

## **REAL ESTATE SERVICES AGREEMENT**

THIS REAL ESTATE SERVICES AGREEMENT (this "Agreement") is made as of the 15 day of <sup>July</sup>~~June~~, 2009, between LEHMAN BROTHERS HOLDINGS INC., a Delaware corporation ("Client"), and CB RICHARD ELLIS, INC., a Delaware corporation ("Broker").

### **RECITALS**

A. Client is (i) subtenant under that certain Sublease dated as of April 5, 2007, as amended by Amendment of Sublease dated as of April 5, 2007 and Amendment of Sublease dated as of December 27, 2007 (as amended, the "Lease"), between Historic TW Inc., as sublandlord, and Client, as subtenant and (ii) tenant under that certain Lease dated as of April 5, 2007 (the "Direct Lease", and together with the Lease, the "Leases"), between Rockefeller Center North, Inc., as landlord, and Client, as tenant, each with respect to certain space leased to Client (the "Premises") in the building commonly known as 1271 Avenue of the Americas, New York, New York (the "Property").

B. Client, subject to and in accordance with the term and conditions of this Agreement, desires to retain Broker to perform the services delineated herein.

C. Broker desires to perform such services subject to and in accordance with the terms and conditions of this Agreement.

### **AGREEMENT**

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

#### **ARTICLE 1** *Interpretation*

##### **1.1. Interpretation.**

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to its conflict of laws provisions.

(b) This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared primarily by one party, it being recognized that both Client and Broker have contributed substantially and materially to the preparation of this Agreement.

(c) As used in this Agreement, "Affiliate" means any or all of Client's designees and assigns and any entity controlling, controlled by, or under common control with Client.

#### **ARTICLE 2** *Scope of Agreement*

Subject to the terms of this Agreement, Client hereby appoints Broker as Client's exclusive real estate broker, agent and real estate services provider in connection with the transactions made subject to this Agreement, and grants to Broker the exclusive right to represent Client in connection with such transactions. Broker accepts such appointment.

#### **ARTICLE 3** *Services, Compensation and Reimbursement*

##### **3.1. Intentionally Omitted**

3.2. Services and Compensation. Client agrees to hire Broker as Client's exclusive broker, during the term of this Agreement, in connection with Client's acquisition (including by renegotiation or amendment at its current location (s)) whether by lease, sublease, assignment, purchase or otherwise, of approximately 150,000 square feet of leased rental space for general office use by Client in New York City (each, an "Acquisition", collectively, the "Acquisitions"). Broker agrees to provide the services (the "Services") set forth on Exhibit A attached hereto and incorporated herein by reference, in connection with Acquisitions during the term of this Agreement. Any such Acquisition shall be on such other terms and conditions as may be agreed upon by Client in its sole discretion. In the event that Client enters into any Acquisition, then Client agrees that Broker shall earn a commission for the Acquisition, and the obligation to pay Broker such commission shall initially be the responsibility of the landlord in such leasing transaction or another third party, and except as otherwise set forth herein, neither the Client or any of its Affiliates shall have any obligation or liability for the payment of all or any portion of such commission or any other expenses or charges of the Broker in connection with an Acquisition. If, in connection with an Acquisition at a location that Client occupies as of the date hereof or a renewal of a lease at, or expansion of the leased premises at such a location that the Client occupies in New York City as of the date hereof (a "Future Event"), the landlord or other third party does not pay Broker in whole or in part for its work on such Acquisition or Future Event, Client shall pay Broker the difference between (i) one-hundred percent of the commission amount set forth on Exhibit B (a "Full Commission") and (ii) the amount so paid. The payment of the commission in connection with such Acquisition shall be made upon the full execution and delivery of transaction documentation and the payment of the commission in connection with any Future Event shall be made upon the exercise of such Future Event.

