UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF
THE SECURITIES EXCHANGE ACT OF 1934

For The Quarterly Period Ended June 30, 1998

Commission file number 0-24710

CD RADIO INC.

(Exact name of registrant as specified in its charter)

Delaware	52-1700207
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

1180 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10036

(Address of principal executive offices)
(Zip code)

212-899-5000

(Registrant's telephone number, including area code)

(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes [X] No [ ]

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Common stock, $.001 par value	17,619,456 shares
(Class)	(Outstanding as of August 11, 1998)

CD RADIO INC.
(A Development Stage Enterprise)

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CD RADIO INC. AND SUBSIDIARY
(A Development Stage Enterprise)
CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)

	For the Three Months Ended June 30,		For the Six Months Ended June 30,		Cumulative for the period May 17, 1990 (date of inception) to June 30, 1998
	1998	1997	1998	1997	
Revenue	$ -	$ -	$ -	$ -	$ -
Operating expenses:					
Legal, consulting and regulatory fees	949,000	1,009,000	1,928,000	1,246,000	12,413,000
Other general and administrative	1,929,000	566,000	3,267,000	847,000	14,372,000
Research and development	5,000	16,000	21,000	35,000	1,994,000
Special charges	25,682,000	-	25,682,000	-	27,682,000
Total operating expenses	28,565,000	1,591,000	30,898,000	2,128,000	56,461,000
Other income (expense):					
Interest and investment income	1,585,000	1,237,000	3,903,000	1,298,000	8,305,000
Interest expense	(3,159,000)	-	(8,982,000)	(5,000)	(11,094,000)
	(1,574,000)	1,237,000	(5,079,000)	1,293,000	(2,789,000)
Income taxes	(38,000)	-	(38,000)	-	(38,000)
Net loss	(30,177,000)	(354,000)	(36,015,000)	(835,000)	(59,288,000)
Preferred stock dividend	(4,438,000)	-	(9,219,000)	-	(11,557,000)
Preferred stock deemed dividend	-	(43,313,000)	-	(43,313,000)	(51,975,000)
Accretion of dividends in connection with the issuance of warrants on preferred stock	(2,097,000)	-	(6,372,000)	-	(6,372,000)
Net loss applicable to common stockholders	$ (36,712,000)	$ (43,667,000)	$ (51,606,000)	$ (44,148,000)	$(129,192,000)
Per common shares:					
Net Loss	$ (1.79)	$ (0.03)	$ (2.18)	$ (0.08)	
Preferred stock dividend requirements	(0.26)	(4.20)	(0.56)	(4.20)	
Accretion of dividends in connection with the issuance of warrants on preferred stock	(0.13)	-	(0.39)	-	
Net loss applicable to common stockholders (basic and diluted)	$ (2.18)	$ (4.23)	$ (3.13)	$ (4.28)	
Weighted average common shares outstanding (basic and diluted)	16,826,000	10,313,000	16,493,000	10,307,000	

</TABLE>

The accompanying notes are an integral part of these consolidated financial statements.

CD RADIO INC. AND SUBSIDIARY
(A Development Stage Enterprise)
CONSOLIDATED BALANCE SHEETS

<TABLE>
<CAPTION>

ASSETS	June 30, 1998 (unaudited)	December 31, 1997
Current assets:		
Cash and cash equivalents	$ 64,741,000	$ 900,000
Marketable securities, at market	65,884,000	169,482,000
Prepaid expense and other	1,602,000	928,000
Total current assets	132,227,000	171,310,000
Property and equipment, at cost:		
Satellite construction in process	63,807,000	49,400,000
Launch construction in process	9,000,000	10,885,000
Broadcast studio in process	95,000	-
Technical equipment	254,000	254,000
Office equipment and other	149,000	96,000
Demonstration equipment	39,000	39,000
	73,344,000	60,674,000
Less accumulated depreciation	(264,000)	(243,000)
	73,080,000	60,431,000
Other assets:		
FCC license	83,346,000	83,346,000
Debt issue cost, net	8,519,000	8,617,000
Deposits	727,000	104,000
Total other assets	92,592,000	92,067,000
Total assets	$297,899,000	$323,808,000
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable and accrued expenses	$ 2,554,000	$ 401,000
Other	-	15,000
Total current liabilities	2,554,000	416,000
Notes payable and accrued interest	138,369,000	131,387,000
Dividends payable	10,458,000	2,338,000
Total liabilities	151,381,000	134,141,000
Commitments and contingencies		
10.5% Series C Convertible Preferred Stock, no par value: 2,025,000 shares authorized, 1,568,561 and 1,846,799 shares issued and outstanding at June 30, 1998 and December 31, 1997, respectively (liquidation preferences of $156,856,100 and $184,679,900), at net carrying value	93,629,000	110,237,000
Stockholders' equity:		
Preferred stock, $0.001 par value, 50,000,000 shares authorized; 8,000,000 shares designated as 5% Delayed Convertible Preferred Stock; none issued or outstanding	-	-
Common stock, $0.001 par value; 200,000,000 shares authorized; and 17,608,456 and 16,048,691 shares issued and outstanding as of June 30, 1998 and December 31, 1997, respectively	18,000	16,000
Additional paid-in capital	112,159,000	102,687,000
Deficit accumulated during the development stage	(59,288,000)	(23,273,000)
Total stockholders' equity	52,889,000	79,430,000
Total liabilities and stockholders' equity	$ 297,899,000	$ 323,808,000

</TABLE>

The accompanying notes are an integral part of these consolidated financial statements.

CD RADIO INC. AND SUBSIDIARY
(A Development Stage Enterprise)
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)

<TABLE>
<CAPTION>

	For the Six Months Ended June 30, 1998	For the Six Months Ended June 30, 1997	Cumulative for the period May 17, 1990 (date of inception) to June 30, 1998
<S>	<C>	<C>	<C>
Cash flows from development stage activities:			
Net loss	$(36,015,000)	$ (835,000)	$(59,288,000)
Adjustments to reconcile net loss to net cash provided by (used in) development stage activities:			
Depreciation expense	21,000	20,000	275,000
Amortization of debt issue costs	98,000	-	171,000
(Gain) loss on marketable securities	310,000	-	(314,000)
Special charges	23,557,000	-	25,557,000
Accretion of note payable charged as interest expense	11,335,000	-	13,203,000
Sales (purchases) of marketable securities, net	103,288,000	-	(65,570,000)
Compensation expense in connection with issuance of stock options	-	-	2,164,000
Common stock issued for services rendered	-	-	902,000
Common stock options granted for services rendered	-	-	120,000
Increase (decrease) in cash and cash equivalents resulting from changes in assets and liabilities:			
Prepaid expense and other	(675,000)	(438,000)	(1,603,000)
Due to related party	-	-	351,000
Deposits and other assets	(623,000)	-	(927,000)
Accounts payable and accrued expenses	2,135,000	56,000	2,611,000
Accrued interest and other liabilities	-	(10,000)	14,000
Net cash provided by (used in) development stage activities	103,431,000	(1,207,000)	(82,334,000)
Cash flows form investing activities:			
Purchase of FCC license	-	(16,669,000)	(83,346,000)
Payments for satellite construction	(14,407,000)	(6,500,000)	(63,707,000)
Designated cash	-	(66,677,000)	-
Payments for launch services	(25,071,000)	(3,420,000)	(31,363,000)
Capital expenditures	(148,000)	(5,000)	(547,000)
Acquisition of Sky-Highway Radio Corp.	-	-	(2,000,000)

Net cash used in investing activities	(39,626,000)	(93,271,000)	(180,963,000)
Cash flows from financing activities:			
Proceeds from issuance of common stock, net	-	-	85,379,000
Proceeds from issuance of 5% Preferred Stock, net	-	120,052,000	120,518,000
Proceeds from exercise of stock options	36,000	26,000	247,000
Proceeds from exercise of stock warrants	-	-	4,589,000
Proceeds from issuance of promissory note and Units	-	-	116,535,000
Proceeds from issuance of promissory notes to related parties	-	-	2,965,000
Repayment of promissory note	-	-	(200,000)
Repayment of promissory notes to related parties	-	-	(2,435,000)
Loan from officer	-	-	440,000
Net cash provided by financing activities	36,000	120,078,000	328,038,000
Net increase in cash and cash equivalents	63,841,000	25,600,000	64,741,000
Cash and cash equivalents at the beginning of period	900,000	4,584,000	-
Cash and cash equivalents at the end of period	$ 64,741,000	$ 30,184,000	$ 64,741,000

</TABLE>

The accompanying notes are an integral part of these consolidated financial statements.

CD RADIO INC. AND SUBSIDIARY
(A Development Stage Enterprise)

Notes to Consolidated Financial Statements
June 30, 1998
(Unaudited)

General

The accompanying consolidated financial statements do not include all of the information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles. In the opinion of management, all adjustments (consisting only of normal, recurring adjustments) considered necessary to fairly reflect the Company's consolidated financial position and consolidated results of operations have been included. These financial statements should be read in connection with the Company's consolidated financial statements and the notes thereto for the fiscal year ended December 31, 1997 included in the Company's Annual Report on Form 10-K as filed with the Securities and Exchange Commission (the "SEC").

Net Loss Per Share

Net loss per common share is based on the weighted average number of common shares outstanding during such periods. Options and warrants granted by the Company have not been included in the calculation of net loss per share because such items were antidilutive. Since December 15, 1997, the Company is required to report earnings (loss) per share in accordance with Statement of Financial Accounting Standards No. 128, "Earnings Per Share" ("SFAS No. 128"). As long as the Company continues to experience net losses, there will be no impact on the Company's net loss per share from adoption of SFAS No. 128. Earnings per share for all periods presented conform to SFAS No. 128.

Comprehensive Income

In 1997, the Financial Accounting Standards Board ("the FASB") issued SFAS No. 130, "Reporting Comprehensive Income." SFAS No. 130 requires additional reporting with respect to certain changes in assets and liabilities that previously were included in stockholders' equity. The Company has no comprehensive income items to report for the current presentation.

Recent Accounting Pronouncements

The FASB has issued SFAS No. 131, "Disclosures about Segments of an Enterprise and Related Information," which requires financial and descriptive information with respect to operating segments of an entity based on the way management disaggregates the entity for internal operating decisions. There is no impact to the Company's June 30, 1998 financial statements from the adoption of this standard.

Marketable Securities

Marketable securities consist of fixed income securities and are stated at market value. Marketable securities are defined as trading securities under the provision of SFAS No. 115, "Accounting for Certain Investments in Debt and Equity Securities" and unrealized holding gains and losses are reflected in earnings. Unrealized holding gains were $11,000 and $624,000 at June 30, 1998 and December 31, 1997, respectively.

Special Charges

During the quarter ended June 30, 1998, the Company decided to enhance its satellite delivery system to include a third in-orbit satellite and to terminate certain launch and orbit related contracts. The Company recorded special charges totaling approximately $25.7 million related primarily to the termination of such contracts.

Reclassifications

Certain amounts in the prior period's financial statements have been reclassified to conform to the current period presentation.

CD RADIO INC. AND SUBSIDIARY
(A Development Stage Enterprise)

Management's Discussion and Analysis of
Financial Condition and Results of Operations

Special Note Regarding Forward-Looking Statements

In connection with the safe harbor provisions of the Private Securities Litigation Reform Act of 1995 (the "Reform Act"), the Company is hereby providing cautionary statements identifying important factors that could cause the Company's actual results to differ materially from those projected in forward-looking statements (as such term is defined in the Reform Act) made in this report. Any statements that express, or involve discussions as to, expectations, beliefs, plans, objectives, assumptions or future events or performance (often, but not always, through the use of words or phrases such as "will likely result," "are expected to," "will continue," "is anticipated," "estimated," "intends," "plans," "projection" and "outlook") are not historical facts and may be forward-looking and, accordingly, such statements involve estimates, assumptions and uncertainties that could cause actual results to differ materially from those expressed in the forward-looking statements. Accordingly, any such statements are qualified in their entirety by reference to, and are accompanied by, the factors discussed in this report and under the caption "Special Note Regarding Forward-Looking Statements" in the Company's Annual Report on Form 10-K for the year ended December 31, 1997. Among the key factors that have a direct bearing on the Company's future results of operations are the potential risk of delay in implementing the Company's business plan; increased costs of construction and launch of necessary satellites; dependence on satellite construction and launch contractors; risk of launch failure; unproven market for the Company's proposed service; unproven applications of existing technology; and the Company's need for substantial additional financing.

Overview

The Company was organized in May 1990 and is in its development stage. The Company's principal activities to date have included technology development, obtaining regulatory approval for the CD Radio broadcasts, commencement of construction of four satellites, acquisition of content for its programming, market research, recruitment of its senior management team and securing financing for working capital and capital expenditures. The Company does not expect to generate any revenues from operations until 2000 at the earliest, and expects that positive cashflow from operations will not be generated until late 2000 at the earliest. In addition, the Company will require substantial additional capital to complete development and commence commercial operations of CD Radio. There can be no assurance that CD Radio will ever commence operations, that the Company will attain any particular level of revenues or that the Company will achieve profitability.

Upon commencing commercial operations, the Company expects its primary source of revenues to be monthly subscription fees. The Company currently anticipates that its subscription fee will be approximately $9.95 per month to receive CD Radio broadcasts, with a one time, modest activation fee per

subscriber. In addition, the Company expects to derive additional revenues from providers of sports, news and talk programming for providing national distribution of their programming to CD Radio subscribers or from directly selling or bartering advertising time on the Company's sports, news and talk channels. To receive CD Radio, subscribers will need to purchase a new generation of radios capable of receiving S-band as well as AM and FM signals ("S-band radios") or a plug and play adapter card (a "radio card") that will enable consumers to receive CD Radio in their cars by inserting the radio card into existing cassette and CD players together with the associated miniature satellite dish antenna. The Company does not intend to manufacture these products and thus will not receive any revenues from their sale. Although the Company holds patents covering certain technology to be used in the radio cards, S-band radios and miniature satellite dish antennas, the Company expects to license its technology to its manufacturers at no charge.

The Company expects that the operating expenses associated with commercial operations will consist primarily of marketing, sales, programming, maintenance of the satellite and broadcasting system and general and administrative costs. Costs to acquire programming are expected to include payments to build and maintain an extensive music library and royalty payments for broadcasting music (calculated based on a percentage of revenues). Marketing, sales, general and administrative costs are expected to consist primarily of advertising costs, salaries of employees, rent and other administrative expenses. The Company expects that the number of its employees will increase from 29, as of August 3, 1998, to approximately 140 by the time it commences commercial operations.

In addition to funding initial operating losses, the Company will require funds for working capital, interest and financing costs on borrowings and capital expenditures. The Company's interest expense will increase significantly as a result of the issuance in November 1997 of Units (the "Units") consisting of the Company's 15% Senior Secured Discount Notes due 2007 (the "Senior Notes") and warrants (the "Warrants") to purchase additional Senior Notes and additional debt which will be incurred in the future. However, a substantial portion of this indebtedness will not require cash payments of interest and principal for some time.

Results of Operations

Three Months Ended June 30, 1998 Compared with Three Months Ended June 30, 1997

The Company recorded net losses of $30,177,000 and $354,000 for the three months ended June 30, 1998 and 1997, respectively. The Company's total operating expenses were $28,565,000 and $1,591,000 for the three months ended June 30, 1998 and 1997, respectively. In the 1998 quarter, the Company decided to enhance its satellite delivery system to include a third in-orbit satellite

and to terminate certain launch and orbit related contracts. The Company recorded special charges totaling approximately $25.7 million related primarily to the termination of such contracts. Excluding these special charges, the Company recorded a net loss of $4,495,000 and operating expenses of $2,883,000 for the three months ended June 30, 1998.

Legal, consulting and regulatory fees decreased to $949,000 in the quarter ended June 30, 1998 from $1,009,000 in the quarter ended June 30, 1997. In the 1998 quarter, the Company was working to finalize its new satellite construction and launch contract and its chip set manufacturing agreement, while during the 1997 quarter, the Company was working to obtain its FCC license and to finalize its original satellite construction and launch contracts. The major components of these fees in the 1998 quarter were legal (41%), consulting (55%) and regulatory (4%), while in the 1997 quarter the major components were legal (55%), consulting (40%) and regulatory (5%).

Research and development costs were $5,000 and $16,000 for the three months ended June 30, 1998 and 1997, respectively. This level of research and development cost is the result of the Company completing the majority of such activities in 1994.

Other general and administrative expenses increased for the three months ended June 30, 1998 to $1,929,000 from $566,000 for the three months ended June 30, 1997. General and administrative costs have increased as the Company continues to expand its management team and the workforce necessary to develop and commence the broadcast of CD Radio. The major components of other general and administrative costs in the 1998 quarter were salaries and employment related costs (51%) and rent and occupancy costs (26%), while in the 1997 quarter the major components were salaries and employment related costs (54%) and rent and occupancy costs (22%). The remaining portion of other general and administrative costs (24% in the 1998 quarter and 23% in the 1997 quarter) consists of other costs such as insurance, travel, depreciation and supplies, with no amount exceeding 10% of the total.

Interest income increased to $1,585,000 for the three months ended June 30, 1998, from $1,237,000 in the three months ended June 30, 1997 as a result of a higher average amount of funds invested during the 1998 second quarter. The increase in the investment balance was due to the completion of the offering of the Units in November 1997 and the sale to Loral Space & Communications, Ltd.

("Loral") of $25 million of Common Stock in August 1997.

Interest expense, net of capitalized interest, was $3,159,000 for the three months ended June 30, 1998 and was $0 in the 1997 period. This increase was due to interest expense accruing on the Senior Notes issued in November 1997. No cash interest on the Senior Notes will be paid until June 2003.

Six Months Ended June 30, 1998 Compared with Six Months Ended June 30, 1997

The Company recorded net losses of $36,015,000 and $835,000 for the six months ended June 30, 1998 and 1997, respectively. The Company's total operating expenses were $30,898,000 and $2,128,000 for the six months ended June 30, 1998 and

1997, respectively. Excluding the special charges totaling $25.7 million recorded in the 1998 second quarter, the Company recorded a net loss of $10,333,000 and operating expenses of $5,216,000 for the six months ended June 30, 1998.

Legal, consulting and regulatory fees increased to $1,928,000 in the six months ended June 30, 1998 from $1,246,000 in the six months ended June 30, 1997. The increase in the level of expenditures was the result of greater consulting expenses due to the accelerated execution of the Company's business plan. Consulting fees were generated primarily in connection with the technical aspects of the Company's business plan, such as satellite construction, chip set design and terrestrial repeater network build-out. The major components of legal, consulting and regulatory fees in the 1998 period were legal (35%), consulting (63%) and regulatory (2%), while in the 1997 quarter the major components were legal (52%), consulting (44%) and regulatory (4%).

Research and development costs were $21,000 and $35,000 for the six months ended June 30, 1998 and 1997, respectively. This level of research and development cost is the result of the Company completing the majority of such activities in 1994.

Other general and administrative expenses increased for the six months ended June 30, 1998 to $3,267,000 from $847,000 for the six months ended June 30, 1997. General and administrative activities have grown as the Company continues to expand its management team and the workforce necessary to develop and commence the broadcast of CD Radio. The major components of other general and administrative costs in the 1998 period were salaries and employment related costs (51%) and rent and occupancy costs (21%), while in the 1997 period the major components were salaries and employment related costs (53%) and rent and occupancy costs (25%). The remaining portion of other general and administrative costs (28% in the 1998 period and 22% in the 1997 period) consists of other costs such as insurance, travel, depreciation and supplies, with no amount exceeding 10% of the total.

Interest income increased to $3,903,000 for the six months ended June 30, 1998, from $1,298,000 in the six months ended June 30, 1997 as a result of a higher average amount of funds invested during the 1998 period. The increase in the investment balance was due to the completion of the offering of the Units in November 1997 and the sale to Loral of $25 million of Common Stock in August 1997.

Interest expense, net of capitalized interest, increased to $8,982,000 for the six months ended June 30, 1998, from $5,000 in the 1997 period. This increase was due to interest expense accruing on the Senior Notes, which were issued after the end of the 1997 period. No cash interest on the Senior Notes will be paid until June 2003.

Liquidity and Capital Resources

At June 30, 1998, the Company had working capital of approximately $129,673,000 compared with $170,894,000 at December 31, 1997. The decrease in working capital was primarily the result of payments for satellite and launch vehicle construction, the termination of the launch services agreement with Arianespace S.A. and

operating expenses exceeding interest income during the period. The cash and cash equivalents on hand were primarily obtained from the offerings of Common Stock and the Units completed in November 1997, as well as the sale to Loral of $25 million of Common Stock in August 1997.

Funding Requirements

The Company is a development stage company and as such will continue to require substantial amounts of continued outside financing to acquire and develop its assets and commence commercial operations. The Company estimates that it will require approximately $964 million to develop and commence commercial operation of CD Radio by the second quarter of 2000. Of this amount, the Company has raised approximately $494 million and has entered into an agreement with Bank of America National Trust and Savings Association ("Bank of America") to attempt to arrange for the Company an additional $106 million,

leaving anticipated additional cash needs of approximately $364 million to fund its operations through the first quarter of 2000. The Company anticipates additional cash requirements of approximately $140 million to fund its operations through the first full year of commercial operations. The Company expects to finance the remainder of its funding requirements through the issuance of debt or equity securities, or a combination thereof.

In April 1997, the Company was the winning bidder in a FCC auction for one of two FCC Licenses with a winning bid of $83.3 million, of which $16.7 million was paid as a deposit. The Company paid the balance due the FCC in October 1997 and was awarded the FCC License on October 10, 1997.

To build and launch the satellites necessary for the operations of CD Radio, on July 28, 1998, the Company entered into an amended and restated contract (the "Loral Satellite Contract") with Space Systems/Loral, Inc. ("SS/L"). The Loral Satellite Contract provides for SS/L to construct, launch and deliver three satellites in-orbit and checked-out, to construct for the Company a fourth satellite for use as a ground spare and to become the Company's launch services provider. The Company is committed to make aggregate payments of approximately $717 million under the Loral Satellite Contract. As of June 30, 1998, the Company had made aggregate payments of $70 million to SS/L. Under the Loral Satellite Contract, with the exception of a payment made to SS/L in March 1993, payments are made in installments commencing in April 1997 and ending in October 2000. Approximately half of these payments are contingent upon SS/L meeting specified milestones in the manufacture of the satellites.

In the event of a satellite or launch failure, the Company will be required to pay SS/L the full-deferred amount for the affected satellite no later than 120 days after the date of the failure. If the Company should elect to put one of the first three satellites into ground storage, rather than having it shipped to the launch site, the full-deferred amount for the affected satellite will become due within 60 days of such election.

The Company also will require funds for working capital, interest on borrowings, acquisition of programming, financing costs and operating expenses until

some time after the commencement of commercial operations of CD Radio. The Company's interest expense will increase significantly as a result of its financing plan; however, a substantial portion of its planned indebtedness will not require cash payments of interest and principal for some time. The Senior Notes do not require cash payments until June 2003. The Company believes that its working capital at June 30, 1998 is sufficient to fund planned operations and construction of its satellite system through the fourth quarter of 1998.

Sources of Funding

To date the Company has funded its capital needs through the issuance of debt and equity securities. As of June 30, 1998, the Company had received a total of $222 million in equity capital. A significant portion of the Company's equity capital was received in 1997 as a result of the Company's issuance of 5,400,000 shares of 5% Preferred Stock and 4,955,488 shares of Common Stock resulting in net proceeds of $121 million and $71 million, respectively. A total of 1,905,488 shares of Common Stock were sold to Loral in August 1997 and 3,050,000 shares of Common Stock were sold to the public in November 1997. In November 1997, the Company also exchanged (the "Exchange Offer") 1,846,799 shares of its newly issued 10 1/2% Series C Convertible Preferred Stock ("Series C Preferred Stock") for all of the previously outstanding shares of 5% Preferred Stock. The Company received no proceeds from the Exchange Offer.

In November 1997, the Company received net proceeds of $116 million from the issuance of 12,910 Units, each Unit consisting of $20,000 aggregate principal amount at maturity of Senior Notes and a Warrant to purchase additional Senior Notes with an aggregate principal amount at maturity of $3,000. All Warrants were exercised in 1997. The aggregate value at maturity of the Senior Notes originally issued and the Senior Notes resulting from the exercise of Warrants is $258 million and $38 million, respectively. The Senior Notes mature on November 15, 2007 with the first cash interest payment due in June 2003. The Indenture under which the Senior Notes were issued (the "Senior Notes Indenture") contains certain limitations on the Company's ability to incur additional indebtedness. The Senior Notes are secured by a pledge of the stock of Satellite CD Radio, Inc., the subsidiary of the Company that holds the Company's FCC License.

The Company has entered into a credit agreement (the "Tranche A Facility") with Bank of America pursuant to which Bank of America will provide the Company a term loan facility in an aggregate principal amount of up to $115 million (the term loans thereunder, the "Tranche A Loans"). The proceeds of the Tranche A Loans will be used by the Company to fund a portion of the progress payments required to be made by the Company under the Loral Satellite Contract for the purchase of launch services and to pay interest, fees and other expenses related to the Tranche A Facility. The Tranche A Loans are due on September 30, 1999 and bear interest, at the option of the Company, at either (i) the London Interbank Offered Rate plus 1.75% or (ii) the higher of (a) the rate publicly announced by Bank of America as its reference rate and (b) 0.50% per annum above the Federal Funds Rate then in effect. The Tranche A Loans are secured by the grant of a security interest by the Company in the portion of the Loral

Satellite Contract relating to launch services. The Tranche A Facility also contains covenants relating to

financial information, the conduct of business of the Company, payments under the Loral Satellite Contract, maintenance of governmental and other approvals, maintenance of existence and qualifications, maintenance of books and records, maintenance of property and insurance, compliance with laws and notice of defaults. In addition, the Tranche A Facility requires the Company to maintain a minimum consolidated net worth of $125 million at all times prior to December 31, 1998 and $75 million thereafter.

In connection with the Tranche A Facility, Loral has agreed with Bank of America that at maturity of the Tranche A Loans (including maturity as a result of an acceleration), upon the occurrence of a bankruptcy of the Company or upon the occurrence of an event of default by Loral under its agreement with Bank of America, Loral will repurchase from Bank of America and the other lenders the Tranche A Loans at a price equal to the principal amount of the Tranche A Loans plus accrued and unpaid interest. In exchange for providing such credit support, the Company will pay Loral a fee equal to 1.25% per annum of the outstanding amount of the Tranche A Loans from time to time.

The Company has also entered into an agreement with Bank of America pursuant to which Bank of America has agreed to attempt to arrange a syndicate of lenders to provide a term loan facility (the "Tranche B Facility") in the aggregate principal amount of $225 million (the term loans thereunder, the "Tranche B Loans"). It is anticipated that a portion of the proceeds of the Tranche B Loans would be used on or prior to September 30, 1999 to repay amounts outstanding under the Tranche A Facility and for other general corporate purposes. Bank of America has not committed to provide the Tranche B Loans and there are no assurances that such Tranche B Loans will be arranged or the terms of any such Tranche B Loans. Consummation of the Tranche B Facility as set forth in such agreement would also require the consent of the holders of certain outstanding indebtedness of the Company.

SS/L has agreed that payment of $50 million of the amount related to the construction of the satellites under the Loral Satellite Contract will be payable in six installments of $8.33 million to be made in June 2002, September 2002, December 2002, June 2003, September 2003 and November 2003. These deferred amounts will bear interest at 10% per annum and all interest on these deferred amounts will accrue until December 2001, at which time interest (including interest on previously accrued interest) will be payable quarterly in arrears in cash. As collateral security for these deferred payments, the Company has agreed to grant Loral a security interest in its terrestrial repeater network.

The Company expects it will require an additional $364 million in financing through the first quarter of 2000. However, there can be no assurance that the Company's actual cash requirements will not increase. Potential sources of additional financing include the sale of debt or equity securities in the public or private markets. There can be no assurance that the Company will be able to obtain additional financing on favorable terms, or at all, or that it will be able to do so in a timely fashion. The Senior Notes Indenture and the Tranche A Facility contain, and documents governing any indebtedness incurred in the future are expected to contain, provisions limiting the ability of the Company to incur additional indebtedness. The issuance by the Company of additional equity securities could cause substantial dilution of the interest in the Company of the Company's current stockholders. If additional financing were not available on a timely basis, the Company would be required to delay satellite and/or launch vehicle construction in order to conserve cash to fund continued operations, which would cause delays in the commencement of operations and increased costs.

The amount and timing of the Company's actual cash requirements will depend upon numerous factors, including costs associated with the construction and deployment of its satellite system and the rate of growth of its business subsequent to commencing service, costs of financing and the possibility of unanticipated costs. Additional funds would be required in the event of delay, cost overruns, unanticipated expenses, launch failure, launch services or satellite system change orders, or any shortfalls in estimated levels of operating cash flow.

Part II

Other Information

Item 2. Changes in Securities

On April 20, 1998, the Company filed a Certificate of Increase under Section 151(g) of the Delaware General Corporation Law which had the effect of increasing the number of shares of Series C Preferred Stock that the Company is authorized to issue from 2,000,000 to 2,025,000.

Item 4. Submission of Matters to a Vote of Security Holders

At the Company's annual meeting of stockholders held on April 20, 1998, the persons whose names are set forth below were elected as directors. The relevant voting information for each person is sent forth opposite such person's name:

	Votes Cast	
	For	Withheld
David Margolese....................	13,521,450	7,115
Robert D. Briskman.................	13,520,391	8,175
Lawrence F. Gilberti...............	13,520,491	8,075
Joseph V. Vittoria.................	15,520,421	8,145
Ralph V. Whitworth.................	13,521,421	7,145

In addition to the election of directors, the following matters were acted upon:

(a) The reappointment of Coopers & Lybrand LLP as independent auditors for the fiscal year ending December 31, 1998 was ratified by a vote of 13,479,755 shares in favor, 33,620 shares against, and 15,191 shares abstained.

(b) Amendments to the CD Radio 1994 Stock Option Plan and the CD Radio 1994 Directors' Nonqualified Stock Option Plan were approved by a vote of 8,679,847 shares in favor, 107,126 shares against, 35,211 shares abstained, and 4,706,382 broker nonvotes.

Item 5. Other Information

Rule 14a-4(c)(1) under the Securities Exchange Act of 1934 provides that a proxy may give discretionary authority to vote on any matter (including a stockholder proposal) that may come before an annual meeting of stockholders if the registrant (that is, the Company) had less than 45-days notice of such proposal prior to mailing of the proxy statement relating to such meeting even though such proxy statement contains no discussion of the matter to be voted on. The Company intends to utilize this authority at the next annual meeting of stockholders. Based on the mailing date of the proxy statement for the last annual meeting of stockholders, the notice contemplated by Rule 14a-4(c)(1) will need to be given not later than February 10, 1999.

Item 6. Exhibits and Reports on Form 8-K

(a) See the Exhibit Index for a list of exhibit filed herewith.

(b) The Company filed a Current Report on Form 8-K, dated May 28, 1998, describing the enhancement of its broadcast system as a result of the addition of a third in-orbit satellite.

SIGNATURES

Pursuant to the requirements of the Securities and Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

CD RADIO INC.

By: /s/ John T. McClain

John T. McClain
Vice President and Controller
(Chief Accounting Officer)

August 14, 1998

Exhibits

Exhibit	Description
3.1	Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to the Company's Registration Statement on Form S-1 (File No. 33-74782) (the "S-1 Registration Statement")).
3.2	Amended and Restated By-Laws (incorporated by reference to Exhibit 3.2 to the S-1 Registration Statement).
3.5.1	Certificate of Designations, Preferences and Relative,

Participating, Optional and Other Special Rights of 10 1/2% Series C Convertible Preferred Stock (the "Series C Certificate of Designations") (incorporated by reference to Exhibit 4.1 to the Company's Registration Statement on Form S-4 (File No. 333-34761) (the "S-4 Registration Statement")).

3.5.2	Certificate of Correction of the Series C Certificate of Designations (incorporated by reference to Exhibit 3.5.2 to the Company's Annual Report on Form 10-K for the year ended December 31, 1997 (the "1997 Form 10-K")).
3.5.3	Certificate of Increase of 10-1/2% Series C Convertible Preferred Stock. (incorporated by reference to Exhibit 3.5.3 to the Company's Form 10-Q for the period ended March 31, 1998).
4.1	Form of Certificate for Shares of Common Stock (incorporated by reference to Exhibit 4.3 to the S-1 Registration Statement).
4.2	Form of Certificate for Shares of 10 1/2% Series C Convertible Preferred Stock (incorporated by reference to Exhibit 4.4 to the S-4 Registration Statement).
4.3	Rights Agreement dated as of October 22, 1997, between the Company and Continental Stock Transfer & Trust Company, as Rights Agent (incorporated by reference to Exhibit 1 to Form 8-A).
4.4	Form of Right Certificate (incorporated by reference to Exhibit B to Exhibit 1 to Form 8-A).
4.6	Form of Note (incorporated by reference to Exhibit 4.2 to the Units Registration Statement).
4.7	Pledge Agreement, dated as of November 26, 1997, between the Company, as Pledgor, and IBJ Schroder Bank & Trust Company, as Collateral Agent (incorporated by reference to Exhibit 4.5 to the Units Registration Statement).
4.8	Form of Warrant (incorporated by reference to Exhibit 4.4 to the Units Registration Statement).

Exhibit	Description
4.9	Form of Preferred Stock Warrant Agreement, dated as of April 9, 1997, between the Company and each Warrantholder thereof (incorporated by reference to Exhibit 4.11 to the 1997 Form 10-K).
4.10	Form of Common Stock Purchase Warrant granted by the Company to Everest Capital Master Fund, L.P. and to The Ravich Revocable Trust of 1989 (incorporated by reference to Exhibit 4.12 to the 1997 Form 10-K).
10.1.1	Lease Agreement, dated October 20, 1992, between 22nd & K Street Office Building Limited Partnership and the Company (incorporated by reference to Exhibit 10.3 to the S-1 Registration Statement).
10.1.2	Lease Agreement, dated as of March 31, 1998, between Rock-McGraw, Inc. and the Company (filed herewith).
10.2.1	Engagement Letter Agreement, dated November 18, 1992, between the Company and Batchelder & Partners, Inc. (incorporated by reference to Exhibit 10.4 to the S-1 Registration Statement).
10.2.2	Engagement Termination Letter Agreement, dated December 4, 1997, between the Company and Batchelder & Partners, Inc. (incorporated by reference to Exhibit 10.2.2 to the 1997 Form 10-K).
*10.3.1	Proprietary Information and Non-Competition Agreement, dated February 9, 1993, for Robert D. Briskman (incorporated by reference to Exhibit 10.8.1 to the S-1 Registration Statement).
*10.3.2	Amendment No. 1 to Proprietary Information and Non Competition Agreement between the Company and Robert D. Briskman (incorporated by reference to Exhibit 10.8.2 to the S-1 Registration Statement).
+10.4	Amended and Restated Contract, dated as of June 30, 1998, between the Company and Space Systems/Loral, Inc. (filed herewith).
10.5	Assignment of Technology Agreement, dated April 15, 1993, between Robert D. Briskman and the Company (incorporated by reference to Exhibit 10.10 to the S-1 Registration Statement).
*10.6.1	Amended and Restated Option Agreement between the Company and Robert D. Briskman (incorporated by reference to Exhibit 10.13 to the S-1 Registration Statement).
*10.6.2	Stock Option Agreement, dated as of October 15, 1997, between the

Company and Robert D. Briskman. (incorporated by reference to Exhibit 10.6.2 to the 1997 Form 10-K).

Exhibit	Description
*10.7.1	Employment and Noncompetition Agreement between the Company and David Margolese (incorporated by reference to Exhibit 10.18.1 to the S-1 Registration Statement).
*10.7.2	First Amendment to Employment Agreement between the Company and David Margolese (incorporated by reference to Exhibit 10.18.2 to the S-1 Registration Statement).
*10.8.1	Employment and Noncompetition Agreement between the Company and Robert D. Briskman (incorporated by reference to Exhibit 10.19.1 to the S-1 Registration Statement).
*10.8.2	First Amendment to Employment Agreement between the Company and Robert D. Briskman (incorporated by reference to Exhibit 10.19.2 to the S-1 Registration Statement).
*10.8.3	Second Amendment to Employment Agreement between the Company and Robert D. Briskman (incorporated by reference to Exhibit 10.12.3 to the Company's Annual Report on Form 10-K for the year ended December 31, 1996 (the "1996 Form 10-K")).
*10.9	Employment and Noncompetition Agreement, dated as of July 10, 1997, between the Company and Andrew J. Greenebaum (incorporated by reference to Exhibit 10.10 to the Company's Quarterly Report on Form 10-Q for the period ended September 30, 1997).
*10.10	Employment and Noncompetition Agreement, dated as of April 16, 1997, between the Company and Joseph S. Capobianco (incorporated by reference to Exhibit 10.17 to the Company's Quarterly Report on Form 10-Q/A for the period ended March 31, 1997).
*10.11.1	Employment and Noncompetition Agreement, dated as of April 28, 1997, between the Company and Keno V. Thomas (incorporated by reference to Exhibit 10.18 to the Company's Quarterly Report on Form 10-Q/A for the period ended March 31, 1997).
*10.11.2	Separation Agreement, dated as of July 6, 1998, between the Company and Keno V. Thomas (filed herewith).
*10.12	Employment and Noncompetition Agreement, dated as of May 18, 1998, between the Company and Patrick L. Donnelly (filed herewith).
10.13	Registration Agreement, dated January 2, 1994, between the Company and M.A. Rothblatt and B.A. Rothblatt (incorporated by reference to Exhibit 10.20 to the S-1 Registration Statement).
*10.14	1994 Stock Option Plan (incorporated by reference to Exhibit 10.21 to the S-1 Registration Statement).

Exhibit	Description
*10.15	Amended and Restated 1994 Directors' Nonqualified Stock Option Plan (incorporated by reference to Exhibit 10.22 to the Company's Annual Report on Form 10-K for the year ended December 31, 1995).
10.16.1	Option Agreement, dated as of October 21, 1992, between the Company and Batchelder & Partners, Inc. (incorporated by reference to Exhibit 10.24 to the S-1 Registration Statement).
10.16.2	Form of Option Agreement, dated as of December 29, 1997, between the Company and each Optionee (filed herewith).
10.17	Settlement Agreement, dated as of April 1, 1994, among the Company, M.A. Rothblatt, B.A. Rothblatt and Marcor, Inc. (incorporated by reference to Exhibit 10.27 to the S-1 Registration Statement).
*10.18	1995 Stock Compensation Plan (incorporated by reference to Exhibit 10.37 to the Company's Annual Report on Form 10-K for the year ended December 31, 1995).
10.19.1	Preferred Stock Investment Agreement dated October 23, 1996 between the Company and certain investors (incorporated by reference to Exhibit 10.24 to the 1996 Form 10-K).
10.19.2	First Amendment to Preferred Stock Investment Agreement dated March 7, 1997 between the Company and certain investors (incorporated by reference to Exhibit 10.24.1 to the 1996 Form

10-K).

10.19.3	Second Amendment to Preferred Stock Investment Agreement dated March 14, 1997 between the Company and certain investors (incorporated by reference to Exhibit 10.24.2 to the 1996 Form 10-K).
10.20	Stock Purchase Agreement, dated as of August 5, 1997, between the Company, David Margolese and Loral Space & Communications Ltd. (incorporated by reference to Exhibit 99.1 to the Company's Current Report on Form 8-K, filed on August 19, 1997).
10.21	Letter, dated May 29, 1998, terminating Launch Services Agreement dated July 22, 1997 between the Company and Arianespace S.A.; Arianespace Customer Loan Agreements dated July 22, 1997 for Launches #1 and #2 between the Company and Arianespace Finance S.A.; and the Multiparty Agreements dated July 22, 1997 for Launches #1 and #2 among the Company, Arianespace S.A. and Arianespace Finance S.A. (filed herewith).
10.22	Credit Agreement, dated as of June 30, 1998, among the Company, the financial institutions from time to time parties thereto and Bank of America National Trust and Savings Association, as Administrative Agent (filed herewith).

Exhibit	Description
10.23	Pledge Agreement, dated as of June 30, 1998, made by the Company in favor of Bank of America National Trust and Savings Association, as Administrative Agent (filed herewith).
10.24	Summary Term Sheet/Commitment, dated June 15, 1997, among the Company and Everest Capital International, Ltd., Everest Capital Fund, L.P. and The Ravich Revocable Trust of 1989 (incorporated by reference to Exhibit 99.1 to the Company's Current Report on Form 8-K, filed on July 8, 1997).
10.25.1	Engagement Letter Agreement, dated June 14, 1997, between the Company and Libra Investments, Inc. (incorporated by reference to Exhibit 10.26.1 to the 1997 Form 10-K).
10.25.2	Engagement Termination Letter Agreement, dated August 6, 1997, between the Company and Libra Investments, Inc. (incorporated by reference to Exhibit 10.26.2 to the 1997 Form 10-K).
10.26	Engagement Letter Agreement dated October 8, 1997, between the Company and Merrill Lynch, Pierce, Fenner & Smith Incorporated (incorporated by reference to Exhibit 10.27 to the 1997 Form 10-K).
+10.27	Radio License Agreement, dated January 21, 1998 between the Company and Bloomberg Communications Inc. (incorporated by reference to Exhibit 10.28 to the Company's Quarterly Report on Form 10-Q for the period ended March 31, 1998).
+10.28	Agreement, dated April 24, 1998, between Lucent Technologies Inc. and the Company (filed herewith).
27.1	Financial Data Schedule.

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* This document has been identified as a management contract or compensatory plan or arrangement.

+ Portions of these exhibits, which are incorporated by reference, have been omitted pursuant to an Application for Confidential treatment filed by the Company with the Securities and Exchange Commission pursuant to Rule 406 of the Securities Act of 1933, as amended.

Lease, dated March 31, 1998, between ROCK-McGRAW, INC., a New York corporation, having an office at 1221 Avenue of the Americas, New York, N.Y. 10020-1095 (the "Landlord"), and CD RADIO INC., a Delaware corporation, having an office at 1001 22nd Street, N.W., Sixth Floor, Washington, D.C. 20037 (the "Tenant"),

Witnesseth:

ARTICLE ONE
(1.)Demise of Premises, Term and Rent

1.1.1. The Landlord does hereby lease and demise to the Tenant, and the Tenant does hereby hire and take from the Landlord, subject and subordinate to the Qualified Encumbrances (as defined in Section 1.7 below), and upon and subject to the provisions of this Lease, for the term hereinafter stated, the spaces substantially as shown hatched on the diagrams attached hereto as Exhibit A-1 and designated as `A' on the 36th Floor (herein sometimes called the "36th Floor Space"), Exhibit A-2 and designated as `A' on the 37th Floor (herein sometimes called the "37th Floor Space"; the 36th Floor Space and the 37th Floor Space being herein sometimes collectively called the "Office Space"), Exhibit A-3 and designated as `A' on the roof (herein sometimes called the "Penthouse Space"), and Exhibit A-5 and designated as `A' on the C4 level (herein sometimes called the "Basement Space"), the Office Space being measured from the underside of the ceiling slab to the underside of the floor slab, of the building known as 1221 Avenue of the Americas (the "Building"), situated upon a plot of land (the "Land") in the Borough of Manhattan, New York, N.Y., together with all fixtures, equipment, improvements, installations and appurtenances which at the commencement of, or during the term of, this Lease are thereto attached (except items not deemed to be included therein and removable by the Tenant as provided in Article Four below), which spaces, fixtures, equipment, improvements, installations and appurtenances are herein sometimes collectively called the "Premises".

1.1.2. The Landlord does hereby grant to the Tenant non-exclusive licenses, and the Tenant does hereby take such licenses from the Landlord, subject and subordinate to the Qualified Encumbrances, and upon and subject to the provisions of Article Thirty-four, Article

Thirty-five or Article Thirty-six of this Lease, as applicable, for the term hereinafter stated, of the spaces (herein sometimes collectively called the "Licensed Spaces") substantially as shown hatched on the diagrams attached hereto as Exhibit A-3 and designated as `B' on the Building's penthouse roof and more particularly described in Section 35.1 below (herein sometimes called the "Penthouse Roof Space"), Exhibit A-3 and designated as `C' on the main Building roof and more particularly described in Section 36.1 below (herein sometimes called the "Auxiliary Chiller Space"), and Exhibit A-4 and designated as `A' on the roof of the eighth (8th) floor setback and more particularly described in Section 34.1 below (herein sometimes called the "Emergency Generator Space"), of the Building, together with non-exclusive licenses of portions of those certain shaft spaces in the Building, as more particularly described (and defined) as the Emergency Electric Riser and the Emergency Fuel Pipe Area in Article Thirty-four of this Lease, the Satellite Riser Area in Article Thirty-five of this Lease and the Chilled Water Riser Area in Article Thirty-six of this Lease.

1.1.3. The Landlord and McGraw-Hill (as hereinafter defined) are parties to a lease dated as of March 27, 1998 relating to certain space on the 50th Floor of the Building (the "McGraw-Hill Lease"). Section 25.8(b) of the McGraw-Hill Lease provides that, subject to certain conditions, as set forth in the McGraw-Hill Lease and as hereinafter set forth, McGraw-Hill will permit any CD Radio Entity (as hereinafter defined) access to the roof of the Building after Business Hours in Emergency Situations (as hereinafter defined), through the hatched area on the 50th Floor of the Building specified on the diagram attached hereto as Exhibit A-6 (the "Emergency Access Route") for passage from the passenger elevator cars on the 50th Floor to the fire stair referenced in such Exhibit A-6. Accordingly, based on such permission granted by McGraw-Hill, the Tenant agrees that a CD Radio Entity will only utilize the Emergency Access Route for access to the roof of the Building if, and only if, an Emergency Situation shall exist which requires such CD Radio Entity to gain immediate access after Business Hours to the roof without any delay. Subject to Section 20.5 below, and in connection with and ancillary to the permission granted by McGraw-Hill for CD Radio Entities to use the Emergency Access Route for access to the roof of the Building, the Landlord will supply, during non-Business Hours in Emergency Situations, elevator service to the 50th floor elevator lobby serving the "A" bank of passenger elevators. The use of the Emergency Access Route and such elevator service by CD Radio Entities shall be upon and subject to the Qualified Encumbrances, the applicable provisions of this Lease and such reasonable regulations and restrictions as the Landlord may, from time to time, deem necessary to establish (provided, that the Landlord shall give the Tenant five (5) business days prior written notice before any such additional regulations and restrictions shall become appliable to the Tenant), and in accordance with the following terms and conditions: (a) before being permitted to gain such access through the Emergency Access Route, such CD Radio Entity must call McGraw-Hill's security personnel at 5124202 (or if no answer is received, at

5124749 or such other numbers as shall be designated by McGraw-Hill from time to time) and must call Building security at the front desk of the Building, to report such Emergency Situation and the requirement that such CD Radio Entity gain access to the roof through the Emergency Access Route; (b) only such CD Radio Entity's personnel who are qualified persons capable of addressing the particular Emergency Situation at issue ("Qualified Personnel") shall be permitted to gain access through the

Emergency Access Route; (c) such Qualified Personnel shall be accompanied by a representative of McGraw-Hill, if such representative is available (and if such representative is not available, by a representative of the Landlord, if available) who shall escort such Qualified Personnel to and from the applicable passenger elevator on the 50th floor of the Building to the roof of the Building; provided, however, that such Qualified Personnel need not be accompanied by a representative of McGraw-Hill or the Landlord if such representatives are not available after such CD Radio Entity exercises reasonable efforts to notify such representatives to accompany such Qualified Personnel (it being agreed that if any representative is unavailable to immediately accompany such Qualified Personnel upon its notification (or good faith effort to notify), such inability shall be deemed to constitute its unavailability); (d) the Tenant shall indemnify, defend and hold harmless McGraw-Hill from and against any and all claims, judgments, damages, costs and liabilities (including, without limitation, reasonable attorneys' fees) arising from, or in connection with the access provided to the CD Radio Entity through the Emergency Access Route; (e) the Tenant shall specifically carry insurance relating to such access through the Emergency Access Route and shall name McGraw-Hill and the Landlord as additional insureds under such policy; and (f) such access shall be for Qualified Personnel only and no equipment (other than normal hand tools) shall be moved through the Emergency Access Route. For purposes of this Section 1.1.3, the term "Emergency Situation" shall mean, and an "Emergency Situation" shall be deemed to have occurred if, (i) any portion of the Satellite Transmission System or the Auxiliary Chiller System which is located in or on the Penthouse Space, the Penthouse Roof Space or the Auxiliary Chiller Space shall malfunction, fail to properly operate at times other than Business Hours and Qualified Personnel must gain immediate access to the roof without delay after such Business Hours such that awaiting to gain access through the Standard Roof Access Area (i.e. waiting for a freight elevator personnel to be able to bring such Qualified Personnel to the 50th floor) is unacceptable to the CD Radio Entity in its good faith reasonable discretion or would endanger the Tenant's equipment in question or the CD Radio Entity's business. "CD Radio Entity" shall mean (i) the Tenant and its successors by merger, consolidation or acquisition or (ii) any subtenant or assignee of an entity referred to in subclause (i) above who is an affiliate of such entity referred to in subclause (i) above.

1.1.4. The Landlord does hereby grant to the Tenant a non-exclusive easement from the 50th floor freight elevator lobby to the main roof of the Building, substantially as shown hatched on the diagram attached hereto as Exhibit A-7 and designated as the "Standard Roof Access Easement Area" (the "Standard Roof Access Easement Area"), for access to the Penthouse Space, the Penthouse Roof Space and the Auxiliary Chiller Space (such non-exclusive easement is herein sometimes called the "Standard Roof Access Easement"), and the Tenant does hereby accept the Standard Roof Access Easement from the Landlord, subject and subordinate to the Qualified Encumbrances, for the term of this Lease, or for such shorter period as the Lease of the Penthouse Space or the license of the Penthouse Roof Space or the Auxiliary Chiller Space shall remain in effect. The Tenant's use of the Standard Roof Access Easement Area shall be upon and subject to the applicable provisions of this Lease and such reasonable regulations and restrictions as the Landlord may, from time to time, deem necessary to establish (provided, that the Landlord shall give the Tenant five (5) business days prior written notice before any such additional regulations and restrictions

shall become applicable to the Tenant), including, but not limited to, the requirements that (a) the Tenant give reasonable prior notice (which may be oral) to the Landlord before any use of the Standard Roof Access Easement Area, except in the case of an emergency, in which event the Tenant shall give such notice as is reasonable in the circumstances, (b) only the Tenant's contractors who have been consented to by the Landlord, and the Tenant's properly identified employees, agents and representatives shall be permitted access to the Standard Roof Access Easement Area, and (c) except in the case of an emergency, such contractors, employees, agents and representatives shall, at the Landlord's option and at no cost to the Tenant, be accompanied by employees of the Landlord, provided that such requirement shall not interfere with or delay the Tenant's access to the Penthouse Space, the Penthouse Roof Space or the Auxiliary Chiller Space (except to a de minimis extent).

1.2. The term of this Lease shall commence (subject to the provisions of Article Two, including, without limitation, the provisions of Section 2.4.1 below) on the date on which the Landlord delivers to the Tenant (a) vacant possession of the Office Space with all of the Landlord's work constituting Term Commencement Conditions (as hereinafter defined) with respect to the Office Space substantially completed and all other Term Commencement Conditions with respect to the Office Space satisfied, and (b) vacant possession of the Penthouse Space, or on such earlier date as the Tenant shall occupy the Premises with the consent of the Landlord (the date for the commencement of the term of

this Lease being herein called the "term commencement date"), and shall end on the last day of the calendar month in which shall occur the date which is fifteen (15) years and ten (10) months after the term commencement date, or on such earlier date upon which the term may expire or be terminated pursuant to any of the conditions of limitation or other provisions of this Lease or pursuant to law. Commencing on the term commencement date, the Landlord shall also permit the Tenant to enter upon, and commence to use, (x) the Licensed Spaces for the uses provided in Article Thirty-four, Article Thirty-five or Article Thirty-six, as applicable, (y) the Emergency Access Route, for the uses provided in, and subject to, Section 1.1.3 above and (z) the Standard Access Easement Area, for the uses provided in, and subject to, Section 1.1.4 above. As used in this Lease, "Term Commencement Conditions" shall mean, collectively, those certain conditions set forth on Exhibit B annexed hereto and made a part hereof. Anything in this Section 1.2 to the contrary notwithstanding, the Tenant shall not be obligated to accept possession of the Premises prior to September 15, 1998.

1.3.1. The Premises shall be used for the following, but no other purposes, namely executive, clerical, general and administrative offices, including activities incidental thereto, and a radio and/or video broadcast studio, including the production and live broadcast of radio and/or video programming and the broadcast of pre-recorded programming and activities incidental thereto, and any other lawful purpose consistent with a firstclass office building located in midtown Manhattan; provided, however, that the Basement Space shall be used only for the purposes permitted pursuant to, and in accordance with, the provisions of Article Thirty-four below.

1.3.2 Each of the Licensed Spaces shall be used solely for the purpose set forth in Article Thirty-four, Article Thirty-five or Article Thirty-six, as applicable, and for no other purpose.

1.4.1. The rent reserved under this Lease for the term of this Lease shall consist of (a) fixed rent, at the following rate(s), namely the sum of:

(i) with respect to the Office Space, (A) $3,989,781.00 ($44.50 per rentable square foot) per annum ($332,481.75 per month) during the period commencing on the term commencement date and ending on the day immediately preceding the First Rent Step-Up Date (as hereinafter defined), (B) $4,258,755.00 ($47.50 per rentable square foot) per annum ($354,896.25 per month) during the period commencing on the first day of the calendar month following the month in which occurs the date which is five (5) years and ten (10) months following the term commencement date (the "First Rent Step-Up Date") and ending on the day immediately preceding the fifth (5th) anniversary of the First Rent Step-Up Date and (C) $4,527,729.00 ($50.50 per rentable square foot) per annum ($377,310.75 per month) thereafter;

(ii) with respect to the Penthouse Space, (A) $18,000.00 ($30.00 per rentable square foot) per annum ($1,500.00 per month) during the term of this Lease; and

(iii) with respect to the Basement Space, $5,400.00 ($25.00 per usable square foot) per annum ($450.00 per month) during the term of this Lease.

which fixed rent shall be payable in equal monthly installments in advance on the first day of each and every calendar month of the term of this Lease for which fixed rent is reserved as aforesaid (except that, if the term commencement date shall be other than the first day of a calendar month, the first monthly installment of fixed rent, apportioned for the part month in question, shall be payable on the term commencement date), plus (b) the additional rent payable as provided in this Lease.

1.4.2. The license fees reserved under this Lease for the term of this Lease shall be at the following rate(s), namely the sum of:

(a) with respect to the Penthouse Roof Space, $219,240.00 ($30.00 per usable square foot) per annum ($18,270.00 per month) during the entire initial term of this Lease;

(b) with respect to the Auxiliary Chiller Space, $25,500.00 ($30.00 per usable square foot) per annum ($2,125.00 per month) during the entire initial term of this Lease; and

(c) with respect to the Emergency Generator Space, $8,750.00 ($25.00 per usable square foot) per annum ($729.17 per month) during the entire initial term of this Lease,

which license fees rent shall be payable in equal monthly installments in advance on the first day of each and every calendar month of the term of this Lease for which license fees are reserved as aforesaid (except that, if the term commencement date shall be other than the

first day of a calendar month, the first monthly installment of license fees, apportioned for the part month in question, shall be payable on the term

commencement date).

1.4.3 All fixed rent, additional rent and license fees shall be paid to the Landlord, at its office as set forth above, or at such other place or places in New York, New York as the Landlord shall designate to the Tenant, in lawful money of the United States of America.

1.5. The Tenant shall pay the fixed rent, license fees and additional rent (collectively "Rent") as and when the same shall become due and payable as provided in this Lease, without demand therefor, and without any setoff or deduction whatsoever except as may otherwise be expressly provided for in this Lease, and keep, observe and perform, and permit no violation of, each and every provision contained in this Lease on the part of the Tenant to be kept, observed and performed.

1.6. In determining the rentable area and, where applicable, the useable area of the Building or any portion thereof (other than the Penthouse Roof Space, the Auxiliary Chiller Space and the Emergency Generator Space) pursuant to any provision of this Lease, the rentable area or useable area thereof or such portion, as the case may be, shall be the rentable area or useable area thereof in square feet determined in accordance with the Recommended Method of Floor Measurement for Office Buildings approved by The Real Estate Board of New York, Inc., which became effective on January 1, 1987, assuming a 20% loss factor from rentable to useable. The Landlord represents that the rentable area of the Office Space has been so determined and, based on such representation, the Landlord and the Tenant agree that, as of the date hereof, (a) the rentable area of the 36th Floor Space is 44,723 rentable square feet and (b) the rentable area of the 37th Floor Space is 44,935 rentable square feet. In addition, the Landlord and the Tenant agree that, for the purposes of this Lease, (1) the rentable area of the Penthouse Space is 600 rentable square feet, (2) the useable area of the Penthouse Roof Space is 7,308 useable square feet, (3) the useable area of the Auxiliary Chiller Space is 850 useable square feet, (4) the usable area of the Emergency Generator Space is 350 usable square feet and (5) the usable area of the Basement Space is 216 usable square feet.

1.7. The term "Qualified Encumbrances" means (a) matters of record affecting the Premises, the Licensed Spaces, the Emergency Access Route, the Standard Roof Access Easement, the Building or the Land on the date of this Lease or hereafter approved by the Tenant, which approval shall not be unreasonably withheld, (b) the underlying mortgages and underlying leases to which this Lease is subordinate pursuant to Article Thirteen, provided that the Tenant receives subordination, non-disturbance and attornment agreements with respect thereto in accordance with the provisions of Section 13.1 below, (c) any declaration of restrictions or other document in respect of the transfer or use of development rights, (d) any declaration or other document which subjects all or any portion of the Land and/or the Building to a condominium regime, provided that such condominium regime does not (i) decrease (except to a de minimis extent) the Tenant's rights and/or the Landlord's obligations under this Lease or (ii) increase (except to a de minimis extent) the Tenant's obligations and/or the Landlord's rights under this Lease, and (e) any future preservation or similar easement, declaration or agreement containing covenants, restrictions or agreements

in respect of the maintenance of the Building and/or the Land as a landmark site with or held by a governmental agency or an entity designated or accepted by a governmental agency (each, a "Preservation Agreement").

ARTICLE TWO
(2.)Completion and Occupancy

2.1. The Tenant has examined and shall accept the Premises and each of the Licensed Spaces in its existing condition and state of repair and understands that no work is to be performed by the Landlord in connection therewith except the work the Landlord is required to perform with respect to the Office Space in order to satisfy the Term Commencement Conditions. The Landlord, either through its own employees or through a contractor or contractors to be engaged by it for such purpose, will proceed with due dispatch, subject to delay caused by events of Force Majeure (as defined in Section 2.4.3 below), Tenant Delay (as hereinafter defined) and the failure of any present occupant of the Premises to vacate and surrender the same, to do all of the work during regular working hours and will exercise all reasonable efforts to complete all of such work not later than October 1, 1998. If the Landlord is required by this Lease to do any such work without expense to the Tenant and the cost of such work is increased due to any Tenant Delay, the Tenant shall pay to the Landlord an amount equal to such increase in cost. Any dispute regarding whether the Landlord has satisfied the Term Commencement Conditions shall be resolved by the expedited dispute resolution procedure set forth in Section 25.13 below.

2.2. Unless otherwise specifically provided in this Lease, if the Premises, or any portion thereof, shall not be available for occupancy by the Tenant on October 1, 1998 (or on such earlier or later date which the Landlord shall have notified the Tenant (pursuant to the provisions of Section 2.4.1 below) would be the term commencement date) for any reason, including, without limitation, (a) noncompletion by the Landlord of such work as it shall be required by the terms of this Lease to do in connection with the layout or

finish of the Premises, and (b) any current occupant of the Premises remaining in occupancy (including, without limitation, any unavailability resulting from the exercise by The McGraw-Hill Companies, Inc. ("McGraw-Hill") of any right to delay the expiration of the term of its lease with respect to any portion of the Premises), then, except as provided in Section 2.4.2 and Section 2.4.3 below, this Lease shall not be affected thereby, but, in such case, the term commencement date shall be postponed until the date when such space shall be available for occupancy by the Tenant, provided, that, subject to the provisions of the immediately succeeding sentence, if, and on the condition that, the Landlord shall have given notice to the Tenant of any Tenant Delay (as hereinafter defined) within a reasonable period following Landlord's first becoming aware of such Tenant Delay, there shall be no such postponement of the term commencement date for any delay in the availability of the Premises for occupancy by the Tenant which shall be due to any act or omission of the Tenant, any affiliate thereof or their respective agents, officers, partners, directors, contractors, employees, licensees or invitees ("Tenant Delay"); it being understood that the Tenant shall have no claim against the Landlord, and the Landlord shall have no liability to the Tenant, by reason of any such postponement of the term commencement date. For

purpose of this Lease, if any period of Tenant Delay reasonably could have been shortened as a result of the Landlord's having given notice to the Tenant of such Tenant Delay promptly following Landlord's first becoming aware of such Tenant Delay, then such period of Tenant Delay shall be deemed to be so shortened. No part of the Premises shall be deemed unavailable for possession by the Tenant, nor shall any work which the Landlord is obligated to perform in such part of the Premises be deemed incomplete for the purpose of any adjustment of fixed rent payable under this Lease, solely due to the noncompletion of details of construction, decoration or mechanical adjustments which are minor in character and the noncompletion of which does not materially interfere with the Tenant's use of such part of the Premises. Subject to the foregoing, the parties to this Lease expressly provide that, if the Premises shall not be available for possession by the Tenant on October 1, 1998 (or on such earlier or later date which Landlord shall have notified the Tenant (pursuant to the provisions of Section 2.4.1 below) would be the term commencement date), the Tenant, except with the consent of the Landlord, shall not be entitled to possession of the Premises until the same is delivered to the Tenant by the Landlord and, subject to the provisions of Section 2.4.1 and Section 2.4.2 below, there shall be no abatement of rent by reason thereof, and the Tenant shall not have any claim against the Landlord nor, subject to the provisions of Section 2.4.3 below, any right to rescind this Lease, and the Landlord shall have no liability to the Tenant, by reason thereof. The foregoing Section 2.2 shall constitute "an express provision to the contrary" as such phrase is used in Section 223-a of the Real Property Law of the State of New York and shall constitute a waiver of the Tenant's rights pursuant to such Section 223-a and any other law of like import now or hereafter in force.

2.3. Without limiting the generality of the provisions of Section 2.1 above, the Tenant by entering into occupancy of any part of the Premises shall be conclusively deemed to have agreed that the Landlord, up to the time of such occupancy, had performed all of its obligations under this Lease with respect to such part and that such part was in satisfactory condition as of the date of such occupancy, except for (a) latent defects in the base Building (which the Landlord shall be obligated to cure with reasonable promptness after receipt of notice from the Tenant) and (b) other defects and minor details of construction, decoration and mechanical adjustment ("Punch-List Work") referred to in Section 2.2 above, which are brought to the Landlord's attention within thirty (30) days after the date on which the Landlord notifies the Tenant that all of the Landlord's work constituting Term Commencement Conditions, if any, with respect to such part of the Premises has been substantially completed. If the Tenant shall fail to notify the Landlord in writing of any defect in, or the non-performance or the incomplete performance of, any work constituting Term Commencement Conditions within such thirty (30) day period, the Tenant shall be conclusively deemed to have agreed that such work was performed in satisfactory fashion, except for latent defects. The Landlord shall use reasonable efforts to complete all Punch-List Work in an expeditious manner and, in any event within thirty (30) days after the Landlord's receipt of the Tenant's notice thereof, subject to delays in the performance thereof caused by events of Force Majeure and Tenant Delay.

2.4.1. If the Landlord determines that the term commencement date will not occur on October 1, 1998 (or on any earlier or later date which the Landlord theretofore may have notified the Tenant pursuant to this Section 2.4.1 would be the term commencement date),

then the Landlord shall so notify the Tenant and shall, contemporaneously or thereafter, notify the Tenant, at least seven (7) days prior thereto, of the date on which the Landlord anticipates that the term commencement date will occur. If the term commencement date occurs prior to the date set forth in such notice from the Landlord specifying an anticipated term commencement date other than October 1, 1998, then the fixed rent payable hereunder shall be abated in an amount equal to one (1) day's fixed rent for each day that the actual term commencement date occurs prior to such anticipated term commencement date, up to a maximum of seven (7) days; provided, however, that if (a) the anticipated term commencement date is a date prior to October 1, 1998, and (b) the actual term

commencement date occurs on or prior to October 1, 1998, then the Tenant shall not be entitled to any abatement of fixed rent under this Section 2.4.1 for any period from and after October 1, 1998.

2.4.2. If the term commencement date is delayed beyond November 1, 1998 (as such date may be extended by any delays due to Tenant Delay or events of Force Majeure; it being understood, however, that, for the purposes of this Section 2.4.2, no such period of extension due to events of Force Majeure shall exceed sixty (60) days), the fixed rent payable hereunder shall be abated in an amount equal to (y) one (1) day's fixed rent for each day that the term commencement date is delayed beyond November 1, 1998 (as such date may be extended by any delays due to Tenant Delay or events of Force Majeure) and (z) one and one-half (1 1/2) days' fixed rent for each day that the term commencement date is delayed beyond January 1, 1999 (as such date may be extended by any delays due to Tenant Delay or events of Force Majeure).

2.4.3. If the term commencement date is delayed beyond April 1, 1999 (as such date may be extended by any delays due to Tenant Delay or events of Force Majeure; it being understood that, for the purposes of this Section 2.4.3, no such period of extension due to events of Force Majeure shall exceed sixty (60) days), the Tenant shall have the option to cancel this Lease by delivering thirty (30) days prior written notice to the Landlord of its exercise of such option at any time prior to the delivery of Premises by the Landlord to the Tenant, in which event (subject to the concluding sentence of this Section 2.4.3) this Lease shall be deemed cancelled and of no force or effect upon the date which is thirty-one (31) days after the receipt by the Landlord of such notice and neither the Landlord nor the Tenant shall have any liability to the other under this Lease except that the Landlord shall return to the Tenant any Deposit L/C(s) then in the Landlord's possession within five (5) business days after receipt of written demand therefor from the Tenant. Anything in this Section 2.4.3 to the contrary notwithstanding, if the Landlord delivers the Premises to the Tenant by the date which is thirty (30) days after the receipt by the Landlord of such notice, the Tenant's exercise of such cancellation option shall be deemed void and of no force or effect.

2.4.4. As used in this Lease, the term "Force Majeure" shall mean any delays resulting from any causes beyond the Landlord's or the Tenant's, as the case may be, reasonable control (other than the Landlord's or the Tenant's financial condition), including, without limitation, governmental regulation, governmental restriction, strike, labor dispute, riot, acts of God, war, fire or other casualty and other like circumstances. For purposes of this Lease, Force Majeure delays shall be deemed to exist only if the Landlord or the Tenant

(as the case may be) promptly notifies the other party in writing of such delay and, after such initial notification promptly after request of the other party, the Landlord or the Tenant (as the case may be) notifies the other party of the status of such delay. Each party shall use all reasonable efforts to mitigate the delay caused by any event of Force Majeure to the extent reasonably practicable, but without the necessity of employing overtime labor unless such party elects to do so within its sole discretion or unless the other party elects to pay for such overtime labor. Anything in this Lease to the contrary notwithstanding, the holding over or other remaining in occupancy of the Premises, or any portion thereof, by McGraw-Hill shall constitute an event of Force Majeure if, and only if, such holding over or other remaining in occupancy of the Premises, or any portion thereof, by McGraw-Hill is due to any delay resulting from any causes beyond McGraw-Hill's reasonable control (other than McGraw-Hill's financial condition), including, without limitation, governmental regulation, governmental restriction, strike, labor dispute, riot, acts of God, war, fire or other casualty and other like circumstances (it being understood that in no event shall the Landlord be required to commence any action or proceeding to remove McGraw-Hill from any portion of the Premises in order to mitigate any delay caused by such event of Force Majeure).

ARTICLE THREE
(3.)Use of Premises

3.1. The Tenant shall not, except with the prior consent of the Landlord, use, or suffer or permit the use of, the Premises or any part thereof for any purpose other than the uses permitted in Article One, provided, that (a) the portions, if any, of the Premises which are toilets or utility areas shall be used by the Tenant only for the purposes for which they are designed and (b) the portions, if any, of the Premises which are storage areas shall be used only for storage purposes.

3.2. The Tenant shall not use, or suffer or permit the use of, the Premises or any part thereof in any manner or for any purpose or do, bring or keep anything, or suffer or permit anything to be done, brought or kept, therein (including, without limitation, the installation or operation of any electrical, electronic or other equipment) which (a) would violate any provision of this Lease or is unlawful or in contravention of the Certificate of Occupancy for the Building, or (b) in the reasonable judgment of the Landlord may in any way impair or interfere in any material respect with any of the Building services or the proper and economic heating, air conditioning, cleaning or other servicing of the Building or the Premises or impair or interfere with the use of any of the other areas of the Building by, or occasion discomfort, inconvenience or

annoyance to, any other tenant of the Building or impair the appearance of the Building. The Tenant shall not use, or suffer or permit the use of, the Premises or any part thereof in any manner, or do, or suffer or permit the doing of, anything therein or in connection with the Tenant's business or advertising which, in the reasonable judgment of the Landlord, may be prejudicial to the business of the Landlord or the reputation of the Landlord or the Building or reflect unfavorably on the Landlord or the Building or confuse or mislead the public as to any connection or relationship between the Landlord and the Tenant; provided, however, that nothing in this Section 3.2 or elsewhere in this Lease shall be construed to give the Landlord any rights regarding the content of the

programming broadcast from the Premises; provided further, however, that, with respect to the content of the programming broadcast from the Premises, the Tenant shall be and remain liable for, and shall indemnify, and save harmless, the Indemnitees from and against, all liability (statutory or otherwise), losses, claims, suits, demands, damages, judgments, costs, interest and expenses (including reasonable counsel fees and disbursements incurred in the defense thereof) to which any Indemnitee may be subject or suffer directly relating to, or directly arising out of, the content of any programming broadcast from the Premises, except to the extent that any of such liability, losses, claims, suits, demands, damages, judgments, costs, interest or expenses directly relates to, or directly arises out of, a risk of a nature and in a degree which is attendant to the use of office space in the Building for executive, clerical, general and administrative offices, and for which the Tenant is not otherwise liable under this Lease.

3.3. Unless otherwise specifically provided in this Lease, the Tenant will not use, or suffer or permit the use of, the Premises or any part thereof for any of the following purposes, whether or not incidental to the Tenant's business, namely: (a) manufacturing of any kind, (b) the sale of any item whatsoever (provided, however, that nothing contained in this clause (b) shall prohibit the Tenant from consummating sale(s) transactions at the Premises for delivery of goods from a remote location), (c) an auction of any kind, (d) the hosting of so-called "studio audiences", or (e) the preparation, dispensing or consumption of food or beverages, except, (i) that parts of the Premises may be used as pantries and lunchrooms for employees of the Tenant and for the installation and operation of food and beverage vending machines, and the Tenant may avail itself of the use of catering service in the Premises, upon the condition in each case that (A) no cooking or other preparation of food (other than the reheating of food by microwave or the preparation of beverages) shall be done in the Premises, (B) no food or beverages will be kept or served in the Premises in a manner or under any conditions which shall be the occasion for fumes or odors being emitted from, or detectable outside of, the Premises, (C) such parts of the Premises shall be at all times maintained by the Tenant in a clean and sanitary condition and free of refuse (including use of extermination services whenever required), and (D) the Tenant will keep the plumbing and sanitary systems and installations serving such parts of the Premises to the points they connect with the main vertical risers and stacks of the Building in a good state of repair and operating condition, and (ii) if the cafeteria currently operated by McGraw-Hill on the C-1 level of the Building, or any replacement of such cafeteria operated for the benefit of all tenants of the Building (in either case, the "Building Cafeteria"), ceases to operate, or if the Tenant is denied access thereto (other than a temporary denial of access resulting from the performance of alterations to the Building Cafeteria or a fire or other casualty, or a denial of access resulting from Tenant's failure or refusal to enter into the standard license or user agreement for the Building Cafeteria on terms that are not less favorable than the terms generally made available to all tenants in the Building of comparable size (other than McGraw-Hill or Rockefeller Group, Inc.), or pay the license or user fee thereunder), then, anything in Section 3.3(e)(1)(A) above to the contrary notwithstanding, in connection with, and incidental to, the Tenant's use of the Premises for the purposes permitted under Section 1.3.1 above, and at the Tenant's sole cost and expense, a portion of the Premises, not exceeding 10,000 rentable square feet in area may be used for the installation and operation of a cafeteria (including a kitchen) for the preparation and dispensing of food for, and the

consumption of food by, the Tenant's employees who have offices in the Building and their invitees (but not other tenants in the Building or the general public), provided, and upon the express conditions that, (A) in connection with the installation and operation of such cafeteria, the Tenant shall comply with all applicable Requirements and the provisions of this Lease (including, without limitation, the provisions of Section 6.1(e) below) and with all other reasonable requirements and regulations that the Landlord may adopt from time to time, (B) the Tenant shall obtain, at the Tenant's sole cost and expense, any and all required permits, licenses and certificates for such incidental use (including, without limitation, any amendment to the Building certificate of occupancy necessitated by such incidental use), and (C) the Tenant shall pay for any necessary extermination, for the installation of all flues, vents, grease traps and Ansul systems and other similar equipment as Landlord shall reasonably require and for all cleaning of such space (it being understood that Landlord's provision of cleaning services pursuant to Section 20.1(e) below shall not apply to the use of the Premises, or any portion thereof, for such cafeteria use). In addition, if the Landlord or any designee of the Landlord operates the Building Cafeteria, then, subject to the execution by Tenant of the standard license or

user agreement for the Building Cafeteria on terms that are not less favorable than the terms generally made available to all tenants in the Building of comparable size, and the payment of the applicable license or user fee thereunder, the Tenant shall be permitted access thereto on a non-exclusive basis with other tenants of the Building.

3.4. If any governmental license, permit or certificate shall be required for the proper and lawful conduct of any business or other activity carried on in the Premises or in or from any of the Licensed Spaces (including, without limitation, (a) any license, permit or certificate required to be obtained from the Federal Communications Commission for the conduct of the Tenant's business or for the operation of the Satellite Transmission System, and (b) any amendment to the certificate of occupancy for the Building necessitated by (i) the use of the Office Space, or any portion thereof, as a studio for the broadcasting of live and/or pre-recorded radio programming and/or the recording of radio programming for future broadcasting, (ii) the use of the Premises, or any portion thereof, for radio broadcasting and/or the providing of radio broadcast services or (iii) the installation, use, operation or maintenance of the Satellite Transmission System, the Emergency Generator System or the Auxiliary Chillers) and, if the failure to secure such license, permit or certificate would, in any way, adversely affect the Landlord, the Tenant shall, at the Tenant's sole cost and expense, promptly procure and thereafter maintain such license, permit or certificate, submit the same to the Landlord for inspection, and comply with the terms and conditions thereof, and in no event shall Tenant conduct any such business or other activity at the Premises until a validly issued license, permit or certificate therefor has been duly obtained. Anything in this Section 3.4 to the contrary notwithstanding, it shall be the Landlord's obligation to maintain the certificate of occupancy for the Building with respect to use of the Office Space as executive, clerical, general and administrative offices. With respect to any application for any governmental license, permit or certificate required to be obtained hereunder by Tenant, upon the request of the Tenant, the Landlord, at the Tenant's sole cost and expense, shall (y) join in the application therefor and shall sign such application reasonably promptly after request by the Tenant, provided and on the express conditions that the provisions of the applicable Requirement require the Landlord to join in

such application and such application relates to (1) the performance by the Tenant of Alterations in accordance with the terms of this Lease or (2) the ability of the Tenant to use the Premises for the purposes permitted under this Lease, or (3) such application is otherwise reasonably acceptable to the Landlord and (z) otherwise cooperate with the Tenant in obtaining such license, permit or certificate. In addition, if the existence of any violation of any Requirement by reason of any act or omission of the Landlord which is curable by the Landlord (and which is not due, in part, to any act or omission of any Tenant Party), prevents the Tenant from obtaining any governmental license, permit or certificate (including, without limitation, a temporary permit, approval or certificate) required for the legal use by the Tenant of the Premises for the purposes permitted in this Article Three, and the Tenant does not use the Premises, and if such violation is not cured by the Landlord for a period of ten (10) business days after the Landlord's receipt of notice thereof from the Tenant, then, the fixed rent payable hereunder shall be abated in an amount equal to one (1) day's fixed rent for each day after the expiration of such ten (10) business day period that the Landlord fails to cure such violation, and the conditions described in subclauses (A) and (B) of this Section 3.4 remain in effect.

