

Lease Abstract for Standard Oil Building/Primary

Address/Description:

Lease Information

Abstracting Status:

Document: Fully Executed Lease - 26 Broadway 11.3.2015.pdf

Unreviewed

Lease Term: 10 Years from Commencement Date

Additional Note(s):

Documents Abstracted

<u>Document Name</u>	<u>Executed</u>	<u>Description of Contents</u>
Fully Executed Lease - 26 Broadway 11.3.2015.pdf	November 3, 2015	REBNY form Lease, Rider, Core & Shell Plan, Rules & Regs,

Recurring Charges: Rent

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Article 40.1.1: A fixed rental ("Fixed Rental") at an annual rate of:

Step Start	Monthly Amount	Annual Amount	Per Square Foot
Commencement Date – Year 1	\$91,566.17	\$1,098,794.00	\$44.50
Year 2	\$94,084.24	\$1,129,010.84	\$45.72
Year 3	\$96,671.55	\$1,160,058.63	\$46.98
Year 4	\$99,330.02	\$1,191,960.25	\$48.27
Year 5	\$102,061.60	\$1,224,739.15	\$49.60
Year 6	\$108,983.62	\$1,307,803.48	\$52.96
Year 7	\$111,980.67	\$1,343,768.08	\$54.42
Year 8	\$115,060.14	\$1,380,721.70	\$55.92
Year 9	\$118,224.30	\$1,418,691.55	\$57.46
Year 10	\$121,475.46	\$1,457,705.56	\$59.04

Lease Clauses

Late Charges

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- **Article 55.0:** In the event that any payment to be made by Tenant hereunder shall become overdue for a period in excess of three (3) Business Days, a "late charge" equal to the lesser of (a) Five Percent (5%) of the overdue payment or (b) the maximum amount allowable by law may be charged by Landlord and shall be payable by Tenant as Additional Rental on the first (1st) day of the month following Landlord's demand therefor.
- **Notification:** After three (3) Business Days and Following Landlord's demand
- **Charge: 5%**

Holdover

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- Article 57.0: In the event Tenant remains in possession of the Premises after the expiration or earlier termination of this Lease, without the execution of a new lease, then Tenant will pay to Landlord, on demand, as liquidated damages for each month and for each portion of any month during which Tenant holds over in the Premises after the expiration or earlier termination of the term of this Lease, (i) a sum equal to one and one half (1.5) times the average monthly Fixed Rental and Additional Rental which was payable under this Lease during the last six (6) months of the term thereof for the first thirty (30) days of Tenant's holdover, (ii) a sum equal to one and three quarters (1.75) times the average monthly Fixed Rental and Additional Rental which was payable under this Lease during the last six (6) months of the term thereof for the thirty-first day of Tenant's holdover to and including the sixtieth (60th) day of Tenant's holdover, and (iii) a sum equal to two (2) times the average monthly Fixed Rental and Additional Rental which was payable under this Lease

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during the last six (6) months of the term thereof for the sixty-first (61st) day of Tenant's holdover until Tenant delivers to Landlord vacant possession of the Premises.

- **Charge & Terms:** 1.5 times the average monthly fixed Rental and Additional Rental due during the last six (6) months of the term for thirty (30) days, 1.75 times from the thirty first (31st) to the sixtieth (60th) day and two (2) times from the sixty first (61st) until possession turned over to landlord.

Permitted Use

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- **Article 41.1:** Tenant shall use the Premises for general, executive and administrative office purposes including shared office space, conference rooms, internal lounges, reception areas, and other common space and for ancillary and incidental use as a cafe for purchase of food and non-alcoholic drinks, acupuncture therapy, yoga meditation and fitness studio, and educational classrooms (but with respect to all of the foregoing, (i) subject to this Lease, including, without limitation.

Subletting

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- **Article 48.1:** Tenant, shall not assign, mortgage, or encumber this Lease or any of its rights or estates hereunder, sublet the Premises or any part thereof, or permit the Premises, or any part thereof, to be used or occupied by others, pursuant to a management agreement, license agreement or otherwise, without the prior written consent of Landlord in each instance, such consent not to be unreasonably withheld, delayed or conditioned pursuant to Section 48.4 of this Lease subject however to Landlord's rights under Section 48.3 of this Lease.
- **Article 48.3: (c)** Should Tenant agree subject to the provisions of this Lease to sublet all or substantially all of the Premises for substantially all of the term, other than by a sublease contemplated by Section 48.17, Tenant shall, as soon as that term sheet, letter of intent, or sublease agreement is consummated, but no less than thirty-five (35) days prior to the effective date of the contemplated sublease, deliver to Landlord, a duplicate original of such term sheet, letter of intent, or sublease agreement and all ancillary agreements with the proposed sublessee, and Landlord shall then have the right to elect, by notifying Tenant within thirty (30) days of such delivery, to terminate this Lease as of such effective date.
- **Article 8.20:** Notwithstanding anything contained herein to the contrary, if Landlord does not respond to Tenant's written assignment or sublease request (which shall also be delivered to Landlord's counsel in accordance with Section 61) within thirty (30) days after Tenant's delivery of such request to Landlord, Tenant may give a second five (5) day written notice to Landlord and its counsel in accordance with Section 61. Such second written notice shall note in bold upper case lettering that pursuant to Section 48.20 of this Lease, Landlord's failure to respond shall be deemed to mean that Landlord's consent to the contemplated assignment or sublease (as the case maybe) is granted. Should Landlord then fail to respond to said second notice within said five (5) day period, as Tenant's sole and exclusive remedy, Landlord's consent to such assignment or sublease shall be deemed granted.
- **Article 48.4:** Landlord's consent (which must be in writing and in form reasonably satisfactory to Landlord) to the proposed assignment or sublease shall not be unreasonably withheld or delayed.

Brokers

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- **Article 53:** Tenant represents and warrants to Landlord that Tenant neither consulted nor negotiated with any broker or finder with regard to the rental of the Premises from Landlord other than Newmark Grubb Knight Frank and The Mines Group (each a "Broker" and collectively, the "Brokers") who shall each be paid by Landlord pursuant to a separate agreement with each Broker.
- Tenant agrees to indemnify and hold Landlord harmless from any damages, liabilities, settlement payments, costs and expenses (including reasonable attorneys' fees incurred in defending an action or claim or enforcing this indemnity) suffered, incurred or paid by Landlord by reason of any claim or action for a commission or other compensation by any broker or other entity or person (other than one or both of the Brokers) claiming to have dealt with, consulted or negotiated with Tenant with regard to the rental of the Premises from Landlord.
- **Article 53:** Landlord represents and warrants to Tenant that Landlord neither consulted nor negotiated with any broker or finder with regard to the rental of the Premises to Tenant other than the Brokers who shall each be paid by Landlord pursuant to a separate agreement with each Broker.
- Name: Newmark Grubb Knight Frank and The Mines Group

Clause: Property Address

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- 26 Broadway

Clause: Premises

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- A Portion of the 8th floor

Clause: Square Footage

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- (None identified in the lease and inferred based on the below references)
- 8th Floor Premise: 24,692 rsf according to Costar
- Total Rentable Building Area: 860,889 rsf according to Costar
- 8th Floor Premises: 32,800 rsf according to proportionate share of taxes for the Building

Clause: Real Estate Tax Escalation

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- **Article 45.4:** "BaseTax" shall mean the Taxes payable in the calendar year commencing January 1, 2016 and ending December 31, 2016 (such calendar year being hereinafter referred to as the "Base Tax Year"), which Base Tax amount shall be determined by dividing (a) the sum of (i) the determination of Taxes for the New York City real estate tax year commencing July 1, 2015 and ending June 30, 2016, and (ii) the determination of Taxes for the New York City real estate tax year commencing July 1, 2016 and ending June 30, 2017, by (b) two (2).

Article 45.5: "Tenant's Proportionate Share" shall mean 3.81%.