3.3. Broker Acknowledgments. Broker acknowledges and agrees that:

(a) Except as otherwise expressly provided in Section 3.2, Client shall have no liability for, and in no event shall Broker seek to collect from Client any commission or other amount in connection with any Services, and provided that Client has paid all sums due and owing to Broker by Client in accordance with the provisions in this Agreement, Broker shall indemnify, defend and hold Client and its Affiliates harmless against all loss, suits, claims, costs, damages, judgments, and liabilities (including, without limitation, reasonable attorneys' fees and court costs) arising out of any such claims for a brokerage commission or other compensation in connection with only those Acquisitions on which Client has paid Broker some or all of its commission therefor (and then only to the extent of such payment) made (x) by or through any broker who claims to have dealt with Broker or (y) by any agent, representative or employee of Broker for payment of any commission or other amount; provided, however, that Broker liability under this Section 3.3(a) shall be limited to the amount paid to Broker by Client for the work of the Broker Team (as hereinafter defined) in the Transaction giving rise to the claim in accordance with the provisions of this Agreement.

(b) Notwithstanding anything to the contrary, express or implied, in this Agreement, Client, with or without cause and without liability to Broker, may withdraw from any transaction for which Broker has agreed to perform or has performed Services, at any time.

(c) Client shall have no obligation to reimburse Broker for any expenses incurred by Broker in connection with the performance of the Services hereunder, unless otherwise agreed to by Client in its sole and absolute discretion.

(d) No commission shall be due or payable hereunder unless and until the a leasing transaction is consummated, in each event (i) in accordance with the provisions of Section 3.2, and (ii) as approved by the Bankruptcy Court (as defined below in Section 11).

3.4. No Authority to Bind Client. Except as expressly authorized in writing by Client, Broker shall not have the authority to, and shall not, (a) incur any liability on behalf of Client or any of its Affiliates, (b) accept any offer or proposal or enter into any lease, sublease, license, contract, commitment or any other agreement (of whatever kind or nature, express or implied) on behalf of Client or any of its Affiliates, (c) make any representations or warranties (express or implied) on behalf of Client or any of its Affiliates, or (d) otherwise bind, or attempt to bind, Client or any of its Affiliates in any manner whatsoever, and Broker shall not hold itself out as having the authority to do any of the foregoing. Broker agrees and acknowledges that nothing in this Agreement has given Broker any such authority.

## ARTICLE 4

### *Broker Agreements and Representations Regarding Broker Team*

Broker shall perform the Services through qualified Broker professionals in sufficient number to properly render the Services in the manner required by this Agreement. Michael Geoghegan (the "Key Person") shall serve as the account executive hereunder and shall be responsible for coordinating, directing and overseeing the Broker Team's (as hereinafter defined) overall performance of the Services hereunder. The Key Person shall serve as Client's point of contact for the Services. Broker covenants that (i) the Key Person shall personally devote sufficient time and effort to carry out completely and efficiently the obligations of Broker hereunder, and (ii) Broker shall provide through its own forces all labor and materials necessary to complete the Services. Broker acknowledges and agrees that the Key Person's reputation and expertise were a material inducement to Client to enter into this Agreement. Accordingly, if the Key Person leaves the employ of or contractual arrangement with Broker, (a) Broker shall deliver notice of the same to Client (a "Key Person Notice") within ten (10) days thereof, (b) Broker shall have the right to replace the Key Person with someone of equivalent experience and seniority, subject to Client's approval and (c) if Client has approved the substitute Key Person and thereafter does not find the substitute Key Person acceptable after a thirty (30) day trial period, Client, in its sole and absolute discretion, may terminate this Agreement upon written notice to Broker and, upon the delivery of such notice to Broker, this Agreement shall terminate and neither Client nor Broker shall have any further obligations to, or rights against, the other (except for such rights and obligations as are expressly stated herein to survive the expiration or earlier termination of this Agreement). Prior to the Termination Date (as defined in Section 7.1) and subject to Section 9.1(b) below, Broker covenants and agrees that the Broker Team shall not directly participate in the representation of any other person or entity in connection with negotiations for an Acquisition. In addition to the Key Person, Broker shall furnish competent senior staff (the Key Person and together with such additional staff, the "Broker Team") for the effective performance, administration, coordination and management of the Services. Subject to the foregoing provisions of this Article 4 regarding the Key Person, upon Broker's receipt of a written notice from Client indicating that a member of the Broker Team has performed unsatisfactory work and requesting replacement of such member, Broker shall promptly comply with such request and promptly furnish a competent replacement for such member reasonably acceptable to Client as evidenced by written notice from Client that such replacement is acceptable. No member of the Broker Team assigned to provide any Services shall be removed from such assignment without the written approval of Client, which approval shall not be unreasonably withheld or delayed. No member of the Broker Team once removed may represent any counterparty in any transaction subject to this Agreement.

