FOI #15040

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June 26, 2014

VIA CERTIFIED MAIL, RRR
FOI Administrator
The Port Authority of New York and New Jersey
225 Park Avenue South
New York, NY 10003

06-30-14P01:33 RCVD

Re: Freedom of Information Request
Project: 1 World Trade Center

Dear FOI Administrator,

We represent Tri-State Mechanical Systems, Inc. ("Tri-State"), a contractor on the above-referenced project ("Project") of the Port Authority of New York and New Jersey ("Port Authority") pursuant to a contract with the construction manager Tishman Construction Corporation ("Tishman"). Please allow this to serve as a request pursuant to the Port Authority's Freedom of Information Code for the following documents and information:

1. Contract(s) between Tishman and the Port Authority for the Project.

2. Payment bond(s) furnished by Tishman to the Port Authority in connection with the Project.

Upon information and belief, the above-requested documents are not within any exclusion under the Freedom of Information Code. We will pay reasonable fees associated with copying and forwarding the documents. If you have any questions or require any additional information, please do not hesitate to contact me.

Thank you for your attention to this matter.

Very truly yours,

Jason Melville

THE PORT AUTHORITY OF NY & NJ

FOI Administrator

October 2, 2014

Mr. Jason Melville
Redmond Law Office
44 Wall Street, 12th Floor
New York, NY 10005

Re: Freedom of Information Reference No. 15040

Dear Mr. Melville:

This is in response to your June 24, 2014 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code") for copies of the Contract(s) between Tishman and the Port Authority for the project 1 World Trade Center. A copy of the payment bond(s) furnished by Tishman to the Port Authority in connection with the 1 World Trade Center project.

Material responsive to your request and available under the Code can be found on the Port Authority's website at http://www.panynj.gov/corporate-information/foi/15040-WTC.pdf. Paper copies of the available records are available upon request.

Certain portions of the material responsive to your request are exempt from disclosure pursuant to exemptions (1) and (4) of the Code.

We have searched our files and found no records responsive to your request for payment bonds.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Very truly yours,

Daniel D. Duffy
FOI Administrator

225 Park Avenue South, 17th Floor
New York, NY 10003
T: 212 435 3642 F: 212 435 7555

THIRD FREEDOM TOWER AMENDMENT

TO

GENERAL CONTRACTOR AGREEMENT

THIS THIRD FREEDOM TOWER AMENDMENT TO GENERAL CONTRACTOR AGREEMENT (the "Third Freedom Tower Amendment"), dated as of July 13, 2007, is entered into, for purposes of amending the General Contractor Agreement with respect to the Tower 1 Project, by and among (a) TISHMAN CONSTRUCTION CORPORATION, a Delaware corporation, having an office at 666 Fifth Avenue, New York, N.Y. 10103 ("Tishman" or "Construction Manager"); and (b) 1 WORLD TRADE CENTER LLC, a Delaware Limited Liability Company, having an office c/o The Port Authority of New York and New Jersey, 225 Park Avenue South, New York, New York 10003 ("1 WTC").

W I T N E S S E T H:

WHEREAS, 1 WTC, 2 WTC, 3 WTC and 4 WTC (collectively the "Lessees") each lease various portions of the new World Trade Center site in New York, New York (the "World Trade Center") from The Port Authority of New York and New Jersey (the "Authority");

WHEREAS, the Lessees and Tishman entered into a General Contractor Agreement, dated September 10, 2003 (and as amended prior to this Third Freedom Tower Amendment, the "General Contractor Agreement"), in connection with the redevelopment of the World Trade Center;

WHEREAS, the General Contractor Agreement was amended by a "First Amendment to General Contractor Agreement," dated July 1, 2004 (the "First Amendment"), which First Amendment provides for various demolition activities;

WHEREAS, the General Contractor Agreement was amended by a "Second Amendment to General Contractor Agreement", dated November 16, 2006 (the "Second Amendment"), which Second Amendment, among other things, provides that the General Contractor Agreement shall apply separately to each Lessee with respect to the Project of that Lessee contemplated as part of the redevelopment of the World Trade Center under the General Contractor Agreement;

WHEREAS, on November 16, 2006 (the "Closing Date"), the Authority acquired all of the ownership interests in 1 WTC, which holds the net leasehold interest in, and other rights to, Site 1;

WHEREAS, pursuant to the Second Amendment, 1 WTC has the full right and authority, without any notice to or consent or authorization from, any other Lessee, to further amend the General Contractor Agreement with respect to Site 1 and the Tower 1 Project (commonly referred to as the "Freedom Tower");

WHEREAS, 1 WTC and Tishman have agreed that under certain circumstances Tishman will continue to act as a general contractor with respect to the Project, and under other circumstances Tishman will act as an agent construction manager with respect to the Project; and

WHEREAS, 1 WTC and Tishman wish to amend further the General Contractor Agreement in order to modify and clarify the terms and conditions of the General Contractor Agreement that apply to 1 WTC and Tishman with respect to the Tower 1 Project under various circumstances.

NOW, THEREFORE, in consideration of the above premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto mutually agree as follows:

1. Defined Terms. Capitalized terms used but not defined in this Third Freedom Tower Amendment shall have the respective meanings assigned to them in the Schedule of Defined Terms, attached hereto and made part hereof as Exhibit 1.

2. Terms and Conditions of General Contractor Agreement. Tishman has acted as a general contractor under the General Contractor Agreement with respect to all work and services in connection with Site 1 and the Tower 1 Project performed on or before the Closing Date. Prior to the Closing Date, Tishman entered into certain subcontract agreements in connection with Site 1 and the Tower 1 Project (each a "Subcontract"), which Subcontracts are set forth in the Schedule of Subcontracts, attached hereto and made part hereof as Exhibit 2. With respect to work and services in connection with some or all of the Subcontracts performed after the Closing Date, Tishman shall continue to act as a general contractor. With respect to other work and services in connection with Site 1 and the Tower 1 Project performed after the Closing Date, Tishman will act as an agent construction manager. Therefore, because of the different capacities in which Tishman will act and other agreements between 1 WTC and Tishman, the terms and conditions of the General Contractor Agreement with respect to Site 1 and the Tower 1 Project shall be modified by this Third Freedom Tower Amendment, under the circumstances and as described below in this Article 2.

2.1 *Pre-Closing, Non-Retained Obligations.* With respect to all work and services performed by, under or through Tishman in connection with Site 1 or the Tower 1 Project on or before the Closing Date, excepting only the Retained Obligations, the rights and obligations of 1 WTC and Tishman shall remain as set forth in the General Contractor Agreement, and shall not be modified by this Third Freedom Tower Amendment; provided, however, that Tishman confirms that (i) all work and services contemplated under the First Amendment have been performed in full, and (ii) except for the Retained Obligations only, Tishman has released 1 WTC and other persons and entities from, among other things, all obligations and liabilities accruing on or before the

2.4.1 If Tishman, despite its best efforts, is unable to achieve the requirements of both clause (i) and clause (ii) immediately above with respect to a Subcontract to which Paragraph 2.4 applies, then: (a) such Subcontract shall not be terminated; (b) with respect to any work and services performed by, under or through Tishman that pertains directly to such Subcontract, the General Contractor Agreement shall be deemed further modified by the Schedule of GC Terms and Conditions, attached hereto and made part hereof as Exhibit B; and, (c) Tishman shall use best efforts to modify further such Subcontract as requested by 1 WTC.

2.4.2 Anything in this Third Freedom Tower Amendment to the contrary notwithstanding, to the extent that a subcontractor identified in the Schedule of Subcontracts (each a "Subcontractor") refuses to comply with any of the provisions of a trade contract approved by 1 WTC or of the Part B Agreement, as the case may be, to the extent such provisions differ from the current contractual obligations of that Subcontractor under the applicable Subcontract, such refusal shall not be deemed to be a breach by Tishman of this Third Freedom Tower Amendment, provided that Tishman uses its best efforts to cause such compliance.

2.4.3 If requested by 1 WTC in writing, Tishman shall terminate any Subcontract.

3. Effect of Third Freedom Tower Amendment.

3.1 This Third Freedom Tower Amendment applies to the General Contractor Agreement with respect to Site 1 and the Tower 1 Project, only.

3.2 For purposes of Paragraphs 2.2 and 2.3 above, the "Terms and Conditions of the General Contractor Agreement" shall be deemed to mean all recitals, provisions, exhibits and text that is contained, or incorporated by reference, in the General Contractor Agreement prior to any amendment. For the avoidance of doubt, any deletion of the Terms and Conditions of the General Contractor Agreement pursuant to Paragraphs 2.2 and 2.3 above does not delete or modify any provision or agreement set forth in the First Amendment or Second Amendment except for only that portion of such provision or agreement in either the First Amendment or Second Amendment that is rendered inapplicable because it is intended to modify a specified provision of the General Contractor Agreement that no longer exists by operation of Paragraph 2.2 or 2.3 above (e.g., the "Release and Transfer" provisions set forth in Paragraph 4 of the Second Amendment remain in full force and effect and are not modified by this Third Amendment).

3.3 Paragraphs 2.2 and 2.3 are deemed to amend and modify the General Contractor Agreement, and do not terminate the General Contractor Agreement. Those terms and conditions applicable to 1 WTC and Tishman in connection with Site 1 or the Tower 1 Project under the General Contractor Agreement as amended and modified by the CM Terms and Conditions pursuant to Paragraphs 2.2 or 2.3, may be referred to as

Closing Date in connection with Site 1 or the Tower 1 Project, as more specifically set forth in the Second Amendment.

2.2 *Retained Obligations.* With respect to all work and services that comprise any of the Retained Obligations, regardless of when such work or services is performed, the Terms and Conditions of the General Contractor Agreement shall be deemed amended and modified as set forth below in this Paragraph 2.2:

2.2.1 For that portion of the Retained Obligations that pertain directly to the LaQuila Subcontract, all Terms and Conditions of the General Contractor Agreement shall be deemed deleted in their entirety and replaced by the Schedule of GC Terms and Conditions, attached hereto and made part hereof as Exhibit B.

2.2.2 For that portion of the Retained Obligations that pertain directly to the Banker Steel Subcontract, all Terms and Conditions of the General Contractor Agreement shall be deemed deleted in their entirety and replaced by the Schedule of CM Terms and Conditions, attached hereto and made part hereof as Exhibit A.

2.3 *Post-Closing, Non-Retained Obligations.* With respect to all work and services performed by, under or through Tishman in connection with Site 1 or the Tower 1 Project after the Closing Date (other than as set forth in Paragraph 2.2 for the Retained Obligations)(the "Post-Closing Work"), the Terms and Conditions of the General Contractor Agreement shall be deemed amended and modified as set forth below in this Paragraph 2.3:

2.3.1 With respect to any Post-Closing Work that pertains directly to the following Subcontracts, all Terms and Conditions of the General Contractor Agreement shall be deemed deleted in their entirety and replaced by the Schedule of GC Terms and Conditions, attached hereto and made part hereof as Exhibit B: (i) that portion of the LaQuila Subcontract that does not comprise any part of the Retained Obligations, (ii) the Petrocelli Subcontract, and (iii) the Ferguson-Neudorf Subcontract.

2.3.2 With respect to all Post-Closing Work, except as set forth in Subparagraph 2.3.1, all Terms and Conditions of the General Contractor Agreement shall be deemed deleted in their entirety and replaced by the Schedule of CM Terms and Conditions, attached hereto and made part hereof as Exhibit A.

2.4 *Termination and Modification of Subcontracts.* To the extent requested by 1 WTC to give effect to the requirements of Paragraphs 2.2 or 2.3 above, Tishman shall use best efforts: (i) to terminate Subcontracts, such termination to be effective as of the Closing Date, and (ii) to cause the subcontractors under such Subcontracts to enter into a trade contract with 1 WTC directly, with Tishman acting as the disclosed agent of 1 WTC (e.g., the Banker Steel Subcontract, the Highland Tank Subcontract, and the Federated Equipment Subcontract). All such trade contracts shall be in form and substance satisfactory to 1 WTC.

11. Notices.

To 1 WTC:

c/o The Port Authority of New York and New Jersey
225 Park Avenue South
New York, New York 10003
Attention: _____

With copies to:

The Port Authority of New York and NJ
225 Park Avenue South
New York, NY 10003
Attention: General Counsel

To Tishman:

Tishman Construction Corporation
666 Fifth Avenue
New York, New York 10103
Attention: John T. Livingston, Executive Vice President

With a copy to:

Tishman Construction Corporation
666 Fifth Avenue
New York, New York 10103
Attention: Michael J. Mennella, Senior Vice President

12. Entire Agreement. This Third Freedom Tower Amendment (together with the General Contractor Agreement, as amended previously) and any Exhibit to this Third Freedom Tower Amendment set forth below, constitutes the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and there are no other agreements, understandings, undertakings, representations or warranties among the parties hereto with respect to the subject matter hereof except as set forth herein. The captions to the sections of this Third Freedom Tower Amendment are for convenience only and shall not be deemed part of the text of the respective sections and shall not vary by implication or otherwise any of the provisions hereof.

Exhibit	Title
Exhibit 1	Schedule of Defined Terms
Exhibit 2	Schedule of Subcontracts
Exhibit A	Schedule of CM Terms and Conditions
Exhibit B	Schedule of GC Terms and Conditions

the "Part A Agreement." Those terms and conditions applicable to 1 WTC and Tishman in connection with Site 1 or the Tower 1 Project under the General Contractor Agreement as amended and modified by the GC Terms and Conditions, may be referred to as the "Part B Agreement."

3.4 Subsequent to the date of this Third Freedom Tower Amendment, any reference to the General Contractor Agreement for purposes of Site 1 or the Tower 1 Project shall be deemed to be a reference to the General Contractor Agreement, as amended by this Third Freedom Tower Amendment, and as same, from time to time, hereafter may be further amended.

4. Not a Waiver. Except as expressly provided in this Third Freedom Tower Amendment, nothing contained in or contemplated by this Third Freedom Tower Amendment shall constitute, or be construed as (i) the waiver by any party of such party's rights or another party's obligations under the General Contractor Agreement, or (ii) the consent or approval by any party of any matter, decision or selection requiring the consent or approval of such party under the General Contractor Agreement.

5. Counterparts. This Third Freedom Tower Amendment may be signed in counterparts, each of which, when so executed and delivered, shall be deemed an original, but all of such counterparts shall together constitute but one and the same instrument.

6. Successors and Assigns. This Third Freedom Tower Amendment has been duly authorized by each of by each of the parties hereto, and shall be binding on, and shall inure to the benefit of, the heirs, legal representatives, successors, and permitted assigns of the parties hereto.

7. Further Assurances. Subject to the terms and conditions of this Third Freedom Tower Amendment, each party shall use its commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper, or advisable under applicable law to consummate or carry out the transactions contemplated by this Third Freedom Tower Amendment.

8. Governing Law. This Third Freedom Tower Amendment shall be governed by and construed in accordance with the laws of the State of New York, without reference to rules governing conflicts of law that might direct application of the law of another jurisdiction.

9. No Amendment. This Third Freedom Tower Amendment may not be changed, amended, modified, waived, discharged or terminated, except by an instrument in writing signed by the party against whom enforcement of such change, amendment, modification, waiver, discharge or termination is sought.

10. No Liability. Neither the commissioners of the Authority nor any officer, director, agent or employee thereof, or of 1 WTC, (or any other person authorized to act on their behalf) shall be charged personally with any liability or held personally liable under any provision of this Third Freedom Tower Amendment or because of any breach hereof.

IN WITNESS WHEREOF, the parties have caused this Third Freedom Tower Amendment to General Contractor Agreement to be duly executed as of the day and year first above written.

TISHMAN CONSTRUCTION CORPORATION

By: _____
Name: Jay Badame
Title: Chief Operating Officer

1 WORLD TRADE CENTER LLC

By: _____
Name:
Title:

EXHIBIT 1

SCHEDULE OF DEFINED TERMS

1. 1 WTC. The term "1 WTC" shall have the meaning set forth in the preamble to the Third Freedom Tower Amendment.

2. 2 WTC. The term "2 WTC" shall mean 2 World Trade Center LLC.

3. 3 WTC. The term "3 WTC" shall mean 3 World Trade Center LLC, formerly known as 5 World Trade Center LLC.

4. 4 WTC. The term "4 WTC" shall mean 4 World Trade Center LLC.

5. Authority. The term "Authority" shall have the meaning set forth in the first paragraph of the Recitals to the Third Freedom Tower Amendment.

6. Banker Steel Subcontract. The term "Banker Steel Subcontract shall have the meaning set forth in Paragraph 6 of Exhibit 2.

7. Closing Date. The term "Closing Date" shall have the meaning set forth in the fifth paragraph of the Recitals to the Third Freedom Tower Amendment.

8. Construction Manager. The term "Construction Manager" shall have the meaning set forth in the preamble to the Third Freedom Tower Amendment.

9. Federated Equipment Subcontract. The term "Federated Equipment Subcontract" shall have the meaning set forth in Paragraph 3 of Exhibit 2.

10. Ferguson-Neudorf Subcontract. The term "Ferguson-Neudorf Subcontract" shall have the meaning set forth in Paragraph 2 of Exhibit 2.

11. First Amendment. The term "First Amendment" shall have the meaning set forth in the third paragraph of the Recitals to the Third Freedom Tower Amendment.

12. Freedom Tower. The term "Freedom Tower" shall have the meaning set forth in the sixth paragraph of the Recitals to the Third Freedom Tower Amendment.

13. General Contractor Agreement. The term "General Contractor Agreement" shall have the meaning set forth in the second paragraph of the Recitals to the Third Freedom Tower Amendment.

14. Highland Tank Subcontract. The term "Highland Tank Subcontract" shall have the meaning set forth in Paragraph 5 of Exhibit 2.

15. LaQuila Subcontract. The term "LaQuila Subcontract" shall have the meaning set forth in Paragraph 4 of Exhibit 2.

16. Part A Agreement. The term "Part A Agreement" shall have the meaning set forth in Paragraph 3.3 of the Third Freedom Tower Amendment.

17. Part B Agreement. The term "Part B Agreement" shall have the meaning set forth in Paragraph 3.3 of the Third Freedom Tower Amendment.

18. Lessees. The term "Lessees" shall have the meaning set forth in the first paragraph of the Recitals to the Third Freedom Tower Amendment.

19. Petrocelli Subcontract. The term "Petrocelli Subcontract" shall have the meaning set forth in Paragraph 1 of Exhibit 2.

20. Post-Closing Work. The term "Post-Closing Work" shall have the meaning set forth in Paragraph 2.3 of the Third Freedom Tower Amendment.

21. Project. The term "Project" shall have the same meaning as the term "Tower 1 Project."

22. Retained Obligations. The term "Retained Obligations" shall have the meaning set forth in Section 4(a) of the Second Amendment.

23. Schedule of Subcontracts. The term "Schedule of Subcontracts" shall have the meaning set forth in the first paragraph of Article 2 of the Third Freedom Tower Amendment.

24. Second Amendment. The term "Second Amendment" shall have the meaning set forth in the fourth paragraph of the Recitals to the Third Freedom Tower Amendment.

25. Site 1. The term "Site 1" shall have the meaning set forth in Exhibit A to the Second Amendment.

26. Subcontract. The term "Subcontract" shall have the meaning set forth in the first paragraph of Article 2 of the Third Freedom Tower Amendment.

27. Subcontractor. The term "Subcontractor" shall have the meaning set forth in Subparagraph 2.4.2 of the Third Freedom Tower Amendment.

28. Sub-Projects. The term "Sub-Projects" shall mean specifically identified and apportioned components of the entire Project.

29. Terms and Conditions of the General Contractor Agreement. The phrase "Terms and Conditions of the General Contractor Agreement" shall have the meaning set forth in Paragraph 3.2 of the Third Freedom Tower Amendment.

30. Third Freedom Tower Amendment. The term "Third Freedom Tower Amendment" shall have the meaning set forth in the preamble to the Third Freedom Tower

Amendment.

31. Tishman. The term "Tishman" shall have the meaning set forth in the preamble to the Third Freedom Tower Amendment.

32. Tower 1. The term "Tower 1" shall mean the building to be located upon and within Site 1.

33. Tower 1 Project. The term "Tower 1 Project" shall mean the development, design and construction of Tower 1.

34. World Trade Center. The term "World Trade Center" shall have the meaning set forth in the first paragraph of the Recitals of the Third Freedom Tower Amendment.

EXHIBIT 2

SCHEDULE OF SUBCONTRACTS

1. That certain subcontract agreement by and between Tishman Construction Corporation and Petrocelli Electric, dated January 19, 2006, pertaining to utility relocation (the "Petrocelli Subcontract").

2. That certain subcontract agreement by and between Tishman Construction Corporation and Ferguson-Neudorf, dated April 24, 2006, pertaining to curtain wall mock-up (the "Ferguson-Neudorf Subcontract").

3. That certain subcontract agreement by and between Tishman Construction Corporation and Federated Equipment, dated June 16, 2006, pertaining to Tower Cranes (the "Federated Equipment Subcontract").

4. That certain subcontract agreement by and between Tishman Construction Corporation and LaQuila Group, dated June 16, 2006, pertaining to excavation and foundation work (the "LaQuila Subcontract").

5. That certain subcontract agreement by and between Tishman Construction Corporation and Highland Tank, dated September 11, 2006, pertaining to base building fuel oil tanks (the "Highland Tank Subcontract").

6. That certain subcontract agreement by and between Tishman Construction Corporation and Banker Steel, dated September 11, 2006, pertaining to structural steel and metal deck (the "Banker Steel Subcontract").

EXHIBIT A

SCHEDULE OF CM TERMS AND CONDITIONS

EXHIBIT A
TO
THIRD FREEDOM TOWER AMENDMENT

THIS EXHIBIT A TO THE THIRD FREEDOM TOWER AMENDMENT TO GENERAL CONTRACTOR AGREEMENT (this "Agreement"), dated as of July 13, 2007, by and among (a) TISHMAN CONSTRUCTION CORPORATION, a Delaware corporation, having an office at 666 Fifth Avenue, New York, NY 10103 ("Construction Manager"); and (b) 1 World Trade Center LLC, a Delaware Limited Liability Company, having an office c/o The Port Authority of New York and New Jersey, 225 Park Avenue South, New York, NY 10003 ("1 WTC").

WITNESSETH

WHEREAS, the World Trade Center Site – Freedom Tower Project involves the design, permitting, approval, construction, and construction administration of World Trade Center Tower One on the World Trade Center site in New York City ("Property"). The World Trade Center Site – Freedom Tower Project will incorporate approximately 3.5 million gross square feet of new construction both above and below grade in a Class A office building complex which, in addition to sixty-nine (69) office tenant floors, includes specialty components such as an observation deck, retail space, two-level restaurant, three-level broadcast facility, core and shell spaces for PATH and support spaces, and an iconic top rising at the peak to the broadcast antennae (specifically excluding the broadcast antennae themselves). Below grade, the World Trade Center Site – Freedom Tower Project will incorporate storage, service areas, a car parking area, building and tenant mechanical facilities, loading docks, and other key building functions which lie beneath portions of the Freedom Tower, the open space between the Freedom Tower and the Performing Arts Center (PAC), Fulton Street, West Street-Route 9A and Vesey Street. All of the descriptions of the World Trade Center Site – Freedom Tower Project in this paragraph shall be referred to in this Agreement as the "Project," the "Freedom Tower Project," or "Freedom Tower." This Agreement between 1 WTC and Construction Manager is made in connection with such professional services and in consideration of the mutual covenants contained herein.

WHEREAS, pursuant to that certain Third Freedom Tower Amendment to General Contractor Agreement dated July 13, 2007 (the "Third Freedom Tower Amendment") 1 WTC and Tishman have agreed that under certain circumstances Tishman will act as a general contractor with respect to the Freedom Tower Project and under other circumstances Tishman will act as an agent construction manager with respect to the Freedom Tower Project;

WHEREAS, this Agreement sets forth terms and conditions that shall apply to the relationship between 1 WTC and Tishman when Tishman acts as an agent construction manager with respect to the Freedom Tower Project under the circumstances more specifically described in the Third Freedom Tower Amendment;

WHEREAS, 1 WTC and Tishman wish to set forth in this Part A Agreement the terms and conditions that shall apply to the relationship between 1 WTC and Tishman when Tishman acts as general contractor with respect to the Freedom Tower Project, under the circumstances more specifically described in the Third Freedom Tower Amendment; and

NOW THEREFORE, in consideration of the payments hereinafter specified to be made by 1 WTC to Construction Manager, and in consideration of the agreements and mutual covenants of the parties herein contained, the parties hereto hereby agree as follows:

1. DEFINED TERMS.

1.1 All terms initial capitalized in this Agreement are defined below or, to the extent not listed below, are as defined in other Contract Documents for the Project.

1.2 **1 WTC Representative**. The term "1 WTC Representative" shall have the meaning set forth in Section 4.2.3 of the Agreement.

1.3 **1 WTC**. The term "1 WTC" shall have the meaning set forth in the preamble to the Agreement. Any reference to 1 WTC's approval, discretion, consent, action, review, or otherwise, shall be performed by 1 WTC Representative, regardless of whether 1 WTC is explicitly stated in such reference.

1.4 **Affiliate**. The term "affiliate" shall mean as follows: two or more firms are affiliates if a parent owns more than fifty percent (50%) of the voting stock of each of the firms, or a common shareholder or group of shareholders owns more than fifty percent (50%) of the voting stock of each of the firms, or if the firms have a common proprietor or general partner.

1.5 **Agency or Governmental Agency**. The term "agency" or "governmental agency" shall mean any federal, state, city or other local agency, including departments, offices, public authorities and corporations, boards of education and higher education, public development corporations, local development corporations and others.

1.6 **Agreement**. The term "Agreement" shall have the meaning set forth in the first paragraph of this Exhibit A to the Third Freedom Tower Amendment.

1.7 **Anything of Value**. The term "anything of value" shall have the meaning set forth in Section 29.2 of the Agreement.

1.8 **Architect Agreement**. The term "Architect Agreement" shall mean the agreement between 1 WTC and Skidmore, Owings & Merrill LLP.

1.9 **Authority**. The term "Authority" shall have the meaning set forth on the first, page, second paragraph, of the Third Freedom Tower Amendment. The Authority is the ownership entity of 1 WTC.

1.10 **Authority's Small Business Program**. The term "Authority's Small Business Program" shall mean the Authority's program known as the Small Business Program.

1.11 **Burden Rate**. The term "Burden Rate" shall have the meaning set forth in Section 9.2.2.1 of the Agreement.

1.12 **Capitalization Payment**. The term "Capitalization Payment" shall have the meaning set forth in Section 10.1.2 of the Agreement.

1.13 **Certificate for Payment** The term "Certificate for Payment" shall have the meaning set forth in 2.3.13.4 of **Attachment 1 to Exhibit A** (Scope of Services).

1.14 **Change Orders**. The term "Change Order" shall mean a written modification to a Contract impacting the monetary value of or time requirements set forth in the Contract.

1.15 **CGL Policy**. The term "CGL Policy" shall have the meaning set forth in Section 19.4.1 of the Agreement.

1.16 **Chief Engineer**. The term "Chief Engineer" shall mean the Chief Engineer of the Authority for the time being, or his successor in duties, acting personally.

1.17 **Confidentiality Agreement**. The term "Confidentiality Agreement" shall have the meaning set forth in Section 22.1 of the Agreement.

1.18 **Construction Change Directives**. The term "Construction Change Directive" shall mean a writing from Construction Manager, as authorized by 1 WTC, directing a Contractor to modify its scope of work without an agreement on the cost or time impact of such change.

1.19 **Contract Drawings**. The term "Contract Drawings" shall mean those drawings and specifications, completed in sufficient detail by Design Team, used by Contractors to perform the Work.

1.20 **Construction Manager**. The term "Construction Manager" shall have the meaning set forth in the preamble to the Agreement.

1.21 **Construction Manager's Fee**. The term "Construction Manager's Fee" or "Fee" shall have the meaning set forth in Section 9.1.1 of the Agreement.

1.22 **Contract Documents**. The term "Contract Documents" shall include the Third Freedom Tower Amendment, including all of the exhibits and attachments thereto; the Contract Drawings; and the Contracts, including all of the exhibits and riders to the Contracts, all as may be amended in writing by the parties from time to time.

1.23 **Contractors**. The term "Contractors" shall mean those trade contractors contracting directly with 1 WTC by executing Contracts as defined in this Section 1 to perform a portion of the Work for the Project, and all subcontractors of such Contractors of whatever tier.

1.24 **Contracts**. The term "Contracts" shall mean those executed contracts between Contractors and 1 WTC, signed on 1 WTC's behalf by Construction Manager, defining the rights and responsibilities of the respective Contractor and 1 WTC for the execution of a portion of the Work for the Project by the Contractor.

1.25 **Cost of the Work**. The term "Cost of the Work" shall have the meaning set forth in Section 9.2 of the Agreement.

1.26 **Deductible Expenses**. The term "Deductible Expenses" shall have the meaning set forth in Section 19.4.4 of the Agreement.

1.27 **Design Team**. The term "Design Team" shall mean all of the design professionals hired by 1 WTC, either directly or indirectly, to provide professional services with respect to the Project, including, without limitation, Skidmore, Owings & Merrill LLP.

1.28 **Emergency Costs**. The term "Emergency Costs" shall have the meaning set forth in Section 9.2.2.4(iii) of the Agreement.

1.29 **Excess General Conditions Costs**. The term "Excess General Conditions Costs" shall have the meaning set forth in Section 10.1.3.2 of the Agreement.

1.30 **Excluded Emergency Costs**. The term "Excluded Emergency Costs" shall have the meaning set forth in Section 9.2.2.4(iii) of the Agreement.

1.31 **Final Completion**. The term "Final Completion" shall mean the date or number of calendar days after bid award as set forth in Rider T (Milestone Dates) to each Contract by which a Contractor shall have completed its Work in accordance with all applicable requirements in its Contract.

1.32 **Freedom Tower**. The term "Freedom Tower" shall have the meaning set forth in the first paragraph of the recitals to the Agreement.

1.33 **Freedom Tower Agreements**. The term "Freedom Tower Agreements" shall have the meaning set forth in Section 33.3 of the Agreement.