Article 45.6: If the Taxes for any Tax Year occurring wholly or partially within the term of this Lease or any renewal or extension thereof shall be greater than the Base Tax, Tenant shall pay as Additional Rental for such Tax Year a sum equal to Tenant's Proportionate Share of the amount by which the Taxes for such Tax Year are greater than the Base Tax (which amount is hereinafter called the "Tax Payment").

- **Article 45.6:** If in any Tax Year after the Base Year, the abatements and exemptions applicable to the Taxes are less than the abatements and exemptions applicable to (or incorporated in) the Base Tax, Tenant shall not be obligated to pay Tenant's Proportionate Share of the increase in Taxes attributable to such decrease in abatements and/or exemptions.
- **Article 45.7:** If Landlord shall receive a refund for any Tax Year for which a Tax Payment shall have been made by Tenant pursuant to Paragraph 45.6 above. Landlord shall repay to Tenant, with reasonable promptness. Tenant's Proportionate Share of such refund after deducting from such refund Tenant's Proportionate Share of the reasonable and actual out-of-pocket costs and expenses (including reasonable experts' and attorneys' fees) of obtaining such refund. If the assessment for the Base Tax Year shall be reduced from the amount originally imposed after Landlord shall have rendered a comparative statement (as provided in Paragraph 45.8 below) to Tenant with respect to a Tax Year, the amount of each Tax Payment shall be retroactively adjusted in accordance with such change, and Tenant, on Landlord's demand, shall pay any retroactive increase in Tax Payments resulting from such adjustment.
- **Article 45.8:** Landlord shall render to Tenant a comparative statement, with a copy of the then current tax bill, showing the amount of the Base Tax, the amount of the Taxes for the then current Tax Year, and the Tax Payment, if any, due from Tenant for such Tax Year. The Tax Payment shown on such comparative statement shall be paid in full by Tenant to Landlord within ten (10) Business Days after Tenant's receipt of such comparative statement, or, at Landlord's option, shall be paid in two (2) installments on July 1 and January 1 of each Tax Year. Alternatively, at the election of Landlord, the Tax Payment may be billed by Landlord and paid by Tenant in equal monthly installments, together with installments of Fixed Rental payable under this Lease. Tenant shall pay the amount of the Tax Payment shown on such comparative statement (or the balance of a proportionate installment thereof, if only an installment is involved) concurrently with the installment of Fixed Rental then or next due, or if such statement shall be rendered at or after the expiration or earlier termination of this Lease, within ten (10) Business Days after such rendition. Each comparative statement shall be conclusive and binding on Tenant, unless within thirty (30) days after receipt of such comparative statement. Tenant shall notify Landlord of any discrepancy in specific detail. Pending the determination of such dispute, by agreement or otherwise, Tenant shall pay the Tax Payment set forth on the comparative statement.

Clause: Operating Escalation

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- **Services 29:** Tenant shall pay Owner the cost of removal of any of Tenant's refuse and rubbish from the building; (e) if the demised premises are serviced by Owner's air conditioning/cooling and ventilating system, air conditioning/cooling will be furnished to Tenant from May 15th through September 30th on business days (Mondays through Fridays, holidays excepted) from 8:00 am.
- **Services 29.0:** If Tenant requires air conditioning/cooling or ventilation for more extended hours on Saturdays, Sundays or on holidays, as defined under Owner's contract with the applicable Operating Engineers contract. Owner will furnish the same at Tenant's expense. **RIDER (?)** to be added in respect to rates and conditions for such additional service.

Clause: Electric Charges

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- **Article 52.2:** For the purposes of this subsection, "Usage" shall mean the number of kilowatt hours of electric current consumed in the Premises, as measured by a meter or meters through which the electric current supplied to the Premises is drawn, for each calendar month or such other period as Landlord shall determine during the term of this Lease.

Article 52.2: "Rate" shall mean the amount per kilowatt hour that would be charged, at the time in question, by the public utility company supplying electric current to the Building, at the rate schedule payable by Landlord from time to time, including, without limitation, all applicable surcharges, demand charges, time-of-day charges, energy charges, fuel adjustment charges, rate adjustment charges, taxes, and other sums payable in respect thereof, as if the Usage were the total current being purchased.

- **Article 52.2:** Electricity shall initially be furnished by Landlord to Tenant on a "submetering" basis
- **Article 52.2:** "Tenant's Cost" shall mean an amount equal to the product of (i) the Rate, multiplied by (ii) the Usage, multiplied by (iii) 107%. If any tax is imposed upon Landlord's receipt from the sale or resale of electrical energy or gas or telephone service to Tenant by any Federal, State or Municipal Authority, Tenant covenants and agrees that, where permitted by law, Tenant's pro-rata share of such taxes shall be passed on to, and included in the bill of, and paid by, Tenant to Landlord. Notwithstanding the foregoing, to the extent there are multiple meters or submeters in or serving the Premises, the meter demand shall be totalized.
- **Article 52.2:** Tenant shall have the right to audit Tenant's electrical equipment and Usage using a third party electric company selected and paid for by Tenant and approved by Landlord (such approval not to be unreasonably withheld, conditioned or delayed). Notwithstanding the foregoing, Tenant may only perform such audit if Tenant notifies Landlord of a dispute of any electric bill within thirty (30) days after Landlord's delivery of such bill. The determinations of such third party electric company shall be binding on Landlord and Tenant. However, pending such controlling determinations, Tenant shall pay to Landlord the cost of electricity in accordance with the determinations of Landlord. If the controlling determinations differ from Landlord's determinations, then the parties shall promptly make adjustment for any deficiency owed by Tenant or overage paid by Tenant
- **Article 52.1:** Landlord agrees that Tenant shall have available to it six (6) watts per usable square foot of the Premises, exclusive of building heating and air conditioning.
- **Article 64.3:** As part of Tenant's Initial Installations, Tenant may install (at Tenant's sole cost and expense) a dedicated, Tenant controlled supplemental air conditioning unit which services the Premises along with any additional electric risers required in connection therewith (collectively, the "Supplemental A/C"). Notwithstanding anything contained in this Lease (including, without limitation, Article 52), Landlord shall have the right to install an electric meter that measures the electricity consumed only as a result of the Supplemental A/C and any other supplemental air conditioning system used at the Premises. Tenant shall be responsible for any such additional electricity consumed as a result of the Supplemental A/C and any other supplemental air conditioning system in the Premises plus a seven percent (7%) mark up for out-of-pocket costs and expenses incurred by Landlord in connection with reading such meter, preparing bills therefore and electricity redistribution costs as provided in Section 52.2.

Clause: Security Deposit

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- **Article 34:** Tenant has deposited with Owner the sum of \$1,098,794.00* as security in the form of cash or letter of credit from a qualified financial institution as defined in Article 56.5 of this lease.
- **Article 56.4:** Through the four (4) year anniversary of the Post Credit Date (a) Provided (i) Tenant is not then in default under this Lease beyond the expiration of any notice and cure periods, then in that event. Tenant shall have the right (by providing written notice to Landlord) to reduce the amount of the security deposit to \$918,554.36.

Lease Abstract for Standard Oil Building/Primary *(continued)*

- **Article 56.4:** In the event Tenant fails to pay any Fixed Rental or Additional Rental payment due hereunder (on or before the dates such payment is due to Landlord pursuant to the provisions of this Lease or prior to the expiration of any applicable notice, grace and/or cure periods), then in that event. Tenant shall forego any future right to reduce the amount of security deposit pursuant to this Section 56.4.