## ARTICLE 5

### *Standards and Review*

5.1. Standard of Performance. Broker shall use effort, skills, judgment, knowledge, ideas, experience and abilities at a level at least as high as that used by other first-class real estate brokerage firms providing similar services to clients seeking to lease multiple floors in first-class midtown Manhattan office buildings and shall follow the highest professional and ethical standards in performing the Services in a prompt, discrete, economical and efficient manner consistent with Client's interests.

5.2. Joint Review. Client and Broker shall develop mutually acceptable processes which encourage feedback, performance evaluation and continuous process improvements, including at a minimum a monthly joint review on the performance of the Services. In addition, Broker shall establish, in concert with Client's employees and officers designated by Client, required reporting procedures and a communications and information dissemination flow process to keep Client's management up to date and informed on the progress of the Services.

## ARTICLE 6

### *Indemnification*

6.1. Broker shall indemnify, defend and hold Client and its Affiliates harmless against all losses, charges, suits, claims, costs, damages, demands, expenses, judgments, liabilities and liens (including, without limitation, reasonable attorneys' fees or other compensation) (collectively, "Claims") arising out of Broker's gross negligence or willful misconduct. Wherever in this Agreement it is agreed that Client or its Affiliates are to be indemnified, it is hereby agreed that Broker may defend such claims using counsel selected by Client subject to

Broker's prior approval. Broker shall not compromise or settle any such indemnified claim without Client's prior approval, which approval shall not be unreasonably withheld.

6.2. The provisions of this Article 6 and the provisions of Sections 3.3, 7.2 and Article 12 shall survive the expiration or earlier termination of this Agreement.

## ARTICLE 7

### *Termination, Obligations and Final Accounting*

7.1. Term Subject to the provisions of Section 11 hereof, the term of this Agreement shall be deemed to have commenced on September 19, 2008 (the "Effective Date"), and shall expire on February 1, 2010. Thereafter, this Agreement shall continue on a monthly basis unless and until terminated by either party upon thirty (30) days' prior written notice, provided, however, that during the initial one (1) year term of this Agreement or any month to month renewal period thereafter, (a) either party shall have the right to immediately terminate this Agreement upon thirty (30) days' notice if there should occur a material default by the other party with respect to any of its obligations hereunder and such breaching party fails to cure such breach within said thirty (30) day period, and (b) Client shall have the right to terminate this Agreement for any reason or no reason by giving Broker not less than fifteen (15) days' prior written notice; and provided, further, in no event shall the term of this Agreement be extended beyond the second (2<sup>nd</sup>) anniversary hereof. Upon the termination of this Agreement pursuant to this Section 7.1, neither Client nor Broker shall have any further obligations to, or rights against, the other (except for such rights and obligations as are expressly stated to survive the expiration or earlier termination of this Agreement). The date on which this Agreement shall expire or be otherwise terminated is referred to herein as the "Termination Date".

7.2. Post-Termination Obligations. Within fifteen (15) days after the expiration or termination of this Agreement, Broker shall deliver to Client a list (the "Pending List") of all pending, incomplete or proposed transactions submitted to Client prior to the Termination Date that are then under active negotiation or consideration or were under active negotiation or consideration at any time during the term of this Agreement, together with a detailed description of the status of each pending transaction. Client shall have the right to dispute Broker's inclusion of any transaction on the Pending List and any alleged introductions made by Broker and, in such event, if Client and Broker are unable to resolve any such dispute within fourteen (14) days, the issue as to whether a transaction or an alleged introduction was correctly on the Pending List shall be resolved in accordance with the procedures established by the Bankruptcy Court with respect to such disputes in the Bankruptcy Case. If a transaction identified on the Pending List is actively and continuously pursued after the Termination Date and Client and/or any of its Affiliates enters into a final and binding agreement with respect thereto, within nine (9) months after the Termination Date, Broker shall be entitled to receive the compensation provided for hereunder, subject to the provisions of Section 3.2. Any payment of a commission, fee or other compensation due Broker with respect to any transaction consummated prior to the expiration or termination of this Agreement shall survive the expiration or termination of the Agreement, and commissions shall be due and payable in accordance with Section 3.2 above.