3.5. Neither the Tenant nor any occupant of the Premises shall use the words "Rockefeller" or "Center", or any combination or simulation thereof, for any purpose whatsoever, including (but not limited to) as or for any corporate, firm or trade name, trademark or designation or description of merchandise or services, except that the foregoing shall not prevent the use, in a conventional manner and without emphasis or display, of the words "Rockefeller Center" as part of the Tenant's business address. Neither the Tenant nor any occupant of the Premises shall use the name of the Building or the name of the entity for which the Building is named or any part or abbreviation (including initials) of either such name except that the foregoing shall not prevent the use of the name of the Building or any part thereof, in a conventional manner and without emphasis or display, as a part of the Tenant's or such occupant's business address or by reference in the ordinary course of its business.

ARTICLE FOUR
(4.)Fixtures

4.1. All fixtures, equipment, improvements and installations ("Fixtures") attached to, or built into, the Premises or the Licensed Spaces at the commencement of or during the term of this Lease, whether or not installed at the expense of the Tenant or by the Tenant, shall be and remain part of the Premises or the Licensed Spaces, as the case may be, and be deemed the property of the Landlord; provided, however, that the Tenant may remove or replace such Fixtures. All electric, plumbing, heating, sprinkling, dumbwaiter, elevator, fixtures and outlets, venetian blinds, partitions, railings, gates, doors, vaults, stairs, paneling (including display cases and cupboards recessed in paneling), molding, shelving, radiator enclosures, floors, and ventilating, silencing, air conditioning and cooling equipment shall be deemed to be included

in Fixtures, whether or not attached to or built into the Premises or the Licensed Spaces. Notwithstanding the provisions of the first sentence of this Section 4.1, Tenant shall (a) close up any slab penetration in the Premises or the Building

created by and for the benefit of the Tenant (or any party claiming by or through the Tenant), (b) remove from the Building (i) any raised floors, safes, vault areas, stairways, lead-lined rooms, conveyors, pneumatic tubes, internal elevators, and mechanical and electrical rooms and telephone switchrooms and the equipment therein installed by or for the benefit of the Tenant (or any party claiming by or through the Tenant), (ii) the Emergency Generator System, (iii) the Satellite Transmission System (including, without limitation, rooftop steel dunnage installed to support the portion thereof located on the Penthouse Roof Space) and (iv) all other Fixtures of a nature or type not ordinarily installed in premises used for executive, clerical, general and administrative offices (including, without limitation, supplemental air conditioning equipment, exclusive of electrical conduit and duct work) which have been furnished and installed in any part of the Premises, whether or not attached to or built in the Premises ("Extraordinary Fixtures"), except those Extraordinary Fixtures which, pursuant to the provisions of Section 6.2(a) of this Lease, the Tenant shall not be required to remove from the Building at the end of the term of this Lease, and (c) not remove venetian blinds, radiator enclosures, elevators and any components of the Building systems. All such closing and removal shall be performed, at the Tenant's sole cost and expense, not later than the expiration or termination of the Lease and the removal of Fixtures by the Tenant during the term of this Lease shall be performed subject to the provisions of this Lease, including, without limitation, Section 6.1(e). The Tenant shall repair any damage to the Premises arising from such closing and removal described in the preceding sentence. The reasonable cost of repairing any damage to the Premises or the Building arising from such closing and removal described in the preceding sentences shall be paid by the Tenant upon demand. If any Fixture which as aforesaid may or is required to be removed by the Tenant is not so removed within the time specified therefor in this Section 4.1, then the Landlord may at its election deem that the same has been abandoned by the Tenant to the Landlord, and the Tenant, upon demand, shall pay to the Landlord the reasonable cost and expense of removing the same or the reasonable cost of repairing damage arising from such removal. Anything in this Section 4.1 or elsewhere in this Lease to the contrary notwithstanding, (y) the Landlord may, by notice to the Tenant, prohibit the closing of any slab penetration not theretofore closed and the removal of any or all items the Tenant is required to remove pursuant to this Section 4.1 but has not theretofore removed and (z) the Tenant may (subject to the immediately preceding clause (y)), but shall have no obligation to, remove or pay for the removal of any Salvageable Fixture(s) (as hereinafter defined) if either (i) the Landlord shall fail to notify the Tenant on or before the date which is six (6) months following the expiration or earlier termination of this Lease that the Landlord has elected to require the removal of such Salvageable Fixture(s) or (ii) the Landlord shall enter into a lease with another tenant who or which desires to utilize such Salvageable Fixture(s), provided, however, that, if the Landlord's notice to the Tenant that such removal will be required shall be timely given, but shall be given after the expiration or earlier termination of the term of this Lease, then, the Landlord shall perform such removal and all reasonable costs and expenses incurred by the Landlord in connection the performance by it of such work shall be paid by the Tenant to the Landlord upon demand, provided, however, that, if such work is performed by the Landlord in conjunction with any other work at the Premises, the Tenant's obligation hereunder shall be limited to the amount by which the cost of the removal of the Salvageable Fixtures(s) materially increases (i.e., by more than $50,000.00) the total cost, when performed together, of the performance of such other work and the

removal of such Salvageable Fixtures(s). In order to determine such increased cost, the Landlord shall obtain, from reputable independent contractors selected by Landlord, not less than three (3) bids for such work, each of which shall specify, in addition to the total cost of performing all of the work, the cost of performing the work without the removal of the Salvageable Fixture(s). As used in this Lease, the term "Salvageable Fixtures" means (1) slab cuts, (2) internal staircases, (3) supplemental air conditioning equipment (excluding duct-work), (4) the Emergency Generator System, (5) the Auxiliary Chiller System, (6) the Satellite Transmission System (including, without limitation, the steel dunnage installed to support the portion thereof located on the Penthouse Roof Space) and (7) any Fixtures which, at the time the Landlord designates the same as "Extraordinary Fixtures" (in accordance with the procedure set forth in Section 6.2(a) below) the Landlord also designates the same as "Salvageable Fixtures". Anything in this Section 4.1 or elsewhere in this Lease to the contrary notwithstanding, the Tenant shall be permitted to remove that portion of the Satellite Transmission System (that the Tenant is required under this Lease to remove) from the Penthouse Space and the Penthouse Roof Space within the forty-five (45) day period following the expiration or sooner termination of this Lease; provided, that the Tenant maintains on deposit with the Landlord one or more Deposit L/Cs in accordance with Article Twenty-six below and provisions of this Section 4.1 applicable to the repair of damage to the Building arising from such removal and of Section 6.1(j) shall survive the expiration or sooner termination of this Lease.

4.2. All the perimeter walls of the Premises, any balconies, terraces or

roofs adjacent to the Premises (including any flagpoles or other installations on said walls, balconies, terraces or roofs), and any space adjacent to the Premises used for shafts, stairways, stacks, pipes, conduits, ducts, mail chutes, conveyors, electric or other utilities, sinks, fans or other Building facilities, and the use thereof, as well as access thereto through the Premises (in accordance with the provisions of Section 6.1(c) below) for the purposes of such use and the operation, improvement, replacement, addition, repair, maintenance or decoration thereof, are expressly reserved to the Landlord.

ARTICLE FIVE
(5.)Electric Current and Water

5.1. As an incident to this Lease, the Landlord shall furnish to the Tenant:

(a) through the existing transmission facilities (including existing taps, disconnects and transformers) installed by the Landlord in the Building, alternating electric current to the electric closets and panels provided by the Landlord and serving the Office Space and the Penthouse Space in such reasonable quantity as may be required by the Tenant for the Tenant's ordinary use of the Premises for the purposes herein specified, but such quantity shall not exceed, in the aggregate, six (6) watts of demand power per usable square foot of space in the Office Space, and two (2) watts of demand power per usable square foot of space in the Penthouse Space (each exclusive of the quantity of alternating electric current required to support base Building systems). Subject to the provisions of this Lease, including,

without limitation, Section 6.1(e) below, the Tenant may distribute such six (6) watts of alternating electric current within the Office Space, and such two (2) watts of alternating electric current within the Penthouse Space, in such manner as the Tenant may elect;

(b) alternating electric current to the Basement Space, the Penthouse Roof Space, the Auxiliary Chiller Space and the Emergency Generator Space, as applicable, in accordance with Section 5.4 below; and

(c) additional alternating electric current to the Office Space from a 1,200 ampere supply switch to be designated by the Landlord in the base Building switchgear room on the 38th Floor of the Building, in such reasonable quantity as may be required by the Tenant for the Tenant's ordinary use of the Office Space for the purposes herein specified, provided, that (i) such quantity shall be limited to no more than 1,000 amperes (the "Additional Electric Amount"), which Additional Electric Amount shall be designated by the Tenant in a notice delivered to the Landlord together with the Tenant's Preliminary Drawings (as defined in Section 6.2(a) below) for the Initial Tenant Alterations (the "Additional Electric Amount Load Letter"), and (ii) the Tenant, at the Tenant's sole cost and expense, in compliance with all applicable Requirements, and subject to all of the provisions of this Lease (including, without limitation, Section 6.1(e) and Section 11.1) shall, (A) provide and install all risers, conduit, switches, fuses, (including, without limitation, a fuse located in such switchgear room limiting the amount of alternating electric current available to the Tenant pursuant to this Section 5.1(c) to the Additional Electric Amount) feeders, and/or appurtenances which, in the Landlord's sole (but good faith) judgment, are necessary to bring the Additional Electric Amount from such switchgear room, through a portion of shaft space to be designated by the Landlord in reasonable accordance with the diagram attached hereto as Exhibit A-8, to the electric closet serving the Office Space located on the 37th Floor of the Building. Anything in this Section 5.1(c) to the contrary notwithstanding, if the Tenant fails to deliver the Fused Amount Load Letter to the Landlord together with the Tenant's Preliminary Drawings for the Initial Tenant Alterations, the Landlord shall have no obligation to furnish such additional electric current to the Office Space as described in this Section 5.1(c).

5.2.1. The alternating electric current to be provided to the Office Space and the Penthouse Space pursuant to Section 5.1(a) and Section 5.1(c) above, and any alternating electric current to be provided to the Basement Space, the Penthouse Roof Space, the Auxiliary Chiller Space or the Emergency Generator Space, as the case may be, pursuant to Section 5.1(b) above, shall be measured by an electronic meter or meters and meter equipment (including meter pans and other appurtenant equipment, if applicable) measuring for each such space only electric current furnished to each such space. Such meter(s) and meter equipment for the delivery of alternating electric current to the Office Space and the Penthouse Space pursuant to Section 5.1(a) above shall be provided by the Landlord at a

reasonable expense to the Tenant, and installed, in conjunction with the Initial Tenant Alterations to the Office Space and the Penthouse Space, by the Landlord

(or, upon written notice from the Tenant to the Landlord and subject to the provisions of Section 6.1(e) below and all Requirements, by the Tenant) at the Tenant's expense, in such quantity as the Landlord shall reasonably determine and at such location or locations within the Office Space and the Penthouse Space as the Landlord shall reasonably determine in consultation with the Tenant. Such meter(s) and meter equipment for the delivery of alternating electric current to the Office Space pursuant to Section 5.1(c) above and for the Basement Space, the Penthouse Roof Space, the Auxiliary Chiller Space or the Emergency Generator Space, as the case may be, shall be provided by the Landlord at a reasonable expense to the Tenant, and installed, prior to the Landlord providing alternating electric current to the Office Space pursuant to Section 5.1(c) above and to each such other space, by the Landlord (or, upon written notice from the Tenant to the Landlord and subject to the provisions of Section 6.1(e) below and all Requirements, by the Tenant) at the Tenant's expense, in such quantity as the Landlord shall reasonably determine and at such location or locations within the Office Space pursuant to Section 5.1(c) above and to each such other space as the Landlord shall reasonably determine in consultation with the Tenant. The Tenant shall pay as additional rent to the Landlord, upon demand by the Landlord, at the end of each billing period (the "Applicable Billing Period") of the electric utility service provider then supplying such alternating electric current to the Building (and, if there shall be more than one (1) such electric utility service provider, the electric utility service provider which supplies to the Building the alternating electric current furnished to the Office Space and the Penthouse Space by the Landlord), an amount which shall be the sum of (a) 105% of (i) the product obtained by multiplying the actual number of kilowatt hours of electric current consumed by the Tenant in such Applicable Billing Period by a fraction having as its numerator the amount charged to the Landlord for the Building by said electric utility service provider (net of all rebates, discounts and other monetary benefits received by the Landlord for the Building from said electric utility service provider which are for the benefit of the Building as a whole and not for the particular benefit of one or more tenants (including Tenant) or occupants of the Building) for the total number of kilowatt hours billable to the Landlord for electricity used in the Building in such billing period and as its denominator said total number of kilowatt hours, less (ii) the BIR Amount (as defined in Section 5.2.2. below) for such Applicable Billing Period), and (b) any taxes applicable to the amount determined pursuant to the foregoing clause (a). Anything in the foregoing provisions of Section 5.1(a) or elsewhere in this Lease to the contrary notwithstanding, until such meter(s) for the Office Space and the Penthouse Space are installed and operable, the Tenant shall pay to Landlord as additional rent, for alternating electric current supplied to the Office Space and the Penthouse Space, a sum at the rate of (A) $0.75 per rentable square foot of the Office Space and the Penthouse Space per annum from the term commencement date until the date which is sixty (60) days after the term commencement date, (B) $1.50 per rentable square foot of the Office Space and the Penthouse Space per annum from the day which is sixty-one (61) days after the term commencement date until the day immediately preceding the date on which the Tenant shall substantially complete the construction of the Initial Tenant Alterations (the "Electric Conversion Date") and (C) $3.50 per rentable square foot of the Office Space and the Penthouse Space per annum thereafter, payable in equal monthly installments in advance on the first day of each and every calendar month of the term of this

Lease (except that (x) if the term commencement date shall be other than the first day of a calendar month, the first monthly installment of additional rent for alternating electric current for such space, apportioned for the part month in question, shall be payable on the term commencement date and (y) if the date upon which such meter(s) become operable is other than the last day of a calendar month, the last monthly installment of additional rent for alternating electric current shall be apportioned for the part of the month in question and the Landlord shall, at the Tenant's election, (i) refund to the Tenant the amount of any overpayment or (ii) apply any overpayment toward the next payment of additional rent due pursuant to this Section 5.2.1). At any time, and from time to time after the Electric Conversion Date and prior to the installation of the meter(s), at the Landlord's election, a reputable, independent electrical consultant selected by the Landlord and reasonably acceptable to the Tenant shall make a survey of the electric lighting and connected power load in the Premises and the Licensed Spaces to determine the average monthly electric current consumption therein; provided, that for the purposes of such survey, such independent electrical consultant shall assume that the Tenant uses an average of seventy-five percent (75%) of the total available connected power load in the Premises and the Licensed Spaces. The cost of each such survey shall be borne by the Tenant. The Landlord shall give the Tenant written notice of the findings of such survey and any increase or decrease in the rate at which the Tenant is required to pay for electricity (and, therefore, the amount of any increase or decrease in the fixed rent payable under this Lease) pursuant to the foregoing electric inclusion provision of this Lease; provided, however, that, notwithstanding anything to the contrary in this Section 5.2.1, no adjustment of the electric inclusion amount shall be made which reduces the fixed rent below the amount thereof set forth in Section 1.4 above. The findings of the independent electrical consultant shall be conclusive and binding upon the parties. Any increase or decrease in the electric inclusion amount shall be effective as of the date the change (if any) of connected power load or electric consumption occurred (as determined by the independent electrical consultant) or, if no such change shall have occurred, as of the date of the electrical

survey. In the event of any such increase, (1) the initial unpaid amount of each such increase shall be paid by the Tenant to the Landlord within ten (10) business days after the final determination of the new electric inclusion amount as determined above, and (2) thereafter, the increase shall be added to the fixed rent payable monthly on the first day of every month during the term of this Lease, in advance. In the event of any such decrease, (I) the Landlord shall credit to the Tenant, against the next Rents coming due hereunder, the amount of any overpayment, and (II) thereafter, the decrease shall be subtracted from the fixed rent payable monthly under this Lease; provided, however, that the fixed rent shall in no event be reduced below the amount of fixed rent set forth in Section 1.4 above. If, during the term of this Lease, more than one (1) electric utility service provider is supplying alternating electric current to the Building (each such electric utility service provider other than the electric utility service provider through which the Landlord is then furnishing alternating electric current to the Premises (and, if applicable, any of the Licensed Spaces) is herein called an "Alternate Electricity Provider"), and if, in the Landlord's reasonable judgement, there is available space in the Building (taking into consideration the current and anticipated future needs of all tenants in the Building and of the Building itself) to accommodate all risers, conduits, feeders and other equipment necessary for an Alternate Electricity Provider to provide alternating electric current to the Landlord for the purpose of the Landlord's furnishing the

same to the Tenant in accordance with Section 5.1(a) above, then, with reasonable promptness following receipt of written request therefor from the Tenant (which request the Tenant shall not make more than one (1) time in any twelve (12) month period, the Landlord shall cause the Alternate Electricity Provider designated by the Tenant to supply the Landlord with alternating electric current in such quantity through such equipment and at such point(s) of connections so as to permit the Landlord to furnish alternating electric current to the Premises (and, if applicable, any of the Licensed Spaces) in accordance with this Article Five. The Tenant shall be responsible for, and shall pay to the Landlord upon demand, all reasonable costs incurred by the Landlord in connection with any such replacement of any current electric utility service provider with any Alternate Electricity Provider (including, without limitation, the reasonable cost of installing all necessary risers, conduits, feeders, taps, disconnects, transformers, panels and meters and other equipment and the reasonable cost of Building space necessary to accommodate such equipment), except that, if such equipment provides electric capacity which is in excess of that which is required to service the Premises and any applicable Licensed Space (as determined by an independent electrical consultant selected by the Landlord, whose fee shall be shared equally by the Landlord and the Tenant) at the time such equipment is installed and if (Y) such excess capacity was installed at the request of the Tenant, such costs shall be paid solely by the Tenant and, until the expiration or sooner termination of the term of this Lease, such excess capacity shall be reserved for the use of the Tenant in such manner as the Tenant, in its sole discretion (but subject to the other provisions of this Lease applicable to the Tenant's use of electric current) shall determine, provided, and on the express condition that, the Tenant shall not sell any such excess capacity to, or otherwise permit the use of such excess capacity by, any other person or entity (except for a subtenant of the Tenant), whether or not a tenant in the Building, or (Z) such excess capacity was not installed at the request of the Tenant, such costs shall be equitably apportioned between the Tenant and the Landlord and such excess capacity shall be the sole property of the Landlord to use as the Landlord, in its sole discretion, shall determine, including, without limitation, to provide access to the Alternate Electricity Provider to other tenants in the Building.

5.2.2. As part of the IDA Transaction (as defined in Article Thirty-Seven below), the Tenant is entitled to receive electric energy made available to the Premises (whether through the Landlord or otherwise) by The Consolidated Edison Company ("Con Ed") at a reduced rate pursuant to Con Ed's so-called Business Incentive Rate Program (the "BIR Program"). The Landlord, at the Tenant's sole cost and expense, shall cooperate with the Tenant's efforts to obtain electric energy at such reduced rate; such cooperation to include, without limitation, the execution and delivery by the Landlord of any applications required to apply for the BIR Program, and all such other documents and instruments as shall reasonably be required by the Tenant, Con Ed or the IDA (as defined in Article Thirty-Seven below) in connection therewith; provided, however, that the effect of such applications, documents or instruments shall in no event be to (a) decrease (except to a de minimis extent) the Landlord's rights under this Lease, (b) increase (except to a de minimis extent) the Landlord's obligations under this Lease or (c) adversely affect the current or future supply of electric current to the Building or the rates at which such non-BIR Program electric current may be purchased. In addition, to the extent that the same is required as a condition to the Tenant's right to participate in the BIR Program, the Landlord shall permit the IDA

and Con Ed, and persons authorized by either of them, to enter the part of the Building in which the submeters serving the Premises are located from time to time during Business Hours on reasonable advance notice for the purpose of reading and/or inspecting such submeters. The dollar amount by which the Landlord's electrical bills are reduced by Con Ed (whether such reduction be by way of rebate, discount or other monetary benefit) for any Applicable Billing Period as a result of the Tenant's participation in the BIR Program is referred

to herein as the "BIR Amount". The Tenant shall cause Con Ed to append to the Landlord's electric bills an appropriate notation, or deliver a statement to the Landlord contemporaneously with such bills, to the effect that such reduction in the amount of the BIR Amount is given solely in respect of electric energy consumed by, and is solely for the benefit of, the Tenant. The BIR Amount set forth by Con Ed on the Landlord's electrical bills, or in such statement (if applicable), shall be dispositive as between the Landlord and the Tenant of such BIR Amount. Anything in this Section 5.2.2 or elsewhere in this Lease to the contrary notwithstanding, the Landlord shall have the right at any time, in the Landlord's sole discretion, to discontinue using Con Ed as its electric service provider for the Building.

5.2.3. If any tenant or other occupant of the Building shall claim (each such claim being referred to herein as an "Other Tenant Electric Claim") for any given period (the "Applicable Claim Period") that it is entitled to a reduction in (a) any electricity payment payable with respect to the electricity provided to its premises (whether by way of electric rent inclusion, direct meter or submeter) or (b) its payment on account of the Cost of Operation and Maintenance or any similar escalation payment, in either case, which such tenant or occupant would otherwise be obligated to pay, where the basis for such claimed reduction is that the BIR Program benefits (even though intended for the exclusive benefit of the Tenant) allegedly reduced the total energy costs for the entire Building by the BIR Amount during such Applicable Claim Period (such alleged reduction in the total energy costs for the entire Building (including, without limitation, any alleged reduction in the Cost of Operation and Maintenance for such Applicable Claim Period) being referred to herein as the "BIR Reductions"), then the Landlord shall promptly notify the Tenant of such Other Tenant Electric Claim, including the exact amount (if known) of the reduction being claimed by such tenant (the "Claimed Amount") and the basis for such claim (to the extent known by the Landlord after using reasonable efforts to ascertain the same), and shall deliver to the Tenant copies of any documents, leases, bills and other pertinent information in its possession relating to such Other Tenant Electric Claim. Within thirty (30) days of the Landlord's notice to the Tenant of any Other Tenant Electric Claim (together with the information set forth above), the Tenant shall notify the Landlord whether (y) it intends to dispute such Other Tenant Electric Claim (or the amount thereof that the Tenant wishes to dispute) or (z) pay to the Landlord, as additional rent, the amount of such Claimed Amount for the Applicable Claim Period. If the Tenant shall elect to dispute any Other Tenant Electric Claim (or any portion thereof), then the Tenant shall be permitted to litigate, arbitrate, negotiate and settle such dispute for and in the name of the Landlord, and the Landlord shall execute and deliver such complaints, pleadings, documents, agreements and correspondence as the Tenant may reasonably require in connection therewith, provided that the Tenant shall (A) bear the entire cost of such dispute and any settlement of any such Other Tenant Electric Claim (including, without limitation, all attorneys' fees, disbursements and

costs of litigation) and (B) indemnify, defend and hold harmless the Indemnitees from and against all liability (statutory or otherwise), loss, claims, suits, demands, damages, judgments, costs, interest and expenses (including reasonable counsel fees and disbursements incurred in the defense thereof) to which any Indemnitee may be subject or suffer relating to, or arising out of the Other Tenant Electric Claims, as well as the Claimed Amount, provided, however, that such indemnification obligation under this subclause (B) with respect to any Other Tenant Electric Claim for any given Applicable Claim Period shall be limited to an amount equal to the BIR Amount with respect to the Applicable Claim Period. If the Tenant shall elect to pay any Other Tenant Electric Claim pursuant to clause (z) above, the Tenant shall pay the Landlord, as additional rent, the Claimed Amount; provided, however, that, if the Tenant does not dispute any Claimed Amount for any Applicable Claim Period, the aggregate of all such payments with respect to any Applicable Claim Period shall not exceed the BIR Amount which the Tenant has received the benefit of hereunder with respect to such Applicable Claim Period. If the Tenant fails to elect to either pay or dispute any Claimed Amount within such thirty (30) day period, then the Tenant shall be deemed to have elected to pay such Claimed Amount. Subject to the Tenant's right to dispute any Other Tenant Electric Claim and the Landlord's obligations hereunder with respect to any such dispute, the Tenant agrees that (Y) the Landlord shall have no obligation to challenge or commence or prosecute any action or proceeding against any tenant or occupant of the Building who shall make any Other Tenant Electric Claim, and (Z) the Tenant shall not assert an independent claim against the Landlord or any such tenant or occupant, directly or indirectly (including, without limitation, any claim by way of subrogation), as a result of any claim by such tenant or occupant for a reduction in any electricity payment payable with respect to the electricity provided to its premises and/or a reduction in its payment on account of the Cost of Operation and Maintenance, as aforesaid.

5.2.4. Anything in this Lease to the contrary notwithstanding, if the Landlord shall implement an economic incentive package with respect to electricity for the benefit of another tenant or other occupant of the Building (and if such benefit is passed on to such other tenant or occupant) and, as a result thereof, the energy costs for the Building shall be reduced or abated, in whole or in part, with respect to all or any portion of the Building, then for purposes of calculating the payment required to be made by the Tenant in respect of electricity pursuant to this Lease, the energy costs for the Building shall

be the amount which would have been payable without regard to such reduction or abatement. In addition, any economic incentive package with respect to electricity for the benefit of any tenant (including the Tenant) of the Building shall not be construed to reduce electric charges allocable to the non-demisable portions of the Building for purposes of calculating the Cost of Operation and Maintenance.

5.3. If required by any Requirement, the Landlord shall, upon not less than thirty (30) days' prior notice, but in no event prior to such time as the Tenant may obtain alternating electric current directly from an electrical utility service provider then serving the Building, discontinue the furnishing of alternating electric current to the Premises or any part thereof. In such event, the Tenant shall contract for the supplying of such alternating electric current to the Premises with an electrical utility service provider then supplying

alternating electric current to the Building; and the Landlord shall permit its wires, risers, conduits and feeders, switchboards and appurtenances serving the Premises, to the extent safely capable, to be used for the purpose of supplying such alternating electric current and the Landlord shall be responsible for the costs and expenses associated with any such conversion, excluding any increase in rates charged to the Tenant by any such electric utility service provider occasioned by reason of such conversion.

5.4. If the Tenant shall require electric current for use in (Y) the Office Space and/or the Penthouse Space in excess of such reasonable quantity required to be furnished as provided in Section 5.1(a) above, or (Z) the Basement Space, the Penthouse Roof Space, the Auxiliary Chiller Space or the Emergency Generator Space, as the case may be, and provided that (a) the Landlord is not prohibited from furnishing additional electric current to any such space by any applicable Requirement, (b) the supply of the additional electric current required by the Tenant is permitted and, to the extent not then available in the Building, will be made available by the electric utility service provider furnishing electric current to the Building, and (c) in the Landlord's reasonable judgment (taking into consideration the current and anticipated future needs of all tenants of the Building and of the Building itself) such electric current is not required to be reserved for other uses, the Landlord shall make such excess load available to the Tenant at no additional charge, except for the increased additional rent to be charged the Tenant, in accordance with Section 5.2.1 hereof, for such additional alternating electric current furnished to any such space by reason of the Tenant's increased usage. In addition to the foregoing charges, if, in the Landlord's reasonable judgment, such additional electric current cannot be furnished unless additional risers, conduit, feeders, switchboards and/or appurtenances are installed in the Building, the Landlord, upon request of the Tenant, will proceed with reasonable diligence to install such additional risers, conduits, feeders, switchboards and/or appurtenances, provided the same and the use thereof shall be permitted by all laws, ordinances, rules, orders and regulations of all governmental and quasi-governmental authorities and of all insurance bodies, at any time duly issued and in force, applicable to the Land, the Building or the Premises or any part thereof, to the Tenant's use thereof or to the Tenant's observance of any provision of this Lease (collectively, "Requirements") and shall not cause damage or injury to the Building or the Premises or cause or create a dangerous or hazardous condition or entail excessive or unreasonable alterations or repairs or interfere with or disturb other tenants or occupants of the Building, and the Tenant shall pay, upon demand, all reasonable costs and expenses incurred by the Landlord in connection with such installation (and shall maintain on deposit with the Landlord such security for the payment by the Tenant of all such costs and expenses as the Landlord shall from time to time reasonably request), except that to the extent such equipment provides electric capacity which is in excess of that which is required to provide the additional electric current requested by the Tenant (as determined by an independent electrical consultant selected by the Landlord, whose fee shall be shared equally by the Landlord and the Tenant), such costs shall be equitably apportioned between the Tenant and the Landlord and such excess capacity shall be the sole property of the Landlord to use as the Landlord, in its sole discretion, shall determine, including, without limitation, to provide electric service to other tenants in the Building; provided, that the Tenant may, at its expense, install such additional risers, feeders, switchboards and/or appurtenances (and all work and actions in connection therewith shall be subject to the provisions of this Lease,

including, without limitation, Section 6.1(e) below). The Tenant shall purchase and install all lamps, starters and ballasts (including replacements thereof) used in the lighting fixtures in the Premises.

5.5. Water will be furnished by the Landlord for normal use in the pantries and lunchrooms, lavatory and toilet facilities, and drinking fountains if any, in the Office Space. If the Tenant otherwise uses (i.e., the quantity of water used by the Tenant exceeds, by more than a de minimis amount, normal use for the purposes specified, or water is used for purposes other than the purposes specified, in the first sentence of this Section 5.5) water furnished to the Office Space by the Landlord ("Extra Water"), the Tenant shall pay (i) the cost of supplying, installing and maintaining a meter to measure Extra Water, (ii) the reasonable charges of the Landlord for Extra Water and for any

required pumping and heating thereof, and (iii) any taxes, sewer rent or other charges which may be imposed by any government or agency thereof based upon the quantity of Extra Water so used by the Tenant or the charge therefor.

5.6. The Landlord shall in no way be liable for any failure, inadequacy or defect in the character or supply of electric current or water furnished pursuant to this Article Five, except for actual damage suffered by the Tenant by reason of any such failure, inadequacy or defect caused by the negligence or wilful misconduct of the Landlord or its employees, contractors or agents acting, respectively, within the scope of their employment, contract or agency (each, a "Landlord Party") .

ARTICLE SIX
(6.)Various Covenants

6.1. The Tenant shall:

(a) take good care of the Premises and the Licensed Spaces, keep clean the portions of the Premises and the Licensed Spaces which the Landlord is not required by this Lease to clean, and pay the cost of making good any injury, damage or breakage (including, without limitation, the cost of removing stains from floors and walls) done by the Tenant, any other occupant of the Premises or user of the Licensed Spaces (other than the Landlord), any affiliate thereof, or any of their respective employees, officers, directors, partners, contractors, agents, licensees or invitees (each, a "Tenant Party"), other than any damage with respect to which the Tenant is released from liability pursuant to Section 9.3;

(b) observe and comply with the rules and regulations annexed to, and made a part of, this Lease and such other and further reasonable rules and regulations as the Landlord hereafter at any time may make and communicate to the Tenant and which, in the reasonable judgment of the Landlord, shall be necessary or desirable for the reputation, safety, care or appearance of the Building, or the preservation of good order therein, or the operation or

maintenance of the Building, or the equipment thereof, or the comfort of tenants or others in the Building; provided, however, that in the case of any conflict between the provisions of this Lease and any such rule or regulation, the provisions of this Lease shall control, and provided further that the Landlord shall not enforce any rule or regulation against the Tenant which it is not generally then enforcing against all other office tenants in the Building;

(c) permit the Landlord, any landlord under any of the underlying leases, any mortgagee under any of the underlying mortgages and any other party designated by the Landlord, and their respective representatives (including, without limitation, their respective employees, agents and contractors), to enter the Premises and/or enter upon the Licensed Spaces (i) during Business Hours, upon reasonable prior notice to the Tenant for the purposes of inspection, and (ii) at any time that will not unreasonably interfere with the normal conduct of the Tenant's business (except in the event of an emergency, in which event they may enter at any time), or otherwise at any time after Business Hours, upon reasonable prior notice to the Tenant (except in the event of an emergency, in which event the Landlord shall use reasonable efforts to give the Tenant such notice as the circumstances reasonably permit), for the purpose of complying with any Requirement or exercising any right reserved to the Landlord under Article Eight or elsewhere by this Lease (it being understood that the parties specified in this subsection are third-party beneficiaries of the covenants specified in this subsection in the event of the Landlord's breach of any obligation the Landlord may have to any such party to exercise a right of access on such party's behalf); provided, however, that (A) except in the event of an emergency, and provided the same does not unreasonably delay access to the Premises, the Landlord, such parties and their representatives shall, at the election of the Tenant, be accompanied by a representative of the Tenant, (B) the Tenant may, from time to time on reasonable prior written notice to the Landlord, designate areas within the Premises that contain sensitive broadcasting, communications or computer equipment as "secured areas", as to which the Landlord, such parties and their representatives, except in the event of an emergency, shall not be permitted access (it being understood by the Tenant that, notwithstanding anything to the contrary in this Lease, if, and for as long as, any portion of the Premises is designated as a secured area the Landlord shall have no obligation to provide cleaning services, or any other services requiring access, to such portion of the Premises) and (C) the Tenant may, from time to time on reasonable prior written notice to the Landlord, designate (1) areas within the Premises that are to be used for the conduct of live broadcasting as "live broadcasting

areas" and (2) times during the day when the Tenant is conducting live broadcasting as "live broadcasting hours", during which hours the Landlord, such parties and their representatives, except in the event of an emergency, shall not be permitted access to the live broadcasting areas (it being understood by the Tenant that,

notwithstanding anything to the contrary in this Lease, if, and for as long as, any portion of the Premises is designated as a "live broadcasting area" the Landlord shall have no obligation to provide cleaning services, or any other services requiring access, to such portion of the Premises during live broadcasting hours and, if live broadcasting hours prevent the Landlord from providing any such service(s) at the times the same are customarily provided to tenants in the Building, the Tenant shall have the option either to waive the Landlord's obligation to provide such services or to contract with Landlord or Landlord's designee for such services and, in the latter case, the Tenant shall pay to the Landlord as additional rent hereunder upon demand by the Landlord all overtime and all other increased costs incurred by the Landlord in providing such services);

(d) make no claim against the Landlord or any landlord under any of the underlying leases for any injury or damage to the Tenant or to any other person or for any damage to, or loss (by theft or otherwise) of, or loss of use of, any property of the Tenant or of any other person, irrespective of the cause of such injury, damage or loss, unless caused by the negligence or wilful misconduct of a Landlord Party in the operation or maintenance of the Premises or the Building, it being understood that no property other than such as might normally be brought upon or kept in the Premises as an incident to the reasonable use of the Premises for the purposes specified in this Lease will be brought upon or kept in the Premises;

(e) without the prior consent of the Landlord, be permitted to make any alteration, addition, improvement, repair or replacement (an "Alteration") in the nature of decorative changes (such as painting, floor coverings, wallcoverings and furniture rearrangement) in, to, or about the Premises provided that, (i) the same does not affect any beam, girder, column, bearing wall, bearing partition, exterior wall or other structural element of the Building, or the air conditioning, ventilating, heating, steam, electric, water or other system of the Building, and (ii) the workmanship and material used in making any such Alteration shall be at least equal to the standard therefor, if any, adopted by the Landlord for the Building; make no other Alteration, in, to, or about, the Premises or any of the Licensed Spaces, and do no work in such connection, without in each case the prior review and consent of the Landlord to the final working drawings and specifications for such Alteration (subject to, and in accordance with, the provisions of Section 6.2 below), and then only by workmen and contractors of the Landlord or by workmen and contractors of the Tenant reasonably acceptable to the Landlord [it being agreed by the parties to this Lease that if, after the Tenant shall have given a written Notice to the Landlord requesting the Landlord's consent to any such contractor, which Notice requirement shall be satisfied by the Tenant delivering such written Notice to Rockefeller Center Management Corporation, 1221 Avenue of the Americas, New York, New York 10020-1095 Attention: Senior Vice President - Operations, with a copy to

Rockefeller Center Management Corporation, 1221 Avenue of the Americas, New York, New York 10020-1095 Attention: Secretary, the Landlord shall not consent to such contractor, then the Landlord shall so notify the Tenant (which notice shall set forth with reasonable specificity the reasons for the Landlord's withholding its consent) within five (5) business days after the Landlord's receipt of the Tenant's request therefor, except that the Landlord shall not be in default in the performance of its obligations under Section 6.1(e) unless and until the Tenant shall have notified the Landlord in writing of the Landlord's failure to so notify the Tenant within such five (5) business day period, which notice shall prominently include in bold type the following:

> "THIS IS A SECOND REQUEST FOR CONSENT TO A PROPOSED CONTRACTOR PURSUANT TO SECTION 6.1(e) OF THE LEASE. THE LANDLORD'S RESPONSE IS REQUIRED TO BE GIVEN NOT LATER THAN THREE (3) BUSINESS DAYS AFTER RECEIPT OF THIS SECOND REQUEST OR THE LANDLORD'S CONSENT TO THE PROPOSED CONTRACTOR WILL BE DEEMED GIVEN"

and the Landlord shall fail to so notify the Tenant within a further period of three (3) business days after the Landlord's receipt of such second notice, in which event the Tenant's sole remedy for the

Landlord's default in so notifying the Tenant shall be that the contractor with respect to which the Landlord's consent is sought shall be deemed consented to by the Landlord], and in a manner and upon terms and conditions and at times, reasonably approved by the Landlord (it being understood that the performance by the Tenant at any time during Business Hours of Alterations that have otherwise been approved by the Landlord, other than Alterations requiring the performance of work that is not customarily performed during Business Hours (e.g., core drilling) and Alterations requiring the performance of work which the Landlord reasonably determines would unreasonably interfere with the normal conduct of other tenants' business or with the normal operation of the Building, shall be deemed to be reasonably approved by the Landlord), and make no contract for, nor employ, any labor in connection with the maintenance, cleaning or other servicing of the Premises without like consent, which consents and approvals shall not be unreasonably withheld or delayed; notwithstanding anything in this Lease to the contrary, make all changes (once approved by the Landlord), whether or not structural and whether or not in the Premises and the Licensed Spaces, required by any Requirement as a result of any Alteration; pay as and when the same become due and payable all charges incurred by Tenant in connection with any Alteration(s) and pay or reimburse to the Landlord the

Landlord's reasonable out-of-pocket charges payable or paid to unrelated third parties for making such reviews and inspections as the Landlord may reasonably deem necessary or desirable in connection with the consideration of the granting of, and compliance with, any such consent (provided, however, that the Tenant shall not be obligated to reimburse the Landlord for any such out-of-pocket charges incurred in connection with any of Initial Tenant Alterations to the Office Space which are of a nature or type ordinarily installed in premises used for executive, clerical, general and administrative offices or which do not otherwise affect any beam, girder, column, bearing wall, bearing partition, exterior wall or other structural element of the Building, or the air conditioning, ventilating, heating, steam, electric, water or other system of the Building); if any notice or claim of any lien be given or filed by or against the Building or the Land for any work, labor or services performed, or for any materials, products or equipment used, furnished or manufactured for use, therein or thereon or in connection with the performance of any Alteration, promptly, but in all events within thirty (30) days after receiving notice thereof, discharge or remove the same by payment, bonding or otherwise; notwithstanding any such consent or approval, not permit the use of any contractors, workmen, labor, material or equipment in the performance of any thereof if the use thereof, in the Landlord's reasonable judgment, will disturb harmony ("Labor Harmony") with any trade engaged in performing any other work, labor or service in or about the Building or contribute to any labor dispute; permit no such work to be undertaken in connection with any Alteration unless insurance protecting the Tenant and each of the Tenant's consultants, contractors and subcontractors, and the Indemnitees (as defined in Section 6.1(j) below), against liability for worker's compensation and for bodily injuries and death, as well as for property damage arising our of or in connection with the performance and completion of such Alteration, shall be procured and maintained in full force and effect throughout the prosecution thereof, at the sole cost and expense of the Tenant and/or its consultants, contractors and subcontractors (all such insurance to be commercially reasonable as to form, amounts and insurers and reasonably acceptable to the Landlord) and the Tenant shall furnish to the Landlord certificates of such insurance prior to the commencement of such work; and deliver, within thirty (30) days after completion of any Alteration that is not purely decorative in nature, as-built plans and specifications of the Premises and the Licensed Spaces reflecting the Alteration prepared on an Autocad (or similar compatible) Computer Assisted Drafting and Design ("CADD") System using naming conventions issued by the American Institute of Architects ("AIA") in June 1990 (or such other naming convention as may be adopted) and magnetic computer media of such "as-built" drawings and specifications, translated into DXF format or other format selected by the AIA;

(f) not violate, or permit the violation of, any condition imposed by the standard fire insurance policy issued for office buildings in the Borough of Manhattan, New York, N. Y., and not do, suffer or permit anything to be done, or keep, suffer or permit anything to be kept, in the Premises or any of the Licensed

Spaces, which, in the Landlord's reasonable judgment constitutes a threat to life, health or safety or materially and adversely affects the Building, or which would increase the fire or other casualty insurance rate on the Building or property therein (unless the Tenant pays the amount of any such increase to the Landlord upon

demand), or which would result in insurance companies of good standing refusing to insure the Building or any such property in amounts and against risks as reasonably determined by the Landlord;

(g) upon prior notice to the Tenant, permit the Landlord to show the Premises (other than secured areas, or live broadcasting areas during live broadcasting hours) at reasonable times during Business Hours (as hereinafter defined) to any lessee, or any prospective purchaser, lessee, mortgagee or assignee of any mortgage or underlying lease, of the Building and/or the Land or of the Landlord's interest therein, and their representatives, and during the 12 months preceding the expiration of this Lease with respect to any part of the Premises (other than secured areas, or live broadcasting areas during live broadcasting hours) similarly show such part to any person contemplating the leasing of all or a portion of the same;

(h) at the expiration or any earlier termination of this Lease with respect to any part of the Premises or any part of the Licensed Spaces, terminate its occupancy and/or use (as applicable) of, and quit and surrender to the Landlord, such part of the Premises and such part of the Licensed Spaces broom-clean and without the Tenant having committed intentional waste therein (except for (1) ordinary wear and tear, and (2) provided that the Tenant shall pay to the Landlord all net insurance proceeds received by the Tenant (other than proceeds of insurance covering the Tenant's personal property, trade fixtures and other property, if any, which remains the property of the Tenant and may, or is required to, be removed from the Premises or any of the Licensed Spaces by the Tenant at the end of the term of this Lease), and assign to the Landlord the right to receive all uncollected insurance proceeds payable as a result thereof, loss or damage by fire or other casualty which shall not have been occasioned by the fault of any Tenant Party or with respect to which the Tenant is released from liability pursuant to Section 9.3); provided, however, that the Tenant shall have no obligation to restore such part of the Premises or the Licensed Spaces to the condition existing as of the commencement of the term of this Lease, or to remove any Alteration to the Premises or the Licensed Spaces, except (i) as set forth in Section 4.1 above and (ii) as otherwise specifically set forth in this Lease;

(i) and the Landlord shall, at any time and from time to time upon not less than twenty (20) days' prior notice from the Landlord or the Tenant, whichever is the requesting party, execute, acknowledge and deliver to the requesting party a statement of the non-requesting party (or if the non-requesting party is a corporation or a partnership, an appropriate officer or partner, as the case may be, of such party) 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), and the dates to which the Rent has been paid in advance, if any, stating whether or not to the best knowledge of the signer of such certificate the requesting party is in default in the keeping, observance or performance of any provision contained in this Lease and, if so, specifying each such default, and such other information as the requesting party may reasonably request, it being intended that any such statement may be relied upon by any landlord under any underlying lease (as defined in Article Thirteen hereof) or any lessee or mortgagee, or any prospective purchaser, lessee, mortgagee or assignee of any underlying mortgage (as defined in Article Thirteen hereof); provided, however, that neither party shall have any liability by reason of any such statement made by such party being untrue (except if such statement was made negligently or in bad faith), but such statement shall, nevertheless, serve to estop the party that made the same from contradicting the contents thereof;

(j) indemnify, and save harmless, the Landlord, and its agents and partners and its and their respective contractors, licensees, invitees, servants, officers, directors, agents and employees, any mortgagee under any underlying mortgage and any landlord under any of the underlying leases (the "Indemnitees") from and against all liability (statutory or otherwise), claims, suits, demands, damages, judgments, costs, interest and expenses (including reasonable counsel fees and disbursements incurred in the defense thereof) to which any Indemnitee may (except to the extent arising out of the negligence of any Indemnitee or willful misconduct of any Indemnitee) be subject or suffer whether by reason of, or by reason of any claim for, any injury to, or death of, any person or persons or damage to property (including any loss of use thereof) or otherwise arising from or in connection with the (i) use of, or from any work or thing whatsoever done in, any part of the Premises or at or from any Licensed Space, the Emergency Access Route or the

Standard Access Easement Area (other than by an Indemnitee) or (ii) the negligence or wilful misconduct of the Tenant or any Tenant Party in the Building, during the term of this Lease or during the period of time, if any, prior to the commencement of such term that the Tenant may have been given access to such part for the purpose of doing work or otherwise, or as a result of any Tenant Party performing any such work or otherwise that subjects any Indemnitee to any Requirement to which such Indemnitee would not otherwise be subject, or arising from any condition of the Premises, the Licensed Spaces, the Emergency Access Route, the Standard Roof Access Easement Area, the Satellite Transmission System, the Auxiliary Chiller System or the Emergency Generator System due to, or resulting from, any default by the Tenant in the keeping, observance or performance of any provision contained in this Lease or from any act or negligence of any Tenant Party, provided, however, that insofar as the foregoing indemnity applies to damage to the Landlord's property, the same shall be subject to the provisions of Section 9.3 below; and

(k) maintain, at all times during the term of this Lease and during any other times the Tenant is granted access to the Premises or the Licensed Spaces, a policy or policies of commercial general liability insurance (including, without limitation, insurance of the Tenant's contractual liability under this Lease and such insurance as the Landlord reasonably may require with respect to the Emergency Access Route, the Standard Roof Access Easement Area, the Satellite Transmission System, the Auxiliary Chiller System and the Emergency Generator System) with the premiums fully paid on or before the due date, issued by a reputable insurance company licensed to do business in the State of New York, having a minimum rating A-/X by A.M. Best & Company or such other financial rating as the Landlord may at any time consider appropriate, and reasonably acceptable to the Landlord. Such insurance shall afford minimum limits as the Landlord may reasonably designate from time to time, but in no event less than $3,000,000 per occurrence with a $5,000,000 aggregate in respect of injury or death to any number of persons and not less than $3,000,000 for damage to or loss of use of property in any one occurrence. Each such policy shall provide that it cannot be cancelled without 30 days' prior notice to the Landlord and shall name the Indemnitees and such other designees (including, without limitation, McGraw-Hill with respect to the Emergency Access Route) as the Landlord may from time to time designate as additional insureds thereunder. The Tenant shall furnish original certificates of such insurance to the Landlord prior to the term commencement date (or any date on which the Tenant is granted earlier access) and thereafter not more than thirty (30) days after the inception of each such policy and any renewals or replacements thereof (except with respect to any assignee or sublessee of the Tenant in which case such original, renewal or replacement certificates shall be provided to the Landlord thirty (30) days prior to the term comencement date or expiration of a prior policy, as the case may be).

6.2. The provisions of this Section 6.2 shall apply to any proposed Alteration (including, without limitation, the Initial Tenant Alterations) in any portion of the Premises or any of the Licensed Spaces for which the prior review and consent of the Landlord is required pursuant to Section 6.1(e) above and Article Thirty-one below. All working drawings and specifications, whether preliminary (as described in Section 6.2(a) below), final (as described in Section 6.2(b) below) or resubmissions (as described in Section 6.2(c) below) shall be prepared by a competent architect licensed in the State of New York (in consultation with a competent engineer licensed in the State of New York where required by the nature of the work), reasonably acceptable to the Landlord (any such architect is sometimes referred to herein as an "Acceptable Architect"), who shall be engaged by the Tenant and who, at the Tenant's expense, shall furnish all architectural and engineering services necessary for the preparation of said working drawings and specifications and in connection with securing the Landlord's consent thereto and with the securing by the Tenant of such approvals as by reason of the nature of the work shown on said working drawings and specifications, may be required from the Department of Buildings of the City of New York and any governmental and quasi-governmental authorities.

(a) If the Tenant desires to perform any proposed Alteration governed by this Section 6.2, the Tenant shall submit to the Landlord (which submission requirement shall be satisfied by the Tenant delivering such submission to Rockefeller Center Management Corporation, 1221 Avenue of the Americas, New York, New York 10020-1095 Attention: Senior Vice President - Operations, with a copy to Rockefeller Center Management Corporation, 1221 Avenue of the Americas, New York, New York 10020-1095 Attention: Secretary) preliminary architectural and mechanical working drawings and specifications (i.e., working drawings and specifications which are at least seventy-five percent (75%) complete) for the proposed Alterations ("Preliminary Drawings"). The Landlord shall notify the Tenant of any comments that the Landlord may have with respect to such Preliminary Drawings within ten (10) business days after receipt by such

Senior Vice President - Operations and Secretary of Rockefeller Center Management Corporation of such submission of Preliminary Drawings, except that the Landlord shall not be in default of its obligations under this Section 6.2(a) unless and until the Tenant shall have notified such Senior Vice President - Operations and Secretary in writing of the Landlord's failure to so notify the Tenant within such ten (10) business day period, which notice shall prominently include in bold type the following:

> "THIS IS A SECOND REQUEST FOR THE LANDLORD TO NOTIFY THE TENANT IN ACCORDANCE WITH SECTION 6.2(a) OF THE LEASE OF ANY COMMENTS THAT THE LANDLORD MAY HAVE WITH RESPECT TO PRELIMINARY WORKING DRAWINGS AND SPECIFICATIONS SUBMITTED BY THE TENANT RELATING TO A PROPOSED ALTERATION TO BE PERFORMED BY THE TENANT. THE LANDLORD'S RESPONSE IS REQUIRED TO BE GIVEN NOT LATER THAN FIVE (5) DAYS AFTER RECEIPT OF THIS REQUEST OR THE TENANT SHALL BE ENTITLED TO EXERCISE THE REMEDIES SET FORTH IN SECTION 6.2(a) OF THE LEASE"

and the Landlord shall fail to so notify the Tenant within a further period of five (5) days after receipt by such Senior Vice President - Operations and Secretary of such second request, in which case the Tenant's sole remedies for the Landlord's default under this Section 6.2(a) shall be that (y) the Tenant shall be entitled to submit the final working drawings and specifications with respect to the proposed Alteration immediately or at any time after the occurrence of such default and (z) the period of five (5) business days provided in Section 6.2(c) below shall be reduced to three (3) business days and the provisions of Section 6.2(c) shall be applied accordingly; provided, however, that if the Landlord shall fail to complete its review of the Preliminary Drawings and notify the Tenant of its comments with respect thereto within such periods of ten (10) business days and five (5) days by reason of Force Majeure or Tenant Delay, then the periods within which the Landlord must so notify the Tenant shall be automatically extended by the period of such Force Majeure or Tenant Delay.

(b) After receipt of the Landlord's comments with respect to any preliminary working drawings and specifications, the Tenant shall submit to the Landlord (which submission requirement shall be satisfied by the Tenant delivering such submission to Rockefeller Center Management Corporation, 1221 Avenue of the Americas, New York, New York 10020-1095 Attention: Senior Vice President - Operations, with a copy to Rockefeller Center Management Corporation, 1221 Avenue of the Americas, New York, New York 10020-1095 Attention: Secretary) final working drawings and specifications (i.e., working drawings and specifications that are one hundred percent (100%) complete) for the proposed Alteration, which final working drawings and specifications shall (i) be sufficiently detailed so as to permit the Landlord to assess such proposed Alteration and whether the same is consistent with the design, construction and equipment of the Building and in conformity with the Building's structural elements and Building systems and in compliance with all Requirements, and (ii) provided that such comments were timely made, address the Landlord's comments with respect to the preliminary working drawings and specifications. If, after the Tenant shall have submitted to such Senior Vice President - Operations and Secretary of Rockefeller Center Management Corporation such final working drawings and specifications and all other information reasonably required by the Landlord to assess any proposed Alteration, the Landlord shall not consent to such proposed Alteration, then the Landlord shall so notify the Tenant (which notice shall set forth with reasonable specificity the reasons for the Landlord's withholding its consent) within fifteen (15) business days after the Landlord's receipt of such final working drawings and specifications, except that the Landlord shall not be in default in the performance of its obligations under this Section 6.2(b) unless and until the Tenant shall have notified such Senior Vice President - Operations and Secretary in writing of the Landlord's failure to so notify the Tenant within such fifteen (15) business day period, which notice shall prominently include in bold type the following:

> "THIS IS A SECOND REQUEST FOR CONSENT TO A PROPOSED ALTERATION. THE LANDLORD'S RESPONSE IS REQUIRED TO BE GIVEN NOT LATER THAN FIVE (5) DAYS AFTER RECEIPT OF THIS SECOND REQUEST OR THE LANDLORD'S CONSENT TO THE PROPOSED ALTERATION WILL BE DEEMED GIVEN"

and the Landlord shall fail to so notify the Tenant within a further period of five (5) days after receipt by such Senior Vice President - Operations and Secretary of such second notice, in which event the Tenant's sole remedy for the Landlord's default under this Section 6.2(b) shall be that the Alteration with respect to which the Landlord's consent is sought shall be deemed consented to; provided, however, that if the

Landlord shall fail to so notify the Tenant within such periods of fifteen (15) business days and five (5) days by reason of Force Majeure or Tenant Delay, then the periods within which

the Landlord must so notify the Tenant shall be automatically extended by the period of such Force Majeure or Tenant Delay; it being further understood that any dispute as to the reasonableness of the Landlord's withholding of any such consent shall be resolved by the expedited dispute resolution procedure set forth in Section 25.13 below. All final working drawings and specifications submitted by the Tenant for the Landlord's approval pursuant to this Section 6.2(b) shall be accompanied by a separate written Notice from the Tenant to the Landlord (which Notice requirement shall be satisfied by the Tenant delivering such written Notice to Rockefeller Center Management Corporation, 1221 Avenue of the Americas, New York, New York 10020-1095 Attention: Senior Vice President - Operations, with a copy to Rockefeller Center Management Corporation, 1221 Avenue of the Americas, New York, New York 10020-1095 Attention: Secretary), which Notice shall state that the accompanying final working drawings and specifications are being delivered for the Landlord's approval and shall prominently set forth in bold type the following:

> "UNLESS THE LANDLORD NOTIFIES THE TENANT, TOGETHER WITH ITS APPROVAL OF THE ATTACHED FINAL WORKING DRAWINGS AND SPECIFICATIONS, WHICH OF THE `EXTRAORDINARY FIXTURES' SHOWN THEREON MUST BE REMOVED PURSUANT TO SECTION 4.1 OF THE LEASE AT THE END OF THE TERM OF THE LEASE, THE LANDLORD WILL BE DEEMED TO HAVE WAIVED THE RIGHT TO REQUIRE THE TENANT TO REMOVE ANY SUCH `EXTRAORDINARY FIXTURES'; AND UNLESS THE LANDLORD NOTIFIES THE TENANT WHICH OF THE `EXTRAORDINARY FIXTURES' SHOWN THEREON ARE SALVAGEABLE FIXTURES, THE LANDLORD WILL BE PRECLUDED FROM DESIGNATING SUCH `EXTRAORDINARY FIXTURES' AS SALVAGEABLE FIXTURES."

If the Tenant shall fail to include such a Notice with any submission of final working drawings and specifications at the time the same are submitted to the Landlord, the Landlord shall have the right to require the Tenant to remove any or all of the Extraordinary Fixtures shown on such working drawings and specifications from the Building, and to designate any such Extraordinary Fixtures as Salvageable Fixtures, at the end of the term of this Lease. If the Tenant shall include such a Notice with its final working drawings and specifications, then (i) the Tenant shall be required to remove only those Extraordinary Fixtures which the Landlord notifies the Tenant in the Landlord's approval of such working drawings and specifications must be removed at the end of the term of this Lease and (ii) the Landlord shall be precluded from designating as Salvageable Fixtures any Extraordinary Fixtures which the Landlord fails to designate as Salvageable Fixtures in the Landlord's approval of such final working drawings and specifications.

(c) After receipt of any notice from the Landlord that the Landlord does not consent to any proposed Alteration which is the subject of final working drawings and specifications submitted to the Landlord in accordance with Section 6.2(b) above (or resubmitted working drawings and specifications submitted to the Landlord in accordance with this Section 6.2(c)), the Tenant shall (i) revise such final working drawings and specifications relative to the aspects of the proposed Alteration to which the Landlord shall have objected and resubmit such final working drawings and specifications to the Landlord (which submission requirement shall be satisfied by the Tenant delivering such submission to Rockefeller Center Management Corporation, 1221 Avenue of the Americas, New York, New York 10020-1095 Attention: Senior Vice President - Operations, with a copy to Rockefeller Center Management Corporation, 1221 Avenue of the Americas, New York, New York 10020-1095 Attention: Secretary). If the Landlord shall not consent to the proposed Alteration which is the subject of such resubmitted final working drawings and specifications, then the Landlord shall so notify the Tenant (which notice shall set forth with reasonable specificity all of the aspects of the proposed Alteration to which the Landlord continues to object and the reasons therefor) within five (5) business days after receipt by such Senior Vice President - Operations and Secretary of such resubmitted final working drawings and specifications, except that the Landlord shall not be in default in the performance of its obligations under this Section 6.2(b) unless and until the Tenant shall have notified such Senior Vice President - Operations and Secretary in writing of the Landlord's failure to so notify the Tenant within such five (5) business day period, which notice shall prominently include in bold type the following:

> "THIS IS A SECOND REQUEST FOR CONSENT TO A PROPOSED ALTERATION. THE LANDLORD'S RESPONSE IS REQUIRED TO BE GIVEN NOT LATER

THAN THREE (3) BUSINESS DAYS AFTER RECEIPT
OF THIS SECOND REQUEST OR THE LANDLORD'S
CONSENT TO THE PROPOSED ALTERATION WILL BE
DEEMED GIVEN"

and the Landlord shall fail to so notify the Tenant within a further period of three (3) business days after receipt by such Senior Vice President - Operations and Secretary of such second request, in which event the Tenant's sole remedy for the Landlord's default under this Section 6.2(b) shall be that the Alteration with respect to which the Landlord's consent is sought shall be deemed consented to; provided, however, that if the Landlord shall fail to so notify the Tenant within such period of five (5) business days and three (3) business days by reason of Force Majeure or Tenant Delay, then the periods within which the Landlord must so notify the Tenant shall be automatically extended by the period of such Force Majeure or Tenant Delay; it being further understood that any dispute as to the reasonableness of the Landlord's withholding of

any such consent shall be resolved by the expedited dispute resolution procedure set forth in Section 25.13 below.

(d) Working drawings and specifications for each proposed Alteration, as finally consented, or deemed consented to pursuant to Section 6.2(b) or Section 6.2(c) above, are herein called "Working Drawings."

ARTICLE SEVEN
(7.)Assignment, Mortgaging, Subletting, etc.

7.1. Except as otherwise permitted in this Article Seven, the Tenant covenants, for the Tenant and its successors, assigns and legal representatives, that, without the prior written consent of the Landlord in each instance, neither this Lease nor the term and estate hereby granted, nor any part hereof or thereof, nor any of the licenses hereby granted will be assigned, mortgaged, pledged, encumbered or otherwise transferred (it being agreed that (y) issuance by the Tenant of stock and/or the transfer of already-issued stock/partnership interests, in one or more transactions so as to (i) transfer (directly or indirectly) control of the Tenant or (ii) transfer 50% or more of an interest in the Tenant, other than through over-the-counter or national securities exchange transactions, or (z) sale or transfer of 25% or more of the assets of the Tenant in one or more transactions, other than in the ordinary course of business, shall, in any of the events described in the foregoing clauses (y) and (z), be deemed an assignment of this Lease), and that neither the Premises nor the Licensed Spaces, nor any part of the Premises or any of the Licensed Spaces, will be encumbered in any manner by reason of any act or omission on the part of the Tenant, or will be used or occupied, or permitted to be used or occupied, or utilized for desk space, for mailing privileges or as a concession, by anyone other than the Tenant; provided, however, that (a) an assignment or transfer of this Lease and the term and estate hereby granted, together with the licenses hereby granted, to any corporation or other entity into which the Tenant is merged or with which the Tenant is consolidated (such corporation or other entity being hereinafter in this Article called the "Assignee") without the prior consent of the Landlord shall not be deemed to be prohibited hereby if, and upon the express conditions that, (i) the primary purpose for such merger or consolidation is other than the transfer of this Lease, (ii) the surviving entity has a net worth at least equal to that of the Tenant's on the date hereof or the date of merger or consolidation, whichever is greater, and (iii) within thirty (30) days following the merger or consolidation, the Assignee shall have executed and delivered to the Landlord an agreement in form and substance reasonably satisfactory to the Landlord whereby the Assignee shall agree to be personally bound by and upon all the provisions set forth in this Lease on the part of the Tenant to be kept, observed or performed, and whereby the Assignee shall expressly agree that the provisions of this Article shall, notwithstanding such assignment or transfer, continue to be binding upon it with respect to all future assignments and transfers, and (b) the Landlord will consent to the Tenant assigning, subletting or otherwise permitting the Premises to be used and occupied for the purposes specified in, and subject to the provisions of, this Lease, by any subsidiary or affiliate of the Tenant, but only for so long as the occupant remains a subsidiary or affiliate of the Tenant, provided that (i) the Tenant provides reasonable evidence of the relationship of the subsidiary or affiliate to the Tenant, (ii) in the Landlord's reasonable judgment the subsidiary or affiliate

is of a character and engaged in a business such as in keeping with the standards in those respects for the Building and its occupancy and (iii) it being understood that an entity shall only be a subsidiary of the Tenant if the Tenant owns, directly or indirectly, more than 50% of the stock, partnership or other ownership interests in the entity, and shall only be an affiliate of the Tenant if under common ownership, that is, direct or indirect ownership by an entity holding more than 50% of the stock, partnership or other ownership interests in both the Tenant and such affiliate.

7.2.1. Subject to Section 7.1 above, the Tenant covenants, for the Tenant and its successors, assigns and legal representatives, that neither the Premises nor any part thereof, will be sublet, and that neither the Licensed Spaces nor any part thereof, will be sublicensed, without the prior written consent of the

Landlord in each instance. The Landlord will not unreasonably withhold or delay its consent to any proposed subletting of the Premises on the terms and conditions set forth in a notice (a "Tenant's Notice") thereof from the Tenant to the Landlord (it being understood that any dispute as to the reasonableness of the Landlord's withholding of any such consent to a proposed subletting shall be resolved by the expedited dispute resolution procedure set forth in Section 25.13 below); provided, however, that the Landlord shall not in any event be obligated to consent to any such proposed subletting unless:

(a) the sublessee under any such subletting shall be such person, firm or corporation as in the Landlord's reasonable judgment is of a character and engaged in a business such as is in keeping with the standards in those respects for the Building and its occupancy and shall not be (i) a government or a governmental authority or a subdivision or an agency of any government or any governmental authority or (ii) a tenant, subtenant or occupant in the Building if the Landlord then has, or will have within the next three (3) months, space available in the Building with a comparable amount of floor area for a comparable term as the floor area and the term set forth in the Tenant's notice to the Landlord regarding such proposed subletting;

(b) the Tenant, for itself and for all other Tenant Parties, shall agree in writing (i) not to advertise, and to keep confidential, the economic terms of any proposed sublease, (ii) not to disclose, and to keep confidential, all such economic terms with respect to an executed sublease and (iii) to use reasonable efforts to require the sublessee and all real estate broker(s), if any, to agree in writing to the foregoing provisions of this Section 7.2.1(b);

(c) after the demising of the premises to be sublet, the remaining portion of the Office Space on the floor on which the sublet premises are located will constitute, in the Landlord's reasonable judgment, one or more commercially reasonable rental units;

(d) such subletting would not result in any floor of the Office Space being occupied by more than four (4) tenants (including the Tenant);

(e) the Tenant and the sublessee shall agree in writing that the sublessee will not, without the prior consent of the Landlord (which consent Landlord shall not unreasonably withhold or delay) assign the sublease or under-sublet the space so sublet or any part thereof; and

(f) such consent shall be evidenced by the delivery of, and shall be subject to the covenants, agreements, terms, provisions and conditions of, a "Consent to Sublease" duly executed by the Landlord, the Tenant and the sublessee (in substantially the form annexed hereto as Exhibit C), for which the Tenant shall pay to the Landlord a reasonable processing charge (not to exceed $500 in each instance).

Anything in this Lease to the contrary notwithstanding, the Landlord shall not in any event be obligated to consent to (x) any proposed subletting of the Basement Space, (y) any proposed subletting that includes a sublicense of a portion of the Penthouse Roof Space or (z) any proposed sublicensing of the Licensed Spaces, unless such space is sublet or sublicensed, as applicable, to a party which contemporaneously sublets, pursuant to this Article Seven, at least twenty-five percent (25%) of the rentable square foot area on one (1) floor of the Office Space.

7.2.2. If the Tenant proposes to sublease all or any part of the Premises, the Tenant shall deliver a Tenant's Notice setting forth (a) the name of the proposed sublessee, (b) such information regarding the proposed sublessee as shall be in the Tenant's possession, (c) the space(s) proposed to be sublet to the proposed sublessee (including any space(s) with respect to which the Tenant proposes to grant such proposed sublessee an expansion option or right), and (d) the material terms and conditions of the proposed subletting. Notwithstanding anything in Section 7.2.1 above or this Section 7.2.2 to the contrary, if, after the Landlord shall have received all of the information regarding a proposed sublessee and sublease required to be delivered to the Landlord pursuant to Section 7.2.1 and this Section 7.2.2, the Landlord shall not consent to such proposed sublease, then the Landlord shall so notify the Tenant (which notice shall set forth with reasonable specificity the reason(s) for the Landlord's withholding its consent) within fifteen (15) business days after the Landlord's receipt of the last of such information, except that the Landlord shall not be in default in the performance of its obligations under this Section 7.2.2 unless and until the Tenant shall have notified the Landlord in writing (which Notice requirement shall be satisfied by the Tenant delivering such written Notice to Rockefeller Center Management Corporation, 1221 Avenue of the Americas, New York, New York 10020-1095 Attention: Senior Vice President - Marketing, with a copy to Rockefeller Center Management Corporation, 1221 Avenue of the Americas, New York, New York 10020-1095 Attention: Secretary) of the Landlord's failure to so notify the Tenant within the applicable period referred

to above, which notice shall prominently include in bold type the following:

> **"THIS IS A SECOND REQUEST FOR CONSENT TO A PROPOSED SUBLEASE UNDER SECTION 7.2.2 OF THE LEASE. THE LANDLORD'S RESPONSE IS REQUIRED TO BE GIVEN NOT LATER THAN THREE (3)**
>
> **BUSINESS DAYS AFTER RECEIPT OF THIS REQUEST OR THE LANDLORD'S CONSENT TO THE PROPOSED SUBLEASE WILL BE DEEMED GIVEN"**

and the Landlord shall have failed to so notify the Tenant within a further period of three (3) business days after receipt of such notice by such Senior Vice President - Marketing and Secretary in which event the Tenant's sole remedy for the Landlord's default under this Section 7.2.2 shall be that the proposed sublease with respect to which the Landlord's consent is sought shall be deemed consented to by the Landlord; provided, however, if the Landlord is deemed to have consented to a proposed sublease, the Tenant and the sublessee thereunder shall nevertheless be obligated to comply with the provisions of Section 7.2.3 below. Any reference in this Lease to subleases to which the Landlord shall have consented (or similar reference) shall be understood to include any subleases to which the Landlord shall be deemed to have consented under this Section 7.2.2.

7.2.3. All of the covenants, agreements, terms, provisions and conditions of any such "Consent to Sublease" so executed by the Landlord, the Tenant and the sublessee shall be deemed to be covenants, agreements, terms, provisions and conditions of this Lease and the violation by the Tenant or the sublessee of any covenant, agreement, term, provision or condition of such "Consent to Sublease" shall entitle the Landlord to all the rights and remedies provided for in this Lease or by law in the case of any violation of a covenant, agreement, term, provision or condition of this Lease, subject to any applicable notice and cure periods provided for in this Lease.

7.2.4. If the aggregate amounts payable as rent (including as rent, without limitation, all amounts payable on account of changes in Real Estate Taxes, operating costs, maintenance costs, labor rates, indexes or other formula contained in the sublease; collectively "Sublease Rent") with respect to any period during which there shall be in effect a sublease of any part of the Premises made by the Tenant, shall be in excess of the Tenant's Basic Cost (as hereinafter defined) for such part of the Premises, then, promptly after the collection by the Tenant of the Sublease Rent payable under such sublease, the Tenant will pay to the Landlord, as additional rent hereunder, an amount equal to the Sublease Profit Percentage (as hereinafter defined) of the excess (if any) of such Sublease Rent so collected over the Tenant's Basic Cost for such part of the Premises through the date of such collection (with respect to any such sublease, such excess amount is sometimes referred to herein as "Sublease Profits"); provided, however, that any excess of Tenant's Basic Costs over any Sublease Rent shall be carried forward and applied against the next Sublease Rent collected. The term "Tenant's Basic Cost," as used herein with respect to any period for which any part of the Premises is sublet, shall mean the sum of (i) the amount payable by the Tenant to the Landlord as fixed rent at the Applicable Rental Rate (as hereinafter defined) for such period with respect to such part of the Premises, (ii) the amount payable by the Tenant to the Landlord for such period with respect to such part of the Premises pursuant to Article Twenty-four hereof, (iii) the amount of any reasonable brokerage commissions, reasonable takeover obligations and reasonable legal fees paid by the Tenant to unaffiliated third parties and not reimbursed by the subtenant or the Landlord, to the extent not previously applied against collections of Sublease Rent, (iv) the amount, if any, of any reasonable costs incurred by the Tenant in making changes in the layout and finish of such part

of the Premises at the request of the subtenant and paid by the Tenant to unaffiliated third parties, or reasonable subtenant work allowances in lieu thereof, but only to the extent that such costs are not reimbursed by such subtenant or the Landlord, to the extent not previously applied against collections of Sublease Rent, (v) the amount, if any, payable by the Tenant to the Landlord in connection with the Landlord's review and consent to such sublease, but only to the extent that such costs are not reimbursed by such subtenant or the Landlord, to the extent not previously applied against collections of Sublease Rent and (vi) the amount of any reasonable rent abatement (i.e., any so-called "free rent") provided by the Tenant to such subtenant to the extent not previously applied against collections of Sublease Rent. The term "Applicable Rental Rate" as used in this Article shall be deemed to mean, with respect to each space constituting a part of the Premises, an amount equal to (Y) the then applicable fixed rent per annum per rentable square foot, of such space set forth in Section 1.4 above and (Z) $7.11 per annum per rentable square foot; or, if the term of this Lease is extended and renewed pursuant to Article Thirty-two below, the term "Applicable Rental Rate" during each Renewal Term (as defined in Section 32.2 below) shall be deemed to mean, with respect to each space constituting a part of the Premises, the applicable fixed rent per annum per rentable square foot of such space payable during such Renewal Term. Anything in this Section 7.2.4 to the contrary notwithstanding, the Tenant shall not be obligated to pay to the Landlord the Sublease Profits, if any, which are received by the Tenant in respect of any period prior to the

seventh (7th) anniversary of the term commencement date for the subletting of up to an aggregate of 25,000 rentable square feet of the 37th Floor Space; provided, however, that, if the Tenant shall receive any such Sublease Profits with respect to subleases of the 37th Floor Space covering in excess of 25,000 rentable square feet, for the purposes of determining which Sublease Profits are covered by the preceding provisions of this sentence, the rentable square foot area covered by such subleases and the Sublease Profits derived therefrom shall be treated on a "first in, first out" basis. The term "Sublease Profit Percentage," as used herein, shall mean (a) fifty percent (50%), with respect to subleases of the Office Space in effect at the time in question covering, in the aggregate, up to and including fifty percent (50%) of the rentable square foot area of the Office Space, and (b) 75%, with respect to any sublease(s) in effect at the time in question covering any portion of the Office Space in excess of fifty percent (50%) of the rentable square foot area of the Office Space.

7.2.5. If the Tenant has sublet the Premises or any part thereof, the Tenant shall deliver to the Landlord a statement within 60 days after the end of each calendar year in which any part of the term of this Lease occurs specifying as to such calendar year, and within 60 days after the expiration or earlier termination of the term of this Lease specifying with respect to the elapsed portion of the calendar year in which such expiration or termination occurs (a) each sublease in effect during the period covered by such statement and as to each sublease a computation in reasonable detail showing whether or not anything is payable by the Tenant to the Landlord pursuant to this Article Seven with respect to such sublease for the period covered by such statement; and (b) whether or not anything is payable by the Tenant to the Landlord pursuant to this Article Seven with respect to any payments received from a sublessee during such period but which relate to an earlier period and showing in reasonable detail the computation of the amount so payable.

7.2.6. Each sublease of the Premises or a portion thereof shall be subject and subordinate to this Lease and the rights of the Landlord under this Lease; provided, however, that, upon receipt of a written request therefor from the Tenant prior to the commencement of any sublease (a) to which the Landlord has consented under Section 7.2.1 above, (b) the term of which is not less than three (3) years or such lesser period as shall then constitute all or substantially all of the balance of the term of this Lease, and (c) which covers at least one (1) full floor of the Premises, the Landlord shall enter into a subordination, non-disturbance and attornment agreement in the form attached hereto as Exhibit E-5 with the subtenant under such sublease. Any violation of any provision of this Lease, whether by act or omission, by any sublessee shall be deemed a violation of such provision by the Tenant, it being the intention of the parties that the Tenant shall assume and be liable to the Landlord for any and all acts and omissions of all sublessees if such act or omission, if made by the Tenant, would be a violation of any provision of this Lease. No sublease shall provide for a term which extends beyond the day prior to the then expiration date of this Lease. In the event of the Tenant's default in the payment of any fixed rent and/or additional rent under this Lease beyond any applicable period of grace, the Landlord may collect rent from any sublessee so long as such default shall continue, and the Landlord may apply the same to the curing of any such default under this Lease in any order of priority the Landlord may select, any unapplied balance thereof to be applied by the Landlord against subsequent installments of Rent, but the Landlord's collection of rent from a sublessee shall not constitute a recognition by the Landlord of attornment by such sublessee nor a waiver by the Landlord of any default by the Tenant.