Clause: Tenant Assignment & Sublease

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- **Article 48.1:** Tenant, for itself, its heirs, distributees, executors, administrators, legal representatives, successors and assigns, expressly covenants that it shall not assign, mortgage, or encumber this Lease or any of its rights or estates hereunder, sublet the Premises or any part thereof, or permit the Premises, or any part thereof, to be used or occupied by others, pursuant to a management agreement, license agreement or otherwise, without the prior written consent of Landlord in each instance, such consent not to be unreasonably withheld, delayed or conditioned pursuant to Section 48.4 of this Lease subject however to Landlord's rights under Section 48.3 of this Lease.
- **Article 48.4:** Landlord's consent (which must be in writing and in form reasonably satisfactory to Landlord) to the proposed assignment or sublease shall not be unreasonably withheld or delayed, provided and upon condition that
- **Article 48.17:** Tenant shall have the right, subject to the terms and conditions hereinafter set forth, without the consent of, but on written notice to, Landlord, but subject to Tenant's satisfaction of (a) the conditions set forth in Section 48.1 (other than the requirement that Tenant obtain Landlord's consent), (b) Tenant providing Landlord with a statement setting forth, in reasonable detail, the identity of any new person and/or entity as a result of the transaction, (c) the use of the Premises not changing as a result of the transaction, and (d) all of Section 48.10 above, (i) to assign its interest in this Lease to any corporation which is a successor to Tenant either by merger or by consolidation, (ii) to assign its interest in this Lease to a purchaser of all or substantially all of Tenant's assets or stock (provided such purchaser shall have also assumed substantially all of Tenant's liabilities), (iii) to assign its interest in this Lease to an entity which shall control, be under the control of, or be under common control with Tenant, (iv) to transfer interests (including stock) in Tenant to family members for estate planning purposes, (v) to transfer interests (including stock) in Tenant as a result of death or incapacity of a stockholder, or (vi) to transfer interests (including stock) in Tenant if interests in Tenant are publicly traded on a recognized stock exchange or pursuant to a public offering thereof.
- **Article 48.12:** If applicable, one or more sales or transfers, by operation of law or otherwise, or creation of new stock, partnership, membership or voting interests, aggregating in excess of fifty percent (50%) of (i) the voting stock of any corporate tenant, or (ii) the limited or general partnership interest in any partnership tenant, or (iii) the membership interests in any limited liability company tenant, whether in a single transaction or in a series of transactions, shall be deemed an assignment within the meaning of this Article and shall require Landlord's prior written consent in accordance with the terms of this Lease. From time to time, if applicable, at Landlord's request, Tenant shall provide Landlord with a statement of Tenant, certified by Tenant's Secretary, of its then current shareholders and persons having a beneficial interest in the shares of stock of Tenant, the names of such shareholders and beneficial interest holders, and the percentage of shares held by each of them.
- **Article 48.15:** If Tenant shall assign this Lease or sublease (except pursuant to Section 48.17) all or any part of the Premises which constitutes more than half of the 8th Floor of the Building, Tenant shall pay to Landlord, as Additional Rental:
 - (i) in the case of an assignment, an amount equal to fifty percent (50%) of all sums and other considerations paid to Tenant by the assignee for or by reason of such assignment or otherwise (excluding Tenant's good will but including items relating to the real estate including, but not limited to, sums paid for the sale of Tenant's fixtures that are built into the Premises (and are not Tenant's personal property), leasehold improvements, and equipment, less, in the case of a sale thereof, the then net unamortized or undepreciated cost thereof determined on the basis of generally accepted accounting principles); provided that such share to Landlord shall be paid after Tenant has deducted all reasonable costs and expenses incurred by Tenant directly in connection with consummating such assignment (such as legal fees, brokerage fees, marketing fees and tenant inducements (work, allowances and free rent periods); and
 - (ii) in the case of a sublease, fifty percent (50%) of any rents, additional charge or other consideration payable under the sublease or otherwise to Tenant by the subtenant which is in excess of the fixed annual rent and additional rent accruing during the term of the sublease in respect of the subleased space (at the rate per square foot payable by Tenant hereunder) pursuant to the terms hereof (including, but not limited to, sums paid for the sale or rental of Tenant's fixtures, leasehold improvements, equipment, furniture or other personal property, less, in the case of the sale thereof, the then net unamortized or undepreciated cost thereof determined on the basis of generally accepted accounting principles); provided that such share to Landlord shall be paid after Tenant has deducted all reasonable costs and expenses incurred by Tenant directly in connection with consummating such sublease (such as legal fees, brokerage fees, marketing fees and tenant inducements (work, allowances and free rent periods)

Clause: Building / Landlord Services

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Lease Abstract for Standard Oil Building/Primary *(continued)*

- **Article 64.3:** Landlord shall provide air conditioning to the Premises via the Building's HVAC system. Such air conditioning shall be provided during the cooling season (z.e., May 1 - October 31) on Business Days during standard Building cooling hours (8:00 am - 6:00 pm).
- **Article 66.1:** If Tenant desires to use the freight elevator other than during Regular Freight Elevator Hours of Business Days, Tenant shall (i) provide Landlord with (a) at least one (1) Business Day's prior notice thereof if such desired use is outside of Regular Freight Elevator Hours but entirely on Business Days, and (b) at least two (2) Business Days' prior notice thereof if any of such desired use is not on Business Days, and Tenant shall (ii) except as hereafter in this Section 66 A A expressly set forth, compensate Landlord for such overtime use at the then-current Building-standard rate (\$ 185.00 per hour as of the date of this Lease) and any increases thereto shall be Building-wide and uniform.
- **Article 66.1.2:** Subject to satisfaction by Tenant of Tenant's Initial Installation requirements, furnish heat to the Premises during Regular Hours of Business Days as required by law. Landlord shall have no responsibility or liability for the ventilating conditions and/or temperature of the Premises during the hours or days Landlord is not required to furnish heat pursuant to this paragraph. Landlord shall (a) furnish heat to the Premises outside of Regular Hours of Business Days as required by law, and (b) during the cooling season (i.e., May 1 - October 31) provide air conditioning to the Premises via the Building HVAC system outside of standard Building cooling hours of Business Days provided and on condition that (in the case of subsection (a) or (b) of this Section 66.1.2): (i) Tenant has provided Landlord with a written request for such heat or air conditioning at least forty-eight (48) hours' in advance ("After Hours Request"), (ii) Tenant specifies in the After Hours Request the number of hours that Tenant will require such heat or air conditioning, and (iii) Tenant pays for such air conditioning or heat at the then-current Building standard rate (\$750.00 per hour as of the date of this Lease) ("After Hours Payment") (which After Hours Payment shall be deemed Additional Rental and shall be due and payable at the time of the After Hours Request).
- **Article 66.1.3:** Landlord shall Furnish hot and cold water for lavatory, office kitchen/pantry and office cleaning purposes.
- **Article 66.5:** Subject to applicable law and force majeure, beginning on the Commencement Date and continuing throughout the remainder of the term of this Lease, Landlord shall provide Tenant with access to the Premises 24 hours a day, seven days a week, 365(6) days a year.
- **Article 66.1:** Landlord shall furnish Tenant with the following services: Non-exclusive (i) freight elevator service at no cost to Tenant during regular freight elevator hours (that is, between the hours of 8:00 a.m. to 12:00 noon and 1:00 p.m. to 4:45 p.m. [collectively, "Regular Freight Elevator Hours"]) of business days (which term is used to mean all days except Saturdays, Sundays, those days that are observed by the State or Federal governments as legal holidays, and those days designated as holidays by the applicable building service union employees' contract) through the year ("Business Days"), and (ii) passenger elevator service at no cost to Tenant between the hours of 8:00 a.m. to 6:00 p.m. ("Regular Hours") on Business Days (with at least one passenger elevator servicing the Premises at no cost at all other times (subject only to force majeure and to applicable law).
- **Article 66.2:** Tenant shall clean and maintain the Premises using a cleaning company contracted for and paid for by Tenant and reasonably approved by Landlord. All waste and garbage shall be removed from the Premises to the outside of the Building by a private sanitation company.
- **Article 66.6:** Notwithstanding anything to the contrary contained in this Lease, Landlord agrees that if, beginning on the Commencement Date and continuing thereafter during the remainder of the term hereof, Tenant shall be materially interrupted in its ability to conduct its business in the Premises in a manner substantially comparable to the manner in which Tenant conducted such business therein immediately preceding such interruption (an "Interruption") as a consequence of (i) Landlord's failure to provide access to the Premises, or to provide any service to the Premises that Landlord is required to provide herein, (ii) Landlord's bricking up the windows of the Premises (except if same is required by law), or (iii) Landlord's performing alterations, improvements or repairs in the Premises or elsewhere in the Building, and provided in the case of (i), (ii), or (iii): (I) same is not a consequence of force majeure, (II) Tenant notifies Landlord in writing of such Interruption, (III) Tenant ceases operating its business in the entire Premises (or the affected portion thereof); (IV) the affected portion of the Premises constitutes at least twenty percent (20%) of the rentable square footage of the Premises, and (V) none of the conditions resulting in Tenant so being unable to conduct its business in the Premises is due to Tenant's Initial Installations or any other Tenant's Changes or the improper, negligent or willful acts of, or breach of this Lease by Tenant or any other persons occupying any portion of the Premises by, through or under Tenant, or any of its employees, servants, agents, contractors, subcontractors, licensees or invitees, or any Permitted Occupant, then, as Tenant's sole and exclusive remedy, if the Interruption shall continue for seven (7) or more consecutive Business Days after Landlord's receipt of such written notice from Tenant (and neither Tenant nor any other persons previously occupying any portion of the Premises by, through or under Tenant, or any of its or their employees, servants, agents, contractors, licensees or invitees or any Permitted Occupant occupies the Premises, (or, if only a portion of the Premises is affected, the affected portion of the Premises), for the conduct of its or their business at any time during the above-mentioned seven (7) Business Day period), the Fixed Rental, and recurring Additional Rental, payable by Tenant hereunder, shall abate (or a portion shall abate equal to the percentage that the affected area bears to the entire Premises) from the day immediately following the expiration of such seven (7) Business Day period, to the day which is the first to occur of (A) the date Landlord gives notice to Tenant of the cessation of the Interruption (provided such Interruption has actually ceased), or (B) when Tenant