## ARTICLE 8

### *Notices*

All notices, waivers, demands, requests or other communications required or permitted under this Agreement shall, unless otherwise expressly provided, be in writing and shall be deemed to have been properly given, served and received (i) if delivered by messenger, when delivered, (ii) if mailed, on the third business day after deposit in the United States Mail, certified or registered, postage prepaid, return receipt requested, or (iii) if delivered by reputable overnight express courier, freight prepaid, when delivered, in every case addressed to the party to be notified as follows:

If to Client:

Lehman Brothers Holdings Inc.  
c/o Lehman Brothers Inc.  
1271 Avenue of the Americas  
New York, New York 10019  
Attention: Mark J. Marcucci

with copy to: Lehman Brothers Holdings Inc  
c/o Lehman Brothers Inc.  
1271 Avenue of the Americas  
New York, New York 10019  
Attention: Kelly Gargiulo

with copy to: Weil, Gotshal & Manges LLP  
767 Fifth Avenue  
New York, New York 10153  
Attention: W. Michael Bond

If to Broker: CB Richard Ellis, Inc.  
200 Park Avenue  
New York, NY 10166  
Attention: Michael Geoghegan

with copy to: CB Richard Ellis, Inc.  
200 Park Avenue  
New York, NY 10166  
Attention: Senior Vice President, Legal

or to such other address or addressee as any party entitled to receive notice under this Agreement shall designate to the other in the manner provided in this Agreement for the service of notice. All notices of default or termination under this Agreement shall be clearly identified as such.

**ARTICLE 9**  
***Representations, Warranties and Covenants***

9.1. Broker represents, warrants, acknowledges, covenants and agrees that:

(a) The person executing this Agreement does so with full authority to bind the Broker to the terms and conditions set forth herein;

(b) The Broker Team will represent Client only with respect to any proposed transactions and will not represent any prospective counterparty thereunder. Any breach of this Section 9.1(b) shall be grounds for immediate termination of this Agreement without the payment of any amounts to which Broker may otherwise be entitled hereunder;

(c) Broker will promptly disclose to Client any actual conflict of interest as it relates to a specific transaction promptly after such conflict is in good faith identified by Broker, including, without limitation, the representation of any proposed counterparty to a transaction by employees or agents of Broker (other than the Broker Team) and Broker represents that no such conflicts of interest exist as of the date hereof except as set forth on Exhibit C attached hereto;

(d) Without limiting any other provision of this Agreement, except to the extent expressly permitted and in accordance with Article 4 hereof, without the prior written consent of Client, during the term of this Agreement, Broker shall not perform real estate brokerage or consulting services for any other person or entity in connection with, or with respect to, the Leases or any Acquisition or Future Event. Any breach of this Section 9.1(d) shall be grounds for immediate termination of this Agreement without the payment of any amounts to which Broker may otherwise be entitled hereunder;

(e) Notwithstanding any obligation to the contrary on the part of Broker to a third party, the Key Person and the other members of the Broker Team shall have an undivided primary fiduciary duty and relationship to Client with respect to the Services to be performed pursuant to the terms of this Agreement;

(f) Other than information which is subject to pre-existing confidentiality protection (which with respect to the Premises Broker represents it has disclosed to Client on Exhibit C attached hereto), Broker will disclose to Client any facts known (or which become known) to the Key Person and/or the Broker Team which in any way relate to the Premises or which would be material to a decision to enter into any proposed transaction for which Services are performed under this Agreement;

(g) Broker has not and hereafter will not enter into any other agreement with respect to the Services to be performed by the Key Person and the Broker Team pursuant to the terms hereof (including, without limitation, any agreement with respect to the payment or sharing of fees in connection with, or in respect of, this Agreement and/or any transaction hereunder);

(h) Broker has not, and hereafter will not, make or receive any illegal or undisclosed payment to or from any party arising out of the performance of any of its obligations under this Agreement (including, without limitation, any sharing of fees, rebating of charges, advances, offsets or loans) or engage in any other illegal or undisclosed reciprocal practice, or provide any other illegal or undisclosed consideration to any party involved in any transaction arising out of this Agreement; and

(i) Broker is a licensed real estate broker in the State of New York.

9.2. (a) Client represents, warrants, acknowledges and agrees that the person executing this Agreement does so with full authority to bind the Client to the terms and conditions set forth herein, subject to the condition set forth in Article 11.