1.34 **Freedom Tower Project**. The term "Freedom Tower Project" shall have the meaning set forth in the first paragraph of the recitals to the Agreement.

1.35 **General Conditions Costs**. The term "General Conditions Costs" shall have the meaning set forth in Section 9.2.2 of the Agreement.

1.36 **General Contractor Agreement**. The term "General Contractor Agreement" shall have the meaning set forth in the second recital of the Third Freedom Tower Amendment.

1.37 **Hazardous Materials**. The term "Hazardous Materials" shall have the meaning set forth in Section 12.1 of the Agreement.

1.38 **Indemnitees**. The term "Indemnitees" shall have the meaning set forth in Section 18.1 of the Agreement.

1.39 **Insurance Escrow Account**. The term "Insurance Escrow Account" shall have the meaning set forth in Section 19.4 of the Agreement.

1.40 **Insurance Program**. The term "Insurance Program" shall have the meaning set forth in Section 19.1 of the Agreement.

1.38.5 **Insurance Requisition**. The term "Insurance Requisition" shall have the meaning set forth in Section 19.4.6 of the Agreement.

1.41 **Integrity Monitor**. The term "Integrity Monitor" shall have the meaning set forth in Section 32.9 of the Agreement.

1.42 **Intellectual Property Rights**. The term "Intellectual Property Rights" shall have the meaning set forth in Section 21.4 of the Agreement.

1.43 **Investigation**. The term "investigation" shall mean any inquiries made by any federal, state or local criminal prosecuting agency and any inquiries concerning civil anti-trust investigations made by any federal, state or local governmental agency. Except for inquiries concerning civil anti-trust investigations, the term does not include inquiries made by any civil government agency concerning compliance with any regulation, the nature of which does not carry criminal penalties, nor does it include any background investigations for employment, or federal, state, and local inquiries into tax returns.

1.44 **IP Claims**. The term "IP Claims" shall have the meaning set forth in Section 21.3 of the Agreement.

1.45 **Legal Requirements**. The term "Legal Requirements" shall have the meaning set forth in Section 31.1 of the Agreement.

1.46 **Master Redevelopment Agreement**. The term "Master Redevelopment Agreement" shall mean the agreement entered into on November 16, 2006, between Authority; 1 WTC; PATH; WTC Retail, LLC; 2 World Trade Center LLC; 3 World Trade Center LLC; and 4 World Trade Center LLC, for the redevelopment of the Property.

1.47 **Maximum Capitalization**. The term "Maximum Capitalization" shall have the meaning set forth in Section 10.1.2 of the Agreement.

1.48 **Milestone Dates**. The term "Milestone Dates" shall have the meaning set forth in Section 6.3 of the Agreement.

1.49 **Minority-Owned Business**. The term "minority-owned business" or "MBE" shall have the meaning set forth in Section 14.1 of the Agreement.

1.50 **Mobilization Account**. The term "Mobilization Account" shall have the meaning set forth in Section 10.1.1 of the Agreement.

1.51 **Mobilization Account Expenses**. The term "Mobilization Account Expenses" shall have the meaning set forth in Section 10.1.1 of the Agreement.

1.52 **Mobilization Requisition**. The term "Mobilization Requisition" shall have the meaning set forth in Section 10.1.3.

1.53 **OCIP**. The term "OCIP" shall mean the Owner Controlled Insurance Program, if any, as provided for in the Insurance Program.

1.54 **Officer.** The term "officer" shall mean any individual who serves as chief executive officer, chief financial officer, or chief operating officer of the Construction Manager by whatever titles known.

1.55 **Parent**. The term "parent" shall mean an individual, partnership, joint venture or corporation that owns more than 50% of the voting stock of the Construction Manager.

1.56 **PATH**. The term "PATH" shall mean the Port Authority Trans-Hudson Corporation.

1.57 **Personnel.** The term "Personnel" shall have the meaning set forth in Section 7.1 of the Agreement.

1.58 **Project Schedule**. The term "Project Schedule" shall have the meaning set forth in Section 6.2 of the Agreement.

1.59 **Project**. The term "Project" shall have the meaning set forth in the first paragraph of the recitals to the Agreement and shall include all references to the World Trade Center site, Freedom Tower Project, World Trade Center Site-Freedom Tower Project, or Freedom Tower.

1.60 **Property**. The term "Property" shall have the meaning set forth in the first paragraph of the recitals of the Agreement.

1.61 **Reimbursable Expenses**. The term "Reimbursable Expenses" shall have the meaning set forth in Section 9.2.2.4 of the Agreement.

1.62 **Remediation Contractor**. The term "Remediation Contractor" shall have the meaning set forth in Section 12.1 of the Agreement.

1.63 **Repayment Date**. The term "Repayment Date" shall have the meaning set forth in Section 10.1.3.3 of the Agreement.

1.64 **Services**. The term "Services" shall have the meaning set forth in Section 3.1 of the Agreement.

1.65 **Shop Drawings**. The term "Shop Drawings" shall mean drawings, diagrams, schedules and other data specially prepared for the Work by a Contractor, subcontractor of any tier, manufacturer, supplier or distributor to illustrate some portion of the Work.

1.66 **Standard of Care**. The term "Standard of Care" shall have the meaning set forth in Section 2.1 of the Agreement.

1.67 **Subconsultant**. The term "Subconsultant" shall have the meaning set forth in Section 8.1 of the Agreement.

1.68 **Submittals**. The term "Submittals" shall mean Shop Drawings, samples, product data, supplementary product literature, mockups, calculations, statements of manufacturer's review, or other information for specific portions of the Work as required by the Contract Drawings.

1.69 **Third Freedom Tower Amendment**. The term "Third Freedom Tower Amendment" shall refer to the Third Freedom Tower Amendment to the General Contractor Agreement.

1.70 **Tishman**. The term "Tishman" shall have the meaning set forth in the preamble of the Third Freedom Tower Amendment.

1.71 **Trade Account**. The term "Trade Account" shall have the meaning set forth in Section 10.2.1 of the Agreement.

1.72 **Trade Costs**. The term "Trade Costs" shall have the meaning set forth in Section 9.2.1 of the Agreement.

1.73 **Women-Owned Business**. The term "women-owned business" or "WBE" shall have the meaning set forth in Section 14.1 of the Agreement.

1.74 **Work**. The term "Work" shall mean the construction and services required by the Contract Documents and the Contract Drawings, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by each of the Contractors to fulfill their respective obligations. The Work may constitute the whole or a part of the Project.

1.75 **Works for Hire**. The term "works for hire" shall have the meaning set forth in Section 20.1 of the Agreement.

1.76 **Works**. The term "Works" shall have the meaning set forth in Section 20.1 of the Agreement.

1.77 **World Trade Center Construction Department**. The term "World Trade Center Construction Department" shall mean the Authority's World Trade Center Construction Department, which is principally responsible to represent the Authority with respect to the design and construction of the World Trade Center Transportation Hub project (WTC/HUB).

2. STANDARD OF CARE AND EXPERTISE.

2.1 Construction Manager acknowledges that the Freedom Tower Project is a project of symbolic and commercial importance that has local, regional, national, and international significance and visibility. Construction Manager represents and warrants that it has expert experience in the construction management and project management of projects with similar prominence and prestige located in comparable urban locations. Construction Manager shall perform its duties under this Agreement in conformance with its expert experience and with the very highest standard of care practiced by construction managers with substantial and noteworthy experience successfully managing major multi-use, high-rise, high-profile projects in excess of $700 million in highly dense urban areas ("Standard of Care"). Nothing to the contrary herein shall erode the Standard of Care, including a requirement that Construction Manager use its best efforts to comply with the provisions in this Agreement.

2.2 Construction Manager represents that it has reviewed and is familiar with the Property and with terms and conditions of the relevant agreements that 1 WTC has entered into with respect to this Project.

2.3 Construction Manager accepts the relationship of trust and confidence established between Construction Manager and 1 WTC by the Agreement.

2.4 Construction Manager shall do the following:

2.4.1 Construction Manager shall perform its Services under this Agreement and, consistent therewith, shall furnish the very highest professional skill and judgment necessary to fulfill its duties under this Agreement and maintain the Standard of Care set forth in Section 2.1 above;

2.4.2 In performing its Services, Construction Manager shall furnish professional business administration and superintendence by the best, most efficient, and most economical method, all in a manner consistent with the Contract Documents, the Standard of Care set forth in Section 2.1 above, and the best interests of 1 WTC;

2.4.3 Construction Manager shall contract as 1 WTC's disclosed agent the Work in accordance with all requirements in, reasonably inferable from, and consistent with the Contract Drawings;

2.4.4 Construction Manager shall furnish at all times an ample supply of workers and materials necessary to meet the requirements of the Contract Documents. Construction Manager shall manage the workers, materials, and Project in such a manner that the Project can be safely and successfully completed within the Project Schedule and the Project budget; and

2.4.5 Construction Manager shall manage, direct, supervise, coordinate, and cooperate with all of 1 WTC's Contractors, agents, and other contractors in furthering the best interests of 1 WTC with respect to the Project; and shall cause the entire Work described in the Contract Documents to be executed in accordance with the very highest Standard of Care and

skill for trade contractors experienced and specialized in the construction of major, superior facilities operated in comparable settings.

2.5 Construction Manager represents to 1 WTC that Construction Manager understands the complexity involved and has the ability to meet the standards of performance required by this Section 2.

3. CONSTRUCTION MANAGER'S RESPONSIBILITIES.

3.1 Construction Manager shall perform professional construction management services ("Services") as set forth in and in accordance with the provisions of this Agreement, the Contract Documents, and as otherwise requested by 1 WTC.

3.2 Construction Manager shall comply with all of the obligations and provisions set forth in the riders listed on **Attachment 2 to Exhibit A** (Riders for Contract) to this Agreement, as such riders may be amended unilaterally by 1 WTC from time to time, in the sole discretion of 1 WTC. The riders listed on Attachment 2 are incorporated by reference as though set forth at length and are expressly made a part hereof.

3.3 Construction Manager shall provide sufficient organization, personnel, and management to carry out the requirements of this Agreement in an expeditious and economical manner consistent with the interests of 1 WTC and the Standard of Care set forth in the Agreement. 1 WTC acknowledges and agrees that any legal services or advice provided by the Legal Department of Construction Manager in connection with the Project are being provided to Construction Manager only and that no attorney-client relationship will be deemed to exist between any member of the Legal Department of Construction Manager and 1 WTC.

3.4 A description of the Services is set forth in **Attachment 1 to Exhibit A** (Scope of Services), attached hereto and made a part hereof; provided, however, 1 WTC, in its sole discretion, may direct Construction Manager to render other professional construction management services in furtherance of the Project, which professional construction management services shall be included in the Services, notwithstanding that such professional construction management services do not appear on the Scope of Services attached hereto at the time of execution of the Third Freedom Tower Amendment. Nothing contained in this Agreement shall be deemed to require or authorize Construction Manager to perform with its own forces any act which would constitute the rendering of professional architecture or engineering services or laboratory testing. The reviews, recommendations and advice to be furnished by the Construction Manager hereunder shall not be deemed to be warranties or guaranties with respect to professional architecture or engineer services or laboratory testing or constitute the performance of such services, it being understood that any such recommendation or advice pertaining to engineering or architectural matters shall only be considered as a recommendation by Construction Manager which is subject to the review and approval of 1 WTC and/or Design Team.

3.5 Construction Manager shall be responsible for coordinating the activities of all persons or entities hired by 1 WTC regarding the Project. Construction Manager shall

synchronize the performance of its Services with the performance of activities of such other persons or entities, each with the other, so that all are performed in a harmonious manner. Construction Manager, when requested, shall review the contract schedules of others or facilitate a joint review among relevant parties and shall provide that the activities of all shall be carried out in a proper and appropriate sequence for the best interests of the Project. Construction Manager shall cooperate fully with other persons or entities performing services for or working on behalf of the Project.

3.6 Construction Manager shall promptly give notice to 1 WTC upon becoming aware of the following:

3.6.1 Any act, omission, event, or occurrence that might reasonably be anticipated to result in the allegation of a claim, lien, or other demand against 1 WTC, Authority, Construction Manager, or any of the Contractors arising out of the execution of the Project;

3.6.2 Any claim, demand, or request asserted, filed, or made, or that Construction Manager anticipates may be asserted, filed, or made, for extensions to time or for additional money with respect to work or services rendered on the Project.

4. CONSTRUCTION MANAGER'S AUTHORITY.

4.1 Notwithstanding anything in this Agreement to the contrary, each Contract to be executed in connection with the Project (i) shall be between Contractor and 1 WTC, and (ii) shall be signed on behalf of 1 WTC by Construction Manager, as disclosed agent for 1 WTC.

4.2 Construction Manager shall assume and perform all duties of 1 WTC as set forth in the Contracts and shall act on behalf as 1 WTC as its disclosed agent with all Contractors; provided, however:

4.2.1 Construction Manager shall not have authority to enter into any Contracts, Change Orders, or Construction Change Directives for any Contract without prior written approval from 1 WTC;

4.2.2 Construction Manager shall not take any action that may result in additional time or money to any Contract, a modification to the quality of the Work or Project or a change in the safety or security requirements without obtaining prior written approval from 1 WTC as set forth below in this Section 4.2; and

4.2.3 For purposes of this Agreement, approval of 1 WTC means approval of 1 WTC Representative or its designee(s). The term "1 WTC Representative" shall mean (i) an officer of 1 WTC, or (ii) the Director of the World Trade Center Construction Department or his designee(s). 1 WTC Representative is the only authorized representative of 1 WTC to act, or receive, on behalf of 1 WTC with respect to any duty, obligation, notice, or other action set forth in this Agreement.

4.2.4 1 WTC Representative's authority with respect to the quality of Work includes, without limitation:

4.2.4.1 interpreting the Contract Documents;

4.2.4.2 determining the amount, quality, acceptability, and fitness of all parts of the Work;

4.2.4.3 altering the Contract Documents; requiring performance of Work not required by such Contract Documents in their present form, even though the Work is of a totally different character from that now required; and varying, increasing, or diminishing the character, quantity, and quality of, or countermanding, any Work now or thereafter required, whether such variation, increase, diminution, or countermand is based on need or convenience;

4.2.4.4 objecting to the employment of any equipment, materials, methods, men, or workers used in performance of the Work; and

4.2.4.5 withholding permission to remove materials, equipment, or other facilities from the Project site, which permission Construction Manager must seek prior to any such removal.

4.3 In no event shall this be considered an agreement of employment or partnership between 1 WTC and Construction Manager.

4.4 1 WTC shall have the right, but shall not be obligated, to control or supervise the particular manner or method by which Construction Manager accomplishes the performance of the Services. Such right shall in no event relieve Construction Manager of any duty, responsibility, or obligation whatsoever under this Agreement.

5. ADDITIONAL SERVICES.

1 WTC may authorize additional services for the Project to be performed by Construction Manager, which additional services may increase the scope of Services set forth in **Attachment 1 to Exhibit A** (Scope of Services). All such Construction Manager duties for the Project shall be part of the Services compensated in accordance with Section 9 (Compensation) of this Agreement.

6. TIME.

6.1 Time is of the essence with respect to Construction Manager's performance of Services under this Agreement.

6.2 Without limiting the foregoing, Construction Manager shall perform its Services under this Agreement so as to permit 1 WTC, Design Team, Contractors and other Project participants to perform their services and Work in accordance with the overall construction

schedule for the Project ("Project Schedule"), consistent with the Contract Documents, and achieve Final Completion of each Contractor's Work in accordance with the dates set forth in the Contracts and the Project Schedule.

6.3 The Project Schedule shall provide for certain planned dates of completion for key interim and final construction events as identified in **Attachment 9 to Exhibit A** (Milestone Dates), which dates are contractual and may be changed only by approval of 1 WTC Representative ("Milestone Dates").

6.4 Construction Manager shall perform its Services as expeditiously as possible and at the time or times required by 1 WTC Representative.

7. APPROVAL OF PERSONNEL.

7.1 Construction Manager shall hire and assign sufficient number of appropriately experienced (a) full-time personnel, and (b) part-time personnel based at the Construction Manager's home office, to carry out the duties under this Agreement and in accordance with the terms of such Agreement; provided, however, that (i) Construction Manager shall assign personnel to the Project only after such personnel are approved by 1 WTC in writing; and (ii) such personnel assigned to the Project shall begin performing Services and bill time to the Project only after 1 WTC has so approved in writing ("Personnel"). Subject to Section 7.2 below, Personnel, who are dedicated to the Project on a full-time basis, shall continue performing Services on a full-time basis for the Project unless a member of such Personnel becomes deceased, goes on medical leave, voluntarily leaves the employment of Construction Manager, or is terminated for a violation of Construction Manager's sexual harassment, drug, or violence in the workplace policies or such other similar bad acts. Construction Manager shall not terminate the employment of full-time Personnel nor reassign full-time Personnel to work on any other project other than the Freedom Tower for any other reason without the prior written consent of 1 WTC.

7.2 1 WTC shall have the right in its sole and absolute discretion to direct Construction Manager to remove from or replace any Personnel on the Project.

7.3 With respect to vacation leave, sick days, and personal days:

7.3.1 Personnel shall be entitled to use only those vacation days, sick days, and personal days that have been earned (i) during execution of the Project and (ii) while carrying out such Personnel's duties under this Agreement. For the avoidance of doubt, vacation days, sick days, and personal days earned by Personnel on a project other than the Freedom Tower Project may not be used during execution of the Freedom Tower Project.

7.3.2 Personnel must use each of their vacation days, sick days, and personal days within the calendar year such days are earned.

7.4 Construction Manager shall require that each individual Personnel member comply with the provisions of Section 32.9 of this Agreement, as set forth in Rider K (Project Prevention Corruption Program) to the Contract, which Contract is referenced in **Attachment 2**

as Rider V (Form of Trade Contract, dated January 19, 2007), and Construction Manager shall obtain from each individual Personnel member the certifications and all necessary disclosure forms.

8. SUBCONSULTANTS.

8.1 Construction Manager may contract with entities to perform a portion of Construction Manager's Services, which entities may be retained only upon the prior written approval of 1 WTC ("Subconsultant"). Such approval, to be effective, must authorize the following: (i) the Subconsultant; (ii) the form of the contract with the Subconsultant, which form must be pre-approved by 1 WTC; and (iii) the amount of compensation to be paid to the Subconsultant. No changes may be made to a pre-approved form of Subconsultant agreement except as thereafter approved in writing by 1 WTC, which authorization and approval must be obtained prior to execution of such agreement by Construction Manager and Subconsultant.

8.2 This Agreement is based upon Construction Manager's special qualifications for the Services herein contemplated; accordingly, any assignment, subletting, or other transfer of this Agreement or any part hereof or of any moneys due or to become due hereunder without the prior express consent in writing of 1 WTC shall be void and of no effect.

8.3 All persons to whom Construction Manager sublets Services shall be deemed to be Construction Manager's agents, and no subletting or approval thereof shall be deemed to release Construction Manager from its obligations under this Agreement or to impose any obligation on 1 WTC to such Subconsultant or give the Subconsultant any rights against 1 WTC.

8.4 For each agreement entered into by Construction Manager with a Subconsultant, or by a Subconsultant with a subconsultant of any tier, Construction Manager shall (i) for each contract in an amount greater than $100,000, obtain the certifications and all necessary disclosure forms from each such Subconsultant and its subconsultants of any tier, and (ii) require that all Subconsultants and their subconsultants of any tier comply with the provisions of Section 32.9 of this Agreement, all as set forth in Rider K (Project Corruption Prevention Program) to the Contract.

9. COMPENSATION.

9.1 Construction Manager's Fee.

9.1.1 As full compensation to Construction Manager for performance of its Services and all of its obligations in connection with this Agreement, 1 WTC, subject to Section 23 (Suspension and Termination), shall pay Construction Manager a fee, which fee shall be calculated as set forth below in Section 9.1.2 ("Construction Manager's Fee" or "Fee").

9.1.2 Construction Manager's Fee shall be equivalent to 1.5% of the Cost of the Work, as set forth in Section 9.2 below, provided, however:

9.1.2.1 Except as provided in Section 7.1 hereof, or except to the extent 1 WTC gives its prior written consent, the Fee shall be reduced to 1.375% of the Cost of the Work for the entire Project should Mel Ruffini cease full-time service for the Project anytime during execution of the Project; and

9.1.2.2 In no event shall a Change Order that increases the Cost of the Work be subject to the Fee unless the Change Order is for a cardinal change, as that term is commonly understood.

9.2 The term "Cost of the Work" shall mean and include: i) Trade Costs, as set forth in Section 9.2.1 below; and ii) General Conditions Costs, as set forth in Sections 9.2.2.1 through 9.2.2.4 below;

9.2.1 The term "Trade Costs" shall mean and include the money due and owing Contractors in accordance with the Contracts for Work on the Project, including without limitation the procurement of required insurance set forth in the Contracts.

9.2.2 The term "General Conditions Costs" shall mean and include the costs set forth in Sections 9.2.2.1 through 9.2.2.4 below:

9.2.2.1 Personnel Salaries. General Conditions Costs shall include the actual salaries of Personnel for full-time service on the Project, calculated monthly based on one-twelfth (1/12) of such Personnel's annual salary, multiplied by 1.5 to reflect the agreed-upon non-auditable burden rate of 50% ("Burden Rate"). The Burden Rate shall be applied to such actual salaries and shall represent reimbursement to Construction Manager for all other costs incurred by Construction Manager for such Personnel, subject to the provisions of Subsections (i) through (vi) immediately below; provided, however, for purposes of this Section 9.2.2.1 only, Personnel shall exclude any non-exempt personnel eligible to receive overtime pay who belong to a labor union, perform work on the Project under the terms of a collective bargaining agreement and in accordance with the Contract Documents, and are paid wages for such work. General Conditions Costs for such excluded Personnel are to be calculated in accordance with Section 9.2.2.2 below (Costs of Non-Exempt Union Labor). For the avoidance of doubt, the term "Personnel" for purposes of this Section 9.2.2.1 shall include members of a labor union who are exempt from receiving overtime pay and render superintendence services on the Project.

(i) Burden Rate includes applicable taxes, employee benefits, insurance payments, maternity leave, paternity leave, medical leave, family leave, disability benefits, bonuses, overtime pay, premium pay, parking and car allowance, fringe benefits, retirement plans, union dues, contributions and assessments required by law, collective bargaining agreements, or amounts which are customarily paid to or on behalf of Personnel of Construction Manager.

(ii) Burden Rate shall not apply to Non-Exempt Union Labor described in Section 9.2.2.2 below.

(iii) Burden Rate shall not apply to partners, principals, or temporary employees of Construction Manager, including without limitation Jay Badame, John Livingston, Dan Tishman, and Michael Mennella; provided, however, if Mike Mennella spends fifty percent (50%) or more of his time working on the Freedom Tower Project, as determined on a monthly basis, then the Burden Rate shall apply to his time during each such month.

(iv) For the entire duration of this Agreement, the Burden Rate shall be fixed and not subject to increase for the performance of Services and all other contemplated services hereunder.

(v) Attached hereto as **Attachment 4 to Exhibit A** (Schedule of Annual and Hourly Personnel's Salaries) is a schedule of actual salaries and titles of all Construction Manager's Personnel assigned to the Project who have been approved by 1 WTC.

(vi) With respect to Personnel who bill time on an hourly basis for Services performed, 1 WTC reserves the right to conduct an audit to determine the salary rate applicable to any such employee in order to verify the salary rate and time billed for the Services of each such employee. It is understood that such employee shall not bill time to the Project for holidays, vacation days, sick leave, or personal days, maternity, medical, or family leave, nor for any other item included in the Burden Rate in Section 9.2.2.1(i) above.

(vii) With respect to Personnel who do not bill time on an hourly basis for Services performed, 1 WTC reserves the right to conduct an audit to determine the salary rate applicable to any such employee in order to verify the salary rate and the time allocated to the Project of each such employee.

(viii) 1 WTC adopts the Authority's policy on increases in pay. It is the intention of 1 WTC to grant an increase if Construction Manager demonstrates compliance with all of the following conditions: that an increase in salary is (a) in accordance with the program of periodic merit and cost of living increases normally administered by the Authority; (b) warranted by increased costs of providing Services under this Agreement; (c) based upon increases in salaries and billing rates which are generally applicable to all of Construction Manager's clients; and (d) in accordance with the Authority's salary rate increase policy for the current year for Authority employees possessing comparable skills and experience. If, during any calendar year, the Authority limits are not available to Construction Manager in a timely fashion, increases falling within such limits may be approved retroactively, as appropriate.

9.2.2.2 Costs of Non-Exempt Union Labor. General Conditions Costs shall include the actual wages plus actual fringe benefits paid by Construction Manager to a worker for work performed on the Project, where such worker is (i) non-exempt and eligible to receive overtime pay, and (ii) a member of a labor union; provided, however, that such work is performed and payment made under the terms of an applicable collective bargaining agreement and in accordance with the Contract Documents.

9.2.2.3 Costs of Subconsultants. General Conditions Costs shall include an amount equivalent to the aggregate amount actually paid to Subconsultants by Construction Manager.

9.2.2.4 Reimbursable Expenses. The following out-of-pocket costs to the extent such costs are (i) necessarily and reasonably incurred by Construction Manager in the reasonable opinion of 1 WTC, and (i) actually paid by Construction Manager in its performance of the Services hereunder, as follows ("Reimbursable Expenses"):

(i) Reasonable expenses necessary for the operation and furnishing of Construction Manager's field office, including but not limited to rent, field office fit out, furniture, computer and telefax equipment, equipment, stationery, supplies, telefax, telegrams, long distance telephone calls, telephone service at the Project, express mail, messenger delivery, postage, pest control, and similar petty cash items in connection with the Services; provided, however, that such field office it utilized solely for the Freedom Tower Project. Reasonable expenses of and usage charges for cell phones, walkie-talkies, and Blackberry® devices for those Personnel for whom 1 WTC has pre-approved in writing such expenses and charges. In the event any work occurs or services are rendered from this field office for work other than the Freedom Tower Project, then the field offices and all of the expenses set forth in this Subsection (i) shall be excluded from Reimbursable Expenses as though such expenses were set forth in Section 9.2.3 below. In the event the Authority purchases any equipment pursuant to this Subsection (i), such equipment will belong to the Authority. In the event Construction Manager purchases any equipment pursuant to this Subsection (i), the purchase of such equipment must be pre-approved in writing by 1 WTC. In the event Construction Manager owns existing equipment that it moves to the field office pursuant to this Subsection (i), 1 WTC will approve payment for such existing equipment on a case by case basis.

(ii) Costs of removal of all debris from the Project, except as to contaminated soils being removed in accordance with any remediation agreement, subject to Section 12 (Hazardous Materials) of the Agreement.

(iii) Costs incurred due to an emergency affecting the safety of persons and property ("Emergency Costs"), unless such Emergency Costs are due to Construction Manager's willful misconduct or negligence ("Excluded Emergency Costs"); Excluded Emergency Costs shall be reimbursed only to the extent 1 WTC receives reimbursement for such Excluded Emergency Costs from insurance proceeds. For purposes of this Section 9.2.2.4(iii), the term "emergency" means the occurrence of an event requiring immediate action by Construction Manager to protect persons or property such that insufficient time exists to enable Construction Manager to seek prior approval from 1 WTC for the expenditure of the costs.

(iv) Costs of the necessary printing of all drawings, specifications, and other approved reproductions.

(v) Costs of photos of the construction, if required by 1 WTC.

(vi) Costs of meals for field office working meetings and for meals of Personnel working overtime after 8:00 p.m. or working on weekends, limited to $25.00 per diem, per person, for weekends and overtime.

(vii) Costs of mileage for local travel undertaken by superintendence Personnel (a) traveling after 8:00 p.m. while performing Services or from Project site to home at 8:00 p.m. or later after performing Services, or (b) traveling between home and the Project site during a weekend or holiday in order to perform Services, all in accordance with the Authority's guidelines with respect to same; provided, however, that such local travel is by personal vehicle, taxi, bus, or rail service; and that such local travel involves an out-of-pocket expense for the specific travel authorized by this Subsection (vii) and is not undertaken using a pass obtained by such Personnel for periodic travel (i.e., a monthly or weekly pass) such that no actual out-of-pocket expense is incurred for such individual trip.

(viii) Costs of final cleaning of windows, interior areas and curtainwall, if required by 1 WTC.

(ix) Costs for flagpersons and street cleaning, if required by 1 WTC.

(x) Costs for temporary barricades and Project fence.

(xi) Costs incurred in connection with security Personnel.

(xii) Costs for surveys.

(xiii) Costs for trailers, temporary toilets.

(xiv) Costs incurred for pre-approved reasonable coach travel associated with the Project.

(xv) Costs for winter heat as mutually agreed upon by Construction Manager and 1 WTC; Construction Manager shall submit a plan for winter heat to 1 WTC prior to each winter season.

9.2.2.5 Other Reimbursable Costs. The following costs shall be reimbursed by 1 WTC to Construction Manager but shall not be part of the Cost of the Work subject to a Construction Manager's Fee. Such reimbursable costs shall include an amount equal to the out-of-pocket expenses of Construction Manager (i) necessarily and reasonably incurred by Construction Manager in the reasonable opinion of 1 WTC, and (ii) actually paid by Construction Manager in its performance of the Services hereunder, as follows:

(i) Insurance premiums, deductibles, any self-insured retention for the benefit of 1 WTC with respect to any insurance or retention not provided by 1 WTC, and any required taxes on all such costs; but only to the extent reimbursement for any cost set forth in

this clause (i) is not otherwise provided for in the Agreement; and only if such cost is (a) required by the terms of the Agreement, and (b) beyond the scope of the OCIP;

(ii) Direct costs in connection with the administration of warranty work by Construction Manager after Final Completion;

(iii) Reasonable legal fees and costs pre-approved in writing (a) to prosecute a default under a Contract, (b) to enforce a Contract provision, or (c) to enforce 1 WTC's rights under the Contract; provided, however, it shall not be the responsibility of Construction Manager to pursue any such legal process for the benefit of 1 WTC unless 1 WTC authorizes same and agrees to reimburse Construction Manager for its out-of-pocket costs.