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or any other persons occupying any portion of the Premises by, through or under Tenant, or any of its or their employees, servants, agents, contractors, licensees or invitees or any Permitted Occupant occupies the Premises, or any part thereof (or, if only a portion of the Premises is affected, all or any part of the affected portion of the Premises), for the conduct of its or their business. For purposes of this paragraph: (a) elevator service shall be deemed provided if at least two (2) elevators (in any combination of passenger or freight) are provided, (b) lavatory facilities shall be deemed provided if lavatory facilities are offered to Tenant within one (1) floor of the Premises (above or below), (c) Landlord may provide heating by using supplemental or temporary or portable units, and (d) access to the Premises may be provided through one or more alternative means. This Section 66.6 shall not apply in the event the Premises are damaged in whole or in part as a result of fire or other casualty, and in such event the provisions of Article 9 of this Lease shall govern

- **Services 29:** Owner shall provide:

(a) necessary elevator facilities on business days from 8 am. to 6 pm. and have one elevator subject to call at all other times; (b) heat to the demised premises when and as required by law. on business days from 3 am. to 5 pm.; (c) water for ordinary lavatory purposes, but if Tenant uses or consumes water for any other purposes or in unusual quantities (of which fact Owner shall be the sole judge), Owner may install a water meter at Tenant's expense, which Tenant shall thereafter maintain at Tenant's expense in good working order and repair, to register such water consumption, and Tenant shall pay for water consumed as shown on said meter as additional rent as and when bills are rendered; (d) cleaning service for the demised premises on business days at Owner's expense provided that the same are kept in order by Tenant. If, however, said premises are to be kept clean by Tenant, it shall be done at Tenant's sole expense, in a manner reasonably satisfactory to Owner, and no one other than persons approved by Owner shall be permitted to enter said premises or the building of which they are a part for such purpose. Tenant shall pay Owner the cost of removal of any of Tenant's refuse and rubbish from the building; (e) if the demised premises are serviced by Owner's air conditioning/cooling and ventilating system, air conditioning/cooling will be furnished to Tenant from May 15th through September 30th on business days (Mondays through Fridays, holidays excepted) from 8:00 am. to 6:00 pm, and ventilation to be furnished on business days during the aforesaid hours except when air conditioning/cooling is being furnished as aforesaid. If Tenant requires air conditioning/cooling or ventilation for more extended hours on Saturdays, Sundays or on holidays, as defined under Owner's contract with the applicable Operating Engineers contract.

Owner will furnish the same at Tenant's expense. RIDER to be added in respect to rates and conditions for such additional service; (f) Owner reserves the right to stop services of the heating, elevators, plumbing, air-conditioning, electric, power systems or cleaning or other services, if any, when necessary by reason of accident, or for repairs, alterations, replacements or improvements necessary or desirable in the judgment of Owner, for as long as may be reasonably required by reason thereof. If the building of which the demised premises are a part supplies manually operated elevator service. Owner at any time may substitute automatic control elevator service and proceed diligently with alterations necessary therefor without in any way affecting this lease or the obligations of Tenant hereunder

Clause: Estoppel Certificate

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- **Article 35:** Tenant, at any time, and from time to time, upon at least ten (10) days prior notice by Owner, shall execute, acknowledge and deliver to Owner, and/or to any other person, firm or corporation specified by Owner, a statement certifying that this lease is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified and stating the modifications), stating the dates to which the rent and additional rent have been paid, and stating whether or not there exists any default by Owner under this lease, and, if so, specifying each such default and such other information as shall be required of Tenant.
- **Article 80:** Tenant agrees, at any time and from time to time, as requested by Landlord (but no more frequently than once every year), upon not less than thirty (30) days' prior written notice, to execute, acknowledge and deliver to Landlord and/or any other person, firm or corporation specified by Landlord, a statement (i) certifying that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the same are in full force and effect as modified and stating the modifications) and whether any options granted to Tenant pursuant to the provisions of this Lease have been exercised, (ii) certifying the dates to which the Fixed Rental and Additional Rental have been paid and the amounts thereof, (iii) stating whether or not, to the best knowledge of Tenant, Landlord is in default in performance of any of its obligations under this Lease, and, if so, specifying each such default of which Tenant may have knowledge, and (iv) such other information as Landlord may reasonably request. Tenant acknowledges and agrees that any such statement delivered pursuant hereto may be relied upon by others with whom Landlord may be dealing.

Landlord agrees, at any time (but no more frequently than once every year), as requested by Tenant, upon not less than thirty (30) days' prior written notice, to execute, acknowledge and deliver to Tenant a statement identifying Tenant and this Lease and certifying and confirming (if accurate) the following as of the date of said statement: (A) that this Lease is in full force and effect, (B) that Landlord has not sent written notice of default to Tenant which default remains uncured, and (C) stating whether or not, to the best knowledge of Landlord, Tenant is in default in performance of any of its obligations under this Lease, and, if so, specifying each such default of which Landlord may have knowledge.

Clause: SNDA

Lease Abstract for Standard Oil Building/Primary (continued)

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- **Article 68.5:** Subject to the following provisions, Landlord shall use its best efforts to obtain non disturbance agreements from the current and any future Superior Mortgagee and from any future Superior Lessor. Notwithstanding the foregoing, Landlord shall in no event be required to (x) make any payment to the holder of any Superior Mortgage or Superior Lease or incur any expense other than any Superior Mortgagee's customary processing fees and/or reasonable attorneys' fees up to an aggregate maximum of \$2,500.00 per non disturbance agreement (it being understood and agreed that any legal fees in excess of \$2,500.00 per non disturbance agreement shall be borne entirely by Tenant subject only to Landlord's ongoing reasonable cooperation in connection with obtaining such non disturbance agreement; provided, however that "ongoing reasonable cooperation" as used in this parenthetical shall not be deemed to require Landlord to make any payment or take any action which is excluded from Landlord's obligations pursuant to this Section 68.5), or (y) alter any of the terms of any existing or future Superior Mortgage or Superior Lease, or (z) commence any action against any holder of a Superior Mortgage or Superior Lease. Notwithstanding anything contained herein. Landlord shall have no liability to Tenant and this Lease and Tenant's obligations under this Lease shall not in any way be affected in the event that any current or future Superior Mortgagee or future Superior Lessor shall fail or refuse to issue the non disturbance agreement referred to in this Section 68 or if such Superior Lessor or Superior Mortgagee shall fail to comply with the terms and provisions thereof. Without limiting any Landlord requirements in Section 83.2 of this Lease, Landlord shall not be required to use best efforts to obtain a non disturbance agreement from the existing Superior Lessor.