(b) Client has not, and during the term of this Agreement will not, retain the services of any other real estate broker or finder or any other party to perform similar services in connection with any Acquisition.

(c) In connection with each Acquisition during the term of this Agreement, Client shall (i) take all commercially reasonable actions necessary to designate Broker as the procuring cause (including, without limitation designation of Broker as such in the transaction documentation), and (ii) use commercially reasonable efforts to allow the Broker the opportunity to enter into an agreement with a counterparty for the payment of Broker's commission in full and on terms and conditions satisfactory to Broker prior to completing such Acquisition.

9.3. In connection with each Acquisition, Client shall use commercially reasonable efforts to refer all leads, prospects or inquiries to and, through Broker, and shall conduct negotiations through Broker.

## **ARTICLE 10** ***Miscellaneous***

10.1. Entire Agreement. This Agreement contains the entire agreement and understanding of the parties with respect to the subject matter of this Agreement, and all prior agreements, understandings and negotiations pertaining to such subject matter are superseded by and merged into this Agreement. Subject to Article 11, this Agreement may not be amended, modified or discharged, nor may any of its terms be waived except by an instrument in writing signed by the party to be bound hereby.

10.2. Waiver. No consent or waiver, either expressed or implied, by any party to or of any breach or default by the other party in the performance by such other party of its obligations under this Agreement, shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such other party of the same or any other obligations of such other party under this Agreement. Failure of any party to complain or to pursue complaints with respect to any acts or failures to act of any other party, or failure of any party to declare the other party in default, irrespective of how long such default continues, shall not constitute a waiver by such party of any rights and remedies under this Agreement or otherwise at law or in equity.

10.3. Cooperation. In connection with this Agreement, each party agrees to execute and deliver such additional documents and instruments and take all such necessary action and perform such additional acts as may be reasonably requested to effectuate, carry out and perform all of the terms, provisions and conditions of this Agreement.

10.4. No Assignment. Neither this Agreement nor any of Broker's rights or obligations hereunder may be assigned by Broker without the express prior written consent of Client (which consent may be withheld in Client's sole and absolute discretion). Subject to the foregoing, this Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns.

10.5. Liens. Broker hereby acknowledges and agrees that Broker will not file any lien based upon this Agreement, or the commission or any other amount properly payable to Broker pursuant to the terms hereof.

10.6. Title to Materials. All materials prepared by Broker for Client or developed as a result of the performance of the Services shall be deemed "works for hire" under applicable copyright law and made in the course of the service rendered and shall belong exclusively to Client. Broker shall deliver all such materials to Client from time to time as and when the same are prepared by Broker. To the extent that any such material is not deemed work for hire, Broker hereby irrevocably assigns to Client all its right, title and interest therein. Notwithstanding the foregoing, Client acknowledges and agrees that (a) certain of the materials prepared by Broker pursuant to the terms of this Agreement consisting of financial projections with respect to proposed transactions, incorporate proprietary financial models developed and used on an ongoing basis by Broker and (b) Client shall not distribute or otherwise publish or disclose such materials to any persons other than Client's counsel, accountants, and any other person or entity approved by Broker (which approval shall not be unreasonably withheld, conditioned or delayed), or as required by (i) the Bankruptcy Court, (ii) any federal or state court having or claiming jurisdiction over the Client, or (iii) applicable law or regulation.

## ARTICLE 11

### *Condition Precedent; Bankruptcy Court Jurisdiction*

11.1. Bankruptcy Court Approval. (a) Commencing on September 15, 2008, Client and certain of its affiliates filed voluntary petitions for relief under chapter 11 of title 11, United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York (Manhattan Division) (the "Bankruptcy Court") which are being jointly administered under Case No. 08-13555 (collectively, the "Bankruptcy Case"). Client is continuing to operate its business and manage its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Notwithstanding anything to the contrary contained herein, the effectiveness of this Agreement, including Client's obligations hereunder, is subject to the Bankruptcy Court entering a final order (an "Order") pursuant to sections 327(a) and 328(a) of the Bankruptcy Code authorizing Client to retain Broker as its real estate broker in the Bankruptcy Case for the purposes set forth herein.