7.3. The Landlord will, at the request of the Tenant, maintain listings on the Building directory of the names of the Tenant and the names of any officers or employees of the Tenant and other permitted occupants (including Office Space Occupants (as defined in Section 7.5 below)); provided, however, that the number of names so listed shall be in the same proportion to the capacity of the building directory as the aggregate number of square feet of rentable area of the Office Space is to the aggregate number of square feet of rentable area of the Building. Without implying any right to do so, the listing of any name other than that of the Tenant, whether on the doors or windows of the Premises, on the Building directory, or otherwise, shall not, in and of itself, operate to vest any right or interest in this Lease or in the Premises or be deemed to be the consent of the Landlord referred to in Section 7.1 or Section 7.2.1 above.

7.4. Without in any way suggesting permission for the Tenant to assign the Lease, if the Lease is nonetheless assigned by the order of a court or otherwise but not as permitted by Section 7.1 above, the Tenant shall pay to the Landlord 50% of any consideration received by the Tenant for the assignment, net of brokerage commissions and legal fees incurred by the Tenant and paid to unaffiliated third parties in connection therewith and not reimbursed by the assignee. The amounts to be paid to the Landlord under this Section shall be deemed to be deferred rent payable only out of amounts collected by the Tenant in connection with an assignment and shall be deemed forgiven if no assignment occurs.

7.5. The Tenant may, without the Landlord's consent, but upon not less than ten (10) days' prior notice to the Landlord, permit any individuals who are employees of business partners of the Tenant (collectively, "Office Space Occupants") to occupy offices within the Office Premises, if, and upon the

express conditions that (a) each Office Space Occupant shall

be of good reputation and engaged in an activity which (i) relates to the production of the Tenant's broadcast programming, (ii) is in keeping with the standards of the Building and (iii) is a Permitted Use, (b) the offices occupied by such Office Space Occupants shall not constitute, in the aggregate, more than twenty percent (20%) of the rentable square foot area of the Office Premises, (c) each such office shall be part of, and not separately demised from, the remainder of the Office Premises occupied by the Tenant, (d) no Office Space Occupant shall be permitted to have a separate entrance to the Office Premises and (e) no Office Space Occupant shall be permitted to have any signage outside of the Office Premises. Each such occupancy shall be subject and subordinate to this Lease and to the matters to which this Lease is or shall be subordinate, and, in the event of termination, re-entry or dispossess by the Landlord under this Lease, such occupancy shall immediately terminate. Occupancy by an Office Space Occupant shall not be deemed to vest in such Office Space Occupant any right or interest in this Lease or the Premises, nor shall it relieve, release, impair or discharge any of the Tenant's obligations hereunder. Each notice of an Office Space Occupant required pursuant to this Section 7.5 shall include (y) the name(s) and the nature of the business or occupation of such Office Space Occupant and (z) the terms of such Office Space Occupant's occupancy. Each such occupancy shall be terminable on not more than thirty (30) days notice (which right of termination the Tenant shall exercise upon reasonable demand of the Landlord).

7.6. The Tenant has advised the Landlord that, in order for the Tenant to enjoy the Benefit (as defined in Section 3.7.1. below) consisting of sales and use tax exemptions on materials to be incorporated into Alterations made to the Premises, it is necessary for the Tenant to sublet the Premises to the IDA (as defined in Section 3.7.1. below) and to sub-sublet the Premises back from the IDA. In connection therewith, the Tenant has requested that the Landlord cooperate with the Tenant by (a) consenting to a sublease of the Premises from the Tenant to the IDA (the "Tenant/IDA Sublease") and (b) consenting to a sub-sublease of the Premises back from the IDA to the Tenant (the "IDA/Tenant Sub-Sublease"; and, together with the Tenant/IDA Sublease, collectively, the "IDA Subleases"). Anything in this Lease to the contrary notwithstanding, the Landlord hereby consents to the Tenant entering into the IDA Subleases; provided and upon the express conditions that, upon any termination of the IDA/Tenant Sub-Sublease, the Tenant/IDA Sublease shall immediately and without further act be deemed to have terminated, and in no event shall the IDA ever be permitted (i) to occupy the Premises or any portion thereof or (ii) to assign this Lease or further sublet the Premises or any portion thereof to any person or entity (other than to the Tenant and/or a subsidiary or affiliate of the Tenant as contemplated by the IDA Transaction). In addition, each IDA Sublease shall (y) expressly specify and provide that (and the consent of the Landlord contained herein is expressly conditioned upon) such sublease and sub-sublease are subject and subordinate to this Lease and the matters to which this Lease is subject and subordinate, and (z) have a scheduled expiration date no later than one day prior to the scheduled expiration date of this Lease and shall terminate automatically upon any earlier termination of this Lease. The Tenant shall, within thirty (30) days of entering into the IDA Subleases provide the Landlord with written notice of the date of the IDA Subleases, the commencement and expiration dates of the term thereof and the portions of the Premises affected thereby. In addition, to the extent not prohibited by the express provisions of the IDA Subleases, the Tenant shall also provide the Landlord with true and correct copies of same within such thirty (30) day period. Any sublease pursuant to this Section 7.6 shall be entered into solely for the purposes of implementing a

tax/economic incentive package for the Tenant. No IDA Sublease (A) shall release the Tenant from any liability or obligation of the Tenant under this Lease or any supplemental indenture or other amendment or modification hereto and (B) shall impose any additional obligation or liability on the Landlord, for which the Landlord is not otherwise indemnified from, or reimbursed for by, the Tenant under this Lease.

ARTICLE EIGHT
(8.)Changes or Alterations by Landlord

8.1. The Landlord reserves the right, upon prior notice to the Tenant in accordance with Section 6.1(c) above, to make such changes, alterations, additions, improvements, repairs or replacements in or to the Building (including the Premises) and the fixtures and equipment thereof, as well as in or to the street entrances, halls, passages, elevators, escalators and stairways and other parts of the Building, and to erect, maintain and use pipes, ducts and conduits in and through the Premises, all as it may reasonably deem necessary or desirable; provided that the exercise of such rights shall not result in an unreasonable obstruction of the means of access to the Premises or unreasonable interference with the use of the Premises and provided, further, that no such change, alteration, addition, improvement, repair or replacement shall be made in the Premises (a) below the hung ceiling of the Premises, (b) above the hung ceiling of the Premises in any area designated as "sensitive" by the Tenant, unless (i) there is, in Landlord's reasonable judgment, no practical alternative that would not increase (except in a de minimis amount) the Landlord's cost of making such change, alteration, addition, improvement, repair or replacement or

(ii) there is a practical alternative, but the same will increase the cost of making such change, alteration, addition, improvement, repair or replacement and the Tenant shall elect not to pay any such increased cost or (c) which would reduce the floor area of the Premises (except to a de minimis extent), except, in each case, with the prior consent of the Tenant, and except for any such change, alteration, addition, improvement, repair or replacement which is required in order to comply with any applicable Requirement, and, in the case of any change, alteration, addition, improvement, repair or replacement made with the consent of Tenant or required in order to comply with any Requirement that permanently reduces the floor area of the Premises (more than a de minimis amount), the fixed rent shall be reduced proportionally to reflect such reduction. Upon the completion of any such work, the Landlord shall, with reasonable promptness, restore the areas of the Premises affected by such work as nearly as is reasonably possible to the condition they were in immediately prior to the commencement of such work. Nothing in this Section or in Article Six shall be deemed to relieve the Tenant of any duty, obligation or liability to make any repair, replacement or improvement or comply with any Requirement.

8.2. The Landlord reserves the right to change the name or address of the Building at any time. Neither this Lease nor any use by the Tenant shall give the Tenant any right or easement to the use of any door or any passage connecting the Building with any subway or any other building or to the use of any public conveniences, and the use of such doors, passages and conveniences may be regulated or discontinued at any time by the Landlord, provided that the Tenant shall have reasonable access to the Premises at all times.

8.3. The Landlord will, subject to, and except as otherwise provided in, the other covenants, agreements, terms, provisions and conditions of this Lease, with reasonable dispatch and in a manner and at such times as shall not unreasonably interfere with the use of the Premises nor unreasonably obstruct the means of access to the Premises, make as and when required, all repairs, structural or otherwise, interior or exterior to the Building (but excluding anything which constitutes subdivision, layout and finish of spaces in the Building rented to, or available for renting to, tenants) as may be necessary to restore the same to a state of good working order, condition and repair and to a standard in keeping with the reputation of the Building as a first-class office building located in midtown Manhattan.

ARTICLE NINE
(9.)Damage by Fire, etc.

9.1. If any part of the Premises shall be damaged by fire or other perils, the Tenant shall give prompt notice thereof to the Landlord; and the Landlord shall proceed with reasonable diligence, subject to adjustment and collection of any insurance proceeds and the provisions of any Qualified Encumbrance, to repair such damage to the extent required by this Article Nine, at the Landlord's expense. If any part of the Premises shall be rendered untenantable by reason of such damage (including untenantability due to lack of access thereto), the annual fixed rent payable under this Lease, to the extent that such fixed rent relates to such part of the Premises, and subject to the provisions of Section 24.4 hereof, shall be abated for the period from the date of such damage until such time as the Landlord shall complete the repairs required by this Article Nine; provided that such abatement shall be made only to the extent that it is in excess of the annual rate of any existing abatement of fixed rent under Section 20.6 or under Section 30.3 below. The Landlord shall not be liable for any inconvenience or annoyance to the Tenant or injury to the business of the Tenant resulting in any way from such damage or the repair thereof, provided, however, that, to the extent reasonably practicable, the Landlord will use reasonable efforts to attempt to minimize any such inconvenience or annoyance. The Tenant understands that the Landlord will not carry insurance of any kind on (a) the Tenant's goods, furniture or furnishings, (b) on any Fixtures removable by the Tenant as provided in this Lease, (c) on Tenant improvements or betterments or (d) on any property in the care, custody and control of the Tenant, and that the Landlord shall not be obligated to repair any damage thereto or replace the same; it being understood that, notwithstanding anything set forth in this Article Nine or elsewhere in this Lease to the contrary, the Landlord's repair obligation under this Article Nine shall be limited to such repairs as are required to restore the Premises to "core and shell condition" with reasonable access thereto.

9.2. If substantial alteration or reconstruction of the Building (i.e., if the estimated cost of alteration and reconstruction equals or exceeds thirty-three percent (33%) of the replacement cost of the Building immediately prior to such damage) shall, in the reasonable determination of the Landlord (which determination, if requested by the Tenant, shall be verified by an independent architect or engineer selected by the Landlord and reasonably acceptable to the Tenant, the cost of which shall be paid by the Tenant unless the Landlord's determination is not found to be substantially correct), be required as a result of damage by fire or other perils affecting thirty-three percent (33%) or more of the rentable area of the Building

(whether or not the Premises shall have been damaged by such fire or other casualty), then this Lease and the term and estate hereby granted may be terminated by the Landlord by a notice, given within sixty (60) days of such

damage specifying a date for such termination; provided, however, that the Landlord shall not so terminate this Lease and the term and estate hereby granted unless the Landlord shall terminate leases (including this Lease) covering not less than fifty percent (50%) of the rentable area of the Building. In addition, if a substantial part of the Premises is rendered untenantable as a result of such damage by fire or other peril, within sixty (60) days after the occurrence of such damage Landlord shall make a reasonable determination (which determination, if requested by the Tenant, shall be verified by an independent architect or engineer selected by the Landlord and reasonably acceptable to the Tenant, the cost of which shall be paid by the Tenant unless the Landlord's determination is not found to be substantially correct) of the estimated date by which such portion of the Premises can be made tenantable. If it is finally determined by the Landlord or pursuant to the verification procedure set forth above that such part of the Premises cannot be made tenantable within a period of one (1) year after the occurrence of such fire or other peril, then the Landlord shall notify the Tenant of the same within sixty (60) days of such damage and this Lease and the term and estate hereby granted may be terminated by the Landlord or the Tenant by a notice specifying a date, not less than ninety (90) days after such final determination. In the event of the giving of notice of termination, this Lease and the term and estate hereby granted shall expire as of the date specified in such notice with the same effect as if such date were the date initially specified in this Lease as the expiration date, and the fixed rent payable under this Lease shall be apportioned as of such date of termination, subject to abatement, if any, as and to the extent above provided. In addition, if the repairs required to be made by the Landlord under this Article Nine are not substantially completed by the Landlord within twelve (12) months after the occurrence of such fire or other peril (as such twelve (12) month period shall be extended by delays caused by events of Force Majeure), then this Lease and the term and estate hereby granted may be terminated by the Tenant by the Tenant's giving to the Landlord, within sixty (60) days after the end of such twelve (12) month period (as such twelve (12) month period shall be extended by delays caused by events of Force Majeure; provided that no such extension due to delays caused by events of Force Majeure shall exceed ninety (90) days), notice specifying a date, not more than ninety (90) days after the giving of such notice, for such termination, in which case the provisions previously stated in this Section 9.2 governing a termination of this Lease shall apply; provided, however, that if the Tenant shall not exercise such termination right within such sixty (60) day period, the Tenant's right to terminate this Lease shall be postponed for successive periods of sixty (60) days, and if such repairs are not substantially completed within any such period of sixty (60) days, then this Lease and the term and estate hereby granted may be terminated by the Tenant by its giving to the Landlord, within thirty (30) days after the end of such sixty (60) day period (as such sixty (60) day period may be extended by any delays caused by events of Force Majeure), notice specifying a date, not more than ninety (90) days after the giving of such notice, for such termination, in which case the provision previously stated in this Section 9.2 governing a termination of this Lease shall apply.

9.3. Nothing in this Lease shall relieve the Tenant from any liability to the Landlord or to its insurers in connection with any damage to the Premises or the Building by fire or other peril if the Tenant shall be legally liable in such respect, except that the Landlord and the

Tenant hereby release each other with respect to any liability which the released party might otherwise have to the releasing party for any damage to the Building or the Premises or the contents thereof by fire or other peril occurring during the term of this Lease to the extent of the proceeds received under a policy or policies of insurance permitting such release. Each party will use best efforts to cause its property and/or other applicable insurance policy to include a provision permitting such a release of liability; provided, that if such a provision is (a) not obtainable from such insurer, the insured party shall use reasonable efforts to cause the other party to be added as an additional insured on such policy, provided, however, that if there is an additional expense therefor, the insured party shall so notify the other party and, unless the other party pays such additional expense within ten (10) days thereafter, the insured party's release provided for above in this Section 9.3 shall be of no further force or effect until such time as the other party pays such additional expense or the insured party's insurance carrier notifies the insured party that no additional cost is required under the policy in question, or (b) obtainable from such insurer only at an additional expense, the insured party shall notify the other party and, unless the other party pays such additional expense within ten (10) days thereafter, the insured party shall thereafter be free of its waiver of subrogation so long as an additional cost is required under the policy in question.

9.4. This Lease shall be considered an express agreement governing any case of damage to or destruction of, or any part of, the Building or the Premises by fire or other peril, and Section 227 of the Real Property Law of the State of New York providing for such a contingency in the absence of express agreement, and any other law of like import now or hereafter in force, shall have no application in such case.

ARTICLE TEN
(10.)Condemnation

10.1. If all of the Premises shall be lawfully condemned or taken in any manner for any public or quasi-public use, this Lease and the term and estate hereby granted shall forthwith cease and terminate as of the date of vesting of title in such condemnation or taking. If only a part of the Premises shall be so condemned or taken, then the term and estate hereby granted with respect to such part of the Premises shall forthwith cease and terminate as of the date of vesting of title in such condemnation or taking and the annual fixed rent payable under this Lease, to the extent that such fixed rent relates to such part of the Premises, shall be abated for the period from the date of such vesting of title to the date specified in this Lease for the expiration of the full term of this Lease with respect to such part of the Premises, but only to the extent that such abatement is in excess of the annual rate of any other existing abatement of fixed rent under Section 20.6 or under Section 30.3 below. If only a part of the Building shall be so condemned or taken, then (a) if substantial alteration or reconstruction of the Building or the Premises shall, in the opinion of the Landlord, be necessary or desirable as a result of such condemnation or taking, this Lease and the term and estate hereby granted may be terminated by the Landlord within ninety (90) days following the date on which the Landlord shall have received notice of such vesting of title, by a notice to the Tenant specifying a date, not less than ninety (90) days after the Landlord's notice, for such termination, or (b) if such condemnation or taking shall be of a substantial part of the Premises or of a substantial

part of the means of access thereto, this Lease and the term and estate hereby granted may be terminated by the Tenant, within ninety (90) days following the date upon which the Tenant shall have received notice of such vesting of title, by a notice to the Landlord specifying a date, not less than ninety (90) days after the Tenant's notice, for such termination, or (c) if neither the Landlord nor the Tenant elects to terminate this Lease, this Lease shall not be affected by such condemnation or taking, except that this Lease and the term and estate hereby granted with respect to the part of the Premises so condemned or taken shall expire on the date of the vesting of title to such part and except that the fixed rent payable under this Lease shall be abated to the extent, if any, hereinabove provided in this Article. If only a part of the Premises shall be so condemned or taken and this Lease and the term and estate hereby granted with respect to the remaining portion of the Premises are not terminated, the Landlord will proceed with reasonable diligence, subject to the provisions of any Qualified Encumbrance and without requiring the Landlord to expend more than it collects as an award therefor, to restore the remaining portion of the Premises as nearly as practicable to the same condition as it was in prior to such condemntion or taking.

10.2. The termination of this Lease and the term and estate hereby granted in any of the cases specified in this Article shall be with the same effect as if the date of such termination were the date originally specified for the expiration of the full term of this Lease, and the fixed rent payable under this Lease shall be apportioned as of such date of termination.

10.3. If there is any condemnation or taking of all or a part of the Building, the Landlord shall be entitled to receive the entire award in the condemnation proceeding, including any award made for the value of the estate vested by this Lease in the Tenant, and the Tenant hereby expressly assigns to the Landlord any and all right, title and interest of the Tenant now or hereafter arising in or to any such award or any part thereof, and the Tenant shall be entitled to receive no part of such award; provided, that the Tenant shall not be precluded from intervening for the Tenant's own interest in any such condemnation proceeding to claim or receive from the condemning authority any compensation to which the Tenant may otherwise lawfully be entitled in such case in respect of property removable by the Tenant under Article Four or for moving expenses, but only to the extent such compensation does not reduce the award otherwise payable to the Landlord.

10.4. If the whole or any part of the Premises, or of the Tenant's leasehold estate, shall be taken in condemnation proceedings or by any right of eminent domain for temporary use or occupancy, the foregoing provisions of this Article Ten shall not apply and the Tenant shall continue to pay, in the manner and at the times herein specified, the full amount of the rent and other charges payable by the Tenant under this Lease, and, except only to the extent that the Tenant may be prevented from so doing pursuant to the terms of the order of the condemning authority, the Tenant shall perform and observe all of the other provisions of this Lease upon the part of the Tenant to be performed and observed, as though such taking had not occurred. In the event of any taking referred to in this Section 10.4, the Landlord shall be entitled to receive any portion of the condemnation proceeds paid as compensation for the cost of restoration of the Building and the Tenant shall be entitled to receive the balance of the condemnation proceeds paid for such taking, whether paid by way of damages, rent or otherwise, unless such period of temporary use or occupancy shall extend beyond the expiration

or termination of this Lease, in which case the balance of the condemnation proceeds shall be apportioned between the Landlord and the Tenant as of the date of the expiration or termination of this Lease. The Landlord shall, upon the expiration of any such period of temporary use or occupancy, restore the Building, as nearly as may be reasonably possible within the balance of the term

of the Lease, to the condition in which the same was immediately prior to such taking, subject to the provisions of any Qualified Encumbrance and without requiring the Landlord to expend more than it collects as an award therefor.

ARTICLE ELEVEN
(11.)Compliance with Laws

11.1. The Tenant shall comply with all Requirements applicable to the Premises or any part thereof, and the Licensed Space or any part thereof, due to the Tenant's manner of use thereof or to the Tenant's observance of any provision of this Lease, except that the Tenant shall not be under any obligation to comply with any Requirement requiring any structural alteration of or in connection with the Premises solely by reason of the use thereof for any of the purposes permitted in Article One and not by reason of (a) a condition which has been created by, or at the instance of, any Tenant Party, (b) a breach by any Tenant Party of any provision of this Lease or (c) a Requirement having as a primary purpose the benefit of disabled persons. Without limiting the generality of Section 11.1(c) above, the Landlord and the Tenant agree that the Tenant's obligations thereunder shall include (y) the relocation of the elevator call buttons on each floor of the Premises constituting a part of the Office Space (the "Call Button Work") and (z) providing handicapped accessible bathrooms on each floor of the Premises constituting a part of the Office Space by either (i) renovating the bathrooms on each floor of the Premises constituting a part of the Office Space or (ii) installing a unisex bathroom on each floor of the Premises, so that after such renovation or installation, as the case may be, each such bathroom, and the Office Space, complies with all Requirements of the type referred to in clause (c) of this Section 11.1 (collectively, the "Bathroom Work"). Where any structural alteration of or in connection with the Premises is required by any such Requirement, and, by reason of the express exception specified above, the Tenant is not under any obligation to make such alteration, then the Landlord will make such alteration if the cost of making the same is not in excess of fifty million dollars ($50,000,000) or, if such cost is in excess of fifty million dollars ($50,000,000), the Landlord shall have the option of making such alteration or of terminating this Lease and the term and estate hereby granted by giving to the Tenant not less than one (1) year's prior notice (unless sooner required by such Requirement) of such termination; provided, that, if within fifteen (15) days after the giving of notice of termination the Tenant shall request the Landlord to make such alteration, then such notice of termination shall be ineffective; the Landlord shall proceed with reasonable diligence to make such alteration and the Tenant shall pay to the Landlord all costs and expenses incurred by the Landlord in connection therewith in excess of said fifty million dollars ($50,000,000) to the extent that such excess alteration costs amortized over their useful life (the term "useful life" shall be the meaning attributed to such term in accordance with generally accepted accounting principles, but in no event shall such useful life exceed ten (10) years) fall within the remaining term of this Lease). Upon the request of the Landlord, the Tenant shall maintain on deposit with the Landlord as an addition to the Required Amount (as defined below in Section 26.3),

such security for the payment of such costs and expenses in excess of said fifty million dollars ($50,000,000) as the Landlord shall from time to time request. For purpose of this Article, providing and installing of sprinklers shall be deemed to be a non-structural alteration. If because of any Requirement the Tenant is required to make any alteration of or in connection with the Premises along with other tenants in the Building, the Tenant shall only be required to contribute towards or perform its proportionate share of any such alteration as reasonably determined by the Landlord.

11.2. If a notice of termination shall be given by the Landlord under this Article and such notice shall not become ineffective as above provided, this Lease and the term and estate hereby granted shall terminate on the date specified in such notice with the same effect as if such date were the date originally specified for the expiration of this Lease, and the fixed rent payable under this Lease shall be apportioned as of such date of termination.

ARTICLE TWELVE
(12.)Accidents to Sanitary and other Systems

12.1. The Tenant shall give to the Landlord prompt notice of any damage to, or defective condition in, any part or appurtenance of the Building's sanitary, electrical, heating, air conditioning, ventilating or other systems serving, located in, or passing through, the Premises of which the Tenant becomes aware. Any such damage or defective condition shall be remedied by the Landlord with reasonable diligence, except to the extent the Tenant is specifically obligated to remedy same under the terms of this Lease. Without limiting the generality of the immediately preceding sentence, the Tenant shall be obligated to remedy all damage and defective conditions (other than any damage with respect to which the Tenant is relieved from liability pursuant to Section 9.3 above) (a) caused by the negligence or wilful misconduct of any Tenant Party or (b) relating to, or in any manner arising out of, the installation of any Fixture by or at the request of Tenant or in connection with the initial build-out of the Premises; and, in the case of both clause (a) or clause (b) above, the Tenant shall reimburse to the Landlord upon demand all reasonable costs paid or incurred by the Landlord to remedy such damage or

defective conditions. The Tenant shall not be entitled to claim any damages against the Landlord arising from any such damage or defective condition, except to the extent that the same shall have been caused by the negligence or wilful misconduct of any Landlord Party and the same shall not have been remedied by the Landlord with reasonable diligence after notice from the Tenant to the Landlord; nor shall the Tenant be entitled to claim any damages against any other party (including, without limitation, any third party vendor or other supplier of services to the Landlord) arising from any such damage or defective condition, except to the extent that the same shall have been caused by the negligence or wilful misconduct of such party and the same shall not have been remedied by such party with reasonable diligence after notice thereof from the Tenant to the Landlord; nor shall the Tenant be entitled to claim any eviction by reason of any such damage or defective condition unless such damage or defective condition shall have been caused by the negligence or willful misconduct of any Landlord Party and the Landlord shall not have cured the same within a reasonable time after notice from the Tenant to the Landlord. Nothing in this Section 12.1 is

intended to limit or affect any abatement of rent to which the Tenant is entitled pursuant to any other provision of this Lease.

ARTICLE THIRTEEN
(13.)Subordination

13.1. This Lease and the term and estate hereby granted are and shall be subject and subordinate to the lien of each mortgage which may now or at any time hereafter affect the Premises, the Building and/or the Land, or the Landlord's interest therein (collectively, the "underlying mortgages"), provided that, and for so long as (a) (i) either Emigrant Savings Bank ("Emigrant") or The Chase Manhattan Bank, N.A. ("Chase"), whichever is the holder of the underlying mortgage in effect as of the date which is ten (10) days after the date of this Lease, shall have entered into a subordination, non-disturbance and attornment agreement in a form substantially similar to the form annexed hereto as Exhibit E-1 (the "Emigrant SNDA"), if Emigrant is then the holder of the underlying mortgage, or the form annexed hereto as Exhibit E-2 (the "Chase SNDA"), if Chase is then the holder of the present underlying mortgage, and (ii) the holder of any such future underlying mortgage(s) shall have entered into a subordination, non-disturbance and attornment agreement (a "Mortgagee SNDA") with the Tenant in substantially the form of the Chase SNDA, if Chase is the holder of any such future underlying mortgage(s), and, otherwise, in the form annexed hereto as Exhibit E-3, and (b) The Emigrant SNDA, the Chase SNDA and/or such Mortgagee SNDA continues to be in full force and effect unless the related underlying mortgage has either been satisfied and released of record or refinanced and become subject to a subsequent Mortgagee SNDA. This lease shall also be subject and subordinate to any future ground or net lease of the Land and/or the Building (collectively the "underlying leases"), provided that, and for so long as (y) the lessor under any such present or future underlying lease shall have entered into a subordination, non-disturbance and attornment agreement (a "Lessor SNDA") with the Tenant in substantially the form annexed hereto as Exhibit E-4 and (z) such Lessor SNDA continues to be in full force and effect.

13.2. Intentionally omitted.

13.3. The Tenant shall, from time to time, upon request by the Landlord, promptly execute and deliver (a) an Emigrant SNDA to Emigrant or a Chase SNDA to Chase, as the case may be, as the holder of the underlying mortgage in effect as of the date which is ten (10) days after the date of this Lease (as such underlying mortgage may be renewed, modified, supplemented, amended, spread, consolidated, replaced, substituted for, added to or extended), (b) a Mortgagee SNDA to the holder of any future underlying mortgage and (c) a Lessor SNDA to the lessor under any present or future underlying lease. The Landlord shall, from time to time, upon request by the Tenant, request that any holder of any future underlying mortgage deliver an executed Mortgagee SNDA and any lessor under any future underlying lease deliver an executed Lessor SNDA to the Tenant for its signature; and the Tenant shall promptly execute and deliver any such Mortgagee SNDA or Lessor SNDA delivered to the Tenant. If the Landlord shall, for any reason, fail to obtain any requested Mortgagee SNDA or Lessor SNDA, as the case may be, and deliver the same to the Tenant for its signature, then, notwithstanding

anything in this Article Thirteen to the contrary, and as the Tenant's sole recourse and remedy in such event, this Lease shall not be subject and subordinate to such future underlying mortgage or such future underlying lease, as the case may be.

ARTICLE FOURTEEN
(14.)Notices

14.1. Any notice, consent, approval, request, communication, bill, demand or statement (collectively, "Notices") under this Lease by either party to the other party shall be in writing and shall be deemed to have been duly given when (a) delivered personally or by overnight mail service to such other party and a receipt has been obtained (provided, that the inability to obtain such receipt after reasonable efforts shall not affect the effectiveness of such delivery) or

(b) upon receipt after being mailed in a postpaid envelope (registered or certified, return receipt requested) addressed to such other party, which address for the Landlord shall be as above set forth and for the Tenant shall be the Premises, or 1001 22nd Street, N.W., Sixth Floor, Washington, D.C. 20037 if mailed prior to the date upon which the Tenant occupies the Premises for the conduct of its business, in either case, to the attention: General Counsel, with a copy to Chief Financial Officer, or if the address of such other party for notices shall have been duly changed as hereinafter provided, if so mailed to such other party at such changed address. Either party may at any time change the address for Notices by a Notice stating the change and setting forth the changed address. If the term "Tenant" as used in this Lease refers to more than one person, any Notice to any one of such persons shall be deemed to have been duly given to the Tenant. If and to the extent requested by the Landlord, the Tenant shall give copies of all Notices to the Landlord to holders of underlying mortgages and underlying leases of which the Tenant has notice.

ARTICLE FIFTEEN
(15.)Conditions of Limitation

15.1. This Lease and the term and estate hereby granted are subject to the limitation that:

(a)if the Tenant shall default in the payment of any Rent and any such default shall continue for ten (10) days after notice,

(b)if the Tenant shall default in observing any provision of Sections 3.1, 3.2, 3.3 or of subsections (e) (other than the provisions relating to Labor Harmony and labor disputes) or (f) of Section 6.1 or of Section 6.2 and such default shall continue and shall not be remedied by the Tenant within five (5) business days after notice,

(c) if the Tenant shall default in the observing of any provision of subsection (e) of Section 6.1 pertaining to Labor Harmony and labor disputes, and if the

same shall continue and not be remedied by the Tenant within two (2) business days after a notice,

(d) if the Tenant shall default in observing the provisions of Section 13.2 of this Lease and if such default shall continue and not be remedied by the Tenant within ten (10) business days after notice,

(e) if the Tenant shall default in observing any provision of this Lease (other than a default of the character referred to in subsections (a), (b) and (c) of this Section 15.1), and if such default shall continue and shall not be remedied by the Tenant within thirty (30) days after notice or, if such default cannot for causes beyond the Tenant's control, with due diligence be cured within said period of thirty (30) days, if the Tenant (i) shall not, promptly upon the giving of such notice, give the Landlord notice of the Tenant's intention to duly institute all steps necessary to remedy such default, (ii) shall not duly institute and thereafter diligently prosecute to completion all steps necessary to remedy the same, or (iii) shall not remedy the same within a reasonable time after the date of the giving of said notice by the Landlord,

(f) if any event shall occur or any contingency shall arise whereby this Lease or the estate hereby granted or the unexpired balance of the full term of this Lease would, by operation of law or otherwise, devolve upon or pass to any person, firm or corporation other than the Tenant (except as permitted under Article Seven) and such event is not cured (with the result that this Lease and the term and estate hereby granted shall again be vested solely in the Tenant) within thirty (30) days after notice, or

(g) when and to the extent permitted by law, if a petition in bankruptcy shall be filed by or against the Tenant and the same is not stayed or vacated within sixty (60) days (or if stayed but not ultimately vacated after lifting of such stay), or if the Tenant shall make a general assignment for the benefit of its creditors, or the Tenant shall receive the benefit of any insolvency or reorganization act, or if a receiver or trustee is appointed for any portion of the Tenant's property and such appointment is not vacated within sixty (60) days, or if an execution or attachment shall be issued under which the Premises shall be taken or occupied by anyone other than the Tenant,

then in any of said cases the Landlord may give to the Tenant a notice of intention to end the term of this Lease, and, if such notice is given, this Lease and the term and estate hereby granted (whether or not the term shall theretofore have commenced) shall terminate upon the expiration of three (3) days from the date the notice is deemed given with the same effect as if the last of said three (3) days were the date originally specified as the expiration

of the full term of this Lease, but the Tenant shall remain liable for damages as provided in this Lease or pursuant to law. If this Lease shall have been assigned, the term "Tenant", as used in subsections (a) to (g), inclusive, of this Section 15.1, shall be deemed to include the assignee and the assignor or either of them under any such assignment unless the Landlord shall, in

connection with such assignment, release the assignor from any further liability under this Lease, in which event the term "Tenant", as used in said subsections, shall not include the assignor so released.

ARTICLE SIXTEEN
(16.)Re-entry by Landlord

16.1. If this Lease shall terminate under Article Fifteen, the Landlord or the Landlord's agents and servants may immediately or at any time thereafter re-enter the Premises, or any part thereof in the name of the whole, either by summary dispossess proceedings or by any suitable action or proceeding at law or by force or otherwise, without being liable to indictment, prosecution or damages therefor, and may repossess the same, and may remove any persons therefrom, to the end that the Landlord may have, hold and enjoy the Premises again as and of its first estate and interest therein. The words "re-enter", "re-entry", and "re-entering" as used in this Lease are not restricted to their technical legal meanings.

16.2. If this Lease shall terminate under the provisions of Article Fifteen or if the Landlord undertakes any summary dispossess or other proceeding or action or other measure for the enforcement of its right of re-entry (any such termination of this Lease or undertaking by the Landlord being a "Default Termination"), the Tenant shall thereupon pay to the Landlord the Rent up to the time of such Default Termination, and shall likewise pay to the Landlord all such damages which, by reason of such Default Termination, shall be payable by the Tenant as provided in this Lease or pursuant to law. Also in the event of a Default Termination the Landlord shall be entitled to retain all moneys, if any, paid by the Tenant to the Landlord, whether as advance rent or as security for rent, but such moneys shall be credited by the Landlord against any Rent due from the Tenant at the time of such Default Termination or, at the Landlord's option, against any damages payable by the Tenant as provided in this Lease or pursuant to law.

16.3. In the event of a breach or threatened breach on the part of either party to this Lease of any of its obligations hereunder, the other party shall also have the right of injunction. The specified remedies to which the Landlord may resort under this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which the Landlord may lawfully be entitled at any time, and the Landlord may invoke any remedy allowed at law or in equity as if specific remedies were not provided for in this Lease.

ARTICLE SEVENTEEN
(17.)Damages

17.1. If there is a Default Termination of this Lease, the Tenant will pay to the Landlord as damages, at the election of the Landlord, either:

(a) a sum which, at the time of such Default Termination, represents the then present value (such computation to be made by using the then prevailing rate of

most recently issued bonds or notes issued by the United States Treasury having a maturity closest to but not exceeding the period commencing with the day following the date of such Default Termination and ending with the date originally specified as the expiration date of this Lease (the "Remaining Period")) of the excess, if any, of (1) the aggregate of the fixed rent and the additional rent under Article Twenty-four (if any) which, had this Lease not so terminated, would have been payable under this Lease by the Tenant for the Remaining Period over (2) the aggregate fair market rental value of the Premises for the same period, or

(b) sums equal to the aggregate of the fixed rent and the additional rent under Article Twenty-four (if any) which would have been payable by the Tenant had this Lease not terminated by such Default Termination, payable upon the due dates therefor specified in this Lease following such Default Termination and until the date originally specified as the expiration of this Lease; provided, that if the Landlord shall relet all or any part of the Premises for all or any part of the Remaining Period (the Landlord having no obligation to so relet the Premises), the Landlord shall credit the Tenant with the net rents received by the Landlord from such reletting, such net rents to be determined by first deducting from the gross rents as and when received by the Landlord from such reletting the expenses incurred by the Landlord in terminating this Lease and re-entering the Premises and of securing possession thereof, as well as the expenses of reletting, including altering and preparing the Premises for new tenants, brokers' commissions, and all other expenses properly chargeable against the Premises and

the rental therefrom in connection with such reletting, it being understood that any such reletting may be for a period equal to or shorter or longer than said period; provided, further, that (i) in no event shall the Tenant be entitled to receive any excess of such net rents over the sums payable by the Tenant to the Landlord, (ii) in no event shall the Tenant be entitled, in any suit for the collection of damages pursuant to this subsubsection (b), to a credit in respect of any net rents from a reletting except to the extent that such net rents are actually received by the Landlord prior to the commencement of such suit, and (iii) if the Premises or any part thereof should be relet in combination with other space, then proper apportionment on a square foot rentable area basis shall be made of the rent received from such reletting and of the expenses of reletting.

17.2. For the purposes of this Article, the amount of additional rent which would have been payable by the Tenant under Article Twenty-four shall, for each Computation Year (as defined in Article Twenty-four) ending after such Default Termination, be deemed to be an amount equal to the amount of additional rent payable by the Tenant for the Computation Year immediately preceding the Computation Year in which such Default Termination occurs or if the Default Termination occurs prior to the end of the first Computation Year, then the Landlord's reasonable estimate of what additional rent would have been had the Lease commenced one year earlier, and in either case deemed increased each year by the percentage increase in additional rent for the immediately preceding Computation Year over the additional rent for the twelve-month period prior thereto or, if the Lease term did not occur throughout

such prior years, Landlord's reasonable estimate of what such increase would have been had the term occurred during such years. Suit or suits for the recovery of any damages payable by the Tenant, or any installments thereof, may be brought by the Landlord from time to time at its election, and nothing in this Lease shall be deemed to require the Landlord to postpone suit until the date when the term of this Lease would have expired but for such Default Termination.

17.3. Subject to Section 25.12, nothing in this Lease shall be construed as limiting or precluding the recovery by the Landlord against the Tenant of any sums or damages to which, in addition to the damages specified above, the Landlord may lawfully be entitled by reason of any default under this Lease on the part of the Tenant.

ARTICLE EIGHTEEN
(18.)Waivers by Tenant

18.1. The Tenant, for itself and all other Tenant Parties, and on behalf of any and all persons, firms, entities and corporations claiming through or under any Tenant Party, including, without limitation, creditors of all kinds, does hereby waive and surrender all right and privilege which they or any of them might have under or by reason of any present or future law to redeem the Premises or to have a continuance of this Lease for the full term hereby demised after the Tenant is dispossessed or ejected therefrom by process of law or under the terms of this Lease or after the expiration or termination of this Lease as provided in this Lease or pursuant to law. The Tenant also waives (a) the right of the Tenant to trial by jury in any summary dispossess or other proceeding that may hereafter be instituted by the Landlord against the Tenant with respect to the Premises or in any action that may be brought to recover rent, damages or other sums payable under this Lease, and (b) the provisions of any law relating to notice and/or delay in levy of execution in case of an eviction or dispossess of a tenant for nonpayment of rent, and of any other law of like import now or hereafter in effect. If the Landlord commences any such summary dispossess proceeding, the Tenant will not interpose any counterclaim of whatever nature or description in such proceeding, other than a compulsory counterclaim.

ARTICLE NINETEEN
(19.)Tenant's Removal

19.1. Any personal property which shall remain in any part of the Premises or any of the Licensed Spaces after the expiration or termination of the term of this Lease with respect to such part shall be deemed to have been abandoned, and either may be retained by the Landlord as its property or may be disposed of in such manner as the Landlord may see fit at the Tenant's cost; provided, that the Tenant will, upon request of the Landlord, remove from the Building any such personal property by the later of the expiration or termination of this Lease or thirty (30) days after the Landlord's request.

ARTICLE TWENTY

(20.)Elevators, Cleaning, Services, etc.

20.1. The Landlord will (a) supply passenger elevator service to each floor, above the street floor of the Building, which is served by the Building's passenger elevators and on which the Office Space, or any portion thereof, is located, utilizing (i) all of the passenger elevators serving the floors on which the Office Space is located during Business Hours (as hereinafter

defined), subject to Section 8.1 above, provided, however, that, unless the Landlord shall reasonably determine that it is commercially reasonable to do otherwise, during Business Hours (A) the Landlord shall use reasonable efforts to avoid taking more than one (1) passenger elevator in each elevator bank serving the Office Space out of service at any one time to perform upgrades, repairs and/or maintenance of such elevators and (B) if the Landlord shall take more than one (1) such passenger elevator out of service at any one time to perform such upgrades, repairs and/or maintenance, the Landlord shall not do so during peak hours (i.e., 8:00 a.m. to 10:00 a.m., noon to 2:00 p.m. and 5:00 p.m. to 6:00 p.m.), and (ii) not less than two (2) of said elevators during hours other than Business Hours, (b) supply an elevator for the transmission of freight to said floor or floors during Business Hours, (c) supply a freight elevator for access to the C-4 level of the Building and the 50th Floor of the Building (the Tenant acknowledging that access to the roof of the Building is not available from any elevator, but only by stairs from the 50th floor) during Business Hours, subject to such reasonable regulations and restrictions as the Landlord may, from time to time, deem necessary to establish, including, but not limited to, the requirements that (i) only the Tenant's contractors who have been consented to by the Landlord, and the Tenant's properly identified employees, agents and representatives shall be permitted access to the C-4 level of the Building or the 50th Floor of the Building and (ii) except in the case of emergency, such contractors, employees, agents and representatives shall, at the Landlord's option, be accompanied by employees of the Landlord, provided that such requirement shall not interfere with or delay such access to the C-4 level of the Building or the 50th Floor of the Building (except to a de minimis extent), (d) subject to any applicable policies or regulations adopted by any utility or governmental authority, supply during Business Hours in the heating season heat for the warming of the Office Space and the public portions of the Building, (e) subject to any applicable policies or regulations adopted by any utility or governmental authority, supply during Business Hours air conditioning (including cooling during the cooling season in accordance with the provisions of Section 20.2.1 below) and ventilation to all portions of the Office Space, if any, which are served by the Building's air conditioning and ventilation systems, and (f) clean the Office Space in accordance with the specification attached as Exhibit G hereto, except any such portion of the Office Space primarily used for preparing, dispensing or consumption of food or beverages or as an exhibition area or classroom or for storage, shipping room, mail room or similar purposes, or which is a private toilet (it being agreed that any unisex bathrooms installed as part of the Bathroom Work pursuant to Section 11.1 above are not private toilets) or shower, or which is a shop or is used for a trading floor or for operation of computer, data processing, reproduction, duplicating or similar equipment (unless, in the case of any of the foregoing such use does not require cleaning that is in excess of, or of a nature that is different from, that which would be required by ordinary office use), or which is designated as a "secured area" by the Tenant, or (subject to Section 6.1(c)) which is designated as a "live broadcasting area" by the Tenant. Unless otherwise provided in this Lease, the following terms shall have the meanings indicated: "Business Hours" shall mean the hours of 8:00 A.M. to 6:00 P.M. of days other than

Saturdays, Sundays and Holidays (as hereinafter defined); and "Holidays" shall mean (y) New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day and (z) any other days which are hereafter designated as federal holidays, provided the same are adopted as building holidays in other similar first-class office buildings located in midtown Manhattan.

20.2.1. Notwithstanding anything to the contrary contained in this Lease, the air conditioning to be provided to the Office Space from the Building's interior shaft and perimeter system shall be such as to provide, in the aggregate, the number of cubic feet per minute per floor as set forth opposite such floor on Exhibit F-1 and (a) with respect to the air conditioning provided from the Building's interior shaft, at a supply air temperature of 58 degrees Fahrenheit (plus or minus 2 degrees Fahrenheit) measured at the shaft on each floor in the Office Space when the inside dry bulb temperature is 76 degrees Fahrenheit or higher and such as to maintain during the summer season a relative humidity of 50% (plus or minus 5%) and (b) with respect to the air conditioning to be provided to the Office Space from the Building's perimeter system, substantially in accordance with the specification attached hereto as Exhibit F2. No representation is made by the Landlord with respect to the supply air temperature measured at the perimeter of the Office Space, or the adequacy or fitness of such air conditioning or ventilation to achieve or maintain temperatures that may be required for the comfortable occupancy of the Office Space, or that may be required for, or because of, the operation of any computer, data processing, radio broadcasting or other equipment of the Tenant, or otherwise; and where air conditioning or ventilation is required for any such purpose, the Landlord assumes no responsibility, and shall have no liability, for any loss or damage however sustained in connection therewith.

20.2.2. The Tenant acknowledges that the supply air temperature at the Building's interior shaft, as set forth in Section 20.2.1. above, may rise or fall from the 58 degrees Fahrenheit (plus or minus 2 degrees Fahrenheit) temperature set forth above. Accordingly, such supply air temperature may, at the Landlord's option and typically preceding or following Business Hours, be increased during period of warm-up and reduced during periods of cool-down.

20.2.3. The air circulated through the ducts of the air conditioning system of the Building serving the Office Space (including the perimeter system of the Office Space) shall consist of an average amount of fresh air equal to 20 cubic feet per minute per person based on an occupancy level of one person per 100 square feet of usable area. Duct traverse readings shall be taken before or after construction in the presence of the Tenant's representative to verify the delivery of the proper air quality and temperature. If conditions warrant, the readings taken before construction shall include the insertion of an appropriate external resistance so that the static pressure delivered to the Office Space is measured at 1.0 inches.

20.2.4.(a) The Landlord agrees that, subject to the terms and conditions of this Lease (including, but not limited to, the provisions of Section 6.1(e)) and all applicable Requirements, the Tenant, at the Tenant's sole cost and expense, may install in the Office Space a supplemental air conditioning system or systems having, in the aggregate, a maximum cooling capacity of one hundred twenty

(120) tons, and, in connection therewith, one (1) valved chilled water tap (supply and return) on each floor of the Office Space on which any such system is located, at a location approved by the Landlord. If the Tenant shall install such a supplemental air conditioning system or systems, the Landlord shall, subject to the provisions of Section 36.6, Section 20.2.4(b) and Section 20.2.4(c) below, provide to the Tenant up to one hundred twenty (120) tons of chilled water for the operation of the Tenant's supplemental air conditioning system or systems.

(b) The Tenant shall pay for all chilled water used by and/or reserved and available for use by the Tenant, at the Landlord's standard published charges for the supply of chilled water, which charge is currently Eight Hundred Fifty and 00/100 Dollars ($850.00) per ton per annum. Such charge is subject to increases prior to the commencement date and during the term of this Lease to reflect increases in the costs incurred by the Landlord in the production of chilled water, as reasonably determined by Landlord. The Tenant shall pay the charge for chilled water in equal monthly installments in advance, on the first day of each and every calendar month during the term of this Lease. The chilled water required to be supplied by the Landlord pursuant to this Section 20.2.4 shall be available at all times (24 hours per day, 7 days per week) and shall have a supply temperature of 48 degrees Fahrenheit (plus or minus 2 degrees). The "(T" resulting from the operation of the Tenant's supplemental air conditioning system(s) shall not be more than 10 degrees Fahrenheit.

(c) Anything in Section 20.2.4(a) or Section 20.2.4(b) to the contrary notwithstanding, if, as of the date which is six (6) months following the date upon which the Tenant first occupies the Premises for the normal conduct of its business, the Tenant has not installed a supplemental air conditioning system or systems in the Premises, or if the supplemental air conditioning system or systems then installed require less than one hundred twenty (120) tons of chilled water, the Tenant shall be deemed to have waived its rights to receive any chilled water in excess of the amounts then being used by the Tenant and such additional amounts that the Tenant, as of such date, can demonstrate to the Landlord's reasonable satisfaction that the Tenant will require for its use during the remaining term of this Lease, and the Landlord, shall have no further obligation to reserve and/or to make available to the Tenant any chilled water in excess of such amounts.

(d) Subject to Section 5.6 above, the Landlord shall provide to the Tenant a supply of water which is reasonably required for humidification of the Tenant's supplemental air conditioning system(s), provided, and on the express conditions that (i) the Tenant shall have given the Landlord written notice requesting such humidification water together with the Tenant's Preliminary Plans for the Initial Tenant Alterations (it being expressly agreed by the Tenant that if the Tenant fails to deliver such notice together with the Tenant's Preliminary Drawings for the Initial Tenant Alterations, the Landlord shall have

no obligation to furnish such humidification water pursuant to this Section 20.2.4(d)), (ii) if the Tenant timely delivers the Landlord the notice referenced in subclause (i) above, the Landlord's obligation to provide such humidification water shall continue if, and for so long as, the Tenant installs and operates such supplemental air conditioning system(s) and (iii) the Tenant, at the Tenant's sole cost and expense, shall, subject to Section 6.1(e) and all other applicable provisions of this Lease, provide and install all pipes, risers, connections and/or appurtenances which are necessary to bring such humidification water to such supplemental air conditioning system(s) from the Building's cold water riser on

the 37th Floor of the Building. The Tenant shall pay for such humidification water, as additional rent hereunder in twelve (12) equal monthly installments together with payments of fixed rent due hereunder, an annual flat rate, as is reasonably determined by the Landlord and of which the Landlord gives written notice to the Tenant within a reasonable period of time after timely receipt by the Landlord of the Tenant's request for such humidification water.

20.3. The Landlord shall, when and to the extent reasonably requested by the Tenant, furnish additional passenger and freight elevators, heating, air conditioning, ventilating and/or cleaning services (including cleaning services to (Y) any "secured area" (subject to being granted access thereto) or "live broadcasting area" on an after-hours, overtime basis and (Z) any other portion of the Premises in addition to the Office Space) upon such reasonable terms and conditions as shall be determined by the Landlord, including the payment by the Tenant of the Landlord's reasonable charge therefor; provided, however, that, upon the Tenant's request therefor made at least three (3) business days in advance (but subject to any prior reservations made by other tenants and occupants of the Building), the Landlord will furnish to the Tenant, at no charge to the Tenant, (a) the exclusive use of one (1) freight elevator for the Tenant's initial move-in to each of the 36th Floor Space and the 37th Floor Space on two (2) consecutive weekends for each floor (during the period from 8:00 a.m. to 11:59 p.m. on both Saturday and Sunday) and (b) the exclusive use of one (1) freight elevator for the Tenant's move-out from each of the 36th Floor Space and the 37th Floor Space on one (1) weekend for each floor (during the period from 8:00 a.m. to 11:59 p.m. on both Saturday and Sunday), provided, however, that nothing in this Section 20.3 shall be construed to grant to the Tenant the right to the exclusive use, or the use at no charge to the Tenant, of more than one (1) freight elevator on any given day. The Tenant will also pay the Landlord's reasonable charge for (y) any additional cleaning of the Office Space required because of the carelessness or indifference of any Tenant Party or because of the particular nature of any Tenant Party business (as distinguished from customary office use), and (z) the removal of any refuse and rubbish of any Tenant Party from the Premises and the Building, except the removal from the Office Space of wastepaper and similar discarded material placed by the Tenant in wastepaper baskets and left for emptying as an incident to the Landlord's normal cleaning of the Office Space. If the cost to the Landlord for cleaning the Office Space shall be increased due to the use of any part of the Office Space during hours other than Business Hours or due to there being installed in the Office Space, at the request of or by any Tenant Party, any materials or finish other than those which are of the standard adopted by the Landlord for the Building, the Tenant shall pay to the Landlord an amount equal to such reasonable increase in cost; provided, however, that the Tenant, upon not less than three (3) business days prior written notice to the Landlord, shall

be permitted to use its own contractors or employees to clean such non-standard items, and the Landlord shall provide such contractors with necessary access to the Office Space, provided, and upon the express conditions that (a) such use shall be in compliance with and shall not violate any Requirements, (b) the Tenant shall have obtained the Landlord's prior consent to such contractors or employees, provided that such consent not to be unreasonably withheld or delayed, and (c) the same will not in the Landlord's reasonable determination, cause any disruption of labor harmony in the Building. The Tenant may participate in any paper recycling plan available to it and nothing contained herein shall require that the Tenant use or participate in any recycling plan sponsored or approved by the Landlord unless dictated by any Requirement and provided that such recycling plan does not impose any material additional burden upon the Landlord or the Building or the Land. As used in this Section 20.3, the Landlord's "reasonable charges" shall be the charges set forth in the Landlord's "1998 Tenant Sales Rate Schedule" (a copy of which has previously been furnished to the Tenant), as the same may be increased from time to time by the Landlord, provided that such increases shall be reasonably related to increases in the Landlord's actual cost of providing such services to tenants in the Building.

20.4. All or any of the elevators in the Building may, at the option of the Landlord, be manual or automatic elevators, and the Landlord shall be under no obligation to furnish an elevator operator or starter for any automatic elevator, but if the Landlord shall furnish any elevator operator or starter for any automatic elevator, the Landlord may discontinue furnishing such elevator operator or starter.

20.5. The Landlord reserves the right, without liability to the Tenant (subject to the provisions of Section 20.6 below) and without constituting any claim of constructive eviction, to stop or interrupt any heating, elevator, escalator, lighting, ventilating, air conditioning, power, water, cleaning or other service and to interrupt the use of any Building facilities, at such times as may be necessary and for as long as may reasonably be required by reason of accidents, strikes, the making of repairs, alterations or improvements, inability to secure a proper supply of fuel, steam, water, electricity, labor or supplies, or by reason of any other cause beyond the reasonable control of the Landlord; provided, that the Landlord shall use reasonable efforts to coordinate with the Tenant regarding the scheduling of any such stoppage or interruption for the purpose of making any discretionary or non-emergency repairs, alterations or improvements and make the same at such times and in such manner

as shall not unreasonably interfere with the Tenant's use of the Premises.

20.6. Anything in Section 20.5 above or elsewhere in this Lease to the contrary notwithstanding, if any Essential Service (as hereinafter defined) which the Landlord is required to provide to the Tenant under this Lease is interrupted for a period of ten (10) consecutive business days, other than any interruption caused by any act or omission of any Tenant Party (in which event there shall be no abatement of fixed rent as provided for in this Section 20.6), and if, as a result thereof (a) all or substantially all of the Premises is rendered untenantable or otherwise cannot be used for the reasonable conduct of the Tenant's business, the Tenant shall be entitled to an abatement of the fixed rent for each day after the expiration of such ten (10) business day period that all or substantially all of the Premises shall remain untenantable or otherwise cannot be used for the reasonable conduct of the Tenant's business, or (b) (i) at least

5,000 rentable square feet of the Office Space (but less than all or substantially all of the Office Space) or (ii) any part of the Premises that is essential for the normal conduct of the Tenant's business in the Office Space, (without regard to the size of such part of the Premises), is rendered untenantable or otherwise cannot be used for the reasonable conduct of the Tenant's business for ten (10) consecutive business days by reason of any interruption of an Essential Service, other than any interruption caused by an act or omission of any Tenant Party (in which event there shall be no abatement of fixed rent as provided for in this Section 20.6), the Tenant shall be entitled to a partial abatement of fixed per square foot rent for each day after the expiration of such ten (10) business day period that such portion of the Premises shall remain untenantable or otherwise cannot be used for the reasonable conduct of the Tenant's business, such abatement to be an amount equal to the product of the fixed rental rate applicable with respect to such portion of the Premises, the number of rentable square feet in such portion of the Premises and a fraction, the numerator of which is one (1) and the denominator of which is three hundred sixty-five (365). The abatements provided for in this Section 20.6 shall be the Tenant's sole remedy in the event of any interruption of any Essential Service which the Landlord is required to provide to the Tenant under this Lease. The term "Essential Service" as used in this Lease shall mean electric current, heat, air conditioning and ventilation, water for lavatory purposes and any fire suppression sprinkler system and at least two (2) elevators serving the Office Space and elevator access to the 50th Floor of the Building.

20.7. Anything in this Lease to the contrary notwithstanding, the Landlord agrees that the Tenant shall have access to the Building and the Premises, and that the Landlord will provide staffing in the Building's lobby, 24 hours per day, 7 days per week, subject to events of Force Majeure and applicable Requirements.

20.8. The Building's toilet exhaust system shall be such as to provide during Business Hours exhaust capacity of at least 2 cubic feet per minute per square foot of the existing toilet facilities in the Office Space, and such toilet facilities in the Office Space as the same may be renovated and/or installed in accordance with Section 11.1 above.

20.9. Anything in this Lease to the contrary notwithstanding, the Landlord shall not be required to provide any services to the Basement Space, the Penthouse Space or the Licensed Spaces, except as specifically provided for such spaces in Section 5.1(b) and Article Thirty-four, Article Thirty-five and Article Thirty-six of this Lease.

20.10. Provided, and for so long as, the Tenant uses at least one hundred (100) tons of chilled water pursuant to Section 20.2.4 above, the Landlord, at no additional charge to the Tenant, shall make the Building's licensed operating engineer available, on a non-exclusive basis, for consultation in connection with the operation and maintenance of the Auxiliary Chiller System and the Emergency Generator System. Anything in this Lease to the contrary notwithstanding, in no event shall the Landlord, such engineer or any of the other Indemnitees be responsible for (a) complying with, nor shall the Landlord, such engineer or any of the other Indemnitees be subject to any liability for the Tenant's failure to comply with, any Requirement applicable to the Auxiliary Chiller System or the Emergency Generator System or the installation, operation or maintenance (or, upon the expiration or sooner termination of this Lease, the removal) of the Auxiliary Chiller System or the Emergency Generator System, or (b)

the installation, operation or maintenance of the Auxiliary Chiller System or the Emergency Generator System, or for any liability or damage incurred or suffered by the Tenant in connection with or arising out of the Tenant's installation, operation or maintenance (or, upon the expiration or sooner termination of this Lease, the removal) of the Auxiliary Chiller System or the Emergency Generator System; and the Tenant shall make no claim against the Landlord or any Landlord Party (including, without limitation, such engineer) for any direct, consequential or other loss or damage suffered or incurred by the Tenant in connection with the installation operation or maintenance (or, upon the expiration or sooner termination of this Lease, the removal) of the Auxiliary Chiller System or the Emergency Generator System, however caused,

provided, however, that the foregoing is not intended to relieve such engineer from any liability for his or her willful misconduct in connection with the operation and maintenance of the Auxiliary Chiller System or the Emergency Generator System. The Tenant shall indemnify and save harmless the Indemnitees (including, without limitation, such engineer), and defend the Indemnitees (with counsel reasonably acceptable to the Indemnitees), from and against any and all liability (including, but not limited to, statutory liability), loss, damage interest, judgments and liens, and any and all costs and expenses (including, but not limited to, counsel fees and disbursements), in any way arising out of or incurred in connection with, any and all claims, demands, suits, actions and/or proceedings which shall be made or brought against the Indemnitees in connection with or arising out of, anything done or omitted to be done with respect to the Auxiliary Chiller System or the Emergency Generator System, except to the extent caused by the willful misconduct of such engineer. The Indemnitees agree to give the Tenant prompt written notice of all claims, demands, suits, actions and/or proceedings for which the Indemnitees are indemnified hereunder brought or threatened against the Indemnitees, but any failure or delay in giving any such notice shall not affect the Tenant's indemnification obligation hereunder unless the Tenant's ability to defend against such claim is materially adversely affected by such failure or delay. The provisions of this Section 20.10 shall survive the expiration or earlier termination of this Lease. The foregoing provisions of this Section 20.10 are subject to the provisions of Section 9.3 and Section 25.12 of this Lease.

ARTICLE TWENTY-ONE
(21.)Lease Contains All Agreements-No Waivers

21.1. This Lease contains all of the understandings relating to the leasing of the Premises and the Landlord's obligations in connection therewith and neither the Landlord nor any agent or representative of the Landlord has made or is making, and the Tenant in executing and delivering this Lease is not relying upon, any warranties, representations, promises or statements whatsoever, except to the extent expressly set forth in this Lease. All understandings and agreements, if any, heretofore had between the parties are merged in this Lease, which alone fully and completely expresses the agreement of the parties.

21.2. The failure of either party to insist in any instance upon the strict keeping, observance or performance of any provision of this Lease or to exercise any election in this Lease shall not be construed as a waiver or relinquishment for the future of such provision, but the same shall continue and remain in full force and effect. No waiver or modification by either party of any provision of this Lease shall be deemed to have been made unless expressed in

writing and signed by the party to be charged. No surrender of possession of the Premises or of any part thereof or of any remainder of the term of this Lease shall release the Tenant from any of its obligations under this Lease unless accepted by the Landlord in writing. The receipt and retention by the Landlord of Rent from anyone other than the Tenant shall not be deemed a waiver of the breach by the Tenant of any provision in this Lease, or the acceptance of such other person as a tenant, or a release of the Tenant from its further observance of the provisions of this Lease. The receipt and retention by the Landlord of Rent with knowledge of the breach of any provision of this Lease shall not be deemed a waiver of such breach.

ARTICLE TWENTY-TWO
(22.)Parties Bound; Exculpation

22.1. The provisions of this Lease shall bind and benefit the respective successors, assigns and legal representatives of the parties to this Lease, except that (1) no violation of the provisions of Article Seven shall operate to vest any rights in any successor, assignee or legal representative of the Tenant and (2) the provisions of this Article shall not be construed as modifying the conditions of limitation contained in Article Fifteen. The obligations of the Landlord under this Lease shall not, however, be binding upon the Landlord herein named (or any subsequent transferor of its interest in the Building or the Premises) with respect to the period (i) subsequent to the transfer of its interest in the Building or the Premises (a lease of the entire interest being deemed such a transfer), except for obligations of the Landlord that accrued prior to the date of such transfer (provided that such obligations shall not be binding on the Landlord herein named (or any such subsequent transferor) if the transferee of the Landlord herein named (or the transferee of any such subsequent transferor) assumes such obligations in writing and a copy of such assumption agreement is delivered to the Tenant within a reasonable period of time thereafter), or (ii) subsequent to the expiration or earlier termination of the term of any underlying lease to which this Lease and the term and estate hereby granted may be subject and subordinate and wherein the lessor thereunder has agreed to recognize this Lease in case the term of said underlying lease expires or terminates prior to the expiration or termination of the term of this Lease if the Landlord would not then be entitled to terminate this Lease pursuant to said Article Fifteen or to exercise any dispossess remedy provided for in this Lease or by law; and in any such event those covenants shall, subject to Article Thirteen, thereafter be binding upon the transferee of such interest in the Building or the Premises or the lessor under said underlying

lease, as the case may be, until the next such transfer of such interest.

22.2. The Tenant shall look solely to the Landlord's interest in the Land and the Building (and the proceeds thereof, including, without limitation, sale proceeds thereof and any undistributed proceeds thereof resulting from any financing or refinancing of the Building (it being expressly agreed by the Tenant that the Tenant shall have no recourse to any financing or refinancing proceeds paid to the shareholders, partners, members or other owners of any equity interests in the Landlord, whether by distribution, dividend or otherwise) or any proceeds thereof resulting from any casualty to or condemnation of the Building) for the satisfaction of any monetary claim under this Lease, or for the collection of any judgment (or other judicial process) based thereon, and no other property or assets of the Landlord (or any affiliate,

shareholder, director, officer, employee, partner, agent, representative, or beneficiary of the Landlord, disclosed or undisclosed) shall be subject to levy, execution or other enforcement procedure for the satisfaction of such claim or judgment (or other judicial process). If a final, non-appealable judgment is entered in favor of the Tenant against the Landlord based on any monetary claim under this Lease, and if such judgment is not paid to the Tenant within thirty (30) days after demand therefor, the Tenant shall be entitled to offset the amount of such judgment against the next accruing fixed rent.

ARTICLE TWENTY-THREE
(23.)Curing Tenant's Defaults-Additional Rents

23.1. If the Tenant shall default in the observance of any provision of this Lease, the Landlord, without thereby waiving such default, may perform the same for the account and at the expense (which shall be reasonable, taking into account the circumstances giving rise to the necessity to cure the Tenant's default) of the Tenant (a) immediately or at any time thereafter and without notice in the case of emergency (except that the Landlord shall provide notice of such emergency to the Tenant as soon as reasonably practicable under the circumstances but in no event shall the Landlord's failure to do so affect its right to effect a cure of the Tenant's default) or in case such default unreasonably interferes with the use by any other tenant of any space in the Building or with the efficient operation of the Building or will result in a violation of any Requirement applicable to the Land, the Building or the Premises or any part thereof, to the Tenant's use thereof or to the Tenant's observance of any provision of this Lease, or in a cancellation of an insurance policy maintained by the Landlord, and (b) in any other case if such default continues after thirty (30) days from the date of the giving by the Landlord of notice of the Landlord's intention so to perform the same, provided, however, that if the Tenant's default constitutes a default under any underlying lease or underlying mortgage and the lessor or mortgagee thereof notifies the Landlord of such default, then if the cure period afforded the Tenant extends beyond the tenth (10th) day preceding the end of the cure period permitted to the Landlord under the underlying lease or underlying mortgage, the Landlord may so notify the Tenant, in which event the Landlord's right to cure the Tenant's default will commence upon such tenth (10th) day. All costs and expenses incurred by the Landlord in connection with any such performance by it for the account of the Tenant and all costs and expenses, including reasonable counsel fees and disbursements incurred by the Landlor in any action or proceeding (including any summary dispossess proceeding) brought by the Landlord to enforce any obligation of the Tenant under this Lease and/or right of the Landlord in or to the Premises, shall be paid by the Tenant to the Landlord upon demand. Except as expressly provided to the contrary in this Lease, all costs and expenses which, pursuant to this Lease (including the rules and regulations referred to in this Lease) are incurred by the Landlord and payable to it by the Tenant and all charges, amounts and sums payable to the Landlord by the Tenant for any property, material, labor, utility or other services which, pursuant to this Lease or at the request and for the account of the Tenant, are provided, furnished or rendered by the Landlord shall become due and payable by the Tenant to the Landlord on the later of (i) thirty (30) days after receipt by the Tenant of a bill from the Landlord or (ii) three (3) business days prior to the date due to a third-party vendor. If any cost, expense, charge, amount or sum referred to in this Section or elsewhere in this Lease is not paid when due as provided

in this Lease, the same shall become due by the Tenant as additional rent under this Lease. If any Rent or damages payable under this Lease is not paid within ten (10) days after the date (the "Due Date") when due, the same shall bear interest at the rate per annum (except as specifically set forth below in this Section 23.1) equal to the Prime Rate (as hereinafter defined) plus (x) two (2) percentage points, during the period from the Due Date until the earlier to occur of (i) the date that is thirty (30) days after the Due Date and (ii) the date that such amount is paid, (y) four (4) percentage points during the period from the thirty-first (31st) day after the Due Date until the earlier to occur of (i) the date that is sixty (60) days after the Due Date and (ii) the date that such amount is paid and (z) six (6) percentage points during the period from the sixty-first (61st) day after the Due Date until the date that such amount is paid (but in no event shall the interest payable under clause (x), (y) or (z) above be in excess of that permitted by law), and the amount of such interest shall be deemed additional rent under this Lease. If there is a

nonpayment by the Tenant of any such additional rent and/or any other additional rent becoming due under this Lease, the Landlord, in addition to any other right or remedy, shall have the same rights and remedies as in the case of default by the Tenant in the payment of the fixed rent. If the Tenant is in arrears in payment of Rent beyond any applicable notice and grace period provided for under this Lease, the Tenant waives the Tenant's right, if any, to designate the items against which any payments made by the Tenant are to be credited, and the Landlord may apply any payments made by the Tenant to any items the Landlord sees fit, irrespective of and notwithstanding any designation or request by the Tenant as to the items against which any such payments shall be credited. The Landlord reserves the right, without liability to the Tenant and without constituting any claim of constructive eviction, to suspend furnishing or rendering to the Tenant any property, material, labor, utility or other service, wherever the Landlord is obligated to furnish or render the same at the expense of the Tenant, in the event that (but only so long as) the Tenant is in arrears in paying the Landlord therefor at the expiration of five (5) business days after the Landlord shall have given to the Tenant notice demanding the payment of such arrears; provided, however, that if (but only so long as) the Tenant is disputing in good faith Tenant's obligation to pay all of such arrears, has paid to the Landlord all amounts due for services which are not in dispute, and is diligently prosecuting the resolution of such dispute, then the Landlord shall not exercise such right to suspend services; provided further, however, that if it is determined that the Tenant owes the Landlord all or any portion of the amount in arrears, or if the Tenant ceases to dispute in good faith its obligation to pay all or any portion of the amount in arrears, the Tenant shall pay to the Landlord, upon demand (and with interest thereon a rate per annum equal to the Prime Rate plus two (2) percentage points (but in no event in excess of that permitted by law) from the date such amount was due to the date such amount (with interest) is paid to the Landlord) any amount that is so determined to be owed to the Landlord and any amount which the Tenant no longer disputes in good faith; provided further, however, that, if it is determined that the Landlord improperly billed the Tenant for a service and that the Tenant has remitted payment to the Landlord for all or any portion of such improperly billed amount, then the Landlord shall pay to the Tenant, upon demand, the amount that is so determined to have been overpaid by the Tenant. As used in this Lease, the term "Prime Rate" shall mean, for any period of time during the term of this Lease, the then published prime interest rate for unsecured loans charged by The Chase Manhattan Bank, (or Citibank if The Chase Manhattan Bank, shall not then have an announced prime rate) on loans of 90 days.

ARTICLE TWENTY-FOUR

(24.)Adjustments for Changes in Landlord's Costs and Expenses

24.1. If for any Computation Year, the R.E. Tax Share of the Real Estate Taxes shall be greater than Base Real Estate Taxes, or 108% of the O.E. Share of the Cost of Operation and Maintenance shall be greater than 108% of the Base COM, then the Tenant shall pay to the Landlord, as additional rent, an amount equal to the product obtained by multiplying such excess or excesses by the Tenant's Area. In no event shall any payment by the Tenant in respect of (a) Real Estate Taxes be due with respect to any period ending on or before June 30, 1999 and (b) the Cost of Operation and Maintenance be due with respect to any period ending on or before December 31, 1999.

24.2. In order to provide for current payments on account of the additional rent which may be payable to the Landlord pursuant to Section 24.1 for any Computation Year, the Tenant agrees to make such payments on account of said additional rent for and during such Computation Year, as the case may be, as follows:

(a) With respect to Real Estate Taxes, the Tenant shall pay its share thereof in two semiannual installments in advance on the twentieth (20th) day of June and December, each equal to the product of the Tenant's Area, multiplied by one-half of the excess of the R.E. Tax Share of the Real Estate Taxes for the Tax Year in which the Landlord's corresponding tax payment falls over the Base Real Estate Taxes, it being understood that if the tax bill for the following Tax Year is not received in time to bill the June 20 payment, the Landlord may reasonably estimate the payment due on June 20 based on the Landlord's reasonable estimate of the Real Estate Taxes for such following Tax Year. If, upon issuance of the tax bill for such following Tax Year (or upon such earlier date as the Landlord shall have knowledge of the actual amount of such Real Estate Taxes as finally determined by the applicable taxing authorities), such estimated amount results in an underpayment, the Tenant shall pay to the Landlord the amount of the underpayment. If, upon issuance of the tax bill for such following Tax Year (or upon such earlier date as the Landlord shall have knowledge of the actual amount of such Real Estate Taxes as finally determined by the applicable taxing authorities), such estimated amount results in an overpayment, the Landlord shall, at the Tenant's election, either pay to the Tenant an amount equal to the overpayment or permit the Tenant a credit for such amount against future rent payments. If there shall be any increase in Real Estate Taxes for any Tax Year, whether during or after such Tax Year, or if there shall be any decrease in the Real Estate Taxes for any Tax Year, whether during

or after such Tax Year, the Tenant shall pay its share of any increase, or, to the extent the decrease does not reduce the R.E. Tax Share of Real Estate Taxes below the Base Real Estate Taxes, receive its share of any decrease, substantially in the same manner as provided in the preceding two sentences. If during the term of the Lease, eal Estate Taxes are required to be paid (to the appropriate taxing authorities), on any other date or dates than as presently required, then the Tenant's payments toward Real Estate Taxes shall be

correspondingly accelerated or revised so that such payments are due at least ten (10) days prior to the date payments are due to the taxing authorities. Upon the receipt by the Landlord of a written request therefor from the Tenant within three (3) years after the end of the applicable Tax Year, the Landlord shall provide to the Tenant a copy of any tax bill for the Building requested by the Tenant and in the Landlord's possession.

(b) With respect to Cost of Operation and Maintenance, the Tenant shall pay an amount each month equal to the product of the Tenant's Area multiplied by 1/12th of the excess of 108% of the O.E. Share of the Cost of Operation and Maintenance for such Computation Year as reasonably estimated by the Landlord (which estimate of the Cost of Operation and Maintenance for such Computation Year shall not exceed 105% (or such higher percentage which the Landlord can reasonably document) of the Cost of Operation and Maintenance for the immediately preceding Computation Year) over 108% of the Base COM, the installment for each calendar month to be due and payable upon the receipt from the Landlord of a bill for the same. If, as finally determined, the amount of additional rent payable by the Tenant to the Landlord pursuant to this Subsection for such Computation Year shall be greater than (resulting in an underpayment) or be less than (resulting in an overpayment) the aggregate of all the installments so paid on account to the Landlord by the Tenant for such Computation Year, then, promptly after the receipt of the bill for such Computation Year and, in performance of its obligations under Section 24.1, the Tenant shall, in case of such an underpayment, pay to the Landlord within thirty (30) days an amount equal to such underpayment, or the Landlord shall, in case of such an overpayment, at the Tenant's election, either pay to the Tenant within thirty (30) days an amount equal to such overpayment or permit the Tenant a credit for such amount against future rent payments.

24.3. As used in this Article:

(a) "Computation Year" shall mean each calendar year in which occurs any part of the term of this Lease and, in the case of a Default Termination of this Lease, in which would have occurred any part of the full term of this Lease except for such Default Termination.

(b) "Tax Year" shall mean the twelve (12) month period commencing July 1 of each year, or such other twelve (12) month period as may be duly adopted as the fiscal year for real estate tax purposes in The City of New York.

(c) "Tenant's Area" shall mean the number of square feet in the rentable area of the Office Space, the Basement Space and the Penthouse Space, as agreed upon by the parties and set forth in Section 1.6 hereof.

(d) "R.E. Tax Share" shall mean a fraction whose numerator is one and whose denominator is the number of square feet of the rentable area of the Building.

(e) "O.E. Share" shall mean a fraction whose numerator is one and whose denominator is the number of square feet in the rentable area of the Building. The parties agree that the Building currently contains 2,497,153 rentable square feet for purposes of this Article.

(f) "Real Estate Taxes" shall mean the taxes and assessments imposed upon the Building, including without limitation assessments made as a result of the Building or part thereof being within a business improvement district, (other than any interest or penalties imposed in connection therewith) and all expenses, including fees and disbursements of counsel and experts, reasonably incurred by, or reimbursable by, the Landlord in connection with any application for a reduction in the assessed valuation for the Building or for a judicial review thereof. Except as hereinafter provided, Real Estate Taxes shall not be deemed to include (i) any taxes on the income of the holder of an underlying mortgage and any taxes on the income of the lessor under any underlying lease, (ii) any corporation, unincorporated business or franchise taxes, (iii) any estate gift, succession or inheritance taxes, (iv) any capital gains, mortgage recording or transfer taxes, (v) any taxes or assessments

attributable to any sign attached to, or located on, the Building or the Land or (vi) any similar taxes imposed on the Landlord, the holder of any underlying mortgage or the lessor under any underlying lease; provided, however, that if, due to a future change in the method of taxation any tax of the type referred to in the foregoing clauses (i)-(vi), or any other tax, shall be levied against the Landlord in substitution in whole or in part for, or in lieu of, any tax assessment, lien, or imposition which would otherwise constitute a Real Estate Tax, such tax shall be deemed to be a Real Estate Tax for the purposes of this Lease. Where the Real Estate Taxes are not separately levied upon the Building and the Land but are included in a blanket levy imposed upon or with respect to the Building and or the Land as well as others or portions thereof, the amount of Real Estate Taxes for the purposes of this Lease shall be determined by allocation as follows: the amount of Real Estate Taxes for the Building shall be deemed to be that amount which, in relation to the total amount of said taxes for all buildings or portions thereof included in said blanket levy, is in the same proportion as the total rentable area of the Building bears to the total rentable area of all the included buildings or portions thereof, and the amount of Real Estate Taxes for the Land shall be deemed to be that amount which, in relation to the total amount of said taxes for all land included in said blanket levy, is in the same proportion as the rentable area of the Building bears to the aggregate rentable area of all buildings or portions thereof situated on said included lands.