Clause: Tenant Notice Address

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- Exhibit C: Bank: Wells Fargo Bank, N A City & State: San Francisco, CA 94105 ABA Number: 121000248 Account Name: Broadway 26 Waterview LLC Account Number: 412-475-6743

Clause: Lessee Default

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- **Article 51.2:** Tenant's failure to provide and keep in force the insurance provided herein shall be regarded as a material default hereunder, entitling Landlord to exercise any or all of the remedies as provided in this Lease in the event of Tenant's default.
- **Article 43:** If Tenant fails to pay when due any sums due and payable to any of Tenant's contractors or material suppliers, and Tenant shall fail to remove or bond any lien within fifteen (15) days after notice from Landlord of such failure, such failure shall constitute an event of default under this Lease without the requirement of any other notice of any kind, and, without limitation of Landlord's other rights and remedies hereunder. Landlord shall have the right, but not the obligation, to promptly pay to such contractor or supplier all sums so due from Tenant, and sums so paid by Landlord together with interest at the rate of the lesser of (i) ten percent (10%) of the amount paid by Landlord, and (ii) the maximum amount of interest permitted by applicable law, shall be deemed Additional Rental and shall be paid by Tenant within ten (10) days after Landlord delivers to Tenant an invoice therefor.

Clause: Insurance

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- **Article 51.1.2:** Tenant shall obtain and keep in full force an effect during the term of the Lease insurance against loss or damage by fire and such other risks and hazards (including burglary, theft, vandalism, sprinkler leakage, water damage, explosion, breakage of glass within the Premises and, if the Premises are located at or below grade, broad form flood insurance) as are insurable under then available standard forms of "all risk" insurance policies, to Tenant's personal property and business equipment and fixtures (hereinafter, "Tenant's Property") and, whether or not such alterations or tenant improvements had been paid for or performed by Tenant, any alterations and tenant improvements in and to the Premises for the full replacement cost value thereof (with such policy having a deductible not in excess of an amount to be determined by Landlord in the exercise of Landlord's commercially reasonable discretion) protecting Tenant, Landlord, Landlord's employees and managing agent, and any mortgagees or lessors having an interest in the Building;
- **Article 51.1.3:** Tenant shall obtain and keep in full force an effect during the term of the Lease Tenant shall maintain business interruption insurance in an amount sufficient to cover Tenant's lost profits and continuing expenses during the period Tenant is unable to do business in the Premises; and
- **Article 51.1.4:** Tenant shall obtain and keep in full force an effect during the term of the Lease Statutory Workmen's Compensation and Employers' Liability insurance as required by law, and New York State disability insurance as required by law.
- **Article 51.4:** The parties hereto shall procure an appropriate clause in, or endorsement on, any "all risk" or fire or extended coverage insurance covering the Premises, the Building, the personal property, fixtures or equipment located thereon or therein, pursuant to which the insurance companies waive subrogation or consent to a waiver of right of recovery by the insured prior to any loss.

Lease Abstract for Standard Oil Building/Primary (continued)

- **Article 51.4:** It is expressly understood and agreed that Landlord will not be obligated to carry insurance on Tenant's Property or Tenant's work or insurance against interruption of Tenant's business.
- **Article 67.4:** Throughout the performance of Tenant's Changes, Tenant shall, at its expense, carry, or cause to be carried, builder's risk insurance, insuring against loss from fire, vandalism or other risks as are customarily covered by a broad-form extended coverage endorsement on a completed value basis for the full insurable value at all times, workers' compensation insurance in statutory limits, and commercial general liability insurance for any occurrence in or about the Building, all as set forth in, and written by insurance companies described in.
- **Article 51.1.1:** Tenant shall obtain and keep in full force an effect during the term of the Lease the minimum limits of liability applicable exclusively to the Premises shall be a combined single limit with respect to each occurrence in an amount of not less than \$6,000,000 (or in the form of an umbrella liability policy for "excess" liability coverage) and
- **Article 48.18:** Tenant shall maintain insurance which insures Tenant. Landlord, Landlord's employees and managing agent, and any mortgagees or lessors having an interest in the Building from any liability involving any Permitted Occupant and/or any Permitted Occupant's invitees (and Tenant shall provide Landlord with evidence of payment for the said policies and true and complete copies of the actual policies together with certificates evidencing such insurance prior to any Permitted Occupant taking occupancy), or (II) all of Tenant's insurance requirements under this Lease (including, without limitation, the insureds and additional insured and endorsement requirements) shall apply and extend to each Permitted Occupant except that the minimum limits of liability applicable exclusively to the Premises shall be a combined single limit with respect to each occurrence in an amount of not less than \$3,000,000 (and prior to taking occupancy of any portion of the Premises, each Permitted Occupant shall provide Landlord with evidence of payment for the said policies and true and complete copies of the actual policies together with certificates evidencing such insurance), (vii) notwithstanding the occupancy by any such Permitted Occupants, Tenant shall and will remain fully liable for the payment of the Fixed Rental and Additional Rental due, and to become due, under this Lease, for the performance of all of the covenants, agreements, terms, provisions and conditions contained in this Lease on the part of Tenant to be performed, (viii) Tenant shall and will remain fully liable for all acts and omissions of any Permitted Occupant and any other person claiming under or through any Permitted Occupant that shall be in violation of any of the obligations of this Lease, and any such violation shall be deemed to be a violation by Tenant (and such liability shall survive the expiration or sooner termination of this Lease), (ix) Tenant's indemnity, defend and hold harmless set forth in this Lease (including, without limitation, Article 50) shall apply and extend to each Permitted Occupant's acts, omissions or negligence, as if such acts, omissions or negligence arose from Tenant (and such obligation shall survive the expiration or sooner terminations of this Lease and such Permitted Occupant License), (x) the space to be occupied by any Permitted Occupant shall not, without Landlord's prior written consent, have been publicly listed or otherwise been publicly advertised for permitted occupancy at a rental rate lower than the then prevailing rental for other similar space in the Building, (xi) no occupancy by a Permitted Occupant shall in any way impose a material extra burden upon services to be supplied by Landlord to Tenant, to any Permitted Occupant, or to other tenants of the Building, (xii) no occupancy by a Permitted Occupant shall in any way increase Landlord's obligations or decrease Landlord's rights under this Lease, (xiii) each Permitted Occupant shall have entered into a license agreement with Tenant ("Permitted Occupant License") in a form that complies with this Section 48.18 and with Section 48.19, that does not in any way increase Landlord's obligations or decrease Landlord's rights under this Lease and that specifically states that it is subject and subordinate to this Lease and to the documents and interests to which this Lease is subject and subordinate, (xiv) Tenant and any Permitted Occupant may amend a Permitted Occupant License without providing notice to Landlord and without obtaining Landlord's consent provided and only on condition that no such amendment causes the Permitted Occupant License, Tenant or any Permitted Occupant to be in violation of this Section 48.18 or Section 48.19, (xv) intentionally deleted, (xvi) the Permitted Occupants shall be subject to Section 48.4.5 (unless otherwise specifically approved in writing by Landlord) and Section 48.5.2, (xvii) no permitted occupancy shall be for a term ending later than one day prior to the expiration date of the term of this Lease, (xviii) if Landlord shall attempt to prohibit any permitted occupancy, Tenant's recourse shall be limited to what is expressly permitted by Section 48.11, and (xix) no permitted occupancy shall release or affect the obligations of any guarantor of this Lease.

If required for Landlord's Building-standard security protocols, within thirty (30) days after written request by Landlord, Tenant shall provide Landlord with a list of the names of all Permitted Occupants then occupying any portion of the Premises. For the avoidance of doubt, except as set forth in Section 48.19, Landlord acknowledges and agrees that Tenant may retain one hundred percent (100%) of any payments from the Permitted Occupants; provided, however, that this clause may not be used to circumvent Tenant's obligations as specifically set forth in this Lease to pay Fixed Rental and Additional Rental.