9.2.3 Excluded Expenses. Construction Manager agrees that the following expenses, even if incurred in furtherance of its Services, shall not be Reimbursable Expenses and shall be paid for, to the extent incurred, by Construction Manager:

9.2.3.1 Construction Manager's overhead, including, without limitation, expenses necessary for the operation and furnishing of Construction Manager's principal office, such as furniture, equipment, stationery, supplies, telefax, telegrams, long distance telephone calls, telephone service, express mail, messenger delivery, utilization of computer systems, computer aided design and drafting (CADD), cameras, recording or measuring devices, flashlights and other small, portable equipment, safety supplies and similar petty cash items in connection with the Services.

9.2.3.2 Salaries or other compensation of Construction Manager's Personnel at Construction Manager's principal office and branch offices, unless Construction Manager obtains prior written approval from 1 WTC, in which case such salaries or other compensation will be subject to the terms of Section 9.2.2.1 above.

9.2.3.3 Expenses of Construction Manager's branch offices except as explicitly allowed in Section 9.2.2.4 above.

9.2.3.4 Meals for Construction Manager's Personnel, subject to Section 9.2.2.1(iv).

9.2.3.5 Any part of Construction Manager's capital expenses, including interest on Construction Manager's capital employed for the Services.

9.2.3.6 Rental or depreciation costs.

9.2.3.7 General expenses of any kind, except as may be expressly included in Section 9.2.2.4 above or approved in writing by 1 WTC, in accordance with Section 9.2.3.17 below.

9.2.3.8 Costs incurred due to the willful misconduct or negligence of, or breach of the Agreement by, Construction Manager, any Subconsultant, anyone

directly or indirectly employed by any of them (other than the Contractors), or for whose acts any of them may be liable.

9.2.3.9 Except as set forth herein, costs incurred by reason of Construction Manager's membership in, or fees paid by Construction Manager, to trade or professional organizations.

9.2.3.10 Workers' compensation costs and any other costs covered under the OCIP with respect to Construction Manager's field office supervisor and field office staff.

9.2.3.11 All fees for obtaining building permits shall be paid directly by 1 WTC, but Construction Manager shall provide any services reasonably necessary to assist 1 WTC in obtaining any permits.

9.2.3.12 Construction Manager's federal, state, or local income taxes.

9.2.3.13 Indirect costs and expenses of Construction Manager in connection with the administration of the warranty after Final Completion.

9.2.3.14 Costs for subcontracts entered into by Construction Manager prior to the date of this Agreement pursuant to the authority granted to Construction Manager in the General Contractor Agreement, which costs shall be reimbursed and associated fees shall be paid to Construction Manager in accordance with the General Contractor Agreement.

9.2.3.15 Other than for non-exempt union labor who shall be billed at cost, overtime or hazardous pay, including, without limitation, overtime work or night work or pay for performing hazardous duties.

9.2.3.16 Any tax paid with respect to any purchase or rental charge, including, without limitation, New York State or New York City sales tax, where the purchase or rental charge is exempt from such tax pursuant to Section 32.11 of this Agreement.

9.2.3.17 The cost of any item not specifically and expressly included in the items described in Section 9.2.2.4 above, unless Construction Manager obtains prior written approval from 1 WTC for each reimbursement of a specific, extraordinary, single, and non-reoccurring item of expense, which approval shall be granted or denied at 1 WTC's sole, subjective, and absolute discretion.

10. PROGRESS PAYMENTS.

10.1 Payments Via Mobilization Account.

10.1.1 Tishman shall establish a separate non-interest bearing checking account ("Mobilization Account"), which Construction Manager shall use for the payment of (i) General Conditions Costs; and (ii) Deductible Expenses paid after April 1, 2008 (subject to the provisions set forth in Sections 19.4.1 and 19.4.9) (collectively, General Conditions Costs and Deductible Expenses paid after April 1, 2008, shall be referred to in this Agreement as "Mobilization Account Expenses"). Construction Manager shall not earn any Fee on any Deductible Expense, including Deductible Expenses paid via the Mobilization Account. Construction Manager shall use the funds in the Mobilization Account to pay for Mobilization Account Expenses in accordance with this Section 10.

10.1.2 1 WTC shall fund the Mobilization Account in accordance with (i) the Mobilization Account Funding Schedule per the column in such schedule labeled "Payment Amount" ("Capitalization Payments"), as set forth in **Attachment 11 to Exhibit A** (Mobilization Account Schedules), and (ii) the provisions of this Section 10. The first Capitalization Payment to the Mobilization Account shall be the Initial Working Capital as set forth in the Mobilization Account Funding Schedule.

10.1.3 Construction Manager shall requisition 1 WTC monthly to replenish funds in the Mobilization Account for Mobilization Account Expenses that have been incurred by Construction Manager and paid for with funds drawn from the Mobilization Account during the previous calendar month ("Mobilization Requisition"). The Mobilization Requisition shall be submitted to 1 WTC no later than the first day of each calendar month (or, if such day is not a business day, then the first business day thereafter) and shall include only Mobilization Account Expenses incurred and paid by Construction Manager with funds drawn from the Mobilization Account during the immediately preceding calendar month. In no event shall such Mobilization Requisition contain Mobilization Account Expenses forecast rather than those incurred and paid. As a precondition to replenishment of the Mobilization Account, Construction Manager shall provide all payment documentation requested by, and in form and substance satisfactory to, 1 WTC.

10.1.3.1 After review and approval of a Mobilization Requisition, 1 WTC shall replenish the Mobilization Account for all approved items in that Mobilization Requisition with the following exception: in no event shall any amount deposited by 1 WTC into the Mobilization Account cause the balance of such account, as of the last day of the month in which the Mobilization Account Expenses are being requisitioned, to have exceeded the applicable cumulative amount as set forth in the column labeled "Cumulative Amount" in the Mobilization Account Funding Schedule of Attachment 11, taking into consideration any Capitalization Payment that is due and owing at the time of payment of an approved Mobilization Requisition.

10.1.3.2 If in any month Construction Manager properly incurs Mobilization Account Expenses that exceed the Cumulative Amount that applies to that month ("Excess Mobilization Account Expenses"), Construction Manager shall be responsible to pay such Excess Mobilization Account Expenses with its own funds. Construction Manager may include the Excess Mobilization Account Expenses in its Mobilization Requisition for Mobilization Account Expenses that apply to the month in

which the Excess Mobilization Account Expenses were incurred; provided, however, that to the extent 1 WTC approves the Excess Mobilization Account Expenses, such approved amount shall be reimbursed separately from, and not as part of, the replenishment payment that restores the balance of the Mobilization Account to the required Cumulative Amount. Such reimbursement of Excess Mobilization Account Expenses approved by 1 WTC shall be made at approximately the same time that the replenishment payment is made pursuant to this Section 10.1.3 for the time period to which such Excess Mobilization Account Expenses are allocable.

10.1.3.3 The Cumulative Amount required to be maintained in the Mobilization Account pursuant to this Section 10.1 shall decrease, commencing in April 2012, in accordance with the Mobilization Account Repayment Schedule, as set forth in the Mobilization Account Schedules in **Attachment 11 to Exhibit A.** Each amount by which the required balance of the Mobilization Account is reduced as set forth in the Mobilization Account Repayment Schedule is a "Repayment Amount." Upon each date set forth in the first column of the Mobilization Account Repayment Schedule (a "Repayment Date"), Construction Manager shall make payment to 1 WTC from the Mobilization Account of an amount equal to the corresponding Repayment Amount set forth in the same line as that Repayment Date. If Construction Manager fails to make such payment timely, 1 WTC may deduct or withhold an amount equal to that Repayment Amount from any amount subsequently due Construction Manager under the Agreement. During the time period to which the Mobilization Account Repayment Schedule applies, Construction Manager shall continue to make monthly requisitions, and 1 WTC shall continue to make payments, with respect to Mobilization Account Expenses, as set forth above in this Section 10.1.3; provided, however, that any replenishment of funds in the Mobilization Account shall not cause the balance of the Mobilization Account to exceed the Cumulative Amount that applies under the Mobilization Account Repayment Schedule.

10.1.3.4 If 1 WTC disapproves of an item in the Mobilization Requisition for causes set forth in either clause (i) or (ii) immediately below, then Construction Manager shall return the amount of the disapproved item to the Mobilization Account within five (5) business days after 1 WTC issues a notice of disapproval of such item to Construction Manager:

(i) Construction Manager used funds in the Mobilization Account to pay for a Mobilization Account Expense that required 1 WTC's pre-approval, approval, discretion, consent, action, or review prior to payment, including, but not limited to, those described in Section 10.1.3.8; and 1 WTC had not pre-approved, had disapproved, had exercised its discretion to the contrary, had withheld its consent, had not consented to, had not performed the required action, had not conducted the required review, or otherwise had not performed or conveyed the required pre-approval, approval, discretion, consent, action, or review; or

(ii) Construction Manager used funds in the Mobilization Account to pay for an item that was not an allowable Mobilization Account Expense.

10.1.3.5 If 1 WTC issues Construction Manager a notice of disapproval in accordance with Section 10.1.3.4 above, then Construction Manager may appeal 1 WTC's disapproval in accordance with the dispute resolution provisions set forth in Section 24 of this Agreement. Notwithstanding any such appeal, Construction Manager remains obligated to return the amount of the disapproved item to the Mobilization Account within five (5) business days after issuance of the notice of disapproval to Construction Manager, pending outcome of the appeal.

10.1.3.6 If Construction Manager fails to return any funds to the Mobilization Account within five (5) business days after a notice of disapproval is issued to Construction Manager in accordance with Section 10.1.3.4 above, and fails to furnish 1 WTC promptly, within same five (5) business days, with reasonable evidence that such funds have been returned, then 1 WTC, at its sole and absolute discretion, may issue to Construction Manager a notice of termination of the Mobilization Account. Upon issuance to Construction Manager of such notice of termination of the Mobilization Account, Construction Manager immediately and automatically forfeits the use of the funds in the Mobilization Account. Construction Manager immediately shall cease writing checks and drafts or withdrawing any funds in any manner from the Mobilization Account and immediately shall return the balance of funds in the Mobilization Account to 1 WTC, such balance to be calculated in accordance with Section 10.1.3.7 below.

10.1.3.7 The balance of funds to be returned to 1 WTC from the Mobilization Account in the event a notice of termination of the Mobilization Account is issued to Construction Manager shall be calculated as follows: the balance in the Mobilization Account at the close of business on the date of the notice of termination of the Mobilization Account, as such balance is reported by the banking institution where the funds are on deposit, less: (a) the aggregate amount of checks or drafts not yet presented for payment that, prior to receipt of the notice of termination of the Mobilization Account, either had been deposited for mailing with the United States postal service or otherwise had been delivered to and received by the payee, and (b) the aggregate amount of checks or drafts (i) payable to the order of Construction Manager or its affiliates (ii) for amounts approved pursuant to a Mobilization Requisition (iii) that had not cleared the Mobilization Account as of the close of business on the day before the date of the notice of termination of the Mobilization Account.

10.1.3.8 Construction Manager expressly represents, warrants, and certifies that it shall obtain any required approval in accordance with the provisions of this Agreement, including, without limitation, Section 7 (Approval of Personnel) and Section 8 (Subconsultants), prior to using the funds in the Mobilization Account to pay for the (i) the salary of any Personnel; (ii) the applicable Burden Rate, (iii) the cost of any non-exempt union labor, or (iv) the cost of any Subconsultant.

10.1.4 1 WTC shall not withhold retainage for approved Mobilization Account Expenses appearing on the requisition described in Section 10.1.3 above.

10.1.5 In no event shall Construction Manager withdraw funds from or use funds in the Mobilization Account to pay for any expense or item other than Mobilization Account Expenses incurred by Construction Manager. For the avoidance of doubt, Construction Manager shall not use funds in the Mobilization Account to pay for Trade Costs, the Construction Manager's Fee, or for items to be paid from the Insurance Escrow Account, except for payments of Deductible Expenses after 1 WTC's obligation to fund or replenish the Insurance Escrow Account ceases on April 1, 2008.

10.2 Payment for Contractors' Applications and Construction Manager's Fee Via Trade Account.

10.2.1 Construction Manager shall establish a separate non-interest bearing checking account which Construction Manager shall use for payment of Contractors' applications for payment for progress and final payment requests, excluding General Conditions Costs ("Trade Account"). Construction Manager shall use the funds in the Trade Account to make such payments to Contractors in accordance with the requirements set forth in this Agreement.

10.2.2 1 WTC shall deposit into the Trade Account such amount that will enable the Construction Manager to pay the Contractors those amounts that have been approved and certified for payment by 1 WTC Representative in accordance with this Section 10.2. Construction Manager shall pay each Contractor its respective approved amount no later than three business (3) days after such deposit, or later if directed by 1 WTC in writing.

10.2.3 Construction Manager shall submit to 1 WTC by the first of each month one integrated progress payment request (i) for payment of all Contractors currently on the Project, which request shall be in accordance with the provisions set forth in the respective Contracts, for Work performed during the previous month, and (ii) for payment of Construction Manager's Fee as set forth in Section 10.3. Construction Manager shall submit in such request only those payments that Construction Manager recommends for payment and has certified properly as due and owing. As a precondition to any deposit into the Trade Account, Construction Manager shall provide all payment documentation requested by, and in form and substance satisfactory to, 1 WTC Representative.

10.3 Progress Payment of Construction Manager's Fee.

10.3.1 As part of the integrated progress payment request, Construction Manager shall submit to 1 WTC monthly an invoice for Construction Manager's Fee, stating in detail the portion of the Construction Manager's Fee that has been earned based on the Cost of the Work necessarily incurred; provided, however, all of the amounts comprising such Cost of the Work shall have been completed, approved and certified by 1 WTC Representative.

10.3.2 Construction Manager shall provide all documentation requested by 1 WTC in form and substance satisfactory to 1 WTC as a precondition to any payment.

10.3.3 After the invoice for the Construction Manager's Fee has been approved and certified for payment by 1 WTC Representative, 1 WTC shall pay such invoice in a reasonable time.

10.4 Payments Withheld.

10.4.1 1 WTC, at its discretion, may withhold an appropriate portion or all of (i) any progress or final payment, (ii) the Construction Manager's Fee, or (iii) any payment, reimbursement, or disbursement from; deposit into; or replenishment of, the Mobilization Account, Trade Account, or Insurance Escrow Account, for any of the following reasons: (1) a lien or other claim made, asserted, or filed, or reasonable evidence indicating such a lien or claim may be asserted, regarding the Project for payments made to or authorized by Construction Manager; (2) failure of Construction Manager to properly make a payment to a Subconsultant or Contractor, or, only in the case where Construction Manager is not acting as agent of 1 WTC but rather is acting as a general contractor pursuant to Exhibit B, failure of a Contractor (first-tier Subcontractor) to properly make a payment to a Subcontractor or Materialman (as the terms "Subcontractor" and "Materialman" are defined in the Contract, which Contract is referenced as Rider V (Form of Trade Contract)); (3) improper, erroneous, or incomplete invoices from Construction Manager; (4) unauthorized deviation by Construction Manager from performance of its Services in accordance with the Standard of Care; (5) disbursements from the Mobilization Account for costs other than General Conditions Costs, or Deductible Expenses paid after April 1, 2008; or (6) breach of this Agreement by Construction Manager.

10.4.2 Notwithstanding the above, 1 WTC may dispute any payment, deposit, or disbursement, and deduct from future payment requests the amount in dispute until such time as the dispute is resolved in accordance with the Contract Documents.

10.4.3 If 1 WTC withholds reimbursement to Construction Manager for Excluded Emergency Costs, as set forth in Section 9.2.2.4(iii), then (a) Construction Manager agrees to pay promptly such Excluded Emergency Costs, and (b) Construction Manager shall pay all costs and expenses incurred by any Contractor arising out of or resulting from such emergency. 1 WTC's sole obligation prior to withholding funds in accordance with this Section 10.4 will be to file a claim with the appropriate insurance carrier. In the event the insurance carrier refuses to accept a claim, or 1 WTC is unable to determine the appropriate insurance carrier or manner in which to file a claim, 1 WTC's good faith effort to comply with this Section 10.4.3 will suffice.

10.4.4 1 WTC may collect or recover, in any manner permitted by law, in equity, or by the Contract Documents, any amount to which it is entitled from the Mobilization Account, from the Trade Account, from the Insurance Escrow Account, or to which it is entitled as otherwise provided in the Contract Documents.

10.5 1 WTC may perform an audit or otherwise independently verify any payment request or certification by Construction Manager.

11. INTENTIONALLY OMITTED.

12. HAZARDOUS MATERIALS.

12.1 Anything in this Agreement to the contrary notwithstanding, except as otherwise provided in Section 12.2, Construction Manager shall not have any duties or obligations. regarding the existence, remediation or removal of any hazardous waste, hazardous material, toxic substance, asbestos-containing material, petroleum product, or related materials, including, but not limited to, substances defined as "hazardous substances" or "toxic substances" as defined in the following: Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sec. 9061 *et. seq.;* Hazardous Materials Transportation Act, as amended, 49 U.S.C. Sec. 1802; and the Resource Conservation Act and Recovery Act, as amended, 42 U.S.C. Sec. 6901 *et. seq.;* and the corresponding regulations (as amended) issued pursuant to these acts (collectively, "Hazardous Materials"); provided, however, that Construction Manager will assist 1 WTC in the procurement of Contracts with remediation trades to perform any needed remediation work. It is 1 WTC's responsibility to directly contract with remediation contractors for the removal, transport, and disposal of all asbestos and hazardous waste from the site (each such contractor, hereinafter a "Remediation Contractor"). At 1 WTC's request, Construction Manager shall bid at 1 WTC's request and recommend to 1 WTC an award for both the asbestos and hazardous waste survey and monitoring firm as well as the Remediation Contractor(s). The Remediation Contractor(s) shall be directly responsible to 1 WTC for the monitoring and supervision of all asbestos and hazardous waste removal/remediation. Construction Manager shall in no way be responsible for supervision of the work of remediating, removing, transporting, or disposing of the asbestos or hazardous waste as performed by 1 WTC's Remediation Contractor. 1 WTC shall, in its contract(s) with Remediation Contractors, use reasonable efforts to, and where possible, require each such Remediation Contractor to: (i) name 1 WTC and Construction Manager as additional insureds on all relevant insurance policies relating to work on the Project; and (ii) defend, indemnify and hold harmless in connection with the Remediation Contractor's work the following entities: 1 WTC, Construction Manager, Authority, Silverstein Freedom Tower Development LLC, WTC Redevelopment LLC, World Trade Center Properties, Two World Trade Center LLC, Four World Trade Center LLC, Five World Trade Center LLC, Net Lessees' Association of the World Trade Center, Silverstein WTC Facility Manager LLC, Silverstein Properties Inc., Silverstein Development Co., Larry A. Silverstein (as an individual), Port Authority Trans Hudson (PATH), NYS Department of Transportation, WTC Retail LLC, Tishman Realty & Construction Co., Inc., Tishman Construction Corporation of New York, and the parents and affiliates, successors and permitted assigns of each of the foregoing entities and the officers and directors of each of them. To the extent 1 WTC incurs costs for naming Construction Manager as an additional insured, Construction Manager shall reimburse 1 WTC for such costs.

12.2 Notwithstanding anything to the contrary herein, Construction Manager shall be responsible for the existence, remediation, removal or damages arising from the following: (i) any Hazardous Material introduced to the Project by Construction Manager or its Subconsultants, or anyone for whom either or both are responsible; (ii) any Hazardous Material handled either improperly or unsafely or not in keeping with the Legal Requirements setting forth the requirements for handling or disposing of such Hazardous Materials; and/or (iii) any condition arising from the existence, remediation, removal or damages of a Hazardous Material

that is exacerbated by Construction Manager or its Subconsultants. Construction Manager shall ensure that both Construction Manager and 1 WTC are listed as additional insureds on any remediation contractor's environmental and Comprehensive General Liability policies hired with respect to this Section 12.2.

13. PUBLIC RELATIONS.

Construction Manager shall not communicate with the media regarding the Project without the prior written approval of 1 WTC and shall comply with the requirements of Section 22 (Confidentiality) below at all times with respect to any communication whatsoever.

14. EMPLOYMENT PROVISIONS.

14.1 Authority has a long-standing practice of encouraging Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) to seek business opportunities within Authority, either directly or as Contractors and subcontractors. The Authority's policy is articulated in Section 8 of the Contract. 1 WTC hereby adopts such policy in regards to Construction Manager's Services and in regards to the Work performed by Contractors.

14.2 To ensure maximum participation in the Project, to the extent feasible and consistent with the exercise of good business judgment, 1 WTC adopts Authority's overall contract goal of twelve percent (12%) participation by MBEs and five percent (5%) participation by WBEs for (i) all procurement, subcontracting, and ancillary service opportunities for the Construction Manager's Services and the Work performed by Contractors. 1 WTC also adopts Authority's goals that the construction labor force reflect the minority and female participation goals set forth in Section 35 of the Contract titled "Affirmative Action Requirements – Equal Employment Opportunity" for Construction Manager's Services and the Work performed by Contractors.

14.3 Construction Manager shall use its best efforts to achieve the goals and policies described in Section 14.2 above for Construction Manager's Services. Construction Manager shall facilitate, oversee, and scrutinize achievement of the goals and policies described in Section 14.2 above for Contractor's Work. Construction Manager also shall report monthly to 1 WTC regarding progress and issues with respect to compliance and progress regarding the provisions of this Section 14 and Sections 8 and 35 of the Contract.

14.4 The provisions of Sections 8 and 35 of the Contract shall be available to all bidders and those selected to be Contractors, both during the bidding process and at time of execution of each respective Contract; and to all Subconsultants and their subconsultants of any tier.

14.5 In order to facilitate meeting the MBE/WBE goals, Construction Manager shall use every good faith effort, to the maximum extent feasible, to utilize Contractors and Subconsultants who are certified MBEs or WBEs.

14.5.1 1 WTC has a list of certified MBE/WBE service firms, which list is available to Construction Manager at its request.

14.5.2 Construction Manager will be required to submit to Authority's Small Business Program for certification the names of MBE/WBE firms that Construction Manager proposes to use who are not on the list of certified MBE/WBE firms.

14.5.3 In order for a firm to be "certified" as an MBE or WBE, Authority's Small Business Program must make the determination and so certify.

15. PREPARATION OF DOCUMENTS AND GRAPHICS.

15.1 When Services to be performed by Construction Manager include the preparation of Contract Documents, or the performance of post-award Services, Construction Manager shall submit a specific quality control/quality assurance program to 1 WTC prior to the performance of said Services. When Construction Manager has completed preparation of any Contract Documents required hereunder, Construction Manager shall submit a letter to 1 WTC certifying Construction Manager's conformance with the aforementioned quality control/quality assurance program.

15.2 When Services to be performed by Construction Manager include the preparation of computer aided design and drafting (CADD) documents, Construction Manager shall submit said documents in the format of the latest available version of AutoDesk's design CADD software (.dwg), or as directed by 1 WTC prior to performance of specific Services, and such documents shall be submitted to 1 WTC on compact disks or as otherwise required by 1 WTC.

15.3 When Services to be performed by Construction Manager include the preparation of architectural graphics, Construction Manager shall prepare said graphics using a system fully compatible with 1 WTC's standard computer system. The graphics shall be prepared using the latest revision of the following software packages, as required by 1 WTC: Adobe Illustrator; Quark Xpress; Microsoft Word, and Microsoft PowerPoint. Such graphics shall be submitted to 1 WTC on compact disk or as otherwise required by 1 WTC.

16. 1 WTC REVIEW.

16.1 Construction Manager shall meet and consult with 1 WTC Representative no less than once per week in connection with the Services to be performed herein.

16.2 Any deliverable, such as Project Schedule, to be submitted or prepared hereunder by Construction Manager shall be subject to review or, where applicable, approval by 1 WTC.

16.2.1 1 WTC may disapprove, if, in 1 WTC Representative's sole opinion, any deliverable is not in accordance with the requirements of this Agreement, all applicable jurisdictional codes, 1 WTC's standards, sound engineering practices, or are impractical, uneconomical, or unsuitable for the purpose for which the construction is intended.

16.2.2 If any deliverable is so disapproved, Construction Manager shall forthwith revise said items until approved by 1 WTC, but Construction Manager shall not be compensated under any provision of this Agreement for performance of such revisions.

16.3 No approval or disapproval by 1 WTC shall relieve Construction Manager of its responsibilities under this Agreement.

17. RECORDKEEPING.

17.1 Construction Manager shall keep, and shall cause each Subconsultant under this Agreement to keep, daily records of the time spent in the performance of Services by all persons whose salaries or amounts paid thereto will be the basis for compensation under this Agreement, as well as records of the amounts of such salaries and amounts actually paid for the performance of such Services, and records and receipts of the Cost of the Work, Reimbursable Expenses, or other expenditures hereunder.

17.2 Notwithstanding any other provision of this Agreement, failure to comply with Section 17.1 shall be a conclusive and final waiver of any right to compensation for such Services or expenses that are otherwise compensable hereunder.

17.3 1 WTC shall have the right to audit all of the records of Construction Manager and Subconsultants of any tier with respect to the Project.

17.4 1 WTC shall have the right to inspect Construction Manager's records, and those of Construction Manager's Subconsultants of any tier, pertaining to any compensation payable or to be paid hereunder.

17.5 Construction Manager's files and records with respect to the Project must be maintained by Construction Manager and its Subconsultants for a period of four (4) years after completion of Services to be performed under this Agreement.

18. INDEMNIFICATION.

18.1 Construction Manager shall defend, indemnify and hold 1 WTC, Authority, and their respective affiliates, officers, directors, employees, agents, successors, and assigns ("Indemnitees") harmless from all claims, damages, losses, and expenses to the extent such claims, damages, losses, and expenses arise out of, or in connection with, failure of Construction Manager to act in accordance with the Standard of Care in connection with performance of Construction Manager's Services, including those of its Subconsultants.

19. INSURANCE.

19.1 1 WTC, at its sole and absolute discretion, may provide an insurance program ("Insurance Program") in accordance with the provisions of the first paragraph, including subparagraphs (a) through (g), of **Attachment 6 to Exhibit A** (Insurance).

19.2 Construction Manager shall procure, and cause its Subconsultants to procure, the insurance in accordance with the requirements set forth in **Attachment 6 to Exhibit A** (Insurance) other than those described in Section 19.1 above.

19.3 Construction Manager shall cooperate with the Insurance Program insurers, if any, and shall respond timely to all reasonable requests from same.

19.4 Construction Manager shall establish a separate non-interest bearing checking account in order to pay Deductible Expenses, as such term is defined in Section 19.4.4 below, with respect to certain claims under a general liability insurance policy described in Section 19.4.1 below ("Insurance Escrow Account"). The Insurance Escrow Account is applicable only to claims under such general liability insurance policy described in Section 19.4.1 below and is not applicable to claims under the OCIP or to any other claim.

19.4.1 As part of an interim insurance program expected to be approximately one year in length, Construction Manager has obtained an insurance policy on behalf of itself, 1 WTC, and others, from Illinois Union Insurance Company, policy number G22046214001, for certain commercial general liability insurance coverage with respect to the Freedom Tower Project during a one-year period beginning February 15, 2007 ("CGL Policy"). The CGL Policy names Construction Manager, 1 WTC, and the Authority as named insureds. Construction Manager shall ensure that all entities identified as Additional Insureds on **Schedule 1 of Attachment 6 to Exhibit A** are named as additional insureds to the CGL Policy. This primary CGL Policy provides for a deductible in the amount of $25,000 per occurrence applicable to each claim under the CGL Policy, with a single claim limit of $1,000,000 per occurrence and a total limit of $2,000,000. Excess coverage is provided through a variety of insurance policies to achieve a total CGL limit of $200,000,000 for the term of the interim insurance program. The CGL Policy obtained by Construction Manager is dedicated solely to the Freedom Tower Project, and the limits as set forth in this Section 19.4.1 are applicable solely to the Freedom Tower Project.

19.4.2 1 WTC shall be responsible for the payment of the premiums with respect to the CGL Policy and any stamping fee, premium tax, required excise tax, or other required tax thereon as a reimbursable cost in accordance with Section 9.2.2.5 of this Agreement; provided, however, that if the CGL Policy is cancelled or terminated within six months of commencement of the one-year period beginning February 15, 2007, then 1 WTC shall be entitled to reimbursement of the premium costs as set forth in Section 19.4.2.2 hereof.

19.4.2.1 With respect to Section 19.4.2 above, Construction Manager acknowledges and agrees that the CGL Policy was cancelled or terminated within six months of commencement of the one-year period beginning February 15, 2007, and, accordingly, that 1 WTC will receive reimbursement of the premium costs as set forth in Section 19.4.2.2; and

19.4.2.2 Construction Manager acknowledges and agrees that 1 WTC paid a total of $3,140,881 for the premiums with respect to the CGL Policy for the one-year period and that 1 WTC is due and owing a pro rata reimbursement in the amount of $1,228,243.75. Construction Manager shall pay 1 WTC such aggregate amount of $1,228,243.75 by the earlier of (i) within five (5) days of Construction Manager's receipt of the premium reimbursement from the insurer, or (ii) by September 1, 2007. In the event Construction Manager receives a partial reimbursement from the

insurer prior to September 1, 2007, then Construction Manager shall pay 1 WTC an amount equal to such partial reimbursement within five (5) days of Construction Manager's receipt of the partial reimbursement from the insurer but in no event later than September 1, 2007.

19.4.3 Construction Manager shall administer all of the claims under the CGL Policy.

19.4.3.1 Construction Manager shall give written notification to 1 WTC and its designees (i) promptly upon receipt of any claim, and (ii) five (5) business days prior to any withdrawal by Construction Manager from the Insurance Escrow Account. For purposes of this Section 19.4.3.1, the term "withdrawal" means any withdrawal, disbursement, or debit of any kind from the Insurance Escrow Account.

19.4.3.2 Construction Manager shall consult with 1 WTC regarding any settlement under the CGL Policy and give written notification to 1 WTC and its designees five (5) business days prior to settlement of any claim. With respect to a final decision regarding settlement within the limits of the CGL Policy, Construction Manager shall make such final decision where the settlement amount exceeds the deductible amount but remains within CGL policy limits; 1 WTC shall make the final decision where the settlement amount is within the deductible amount.