(b) Broker agrees to prepare a sworn declaration (the "Declaration") for submission in connection with and in support of Client's application (the "Application") to the Bankruptcy Court to retain Broker, which declaration shall set forth facts supporting a finding that Broker is disinterested and otherwise qualified to represent Client's bankruptcy estate as a professional. Client agrees, within twenty (20) days after the full execution of this Agreement and the Declaration, to seek the Bankruptcy Court's approval of (x) the Application, and (y) of Broker's commission in accordance with the terms of this Agreement in connection with the pending Acquisition at 1271 Avenue of the Americas, currently structured as a sublease from Historic TW Inc. for a variety of floors, which is contemplated to be paid by Historic TW Inc., but in the event not paid by Historic TW Inc., any shortfall is to be paid by Client, all in accordance with the terms of this Agreement.

(c) Client agrees that this Agreement shall be binding on any Chapter 11 trustee that may be appointed by the Bankruptcy Court in connection with the Bankruptcy Case.

(d) If Client shall enter into an Acquisition for which it is responsible to pay all or a portion of the commission due to the Broker pursuant to the terms of this Agreement, Client agrees, within twenty (20) days after entering into such Acquisition, to seek the Bankruptcy Court's approval of such action and to request the Bankruptcy Court's consent to Client's payment of Broker's commission in connection therewith, which shall be calculated in

accordance with the terms hereof. Broker shall prepare and submit any documentation requested by the Bankruptcy Court to support its additional compensation petition and the provisions of subparagraph (b) hereof shall apply to such additional application to the Bankruptcy Court.

11.2. Bankruptcy Court Jurisdiction. THE PARTIES AGREE THAT THE BANKRUPTCY COURT SHALL HAVE EXCLUSIVE JURISDICTION OVER ALL DISPUTES AND OTHER MATTERS RELATING TO (i) THE INTERPRETATION AND ENFORCEMENT OF THIS AGREEMENT OR ANY ANCILLARY DOCUMENT EXECUTED PURSUANT HERETO, (ii) THE PREMISES, (iii) ANY SERVICES TO BE PERFORMED HEREUNDER, (iv) ANY ASSUMED LIABILITIES, AND (v) ANY OBLIGATIONS OF A PARTY THAT MAY SURVIVE CLOSING, AND THE PARTIES EXPRESSLY CONSENT TO AND AGREE NOT TO CONTEST SUCH EXCLUSIVE JURISDICTION.

**ARTICLE 12**  
***Release of Claims***

12.1. Broker's Release of Claims. Promptly upon the later of (i) Bankruptcy Court entering a final order authorizing Client to make payment to the Broker in accordance with the terms of this Agreement, and (ii) the first commission payment being due and payable to the Broker in accordance with the provisions of Article 3 hereof, and as a condition precedent to the Broker's receipt of any such payment, the Broker shall deliver to Client the Release in the form attached hereto as Exhibit D duly executed by an authorized representative of the Broker.

[Signatures on following page]



IN WITNESS WHEREOF, this Agreement has been executed by Client and Broker, through their duly authorized representatives, as of the day and year first written above.

**LEHMAN BROTHERS HOLDINGS INC.** , a Delaware corporation, as debtor and debtor in possession in its Chapter 11 case in the United States Bankruptcy Court for the Southern District of New York, Case No. 08-13555 (JMP)

**CB RICHARD ELLIS, INC.**

By: \_\_\_\_\_

Name:  
Title:

*[Handwritten Signature]*  
*Jeff Fitts*  
*Vice President*

By: \_\_\_\_\_


Name:  
Title:

IN WITNESS WHEREOF, this Agreement has been executed by Client and Broker, through their duly authorized representatives, as of the day and year first written above.

**LEHMAN BROTHERS HOLDINGS INC.** , a Delaware corporation, as debtor and debtor in possession in its Chapter 11 case in the United States Bankruptcy Court for the Southern District of New York, Case No. 08-13555 (JMP)

By: \_\_\_\_\_  
Name:  
Title:

**CB RICHARD ELLIS, INC.**

By:   
Name: \_\_\_\_\_  
Title: **Linda E. Lindman  
Senior Vice President**

## EXHIBIT A

### SERVICES

#### Transaction Management Services

- (a) Broker shall:
- (i) Verify and develop property data and parameters, and engage local field brokers as permitted under this Agreement to the extent necessary.
  - (ii) Coordinate field brokerage activities using standardized format and methodology approved by Client.
  - (iii) Manage transaction process to ensure appropriate information for real estate decision-making is provided to Client on a timely basis.
  - (iv) Provide periodic status or activity reports in format and frequency mutually agreed upon by Client and Broker, in no event less than once every two weeks.
  - (v) Work jointly with Client to create processes and procedures with respect to the Services to be performed under this Agreement.
  - (vi) Assist Client with lease negotiations.
- (b) Broker shall provide the following leasehold disposition services if requested by Client:
- (i) Review Client's lease documents or ownership position/structure and provide a market survey and financial analysis (including, if requested, a financial overview of Client's existing leasehold obligation and/or capital investment and book value issues) summarizing Client's available alternatives.
  - (ii) Assist Client in determining the financial and technical parameters within which to negotiate the terms of a proposed lease all follow up financial analysis as transactions progress.
  - (iii) Negotiate terms with prospective counterparties in coordination with representatives of Client, that reflect current market conditions. Provide written notice to Client of each counterparty which Broker introduces Client to, provided that such shall count as an introduction only if in connection with a specific transaction made subject to this Agreement and in connection with a specific location.

## EXHIBIT B

### COMMISSIONS

(i) Commissions. In consideration of the Services to be performed by Broker and subject to the terms and conditions of the Agreement, Client shall pay Broker as set forth in Section 3.2 of the Agreement, for any Services transaction which is consummated:

an amount calculated by adding the sum of each of the following:

On the first year of the lease, or any fraction thereof: 5% of base rent;

On the second year or any fraction thereof: 4% of base rent;

On the third year up to and including the fifth year: 3.5% of base rent;

On the sixth year and thereafter: 2.5% of base rent.

(ii) Commission Earned. Commissions on any Services transactions shall be payable thirty (30) days after delivery by Broker to Client of a true and correct invoice therefor, provided the following conditions have been satisfied: (i) Client and the applicable counterparty shall have executed and unconditionally delivered the applicable documentation and all consents, non-disturbance agreements and other material agreements related thereto and unconditionally delivered any security deposits related thereto, and (ii) any approval or consent required as a condition to the effectiveness of the Acquisition shall have been obtained or waived, and (iii) an Order approving such Acquisition shall have been issued by the Bankruptcy Court, all notices required under the Order shall have been sent to the parties entitled thereto under the Order and no objection is received from a party entitled to such notice under the Order within the time permitted for the filing of such an objection. Commissions for renewals, extensions or expansions that are exercised by right of Client, are payable in the same manner, after the binding exercise of any such right or option and following consent and agreement thereto as may be required under the leasing documents.

(iii) No Other Fee or Commission. Except as set forth on this Exhibit B and as set forth in this Agreement, or as otherwise expressly agreed to in writing by Client, Broker agrees that it shall not (i) be entitled to any commissions, fees or other amounts in connection with its performance of the Services described in this Agreement with respect to any Services or (ii) collect (or attempt to collect) any such commission, fee or other amount from (y) Client or (z) any other person or entity (other than any fee, commission or compensation that may be paid by a counterparty in a transaction, which will be disclosed to Client and deducted from obligations due hereunder).

## EXHIBIT C

### CONFLICTS OF INTEREST

- Pursuant to Section 9.1(c) of the Agreement, Broker discloses that it is representing the following entities as potential assignees or subtenants of the Premises, and that in each case a potential conflict of interest may arise as a result thereof:

None.

- Pursuant to Section 9.1(c) of the Agreement, Broker discloses that it is representing the following entities as potential landlords for Services, and that in each case a potential conflict of interest may arise as a result thereof:

None.

### CONFIDENTIAL RELATIONSHIPS

- None.

## EXHIBIT D

### RELEASE

For and in consideration of Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, CB RICHARD ELLIS, INC., a Delaware corporation ("CBRE"), for itself and on behalf of its subsidiaries and affiliates, any successors, or assigns of any of the foregoing, and the respective agents, trustees, beneficiaries, officers, directors, shareholders, employees, partners, members, managers and representatives of any of the foregoing (collectively, the "Releasing Parties"), jointly and severally, hereby makes the following release of claims (this "Release").

1. As used in this Release, the following terms shall have the meanings set forth below:

"Brokerage Agreement" shall mean the Real Estate Services Agreement, dated as of June [ ], 2009, by and between Lehman and CBRE.

"Lehman" shall mean Lehman Brothers Holdings Inc., a Delaware corporation.