Clause: Landlord Repair Obligations

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- **Maintenance:** Owner shall maintain in good working order and repair the exterior and the structural portions of the building, including the structural portions of the demised premises, and the public portions of the building interior and the building plumbing, electrical, heating and ventilating systems (to the extent such systems presently exist) serving the demised premises.

Lease Abstract for Standard Oil Building/Primary *(continued)*

- **Article 64.3:** Without limiting the foregoing, Landlord shall be responsible for repairs and replacements to the Building's HVAC system outside of the Premises that are not exclusively benefitting the Premises but only to the extent that Landlord's failure to perform such repair or replacement would have an adverse effect on Tenant's ability to use the Premises for the permitted use.

Clause: Tenant's Repairs / Maintenance

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- **Preamble:** Tenant shall immediately, and at its expense, repair and restore the demised premises to the condition existing prior to any such installations, and repair my damage to the demised premises or the building due to such removal.
- **Article 52.5:** Any meters installed by Landlord or Tenant pursuant to this Article 52 shall be maintained and repaired by Tenant at Tenant's sole cost and expense.
- **Article 64.5:** Except for the two exterior windows to the Premises which are broken as of the date hereof (and shall be repaired by Landlord at Landlord's sole cost and expense) anything contained in this Lease to the contrary notwithstanding, Tenant acknowledges that it shall be Tenant's responsibility to clean, maintain, repair and replace (subject to applicable legal requirements) the windows and window frames in the Premises, and any and all interior bathrooms within the Premises at Tenant's sole cost and expense.
- **Article 64.3:** Tenant shall be responsible for maintaining, repairing and when necessary, replacing the HVAC system to the extent located within the Premises (or exclusively benefitting the Premises), any parts of the HVAC system located within the Premises (or exclusively benefitting the Premises), any Supplemental A/C (as hereafter defined), or any other supplemental system installed by Landlord or by Tenant in the Premises, unless such repair and/or replacement (i) pertains to major parts of the HVAC system (but not the Supplemental A/C or any other supplemental air conditioning system), (ii) is not the result of Tenant's Initial Installations (including, without limitation, the HVAC Units that are furnished by Tenant or the installation of any such HVAC Units), and (iii) is not necessitated by Tenant's misuse and/or wrongful acts. In the event that subsections (i), (ii) and (iii) of the immediately preceding sentence are all satisfied then the repair and/or replacement responsibility shall be Landlord's. Without limiting the foregoing, Landlord shall be responsible for repairs and replacements to the Building's HVAC system outside of the Premises that are not exclusively benefitting the Premises but only to the extent that Landlord's failure to perform such repair or replacement would have an adverse effect on Tenant's ability to use the Premises for the permitted use.

Clause: Limitation of Liability

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- **Electric Current 12:** The change at any time of the character of electric service shall in no way make Owner liable or responsible to Tenant, for any loss, damages or expenses which Tenant may sustain.
- **Article 49.1:** If Landlord shall be an individual, joint venture, tenancy in common, co-partnership, limited liability company, unincorporated association, or other unincorporated aggregate of individuals and/or entities or a corporation, Tenant shall look only to such Landlord's estate and property in the Land and the Building (including the condemnation awards and casualty proceeds, the proceeds from any insurance, the proceeds from any sale, financing or other disposition of the property, and the net profits actually received by Landlord after the date that Tenant has notified Landlord in writing of Landlord's default) for the satisfaction of Tenant's remedies for the collection of a judgment (or other judicial process) requiring the payment of money by Landlord in the event of any default by Landlord hereunder, and no other property or assets of Landlord or any member, partner, shareholder, director, officer or principal of Landlord shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies under or with respect to this Lease, the relationship of Landlord and Tenant hereunder or Tenant's use or occupancy of the Premises.
- **Article 52.2:** If either the quantity or character of the electrical service is changed by the utility company supplying electrical service to the Building or is no longer available or suitable for Tenant's requirements, no such change, unavailability or unsuitability shall constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement or diminution of Fixed Rental or Additional Rental, or relieve Tenant from any of its obligations under this Lease or impose any liability upon Landlord, or its agents, by reason of inconvenience or annoyance to Tenant, or injury to or interruption of Tenant's business, or otherwise, unless such change, unavailability or unsuitability is due to Landlord's willful misconduct.
- **Article 67.3:** Prior to the commencement of any work to the Premises, Tenant shall obtain from its contractor and all subcontractors performing work or delivering material to the Premises, and deliver to Landlord, written acknowledgements that (a) the work is being performed only at the request of Tenant, and not at Landlord's request, and (b) Landlord is not deriving any benefit from the performance or completion of the work, and (c) that Landlord is not responsible for the payment for the work being performed.
- **Article 68.5:** Landlord shall have no liability to Tenant and this Lease and Tenant's obligations under this Lease shall not in any way be affected in the event that any current or future Superior Mortgagee or future Superior Lessor shall fail or refuse to issue the non disturbance agreement referred to in this Section 68 or if such Superior Lessor or Superior Mortgagee shall fail to comply with the terms and provisions thereof.

- **Article 77:** Neither Landlord nor Landlord's agents or security personnel shall be liable to Tenant or Tenant's agents, employees, contractors, customers, clients, invitees or licensees or to any other person for, and Tenant hereby indemnifies Landlord and Landlord's agents and security personnel against, liability in connection with or arising out of damage to mail or packages, or the performance or non-performance by Landlord or any person acting by, through or under the direction of Landlord of the services set forth in this Paragraph (including any liability in respect of the property of such persons), unless due to the gross negligence or willful misconduct of Landlord or Landlord's agents or security personnel.
- **Article 79:** Landlord shall not be liable to Tenant or any party claiming through Tenant for loss of business or other consequential damages arising out of any change in the Building or temporary diversion or partial obstruction resulting from such alteration, renovation, repair or cleaning, out of the foregoing structures, or out of any noise, dust and debris from the performance of work in connection therewith, nor out of the disruption of Tenant's business or access to the Premises necessary to perform such repairs, nor shall any matter arising out of any of the foregoing be deemed a breach of Landlord's covenant of quiet enjoyment or entitle Tenant to any abatement of Fixed Rental or Additional Rental.

Clause: Lease Execution Date

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- (None identified)

Clause: Lease Commencement Date

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- **Article 39:** The commencement date of the term of this Lease ("Commencement Date") shall be the earlier of (i) the date that the Premises are delivered to Tenant, and (ii) the date that the Premises would have been delivered to Tenant but for the acts or omissions of Tenant.

Clause: Lease Expiration Date

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- Ten (10) Years eight (8) months

Clause: Renewal Option

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- (None identified)

Clause: Expansion Option

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- **Article 82.1:** Provided that no monetary default or material non-monetary default exists and is continuing under this Lease, if prior to the four (4) year anniversary of the Commencement Date, Landlord determines to offer for lease to a bona-fide third-party tenant one or more portions of the balance of the 8th Floor of the Building (the "ROFO Space"), Landlord, before entering into a written lease of the Offered Space (defined below) with any such bona-fide third-party tenant, shall first send a notice to Tenant (the "Offer Notice") stating that Landlord intends to offer for lease the ROFO Space identified in the Offer Notice (the "Offered Space"), and specifying the conditions upon which the Offered Space is being so offered, including fire fixed rent for the Offered Space (subject to annual escalations on each anniversary of the Offered Space Inclusion Date (defined below) during the remainder of the term, length of the Offered Space Term (defined below) (which shall expire on the Expiration Date), base year, date or estimated date that the Offered Space shall be delivered to Tenant (the "Offered Space Inclusion Date"), Tenant's proportionate share applicable to the Offered Space, and the rent concessions or construction allowances (if any) and work to be performed by Landlord (if any) (all of which rent and other terms and conditions set forth in the Offer Notice shall be established by Landlord in Landlord's sole and absolute discretion) (the "Offer Terms").
- **Article 82.6:** For the sake of certainty, if the Offered Space is a portion of the balance of the 8th Floor (rather than the entire balance of the 8th Floor) then, subject to the terms of this Article 82 (including, without limitation, the four (4) year period set forth in Section 82.1), Tenant shall continue to have the right of first offer pursuant to this Article 82 with respect to the remaining portions of the balance of the 8th Floor of the Building.
- **Article 82.1:** Provided that no monetary default or material non-monetary default exists and is continuing under this Lease, if prior to the four (4) year anniversary of the Commencement Date, Landlord determines to offer for lease to a bona-fide third-party tenant one or more portions of the balance of the 8th Floor of the Building (the "ROFO Space"), Landlord, before entering into a written lease of the Offered Space (defined below) with any such bona-fide third-party tenant, shall first send a notice to Tenant (the "Offer Notice") stating that Landlord intends to offer for lease the ROFO Space identified in the Offer Notice (the "Offered Space"), and specifying the conditions upon which the Offered Space is being so offered, including fire fixed rent for the Offered Space (subject to annual