19.4.3.3 1 WTC will pay Construction Manager a claims administration fee of $1,500 for each claim filed against the CGL Policy. This claims administration fee shall cover all costs and expenses incurred by Construction Manager with respect to administration of the claim for which such fee was paid, including all costs and expenses for or incurred by any of Construction Manager's staff or by any third party, including a third party claims administrator. If the costs and expenses incurred by Construction Manager in the administration of a claim exceed the claims administration fee of $1,500 for such claim, then Construction Manager shall be responsible for any excess amount, and the claims administration shall be carried out by Construction Manager without further cost or expense to 1 WTC. 1 WTC shall have no financial responsibility to any third party claims administrator engaged by Construction Manager, and Construction Manager is responsible to pay for the services and expenses of such third party claims administrator, regardless of the amounts charged and whether or not such amounts exceed or can be covered by the $1,500 claims administration fee.

19.4.3.4 Construction Manager shall bill 1 WTC for a $1,500 claims administration fee with respect to each claim filed against the CGL Policy that Construction Manager administers.

19.4.4 Construction Manager shall use the funds in the Insurance Escrow Account for the sole purpose of paying the deductibles under and as defined by the CGL Policy ("Deductible Expenses").

19.4.5 1 WTC shall fund the Insurance Escrow Account with an initial deposit of $300,000 to the Insurance Escrow Account and, thereafter, in accordance with the provisions of this Section 19.4.

19.4.6 Whenever the balance in the Insurance Escrow Account falls below $200,000, Construction Manager may requisition 1 WTC to replenish the funds in the Insurance Escrow Account in order to restore the balance to $300,000 ("Insurance Requisition"); provided, however, an Insurance Requisition shall be submitted to 1 WTC no more than once per calendar month and shall include only funds withdrawn from the Insurance Escrow Account for Deductible Expenses incurred in the prior month. In no event shall the Insurance Requisition include any item forecast rather than paid. As a precondition to replenishment of the Insurance Escrow Account, Construction Manager shall provide all payment documentation requested by, and in form and substance satisfactory to, 1 WTC.

19.4.7 If 1 WTC disapproves of any item in Construction Manager's Insurance Requisition, whether or not such item is a Deductible Expense, 1 WTC shall notify the Construction Manager in writing of 1 WTC's disapproval. Construction Manager shall return the cost of any disapproved item to the Insurance Escrow Account within five (5) business days of receiving such notice of disapproval. The amount of funds to be returned to the Insurance Escrow Account shall be the amount stated in the notice of disapproval. If the total amount of such funds is not returned to the Insurance Escrow Account upon the expiration of five (5) business days after receipt of such notice of disapproval, then 1 WTC, at its sole and absolute discretion, may deduct the amount of such item from the Construction Manager's Fee.

19.4.8 After 1 WTC has approved Construction Manager's Insurance Requisition, 1 WTC will deposit the amount approved with respect to the Insurance Requisition into the Insurance Escrow Account within thirty (30) days.

19.4.9 Any obligation of 1 WTC to fund or replenish the Insurance Escrow Account ceases on April 1, 2008. The balance of funds in the Insurance Escrow Account are immediately due and owing to 1 WTC as of such date, and Construction Manager immediately shall return such funds to 1 WTC. Anything in this Agreement to the contrary notwithstanding, any Deductible Expense paid after April 1, 2008, will be reimbursed to Construction Manager from the Mobilization Account, as set forth in Section 10.1 hereof, to the extent that payment for such Deductible Expense is the responsibility of 1 WTC under this Agreement and subject to the per-occurrence limit set forth in Section 19.4.1 above.

19.4.10 Construction Manager shall cause the banking institution to forward each month directly (i) to 1 WTC, in accordance with Section 11 (Notices) of the Third Freedom Tower Amendment, (ii) to the Authority, addressed as follows: The Port Authority of NY & NJ, c/o Treasury Department, 225 Park Avenue South, 12th Floor, New York, New York 10003, Attn: Cash Management, and (iii) to any of 1 WTC's or the Authority's designees as communicated to Construction Manager from time-to-time, the monthly statement produced by the institution where the Insurance Escrow Account funds are on deposit. Construction Manager

shall provide 1 WTC with any supporting documentation 1 WTC requests after reviewing the monthly statement.

19.4.11 Prior to paying any Deductible Expense from the Insurance Escrow Account, Construction Manager shall provide evidence satisfactory to 1 WTC that the insurer has requested that such Deductible Expense be paid and that such Deductible Expense is currently due and owing.

19.4.12 1 WTC may perform an audit or otherwise independently verify any claim, Insurance Requisition or other requisition, payment, cost, or bank statement under this Section 19.4.

19.4.13 Construction Manager acknowledges and agrees that 1 WTC paid a total of $359,975 for premiums with respect to an insurance policy for terrorism coverage and that such terrorism coverage shall remain in full force and effect for the entire policy period. Construction Manager agrees to provide 1 WTC with the policy number and a complete and accurate copy of each such policy evidencing the terrorism coverage prior to execution of this Agreement.

19.4.14 Prior to execution of the Agreement, Construction Manager agrees to provide 1 WTC with the policy number and a complete and accurate copy of each such policy for all insurance coverages purchased or obtained by Construction Manager for or on behalf of 1 WTC with respect to the Project.

20. OWNERSHIP OF WORK PRODUCT.

20.1 Mylars of the Contract Drawings, originals of technical specifications, estimates, reports, records, data, charts, documents, renderings, computations, computer tapes and disks, and other documents of any type whatsoever (collectively, "Works") and mechanical or electronic copies of the Works, whether in the form of writing, figures, or delineations, which are prepared or compiled in connection with this Agreement, shall become the property of 1 WTC, and 1 WTC shall have the right to use or permit the use of them and any ideas or methods represented by them for any purpose and at any time without other compensation than that specifically provided herein. For purposes of copyright creation and ownership, such Works shall be considered "works for hire" and shall be deemed created and owned by the 1 WTC; Construction Manager shall otherwise assign such rights to 1 WTC and execute such documents and undertake such actions to effectuate such assignments and ownership.

20.2 Construction Manager hereby warrants and represents that 1 WTC will have at all times the ownership and rights provided for in Section 20.1 above, free and clear of all claims of third persons, whether presently existing or arising in the future, and whether presently known to either of the parties to this Agreement or not. This Agreement shall not be construed, however, to require Construction Manager to obtain for 1 WTC the right to use any idea, design, method, material, equipment or other matter which is the subject of a valid patent, unless such patent is owned by Construction Manager or one of its employees, or by Construction

Manager's Subconsultant or one of Subconsultant's employees, in which case such right shall be obtained by the 1 WTC under an irrevocable, non-exclusive, royalty free and worldwide license to make, have made, and use, either by itself or by anyone on 1 WTC's behalf, without additional compensation by the 1 WTC in connection with any activity now or hereafter engaged in or permitted by 1 WTC under this Agreement.

20.3 If research or development is furnished in connection with the performance of this Agreement and if, in the course of such research or development, patentable subject matter is produced by Construction Manager, its officers, agents, employees, or Subconsultants, then 1 WTC, without cost or expense to it, shall have an irrevocable, non-exclusive royalty-free and worldwide license to make, have made, and use, either by itself or by anyone on 1 WTC's behalf, such subject matter in connection with any activity now or hereafter engaged in or permitted by 1 WTC under this Agreement.

20.4 With respect to any license 1 WTC may be entitled to pursuant to this Section 20, promptly upon request by 1 WTC, Construction Manager shall furnish or obtain from the appropriate person a form of license satisfactory to 1 WTC, but it is expressly understood and agreed that, as between 1 WTC and Construction Manager, the license herein provided for shall nevertheless arise for the benefit of 1 WTC immediately upon the production of said subject matter and shall not await formal exemplification in a written license agreement as provided for above.

20.4.1 Any license agreement obtained pursuant to this Section 20 may be transferred by 1 WTC to its successors, immediate or otherwise, in the operation or ownership of any real or personal property now or hereafter owned or operated by 1 WTC, and such license may be otherwise transferable at 1 WTC's sole discretion.

21. PATENTS.

21.1 Construction Manager shall promptly and fully inform 1 WTC in writing of any patents or patent disputes, whether existing or potential, of which Construction Manager has knowledge, relating to any idea, design, method, material, equipment, or other matter related to the subject matter of this Agreement or coming to Construction Manager's attention in connection with this Agreement.

21.2 Construction Manager hereby acknowledges that, except as set forth herein, all Intellectual Property Rights (as such term is defined in Section 21.4 below) necessary for the development, construction, and marketing of the Freedom Tower Project are owned by, licensed to, or have been otherwise secured by 1 WTC, its Contractors, Subconsultants, and employees and agents thereof, and that any uses by Construction Manager and its agent, employees, and Subconsultants are incidental and for the benefit of 1 WTC as part of the Project.

21.3 In the event that 1 WTC is accused of infringing any Intellectual Property Rights, including, but not limited to, those rights set forth in Section 20.1, as a result of any action taken by the Construction Manager, its Subconsultants, officers, employees, or agents thereof, the Construction Manager shall defend, indemnify, and hold harmless, and hereby does indemnify

and hold harmless the Indemnitees from and against any and all claims, demands, suits, causes of action, damages, losses, costs, and expenses, including reasonable attorneys' and experts' fees and costs, arising directly or indirectly from or out of the design, creation, manufacture, advertising, promotion, distribution, sale, use, or misuse of any third-party Intellectual Property Rights or any alleged action or omission by Construction Manager, its Subconsultants, or their respective officers, directors, employees, agents, successors, assigns, or customers (collectively, "IP Claims"), including, but not limited to, any IP Claims that may be asserted by customers, suppliers, Contractors, Subconsultants, manufacturers, sales representatives (independent and otherwise), employees, and all other persons and entities which may assert any such claims. Construction Manager shall not settle or otherwise compromise any IP Claims naming 1 WTC without 1 WTC's prior written consent, which shall not be unreasonably withheld. 1 WTC shall have the option to assume the defense of any IP Claims and to hire counsel of its choice, at Construction Manager's expense. Construction Manager shall give immediate notice to 1 WTC of any occurrence that might reasonably be expected to result in any IP Claim against any one or more of the Indemnitees. All of Construction Manager's indemnification obligations hereunder shall survive the expiration or termination of this Agreement.

21.4 For purposes of this Agreement, "Intellectual Property Rights" shall be defined as patents, unpatented inventions, patent applications in process, rights in expired patents, designs, processes, know-how, inventions, mask works, common law trademarks and service marks, active, expired or cancelled trademark or service mark registrations, trade names, slogans, unregistered trade dress, registered and unregistered copyrights, agreements, licenses, trade secrets, rights of publicity, and any tangible media (including film negatives and electronic files) embodying the same.

22. CONFIDENTIALITY.

22.1 Construction Manager has entered into a Confidentiality Agreement with 1 WTC and other parties ("Confidentiality Agreement"), a copy of which is attached hereto as **Attachment 10 to Exhibit A** (Non-Disclosure and Confidentiality Agreement, World Trade Center, Tower One, New York, New York) and made a part hereof. Construction Manager acknowledges and agrees that such Confidentiality Agreement is applicable to both the Project and the Third Freedom Tower Amendment. Construction Manager shall obligate its Subconsultants and their employees in accordance with the requirements of Section 25 (Security Requirements) and shall require in all Contracts that Contractors comply with such requirements and require the Contractor's employees to do the same. A breach of the Confidentiality Agreement by Construction Manager or its Subconsultants shall be a material breach of this Agreement.

22.2 In addition to the obligations set forth in Section 22.1 above, Construction Manager shall comply with Sections 22.3 through 22.7 below, unless a requirement of any such provision conflicts with a requirement set forth in the Confidentiality Agreement. In the event of such a conflict, the most stringent requirement upon Construction Manager shall apply. In the event there is a dispute or it cannot be determined which provision is most stringent upon Construction Manager, then 1 WTC shall select the requirement with which Construction Manager must comply.

22.3 Without the express written approval of 1 WTC, Construction Manager shall keep confidential, and shall require its Subconsultants and employees to keep confidential, the information set forth in Sections 22.3.1 and 22.3.2 below. Disclosure of any such information shall constitute a material breach of the Agreement.

22.3.1 all information identified as confidential, or some other similar identifying mark or statement indicating that such item is confidential, privileged, sensitive security, and/or proprietary information, disclosed to Construction Manager by 1 WTC or PATH or their respective contractors, consultants, or construction managers, if any; or

22.3.2 all information developed by Construction Manager or its Subconsultants in the performance of Services.

22.4 Construction Manager shall execute, and shall cause its employees and its Subconsultants, and the Subconsultant's respective employees, to execute non-disclosure agreements as directed by 1 WTC concerning intellectual property and proprietary information of 1 WTC, PATH, and any third person. Disclosure of any information covered under such non-disclosure agreements shall constitute a material breach of the Agreement.

22.5 The obligation of confidentiality under this Section 22 shall not pertain to:

22.5.1 information in the public domain;

22.5.2 information lawfully received from a third party;

22.5.3 information independently developed or obtained by Construction Manager or its Subconsultants prior to any disclosure or development contemplated in Sections 22.3.1 or 22.3.2, above; or

22.5.4 information that must be disclosed under law, provided 1 WTC is given reasonable notice of the legal obligation or legal process to disclose the same and provided Construction Manager is permitted to give such notice by applicable law.

22.6 Construction Manager shall not issue or permit to be issued any press release, advertisement, or literature of any kind that refers to 1 WTC or the Services performed in connection with this Agreement, unless Construction Manager obtains prior written approval from 1 WTC. Such approval may be withheld at the sole discretion of 1 WTC if, for any reason, 1 WTC believes that publication of such information could or would be harmful to the public interest or is in any way undesirable.

22.7 Under no circumstances shall Construction Manager or its Subconsultants communicate in any way with any contractor, department, board, agency, commission, or other organization, or any person, whether governmental or private, in connection with the Services unless required by law, except upon prior written approval and instruction of 1 WTC; provided, however, that data from manufacturers and suppliers of material shall be obtained by Construction Manager when Construction Manager finds such data necessary, unless otherwise instructed by 1 WTC.

23. SUSPENSION AND TERMINATION.

23.1 If, at any time, it is impracticable or undesirable from the viewpoint or judgment of 1 WTC to proceed with or continue the performance of the Agreement or any part thereof, whether or not for reasons beyond the control of 1 WTC, then 1 WTC shall have authority to suspend performance of any part or all of the Agreement until such time as 1 WTC may deem it practicable or desirable to proceed.

23.2 This Agreement may be terminated by 1 WTC without cause for any reason whatsoever upon thirty (30) days' prior written notice from 1 WTC, in which event 1 WTC shall pay Construction Manager the amounts calculated in Sections 23.2.1 through 23.2.4, as follows:

23.2.1 Construction Manager's Fee for the Cost of the Work executed through the date of termination;

23.2.2 Plus General Conditions Costs incurred up to thirty (30) days from the date of termination except to the extent Construction Manager has written Contracts that extend beyond thirty (30) days from the termination date, which shall be transferred to 1 WTC. These obligations, where possible, shall carry a 30-day cancellation clause and to the extent they do not, such longer obligations shall require 1 WTC's written pre-approval.

23.2.3 Plus, 1 WTC shall pay Construction Manager for staff and related expenses for up to sixty (60) days to allow for transfer of such personnel except to the extent Construction Manager has written obligations beyond sixty (60) days, which shall be transferred to the Authority. Provided, however, that the General Conditions Costs for Personnel beyond the date of termination shall not exceed an average of thirty (30) days in the aggregate for all Personnel;

23.2.4 Less any back charges resulting in incurred or anticipated damages from Construction Manager's breaches of this Agreement, which amounts shall be determined by 1 WTC in its sole and absolute discretion.

23.3 In no event shall Construction Manager be entitled to anticipated or unearned Fee or profits for (i) Services not executed, or (ii) Cost of the Work (a) to be incurred or (b) incurred after the date of termination.

23.4 Construction Manager shall assign all of the Subconsultants' contracts to 1 WTC by the effective date of termination.

23.5 If this Agreement is terminated or cancelled, 1 WTC shall have no further obligation to fund or replenish the Mobilization Account, Trade Account, or Insurance Escrow Account, and any funds in such accounts (a) not actually expended in connection with performance of the Work, or (b) not irrevocably committed by Construction Manager's written agreement with a third party in connection with performance of the Work, shall be immediately due and owing to 1 WTC.

24. DISPUTE RESOLUTION.

24.1 To resolve all disputes and to prevent litigation, the parties to this Agreement authorize Authority's Chief Engineer to decide all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to, or on account of, this Agreement (including claims in the nature of breach of contract or fraud or misrepresentation before or subsequent to acceptance of Construction Manager's proposal and claims of a type that are barred by the provisions of this Agreement).

24.2 Chief Engineer's decision with respect to any question or dispute under this Section 24 shall be conclusive, final, and binding on the parties. The decision may be based on such assistance as Chief Engineer may find desirable.

24.3 The effect of Chief Engineer's decision with respect to any question or dispute under this Section 24 shall not be impaired or waived by any negotiations or settlement offers in connection with the question or dispute decided, whether or not Chief Engineer participated therein, or by any prior decision of 1 WTC or others, which prior decisions shall be deemed subject to review, or by any termination or cancellation of this Agreement.

24.4 All such questions or disputes under this Section 24 shall be submitted in writing by Construction Manager or 1 WTC to Chief Engineer for decision, together with all evidence and other pertinent information in regard to such question or dispute, in order that a fair and impartial decision may be made. The other party shall have a reasonable time to respond. 1 WTC may join any other entity to the dispute that has a valid dispute resolution agreement with 1 WTC. In any action against 1 WTC relating to any such question or dispute, Construction Manager must allege in its complaint and prove such submission, which shall be a condition precedent to any such action. No evidence or information shall be introduced or relied upon in such an action that has not been so presented to Chief Engineer.

25. SECURITY REQUIREMENTS.

25.1 The Confidentiality Agreement entered into by Construction Manager (**Attachment 10** hereto) contains a Security Program Handbook for the Project. Although Construction Manager acknowledges in Section 22.1 above Construction Manager's prior and continuing agreement to comply with the provisions of the Confidentiality Agreement, which agreement includes the Security Program Handbook for the Project, for the avoidance of doubt, Construction Manager acknowledges and agrees that such Security Program Handbook is applicable to both the Project and the Third Freedom Tower Amendment and Construction Manager shall: (i) cause its Subconsultants, Contractors, and employees of such entities performing work or services on the Project to execute the Confidentiality Agreement and Security Program Handbook, (ii) cause Subconsultants and their employees to comply with the provisions therein, and (iii) use best efforts to cause Contractors and their employees to comply with the provisions therein. A breach of the Security Program Handbook for the Project by Construction Manager or its Subconsultants shall be a material breach of this Agreement.

25.2 Construction Manager acknowledges and agrees that Authority and 1 WTC each have facilities, systems, and projects where terrorism or other criminal acts may have a significant impact on life safety and key infrastructures. 1 WTC reserves the right to impose multiple layers of security requirements on Construction Manager, its staff, Subconsultants and their staffs, Contractors and their staffs, and all others participating in the Project, depending upon the level of security required, as determined by 1 WTC in its sole, absolute, and subjective discretion. Accordingly, Construction Manager, if requested after execution of this Agreement, shall execute and comply with any security agreement or new security provision required by 1 WTC or Authority or with any new governmental regulation; or with any modification, increase, and/or upgrade to existing security requirements or governmental regulation, which modification, increase, and/or update is imposed after execution of this Agreement; and Construction Manager shall create an obligation and require that all Subconsultants and Contractors, and their respective staffs, shall do the same and Construction Manager shall cause its Subconsultants to comply with the provisions therein and shall use best efforts to cause its Contractors to comply with the provisions therein.

25.3 Security requirements include, but are not limited to, those attached hereto as **Attachment 7 to Exhibit A** (Security Requirements).

25.4 In addition to the obligations set forth in Sections 25.1 through 25.3 above, Construction Manager shall comply with Sections 25.5 through 25.7 below unless a requirement of any such provision conflicts with a requirement set forth in the security requirements described in Section 25.3 above. In the event of such a conflict, the most stringent requirement upon Construction Manager shall apply. In the event there is a dispute or it cannot be determined which provision is most stringent upon Construction Manager, then 1 WTC shall select the requirement with which Construction Manager must comply.

25.5 In accordance with Section 25.4 above, security requirements include as follows:

25.5.1 Construction Manager, Subconsultant, and Contractor criminal background checks, performed by firms acceptable to 1 WTC, and identity checks and background screening, including, but not limited to, inspection of not less than two (2) forms of valid/current government-issued identification (at least one having an official photograph) to verify person's name and residence;

25.5.2 Screening federal, state, and/or local criminal justice agency information databases and files; screening of any terrorist identification files;

25.5.3 Multi-year check of personal, employment, and/or credit history;

25.5.4 Access identification to include some form of biometric security methodology such as fingerprint, facial or iris scanning, or the like;

25.5.5 Issuance of photo identification cards; and

25.5.6 Access control, inspection, and monitoring by security guards.

25.6 Construction Manager shall require that its staff and Subconsultants, and the staff of such Subconsultants, undergo a criminal history background check; and shall furnish proof to 1 WTC, in a form acceptable to 1 WTC, that such check has been performed. No employee of Construction Manager or any Subconsultant will be permitted to perform Services under this Agreement without proof that such check has been performed and submission of the results to 1 WTC.

25.7 Construction Manager shall enforce the security provisions provided for in this Section 25 with all of its Subconsultants, Personnel, and the staff and employees of all foregoing persons and entities, and Construction Manager shall use best efforts to enforce the security provisions provided for in this Section 25 with all of the Contractors and their subcontractors of any tier.

26. CERTIFICATION OF NO INVESTIGATION (CRIMINAL OR CIVIL ANTI-TRUST), INDICTMENT, CONVICTION, DEBARMENT, SUSPENSION, DISQUALIFICATION AND DISCLOSURE OF OTHER INFORMATION.

26.1 By signing this Agreement, Construction Manager and each person signing on behalf of Construction Manager certifies, and in the case of a joint proposal that resulted in formation of this Agreement, each party to such proposal certifies, as to its own organization, that Construction Manager and each parent and/or affiliate of Construction Manager has not:

26.1.1 been indicted or convicted in any jurisdiction;

26.1.2 been suspended, debarred, found not responsible, or otherwise disqualified from entering into any agreement with any governmental agency or been denied a government agreement for failure to meet standards related to the integrity of Construction Manager;

26.1.3 had an agreement terminated by any governmental agency for breach of agreement or for any cause based in whole or in part on an indictment or conviction;

26.1.4 ever used a name, trade name, or abbreviated name, or an employer identification number (other than in connection with Construction Manager's reorganization in 1998) different from those inserted in any such proposal or furnished to 1 WTC;

26.1.5 had any business or professional license suspended or revoked or, within the five (5) years prior to submission of any proposal or execution of this Agreement, whichever occurred earlier, had any sanction imposed in excess of Fifty Thousand Dollars ($50,000) as a result of any judicial or administrative proceeding with respect to any license held or with respect to any violation of a federal, state, or local law, rule, or regulation, including environmental laws, rules, and regulations;

26.1.6 had any sanction imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, proposal rigging, embezzlement, misrepresentation, or anti-trust, regardless of the dollar amount of the any sanction or the date of its imposition; and

26.1.7 been and is not currently, or been and is currently, the subject of a criminal investigation by any federal, state, or local prosecuting or investigative agency and/or a civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

27. CODE OF ETHICS.

27.1 By signing this Agreement, Construction Manager and each person signing on behalf of Construction Manager certifies that:

27.1.1 the prices proposed or quoted have been arrived at independently and without collusion, consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other Construction Manager or with any competitor;

27.1.2 the prices proposed or quoted have not been and will not be knowingly disclosed, directly or indirectly by Construction Manager or any person identified in Section 26.1 above prior to the official opening of any such proposal, to any other Construction Manager or to any competitor;

27.1.3 no attempt has been made and none will be made to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition;

27.1.4 Construction Manager or any person identified in Section 26.1 above has not made any offer or agreement or taken any other action with respect to any 1 WTC employee or former employee, or immediate family member of either, that would constitute a breach of ethical standards under the Code of Ethics dated April 11, 1996 (a copy of which is available upon request), nor does such Construction Manager or person have any knowledge of any act on the part of an 1 WTC employee or former 1 WTC employee relating either directly or indirectly to Construction Manager or such person that constitutes a breach of the ethical standards set forth in said Code; and

27.1.5 no person or selling agency, other than a bona fide employee or bona fide established commercial or selling agency maintained by Construction Manager for the purpose of securing business, has been employed or retained by Construction Manager to solicit or secure this Agreement on the understanding that a commission, percentage, brokerage, contingent, or other fee would be paid to such person or selling agency.

27.2 The certifications in this Section 27 shall be deemed to be made by Construction Manager as follows:

27.2.1 if Construction Manager is a corporation, such certification shall be deemed to have been made not only with respect to Construction Manager itself, but also with respect to each parent, affiliate, director, and officer of Construction Manager, as well as, to the best of the certifier's knowledge and belief, each stockholder of Construction Manager with an ownership interest in excess of ten percent (10%);

27.2.2 if Construction Manager is a partnership, such certification shall be deemed to have been made not only with respect to Construction Manager itself, but also with respect to each partner.

27.2.3 if Construction Manager is a corporation, such certification shall be deemed to have been authorized by the board of directors of Construction Manager, and such authorization shall be deemed to include the signing and submission of any proposal and the inclusion therein of such certification as the act and deed of the corporation.

27.3 If Construction Manager cannot make every certification required under this Section 27, Construction Manager shall so state and shall furnish to 1 WTC prior to executing this Agreement a signed statement that sets forth in detail the reasons therefor. If Construction Manager is uncertain as to whether it can make the foregoing certifications, it shall so indicate to 1 WTC in a signed statement furnished to 1 WTC prior to executing this Agreement, setting forth in such statement the reasons for its uncertainty.

27.4 Notwithstanding that Construction Manager may be able to make the certifications required under this Section 27 prior to or at the time of executing this Agreement, Construction Manager shall immediately notify 1 WTC in writing during the term of this Agreement of any change of circumstances that might make Construction Manager unable to continue to make such certifications or require disclosure.

27.5 Certifications or signed statements made pursuant to this Section 27 shall be deemed to have been made by Construction Manager with full knowledge that they shall become a part of the records of 1 WTC and that 1 WTC shall rely on their truth and accuracy in awarding this Agreement.

27.6 If 1 WTC determines at any time prior or subsequent to the award of this Agreement that Construction Manager has falsely certified as to any material item in such certifications or statements, or has willfully or fraudulently furnished a certification or signed statement that is false in any material respect, or has not fully and accurately represented any circumstance with respect to any item in the certifications and statements required to be disclosed, then 1 WTC may determine that Construction Manager is not a responsible Construction Manager with respect to its proposal regarding the Services or the Agreement or with respect to future proposals for Services or 1 WTC agreements, and 1 WTC may exercise such other remedies as are provided to it by the Third Freedom Tower Amendment or Agreement with respect to these matters.

27.7 Construction Manager acknowledges that knowingly providing a false certification or statement in any proposal for Services or under this Agreement may be the basis for prosecution for offering a false instrument for filing (see, e.g., New York Penal Law, Section 175.30 et seq.). Construction Manager also acknowledges that the inability to make such certification will not in and of itself disqualify a Construction Manager, and that in each instance, 1 WTC will evaluate the reasons therefor provided by such Construction Manager.

28. CONSTRUCTION MANAGER ELIGIBILITY.

28.1 Construction Manager acknowledges and shall abide by any determination with respect to 1 WTC's policy to honor any determination by any agency of either the State of New York or New Jersey that a Construction Manager is not eligible to submit a proposal or be awarded a public agreement because such Construction Manager has been determined to have engaged in illegal or dishonest conduct or to have violated prevailing rate of wage legislation.

28.2 Construction Manager acknowledges that with respect to the policy set forth in Section 28.1 above, such policy permits a Construction Manager whose ineligibility has been so determined by an agency of either the State of New York or New Jersey to submit a proposal with respect to an 1 WTC agreement and then to establish that Construction Manager is eligible to be awarded an agreement because (i) the state agency determination relied upon does not apply to the Construction Manager; or (ii) the state agency determination relied upon was made without affording the Construction Manager the notice and hearing to which the Construction Manager was entitled by the requirements of due process of law; or (iii) the state agency determination was clearly erroneous; or (iv) the state agency determination relied upon was not based on a finding of conduct demonstrating a lack of integrity or violation of a prevailing rate of wage law.

28.3 The full text of the resolution adopting the policy described in this Section 28 may be found in the Minutes of Authority's Board of Commissioners meeting of September 9, 1993.

29. NO GIFTS / GRATUITIES / OFFERS OF EMPLOYMENT.

29.1 During the term of this Agreement, Construction Manager shall not offer, give, or agree to give anything of value either to an 1 WTC employee, agent, job shopper, Construction Manager, or other person or firm representing 1 WTC, nor to a member of the immediate family (i.e., spouse, child, parent, brother, or sister) of any of the foregoing, in connection with the performance by such employee, agent, job shopper, Construction Manager, or other person or firm representing 1 WTC of duties involving transactions with Construction Manager on behalf of 1 WTC, whether or not such duties are related to this Agreement or any other 1 WTC agreement or matter. Any such conduct shall be deemed a material breach of this Agreement.

29.2 As used herein, the phrase "anything of value" shall include, but not be limited to, any (a) favor, such as meals, entertainment, transportation, etc., (other than that contemplated by the Agreement) that might tend to obligate an Authority or 1 WTC employee to Construction Manager, and (b) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment, or business opportunity. Such phrase shall not include compensation contemplated by this Agreement. For purposes of this provision in Section 29, the term "1 WTC" shall be deemed to include all subsidiaries of the Authority.

29.3 Construction Manager shall insure that no gratuities of any kind or nature whatsoever shall be solicited or accepted by Construction Manager or by its personnel for any reason whatsoever from any passenger, tenant, customer, or other person with whom

Construction Manager comes in contact during the course of performing the Services and shall so instruct its personnel.

29.4 During the term of this Agreement, Construction Manager shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of Authority).