(g) "Cost of Operation and Maintenance" shall mean the actual cost incurred by the Landlord or its affiliates in accordance with sound management and accounting principles and practices generally accepted (consistently applied) with respect to the ownership, operation, maintenance and repair of the Building and the curbs and sidewalks adjoining the same, including, without limitation,

the cost incurred for air conditioning; mechanical ventilation; heating; interior and exterior cleaning; rubbish removal; window washing (interior and exterior, including inside partitions); elevators; escalators; hand tools and other moveable equipment to the extent same are not required to be capitalized in accordance with good accounting practice; porter and matron service; electric current, steam, water and other utilities; association fees and dues; protection and security service; repairs; maintenance; compliance with any Preservation Agreement to the extent same are not required to be capitalized in accordance with good accounting practice; fire, extended coverage, boiler, sprinkler, apparatus, rental income, public liability and property damage insurance; supplies; wages, salaries, disability benefits, pensions, hospitalization, retirement plans and group insurance respecting service and maintenance employees, building superintendents, concierges, managers, their assistants and clerical staffs, and persons engaged in supervision of the foregoing; uniforms and working clothes for such employees and the cleaning thereof; expenses imposed pursuant to any collective bargaining agreement with respect to such employees; payroll, social security, unemployment and other similar taxes with respect to such employees; sales, use and other similar taxes; vault charges, except to the extent the related vault space is leased to a third party; franchise fees payable to New York City in connection with the concourse levels of Rockefeller Center; water rates; sewer rents; charges of any independent contractor who does any work with respect to the operation, maintenance and repai of the Building and the curbs and sidewalks adjoining the same; legal, accounting and other professional fees; decorations; and the annual depreciation or amortization over the useful life thereof of costs, including reasonable financing costs, incurred for any equipment, device or other capital improvement made or acquired which is either intended as a laborsaving measure or to effect other economies in the operation of the Building and said curbs and sidewalks (but only to the extent that the annual benefits anticipated to be realized therefrom are reasonably anticipated to exceed the annual amount to be amortized) or which is required by any Requirement enacted after the date hereof; provided, that the term "Cost of Operation and Maintenance" shall not include (1) Real Estate Taxes, special assessments, franchise, transfer, gains, inheritance, estate, succession, gift, corporation, unincorporated business or gross receipts taxes or taxes imposed upon or measured by the income or profits of the Landlord, (2) except for depreciation and amortization specifically provided for in this subsection, the cost of any item, including, without limitation, any improvement, repair, alteration, change, addition (including, without limitation, any additions to, or additional stories on, the Building or its plazas, or additional buildings or other structures adjoining the Building, or connecting the Building to other structures adjoining the Building), or replacement, which is, or should in accordance with good accounting practice be, capitalized on the books of the

Landlord, including, without limitation, rental payments for any equipment which, in accordance with good accounting practice, is considered to be of a capital nature, (3) the cost of any electricity furnished to the Premises or any other space in the Building demised or

available for lease to other tenants, (4) the cost of any work or service performed for any tenant of space in the Building (including the Tenant) at such tenant's cost and expense or in excess of Building Standard, or work done prior to initial occupancy, and any other contribution by the Landlord to the cost of tenant improvements, or the cost of any work or service performed for any tenant of space in the Building of a type which is not provided to the Tenant (or which is provided to the Tenant, but at a separate or additional charge), (5) any costs incurred with respect to any theater or garage located in the Building, (6) advertising, entertainment and promotional expenses, (7) all leasing commissions and expenses of procuring tenants, including, without limitation, lease concessions and take-over or take-back obligations, (8) depreciation and amortization (except as otherwise provided above), (9) interest on and amortization of det, (10) any ground rent or any other payments payable under any lease to which this Lease is subject, (11) any fines, late charges, interest and penalties on any taxes, debt service and ground rent, (12) wages, fringe benefits and salaries of employees over the rank of senior vice president-operating (provided that the Landlord shall reasonably apportion, if applicable, the wages, fringe benefits and salary of such senior vice president-operating among or between the buildings for which he or she is responsible and the amount apportioned to buildings other than the Building shall not be included in the Cost of Operation and Maintenance), (13) costs and expenses of lease enforcement, including legal fees, (14) intentionally omitted, (15) expenses resulting from any violation by the Landlord of the terms of any lease of space in the Building or of any ground or underlying lease or mortgage to which this Lease is subordinate, (16) amounts received by the Landlord (through proceeds of insurance or otherwise) to the extent they are compensation for sums previously included in operating expenses, (17) amounts paid to any affiliate of the Landlord for services and/or materials which is in excess of the fair market price (it being understood that, upon the request of the Tenant, the Landlord shall notify the Tenant of any contract for services and/or materials between the Landlord and any such affiliate), (18) costs incurred with respect to a sale or transfer of all or any portion of the Building or any interest therein or in any person or entity of whatever tier owning an interest therein, (19) financing and refinancing costs, (20) intentionally omitted, (21) costs for which the Landlord receives compensation through the proceeds of insurance or for which the Landlord would have been compensated by insurance had it carried the coverage required under the Lease or for which the Landlord receives compensation from any other source, (22) intentionally omitted, (23) legal fees, expenses and disbursements incurred in connecton with leasing, sales, financing or refinancing or disputes with tenants, (24) amounts otherwise includable in the Cost of Operation and Maintenance but reimbursed to the Landlord directly by the Tenant or other tenants (other than through provisions similar to this Article Twenty-four), (25) to the extent any costs includable in the Cost of Operation and Maintenance are incurred with respect to both the Building and other properties (including, without limitations, salaries, fringe benefits and other compensation of the Landlord's personnel who provide services to both the

Building and other properties), there shall be excluded from the Cost of Operation and Maintenance a fair and reasonable percentage thereof which is properly allocable to such other properties, (26) the cost of any judgment, settlement, or arbitration award resulting from any liability of the Landlord (other than a liability for amounts otherwise includable in the Cost of Operation and Maintenance hereunder) and all expenses incurred in connection therewith, (27) the cost of acquiring or replacing any separate electrical meter the Landlord may provide to any of the tenants in the Building, (28) costs relating to withdrawal liability or unfunded pension liability under the Multi-Employer Pension Plan Act or similar law, (29) the cost of installing, operating and maintaining any specialty facility such as an observatory, broadcasting facilities, luncheon club, athletic or recreational club, child care or similar facility, cafeteria or dining facility or conference center, (30) any compensation paid to clerks, attendants or other persons in commercial concessions operated by the Landlord, (31) costs of acquiring, leasing, restoring, displaying, insuring or protecting (a) sculptures, (b) paintings and (c) other objects of art located within or outside the Building, except for the cost of routine maintenance of such objects in the public areas in the Building, (32) expenditures for repairing and/or replacing any defect in any work performed by the Landlord pursuant

to the provisions of this Lease, (33) costs incurred to remedy violations of Requirements (including, without limitation, the Americans with Disabilities Act or New York City local law 58/87) that arise by reason of the Landlord's failure to construct, maintain or opeate the Building or any part thereof in compliance with such Requirements, other than such costs incurred in order to achieve compliance with new Requirements (including any changes in any Requirements) enacted after the date hereof which may be amortized as provided in the definition of Cost of Operation and Maintenance, (34) expenses allocable directly and solely to the retail space of the Building (including, without limitation, plate glass insurance), (35) intentionally omitted, (36) costs incurred in connection with the acquisition or sale of air rights, transferable development rights, easements or other real property interests, (37) any insurance costs that are not customary for first-class office buildings located in Manhattan and any increased insurance costs reimbursed directly to the Landlord by a tenant, including, without limitation, the Tenant, pursuant to their respective leases, (38) costs incurred by the Landlord which result from a tenant's (other than the Tenant) breach of a lease or the Landlord's tortious or negligent conduct, (39) the cost of repairs or replacements or restorations by reason of fire or other casualty or condemnation, (40) costs and expenses incurred by the Landlord in connection with any obligation of the Landlord to indemnify any tenant of the Building (including the Tenant) pursuant to its lease or otherwise, (41) the cost paid or incurred in connection with the removal, replacement, enclosure, enclosure, encapsulation or other treatment of any substances in the Building which constitute hazardous substances as of the date of this Lease, (42) all costs incurred by the Landlord in respect of modifications or upgrades to the Landlord's computer hardware or software systems required for the proper functioning of the Landlord's computer systems for, or with

respect to, the year 2000 and thereafter, (43) the cost of electricity and overtime heating, ventilating and air conditioning furnished to any rentable space in the Building, whether or not leased to tenants, and (44) costs(including, without limitation, any taxes or assessments) incurred in connection with any sign attached to, or located on, the Land or the Building. If during any period for which the Cost of Operation and Maintenance is being computed, including the Computation Years used to calculate the Base COM, the Landlord is not for all or any part of such period furnishing any particular work or service (the cost of which if performed by the Landlord would constitute a Cost of Operation and Maintenance) to a portion of the Building due to the fact that such portion is not leased to a tenant or that the Landlord is not obligated to perform such work or service in such portion, then the amount of the Cost of Operation and Maintenance for such period shall be deemed, for the purposes of this Article, to be increased by an amount equal to the additional Cost of Operation and Maintenance which would reasonably have been incurred during such period by the Landlord if it had furnished such work or service. The Landlord, upon request by the Tenant, shall specifically identify all amounts which are "grossed up" in each Computation Year pursuant to the immediately preceding sentence and, upon request, provide the Tenant with reasonable back-up for such gross-up.

(h) "Base Real Estate Taxes" shall mean the R.E. Tax Share of the Real Estate Taxes for the Tax Year commencing on July 1, 1998 and ending on June 30, 1999.

(i) "Base COM" shall mean the O.E. Share of the Cost of Operation and Maintenance for the Computation Year commencing on January 1, 1999 and ending on December 31, 1999.

24.4. If the term commencement date shall be a day other than a January 1 or the date fixed for the expiration of the full term of this Lease shall be a day other than December 31, or if there is any abatement of the fixed rent payable under this Lease or any termination of this Lease (other than a Default Termination), or if there is any increase or decrease in the Tenant's Area, then in each such event in applying the provisions of this Article Twenty-four with respect to any Tax Year or Computation Year in which such event occurred, appropriate adjustments shall be made (which, in the case of any such abatement of fixed rent, shall include an abatement of additional rent payable pursuant to this Article Twenty-four) to reflect the result of such event on a basis consistent with the principles underlying the provisions of this Article, taking into consideration (a) the portion of such Tax Year or Computation Year, as the case may be, which shall have elapsed prior to or after such event, (b) the rentable area of the Office Space affected thereby, and (c) the duration of such event.

24.5. The Tenant shall not (and hereby waives any and all rights it may now or hereafter have to) institute or maintain any action, proceeding or application in any court or

other body having the power to fix or review assessed valuations, for the purpose of reducing the Real Estate Taxes.

24.6. In the event the Landlord fails to bill the Tenant for Tenant's share of Real Estate Taxes or Cost of Operation and Maintenance by the time such amounts would otherwise be due and payable hereunder, the Tenant shall pay the amount most recently billed for the item in question, subject to subsequent adjustment to reflect the correct amount due.

24.7. When requested by the Tenant within nine (9) months following the receipt by it of any Escalation Statement, the Landlord, in substantiation of its determination of the amounts set forth in said Escalation Statement, will furnish to the Tenant such additional information as reasonably may be required by the Tenant for such purpose, and, as may be reasonably necessary for the verification of such information, will permit the pertinent records of the Landlord (i.e., the records relating to the particular items of Cost of Operation and Maintenance under review by the Tenant the year in question and the two (2) prior years (including, if applicable, the two (2) prior years preceding the earliest year being utilized to determine the Base COM)) to be examined and copied by an officer of the Tenant or by the Tenant's Audit Representative (as hereinafter defined), as the Tenant may designate (subject however, to the execution of a confidentiality agreement by the Tenant and its Audit Representative in form reasonably acceptable to the Landlord); it being expressly understood that the Landlord shall be under no duty to preserve any such records, or any data or material related thereto, beyond such time as shall be its customary practice with respect thereto (which at the present time is three (3) years). For purposes of this Article Twenty-four: (a) "Escalation Statement" shall mean a final statement setting forth the amount payable by the Tenant or the Landlord, as the case may be, for a specified Computation Year pursuant to this Article Twenty-four; and (b) "Audit Representative" shall mean an independent and reputable, certified public accounting firm, which firm is not being compensated by the Tenant for its services on a contingency or success fee basis, and which shall employ only certified public accountants who are full-time, regular employees of such firm in connection with such verification.

ARTICLE TWENTY-FIVE
(25.)Miscellaneous

25.1. If upon the request of the Tenant the Landlord shall consent to the omission or removal of any part of, or the insertion of any door (other than to a public corridor) or other opening in, any wall separating the Premises from other space adjoining the Premises, then (a) the Tenant shall be deemed to have assumed responsibility for all risks (including, without limitation, damage to, or loss or theft of, property) incident to the use of said door or other opening or the existence thereof, and shall indemnify and save the Indemnitees harmless from and against any claim, demand or action for, or on account of, any such loss, theft or damage, and (b) upon the expiration or termination of this Lease or any lease of said adjoining space, the Landlord may enter the Premises and close up such door or other opening by erecting a wall to match the wall separating the Premises from said adjoining space, and the Tenant shall pay the reasonable cost thereof and, subject to Section 6.1(c) above, such work may be done during Business Hours and while the Tenant is in occupancy of the Premises and the Tenant shall not

be entitled to any abatement of fixed rent or other compensation on account thereof; provided, that nothing shall be deemed to vest the Tenant with any right or interest in, or with respect to, said adjoining space, or the use thereof, and the Tenant hereby expressly waives any right to be made a party to, or to be served with process or other notice under or in connection with, any proceeding which may hereafter be instituted by the Landlord for the recovery of the possession of said adjoining space.

25.2. Without incurring any liability to the Tenant and upon notice to the Tenant as soon as may be reasonably practicable under the circumstances (whether prior to or thereafter), the Landlord may permit access to the Premises or any of the Licensed Spaces and open the same, whether or not the Tenant shall be present, upon demand of any receiver, trustee, assignee for the benefit of creditors, sheriff, marshal or court officer entitled to, or reasonably purporting to be entitled to, such access for the purpose of taking possession of, or removing, the Tenant's property or for any other purpose (but this provision and any action by the Landlord hereunder shall not be deemed a recognition by the Landlord that the person or official making such demand has any right or interest in or to this Lease, or in or to the Premises or any of the Licensed Spaces), or upon demand of any representative of the fire, police, building, sanitation or other department of the city, state or federal government.

25.3. If an excavation shall be made upon any land adjacent to the Building, or shall be authorized to be made, the Tenant shall afford to the person causing or authorized to cause such excavation a license to enter upon the Premises for the purpose of doing such work as said person shall deem necessary to preserve the Building from injury or damage, all without any claim for damages or indemnity against the Landlord or diminution or abatement of rent.

25.4. The headings of the Articles of this Lease are for convenience only and are not to be considered in construing said Articles.

25.5. As used in this Section, the term "facility" means stores, restaurants, cafeterias, rest rooms, and any other facility of a public nature in the Building. The Tenant will not discriminate by segregation or otherwise against any person or persons because of race, creed, color, sex (except as appropriate in the case of rest rooms) or national origin in furnishing, or by refusing to furnish, to such person or persons the use of any facility in the Premises, including any and all services, privileges, accommodations, and activities provided thereby. The Tenant's noncompliance with the provisions of this Section shall constitute a material breach of this Lease. In the event of such noncompliance, the Landlord may take appropriate action to enforce compliance, may terminate this Lease in accordance with the provisions of this Lease, or may pursue such other remedies as may be provided by law. In the event of termination, the Tenant shall be liable to the Landlord for damages in accordance with the provisions of this Lease.

25.6. If the Tenant holds-over in the Premises after the expiration or termination of this Lease without the consent of the Landlord, the Tenant shall pay as hold-over rental (a) for each of the first three (3) months of the hold-over tenancy, an amount equal to 125% of the Rent which Tenant was obligated to pay for the month immediately preceding the expiration or termination of this Lease and (b) for each month after the first three (3) months of the hold-over

tenancy, an amount equal to the greater of (i) 150% of the fair market rental value of the Premises for such month and (ii) 150% of the Rent which Tenant was obligated to pay for the month immediately preceding the expiration or termination of this Lease; provided, however, that, subject to the provisions of Section 25.12 below, nothing in the foregoing provisions of this Section 25.6 shall be construed to limit or preclude any other rights or remedies available to the Landlord at law or in equity by reason of such holding-over by the Tenant, including, without limitation, the recovery by the Landlord against the Tenant of any sums or damages to which, in addition to the damages specified above, the Landlord may lawfully be entitled. No holding-over by the Tenant, nor the payment to the Landlord of the amounts specified above, shall operate to extend the term of this Lease.

25.7. Any obligation of the Landlord or the Tenant which by its nature or under the circumstances can only be, or by the provisions of this Lease may be, performed after the expiration or earlier termination of this Lease, and any liability for a payment which shall have accrued to or with respect to any period ending at the time of such expiration or termination, unless expressly otherwise provided in this Lease, shall survive the expiration or earlier termination of this Lease.

25.8. If any provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

25.9. It is the intention of the Landlord and the Tenant to create the relationship of landlord and tenant, and no other relationship whatsoever, and nothing herein shall be construed to make the Landlord and the Tenant partners or joint venturers, or to render either party hereto liable for any of the debts or obligations of the other party.

25.10. The Landlord and the Tenant acknowledge that (i) improvements (including Fixtures) made or installed by the Tenant in the Premises do not constitute consideration for the granting of this Lease to the Tenant and (ii) there has been no adjustment in the fixed or additional rent payable under this Lease on account of such improvements (including Fixtures).

25.11. If there is any payment required to be made by the Tenant under this Lease for which no time period is stated within which the payment must be made, or where this Lease requires any payment to be made "upon demand", such payment shall be made within thirty (30) days after demand by the Landlord.

25.12. Notwithstanding anything contained in this Lease to the contrary, in no event shall either the Landlord or the Tenant be liable to the other for consequential damages.

25.13. Wherever this Lease specifically provides for a dispute to be resolved in accordance with the expedited dispute resolution procedure set forth in this Section 25.13, such dispute shall, at either party's option, be resolved and finally determined by arbitration

conducted in the City and County of New York in accordance with the rules of the AAA (as defined in Section 33.4.1) and the following provisions of this Section 25.13:

(a) Within five (5) business days following the giving of any notice

by the Landlord or the Tenant stating that it wishes such dispute to be so resolved, the parties shall attempt to agree on a single arbitrator (the "Single Arbitrator"). The Single Arbitrator shall be a qualified, disinterested and impartial person who shall have had at least 10 years experience in New York City in a calling related to the subject matter of the dispute. If the parties are unable to agree on the Single Arbitrator within such five (5) business day period, either party, upon notice to the other party, may request the AAA to appoint the Single Arbitrator meeting the foregoing requirements. If the AAA shall refuse to appoint the Single Arbitrator or fail to do so within five (5) after the request, or if there shall be no AAA in existence, either party hereto, on behalf of both, may apply for the appointment of the Single Arbitrator to the President of the Bar Association of the City of New York or, if said President does not appoint the Single Arbitrator within ten (10) days of such application, to the Supreme Court in the County of New York, and the other party shall not raise any objection as to said President's or the Court's full power and jurisdiction to entertain the application and make such appointment.

(b) The Single Arbitrator shall be directed to reach a written decision within ten (10) business days following his or her appointment. The Landlord and the Tenant shall each have the right to appear and be represented by counsel before the Single Arbitrator and to submit such data and memoranda in support of their respective positions in the matter in dispute as they may deem necessary or appropriate in the circumstances. The Single Arbitrator, in rendering his or her decision, shall not add to, subtract from or otherwise modify the provisions of this Lease. The Single Arbitrator's decision, determined as provided in this Section 25.13, shall be conclusive and binding on the parties, shall constitute an "award" by the Single Arbitrator within the meaning of AAA rules and judgment may be entered thereon in any court of competent jurisdiction.

(c) Each party shall pay its own counsel fees and expenses, if any, in connection with any arbitration under this Section 25.13 (unless the Single Arbitrator shall have awarded counsel fees and expenses to the prevailing party upon a finding of bad faith by the other party), and the parties shall share all other expenses and fees of any such arbitration (unless the Single Arbitrator shall have directed that one party pay such expenses and fees upon a finding of bad faith by such party).

25.14. Whenever this Lease shall provide that Landlord or Tenant shall pay the out-of-pocket costs of the other party, such out-of-pocket costs shall be reasonable.

25.15. Anything in this Lease to the contrary notwithstanding, CD Radio, the Tenant named herein, shall be permitted to install signage in the elevator lobbies on each floor of the Office Space without the Landlord's prior written consent, provided that such signage shall be

consistent with the quality of the signage installed by multi-floor tenants in the elevator lobbies on floors in the Building on which such tenants are the sole occupants.

25.16. In the case of any conflict between the provisions of this Lease and the exhibits attached hereto, the provisions of this Lease shall control.

ARTICLE TWENTY-SIX
(26.)Security

26.1. The Tenant has deposited, and shall maintain on deposit with Landlord at all times during the term of this Lease, one or more clean, unconditional, irrevocable letter(s) of credit (each a "Deposit L/C" and collectively, the "Deposit L/Cs") having an aggregate value at all times equal to or greater than the Required Amount (as defined in Section 26.3 below) as security for the full and faithful keeping, observance and performance of all of the covenants, agreements, terms, provisions and conditions of this Lease required to be kept, observed or performed by the Tenant (expressly including, without being limited to, the payment as and when due of the fixed rent, additional rent, percentage rent, if any, and any other sums or damages payable by the Tenant under this Lease) and the payment of any and all other damages for which the Tenant shall be liable by reason of any act or omission contrary to any of said covenants, agreements, terms, provisions or conditions. Every Deposit L/C shall be issued by a bank which is a member of the New York Clearing House Association with offices for banking purposes in the City of New York, having a net equity or combined capital and surplus of not less than One Billion and 00/100 Dollars ($1,000,000,000.00), and which bank is reasonably acceptable to the Landlord and every Deposit L/C shall be substantially in the form of the letter of credit attached hereto as Exhibit D and made a part hereof. If any Deposit L/C provides that the amount drawable thereunder shall cease to be available on a date prior to the date which is six (6) months after the expiration of the Term of this Lease, or if the issuing bank shall give written

notice to the Landlord that it will not extend such Deposit L/C for an additional twelve (12) months beyond the then current expiry date, the Tenant shall, at least thirty (30) days prior to the date specified in such Deposit L/C as being the date on which such drawable amount will cease to be available, or the then current expiry date, as the case may be, either furnish to the Landlord a renewal or extension of such Deposit L/C or a new Deposit L/C. Failure to comply with the provisions of the preceding sentence prior to the commencement of any such thirty (30) day period, shall constitute a default under this Lease and the Landlord may, at any time during such thirty (30) day period, draw upon such Deposit L/Cs and retain as a cash deposit hereunder the amount so drawn. If at any time the Tenant shall be in default in the payment as aforesaid of any fixed rent, additional rent and/or any other sums or damages or shall otherwise be in default in the keeping, observance or performance of any of the covenants, agreements, terms, provisions or conditions of this Lease beyond the applicable notice and grace periods set forth in this Lease, then the Landlord, at the Landlord's election, may draw upon the Deposit L/Cs to the extent required for the payment of the fixed rent, additional rent, other sums or damages in respect of which the Tenant is so in default and/or, if the Tenant is otherwise in default in the keeping, observing or performing as aforesaid of any of the covenants, agreements, terms, provisions or conditions of this Lease, the Landlord may draw upon the Deposit L/Cs to the extent required for the payment of such costs and expenses

as the Landlord shall incur in curing any such default without relieving the Tenant of its obligation to the extentthe funds available under the Deposit L/Cs are inadequate. If the Landlord shall so draw upon any Deposit L/C, the Tenant shall, upon demand, immediately deposit with the Landlord a new Deposit L/C in an amount equal to the amount so drawn. If, at any time after the payment by the Tenant to the Landlord of any amounts required to be paid by the Tenant under this Lease, the Landlord is required to return or repay to the Tenant, for any reason in connection with the bankruptcy or insolvency of the Tenant, any fixed rent or additional rent, or any other sums paid by the Tenant to the Landlord under this Lease, then, at the Landlord's election, the Deposit L/Cs may be drawn upon and the proceeds thereof applied by the Landlord to offset all or any portion of the amounts so returned or repaid. If the Tenant shall fully and faithfully pay, perform and observe all of the covenants and obligations to be paid, performed and/or observed on the part of the Tenant under this Lease, all of the Deposit L/Cs shall be returned to the Tenant in accordance with the provisions of Section 26.2(d) below after the expiration of the term of this Lease and delivery to the Landlord of possession of the Premises and the Licensed Spaces in accordance with the provisions of Section 6.1(h) of this Lease and payment by the Tenant of its obligations under Section 4.1 above, if any, to remove the Salvageable Fixtures designated by the Landlord from the Premises and/or the Licensed Spaces. The provisions of this Article Twenty-six relating to periods after the expiration or earlier termination of this Lease shall survive the expiration or earlier termination of this Lease.

26.2. (a) The term "Required Amount" as used in this Article Twenty-six shall mean $6,250,000, for the period from the date hereof until the third (3rd) anniversary of the term commencement date, thereafter, reducing as follows:

(i) In each year during the term of this Lease, from and after the third (3rd) anniversary of the term commencement date, that the Tenant's Gross Revenues (as hereinafter defined) equal or exceed $200,000,000 but are less than $350,000,000, the Required Amount shall be reduced by $1,000,000, but in no event shall the Required Amount ever be less than $2,000,000.

(ii) If, in any year during the term of this Lease from and after the third (3rd) anniversary of the term commencement date, the Tenant's Gross Revenues equal or exceed $350,000,000, the Required Amount shall be reduced to $2,000,000.

(iii) From and after the date which is thirty (30) days after the later to occur of the expiration of the term of this Lease and the date upon which the Tenant shall have delivered to the Landlord possession of the Premises and the Licensed Spaces in accordance with the provisions of Section 6.1(h) of this Lease, the Required Amount shall be reduced to $250,000.

(b) Anything in this Section 26.2 or elsewhere in this Lease to the contrary notwithstanding, if, at any time during the term of this Lease (i) the Tenant shall default in observing any provision of that certain indenture agreement for 15% senior secured discount

notes due December 1, 2007, dated as of November 26, 1997 and issued by CD Radio Inc. to IBJ Schroder Bank and Trust Company (the "Indenture") or (ii) the satellite radio broadcast license granted to the Tenant by the Federal Communications Commission ("FCC") on October 10, 1997 is transferred by the Tenant (other than to an Assignee), revoked by the FCC or otherwise limited or invalidated, the reductions in the Required Amount provided for in Section 26.2(a) above shall cease until such time as the default under the Indenture is

cured and/or such license is fully reinstated or replaced by the FCC with another satellite radio broadcast license of at least equal scope and utility .

(c) As used in this Article Twenty-six: (i) "Gross Revenues" shall mean for any period, all revenues from the operations of the Tenant during such period, determined in accordance GAAP, as verified in a sworn statement of the chief financial officer of the Tenant, or as certified by an independent certified public accountant reasonably acceptable to the Landlord, delivered to the Landlord together with all supporting documentation reasonably requested by the Landlord, provided, however, that in no event shall Gross Revenues include (i) any gain arising from any writeup of assets, (ii) any loan proceeds, (iii) proceeds or payments under insurance policies (other than proceeds or payments for business interruption), (iv) gross receipts earned by licensees, concessionaires or similar third parties except for any portion of such receipts which are shared by the Tenant, (v) condemnation proceeds or sales proceeds in lieu of and/or under threat of condemnation, (vi) refunds, rebates, discounts, credits, etc. which are paid, retained or received by the Tenant, or (vii) any other extraordinary items which are received by the Tenant other than in the ordinary course of the Tenant's business; and (ii) "GAAP" shall mean generally accepted accounting principles in the United States of America in effect from time to time, applied on a consistent basis both as to classification of items and amounts.

(d) If, as a result of any reduction in the Required Amount, the Landlord is holding Deposit L/Cs in an aggregate amount that exceeds the Required Amount, the Landlord shall return to the Tenant the Deposit L/Cs then held by the Landlord in exchange for new Deposit L/Cs, so that thereafter the Landlord shall hold Deposit L/Cs in an aggregate amount equal to the Required Amount. If at any time the aggregate amount of the Deposit L/Cs then held by the Landlord shall be less than the Required Amount, the Tenant shall forthwith deposit with the Landlord one or more additional Deposit L/Cs in an aggregate amount equal to the deficiency.

ARTICLE TWENTY-SEVEN
(27.)Brokerage Commission

27.1. Each party represents to the other that the only brokers with which it has dealt in connection with this Lease are Rockefeller Center Management Corporation and The Staubach Company of New York, LLC (collectively, the "Brokers"). Each party shall indemnify and save harmless their respective Indemnitees from and against all liability, claims, suits, demands, judgments, costs, interest and expenses (including reasonable counsel fees and disbursements incurred in the defense thereof) arising out of any claim for commission or other compensation made by a broker claiming through the indemnifying party (except, that Tenant

shall not be liable for any claim made by the Brokers). The Landlord shall be obligated to pay any commissions owing to the Brokers pursuant to a separate agreement between Landlord and each of the Brokers.

ARTICLE TWENTY-EIGHT
(28.)Quiet Enjoyment

28.1. Provided that the Tenant is not in default under this Lease beyond any applicable notice and grace period, the Landlord covenants that the Tenant shall quietly enjoy the Premises without hindrance or molestation by the Landlord or by any other person lawfully claiming the same, subject, however, to the provisions of this Lease.

ARTICLE TWENTY-NINE
(29.)Hazardous Substances

29.1. The Tenant shall not (a) cause or permit to be brought onto the Land or into the Building or the Premises any hazardous substances, (b) cause or permit the storage or use of any hazardous substances in or about the Premises or any part thereof, or (c) cause or permit the escape, disposal or release of any hazardous substances in, on or in the vicinity of the Building or the Land; provided, that nothing herein shall prohibit the Tenant's use of small quantities of hazardous substances customarily used by tenants of office space similar to the Premises in the ordinary course of office operations if such use is in fact for such ordinary course of office operations and is in compliance with all Requirements and the provisions of this Lease and otherwise in a safe and secure manner.

29.2. "Hazardous substances" are (i) any "hazardous wastes" as defined by the Resource, Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), as amended, and regulations promulgated thereunder; (ii) any "hazardous, toxic or dangerous waste, substance or material" specifically defined as such in (or for purposes of) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.), as amended, and regulations promulgated thereunder; and (iii) any hazardous, toxic or dangerous chemical, biological or other waste, substance or material as defined in any so-called "superfund" or "superlien" law or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning such waste,

substance or material; including, without limiting the generality of the foregoing, asbestos, radon, urea formaldehyde, polychlorinated biphenyls, and petroleum products including gasoline, fuel oil, crude oil and various constituents of such products. Without limiting the generality of Section 6.1(j) hereof, the Tenant agrees that the covenants and warranties contained in this Article are included within the matters as to which the Indemnities shall be indemnified pursuant to said Section 6.1(j).

29.3. The covenants contained in this Article shall survive the expiration or earlier termination of this Lease.

ARTICLE THIRTY
(30.)Asbestos: Inspection and Removal

30.1. With respect to the Initial Tenant Alterations of each floor of the Premises constituting a part of the Office Space (if the Landlord shall not theretofore have delivered the same to the Tenant in satisfaction of the Term Commencement Conditions), the Landlord shall, within one (1) business day after the later to occur of (a) the date on which the Landlord shall have consented to the final Working Drawings for the Initial Tenant Alterations of the Office Space and (b) the date on which the Landlord satisfies the asbestos removal Term Commencement Condition set forth in Paragraph 3 of Exhibit B attached hereto, furnish to the Tenant an ACP-5 Form with respect to such Initial Alterations sufficient to permit the Tenant to prosecute such Initial Tenant Alterations in the Office Space as an "asbestos-free" project, provided that such final Working Drawings shall not provide for any work to be performed behind any perimeter induction units, within any perimeter walls or within any columns or shafts in any part of the Premises or the core of the Building, including, without limitation, pipe and conveyor shafts and minor areas of non-friable asbestos-containing fireproofing at certain points on inaccessible structural members. If the Landlord is unable to deliver an ACP-5 Form for the Initial Tenant Alterations to the Office Space because such final Working Drawings affect asbestos-containing areas outside of the Office Space, then the provisions of Section 30.2.1 et seq. shall apply. The Tenant's submission of such final Working Drawings in accordance with Section 31.1 and Section 6.2 shall prominently include in bold type the following notice:

> "IF THE LANDLORD SHALL FAIL TO DELIVER THE REQUIRED ACP5 FORM WITHIN THE TIME PERIOD PROVIDED IN SECTION 30.1 OF THE LEASE, THE TENANT MAY BE ENTITLED TO AN ABATEMENT OF FIXED RENT"

If the Tenant's submission of such final Working Drawings shall include such a notice and if the Landlord shall fail to deliver an ACP-5 Form with respect to any such initial Alterations within the required time period, then, in addition to any other abatements of fixed rent provided in this Lease, the fixed rent payable hereunder with respect to the Office Space shall be abated in an amount equal to one (1) day's fixed rent for each day after the expiration of such time period that the Landlord fails to deliver the required ACP-5 Form. If the Tenant's submission shall not include such a notice, then the Tenant shall not be entitled to such abatement for any period prior to the day which is one (1) business day after the date on which the Tenant shall subsequently give such a notice.

30.2.1. Prior to the commencement of any demolition work or construction work (other than construction of the Initial Tenant Alterations of the Office Space) in any portion of the Premises or any of the Licensed Spaces, the Tenant, at its sole cost and expense, shall cause a reputable New York City certified asbestos investigator, selected by the Tenant and reasonably acceptable to the Landlord, to conduct an inspection of the affected portion of the Premises (other than behind any perimeter induction units, within any perimeter walls, or within any columns or

shafts) for the purpose of detecting the presence of asbestos therein and determining whether any such asbestos is required to be removed therefrom or remediated therein in connection with the demolition of any existing improvements and/or the construction of any Alterations.

30.2.2. If the report with respect to any asbestos inspection conducted in accordance with Section 30.2.1 above indicates no presence of asbestos, or that no removal or remediation is required to be performed in connection with such demolition and with the construction of the Tenant's proposed Alterations, the Tenant, at its sole cost and expense (subject to the provisions of Section 30.5(a) below), shall obtain and furnish to the Landlord a properly executed ACP-5 Form for the affected portion of the Premises to the effect that no asbestos removal or remediation is required to be performed in a such space in connection with such demolition or with the construction of the proposed Alterations. If the report with respect to any asbestos inspection conducted in accordance with Section 30.2.1 above indicates that asbestos removal or remediation is required to be performed in such space, the Landlord, at the Landlord's sole cost and expense with respect to any asbestos (other than asbestos introduced into the Premises by any Tenant Party), in the Office Space (other than behind any perimeter induction units, within any perimeter walls, or within any columns or shafts), and at the Tenant's sole cost and expense with

respect to any asbestos in any other portion of the Premises or in any of the Licensed Spaces indicated in such report, shall initiate an ACP-7 Form and shall perform all required asbestos removal and/or remediation in compliance with all Requirements. Except as mandated by Requirements, the Landlord shall not be required to remove or remediate any asbestos located behind perimeter induction units, within any perimeter walls, within any columns, or within any shaft area in the core, including, without limitation, pipe and conveyor shafts and minor areas of non-friable asbestos containing fireproofing at certain points on inaccessible structural members and, except as mandated by Requirements, any asbestos located in such areas may be encapsulated; provided, however, that all other asbestos shall be removed. Promptly upon completion of any required asbestos removal and/or remediation, the Landlord shall notify the Tenant and shall deliver to the Tenant (a) a clean air certification issued by a licensed independent testing laboratory (i.e., one that is not affiliated in any way with the entity performing the asbestos removal work) certifying that the level of airborne asbestos in the affected portion of the Premises and/or the Licensed Spaces is at or below the maximum level permitted by applicable Requirements, and (b) an ACP-5 Form sufficient to permit the Tenant to commence the proposed demolition and Alterations as an "asbestos free" project. Within ten (10) days after receipt of the Landlord's demand therefor, which shall state with reasonable specificity how the Landlord calculated the same, the Tenant shall pay to the Landlord, as additional rent, the Tenant's share of the cost of the asbestos removal and/or remediation.

30.3. In connection with any required asbestos removal and/or remediation required to be performed by the Landlord, at the Landlord's cost and expense, in the Office Premises in accordance with the provisions of Section 30.2.1 and Section 30.2.2 above, the fixed rent with respect to the portion of the Office Space in which such removal and/or remediation work is performed shall be abated one (1) day for each day during the period commencing on the earlier to occur of (a) the date on which the Tenant reasonably determines that such portion of the Office Space is untenantable by reason of the health hazard created by the existence of such asbestos and the Tenant actually ceases to use and occupy such portion of the Office Space, and (b) the date on which the Landlord commences such removal and/or remediation work in the

affected portion of the Office Space, and ending on the date on which the Landlord shall obtain (or with the exercise of reasonable diligence in the performance of such work would have obtained but for the occurrence of any delay in the performance of such work which shall be due to any act or omission of the Tenant or any Tenant Party) an ACP5 Form sufficient to permit the Tenant to commence the demolition and/or construction of the affected portion of the Office Space as an "asbestos free" project. The abatement provided for in this Section 30.3 shall be the Tenant's sole remedy in the event that asbestos shall be required to be removed and/or remediated in the Office Space; provided, however, that the foregoing shall not limit the right of any person to assert a claim against the Landlord for any injury arising from exposure to asbestos in the Office Space, other than asbestos introduced into the Premises by any Tenant Party.

ARTICLE THIRTY-ONE
(31.)Work by Tenant

31.1. Provided that the Tenant shall have obtained the Landlord's prior written consent thereto, and shall otherwise have complied with the provisions of this Lease (including, without limitation, Section 6.1(e) and Section 6.2), the Tenant may perform such Alterations in the Premises and to the Licensed Spaces as shall be desired by the Tenant (consistent with the design, construction and equipment of the Building and in conformity with its standards) to prepare the same for the Tenant's use and occupancy thereof and for the conduct of the Tenant's business therein (such Alterations being herein called the "Initial Tenant Alterations"). The Initial Tenant Alterations shall include, but shall not be limited to: (a) the installation of a sprinkler fire suppression system (including the main sprinkler loop and all branch work and other distribution required by all Requirements) on each floor (including all bathrooms and service areas) of the Premises constituting the Office Space, (b) the Bathroom Work and (c) the Call Button Work. The Working Drawings for the Initial Tenant Alterations shall be prepared by (i) HLW International LLP and Edwards and Zuck, P.C., each of whom the Landlord hereby confirms is acceptable to the Landlord, or (ii) another Acceptable Architect.

31.2. The workmen and the contractors performing the Initial Tenant Alterations and the manner, terms and conditions upon which the same is performed shall be reasonably satisfactory to and consented to by the Landlord. The work shall at all times comply with (a) all Requirements and (b) with the reasonable rules and regulations of the Landlord dated January, 1997 (a copy of which has been delivered to the Tenant) pertaining to the performance thereof.

31.3. Within sixty (60) days after the substantial completion of the Initial Tenant Alterations, the Tenant shall deliver to the Landlord (a) general releases and waivers of lien from each contractor, subcontractor and materialman who shall have performed work and/or furnished the materials for a price in excess of $50,000 in the aggregate, (b) a certificate from the Tenant's architect certifying that the work has been substantially completed in accordance with all applicable rules and regulations, Requirements and the

Working Drawings, and (c) either (i) a detailed list of completed work and copies of paid bills certified by an officer of the Tenant reasonably acceptable to the Landlord and a certificate signed by the Tenant's general contractor stating that all contractors, subcontractors and materialmen have been paid for all

work and materials furnished through such date, or (ii) an AIA Form G-702/703 certified by the Tenant's general contractor and reasonably acceptable to the Landlord. Notwithstanding the foregoing, but in all events subject to the Tenant's obligation to keep the Premises and the Building free of liens, the Tenant shall not be required to deliver to the Landlord any general release or waiver of lien, as required by the preceding sentence, if the Tenant shall be disputing in good faith the payment which would otherwise entitle the Tenant to such release or waiver, provided that the Tenant shall keep the Landlord advised in a timely fashion of the status of any such dispute and the basis therefor and the Tenant shall deliver to the Landlord the general release or waiver of lien when any such dispute is settled.

31.4. The Landlord shall, at such time as the applicable Building systems are operational, allow the Tenant (a) final connections to the Building Class "E" system for the Tenant's new strobe control panel and (b) reasonably sufficient capacity in the Building Class "E" system for connection of wiring from the Tenant's new systems, equipment and devices to be installed and maintained by the Tenant (such as a pre-action sprinkler system, area smoke detectors, door release controls, etc.) and which such systems, equipment and devices shall be monitored and/or controlled directly by the Building Class "E" system. Additionally, at such time as the Building systems are operational, the Landlord shall, at the Tenant's sole cost and expense, connect to such Building Class "E" system the Tenant's sprinkler system flow and tamper switches and shall thereafter maintain such switches, subject to ordinary wear and tear and any damage caused by any Tenant Party.

31.5. Provided that the Tenant shall not have exercised its option pursuant to Article Thirty-nine to add the Additional Penthouse Space to the Premises prior to the Tenant's commencement of the Initial Tenant Alterations to the Penthouse Space, the Tenant, at the Tenant's sole cost and expense, shall provide and install a demising wall in the Penthouse Space as part of the Initial Tenant Alterations, in a location to be designated by the Landlord (a) reasonably in accordance with the diagram attached hereto as Exhibit A-3 and (b) in accordance with the applicable provisions of this Lease (including, without limitation, Section 6.1(e)).

ARTICLE THIRTY-TWO
(32.)[Intentionally Omitted]

ARTICLE THIRTY-THREE
(33.)Renewal Options

33.1. Subject to the Tenant's compliance with the Renewal Conditions (as hereinafter defined), the Tenant may elect to extend and renew (a) the term of this Lease with respect to (i) all of the Premises, or (ii) (A) either the 36th Floor Space or the 37th Floor Space and (B) the Basement Space and the Penthouse Space (whichever the Tenant shall elect is herein called the "Renewal Premises"), and (b) the term of the licenses of the Licensed Spaces, in each case, for one five-year period, as hereinafter provided, by giving written notice thereof (the "Renewal Notice") to the Landlord not later than fifteen (15) months prior to the expiration of the initial

term of this Lease, as to which date time is of the essence. The Renewal Notice shall include the Tenant's election of the space that will constitute the Renewal Premises and a request that the Landlord deliver to the Tenant the Landlord's binding estimate of the Fair Market Rental Value for the Renewal Premises for the Renewal Term (as hereinafter defined) by the date which is twelve (12) months prior to the expiration of the initial term of this Lease. Upon and in the event of the giving of the Renewal Notice in a timely manner, the term of this Lease and such licenses shall (unless (1) such term shall sooner have expired or terminated pursuant to any of the conditions of limitation or other provisions of this Lease or pursuant to law, (2) the Renewal Conditions shall not have been complied with in all material respects and the Landlord shall not have waived such non-compliance in writing or (3) the Tenant delivers a Rescission Notice (as hereinafter defined) to the Landlord in a timely manner in accordance with Section 33.3 below) be deemed extended and renewed for a period of five (5) years (the "Renewal Term"), namely, the five year period commencing on the day immediately following the Expiration Date and ending on the fifth (5th) anniversary of the Expiration Date (subject to earlier termination pursuant to any of the conditions of limitation or other provisions of this Lease or pursuant to law), such extension and renewal to be subject to and upon all of the terms and conditions of this Lease (including, without limitation, Article Twentyfour hereof) and such licenses, except that during the Renewal Term (u) the Premises shall be the Renewal Premises, (v) reference in this Lease to the term hereof shall be deemed to include the Renewal Term, (w) the annual fixed rent payable hereunder shall be the Fair Market Rental Value (as hereinafter defined) for a lease commencing on the day immediately following the Expiration Date and having a term of five (5) years, determined in accordance with the provisions of this Article Thirty-three, (x) in applying the

provisions of Article Twentyfour of this Lease on and after the first day of the Renewal Term, subparagraphs (h) and (i) of Section 24.3 shall be deemed to read, respectively, (i) "`Base Real Estate Taxes' shall mean the R.E. Tax Share of the Real Estate Taxes for the Tax Year (A) in which shall occur the Expiration Date, if the Expiration Date occurs within the first six (6) months of such Tax Year, or (B) immediately following the Tax Year in which shall occur the Expiration Date, if the Expiration Date occurs within the last six (6) months of such Tax Year", and (ii) "`Base COM' shall mean the O.E. Share of the Cost of Operation and Maintenance for the Computation Year (A) in which shall occur the Expiration Date, if the Expiration Date occurs within the first six (6) months of such Computation Year or (B) immediately following the Computation Year in which shall occur the Expiration Date, if the Expiration Date occurs within the last six (6) months of such Computation Year", (y) the provisions of Section 30.1 shall not be applicable to the Renewal Term and (z) the Tenant shall have no further right to extend or renew the term of this Lease or the licenses.

33.2. As used in this Article Thirty-three, the following terms shall have the meanings indicated: (a) "Renewal Conditions" shall mean that, immediately prior to (i) the date the Tenant delivers the Renewal Notice to the Landlord and (ii) the commencement of the Renewal Term, (A) the Tenant shall not be in default in the payment of any monetary obligation(s) under this Lease which, individually or in the aggregate, exceed $50,000 ("Material Default"), for more than five (5) days after notice, provided, however, that if a Material Default is continuing at the time the Tenant would otherwise have been permitted to exercise its option to renew and extend the term of this Lease for the Renewal Term, and if such Material Default shall be fully cured prior to the Expiration Date and within the five (5) day cure period provided above in

this Section 33.2 and no other Material Default shall occur and continue beyond the Expiration Date or beyond such five (5) day cure period, then the time by which such option to renew and extend the term of this Lease for the Renewal Term must be exercised shall be extended to a date which is three (3) business days after the date on which cure of such continuing Material Default(s) is effected and, with respect to any such exercise, time shall be of the essence, and (B) the Tenant named herein (i.e., CD Radio Inc. or any permitted Assignee) shall itself be in direct occupancy (i.e., exclusive of any subtenants other than Tenant's affiliates or subsidiaries) of not less than (I) in the case of a renewal of the term of this Lease with respect to all of the Premises, one (1) full floor of the Office Space and using the same for the normal conduct of its business or (II) in the case of a renewal of the term of this Lease with respect to either the 36th Floor Space or the 37th Floor Space, fifty percent (50%) of either the 36th Floor Space or the 37th Floor Space and using the same for the normal conduct of its business as primarily a satellite radio broadcaster; and (b) "Fair Market Rental Value" as used herein shall mean, for the Renewal Term, the reasonable annual market fixed rental value for comparable office space lease renewals (including comparable license arrangements) for comparable buildings in midtown Manhattan for a lease renewal term of five (5) years, taking into account all appropriate factors; provided, however, that the current value of any Alterations in the Premises shall be taken into account only if such Alterations were originally performed at the Landlord's expense or were originally performed at the Tenant's expense and constituted part of the Initial Tenant Alterations and, in the latter case, in an amount equal to the product of the current value of all improvements that constituted the Initial Tenant Improvements and a fraction, the numerator of which is $3,138,030.00 and the denominator is the original cost of all of the Initial Tenant Alterations.

33.3. If the Tenant shall have duly delivered the Renewal Notice to the Landlord, the Landlord shall, by no later than the date which is twelve (12) months prior to the Expiration Date, notify the Tenant of the Landlord's binding estimate of the Fair Market Rental Value for the Renewal Term. Thereafter, if the Tenant desires to rescind its election to renew and extend the term of this Lease, the Tenant must give written notice thereof (the "Rescission Notice") to the Landlord within thirty (30) days after the Landlord gives notice of its binding estimate, as to which date time is of the essence, and, upon the giving of the Rescission Notice, the Tenant's election to renew and extend the term of this Lease and the licenses shall be void and of no further force or effect and the Tenant shall have no further right to extend or renew the term of this Lease or the licenses. If the Tenant does not rescind its election to renew as aforesaid, and does not dispute the amount of the Landlord's binding estimate within thirty (30) days after the Landlord gives notice of its binding estimate, the fixed rent for the Renewal Term shall be the amount of the Landlord's binding estimate. If the Tenant disputes such amount, the Tenant shall notify the Landlord of the Tenant's binding estimate of the Fair Market Rental Value (a "Tenant's Binding Notice") within such thirty (30) days after the Landlord gives notice of its binding estimate and, if the Landlord and the Tenant fail to reach agreement on the Fair Market Rental Value within ten (10) business days thereafter, the Fair Market Rental Value shall be determined by arbitration pursuant to Sections 33.4.1, 33.4.2 and 33.4.3 below. Anything in this Article Thirty-three to the contrary notwithstanding, if upon the giving of the Rescission Notice as aforesaid, there is less than fifteen (15) months remaining until the expiration of the term of this Lease, then the term of this Lease shall be automatically extended and renewed for the period commencing on the day immediately following the date which would otherwise have

been the date of the expiration of the term of this Lease and ending on the last

day of the calendar month in which shall occur the date which is fifteen (15) months after the date of the Tenant's giving of the Rescission Notice, such extension and renewal to be subject to and upon all of the terms and conditions of this Lease, except that (a) the Tenant shall have no further right to extend or renew the term of this Lease, (b) the fixed rent for such period shall be the amount of the Landlord's binding estimate, and (c) the modifications to the definitions of "Base Real Estate Taxes" and "Base COM" provided for in Section 33.1 above with respect to the Renewal Term shall be applicable with respect to such period.

33.4.1. If the Fair Market Rental Value is to be determined by arbitration, the same shall be conducted in accordance with the rules of the American Arbitration Association, or if the American Arbitration Association shall no longer be in existence a successor or other organization selected by the Landlord issuing similar rules for the conduct of arbitrations (as the case may be, the "AAA"). The parties hereto shall attempt to agree on a single arbitrator (the "Referee"). The Referee must be a real estate broker licensed by the State of New York who is a member of the Real Estate Board of New York, Inc. and a Senior Commercial Appraiser of the Appraisal Institute, and, in any event, with at least ten (10) years of experience in appraising the fair market rental value of leases of office space in major office buildings in the Borough of Manhattan, in the City of New York. If the parties hereto cannot agree on the appointment of the Referee within fifteen (15) days after the Tenant gives a Tenant's Binding Notice, either party may request the AAA to appoint a Referee meeting the foregoing requirements. If the AAA shall refuse to appoint such Referee or fail to do so within ten (10) days after the request, or if there shall be no AAA in existence, either party hereto, on behalf of both, may apply for the appointment of the Referee to the President of the Bar Association of the City of New York or, if said President does not appoint a Referee within thirty (30) days of such application, to the Supreme Court in the County of New York, and the other party shall not raise any objection as to said President's or the Court's full power and jurisdiction to entertain the application and make such appointment. Within five (5) days after the selection of the Referee, each party shall submit to the Referee two copies of its binding estimate of the Fair Market Rental Value (each a "Determination"), which shall be identical to such party's binding estimate under Section 33.3 above. After submission of a Determination to the Referee, the submitting party may not change its Determination, but may, during the thirty (30) days following the expiration of such five (5) days referred to above, submit to the Referee such evidence as the submitting party may deem relevant. Within twenty (20) days following such thirty (30) day period, the Referee shall select one of the estimates to be the Fair Market Rental Value. The Referee, in rendering his or her decision, shall not add to, subtract from or otherwise modify the provisions of this Lease or either Determination. The Referee's decision, determined as provided in this Article Thirty-three, shall be conclusive and binding on the parties, shall constitute an "award" by the Referee within the meaning of AAA rules and judgment may be entered thereon in any court of competent jurisdiction.

33.4.2. If either party fails to submit its Determination to the Referee within the time period for doing so permitted under Section 33.4.1, time being of the essence with respect thereto, such party shall be deemed to have irrevocably waived its right to deliver a Determination and the Referee, without holding a hearing, shall accept the Determination of the submitting party as the Fair Market Rental Value. If either party timely submits a

Determination, the Referee shall, promptly after its receipt of the second Determination, deliver a copy of each party's Determination to the other party.

33.4.3. Each party shall pay its own fees and expenses relating to the arbitration (including, without limitation, the fees and expenses of its counsel and of experts and witnesses retained or called by it). Each party shall pay onehalf of the fees and expenses of the AAA and of the Referee, provided, that if either party fails to submit a Determination within the period provided therefor, such nonsubmitting party shall pay all of such AAA and Referee fees and expenses.

33.5. If the annual fixed rent for the Renewal Term shall not be determined prior to the first day of the Renewal Term, the Tenant shall pay an interim fixed rent for the period commencing on the first day of the Renewal Term and ending on the last day of the month in which such annual fixed rent is determined at an annual rate (including fixed rent and additional rent under Article Twenty-four) equal to the annual rate that was in effect hereunder with respect to the Renewal Premises on the day immediately preceding the first day of the Renewal Term (without giving effect to any existing abatement of fixed rent other than any abatement under Article Ten hereof). When the annual fixed rent for the Renewal Term is finally determined, the fixed rent for such period shall be recomputed upon the basis of such annual fixed rent so determined, and if such recomputed fixed rent for such period is in excess of such interim fixed rent so paid for such period, the Tenant shall promptly pay to the Landlord an amount equal to such excess. Conversely, if such recomputed fixed rent for such period is less than such interim fixed rent so paid for such period, the Landlord shall, at the Tenant's election, either (i) apply such amount against the next installments of fixed rent coming due under this Lease or (ii) promptly refund to the Tenant the amount of such excess.

33.6. When the Fair Market Rental Value shall be agreed upon or established as herein provided, the Landlord and the Tenant shall execute and deliver a supplemental indenture to this Lease specifying the fixed rent payable for the Renewal Term. The failure of either party to execute such an instrument shall not affect the binding nature of the Fair Market Rental Value so agreed upon or established.

ARTICLE THIRTY-FOUR
(34.)Emergency Generator System

34.1. Subject to the provisions of this Article Thirty-four, the Tenant is hereby granted (a) (i) the right to install, operate and maintain in the Basement Space a 2,400 gallon diesel fuel "ready tank" and (ii) a non-exclusive license to install, operate and maintain in the Emergency Generator Space a 500 kilowatt, diesel powered, emergency electric power generator, together, in such case, with all ancillary equipment, mountings, piping, duct work, venting, conduit, wiring and support as shall reasonably be necessary for the installation and operation of such generator and fuel tank (the generator and the fuel tank, and all such ancillary equipment, mountings, piping, duct work, venting, conduit, wiring and support (including, without limitation, the Emergency Electric Riser and the Emergency Fuel Pipes) are herein collectively called the "Emergency Generator System"), and (b) a non-exclusive license to install, operate

and maintain in a portion of the shaft space to be designated by the Landlord reasonably in accordance with the diagrams attached hereto as (i) Exhibit A-8 and Exhibit A-4 (the "Emergency Electric Riser Area") from the Emergency Generator Space to the electric closet serving the Office Space located on the 36th Floor of the Building and from such electric closet to the Penthouse Space and the Auxiliary Chiller Space, an electric riser to bring electric power from the Emergency Generator System to such electric closet and the Penthouse Space and Auxiliary Chiller Space (the "Emergency Electric Riser") and (ii) Exhibit A-9, Exhibit A-4 and Exhibit A-5 (the "Emergency Fuel Pipe Area") from the Basement Space (A) to the Emergency Generator Space, a fuel supply and return and a vent pipe as required to bring fuel from such fuel tank to such generator, (B) to the Building's intake and discharge air shafts/plenums on the C-4 level of the Building, a ventilation pathway reasonably sufficient to meet the ventilation requirements of the Tenant's fuel tank, and (C) to a fuel oil fill pipe in the truck lift machine room on the street level of the Building, and vent, to bring fuel from the street to such fuel tank (collectively, the "Emergency Fuel Pipes"). The Tenant shall not use the Emergency Generator Space, the Basement Space or the Emergency Electric Riser Area for any other purpose.

34.2. The licenses and rights herein granted to the Tenant to use the Basement Space, the Emergency Generator Space, the Emergency Electric Riser Area and the Emergency Fuel Pipe Area for the installation, operation and maintenance of the Emergency Generator System is subject to all of the provisions of this Lease including, without limitation, Section 3.4, Section 6.1(e) and Section 11.1. Without limiting the generality of the immediately preceding sentence of this Section 34.2, the Tenant's use of the Basement Space, the Emergency Generator Space, the Emergency Electric Riser Area and the Emergency Fuel Pipe Area shall be subject to such additional reasonable rules and regulations as the Landlord may from time to time establish and the following additional conditions: (a) the Tenant shall be solely responsible for the installation, maintenance, repair, security, operation and replacement of the Emergency Generator System, (b) the Tenant shall not sell any electric power generated by the Emergency Generator System to, or otherwise permit the use of the Emergency Generator System by, any other person or entity (except for a subtenant of the Tenant), whether or not a tenant in the Building, (c) the Tenant shall provide noise and vibration abatement as required by the Landlord and (d) the Tenant shall provide screening for the generator in the Emergency Generator Space as reasonably required by Landlord.

34.3. The Tenant shall (a) be solely responsible for any damage caused as a result of the use of the Emergency Generator System (except to the extent caused by the Landlord or any of its agents or employees acting within the scope of their employment), (b) promptly pay any tax, license, permit or other fees or charges imposed pursuant to any Requirements relating to the construction, installation, maintenance, repair, operation or use of the Emergency Generator System, (c) at its sole cost and expense, promptly comply with all precautions and safeguards required by Landlord's insurance company and all Requirements with respect to the Emergency Generator System and (d) at its sole cost and expense, make all necessary repairs or replacements to the Emergency Generator System.

34.4. If necessary due to any Requirement, or otherwise if the same does not interfere (except to a de minimis extent) with the conduct of Tenant's business in the Office Space, then,

at any time and from time to time following the Tenant's installation of the Emergency Generator System, the Landlord may direct the Tenant to relocate the Emergency Generator System, or any portion thereof, to a location designated by the Landlord, and the Tenant shall promptly relocate the Emergency Generator System. The cost and expense of such relocation of the Emergency Generator System shall be borne by the Tenant if such relocation shall be necessary due to

any Requirement or due to any act or omission of the Tenant. If the relocation shall be required for any other reason, the cost and expense of such relocation shall be borne by the Landlord. In the event the Tenant shall fail to relocate the Emergency Generator System, the Landlord may do so, and, to the extent that the Tenant would have been obligated to bear the cost of such relocation, as set forth above, the Tenant shall reimburse the Landlord on demand for any reasonable costs and expenses incurred by the Landlord in connection therewith.

34.5. The Tenant acknowledges and agrees that the licenses and related privileges granted the Tenant under this Article Thirty-four shall not, now or at any time before or after the installation of the Emergency Generator System, be deemed to grant the Tenant a leasehold or other real property interest in the Building or any portion thereof in connection with the Licensed Spaces relating to the Emergency Generator System. The licenses granted to the Tenant in this Article Thirty-four shall automatically terminate and expire upon the expiration or earlier termination of this Lease and the termination of such license shall be self-operative and no further instrument shall be required to effect such termination. The foregoing notwithstanding, upon request by the Landlord, the Tenant promptly shall execute and deliver to Landlord, in recordable form, any certificate or other document confirming the termination of the Tenant's right to use the Emergency Generator Space, the Emergency Fuel Pipe Area and/or the Emergency Electric Riser Area. The license granted to Tenant in this Article Thirty-four shall not be assignable by Tenant separate and apart from this Lease.

34.6. Anything in this Article Thirty-four to the contrary notwithstanding, except as shall be required in the event of an electric power failure to the Premises, (a) the Emergency Generator System shall not be operated or tested during the hours of 6:00 a.m. to 11:59 p.m. on weekdays, (b) the Tenant shall give the Landlord at least three (3) business days' prior written notice of any proposed operation or testing of the Emergency Generator System and shall coordinate the timing of such operation or testing with the Landlord in order to minimize disturbance to other tenants of the Building and (c) the Landlord, at its option, shall have the right to require that any such operation or testing be performed on non-business days.

ARTICLE THIRTY-FIVE
(35.)Satellite Transmission System

35.1. Subject to the provisions of this Article Thirty-five, the Tenant is hereby granted (a) a non-exclusive license in and to the Penthouse Roof Space, and the right in the Penthouse Space, to install, operate and maintain up to three (3) 5-meter satellite dishes (capable of X band transmission and S band reception), together with all ancillary equipment (including, without limitation, automatic tracking systems and several C/KU band TVRO receive-only satellite dishes), mountings, steel dunnage, structural reinforcement, conduit, wiring and supports as shall be necessary for the installation and operation of such satellite dishes (such satellite

dishes, together with such ancillary equipment, mountings, steel dunnage, structural reinforcement, conduit (including the Satellite Equipment Conduits), wiring and supports are herein collectively called the "Satellite Transmission System") and (b) a non-exclusive license to install, operate and maintain in a portion of the shaft space from the electric closet serving the Office Space located on the 37th Floor of the Building to the Penthouse Space, which shaft space is to be designated by the Landlord reasonably in accordance with the diagram attached hereto as Exhibit A-8 (the "Satellite Riser Area") two (2) 3-inch power conduits and two (2) 4-inch telecommunications conduits (the "Satellite Equipment Conduits"), for use in connection with the operation of the Satellite Transmission System. The Tenant shall not use the Penthouse Space, the Penthouse Roof Space or the Satellite Riser Area for any other purpose.

35.2. The rights and licenses herein granted to the Tenant to use the Penthouse Space, the Penthouse Roof Space and the Satellite Riser Area for the installation, operation and maintenance of the Satellite Transmission System are subject to all of the provisions of this Lease, including, without limitation, Section 3.4, Section 6.1(e), Section 6.1(j) and Section 11.1. Without limiting the generality of the immediately preceding sentence of this Section 35.2, the Tenant's use of the Penthouse Space, the Penthouse Roof Space and the Satellite Riser Area shall be subject to such reasonable rules and regulations as the Landlord may from time to time establish, and to the following additional conditions: (a) the Satellite Transmission System shall not cause any material interference with the operation of any equipment theretofore installed in or on the Building or on or in any other building that is not cured by the Tenant, at the Tenant's sole cost and expense, within two (2) business days; (b) the Satellite Transmission System and the appearance of the portion thereof that is located on the Penthouse Roof Space shall be consistent with the character of similar installations on and in other first-class office buildings in midtown Manhattan; (c) the Tenant shall be solely responsible for the installation, maintenance, repair, security, operation and replacement of the Satellite Transmission System (including, without limitation, the cost of utilities); (d) other than the sale of programming time on the Tenant's radio broadcasts the Tenant shall not sell, rent or transfer any portion of the Satellite Transmission System or any related services to, or otherwise permit (whether or not for a fee) the use of the Satellite Transmission System or any related

services by, any other person or entity (except for a subtenant of the Tenant), whether or not a tenant in the Building and (e) the Tenant shall, to the extent permitted under applicable Requirements, provide roof top fencing or screening, reasonably acceptable to the Landlord, around the Satellite Transmission System. Without limiting the generality of the immediately preceding sentence, all work and actions in connection with Section 35.1 and this Section 35.2 shall be deemed an Alteration and shall be subject to the provisions of Section 6.1(e) above. The Tenant shall be responsible for all structural requirements, maintenance, repair and security for the Satellite Transmission System.

35.3. (a) The Tenant shall not install the Satellite Transmission System, or make, or permit to be made, any additions or other changes in or to the Satellite Transmission System, the Penthouse Space, the Penthouse Roof Space or the Satellite Riser Area without, in each instance, first obtaining (i) the Landlord's prior written consent thereto (except that minor additions or changes in or to the Satellite Transmission System, the Satellite Riser Area, the Penthouse Space or the Penthouse Roof Space, which are incident to the normal operation or

maintenance thereof shall not require the Landlord's prior written consent but may be performed only upon prior written notice to the Landlord) in accordance with the applicable provisions of this Lease, and (ii) when required by applicable Requirements, all required permits and approvals of any federal, state or local governmental or quasi-governmental authority with respect to any such additions or changes.

(b) Throughout the term of this Lease, and at the Tenant's sole cost and expense, the Tenant shall (i) keep and maintain the Satellite Transmission System, the Satellite Riser Area and the Tenant's installation therein, the Penthouse Space and the Penthouse Roof Space in a safe condition and good order and state of repair, (ii) comply with all Requirements applicable to the installation, maintenance and operation of the Satellite Transmission System, the Tenant's installation in the Satellite Riser Area and to the use and maintenance of the Satellite Riser Area, the Penthouse Space and the Penthouse Roof Space and (iii) comply with all precautions and safeguards required by the Landlord's insurance company with respect to the Satellite Transmission System, the Tenant's installation in the Satellite Riser Area and the use and maintenance of the Satellite Riser Area, the Penthouse Space and the Penthouse Roof Space. Without limiting the generality of the foregoing provisions of this Section 35.3(b), the Tenant, at the Tenant's sole cost and expense, shall (A) paint the antennae on the roof the Building white, or such other color as is customary in other first class buildings in mid-town Manhattan (provided that the Tenant shall be permitted to paint the Tenant's logo on such antennae) (B) install and maintain such lightening rods, air terminals and/or similar equipment as the Landlord may reasonably require, on or about the portion of the Satellite Transmission System which is located on the roof of the Building, (C) comply with all applicable Requirements (including those of the Federal Communication Commission, or any successor thereto) relating to the installation, operation and maintenance of the Satellite Transmission System, and (D) obtain all permits and licenses required by any governmental or quasi-governmental authority with respect to the installation, operation or maintenance (and, upon the expiration or sooner termination of this Lease, the removal) of the Satellite Transmission System, renew all such permits and licenses as and when required by applicable Requirements and pay promptly as and when due all taxes, license, permit and other fees or charges imposed in respect thereof.

(c) Throughout the term of this Lease, the Tenant shall use and operate the Satellite Transmission System and the devices and equipment used in connection therewith in a manner that does not in any way constitute a health hazard or danger to property. If the Landlord shall determine that the Satellite Transmission System or any of the devices and equipment used in connection therewith may constitute a health hazard or a danger to property the Tenant, upon notice from the Landlord, shall immediately discontinue the use of the Satellite Transmission System and/or such other devices and equipment. Thereafter, the Tenant shall diligently undertake to determine, and shall correct, at the Tenant's sole cost and expense, the cause of such hazard or danger; and the Tenant shall not resume the use of the Satellite Transmission System and/or such other devices and equipment until the Tenant has been notified by the Landlord that adequate corrective steps have been taken to remedy or prevent such hazard or danger as the case may be.

35.4. If necessary due to any Requirement (other than a Requirement of insurance bodies not having the force of law and subject to Section 6.1(f) above), then, at any time and from time to time following the Tenant's installation of the Satellite Transmission System, the Landlord, upon written notice to the Tenant, may direct the Tenant to relocate the Satellite Transmission System, or any portion thereof, to a location designated by the Landlord, and the Tenant shall relocate the Satellite Transmission System with reasonable promptness and, if necessary due to any such Requirements, cease operation of the Satellite Transmission System (or such applicable portion) until such relocation is completed. The cost and expense of such relocation of the Satellite Transmission System shall be borne by the Tenant. If the relocation shall be required for any other reason, the cost and expense of such relocation shall be borne by the Landlord. In the event the Tenant shall fail to

relocate the Satellite Transmission System with reasonable promptness following receipt of such notice from the Landlord, the Landlord may do so, and the Tenant, as additional rent under this Lease, shall reimburse the Landlord on demand for any reasonable costs and expenses incurred by the Landlord in connection therewith.

35.5. In no event shall the Landlord or any of the other Indemnitees be responsible for (a) complying with, nor shall the Landlord or any of the other Indemnitees be subject to any liability for the Tenant's failure to comply with, any Requirement applicable to the Satellite Transmission System, the Tenant's installation in the Satellite Riser Area, the Penthouse Space or the Penthouse Roof Space or the installation, operation or maintenance (or, upon the expiration or sooner termination of this Lease, the removal) of the Satellite Transmission System or the Tenant's installation in the Satellite Riser Area, or the use of the Penthouse Space or the Penthouse Roof Space, (b) or in connection with, the installation, operation or maintenance of the Satellite Transmission System or the Tenant's installation in the Satellite Riser Space, or for any liability or damage incurred or suffered by the Tenant in connection with or arising out of the Tenant's installation, operation or maintenance (or, upon the expiration or sooner termination of this Lease, the removal) of the Satellite Transmission System or the Tenant's installation in the Satellite Riser Area, or the use of the Penthouse Space or the Penthouse Roof Space or (c) any damage that may be caused to the Tenant or the Satellite Transmission System (or any other property of the Tenant) by any other tenant, occupant or licensee in the Building; and the Tenant shall make no claim against the Landlord or any Landlord Party for any direct, consequential or other loss or damage suffered or incurred by the Tenant in connection with the installation operation or maintenance (or, upon the expiration or sooner termination of this Lease, the removal) of the Satellite Transmission System or the Tenant's installation in the Satellite Riser Area, or the use of the Penthouse Space or the Penthouse Roof Space, however caused, except to the extent caused by the negligence or willful misconduct of the Landlord. The Tenant shall indemnify and save harmless the Indemnitees, and defend te Indemnitees (with counsel reasonably acceptable to the Indemnitees), from and against any and all liability (including, but not limited to, statutory liability), loss, damage interest, judgments and liens, and any and all costs and expenses (including, but not limited to, counsel fees and disbursements), in any way arising out of or incurred in connection with, any and all claims, demands, suits, actions and/or proceedings (including, but not limited to suits and claims against the Indemnitees for infringement or violation of any patent, trademark, copyright, trade secret, proprietary, or other tangible or intangible property rights of any kind whatsoever as a result of or arising out of the broadcast, rebroadcast, display or transmission

of any images, programs, sports events, music or any other voice or data transmissions in, to, through or from the Satellite Transmission System) which shall be made or brought against the Indemnitees in connection with or arising out of, anything done or omitted to be done with respect to the Satellite Transmission System, the Satellite Riser Area and/or the Tenant's installation therein, the Penthouse Space and/or the Penthouse Roof Space, except to the extent caused by the negligence or willful misconduct of the Landlord. The Indemnitees agree to give the Tenant prompt written notice of all claims, demands, suits, actions and/or proceedings for which the Indemnitees are indemnified hereunder brought or threatened against the Indemnitees, but any failure or delay in giving any such notice shall not affect the Tenant's indemnification obligation hereunder unless the Tenant's ability to defend against such claim is materially adversely affected by such failure or delay. The provisions of this Section 35.5 shall survive the expiration or earlier termination of this Lease. The foregoing provisions of this Section 35.5 are subject to the provisions of Section 9.3 and Section 25.12 of this Lease.

35.6. Anything in this Lease to the contrary notwithstanding, it is expressly acknowledged and agreed by the Tenant that the Landlord has made no representation or warranty to the Tenant (a) that the installation, operation or maintenance of the Satellite Transmission System is permitted by applicable Requirements or (b) that, once installed, the Satellite Transmission System will be able to receive or transmit communication and/or radio broadcast signals without interference or disturbance (whether or not by reason of the installation or use of other similar or dissimilar equipment by others on the roof of the Building or at or from any other location); and the Tenant agrees that the Landlord shall have no obligation or liability to the Tenant if such installation, operation and/or maintenance is now or hereafter prohibited by any applicable Requirement or as a result of the inability, for any reason, of the Satellite Transmission System to receive or transmit communication signals without interference or disturbance.

35.7. The Landlord shall permit the Tenant's contractors who have been consented to by the Landlord in accordance with Section 6.1(e) above, and the Tenant's properly identified employees, agents and representatives, 24 hours a day, 7 days a week access to the portions of the Building in which the Satellite Transmission System is located, at and for such reasonable periods of time, in such manner and by such means, as shall reasonably be required by the Tenant, for the purpose of operating and maintaining the Satellite Transmission System, subject always to such reasonable regulations and restrictions as the Landlord may, from time to time, deem necessary to establish, including, but not limited to, the requirement that, except in an emergency, such contractors, agents and

representatives be accompanied by employees of the Landlord, provided that such requirement shall not interfere with or delay such access (except to a de minimis extent).

35.8. The Landlord shall have the right at any time, without any liability to the Tenant, to inspect and examine the Satellite Transmission System and all devices and equipment installed in connection therewith and to inspect and examine the Satellite Riser Area, the Penthouse Space and the Penthouse Roof Space, and the Tenant shall cooperate with the Landlord in demonstrating or testing the Satellite Transmission System and any such devices and equipment.

35.9. The Tenant acknowledges and agrees that the licenses and related privileges granted the Tenant under this Article Thirty-five shall not, now or at any time before or after the installation of the Satellite Transmission System, be deemed to grant to the Tenant a leasehold or other real property interest in the Building or any portion thereof in connection with the Licensed Spaces relating to the Satellite Transmission System. The licenses granted to the Tenant in this Article Thirty-five shall automatically terminate and expire upon the expiration or earlier termination of this Lease and the termination of such license shall be self-operative and no further instrument shall be required to effect such termination. The foregoing notwithstanding, upon request by the Landlord, the Tenant promptly shall execute and deliver to Landlord, in recordable form, any certificate or other document confirming the termination of the Tenant's right to use the Penthouse Roof Space and/or the Satellite Riser Area. The license granted to Tenant in this Article Thirty-five shall not be assignable by Tenant separate and apart from this Lease.

ARTICLE THIRTY-SIX
(36.)Auxiliary Chiller System

36.1. Subject to the provisions of this Article Thirty-six, specifically, including, without limitation, Section 36.6 below, the Tenant is hereby granted (a) a non-exclusive license to install, operate and maintain in the Auxiliary Chiller Space two 100-ton, air-cooled supplemental air conditioning chillers, together with all ancillary equipment, mountings, piping, duct work, venting, conduit, wiring and support as shall reasonably be necessary for the installation and operation of such chillers (the chillers, and all such ancillary equipment, mountings, piping, duct work, venting, conduit, wiring and support (including, without limitation, the Chilled Water Lines) are herein collectively called the ("Auxiliary Chiller System"), and (b) a non-exclusive license to install, operate and maintain in a portion of the shaft space to be designated by the Landlord reasonably in accordance with the diagram attached hereto as Exhibit A-9 (the "Chilled Water Riser Area") from the Auxiliary Chiller Space to the pump closet located (or to be located) on the 37th Floor of the Building chilled water supply and return pipes (the "Chilled Water Lines") to bring chilled water from the Auxiliary Chiller System to the chilled water pumps.

36.2. The license herein granted to the Tenant to use the Auxiliary Chiller Space and the Chilled Water Riser Area for the installation, operation and maintenance of the Auxiliary Chiller System is subject to all of the provisions of this Lease including, without limitation, Section 3.4, Section 6.1(e) and Section 11.1. Without limiting the generality of the immediately preceding sentence of this Section 36.2, the Tenant's use of the Auxiliary Chiller Space and the Chilled Water Riser Area shall be subject to such additional reasonable rules and regulations as the Landlord may from time to time establish and the following additional conditions: (a) the Tenant shall be solely responsible for the installation, maintenance, repair, security, operation and replacement of the Auxiliary Chiller System, provided, however, that the Landlord shall assist the Tenant, at no cost to the Tenant, in instituting a regular program of repair and maintenance acceptable to the Landlord, (b) the Tenant shall not sell any, chilled water generated by the Auxiliary Chiller System to, or otherwise permit the use of the Auxiliary Chiller System by, any other person or entity (except for a subtenant of the Tenant), whether or not a tenant in the Building, (c) the Tenant shall provide noise and vibration abatement as

reasonably required by the Landlord and (d) the Tenant shall provide screening for the Auxiliary Chiller Space as reasonably required by Landlord.

36.3. The Tenant shall (a) be solely responsible for any damage caused as a result of the use of the Auxiliary Chiller System (except to the extent caused by the Landlord or any of its agents or employees acting within the scope of their employment), (b) promptly pay any tax, license, permit or other fees or charges imposed pursuant to any Requirements relating to the construction, installation, maintenance, repair, operation or use of the Auxiliary Chiller System, (c) at its sole cost and expense, promptly comply with all precautions and safeguards required by Landlord's insurance company and all Requirements with respect to the Auxiliary Chiller System and (d) at its sole cost and expense, make all necessary repairs or replacements to the Auxiliary Chiller System.

36.4. If necessary due to any Requirement, or otherwise if the same does not interfere (except to a de minimis extent) with the conduct of the Tenant's business in the Office Space, then, at any time and from time to time following

the Tenant's installation of the Auxiliary Chiller System, the Landlord may direct the Tenant to relocate the Auxiliary Chiller System, or any portion thereof, to a location designated by the Landlord, and the Tenant shall promptly relocate the Auxiliary Chiller System. The cost and expense of such relocation of the Auxiliary Chiller System shall be borne by the Tenant if such relocation shall be necessary due to any Requirement or due to any act or omission of the Tenant. If the relocation shall be required for any other reason, the cost and expense of such relocation shall be borne by the Landlord. In the event the Tenant shall fail to relocate the Chilled Water Riser System, the Landlord may do so, and, to the extent that the Tenant would have been obligated to bear the cost of such relocation, as set forth above, the Tenant shall reimburse the Landlord on demand for any reasonable costs and expenses incurred by the Landlord in connection therewith.

36.5. The Tenant acknowledges and agrees that the licenses and related privileges granted the Tenant under this Article Thirty-six shall not, now or at any time before or after the installation of the Auxiliary Chiller System, be deemed to grant the Tenant a leasehold or other real property interest in the Building or any portion thereof in connection with the Licensed Spaces relating to the Auxiliary Chiller System. The licenses granted to the Tenant in this Article Thirty-six shall automatically terminate and expire upon the expiration or earlier termination of this Lease and the termination of such license shall be self-operative and no further instrument shall be required to effect such termination. The foregoing notwithstanding, upon request by the Landlord, the Tenant promptly shall execute and deliver to Landlord, in recordable form, any certificate or other document confirming the termination of the Tenant's right to use the Auxiliary Chiller Space and/or the Chilled Water Riser Area. The license granted to Tenant in this Article Thirty-six shall not be assignable by Tenant separate and apart from this Lease.

36.6. Anything in this Article Thirty-six, in Section 20.2.4, or elsewhere in this Lease to the contrary notwithstanding, the Tenant's rights under this Article Thirty-six and Section 20.2.4 above are subject to the Tenant's exercising one (1) of the following options, which exercise shall be made by written notice delivered to the Landlord together with the Tenant's

submission to the Landlord of the Preliminary Plans for the Initial Tenant Alterations, and time is of the essence with respect to the delivery of such notice:

(a) to use the Auxiliary Chiller System, in acordance with this Article Thirty-six, to provide all necessary cooling to the Tenant's supplemental air conditioning system(s) serving the Office Space, in which event the Tenant shall have no further rights, and the Landlord shall have no further obligations, under Section 20.2.4 above with respect to the provision by the Landlord of chilled water or humidification water; or

(b) to have the terms, conditions and limitations of Section 20.2.4 above apply with respect to all necessary cooling of the Tenant's supplemental air conditioning system(s) serving the Office Space, in which event the Tenant shall have no further rights, and the Landlord shall have no further obligations, under this Article Thirty-six with respect to the Auxiliary Chiller System; or

(c) (i) to have the terms, conditions and limitations of Section 36.1 through Section 36.5 of this Lease, inclusive, apply only with respect to the necessary cooling of the Tenant's supplemental air conditioning system(s) in the event that, and only for so long as, the Landlord fails to provide chilled water to the Tenant's supplemental air conditioning system(s) serving the Office Space in accordance with the terms, conditions and limitations of Section 20.2.4 above, and (ii) to have the terms, conditions and limitations of Section 20.2.4 above apply with respect to all other necessary cooling of the Tenant's supplemental air conditioning system(s) serving the Office Space.

If the Tenant fails to exercise its option under this Section 36.6 at the time it submits the Preliminary Plans for the Initial Tenant Alterations to the Landlord, then the Tenant shall be deemed to have exercised the provisions of Section 36.6(c) hereof.

ARTICLE THIRTY-SEVEN
(37.)IDA Transaction

37.1. The Tenant has advised the Landlord that The City of New York (the "City"), acting through the New York City Industrial Development Agency (the "IDA"), has agreed, subject to finalizing definitive documentation (including the IDA Subleases), to provide the Tenant with certain discretionary economic development benefits (collectively, the "Benefits") as an inducement to the Tenant to relocate its operations to the City (the provision of such Benefits and the consummation of the transaction between the IDA and the Tenant being hereinafter collectively referred to as the "IDA Transaction").

37.2. The Landlord hereby agrees that the Landlord shall, at the reasonable request of the Tenant and at Tenant's sole cost and expense, promptly execute and deliver such further or additional instruments (in form and substance reasonably acceptable to the Landlord) and take such further actions

as are reasonably necessary or appropriate to effectuate the IDA Transaction; provided that no such instruments or actions shall operate to (a) release the Tenant from, or in any way decrease, any liability or obligation of the Tenant under this Lease, or (b)

impose any additional or increased obligation or liability on the Landlord, for which the Landlord is not otherwise indemnified from or reimbursed for by the Tenant under this Lease.

ARTICLE THIRTY-EIGHT
(38.)Right of First Offer

38.1. Subject to the provisions of the last sentence of Section 38.2 below, from and after the third (3rd) anniversary of the term commencement date (provided that this Lease shall then be in full force and effect and the term and estate hereby granted shall not have expired or been terminated), the Landlord will not enter into a lease with any other person, firm or corporation covering the demise of any single full floor in the Building which is served by the elevator bank that serves floors twenty-seven (27) through thirty-seven (37) in the Building (any such space being herein called the "Extra Space") until a period of ten (10) business days shall have elapsed after the Landlord shall have notified the Tenant that the Extra Space is or will be (on a date not less than sixty (60), or more than four hundred fifty-five (455), days after the date of such notice) available for leasing. The Landlord's notice shall (a) include an outline floor plan of the Extra Space, (b) specify the rentable area thereof, (c) specify the date on which Landlord proposes that the Extra Space be added to the Premises and (d) include the Landlord's binding estimate of the Fair Market Rental Value (as hereinafter defined) for the Extra Space. Anything in this Article Thirty-eight to the contrary notwithstanding, (y) the Tenant shall not have any right to exercise the right of first offer provided for herein more than two (2) times and, if the Landlord shall have previously notified the Tenant of the availability of any space pursuant to this Section 38.1, whether or not the Tenant shall have exercised the option granted pursuant to Section 38.2 below, the Landlord shall not thereafter have any obligation to notify the Tenant that any space that might otherwise have constituted the Extra Space is or will be available for leasing or to grant the Tenant an option to lease such space, and (z) the Landlord shall have no obligation to notify the Tenant that any space that might otherwise have constituted the Extra Space is or will be available for leasing or to grant the Tenant an option to lease such space if the Landlord renews or extends, in whole or in part, a lease covering such space (including by way of entering into a new lease with a then-existing tenant under a lease covering such space). The term "Fair Market Rental Value" as used in this Article Thirty-eight with respect to any Extra Space shall mean the reasonable annual market fixed rental value of comparable office space in comparable buildings in midtown Manhattan for a lease term equal to the then remaining term of this Lease, taking into account all appropriate factors.

38.2. If the Landlord so notifies the Tenant that the Extra Space is or will be available for leasing, then, subject to the provisions of the last sentence of this Section 38.2, the Tenant shall have the option to lease the Extra Space upon all of the same terms and conditions contained in this Lease as amended by the terms and conditions set forth in this Article Thirty-eight. The Tenant shall exercise such option (if at all) only by written notice to the Landlord (an "Expansion Notice") given within such period of ten (10) business days after the Tenant's receipt of the Landlord's notice that the Extra Space is or will be available for leasing, and time is of the essence with respect to the Tenant's giving of such notice exercising such option with in such ten (10) business day period. Anything in this Section 38.2 or elsewhere in this Lease to the contrary notwithstanding, the Tenant's rights under this Article Thirty-eight

to lease the Extra Space are and shall be subject and subordinate to (a) any rights in or to the Extra Space in effect on the date hereof of any existing tenants in the Building under their leases, as the same may be amended or modified from time to time, and (b) any rights in or to the Extra Space that the Landlord shall have granted, or shall hereafter grant, to any tenant, subtenant or occupant of the Building, or to any prospective tenant, subtenant or occupant with which the Landlord is then in active negotiations, provided that such tenant, subtenant or occupant or prospective tenant, subtenant or occupant then leases, or is then in active negotiations to lease, 250,000 or more rentable square feet of space in the Building or, if the Tenant then leases 250,000 or more rentable square feet in the Building, such tenant, subtenant or occupant or prospective tenant, subtenant or occupant leases, or is then in active negotiations to lease, more rentable square feet in the Building, than is then leased by the Tenant.

38.3. If the Tenant shall timely exercise the option to add the Extra Space to the Premises, then, on and after the date specified in the Landlord's notice as the date on which the Extra Space is to be incorporated in the Premises (the "Extra Space Commencement Date") (a) the Extra Space shall be incorporated into and form a part of the Premises, (b) the annual fixed rent reserved under this Lease shall be increased by an amount which is equal to the Fair Market Rental Value for the Extra Space, (c) in applying the provisions of Article Twentyfour of this Lease to the Extra Space only, subparagraphs (h) and (i) of Section 24.3 shall be deemed to read, respectively, (i) "`Base Real

Estate Taxes' shall mean the R.E. Tax Share of the Real Estate Taxes for the Tax Year (A) in which shall occur the Extra Space Commencement Date, if the Extra Space Commencement Date occurs within the first six (6) months of such Tax Year, or (B) immediately following the Tax Year in which shall occur the Extra Space Commencement Date, if the Extra Space Commencement Date occurs within the last six (6) months of such Tax Year," and (ii) "`Base COM' shall mean the O.E. Share of the Cost of Operation and Maintenance for the Computation Year (A) in which shall occur the Extra Space Commencement Date, if the Extra Space Commencement Date occurs within the first six (6) months of such Computation Year, or (B) immediately following the Computation Year in which shall occur the Extra Space Commencement Date, if the Extra Space Commencement Date occurs within the last six (6) months of such Computation Year"; and (d) Section 24.3(c) shall be amended so that the number of rentable square feet in the Extra Space shall be added to the Tenant's Area.

38.4. If the Tenant does not dispute the Landlord's estimate of the Fair Market Rental Value for the Extra Space within thirty (30) days after the Tenant's receipt of the Landlord's notice that the Extra Space is or will be available for leasing in accordance with Section 38.1 above, such estimate shall become the Fixed Rent for the Extra Space. If the Tenant disputes the Landlord's estimate, the Tenant shall so notify the Landlord of the Tenant's binding estimate of the Fair Market Rental Value within such thirty (30) days after the Tenant's receipt of the Landlord's notice and, if the Landlord and the Tenant fail to reach agreement on the Fair Market Rental Value within ten (10) business days thereafter, the Fair Market Rental Value shall be determined by arbitration substantially in accordance with Sections 33.5.1, 33.5.2 and 33.5.3 hereof.

38.5. If the annual fixed rent for the Extra Space shall not be determined prior to the date the Extra Space is incorporated in the Premises, the Tenant shall pay an interim fixed rent

for the period commencing on the date the Extra Space is incorporated in the Premises and ending on the last day of the month in which such annual fixed rent is determined at the average annual rate per square foot in effect for the remainder of the Premises on the day preceding the date the Extra Space is incorporated in the Premises (without giving effect to any existing abatement of fixed rent in effect on such date, other than any abatement under Article Ten) hereof. When the annual fixed rent for the Extra Space is determined, the fixed rent for such period shall be recomputed upon the basis of such annual fixed rent so determined and if such recomputed fixed rent for such period is in excess of such interim fixed rent so paid for such period, the Tenant shall promptly pay to the Landlord an amount equal to such excess. Conversely, if such recomputed fixed rent for such period is less than such interim fixed rent so paid for such period, the Landlord shall apply such amount against the next installment or installments of fixed rent coming due under the Lease.

38.6. With reasonable promptness after the incorporation of the Extra Space in the Premises and the final determination of the Rent payable with regard to the Extra Space, the Landlord and the Tenant shall execute a supplemental indenture to this Lease confirming the demising of the Extra Space to the Tenant pursuant to this Article Thirty-eight.

ARTICLE THIRTYNINE
(39.)Additional Penthouse Space

39.1. The Landlord hereby grants to the Tenant the option to take under lease, subject and subordinate to the Qualified Encumbrances, the space substantially as shown cross-hatched on the diagram attached hereto as Exhibit A-3 and designated as 'D' on the roof of the Building (herein called the "Additional Penthouse Space") subject to all the same terms and conditions of this Lease applicable to the Penthouse Space. The term with respect to the Additional Penthouse Space shall commence, and the Additional Penthouse Space shall be added to the Penthouse Space, on the date which is the earlier to occur of (a) December 1, 1999 and (b) the date upon which the Tenant first occupies the Premises for the conduct of its business, subject to Article Two of this Lease (the "Additional Penthouse Space Term Commencement Date"). The Tenant may exercise the option granted pursuant to this Section 39.1 (if at all) only by notifying the Landlord, in writing, not later than October 1, 1999.

39.2. In the event the Tenant shall exercise such option in a timely manner, then, on and after the Additional Penthouse Space Term Commencement Date (a) the Additional Penthouse Space shall constitute a part of the Penthouse Space for all purposes of this Lease, (b) the annual fixed rent reserved under this Lease for the Penthouse Space pursuant to Section 1.4.1(a)(ii) above shall be increased to $34,620.00 ($2,885.00 per month), and (c) the agreed upon rentable area of the Penthouse Space set forth in Section 1.6 above shall be increased to 1,154 rentable square feet.

39.3. With reasonable promptness after the exercise of such option, the Landlord and the Tenant shall execute a supplemental indenture to this Lease confirming the demising of such Additional Penthouse Space to the Tenant pursuant to this Article Thirty-nine. If the Tenant does not exercise its option with respect to the Additional Penthouse Space within the time and in the

manner specified in this Article Thirty-nine, then the Landlord shall have no

further obligation to demise the Additional Penthouse Space to the Tenant.

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AMENDED AND RESTATED

CONTRACT BETWEEN

CD RADIO INC.

AND

SPACE SYSTEMS/LORAL, INC.

FOR

ON-ORBIT DELIVERY OF

CD RADIO DARS SATELLITES*

This document contains data and information proprietary to SPACE SYSTEMS/LORAL and CD RADIO. This data shall not be disclosed or disseminated, or reproduced in whole or in part without the express prior written approval of SPACE SYSTEMS/LORAL and CD RADIO, except to the extent permitted by Article 20.

* This agreement is subject to a confidential treatment request. The confidential portions have been omitted from this Form 10-Q and have been replaced by asterisks (*). The confidential portions have been filed separately with the Commission as provided pursuant to Rule 24b-2 under the Securities Exchange Act of 1934.

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APPENDICES AND ATTACHMENTS

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B Milestone Achievement Certification
C Non-disclosure Agreement
D Deferred Financing Term Sheet

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restriction on the title page of this Contract.

PREAMBLE

AMENDED AND RESTATED CONTRACT, dated as of June 30, 1998, between CD Radio Inc., a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 1180 Avenue of the Americas, 14th Floor, New York, New York 10036 (hereinafter referred to as the "Purchaser"), and Space Systems/Loral, Inc., a corporation organized and existing under the laws of the State of Delaware, having a place of business at 3825 Fabian Way, Palo Alto, California, 94303 (hereinafter referred to as the "Contractor").

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restriction on the title page of this Contract.

WITNESSETH:

WHEREAS, the Purchaser and the Contractor are parties to a Contract dated as of March 2, 1993 (as amended, supplemented or otherwise modified prior to the date hereof, the "Existing Contract"), pursuant to which, among other things, the Contractor agreed to construct and deliver three (3) Satellites for use in the digital audio radio system ("DARS") being developed by the Purchaser (such system, as modified or expanded from time to time, the "CD Radio DARS System");

WHEREAS, the Purchaser and the Contractor are parties to a Memorandum of Agreement, dated as of March 27, 1998 (the "MOA"), pursuant to which the Purchaser and the Contractor agreed to amend the Existing Contract to, among other things, provide for the construction, Launch and on-orbit, checked-out delivery of three (3) Satellites with a fourth Satellite delivered to Ground Storage for use in the CD Radio DARS System;

WHEREAS, the Contractor and the Purchaser desire to execute and deliver this Contract to (i) supersede both the Existing Contract and the MOA and (ii) provide for the construction, Launch and on-orbit, checked-out delivery of three (3) Satellites with a fourth Satellite delivered to Ground Storage for use in the CD Radio DARS System;

*

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Purchaser and the Contractor hereby agree as follows:

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subject to the restriction on the title page of this Contract.

Article 1.

DEFINITIONS

The following terms shall have the meanings assigned to them below:

1.1 The "Purchaser" means CD Radio Inc., a Delaware corporation, and its successors and assigns.

1.2 The "Contractor" means Space Systems/Loral, Inc.

1.3 The "Parties" means the Purchaser and the Contractor.

1.4 "Contract" means this Amended and Restated Contract, its Exhibits and Attachments plus any amendments hereto or thereto, to which the Parties agree in writing.

1.5 "Satellite" or "Spacecraft" shall mean a CD Radio DARS Satellite contemplated by and to be supplied to the Purchaser under this Contract.

1.6 "Mission Operations Support Services" shall mean the services performed by the Contractor including orbit raising of FM-1. FM-2 and FM-3 and In-Orbit Testing of such Satellites.

1.7 "Terminated Ignition" shall mean, when, for each Satellite separately of FM-1, FM-2 and FM-3, Intentional Ignition has occurred and is not followed by liftoff.

1.8 "Launch Vehicle" means one of the expendable Launch Vehicles used for the Launch of the CD Radio DARS Satellites, as described in Article 7.

1.9 "Launch Agency" means that organization which is responsible for the Launch Site and conducting the applicable Launch.

1.10 "Launch Site" means the facility used by a Launch Agency for purposes of Launching a Satellite.

1.11 "Launch Support" means those services provided by the Contractor, pursuant to the Statement of Work hereto, in support of a Launch by a Launch Agency.

1.12 "Launch" of a Satellite means Intentional Ignition.

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1.13 "Launch Services Agreement" means the Contract(s) between the Contractor and the Launch Agency which provides the terms and conditions for Launching one or more Satellites which are being constructed under this Contract.

1.14 "Ground Storage" of a Satellite means a condition where the Satellite or its component parts are secured in a controlled environment for preservation on the ground.

1.15 "Effective Date of Contract" or "EDC" means March 2, 1993.

1.16 "Affiliate" with respect to any person or entity, shall mean any person or entity directly or indirectly controlling, controlled by or under common control with such person or entity.

1.17 "Intentional Ignition" means the ignition of the first stage main engine(s) of the Launch Vehicle. 1.18 "Launch Pad" shall mean the designated area at the Launch Site from which the Satellite will be Launched.

1.19 "FM" means, with respect to any Satellite, Flight Model.

1.20 *

1.21 *

1.22 "Data and Documentation" means the information to be provided by the Contractor in accordance with Exhibit A, Annex 2, Deliverable Document List.

1.23 "Price" shall have the meaning specified in Article 4 of this Contract, as reduced or increased from time to time in accordance with the terms of this Contract.

1.24 *

1.25 "In-Orbit Check Out Amount" shall mean payments numbered 20B, 21E and 22E for FM's 1, 2 and 3, respectively, (e.g., milestones entitled "Complete IOT") as shown on Attachment A to this Contract.

1.26 "On-Orbit/Checked Out" shall mean a Satellite that is placed in an orbital location as defined in Exhibit B, Section 1, (i.e., on-orbit)and which has been tested in accordance with Exhibit D, Test Plan, to validate the Satellite's performance as specified in Exhibit B.

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1.27 "Insurance Management Support Services" shall mean the technical assistance provided by the Contractor to the Purchaser in support of the procurement of insurance for the Satellites.

1.28 "Satellite Failure" means (i) a Satellite that has a service life that, at any point in time, is predicted to be less than six (6) years, including the number of years that have already occurred since the date of completion of in-orbit testing or (ii) a Satellite that, at any point in time, has fewer than fifty percent 50% of its EIRP specified in Exhibit B.

1.29 *

1.30 "In-Orbit Testing" or "IOT" shall have the meaning described in Exhibit A, Statement of Work.

1.31 *

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the restriction on the title page of this Contract.

Article 2.

SCOPE OF WORK

2.1 Work Effort. The Contractor shall provide the necessary personnel, material, services, and facilities, to manufacture, test and deliver On-Orbit/Checked Out or to Ground Storage as specified in Sub-Article 3.3, four (4) complete Spacecraft in accordance with the Satellite Performance Specification, Exhibit B to this Contract, and perform the services described in Exhibit A, Statement of Work, (except those items of hardware and services listed as "optional," unless such options are exercised by the Purchaser in accordance with the terms of this Contract), to the extent specified in this Contract, and to perform the work required hereunder in accordance with the Exhibits listed below, which are attached hereto and made a part hereof by reference:

2.1.1 Exhibit A, Statement of Work (SOW) Revision 5, dated 21 July 1998, SS/L-TP93002-02

2.1.2 Exhibit B, Satellite Performance Specification, Revision 9, dated 21 July 1998, SS/L-TP93002-03

2.1.3 Exhibit C - Product Assurance Program Plan, Revision 2, dated 14 January 1997, SS/L-TP93002-04

2.1.4 Exhibit D - Test Plan, Revision 3C, dated 21 July 1998, SS/L-TP93002-05

2.1.5 Exhibit E - Dynamic Simulator Specification dated 21 July 1998, SS/L-TP93002-06

*

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the restriction on the title page of this Contract.

Article 3.

DELIVERABLE ITEMS AND DELIVERY SCHEDULE

3.1 Satellite Delivery. Each of the Satellites to be delivered On-Orbit/Checked Out shall be delivered in accordance with the provisions of Sub-Article 3.3 below and Exhibit A, with such delivery being deemed to have occurred upon completion of In Orbit Testing of the applicable Satellite which is conducted to verify that the performance of the Satellite has not degraded during Launch. For a Satellite delivered into Ground Storage pursuant to Sub-Article 3.3 or Article 35, delivery shall be deemed to have occurred when the Satellite arrives at the designated Ground Storage site.

3.2 Delivery of Services. Delivery of services shall be deemed to have occurred when such services have been completed in accordance with the requirements of Exhibit A.

3.3 Deliverable Items. The goods and services to be delivered and the corresponding delivery schedule under this Contract are as follows:

Item	Description	Delivery Schedule	Place of Delivery
1	First Satellite (FM-1)	January 30, 2000, On-Orbit/Checked Out	per Exhibit B, Section 1
2	Second Satellite (FM-2)	February 28, 2000, On-Orbit/Checked Out	per Exhibit B, Section 1
3	Third Satellite (FM-3)	March 31, 2000, On-Orbit/Checked Out	per Exhibit B, Section 1
4	Fourth Satellite (FM-4)	May 31, 2000	Purchaser designated CONUS Ground Storage site
5-7	Launch Services for FM-1, FM-2 and FM-3 in accordance with the terms of Article 7	November 1999 (FM-1) December 1999 (FM-2) January 2000 (FM-3)	Launch Site

Item	Description	Delivery Schedule	Place of Delivery
8	Optional Satellite	Per Sub-Article 14.2	Purchaser designated CONUS Ground Storage site
9	Dynamic Simulator (Qty 1)	September 1, 1999	Purchaser CONUS TT&C facility
10	Mission Operations Support Services FM-1, FM-2 and FM-3	Per Exhibit A	Per Exhibit A
11	Insurance Management Support Services for FM-1, FM-2 and FM-3	As Required	N/A
12	Data and Documentation	Per Exhibit A	Per Exhibit A
13	Training	Per Exhibit A	Palo Alto, CA New York, NY
14	Insurance Option	Per Article 16	N/A

3.4 Late Delivery Penalties. If all of FM-1, FM-2 and FM-3 Satellites (including applicable Launch Services and one (1) dynamic simulator) are not delivered On-Orbit/Checked Out by 31 July 2000 the Price shall, unless such delays are excusable within the meaning of Article 18 - FORCE MAJEURE, be reduced by Forty-Five-Thousand dollars ($45,000) per day for each day of delay starting on August 1, 2000 for up to eighty-nine (89) days thereafter with a maximum Price reduction of Four-Million-Fifty-Thousand dollars ($4,050,000).

If FM-4 is not delivered to Ground Storage by 30 September 2000, then the Price shall, unless such delay is excusable within the meaning of Article 18 FORCE MAJEURE, be reduced by Fifteen-Thousand dollars ($15,000) per day for each day of delay starting on October 1, 2000 for up to eighty-nine (89) days thereafter with a maximum Price reduction of One-Million-Three-Hundred-Fifty-Thousand dollars ($1,350,000).

3.5 *

3.6 Limit of Liability. EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED HEREIN, THE CONTRACTOR SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR FOR LOST REVENUES OR PROFITS DUE TO LATE DELIVERY OF ANY ITEMS, INCLUDING BUT NOT LIMITED TO THE SATELLITES REQUIRED TO BE DELIVERED UNDER THIS CONTRACT.

3.7 *

3.8 *

3.9 *

Article 4.

PRICE

The price to be paid by the Purchaser to the Contractor for performance of its obligations under this Contract is Four-Hundred-Thirty-Eight-Million-Forty- Thousand Dollars ($438,040,000) plus the price of the Launch Services provided by the Contractor in accordance with Article 7 (the "Price").

The Price does not include any of the options available to the Purchaser under the terms of this Contract. *

Article 5.

PAYMENTS

5.1 General.

5.1.1 Payments by the Purchaser to the Contractor of the Price shall be in accordance with the applicable Payment Plan provided in Attachment A.

5.1.2 *

5.1.3 *

5.1.4 *

5.2 *

5.3 Payment Conditions. * All payments to the Contractor from the Purchaser shall be in United States Dollars and shall be made by electronic funds transfer (EFT) to the following account:

BANK OF AMERICA, NT & SA
SPACE SYSTEMS/LORAL
ACCOUNT NO. 75-69165
CHICAGO, ILLINOIS
ABA #071-000-039

or other such accounts as the Contractor may specify from time to time in written notices to the Purchaser.

5.4 Payments Associated with Options. In the event that the Purchaser exercises any of the options provided for under this Contract, then the Purchaser shall make payments for such option(s) in accordance with the respective Payment Plans which are a subset of Attachment A hereto.

5.5 *

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Article 6.

PURCHASER FURNISHED ITEMS

6.1 Facilities for IOT. The Purchaser shall make available to the Contractor the use of the Purchaser's Satellite control facilities for the purposes of In-Orbit Testing of the Satellites.

6.2 Spacecraft Monthly Reports. The Purchaser shall provide to the Contractor, no less frequently than monthly during the on-orbit life of each Satellite, an informal letter report which shall describe the general health and operating status of the Satellites and specifically identify any defined anomalies. For the purpose of this Article, a Satellite anomaly means any occurrence in-orbit that was not anticipated in the Satellite Orbital Operation Handbook (SOOH) delivered to the Purchaser pursuant to Annex 2 of Exhibit A. In the event that a Satellite anomaly is encountered, the Purchaser shall provide and/or give access to such data as the Contractor may require for investigation and/or correction of such anomaly. Further, the Purchaser shall grant such reasonable access to ground stations and the Satellites as the Contractor might require for an investigation of such anomaly. The Contractor shall use its best efforts to understand the anomaly.

6.3 Purchaser Delays. If the Contractor is delayed due to failure of the Purchaser to perform its obligations under this Article, the Contractor shall notify the Purchaser of such delay and failure. If the Purchaser fails to cure such failure within thirty (30) days thereafter, the Contractor shall have the option to perform such obligations on behalf of the Purchaser; if the Contractor does so, it will so notify the Purchaser and the Purchaser shall reimburse the Contractor by means of an equitable adjustment in the Price, schedule, and other affected portions of this Contract. Whether or not the Contractor elects to perform such Purchaser obligations, delays caused by the Purchaser's failure shall be subject to the provisions of Article 19 - PURCHASER DELAY OF WORK.

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Article 7.

LAUNCH SERVICES

7.1 Atlas, Sea-Launch and Proton Launch Services. Subject to the provisions set forth below, the Contractor and the Purchaser agree that Launch services under this Contract shall consist of three (3) Launches ("Launch Services") and shall be provided on two (2) Proton Launch Vehicles and an Atlas IIIA Launch Vehicle. The Contractor agrees that FM-1 and FM-2 shall be Launched on Proton Launch Vehicles and, subject to the provisions set forth below, that FM-3 shall be Launched on an Atlas IIIA Launch Vehicle.

In the event that the Contractor, after consultation with the Purchaser, determines that the Atlas IIIA Launch Vehicle is not suitably optimized for Launch of FM-3 (which determination shall be made prior to August 27, 1998), then the Purchaser shall, by August 28, 1998 instruct the Contractor to substitute either a Proton Launch Vehicle (to the extent that a Proton Launch Vehicle is available), a Sea-Launch Launch Vehicle or an Atlas IIIB Launch Vehicle (to the extent that an Atlas IIIB Launch Vehicle is available) for such unsuitable Launch Vehicle. Any such substitution of Launch Vehicles shall not change the applicable Launch dates or delivery schedule contained in Sub-Article 3.3.

* On or before August 3, 1998, the Contractor shall inform the Purchaser, in writing, whether a Sea-Launch Launch Vehicle which may be selected by the Purchaser can be replaced by an additional Proton Launch Vehicle. In the event a Launch Failure occurs in the industry that causes a postponement of a scheduled Launch, the Contractor will work with the Purchaser and its Launch Agencies to obtain the earliest possible Launch date for the affected Satellite.

7.2 Ariane Launch Vehicles. The Contractor shall use reasonable best efforts, provided they entail no net cost or liability to the Contractor and the Purchaser, to modify its Multiple Launch Service Agreement ("MLSA") with Arianespace S.A. ("Arianespace") to add the two (2) Ariane launchers which were previously under contract between the Purchaser and Arianespace. In this connection, the Contractor shall use reasonable best efforts, provided they entail no net cost nor liability to the Contractor and the Purchaser, to secure Arianespace's agreement to reimburse the Purchaser, fully or partially, for all amounts paid under the Purchaser/Arianespace agreement. Such efforts will be made to secure the reimbursement prior to March 31, 2000 although no assurances can be made. The Contractor agrees to include the Purchaser in (or at least to consult on a regular basis with the Purchaser regarding) the Arianespace negotiations that directly affect the Purchaser's interests. Upon reaching successful agreement with Arianespace, the

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Contractor will inform the Purchaser of the terms of the agreement and promptly pay over to the Purchaser any reimbursement amounts paid by Arianespace in connection with the Purchaser/Arianespace agreement.

7.3 *

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Article 8.

INSPECTION, INTERIM AND FINAL ACCEPTANCE

8.1 Inspections and Testing of Satellites. The Satellites shall be subjected to inspection and acceptance testing in accordance with Exhibit A, Statement of Work, Exhibit C, Product Assurance Plan and Exhibit D, Test Plan. The Purchaser shall have the right to conduct inspections of the Satellites and witness acceptance testing in accordance with the paragraph below, and to examine the test data resulting from such tests. The Contractor will give reasonable advance notice to the Purchaser, when practicable, as to the time such tests will be conducted and the nature of the test. Failure of the Purchaser to witness the tests shall not prevent the tests from proceeding.

8.2 Interim Acceptance of the Satellites. The Satellite(s) will be inspected and subject to Interim Acceptance by the Purchaser at the Contractor's Palo Alto facility. Upon completion of the Purchaser's inspection of the Satellites and upon satisfactory completion of the acceptance testing by the Contractor, the Purchaser shall provide written notice to the Contractor of its Interim Acceptance of a Satellite. This written Interim Acceptance shall be provided at the Satellite Pre-shipment Review, to be held in Palo Alto, prior to the shipment of the Satellites to the Launch Site for FM-1, FM-2 and FM-3 or to Ground Storage for FM-4.

8.3 Final Acceptance of FM-1, 2 and 3 Satellites. When each of FM-1,

FM-2 and FM-3 arrive at the Launch Site, inspection and verification testing will be performed by the Contractor to make sure that no damage occurred to the Satellites during shipment to the Launch Site. The Contractor shall then conduct the Satellite Launch Readiness Review in accordance with Exhibit A, Statement of Work. Final Acceptance of a Satellite shall be deemed to occur upon delivery On-Orbit/Checked Out. The Parties sole rights and remedies in the event of Final Acceptance based on Satisfactory; Less Than Satisfactory Operation, or Satellite Failure, shall be as set forth in Article 12, In-Orbit Check-Out.

8.4 Final Acceptance of the Fourth Satellite. Final Acceptance of FM-4 shall be deemed to occur only upon delivery of such Satellite to the Purchaser's designated CONUS Ground Storage facility.

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Article 9.

CIP POINT, TITLE, AND RISK OF LOSS

9.1 Title and Risk of Loss. The title for FM-1, FM-2 and FM-3 shall pass to the Purchaser at the time of delivery of such Satellite On-Orbit/Checked Out or, in the case of a Satellite delivered for Ground Storage, in accordance with the requirements of Article 35 hereof. Risk of loss and/or damage for FM-1, FM-2 and FM-3 shall pass to the Purchaser at the time of Launch of such Satellite or, in the case of a Satellite delivered for Ground Storage, in accordance with the requirements of Article 35 hereof. Title and risk of loss and/or damage for FM-4 shall pass to the Purchaser upon delivery of the Satellite to the Purchaser designated CONUS Ground Storage site. Neither the Contractor nor any of its subcontractors or suppliers at any tier shall be liable to the Purchaser or its agents, representatives, or customers (including insurers of Satellite(s)) for loss of or damage to a Satellite after Launch (including if the Contractor furnishes post-Launch mission or operational support, if any), regardless of the cause or theory. The Contractor's sole responsibility in the event of such loss or damage arising from or related to the provision of such support shall be as set forth in Article 25. The Purchaser agrees to indemnify and hold harmless the Contractor for all costs, expenses and losses of the Contractor that result from claims or litigation based upon the Contractor's alleged responsibility, or liability, or the alleged responsibility of the Contractor's subcontractors or suppliers for loss of, or damage to, the Satellites occurring after Launch, regardless of the cause or theory.

9.2 CIP Point. The Contractor will provide Carriage and Insurance Paid (CIP) to the applicable Launch Pad for FM-1, FM-2 and FM-3 and to the applicable Purchaser designated CONUS Ground Storage site for FM-4.

9.3 Terminated Ignition Contingency Support. In the event of the occurrence of a Terminated Ignition of the Launch Vehicle used for the Launch of the FM-1, FM-2 or FM-3, the Parties agree that the Contractor shall immediately reacquire risk of loss of the affected Satellite and immediately commence work subsequently required to ready the Satellite for a Launch Vehicle relaunch (including, as applicable, demating and defueling of Satellite, procurement of applicable insurance(s), the Contractor taking re-possession of the Satellite upon its removal from the Launch Vehicle, storage, shipping of Satellite back to Palo Alto, refurbishing, retesting, re-shipping, and re-initiation and performance of a subsequent Launch, and any other related effort). It is agreed by the Parties that such support shall be provided at the Purchaser's expense and shall be subject to an equitable adjustment to this Contract for schedule and the price of such work as mutually agreed to by the Parties. Equitable adjustment for such work and all affected terms of this Contract, its Exhibits and Schedule(s), as applicable, shall be negotiated within thirty (30) days of the Terminated Ignition or as otherwise agreed to by the Parties.

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In such event where the Contractor proceeds with the Terminated Ignition contingency support as described in this Article 9.3, the application of Article 25 shall also apply.

In such event where the Contractor proceeds with the Terminated Ignition contingency support and pending final negotiation of an equitable adjustment, both as described in this Article 9.3, the Parties agree to perform their respective obligations described elsewhere in this Contract.

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Article 10.

ACCESS TO WORK IN PROGRESS

10.1 Work in Progress at Contractor's Plant. For the purpose of observing the quality of the Contractor's performance of work, a pre-agreed limited number of the Purchaser's personnel (including its consultants who must be approved in advance by the Contractor) shall be allowed to observe, on a non-interference basis, work being performed at the subsystem level and above for the Satellites, at the Contractor's plant. Such observation shall occur during normal working hours that are reasonable under the circumstances. The Contractor shall provide office space and access to telephone, copy and fax machine services for the Purchaser's personnel, not to exceed four (4), at the Contractor's facility.

10.2 Work in Progress at Subcontractor's Plants. To the extent permitted by the Contractor's major subcontractors, and any U.S. Government restrictions, the Contractor shall allow the Purchaser access to work being performed pursuant to this Contract in subcontractors' plants for the purpose of observing the quality of subcontractor's performance of work, subject to the right of the Contractor to accompany the Purchaser on any visit to a subcontractor's plant. The Contractor will exert its best efforts in subcontracting to obtain permission for such access to subcontractors' facilities.

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Article 11.

TAXES AND DUTIES

11.1 U.S. Taxes (Excluding Sales Taxes). Tariffs, duties, taxes (except sales taxes) or other charges levied by any taxing authority within the United States of America on the goods, equipment, materials or effort covered by this Contract shall be paid by the Contractor.

11.2 U.S. Sales Taxes. The Purchaser shall be responsible for the payment of any sales taxes levied against the effort under this Contract by any taxing authority within the United States.

11.3 Foreign Taxes. The Contractor shall be responsible for all foreign taxes (including sales taxes, if any) on the goods, equipment, materials or effort covered by this Contract, including those associated with subcontract work.

11.4 Contractor Payment of Taxes. In the event that the Contractor is required to pay or withhold any sales tax imposed by any taxing authority within the United States in connection with this Contract, which is the responsibility of the Purchaser under the terms of this Contract, and the Contractor pays such sales tax for the Purchaser, the Price shall be increased by an amount to account for such sales tax and the amount shall be invoiced by the Contractor as an obligation that is immediately due and payable by the Purchaser.

11.5 Survival. The provisions of this Article shall survive the expiration, completion, or termination of this Contract.

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Article 12.

IN-ORBIT CHECK-OUT FOR FM-1, FM-2 and FM-3

12.1 *

Use or disclosure of the data contained on this page is subject to the restriction on the title page of this Contract.

Article 13.

SATISFACTORY OPERATION

For purposes of calculating the In-Orbit Check-Out Amount, the term "Satisfactory Operation" means that the applicable Satellite is in conformance with the requirements set forth in Exhibit B - Satellite Performance Specification to this Contract, taking into account tolerances for measurement accuracy; provided, however, that any failure of the applicable Satellite to meet the performance specified in said Exhibit which is capable of being corrected by switching to one redundant unit in the Satellite within 30 minutes

after said failure is discovered or which does not have a material impact on Satellite performance (including broadcast capacity and useful life), shall not be deemed as causing nonconformance to said Exhibit.

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Article 14.

ADDITIONAL SATELLITE OPTION

14.1 Order for Optional Satellite. The Purchaser may, at its option to be exercised by written notice delivered to the Contractor at any time on or before 1 May 2000, order the Contractor to produce and deliver CIP to a Purchaser designated CONUS Ground Storage site an additional Satellite identical to those being furnished pursuant to Article 2- SCOPE OF WORK.

14.2 Delivery of Optional Satellite. If the optional Satellite is ordered on or before 1 November 1998, then the delivery of the optional Satellite shall be six months following the delivery of FM-4 ordered hereunder. If the optional Satellite is ordered after 1 November 1998, then the delivery of this optional Satellite shall be 28 months after the option is exercised, or six months following the delivery of FM-4 ordered hereunder, whichever is later.

14.3 *

14.4 Payment Plan. A Payment Plan for an optional Satellite ordered under this Article is included in the Payment Plan, Attachment A.

14.5 Terms and Conditions. In the event that the option provided for under this Article is exercised by the Purchaser, then the terms and conditions of this Contract shall be applicable to such option (unless the Parties agree otherwise), except for the financial and delivery provisions of the Contract which will be modified to reflect the procurement of the additional optional Satellite.

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Article 15.

SUCCESSFUL INJECTION

15.1 Definition. Injection of a Satellite shall be considered successful if both of the following circumstances occur:

a. No damage occurs to the Satellite which can be shown to have resulted from Launch Failure or malfunction.

b. The elements of the transfer orbit attained by the Launch Vehicle and Launch Vehicle orientation at the time of separation of the Satellite from the Launch Vehicle are within the 3-sigma limits of the Launch Vehicle performance established by the Contractor.

15.2 Unsuccessful Injection. If the transfer orbit attained by the Launch Vehicle or Launch Vehicle orientation at the time of separation of the Satellite from the Launch Vehicle are outside the 3sigma limits, the Satellite injection shall be considered unsuccessful. However, the Contractor shall use its best efforts to utilize the propulsion capabilities of the Satellite to achieve a successful final orbit. Notwithstanding achievement of a successful final orbit, this situation shall be treated as an "Unsuccessful Injection." Payment of the In-Orbit Check Out Amount for the applicable Satellite shall be made and the Purchaser shall then have the right to use said Satellite for any purpose without incurring any obligation to the Contractor (subject to the terms of the Purchaser's salvage provision of any applicable insurance policy).

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Article 16.

INSURANCE OPTION

16.1 Exercise of Option. The Purchaser may, at its option, to be exercised by written notice delivered to the Contractor by March 31, 1999 for FM-1, FM-2 or FM-3 order the Contractor to procure Launch

insurance to cover the risk of loss to the applicable Satellite for the period of time from Launch (as defined in this Contract) through a period after Launch which shall be defined by the Purchaser at the time of option exercise.

16.2 Price and Payment Terms. Upon written receipt by the Contractor of the Purchaser's election to exercise this option, the Contractor shall provide the Purchaser with the price and payment terms for this option within thirty (30) days. If the Purchaser accepts the Contractor's price and payment terms, then the exercise of this option shall be subsequently effected through an amendment to this Contract.

16.3 Risk of Loss and Title. Subsequent to agreement by the Parties on the price and applicable terms for this option, the Parties agree that risk of loss of the effected Satellite(s) shall pass at the end of the period covered by this insurance option.

16.4 Terms and Conditions. In the event that the option provided for under this Article 16 is procured by the Purchaser, (i) the remaining terms and conditions of this Contract, as applicable, and, as modified in this Article 16, shall apply, and (ii) the Purchaser and the Contractor agree to incorporate appropriate language required to support this effort (e.g., applicable insurance related definitions and language).

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Article 17.

U.S. GOVERNMENT LICENSES FOR FM-1, FM-2 OR FM-3

17.1 U.S. Government License. The Contractor shall have the responsibility to obtain export licenses as required for delivery and Launch of FM-1, FM-2 and FM-3. The Purchaser agrees to use its best efforts to assist the Contractor in such efforts. The Contractor shall have no liability for costs, damages or expenses incurred by the Purchaser for any reason whatsoever, resulting from or in connection with any decision on the part of the U.S. Government with regard to the issuance of a license, or refusal to issue a license for export or Launch on a non-U.S. Launch Vehicle. Both Parties agree to abide by the provisions of any license issued by the U.S. Government.

17.2 Purchaser's Documentation Required for License Application. The Purchaser agrees to provide the Contractor with the Purchaser's data or documentation, as may be required for submitting any license request.

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Article 18.

FORCE MAJEURE

It is recognized by the Parties that a Force Majeure event may delay the performance of the work on the Program or cause non-performance of this Contract by the Contractor, provided however that the Contractor shall use its best efforts to avoid or minimize the effects of such late delivery, delay or non-performance. Such excusable delay shall not be a default hereunder or a ground for termination hereof.

18.1 Definition. Force Majeure shall include any event beyond the reasonable control of the Contractor and its subcontractors and shall include, but will not be limited to, acts of God, acts of a public enemy, acts of any Government in its sovereign capacity, war and warlike events, unusually severe weather, fire, mud slides, earthquakes, floods, epidemics, quarantine restrictions, sabotage, riots and embargoes; which in every case, are beyond the reasonable control and without the fault or negligence of the Contractor and its subcontractors. Upon the occurrence of Force Majeure, an equitable adjustment shall be negotiated in the schedule and other affected portions of this Contract. In addition , failure to deliver the Launch Services required by this Contract due to causes beyond the Contractor's control (including prior failures of the designated Launch Vehicle) will be an excusable delay under this Article 18.

18.2 Delayed Delivery. Accordingly, the Contractor shall not be responsible for the late delivery, delay of final completion or non-performance of its contractual obligations due to Force Majeure events to the extent such events affect the delivery, completion or non-performance under this Contract.

18.3 Notification. The Contractor shall advise the Purchaser in

writing as soon as possible after the Contractor has learned of a delay or potential delay but not later than five (5) days after the onset, and again at the termination, of a Force Majeure event.

Article 19.

PURCHASER'S DELAY OF WORK

If the performance of all or any part of the work required by this Contract is delayed or interrupted by (1) any act of the Purchaser in the administration of this Contract, or (2) by any acts of the Purchaser which are not expressly or impliedly authorized by this Contract, or (3) by the Purchaser's failure to perform its contractual obligations within the time specified in this Contract, or within a reasonable time if no time is specified, then this Contract shall be equitably adjusted in the Price, performance requirements, schedule, and/or any other affected terms of this Contract. Such delay of work does not include that caused by a Force Majeure event.

Article 20.

RIGHTS IN DATA

The Contractor shall retain all rights, title and interest in any Contractor data, invention, discovery or improvement utilized or developed by the Contractor during the performance of this Contract.

20.1 Deliverable Data. The Purchaser's officers, employees, consultants, representatives and agents shall have the perpetual, paid-up, royalty-free, world-wide, nonexclusive right to use the deliverable Data and Documentation for the purpose of establishing, operating, and maintaining the CD Radio DARS System and for no other purpose. The Purchaser's officers, employees, consultants, representatives, and agents shall not disclose such Data and Documentation (or any other data obtained by Purchaser under this Contract) to other companies, organizations or persons without the express written consent of the Contractor.

20.2 Other Data. All other Contractor data, or data of its subcontractors, to which the Purchaser may have access to in the course of the Contractor's performance of this Contract shall remain the property of the Contractor or its subcontractors and shall not be duplicated, used, or disclosed to persons other than the Purchaser's officers, employees, consultants, representatives or agents and shall be used solely to assist the Purchaser in establishing, operating and maintaining the CD Radio DARS System including Satellite/ground equipment interface. This data may only be provided to third parties with the prior written approval of the Contractor, and, if applicable, Contractor's subcontractors, in each case which consent will not be unreasonably withheld or delayed. Nothing contained in this Article shall require the Contractor to provide any data beyond that set forth in Exhibit A.

20.3 Purchaser's Data. The Contractor and its officers, employees, consultants, subcontractors and representatives shall not disclose any data or information obtained from the Purchaser and its officers, employees, consultants or representatives during the performance of its obligations under this Contract to other companies, organizations or persons without the express written consent of the Purchaser.

20.4 Confidentiality. The confidentiality obligations imposed on the Contractor and Purchaser under this Article 20 with regard to data provided under this Contract shall survive the termination, for whatever reason, of this Contract, in accordance with the requirements of Attachment C, Non-Disclosure Agreement.

Article 21.

PATENT INDEMNITY

21.1 The Contractor, at its own expense, shall defend, indemnify and

hold the Purchaser harmless against any claim or suit against the Purchaser based on an allegation that the manufacture of any item in the performance of this Contract, or the normal intended use, lease or sale of any item delivered or to be delivered under this Contract, infringes any U.S. letters patent, copyrights or trade secrets, and shall pay any royalties and other costs of the settlement of such claim or suit and the costs and damages finally awarded, including reasonable attorney fees as the result of any suit, provided that the Purchaser promptly notifies the Contractor in writing of any such claim or suit and gives the Contractor authority and such assistance and information as is reasonably available to the Purchaser for the defense of such claim or suit.

21.2 If the manufacture of any item in the performance of this Contract, or the normal intended use, lease or sale of any item delivered under this Contract, is enjoined as a result of a suit based on such claim of infringement, the Contractor shall resolve the matter by negotiating a license or other agreement so that the injunction no longer pertains; otherwise, the Contractor shall be liable to the Purchaser for the Purchaser's additional costs and damages arising as a result of such injunction, subject to the limitation set forth in Sub-Article 21.6 provided that the conditions of Sub-Article 21.3 herein do not apply.

21.3 The indemnity provided under this Article shall not apply to the Contractor's delivery of normally non-infringing items and their intended use which are rendered infringing by the Purchaser's modification of said items or by a combination of said items with items not provided by the Contractor under this Contract.

21.4 The indemnity provided under this Article does not extend to any infringement resulting from a change in method of manufacture of an item to be delivered, ordered by the Purchaser pursuant to Article 27 - CHANGES, or the stipulation by the Purchaser of the specific design of an item to be delivered if infringement would not have occurred but for compliance with such change or design.

21.5 The indemnity provided under this Article does not extend to any claim that the placement of any Satellite in any orbit other than geostationary(e.g., a highly inclined geosynchronous orbit) directed or stipulated by the Purchaser infringes the intellectual property rights of any third party.

21.6 *

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Article 22.

INDEMNITY - PERSONAL INJURY/PROPERTY DAMAGE

22.1 Contractor Indemnification of the Purchaser. The Contractor shall indemnify and hold harmless the Purchaser, its officers, directors, employees, consultants, representatives and agents from any loss, damage (not including any lost profits or consequential damages), claims, liability, and causes of action for injury or death of any third party, or for damage to, or destruction of, third party property (excluding any Satellite provided under this Contract following the Launch of such Satellite) arising out of negligent acts or omissions by the Contractor, its officers, directors, employees, consultants, representatives, agents or subcontractors in connection with, or relating to, the manufacture, testing, and delivery of a Satellite occurring at or before the Launch or, if delivered to Ground Storage, delivery to Ground Storage, of the last Satellite ordered under this Contract, except to the extent such loss, damage, claims, liabilities or causes of action arise from the fault or negligence on the part of the Purchaser, its officers, directors, employees, consultants, representatives, agents or subcontractors. The Contractor's responsibility with respect to items delivered hereunder shall be solely governed by the provisions of Article 25, WARRANTY.

22.2 Purchaser Indemnification of Contractor. The Purchaser shall indemnify and hold harmless the Contractor, its officers, directors, employees, consultants, representatives and agents from any loss, damage (not including any lost profits or consequential damages), claims, liability, and causes of action for injury or death of any third party, or for damage to or destruction of third party property arising out of negligent acts or omissions by the Purchaser, its officers, directors, employees, consultants, representatives, agents, or subcontractors occurring at or before the Launch (or, if delivered to Ground Storage, delivery to Ground Storage) of the last Satellite ordered under this Contract, except to the extent such loss, damage, claims, liabilities or causes of action, arises from the fault or negligence on the part of the Contractor, its officers, directors, employees, consultants, representatives, agents, or subcontractors.

22.3 Property Damage Insurance. The Contractor certifies it has all-risk property insurance and will maintain such policy through completion of this

Contract. The Contractor will use best efforts to include the Purchaser as a named beneficiary, at no additional cost to Contractor, under any indemnities or insurance provided by a Launch Agency against claims by third parties for bodily or property damage resulting from a Launch.

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Article 23.

RESERVED

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Article 24.

DEFAULT

24.1 Failure to Perform by the Contractor. Subject to the expiration of the Late Delivery Penalty Periods provided in Article 3.4, if the Contractor (1) fails to deliver the deliverable items or perform the work under the Contract within the time specified herein, or any approved extension thereof, or (2) fails to prosecute the work so as to endanger performance of this Contract, or (3) fails to perform any of the other material provisions of this Contract, and in each case does not cure such failure within 30 days (or such longer period as authorized by the Purchaser) after receipt from the Purchaser of written notice of such failure, then the Purchaser, at its option, may terminate this Contract in whole or in part by written notice of default. Upon termination for default, the Contractor shall be reimbursed for the terminated work as follows: *

24.2 *

24.3 *

24.4 Contractor Termination.

24.4.1 The Contractor may terminate this Contract for the Purchaser's failure to comply with any material provision of this Contract; provided, that the right of the Contractor to terminate this Contract upon breach by the Purchaser of any of its covenants and agreements set forth in Sub-Articles 5.1.2 through 5.1.4 hereof shall be governed by Sub-Article 24.4.2 below. Such termination, under this Sub-Article 24.4.1, will become effective should the Purchaser fail to correct such nonperformance within thirty (30) days of receipt of notice in writing from the Contractor.

24.4.2 (i) The Contractor may immediately terminate this Contract upon the occurrence of an "Event of Default" (as such term is defined in the Bank of America Credit Agreement) under the Bank of America Credit Agreement. Any such termination under this Article 24.4.2 shall become effective upon delivery to the Purchaser of notice of such termination in writing from the Contractor.

(ii) The Contractor may immediately terminate this Contract upon a breach by the Purchaser of any of its covenants and agreements contained in Sub-Article 5.1.4, such termination to become effective upon delivery to the Purchaser of notice of such termination in writing from the Contractor.

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(iii) The Contractor may terminate this Contract upon a breach by the Purchaser of any of its covenants and agreements contained in Sub-Article 5.1.3. Such termination shall only become effective should the Purchaser fail to correct such non-performance within thirty (30) days of receipt of notice of such termination in writing from the Contractor.

(iv) *

24.4.3 *

The Contractor's termination claim under Sub-Article 24.4 (a) through (d) shall be forwarded to the Purchaser within ninety (90) days of the Contractor's notice of termination to the Purchaser. The Purchaser may require at its expense that the Contractor's claim for the above costs be verified by an independent party. Such verification would exclude Contractor's Proprietary Data.

24.5 Residual Inventory and Unfurnished Launch Services. Following the

submission of the Contractor's termination claim to the Purchaser, the Contractor shall dispose of the residual inventory and unfurnished Launch Services using its best efforts to purchase or sell any parts, components, boxes, Launch Service(s) or subsystems originally bought or manufactured for this Contract on the best terms possible in the circumstances, *. In the event the amount of the Contractor's termination claim exceeds the amounts paid to the Contractor to the date of termination, *, to the termination claim. In the event that payments to the Contractor by the Purchaser to the date of termination, plus the amount received from the disposal of such inventory, is in excess of the Contractor's termination claim, *. At the conclusion of the Contractor's claim for lost profits and damages allowed under Sub-Article 24.4.1 (e), any excess shall be promptly refunded to the Purchaser. In the event that the amount paid to the Contractor to the date of termination, *, if any, is insufficient to cover the amount of the Contractor's termination claim, then the Contractor shall have the right to proceed against the Purchaser for the amount of such excess.

24.6 LIMITATION OF THE PURCHASER'S LIABILITY. THE RIGHTS AND REMEDIES SET FORTH IN THIS Article SHALL BE THE SOLE REMEDIES TO WHICH THE CONTRACTOR IS ENTITLED IF THE PURCHASER FAILS TO MEET OR PERFORM ITS OBLIGATIONS UNDER THIS CONTRACT. THE PURCHASER SHALL HAVE NO LIABILITY FOR CONSEQUENTIAL DAMAGES.

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Article 25.

WARRANTY

The Contractor warrants that (i) for FM-1, FM-2 and FM-3, from Interim Acceptance pursuant to Article 8.2 up to Launch or (ii) for FM-4 for a period * starting from Interim Acceptance pursuant to Article 8.2, each Satellite is in accordance with the applicable specification and other requirements of this Contract, and is free from defects in materials and workmanship. This warranty is subject to the following provisions with respect to such Satellite(s).

25.1 Unlaunched Satellite(s). During the warranty period, either party may give notice to the other of a defect. The Contractor's sole responsibility under this warranty shall be either to repair or replace any component which is discovered during the warranty period to be defective in material or workmanship, and to retest the repaired or replaced component as is determined appropriate action by the Parties, in order to place the Satellite in a suitable condition for Launch. This warranty shall continue for the duration of the applicable warranty period as stated in this Article 25.

The remedy under this Sub-Article 25.1 shall not apply if adjustment, repair or parts replacement is required because of accident, unusual physical or electrical stress, negligence, misuse, failure of environmental control prescribed in operations and maintenance manuals, repair or alterations by the Purchaser, its officers, directors, employees, consultants, representatives, agents or subcontractors, or causes other than ordinary use. If the defect is not covered by this warranty, the Purchaser shall pay the Contractor the cost of repairs or replacement, the transportation charges and a reasonable profit. Such repair cost shall be invoiced to the Purchaser pursuant to the provisions of Article 5. The remedy stated in this Sub-Article 25.1 is the Purchaser's exclusive remedy for the Contractor's nonconformance with the warranties set forth in this Article.

25.2 Transportation Charges. Transportation charges for the repaired or replaced item shall be at the Contractor's expense only if the Contractor is found responsible under the terms of this warranty. The Purchaser shall notify the Contractor in writing of any such defect, relevant information with respect thereto, and of the intended return of the item sufficiently in advance of the intended shipment date to arrange shipment should the Contractor so desire.

25.3 Launched Satellite. This warranty shall not apply to a Satellite after its Launch.

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25.4 Limit of Liability. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CONTRACT TO THE CONTRARY, THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHETHER ARISING FROM LAW, CUSTOM OR CONDUCT, AND THE RIGHTS AND REMEDIES PROVIDED HEREIN ARE EXCLUSIVE AND IN LIEU OF ANY OTHER RIGHTS OR REMEDIES RELATED TO THE DESIGN, MANUFACTURE, MATERIALS, WORKMANSHIP, OR CONFORMANCE TO SPECIFICATION REQUIREMENTS OF THE SATELLITE(S) AND ASSOCIATED ITEMS AS ARE SET FORTH IN EXHIBITS A THROUGH E HERETO, (EXCEPT FOR RIGHTS AND REMEDIES ARISING UNDER Article 8, "INSPECTION AND ACCEPTANCE", Article 12, "IN-ORBIT CHECK-OUT" AND Article 24, "DEFAULT"). IN NO EVENT SHALL THE

CONTRACTOR BE LIABLE FOR ANY INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR LOST REVENUES OR PROFITS.

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Article 26.

DISPUTES AND ARBITRATION

Any disputes which may arise between the Parties with respect to performance of obligations or interpretation of this Contract, which cannot be settled by negotiation between the Parties themselves, shall upon application of either of the Parties be submitted for settlement by arbitration by the American Arbitration Association in New York, New York, in accordance with the rules of commercial arbitration of the American Arbitration Association using three arbitrators, whose decision and award shall be final and binding on the Parties and be enforceable by any Court of competent jurisdiction. In resolving any dispute, the arbitrators shall apply the laws of the State of New York with respect to all matters, including the interpretation of the terms and conditions of this Contract. Of the three arbitrators in the case, one shall be appointed by the Purchaser, one shall be appointed by the Contractor and the third shall be appointed by the agreement of both Parties. In the event that the Parties cannot agree on the third arbitrator, then the third arbitrator shall be appointed by the President of the American Arbitration Association. Each Party shall bear the costs of preparing and presenting its own case, unless the arbitrators' award shall provide otherwise.

A party may, pending resolution of a dispute in an arbitration proceeding brought under this Article 26, nevertheless seek specific performance in any court having jurisdiction therefor, of the obligations, undertakings, agreements and covenants of the other party pursuant to this Contract.

Use or disclosure of the data contained on this page is subject to the restriction on the title page of this Contract.

Article 27.

CHANGES

27.1 Changes in Scope of Work. Purchaser-desired changes to the Scope of Work may be implemented provided the Parties agree in advance upon a mutually satisfactory Contract adjustment regarding Price, schedule, and other provisions of this Contract affected by such changes. Any such change shall become effective only upon the execution by the Parties of an amendment to this Contract incorporating such changes and the resulting adjustment. The Contractor shall have no obligation to proceed with the Purchaser-desired changes prior to the execution of such an amendment or receipt of a funded Authorization to Proceed (ATP) wherein the Purchaser assumes the cost of the Contractor's performance on the desired change.

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Article 28.

MISCELLANEOUS PROVISIONS

28.1 Applicable Law. This Contract shall be construed and interpreted and the rights of the Parties shall be determined, in all respects, according to the laws of the State of New York (USA), without regard to any principles of conflicts of law that would result in a choice of law other than New York.

28.2 Amendments and Supplements. This Contract may be amended or supplemented by additional written Agreements, Articles or Certificates, as may be determined by the Parties from time to time to be necessary, appropriate or desirable to further the purpose hereof, to clarify the intention of the Parties, or to add to or modify the covenants, terms or conditions hereof or thereof.

28.3 Headings. The headings in this Contract are for convenience only and shall not be considered a part of, or affect, the construction or interpretation of any provisions of this Contract.

28.4 Counterparts. This Contract may be executed in two or more counterparts, each of which shall be an original, but all of which together shall constitute one and the same document.

28.5 Severability. In the event any one or more of the provisions of

this Contract shall, for any reason, be held to be invalid or unenforceable, the remaining provisions of this Contract shall be unimpaired, and the invalid or unenforceable provisions shall be replaced, if possible, by a mutually acceptable provision which, being valid and enforceable, comes nearest to the intention of the Parties.

28.6 LIMITATION OF LIABILITY. THE CONTRACTOR SHALL NOT BE LIABLE DIRECTLY OR INDIRECTLY TO THE PURCHASER, TO THE PURCHASER'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR CUSTOMERS, OR TO PERMITTED ASSIGNEES OR SUCCESSOR OWNERS OF THE SATELLITE(S) FOR ANY AMOUNTS REPRESENTING LOSS OF PROFITS, LOSS OF BUSINESS, OR INDIRECT, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING FROM THE PERFORMANCE OR NONPERFORMANCE OF THIS CONTRACT OR ANY ACTS OR OMISSIONS ASSOCIATED THEREWITH OR RELATED TO THE USE OF ANY ITEMS OR SERVICES FURNISHED HEREUNDER, WHETHER THE BASIS OF THE LIABILITY IS BREACH OF CONTRACT, TORT (INCLUDING

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NEGLIGENCE AND STRICT LIABILITY), STATUTES OR ANY OTHER LEGAL THEORY. IN NO EVENT SHALL THE CONTRACTOR'S TOTAL LIABILITY UNDER OR IN CONNECTION WITH THIS CONTRACT EXCEED THE CONTRACT PRICE.

28.7 Alenia. The Contractor has teamed with Alenia Spazio in the execution of this program. The Parties agree that the previous sentence does not create a contractual liability or relationship between the Purchaser and Alenia Spazio under this Contract.

28.8 No Third Party Beneficiaries. Nothing contained in this Contract, express or implied, is intended to or shall confer upon anyone other the parties hereto (and their permitted successors and assigns) any right, benefit or remedy of any nature whatsoever under or by reason of this Contract.

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Article 29.

RESERVED

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Article 30.

INTER-PARTY WAIVER OF LIABILITY

Notwithstanding any indemnification provisions set forth in this Contract, the Purchaser agrees, on behalf of itself and its officers, directors, employees, consultants, representatives, agents, subcontractors, insurers, and customers, to sign and agree to the no-fault, no-subrogation, inter-party waiver of liability provisions set forth in any Launch Services Agreement prior to entering on the Launch Site.

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Article 31.

AUTHORITY OF THE PURCHASER'S REPRESENTATIVE

No request, notice, authorization, direction or order received by the Contractor and issued either pursuant to an Article of this Contract, to a provision of any document incorporated in this Contract by reference, or otherwise, shall be binding upon either the Contractor or the Purchaser, unless issued or confirmed in writing by the Chief Executive Officer of the Purchaser or by his authorized representative. Designations of authorized representatives (1) shall be in writing, signed by the Chief Executive Officer of the Purchaser, and (2) shall define the scope and limitations of the authorized representatives' authorities. A copy of each such designation and of each modification or cancellation thereof, shall be furnished to the Contractor. The Contractor shall immediately notify, in writing, the Chief Executive Officer of the Purchaser or his authorized representative whenever a request, notice, authorization, direction, or order has been received from a representative of

the Purchaser other than the Chief Executive Officer of the Purchaser or his authorized representative, which, but for the lack of authorization on the part of the issuing Purchaser's representative, would effect a change within the meaning of Article 27 - CHANGES, or an increase in the Price or amounts allotted to this Contract, or which but for such lack of authorization, would otherwise be the basis for the modification of the Contract Statement of Work, delivery or performance schedule, Price, or any other terms and conditions of this Contract.

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Article 32.

PUBLIC RELEASE OF INFORMATION

32.1 Within a reasonable time prior to the issuance of news releases, articles, brochures, advertisements, prepared speeches, and other information releases concerning the work performed hereunder by the Contractor, a subcontractor or any employee or a consultant of either, the Contractor shall obtain the written approval of the Purchaser concerning the content and timing of such releases. Approval will not be unreasonably delayed or denied.

32.2 The Purchaser may issue news releases, articles, brochures, advertisements, prepared speeches, or other information concerning the CD Radio DARS System or the products and services to be provided under this Contract without the express consent of the Contractor; provided that to the extent such information relates to * or (ii) the Contractor in any other capacity besides manufacturer, then such information shall only be released for use with the prior written approval of the Contractor.

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Article 33.

FUNCTIONS NOT THE RESPONSIBILITY OF THE CONTRACTOR

33.1 Radio Frequencies. The Contractor is not responsible for radio frequencies coordination, or the preparation of filings with the Federal Communications Commission or the International Telecommunications Union/Radio Communication Bureau registration. The Contractor shall provide technical support, when needed, to assist the Purchaser in making the above filings.

33.2 General. The Contractor shall not be responsible for any undertakings not expressly and specifically set forth in this Contract as being the assigned responsibility of the Contractor.

Article 34.

RESERVED

Use or disclosure of the data contained on this page is subject to the restriction on the title page of this Contract.

Article 35.

SATELLITE GROUND STORAGE OPTION

35.1 Notification. The Purchaser may, at its option to be exercised no later than September 1, 1999 (for FM-1, FM-2 or FM-3) order the Contractor to store a Satellite for a period of up to two (2) years after Interim Acceptance of the Satellite. In the case of FM-4, the Purchaser may, also at its option to be exercised no later than three (3) months prior to Satellite Pre-Shipment Review as defined in Exhibit A, order the Contractor to provide Ground Storage for the Satellite up to two (2) years after Final Acceptance of such Satellite.

35.2 Storage Location. Such Ground Storage shall be performed at a Contractor controlled facility and shall be conducted in accordance with the Satellite Storage Plan described in Section 8 of Exhibit D, Program Test Plan.

35.3 *

For a Satellite stored for two (2) years, the Purchaser shall notify the Contractor of its desire to have such Satellite refurbished or to continue Ground Storage of a Satellite for up to an additional twelve (12) months beyond the period specified in Article 35.1. Within ninety (90) days after the Contractor's receipt of the Purchaser's notice electing refurbishment or

continued Ground Storage, the Contractor shall provide the Purchaser with (i) a plan for refurbishment and retesting to recertify the Satellite as Launchworthy or (ii) a plan for continued Ground Storage, in either case together with proposed adjustments to applicable provisions.

35.4 Payments. Any monthly storage charge referred to in Sub-Article 35.3 shall be paid commencing thirty (30) days from the date the Satellite is stored and continuing each month until the Purchaser directs the Contractor to remove the Satellite from storage, conduct the verification tests and ship the Satellite to the Launch Site. Payment for the verification testing shall be made 30 days after the Contractor issues an invoice for such testing. Payments shall be made by wire transfer as set forth in Article 5 - PAYMENTS.

35.5 Title and Risk of Loss. Title and risk of Loss to a Satellite delivered for Ground Storage shall remain with the Contractor at the Storage Site and notwithstanding the provisions of Article 9 - CIP POINT, TITLE, AND RISK OF LOSS and/or Article 25, WARRANTY, the Contractor shall assume full responsibility for any loss or damage to the Satellite during storage and transportation

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to the Launch Site and while the Satellite is at the Launch Site up to the time of Launch. *

35.6 Launch Services for a Stored Satellite. In the event that the Purchaser exercises the option to store a Spacecraft, and subsequent to a period of storage directs the Contractor to prepare the Spacecraft for Launch, then the Contract shall be equitably adjusted to cover *.

35.7 Escalation. The Prices quoted in this Article for the storage of a Satellite shall be escalated in accordance with the formula in Article 5, from the Effective Date of Contract to the option exercise date.

35.8 Storage at the Contractor's Site. In the event that the Purchaser directs the Contractor to deliver one or more Satellites for Ground Storage in accordance with this Article 35, then *.

35.9 Delivery of the Satellite to a Location Named by the Purchaser. In the event that the Purchaser directs the Contractor to deliver a Satellite to a location other than one controlled and operated by the Contractor, then *.

35.10 *.

35.11 Maximum Storage Period. In no event shall a Satellite procured hereunder remain in storage at a location owned and operated by the Contractor for a period in excess of * of such Satellite by the Purchaser. At the conclusion of the storage period provided for hereunder, the Purchaser shall direct the Contractor to deliver the Satellite to a location designated by the Purchaser. At the time the Contractor receives direction as to the delivery of such Satellite from storage, the Purchaser shall *.

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Article 36.

NOTICES

Any notices or correspondence required or desired to be given or made hereunder shall be in writing and shall be effective when delivered to an authorized recipient party at the address indicated below:

PURCHASER: CD Radio Inc.
1180 Avenue of the Americas, 14th Floor
New York, New York 10036
Phone: (212) 899-5031
Fax: (212) 899-5050

Attention: General Counsel
Phone: (212) 899-5031
Fax: (212) 899-5050

and

CD Radio Inc.
2175 K Street, NW
Washington, CD 20037

Attention: Rob Briskman
Phone: (202) 296-6192
Fax: (202) 296-6265

CONTRACTOR: Space Systems/LORAL, Inc.
3825 Fabian Way
Palo Alto, California 943034697

*

Either party may change the above notice addresses by giving written notice to the other party of said change.

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Article 37.

ASSIGNMENT

37.1 This Contract may not be assigned other than to an Affiliate, either in whole or in part, by either party without the express written approval of the other party (which approval shall not be unreasonably withheld or delayed); provided however, this clause does not restrict the Contractor from utilizing subsidiaries or other divisions of its company to manufacture subsystems or components of the Satellite(s) or other hardware; * assignee with respect to other satellites.

37.2 Notwithstanding the above, in the event either party is sold to or merged into another company, its responsibilities under this Contract shall not be altered, and the successor shall remain liable for performance of this Contract.

Article 38.

RESERVED

Article 39.

RESERVED

Article 40.

RESERVED

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Article 41.

SUPPORT FOR INVESTIGATION OF SATELLITE ANOMALIES

In the event that a Launched Satellite experiences anomalies during its operational life, the Contractor will provide reasonable support by qualified personnel to investigate said anomalies from Palo Alto, CA. * The above effort shall be provided on the verbal request of the Purchaser which shall be confirmed in writing within 24 hours of the time of the verbal request.

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Article 42.

INSURANCE

42.1 The Purchaser agrees to obtain any insurer's written agreement to waive all rights of subrogation against the Contractor and against the Contractor's subcontractors and suppliers at any tier. The Purchaser agrees to indemnify and hold the Contractor harmless from and against all costs, expenses or losses of the Contractor directly or indirectly resulting from any subrogation action brought by the Satellite insurers.

42.2 The Contractor agrees to provide the Purchaser with quotes to obtain insurance for FM-1, FM-2, and FM-3 applicable from Launch and orbit raising through placement of the Satellites in their orbit locations *.

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Article 43.

MISSION OPERATIONS SUPPORT

The Mission Operations Support Services to be provided by the Contractor under this Contract is as provided for in Exhibit A, Statement of Work. The Contractor shall not be liable to the Purchaser or any third party for loss of, or damage to the Satellite(s) resulting from any Contractor acts in furnishing services to the Purchaser (including any act or failure to act alleged to be negligent in any degree). The Purchaser agrees to indemnify and hold the Contractor harmless from and against all costs, expenses and losses resulting from any claim or litigation directly or indirectly premised on loss of or damage to any Satellite after Launch.

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Article 44.

*

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Article 45.

STANDARD OF CONDUCT

Both Parties agree that all their actions in carrying out the provisions of this Contract shall be in compliance with applicable laws and regulations, and neither party will pay or accept bribes, kickbacks, or other illegal payments, or engage in unlawful conduct.

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Article 46.
ORDER OF PRECEDENCE

In the event of conflict between this Contract, its Exhibits and the Annexes thereto, the following order of decreasing precedence shall follow:

1. Contract (excluding Exhibits)

2. Exhibit A

3. Exhibit B

4. Exhibit C

5. Exhibit D

6. Exhibit E

IN WITNESS THEREOF, the Parties have executed this Contract as of the date se t forth below:

SPACE SYSTEMS/LORAL, INC.

SIGNATURE: /s/ C. Patrick DeWitt

NAME: C. Patrick DeWitt

TITLE:	Executive Vice President, Business
DATE:	July 28, 1998

CD RADIO INC.

SIGNATURE:	/s/ Andrew J. Greenbaum
NAME:	Andrew J. Greenbaum
TITLE:	Executive Vice President and Chief Financial Officer
DATE:	July 28, 1998

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July 6, 1998

Mr. Keno V. Thomas
120 East 87th Street
Apt. P10C
New York, New York 10128

Dear Mr. Thomas:

This letter agreement (the "Agreement") confirms our understanding and agreement with respect to your termination of employment with CD Radio Inc. (the "Company") as follows:

1. Termination of Employment. Effective as of today (the "Termination Date"), your employment with the Company and its affiliates shall be terminated. You hereby resign, effective immediately, from all offices that you hold with the Company and any of its affiliates.

2. Severance Payments; Stock Options. (a) In accordance with the terms of the Employment and Noncompetition Agreement, dated as of April 28, 1997 (the "Employment Agreement"), between you and the Company, you shall be paid severance in the amount of $125,000, less applicable withholding taxes (the "Severance Payment"). The Severance Payment will be paid to you on the first regular payroll date of the Company following the Termination Date.

(b) (i) you shall be entitled to retain 10,000 options to purchase the common stock, par value $0.001 per share (the "Common Stock"), of the Company at an exercise price per share of $12.875 (which options are currently vested pursuant to the Stock Option Agreement, dated as of April 28, 1997 (the "Stock Option Agreement"), between you and the Company); and (ii) the Company shall vest an additional 40,000 options to purchase the Common Stock at an exercise price per share of $12.875 which were granted pursuant to the Stock Option Agreement (such 50,000 options described in clauses (i) and (ii) shall hereafter be referred to as, the "Stock Options"). In each case, you agree that the Stock Options shall only be exercisable until December 31, 1999.

(c) You acknowledge and agree that all other options to purchase the Common Stock which are held by you, whether pursuant to the Stock Option Agreement or oral agreements with the Company, shall be forfeited immediately.

3. Full Satisfaction. You hereby acknowledge and agree that, except for the Severance Payment that will become payable to you hereunder and the Stock

Options, you will not be entitled to any other compensation or benefits from the Company or its affiliates, including, without limitation, any other severance or termination benefits.

4. Confidential Information. Except as expressly modified by this Agreement, the terms of the Employment Agreement, which by their terms continue after your termination of employment, shall remain in full force and effect.

5. Return of Property to the Company. All memoranda, notes, lists, records and other documents or papers (and all copies thereof), including items stored in computer memories, on microfilm or by other means, made or compiled by you, or made available to you relating to the Company or its affiliates or its business, are and shall remain the property of the Company and shall be delivered to the Company promptly upon the execution of this Agreement. You shall immediately return to the Company all other property and equipment which has been purchased by the Company for your use.

6. General Release. (a) For and in consideration of the Severance Payment and the Stock Options, you hereby agree on behalf of yourself, your agents, assignees, attorneys, successors, assigns, heirs and executors, to, and you do hereby, fully and completely forever release the Company and its affiliates, predecessors and successors and all of their respective past and/or present officers, directors, employees, agents, representatives, administrators, attorneys, insurers and fiduciaries in their individual and/or representative capacities (hereinafter collectively referred to as the "Releasees"), from any and all causes of action, suits, agreements, promises, damages, disputes, controversies, contentions, differences, judgments, claims, debts, dues, sums of money, accounts, reckonings, bonds, bills, covenants, contracts, variances, trespasses, extents, executions and demands of any kind whatsoever, which you or your heirs, executors, administrators, successors and assigns ever had, now have or may have against the Releasees or any of them, in law, admiralty or equity, whether known or unknown to you, for, upon, or by reason of, any matter, action, omission, course or thing whatsoever occurring up to the date of this Agreement, including, without limitation, in connection with or in relationship to your employment or other service relationship with the Company or its affiliates, the termination of any such employment or service relationship and any applicable employment, compensatory or equity arrangement with the Company or its respective affiliates; provided that such released claims shall not include any claims to enforce your rights under, or with respect to, this Agreement (such

released claims are collectively referred to herein as the "Released Claims").

(b) Notwithstanding the generality of clause (a) above, the Released Claims include, without limitation, (i) any and all claims under Title_VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Civil Rights Act of 1971, the Civil Rights Act of 1991, the Fair Labor Standards Act, the Employee Retirement Income Security Act of 1974, the Americans with Disabilities Act, the Family and Medical Leave Act of 1993, and any and all other federal, state or local laws, statutes, rules and regulations pertaining to employment or otherwise, and (ii) any claims for wrongful discharge, breach of contract, fraud, misrepresentation or any compensation claims, or any other claims under any statute, rule or regulation or under the common law, including compensatory damages, punitive damages, attorney's fees, costs, expenses and all claims for any other type of damage or relief.

(c) THIS MEANS THAT, BY SIGNING THIS AGREEMENT, YOU WILL HAVE WAIVED ANY RIGHT YOU MAY HAVE HAD TO BRING A LAWSUIT OR MAKE ANY CLAIM AGAINST THE RELEASEES BASED ON ANY ACTS OR OMISSIONS OF THE RELEASEES UP TO THE DATE OF THIS AGREEMENT.

(d) You represent that you have read carefully and fully understand the terms of this Agreement, and that you have been advised to consult with an attorney and have had the opportunity to consult with an attorney prior to signing this Agreement. You acknowledge that you are executing this Agreement voluntarily and knowingly and that you have not relied on any representations, promises or agreements of any kind made to you in connection with your decision to accept the terms of this Agreement, other than those set forth in this Agreement.

7. Governing Law. This Agreement will be governed, construed and interpreted under the laws of the State of New York.

8. Entire Agreement; Counterparts. This constitutes the entire agreement between the parties. It may not be modified or changed except by written instrument executed by all parties. This Agreement may be executed in counterparts, each of which shall constitute an original and which together shall constitute a single instrument.

If this letter correctly sets forth your understanding of our agreement with respect to the foregoing matters, please so indicate by signing below on the line provided for your signature.

Very truly yours,

CD RADIO INC.

By: /s/ Patrick L. Donnelly

Patrick L. Donnelly
Executive Vice President, General
Counsel and Secretary

Reviewed, approved and agreed:

/s/ Keno Thomas
- ---------------
Keno Thomas

EMPLOYMENT AND NONCOMPETITION AGREEMENT

This EMPLOYMENT AND NONCOMPETITION AGREEMENT is dated as of May 18, 1998 (the "Agreement"), by and between CD RADIO INC., a Delaware corporation, (the "Company"), and PATRICK L. DONNELLY (the "Executive"). In consideration of the mutual covenants and conditions set forth herein, the Company and the Executive agree as follows:

1. EMPLOYMENT. The Company hereby employs the Executive and the Executive hereby accepts employment with the Company subject to the covenants and conditions of this Agreement.

2. DUTIES AND REPORTING RELATIONSHIP.

(a) Duties. The Executive shall be employed in the capacity of an Executive Vice President and General Counsel of the Company responsible for all legal matters. During the term of this Agreement the Executive shall, on a fulltime basis, use his skills and render services to the best of his ability in supervising the programming affairs of the Company and shall, in addition, perform such other activities and duties as the Chairman and Chief Executive Officer of the Company shall, from time to time, specify and direct.

(b) Reporting Relationship. The Executive shall report to the Chairman and Chief Executive Officer of the Company.

3. TERM. The term of this Agreement shall be deemed to have commenced and be effective on and from May 18, 1998, and end on May 18, 2001, unless terminated earlier pursuant to the provisions of Paragraph 6 below.

4. COMPENSATION.

(a) Annual Salary. During the term of this Agreement, the Executive shall be paid a salary of U.S. $260,000 per year, subject to any increases that the Board of Directors or the compensation committee thereof shall approve.

(b) Stock Options. The Company hereby grants to the Executive the option to purchase 110,000 shares of the Company's common stock, par value $0.001 per share (the "Common Stock") at U.S.$33.50 per share, on such terms and subject to such conditions as are set forth in the option agreement attached hereto as Exhibit A.

(c) Other. All compensation paid to the Executive hereunder shall be subject to any and all such payroll and withholding deductions as are required by the law of any applicable jurisdiction, state or federal, with taxing authority with respect to such compensation.

5. ADDITIONAL COMPENSATION, EXPENSES AND BENEFITS.

(a) Expenses. The Company shall promptly reimburse the Executive for all reasonable and necessary business expenses incurred and advanced by his in carrying out his duties under this Agreement. The Executive shall present to the Company from time to time an itemized account of such expenses in such form as may be required by the Company.

(b) Benefits. During the term of employment hereunder, the Executive shall be entitled to participate fully in any benefit plans, programs, policies and any fringe benefits which may be made available to the corporate officers of the Company generally including but not limited to medical, dental and life insurance; provided, however, that the Executive shall participate in any bonus, stock option or stock purchase or compensation plan currently in effect or subsequently established by the Company to the extent, and only to the extent authorized by the plan document or the Board of Directors or the compensation committee thereof.

6. TERMINATION.

(a) Termination for Cause. The Company has the right and may elect to terminate this Agreement for Cause. For purposes of this Agreement, "Cause" shall be limited to (i) action by the Executive involving willful malfeasance having a material adverse effect on the Company or (ii) the Executive being convicted of a felony; provided that any action by the Executive shall not constitute "Cause" if, in good faith, the Executive believed such action to be in or not opposed to the best interests of the Company, or if the Executive shall be entitled, under applicable law or the Certificate of Incorporation or Bylaws of the Company, to be indemnified with respect to such action. Termination or the Executive for Cause pursuant to this Subparagraph 6(a) shall be communicated by a Notice of Termination. For purposes of this Agreement a "Notice of Termination" shall mean delivery to the Executive of a copy of a resolution duly adopted by the affirmative vote of not less than a majority of the directors present and voting at a meeting of the Company's Board or Directors called and held for that purpose after reasonable notice to the

Executive and reasonable opportunity for the Executive, together with the Executive's counsel, to be heard before the Board prior to such vote, finding that in the good faith opinion of the Board the Executive was guilty of conduct set forth in the first sentence of this Subparagraph 6(a) and specifying the particulars thereof in detail (the date of such termination by the Board is referred hereinafter as the "Termination Date"). For purposes of this Agreement, no such purported termination of the Executive's employment shall be effective without such Notice of Termination.

(b) Voluntary Resignation. Should the Executive wish to resign from his position with the Company during the term of his employment, the Executive shall give thirty (30) days written notice to the Company, setting forth the reasons and specifying the date as of which his resignation is to become effective. The date specified in such written notice shall be referenced herein as the "Termination Date." Failure to provide such notice shall entitle the Company only to fix the Termination Date as of the last business day on which the Executive reported for work at his principal place of employment with the Company and shall have no other effect.

(c) Without Cause. The Company shall have the absolute right to terminate the Executive's employment without cause at any time. If the Company elects to terminate the Executive without cause, the Company shall give thirty (30) days written notice to the Executive. Thirty (30) days after such notice is given to the Executive shall be referenced herein as the "Termination Date."

(d) Compensation and Benefits Upon Termination. If the employment of the Executive is terminated for any reason except (i) by the Company for Cause or (ii) by the Executive voluntarily, the Executive shall be entitled to receive, and the Company shall pay without setoff, counterclaim or other withholding except as set forth in Paragraph 4(c) the following amount (in addition to any salary, benefits or other sums due the Executive through the Termination Date) an amount equal to one-half (1/2) of his annual salary then in effect. Any amount becoming payable under this Paragraph 6(d) shall be paid on the Termination Date.

7. NONDISCLOSURE OF CONFIDENTIAL INFORMATION. As a condition of his employment hereunder, the Executive has executed and delivered to the Company an agreement addressing the nondisclosure of confidential information (the "Nondisclosure Agreement") in the form attached hereto as Exhibit B and incorporated herein by reference as if set forth in full herein.

8. COVENANT NOT TO COMPETE. For a period beginning on the date of this Agreement and ending one (1) years after the Termination Date, the Executive will not, directly or indirectly, enter into the employment of, render services to or acquire any interest whatsoever in (whether for his own account as an individual proprietor, or as a partner, associate, shareholder, officer, director, consultant, trustee or otherwise), or otherwise assist, any person or entity engaged in any operations in North America involving any satellite digital audio radio service or any subscription-based digital audio radio service delivered to cars or other mobile vehicles; provided, however, that nothing herein shall prevent the purchase or ownership by the Executive by way of investment of up to four percent (4%) of the shares or equity interest of any corporation or other entity. Without limiting the generality of the foregoing, the Executive agrees that during the one (1) year period set forth above the Executive will not call on or otherwise solicit business or assist others to solicit business from any of the customers or potential customers of the Company as to any product or service that competes with any product or service provided or marketed by or actually under development by the Company at the time of the Executive's termination. The Executive furthermore agrees that he will not solicit or assist others to solicit the employment of or hire any employee of the Company throughout the term of this Covenant Not To Compete without the prior written consent of the Company.

9. REMEDIES. The Executive agrees that damages for breach of any of his covenants under Paragraphs 7 and 8 above will be difficult to determine and inadequate to remedy the harm

which may be caused thereby, and therefore consents that these covenants may be enforced by temporary or permanent injunction without the necessity of bond. Such injunctive relief shall be in addition to and not in place of any other remedies available at law or equity. The Executive believes, as of the date of this Agreement, that the provisions of this Agreement are reasonable and that the Executive is capable of gainful employment without breaching this Agreement. However, should any court or tribunal decline to enforce any provision of Paragraph 7 or 8 of this Agreement, this Agreement shall, to the extent applicable in the circumstances before such court or tribunal, be deemed to be modified to restrict the Executive's competition with the Company to the maximum extent of time, scope and geography which the court or tribunal shall find enforceable, and such provisions shall be so enforced. The losing party shall reimburse the prevailing party for any costs and attorneys fees incurred in connection with any action to enforce the covenants under Paragraph 8 above. The Company and the Executive shall have available to them all remedies at law and in equity for the enforcement of this Agreement, which remedies (including but not limited to termination of this Agreement as provided herein) shall be

cumulative and not elective.

10. INDEMNIFICATION. The Company shall indemnify the Executive to the full extent provided in the Company's Certi-ficate of Incorporation and Bylaws and the law of the State of Delaware in connection with his activities as an officer and director of the Company.

11. GOLDEN PARACHUTE PAYMENTS. If as a result of a change in control, the Executive is required to pay an excise tax on "excess parachute payments" (as defined in Section 280G(b) of the Code) under Section 4999 of the Code, the Company shall reimburse the Executive for the amount of such taxes paid. In addition, the Company shall pay the Executive such additional amounts as are necessary to place the Executive in the same financial position that she would have been in if she had not incurred any tax liability under Section 4999 of the Code as a result of such change in control; provided, however, that the Company shall in no event pay the Executive any amounts with respect to any penalties or interest due under any provision of the Code. The determination of the amount, if any, of any "excess parachute payments" and any tax liability under Section 4999 of the Code shall be made by a nationallyrecognized independent accounting firm agreed to by the Company and the Executive. The fees and expenses of such accounting firm shall be paid by the Company. The determination of such accounting firm shall be final and binding on the parties. The Company agrees to pay to the Executive any amounts to be paid or reimbursed under this Paragraph 11 within thirty (30) days after receipt by the Company of written notice from the accounting firm which sets forth such accounting firm's determination.

12. ENTIRE AGREEMENT. The provisions contained herein and the exhibits hereto constitute the entire agreement between the parties with respect to the subject matter hereof and supersede any and all prior agreements, understandings and communications between the parties, oral or written, with respect to such subject matter.

13. MODIFICATION. Any waiver, alteration, amendment or modification of any provisions of this Agreement and the exhibits hereto shall not be valid unless in writing, approved by a majority of the directors of the Company who are not fulltime employees of the Company, and signed by both the Executive and the Company.

14. SEVERABILITY. If any provision of this Agreement shall be declared to be invalid or unenforceable, in whole or in part, such invalidity or unenforceability shall not affect the remaining provisions hereof, which shall remain in full force and effect.

15. ASSIGNMENT. The Executive may not assign any of his rights or delegate any of his duties hereunder without the written consent of the Company. The Company may not assign any of its rights or delegate any of its obligations hereunder.

16. BINDING EFFECT. Subject to the limitations set forth in Paragraph 13 above, this Agreement shall be binding upon and inure to the benefit of the successors in interest of the Executive and the Company.

17. NOTICE. All notices and other communications required or permitted hereunder shall be made in writing and shall be deemed effective when initially transmitted by courier or facsimile transmission and five (5) days after mailing by registered or certified mail:

(i) if to the Company:

CD Radio Inc.
Sixth Floor

1001 22nd Street, N.W.
Washington, D.C. 20037
Telecopier No.: (202)296-6265

(ii) if to the Executive:

Patrick L. Donnelly
55 Dartmouth Street
Garden City, New York 10901
Telecopier No.: (516)326-9730

or to such other person or address as either of the parties shall furnish in writing to the other party from time to time.

18. CHOICE OF LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed entirely within said state jurisdiction.

19. ATTORNEYS' FEES. In the event of litigation arising out of or in connection with this Agreement, the prevailing party shall be entitled to recover from the other party all of its attorneys' fees and other expenses incurred in connection with such litigation.

20. NONMITIGATION. After the termination of his employment hereunder, the Executive shall not be required to mitigate damages or the amount of any benefit or payment provided under this Agreement by seeking other employment, or otherwise; nor shall the amount of any benefit or payment provided for under this Agreement be reduced by any compensation earned by the Executive as the result of employment by another employer.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above mentioned.

CD RADIO INC.

By: /s/ David Margolese

Name: David Margolese
Title: Chairman and Chief Executive Officer

EXECUTIVE

/s/ Patrick L. Donnelly

Patrick L. Donnelly

Form of Stock Option Agreement

THIS OPTION HAS NOT BEEN REGISTERED UNDER STATE OR FEDERAL SECURITIES LAWS. THIS OPTION MAY NOT BE TRANSFERRED EXCEPT BY WILL OR UNDER THE LAWS OF DESCENT AND DISTRIBUTION.

CD RADIO INC.
1994 DIRECTORS' NONQUALIFIED STOCK OPTION PLAN

STOCK OPTION AGREEMENT

THIS STOCK OPTION AGREEMENT (this "Agreement") is entered into as of the ____ day of ________ 199_ ("Date of Grant"), by and between CD Radio, Inc., a Delaware corporation (the "Company"), and ____________ (the "Optionee").

1. Grant of Option. Subject to the terms and conditions hereof and the Company's 1994 Stock Option Plan (the "Plan"), the Company hereby grants to the Optionee the right and option (the "Option") to purchase up to five thousand (5,000) shares (the "Shares") of the common stock, $0.001 par value, of the Company, at a price per share of $5.00 (the "Exercise Price"). This Option is intended not to qualify as an Incentive Stock Option for purposes of Section 422 of the Internal Revenue Code of 1986, as amended (the "Code"). In the case of any stock split, stock dividend or like change in the nature of shares granted by this Agreement occurring after the date hereof, the number of shares and option price shall be proportionately adjusted as set forth in Section 4(k) of the Plan. [Initial Options: This Option shall vest and become fully exercisable on the first anniversary of the Date of Grant./Annual Options: Annual Options shall vest and become fully exercisable immediately upon the Date of Grant.]

2. Termination of Option. The Option shall terminate, to the extent not previously exercised, ten (10) years from the Date of Grant or earlier in accordance with Sections 4(e), 4(i) and 4(k) of the Plan. The unvested portion of the Option shall terminate immediately upon the Optionee's termination of employment for any reason whatsoever.

3. Non-transferable. This Option may not be transferred, assigned, pledged or hypothecated in any manner (whether by operation of law or otherwise) other than by will or by the applicable laws of descent and distribution, and shall not be subject to execution, attachment or similar process. Upon any attempt to transfer, assign, pledge, hypothecate or otherwise dispose of this Option or of any right or privilege conferred hereby, contrary to the provisions hereof, or upon the sale or levy or any attachment or similar process upon the rights and privileges conferred hereby, this Option shall thereupon terminate and become null and void.

4. Investment Intent. By accepting the Option, the Optionee represents and agrees for himself and all persons who acquire rights in the Option through the Optionee, that none of the Shares purchased upon exercise of the Option will be distributed in violation of applicable federal and state laws and regulations. If requested by the Company, the Optionee shall furnish evidence satisfactory to the Company (including a written and signed representation letter and a consent to be bound by all transfer restrictions imposed by applicable law, legend condition or otherwise) to that effect, prior to delivery of the purchased Shares.

5. Exercise. Subject to Sections 1 and 2 hereof and the Plan, This Option may be exercised in whole or in part by means of a written notice of exercise signed and delivered by the Optionee (or, in the case of exercise after death of the Optionee by the executor, administrator, heir or legatee of the Optionee, as the case may be) to the Company at the address set forth herein for notices to the Company. Such notice (a) shall state the number of Shares to be purchased and the date of exercise, and (b) shall be accompanied by payment of the full exercise price. Payment of the exercise price may be in cash, by certified or cashier's check or a Director may pay for all or any portion of the aggregate Option exercise price (i) by delivering to the Company shares of Common Stock previously held by such Director or (ii) having shares withheld from the amount of shares of Common Stock to be received by the Director.

6. Withholding. Prior to delivery of any Shares purchased upon exercise of this Option, the Company shall determine the amount of any United States federal and state income tax, if any, which is required to be withheld under applicable law and shall, as a condition of exercise of this Option and delivery of certificates representing the Shares purchased upon exercise of the Option, collect from the Optionee the amount of any such tax to the extent not previously withheld.

7. Rights of the Optionee. Neither this Option, the execution of this Agreement nor the exercise of any portion of this Option shall confer upon the Optionee any right to, or guarantee of, continued employment by the Company, or

in any way limit the right of the Company to terminate employment of the Optionee at any time, subject to the terms of any employment agreements between the Company and the Optionee.

8. Professional Advice. The acceptance and exercise of the Option may have consequences under federal and state tax and securities laws which may vary depending upon the individual circumstances of the Optionee. Accordingly, the Optionee acknowledges that he has been advised to consult his personal legal and tax advisor in connection with this Agreement and his dealings with respect to the Option. Without limiting other matters to be considered, the Optionee should consider whether

upon exercise of the Option, the Optionee will file an election with the Internal Revenue Service pursuant to Section 83(b) of the Code.

9. Agreement Subject to Plan. The Option and this Agreement are subject to the terms and conditions set forth in the Plan and in any amendments to the Plan existing now or in the future, which terms and conditions are incorporated herein by reference. A copy of the Plan previously has been delivered to the Optionee. Should any conflict exist between the provisions of the Plan and those of this Agreement, those of the Plan shall govern and control. This Agreement and the Plan comprise the entire understanding between the Company and the Optionee with respect to the Option.

10. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York without regard to its conflict of laws principles to the contrary, and shall bind and inure to the benefit of the heirs, executors, personal representatives, successors and assigns of the parties hereto.

11. Notices. Any notice required or permitted to be made or given hereunder shall be mailed via certified or registered mail or delivered personally to the addresses set forth below, or as changed from time to time by written notice to the other:

Company: CD Radio Inc.
1800 Avenue of the Americas
New York, New York 10036
Attention: David Margolese

Optionee: _______________________
____
____
____

Notices and other communications shall be deemed received and effective upon the earlier of (i) hand delivery to the recipient, or (ii) give (5) days after being mailed by

certificate or registered mail, postage prepaid, return receipt requested. Either party may, by notice in writing, direct that future notices or demands be sent to a different address.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written.

CD RADIO INC.: OPTIONEE:

By: _________________________ _________________________
Its: _____________________ Name: ____________________

May 29, 1998

VIA FACSIMILE;
ORIGINAL VIA REGISTERED LETTER,
RETURN RECEIPT REQUESTED

Ms. Brigitte Vienne, Head Financing and Risk Management
Mr. Eckard Weinrich, Mission Manager
Arianespace S.A.
Boulevard de l'Europe, B.P. 177
91006 Evry Cedex, France

Directeur General
Arianespace Finance S.A.
18, rue Dicks
L-1016 Luxembourg

Re: Termination of Launch Services Agreement

Ref: Launch Services Agreement 97.5.915, between CD Radio Inc. ("CD Radio") and Arianespace S.A. ("Arianespace"), dated July 22, 1997 (the "Launch Agreement"); Arianespace Customer Loan Agreements for Launches #1 and #2, between CD Radio and Arianespace Finance S.A. ("AEF"), dated July 22, 1997 (the "Loan Agreements"); and the Multiparty Agreements for Launches #1 and #2, among CD Radio, Arianespace and AEF, dated July 22, 1997 (the "Multiparty Agreements") (collectively, the "Agreements").

Dear Sirs/Madame:

Pursuant to its rights under Paragraph 18.1 of the above-cited Launch Agreement, CD Radio hereby notifies Arianespace and AEF that it is terminating the Launch Agreement as to both Launch #1 and Launch #2.

To date, CD Radio has made payments to Arianespace of $15,870,653 for Launch #1, and of $7,040,000 for Launch #2, for a total payment of $22,910,653. Under the terms of Paragraph 18.2 of the Launch Agreement, CD Radio's termination fee is 10% of the launch services price of each of the terminated launches, for a total of $17,600,000 (based on $8,800,000 per launch). Pursuant to Sub-paragraph 18.2.3, CD Radio is entitled to the difference between amounts it has paid for the launches in excess of the termination fee, or $5,310,653, which Arianespace is required to refund within thirty (30) days of this notice of

termination. As soon as Arianespace has refunded such amount to CD Radio, the Launch Agreement shall be considered terminated as to both Launch #1 and Launch #2, and neither party shall have any liability to the other with respect to either of the launches, except pursuant to provisions that, by their express terms, shall survive the termination of the Launch Agreement.

Pursuant to Section 2.05 of the Loan Agreements cited above, amounts advanced by AEF under the Loan Agreements are subject to mandatory prepayment by CD Radio upon termination of the Launch Agreement. The amounts extended to CD Radio by AEF for Launch #1 and Launch #2 are $13,270,653 and $4,440,000, respectively (including $1,800,000 in non-refundable fees for each launch, but excluding interest), for a total of $17,710,653. Pursuant to Section 2.05(b)(i) of each of the Loan Agreements, these amounts must be prepaid, without penalty, no later than five (5) Business Days after the termination of the Launch Agreement, together with interest thereon accrued to the date of prepayment, any outstanding fees and any other amounts due and payable under the Loan Agreements. By countersigning this letter agreement, AEF agrees that, notwithstanding anything to the contrary in the Agreements or any exhibits thereto, CD Radio's prepayment shall be due five (5) Business Days after the later of (i) AEF's receipt of this notice and (ii) CD Radio's receipt from AEF of an invoice detailing the amount of the prepayment, including interest, fees and any other costs.

By countersigning this letter agreement below, Arianespace agrees, notwithstanding anything to the contrary in the Agreements or any exhibits thereto, to pay the $5,310,653 it owes to CD Radio to AEF within five (5) Business Days (as defined in the Loan Agreements) to AEF, following which Arianespace's obligation to pay such amount to CD Radio shall be extinguished. By its signature below, AEF further agrees to apply such amount received from Arianespace against CD Radio's prepayment obligation to AEF. As soon as AEF has received from CD Radio the difference between CD Radio's prepayment obligation, including interest, fees and any other costs, and the $5,310,653 it shall receive from Arianespace, the Loan Agreements and the Multiparty Agreements shall be considered terminated, the Commitments (as defined in each of the Loan Agreements) shall be reduced to zero, and neither AEF nor CD Radio shall have any further obligations to the other under any of such agreements, except pursuant to provisions that, by their express terms, shall survive the termination of the Loan Agreements.

By countersigning this letter, Arianespace agrees that, notwithstanding the terms of Section 18.1 of the Launch Agreement; this termination shall be effective upon receipt by telecopy.

We deeply appreciate all your efforts toward the success of CD Radio.

Best regards,

/s/ David Margolese

David Margolese
Chairman and Chief Executive Officer

cc: Ralph Jaeger, Arianespace S.A.
Paul Zermati, Esq., Arianespace S.A.
Robert D. Briskman, CD Radio
Patrick Donnelly, Esq., CD Radio

AGREED:

ARIANESPACE S.A.

By: /s/ Brigitte Vienne
- -----------------------
Date: 29 May 1998

ARIANESPACE FINANCE S.A.

By: /s/ Brigitte Vienne
- -----------------------
Date: 29 May 1998

==

$115,000,000

CREDIT AGREEMENT

among

CD RADIO INC.

and

BANK OF AMERICA NATIONAL TRUST
AND SAVINGS ASSOCIATION,
as Administrative Agent and as a Bank

Dated as of June 30, 1998

Arranged By

BANCAMERICA ROBERTSON STEPHENS

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Exhibit B Form of Support Agreement
Exhibit C Form of Notice of Borrowing
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Exhibit E Form of Compliance Certificate
Exhibit F-1 Form of Legal Opinion of Paul, Weiss, Rifkind, Wharton & Garrison
Exhibit F-2 Form of Legal Opinion of Willkie Farr & Gallagher
Exhibit G Form of Assignment and Acceptance
Exhibit H Form of Promissory Note
Exhibit I Form of Remarketing Agent Certificate

CREDIT AGREEMENT

This CREDIT AGREEMENT is entered into as of June 30, 1998, among CD RADIO INC., a Delaware corporation (the "Company"), Bank of America National Trust and Savings Association, a national banking association ("BofA"), as a Bank and as administrative agent for the Banks (in such capacity, the "Agent").

WHEREAS, the Banks have agreed to make available to the Company a secured term loan credit facility upon the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained herein, the parties agree as follows:

ARTICLE I

DEFINITIONS

1.1 Certain Defined Terms. The following terms have the following meanings:

"Acquisition" means any transaction or series of related transactions for the purpose of or resulting, directly or indirectly, in (a) the acquisition of all or substantially all of the assets of a Person, or of any business or division of a Person, (b) the acquisition of in excess of 50% of the capital stock, partnership interests, membership interests or equity of any Person, or otherwise causing any Person to become a Subsidiary, or (c) a merger or consolidation or any other combination with another Person (other than a Person that is a Subsidiary) provided that the Company or a Subsidiary is the surviving entity.

"Affected Bank" has the meaning specified in Section 3.8.

"Affiliate" means, as to any Person, any other Person which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. A Person shall be deemed to control another Person if the controlling Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other Person, whether through the ownership of voting securities, membership interests, by contract, or otherwise.

"Agent" means BofA in its capacity as agent for the Banks hereunder, and any successor agent arising under Section 9.9. 1

"Agent-Related Persons" means BofA and any successor agent arising under Section 9.9, together with their respective Affiliates (including, in the case of BofA, the Arranger), and the officers, directors, employees, agents and attorneys-in-fact of such Persons and Affiliates.

"Agent's Payment Office" means the address for payments set forth on Schedule 10.2 or such other address as the Agent may from time to time specify.

"Agreement" means this Credit Agreement.

"Applicable Margin" means

(i) with respect to Base Rate Loans, .75%; and

(iii) with respect to Offshore Rate Loans, 1.75%.

"Arranger" means BancAmerica Robertson Stephens, a Delaware corporation.

"Assignee" has the meaning specified in subsection 10.9(a).

"Assignment and Acceptance" has the meaning specified in Section 10.9(a).

"Attorney Costs" means and includes all reasonable fees and disbursements of any law firm or other external counsel, the allocated cost of internal legal services and all reasonable disbursements of internal counsel.

"Bank" means BofA, in its capacity as a lender hereunder, and any other financial institution from time to time party hereto (collectively, the "Banks").

"Bankruptcy Code" means the Federal Bankruptcy Reform Act of 1978 (11 U.S.C. ss. 101, et seq.).

"Base Rate" means, for any day, the higher of: (a) 0.50% per annum above the latest Federal Funds Rate; and (b) the rate of interest in effect for such day as publicly announced from time to time by BofA as its "reference rate." (The "reference rate" is a rate set by BofA based upon various factors including BofA's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate.) Any change in the reference rate announced by BofA shall take effect at the opening of business on the day specified in the public announcement of such change.

"Base Rate Loan" means a Loan that bears interest based on the Base Rate.

"BofA" has the meaning specified in the preamble hereto.

"Borrowing" means a borrowing hereunder consisting of Loans of the same Type made to the Company on the same day by the Banks under Article II, and, other than in the case of Base Rate Loans, having the same Interest Period.

"Borrowing Date" means any date on which a Borrowing occurs under Section 2.3.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks in New York City or San Francisco are authorized or required by law to close and, if the applicable Business Day relates to any Offshore Rate Loan, means such a day on which dealings are carried on in the applicable offshore dollar interbank market.

"Capital Adequacy Regulation" means any guideline, request or directive of any central bank or other Governmental Authority, or any other law, rule or regulation, whether or not having the force of law, in each case, regarding capital adequacy of any bank or of any corporation controlling a bank.

"CERCLA" has the meaning specified in the definition of "Environmental Laws."

"Change of Control" means (i) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act), shall become, or obtain rights (whether by means or warrants, options or otherwise) to become, the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act), directly or indirectly, of more than 40% of the outstanding common stock of the Company or (ii) the board of directors of the Company shall cease to consist of a majority of Continuing Directors.

"Charge" has the meaning specified in Section 8.4.

"Closing Date" means the date on which all conditions precedent set forth in Section 4.1 are satisfied or waived by all Banks (or, in the case of subsection 4.1(j), waived by the Person entitled to receive such payment).

"Code" means the Internal Revenue Code of 1986, and regulations promulgated thereunder.

"Collateral" means all has the meaning specified in the Pledge Agreement.

"Collateral Documents" means, collectively, (i) the Pledge Agreement and the Support Agreement and all other security agreements, mortgages, deeds of trust, patent and trademark assignments, lease assignments, guarantees and other similar

agreements between the Company or any Subsidiary and the Banks or the Agent for the benefit of the Banks now or hereafter delivered to the Banks or the Agent pursuant to or in connection with the transactions contemplated hereby, and all financing statements (or comparable documents now or hereafter filed in accordance with the Uniform Commercial Code or comparable law) against the Company or any Subsidiary as debtor in favor of the Banks or the Agent for the benefit of the Banks as secured party, and (ii) any amendments, supplements, modifications, renewals, replacements, consolidations, substitutions and extensions of any of the foregoing.

"Commitment" means, as to all Banks, aggregate Commitments of one hundred fifteen million dollars ($115,000,000) and, as to any Bank, such Bank's Pro Rata Share of the aggregate Commitment. The Commitments as of the Closing Date shall be as set forth on Schedule 2.1.

"Compliance Certificate" means a certificate substantially in the form of Exhibit E.

"Consolidated Net Worth" means, at a particular date, all amounts which would be included under shareholders' equity on a consolidated balance sheet of the Company and its Subsidiaries determined on a consolidated basis in accordance with GAAP as at such date, plus (i) preferred stock issued by the Company whether or not included in shareholders' equity and (ii) all accrued but unpaid dividends on preferred stock issued by the Company.

"Contingent Obligation" means, as to any Person, any direct or indirect liability of that Person, whether or not contingent, with or without recourse, (a) with respect to any Indebtedness, lease, dividend, letter of credit or other obligation (the "primary obligations") of another Person (the "primary obligor"), including any obligation of that Person (i) to purchase, repurchase or otherwise acquire such primary obligations or any security therefor, (ii) to advance or provide funds for the payment or discharge of any such primary obligation, or to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency or any balance sheet item, level of income or financial condition of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation, or (iv) otherwise to assure or hold harmless the holder of any such primary obligation against loss in respect thereof (each, a "Guaranty Obligation"); (b) with respect to any Surety Instrument issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings or payments; or (c) to purchase any materials, supplies or other property from, or to obtain the services of, another Person if the relevant contract or other related document or obligation requires that payment for such materials, supplies or other property, or for such services, shall be made regardless of whether delivery of such materials, supplies or other property is ever made or tendered, or such services are ever performed or tendered. The amount of any Contingent Obligation shall, in the case of Guaranty Obligations, be deemed equal to the stated or determinable amount of the primary obligation in respect of

which such Guaranty Obligation is made or, if not stated or if indeterminable, the maximum reasonably anticipated liability in respect thereof, and in the case of other Contingent Obligations shall be equal to the maximum reasonably anticipated liability in respect thereof.

"Continuing Directors" means the directors of the Company on the Closing Date, and each other director, if, in each case, such other director's nomination for election to the board of directors of the Company is recommended by at least 66- 2/3% of the then Continuing Directors.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, undertaking, contract, indenture, mortgage, deed of trust or other instrument, document or agreement to which such Person is a party or by which it or any of its property is bound.

"Conversion/Continuation Date" means any date on which, under Section 2.4, the Company (a) converts Loans of one Type to another Type, or (b)

continues as Loans of the same Type, but with a new Interest Period, Loans having Interest Periods expiring on such date.

"Default" means any event or circumstance which, with the giving of notice, the lapse of time, or both, would (if not cured or otherwise remedied during such time) constitute an Event of Default.

"Disposition" means (i) the sale, lease, conveyance or other disposition of property, other than sales or other dispositions expressly permitted under subsection 7.3(a) or 7.3(b), and (ii) the sale or transfer by the Company or any Subsidiary of the Company of any equity securities issued by any Subsidiary of the Company and held by such transferor Person.

"Dollars", "dollars" and "$" each mean lawful money of the United States.

"Eligible Assignee" means a commercial bank or a financial institution, a fund, or other accredited investor (as defined in Regulation D of the Securities Act) that is engaged in the making, purchasing or otherwise investing, in commercial loans in the ordinary course of business.

"Environmental Claims" means all claims, however asserted, by any Governmental Authority or other Person alleging potential liability or responsibility for violation of any Environmental Law, or for release or injury to the environment or threat to public health, personal injury (including sickness, disease or death), property damage, natural resources damage, or otherwise alleging liability or responsibility for damages (punitive or otherwise), cleanup, removal, remedial or response costs, restitution, civil or criminal penalties, injunctive relief, or other type of relief, resulting from or based upon the presence, placement, discharge, emission or release (including intentional and unintentional, negligent and non-negligent, sudden or non-sudden, accidental or non-accidental, placement, spills, leaks,

discharges, emissions or releases) of any Hazardous Material at, in, or from Property, whether or not owned by the Company.

"Environmental Laws" means all federal, state or local laws, statutes, common law duties, rules, regulations, ordinances and codes, together with all administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authorities, in each case relating to environmental, health, safety and land use matters; including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), the Clean Air Act, the Federal Water Pollution Control Act of 1972, the Solid Waste Disposal Act, the Federal Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Emergency Planning and Community Right-to-Know Act and any similar Requirement of Law of any Governmental Authority having jurisdiction over the Company or its business.

"Environmental Permits" has the meaning specified in subsection 5.16(b).

"ERISA" means the Employee Retirement Income Security Act of 1974, and regulations promulgated thereunder.

"ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with the Company within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

"ERISA Event" means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by the Company or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations which is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Company or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) an event or condition which might reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; or (f) the imposition of any liability under Title IV of ERISA, other than PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Company or any ERISA Affiliate.

"Estimated Remediation Costs" means all costs associated with performing work to remediate contamination of real property or groundwater, including engineering and other professional fees and expenses, costs to remove, transport and dispose of contaminated soil, costs to "cap" or

otherwise contain contaminated soil, and costs to pump and treat water and monitor water quality.

"Eurodollar Reserve Percentage" has the meaning specified in the definition of "Offshore Rate".

"Event of Default" means any of the events or circumstances specified in Section 8.1.

"Event of Loss" means, with respect to any property including, without limitation, Launch Vehicles, any of the following: (a) any loss, destruction or damage of such property; (b) any pending or threatened institution of any proceedings for the condemnation or seizure of such property or for the exercise of any right of eminent domain; or (c) any actual condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, of such property, or confiscation of such property or the requisition of the use of such property.

"Exchange Act" means the Securities Exchange Act of 1934, and regulations promulgated thereunder.

"FDIC" means the Federal Deposit Insurance Corporation, and any Governmental Authority succeeding to any of its principal functions.

"Federal Funds Rate" means, for any day, the rate set forth in the weekly statistical release designated as H.15(519), or any successor publication, published by the Federal Reserve Bank of New York (including any such successor, "H.15(519)") on the preceding Business Day opposite the caption "Federal Funds (Effective)"; or, if for any relevant day such rate is not so published on any such preceding Business Day, the rate for such day will be the arithmetic mean as determined by the Agent of the rates for the last transaction in overnight Federal funds arranged prior to 9:00 a.m. (New York City time) on that day by each of three leading brokers of Federal funds transactions in New York City selected by the Agent.

"Fee Letter" has the meaning specified in subsection 2.10(a).

"FRB" means the Board of Governors of the Federal Reserve System, and any Governmental Authority succeeding to any of its principal functions.

"GAAP" means generally accepted accounting principles set forth from time to time in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions of comparable stature and authority within the U.S. accounting profession), which are applicable to the circumstances as of the Closing Date.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof, any central bank (or similar monetary or regulatory authority) thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, and any corporation or other

entity owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing.

"Guaranty Obligation" has the meaning specified in the definition of "Contingent Obligation."

"Hazardous Materials" means all those substances that are regulated by, or which may form the basis of liability under, any Environmental Law, including any substance identified under any Environmental Law as a pollutant, contaminant, hazardous waste, hazardous constituent, special waste, hazardous substance, hazardous material, or toxic substance, or petroleum or petroleum derived substance or waste.

"Indebtedness" of any Person means, without duplication, (a) all indebtedness for borrowed money; (b) all obligations issued, undertaken or assumed as the deferred purchase price of property or services (other than trade payables entered into in the ordinary course of business on ordinary terms); (c) all non-contingent reimbursement or payment obligations with respect to Surety Instruments; (d) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses; (e) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to property acquired by the Person (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of

such property); (f) all obligations with respect to capital leases; (g) all indebtedness referred to in clauses (a) through (f) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien upon or in property (including accounts and contracts rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such Indebtedness; and (h) all Guaranty Obligations in respect of indebtedness or obligations of others of the kinds referred to in clauses (a) through (g) above. For all purposes of this Agreement, the Indebtedness of any Person shall include all recourse Indebtedness of any partnership or joint venture or limited liability company in which such Person is a general partner or a joint venturer or a member.

"Indemnified Liabilities" has the meaning specified in Section 10.5.

"Indemnified Person" has the meaning specified in Section 10.5.

"Independent Auditor" has the meaning specified in subsection 6.1(a).

"Initial Date" means, for purposes of Section 3.1, in the case of BofA, the date of its execution and delivery of this Agreement, in the case of an Agent other than BofA, the date such successor becomes an Agent pursuant to Section 9.9, and, in the case of each Bank other than BofA, the date of the Assignment and Acceptance pursuant to which it becomes a Bank.

"Insolvency Proceeding" means, with respect to any Person, (a) any case, action or proceeding with respect to such Person before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or (b) any general assignment for the benefit of creditors, composition, marshalling of assets for creditors, or other, similar arrangement in respect of its creditors generally or any substantial portion of its creditors; undertaken under U.S. Federal, state or foreign law, including the Bankruptcy Code.

"Interest Payment Date" means, as to any Offshore Rate Loan, the last day of each Interest Period applicable to such Loan and, as to any Base Rate Loan, the last Business Day of each calendar quarter, provided, however, that if any Interest Period for an Offshore Rate Loan exceeds three months, the date that falls three months after the beginning of such Interest Period and after each Interest Payment Date thereafter is also an Interest Payment Date.

"Interest Period" means, as to any Offshore Rate Loan, the period commencing on the Borrowing Date of such Loan or on the Conversion/Continuation Date on which the Loan is converted into or continued as an Offshore Rate Loan, and ending on the date one, two, three or six months thereafter as selected by the Company in its Notice of Borrowing or Notice of Conversion/Continuation; provided that:

(i) if any Interest Period would otherwise end on a day that is not a Business Day, that Interest Period shall be extended to the following Business Day unless, in the case of an Offshore Rate Loan, the result of such extension would be to carry such Interest Period into another calendar month, in which event such Interest Period shall end on the preceding Business Day;

(ii) any Interest Period pertaining to an Offshore Rate Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period;

(iii) no Interest Period for any Loan shall extend beyond the Maturity Date; and

(iv) during the first two months following the Closing Date, the Company may select an Interest Period ending less than one month after the Borrowing Date or Conversion/Continuation Date of such Loan.

"Investments" has the meaning specified in Section 7.5.

"IRS" means the Internal Revenue Service, and any Governmental Authority succeeding to any of its principal functions under the Code.

"Joint Venture" means a partnership, limited liability company, joint venture or other legal arrangement (whether created by contract or conducted through a separate legal entity) now or hereafter formed by the Company or any of its Subsidiaries with another Person in order to conduct a common venture or enterprise with such Person.

"Launch Vehicles" means the satellite launch vehicles described in the Launch Vehicle Sale Contract.

"Launch Vehicle Sale Contract" means Article 7 of the Overall Contract.

"Lending Office" means, as to any Bank, the office or offices of such Bank specified on Schedule 10.2, or such other office or offices as the Bank may from time to time notify the Company and the Agent.

"Lien" means any security interest, mortgage, deed of trust, pledge, hypothecation, assignment, charge or deposit arrangement, encumbrance, lien (statutory or other) or preferential arrangement of any kind or nature whatsoever in respect of any property (including those created by, arising under or evidenced by any conditional sale or other title retention agreement, the interest of a lessor under a capital lease, any financing lease having substantially the same economic effect as any of the foregoing, or the filing of any financing statement naming the owner of the asset to which such lien relates as debtor, under the Uniform Commercial Code or any comparable law) and any contingent or other agreement to provide any of the foregoing, but not including the interest of a lessor under an operating lease.

"Loan" means an extension of credit by a Bank to the Company under Article II, and may be a Base Rate Loan or an Offshore Rate Loan (each, a "Type" of Loan).

"Loan Documents" means this Agreement, any Notes, the Collateral Documents, the Fee Letter and all other documents delivered to the Agent or any Bank in connection with the transactions contemplated by this Agreement.

"Margin Stock" means "margin stock" as such term is defined in Regulation T, U or X of the FRB.

"Material Adverse Effect" means (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, condition (financial or otherwise) or prospects of the Company or the Company and its Subsidiaries taken as a whole; (b) a material impairment of the ability of the Company to perform under any Loan Document; or (c) a material adverse effect upon (i) the legality, validity, binding effect or enforceability against the Company of any Loan Document, or (ii) the perfection or priority of any Lien granted under the Pledge Agreement.

"Maturity Date" shall mean September 30, 1999.

"Multiemployer Plan" means a "multiemployer plan", within the meaning of Section 4001(a)(3) of ERISA, to which the Company or any ERISA Affiliate makes, is making, or is obligated to make contributions or, during the preceding three calendar years, has made, or been obligated to make, contributions.

"Net Proceeds" means, as to any Disposition by a Person, proceeds in cash, checks or other cash equivalent financial instruments as and when received by such Person, net of: (a) the direct costs relating to such Disposition excluding amounts payable to such Person or any Affiliate of such Person, (b) sale, use or other transaction taxes paid or payable by such Person as a direct result thereof, and (c) amounts required to be applied to repay principal, interest and prepayment premiums and penalties on Indebtedness secured by a Lien on the asset which is the subject of such Disposition. "Net Proceeds" shall also include proceeds paid on account of any Event of Loss, net of (i) all money actually applied to repair or reconstruct the damaged property or property affected by the casualty, condemnation or taking, (ii) all of the costs and expenses reasonably incurred in connection with the collection of such proceeds, award or other payments, and (iii) any amounts retained by or paid to parties having superior rights to such proceeds, awards or other payments.

"Note" means a promissory note executed by the Company in favor of a Bank pursuant to subsection 2.2(b), in substantially the form of Exhibit H.

"Notice of Borrowing" means a notice in substantially the form of Exhibit C.

"Notice of Conversion/Continuation" means a notice in substantially the form of Exhibit D.

"Obligations" means all advances, debts, liabilities, obligations, covenants and duties arising under any Loan Document owing by the Company to any Bank, the Agent, or any Indemnified Person, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising.

"Offshore Rate" means, for any Interest Period, with respect to Offshore Rate Loans comprising part of the same Borrowing, the rate of interest per annum determined by the Agent as follows:

$$\text{Offshore Rate} = \frac{\text{[LIBOR or IBOR (for Interest Periods under 1 month)]}}{\text{1.00 - Eurodollar Reserve Percentage}}$$

Where,

"Eurodollar Reserve Percentage" means for any day for any Interest Period the maximum reserve percentage (expressed as a decimal, rounded upward to the next 1/100th of 1%) in effect on such day (but only to the extent actually applicable to any Bank) under regulations issued from time to time by the FRB for determining the maximum reserve requirement (including any

emergency, supplemental or other marginal reserve requirement) with respect to Eurocurrency funding (currently referred to as "Eurocurrency liabilities");

"IBOR" means the rate of interest per annum determined by the Agent as the rate at which dollar deposits in the approximate amount of BofA's Offshore Rate Loan for such Interest Period would be offered by BofA's Grand Cayman Branch, Grand Cayman B.W.I. (or such other office as may be designated for such purpose by BofA), to major banks in the offshore dollar interbank market at their request at approximately 11:00 a.m. (New York City time) two Business Days prior to the commencement of such Interest Period; and

"LIBOR" means the rate of interest per annum determined by the Agent to be the arithmetic mean (rounded upward to the next 1/16th of 1%) of the rates of interest per annum notified to the Agent by the Reference Bank as the rate of interest at which dollar deposits in the approximate amount of the amount of the Loan to be made or continued as, or converted into, an Offshore Rate Loan by such Reference Bank and having a maturity comparable to such Interest Period would be offered to major banks in the London interbank market at their request at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period.

The Offshore Rate shall be adjusted automatically as to all Offshore Rate Loans then outstanding as of the effective date of any change in the Eurodollar Reserve Percentage.

"Offshore Rate Loan" means a Loan that bears interest based on the Offshore Rate.

"Organization Documents" means, for any corporation, the certificate or articles of incorporation, the bylaws, any certificate of determination or instrument relating to the rights of preferred shareholders of such corporation, any shareholder rights agreement, and all applicable resolutions of the board of directors (or any committee thereof) of such corporation.

"Other Taxes" means any present or future stamp, court or documentary taxes or any other excise or property taxes, charges or similar levies which arise from any payment made hereunder or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, this Agreement or any other Loan Documents.

"Overall Contract" means the Amended and Restated Contract, SS/L-TP9003- 02, dated June 30, 1998, between the Company and SS/L.

"Participant" has the meaning specified in subsection 10.9(d).

"PBGC" means the Pension Benefit Guaranty Corporation, or any Governmental Authority succeeding to any of its principal functions under ERISA.

"Pension Plan" means a pension plan (as defined in Section 3(2) of ERISA) subject to Title IV of ERISA which the Company sponsors, maintains, or to which it makes, is making, or is obligated to make contributions, or in the case of a multiple employer plan (as described in Section 4064(a) of ERISA) has made contributions at any time during the immediately preceding five (5) plan years.

"Permitted Liens" has the meaning specified in Section 7.2.

"Person" means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture or Governmental Authority.

"Plan" means an employee benefit plan (as defined in Section 3(3) of ERISA) which the Company sponsors or maintains or to which the Company makes, is making, or is obligated to make contributions and includes any Pension Plan.

"Pledge Agreement" means the Pledge Agreement to be executed and delivered by the Company, substantially in the form of Exhibit A, as the same may be amended, supplemented or otherwise modified from time to time.

"Property" means any facility or property owned, leased or operated by the Company or any of its Subsidiaries.

"Pro Rata Share" means, as to any Bank at any time, the percentage equivalent (expressed as a decimal, rounded to the ninth decimal place) at such time of such Bank's Commitment divided by the combined Commitments of all Banks.

"Reference Bank" means BofA.

"Remarketing Agent" means Loral Space & Communications Ltd.

"Replacement Bank" has the meaning specified in Section 3.8.

"Reportable Event" means, any of the events set forth in Section 4043(c) of ERISA or the regulations thereunder, other than any such event for which the 30-day notice requirement under ERISA has been waived in regulations issued by the PBGC.

"Required Banks" means at any time Banks then holding more than 50% of the then aggregate unpaid principal amount of the Loans, or, if no amounts are outstanding, Banks then having more than 50% of the aggregate amount of the Commitments.

"Requirement of Law" means, as to any Person, any law (statutory or common), treaty, rule or regulation or determination of an arbitrator or of a

Governmental Authority, in each case applicable to or binding upon the Person or any of its property or to which the Person or any of its property is subject.

"Responsible Officer" means the chief executive officer, the president or chief financial officer of the Company, or any other officer having substantially the same authority and responsibility; or, with respect to compliance with financial covenants, the chief financial officer or the treasurer of the Company, or any other officer having substantially the same authority and responsibility.

"Securities Act" means the Securities Act of 1933, as amended.

"SEC" means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"Senior Secured Discount Notes" means the 15% Senior Secured Discount Notes due 2007 of the Company, in an aggregate principal amount not to exceed $297,000,000.

"Solvent" means, as to any Person at any time, that (a) the fair value of the property of such Person is greater than the amount of such Person's liabilities (including disputed, contingent and unliquidated liabilities) as such value is established and liabilities evaluated for purposes of Section 101(31) of the Bankruptcy Code; (b) the present fair saleable value of the property of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured; (c) such Person is able to realize upon its property and pay its debts and other liabilities (including disputed, contingent and unliquidated liabilities) as they mature in the normal course of business; (d) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature; and (e) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute unreasonably small capital.

"SS/L" means Space Systems/Loral, Inc.

"Subsidiary" of a Person means any corporation, association, partnership, limited liability company, joint venture or other business entity of which more than 50% of the voting stock, membership interests or other equity interests (in the case of Persons other than corporations), is owned or controlled directly or indirectly by the Person, or one or more of the Subsidiaries of the Person, or a combination thereof. Unless the context otherwise clearly requires, references herein to a "Subsidiary"

refer to a Subsidiary of the Company.

"Support Agreement" means the Agreement to be executed and delivered by the Agent and the Remarketing Agent, substantially in the form of Exhibit B, as the same may be amended, supplemented or otherwise modified from time to time.

"Surety Instruments" means all letters of credit (including standby and commercial), banker's acceptances, bank guaranties, shipside bonds, surety bonds and similar instruments.

"Taxes" means any and all present or future taxes, levies, assessments, imposts, duties, deductions, fees, withholdings or similar charges, and all liabilities with respect thereto, excluding, in the case of each Bank and the Agent, respectively, (i) taxes imposed on or measured by its net income and franchise taxes imposed in lieu of taxes imposed on or measured by net income by the jurisdiction (or any political subdivision or taxing authority thereof or therein) under the laws of which such Bank or the Agent, as the case may be, is organized or maintains a lending office, (ii) United States withholding taxes imposed under laws in effect on the Initial Date with respect to such Bank or the Agent or under laws in effect on the date a Bank changes its Lending Office (other than pursuant to a request of the Company) except to the extent that such Bank's assignor, if any, was entitled, at the time of assignment or such Bank was entitled, at the time it changes its applicable Lending Office, to receive additional amounts from the Company pursuant to Section 3.1; provided, however, that United States withholding taxes imposed under laws in effect on the Initial Date with respect to the Remarketing Agent, as successor to the Banks under the Support Agreement, shall be Taxes for the purposes of this Agreement and (iii) United States withholding taxes that are attributable to the Bank's or the Agent's failure to comply with Section 9.10.

"Term Loan" has the meaning specified in Section 2.1.

"Type" has the meaning specified in the definition of "Loan."

"UCC" means the Uniform Commercial Code as in effect in the State of New York.

"Unfunded Pension Liability" means the excess of a Plan's benefit liabilities under Section 4001(a)(16) of ERISA, over the current value of that Plan's assets, determined in accordance with the assumptions used for funding the Pension Plan pursuant to Section 412 of the Code for the applicable plan year.

"United States" and "U.S." each means the United States of America.

"Wholly Owned Subsidiary" means any corporation in which (other than directors' qualifying shares required by law) 100% of the capital stock of each class having ordinary voting power, and 100% of the capital stock of every other class, in each case, at the time as of which any determination is being made, is owned, beneficially and of record, by the Company, or by one or more of the other Wholly Owned Subsidiaries, or both.

1.2 Other Interpretive Provisions. (a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) The words "hereof", "herein", "hereunder" and similar words refer to this Agreement as a whole and not to any particular provision of this Agreement; and subsection, Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(c) (i) The term "documents" includes any and all instruments, documents, agreements, certificates, indentures, notices and other writings, however evidenced.

(ii) The term "including" is not limiting and means "including without limitation."

(iii) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including"; the words "to" and "until" each mean "to but excluding", and the word "through" means "to and including."

(iv) The term "property" includes any kind of property or asset, real, personal or mixed, tangible or intangible.

(d) Unless otherwise expressly provided herein, (i) references to agreements (including this Agreement) and other contractual instruments shall be deemed to include all subsequent amendments and other modifications thereto,

but only to the extent such amendments and other modifications are not prohibited by the terms of any Loan Document, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting the statute or regulation.

(e) The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

(f) This Agreement and other Loan Documents may use several different limitations, tests or measurements to regulate the same or similar matters. All such limitations, tests and measurements are cumulative and shall each be performed in accordance with their terms. Unless otherwise expressly provided, any reference to any action of the Agent or the Banks by way of consent, approval or waiver shall be deemed modified by the phrase "in its/their sole discretion."

(g) This Agreement and the other Loan Documents are the result of negotiations among and have been reviewed by counsel to the Agent, the Company, the Remarketing Agent and the Banks, and are the products of all parties. Accordingly, they shall not be construed against the Banks or the Agent merely because of the Agent's or Banks' involvement in their preparation.

1.3 Accounting Principles. (a) Unless the context otherwise clearly requires, all accounting terms not expressly defined herein shall be construed, and all financial

computations required under this Agreement shall be made, in accordance with GAAP, consistently applied.

(b) References herein to "fiscal year" and "fiscal quarter" refer to such fiscal periods of the Company.

ARTICLE II

THE TERM LOANS

2.1 Amounts and Terms of Commitments. Each Bank severally agrees, on the terms and conditions set forth herein, to make loans to the Company (each such loan, a "Term Loan") from time to time on any Business Day during the period from the Closing Date to the Maturity Date in an aggregate amount not to exceed such Bank's Pro Rata Share of the Commitment. Amounts borrowed as Term Loans which are repaid or prepaid by the Company may not be reborrowed.

2.2 Loan Accounts. (a) The Loans made by each Bank shall be evidenced by one or more loan accounts or records maintained by such Bank in the ordinary course of business. The loan accounts or records maintained by the Agent and each Bank shall be conclusive absent manifest error of the amount of the Loans made by the Banks to the Company and the interest and payments thereon. Any failure so to record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Company hereunder to pay any amount owing with respect to the Loans.

(b) Upon the request of any Bank made through the Agent, the Loans made by such Bank may be evidenced by one or more Notes, instead of or in addition to loan accounts. Each such Bank shall endorse on the schedules annexed to its Note(s) the date, amount and maturity of each Loan made by it and the amount of each payment of principal made by the Company with respect thereto. Each such Bank is irrevocably authorized by the Company to endorse its Note(s) and each Bank's record shall be conclusive absent manifest error; provided, however, that the failure of a Bank to make, or an error in making, a notation thereon with respect to any Loan shall not limit or otherwise affect the obligations of the Company hereunder or under any such Note to such Bank.

2.3 Procedure for Borrowing. (a) Each Borrowing shall be made upon the Company's irrevocable written notice delivered to the Agent in the form of a Notice of Borrowing (which notice must be received by the Agent prior to 11:00 a.m. (New York City time) (i) three Business Days prior to the requested Borrowing Date, in the case of Offshore Rate Loans and (ii) one Business Day(s) prior to the requested Borrowing Date, in the case of Base Rate Loans) specifying:

(A) the requested Borrowing Date, which shall be a Business Day;

(B) the Type of Loans comprising the Borrowing; and

(C) the duration of the Interest Period applicable to such

Loans included in such notice. If the Notice of Borrowing fails to specify the duration of the Interest Period for any Borrowing comprised of Offshore Rate Loans, such Interest Period shall be three months;

provided, however, that with respect to the Borrowing to be made on the Closing Date, the Notice of Borrowing shall be delivered to the Agent not later than (i) three Business Days prior to the Closing Date, in the case of Offshore Rate Loans, and (ii) 11:00 a.m. (New York City time) on the Closing Date, in the case of Base Rate Loans.

(b) The Agent will promptly notify each Bank of its receipt of any Notice of Borrowing and of the amount of such Bank's Pro Rata Share of that Borrowing.

(c) Each Bank will make the amount of its Pro Rata Share of each Borrowing available to the Agent for the account of the Company at the Agent's Payment Office by 11:00 a.m. (New York City time) on the Borrowing Date requested by the Company in funds immediately available to the Agent. The proceeds of all such Loans will then be made available to the Company by the Agent by wire transfer in accordance with written instructions provided to the Agent by the Company of like funds as received by the Agent.

(d) After giving effect to any Borrowing, unless the Agent shall otherwise consent, there may not be more than three different Interest Periods in effect.

2.4 Conversion and Continuation Elections. (a) The Company may, upon irrevocable written notice to the Agent in accordance with subsection 2.4(b):

(i) elect, as of any Business Day, in the case of Base Rate Loans, or as of the last day of the applicable Interest Period, in the case of Offshore Rate Loans, to convert any such Loans into Loans of any other Type; or

(ii) elect, as of the last day of the applicable Interest Period, to continue any Loans (or any part thereof) having Interest Periods expiring on such day.

(b) The Company shall deliver a Notice of Conversion/Continuation to be received by the Agent not later than 11:00 a.m. (New York City time) at least (i) three Business Days in advance of the Conversion/Continuation Date, if the Loans are to be converted into or continued as Offshore Rate Loans or (ii) one Business Day in advance of the Conversion/Continuation Date, if the Loans are to be converted into Base Rate Loans, specifying:

(i) the proposed Conversion/Continuation Date;

(ii) the aggregate amount of Loans to be converted or continued;

(iii) the Type of Loans resulting from the proposed conversion or continuation; and

(iv) other than in the case of conversions into Base Rate Loans, the duration of the requested Interest Period.

(c) If upon the expiration of any Interest Period applicable to Offshore Rate Loans, the Company has failed to select timely a new Interest Period to be applicable to such Offshore Rate Loans, or if any Default or Event of Default then exists, the Company shall be deemed to have elected to convert such Offshore Rate Loans into Base Rate Loans effective as of the expiration date of such Interest Period.

(d) The Agent will promptly notify each Bank of its receipt of a Notice of Conversion/Continuation, or, if no timely notice is provided by the Company, the Agent will promptly notify each Bank of the details of any automatic conversion. All conversions and continuations shall be made ratably according to the respective outstanding principal amounts of the Loans with respect to which the notice was given held by each Bank.

(e) Unless the Required Banks otherwise consent, during the existence of a Default or Event of Default, the Company may not elect to have a Loan converted into or continued as an Offshore Rate Loan.

(f) After giving effect to any conversion or continuation of Loans, unless the Agent shall otherwise consent, there may not be more than three different Interest Periods in effect.

2.5 Voluntary Termination or Reduction of Commitments. The Company may, upon not less than three Business Days' prior notice to the Agent, terminate the Commitments, or permanently reduce the Commitments by an aggregate minimum amount of $5,000,000 or any multiple of $1,000,000 in excess thereof; unless,

after giving effect thereto and to any prepayments of Loans made on the effective date thereof, the then-outstanding principal amount of the Loans would exceed the amount of the combined Commitments then in effect. Once reduced in accordance with this Section, the Commitments may not be increased. Any reduction of the Commitments shall be applied to each Bank according to its Pro Rata Share. All accrued commitment fees to, but not including the effective date of any reduction or termination of Commitments, shall be paid on the effective date of such reduction or termination.

2.6 Optional Prepayments. (a) Subject to Section 3.4, the Company may, at any time or from time to time, upon not less than three Business Days' irrevocable notice for Offshore Rate Loans, or by irrevocable notice by 11:00 a.m. (New York City time) on the day of repayment for Base Rate Loans, to the Agent, ratably prepay Loans in whole or in part, in minimum amounts of $5,000,000 or any multiple of $1,000,000 in excess thereof. Such notice of prepayment shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid. The Agent will promptly notify each Bank of its receipt of any such notice, and of such Bank's Pro Rata Share of such prepayment. If such notice is given by the Company, the Company shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein, together with accrued interest except for Base Rate Loans to each such date on the amount prepaid and any amounts required pursuant to Section 3.4.

(b) Upon the making of any optional prepayment under this Section 2.6, the Loan of each Bank shall automatically be reduced by an amount equal to such Bank's ratable share of the aggregate of principal repaid, effective as of the earlier of the date that such prepayment is made or the date by which such prepayment is due and payable hereunder. All accrued commitment fees to, but not including the effective date of any reduction or termination of Commitments, shall be paid pursuant to Section 2.10(b).

2.7 Mandatory Prepayments of Loans; Mandatory Commitment Reductions. (a) Asset Dispositions. If the Company or any Subsidiary shall at any time or from time to time make or agree to make a Disposition, or shall suffer an Event of Loss, then (i) the Company shall promptly notify the Agent of such proposed Disposition or Event of Loss (including the amount of the estimated Net Proceeds to be received by the Company or such Subsidiary in respect thereof) and (ii) promptly upon, and in no event later than three Business Days after, receipt by the Company or the Subsidiary of the Net Proceeds of such Disposition or Event of Loss, the Company shall prepay the Loans in an aggregate amount equal to the amount of such Net Proceeds.

(b) Payments on Overall Contract. If any payments are received by the Company under the Overall Contract, 100% of such payments shall be applied on the date of such payment toward the prepayment of the Loans.

(c) General. Any prepayments pursuant to this Section 2.7 shall be applied first to any Base Rate Loans then outstanding and then to Offshore Rate Loans with the shortest Interest Periods remaining. The Company shall pay, together with each prepayment under this Section 2.7, accrued interest except for Base Rate Loans on the amount prepaid and any amounts required pursuant to Section 3.4.

(d) Reduction of Commitment. Upon the making of any mandatory prepayment under this Section 2.7, the Loan of each Bank shall automatically be reduced by an amount equal to such Bank's ratable share of the aggregate of principal repaid, effective as of the earlier of the date that such prepayment is made or the date by which such prepayment is due and payable hereunder. All accrued commitment fees to, but not including the effective date of any reduction or termination of Commitments, shall be paid pursuant to Section 2.10(b).

2.8 Repayment. The Company shall repay the Loans in full on the Maturity Date.

2.9 Interest. (a) Each Loan shall bear interest on the outstanding principal amount thereof from the applicable Borrowing Date at a rate per annum equal to the Offshore Rate or the Base Rate, as the case may be, plus the Applicable Margin.

(b) Interest on each Loan shall be paid in arrears on each Interest Payment Date. Interest shall also be paid on the date of any prepayment of Loans except for Base Rate Loans under Section 2.6 or 2.7 for the portion of the Loans so prepaid and upon payment (including prepayment) in full thereof and, during the existence of any Event of

Default, interest shall be paid on demand of the Agent at the request or with the consent of the Required Banks.

(c) Notwithstanding subsection (a) of this Section, while any

Event of Default exists or after acceleration, the Company shall pay interest (after as well as before entry of judgment thereon to the extent permitted by law) on the principal amount of all outstanding Loans, at a rate per annum which is determined by adding 3% per annum to the Applicable Margin then in effect for such Loans and, in the case of Obligations not subject to an Applicable Margin, at a rate per annum equal to the Base Rate plus 3%; provided, however, that, on and after the expiration of any Interest Period applicable to any Offshore Rate Loan outstanding on the date of occurrence of such Event of Default or acceleration, the principal amount of such Loan shall, during the continuation of such Event of Default or after acceleration, bear interest at a rate per annum equal to the Base Rate plus 3%.

(d) Anything herein to the contrary notwithstanding, the obligations of the Company to any Bank hereunder shall be subject to the limitation that payments of interest shall not be required for any period for which interest is computed hereunder, to the extent (but only to the extent) that contracting for or receiving such payment by such Bank would be contrary to the provisions of any law applicable to such Bank limiting the highest rate of interest that may be lawfully contracted for, charged or received by such Bank, and in such event the Company shall pay such Bank interest at the highest rate permitted by applicable law.

2.10 Fees. (a) Arrangement, Agency Fees. The Company shall pay an arrangement fee to the Arranger for the Arranger's own account, and shall pay an agency fee to the Agent for the Agent's own account, as required by the letter agreement ("Fee Letter") between the Company and the Arranger and Agent dated May 27, 1998.

(b) Commitment Fees. The Company shall pay to the Agent for the account of each Bank a commitment fee on the actual daily unused portion of such Bank's Commitment, computed on a quarterly basis in arrears on the last Business Day of each calendar quarter based upon the daily utilization for that quarter as calculated by the Agent, equal to 1/2 of one percent per annum. Such commitment fee shall accrue from the Closing Date to the Maturity Date and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December commencing on September 30, 1998 through the Maturity Date, with the final payment to be made on the Maturity Date. The commitment fees provided in this subsection shall accrue at all times after the above-mentioned commencement date, including at any time during which one or more conditions in Section 4.2 are not met.

2.11 Computation of Fees and Interest. (a) All computations of interest for Base Rate Loans when the Base Rate is determined by BofA's "reference rate" shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more interest being paid than if computed on the basis of a 365-day year). Interest and fees shall accrue during each period during which interest or such fees are computed from the first day thereof to the last day thereof.

(b) Each determination of an interest rate by the Agent shall be conclusive and binding on the Company and the Banks in the absence of manifest error.

(c) If any Reference Bank's Commitment terminates (other than on termination of all the Commitments), or for any reason whatsoever the Reference Bank ceases to be a Bank hereunder, that Reference Bank shall thereupon cease to be a Reference Bank, and the Offshore Rate shall be determined on the basis of the rates as notified by the Administrative Agent.

2.12 Payments by the Company. (a) All payments to be made by the Company shall be made without set-off, recoupment or counterclaim. Except as otherwise expressly provided herein, all payments by the Company shall be made to the Agent for the account of the Banks at the Agent's Payment Office, and shall be made in dollars and in immediately available funds, no later than 11:00 a.m. (New York City time) on the date specified herein. The Agent will promptly distribute to each Bank its Pro Rata Share (or other applicable share as expressly provided herein) of such payment in like funds as received. Any payment received by the Agent later than 2:00 p.m. (New York City time) shall be deemed to have been received on the following Business Day and any applicable interest or fee shall continue to accrue.

(b) Subject to the provisions set forth in the definition of "Interest Period" herein, whenever any payment is due on a day other than a Business Day, such payment shall be made on the following Business Day, and such extension of time shall in such case be included in the computation of interest or fees, as the case may be.

(c) Unless the Agent receives notice from the Company prior to the date on which any payment is due to the Banks that the Company will not make such payment in full as and when required, the Agent may assume that the Company has made such payment in full to the Agent on such date in immediately available funds and the Agent may (but shall not be so required), in reliance upon such

assumption, distribute to each Bank on such due date an amount equal to the amount then due such Bank. If and to the extent the Company has not made such payment in full to the Agent, each Bank shall repay to the Agent on demand such amount distributed to such Bank, together with interest thereon at the Federal Funds Rate for each day from the date such amount is distributed to such Bank until the date repaid.

2.13 Payments by the Banks to the Agent. (a) Unless the Agent receives notice from a Bank on or prior to the Closing Date or, with respect to any Borrowing after the Closing Date, at least one Business Day prior to the date of such Borrowing, that such Bank will not make available as and when required hereunder to the Agent for the account of the Company the amount of that Bank's Pro Rata Share of the Borrowing, the Agent may assume that each Bank has made such amount available to the Agent in immediately available funds on the Borrowing Date and the Agent may (but shall not be so required), in reliance upon such assumption, make available to the Company on such date a corresponding amount. If and to the extent any Bank shall not have made its full amount available to the Agent in immediately available funds and the Agent in such circumstances has made available to the Company such amount, that Bank shall on the Business Day following such Borrowing Date

make such amount available to the Agent, together with interest at the Federal Funds Rate for each day during such period. A notice of the Agent submitted to any Bank with respect to amounts owing under this subsection (a) shall be conclusive, absent manifest error. If such amount is so made available, such payment to the Agent shall constitute such Bank's Loan on the Borrowing Date for all purposes of this Agreement. If such amount is not made available to the Agent on the Business Day following the Borrowing Date, the Agent will notify the Company of such failure to fund and, upon demand by the Agent, the Company shall pay such amount to the Agent for the Agent's account, together with interest thereon for each day elapsed since the date of such Borrowing, at a rate per annum equal to the interest rate applicable at the time to the Loans comprising such Borrowing.

(b) The failure of any Bank to make any Loan on any Borrowing Date shall not relieve any other Bank of any obligation hereunder to make a Loan on such Borrowing Date, but no Bank shall be responsible for the failure of any other Bank to make the Loan to be made by such other Bank on any Borrowing Date.

2.14 Sharing of Payments, Etc. If, other than as expressly provided elsewhere herein, any Bank shall obtain on account of the Loans made by it any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) in excess of its ratable share (or other share contemplated hereunder), such Bank shall immediately (a) notify the Agent of such fact, and (b) purchase from the other Banks such participations in the Loans made by them as shall be necessary to cause such purchasing Bank to share the excess payment pro rata with each of them; provided, however, that if all or any portion of such excess payment is thereafter recovered from the purchasing Bank, such purchase shall to that extent be rescinded and each other Bank shall repay to the purchasing Bank the purchase price paid therefor, together with an amount equal to such paying Bank's ratable share (according to the proportion of (i) the amount of such paying Bank's required repayment to (ii) the total amount so recovered from the purchasing Bank) of any interest or other amount paid or payable by the purchasing Bank in respect of the total amount so recovered. The Company agrees that any Bank so purchasing a participation from another Bank may, to the fullest extent permitted by law, exercise all its rights of payment (including the right of set-off, but subject to Section 10.11) with respect to such participation as fully as if such Bank were the direct creditor of the Company in the amount of such participation. The Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section and will in each case notify the Banks following any such purchases or repayments.

2.15 Security. All obligations of the Company and the Subsidiaries under this Agreement, the Notes and all other Loan Documents shall be secured in accordance with the Collateral Documents.

ARTICLE III

TAXES, YIELD PROTECTION AND ILLEGALITY

3.1 Taxes. (a) Any and all payments by the Company to each Bank or the Agent under this Agreement and any other Loan Document shall be made free and clear of, and without deduction or withholding for, any Taxes. In addition, the Company shall pay all Other Taxes.

(b) If the Company shall be required by law to deduct or withhold any Taxes from or in respect of any sum payable hereunder to any Bank or the Agent, then:

(i) the sum payable shall be increased as necessary so that, after making all required deductions and withholdings for Taxes (including deductions and withholdings applicable to additional sums payable under this Section 3.1), such Bank or the Agent, as the case may be, receives an amount equal to the sum it would have received had no such deductions or withholdings been made;

(ii) the Company shall make such deductions and withholdings; and

(iii) the Company shall pay the full amount deducted or withheld to the relevant taxing authority or other authority in accordance with applicable law.

(c) The Company agrees to indemnify and hold harmless each Bank and the Agent for the full amount of any Taxes or Other Taxes (including without limitation any Taxes or Other Taxes imposed on amounts payable under this Section 3.1) paid by such Bank or the Agent (as the case may be) and any liability (including penalties, interest, additions to tax and expenses) arising therefrom or with respect thereto, whether or not such Taxes or Other Taxes were correctly or legally asserted. Payment under this indemnification shall be made within 30 days after the date the Bank or the Agent makes written demand therefor.

(d) Within 30 days after the date of any payment by the Company of Taxes or Other Taxes, the Company shall furnish to each Bank or the Agent the original or a certified copy of a receipt evidencing payment thereof, or other evidence of payment satisfactory to such Bank or the Agent.

(e) Any Bank shall use reasonable efforts (consistent with legal and regulatory restrictions) to change the jurisdiction of its Lending Office if such change would avoid the need for, or reduce the amount of, any payment required to be made pursuant to Section 3.1(b) or Section 3.1(c), and, if such change in the sole judgment of such Bank is not otherwise disadvantageous to such Bank.

(f) If a Bank receives a refund in respect of any Taxes to which it has been indemnified by the Company or with respect to which the Company has paid additional amounts pursuant to this Section 3.1, it shall within 30 days from the date of such receipt pay over such refund to the Company (but only to the extent of indemnity payments made, or

additional amounts paid, by the Company under this Section 3.1 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses of such Bank and without interest (other than interest paid by the relevant Governmental Authority with respect to such refund); provided, however, that the Company, upon the request of such Bank, agrees to repay the amount paid over to the Company (plus penalties, interest or other charges) to such Bank in the event such Bank is required to repay such refund to such Governmental Authority.

3.2 Illegality. (a) If any Bank determines that the introduction of any Requirement of Law, or any change in any Requirement of Law, or in the interpretation or administration of any Requirement of Law, has made it unlawful, or that any central bank or other Governmental Authority has asserted that it is unlawful, for any Bank or its applicable Lending Office to make Offshore Rate Loans, then, on notice thereof by the Bank to the Company through the Agent, any obligation of that Bank to make Offshore Rate Loans shall be suspended until the Bank notifies the Agent and the Company that the circumstances giving rise to such determination no longer exist.

(b) If a Bank determines that it is unlawful to maintain any Offshore Rate Loan, the Company shall, upon its receipt of notice of such fact and demand from such Bank (with a copy to the Agent), prepay in full such Offshore Rate Loans of that Bank then outstanding, together with interest accrued thereon and amounts required under Section 3.4, either on the last day of the Interest Period thereof, if the Bank may lawfully continue to maintain such Offshore Rate Loans to such day, or immediately, if the Bank may not lawfully continue to maintain such Offshore Rate Loan. If the Company is required to so prepay any Offshore Rate Loan, then concurrently with such prepayment, the Company shall borrow from the affected Bank, in the amount of such repayment, a Base Rate Loan.

(c) If the obligation of any Bank to make or maintain Offshore Rate Loans has been so terminated or suspended, the Company may elect, by giving notice to the Bank through the Agent that all Loans which would otherwise be made by the Bank as Offshore Rate Loans shall be instead Base Rate Loans.

3.3 Increased Costs and Reduction of Return. (a) Except as to taxes, levies, assessments, imposts, duties, deductions, fees, withholdings or similar charges, and all liabilities with respect thereto (it being understood that the Company shall not have any liability for any taxes, levies, assessments, imposts, duties, deductions, fees, withholdings or similar charges, and all liabilities with respect thereto, except as provided in Section 3.1), if any

Bank determines that, due to either (i) the introduction of or any change (other than any change by way of imposition of or increase in reserve requirements included in the calculation of the Offshore Rate or in respect of the assessment rate payable by any Bank to the FDIC for insuring U.S. deposits) in or in the interpretation of any law or regulation or (ii) the compliance by that Bank with any guideline or request from any central bank or other Governmental Authority (whether or not having the force of law), there shall be any increase in the cost to such Bank of agreeing to make or making, funding or maintaining any Offshore Rate Loans, then the Company shall be liable for, and shall from time to time, upon demand (with a copy of such demand to be sent to the Agent), pay to the Agent for the account of

such Bank, additional amounts as are sufficient to compensate such Bank for such increased costs.