Lease Abstract for Standard Oil Building/Primary *(continued)*

escalations on each anniversary of the Offered Space Inclusion Date (defined below) during the remainder of the term, length of the Offered Space Term (defined below) (which shall expire on the Expiration Date), base year, date or estimated date that the Offered Space shall be delivered to Tenant (the "Offered Space Inclusion Date"), Tenant's proportionate share applicable to the Offered Space, and the rent concessions or construction allowances (if any) and work to be performed by Landlord (if any) (all of which rent and other terms and conditions set forth in the Offer Notice shall be established by Landlord in Landlord's sole and absolute discretion) (the "Offer Terms"). Tenant shall then have the one-time right, exercisable within thirty (30) days after Tenant's receipt of the Offer Notice, time being of the essence, to notify Landlord in writing of Tenant's desire to lease the Offered Space set forth in the Offer Notice on the Offer Terms, without modification ("Tenant's Offered Space Acceptance Notice").

If Tenant timely delivers Tenant's Offered Space Acceptance Notice, on the date upon which Landlord delivers vacant, broom-clean possession of the Offered Space to Tenant with Landlord having substantially completed Landlord's obligations (if any) within the Offered Space in accordance with the Offer Terms as set forth in the Offer Notice, and otherwise in its then "as is" condition (the "Offered Space Inclusion Date"), the Offered Space shall be added to and included within the Premises upon all of the terms and conditions set forth in the Offer Notice and, to the extent not in conflict with the Offer Terms, on the terms and conditions set forth in this Lease (it being understood that if and to the extent of any inconsistency between the Offer Terms and the terms set forth in this Lease, the Offer Terms shall prevail as to the lease of the Offered Space). In the event Tenant timely delivers Tenant's Offered Space Acceptance Notice, the term of the lease applicable to the Offered Space shall commence on the Offered Space Inclusion Date and shall end on the Expiration Date of this Lease (the "Offered Space Term").

In the event Tenant fails to timely deliver Tenant's Offered Space Acceptance Notice within the aforesaid thirty (30) day period, then Landlord shall thereafter be free for the remainder of the term to lease the Offered Space to any third party at such rent and upon such conditions as Landlord may determine in its sole and absolute discretion and this Article shall be of no force or effect with respect to the Offered Space. Notwithstanding the foregoing, if the Offered Space is occupied, Landlord's delivery of the Offered Space to Tenant shall be subject to Landlord's regaining possession thereof from the tenant then occupying same and Landlord shall not be liable to Tenant if Landlord is unable to obtain possession of the Offered Space in a timely fashion for any reason.

Clause: Early Termination Option

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- (None identified)

Clause: Parking

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- (None identified)

Clause: Condemnation

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- (None identified)

Clause: Damage / Destruction / Casualty

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- (None identified)

Clause: Lessor Default

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- (None identified)

Clause: Amending Agreement

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- (None identified)

Clause: Arbitration

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- **Rules & Regs 33.0:** Tenant and Tenant's servants, employees, agents, visitors, and licensees shall observe faithfully, and comply strictly with, the Rules and Regulations and such other and further reasonable Rules and Regulations as Owner and Owner's agents may from time to time adopt. Notice of any additional Rules or Regulations shall be given in such manner as Owner may elect. In case Tenant disputes the reasonableness of any additional Rules or Regulations hereafter made or adopted by Owner or Owner's agents, the parties hereto agree to submit the question of the reasonableness of such Rules or Regulations for decision to the New York office of the American Arbitration Association, whose determination shall be final and conclusive upon the parties hereto.

- **Article 44.9:** Any disputes between Landlord and Tenant as to the occurrence, effect or period of any Major Violation shall be resolved by expedited arbitration in the City of New York under the Expedited Procedures provisions of the Commercial Arbitration Rules of the American Arbitration Association.
- **Article 49.3:** In the event Tenant believes that Landlord has violated or failed to perform a covenant of Landlord either (a) to timely pay the portion of Landlord's Contribution requisitioned by Tenant, or (b) not to unreasonably withhold, delay or condition Landlord's consent or approval. Tenant shall have the right to require that such dispute be resolved by arbitration in New York County by an arbitrator selected from the panel of arbitrators maintained by the American Arbitration Association ("AAA").

Clause: Governing Law

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- **Article 58:** This Lease shall be governed in all respects by the laws of the State of New York.
- **Article 71:** This Lease shall be deemed to have been made in New York County, City and State of New York, and shall be construed in accordance with the laws of the State of New York.

Clause: Confidentiality

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- (None identified)

Clause: Equitable Relief

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- **Article 49.2:** Tenant's sole remedy for any such failure, refusal, or delay shall be an action for a declaratory judgment, specific performance, or injunction or an expedited arbitration proceeding pursuant to Section 49.3 below, and such remedies shall be available only in those instances where Landlord has expressly agreed in writing not to unreasonably withhold or delay its consent or approval or where, as a matter of law, Landlord may not unreasonably withhold or delay the same.

Clause: Jurisdiction

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- **Article 49.3:** Tenant shall have the right to require that such dispute be resolved by arbitration in New York County by an arbitrator selected from the panel of arbitrators maintained by the American Arbitration Association ("AAA").

Clause: Jury Trial Waiver

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- (None identified)

Clause: No Liens / Lien Lifting

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- **Article 67.7:** Tenant, at its expense, shall procure the satisfaction or discharge of, by bonding, payment or otherwise, all such liens within thirty (30) days after Landlord makes written demand therefor. Notice is hereby given that neither Landlord, Landlord's agents, nor any mortgagee shall be liable for any labor or materials furnished or to be furnished to Tenant upon credit, and that no mechanic's or other lien for such labor or materials shall attach to or affect any estate or interest of Landlord, or any mortgagee in and to the Premises or the Building.

Clause: No Recordation / Memorandum of Lease

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- (None identified)

Clause: Quiet Enjoyment / Non-Disturbance

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- (None identified)
-

Clause: Subrogation Waiver

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- (None identified)

Clause: Survival

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- **End 22:** Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of this lease.
- **Article 45.6:** Tenant's obligation to pay such Additional Rental and Landlord's obligation to refund pursuant to Paragraph 45.7 as the case may be, shall survive the termination or sooner expiration of this Lease for a period of two (2) years.
- **Article 47.1:** Tenant's liability for Additional Rental due under this Lease, shall continue unabated during the remainder of the term of this Lease and shall survive the expiration or sooner termination of this Lease for a period of two (2) years (which two (2) year period shall be tolled on a day for day basis by the period of any Tenant holdover), except in the case of Additional Rental arising from third party claims, the survival of which shall be governed by the statute of limitations period applicable thereto.

Clause: Third Party Beneficiaries

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- (None identified)

Clause: Time of the Essence

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- **Article 46.1:** Any time that Landlord shall request Tenant's approval in writing of any item pursuant to this Lease, in the event that Tenant fails to accept or reject such request within three (3) Business Days after Landlord's delivery of such request (or seven (7) Business Days after Landlord's delivery of such request in the event that Tenant reasonably requires a third party to review such request). Tenant's approval shall for all purposes be deemed given.

Clause: Permitted Occupancy

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- **Article 48.18:** Notwithstanding anything contained in this Lease to the contrary, Tenant may permit portions of the Premises to be occupied, at any time and from time to time, by individuals and/or organizations who are not officers or employees of Tenant but rather are members under Tenant's licensing agreement (herein being referred to individually as a "Permitted Occupant" and collectively as the "Permitted Occupants") without the consent of Landlord and without being subject to the other provisions of Article 48 of this Lease (and therefore, without limitation).

Clause: Alterations

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- **Article 67.1:** Tenant may, without the consent of Landlord, from time to time during the term of this Lease and at Tenant's sole expense, make such alterations, additions, installations, substitutions, improvements and decorations (hereinafter collectively called changes and, as applied to changes provided for in this Article, Tenant's Changes) in and to the Premises, the estimated cost of which does not exceed \$50,000.00 (exclusive of the costs of decorating work and of any architect's and engineer's fees, the cost of which items shall have no dollar limit for Landlord's review), as Tenant may reasonably consider necessary for the conduct of its business therein, on the following conditions:

Article 67.1.1 the outside appearance or strength of the Building, or of any of its structural parts, shall not be affected;

Article 67.1.2 no part of the Building outside of the Premises shall be physically affected;

Article 67.1.3 the proper functioning of any of the mechanical, electrical, sanitary and other service systems of the Building and/or the Premises shall not be adversely affected, and the usage of such systems by Tenant shall not be increased;

- **Article 67.1** before proceeding with any change either costing in excess of \$50,000.00 (exclusive of the costs of decorating work and of any architect's and engineer's fees), or involving any change to the mechanical, electrical, sanitary, HVAC and/or other service systems, irrespective of cost, Tenant shall submit to Landlord, for Landlord's prior approval, plans and specifications for the work to be done, drawn by a registered architect or duly licensed engineer. Provided that (I) such proposed change is non-structural and will not adversely affect the mechanical, electrical, sanitary, HVAC or other service systems of the Building and/or the Premises, and provided further that (II) Tenant timely pays to Landlord any moneys required by Section 67.5 of this Lease, Landlord's consent shall not be unreasonably withheld, conditioned or delayed. Without limiting the generality of the foregoing, Tenant shall cause to be prepared all drawings, plans and specifications, and all other reports, applications and materials, required by the Department of Buildings of the City of New York, the New York City Landmarks Preservation Commission (the "Landmarks Commission"), the Department of Labor and any other

governmental authorities having jurisdiction with respect to Tenant's Changes and any permits and special licenses which may be required for or in connection with Tenant's Changes or the permitted use.

Any and all filings of such drawings, plans, specifications, reports, applications and other materials with the Department of Buildings of the City of New York, the Department of Labor and any other governmental authorities having jurisdiction shall be made solely by Tenant at Tenant's sole cost and expense. Landlord shall reasonably cooperate with Tenant in connection with the execution and delivery of documents necessary to obtain work permits. Nothing herein shall be deemed to, or operate to create any liability or other obligation on the part of Landlord in the event that any such filings shall not be approved by the Department of Buildings of the City of New York or any other governmental authority having jurisdiction, unless caused by Landlord's failure to reasonably cooperate with Tenant's requests. Landlord shall respond to any Tenant request for consent to a Tenant's Change within fifteen (15) days after Tenant has given such request in writing to Landlord, provided that if Landlord denies such request Landlord shall provide a detailed explanation as to the reason for such denial and shall thereafter work with Tenant to address any issues related thereto. In the event that (i) Tenant shall submit in writing to Landlord for Landlord's consent any proposed Tenant's Change (or any proposed revision thereto or any resubmission) including, without limitation proposed Plans for Tenant's Initial Installations, and (ii) Landlord shall fail to respond to such submission within fifteen (15) days, Tenant shall deliver a second written notice with a note in bold uppercase letters that "PURSUANT TO SECTION 67-1 OF THE LEASE, LANDLORD'S FAILURE TO RESPOND TO THE ENCLOSED CONSENT REQUEST WITHIN FIVE (5) DAYS AFTER LANDLORD RECEIVES THIS REQUEST SHALL BE DEEMED TO MEAN THAT PURSUANT TO SECTION 67.1 OF THE LEASE, YOUR CONSENT TO THE ENCLOSED SUBMISSION IS DEEMED TO BE GIVEN", then, if Landlord fails to respond to such submission (or revision or resubmission), as Tenant's sole and exclusive remedy, Landlord's consent to the proposed submission (or proposed submission or resubmission, as applicable) shall be deemed given.

- **Article 67.2:** Except as expressly hereafter in this Section 67.2 set forth, before commencing any work costing in excess of \$100,000 to complete. Tenant shall furnish to Landlord such bonds for payment and completion or such other security for completion thereof and payment therefor as Landlord shall require and in such form as is satisfactory to Landlord and in an amount which will be one hundred ten percent (110%) of Landlord's estimate of the cost of performing such work. Notwithstanding the foregoing, the requirements of this Section 67.2 shall not apply with respect to Tenant's Initial Installations irrespective of the cost to complete Tenant's Initial Installations.
- **Article 67.4:** Tenant's Changes shall be performed during the hours of 8:00 a.m. to 6:00 p.m. on days other than Saturdays, Sundays and holidays in such a manner as not to unreasonably interfere with the operation of the Building and (unless Tenant shall indemnify Landlord therefor to the latter's reasonable satisfaction), so as not to impose any additional expense upon Landlord in the maintenance or operation of the Premises, and so as not to interfere (except to a de minimis extent) with the use, occupancy, comfort or quiet enjoyment of any other tenant or occupant of the Building and so as not to interfere with the safety of any other tenant or occupant of the Building.
- **Article 67.4:** Throughout the performance of Tenant's Changes, Tenant shall, at its expense, carry, or cause to be carried, builder's risk insurance, insuring against loss from fire, vandalism or other risks as are customarily covered by a broad-form extended coverage endorsement on a completed value basis for the full insurable value at all times, workers' compensation insurance in statutory limits, and commercial general liability insurance for any occurrence in or about the Building, all as set forth in, and written by insurance companies described in.

Clause: Ground Lease

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- **Article 83.1:** Notwithstanding anything to the contrary contained herein. Tenant acknowledges that this Lease is a sublease of the Premises and is subject and subordinate to all of the terms, covenants, conditions, agreements and provisions in (i) the lease dated March 1, 1920 between Elmer E. Smathers, and landlord and Standard Oil Company of New York, as tenant ("Prime Ground Lease") and (ii) the sub-lease dated November 30, 1989 between Mobil Oil Corporation, (successor in interest to Standard Oil Company of New York) as sub-landlord and Independence Partners, (Landlord's predecessor-in-interest), as sub-tenant, ("Ground Lease") (such lease and sublease as the same have been amended and assigned are hereinafter severally and collectively called the "Superior Documents").
- **Article 83.2:** Landlord represents and warrants that Landlord is the landlord under the Superior Documents. If the landlord or tenant under the Superior Documents sells or otherwise transfers its interest thereto (other than to an affiliate or to an entity that is the same entity as the Landlord under the Lease as of the date hereof), then Landlord shall within ten (10) days after such transfer deliver to Tenant a subordination non-disturbance and attornment agreement on such form that is reasonably acceptable to both Tenant and such Superior Lessor.
- **Article 83.3:** Landlord and Tenant agree that the leasehold estate created by this Lease shall not merge with any other estate held by Landlord or an affiliate of Landlord in the property of which the Premises form a part or any other interest of Landlord in the Premises and the Building, unless Landlord shall expressly elect to have such estates merge.

- **Article 83.4:** Tenant agrees (a) in the event of the termination of the Superior Documents, this Lease shall not terminate or be terminable by Tenant, (b) in the event of any foreclosure action by the holder of the Superior Mortgage, this Lease shall not terminate or be terminable by Tenant by reason of the termination of the Superior Documents unless Tenant is specifically named and joined in any such action and unless a judgment is obtained against Tenant, and (c) in the event the Superior Documents are terminated as aforesaid, and a "new lease" is granted, Tenant shall attorn to Landlord or any Successor Landlord as the case may be.