29.5 Construction Manager shall include the provisions of this Section 29 in each subcontract it enters into under this Agreement and shall cause its Subconsultants and their Subconsultants of any tier to so include such provisions.

30. CONFLICT OF INTEREST.

30.1 During the term of this Agreement, Construction Manager shall not do any of the following:

30.1.1 participate in any way in the preparation, negotiation, or award of any contract (other than a contract for Construction Manager's own services or for those of potential Contractors to 1 WTC) to which it is contemplated 1 WTC may become a party;

30.1.2 participate in any way in the review or resolution of any claim under any contract described in Section 30.1.1 above if Construction Manager has a substantial financial interest in the contractor or potential contractor of 1 WTC or if Construction Manager has an arrangement for future employment or for any other business relationship with said contractor or potential contractor; or

30.1.3 take any other action that might be viewed as or give the appearance of a conflict of interest on the part of Construction Manager.

30.2 If any of the following situations exist, then Construction Manager shall inform 1 WTC immediately in writing of such situation, giving the full details thereof:

30.2.1 if the possibility of an arrangement for future employment or for another business arrangement has been or is the subject of a previous or current discussion between Construction Manager and a contractor or construction manager that has a business relationship with or has entered into a contract with 1 WTC;

30.2.2 if Construction Manager has reason to believe an arrangement as described in Section 30.2.1 above may be the subject of future discussion;

30.2.3 if Construction Manager has any financial interest, substantial or not, in a construction manager (other than Construction Manager), potential construction manager, Contractor, or potential Contractor of 1 WTC; or

30.2.4 if Construction Manager has reason to believe any situation exists that might be viewed as or give the appearance of a conflict of interest.

30.3 Unless Construction Manager gives 1 WTC (i) specific prior written advice of Construction Manager's intent to take any action that might be viewed as or give the appearance of a conflict of interest, including, without limitation, performing any work or services for any of the other projects involving the reconstruction of the area surrounding the Freedom Tower Project, and (ii) a mitigation plan acceptable to 1 WTC, Construction Manager shall not take any such action.

30.4 If 1 WTC determines that Construction Manager's performance of a portion of its Services (a) is precluded by any provision of this Section 30, or (b) is no longer appropriate because of such preclusion, then 1 WTC shall have full authority on behalf of Construction Manager and 1 WTC to order that such portion of Construction Manager's Services not be performed by Construction Manager; provided, however, that 1 WTC reserves the right to have the Services performed by others, and any compensation payable hereunder that is applicable to the deleted work shall be equitably adjusted as agreed to by both Construction Manager and 1 WTC.

30.5 Construction Manager's execution of this Agreement shall constitute a representation by Construction Manager that, at the time of such execution, except as set forth in Section 26.1.4 and in other written disclosures by Construction Manager, Construction Manager knows of no circumstances, present or anticipated, that come within the provisions of this Section 30 or that might otherwise be viewed as or give the appearance of a conflict of interest on Construction Manager's part.

30.6 Construction Manager acknowledges that 1 WTC may preclude Construction Manager from involvement in certain disposition/privatization initiatives or transactions that result from the findings of 1 WTC's evaluations hereunder or from participation in any agreements that result, directly or indirectly, from Services provided by Construction Manager.

30.7 Construction Manager acknowledges that it is the opinion of 1 WTC that any entity performing construction management or general contracting services for 1 WTC or other stakeholders in the Project or development of the World Trade Center site (such as LMDC, NYSDOT, WTC Net Lessee), where such entity is responsible for building portions of the World Trade Center site, has a potential conflict of interest with Construction Manager under this Agreement during its pendancy, except as expressly disclosed in writing and approved by 1 WTC.

30.7.1 If Construction Manager desires to enter into a third-party relationship with an entity described in Section 30.7 above, and Construction Manager believes it can provide a mitigation plan that addresses 1 WTC's perceived conflict of interest, then Construction Manager, before entering into such relationship, shall give written notice of Construction Manager's interest to 1 WTC and submit such plan for evaluation to 1 WTC.

30.7.2 1 WTC will evaluate the mitigation plan submitted under the provisions of Section 30.7.1 above and will notify Construction Manager of 1 WTC's decision as to whether 1 WTC will permit Construction Manager to enter into the third-party relationship described in such mitigation plan. If 1 WTC determines that a conflict of interest exists that, in 1 WTC's sole

opinion, makes such third-party relationship inappropriate, then Construction Manager agrees not to enter into such relationship. This provision is of the essence of this Agreement.

31. LEGAL REQUIREMENTS.

31.1 Construction Manager's Services, the Contract Drawings, and all Work performed by Contractors shall comply with all provisions of federal, state, and local laws, ordinances, codes, rules, regulations, and orders that would affect or control the designs, concepts, and construction of the Project as if the Project were being performed for a private corporation; provided, however, that if Authority's standards which are hereby adopted by 1 WTC, are more stringent, then Authority's standards shall prevail and be followed, unless Construction Manager receives written notification to the contrary signed by Authority, in which case the requirements of said notification from Authority shall apply ("Legal Requirements").

32. MISCELLANEOUS.

32.1 No certificate, payment (final or otherwise), acceptance of any Work nor any other act or omission of 1 WTC or 1 WTC Representative shall operate to release Construction Manager from any obligations under or upon this Agreement, or to estop 1 WTC from showing at any time that such certificate, payment, acceptance, act, or omission was incorrect or to preclude 1 WTC from recovering any money paid in excess of that lawfully due, whether under mistake of law or fact or to prevent the recovery of any damages sustained by 1 WTC.

32.2 This Agreement, and any exhibits, riders, and annexes attached hereto or referenced herein, and any written amendments entered into from time to time, constitute the entire agreement between the parties. No change in or modification, termination, or discharge of this Agreement in any form whatsoever shall be valid or enforceable unless it is in writing and signed by the party to be charged therewith, or such party's duly authorized representative; provided, however, that termination in a manner expressly provided for in this Agreement shall be effective as so provided.

32.3 No officer, director, agent, or employee of either party to the Agreement shall be charged personally by the other party with any liability or held liable to the other party under any term or provision of this Agreement, or because of the execution or attempted execution by any officer, director, agent, or employee of either party or because of any breach hereof by any of them.

32.4 This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

32.5 This Agreement shall be binding and inure to the benefit of the respective heirs, executors, administrators, and successors of the parties hereto.

32.6 Construction Manager shall not assign or transfer any interest in this Agreement without the prior written consent of 1 WTC.

32.7 No consent or waiver by 1 WTC shall be effective unless it is in writing and then only to the extent specifically stated. Failure on the part of any party to enforce any act or failure to act of the other party or to declare the other party in default hereunder, irrespective of how long such failure continues, shall not constitute a waiver of any right hereunder. 1 WTC's payment for Services shall not be deemed an approval of Construction Manager's Services or a waiver of any rights 1 WTC may have.

32.8 If any inconsistency or contradiction exists within the Agreement and the remaining Contract Documents, this Agreement shall govern.

32.9 In the event that the Authority hires an integrity monitor in connection with the Property ("Integrity Monitor"), then the Construction Manager and Subconsultants will cooperate fully with the Integrity Monitor, 1 WTC, and the Authority, including but not limited to providing complete access to all personnel and records related to the performance of this Agreement. Failure to comply with this provision shall be a material breach of this Agreement.

32.10 Authority is not a contracting party to this Agreement and shall have no duties, obligation or liabilities in regards to this Agreement. Construction Manager shall look solely to 1 WTC for any claim, cause of action or damages arising out of this Agreement. For the avoidance of doubt, the relationship of the Authority to this Agreement and the Project is set forth below in this Section 32.10.

32.10.1 The Authority is hereby deemed an intended third-party beneficiary of this Agreement. Construction Manager acknowledges and agrees that the performance of the Services is for the benefit of the Authority, and that the Authority shall have the right to enforce the obligations of Construction Manager under this Agreement against Construction Manager directly.

32.10.2 The Authority, from time to time and on behalf of 1 WTC, either (i) may perform certain obligations of 1 WTC, or (ii) may supply or loan to 1 WTC employees of the Authority for the performance of the obligations of 1 WTC.

32.10.3 Construction Manager shall have no direct claim, right, or cause of action against Authority (i) by virtue of Authority's rights under Section 32.10.1, (ii) for any acts, errors or omissions of its employees when engaged or acting on behalf of 1 WTC, or (iii) otherwise in connection with this Agreement.

32.10.4 Construction Manager shall look solely to 1 WTC for payment of any amount due and owing Construction Manager under this Agreement or for any claim, cause of action or damages in connection with the Project. Notwithstanding anything to the contrary, Construction Manager shall have no recourse in connection with this Agreement or the Project against (i) the Authority, or (ii) any present or future Commissioner, officer, director, trustee, employee, agent or volunteer of the Authority. Such exculpation of liability is absolute and without any exception, and shall survive any termination, expiration or assignment of this Agreement.

32.11 To the extent Construction Manager purchases tangible personal property or incurs rentals charges for construction equipment with respect to the Project, and any such purchase or rental charge is exempt from New York State or New York City sales or other taxes, Construction Manager shall obtain such exemption and agrees to comply with the required rules and regulations in order to achieve the exemption as more fully set forth in Attachment 2 (Riders for Contract), Rider V thereto (Form of Trade Contract), and Rider I thereto (Sales and Use Tax Requirements).

32.12 This Agreement represents the entire and integrated agreement between Construction Manager and 1 WTC and supersedes all prior negotiations, arrangements, representations, or agreements, either oral or written.

33. CONSTRUCTION MANAGER'S QUALIFICATION TO DO BUSINESS

33.1 Tishman Construction Corporation shall register as a foreign corporation with the New York State Division of Corporations and shall become qualified to do business in the state of New York and certified by the New York State Department of State. Tishman Construction Corporation acknowledges and agrees that these are material obligations under this Agreement that it must perform as swiftly as possible.

33.2 Tishman Construction Corporation represents, warrants, and covenants that:

33.2.1 it is a corporation incorporated in the state of Delaware;

33.2.2 it is active and in good standing with the Delaware Department of State, Division of Corporations;

33.2.3 it shall take all necessary steps to register as a foreign corporation with the New York State Division of Corporations;

33.2.4 it shall take all necessary steps to become qualified to do business in the state of New York and certified by the New York State Department of State;

33.2.5 it knows of no reason why Tishman Construction Corporation shall be unable to accomplish such registration, qualification, and certification, as described in Sections 33.2.3 and 33.2.4 above; and knows of no reason why either the New York State Department of State or the New York State Division of Corporations will deny Tishman Construction Corporation such registration, qualification, or certification in the State of New York.

33.3 In the event Tishman Construction Corporation is denied either registration, qualification, or certification required under this Section 33, Tishman Construction Corporation shall cause the General Contractor Agreement, as amended by the Third Freedom Tower Amendment and all exhibits, riders, and attachments thereto, including, without limitation, Exhibit A to the Third Freedom Tower Amendment and Exhibit B to the Third Freedom Tower Amendment, (collectively, "Freedom Tower Agreements") to be assigned to Tishman Construction Corporation's subsidiary, Tishman Construction Corporation of New York.

33.4 Tishman Construction Corporation represents, warrants, and covenants that Tishman Construction Corporation of New York is:

33.4.1 a corporation incorporated in the state of Delaware;

33.4.2 active and in good standing with the Delaware Department of State, Division of Corporations;

33.4.3 registered as a foreign corporation with the New York State Division of Corporations; and

33.4.4 qualified to do business in the state of New York and certified by the New York State Department of State.

33.5 If the Tishman Construction Corporation is denied either registration, qualification, or certification required under this Section 33, Tishman Construction Corporation shall fully guarantee the performance of Tishman Construction Corporation of New York with respect to the Freedom Tower Agreements, and shall furnish 1 WTC such other security for performance of Construction Manager's obligations as may be reasonably requested by 1 WTC.

ATTACHMENTS TO EXHIBIT A OF THIRD FREEDOM TOWER AMENDMENT

Attachment 1:	Scope of Services
Attachment 2:	Riders for Contract
Attachment 3:	[Intentionally Deleted]
Attachment 4:	Schedule of Annual and Hourly Personnel's Salaries
Attachment 5:	Owner Controlled Insurance Program
Attachment 6:	Insurance
Attachment 7:	Security Requirements
Attachment 8:	[Intentionally Deleted]
Attachment 9:	Milestone Dates
Attachment 10:	Non-Disclosure and Confidentiality Agreement
Attachment 11:	Mobilization Account Schedules

ATTACHMENT 1
TO
EXHIBIT A

SCOPE OF SERVICES

1. Scope of Construction Manager's Services.

1.1 The Services to be performed by Construction Manager consist of (i) all of the duties and obligations set forth in this Attachment 1 to Exhibit A; and (ii) all of the duties and obligations of Construction Manager identified in the Contract Documents; and (iii) all of the duties and obligations of 1 WTC identified in the Contracts.

2. Duties and Obligations. In addition to the other duties and obligations set forth in Section 1.1 above, Construction Manager's Services include, without limitation:

2.1 Design Consultation.

2.1.1 Construction Manager shall represent 1 WTC throughout the design process and shall review and monitor the schematic design, design development, construction documents phases of the Project.

2.1.2 Construction Manager shall review the program furnished by 1 WTC to ascertain the design requirements of the Project and shall arrive at a mutual understanding of such requirements with 1 WTC.

2.1.3 Construction Manager shall assist 1 WTC to develop and establish design goals and objectives for the Project with 1 WTC.

2.1.4 Construction Manager shall analyze and evaluate 1 WTC's preliminary program in terms of Project design, Project Schedule, and construction budget requirements, each in terms of the other.

2.1.5 Construction Manager shall scrutinize and refine the Project design requirements, including programming, outline specifications, etc., in coordination and consultation with 1 WTC.

2.1.6 Based on early schematic designs and other design criteria prepared the Design Team, Construction Manager shall further scrutinize and refine its preliminary estimates of construction costs for program requirements using area, volume, and similar conceptual estimating techniques.

2.1.7 Construction Manager shall expeditiously analyze, review, and evaluate design documents during their development and advise on proposed site use and improvements, selection of materials, building systems and equipment, and methods of Project delivery. Construction Manager shall manage and oversee value engineering of alternative materials,

methods, and systems and analyze and recommend the relative feasibility of construction methods, availability of materials and labor, time requirements for procurement, installation and construction, and factors related to construction cost, including, but not limited to, costs of alternative designs or materials, preliminary budgets and possible economies.

2.1.8 Construction Manager shall coordinate and synchronize its design reviews with 1 WTC and the Design Team.

2.1.9 Construction Manager shall assist 1 WTC in reaching 1 WTC's goal that its requirements and requests are properly reflected in the design documents, and Construction Manager shall review and report on same as requested by 1 WTC.

2.1.10 [Intentionally omitted]

2.1.11 Construction Manager shall coordinate and synchronize the schematic design with Design Team and Chief Engineer; shall continue to scrutinize and review the schematic design throughout the schematic design process; and shall obtain 1 WTC's approval as necessary.

2.1.12 As Design Team progresses with the preparation of the schematic design documents, Construction Manager shall prepare and update, with increasing detail and refinement and at appropriate intervals agreed to by 1 WTC, Construction Manager's and Design Team's estimates of the construction cost and of each of the Contracts. Such estimates shall be provided for Design Team's review and 1 WTC's approval. Construction Manager shall advise and warn 1 WTC and Design Team if it appears that the construction cost may exceed the latest approved Project budget and research, analyze, and recommend corrective action.

2.1.13 Construction Manager shall obtain approval from 1 WTC before proceeding from the design phase Services to the construction phase.

2.1.14 Construction Manager shall coordinate and synchronize design development with the Design Team and 1 WTC; shall continue to review and monitor design development throughout the design development process; and shall analyze and then review same with 1 WTC and obtain approval prior to proceeding to the construction phase.

2.1.15 Construction Manager shall analyze and update the Project budget based upon design development. During the design development phase, Construction Manager shall prepare and update monthly a Project Schedule for review by Design Team and acceptance by 1 WTC. Construction Manager shall obtain Design Team's comments and 1 WTC's approval for the portion of the preliminary Project Schedule relating to the performance of Design Team's services. In the Project Schedule, Construction Manager shall analyze, coordinate, and integrate Construction Manager's Services, Design Team's services, and 1 WTC's responsibilities with the anticipated Project Schedules, and Construction Manager shall highlight critical and long-lead time items.

2.1.16 Construction Manager shall obtain approval from 1 WTC before proceeding to the construction phase.

2.1.17 Construction Manager shall scrutinize and analyze and then consult with 1 WTC and Design Team regarding the Contract Drawings and make recommendations whenever design details adversely affect constructability, cost or schedules.

2.1.18 Construction Manager shall assist 1 WTC and Design Team with local, regional, state, and federal jurisdictional agencies; research and identify municipal permitting processes; manage, administer, and secure building permit approval in accordance with Section 2.1.19 below; coordinate and oversee with local permitting officials with respect to permit submissions; and assist Design Team, the Chief Engineer, and other contractors or entities in securing all other necessary permits and required approvals from public agencies and others.

2.1.19 Construction Manager shall assist 1 WTC in obtaining building permits, or the equivalent of a building permit as provided by Authority, and special permits for permanent improvements, except for permits required to be obtained directly by the various Contractors. Construction Manager shall oversee, assist, monitor, and confirm 1 WTC and Design Team in connection with 1 WTC's timely filing of sufficient and the appropriately completed documents required for the approvals of governmental authorities having jurisdiction over the Project.

2.1.20 Construction Manager shall analyze, recommend and inform 1 WTC and Design Team regarding the assignment of responsibilities for temporary Project facilities and equipment, materials, and services for common use of the Contractors. Construction Manager shall confirm and verify that such requirements and assignment of responsibilities are included in the proposed Contract Documents.

2.1.21 Construction Manager shall analyze, evaluate, and then recommend a comprehensive plan to 1 WTC regarding the allocation of responsibilities for safety programs among the Contractors, including, without limitation, the Site Wide Safety Plan, Health and Safety Plan, Site Wide Security, and Tenant Construction Review Manual. During execution of the Project, Construction Manager shall be responsible to review, comment upon, and provide information to 1 WTC upon its request regarding the testing and inspection of plans and safety features and monitoring the compliance of the Contractors with respect to their responsibilities for the safety programs; and reporting regularly to 1 WTC on such compliance and the effectiveness of the Authority and Construction Manager's comprehensive plan.

2.1.22 Construction Manager shall analyze, evaluate, and recommend specific division of the Project into individual Contracts for various categories of trades and Work, including the method to be used for selecting Contractors and awarding Contracts. If multiple Contracts are to be awarded, Construction Manager shall analyze and review the Contract Drawings and recommend, as required, how to assure that (1) the services and Work of the Contractors are coordinated; (2) all requirements for the Project have been assigned to the appropriate Contract; (3) the likelihood of jurisdictional disputes has been minimized; and (4) proper coordination has been provided for phased construction.

2.1.23 Construction Manager shall evaluate and prepare a Project Schedule providing for the components of the Work, including phasing of construction, times of commencement and completion required of each contractor, ordering and delivery of products

requiring long-lead time, and the occupancy requirements of 1 WTC that shall be consistent with all Contractor's construction schedules incorporated into the Contracts. Such Project Schedule also shall meet 1 WTC's requirements for construction schedules as set forth in the Contract Documents. Construction Manager shall provide the current Project Schedule for each set of bidding documents.

2.1.24 Construction Manager shall oversee and manage compliance with the construction schedule, scrutinize any delays, and report the status once each month to 1 WTC, providing analysis of and recommendations regarding any delay, concern, problem, or other issue.

2.1.25 Construction Manager shall oversee, manage, expedite, and coordinate the ordering and delivery of materials requiring long-lead time.

2.1.26 Construction Manager shall analyze, evaluate, and provide input as to constructability, methods, and materials.

2.1.27 Construction Manager shall analyze and recommend, and assist 1 WTC in selecting, retaining, and coordinating, the professional services of surveyors and testing laboratories required for the Project.

2.1.28 Construction Manager shall investigate and analyze the types and quantities of labor required for the Project and determine the availability of appropriate categories of labor required for critical phases. Construction Manager shall recommend actions designed to minimize adverse effects of labor shortages.

2.1.29 Construction Manager shall research, obtain, and review applicable requirements and information re: same for equal employment opportunity programs for inclusion in the Contract Documents.

2.1.30 Construction Manager shall perform and prepare a final review, analysis, and evaluation of all documents and obtain approval from 1 WTC prior to final pricing.

2.1.31 Following 1 WTC's approval of the Contract Drawings, Construction Manager shall update and submit the latest estimate of construction cost and the Project Schedule for Design Team's review and 1 WTC's approval.

2.2 Procurement of Contractors.

2.2.1 Solicitation

2.2.1.1 Construction Manager shall develop and encourage bidders' interest in the Project. Construction Manager shall prepare and submit to 1 WTC for approval a list of prospective bidders for each solicitation, including written justification for the selected list of bidders for that solicitation, and establish bidding schedules.

2.2.1.2 Construction Manager will secure bids from at least three (3) potential contractors for any Work that is competitively bid.

2.2.1.3 In instances where less than three (3) bids are received, Construction Manager shall provide a written explanation to 1 WTC setting forth the reasons therefor.

2.2.1.4 Where the nature of the Work to be solicited requires special construction, experience or expertise, or has critical operational constraints or special situations, prior to employing a solicitation other than a method that is intended to result in a competitive bid with three bids, Construction Manager shall submit such solicitation to 1 WTC for its approval setting forth the reasons therefor.

2.2.1.5 Prior to each solicitation, Construction Manager shall submit to 1 WTC for review and approval the length of time of the bidding period, compensation method and basis for award.

2.2.2 Bid Documents

2.2.2.1 Bid documents are to be prepared and distributed by Construction Manager. All costs associated with the preparation and distributions of bid documents are Reimbursable Expenses.

2.2.2.2 Bid documents are to be submitted for the written approval of 1 WTC. Construction Manager shall not make changes to any approved documents without the prior written approval of 1 WTC.

2.2.2.3 Bid documents shall include specific instructions regarding the date, time and method of bid submission, and such instructions shall be subject to the approval of 1 WTC.

2.2.2.4 Construction Manager shall provide copies of any addenda issued for a bid and the reasons therefor which are subject to the review and approval of 1 WTC.

2.2.3 Bid Submission

2.2.3.1 Bids are to be submitted to Construction Manager in accordance with the instructions for bid submission contained in the bid documents.

2.2.3.2 Bids are to be sealed. Bidders must not submit bids via phone or fax unless specifically requested and approved by the Project Executive or his/her designee or as directed by the 1 WTC Representative.

2.2.3.3 Construction Manager, prior to receipt and opening of bids, shall provide a written estimate of the Work required by the bid documents, including unit prices and lump sum amounts, to 1 WTC.

2.2.3.4 Construction Manager shall maintain a written record of bid submissions, including the solicitation identified by a title and/or number, name and address of bidders, and dollar value of bid, and shall provide a copy of the record to 1 WTC.

2.2.3.5 1 WTC shall have the right to be present at the bid opening.

2.2.3.6 All bids for a particular trade or portion of the Work will be gathered by the Construction Manager and opened with the Project Executive or his/her designee.

2.2.3.7 During the bid opening, Construction Manager should have the budget breakdown for the trade and a copy of the bid package in the event that questions regarding the scope of Work arise.

2.2.3.8 All bid proposal information (i.e., base bid, unit price, lump sum amounts, alternatives, etc.) shall be formatted on a spreadsheet prepared for the bid opening. This information shall be compiled by Construction Manager and, when completed, initialed by all present during the bid opening.

2.2.3.9 All bid proposals are to be filed in the safe bid folders with the bid opening spreadsheet.

2.2.3.10 The bid opening spreadsheet shall be prepared in an Excel format, and the computer file shall be accessible only to Construction Manager and approved personnel. Information contained on the spreadsheet shall include the following:

(i) Project date, trade

(ii) Contractor's name, address, phone number

(iii) Contact

(iv) Base bid

(v) Budget (adjusted with each revised bid to reflect bid package and bid addenda)

(vi) Unit Prices

(vii) Alternates

(viii) Bidder's alternates

(ix) Schedule duration

(x) Qualifications

(xi) Exclusions

2.2.3.11 All revised information is to be documented on a new spreadsheet and denoted as revised. All superseded spreadsheets are to be maintained in the safe bid folder.

2.2.3.12 Project Executive or his/her designee must approve of any procedure that differs from those set forth herein.

2.2.4 Scope Review Meetings

2.2.4.1 Scope review meetings are held with the Contractors, the Construction Manager, 1 WTC, and the Architect. Prior to the meeting, an agenda will be prepared containing a complete checklist of items to be reviewed during the meeting, including:

(i) Contract boiler plate review

(ii) Retainage

(iii) Payment schedule

(iv) General Conditions

(v) MBE, WBE and EEO Requirements

(vi) Insurance requirements

(vii) Sales tax requirements

(viii) List of Contract Documents (Rider "B," List of Drawings and Specifications to the Contract)

(ix) Building and other rules and regulations

(x) Scope of Work review and value engineering opportunities

(xi) Special requirements, sequencing

(xii) Clarifications, modifications

(xiii) Alternates

(xiv) Time of performance

2.2.5 Contract bid review and negotiation

2.2.5.1 Construction Manager and 1 WTC may meet with all active bidders and discuss scope and price of bids. Upon completion of the bid scope review sessions, a revised scope and/or drawings may be issued as a bid addendum and bidders requested to submit revised or adjusted bids. Such resubmissions shall be requested from all active bidders and shall be received and opened in conformance with the bid submission procedures set forth in Section 2.2.3 above. Upon receipt of final sealed bids, the Construction Manager and the Project Executive will negotiate a best and final bid price from all active bidders. The Construction Manager will review the final proposals with the Project Executive of 1 WTC or, at such Project Executive's direction, another 1 WTC Representative, for strategy and award target.

2.2.5.2 Construction Manager shall prepare Contracts and evaluate and advise 1 WTC on the acceptability of proposed Contractors. Such Contract shall be in the form of contract referenced as Rider V (Form of Trade Contract, dated January 19, 2007) in **Attachment 2 to Exhibit A** (Riders for Contract). Construction Manager shall enforce all of the provisions of the Contract, and no changes may be made to the form of Contract without prior written approval by 1 WTC; provided, however, Construction Manager shall not be required to retain legal counsel to enforce provisions of the Contract unless 1 WTC pre-approves the retention of such counsel and agrees to reimburse Construction Manager in accordance with Section 9.2.2.5(iii) of this Agreement.

2.2.6 Contractor Award

2.2.6.1 Construction Manager shall provide a written recommendation for review and approval by 1 WTC setting forth the basis for award.

2.2.6.2 Construction Manager shall prepare and submit to 1 WTC a comparison of bids, which shall include all unit prices, lump sum amounts, alternatives, etc., for each bid and the Construction Manager's estimate; a statement regarding the reasonableness of the bids and an explanation when there is a disparity between the estimate and the bids received and/or when there is a disparity between the bid of the recommended contractor and the estimate and/or between the bid of the recommended contractor and the other bids received.

2.2.6.3 Construction Manager shall submit information regarding each recommended contractor, including name and address of firm and principals, to 1 WTC for review of the firm's responsibility and business integrity prior to award.

2.2.6.4 Following the selection of a Contractor by 1 WTC, Construction Manager shall prepare and forward to Project Executive an award letter requesting approval for Construction Manager to enter into an agreement as 1 WTC's agent with the selected Contractor.

(i) The award letter shall provide the following information:

(ii) Number of bidders

(iii) Final bid summary

(iv) Contractor's name and amount

(v) Budget trade line items and amount

(vi) Line for authorization signature and date

2.2.7 Issuance, Execution and Distribution of Contract

2.2.7.1 Upon receipt of executed award letter, Construction Manager shall prepare the Contract document.

2.2.7.2 The Contract shall be in the same format as the bid package incorporating modifications made during the scope review process and final negotiation. All documents are to be based on the most current information provided during scope review; Rider B (List of Drawings and Specifications) is to incorporate the latest documents available at time of award.

2.2.7.3 The draft of the Contract should be reviewed and approved in writing by 1 WTC prior to issuance to the Contractor for execution.

2.2.7.4 Prior to signing, a copy of the Contract shall be issued to the Contractor for review, with a cover page stating when the Contractor is scheduled to meet at Construction Manager's office for execution of the actual Contract.

2.2.7.5 Construction Manager shall assemble five (5) execution originals of each Contract for signing. Each of the five (5) execution originals shall be signed by the Contractor and Construction Manager; the first and last page of every rider shall be initialed by the Contractor and Construction Manager.

2.2.7.6 Upon signing by the Construction Manager and Contractor, the five original signed Contracts will be distributed as follows:

(i) Contractor

(ii) 1 WTC/Document Control

(iii) Safe bid folder

(iv) Project Executive

(v) Construction Manager

2.2.8 Notification of Awards

2.2.8.1 Construction Manager shall submit to 1 WTC notice of Contract awards and Change Orders within three (3) business days of Contract or Change Order

execution. Notification shall be provided in an Excel format and include the following information:

(i) Contractor name and address

(ii) Contract number and title

(iii) Brief description of Contract or Change Order

(iv) Start and end dates (if applicable)

(v) Revised start and end dates (if applicable)

(vi) Contract or Change Order execution date

(vii) Contract or Change Order award amount or estimate

(viii) Form of solicitation (for new awards)

Additional descriptive information for Contracts and Change Orders may be required by 1 WTC.

2.2.8.2 Notice of Contract awards shall be posted on the Authority's Web site. Additional Contract and Change Order information may be posted at 1 WTC's discretion.

2.2.9 Protests

2.2.9.1 Construction Manager shall manage protest and appeal processes in a manner consistent with Authority protest procedures.

2.2.9.2 Construction Manager shall receive protests related to the procurement or award of Contracts and give notice to 1 WTC of receipt of such protest.

2.2.9.3 Construction Manager shall designate a management employee of the Construction Manager as Protest Officer to review the protest and supportive documents and draft a written decision and submit to 1 WTC for review and written approval within five (5) business days of the receipt of the protest where feasible.

2.2.9.4 Construction Manager shall forward the written decision to the protesting party within two (2) business days of receipt of 1 WTC's approval.