"Released Claims" shall mean, collectively, any direct or indirect claims, demands, actions, causes of action or liabilities for a brokerage commission or compensation of any kind or moneys claimed or alleged to be due by any of the Releasing Parties, arising or accruing at any time prior to the date hereof, in connection with, arising out of, or in any way relating, directly or indirectly, to Lehman's direct term extension beginning January 1, 2018 with Rock Center North, Inc. of space leased by Lehman at 1271 Avenue of the Americas, New York, New York or any matters arising out of or in any way relating to such extension, including, without limitation any claims which any of the Releasing Parties now have, ever had or may hereafter assert against the Rock Center North, Inc. or affiliate thereof or any other person in connection with, arising out of, or in any way relating, directly or indirectly, to any brokerage commissions, fees or other monies claimed or alleged to be due directly or indirectly to any of the Releasing Parties in connection with such extension which could, directly or indirectly, result or give rise to any claim against any of the Released Parties.

"Released Parties" shall mean Lehman, any subsidiary or affiliate of Lehman, each of the respective subsidiaries and affiliates, any predecessors, successors, or assigns of any of the foregoing, and the respective agents, trustees, beneficiaries, officers, directors, shareholders, employees, independent contractors, partners, members, manager and representatives of any of the foregoing.

All initially capitalized terms used herein which are not defined in this Section 1 shall have the meanings set forth in the Brokerage Agreement. All of the terms, provisions and conditions of the Brokerage Agreement are incorporated herein by reference and made a part hereof for all purposes.

2. The Releasing Parties, for good and valuable consideration given to CBRE, the receipt and sufficiency of which are hereby acknowledged by CBRE, do hereby release, waive, remise, acquit and forever discharge the Released Parties of and from the Released Claims.

3. This Release is accepted by Lehman pursuant to the Brokerage Agreement, and this Release shall not be construed as an admission of liability on the part of Lehman or any of the other Released Parties of any kind or nature whatsoever as to any matter.

4. Each of the Releasing Parties further expressly warrants and represents it has not sold, granted, transferred or assigned or caused to be sold, granted, transferred or assigned or purported to sell, grant, transfer or assign to any other person, firm, corporation or entity any portion of the Released Claims or all or any part of any interest in any claim, contention, demand, or cause of action relating to any Released Claim or any portion of any recovery or settlement to which it may be entitled. Each of the Releasing Parties hereby agrees to indemnify and to hold harmless the Released Parties against any claim, contention, demand, cause of action, obligation and liability of

any nature, character or description whatsoever, including the payment of attorneys' fees (including allocated costs incurred by internal counsel) and costs actually incurred, whether or not litigation is commenced, which may be based upon or which may arise out of or in connection with any such assignment or transfer or purported assignment or transfer. Each of the Releasing Parties hereby agrees not to bring, or assist in bringing, any Released Claims, and each of the Releasing Parties further agrees that this Release is, will constitute, and may be pleaded as, a bar to any such Claims.

5. The provisions of this Release shall survive the expiration or earlier termination of the Brokerage Agreement, shall be binding upon the Releasing Parties and their respective legal representatives, successors and assigns, and shall inure to the benefit of the Released Parties and their respective successors and assigns.

6. It is expressly understood and agreed that this Release may not be altered, amended, modified or otherwise changed in any respect whatsoever except by a writing duly executed by authorized Released Parties. This Release shall be construed and interpreted in accordance with, and governed and enforced in all respects by the laws of the State of New York without giving effect to the conflict of laws principles of such state. In any action to enforce or interpret this Release the prevailing party shall, in addition to all other relief, be entitled to an award for its attorneys' fees.

7. THE PARTIES AGREE THAT THE BANKRUPTCY COURT SHALL HAVE EXCLUSIVE JURISDICTION OVER ALL DISPUTES AND OTHER MATTERS RELATING TO THE INTERPRETATION AND ENFORCEMENT OF THIS RELEASE, AND THE PARTIES EXPRESSLY CONSENT TO AND AGREE NOT TO CONTEST SUCH EXCLUSIVE JURISDICTION.

EXECUTED as of the \_\_\_\_ day of \_\_\_\_\_, 2009.

CB RICHARD ELLIS, INC., a  
Delaware corporation

By: \_\_\_\_\_  
Name:  
Title: