a point in the easterly boundary line of lot 2;

THENCE north 17 degrees 30 minutes 42 seconds east 978.65 feet to the southerly side of East 132nd Street;

THENCE along the southerly side of East 132nd Street south 81 degrees 30 minutes 09 seconds east 377.50 feet to THE POINT OR PLACE OF BEGINNING.

Part of Lot 2

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

BEGINNING at a point on the southerly side of East 132nd Street distant 395.23 feet from the point where the westerly line of Locust Avenue as projected southerly across East 132nd Street intersects said southerly line of East 132nd Street;

RUNNING THENCE south 17 degrees 30 minutes 42 seconds west 978.65 feet to a point;

THENCE north 84 degrees 00 minutes 41 seconds west, 373.52 feet to a point in the easterly line of the easement for the Little Hell Gate Bridge as set forth in an appropriation of property, maps and descriptions of which were recorded in the Office of the City Register of Bronx County on December 29, 1982 in Reel 492 page 1282:

THENCE along the same, north 19 degrees 31 minutes 32 seconds east, 101.00 feet to a point;

THENCE north 70 degrees 28 minutes 28 seconds west 25 feet to a point;

THENCE north 19 degrees 31 minutes 32 seconds east 899.57 feet to the southerly side of East 132nd Street;

THENCE along the southerly side of East 132nd Street south 81 degrees 35 minutes 30 seconds east, 359.47 feet to THE POINT OR PLACE OF BEGINNING.