2.2.9.5 Construction Manager shall receive appeals of protest decisions and give notice to 1 WTC of receipt of such appeal.

2.2.9.6 Construction Manager shall designate a higher level management employee of the Construction Manager as Appeals Officer to review the appeal and

supportive documents and the decision of the Protest Officer and issue a written decision within five (5) business days of receipt if feasible.

2.2.9.7 Construction Manager shall forward the written decision to the appealing party within two (2) business days of receipt of 1 WTC approval.

2.2.10 Contract File Administration

2.2.10.1 Construction Manager shall maintain a contract file for each Contract award and provide a copy of the Contract to 1 WTC.

2.2.10.2 Construction Manager shall include records of any protests, appeals and associated decisions as part of the contract file for each Contract award and provide copies to 1 WTC.

2.2.10.3 Any Change Orders required under the Contract agreement shall be subject to the review and approval of 1 WTC. Construction Manager shall provide copies of approved Change Orders to 1 WTC.

2.2.10.4 Construction Manager shall provide to 1 WTC a record of all payments made to each Contractor, which payment shall be subject to audit by 1 WTC.

2.3 **Construction Phase / Administration of the Construction Contract.**

2.3.1 Construction Manager shall scrutinize, manage, and oversee construction activities at the Project site and with respect to administration of the Contracts.

2.3.2 Construction Manager shall manage, administer, direct, supervise, and perform other related services in order to coordinate the activities and responsibilities of the Contractors, each with the other, and those with the activities and responsibilities Construction Manager, 1 WTC, and the Design Team, in order to manage the Project in accordance with the latest approved Project budget, Project Schedule, and Contract Documents.

2.3.3 Construction Manager shall (i) execute and perform all of the duties and obligations required or requested of 1 WTC under each of the Contracts, and (ii) protect and exercise all of 1 WTC's rights and benefits under each of the Contracts; provided, however, that prior to Construction Manager determining a Contractor in breach of its Contract or selecting and pursing any remedy, Construction Manager shall obtain the written approval of 1 WTC.

2.3.4 Construction Manager shall schedule, facilitate, administer, and conduct regular Project meetings, including 1 WTC, Design Team, Contractors, and others approved or requested by 1 WTC. Construction Manager shall facilitate discussion of such matters as procedures, progress, and scheduling. Construction Manager shall prepare and promptly distribute minutes of such meetings to 1 WTC, Design Team, and Contractors.

2.3.5 Construction Manager shall confirm that Design Team and Contractors have established the shop drawing process, and Construction Manager shall manage and administer delivery and review of Shop Drawings and Submittals.

2.3.6 Utilizing the construction schedules provided by Contractors, Construction Manager shall evaluate and update the Project Schedule monthly, incorporating the activities of all of the Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Submittals, and delivery of products requiring long-lead time and procurement. The Project Schedule shall include 1 WTC's occupancy requirements showing portions of the Project having occupancy priority as the appropriate information becomes available. Construction Manager shall update and reissue the Project Schedule as required to show current conditions. If an update indicates that the previously approved Project Schedule's Final Completion date of any Contractor may not be met, Construction Manager shall inform and warn 1 WTC of such deviation and recommend corrective action to 1 WTC.

2.3.7 Consistent with the various bidding documents, and utilizing information from the Contractors, Construction Manager shall manage, oversee, scrutinize, and coordinate the sequence of construction and assignment of space in areas where the Contractors are performing Work.

2.3.8 Construction Manager shall require and use best efforts to obtain satisfactory performance from each of the Contractors. Construction Manager shall evaluate and recommend courses of action to 1 WTC when requirements of a Contract are not being fulfilled.

2.3.9 Construction Manager shall oversee and monitor the approved estimate of construction costs. Construction Manager shall prepare an analysis showing actual costs for activities in progress and estimates for uncompleted tasks by way of comparison with such approved estimate.

2.3.10 Construction Manager shall develop, analyze, and prepare monthly cash flow reports and forecasts for the Project, unless required more often by 1 WTC, and advise 1 WTC and Design Team as to variances between actual and budgeted or estimated costs.

2.3.11 Construction Manager shall submit quarterly to 1 WTC Representative for its prior written approval a proposed budget estimating the General Conditions Costs for the remainder of the Project on a quarterly basis. For the duration of the Project, Construction Manager shall submit the proposed budget in a timely fashion in order to allow 1 WTC Representative to review and approve same.

2.3.12 Construction Manager shall manage, coordinate, prepare, and maintain accounting records on authorized Work performed under unit costs, additional Work performed on the basis of actual costs of labor and materials, and other Work requiring accounting records.

2.3.13 Construction Manager shall evaluate, develop, and implement procedures for the review and processing of applications by Contractors for progress and final payments.

2.3.13.1 Based on Construction Manager's observations and evaluations of each Contractor's application for payment, Construction Manager shall scrutinize, evaluate, review, and certify the amounts due the respective Contractors.

2.3.13.2 Construction Manager shall scrutinize, oversee, monitor, and review all payments to Contractors and vendors and supporting documentation, including, without limitation, all lien waivers (partial and final) from all Contractors throughout the course of the Project.

2.3.13.3 Construction Manager shall analyze, evaluate, and prepare a Project application for payment based on the Contractors' requests for payment.

2.3.13.4 Construction Manager's certification for payment shall constitute a representation to 1 WTC, based on Construction Manager's determinations at the Project site and on the data comprising Contractors' Applications for Payment, that the Work has progressed to the point indicated and the quality of the Work is in accordance with the Contract Documents ("Certificate for Payment"). The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Final Completion of each Contract, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to completion, and to specific qualifications expressed by Construction Manager. The issuance of a Certificate for Payment shall further constitute a representation that Construction Manager and Contractors are entitled to payment in the amount certified.

2.3.14 Construction Manager shall scrutinize, review, and monitor the safety programs developed by each of the Contractors for the purposes of coordinating the safety programs with those of the other Contractors as well as with any other contractor.

2.3.15 Construction Manager shall with Design Team propose, develop, and implement a quality assurance plan, including mockups, testing, and inspections. Solicitation of third-party-controlled inspections must be approved in advance and in writing by 1 WTC.

2.3.16 Construction Manager shall oversee and manage Project site visits and provide or arrange for responses to Contractor inquiries.

2.3.17 Construction Manager shall provide the services and assistance necessary to avoid a construction conflict; when a conflict does occur, Construction Manager shall use best efforts to resolve the dispute.

2.3.18 Construction Manager shall scrutinize and determine, subject to review by 1 WTC, that the Work of each Contractor is being performed in accordance with the requirements of the Contract Documents, guarding 1 WTC against defects and deficiencies in the Work. As appropriate, Construction Manager shall have authority, upon written authorization from 1 WTC, to require additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed, or completed. Construction Manager may reject Work that does not conform to the requirements of

the Contract Documents; provided, however, Contractor may appeal Construction Manager's rejection of such Work to 1 WTC; and, in the event of an appeal, 1 WTC shall make the final decision as to whether the Work shall be rejected. Notwithstanding anything to the contrary herein, 1 WTC shall retain at all times the right to reject any Work at 1 WTC's sole, absolute, and subjective discretion.

2.3.19 Construction Manager shall scrutinize, schedule, oversee, and coordinate the sequence of construction in accordance with the Contract Documents and the latest approved Project Schedule.

2.3.20 Construction Manager shall transmit to Design Team requests for interpretations of the meaning and intent of the Contract Drawings and, with the Design Team's assistance, shall resolve questions that arise.

2.3.21 Construction Manager shall review and evaluate requests for changes in costs and/or time, assist in negotiating Contractors' proposals for such changes, submit recommendations to Design Team and 1 WTC, and, if such proposals are accepted, prepare Change Orders and Construction Change Directives that incorporate Design Team's modifications to the Contract Drawings.

2.3.22 Construction Manager shall review, analyze, evaluate, and document any claim made or any claim Construction Manager anticipates may be made.

2.3.23 Construction Manager shall receive certificates of insurance from the Contractors, review and evaluate them for conformance with the requirements of the respective Contracts, and forward them to 1 WTC.

2.3.24 In collaboration with Design Team, Construction Manager shall establish and implement procedures for expediting the processing and approval of Shop Drawings and other Submittals. Construction Manager shall review and evaluate all Shop Drawings and other Submittals from the Contractors. Construction Manager shall coordinate and synchronize Submittals with information contained in related documents and transmit to Design Team those which have been reviewed and deemed complete by Construction Manager. Construction Manager's actions shall be performed and completed with such reasonable promptness as to cause no delay in the Work or in the activities of 1 WTC or Contractors.

2.3.25 Construction Manager shall oversee, scrutinize, monitor, evaluate, analyze, and record the progress of the Project. Construction Manager shall prepare and submit written, detailed progress reports to 1 WTC and Design Team, including information and evaluation with respect to each Contractor and each Contractor's Work, as well as on the entire Project, and determining and showing percentages of completion. Construction Manager shall maintain a daily Project log containing a record of weather, each Contractor's Work on the Project site, and, for each Contractor, the number of workers, identification of major equipment, Work accomplished, problems encountered, and other similar relevant data as 1 WTC may require.

2.3.26 Construction Manager shall arrange and be responsible for and maintain complete progress photos and other visual records, files, and documentation with respect to the progress of the Project, as requested by 1 WTC. Construction Manager shall make all photos and other visual records available to 1 WTC upon request and shall deliver them to 1 WTC upon Final Completion of all Contracts for the Project.

2.3.27 Construction Manager shall maintain at the Project site for 1 WTC one (1) record copy of all Contracts, Contract Drawings, addenda, Construction Change Directives, Change Orders, and other modifications, in good order and marked currently to record changes and selections made during construction; and, in addition, approved Shop Drawings and similar required Submittals. Construction Manager shall maintain records, in duplicate, of principal building layout lines, elevations of the bottom of footings, floor levels, and key site elevations certified by a qualified surveyor or professional engineer. Construction Manager shall make all such records available to Design Team and, upon completion of the Project, shall deliver all such records to 1 WTC.

2.3.28 As requested by 1 WTC, Construction Manager shall oversee and coordinate requirements for 1 WTC-provided material, systems, and equipment with Contractors and vendors, and arrange for, monitor, and confirm the delivery, storage, protection, and security of 1 WTC-provided materials, systems, and equipment that are a part of the Project until such items are incorporated into the Project or returned to 1 WTC.

2.3.29 When Construction Manager determines that a Contractor's Work, or a designated portion thereof, is sufficiently complete to allow Contractor to prepare a punch list, then Construction Manager, jointly with the Contractor, shall prepare for Design Team and 1 WTC a list of incomplete or unsatisfactory items and schedule and monitor them for completion. Construction Manager shall coordinate, oversee, and monitor the correction and completion of the Work and evaluate and make recommendations to Design Team. When the Work is ready for final inspections, then Construction Manager shall participate and assist Design Team in conducting inspections to determine whether the Work or designated portion thereof meets the Contract's requirements for Final Completion.

2.4 **Financing.**

2.4.1 During the course of the Project, Construction Manager shall assist with, monitor, and, as appropriate, administer any financing aspect of the Project, including the following:

2.4.1.1 Construction Manager shall prepare and provide necessary Project information, documentation, and materials as requested by various lenders and as approved by 1 WTC.

2.4.1.2 Construction Manager shall scrutinize and coordinate the financing requirements and cash flow reports of the contracts with Design Team, any other member of the design team, Chief Engineer, Contractors, and Subconsultants of any tier.

2.4.1.3 Construction Manager shall scrutinize and manage, and use best efforts to control construction costs and/or time, and negotiate on behalf of 1 WTC as necessary or required and pre-approved by Authority, in accordance with the schedule, Project, safety, and quality goals of 1 WTC.

2.4.1.4 Construction Manager shall comply on behalf of 1 WTC with ongoing Project and construction requirements.

2.5 **Furniture, Fixtures, Equipment, and Other Technical Requirements.**

2.5.1 Construction Manager shall analyze and determine the scope and requirements for furniture, fixtures, equipment, tele/data cabling, operational equipment, security requirements, etc., to be provided or purchased by 1 WTC, as requested by 1 WTC.

2.5.2 Construction Manager shall gather and evaluate information and product data that meets the scope and requirements of 1 WTC with respect to furniture, fixtures, equipment, tele/data cabling, operational equipment, security requirements listed in Section 2.5.1 above, as requested by 1 WTC.

2.5.3 Construction Manager shall evaluate and assist in qualifying vendors and reviewing pricing and product proposals with respect to furniture, fixtures, and equipment, as requested by 1 WTC.

2.5.4 Construction Manager shall coordinate and oversee the delivery, installation, and commissioning of furniture, fixtures, and equipment, and coordinate same with vendors, as requested by 1 WTC.

2.6 **Project Closeout.**

2.6.1 Construction Manager shall (i) oversee and manage preparation of and review of construction punch lists by Contractors and (ii) coordinate and, along with the Design Team, verify completion of punch list items.

2.6.2 Construction Manager shall oversee, manage, coordinate and confirm delivery of keys, manuals, plans and specifications, as-built drawings, etc.

2.6.3 Construction Manager shall schedule, manage, and oversee all product and equipment demonstrations.

2.6.4 Construction Manager shall oversee and manage (i) the delivery, installation, and commissioning of equipment; (ii) commissioning processes and procedures; and (iii) the initial start-up and testing of all systems to confirm compliance with specifications.

2.6.5 Construction Manager shall ensure and confirm that all equipment use permits and regulatory sign-offs are obtained and delivered to 1 WTC upon Project completion.

2.6.6 Construction Manager shall oversee, scrutinize, and coordinate activities and obtain sign-offs necessary for the issuance of a final certificate of occupancy or Authority's equivalent.

2.6.7 Construction Manager shall scrutinize, evaluate, review, administer, and process final payments and lien documentation.

2.6.8 Construction Manager shall coordinate, oversee, and confirm performance of corrective and warranty work prior to closeout of the Project.

2.7 **Other**.

2.7.1 Construction Manager shall prepare and deliver to 1 WTC not less than once each month a report addressing progress, problems, issues, and concerns with respect to the status of these Services and the status of any additional services Construction Manager is performing with respect to the Project.

2.7.2 Construction Manager shall perform other construction management services related to the Project as requested by 1 WTC.

2.7.3 Duties, responsibilities, and limitations of authority of Construction Manager as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of 1 WTC.

2.7.4 Construction Manager shall use the management software designated by 1 WTC, including, without limitation, Authority's document management software, LiveLink.

2.7.5 Construction Manager shall follow the Authority's policies and procedures as set forth in the Agreement, including all Attachments hereto, and as may be modified or established from time to time.

3. Conditions of Performance of Services.

3.1 Construction Manager immediately shall inform 1 WTC Representative of any unsafe condition discovered at any time during the course of performing these Services.

3.2 Pedestrians (including PATH and NYCT patrons), vehicular traffic, and PATH operations at the World Trade Center site always shall have priority over any and all of Construction Manager's operations, except as directed by Authority and 1 WTC with respect to the Project.

3.3 Construction Manager shall limit its work to the areas necessary for the performance of the tasks herein and shall not interfere with the operation of the facility without first obtaining specific approval from 1 WTC.

3.4 During all periods of time when Construction Manager is not performing operations at the Project site, Construction Manager shall store all equipment being used for

performance of such operations related to the tasks herein in areas designated by 1 WTC Representative, and 1 WTC shall provide all security required for such equipment unless 1 WTC requests that Construction Manager shall perform such tasks, in which case Construction Manager shall do so at 1 WTC's expense.

3.5 Construction Manager shall not permit any objects or pieces of equipment to lie unattended on sidewalks, roadways, or structures at any time except with proper permits.

ATTACHMENT 2
TO
EXHIBIT A

RIDERS FOR CONTRACT

Rider D	Insurance Rider, dated November 30, 2006, as modified
Rider DX	Owner Controlled Insurance Program
Rider E	[Intentionally Deleted]
Rider F	Non-Disclosure and Confidentiality Agreement
Rider G	Sustainable Construction Requirements, dated April 11, 2007, as modified
Rider H	Requirements for Work in PATH Right of Way, dated June 16, 2006
Rider I	Port Authority of New York & New Jersey Sales and Use Tax Requirements: Port Authority of New York & New Jersey Sales Tax Letter, dated _____, 2007 New York State Contractor Exempt Purchase Certificate Form S120.1 New York State Certificate of Capital Improvement Form ST-124
Rider K	Project Corruption Prevention Program, dated January 8, 2007
Rider L	Payment Procedures
Rider M	Tishman Construction Safety Guidelines, dated November 3, 2005
Rider N	Port Authority of New York & New Jersey WTC Site Rules and Regulations, dated January 1, 2006
Rider Q	Above and Below Grade Site Logistics Plans
Rider R	[Intentionally Deleted]
Rider S	Site Security Requirements
Rider T	Milestones Dates
Rider V	Form of Trade Contract, dated January 19, 2007

ATTACHMENT 3
TO
EXHIBIT A

[INTENTIONALLY DELETED]

ATTACHMENT 4
TO
EXHIBIT A

SCHEDULE OF ANNUAL AND HOURLY PERSONNEL'S SALARIES

2007 Annual Salaries for WTC1 Project

PROJECT MANAGEMENT STAFF:		
Executive Staff		**Annual Salary**
Corporate Executive	Mike Mennella	
Project Executive	Mel Ruffini	
Project Director	Jim Durkin	
Project Director-Below Grade	Gary Cohen	
Project Director-Above Grade	Joe Capone	
MEP Project Director	John Kovacs	
Analyst	Amy Wincko	
Purchasing Agents		
Purchasing Agent # 1	Marty Adelman	
Purchasing Agent # 2	Chris Cocotas	
Estimators and Schedulers		
Scheduler #1	Clive Chan	
Project Managers		
PM # 1 - Below Grade Structural/Arch	Juan Estevez	
PM # 2 - Curtainwall/Exterior	Steve Cannizzo	
Assistant P.M's / Project Engineers		
APM # 1 - Below Grade Structural/Arch	Brian Boylan	
APM # 8 - Port Authority / Misc	Tanya Barba	
APM # 9 - Hoist/Logistics	Lisette Molina	
MEP Project Managers		
Senior Project Manager	Bob Mackie	
MEP Assistant P.M's		
APM # 2 - Upper MEP Electrical	Steve Violante	
Accounting		
Cost Control Manager	Randy Koller	
Assistant Accountant #1	Betty Eng	
Clerk	David Burgos	
EEO/LEED		
EEO Director	Henry Estrada	
EEO/LEED Manager	Flora Ramos	
SECURITY		
Administrator	Charlotte Pezolt	
SECRETARY		
Secretary # 1	Marica Curavic	
PLAN CLERK		
Plan Clerk # 1	Bernie Fitzsimmons	
Plan Clerk # 2	Kevin Lasalle	
SUPERINTENDENTS - FIELD		
General Superintendent	Elio Cettina	
Project Superintendent #1	Marc Becker	
ASSISTANT SUPERINTENDENTS-FIELD		
Assistant Superintendent - Below Grade #1 Arch/Struc	Carmine Castelano	
Assistant Superintendent - Below Grade #2	Frank Hussey	
Assistant Superintendent - Below Grade #3 Arch/Struc	Antoine Bernard Jr.	
Assistant Superintendent - Below Grade #4 Arch/Struc	Brian Troast	
SUPERINTENDENTS - MEP		
Superintendent - Below Grade M&P	Brian Lyons	
SITE SAFETY		
Senior Safety	Dwayne Carter	
Assistant # 1	Thayne Zigale	
Assistant # 2	Anthony Fedor	
FIELD SECRETARY / PLAN CLERK		
Secretary # 1	Gail Ramsingh	

Name	Title	Hourly Rate
BANKS, LAUREN	Analyst	
BENJAMIN, EUGENE N	Document Clerk	
BONSE, JOHN C	Estimator	
BUBIAS, EDUARDO	Estimator	
CHIARELLO, RAFFAELA M	Secretary	
CINELLI, DINA M	Purchasing Agent	
CORDAHI, IRENE	Purchasing Agent	
DeVARD, EMANUEL J	Estimator	
DIAMANTOPOULOS, JAMES N	Senior Estimator	
ENDRES, WILLIAM	Corporate Executive - Estimating	
FOTEV, PAVEL V	Document Clerk	
GALLAGHER, RICHARD R	Estimator	
GLYNN, JOHN F	Chief Estimator	
JOYCE, BOB	Risk Management	
KHAN, IRFAN R	Estimator	
KOLAIAN, CHRISTOPHER J	Purchasing Agent	
KWAN, MAY YEE	Structural Manager	
LUNDY, SAYYEDA R	Scheduler	
MADISON, JAMES A	Corporate Executive	
McDONNELL, JAMES R	Structural Manager	
MITCHELL, LINDA	Secretary	
MOHABIR, HAIMWANTE	Secretary	
MOSCOVICI, SORIN	Estimator	
MOTHERWAY, WILLIAM	Risk Management Director	
NABAS, DESIREE K	Scheduler	
NEGLIA, BRIAN	Estimator	
PANKEY, SHAVONE C	Secretary	
PAULL, ALLAN M	Corporate Executive - Structual	
PHILLIPS, ROB	Risk Management	
REILLY, EDWARD P	Estimator	
SCHISLER, ERIC B	Corporate Executive - Purshasing	
SELIGA, CHRISTOPHER C	Corporate Executive - Scheduling	
SERRANO, EVELYN	Secretary	
SPAMPANATO, JANET E	Executive Secretary	
STARANKA, JOHN E	Scheduler	
TSVIK, VALERY	Estimator	
WALKER, LOUIS E	Estimator	
WELSING, PAUL V	Corporate Executive - Purshasing	
ZENG, WALTER T	Estimator	

ATTACHMENT 5
TO
EXHIBIT A

OWNER CONTROLLED INSURANCE PROGRAM

RIDER "DX"
OWNER CONTROLLED INSURANCE PROGRAM
WORLD TRADE CENTER – TOWER ONE
NEW YORK, NEW YORK

May 18, 2007

1. Owner Controlled Insurance Program.

1.1 Overview. 1 WTC has arranged an Owner Controlled Insurance Program ("OCIP") with Aon Risk Services, Inc. of New York ("Aon"), effective as of March 31, 2007. The OCIP is more fully described in the Insurance Guide for Contractors ("Insurance Guide"). The Insurance Guide, which shall be furnished upon request to all Enrolled Parties (defined below), is not a Contract document. Contractors performing Work at the Project site are eligible to and shall apply for enrollment in the OCIP unless they are an Excluded Party (defined below). The OCIP will provide to Enrolled Parties (as defined below) the following insurance coverage: Workers' Compensation, Commercial General Liability Insurance, Builders' Risk, Contractors Pollution Liability, and Terrorism/Excess Liability Insurance as summarily described in the Insurance Guide, in connection with the performance of the Work ("OCIP Coverages").

1.2 Enrolled Parties and Their Insurance Obligations.

(a) OCIP Coverages shall cover Enrolled Parties (defined below). Enrolled Parties are:

(i) 1 WTC, the Authority, and other affiliated entities;

(ii) Construction Manager;

(iii) eligible Contractors, eligible Subcontractors of any tier, and eligible Subconsultants of any tier, who are approved by 1 WTC, Construction Manager, and Aon for purposes of inclusion in the OCIP; and

(iv) such other persons or entities as 1 WTC, Construction Manager, and Aon may designate.

Each such party in items (i) through (iv) above who is actually enrolled in and insured under the OCIP is referred to individually as an "Enrolled Party" and collectively as "Enrolled Parties."

(b) Enrolled Parties, excluding those entities listed in Section 1.2(a)(i) above, shall obtain and maintain, at their own expense, and shall require each of their Subcontractors of any tier to obtain and maintain at each such Subcontractor's own expense, the insurance coverages specified in (i) Rider D, items C, D, and E thereof, and (ii) Rider D, items A and B thereof, for off-site activities and for operations and risks not otherwise provided by the OCIP (collectively, items (i) and (ii) are referred to as "Supplemental Insurance Policies").

1.3 Excluded Parties and Their Insurance Obligations.

(a) The OCIP does not cover those parties who are not Enrolled Parties ("Excluded Parties").

(b) Excluded Parties shall obtain and maintain, and shall require each of their Subcontractors of any tier to obtain and maintain, insurance coverages as specified in Rider D, including Paragraphs A and B thereof, and as set forth in the Insurance Guide with respect to non-Enrolled Parties.

1.4 OCIP Insurance Policies Establish OCIP Coverages. The OCIP Coverages and exclusions summarized in the Insurance Guide and in the Contract documents are set forth in full in the respective insurance policy forms with respect to the OCIP Coverages. The summary descriptions of the OCIP Coverages in this Exhibit DX or the Insurance Guide are not intended to be complete or to alter or amend any provision of the actual OCIP Coverages. In the event any provision of this Exhibit DX, other Contract documents, or the Insurance Guide conflicts with the OCIP insurance policies, the provisions of the actual OCIP insurance policies shall govern. The OCIP insurance policies may be reviewed by Construction Manager or any Contractor at the office of 1 World Trade Center LLC, c/o The Port Authority of New York and New Jersey, 225 Park Avenue South, New York, New York.

1.5 Summary of OCIP Coverages. OCIP Coverages shall apply only to those operations of each Enrolled Party performed at the Project site in connection with the Work and only to Enrolled Parties that are eligible for the OCIP. OCIP Coverages shall not apply to ineligible parties, even if erroneously enrolled in the OCIP (such parties shall be deemed Excluded Parties). An Enrolled Party's operations away from or off of the Project site, including its regularly established main or branch office, factory, warehouse, or other property, or product manufacturing, assembling, or otherwise, shall not be covered. A summary of OCIP Coverages is attached hereto and incorporated herein as Attachment DX-1.

1.6 Evidence of Coverages.

(a) Contractor shall furnish evidence satisfactory to 1 WTC of all insurance coverages required of Contractor pursuant to this Rider DX.

(b) The obligation to procure and maintain any insurance required by the Contract documents is a separate responsibility of Contractor and independent of the duty to furnish evidence of insurance. By furnishing evidence of insurance, Contractor represents and warrants to 1 WTC that the limits and scope of coverage of such insurance comply in all respects with the requirements of the Contract documents and that the required limits, as of the date that such evidence of insurance is delivered to the 1 WTC, are unimpaired: (i) by any payments made, or reasonably expected to be made, by the insurer, or (ii) by any amounts reserved for pending claims or anticipated expenses.

(c) Receipt or review by 1 WTC or Aon of any copies of insurance policies or insurance certificates, or failure to request such evidence of insurance or to object to any portion of such insurance that does not comply with the requirements of this Exhibit DX, other Contract documents, or the Insurance Guide, shall not be deemed a waiver by 1 WTC or Aon of any such requirements and shall not relieve Contractor of any obligation to comply with the insurance provisions of the Contract documents.

1.7 1 WTC's Insurance Obligations. 1 WTC shall pay the premiums for the OCIP Coverages. 1 WTC will receive or pay, as the case may be, all adjustments to such costs, whether by way of dividends, retroactive adjustments, return premiums, other moneys due, audits or otherwise. Contractor, and each of their Subcontractors, hereby assign to 1 WTC the right to receive all such adjustments. 1 WTC assumes no obligation to provide insurance other than that provided in the OCIP. 1 WTC's furnishing of OCIP Coverages shall in no way relieve or limit, or be construed to relieve or limit, Construction Manager or Contractor, or any of their Subcontractors of any tier, from any responsibility, liability, or obligation imposed by Riders D and DX, other Contract documents, the Insurance Guide, the OCIP insurance policies, or by law, including, without limitation, any indemnification obligation that Construction Manager or Contractor, or any of their Subcontractors of any tier, has to 1 WTC thereunder. 1 WTC reserves the right at its option, without obligation to do so, to modify terms and conditions of insurance policies, change insurers, or make other changes in the OCIP, provided that the limits and scope of coverage provided is not materially and adversely affected.

1.8 Enrolled Parties Responsibilities – Insurance Costs.

(a) Each Enrolled Party shall identify to 1 WTC the amount of the credit that resulted from excluding coverage provided by the OCIP when calculating the Lump Sum or contract price for such Enrolled Party's Work.

(b) Each Enrolled Party is responsible to enroll all of its eligible Subcontractors of any tier in the OCIP. If an Enrolled Party fails to enforce the enrollment of any of its eligible Subcontractors of any tier, then the Enrolled Party shall be financially responsible to 1 WTC for the amount of the credit that would have resulted had any such Subcontractor been enrolled in the OCIP and for any liability arising out of or resulting from the acts or omissions of any such Subcontractor not enrolled in the OCIP. Construction Manager will not permit any Contractor or Subcontractor of any tier to access, or perform Work on, the construction site unless such Contractor or Subcontractor provides Construction Manager with the proper Certificates of Insurance evidencing the required insurance and effective date of coverage in accordance with Exhibit D and, to the extent such Contractor or Subcontractor is to be enrolled into the OCIP, until such time as enrollment is effective.

(c) If the Enrolled Party carries a deductible, or self-insured retention, under any of its Supplemental Insurance Policies, then the following information may be required:

(1) Three (3) years of currently valued loss history for all entities that retain losses. Paid, outstanding, and total incurred losses must be evidenced by policy period;

(2) Three (3) years of payroll history for all entities; and

(3) Any other information required by 1 WTC or Aon.

(d) Costs for insurance coverage maintained by the Enrolled Parties that are redundant of the OCIP shall not be reimbursable. All change orders or Extra Work Orders will be submitted net of insurance, and labor rates will be reduced to reflect the insurance reduction.

(e) If any Enrolled Party does not provide Aon with information sufficient to allow verification of the applicable insurance cost, Aon may independently calculate enrollment insurance costs based on undiscounted, manual, or program rates at its sole discretion.

1.9 Contractor's OCIP Obligations.

(a) Contractor shall:

(1) Incorporate the terms of this Exhibit DX and Exhibit D in all contracts and subcontracts of any tier with respect to the Project.

(2) Enroll itself (unless 1 WTC or Aon directs otherwise), in the OCIP within five (5) days of execution of the Contract and maintain enrollment in the

OCIP until a notice of final completion of Work has been issued by 1 WTC, and (i) ensure that all of its eligible Subcontractors of any tier enroll in the OCIP within five (5) days of subcontracting and prior to the commencement of any Work at the Project site by each such Subcontractor, and maintain enrollment in the OCIP until a notice of final completion of work has been issued by 1 WTC.

(3) Comply with all of the administrative, safety, insurance, and other requirements outlined in this Exhibit DX, elsewhere in the Contract documents, the Insurance Guide, or the OCIP insurance policies.

(4) Provide each of its Subcontractors of any tier with a copy of the Insurance Guide and ensure the compliance of each such Subcontractor with the provisions of Exhibits D and DX, the other Contract documents, the OCIP insurance policies, and the Insurance Guide. The failure of (a) 1 WTC to include the Insurance Guide in the Bid Proposal documents or (b) Construction Manager or Contractor to provide each of their eligible Subcontractors of any tier with a copy of same, shall not relieve Construction Manager or Contractor, or any of their Subcontractors of any tier, from any of the obligations contained therein.

(5) Acknowledge, and require all of its Subcontractors of any tier to acknowledge, in writing, that 1 WTC and Aon are not agents, partners, or guarantors of the insurance companies providing coverage under the OCIP (each such insurer, an "OCIP Insurer") and that 1 WTC is not responsible for any claim or dispute between or among Contractor, its Subcontractors of any tier, and any OCIP Insurer. Any type of insurance coverage or limits of liability in addition to the OCIP Coverages that Contractor or any Subcontractor of any tier requires for its or their own protection, or that is required by applicable laws, statutes, ordinances, codes, rules or regulations, or by any public authority, shall be Contractor's or its Subcontractor's sole responsibility and expense and shall not be billed to 1 WTC.

(6) Cooperate fully with Aon and the OCIP Insurers, as applicable, in its or their administration of the OCIP.

(7) Provide all documents or information within five (5) business days of 1 WTC's or Aon's request. Such information may include, but not be limited to, written and/or electronic payroll records as required by the Workers' Compensation insurance carrier, certified copies of insurance coverages, declaration pages of coverages, certificates of insurance, underwriting data, prior loss history information, safety records or history, OSHA citations, or such other data or information as 1 WTC, Aon, or OCIP Insurers may request in the administration of the OCIP, or as required by the Insurance Guide.

(b) Contractor's failure to procure or maintain the insurance required by Rider D, or, if an Enrolled Party, the Supplemental Insurance Policies, and to assure that all of its Subcontractors of any tier procure and maintain such required insurance during the entire term of the Agreement, and as otherwise required, shall constitute a material breach of this Agreement for which 1 WTC immediately may suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect 1 WTC's interests and pay any and all premiums in connection therewith, and withhold or recover all monies so paid together with interest thereon from the date paid by 1 WTC until the date paid by Contractor or Subcontractors of every tier.

1.10 Contractor's and Construction Manager's Representations and Warranties to 1 WTC. Contractor represents and warrants to 1 WTC on behalf of itself and its Subcontractors of any tier with respect to items (a), (b), (c), and (e); and Construction Manager represents and warrants to 1 WTC on behalf of itself and its Subconsultants of any tier with respect to items (a), (b), and (e) below; and Construction Manager represents and warrants to 1 WTC with respect to item (d) below:

(a) That all information it submits to 1 WTC, Aon, or (in the case of the Contractor) the Construction Manager shall be accurate and complete.

(b) That Contractor or Construction Manager, as the case may be, on behalf of itself and its Subcontractors or Subconsultants of any tier, has had the opportunity to read and analyze copies of the OCIP binders and specimen policies, which are available for review in accordance with Section 10.4 of this Exhibit DX. Any reference or summary in the Contract or Agreement, in this Exhibit DX, in any other Contract document or Contract Document, or in the Insurance Guide as to amount, nature, type, or extent of OCIP Coverages and/or potential applicability to any potential claim or loss is for reference only. Contractor and its Subcontractors of any tier or, in the case of Construction Manager, Construction Manager and its Subconsultants of any tier, have not relied upon said reference or summary but solely upon their own independent review and analysis of the OCIP Coverages in formulating any understanding and/or belief as to amount, nature, type, or extent of the OCIP Coverages and/or the potential applicability of the OCIP Coverages to any potential claim or loss.

(c) That Contractor identified in its Bid Proposal the amount of the credit that resulted from excluding insurance coverage provided by the OCIP when calculating the Lump Sum or contract price for such Contractor's Work; and that such amount was not included in its Bid Proposal for the Work, or the applicable Lump Sum or contract price, and will not be included in any change order, Extra Work Order, or any request for payment for the Work or Extra Work.

(d) That Construction Manager shall confirm with respect to each Contract awarded, that prior to the effective date of the respective Contract the alternate

Costs of OCIP Coverages. In the event Contractor (or a Subcontractor of any tier) underreports, misclassifies, or misrepresents in any requisition for funds or in other reports, any labor cost incurred, then the Contractor and Subcontractor of any tier shall be liable for the costs of the audit, which shall include but not are limited to the fees of Aon, and of the attorneys and accountants conducting the audit and review. If the Contractor, or its Subcontractors of any tier, fail to timely comply with the provisions of this Exhibit DX or the requirements of the Insurance Guide, 1 WTC may withhold any payment due such party until such time as they have performed the requirements of this Exhibit DX. Such withholding by 1 WTC shall not be deemed to be a default hereunder.

1.14 Safety. Contractor shall be solely responsible for safety pertaining to its Work. Contractor shall comply with the written program referred to in the Insurance Guide as well as all local, state and federal safety standards.

2. Commencing Work. Contractor and its Subcontractors of any tier cannot commence performance of the Work until all of the insurance requirements have been met.

3. Compliance by Construction Manager. Unless directed or excepted otherwise by 1 WTC, Construction Manager shall comply, and shall cause its Subconsultants of any tier to comply, with all of the provisions set forth in this Rider DX in the same manner as Contractor, and its Subcontractors of any tier, are obligated to comply; and 1 WTC shall have the same rights with respect to Construction Manager and its Subconsultants of any tier as 1 WTC has with respect to Contractor and its Subcontractors of any tier.

4. Definitions. Each initial-capped term used but not defined in this Exhibit DX shall have the meaning set forth in the Contract. Such terms include, without limitation, 1 WTC, Authority, Bid Proposal, Construction Manager, Contractor, Contract, Extra Work, Extra Work Order, Project, Subconsultant, Subcontractor, and Work.

deduct amount for any credit resulting from excluding insurance coverage provided by the OCIP is provided to 1 WTC; provided, however, if a Contract was or is awarded without OCIP coverage, then no credit results and confirmation is not required.

(e) That 1 WTC shall not pay or compensate, and shall have no obligation to pay or compensate, Contractor or any Subcontractor of any tier, or Construction Manager or any Subconsultant of any tier, in any manner, for Costs of OCIP Coverages. The "Costs of OCIP Coverages" is defined as the amount of Contractor's and its Subcontractors' of any tier, or, in the case of Construction Manager, Construction Manager's and its Subconsultants' of any tier, reduction in insurance costs due to eligibility for OCIP Coverages as determined by information available to 1 WTC and/or Aon regarding the costs of similar coverages taking into account limits of liability, coverages, and rating of the insurer.

1.11 Audits. Contractor agrees that for a period of seven (7) years following Substantial Completion of the entire Work, 1 WTC, Aon, and/or any OCIP Insurer may audit Contractor's or any of its Subcontractor's (of any tier) payroll records, books, and records, insurance coverages, insurance cost information, or any other information that Contractor provides to 1 WTC, Aon, or the OCIP Insurers to confirm their accuracy and to assure that Costs of OCIP Coverages are not included in any payment for the Work.

1.12 1 WTC's Election to Modify or Discontinue OCIP. 1 WTC, for any reason, may modify the OCIP Coverages, discontinue the OCIP, or request that Contractor or any of its Subcontractors of any tier withdraw from the OCIP, upon thirty (30) days' written notice. Upon such notice, Contractor and/or one or more of its Subcontractors of any tier, as specified by 1 WTC in such notice, shall obtain and thereafter maintain at 1 WTC's expense, not to exceed the applicable Costs of OCIP Coverages as determined by 1 WTC (or a portion thereof as specified by 1 WTC), all (or a portion thereof as specified by 1 WTC) of the OCIP Coverages. The form, content, limits of liability, cost, and the insurer issuing such replacement insurance shall be subject to 1 WTC's approval to the extent such cost does not exceed the applicable Enrolled Party's credit for the OCIP coverage. If the cost does exceed such Enrolled Party's credit for the OCIP coverage, then 1 WTC and the Enrolled Party shall jointly approve the form, content, insurer, limits of liability, and such excess cost.

1.13 Withhold of Payments. To the fullest extent permitted by law, 1 WTC may withhold from any payment owing to Contractor the Costs of OCIP Coverages if included in a request for payment from Contractor. In the event a 1 WTC audit of Contractor's (or a Subcontractor's of any tier) records and information reveals a discrepancy in the insurance, payroll, safety, or any other information required by the Contract documents to be provided by Contractor to 1 WTC, Aon, or Construction Manager, or reveals the inclusion of Costs of OCIP Coverages in any payment for the Work, 1 WTC shall have the right to full deduction from the contract price of all such

RIDER "DX"
OWNER CONTROLLED INSURANCE PROGRAM
WORLD TRADE CENTER – TOWER ONE
NEW YORK, NEW YORK

May 18, 2007

Attachment DX-1

Summary of OCIP Coverages

ATTACHMENT DX-1

SUMMARY OF OCIP COVERAGES

Below is a summary of the OCIP Coverages. The OCIP Coverages apply ONLY to the operations of each Enrolled Party at the Project construction site as provided for in the Contract. It does NOT apply to the off-site operations of any Contractor or Subcontractor of any tier, including but not limited to, operations at their regularly established main or branch office, factory, warehouse or other property.

The limits stated below constitute the combined limits for both the Project and a second project referred to as the "Memorial Complex"; the Memorial Complex generally consists of the construction of two reflecting pools, a museum referred to as the Memorial Museum, a facility referred to as the Visitors Orientation and Education Center (VOEC), and a plaza and the redevelopment of approximately eight acres of land, referred to as the Memorial Plaza and Redevelopment (collectively, the term "Combined Project" shall mean the Project and the Memorial Complex project).

Neither the Contractor nor a Subcontractor of any tier shall be responsible for the payment of any deductible under the OCIP.

A. Workers' Compensation

A separate standard NYS Workers' Compensation policy will be issued to each Contractor or Subcontractor of any tier performing work at the Project construction site. Coverage will include:

1. Workers' Compensation, including Occupational Disease, and
2. Employers' Liability, subject to the laws of New York State;
3. U.S. Longshore and Harbor Workers' Act, Federal Employers' Liability Act, and Maritime Endorsement, as applicable.

NOTE: Workers' Compensation coverage is not provided for certain types of work performed (e.g., asbestos abatement or electrical work). However, it is the responsibility of the Contractor and Subcontractor of any tier to comply with NYS Workers' Compensation law by providing their own coverage for their workers. Please contact the Construction Manager for clarification.

B. Commercial General Liability Insurance

The OCIP will provide Commercial General Liability Insurance to each Contractor and Subcontractor of any tier, as follows:

1. Primary $2,000,000 Combined Single Limit (CGL) each one occurrence.
2. $498,000,000 each occurrence in excess of the $2,000,000 primary limit.
3. Losses insured under the Commercial General Liability and Excess Liability policies may be subject to certain annual, or period, aggregation of limits of liability as more fully described in the insurance policy documents.

4. General Liability and Excess Liability policies include the following coverages and provisions:
   - Bodily Injury and Property Damage Liability
   - Completed Operations extended for three (3) years from the date of termination of the Insurance Policy or completion of the Contract, whichever comes first. "Completed Operations Liability", means liability for "Bodily Injury" and/or "Property Damage" arising out of the "Insured's" operations or reliance upon a representation or warranty made at any time with respect thereto, but only if the "Bodily Injury" and /or "Property Damage" happens after such operations have been completed or abandoned and happens away from the premises owned by or rented to any "Insured" (other than those premises owned or operated by the named "Insured").
   - Personal Injury Liability
   - Cross Liability in respect to Bodily Injury claims
   - Incidental Malpractice Liability
   - Advertising Liability

   - EXCLUSIONS include, but are not limited to:
     - Aircraft Liability
     - Asbestos/Environmental
     - Automobile Liability and Physical Damage
     - Intentional acts
     - Pollution
     - Professional Liability
     - Property in Insured's Care, Custody and Control
     - Radioactive Contamination, Chemical, Biological, Bio-Chemical, Electro-magnetic Weapons
     - Watercraft Liability
     - War

C. Builder's Risk Insurance

Builder's Risk Insurance coverages are as follows for the period April 30, 2007 to December 31, 2011.

1. Limits - $1,000,000,000 per occurrence for the Combined Project (subject to a $50,000,000 annual aggregate for Flood and Earthquake damage and $250,000,000 per occurrence as respects Windstorm). The following sublimits of coverage also apply:
   a. $10,000,000 per any one location as respects Offisite Storage
   b. $10,000,000 per any one conveyance as respects Property in Transit
   c. $10,000,000 per any on occurrence as respects Expediting Expense
   d. $5,000,000 per any once occurrence as respects Contractors Extra Expense
   e. $1,000,000 per any one occurrence as respects Trees, Shrubs, Plants and Landscapring
   f. $5,000,000 per any one occurrence and in the annual aggregate as respects Pollution Cleanup and Removal.
   g. $1,000,000 per any one occurrence as respects Plans, Blueprints, and Drawings.
   h. $5,000,000 per any one occurrence as respects Fire Brigade Charges/Extinguishing Expenses.

i. 25% of the amount of loss or damage as respects Debris Removal nor more than $50,000,000.
j. $50,000,000 per any one occurrence as respects Law or Ordinance, Demolition and Increased Cost of Construction.

2. OCIP Coverages include, but are not limited to:

All property to be used in or incidental to the Project, including property in the Enrolled Party's custody, property in which the Enrolled Party has an insurable interest, property for which the Enrolled Party is liable, including but not limited to:

- Builders Risk
- Debris removal
- Demolition and increased cost of construction
- EDP equipment and media and extra expense
- Expediting expense
- Extra expense
- Fire brigade charges and extinguishing expenses
- Materials
- Off-site
- Partial payment of loss
- Permission to occupy
- Plans, blueprints, drawing, renderings, etc.
- Pollutant clean-up (covered perils)
- Professional fees
- Removal charges
- Resulting damage from error in design, faulty workmanship, or faulty material recovered
- Temporary works
- Testing
- Transit including shipments on inland or coastal waters, excluding ocean
- Valuable papers and records
- Waiver of Subrogation, if in writing

And as more fully described in the Lexington Manuscript Completed Value Builders Risk policy form.

3. The policies contain various EXCLUSIONS, including but not limited to:

- Aircraft
- Automobiles
- Contents/Personal Property
- Contractor's (or Subcontractor's of any tier) Equipment
- Cranes (not to become permanently fixed, but used as a part of contract)
- Machinery, Contractor's (or Subcontractor's of any tier) machinery, tools, temporary structures, and equipment not destined to become a permanent part of a building or structure
- Soft Costs
- Watercraft

And as more fully described in the Lexington Manuscript Completed Value Builders Risk policy form.

D. Contractors Pollution Liability

Contractors Pollution Liability coverage is as follows:

1. Limits - $100,000,000 each loss for the Combined Project, with a $100,000,000 policy aggregate.

2. Sub-limit - $10,000,000 Microbial Matter.

3. Bodily injury, property damage, or environmental damage caused by pollution conditions resulting from covered operations (the project work) only, and must be unexpected and unintended from the standpoint of the Insured.

4. The bodily injury, property damage, or environmental damage must occur during the policy period.

E. Terrorism

1. Limits - $500,000,000

Coverage – Based upon the Terrorism Risk Insurance Act of 2002 and the Terrorism Risk Insurance Extension Act of 2005.

Coverage includes acts considered "certified" and "non-certified" acts of terrorism.

ATTACHMENT 6
TO
EXHIBIT A

INSURANCE

Project: Freedom Tower, 1 World Trade Center, New York, New York
Tishman Insurance Requirements
1-19-2007
INSURANCE

The parties agree that the Project shall be insured as set forth in A - O below; provided, however, that sometime during execution of the Project, 1 WTC may provide, at its sole discretion, either an insurance program ("Insurance Program") or have the Construction Manager implement a Contractor Controlled Insurance Program (CCIP). The parties agree that if an Insurance Program is put in place by 1 WTC or a CCIP is put in place by the Construction Manager on behalf of 1 WTC, the requirement of the Construction Manager to provide "A" and "B" below shall no longer be in effect for on-site work and be provided for off-site activities. The Construction Manager and 1 WTC agree to mutually cooperate in the development of an Insurance Program or CCIP, and the terms of the Insurance Program or CCIP, including, but not limited to:

a) Assisting in the development of underwriting and exposure data required for the submission
b) Participation in underwriting meetings and site tours as may be required as part of the marketing process
c) Cooperation with the safety consultants of the Authority in development of a Project safety program for submittal to the potential insurance markets
d) Cooperation with the Insurance Program/CCIP Safety Program as developed in conjunction with the Authority, 1 WTC, the Construction Manager, Consultants and the Insurance Carrier.
e) Completing the required documentation, and causing all of the Contractors and Subcontractors to complete the required documentation including, but not limited to:
    i) Enrollment Information
    ii) Payroll Information
    iii) Safety Program Information
f) Cooperating with any potential accident or claim investigations and any specific reporting requirements superseding those identified in A - M below
g) Provide 1 WTC or the Construction Manager or designated Insurance Program/CCIP administrator with appropriate credits for the cost of insurance that will not be required to be provided as a result of coverage afforded under the OCEP/CCIP by completing Bid Deduction Worksheet specifically identifying the costs associated with Workers' Compensation, Commercial General Liability, Excess Liability and other coverages to be identified.

Prior to commencement of any work under this Contract and until all obligations under this contract are fulfilled, the Construction Manager shall maintain the following insurance on 1 WTC's behalf, and furnish to 1 WTC and the specified Additional Insureds, Certificates of Insurance evidencing same and reflecting the effective date of such coverage as follows. 1 WTC shall bear the expense of only the insurance described in paragraphs A (Worker's Compensation and occupational Disease Insurance), B (Commercial General Liability), and N (Pollution Legal Liablity) below. The expense of the remaining insurance described below shall be borne by the Contractors, at no cost to 1 WTC:

A. Worker's Compensation and Occupational Disease Insurance in accordance with the applicable law or laws: Employer's Liability Insurance with Limit of Liability as required by New York State.

B. Commercial General Liability (together with any excess liability or umbrella liability insurance coverage) with a combined Bodily Injury and Property Damage limit of not less than Two Hundred Million Dollars ($200,000,000) per occurrence and in the aggregate. The general aggregate must be applicable on a per project basis. Coverage must include the following:

    1. Contractual Liability for liability assumed under this Contract and all other Contracts relative to the project.

    2. Completed Operations/Products Liability with a seven (7) year extension beyond completion and acceptance of the project. Any Insurance Program or CCIP will be required to provide any and all completed operations

coverage for work performed prior to the implementation of said Insurance Program or CCIP.

3. Broad Form Property Damage.

4. XC&U" Perils Covered , where applicable

5. Personal Injury Liability (A, B & C) and Advertising Injury Coverage

6. Independent Contractors.

7. Additional Interest/Insured Endorsement (CG 2010 November 1985 version, or its equivalent) must be furnished reflecting the inclusion of the interests of those parties listed on Schedule 1 hereto, together with their respective parent companies, corporations and/or partnerships and their owned, controlled, affiliated, associated and subsidiary companies, corporations, and/or partnerships and the respective agents, consultants, principals, partners, servants, officers, stockholders, directors and employees of each and all other indemnities named in the Contract as Additional Insureds. The endorsement must specifically include Completed Operations coverage for the Additional Insureds.

8. Coverage is to be endorsed to reflect that the insurance provided is to be primary and non-contributory for the 1 WTC and all other indemnities named in the Contract.

9. Coverage is to be provided on an "occurrence" basis with carriers licensed and admitted to do business in the State of New York or otherwise acceptable to 1 WTC and shall have an A.M. Best Rating of A - X or better.

10. A copy of the policy and/or endorsement(s) and any other documents required to verify such insurance are to be submitted with the appropriate certificate(s), or upon the request of 1 WTC or any other indemnitee.

11. 1 WTC, The Port Authority of New York & New Jersey, Port Authority Trans Hudson (PATH) and Tishman will be named insureds on the policy.

12. TRIA coverage in a separate policy for $100 Million Dollars for certified and non-certified terrorism acts at the cost of 1 WTC.

13. Railroad Protective Liability insurance will be purchased as required and will remain at the sole cost of 1 WTC. The responsibility to pay any and all deductibles related to claims under this policy will remain with 1 WTC.

C. Commercial Automobile Liability Insurance covering the use of all Owned, Non-Owned, and Hired Vehicles with a combined Bodily Injury and Property Damage Limit together with any excess liability or umbrella liability insurance coverage of at least Five Million ($5,000,000) Dollars. Automobile Insurance must include all additional insureds and be scheduled as primary on the Umbrella policy.
    a. Coverage is to be endorsed to reflect that the insurance provided is to be primary and non-contributory for the 1 WTC and all other indemnities named in the Contract.

D. Where an Off Project Site property exposure exists, the Construction Manager shall furnish to 1 WTC Certificates of Insurance and other required documentation evidencing "All Risk" Property Damage Insurance for the replacement value of said property and which shall provide for those entities listed on Schedule 1 to each be a Loss Payee as its interest shall appear, and shall contain a provision requiring the insurance carriers to waive their rights of subrogation against all indemnitees named in the contract.

F. The amount of insurance contained in aforementioned insurance coverages, shall not be construed to be a limitation of liability and the carrying of the insurance described shall in no way be interpreted as relieving the General Contractor of any responsibility of liability under the Contract.

H. The Construction Manager shall file certificates of insurance prior to the commencement of work and with 1 WTC and Port Authority which shall be subject to 1 WTC and the Port Authority's approval of adequacy of protection and the satisfactory character of the Insurer. In the event of failure of the Construction Manager to furnish and maintain said insurance and to furnish satisfactory evidence thereof, 1 WTC and/or Port Authority shall have the right (but not the obligation) to take out and maintain the same for all parties on behalf of the Construction Manager.

I. The Construction Manager shall cause the Contractors and Subcontractors performing work or services in connection with the project shall maintain "All Risk" Property Insurance for all materials, equipment and supplies located at the project site and for Temporary Structures and Contractor's Tools and Equipment until completion of the project. Coverage is to be provided on a replacement cost basis including the perils of Flood, Earthquake and Terrorism (TRIA).

J. Any type of insurance or any increase of limits of liability not described above which the Construction Manager requires for its own protection or on account of statute shall be its own responsibility and at its own expense.

K. Subrogation.
   a.. Any policies effected by the Construction Manager on their Owned an/or Rented Equipment and Materials shall contain a provision requiring the insurance carriers to waive their rights of subrogation against 1 WTC and all other additional insureds and indemnitees named in the Contract.
   b. Workers' Compensation policy and all liability policies except Commercial Professional Liability Insurance (D) shall contain a provision requiring the insurance carriers to waive their rights of subrogation against 1 WTC and all other additional insureds and indemnitees named in the Contract.

L. The Construction Manager shall cause the same conditions that apply under this contract to each Contractor and Subcontractor; however, the Contractors and Subcontractor shall be required to maintain limits of liability in accordance with Tishman Construction Corporation Minimum Liability Limits Exhibit and said limits to be applicable on a per project basis.

M. Within five (5) days after the award of this Contract and prior to the start of work, the Contractor must submit an original Certificate of Insurance to the Authority's Contract Administrator and to the Authority's Risk Management Division at the location where the work will take place. This Certificate of Insurance MUST show evidence of the above insurance policy (ies), stating the agreement/contract number prior to the start of work.

N. On behalf of and at the cost of 1 WTC, for a period of not more than one year from the execution of this contract, the Construction Manager shall maintain Pollution Liability Insurance with limits of not less than Ten Million ($10,000,000) Dollars covering the interests of both the Construction Manager and 1 WTC. At the conclusion of this one-year period, 1 WTC must purchase this coverage for the Construction Manager and all trades at the cost of 1 WTC for the length of the project plus 5 years of extended reporting or completed operations. This coverage must provide the broadest possible coverage available in the market at the time of purchase.

O.

Schedule 1 - Additional Insureds:

a) WTC Retail LLC
b) City of New York
c) World Trade Center Memorial Foundation
d) Lower Manhattan Development Corporation
e) STV Construction, Inc
f) NYS State Department of Transportation
g) Metropolitan Transit Authority

h) Silverstein Freedom Tower Development LLC
i) Two World Trade Center LLC
j) Three World Trade Center LLC
k) Four World Trade Center LLC
l) World Trade Conter Properties LLC
m) 1 WTC Holdings LLC
n) 2 WTC Holdings LLC
o) 3 WTC Holdings LLC
p) 4 WTC Holdings LLC
q) Silverstein Properties, Inc.
r) Silverstein East WTC Facility Manager LLC
s) WTC Redevelopment LLC
t) Silverstein WTC Mgmt. Co. LLC
u) Silverstein WTC Mgmt. Co. II LLC
v) Silverstein WTC Properties LLC
w) Silverstein WTC LLC
x) Silverstein 2/3/4 WTC Redevelopment LLC
y) Spring World Inc.
z) Spring World Holdings Inc
aa) WTC Investors LLC
bb) Net Lessees' Association of the World Trade Center
cc) WTC Management and Development LLC
dd) Silverstein WTC Management and Development LLC
ee) WTC Investors Management and Development LLC
ff) Larry A. Silverstein
gg) And the parents and affiliates, successors and permitted assigns of each of a) through ff) above and the officers and directors of each of them.

ATTACHMENT 7
TO
EXHIBIT A

SECURITY REQUIREMENTS

Exemption (4)

Exemption (4)

Exemption (4)

Exemption (4)

Exemption (4)

Exemption (4)

Exemption (4)

Exemption (4)

Exemption (4)

Exemption (4)

ATTACHMENT 8
TO
EXHIBIT A

[INTENTIONALLY DELETED]

ATTACHMENT 9
TO
EXHIBIT A

MILESTONE DATES

EXHIBIT

MILESTONE DATES

MILESTONE	DATES
Completion of Below Grade Superstructure	8/24/2008
Completion of Roof Steel Framing	8/24/2010
Turnover of E-W Corridor to the Hub Project from West Street to Column Line 12	5/7/2007
Start Structural Steel Superstructure Erection	8/20/2008
Access for Tenant Construction with use of Interior Elevators:	
Floors 20-27	1/1/2011
Floors 28-35	1/1/2011
Floors 36-42	3/1/2011
Floors 43-49	3/1/2011
Floors 50-56	6/1/2011
Floors 57-63	6/1/2011
Floors 64-76	1/1/2012
Floors 77-88	1/1/2012
Completion of Core Slab Floor 104	11/11/2010
Completion of Curtainwall @ roof	6/30/2011
Completion of Service Elevators	12/15/2011
Normal Power from 4/5 Network	5/14/2010
Normal Power from 93/93M Network	11/17/2011
Start DX Unit Delivery	8/21/2009
Condenser Water Available	1/5/2012
Building Complete and Ready for TCO Inspection	12/16/2011
CORE & SHELL ZERO OCCUPANCY T.C.O. OR EQUIVALENT	9/19/2012

ATTACHMENT 10
TO
EXHIBIT A

NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

Exemption (4)

Exemption (4)

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ATTACHMENT 11
TO
EXHIBIT A

MOBILIZATION ACCOUNT SCHEDULES

Mobilization Account Funding Schedule

Date	Payment Amount	Cumulative Amount[1]
Initial Working Capital	$1.0 million	$1.0 million
April 2007	$1.0 million	$2.0 million
October 2007	$0.5 million	$2.5 million
April 2008	$0.5 million	$3.0 million
October 2008	$0.5 million	$3.5 million
April 2009	$1.5 million	$5.0 million
October 2009	$0.5 million	$5.5 million
April 2010	$0.5 million	$6.0 million
October 2010	$0.5 million	$6.5 million
April 2011	$0.5 million	$7.0 million

Mobilization Account Repayment Schedule

Date	Repayment Amount	Cumulative Amount*
		$7.0 million
April 2012	$1.5 million	$5.5 million
October 2012	$3.0 million	$2.5 million
April 2013	$1.5 million	$1.0 million
October 2013	$1.0 million	$0.0 million

[1] This amount represents the total balance required to be in the Mobilization Amount, after deposit of monthly replenishment amounts pursuant to Section 10.1, during the time period commencing on the corresponding "Date" in the first column of the Schedule that is in the same line as the Cumulative Amount and continuing until the day before the "Date" set forth on the next line of the Schedule.

EXHIBIT B

SCHEDULE OF GC TERMS AND CONDITIONS

EXHIBIT B
TO
THIRD FREEDOM TOWER AMENDMENT

THIS PART B AGREEMENT ("the Part B Agreement"), dated as of July 13, 2007, by and among (a) TISHMAN CONSTRUCTION CORPORATION, a Delaware corporation, having an office at 666 Fifth Avenue, New York, NY 10103 ("Tishman" or "General Contractor"); and (b) 1 World Trade Center LLC, a Delaware Limited Liability Company, having an office c/o The Port Authority of New York and New Jersey, 225 Park Avenue South, New York, NY 10003 ("1 WTC").

WITNESSETH

WHEREAS, the World Trade Center Site – Freedom Tower Project involves the design, permitting, approval, construction, and construction administration of World Trade Center Tower One on the World Trade Center site in New York City ("Property"). The World Trade Center Site – Freedom Tower Project will incorporate approximately 3.5 million gross square feet of new construction both above and below grade in a Class A office building complex which, in addition to sixty-nine (69) office tenant floors, includes specialty components such as an observation deck, retail space, two-level restaurant, three-level broadcast facility, core and shell spaces for PATH and support spaces, and an iconic top rising at the peak to the broadcast antennae (specifically excluding the broadcast antennae themselves). Below grade, the World Trade Center Site – Freedom Tower Project will incorporate storage, service areas, a car parking area, building and tenant mechanical facilities, loading docks, and other key building functions which lie beneath portions of the Freedom Tower, the open space between the Freedom Tower and the Performing Arts Center (PAC), Fulton Street, West Street-Route 9A and Vesey Street. All of the descriptions of the World Trade Center Site – Freedom Tower Project in this paragraph shall be referred to in this Agreement as the "Project," the "Freedom Tower Project," or "Freedom Tower."

WHEREAS, pursuant to that certain Third Freedom Tower Amendment to General Contractor Agreement dated July 13, 2007 (the "Third Freedom Tower Amendment") 1 WTC and Tishman have agreed that under certain circumstances Tishman will act as a general contractor with respect to the Freedom Tower Project and under other circumstances Tishman will act as an agent construction manager with respect to the Freedom Tower Project;

WHEREAS, Exhibit A to the Third Freedom Tower Amendment (the "Part A Agreement") sets forth terms and conditions that shall apply to the relationship between 1 WTC and Tishman when Tishman acts as an agent construction manager with respect to the Freedom Tower Project under the circumstances more specifically described in the Third Freedom Tower Amendment;

WHEREAS, 1 WTC and Tishman wish to set forth in this Part B Agreement the terms and conditions that shall apply to the relationship between 1 WTC and Tishman when Tishman acts as general contractor with respect to the Freedom Tower Project, under the circumstances more specifically described in the Third Freedom Tower Amendment; and

WHEREAS, to facilitate the orderly management of the Freedom Tower Project, to maintain administrative efficiency and to achieve other benefits with respect to the Freedom Tower Project, all of the provisions of Exhibit A from Section 1 through and including Section 32 and "Attachments 1-10" to Exhibit A (such provisions and Attachments are collectively the "Part A Terms and Conditions") also shall apply when Tishman acts as a general contractor with respect to Freedom Tower Project, except as modified in this Part B Agreement.

NOW THEREFORE, in consideration of the agreements and mutual covenants of the parties herein contained and other consideration, the sufficiency of which is hereby acknowledged by 1 WTC and Tishman, the parties hereto agree as follows:

1. **Incorporation by Reference**. The Part A Terms and Conditions are incorporated by reference into this Part B Agreement as if fully set forth below in this Paragraph 1; provided, however, that such Part A Terms and Conditions, upon incorporation into this Part B Agreement, shall be deemed amended and modified as set forth below.

2. **Definitions**.

2.1 All references to the "Construction Manager" in the Part A Terms and Conditions shall be deemed to mean the "General Contractor" for purposes of this Part B Agreement.

2.2 All references to the "Contracts" and "Contractors" in the Part A Terms and Conditions shall be deemed to mean the "Subcontracts" and "Subcontractors," respectively, for purposes of this Part B Agreement.

2.3 All references to the "Agreement" in the Part A Terms and Conditions shall be deemed to mean the "Part B Agreement" for purposes of this Part B Agreement.

3. **Compensation**.

3.1 For purposes of this Part B Agreement, Section 9.1.2 of the Part A Terms and Conditions is hereby modified as follows: the language "1.5% of the Cost of the Work" is deleted and replaced with the language "2.5% of the Trade Costs."

3.2 For purposes of this Part B Agreement, Section 9.1.2.1 of the Part A Terms and Conditions shall not apply.

4. **Scope of Services.**

4.1 For purposes of this Part B Agreement, the first sentence of Section 3.4 of the Part A Terms and Conditions is hereby deleted and replaced with the following: "The Services are described below in this Section 3.4."

4.2 For purposes of this Part B Agreement, the following subparagraphs are hereby added to Section 3.4 of the Part A Terms and Conditions:

"3.4.1 The General Contractor shall act pursuant to and in accordance with the terms, covenants and provisions of the Third Freedom Tower Amendment and shall cause to be performed and provided, through Subcontracts identified in Sections 2.2.1 and 2.3.1 of the Third Freedom Tower Amendment, subject to the terms of this Part B Agreement, all labor, materials, equipment, tools and services required for the complete construction of the Work identified in Sections 2.2.1 and 2.3.1 of the Third Freedom Tower Amendment, all such Work being in accordance with the terms of the Contract Documents."

"3.4.2 Nothing contained in this Part B Agreement shall be deemed to require or authorize the General Contractor to perform with its own forces any act which would constitute the rendering of professional services, such as the practice of architecture, engineering or laboratory testing. The reviews, recommendations and advice to be furnished by the General Contractor under this Part B Agreement pertaining to engineering or architectural matters shall not be deemed to be warranties or guaranties or constitute the performance of professional services other than as a general contractor, it being understood that any such recommendation or advice pertaining to engineering or architectural matters shall only be considered as a recommendation by the General Contractor, which is subject to the review and approval of the 1 WTC and its professional consultants. The General Contractor warrants that all Work will be performed in a competent manner, will be of good quality and workmanship, free from faults and defects and in accordance with the Contract Documents and that materials installed into the Project shall be new, unless otherwise specified in the Contract Documents. The General Contractor agrees that the Authority shall be a third party beneficiary of any and all warranties contained in this Exhibit B Agreement and/or by the Contract Documents."

"3.4.3 During the construction phase of the Project (the "Construction Phase"), the General Contractor shall:

(a) Supervise the performance of the Work by the Subcontractors and coordinate and schedule the Work of all Subcontractors on the Project with the activities of 1 WTC, the Architect, their engineers and consultants, the General Contractor and other subcontractors, and take all reasonably required steps to cause such Subcontractors to complete their respective portions of the Work in accordance with their respective Subcontracts.

(b) Perform, or cause to be performed, the General Conditions work.

(c) Without assuming the Architect's responsibility for inspection of the Work, or the responsibility of other engineers and consultants performing controlled inspections of the Work, review the Work done by Subcontractors to determine whether the Work is being performed in accordance with the requirements of the Contract Documents and generally to guard 1 WTC against defects and deficiencies in the Work and advise 1 WTC and the Architect of any discovered deficiencies. The General Contractor shall be required to take all required actions to assure to 1 WTC that the Work performed by the General

Contractor and Subcontractors complies with all terms and conditions of the Contract Documents or their respective Subcontracts. If, during the progress of the Work, the General Contractor's supervisory personnel discover work being performed contrary to the Contract Document requirements and/or good construction practices, or have reasonable cause to believe that any Work is not in accordance with the Contract Documents and/or good construction practices, the General Contractor shall promptly notify the Architect and 1 WTC. The General Contractor shall be fully responsible for arranging for all necessary inspections and testing of the Work and, to the extent General Contractor determines such Work has not been performed in accordance with the Contract Documents and/or good construction practices, the General Contractor shall be fully responsible for the cost of inspection and testing and for correcting such Work without adjustment of the Cost of Work. The General Contractor shall require any Subcontractor to stop Work or any portion thereof and require special inspection or testing of any Work and, if required by 1 WTC after examination and determination of noncompliance, removal, uncovering, repair and restoration to the standard of the Contract Document requirements without adjustment of the Cost of Work, as applicable, whether or not such Work be then fabricated, installed or completed, in accordance with the requirements of the respective Subcontract.

(d) Arrange for expediting of long-lead equipment required in connection with the Work and advise 1 WTC with respect to potential delays in their purchase and delivery.

(e) Prepare (i) a construction schedule in a form suitable to 1 WTC, showing each major trade, the critical path and all milestone dates, and shall update and deliver same to 1 WTC monthly, or as more frequently as reasonably requested by 1 WTC and (ii) an anticipated cost report of construction costs for the Project, as applicable, also on a monthly basis, showing past, present and future expenditures required to complete the Project, and which report shall reflect all claims and pending Change Orders issued during the period covered by such report.

(f) Schedule and conduct job meetings with 1 WTC and the Architect when necessary; coordinate meetings with appropriate parties as necessary and prepare and furnish to all attendees minutes of such meetings; such minutes to be issued to all parties prior to the next scheduled meeting.

(g) In conjunction with the Architect and 1 WTC identify, require, and arrange to be performed by an independent testing laboratory or other consultant, all subject to 1 WTC's prior approval, such tests as shall be determined to be necessary and appropriate except for controlled inspections which shall be performed by others.

(h) Cause to be obtained all necessary construction operation licenses and permits, including, without limitation, with 1 WTC's and the Architect's

cooperation, a core and shell final certificate of occupancy or Authority equivalent, except if and to the extent that the same, under applicable contract, law or practice, must be or are normally obtained by 1 WTC (such as the initial building permit), the Architect or Subcontractors; and, in such event, the General Contractor shall cooperate with 1 WTC, the Architect or Subcontractors, as the case may be, in obtaining such licenses and permits.

(i) Keep such accounts and costs records, in addition to those specified in Section 17 of this Part B Agreement (as incorporated from Section 17 of the Part A Terms and Conditions), as are required to be maintained by the General Contractor pursuant to 1 WTC's or 1 WTC's lender's or lenders' (collectively, the "Lenders") requirements (if applicable), such as trade by trade and General Conditions Costs records, cost records required in connection with time and material and unit price change order work, man hours, certified payrolls, and monitoring of the workforce for compliance with affirmative action goals (provided such goals are provided by 1 WTC prior to awarding the relevant Subcontracts).

(j) Prepare, file, and secure required Authority approval for a comprehensive Site Safety Plan with the Authority and thereafter review and coordinate the safety program with the Subcontractors. The General Contractor and the Subcontractors shall be responsible for the safety of persons or property at the Property and in the immediate vicinity for which the General Contractor would be liable under the New York City Building Code. The General Contractor shall comply with and be responsible for causing all Subcontractors to comply with all federal, state and local safety, health and environmental statutes, rules, regulations and orders and all other requirements of law, including, without limitation, the Construction Safety Act of 1969, the Williams-Steiger Occupational Safety and Health Act and the Administrative Code of the City of New York and the environmental site safety plan entitled "Health and Safety Guidelines for Foundation Construction", dated April 26, 2002 and prepared by Langan Engineering and Environmental Services, Inc. (the "Langan Report"), a copy of which has been delivered to the General Contractor.

(k) Assist and cooperate with 1 WTC in any legal actions or proceedings that may arise out of or relate to the Work, including appearances, as reasonably necessary.

(l) Cooperate with 1 WTC's insurers (or insurance brokers) and/or safety consultants.

(m) Supervise the performance by Subcontractors of the correction of defective Work, including, without limitation, performance of all guarantees given by Subcontractors, but in no event longer than the expiration of the relevant guarantee/warranty period prior to Lessee's acceptance of the Work, at which point Lessee's maintenance staff will undertake such supervision.

(n) Coordinate the submission by Subcontractors for approval by the Architect and other consultants of all required shop drawings, samples and catalogue cuts; maintain a log of all such submissions; promptly advise 1 WTC of any potential problems pertaining to the timeliness of such submissions and approvals; advise 1 WTC periodically as to the status of such submissions; advise 1 WTC and the Architect of any errors in such submissions that are discovered by the General Contractor (without assuming the Architect's responsibility for reviewing and approving such submissions); and coordinate the various disciplines after the Architect's approval of the respective shop drawings and before installation.

(o) Cause all Subcontractors who are required to maintain and provide, on an on-going and continuous basis, comprehensive "as-built" and coordination drawings of their Work on mylar for the mechanical, electrical and plumbing as-built drawings, together with one copy of the AutoCAD compatible computer files used to prepare the same, to the extent drawings were prepared on AutoCAD under the terms of their respective Subcontracts, and to deliver same to 1 WTC upon final payment to each such Subcontractor.

(p) At all times as part of the General Conditions Costs, cause the Property to be kept free from accumulation of waste material or rubbish caused by the Work. Subcontracts shall include a provision requiring daily carrying of rubbish and debris to designated stockpiling areas and/or receptacles, to the maximum extent possible. Upon substantial completion of the Project, the General Contractor shall cause all waste material and rubbish generated by General Contractor and its Subcontractors to be removed from and about the Property, and, to the extent practicable, all tools, construction equipment, machinery and surplus materials of General Contractor and its Subcontractors.

(q) Review requests for changes by the Architect, submit recommendations to 1 WTC regarding same, make independent recommendations regarding changes to the Work to enable expeditious and economical completion of the Work, negotiate change orders, prepare and process written change orders for approval by 1 WTC, and thereafter transmit same to the appropriate Subcontractors.

(r) Review Subcontractors' monthly requisitions for progress payments and make recommendations to 1 WTC regarding approval of same. The General Contractor's and all Subcontractors' monthly requisitions shall be in a form acceptable to and in full conformance with the Lenders' requirements (if applicable).

(s) If requested, cooperate with 1 WTC in the selection and retention of professional and other consultants in connection with the Work.

(t) Consult with 1 WTC and the Architect when any Subcontractor requests interpretations of the Contract Documents, promptly give notice to 1 WTC and the Architect of any dispute or claim which may arise during construction of the Project, assist in the timely resolution of any such dispute or claim in accordance with 1 WTC's directions and recommendations regarding settlement of such disputes and claims. To the extent that 1 WTC issues such directions and/or recommendations and the subject and resolution of such dispute or claim is determined to be both outside the scope of Work to be performed by the General Contractor under this Agreement and outside the scope of Work to be performed by the Subcontractor under its Subcontract and the Contract Documents, then any additional costs incurred by the General Contractor in complying with 1 WTC's directions and/or recommendations regarding the resolution of such dispute or claim shall be a Cost of the Work.

(u) Make recommendations to 1 WTC regarding the advisability of pre-purchasing materials to be incorporated into the Work and stored off-site (if approved in advance by 1 WTC and the Lenders (if applicable)), cooperate with 1 WTC in making arrangements for inspection of same, including such arrangements as 1 WTC shall deem necessary or desirable for (i) access to such materials for the purpose of segregation, on-going inspection, project identification and removal of the same, (ii) protecting 1 WTC's title to such materials, free and clear of all liens, encumbrances and rights of others, and (iii) insuring and protecting the same and not make any payments for materials stored off-site, unless all such arrangements have been approved in writing by 1 WTC.

(v) The General Contractor shall assist in conducting final inspections of the Work (without assuming the Architect's responsibility for inspection of the Work) and shall request of 1 WTC and the Architect a determination of Substantial Completion of the Work or designated portions thereof and assist in the preparation of a list of incomplete or unsatisfactory items (the "Punchlist") with the Architect and 1 WTC, and thereafter prepare a schedule for completion of such items. The date of "Substantial Completion" of the Work, or designated portions thereof, is the date construction is sufficiently complete in the opinion of the Architect, in accordance with the Contract Documents, so that 1 WTC can occupy or utilize the Project, as applicable, or designated portions thereof for the use for which it was intended. Warranties called for by this Agreement and/or by the Contract Documents shall commence on the date set forth in the applicable Contract Documents.

(w) The General Contractor shall request of 1 WTC and the Architect a determination of Final Completion of the Project and provide written notice to 1 WTC and the Architect that the Project is completed and ready for final inspection. This will be preceded by the Punchlist inspection by the General Contractor and approval of the corrective work by the Architect and 1 WTC. For purposes of this Part B Agreement, the term "Final Completion of the Project" shall mean full completion of the Project (including all Punchlist items) in full

compliance with the Contract Documents and the issuance by the Authority of a core and shell final certificate of occupancy or Authority equivalent.

(x) Cooperate with 1 WTC's maintenance or operational personnel during initial start-up and testing of utilities, equipment and systems.

(y) Cooperate and consult with 1 WTC and the Architect and their respective consultants and engineers, in closing-out Subcontractors, including processing of appropriate backcharges; review requests for final payment to Subcontractors and make recommendations to 1 WTC regarding approval of same; and receive and transmit to 1 WTC required cost certifications and/or other documentation required by the Lenders (if applicable), as well as guarantees, affidavits, releases, certificates of compliance (if required), maintenance manuals, liens and other waivers in such form as the Lenders, if applicable, may reasonably require, bonds and other documents required by the Contract Documents and the Subcontracts prior to final payments being made to Subcontractors.

(z) Review and make recommendations with respect to Subcontractors' forms of guarantee, release and requisition for final payment(s).

(aa) Maintain a complete set of drawings, specifications, purchase orders, contracts, shop drawings and related documents at the Property or at the General Contractor's main office, and turn over all as-built drawings prepared by appropriate Subcontractors to 1 WTC upon completion of the Work or earlier as directed by 1 WTC.

(bb) Assist 1 WTC in enforcement of guarantees and warranties of Subcontractors.

(cc) Review each Subcontractor's insurance certificate as to the coverage required to be carried by such Subcontractor hereunder in order to determine whether it complies with 1 WTC's requirements before submission to 1 WTC.

(dd) Cooperate with 1 WTC with respect to final acceptance and close-out by the Lenders (if applicable).

(ee) Make recommendations and render assistance regarding labor disputes and jurisdictional disputes.

(ff) Take such action as may be reasonably necessary in an emergency to protect life and property and notify 1 WTC of such actions as soon as practicable.

(gg) The General Contractor shall use all reasonable efforts to maintain good relations with labor unions as well as minority and other related interest groups in an effort to maintain peaceful labor relations and a trouble-free job site for the duration of the Project, and advise 1 WTC of any anticipated problems in connection therewith.

(hh) Cooperate with 1 WTC and construct a management office, to the extent shown on or called for in the Contract Documents and included in the Cost of Work or, in the alternative, include this work in accordance with a Change Order approved by 1 WTC.

(ii) The General Contractor shall, as directed by 1 WTC, institute and supervise a program for minority participation in the labor force and in the ownership of Subcontractors in accordance with requirements of any tax incentive or other program or programs applicable to the Project and/or each Sub-Project, as applicable, or the requirements of the Authority from time to time provided that such program is delivered to General Contractor by 1 WTC prior to the awarding of the applicable Subcontracts.

(jj) Provide a cash flow schedule for the Work once the major Project requirements have been identified, and adapt same to 1 WTC's and the Lenders' requirements (if applicable), as necessary.

(kk) Provide a detailed trade-by-trade construction time schedule for the Project in a form suitable to 1 WTC, once the major Project requirements, as applicable, have been identified, which schedule shall be updated on a monthly basis or as more frequently as reasonably requested by 1 WTC."

5. Miscellaneous Provisions.

5.1 **Effective Date**. This Part B Agreement shall be deemed effective as follows:

5.1.1 With respect to any Retained Obligations to which this Part B Agreement applies, September 10, 2003.

5.1.2 With respect to all work and services to which this Part B Agreement applies, other than those described in Section 5.1.1 above, November 17, 2006.

5.2 **Representations and Warranties**. Tishman represents and warrants that there are no outstanding liens, claims or demands that have been made, asserted or filed, and no reasonable evidence exists indicating that such a lien, claim or demand may be asserted, by any subcontractor identified in Subparagraphs 2.2.1 or 2.3.1 or, to the extent its subcontract is not

terminated, any subcontractor identified in Subparagraphs 2.4.1 of the Third Freedom Tower Amendment, or, to the best of General Contractor's knowledge, information, and belief, by any materialmen or subcontractor of any tier of any such identified subcontractor, for any amount outstanding, due, owed or claimed for any reason, including, without limitation, the subcontract amount or any purchase order amount or for costs, extra costs, time or delay; that all amounts outstanding, due, owed or claimed to or by such identified subcontractors, and, to the best of General Contractor's knowledge, information, and belief, materialmen and subcontractors of any tier, have been paid or satisfied in full or, if not paid or satisfied in full, any such unpaid or unsatisfied amount or amount owed is set forth in a detailed statement of account provided to 1 WTC by General Contractor as of the date and no later than at the time of the execution of the Third Freedom Tower Amendment.

5.3 **Prevailing Wage**. General Contractor shall require each subcontractor identified in Sections 2.2.1 or 2.3.1 or, to the extent its Subcontract is not terminated, any subcontractor identified in Section 2.4. of the Third Freedom Tower Amendment, to comply with all of the provisions set forth in Attachment 1 to this Exhibit B to the Third Freedom Tower Amendment, and General Contractor shall monitor and enforce such requirements. In addition, General Contractor shall comply with all prevailing wage and other requirements with respect to its own employees and its Subconsultants and their employees.

5.4 **Riders**. Notwithstanding anything to the contrary set forth in this Exhibit B, and except as and subject to the terms and conditions set forth in Subparagraph 2.4.2 of the Third Freedom Tower Amendment, General Contractor shall require each subcontractor identified in Subparagraphs 2.2.1 or 2.3.1 or, to the extent its subcontract is not terminated, any subcontractor identified in Subparagraph 2.4.1 of the Third Freedom Tower Amendment, to comply with all of the provisions set forth in the following riders:

Rider F:	Non-Disclosure and Confidentiality Agreement
Rider G:	Sustainable Construction Requirements, dated March 13, 2006 (Revision #2)
Rider H:	Requirements for Work in PATH Right of Way, dated June 16, 2006
Rider K:	Project Corruption Prevention Program, dated January 8, 2007
Rider L:	Payment Procedures
Rider M:	Tishman Construction Safety Guidelines, dated November 3, 2005
Rider N:	Port Authority of New York & New Jersey WTC Site Rules and Regulations
Rider Q:	Above and Below Grade Site Logistics Plans
Rider S:	Site Security Agreements

5.5 **Allowances**. 1 WTC and General Contractor acknowledge that, as of the date of execution of the Third Freedom Tower Amendment, certain Subcontracts provide for the following allowances: $700,000 with respect to the LaQuila Subcontract; $612,500 with respect to the Banker Steel Subcontract; and $150,000 with respect to the Petrocelli Subcontract. Such allowances shall be used at the discretion of General Contractor; provided, however, that General

Contractor agrees that (i) the allowances are also not-to-exceed amounts, which may not be increased under any circumstance; (ii) the foregoing not-to-exceed amounts represent the total amount available as provided for in each respective Subcontract on the date of execution of such Subcontract and may not represent the available balance on the date of execution of the Third Freedom Tower Amendment (i.e., some portion of the allowance may have been used as of the date the Third Freedom Tower Amendment was executed). General Contractor agrees to provide 1 WTC with written notice of the use of any portion of any of these allowances within 5 business days prior to intended use. General Contractor agrees to return to 1 WTC, in the form of a deductive change order, all allowance amounts remaining at Final Completion. General Contractor agrees that to the extent General Contractor converts the Banker Steel Subcontract to a Contract subject to the terms of Exhibit A, the allowance currently included in the Banker Steel Subcontract shall be eliminated from the Contract that Banker Steel must execute upon becoming a Contractor. General Contractor warrants and represents that, except for the allowances in the LaQuila Subcontract, Banker Steel Subcontract, and Petrocelli Subcontract as described in this Section 5.5, no other allowances exist or are provided for in any other Subcontract set forth in the Schedule of Subcontracts in Exhibit 2 to the Third Freedom Tower Amendment.

5.6 **Miscellaneous Modifications.** The Part A Terms and Conditions as incorporated into this Part B Agreement are further modified as set forth below in this Subparagraph 5.2.

5.6.1 In Section 2.4.3 of the Part A Terms and Conditions, all language is deleted in its entirety.

5.6.2 In Section 3.5 of the Part A Terms and Conditions, add the following language to the end of the first sentence: "under the Part A Agreement". Also in Section 3.5 of the Part A Terms and Conditions, all language following the first sentence is deleted in its entirety.

5.6.3 In Section 4.1 of the Part A Terms and Conditions, all language is deleted in its entirety.

5.6.4 In Section 4.2 of the Part A Terms and Conditions, all language is deleted in its entirety.

5.6.5 In Section 4.4 of the Part A Terms and Conditions, add the following language to the end of the section: "Notwithstanding anything to the contrary in this Agreement or in the Contract Documents, 1 WTC shall have no liability for any construction means, methods, techniques, sequences or procedures, or for any safety program or precaution. If General Contractor has any objection to any exercise by 1 WTC of its right under this Section 4.4, such objection shall be made and delivered to 1 WTC immediately in writing or deemed forever waived."

5.6.6 In Section 18.1 of the Part A Terms and Conditions, add the following language to the end of the last sentence: ", or arise out of, or in connection with, the Work".

5.6.7 In Section 22 of the Part A Terms and Conditions, all obligations imposed on General Contractor with respect to its Subconsultants and, as applicable, the employees of Subconsultants, shall be deemed to also apply to General Contractor with respect to all Subcontractors and, as applicable, all of their respective employees.

5.6.8 In Section 23.4 of the Part A Terms and Conditions, assignment of contracts shall include contracts of all Materialmen and Subcontractors of any tier at 1 WTC's option.

5.6.9 In Section 25.1 of the Part A Terms and Conditions, at the beginning of clause (iii), delete the words "use best efforts to".

5.6.10 In Section 2.2.6.4 of Attachment 1 of the Part A Terms and Conditions, third line, delete the words "as 1 WTC's agent".

5.6.11 In Attachment 1 of the Part A Terms and Conditions, delete all language in Sections 2.3, 2.4, and 2.5 in its entirety.

ATTACHMENT TO EXHIBIT B OF THIRD FREEDOM TOWER AMENDMENT

Attachment 1: Prevailing Rate of Wage

Attachment 1
to
Exhibit B
of
Third Freedom Tower Amendment

PREVAILING RATE OF WAGE

For purposes of this Attachment 1 with respect to Subcontractors under the Part B Agreement, and notwithstanding anything to the contrary herein: all references below to the "Construction Manager" in this Attachment 1 shall be deemed to mean to the "General Contractor"; and all references to the "Contracts" or "Contractors" in this Attachment 1 shall be deemed to mean the "Subcontracts" and "Subcontractors," respectively.

The Contractor shall pay or provide (and shall cause all Subcontractors to pay or provide) to his or their workmen, laborers and mechanics (who are employed by him or them to work on an hourly or daily basis at any trade or occupation at or about the construction site) at least the prevailing rate of wage and supplements for others engaged in the same trade or occupation at the time and in the locality in which the Work is being performed as determined by the Construction Manager and notwithstanding that such rate may be higher than the rate in effect on the date of opening of Proposals.

For purposes of this Contract, the Construction Manager has determined that the prevailing rates of wage and supplements are those established by the Commissioner of Labor of the State of New York for the locality and for the period of time in which the Work is performed. The currently prevailing rates of wage and supplements are set forth in the Prevailing Rate Schedule annexed hereto and made a part hereof. These rates are subject to annual adjustment effective July 1st of each year and a Prevailing Rate Schedule reflecting all adjustments will be available for the Contractor's inspection on or about July 15th of each year on the 3rd Floor, 3 Gateway Center, Newark, New Jersey 07102 during regular business hours.

The provisions of this numbered clause are inserted in this Contract for the benefit of such workmen, laborers and mechanics as well as for the benefit of the Construction Manager; and if the Contractor or any Subcontractor shall pay or provide any such workman, laborer or mechanic less than the rates of wages and supplements above described, such workman, laborer or mechanic shall have a direct right of action against the Contractor or such Subcontractor for the difference between the wages and supplements actually paid or provided and those to which he is entitled under this clause. If such workman, laborer or mechanic is employed by any Subcontractor whose subcontract does not contain a provision substantially similar to the provisions of this clause (requiring the payment or provision of at least the above minimum, and providing for a cause of action in the event of the Subcontractor's failure to pay or provide such wages and supplements) such workman, laborer or mechanic shall have a direct right of action against the Contractor. Neither the Construction Manager nor 1 WTC shall be a necessary party to any action brought by any workman, laborer or mechanic to obtain a money judgment against the Contractor or any Subcontractor pursuant to this numbered clause.

Nothing herein contained shall be construed to prevent the Contractor or any Subcontractor from paying higher rates of wages or providing higher supplements than the minimum hereinbefore prescribed; and nothing herein contained shall be construed to constitute a representation or guarantee that the Contractor or any Subcontractor can obtain workmen, laborers and mechanics for the minimum herein before prescribed.

The Contractor shall post at the Work site, in a place that is prominent, accessible and visible to all employees of the Contractor and its Subcontractors during the daily time period that the Contractor and/or Subcontractor performs Work at the site, the appropriate prevailing wage and supplement schedules. The Contractor must inform all employees, including those of its Subcontractors, that they may obtain a copy of the prevailing wage and supplement schedule from the Contractor.

The Contractor and every Subcontractor shall make and maintain weekly payroll records during the course of the Work and for the period set forth in the clause hereof entitled "Construction Manager Access to Records" for all employees employed in the Work. Such records shall contain the name, address and social security number of each such employee, the employee's correct payroll classification, rate of pay and supplements, daily and weekly number of hours worked, deductions made and actual wages and supplements paid. The Contractor shall submit these weekly payroll records to the Construction Manager (on forms furnished by the Construction Manager) of all his payroll records and those of each of his Subcontractors as the Construction Manager may require with the Contractor's monthly payment application, together with an affidavit by the Contractor and by each Subcontractor to the effect that such payroll records are correct and complete, the wage and supplement rates contained therein are not less than those required by the provisions of this Contract, and the classifications set forth for each employee conform with the work performed. Such copies and summaries and the original payroll records shall be available for inspection by the Construction Manager (including its designees), and the Contractor and its Subcontractors shall permit such representatives to interview employees during working hours on the job site.

The Construction Manager may at any time request the Contractor to prepare a daily report on the Construction Manager form entitled *Contractor Daily Sign-In Sheet*, copies of which can be obtained from the Construction Manager, The *Contractor Daily Sign-In Sheet* shall be completed as follows:

1.) At the beginning of each workday the Contractor shall:

a. fill in the top of the *Contractor Daily Sign-In Sheet*, including the location, date, contractor/Subcontractor name and contract number;

b. ensure that each employee, including those of Subcontractors, has printed and signed his or her name and indicated his or her work classifications, the last four digits of his or her social security number, and his or her starting time;

2.) At the end of each workday, the Contractor shall:

a. ensure that each employee, including those of Subcontractors, has signed out and indicated his or her ending time;

b. sign the Certification Statement at the bottom of the form to indicate that the information contained in the *Contractor Daily Sign-In Sheet* is true and accurate; and

c. submit the original completed form to the Construction Manager.

In an area of his office at the site of the Work which is accessible to his employees, the Contractor shall display such printed material as may be provided by the Construction Manager setting forth information for the employees of the Contractor and his Subcontractors concerning the wage and supplemental benefit requirements set forth in this numbered clause. The Contractor shall also cause each of his Subcontractors to display such material in a similarly accessible place in any office which the Subcontractor maintains at the site of the Work. The Contractor's failure to comply with any provision of this numbered clause shall be deemed a substantial breach of this Contract.

[END OF EXHIBIT B]