(b) If any Bank shall have determined that (i) the introduction of any Capital Adequacy Regulation, (ii) any change in any Capital Adequacy Regulation, (iii) any change in the interpretation or administration of any Capital Adequacy Regulation by any central bank or other Governmental Authority charged with the interpretation or administration thereof, or (iv) compliance by the Bank (or its Lending Office) or any corporation controlling the Bank with any Capital Adequacy Regulation, affects or would affect the amount of capital required or expected to be maintained by the Bank or any corporation controlling the Bank and (taking into consideration such Bank's or such corporation's policies with respect to capital adequacy and such Bank's desired return on capital) determines that the amount of such capital is increased as a consequence of its Commitment, loans, credits or obligations under this Agreement, then, upon demand of such Bank to the Company through the Agent, the Company shall pay to the Bank, from time to time as specified by the Bank, additional amounts sufficient to compensate the Bank for such increase.

3.4 Funding Losses. The Company shall reimburse each Bank and hold each Bank harmless from any loss or expense which the Bank may sustain or incur as a consequence of:

(a) the failure of the Company to make on a timely basis any payment of principal of any Offshore Rate Loan;

(b) the failure of the Company to borrow, continue or convert a Loan after the Company has given (or is deemed to have given) a Notice of Borrowing or a Notice of Conversion/ Continuation;

(c) the failure of the Company to make any prepayment in accordance with any notice delivered under Section 2.6;

(d) the prepayment (including pursuant to Section 2.7) or other payment (including after acceleration thereof) of an Offshore Rate Loan on a day that is not the last day of the relevant Interest Period; or

(e) the automatic conversion under Section 2.4 of any Offshore Rate Loan to a Base Rate Loan on a day that is not the last day of the relevant Interest Period;

including any such loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain its Offshore Rate Loans or from fees payable to terminate the deposits from which such funds were obtained. For purposes of calculating amounts payable by the Company to the Banks under this Section and under subsection 3.3(a), each Offshore Rate Loan made by a Bank (and each related reserve, special deposit or similar requirement) shall be conclusively deemed to have been funded at the LIBOR used in determining the Offshore Rate for such Offshore Rate Loan by a matching deposit or other borrowing in the interbank eurodollar market for a comparable amount and for a comparable period, whether or not such Offshore Rate Loan is in fact so funded.

3.5 Inability to Determine Rates. If the Agent determines that for any reason adequate and reasonable means do not exist for determining the Offshore Rate for any requested Interest Period with respect to a proposed Offshore Rate Loan, or that the Offshore Rate applicable pursuant to subsection 2.9(a) for any requested Interest Period with respect to a proposed Offshore Rate Loan does not adequately and fairly reflect the cost to the Banks of funding such Loan, the Agent will promptly so notify the Company and each Bank. Thereafter, the obligation of the Banks to make or maintain Offshore Rate Loans, as the case may be, hereunder shall be suspended until the Agent revokes such notice in writing. Upon receipt of such notice, the Company may revoke any Notice of Borrowing or Notice of Conversion/Continuation then submitted by it. If the Company does not revoke such Notice, the Banks shall make, convert or continue the Loans, as proposed by the Company, in the amount specified in the applicable notice submitted by the Company, but such Loans shall be made, converted or continued as Base Rate Loans instead of Offshore Rate Loans, as the case may be.

3.6 Reserves on Offshore Rate Loans. The Company shall pay to each

Bank, as long as such Bank shall be required under regulations of the FRB to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional costs on the unpaid principal amount of each Offshore Rate Loan equal to the actual costs of such reserves allocated to such Loan by the Bank (as determined by the Bank in good faith, which determination shall be conclusive), payable on each date on which interest is payable on such Loan, provided the Company shall have received at least 15 days' prior written notice (with a copy to the Agent) of such additional interest from the Bank. If a Bank fails to give notice 15 days prior to the relevant Interest Payment Date, such additional interest shall be payable 15 days from receipt of such notice.

3.7 Certificates of Banks. Any Bank claiming reimbursement or compensation under this Article III shall deliver to the Company (with a copy to the Agent) a certificate setting forth in reasonable detail the amount payable to the Bank hereunder and such certificate shall be conclusive and binding on the Company in the absence of manifest error.

3.8 Substitution of Banks. Upon the receipt by the Company from any Bank (an "Affected Bank") of a claim for compensation under Section 3.3 or 3.6, the Company may: (i) request the Affected Bank to use its best efforts to obtain a replacement bank or financial institution satisfactory to the Company and to the Agent (a "Replacement Bank") to acquire and assume all or a ratable part of all of such Affected Bank's Loans and Commitment; (ii) request one more of the other Banks to acquire and assume all or part of such Affected Bank's Loans and Commitment; or (iii) designate a Replacement Bank. Any such designation of a Replacement Bank under clause (i) or (iii) shall be subject to the prior written consent of the Agent (which consent shall not be unreasonably withheld).

3.9 Survival. The agreements and obligations of the Company in this Article III shall survive the payment of all other Obligations.

ARTICLE IV

CONDITIONS PRECEDENT

4.1 Conditions of Initial Loans. The obligation of each Bank to make its initial Loan hereunder is subject to the following conditions:

(a) Credit Agreement; Pledge Agreement and Support Agreement. The Agent shall have received (i) this Agreement, executed and delivered by the Agent, the Company and each Bank listed on Schedule 2.1, (ii) the Pledge Agreement, executed and delivered by the Company and (iii) the Support Agreement, executed and delivered by the Company, the Agent and the Remarketing Agent.

(b) Overall Contract. The Agent shall have received the Overall Contract, executed and delivered by the parties thereto, in form and substance satisfactory to the Agent.

(c) Resolutions; Incumbency. The Agent shall have received:

(i) copies of the resolutions of the board of directors of the Company authorizing the transactions contemplated hereby, certified as of the Closing Date by the Secretary of the Company; and

(ii) a certificate of the Secretary of the Company certifying the names and true signatures of the officers of the Company authorized to execute, deliver and perform, as applicable, this Agreement, and all other Loan Documents to be delivered by it hereunder.

(d) Organization Documents; Good Standing. The Agent shall have received each of the following documents:

(i) the articles or certificate of incorporation and the bylaws of the Company as in effect on the Closing Date, certified by the Secretary of the Company as of the Closing Date; and

(ii) a good standing certificate for the Company from the Secretary of State (or similar, applicable Governmental Authority) of its state of incorporation and each state where the Company is qualified to do business as a foreign corporation as of a date not more than seven days prior to the Closing Date;

(e) Interest Rate Protection. The Company shall have entered into and implemented interest rate cap or collar derivative contracts with respect to the full principal amount of the Term Loans for the purpose of protecting against fluctuations in interest rates or the exchange of notional interest obligations, either generally or under specific contingencies, with terms and conditions satisfactory to the Agent.

(f) No Disruption of Financial and Capital Markets. There shall not have been any disruption or adverse change in the financial or capital markets generally or in the bank syndication market in particular which the Arranger, in its judgment, deems material.

(g) Support Agreement. All conditions to the effectiveness of the Support Agreement shall have been fulfilled.

(h) Legal Opinions. The Agent shall have received the following executed legal opinions:

(i) the legal opinion of Paul, Weiss, Rifkind, Wharton & Garrison, counsel to the Company, substantially in the form of Exhibit F-1;

(ii) the legal opinion of Willkie Farr & Gallagher, counsel of the Remarketing Agent, substantially in the form of Exhibit F-2; and

(iii) any other legal opinions reasonably requested by the Agent.

Each such legal opinion shall cover such matters incident to the transactions contemplated by this Agreement as the Agent may reasonably require.

(i) Payment of Fees. The Agent shall have received evidence of payment by the Company of all accrued and unpaid fees, costs and expenses to the extent then due and payable on the Closing Date, together with Attorney Costs of BofA to the extent invoiced prior to or on the Closing Date, plus such additional amounts of Attorney Costs as shall constitute BofA's reasonable estimate of Attorney Costs incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude final settling of accounts between the Company and BofA); including any such costs, fees and expenses arising under or referenced in Sections 2.10 and 10.4.

(j) Collateral Documents. The Agent shall have received the Collateral Documents, executed by the Company, in appropriate form for recording, where necessary, together with:

(i) acknowledgment copies of all UCC-l financing statements filed, registered or recorded to perfect the security interests of the Agent for the benefit of the Banks, or other evidence satisfactory to the Agent that there has been filed, registered or recorded all financing statements and other filings, registrations and recordings necessary and advisable to perfect the Liens of the Agent for the benefit of the Banks in accordance with applicable law;

(ii) written advice relating to such Lien and judgment searches as the Agent shall have requested, and such termination statements or other documents as may be necessary to confirm that the Collateral is subject to no other Liens in favor of any Persons (other than Permitted Liens);

(iii) all certificates and instruments representing the Collateral;

(iv) evidence that all other actions necessary or, in the opinion of the Agent, desirable to perfect and protect the first priority security interest created by the Collateral Documents have been taken;

(v) funds sufficient to pay any filing tax or fee in connection with any and all UCC-1 financing statements; and

(vi) evidence that all other actions necessary or, in the opinion of the Agent or the Banks, desirable to perfect and protect the first priority Lien created by the Collateral Documents, and to enhance the Agent's ability to preserve and protect its interests in and access to the Collateral, have been taken.

(k) Solvency Opinion. The Agent shall have received a solvency opinion from the Chief Financial Officer of the Company, in form and substance satisfactory to the Agent.

(l) Reserved.

(m) Satisfaction of Remarketing Agent. The Remarketing Agent shall have certified in writing to the Agent that it is satisfied that all of the conditions in this Section 4.1 have been met or, in the alternative, that it consents to any waivers of such conditions and confirms its obligations under the Support Agreement notwithstanding such waivers, substantially in the form of Exhibit I.

(n) Insurance. The Agent shall have received insurance

certificates (i) satisfying the requirements of Section 6.7 and (ii) confirming insurance in effect in sufficient amount, in the Agent's sole judgment, to cover the construction of the Launch Vehicles to the satisfaction of the Remarketing Agent.

(o) Certificate. A certificate signed by a Responsible Officer, dated as of the Closing Date, stating that:

(i) the representations and warranties contained in Article V are true and correct on and as of such date, as though made on and as of such date;

(ii) no Default or Event of Default exists or would result from the initial Borrowing; and

(iii) since March 31, 1998, there has occurred no event or circumstance that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(p) No Default. The Agent shall have received a certificate of a Responsible Officer of the Company certifying that no default has occurred under the Launch Vehicle Sale Contract.

(q) Other Documents. The Agent shall have received such other approvals, opinions, documents or materials as the Agent may request.

4.2 Conditions to All Borrowings. The obligation of each Bank to make any Loan to be made by it (including its initial Loan) is subject to the satisfaction of the following conditions precedent on the relevant Borrowing Date:

(a) Notice of Borrowing. The Agent shall have received (with, in the case of the initial Loan only, a copy for each Bank) a Notice of Borrowing.

(b) Continuation of Representations and Warranties. The representations and warranties in Article V shall be true and correct on and as of such Borrowing Date with the same effect as if made on and as of such Borrowing Date (except to the extent such representations and warranties expressly refer to an earlier date, in which case they shall be true and correct as of such earlier date).

(c) No Existing Default. No Default or Event of Default shall exist or shall result from such Borrowing.

(d) No Future Advance Notice. Neither the Agent nor any Bank shall have received from the Company any notice that any Collateral Document will no longer secure on a first priority basis future advances or future Loans to be made or extended under this Agreement.

(e) Progress Payments. The Agent and the Banks shall be satisfied that the Company shall have sufficient liquidity to pay the component of progression payments due to SS/L under the Launch Vehicle Sale Contract or scheduled to come due prior to the next advance of the Term Loans and which are not to be paid out of the proceeds of the Term Loans.

(f) Satisfaction of Remarketing Agent. The Remarketing Agent shall have certified in writing to the Agent that it is satisfied that all of the conditions in this Section 4.2 have been met or, in the alternative, that it consents to any waivers of such conditions and confirms its obligations under the Support Agreement notwithstanding such waivers, substantially in the form of Exhibit I.

Each Notice of Borrowing submitted by the Company hereunder shall constitute a representation and warranty by the Company hereunder, as of the date of each such notice and as of each Borrowing Date, that the conditions in this Section 4.2 are satisfied.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

The Company represents and warrants to the Agent and each Bank that:

5.1 Corporate Existence and Power; Compliance with Laws. The Company:

(a) is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware;

(b) has the power and authority and all governmental licenses, authorizations, consents and approvals to own its assets, carry on its business and to execute, deliver, and perform its obligations under the Loan Documents;

(c) is duly qualified as a foreign corporation and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and

(d) is in compliance with all Requirements of Law.

5.2 Corporate Authorization; No Contravention. The execution, delivery and performance by the Company of this Agreement and each other Loan Document to which the Company is party, have been duly authorized by all necessary corporate action, and do not and will not:

(a) contravene the terms of any of the Company's Organization Documents;

(b) conflict with or result in any breach or contravention of, or the creation of any Lien under, any document evidencing any Contractual Obligation to which the Company is a party or any order, injunction, writ or decree of any Governmental Authority to which the Company or its property is subject; or

(c) violate any Requirement of Law.

5.3 Governmental Authorization. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority (except for filings in connection with the Liens granted to the Agent under the Collateral Documents) is necessary or required in connection with the execution, delivery or performance by, or enforcement against, the Company or any of its Subsidiaries of this Agreement or any other Loan Document.

5.4 Binding Effect. This Agreement and each other Loan Document to which the Company is a party constitute the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

5.5 Litigation. Except as specifically disclosed in Schedule 5.5, there are no actions, suits, proceedings, claims or disputes pending, or to the best knowledge of the Company, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, against the Company or its Subsidiaries or any of their respective properties which:

(a) purport to affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby or thereby; or

(b) if determined adversely to the Company or its Subsidiaries, would reasonably be expected to have a Material Adverse Effect. No injunction, writ, temporary restraining order or any order of any nature has been issued by any court or other Governmental Authority purporting to enjoin or restrain the execution, delivery or performance of this Agreement or any other Loan Document, or directing that the transactions provided for herein or therein not be consummated as herein or therein provided.

5.6 No Default. No Default or Event of Default exists or would result from the incurring of any Obligations by the Company or from the grant or perfection of the Liens of the Agent and the Banks on the Collateral. As of the Closing Date, neither the Company nor any Subsidiary is in default under or with respect to any Contractual Obligation in any respect which, individually or together with all such defaults, could reasonably be expected to have a Material Adverse Effect, or that would, if such default had occurred after the Closing Date, create an Event of Default under subsection 8.1(e).

5.7 ERISA Compliance.

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other federal or state law. Each Plan which is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the IRS and to the best knowledge of the Company, nothing has occurred which would cause the loss of such qualification. The Company and each ERISA Affiliate has made all required contributions to any Plan subject to Section 412 of the Code, and no application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Code has been made with respect to any Plan.

(b) There are no pending or, to the best knowledge of Company,

threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan which has resulted or could reasonably be expected to result in a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan which has resulted or could reasonably be expected to result in a Material Adverse Effect.

(c) (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) no Pension Plan has any Unfunded Pension Liability; (iii) neither the Company nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability

under Title IV of ERISA with respect to any Pension Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iv) neither the Company nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Section 4201 or 4243 of ERISA with respect to a Multiemployer Plan; and (v) neither the Company nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA.

5.8 Certain Documents. The Company has delivered to the Agent a complete and correct copy of the Overall Contract, including any amendments, supplements or modifications thereto.

5.9 Taxes. The Company and its Subsidiaries have filed all Federal and other material tax returns and reports required to be filed, and have paid all Federal and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings and for which adequate reserves have been provided in accordance with GAAP. There is no proposed tax assessment against the Company or any Subsidiary that would, if made, have a Material Adverse Effect.

5.10 Margin Regulations. Neither the Company nor any Subsidiary is generally engaged in the business of purchasing or selling Margin Stock or extending credit for the purpose of purchasing or carrying Margin Stock.

5.11 Labor Matters. Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes against the Company or any of its Subsidiaries pending or, to the knowledge of the Company, threatened; (b) hours worked by and payment made to employees of the Company and its Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable Requirement of Law dealing with such matters; and (c) all payments due from the Company or any of its Subsidiaries on account of employee health and welfare insurance have been paid or accrued as a liability on the books of the Company or the relevant Subsidiary.

5.12 Year 2000 Matters. On the basis of a comprehensive review and assessment of the Company's systems and equipment and inquiry made of the Company's material suppliers, vendors and customers, the Company reasonably believes that the "Year 2000 problem" (that is, the inability of computers, as well as embedded microchips in non- computing devices, to perform properly, including performance of date-sensitive functions with respect to certain dates prior to and after December 31, 1999), including costs of remediation, could not reasonably be expected to result in a Default or Event of Default or to have a Material Adverse Effect. The Company has developed feasible contingency plans adequately to ensure uninterrupted and unimpaired business operation in the event of failure of its own or a third party's systems or equipment due to the Year 2000 problem, including those of vendors, customers and suppliers, as well as a general failure of or interruption in its communications and delivery infrastructure. Except for any reprogramming referred to above, the computer systems of the Company and its Subsidiaries are and, with ordinary

course upgrading and maintenance, will continue for the term of this Agreement to be, sufficient for the conduct of their business as currently conducted.

5.13 Title to Properties. The Company and each Subsidiary have good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of their respective businesses, except for such defects in title as could not, individually or in the aggregate, have a Material Adverse Effect. As of the Closing Date, the property of the Company and its Subsidiaries is subject to no Liens, other than Permitted Liens.

5.14 Financial Condition. The unaudited consolidated financial statements of the Company and its Subsidiaries dated March 31, 1998, and the related consolidated statements of income or operations, shareholders' equity and cash flows for the fiscal quarter ended on that date:

(i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, subject to ordinary, good faith year end audit adjustments;

(ii) fairly present the financial condition of the Company and its Subsidiaries as of the date thereof and results of operations for the period covered thereby; and

(iii) show all material indebtedness and other liabilities, direct or contingent, of the Company and its consolidated Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and Contingent Obligations.

5.15 Material Adverse Effects. Since March 31, 1998, there has been no Material Adverse Effect.

5.16 Environmental Matters. (a) The on-going operations of the Company and each of its Subsidiaries comply in all respects with all Environmental Laws, except such non-compliance which would not (if enforced in accordance with applicable law) result in a Material Adverse Effect.

(b) The Company and each of its Subsidiaries have obtained all licenses, permits, authorizations and registrations required under any Environmental Law ("Environmental Permits") and necessary for their respective ordinary course operations, all such Environmental Permits are in good standing, and the Company and each of its Subsidiaries are in compliance with all material terms and conditions of such Environmental Permits.

(c) None of the Company, any of its Subsidiaries or any of their respective present property or operations, is subject to any outstanding written order from or agreement with any Governmental Authority, nor subject to any judicial or docketed administrative proceeding, respecting any Environmental Law, Environmental Claim or Hazardous Material.

(d) There are no Hazardous Materials or other conditions or circumstances existing with respect to any property of the Company or any Subsidiary, or arising from operations prior to the Closing Date, of the Company that would reasonably be expected to give rise to any Environmental Claim(s) which could have a Material Adverse Effect. In addition, (i) neither the Company nor any Subsidiary has any underground storage tanks (x) that are not properly registered or permitted under applicable Environmental Laws, or (y) that are leaking or disposing of Hazardous Materials off-site, and (ii) the Company and its Subsidiaries have notified all of their employees of the existence, if any, of any health hazard arising from the conditions of their employment and have met all notification requirements under Title III of CERCLA and all other Environmental Laws.

5.17 Collateral Documents. (a) The provisions of each of the Collateral Documents are effective to create in favor of the Agent for the benefit of the Banks, a legal, valid and enforceable first priority security interest in all right, title and interest of the Company and its Subsidiaries in the collateral described therein; and financing statements have been filed in the offices in all of the jurisdictions listed in the schedule to the Pledge Agreement.

(b) All representations and warranties of the Company contained in the Collateral Documents are true and correct.

5.18 Regulated Entities. None of the Company, any Person controlling the Company, or any Subsidiary, is an "Investment Company" within the meaning of the Investment Company Act of 1940. The Company is not subject to regulation under the Public Utility Holding Company Act of 1935, the Federal Power Act, the Interstate Commerce Act, any state public utilities code, or any other Federal or state statute or regulation limiting its ability to incur Indebtedness.

5.19 No Burdensome Restrictions. Neither the Company nor any Subsidiary is a party to or bound by any Contractual Obligation, or subject to any restriction in any Organization Document, or any Requirement of Law, which could reasonably be expected to have a Material Adverse Effect.

5.20 Copyrights, Patents, Trademarks and Licenses, etc. The Company or its Subsidiaries own or are licensed or otherwise have the right to use all of the patents, trademarks, service marks, trade names, copyrights, contractual franchises, authorizations and other rights that are reasonably necessary for the operation of their respective businesses, without conflict with the rights of any other Person. To the best knowledge of the Company, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by the Company or any Subsidiary infringes upon any rights held by any other Person. No claim or litigation regarding any of the foregoing is pending or threatened, and no patent, invention, device, application, principle or any statute, law, rule, regulation, standard or code is pending or, to the knowledge of the Company, proposed, which, in either case, could reasonably be expected to have a Material

Adverse Effect.

5.21 Subsidiaries. The Company has no Subsidiaries other than Satellite CD Radio Inc. and has no equity investments in any other corporation or entity.

5.22 Insurance. The properties of the Company and its Subsidiaries are insured with financially sound and reputable insurance companies not Affiliates of the Company, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Company or such Subsidiary operates.

5.23 Solvency. The Company is Solvent.

5.24 Full Disclosure. None of the representations or warranties made by the Company or any Subsidiary in the Loan Documents as of the date such representations and warranties are made or deemed made, and none of the statements contained in any exhibit, report, statement or certificate furnished by or on behalf of the Company or any Subsidiary in connection with the Loan Documents (including the offering and disclosure materials delivered by or on behalf of the Company to the Banks prior to the Closing Date), contains any untrue statement of a material fact or omits any material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they are made, not misleading as of the time when made or delivered.

ARTICLE VI

AFFIRMATIVE COVENANTS

So long as any Bank shall have any Commitment hereunder, or any Loan or other Obligation shall remain unpaid or unsatisfied, unless the Required Banks waive compliance in writing:

6.1 Financial Statements. The Company shall deliver to the Agent, in form and detail satisfactory to the Agent and the Required Banks, with sufficient copies for each Bank and the Remarketing Agent:

(a) as soon as available, but not later than 90 days after the end of each fiscal year, a copy of the audited consolidated balance sheet of the Company and its Subsidiaries as at the end of such year and the related consolidated statements of income or operations, shareholders' equity and cash flows for such year, setting forth in each case in comparative form the figures for the previous fiscal year, and accompanied by the opinion of a nationally-recognized independent public accounting firm ("Independent Auditor") which report shall state that such consolidated financial statements present fairly the financial position for the periods indicated in conformity with GAAP applied on a basis consistent with prior years. Such opinion shall not be qualified or limited solely because of a restricted or limited examination by the Independent Auditor of any material portion of the Company's or any Subsidiary's records; and

(b) as soon as available, but not later than 45 days after the end of each of the first three fiscal quarters of each fiscal year (commencing with the fiscal quarter ended June 30, 1998), a copy of the unaudited consolidated balance sheet of the Company and its Subsidiaries as of the end of such quarter and the related consolidated statements of income and cash flows for the period commencing on the first day and ending on the last day of such quarter, and certified by a Responsible Officer as fairly presenting, in accordance with GAAP (subject to ordinary, good faith year-end audit adjustments), the financial position and the results of operations of the Company and the Subsidiaries.

6.2 Certificates; Other Information. The Company shall furnish to the Agent, with sufficient copies for each Bank and the Remarketing Agent:

(a) concurrently with the delivery of the financial statements referred to in subsections 6.1(a) and (b), a Compliance Certificate executed by a Responsible Officer;

(b) promptly, copies of all financial statements and reports that the Company sends to its shareholders, and copies of all financial statements and regular, periodical or special reports (including Forms 10K, 10Q and 8K) that the Company or any Subsidiary may make to, or file with, the SEC;

(c) promptly, but in any event within 45 days, after the last day of each fiscal quarter, written reports as provided by SS/L as to the progress of the construction of the Launch Vehicles and other transactions contemplated under the Overall Contract, including reports as to capital

expenditures of the Company;

(d) promptly, such additional information regarding the business, financial or corporate affairs of the Company or any Subsidiary as the Agent, at the request of any Bank, may from time to time request; and

(e) promptly upon sending or receipt, copies of any and all management letters and correspondence relating to management letters, sent or received by Company to or from the Independent Auditor.

6.3 Notices. The Company shall promptly notify the Agent and each Bank:

(a) of the occurrence of any Default or Event of Default, and of the occurrence or existence of any event or circumstance that foreseeably will become a Default or Event of Default;

(b) of (i) any breach or non-performance of, or any default under, any Contractual Obligation of the Company or any of its Subsidiaries which could result in a Material Adverse Effect; and (ii) any dispute, litigation, investigation, proceeding or suspension which may exist at any time between the Company or any of its Subsidiaries and any Governmental Authority;

(c) of the commencement of, or any material development in, any litigation or proceeding affecting the Company or any Subsidiary (i) in which the amount of damages claimed is $10,000,000 (or its equivalent in another currency or currencies) or more, (ii) in which injunctive or similar relief is sought and which, if adversely determined, would reasonably be expected to have a Material Adverse Effect, or (iii) in which the relief sought is an injunction or other stay of the performance of this Agreement or any Loan Document;

(d) upon, but in no event later than 10 days after, becoming aware of (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against the Company or any Subsidiary or any of their respective properties pursuant to any applicable Environmental Laws, (ii) all other Environmental Claims, and (iii) any environmental or similar condition on any real property adjoining or in the vicinity of the property of the Company or any Subsidiary that could reasonably be anticipated to cause such property or any part thereof to be subject to any restrictions on the ownership, occupancy, transferability or use of such property under any Environmental Laws;

(e) of any other litigation or proceeding affecting the Company or any of its Subsidiaries which the Company would be required to report to the SEC pursuant to the Exchange Act, within four days after reporting the same to the SEC;

(f) of the occurrence of any of the following events affecting the Company or any ERISA Affiliate (but in no event more than 10 days after such event), and deliver to the Agent and each Bank a copy of any notice with respect to such event that is filed with a Governmental Authority and any notice delivered by a Governmental Authority to the Company or any ERISA Affiliate with respect to such event:

(i) an ERISA Event;

(ii) a material increase in the Unfunded Pension Liability of any Pension Plan;

(iii) the adoption of, or the commencement of contributions to, any Plan subject to Section 412 of the Code by the Company or any ERISA Affiliate; or

(iv) the adoption of any amendment to a Plan subject to Section 412 of the Code, if such amendment results in a material increase in contributions or Unfunded Pension Liability.

(g) of any material change in accounting policies or financial reporting practices by the Company or any of its consolidated Subsidiaries;

(h) of any breach or non-performance of, or any default under the Overall Contract; and

(i) of any adverse effect on any broadcasting license, satellite concession or other approval, consent or Requirement of Law which, if adversely determined, could impair the ability of the Company to operate in accordance with its business plan.

Each notice under this Section shall be accompanied by a written statement by a Responsible Officer setting forth details of the occurrence referred to therein, and stating what action the Company or any affected Subsidiary proposes to take with respect thereto and at what time. Each notice

under subsection 6.3(a) shall describe with particularity any and all clauses or provisions of this Agreement or other Loan Document that have been (or foreseeably will be) breached or violated.

6.4 Preservation of Corporate Existence, Etc. The Company shall, and shall cause each Subsidiary to:

(a) preserve and maintain in full force and effect its corporate existence and good standing under the laws of its state or jurisdiction of incorporation;

(b) preserve and maintain in full force and effect all governmental rights, privileges, qualifications, permits, licenses and franchises necessary or desirable in the normal conduct of its business except in connection with transactions permitted by Section 7.4 and sales of assets permitted by Section 7.3;

(c) use reasonable efforts, in the ordinary course of business, to preserve its business organization and goodwill; and

(d) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

6.5 Maintenance of Property. The Company shall maintain, and shall cause each Subsidiary to maintain, and preserve all its property which is used or useful in its business in good working order and condition, ordinary wear and tear excepted and make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not reasonably be expected to have a Material Adverse Effect, except as permitted by Section 7.3. The Company and each Subsidiary shall use the standard of care typical in the industry in the operation and maintenance of its facilities.

6.6 Maintenance of Approvals. The Company shall maintain, and cause each Subsidiary to maintain, all broadcast licenses, satellite concessions and governmental and third-party consents and approvals necessary to conduct its business as contemplated by its business plan.

6.7 Insurance. In addition to insurance requirements set forth in the Collateral Documents, the Company shall maintain, and shall cause each of its Subsidiaries to maintain, with financially sound and reputable independent insurers, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons; including workers' compensation insurance, public liability and property and casualty insurance which amount shall not be reduced by the Company in the absence of 30 days' prior notice to the Agent. Upon request of the Agent or any Bank, the Company shall furnish the Agent, with sufficient copies for each Bank, at reasonable intervals (but not more than once per calendar year) a certificate of a Responsible Officer of the Company (and, if requested by the Agent, any insurance broker of the Company) setting forth the nature and extent of all insurance maintained by the Company and its Subsidiaries in accordance with this Section or any Collateral Documents (and which, in the case of a certificate of a broker, were placed through such broker).

6.8 Payment of Obligations. The Company shall, and shall cause each Subsidiary to, pay and discharge as the same shall become due and payable, all their respective obligations and liabilities, including:

(a) all tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being contested in good faith by appropriate proceedings and adequate reserves in accordance with GAAP are being maintained by the Company or such Subsidiary;

(b) all lawful claims which, if unpaid, would by law become a Lien upon its property; and

(c) all indebtedness, as and when due and payable, but subject to any subordination provisions contained in any instrument or agreement evidencing such Indebtedness.

6.9 Progress Payments. The Company shall pay when due all sums required to be paid under the Overall Contract.

6.10 Compliance with Laws. The Company shall comply, and shall cause each Subsidiary to comply, in all material respects with all Requirements of Law of any Governmental Authority having jurisdiction over it or its business (including the Federal Fair Labor Standards Act), except such as may be contested in good faith or as to which a bona fide dispute may exist.

6.11 Compliance with ERISA. The Company shall, and shall cause each of its ERISA Affiliates to: (a) maintain each Plan in compliance in all material

respects with the applicable provisions of ERISA, the Code and other federal or state law; (b) cause each Plan which is qualified under Section 401(a) of the Code to maintain such qualification; and (c) make all required contributions to any Plan subject to Section 412 of the Code.

6.12 Inspection of Property and Books and Records. The Company shall maintain and shall cause each Subsidiary to maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of the Company and such Subsidiary. The Company shall permit, and shall cause each Subsidiary to permit, representatives and independent contractors of the Agent or any Bank to visit and inspect any of their respective properties, to examine their respective corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss their respective affairs, finances and accounts with their respective directors, officers, and independent public accountants, all at the expense of the Company and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Company; provided, however, when an Event of Default exists the Agent or any Bank may do any of the foregoing at the expense of the Company at any time during normal business hours and without advance notice.

6.13 Environmental Laws. (a) The Company shall, and shall cause each Subsidiary to, conduct its operations and keep and maintain its property in compliance with all Environmental Laws.

(b) Upon the written request of the Agent or any Bank, the Company shall submit and cause each of its Subsidiaries to submit, to the Agent with sufficient copies for each Bank, at the Company's sole cost and expense, at reasonable intervals, a report providing an update of the status of any environmental, health or safety compliance, hazard or liability issue identified in any notice or report required pursuant to subsection 6.3(d), that could, individually or in the aggregate, result in liability in excess of $10,000,000.

6.14 Use of Proceeds. The proceeds of the Loans shall be used to: (i) fund progression payments under the Launch Vehicle Sale Contract and (ii) to pay, or reimburse the Company for, related interest, expenses and fees, including the costs of derivative cap or collar transactions, incurred relative to the financing detailed herein.

6.15 Further Assurances. (a) The Company shall ensure that all written information, exhibits and reports furnished to the Agent or the Banks do not and will not contain any untrue statement of a material fact and do not and will not omit to state any material fact or any fact necessary to make the statements contained therein not misleading in light of the circumstances in which made, and will promptly disclose to the Agent and the Banks and correct any defect or error that may be discovered therein or in any Loan Document or in the execution, acknowledgement or recordation thereof.

(b) Promptly upon request by the Agent or the Required Banks, the Company shall (and shall cause any of its Subsidiaries to) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register, any and all such further acts, deeds, conveyances, security agreements, mortgages, assignments, estoppel certificates, financing statements and continuations thereof, termination statements, notices of assignment, transfers, certificates, assurances and other instruments the Agent or such Banks, as the case may be, may reasonably require from time to time in order (i) to carry out more effectively the purposes of this Agreement or any other Loan Document, (ii) to subject to the Liens created

by any of the Collateral Documents any of the properties, rights or interests covered by any of the Collateral Documents, (iii) to perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and the Liens intended to be created thereby, and (iv) to better assure, convey, grant, assign, transfer, preserve, protect and confirm to the Agent and Banks the rights granted or now or hereafter intended to be granted to the Banks under any Loan Document or under any other document executed in connection therewith.

ARTICLE VII

NEGATIVE COVENANTS

So long as any Bank shall have any Commitment hereunder, or any Loan or other Obligation shall remain unpaid or unsatisfied, unless the Required Banks waive compliance in writing:

7.1 Consolidated Net Worth. The Company shall not permit Consolidated Net Worth at any time to be less than the sum of (i) (A) up to and including December 31, 1998, $100,000,000, and (B) thereafter, $50,000,000, (ii) 50% of

cumulative Consolidated Net Income for each fiscal quarter of the Company (beginning with the fiscal quarter ending June 30, 1998) for which Consolidated Net Income is positive, (iii) 100% of the Net Cash Proceeds of any offering by the Company of common equity consummated after the Closing Date and (iv) 100% of any capital contribution made to the Company or any of its Subsidiaries after the Closing Date by any holder of the Company's Capital Stock.

7.2 Limitation on Liens. The Company shall not, and shall not suffer or permit any Subsidiary to, directly or indirectly, make, create, incur, assume or suffer to exist any Lien upon the Collateral, except those created by or in accordance with the Loan Documents. In addition, the Company shall not, and shall not suffer or permit any Subsidiary to, directly or indirectly, make, create, incur, assume or suffer to exist any Lien upon or with respect to any part of its property, whether now owned or hereafter acquired, other than the following ("Permitted Liens"):

(a) (i) any Lien on property of the Company or any Subsidiary on the Closing Date and set forth in Schedule 7.2 securing Indebtedness outstanding on such date and (ii) any Lien securing Indebtedness incurred after the Closing Date;

(b) any Lien created under any Loan Document or pursuant to Section 5.5 of the Overall Contract;

(c) Liens for taxes, fees, assessments or other governmental charges which are not delinquent or remain payable without penalty, or to the extent that non-payment thereof is permitted by Section 6.8, provided that no notice of lien has been filed or recorded under the Code;

(d) carriers', warehousemen's, mechanics', landlords', materialmen's, repairmen's or other similar Liens arising in the ordinary course of business which are not delinquent or remain payable without penalty or which are being contested in good faith and by appropriate proceedings, which proceedings have the effect of preventing the forfeiture or sale of the property subject thereto;

(e) Liens (other than any Lien imposed by ERISA) consisting of pledges or deposits required in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation;

(f) Liens consisting of judgment or judicial attachment liens, provided that the enforcement of such Liens is effectively stayed and all such liens in the aggregate at any time outstanding for the Company and its Subsidiaries do not exceed $100,000;

(g) easements, rights-of-way, restrictions and other similar encumbrances incurred in the ordinary course of business which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the businesses of the Company and its Subsidiaries;

(h) Liens on assets of corporations which become Subsidiaries after the date of this Agreement, provided, however, that such Liens existed at the time the respective corporations became Subsidiaries and were not created in anticipation thereof;

(i) purchase money security interests on any property acquired or held by the Company or its Subsidiaries in the ordinary course of business, securing Indebtedness incurred or assumed for the purpose of financing all or any part of the cost of acquiring such property; provided that (i) any such Lien attaches to such property concurrently with or within 20 days after the acquisition thereof, (ii) such Lien attaches solely to the property so acquired in such transaction, and (iii) the principal amount of the debt secured thereby does not exceed 100% of the cost of such property;

(j) Liens securing obligations in respect of capital leases on assets subject to such leases, provided that such capital leases are otherwise permitted hereunder; and

(k) Liens arising solely by virtue of any statutory or common law provision relating to banker's liens, rights of set-off or similar rights and remedies as to deposit accounts or other funds maintained with a creditor depository institution; provided that (i) such deposit account is not a dedicated cash collateral account and is not subject to restrictions against access by the Company in excess of those set forth by regulations promulgated by the FRB, and (ii) such deposit account is not intended by the Company or any Subsidiary to provide collateral to the depository institution.

7.3 Disposition of Assets. The Company shall not, and shall not suffer or permit any Subsidiary to, directly or indirectly, sell, assign, lease, convey, transfer or

otherwise dispose of (whether in one or a series of transactions) any property (including accounts and notes receivable, with or without recourse) or enter into any agreement to do any of the foregoing, except:

(a) dispositions of inventory, or used, worn-out or surplus equipment, all in the ordinary course of business;

(b) the sale of equipment to the extent that such equipment is exchanged for credit against the purchase price of similar replacement equipment, or the proceeds of such sale are reasonably promptly applied to the purchase price of such replacement equipment;

(c) dispositions of equipment by the Company or any Subsidiary to the Company or any Subsidiary pursuant to reasonable business requirements; and

(d) dispositions not otherwise permitted hereunder which are made for fair market value; provided, that (i) at the time of any disposition, no Event of Default shall exist or shall result from such disposition, (ii) the aggregate sales price from such disposition shall be paid in cash, and (iii) the aggregate value of all assets so sold by the Company and its Subsidiaries, together, shall not exceed in any fiscal year $10,000,000.

7.4 Consolidations and Mergers. The Company shall not, and shall not suffer or permit any Subsidiary to, merge, consolidate with or into, or convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except:

(a) any Subsidiary may merge with the Company, provided that the Company shall be the continuing or surviving corporation, or with any one or more Subsidiaries, provided that if any transaction shall be between a Subsidiary and a Wholly-Owned Subsidiary, the Wholly-Owned Subsidiary shall be the continuing or surviving corporation; and

(b) any Subsidiary may sell all or substantially all of its assets (upon voluntary liquidation or otherwise), to the Company or another Wholly-Owned Subsidiary.

7.5 Loans and Investments. The Company shall not purchase or acquire, or suffer or permit any Subsidiary to purchase or acquire, or make any commitment therefor, any capital stock, equity interest, or any obligations or other securities of, or any interest in, any Person, or make or commit to make any Acquisitions, or make or commit to make any advance, loan, extension of credit or capital contribution to or any other investment in, any Person including any Affiliate of the Company (together, "Investments"), except for:

(a) Investments held by the Company or Subsidiary in the form of cash equivalents, short term marketable securities, U.S. government securities, municipal

securities rated in the four highest ratings categories by Standard & Poor's Ratings Services or Moody's Investors Service, Inc., commercial paper having a maturity of up to one year and rated at least A-1 by Standard & Poor's Ratings Service or P-1 by Moody's Investors Service, Inc., money market funds investing solely in the foregoing or up to $35 million of preferred stock, notes or bonds of corporations rated in the four highest ratings categories by Standard & Poor's Ratings Services or Moody's Investors Service, Inc.;

(b) extensions of credit in the nature of accounts receivable or notes receivable arising from the sale or lease of goods or services in the ordinary course of business; and

(c) extensions of credit by the Company to any of its Wholly-Owned Subsidiaries or by any of its Wholly-Owned Subsidiaries to another of its Wholly- Owned Subsidiaries.

7.6 Assignment of Launch Vehicle Sale Contract. The Company shall not sell, assign or transfer its rights or obligations under the Launch Vehicle Sale Contract.

7.7 Transactions with Affiliates. The Company shall not, and shall not suffer or permit any Subsidiary to, enter into any transaction with any Affiliate of the Company, except upon fair and reasonable terms no less favorable to the Company or such Subsidiary than would obtain in a comparable arm's-length transaction with a Person not an Affiliate of the Company or such Subsidiary.

7.8 Use of Proceeds. (a) The Company shall not, and shall not suffer or permit any Subsidiary to, use any portion of the Loan proceeds, directly or indirectly, (i) to purchase or carry Margin Stock, (ii) to repay or otherwise

refinance indebtedness of the Company or others incurred to purchase or carry Margin Stock, (iii) to extend credit for the purpose of purchasing or carrying any Margin Stock, or (iv) to acquire any security in any transaction that is subject to Section 13 or 14 of the Exchange Act.

(b) The Company shall not, directly or indirectly, use any portion of the Loan proceeds (i) knowingly to purchase Ineligible Securities from the Arranger during any period in which the Arranger makes a market in such Ineligible Securities, (ii) knowingly to purchase during the underwriting or placement period Ineligible Securities being underwritten or privately placed by the Arranger, or (iii) to make payments of principal or interest on Ineligible Securities underwritten or privately placed by the Arranger and issued by or for the benefit of the Company or any Affiliate of the Company. The Arranger is a registered broker-dealer and permitted to underwrite and deal in certain Ineligible Securities; and "Ineligible Securities" means securities which may not be underwritten or dealt in by member banks of the Federal Reserve System under Section 16 of the Banking Act of 1933 (12 U.S.C. ss. 24, Seventh), as amended.

7.9 Contingent Obligations. The Company shall not, and shall not suffer or permit any Subsidiary to, create, incur, assume or suffer to exist any Contingent Obligations except:

(a) endorsements for collection or deposit in the ordinary course of business;

(b) Contingent Obligations of the Company and its Subsidiaries existing as of the Closing Date and listed in Schedule 7.9; and

(c) Contingent Obligations with respect to Surety Instruments incurred in the ordinary course of business.

7.10 Joint Ventures. The Company shall not, and shall not suffer or permit any Subsidiary to enter into any Joint Venture, other than in the ordinary course of business or any Joint Venture with American Mobile Radio Corporation and its Affiliates.

7.11 Lease Obligations. The Company shall not, and shall not suffer or permit any Subsidiary to, create or suffer to exist any obligations for the payment of rent for any property under lease or agreement to lease, except for:

(a) leases of the Company and of Subsidiaries in existence on the Closing Date and any renewal, replacement, extension or refinancing thereof;

(b) operating leases entered into by the Company or any Subsidiary after the Closing Date in the ordinary course of business; and

(c) capital leases, other than those permitted under clause (a) of this Section, entered into by the Company or any Subsidiary after the Closing Date to finance the acquisition of equipment; provided that the aggregate annual rental payments for all such capital leases shall not exceed in any fiscal year $20,000,000.

7.12 Restricted Payments. The Company shall not, and shall not suffer or permit any Subsidiary to, declare or make any dividend payment or other distribution of assets, properties, cash, rights, obligations or securities on account of any shares of any class of its capital stock, or purchase, redeem or otherwise acquire for value any shares of its capital stock or any warrants, rights or options to acquire such shares, now or hereafter outstanding; except that the Company and any Wholly-Owned Subsidiary may:

(a) declare and make dividend payments or other distributions payable solely in its common stock; and

(b) purchase, redeem or otherwise acquire shares of its common stock or warrants or options to acquire any such shares with the proceeds received from the substantially concurrent issue of new shares of its preferred or common stock.

7.13 ERISA. The Company shall not, and shall not suffer or permit any of its ERISA Affiliates to: (a) engage in a prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan which has resulted or could reasonably expected to result in liability of the Company in an aggregate amount in excess of $100,000; or (b) engage in a transaction that could be subject to Section 4069 or 4212(c) of ERISA.

7.14 Change in Business. The Company shall not, and shall not suffer or permit any Subsidiary to, engage in any material line of business substantially different from those lines of business carried on by the Company and its Subsidiaries on the date hereof.

7.15 Accounting Changes. The Company shall not, and shall not suffer or permit any Subsidiary to, make any significant change in accounting treatment or reporting practices, except as required by GAAP, or change the fiscal year of the Company or of any Subsidiary.

7.16 Clear Market. Until 90 days following the Closing Date, the Company shall not, and shall not suffer or permit any Subsidiary to, attempt to syndicate or place similar credit facilities or debt issued by the Company if such credit facilities or debt issuance would, in the Arranger's reasonable opinion, have a detrimental effect on the successful completion of the transactions contemplated herein; provided that this provision shall not limit the Company's ability to issue one or more series of senior notes in a transaction subject to, or exempt from, registration under the Securities Act of 1933, as amended.

7.17 Modification of Overall Contract. The Company shall not consent to any amendment, modification or supplement to the Overall Contract except for such amendment, modification or supplement which is approved by the Required Lenders, as evidenced by their prior written approval, or that is entered into in the ordinary course of administering the Overall Contract and which does not adversely affect the interest of the Agent or the Banks.

7.18 Year 2000 Matters. The Company shall not acquire any additional computer systems or other equipment with embedded microchips if such equipment, upon full analysis, has potential Year 2000 problems.

ARTICLE VIII

EVENTS OF DEFAULT

8.1 Event of Default. Any of the following shall constitute an "Event of Default":

(a) Non-Payment. The Company fails to make, (i) when and as required to be made herein, payments of any amount of principal of any Loan, or (ii) within three days after the same becomes due, payment of any interest, fee or any other amount payable hereunder or under any other Loan Document; or

(b) Representation or Warranty. Any representation or warranty by the Company or any Subsidiary made or deemed made herein, in any other Loan Document, or which is contained in any certificate, document or financial or other statement by the Company, any Subsidiary, or any Responsible Officer, furnished at

any time under this Agreement, or in or under any other Loan Document, is incorrect in any material respect on or as of the date made or deemed made; or

(c) Specific Defaults. The Company fails to perform or observe any term, covenant or agreement contained in any of Sections 7.1, 7.6, 7.16 or 7.17; or

(d) Other Specific Defaults. The Company fails to perform or observe any term, covenant or agreement contained in Sections 7.2, 7.3, 7.4, 7.5, 7.7, 7.8, 7.9, 7.10, 7.11, 7.12, 7.13, 7.14 or 7.15 and such default shall continue unremedied for a period of 5 days after the earlier of (i) the date upon which a Responsible Officer knew of such failure or (ii) the date upon which written notice thereof is given to the Company by the Agent or any Bank; or

(e) Other Defaults. The Company or any Subsidiary party thereto fails to perform or observe any other term or covenant contained in this Agreement or any other Loan Document, and such default shall continue unremedied for a period of 20 days after the earlier of (i) the date upon which a Responsible Officer knew of such failure or (ii) the date upon which written notice thereof is given to the Company by the Agent or any Bank; or

(f) Cross-Default. The Company or any Subsidiary (A) fails to make any payment in respect of any Indebtedness or Contingent Obligation, having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than $5,000,000 when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) and such failure continues after the applicable grace or notice period, if any, specified in the relevant document on the date of such failure; or (B) fails to perform or observe any other condition or covenant, or any other event shall occur or condition exist, under any agreement or instrument relating to any such Indebtedness or Contingent Obligation, and such failure continues after the applicable grace or notice period, if any, specified in the relevant document on the date of such failure if the effect of such failure, event or condition is to cause, or to permit the holder or holders of such Indebtedness or beneficiary or beneficiaries of such Indebtedness (or a trustee or agent on behalf of such

holder or holders or beneficiary or beneficiaries) to cause such Indebtedness to be declared to be due and payable prior to its stated maturity, or such Contingent Obligation to become payable or cash collateral in respect thereof to be demanded; or

(g) Insolvency; Voluntary Proceedings. The Company or any Subsidiary (i) ceases or fails to be solvent, or generally fails to pay, or admits in writing its inability to pay, its debts as they become due, subject to applicable grace periods, if any, whether at stated maturity or otherwise; (ii) voluntarily ceases to conduct its business in the ordinary course; (iii) commences any Insolvency Proceeding with respect to itself; or (iv) takes any corporate action to effectuate or authorize any of the foregoing; or

(h) Involuntary Proceedings. (i) Any involuntary Insolvency Proceeding is commenced or filed against the Company or any Subsidiary, or any writ, judgment, warrant of attachment, execution or similar process, is issued or levied against a substantial part of the Company's or any Subsidiary's properties, and any such proceeding or petition shall not be dismissed, or such writ, judgment, warrant of attachment, execution or similar process shall not be released, vacated or fully bonded within 60 days after commencement, filing or levy; (ii) the Company or any Subsidiary admits the material allegations of a petition against it in any Insolvency Proceeding, or an order for relief (or similar order under non-U.S. law) is ordered in any Insolvency Proceeding; or (iii) the Company or any Subsidiary acquiesces in the appointment of a receiver, trustee, custodian, conservator, liquidator, mortgagee in possession (or agent therefor), or other similar Person for itself or a substantial portion of its property or business; or

(i) ERISA. (i) An ERISA Event shall occur with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of the Company under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of $100,000; or (ii) the aggregate amount of Unfunded Pension Liability among all Pension Plans at any time exceeds $100,000; or (iii) the Company or any ERISA Affiliate shall fail to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount in excess of $100,000; or

(j) Monetary Judgments. One or more non-interlocutory judgments, non- interlocutory orders, decrees or arbitration awards is entered against the Company or any Subsidiary involving in the aggregate a liability (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage) as to any single or related series of transactions, incidents or conditions, of $5,000,000 or more, and the same shall remain unsatisfied, unvacated and unstayed pending appeal for a period of 10 days after the entry thereof; or

(k) Non-Monetary Judgments. Any non-monetary judgment, order or decree is entered against the Company or any Subsidiary which does or would reasonably be expected to have a Material Adverse Effect, and there shall be any period of 10 consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; or

(l) Change of Control. There occurs any Change of Control; or

(m) Loss of Approvals or Consents. Any Governmental Authority or third party revokes or fails to renew any material license, permit, franchise, approval or consent of the Company or any Subsidiary, or the Company or any Subsidiary for any reason loses any material license, permit, franchise, approval or consent or the Company or any Subsidiary suffers the imposition of any restraining order, escrow, suspension or impound of funds in connection with any proceeding (judicial or

administrative) with respect to any material license, permit, franchise, approval or consent; or

(n) Material Adverse Change. There occurs a Material Adverse Effect; or

(o) Priority. The Loans hereunder cease to have the priority over other Indebtedness contemplated by this Agreement; or

(p) Overall Contract. There occurs any material default under the Overall Contract; or

(q) Collateral.

(i) any provision of any Collateral Document shall for any reason cease to be valid and binding on or enforceable against the

Company or any Subsidiary party thereto or the Company or any Subsidiary shall so state in writing or bring an action to limit its obligations or liabilities thereunder; or

(ii) any Collateral Document shall for any reason (other than pursuant to the terms thereof) cease to create a valid security interest in the Collateral purported to be covered thereby or such security interest shall for any reason cease to be a perfected and first priority security interest subject only to Permitted Liens.

8.2 Remedies. If any Event of Default occurs, the Agent shall, at the request of, or may, with the consent of, the Required Banks:

(a) declare the Commitment of each Bank to be terminated, whereupon the Commitments shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Company; and

(c) exercise on behalf of itself and the Banks all rights and remedies available to it and the Banks under the Loan Documents or applicable law; provided, however, that upon the occurrence of any event specified in subsection (f) or (g) of Section 8.1 (in the case of clause (i) of subsection (g) upon the expiration of the 60-day period mentioned therein), the obligation of each Bank to make Loans shall automatically terminate and the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable without further act of the Agent or any Bank.

8.3 Rights Not Exclusive. The rights provided for in this Agreement and the other Loan Documents are cumulative and are not exclusive of any other rights, powers, privileges or remedies provided by law or in equity, or under any other instrument, document or agreement now existing or hereafter arising.

8.4 Certain Financial Covenant Defaults. In the event that, after taking into account any extraordinary charge to earnings taken or to be taken as of the end of any fiscal period of the Company (a "Charge"), and if solely by virtue of such Charge, there would exist an Event of Default due to the breach of Section 7.1 as of such fiscal period end date, such Event of Default shall be deemed to arise upon the earlier of (a) the date after such fiscal period end date on which the Company announces publicly it will take, is taking or has taken such Charge (including an announcement in the form of a statement in a report filed with the SEC) or, if such announcement is made prior to such fiscal period end date, the date that is such fiscal period end date, and (b) the date the Company delivers to the Agent its audited annual or unaudited quarterly financial statements in respect of such fiscal period reflecting such Charge as taken.

ARTICLE IX

THE AGENT

9.1 Appointment and Authorization; "Agent". Each Bank hereby irrevocably (subject to Section 9.9) appoints, designates and authorizes the Agent to take such action on its behalf under the provisions of this Agreement and each other Loan Document and to exercise such powers and perform such duties as are expressly delegated to it by the terms of this Agreement or any other Loan Document, together with such powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary contained elsewhere in this Agreement or in any other Loan Document, the Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor shall the Agent have or be deemed to have any fiduciary relationship with any Bank, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" in this Agreement with reference to the Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties.

9.2 Delegation of Duties. The Agent may execute any of its duties under this Agreement or any other Loan Document by or through agents, employees or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Agent shall not be responsible for the negligence or misconduct of any agent or attorney-in-fact that it selects with reasonable care.

9.3 Liability of Agent. None of the Agent-Related Persons shall (i) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby (except for its own gross negligence or willful misconduct), or (ii) be responsible in any manner to any of the Banks for any recital, statement, representation or warranty made by the Company or any Subsidiary or Affiliate of the Company, or any officer thereof, contained in this Agreement or in any other Loan Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Agent under or in connection with, this Agreement or any other Loan Document, or for the value of or title to any Collateral, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document, or for any failure of the Company or any other party to any Loan Document to perform its obligations hereunder or thereunder. No Agent- Related Person shall be under any obligation to any Bank to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of the Company or any of the Company's Subsidiaries or Affiliates.

9.4 Reliance by Agent. (a) The Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to the Company), independent accountants and other experts selected by the Agent. The Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless it shall first receive such advice or concurrence of the Required Banks as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Banks against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Required Banks and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Banks.

(b) For purposes of determining compliance with the conditions specified in Section 4.1, each Bank that has executed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter either sent by the Agent to such Bank for consent, approval, acceptance or satisfaction, or required thereunder to be consented to or approved by or acceptable or satisfactory to the Bank.

9.5 Notice of Default. The Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, except with respect to defaults in the payment of principal, interest and fees required to be paid to the Agent for the account of the Banks, unless the Agent shall have received written notice from a Bank or the Company referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default". The Agent will notify the Banks of its receipt of any such notice. The Agent shall take such action with respect to such Default or Event of Default as may be requested by the Required Banks in accordance with Article VIII;

provided, however, that unless and until the Agent has received any such request, the Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable or in the best interest of the Banks.

9.6 Credit Decision. Each Bank acknowledges that none of the Agent-Related Persons has made any representation or warranty to it, and that no act by the Agent hereinafter taken, including any review of the affairs of the Company and its Subsidiaries, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Bank. Each Bank represents to the Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Company and its Subsidiaries, the value of and title to any Collateral, and all applicable bank regulatory laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Company hereunder. Each Bank also represents that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and

creditworthiness of the Company. Except for notices, reports and other documents expressly herein required to be furnished to the Banks by the Agent, the Agent shall not have any duty or responsibility to provide any Bank with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of the Company which may come into the possession of any of the Agent-Related Persons.

9.7 Indemnification of Agent. Whether or not the transactions contemplated hereby are consummated, the Banks shall indemnify upon demand the Agent-Related Persons (to the extent not reimbursed by or on behalf of the Company and without limiting the obligation of the Company to do so), pro rata, from and against any and all Indemnified Liabilities; provided, however, that no Bank shall be liable for the payment to the Agent- Related Persons of any portion of such Indemnified Liabilities resulting solely from such Person's gross negligence or willful misconduct. Without limitation of the foregoing, each Bank shall reimburse the Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by the Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that the Agent is not reimbursed for such expenses by or on behalf of the Company. The undertaking in this Section shall survive the payment of all Obligations hereunder and the resignation or replacement of the Agent.

9.8 Agent in Individual Capacity. BofA and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire equity interests in and

generally engage in any kind of banking, trust, financial advisory, underwriting or other business with the Company and its Subsidiaries and Affiliates as though BofA were not the Agent hereunder and without notice to or consent of the Banks. The Banks acknowledge that, pursuant to such activities, BofA or its Affiliates may receive information regarding the Company or its Affiliates (including information that may be subject to confidentiality obligations in favor of the Company or such Subsidiary) and acknowledge that the Agent shall be under no obligation to provide such information to them. With respect to its Loans, BofA shall have the same rights and powers under this Agreement as any other Bank and may exercise the same as though it were not the Agent, and the terms "Bank" and "Banks" include BofA in its individual capacity.

9.9 Successor Agent. The Agent may, and at the request of the Required Banks shall, resign as Agent upon 30 days' notice to the Banks. If the Agent resigns under this Agreement, the Required Banks shall appoint from among the Banks a successor agent for the Banks which successor agent shall be approved by the Company. If no successor agent is appointed prior to the effective date of the resignation of the Agent, the Agent may appoint, after consulting with the Banks and the Company, a successor agent from among the Banks. Upon the acceptance of its appointment as successor agent hereunder, such successor agent shall succeed to all the rights, powers and duties of the retiring Agent and the term "Agent" shall mean such successor agent and the retiring Agent's appointment, powers and duties as Agent shall be terminated. After any retiring Agent's resignation hereunder as Agent, the provisions of this Article IX and Sections 10.4 and 10.5 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement. If no successor agent has accepted appointment as Agent by the date which is 30 days following a retiring Agent's notice of resignation, the retiring Agent's resignation shall nevertheless thereupon become effective and the Banks shall perform all of the duties of the Agent hereunder until such time, if any, as the Required Banks appoint a successor agent as provided for above. Notwithstanding any other provision of this Section 9.9, if the Loans are assigned pursuant to the Support Agreement, the Agent may resign immediately and shall be released from all obligations and liabilities hereunder.

9.10 Withholding Tax. (a) Each Bank and Agent that is not a United States person (as such term is defined in Section 7701(a)(30) of the Code) for U.S. federal income tax purposes, and that is entitled to exemption from, or a reduction of, U.S. withholding tax under Sections 1441 or 1442 of the Code (a "Payee"), shall deliver to the Company and (in the case of a Bank) the Agent:

(i) if such Payee is entitled to an exemption from, or a reduction of, withholding tax under a United States tax treaty, two properly completed and executed copies of IRS Form 1001 on or prior to the Initial Date, and also promptly upon the obsolescence or invalidity of any such form previously delivered by such Payee;

(ii) if such Payee is entitled to an exemption from United States withholding tax for interest paid under this Agreement because it is effectively connected with a United States trade or business of such Payee, two properly completed and executed copies of IRS Form 4224 on or prior to the Initial Date, and

also promptly upon the obsolescence or invalidity of any such form previously delivered by such Payee; and

(iii) either IRS Form W-8 or IRS Form W-9 (as applicable) on or prior to the Initial Date, and also promptly upon the obsolescence or invalidity of any such form previously delivered by such Payee, and such other form or forms as may be required under the Code or other laws of the United States as a condition to exemption from, or reduction of, United States withholding tax.

Such Payee agrees to promptly notify the Company and (in the case of a Bank) the Agent of any change in circumstances which would modify or render invalid any claimed exemption or reduction.

(b) If the IRS or any other Governmental Authority of the United States or other jurisdiction asserts a claim that the Agent did not properly withhold tax from amounts paid to or for the account of any Bank (because the appropriate form was not delivered or was not properly executed, or because such Bank failed to notify the Agent of a change in circumstances which rendered the exemption from, or reduction of, withholding tax ineffective, or for any other reason) such Bank shall indemnify the Agent fully for all amounts paid, directly or indirectly, by the Agent as tax or otherwise, including penalties and interest, and including any taxes imposed by any jurisdiction on the amounts payable to the Agent under this Section, together with all costs and expenses (including Attorney Costs). The obligation of the Banks under this subsection shall survive the payment of all Obligations and the resignation or replacement of the Agent.

9.11 Collateral Matters. (a) The Agent is authorized on behalf of all the Banks, without the necessity of any notice to or further consent from the Banks, from time to time to take any action with respect to any Collateral or the Collateral Documents which may be necessary to perfect and maintain perfected the security interest in and Liens upon the Collateral granted pursuant to the Collateral Documents.

(b) The Banks irrevocably authorize the Agent, at its option and in its discretion, to release any Lien granted to or held by the Agent upon any Collateral (i) upon termination of the Commitments and payment in full of all Loans and all other Obligations known to the Agent and payable under this Agreement or any other Loan Document; (ii) constituting property sold or to be sold or disposed of as part of or in connection with any disposition permitted hereunder; (iii) constituting property in which the Company or any Subsidiary owned no interest at the time the Lien was granted or at any time thereafter; (iv) constituting property leased to the Company or any Subsidiary under a lease which has expired or been terminated in a transaction permitted under this Agreement or is about to expire and which has not been, and is not intended by the Company or such Subsidiary to be, renewed or extended; (v) consisting of an instrument evidencing Indebtedness or other debt instrument, if the indebtedness evidenced thereby has been paid in full; or (vi) if approved, authorized or ratified in writing by the Required Banks or all the Banks, as the case may be, as provided in subsection 10.1(f). Upon request by the Agent at any time, the Banks will confirm in writing the Agent's authority to release particular types or items of

Collateral pursuant to this subsection 9.11(b), provided that the absence of any such confirmation for whatever reason shall not affect the Agent's rights under this Section 9.11.

(c) Each Bank agrees with and in favor of each other (which agreement shall not be for the benefit of the Company or any Subsidiary) that the Company's obligation to such Bank under this Agreement and the other Loan Documents is not and shall not be secured by any real property collateral now or hereafter acquired by such Bank.

ARTICLE X

MISCELLANEOUS

10.1 Amendments and Waivers. No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent with respect to any departure by the Company or any applicable Subsidiary therefrom, shall be effective unless the same shall be in writing and signed by the Required Banks (or by the Agent at the written request of the Required Banks) and the Company, consented to in writing by the Remarketing Agent, and acknowledged by the Agent, and then any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such waiver, amendment, or consent shall, unless in writing and signed by all Banks directly affected and the Company, consented to in writing by the Remarketing Agent, and acknowledged by the Agent, do any of the following:

(a) increase or extend the Commitment of any Bank (or reinstate any Commitment terminated pursuant to Section 8.2);

(b) postpone or delay any date fixed by this Agreement or any other Loan Document for any payment of principal, interest, fees or other amounts due to the Banks (or any of them) hereunder or under any other Loan Document;

(c) reduce the principal of, or the rate of interest specified herein on any Loan, or (subject to clause (ii) below) any fees or other amounts payable hereunder or under any other Loan Document;

(d) change the percentage of the Commitments or of the aggregate unpaid principal amount of the Loans which is required for the Banks or any of them to take any action hereunder; or

(e) amend this Section, or Section 2.14, or any provision herein providing for consent or other action by all Banks; or

(f) release all or substantially all of the Collateral except as otherwise may be provided in the Collateral Document or except where the consent of the Required Banks only is specifically provided for;

and, provided further, that (i) no amendment, waiver or consent shall, unless in writing and signed by the Agent in addition to the Required Banks or all the Banks, as the case may be, affect the rights or duties of the Agent under this Agreement or any other Loan Document, and (ii) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed by the parties thereto; provided further, that no amendment, consent or waiver to the definition of "Required Banks" or the terms of this Section 10.1 shall be effective unless in writing and signed by all the Banks and the Company and acknowledged by the Agent.

10.2 Notices.

(a) All notices, requests, consents, approvals, waivers and other communications shall be in writing (including, unless the context expressly otherwise provides, by facsimile transmission, provided that any matter transmitted by the Company by facsimile (i) shall be immediately confirmed by a telephone call to the recipient at the number specified on Schedule 10.2, and (ii) shall be followed promptly by delivery of a hard copy original thereof) and mailed, faxed or delivered, to the address or facsimile number specified for notices on Schedule 10.2; or, as directed to the Company or the Agent, to such other address as shall be designated by such party in a written notice to the other parties, and as directed to any other party, at such other address as shall be designated by such party in a written notice to the Company and the Agent.

(b) All such notices, requests and communications shall, when transmitted by overnight delivery, or faxed, be effective when delivered for overnight (next-day) delivery, or transmitted in legible form by facsimile machine, respectively, or if mailed, upon the third Business Day after the date deposited into the U.S. mail, or if delivered, upon delivery; except that notices pursuant to Article II or IX to the Agent shall not be effective until actually received by the Agent.

(c) Any agreement of the Agent and the Banks herein to receive certain notices by telephone or facsimile is solely for the convenience and at the request of the Company. The Agent and the Banks shall be entitled to rely on the authority of any Person purporting to be a Person authorized by the Company to give such notice and the Agent and the Banks shall not have any liability to the Company or other Person on account of any action taken or not taken by the Agent or the Banks in reliance upon such telephonic or facsimile notice. The obligation of the Company to repay the Loans shall not be affected in any way or to any extent by any failure by the Agent and the Banks to receive written confirmation of any telephonic or facsimile notice or the receipt by the Agent and the Banks of a confirmation which is at variance with the terms understood by the Agent and the Banks to be contained in the telephonic or facsimile notice.

10.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Agent or any Bank, any right, remedy, power or privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

10.4 Costs and Expenses. The Company shall:

(a) whether or not the transactions contemplated hereby are consummated, pay or reimburse the Arranger and BofA (including in its capacity

as Agent) within five Business Days after demand (subject to subsection 4.1(j)) for all costs and expenses incurred by BofA (including in its capacity as Agent) in connection with the development, preparation, delivery, administration and execution of, and any amendment, supplement, waiver or modification to (in each case, whether or not consummated), this Agreement, any Loan Document and any other documents prepared in connection herewith or therewith, and the consummation of the transactions contemplated hereby and thereby, including reasonable Attorney Costs incurred by the Arranger and BofA (including in its capacity as Agent) with respect thereto;

(b) pay or reimburse the Agent, the Arranger and each Bank within five Business Days after demand (subject to subsection 4.1(j)) for all costs and expenses (including Attorney Costs) incurred by them in connection with the enforcement, attempted enforcement, or preservation of any rights or remedies under this Agreement or any other Loan Document or the exercise of any rights under the Support Agreement during the existence of an Event of Default or after acceleration of the Loans (including in connection with any "workout" or restructuring regarding the Loans, and including in any Insolvency Proceeding or appellate proceeding);

(c) pay or reimburse BofA (including in its capacity as Agent) within five Business Days after demand (subject to subsection 4.1(j)) for all appraisal (including the allocated cost of internal appraisal services), audit, environmental inspection and review (including the allocated cost of such internal services), search and filing costs, fees and expenses, incurred or sustained by BofA (including in its capacity as Agent) in connection with the matters referred to under subsections (a) and (b) of this Section; and

(d) pay or reimburse the Remarketing Agent within five Business Days after demand (subject to subsection 4.1(j)) for all costs and expenses (including up to $75,000 of Attorney Costs) incurred by it in connection with the development, preparation, delivery, administration and execution of, and any amendment, supplement, waiver or modification to (in each case, whether or not consummated), this Agreement and the Support Agreement.

10.5 Company Indemnification. (a) Whether or not the transactions contemplated hereby are consummated, the Company shall indemnify, defend and hold the Arranger and Agent-Related Persons, and each Bank and each of its respective officers, directors, employees, counsel, agents and attorneys-in-fact (each, an "Indemnified Person") harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, charges, expenses and disbursements (including Attorney Costs) of any kind or nature whatsoever which may at any time (including at any time following repayment of the Loans and the termination, resignation or replacement of the Agent or replacement of any Bank) be imposed on, incurred by or asserted against any such

Person in any way relating to or arising out of this Agreement or any document contemplated by or referred to herein, or the transactions contemplated hereby, or any action taken or omitted by any such Person under or in connection with any of the foregoing, including with respect to any investigation, litigation or proceeding (including any Insolvency Proceeding or appellate proceeding) related to or arising out of this Agreement or the Loans or the use of the proceeds thereof, whether or not any Indemnified Person is a party thereto (all the foregoing, collectively, the "Indemnified Liabilities"); provided, that the Company shall have no obligation hereunder to any Indemnified Person with respect to Indemnified Liabilities resulting solely from the gross negligence or willful misconduct of such Indemnified Person. The agreements in this Section shall survive payment of all other Obligations.

(b) (i) The Company shall indemnify, defend and hold harmless each Indemnified Person, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, charges, expenses or disbursements (including Attorney Costs and the allocated cost of internal environmental audit or review services), which may be incurred by or asserted against such Indemnified Person in connection with or arising out of any pending or threatened investigation, litigation or proceeding. No action taken by legal counsel chosen by the Agent or any Bank in defending against any such investigation, litigation or proceeding or requested remedial, removal or response action shall vitiate or any way impair the Company's obligation and duty hereunder to indemnify and hold harmless the Agent and each Bank.

(ii) In no event shall any site visit, observation, or testing by the Agent or any Bank (or any contractee of the Agent or any Bank) be deemed a representation or warranty that Hazardous Materials are or are not present in, on, or under, the site, or that there has been or shall be compliance with any Environmental Law. Neither the Company nor any other Person is entitled to rely on any site visit, observation, or testing by the Agent or any Bank. Neither the Agent nor any Bank owes any duty of care to protect the Company or any other Person against, or to inform the Company or any other party of, any Hazardous Materials or any other adverse condition affecting any site or property. Neither the Agent nor any Bank shall be obligated to disclose to the Company or any other Person any report or findings made as a result of, or in

connection with, any site visit, observation, or testing by the Agent or any Bank.

10.6 Survival; Defense. The obligations in this Section shall survive payment of all other Obligations. At the election of any Indemnified Person, the Company shall defend such Indemnified Person using legal counsel reasonably satisfactory to such Indemnified Person, at the sole cost and expense of the Company. All amounts owing under this Section shall be paid within 30 days after demand.

10.7 Marshalling; Payments Set Aside. Neither the Agent nor the Banks shall be under any obligation to marshall any assets in favor of the Company or any other Person or against or in payment of any or all of the Obligations. To the extent that the Company makes a payment to the Agent or the Banks, or the Agent or the Banks exercise their right of set-off, and such payment or the proceeds of such set-off or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Agent or such Bank in its discretion) to be

repaid to a trustee, receiver or any other party, in connection with any Insolvency Proceeding or otherwise, then (a) to the extent of such recovery the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such set-off had not occurred, and (b) each Bank severally agrees to pay to the Agent upon demand its pro rata share of any amount so recovered from or repaid by the Agent.

10.8 Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that the Company may not assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the Agent and each Bank.

10.9 Assignments, Participations, etc. (a) Any Bank may, with the written consent of the Company at all times other than during the existence of an Event of Default and the Agent, which consents shall not be unreasonably withheld, at any time assign and delegate to one or more Eligible Assignees (provided that no written consent of the Company or the Agent shall be required in connection with any assignment and delegation by a Bank to an Eligible Assignee that is an Affiliate of such Bank) (each an "Assignee") all, or any ratable part of all, of the Loans, the Commitments and the other rights and obligations of such Bank hereunder, in a minimum amount of $5,000,000; provided, however, that the Company and the Agent may continue to deal solely and directly with such Bank in connection with the interest so assigned to an Assignee until (A) written notice of such assignment, together with payment instructions, addresses and related information with respect to the Assignee, shall have been given to the Company and the Agent by such Bank and the Assignee; (B) such Bank and its Assignee shall have delivered to the Company and the Agent an Assignment and Acceptance in the form of Exhibit G ("Assignment and Acceptance") together with any Note or Notes subject to such assignment and (C) the assignor Bank or Assignee has paid to the Agent a processing fee in the amount of $3,500.

(b) From and after the date that the Agent notifies the assignor Bank that it has received (and provided its consent with respect to) an executed Assignment and Acceptance and payment of the above-referenced processing fee, (i) the Assignee thereunder shall be a party hereto and, to the extent that rights and obligations hereunder have been assigned to it pursuant to such Assignment and Acceptance, shall have the rights and obligations of a Bank under the Loan Documents, and (ii) the assignor Bank shall, to the extent that rights and obligations hereunder and under the other Loan Documents have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights and be released from its obligations under the Loan Documents.

(c) Within five Business Days after its receipt of notice by the Agent that it has received an executed Assignment and Acceptance and payment of the processing fee, (and provided that it consents to such assignment in accordance with subsection 10.9(a)), the Company shall execute and deliver to the Agent, if requested, new Notes evidencing such Assignee's assigned Loans and Commitment and, if the assignor Bank has retained a portion of its Loans and its Commitment, replacement Notes in the principal amount of the Loans retained by the assignor Bank (such Notes to be in exchange for, but not in payment of, the Notes held by such Bank). Immediately upon each Assignee's making its processing fee

payment under the Assignment and Acceptance, this Agreement shall be deemed to be amended to the extent, but only to the extent, necessary to reflect the addition of the Assignee and the resulting adjustment of the Commitments arising therefrom. The Commitment allocated to each Assignee shall reduce such Commitments of the assigning Bank pro tanto.

(d) Any Bank may at any time sell to one or more commercial banks or other Persons not Affiliates of the Company (a "Participant") participating interests in any Loans, the Commitment of that Bank and the other interests of that Bank (the "originating Bank") hereunder and under the other Loan Documents; provided, however, that (i) the originating Bank's obligations under this Agreement shall remain unchanged, (ii) the originating Bank shall remain solely responsible for the performance of such obligations, (iii) the Company and the Agent shall continue to deal solely and directly with the originating Bank in connection with the originating Bank's rights and obligations under this Agreement and the other Loan Documents, and (iv) no Bank shall transfer or grant any participating interest under which the Participant has rights to approve any amendment to, or any consent or waiver with respect to, this Agreement or any other Loan Document, except to the extent such amendment, consent or waiver would require unanimous consent of the Banks as described in the first proviso to Section 10.1. In the case of any such participation, the Participant shall be entitled to the benefit of Sections 3.1, 3.3 and 10.5 as though it were also a Bank hereunder, and if amounts outstanding under this Agreement are due and unpaid, or shall have been declared or shall have become due and payable upon the occurrence of an Event of Default, each Participant shall be deemed to have the right of set-off in respect of its participating interest in amounts owing under this Agreement to the same extent as if the amount of its participating interest were owing directly to it as a Bank under this Agreement.

(e) Notwithstanding any other provision in this Agreement, any Bank may at any time create a security interest in, or pledge, all or any portion of its rights under and interest in this Agreement in favor of any Federal Reserve Bank in accordance with Regulation A of the FRB or U.S. Treasury Regulation 31 CFR ss.203.14, and such Federal Reserve Bank may enforce such pledge or security interest in any manner permitted under applicable law.

10.10 Confidentiality. (a) Each Bank agrees to take and to cause its Affiliates to take normal and reasonable precautions and exercise due care to maintain the confidentiality of all information identified as "confidential" or "secret" by the Company and provided to it by the Company or any Subsidiary, or by the Agent on the Company's or such Subsidiary's behalf, under this Agreement or any other Loan Document, and neither it nor any of its Affiliates shall use any such information other than in connection with or in enforcement of this Agreement and the other Loan Documents or in connection with other business now or hereafter existing or contemplated with the Company or any Subsidiary; except to the extent such information (i) was or becomes generally available to the public other than as a result of disclosure by the Bank, or (ii) was or becomes available on a non- confidential basis from a source other than the Company, provided that such source is not bound by a confidentiality agreement with the Company known to the Bank; provided, however, that any Bank may disclose such information (A) at the request or pursuant to any requirement of any Governmental Authority to which the Bank is subject or in connection

with an examination of such Bank by any such authority; (B) pursuant to subpoena or other court process, provided that, to the extent practicable under the circumstances, such Bank shall provide the Company written notice thereof so that the Company may seek a protective order or other appropriate remedy; (C) when required to do so in accordance with the provisions of any applicable Requirement of Law; (D) to the extent reasonably required in connection with any litigation or proceeding to which the Agent, any Bank or their respective Affiliates may be party, provided that, to the extent practicable under the circumstances, such Bank shall provide the Company written notice thereof so that the Company may seek a protective order or other appropriate remedy; (E) to the extent reasonably required in connection with the exercise of any remedy hereunder or under any other Loan Document; (F) to such Bank's independent auditors and other professional advisors; (G) to any Participant or Assignee, actual or potential, provided that such Person agrees in writing to keep such information confidential to the same extent required of the Banks hereunder; (H) as to any Bank or its Affiliate, as expressly permitted under the terms of any other document or agreement regarding confidentiality to which the Company or any Subsidiary is party or is deemed party with such Bank or such Affiliate; and (I) to any of its Affiliates which receives such information having been made aware of the confidential nature thereof.

(b) The Company agrees that any and all public disclosure of any part of this Agreement or any other Loan Document shall be subject to approval by the Agent, which approval shall not be withheld unreasonably.

10.11 Set-off. In addition to any rights and remedies of the Banks provided by law, if an Event of Default exists or the Loans have been accelerated, each Bank is authorized at any time and from time to time, without prior notice to the Company, any such notice being waived by the Company to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by, and other indebtedness at any time owing by, such Bank to or for the credit or the account of the Company against any and all Obligations owing to such Bank, now or hereafter existing, irrespective of whether or not the Agent or such Bank shall have made demand under this Agreement or any Loan Document and although

such Obligations may be contingent or unmatured. Each Bank agrees promptly to notify the Company and the Agent after any such set-off and application made by such Bank; provided, however, that the failure to give such notice shall not affect the validity of such set-off and application.

10.12 Automatic Debits of Fees. With respect to any commitment fee, arrangement fee, or other fee, or any other cost or expense (including Attorney Costs) due and payable to the Agent, BofA or the Arranger under the Loan Documents, the Company hereby irrevocably authorizes BofA to debit any deposit account of the Company with BofA in an amount such that the aggregate amount debited from all such deposit accounts does not exceed such fee or other cost or expense. If there are insufficient funds in such deposit accounts to cover the amount of the fee or other cost or expense then due, such debits will be reversed (in whole or in part, in BofA's sole discretion) and such amount not debited shall be deemed to be unpaid. No such debit under this Section shall be deemed a set-off.

10.13 Notification of Addresses, Lending Offices, Etc. Each Bank shall notify the Agent in writing of any changes in the address to which notices to the Bank should

be directed, of addresses of any Lending Office, of payment instructions in respect of all payments to be made to it hereunder and of such other administrative information as the Agent shall reasonably request.

10.14 Counterparts. This Agreement may be executed in any number of separate counterparts, each of which, when so executed, shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

10.15 Severability. The illegality or unenforceability of any provision of this Agreement or any instrument or agreement required hereunder shall not in any way affect or impair the legality or enforceability of the remaining provisions of this Agreement or any instrument or agreement required hereunder.

10.16 No Third Parties Benefited. This Agreement is made and entered into for the sole protection and legal benefit of the Company, the Banks, the Agent and the Agent-Related Persons, and their permitted successors and assigns, and no other Person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement or any of the other Loan Documents.

10.17 Governing Law and Jurisdiction. (a) THIS AGREEMENT AND THE NOTES SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK; PROVIDED THAT THE AGENT AND THE BANKS SHALL RETAIN ALL RIGHTS ARISING UNDER FEDERAL LAW.

(b) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH OF THE COMPANY, THE AGENT AND THE BANKS CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THOSE COURTS. EACH OF THE COMPANY, THE AGENT AND THE BANKS IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF THIS AGREEMENT OR ANY DOCUMENT RELATED HERETO. THE COMPANY, THE AGENT AND THE BANKS EACH WAIVE PERSONAL SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER PROCESS, WHICH MAY BE MADE BY ANY OTHER MEANS PERMITTED BY NEW YORK LAW.

10.18 Waiver of Jury Trial. THE COMPANY, THE BANKS AND THE AGENT EACH WAIVE THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE OTHER LOAN DOCUMENTS, OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY TYPE BROUGHT BY ANY OF THE

PARTIES AGAINST ANY OTHER PARTY OR ANY AGENT-RELATED PERSON, PARTICIPANT OR ASSIGNEE, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS, OR OTHERWISE. THE COMPANY, THE BANKS AND THE AGENT EACH AGREE THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT TRIAL WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, THE PARTIES FURTHER AGREE THAT THEIR RESPECTIVE RIGHT TO A TRIAL BY JURY IS WAIVED BY OPERATION OF THIS SECTION AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS OR ANY PROVISION HEREOF OR THEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS.

10.19 Entire Agreement. This Agreement, together with the other Loan Documents, embodies the entire agreement and understanding among the Company,

the Banks and the Agent, and supersedes all prior or contemporaneous agreements and understandings of such Persons, verbal or written, relating to the subject matter hereof and thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered in New York, New York by their proper and duly authorized officers as of the day and year first above written.

CD RADIO INC.

By: \s\ Andrew Greenebaum

Title: Executive Vice President & CFO

BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, as Administrative Agent

By: \s\ Wendy Young

Title: Vice President

BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, as a Bank

By: \s\ Steve Aronowitz

Title: Managing Director

SCHEDULE 2.1

COMMITMENTS
AND PRO RATA SHARES

Bank	Commitment	Pro Rata Share
Bank of America National Trust and Savings Association	$115,000,000	100.0%
TOTAL	$115,000,000	100.0%

SCHEDULE 10.2

ADDRESSES FOR NOTICES

CD RADIO INC.
CD Radio Inc.
1180 Avenue of the Americas
14th Floor
New York, New York 10036
Attention: Chief Financial Officer
Telephone: (212) 899-5040
Facsimile: (212) 899-5035

LORAL SPACE & COMMUNICATIONS LTD.
Loral Space & Communications Ltd.
c/o Loral SpaceCom Corporation
600 Third Avenue
New York, NY 10025
Attention: Nicholas C. Moren/Richard Mastaloni
Telephone: (212) 338-
Facsimile: (212) 867-5248

BANK OF AMERICA NATIONAL TRUST
AND SAVINGS ASSOCIATION,
as Administrative Agent

for notices relating to payments:
Bank of America National Trust
and Savings Association

1850 Gateway Boulevard, Fourth Floor
Concord, California 94520
Attention: Ando Perlas
Telephone: (925) 675-8387
Facsimile: (925) 675-8500

for all other notices:

Bank of America National Trust
and Savings Association
Agency Management #10831
1455 Market Street, 12th Floor
San Francisco, CA 94103
Attention: Wendy Young
Telephone: (415) 436-3420
Facsimile: (415) 436-3425

BANK OF AMERICA NATIONAL TRUST
AND SAVINGS ASSOCIATION,
as a Bank

Bank of America National Trust
and Savings Association
335 Madison Avenue
New York, NY 10017
Attention: Steve Aronowitz
Telephone: (212) 503-7950
Facsimile: (212) 503-7066

PLEDGE AGREEMENT

PLEDGE AGREEMENT, dated as of July 29, 1998, made by CD RADIO INC., a Delaware corporation (the "Company"), in favor of Bank of America National Trust and Savings Association, as Administrative Agent (in such capacity, the "Agent") for the Banks from time to time parties to the Credit Agreement, dated as of June 30, 1998 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among the Company, the Agent and such Banks.

W I T N E S S E T H:

WHEREAS, pursuant to the Credit Agreement, the Banks have severally agreed to make Loans to the Company upon the terms and subject to the conditions set forth therein;

WHEREAS, the Company is a party to the Pledged Contracts; and

WHEREAS, it is a condition precedent to the obligation of the Banks to make their respective Loans to the Company under the Credit Agreement that the Company shall have executed and delivered this Pledge Agreement to the Agent for the ratable benefit of the Banks.

NOW, THEREFORE, in consideration of the premises and to induce the Agent and the Banks to enter into the Credit Agreement and to induce the Banks to make their respective Loans under the Credit Agreement, the Company hereby agrees with the Agent, for the ratable benefit of the Banks, as follows:

1. Defined Terms. (a) Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

(b) The following terms shall have the following meanings:

"Agreement": this Pledge Agreement, as the same may be amended, modified or otherwise supplemented from time to time.

"Code": the Uniform Commercial Code from time to time in effect in the State of New York.

"Collateral": the Pledged Contracts and all Proceeds.

"Collateral Account": any account established to hold money Proceeds, maintained under the sole dominion and control of the Agent, subject to withdrawal by the Agent for the account of the Banks only as provided in paragraph 6(a).

"Pledged Contracts": the contracts and agreements listed in Schedule 1, as the same may be amended, supplemented or otherwise modified from time to time, including, without limitation, (i) all rights of the Company to receive moneys due and to become due to it thereunder or in connection therewith, including, but not limited to, any termination payments thereunder (ii) all rights of the Company to damages arising thereunder and (iii) all rights of the Company to perform and to exercise all remedies thereunder.

"Proceeds": all "proceeds" as such term is defined in Section 9-306(1) of the Code on the date hereof and, in any event, shall include, without limitation, all income from the Pledged Contracts, collections thereon or distributions with respect thereto.

(c) The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and section and paragraph references are to this Agreement unless otherwise specified.

(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

2. Pledge; Grant of Security Interest. The Company hereby assigns and transfers to the Agent, and hereby grants to Agent, for the ratable benefit of the Banks, a first security interest in the Collateral, as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Obligations.

3. Representations and Warranties. The Company represents and warrants that:

(a) Perfected First Priority Liens. The security interests granted pursuant to this Agreement (1) upon completion of the filings and other actions specified on Schedule 2 (which, in the case of all filings and other documents

referred to on said Schedule, have been delivered to the Agent in completed and duly executed form) will constitute valid perfected security interests in all of the Collateral in favor of the Agent, for the ratable benefit of the Banks, as collateral security for the Obligations, enforceable in accordance with the terms hereof against all creditors of the Company and any Persons purporting to purchase any Collateral from the Company and (2) are prior to all other Liens on the Collateral in existence on the date hereof except for unrecorded Liens permitted by the Credit Agreement which have priority over the Liens on the Collateral by operation of law.

(b) Chief Executive Office. On the date hereof, the Company's jurisdiction of organization and the location of the Company's chief executive office or sole place of business are specified on Schedule 3.

(c) Pledged Contracts. (1) No consent of any party (other than the Company) to any Pledged Contract is required, or purports to be required, in connection with the execution, delivery and performance of this Agreement.

(2) Each Pledged Contract is in full force and effect and constitutes a valid and legally enforceable obligation of the parties thereto, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally, general equitable principles (whether considered in a proceeding in equity or at law) and an implied covenant of good faith and fair dealing.

(3) No consent or authorization of, filing with or other act by or in respect of any Governmental Authority is required in connection with the execution, delivery, performance, validity or enforceability of any of the Pledged Contracts by any party thereto other than those which have been duly obtained, made or performed, are in full force and effect and do not subject the scope of any such Pledged Contract to any material adverse limitation, either specific or general in nature.

(4) Neither the Company nor (to the best of the Company's knowledge) any of the other parties to the Pledged Contracts is in default in the performance or observance of any of the terms thereof in any manner that, in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(5) The right, title and interest of the Company in, to and under the Pledged Contracts are not subject to any defenses, offsets, counterclaims or claims that, in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(6) The Company has delivered to the Agent a complete and correct copy of each Pledged Contract, including all amendments, supplements and other modifications thereto.

(7) No amount payable to the Company under or in connection with any Pledged Contract is evidenced by any Instrument or Chattel Paper which has not been delivered to the Agent.

(8) None of the parties to any Pledged Contract is a Governmental Authority.

4. Covenants. The Company covenants and agrees with the Agent and the Banks that, from and after the date of this Agreement until this Agreement is terminated and the security interests created hereby are released:

(a) Maintenance of Perfected Security Interest; Further Documentation. (1) The Company shall maintain the security interest created by this Agreement as a perfected security interest having at least the priority described in subsection 3(a) and shall defend such security interest against the claims and demands of all Persons whomsoever.

(2) The Company will furnish to the Agent and the Banks from time to time statements and schedules further identifying and describing the assets and property of the Company and such other reports in connection therewith as the Agent may reasonably request, all in reasonable detail.

(3) At any time and from time to time, upon the written request of the Agent, and at the sole expense of the Company, the Company will promptly and duly execute and deliver, and have recorded, such further instruments and documents and take such further actions as the Agent may reasonably request for the purpose of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted, including, without limitation, (i) the filing of any financing or continuation statements under the Uniform Commercial Code (or other similar laws) in effect in any jurisdiction with respect to the security interests created hereby and (ii) in the case of Investment Property, Deposit Accounts and any other relevant Collateral, taking any actions necessary to enable the Agent to obtain "control" (within the meaning of the applicable

Uniform Commercial Code) with respect thereto.

(b) Changes in Locations, Name, etc. The Company will not, except upon 15 days' prior written notice to the Agent and delivery to the Agent of (a) all additional executed financing statements and other documents reasonably requested by the Agent to maintain the validity, perfection and priority of the security interests provided for herein and (b) if applicable, a written supplement to Schedule 3:

(i) change its jurisdiction of organization or the location of its chief executive office or sole place of business from that referred to in subsection 3(b); or

(ii) change its name, identity or corporate structure to such an extent that any financing statement filed by the Agent in connection with this Agreement would become misleading.

(c) Notices. Such Company will advise the Agent promptly, in reasonable detail, of:

(1) any Lien (other than security interests created hereby or Liens permitted under the Credit Agreement) on any of the Collateral which would adversely affect the ability of the Agent to exercise any of its remedies hereunder; and

(2) of the occurrence of any other event which could reasonably be expected to have a material adverse effect on the aggregate value of the Collateral or on the security interests created hereby.

(d) Pledged Contracts. (1) The Company will perform and comply in all material respects with all its obligations under the Pledged Contracts.

(2) The Company will not amend, modify, terminate or waive any provision of any Pledged Contract in any manner which could reasonably be expected to materially adversely affect the value of such Pledged Contract as Collateral.

(3) The Company will exercise promptly and diligently each and every material right which it may have under each Pledged Contract (other than any right of termination).

(4) The Company will deliver to the Agent a copy of each material demand, notice or document received by it relating in any way to any Pledged Contract that questions the validity or enforceability of such Pledged Contract.

(e) The Company shall maintain the security interest created by this Agreement as a first, perfected security interest and shall defend such security interest against claims and demands of all Persons whomsoever. At any time and from time to time, upon the written request of the Agent, and at the sole expense of the Company, the Company will promptly and duly execute and deliver such further instruments and documents and take such further actions as the Agent may reasonably request for the purposes of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted. If any amount payable under or in connection with any of the Collateral shall be or become evidenced by any promissory note, other instrument or chattel paper, such note, instrument or chattel paper shall be immediately delivered to the Agent, duly endorsed in a manner satisfactory to the Agent, to be held as Collateral pursuant to this Agreement.

(f) The Company shall pay, and save the Agent and the Banks harmless from, any and all liabilities with respect to, or resulting from any delay in paying, any and all stamp, excise, sales or other taxes which may be payable or determined to be payable with respect to any of the Collateral or in connection with any of the transactions contemplated by this Agreement.

5. Rights of the Banks and the Agent. All money Proceeds received by the Agent hereunder shall be held by the Agent for the benefit of the Banks in a Collateral Account. All Proceeds while held by the Agent in a Collateral Account (or by the Company in trust for the Agent and the Banks) shall continue to be held as collateral security for all the Obligations and shall not constitute payment thereof until applied as provided in paragraph 6(a).

6. Remedies. (a) If an Event of Default shall have occurred and be continuing, at any time at the Agent's election, the Agent may apply all or any part of Proceeds held in any Collateral Account in payment of the Obligations in such order as the Agent may elect.

(b) If an Event of Default shall occur and be continuing and the Agent shall give notice of its intent to exercise such rights to the Company, the Agent shall have the right to receive any payments made to the Company under the Pledged Contracts.

(c) If an Event of Default shall have occurred and be continuing, the Agent or its nominee, on behalf of the Banks, may, at the Agent's sole option, assume and perform upon the rights and obligations of the Company under the Pledged Contracts and in such event shall have all rights and obligations of the Company thereunder; provided, however, that no action by the Agent shall constitute an assumption or agreement to perform the Pledged Contracts other than an express written assumption agreement executed by a duly authorized officer of the Agent.

(d) If an Event of Default shall have occurred and be continuing, the Agent, on behalf of the Banks, may exercise, in addition to all other rights and remedies granted in this Agreement and in any other instrument or agreement securing, evidencing or relating to the Obligations, all rights and remedies of a secured party under the Code. Without limiting the generality of the foregoing, the Agent, without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below) to or upon the Company or any other Person (all and each of which demands, defenses, advertisements and notices are hereby waived), may in such circumstances forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, and/or may forthwith sell, assign, transfer or otherwise dispose of and deliver the Collateral or any part thereof (or contract to do any of the foregoing upon such terms and conditions as it may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery without assumption of any credit risk). The Agent shall apply any Proceeds from time to time held by it and the net proceeds of any such collection, recovery, receipt, appropriation, realization or sale, after deducting all reasonable costs and expenses of every kind incurred in respect thereof or incidental to the care or safekeeping of any of the Collateral or in any way relating to the Collateral or the rights of the Agent and the Banks hereunder, including, without limitation, reasonable attorneys' fees and disbursements of counsel to the Agent, to the payment in whole or in part of the Obligations, in such order as the Agent may elect, and only after such application and after the payment by the Agent of any other amount required by any provision of law, including, without limitation, Section 9-504(1)(c) of the Code, need the Agent account for the surplus, if any, to the Company. To the extent permitted by applicable law, the Company waives all claims, damages and demands it may acquire against the Agent or any Bank arising out of the exercise by them of any rights hereunder. If any notice of a proposed sale or other disposition of Collateral shall be required by law, such notice shall be deemed reasonable and proper if given at least 10 days before such sale or other disposition. The Company shall remain liable for any deficiency if the proceeds of any sale or other disposition of Collateral are

insufficient to pay the Obligations and the fees and disbursements of any attorneys employed by the Agent or any Bank to collect such deficiency.

7. Agent's Appointment as Attorney-in-Fact. (a) The Company hereby irrevocably constitutes and appoints the Agent and any officer or agent of the Agent, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of the Company and in the name of the Company or in the Agent's own name, from time to time in the Agent's discretion, for the purpose of carrying out the terms of this Agreement, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of this Agreement, including, without limitation, any financing statements, endorsements, assignments or other instruments of transfer.

(b) The Company hereby ratifies all that said attorneys shall lawfully do or cause to be done pursuant to the power of attorney granted in paragraph 7(a). All powers, authorizations and agencies contained in this Agreement are coupled with an interest and are irrevocable until this Agreement is terminated and the security interests created hereby are released.

8. Conditions to Effectiveness. The rights and obligations hereunder are subject to the condition that the Agent shall have received, in form and substance satisfactory to the Agent, (i) this Agreement, duly executed and delivered by the Company and (ii) an Acknowledgment and Consent, substantially in the form of Annex A, duly executed and delivered by Space Systems/Loral, Inc.

9. Duty of Agent. The Agent's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under Section 9-207 of the Code or otherwise, shall be to deal with it in the same manner as the Agent deals with similar property for its own account. Neither the Agent, any Bank nor any of their respective officers, directors, employees or agents shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of the Company or any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof. The powers conferred on the Agent and the Banks hereunder are solely to protect the Agent's and the Banks' interests in the Collateral and shall not impose any duty upon the Agent or any Bank to exercise any such powers. The Agent and the Banks shall be accountable only for amounts

that they actually receive as a result of the exercise of such powers, and neither they nor any of their officers, directors, employees or agents shall be responsible to the Company for any act or failure to act hereunder, except for their own gross negligence or willful misconduct.

10. Execution of Financing Statements. Pursuant to Section 9-402 of the Code, the Company authorizes the Agent to file financing statements with respect to the Collateral without the signature of the Company in such form and in such filing offices as the Agent

reasonably determines appropriate to perfect the security interests of the Agent under this Agreement. A carbon, photographic or other reproduction of this Agreement shall be sufficient as a financing statement for filing in any jurisdiction.

11. Authority of Agent. The Company acknowledges that the rights and responsibilities of the Agent under this Agreement with respect to any action taken by the Agent or the exercise or non-exercise by the Agent of any option, voting right, request, judgment or other right or remedy provided for herein or resulting or arising out of this Agreement shall, as between the Agent and the Banks, be governed by the Credit Agreement and by such other agreements with respect thereto as may exist from time to time among them, but, as between the Agent and the Company, the Agent shall be conclusively presumed to be acting as agent for the Banks with full and valid authority so to act or refrain from acting, and neither the Company nor any party to the Pledged Contracts shall be under any obligation, or entitlement, to make any inquiry respecting such authority.

12. Notices. All notices, requests and demands to or upon the Agent or the Company to be effective shall be in writing (or by telex, fax or similar electronic transfer confirmed in writing) and shall be deemed to have been duly given or made (1) when delivered by hand or (2) if given by mail, when deposited in the mails by certified mail, return receipt requested, or (3) if by telex, fax or similar electronic transfer, when sent and receipt has been confirmed, addressed to the Agent or the Company at its address or transmission number for notices provided in subsection 10.2 of the Credit Agreement. The Agent and the Company may change their addresses and transmission numbers for notices by notice in the manner provided in this Section.

13. Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

14. Amendments in Writing; No Waiver; Cumulative Remedies. (a) None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Company and the Agent on behalf of the Banks as required by Section 10.1 of the Credit Agreement, provided that any provision of this Agreement may be waived by the Agent and the Banks in a letter or agreement executed by the Agent or by telex or facsimile transmission from the Agent.

(b) Neither the Agent nor any Bank shall by any act (except by a written instrument pursuant to paragraph 14(a) hereof), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Agent or any Bank, any right, power or

privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Agent or any Bank of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Agent or such Bank would otherwise have on any future occasion.

(c) The rights and remedies herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

15. Section Headings. The section headings used in this Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

16. Successors and Assigns. This Agreement shall be binding upon the successors and assigns of the Company and shall inure to the benefit of the Agent and the Banks and their successors and assigns.

17. Governing Law. This Agreement shall be governed by, and construed

and interpreted in accordance with, the law of the State of New York.

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be duly executed and delivered as of the date first above written.

CD RADIO INC.

By: \s\ Andrew Greenebaum

Title: Executive Vice President & CFO

ANNEX A

ACKNOWLEDGEMENT AND CONSENT

The undersigned hereby acknowledges receipt of a copy of the Pledge Agreement, dated as of June 30, 1998 (the "Pledge Agreement"), made by CD Radio Inc. for the benefit of Bank of America National Trust and Savings Association, as Administrative Agent (in such capacity, the "Agent"). The undersigned agrees for the benefit of the Agent and the Banks as follows:

1. The undersigned will be bound by the terms of the Pledge Agreement and will comply with such terms insofar as such terms are applicable to the undersigned.

2. The terms of Section 6 of the Pledge Agreement shall apply to it, mutatis mutandis, with respect to all actions that may be required of it under or pursuant to or arising out of Section 6 of the Pledge Agreement.

3. In the event of an assignment of the Pledged Contracts by the Agent, the undersigned agrees to recognize and attorn to such assignee as the successor in interest to the Company thereunder.

SPACE SYSTEMS/LORAL, INC.

By:

Name:

Title:

Address for Notices:

Space Systems/Loral, Inc. 3825 Fabian Way, M/S PS-1 Palo Alto, CA 94303
Attention: Karen Carissimi
Tel: 650-852-5403
Fax: 650-852-5377

SCHEDULE 1
TO PLEDGE AGREEMENT

DESCRIPTION OF PLEDGED CONTRACTS

1. Article 7 of the Amended and Restated Contract, SS/L-TP 9003-02, dated as of June 30, 1998, among the Company and Space Systems/Loral, Inc., as amended, supplemented or otherwise modified from time to time.

SCHEDULE 2
TO PLEDGE AGREEMENT

ACTIONS TO PERFECT LIENS

1. Filing of Form UCC-1 in the office of the New York State Secretary of State.

2. Filing of Form UCC-1 in the office of the New York City Register.

SCHEDULE 3
TO PLEDGE AGREEMENT

LOCATION OF JURISDICTION OF ORGANIZATION
AND CHIEF EXECUTIVE OFFICE

1. Jurisdiction of organization: Delaware

2. Jurisdiction of chief executive office: New York

   1180 Avenue of the Americas
   New York, New York

LUCENT TECHNOLOGIES / CD RADIO
RECEIVER INTEGRATED CIRCUITS AGREEMENT *

THIS AGREEMENT is made by and between Lucent Technologies Inc., a Delaware corporation, acting through its Microelectronics Group, having an office at Two Oak Way, Berkeley Heights, New Jersey 07922 ("Lucent") and CD Radio, Inc., a Delaware corporation, having its principal place of business at 2175 K Street NW, Washington, DC, 20037 ("CD Radio"). The effective date of this Agreement is the later of the dates of execution by the respective parties, as set forth below herein.

IN CONSIDERATION OF the mutual covenants set forth hereinbelow, the parties agree to the following terms and conditions:

PART 1: BUSINESS TERMS

1. BACKGROUND

This is an agreement between the Microelectronics Group of Lucent Technologies Inc. ("Lucent") and CD Radio Inc. ("CD Radio") to develop a systems engineering specification for the communications link of a Satellite Digital Audio Radio Service (S- DARS), and a specification for a set of integrated circuits ("ICs") for such a receiver ("chip set"). Upon the mutual acceptance of the chip set specification by CD Radio and Lucent, Lucent would then fabricate and deliver a prototype of the proposed receiver to verify the communications link performance and thereafter design and manufacture first prototypes and then production chip sets. The foregoing development plan is based upon Lucent's current understanding of CD Radio's needs. It is Lucent's understanding that the objective of the project is to develop a chip set for a low cost, addressable satellite receiver for CD Radio's broadcasts. The details given herein are a baseline, with further details to evolve as the project proceeds.

2. THREE PROJECT PHASES

The Lucent part of the project will be completed in three phases:

1. authorship and delivery of a systems engineering document and the development of a chip set specification;

2. fabrication and delivery of a prototype receiver using existing components from one or more integrated circuit ("IC") vendors; and

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* This agreement is subject to a confidential treatment request. The confidential portions have been omitted from this Form 10-Q and have been replaced by asterisks (*). The confidential portions have been filed separately with the Commission as provided pursuant to Rule 24b-2 under the Securities Exchange Act of 1934.

3. the design, layout, fabrication, and delivery of prototype ICs and, after approval by CD Radio, production devices for use in the consumer electronics original equipment manufacturer's ("CE-OEM's") prototypes and production units. 1/

Lucent's IC development would facilitate the implementation by CD Radio of four potential products:

(a) A radio including S-DARS capability for installed car sound systems. The antenna unit would be hard-wired to the rest of the receiver;

(b) A "Plug 'n' Play" ("PnP") adapter for a subscriber's tape cassette car sound system; and

(c) A PnP adapter for a subscriber's compact disk ("CD") car sound system.

(d) *

Bringing these products to market requires a division of labor between Lucent, CD Radio, and the CE-OEM. This agreement gives the roles and responsibilities of each.

In large measure, the chip sets for all four potential products are congruent and can be pursued in parallel. However, the products identified in subsections (b), (c) and (d) above require some extra effort in a few areas.

3. STATEMENT OF WORK

3.1 PHASE 1 - SYSTEMS ENGINEERING

The first task of Phase 1 shall be for Lucent and CD Radio to define and agree on an overall system level specification.

The deliverables from the systems engineering phase are the communications link systems engineering document, chip set specification, a non-exclusive software license for a link simulator (runs slower than real time on a software platform such as SIMULINK), a link emulator (runs in real time on technical DSP hardware such as SPACE), and applicable documentation.

- --

1/ There may be more than one CE-OEM. For the sake of brevity, in this Agreement we will take CE-OEM to mean "consumer electronics original equipment manufacturer(s)."

The documents, simulator, and emulator can be considered a prototype of a portion of the earth station transmitter. This will enable CD Radio's studio/earth station contractor to build a mission-critical version of the encoder that will connect both (a) digital audio feeds from the studios/content providers and b) receiver command and control output from CD Radio's customer center to c) the satellite up-link transmitter.

Note that the Lucent systems engineering work will not cover satellite tracking, telemetry and control, nor the studios, nor the design and positioning of terrestrial repeaters, nor the generation of receiver commands for activation, billing, and deactivation of subscriber's accounts at CD Radio's customer center.

At a minimum, the emulator will provide a baseband to baseband emulation. The extent to which actual RF up-link and space hardware can be incorporated into the emulator will depend on the level of cooperation provided by CD Radio's transmitter and satellite manufacturers.

CD Radio shall test, review, and approve the work in Phase 1. After such review and approval, Lucent shall not be responsible in the case that the communications link does not meet CD Radio's need. Upon completion of Phase 1 Lucent will provide a quotation on chip set NRE and schedule and preliminary quotation of unit price.

3.2 PHASE 2 - PROTOTYPE RECEIVER

To verify the systems engineering concepts, a prototype receiver will be built. Lucent will obtain and assemble existing parts from one or more component vendors. The prototype receiver will enable early verification of the air interface specification and receiver design, but may contain parts that are higher in cost/power/size than the chip sets in a production receiver. Lucent will make the prototype receiver available to a CE-OEM for engineering into a product at CD Radio's request. Making the prototype receiver into a product may require the CE-OEM to modify the design to lower the implementation cost and/or size and/or power. In such a case, Lucent agrees to grant a royalty-bearing, non-exclusive license, on commercially reasonable terms, to CD Radio and/or the CE-OEM under any issued patent owned by Lucent (to the extent Lucent has a right to grant such license) which is infringed by such design. No further payment by CD Radio is necessary if such patent rights are already exhausted in the sale by Lucent to CD Radio and/or the CE-OEM of a Lucent integrated circuit. Such a patent license will be limited to the specific field of use in which the Lucent integrated circuits are intended to be used, namely CD Radio's satellite digital audio broadcasting service and its associated terrestrial repeaters. Specifically, the license will forbid the use of such patents in the field of wholly terrestrial broadcasting.

CD Radio and its CE-OEM shall test, review, and approve the work in Phase 2. After such review and approval, Lucent shall not be responsible in the case that the communications link does not meet CD Radio's need.

After approval, the chip set design will proceed to Phase 3, as detailed below.

3.3 PHASES 1 AND 2 - PAYMENT SCHEDULE

Lucent will perform these two phases and charge CD Radio quarterly on a time and materials basis. *

3.4 IC DEVELOPMENT AND PROTOTYPE PRODUCTION

The development work for Phase 3 will be performed by Lucent and charged to CD Radio quarterly on a time and materials basis. *

3.5 DESIGN HAND-OFF REQUIREMENTS

CD Radio shall review Phase 3 of the project at Design Inspection 1, Design

Inspection 2, and Firmware Sign-off meetings. Review and approval by CD Radio at these three points plus signature of the post-layout mask sign off sheet (including prototype IC acceptance criteria) shall constitute the Design Hand-Off Requirements mentioned below in Part 3 of this Agreement.

3.6 PRODUCTION IC PRICING

Definitive production IC pricing is unknown at this time. However, Lucent believes it is commercially reasonable to achieve CD Radio's objective of not more than a $50 selling price per chip set, based on the information available today. At or before the completion of Phase 2, Lucent and CD Radio will establish a definitive pricing plan for commercially produced quantities of the chip set, based on the method outlined in Part 3, Section 12. Based on the outcome of this pricing plan, the period of exclusivity outlined in Section 6.0 will be determined.

CD Radio intends to use the jointly owned chip specification to seek competitive bids on the chip set and to use any responses for the purposes of comparison with the price based on the method outlined in Part 3, Section 12.

4. ENGINEERING RISK

Lucent shall not be held liable by CD Radio or its subsidiaries, affiliates, OEM suppliers, subcontractors and customers, nor by any of their officers, shareholders, employees, representatives, agents, attorneys and any other such persons if the engineering objectives involved in this project are not met, so long as Lucent's engineering work has been performed in a professional manner in accordance with generally understood industry standards.

5. SCHEDULE

A chip development project would normally commence after Phases 1 and 2 are complete, namely after Feb 28th, 1999. *

In this case, given the need of CD Radio to meet its service launch date of Dec 1st, 1999, Lucent will attempt an accelerated schedule, where several methods are explored to make receivers available earlier than would normally be the case.

The methods, to be explored in parallel, are:

1. Assess the practicality of the CE-OEM making the receiver prototype developed in Phase 2 into a product for a Dec 1st, 1999 service launch.

2. Accelerate Phases 1 and 2 to complete them by Jun 15th 1998 and Jan 15th 1999, respectively.

3. Accelerate Phase 3 to 10 months from 15 months.

4. Commence some Phase 3 tasks in parallel with Phases 1 and 2. This shortens the part of the chip set development that occurs after completion of Phases 1 and 2. The part of Phase 3 that has to occur after Phases 1 and 2 is a minimum of 8 months.

If all four methods are successful, CD Radio would have receivers based on the Phase 2 prototypes for its Dec 1st, 1999 service launch, and prototype ICs for a low cost Phase 3 receiver delivered to the CE-OEM for system integration Sep 15th, 1999. However, no assurances can be given by Lucent that these methods will be successful in meeting these dates.

6. ONE WAY EXCLUSIVITY AND GUARANTEED MINIMUM PURCHASE

CD Radio and its CE-OEM shall make Lucent their exclusive supplier of CD Radio's S-DARS receiver chip sets, for a limited period, as described below.

Nothing in this Agreement prevents Lucent from supplying the same or similar chips incorporating any of CD Radio's IPRs to any other of its present or future customers, including but not limited to CD Radio's competitor(s), so long as such customers have a license agreement with CD Radio and any applicable royalty is paid to CD Radio (as discussed under Intellectual Property below). Use of existing CD Radio IPR by Lucent in serving non-CD Radio customers in the S-DARS application area is contingent on CD Radio deciding to license any such IPR as may be used in such ICs. Use of existing CD Radio IPR by Lucent in serving the designated CE-OEM is hereby granted royalty free during the exclusivity period described below. Use of existing CD Radio IPR by Lucent in serving any CD Radio customers after the exclusivity period has ended is hereby granted royalty free.

* CD Radio may cancel the exclusivity arrangement if Lucent fails to deliver to orders prototype ICs within fifteen (15) months from the date of the go ahead

payment for Phase 3.

Thereafter, CD Radio may cancel any exclusivity remaining if Lucent fails to deliver on orders a minimum of one (1) million production chip sets during the twelve (12) months following the start date, with a minimum of 75,000 in any given month.

Thereafter, CD Radio may cancel any exclusivity remaining if Lucent fails to deliver on orders a minimum of 450,000 chip sets in any given month.

Notwithstanding the above three (3) paragraphs, CD Radio shall not have the right to cancel the exclusivity arrangement if Lucent halts delivery due to non-payment of Lucent invoices for previously delivered services or products relating to this project. Furthermore, the purchase orders shall be placed with due consideration for Lucent's fabrication logistics and manufacturing lead time as agreed prior to the commencement of Phase 3.

If CD Radio or the CE-OEM does not order and pay for a minimum of 1,000,000 delivered chip sets within the exclusivity period, CD Radio will compensate Lucent in the amount of $2,000,000 minus $2 per chip set actually ordered, delivered and paid for.

7. TERMINATION FOR CONVENIENCE

Either party may terminate this Agreement without cause upon six (6) months written notice to the other party. Upon termination of this Agreement without cause, neither party shall be liable to the other, either for compensation or for damages of any kind or

character whatsoever, whether on account of the loss by Lucent or CD Radio of present or prospective profits on sales or anticipated sales, or expenditures, investments or commitments made in connection therewith, or on account of any other cause or thing whatsoever, except that termination shall not prejudice or otherwise affect the rights or liabilities of the parties with respect to any indebtedness then owing by either party to the other.

8. CONSUMER ELECTRONICS ORIGINAL EQUIPMENT MANUFACTURER (CE-OEM)

CD Radio shall delegate to the CE-OEM the following roles and responsibilities:

- printed circuit board design;
- specification, procurement and integration of:
- discrete active components, such as transistors, diodes, varactors, light emitting diodes etc.;
- passive components such as resistors, capacitors, inductors, filters, crystal oscillators etc.;
- keypad and display;
- antennae;
- commodity ICs such as memories, CD transmitter, FM transmitter, and power ICs; and
- power supply and power supply management including any solar cells, batteries, battery management, capstan generators, smoothing and voltage regulation;
- field testing in a variety of vehicles and under a variety of conditions;
- mechanical engineering;
- electromagnetic interference and compatibility, and shielding;
- audio coupling to a tape head, or FM band transmitter, signal generator for input to a subscriber's CD car sound system;
- making the product suitable for use by the majority of consumers, including:
- user interface hardware and firmware;
- ease of installation, set up and use;

- consumer information booklet;
- micro-controller unit (MCU) and digital signal processor (DSP) firmware development and integration;

o packaging, marketing and selling of receivers; and

o handling of receivers returned by consumers, if any.

o CD Radio shall oversee the CE-OEM and monitor its performance.

PART 2: TERMS AND CONDITIONS APPLYING TO PHASES ONE AND TWO PURSUANT TO THIS AGREEMENT

1. BINDING EFFECT

This Agreement is comprised of Parts 1, 2, and 3. The terms set forth in Parts 1 and 2 shall govern Phases 1 and 2, while the terms set forth in Parts 1 and 3 (as Part 3 may be amended by the parties before initiation of Phase 3) shall govern Phase 3, if Phase 3 is initiated by CD Radio in its sole discretion. In either case, Part 1 is incorporated by reference and the terms set forth in Part 1 shall prevail in the event of any conflict.

2. CONFIDENTIALITY

2.1 All information furnished or disclosed by one disclosing party to the other receiving party which is marked with a restrictive notice or otherwise tangibly designated as proprietary (hereinafter "Information") shall be deemed the property of the disclosing party and shall be returned to the disclosing party upon request. Unless such Information: (a) was previously known to the receiving party free of any obligation to keep it confidential, or (b) has been or is subsequently made public by the disclosing party or a third party under no obligation of confidentiality, or (c) is independently developed by the receiving party, then the receiving party shall, for a period ending three (3) years after the conclusion of this Agreement, use the same degree of care, but no less than a reasonable standard of care, as it uses with regard to its own proprietary information to prevent disclosure, use or publication thereof. Except as set forth in section 2.2 below, information furnished hereunder may be used by either party only for performance under this Agreement and may be used for other purposes only upon such terms and conditions as may be mutually agreed upon in writing.

2.2 Neither party shall disclose any of the terms and conditions of this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, Lucent agrees that CD Radio may disclose a summary of the material terms and conditions of this agreement in its reports, registration statements and other documents required to be filed with the Securities and Exchange Commission and as otherwise may be required by the rules and regulations of the SEC or any other applicable regulatory agencies. To the extent practicable, CD Radio will afford Lucent a reasonable opportunity to review and comment on any such public disclosure prior thereto and shall consider in good faith any proposed modification of such disclosure suggested in writing by Lucent a reasonable period of time prior to the time public disclosure is required to be made by CD radio. At the request of Lucent, CD Radio will apply for confidential treatment of any portions of this Agreement which Lucent designates as being a "trade secret" within the meaning of the Freedom of Information Act and will diligently pursue obtaining an exemption from any such disclosure requirements.

2.3 The parties agree that their obligations under this Section 2 shall survive and continue after any termination of this Agreement.

3. OWNERSHIP OF INTELLECTUAL PROPERTY

3.1 All intellectual property developed or created prior to the effective date of this Agreement ("Existing Intellectual Property") is and shall remain the property of the party who made, developed or created or presently owns such Existing Intellectual Property and, unless otherwise expressed in this Agreement, no license is implied or granted herein to any Existing Intellectual Property by virtue of this Agreement. The parties acknowledge and agree that, as between them, any new intellectual property that is jointly developed or created during Phases 1 and 2 and after the effective date of this Agreement ("New Intellectual Property") shall be the joint property of the parties and each party shall be free to use and exploit such jointly owned New Intellectual Property without accounting in any way to the other party. In particular, the systems engineering documents and the chip set specification jointly developed under Phases 1 and 2 will be jointly owned by Lucent and CD Radio.

3.2 The IPR in the software simulator and emulator, and the prototype receiver developed in Phases 1 and 2 will be solely owned by Lucent, but CD Radio shall be granted a royalty-free license to use such software simulator, emulator and prototype in the course of development of CD Radio's S-DARS.

4. TERMINATION OR CHANGE

CD Radio shall not terminate, suspend performance, reschedule or cancel any work undertaken hereunder, in whole or in part, without Lucent's prior written consent, which consent shall not be unreasonably withheld, and upon terms that will compensate Lucent for any loss or damage resulting from such action.

5. LICENSES AND RIGHTS

No title or other ownership rights in any licensed products or any copies thereof shall pass to CD Radio by virtue of any performance hereunder. CD Radio agrees that it will not alter any notices on, prepare derivative works based on, or reproduce, reverse engineer, disassemble or de-compile any software embodied in licensed products or recorded in the purchased products furnished hereunder.

6. TERMS OF PAYMENT

CD Radio shall pay any amounts invoiced pursuant to the schedule and amounts set forth in Part 1 pertaining to Phases 1 and 2 within thirty (30) days from the date of Lucent's invoice. Delinquent payments are subject to an interest charge at the rate of one and one-half percent (1-1/2%) per month, or portion thereof (but not to exceed the maximum lawful rate).

7. TAXES

Any tax or related charge that Lucent shall be required to pay to or collect for any government upon or with respect to services rendered hereunder shall be billed to CD Radio as a separate item and paid by CD Radio, unless a valid exemption certificate is furnished by CD Radio to Lucent.

8. EXPORT CONTROL

CD Radio acknowledges that technical information transmitted in connection herewith may be subject to export restrictions under applicable law, including the U.S. Department of Commerce Export Administration Regulations ("Regulations"), and CD Radio agrees to comply fully with same. CD Radio assures Lucent that it will not transmit, sell, transfer or convey any products, technical information or software, or goods produced through the use of same, to any country, or citizen or resident of a country, other than the United States without first securing the written consent, if required, of the U.S. Department of Commerce.

9. LIMITATION OF LIABILITY

NOTWITHSTANDING ANY OTHER PROVISION HEREOF, EXCEPT AS MAY ARISE OUT OF INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE, LUCENT SHALL NOT BE LIABLE FOR INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OR FOR LOST PROFITS, SAVINGS OR REVENUES OF ANY KIND, WHETHER OR NOT LUCENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS PROVISION SHALL SURVIVE FAILURE OF AN EXCLUSIVE REMEDY.

10. ASSIGNMENT

Except to any entity that succeeds it as the result of a strategic merger, acquisition, or other corporate reorganization, CD Radio shall not assign this Agreement or any rights or obligations hereunder without the prior written consent of Lucent, which shall not be unreasonably withheld. Any such attempted assignment without Lucent's consent shall be void and ineffective.

11. NON-WAIVER

No course of dealing or failure of either party to strictly enforce any term, right or condition of this Agreement shall be construed as a waiver of such term, right or condition. If these terms and conditions conflict with terms and conditions of a purchase order or procurement document issued by CD Radio, the terms and conditions contained herein shall govern. Lucent's acceptance of CD Radio's order is conditioned upon CD Radio's acceptance of these terms and conditions in writing. Lucent's failure to object to

provisions contained in any communication from CD Radio shall not be deemed a waiver of the provisions herein.

12. NO POWER TO BIND LUCENT TECHNOLOGIES

CD Radio specifically assures Lucent that it will not extend, directly or indirectly, any warranty or representation in the name of Lucent or purport to bind Lucent in any way.

13. TERMINATION FOR CAUSE

13.1 Either party may initiate termination of this Agreement for cause

by giving to the other party sixty (60) days prior written notice specifying the reason for termination, which termination shall occur unless such reason for termination is cured within such sixty (60) day period. A right to terminate under this section shall arise upon the happening of any of the following events:

13.1.1 a party becomes the subject of a bankruptcy petition filed in a court in any jurisdiction, whether voluntary or involuntary; or

13.1.2 a receiver or a trustee is appointed for all or a substantial portion of a party's assets; or

13.1.3 a party makes an assignment for the benefit of its creditors; or

13.2 a party fails to perform substantially any material covenant, obligation, representation or warranty under this Agreement including but not limited to the timely payment of any fees or other charges specified under this Agreement.

14. USE OF TRADEMARKS

The parties recognize each other's rights in their respective trademarks, service marks, trade names and logos. Except as permitted by United States trademark law and except as expressly provided herein, nothing in this Agreement shall imply the grant by one party to the other of a license to use (i) any trademark, service mark, trade name or logo of that party or any of its affiliates in connection with advertising, licensing, marketing or any other use, or (ii) any trademark, service mark, trade name or logo that is confusingly similar to a name or mark used by that party or any of its affiliates.

15. FORCE MAJEURE

Except with respect to CD Radio's obligation to make timely payments when due, neither party shall be held responsible for any delay or failure in performance of any part of this Agreement to the extent such delay or failure is caused by fire, flood, explosion, war, strike, embargo, government requirement, civil or military authority, act of God, nature

or the public enemy, inability to secure material or transportation facilities, act or omission of carriers or any other causes beyond its reasonable control.

16. CHOICE OF LAW

The construction, interpretation and performance of this Agreement shall be governed by the substantive laws, but not the conflicts of law, of the State of New York. The U.N. Convention on Contracts for the International Sales of Goods shall not apply hereto.

17. NOTICES

Unless otherwise provided, any notice required or permitted hereunder shall be given in writing and shall be deemed effectively given upon: (i) personal delivery to the party to be notified; (ii) seven (7) days after deposit in the mail, by registered or certified mail, postage prepaid, return receipt requested, (iii) on the day following facsimile transmission, with confirmed transmission; or (iv) on the second day following deposit with a reputable overnight courier service, in any case addressed to the party to be notified at the address indicated for such party on the first page hereof, or at such other address as such party may designate by ten (10) days' advance written notice to the other party.

18. PARTIAL INVALIDITY

If any paragraph, provision, or clause thereof in this Agreement shall be found or be held to be invalid or unenforceable in any jurisdiction in which this Agreement is being performed, the remainder of this Agreement shall be valid and enforceable and the parties shall negotiate, in good faith, a substitute, valid and enforceable provision which most nearly effects the parties' intent in entering into this Agreement.

19. COUNTERPARTS

This Agreement may be executed in two or more counterparts, all of which, taken together, shall be regarded as one and the same instrument.

20. SECTION HEADINGS

The section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

21. RELATIONSHIP OF PARTIES

The parties to this Agreement are independent contractors. There is no relationship of agency, partnership, joint venture, employment or franchise between the parties. Neither party has the authority to bind the other or to incur any obligation on its behalf.

22. DISPUTE RESOLUTION

22.1 If a dispute arises out of or relates to this Agreement, or its breach, and if such dispute cannot be settled through good faith negotiations within thirty (30) days, the parties agree to submit the dispute to a sole mediator selected by the parties or, at any time at the option of a party, to mediation by a mediator selected by the American Arbitration Association ("AAA"). The parties agree to make good faith efforts to resolve disputes by mediation within thirty (30) days. If not thus resolved, it shall be referred to a sole arbitrator selected by the parties within thirty (30) days of the mediation, or in the absence of such selection, to AAA arbitration which shall be governed by the United States Arbitration Act. The mediator or arbitrator selected by the parties shall be knowledgeable in the law and technology and the rules and regulations of the AAA. Such mediation or arbitration shall be non-binding on the parties. In the event such dispute is not resolved either by mediation or arbitration, then either party may initiate suit in the federal or state courts in the State of New York.

22.2 The mediation or arbitration, if any, shall be held in New York City. The requirement for mediation or arbitration shall not be deemed a waiver of any right of termination under this Agreement and the mediator or arbitrator is not empowered to act or make any award other than based solely on the rights and obligations of the parties prior to any such termination.

22.3 The mediator or arbitrator may not limit, expand or otherwise modify the terms of this Agreement.

22.4 Each party shall bear its own expenses but those related to the compensation and expenses of the mediator or arbitrator shall be borne equally.

22.5 The mediator or arbitrator shall not have authority to award punitive, exemplary or other damages in excess of compensatory damages and each party irrevocably waives any claim thereto. The award shall be made within two (2) months after selection of the mediator or arbitrator and may be entered in any court.

22.6 The parties, their representatives, other participants and the mediator and arbitrator shall hold the existence, content and result of mediation or arbitration in confidence.

23. ENTIRE AGREEMENT

Except for any written agreement between the parties relating to confidentiality of proprietary information, the terms and conditions contained in this Agreement supersede all prior oral or written understandings between the parties and shall constitute the entire Agreement between the parties with respect to the subject matter of this Agreement. This Agreement shall not be modified or amended except by a writing signed by CD Radio and Lucent.

LUCENT TECHNOLOGIES INC.	CD RADIO INC.
/s/ Judith A. Sheft	/s/ Andrew J. Greenebaum
(Signature)	(Signature)
Judith A. Sheft (Name Printed)	Andrew J. Greenebaum (Name Printed)
Intellectual Property & Compliance, Vice President (Title Printed)	Executive Vice President & Chief Financial Officer (Title Printed)
April 24, 1998 (Date)	April 24, 1998 (Date)

PART 3: TERMS AND CONDITIONS APPLYING TO PHASE THREE PRODUCTION PURSUANT TO THIS AGREEMENT

1. AGREEMENT

This Agreement, effective as of the date of latest execution by a party hereto shown hereon, applies to one or more products (hereinafter "Device(s)") that are

identified in Lucent's Business Terms to which these terms and conditions are attached and any additional Agreement that references this Agreement, (hereinafter "Agreement"). As used herein, "Agreement" refers to these terms and conditions and those parts of Part 1: Business Terms (the "Business Terms") that refer to Phase 3 of the project. This Agreement, together with the Business Terms, supersedes all prior oral or written understandings between the parties, and constitutes the entire agreement between the parties, with respect to all transactions relating to the subject matter of the Business Terms. In the event of a conflict between the applicable Business Terms and these terms and conditions, the terms and conditions of the Business Terms shall prevail. Additional or differing terms appearing on any purchase order or other procurement document do not apply. This Agreement may not be modified or amended except by a writing signed by both parties.

2. CHANGE OF BUSINESS TERMS

Proposed prices, fees and charges are valid only for the parameters or other particulars relating to the Device as stated in the Business Terms. If any changes in such parameters or particulars become necessary, including but not limited to revision or redefinition of the specification or variations in quantities, functional description, package type, or testing requirements, upon mutual agreement the parties may revise such prices by amendment to the Business Terms. Other proposed fees and charges are valid only for the respective particulars stated in the Business Terms. The parties may also amend the Business Terms with respect to any of such indicated fees and charges to make adjustments for changes in CD Radio's requirements. Any such amendments to the Business Terms shall reference the Business Terms and shall be further identified by their respective dates and shall be signed by both parties.

3. PROTOTYPE IC APPROVAL

Within ninety (90) days after receipt of prototype ICs for any Device covered by this Agreement, CD Radio may return any claimed non-conforming prototype ICs to Lucent with a written rejection statement specifying the alleged failure or failures of the prototype ICs to meet the acceptance criteria as provided in the mask order sign off sheet or mutually agreed modifications thereof (the "Acceptance Criteria"). If CD Radio does not return the prototype ICs with a written rejection statement within such ninety (90) day period, then the design and prototype ICs shall be deemed to have been

approved by CD Radio and development work shall be deemed to have been completed by Lucent.

If any prototype IC does not meet the Acceptance Criteria and is rejected by CD Radio, Lucent shall use commercially reasonable efforts to replace it with one which does comply with the Acceptance Criteria. Lucent shall not, however, be obligated to replace any non-complying prototype ICs of which it has not been notified within ninety (90) days of shipment of same to CD Radio. If Lucent, within ninety (90) days after receipt of CD Radio's timely written rejection report, is unable to supply CD Radio with conforming prototype ICs, then either party may by written notice to the other terminate this Agreement as to such Device. Provided CD Radio has fulfilled all "Design Hand-Off Requirements," as defined in the Business Terms, if so terminated, unless otherwise provided in the Business Terms, all moneys paid by CD Radio to Lucent with respect to such Device will be refunded in full within thirty (30) days. Such refund of moneys shall be CD Radio's sole and exclusive remedy and Lucent's entire liability with respect to non-conforming prototype ICs.

In the event that delivered prototype ICs comply with the Acceptance Criteria, but do not function in CD Radio's application (e.g., logic design error, change in required function, etc., not attributable to Lucent), CD Radio shall pay all charges incurred for the development of the Device and then CD Radio and Lucent may negotiate a mutually agreeable redesign schedule and price.

4. ORDERS

No order for production quantities of the Device shall be placed by CD Radio or accepted by Lucent unless and until CD Radio has approved the prototype ICs for the Device, paid all fees then due under the Business Terms and made any other payments due to Lucent under any order based on this Agreement. All orders for the design of the Device, for changes, for technical assistance, for production quantities of the Device or for any other service by Lucent relating to this Agreement shall be in writing, shall reference the Business Terms by its number and date and any current amendments thereto by their respective dates, and shall be signed by CD Radio. Lucent shall acknowledge all orders in writing.

5. RESCHEDULING OF ORDERS

CD Radio may reschedule an order pursuant to the following schedule:

Days.....Time between date of reschedule request and current factory promise

date.

DAYS	RESCHEDULE
Within 30 days (0-30)	No rescheduling
31 days to lead-time	One time reschedule by up to 90 days beyond factory promised date is permitted with no further reschedule or cancellation.
Beyond lead-time	Reschedules and cancellations without limits.

PULL-IN WITHIN AGREED DELIVERY DATE

CD Radio request date ("RD") may be pulled in as desired by CD Radio.

Lucent will make reasonable efforts to meet the new RD.

If improvement of the acknowledged date is possible, a new acknowledged date will be issued.

If improvement cannot be made, the current acknowledged date will be retained; in all cases, the requested pull-in date will be maintained with the order history in the event an improvement can be made at a later date.

6. CANCELLATION OF ORDERS

Should CD Radio cancel any order which has been acknowledged and a shipping date assigned, either in whole or in part, such cancellation shall be upon terms and conditions that will compensate Lucent for any loss or damage resulting from such cancellation. Notwithstanding the foregoing, Lucent shall use its best efforts to mitigate any loss or damage resulting from such cancellation. Lucent shall not be obligated to permit a cancellation if a reschedule has been previously negotiated at CD Radio's request.

Compensation by CD Radio for production quantities of the Device shall be according to the following schedule:

Days.....Time between date of cancellation and current factory promise date.

Liability.....Liability is the percentage of aggregate purchase price of the canceled portion of the order.

DAYS	PERCENT OF LIABILITY
0 to lead-time	100
Greater than lead-time	-0-

7. WARRANTY

Lucent warrants the Device as a production item ("Item"), but not related services or prototypes of any such Items, to be free from defects in material and workmanship and to be in conformance with the written specification contained in the Business Terms and amendments thereto, if any, and referenced in an order by CD Radio. With respect to prototype ICs, Lucent shall use commercially reasonable efforts to ensure freedom from defects and conformity with written specifications, if any. If any defect in material or workmanship or failure to conform to such specification ("Defect") is suspected in any such Items, CD Radio, after obtaining a Returned Material Authorization Number from Lucent, shall ship suspected defective samples of the Items to Lucent, following Lucent's instructions regarding the return. No product will be accepted for repair, replacement, credit or refund without the written authorization of and in accordance with Lucent's instructions, which authorization and instructions shall not be unreasonably withheld or delayed. Lucent shall analyze the failures, making use, when appropriate, of technical information provided by CD Radio relating to the circumstances surrounding the failures. Lucent will verify whether any Defect appears in the Items. If Lucent determines that the returned products are not defective, CD Radio may seek evaluation by a competent and disinterested third party approved by Lucent (which approval shall not be unreasonably withheld). If such third party determines that the returned products are not defective, CD Radio shall pay Lucent all costs of handling, inspection, repairs and transportation at Lucent's then prevailing rates. Lucent shall, at Lucent's option, either credit or refund the purchase price or repair or replace the defective product with the same or equivalent product without charge at Lucent's manufacturing or repair facility provided: (i) CD Radio notifies Lucent in writing of the claimed Defect within thirty (30) days after CD Radio knows or reasonably should know of the claimed Defect and (ii) Lucent's and/or the disinterested third party's examination of the Items discloses that

the claimed Defect actually exists. In the event of a replacement, Lucent shall ship the replacing Items FOB point of origin, freight prepaid to CD Radio's destination. Any replaced Item shall become Lucent's property. The method of disposition of any replaced Items will be as mutually agreed by both parties in writing. Lucent shall not be responsible for de-installation or reinstallation of any Item or for the expenses thereof. Repairs and replacements covered by the above warranty are warranted to be free from defects as

set forth above. Inspection and acceptance of Items by CD Radio and/or payment therefor shall not relieve Lucent of responsibilities hereunder.

The above warranty does not apply to, and Lucent makes no warranties with respect to products that: are software programs (except for software programs Lucent developed and incorporated into the Device), experimental products or prototypes (all of which are provided "AS IS") or to Items which have been subjected to misuse, neglect, accident or abuse or operating or environmental conditions that materially deviate from the parameters established in applicable specifications; or have been improperly installed, stored, maintained, repaired or altered by anyone other than Lucent; or have had their serial numbers or month and year of manufacture or shipment removed, defaced or altered. This warranty does not extend to any system into which a Device is incorporated. This warranty applies only to CD Radio and its successors and may not be assigned or extended by CD Radio to any of its customers or other users of the Items. Lucent will not accept returns from CD Radio's customers or users of CD Radio's products.

EXCEPT AS STATED IN THE SECTION ENTITLED WARRANTY, LUCENT, ITS SUBSIDIARIES AND AFFILIATES, SUBCONTRACTORS AND SUPPLIERS MAKE NO WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CD RADIO'S SOLE AND EXCLUSIVE REMEDY SHALL BE LUCENT'S OBLIGATION TO REPAIR OR REPLACE OR CREDIT OR REFUND AS SET FORTH ABOVE.

8. PROPRIETARY RIGHTS IN TECHNICAL INFORMATION

Unless otherwise agreed in writing, CD Radio-supplied design information relating to the Device, as incorporated in circuit design information, test vectors, test tapes, and special requirements specifications shall remain the property of CD Radio. CD Radio hereby authorizes Lucent to use such information and results solely and exclusively for the design, manufacture and sale of the Device to CD Radio and in providing related production services. The systems engineering documents and the chip set specification jointly developed under Phases 1 and 2 will be jointly owned by Lucent and CD Radio. Lucent retains all ownership rights in Lucent's processing information, mask works, mask sets, macro cells, and the like used in design, production or in filling orders placed by CD Radio hereunder. CD Radio has no rights in or to such processing information, mask works, mask sets, macro cells, and the like.

If and to the extent CD Radio in its sole discretion, during the term of this Agreement, reaches any agreement with a third party to license intellectual property rights that are solely CD Radio's in the field of digital broadcasting, it shall either: (a) negotiate with

Lucent the grant of a non-exclusive license to such intellectual property rights (with royalty terms dependent on the agreement reached with the third party or parties) or (b) provide in such third-party license (or licenses) for the grant of a sublicense (with the terms of the sublicense to be as set forth in the third-party license or exhibit thereto), in both cases for the purpose of permitting Lucent to make, have made, use, lease, sell and import chip sets and receivers for the purposes of commercializing digital broadcasting. In either case (license or sublicense), Lucent shall be limited to supplying such Devices only to authorized CD Radio licensees.

IPR developed by Lucent under Phase 3, as detailed herein, will be owned exclusively by Lucent.

9. INTELLECTUAL PROPERTY INDEMNITY

Lucent will indemnify and hold harmless CD Radio from and against any claim by a third party against CD Radio alleging that any Device furnished under this Agreement directly infringes any patent, copyright or trademark of such third party. Lucent shall have the obligation, at its own expense, to defend or settle all such claims, subject to CD Radio's reasonable participation, at its own expense, in the conduct of any such proceeding or settlement. Lucent shall reimburse CD Radio for any costs incurred at Lucent's written request relating to such claim and shall pay damages and costs assessed by final judgment against CD Radio, or resulting from settlement, and attributable to such claim.

In addition, Lucent will have the right, at any time and at its option and expense to: (i) procure for CD Radio the right to continue using such Device; (ii) replace or modify any such Device provided or to be provided to render it free of the infringement, while maintaining equivalent functionality and

complete compatibility with CD Radio's products; or (iii) require return of such Device and refund the purchase price.

Lucent's obligations hereunder are conditioned upon: (i) CD Radio giving Lucent written notice within thirty (30) days of any such claim asserted against it; (ii) Lucent having complete control of the defense and settlement thereof, subject to CD Radio's reasonable participation and consent (in the case of settlement or litigation decisions affecting CD Radio); (iii) CD Radio cooperating fully with Lucent, at Lucent's expense, to facilitate the defense or settlement of such claim; and (iv) CD Radio's substantial compliance with the material terms of this Agreement.

Notwithstanding the foregoing, Lucent shall have no obligation to defend or settle any claim, and CD Radio shall indemnify and save harmless Lucent and its suppliers and affiliated companies from all costs, expenses, liabilities and claims, for any such claim: (i) arising from Lucent's compliance with CD Radio's specifications, designs or instructions; or (ii) relating to any Device furnished hereunder in combination with

item(s), whether or not furnished by Lucent, even if such combination results from the Device's necessary or inherent use or the use for which the device is purchased.

The sale of any Device by Lucent shall not in any way confer upon CD Radio, or upon anyone claiming under CD Radio, any license (expressly, by implication, by estoppel or otherwise) under any patent claim of Lucent or others covering or relating to any combination, machine or process in which such Device is or might be used, or to any process or method of making such Device.

THE FOREGOING STATES THE SOLE AND EXCLUSIVE REMEDY AND OBLIGATION OF THE PARTIES HERETO FOR INFRINGEMENT OR OTHER VIOLATION OF ANY INTELLECTUAL PROPERTY RIGHTS ARISING OUT OF THIS AGREEMENT AND IS IN LIEU OF ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, IN REGARD THERETO.

10. NONDISCLOSURE

During performance of this Agreement, the parties may disclose or furnish to each other proprietary marketing, technical, or business information, including, without limitation, products and/or software ("information"), relating to the subject of this Agreement.

Information provided in tangible form shall be clearly marked as proprietary. With respect to any devices, any technical information, including but not limited to circuit layout, design, or software, embedded in any such device is proprietary information notwithstanding the absence of any proprietary marking on such device. Information provided orally will be considered proprietary, if the disclosing party says it is proprietary at the time of oral disclosure and summarizes it in a proprietary writing provided to the other party within 20 (twenty) days of the oral disclosure.

The receiving party shall: (a) hold information in confidence using the same degree of care as it normally exercises to protect its own proprietary information; (b) restrict disclosure and use of information to employees (including any contractors or consultants) with a need-to-know, and not disclose it to any other parties; (c) advise those employees, contractors and consultants of their obligations with respect to the information; (d) not copy, duplicate, reverse engineer or decompile information; (e) use the information only in furtherance of performance under this Agreement; and (f) upon expiration or termination of this Agreement, return all information to the disclosing party or at the request of the disclosing party, destroy such information.

The receiving party shall have no obligation to keep confidential information that: (a) was previously known to it free of any confidentiality obligation; (b) was independently developed by it; (c) is or becomes publicly available other than by unauthorized

disclosure; (d) is disclosed to third parties by the disclosing party without restriction; or (e) is received from a third party without violation of any confidentiality obligation.

If a party is faced with legal action or a requirement under government regulations to disclose or make available proprietary information received hereunder, such party shall forthwith notify the furnishing party and, upon request of the latter, cooperate in contesting such action or requirement at the requesting party's expense. Neither party shall be liable for damages for any disclosure or unauthorized access pursuant to legal action or government regulations or for inadvertent disclosure, access, or use if the customary degree of care as it uses with respect to its own proprietary information has been exercised and if, upon discovery of such inadvertent disclosure, access, or use the furnishing or receiving party has endeavored to prevent any further (inadvertent or otherwise) disclosure or use.

Obligations imposed by this Section 10 shall survive for a period of five (5) years after termination or expiration of this Agreement.

11. TERM OF AGREEMENT

The term of this Agreement as related to any specific Device covered by this Agreement shall expire at the end of the purchase period specified in the Business Terms and any agreed extensions thereto. Lucent reserves the right to discontinue the supply of any Device(s) hereunder, subject to providing CD Radio six (6) months written notice of discontinuation, during which period CD Radio may place orders for reasonable quantities calling for delivery within lead-time of the Device, and subject to the immediate termination of the exclusivity period provided for in Part 1, if such period has not already concluded.

12. PRICE AND PAYMENT TERMS

Lucent and CD Radio will collect market price data on ICs with comparable functions and volumes to the ICs in the chip set, for example, ICs used in IS-95 cellular telephones. Both parties will work together to estimate the difference in value the actual ICs have with respect to the open market ICs. After allowances are made for differences in function and performance, the price Lucent charges for the chip sets shall not exceed that of comparable ICs at comparable cumulative volume. Lucent will take the NRE fees paid by CD Radio into account when calculating the chip set selling price in this way.

The price for each unit of the Device shall be as set forth in Appendix 1 hereto, as may be amended from time to time by mutual agreement of the parties. CD Radio shall pay the invoiced amount within thirty (30) days from the date of Lucent's invoice. Payment terms for all design and development activities of Lucent are as specified in the Business Terms. Lucent may exercise an option to assess an interest charge of up

to one and one-half percent (1-1/2%) per month on all amounts which are not timely paid (but not to exceed the maximum lawful rate). CD Radio hereby grants to Lucent a purchase money security interest in the product to secure the purchase price of the product until the purchase price is paid in full. CD Radio agrees to execute and deliver all documents reasonably requested by Lucent to perfect and maintain Lucent's security interest. Orders are subject to a maximum outstanding credit limit (measured counting all outstanding invoices, whether or not past due, combined with the value of all accepted orders) as reasonably determined by Lucent. Lucent may refuse to accept purchase orders, if such acceptance would result in CD Radio exceeding such credit limit. The amount of credit or terms of payment may be changed or credit withdrawn by Lucent at any time upon reasonable advance notice to CD Radio. Each shipment shall constitute an independent transaction and CD Radio shall pay for same in accordance with the specified payment terms. Lucent will invoice CD Radio upon shipment. If shipments are delayed by CD Radio, Lucent may invoice CD Radio when Lucent is prepared to ship. Lucent may invoice CD Radio immediately upon termination or cancellation of any order. Prices shall be quoted and invoices shall be rendered and paid in United States currency.

13. DELIVERY, TITLE, RISK OF LOSS AND TRANSPORTATION

Unless otherwise agreed to by Lucent in writing as part of the Business Terms or any amendment thereto referenced by CD Radio in an order, (a) delivery terms on shipments to any point in the United States shall be F.O.B. point of origin, and (b) delivery terms on shipments to any point outside of the United States shall be pursuant to Incoterms 1990 (FCA, country of export). Where, in order to meet CD Radio's requests, Lucent ships or packs the Device or other materials in other than its normal manner for shipment, additional billing may be rendered. risk of loss shall pass to CD Radio upon delivery.

14. PRODUCT CHANGES

Lucent may at any time make changes in the Devices (i) that do not materially affect physical or functional interchangeability or performance or (ii) when required for purposes of safety. In the case of (ii), Lucent shall ensure that such changes do not adversely affect the functionality of the Device or its compatibility with CD Radio's products. No changes by Lucent may result in any price increase.

15. MANUFACTURING FACILITY

Notwithstanding anything contained herein to the contrary, Lucent reserves the right to manufacture the Device in any Lucent-qualified facility. Lucent also reserves the right to transfer production from one qualified facility to another or to manufacture at multiple qualified facilities.

16. EXCLUSIVE REMEDIES AND LIMITATIONS OF LIABILITY

A. For purposes of the exclusive remedies and limitations of liability set forth in this section, Lucent shall be deemed to include Lucent Technologies Inc., its subsidiaries and affiliates and the directors, officers, employees, agents, representatives, subcontractors and suppliers of all of them; and "Damages" shall be deemed to refer collectively to all injury, damage, loss or expense incurred.

B. Lucent's entire liability and CD Radio's exclusive remedies against Lucent for any damages caused by any Device defect or failure, or arising from the performance or non-performance of any work, regardless of the form of action, whether in contract, tort, including negligence, strict liability or otherwise, except as may arise from intentional misconduct or gross negligence, shall be:

1. For infringement, the remedies set forth in the section entitled Intellectual Property Indemnity;

2. For failure to deliver conforming prototypes, CD Radio's sole and exclusive remedy and Lucent's entire liability shall be CD Radio's right to a refund of moneys paid by CD Radio as provided in Section 3 of this Part 3. For any other failure of the Device or work performed, the remedies stated in the section entitled Warranty;

3. For delays in delivery of production quantities, Lucent shall have no liability unless the delivery is delayed by more than thirty (30) days by causes not attributable either to CD Radio or to conditions beyond Lucent's reasonable control, in which case CD Radio shall have the right, as its sole remedy, to cancel the order without incurring cancellation charges;

4. For bodily injury or death to any person proximately caused by Lucent, CD Radio's right to proven direct damages; and

5. For claims other than set forth above, Lucent's liability shall be limited to direct damages that are proven, in an amount not to exceed one hundred thousand ($100,000) dollars.

C. Notwithstanding any other provision of this Agreement, Lucent shall not be liable for incidental, indirect, special, exemplary or consequential damages or for lost profits, savings or revenues of any kind, whether or not Lucent has been advised of the possibility of such damages. This provision shall survive failure of an exclusive remedy.

17. CD RADIO'S DESIGNATED EMPLOYEES ON SELLER'S PREMISES

CD Radio's personnel shall, while on any location of Lucent or any of its affiliates, comply with rules and regulations with regard to safety and security at such location. Lucent shall inform such personnel of such rules and regulations. CD Radio shall have full control over such personnel and shall be entirely responsible for their complying with such rules and regulations. CD Radio agrees to indemnify and save Lucent and any of its affiliates harmless from any claims or demands, including the costs, expenses and reasonable attorney's fees incurred on account thereof, that may be made by (i) anyone for injuries to persons or damage to property resulting from the acts or omissions of CD Radio's personnel or (ii) CD Radio's personnel under Worker's Compensation or similar laws. CD Radio agrees to defend Lucent and its affiliates, at Lucent's request, against any such claim or demand.

18. EXPORT CONTROL

The parties acknowledge that any products, software, and technical information (including, but not limited to, services and training) provided under this Agreement are subject to U.S. exports laws and regulations and any use or transfer of such products, software, and technical information must be authorized under those regulations. The parties agree that they will not use, distribute, transfer, or transmit the products, software, or technical information (even if incorporated into other products) except in compliance with U.S. export regulations. If requested by Lucent, CD Radio also agrees to sign written assurances and other export-related documents as may be required for Lucent to comply with U.S. export regulations.

19. ASSIGNMENT

Except for Lucent's right to assign this Agreement to any of its affiliates and CD Radio's right to assign this Agreement to any entity that succeeds it as the result of a strategic merger, acquisition, or other corporate reorganization, neither party shall have the right to assign this Agreement except upon the prior written consent of the other and any such purported assignment shall be void and ineffective.

20. IDENTIFICATION

Except as permitted by United States trademark law and except as expressly provided herein, neither Lucent nor CD Radio shall use any identification of, or

reference to, any code, drawing, specification, trade name, trademark, trade device, insignia, service mark, symbol, or any abbreviation, contraction, or simulation thereof, of the other party in any advertising or promotional efforts without such other party's prior approval.

21. EXCUSE OF PERFORMANCE

Except with respect to CD Radio's obligation to make timely payments when due, neither party shall be held responsible for any delay or failure in performance of any part of this

Agreement to the extent such delay or failure is caused by fire, flood, explosion, war, strike, embargo, government requirement, civil or military authority, act of God, nature or the public enemy, inability to secure material or transportation facilities, inadequate yield of products despite Lucent's reasonable efforts, act or omission of carriers or any other causes beyond its reasonable control. After conclusion of the exclusivity period provided for in Part 1, Lucent may, in the event of any such circumstance, allocate in a fair and reasonable manner, taking into account Lucent's contractual commitments, its available production output among itself and its other customers, including at Lucent's option those not under contract.

22. NON-WAIVER

No course of dealing or failure of either party to strictly enforce any term, right or condition with respect to any transaction or order hereunder shall be construed as a waiver of such term, right or condition.

23. TAXES

Any tax or related charge which Lucent shall be required to pay to or collect for any government upon or with respect to services rendered or the sale, use or delivery of the Device or other materials shall be billed to the CD Radio as a separate item and paid by CD Radio, unless a valid exemption certificate is furnished by CD Radio to Lucent.

24. CHOICE OF LAW

The construction, interpretation, and performance of this Agreement and any transaction hereunder shall be governed by the substantive laws, but not the conflicts of law rules, of the State of New York. The U.N. Convention on Contracts for the International Sales of Goods shall not apply to the sale of product hereunder.

25. MEDICAL AND LIFE SUPPORT APPLICATIONS

Lucent does not recommend the use of any Devices for medical or life support applications wherein a failure or malfunction of the Device may directly threaten life or cause injury and Lucent will not knowingly sell its Devices for such use except pursuant to a written exception to this policy granted on a case-by-case basis. No warranty is made with respect to any such medical or life support use of any Device.

26. DISPUTES

26.1 If a dispute arises out of or relates to this Agreement, or its breach, and if such dispute cannot be settled through good faith negotiations within thirty (30) days, the parties agree to submit the dispute to a sole mediator selected by the parties or, at any time at the option of a party, to mediation by a mediator selected by the American Arbitration Association ("AAA"). The parties agree to make good faith efforts to resolve disputes by

mediation within thirty (30) days. If not thus resolved, it shall be referred to a sole arbitrator selected by the parties within thirty (30) days of the mediation, or in the absence of such selection, to AAA arbitration which shall be governed by the United States Arbitration Act. The mediator or arbitrator selected by the parties shall be knowledgeable in the law and technology and the rules and regulations of the AAA. Such mediation or arbitration shall be non-binding on the parties. In the event such dispute is not resolved either by mediation or arbitration, then either party may initiate suit in the federal or state courts in the State of New York.

26.2 The mediation or arbitration, if any, shall be held in New York City. The requirement for mediation or arbitration shall not be deemed a waiver of any right of termination under this Agreement and the mediator or arbitrator is not empowered to act or make any award other than based solely on the rights and obligations of the parties prior to any such termination.

26.3 The mediator or arbitrator may not limit, expand or otherwise modify the terms of this Agreement.

26.4 Each party shall bear its own expenses but those related to the compensation and expenses of the mediator or arbitrator shall be borne equally.

26.5 The mediator or arbitrator shall not have authority to award punitive, exemplary or other damages in excess of compensatory damages and each party irrevocably waives any claim thereto. The award shall be made within two (2) months after selection of the mediator or arbitrator and may be entered in any court.

26.6 The parties, their representatives, other participants and the mediator and arbitrator shall hold the existence, content and result of mediation or arbitration in confidence.

THE PARTIES, agreeing to the above terms and conditions, including by reference all terms and conditions contained in the Business Terms, and intending to be legally bound thereby, have caused the signatures of their respective authorized representatives to be affixed below on the date so written.

LUCENT TECHNOLOGIES INC.	CD RADIO INC.
/s/ Judith A. Sheft (Signature)	/s/ Andrew J. Greenebaum (Signature)
Judith A. Sheft (Name Printed)	Andrew J. Greenebaum (Name Printed)
Intellectual Property & Compliance, Vice President (Title Printed)	Executive Vice President & Chief Financial Officer (Title Printed)
April 24, 1998 (Date)	April 24, 1998 (Date)

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